

Sheet to Permit Number CO0001147, Suncor Energy (Usa) Inc., Commerce City Refinery, Adams County (Mar. 6, 2024) (Fact Sheet) at 29.¹ Those spills included, for example: (1) a single release of more than 50,000 gallons containing benzene, a toxic and highly carcinogenic chemical; and (2) a separate discharge of 600 pounds of wastewater sludge. Colo. Water Quality Control Div., Suncor Water Quality Related Spill Summary Report at 1.² In 2021, Suncor spilled an oily substance into Sand Creek twice within eight days. Bruce Finley, Petrochemicals in Water Near Suncor Refinery Raise Concern About State of Underground Wall, Denver Post (June 7, 2021), at 2.³

5. Suncor currently operates under a discharge permit issued in 2012 for a five-year term. Suncor, however, has been allowed to continue operating under the existing permit for nearly 12 years while the Division processed its renewal permit.
6. A draft of the renewal permit (Draft Permit) was released for public comment on November 12, 2021.
7. Nearly two-and-a-half years later, on March 6, 2024, the Division issued the Final Permit, which is the subject of this action.
8. The errors described herein concern two main subject areas: (1) limits on discharges of per- and poly-fluoroalkyl substances (PFAS) and certain other pollutants into Sand Creek, and (2) failure to impose limits on discharges to the Burlington Ditch.

II. PERSONS REQUESTING HEARING AND SUBJECT MATTER OF THE REQUEST

9. The Conservation and Community Groups are three organizations whose members live, recreate, and work nearby and downstream from the Suncor oil refinery.
10. Denver Trout Unlimited is a local chapter of Trout Unlimited, a national member-based non-profit organization dedicated to conserving, protecting and restoring America's cold-water fisheries and watersheds. To fulfill this mission in Colorado, Denver Trout Unlimited works to conserve the South Platte River from Chatfield Dam to 120th Avenue, including by improving the fishery, water quality, river access, and fishing opportunities for all. Denver Trout Unlimited members also recreate in and around the South Platte

¹ Available at <https://oitco.hylandcloud.com/cdphermipop/docpop/docpop.aspx?clienttype=activex&docid=22297176>.

² Available at <https://oitco.hylandcloud.com/cdphermipop/docpop/docpop.aspx?clienttype=activex&docid=9145779>, beginning on page 166 of PDF.

³ Available at <https://oitco.hylandcloud.com/cdphermipop/docpop/docpop.aspx?clienttype=activex&docid=9145779>, beginning on page 169 of PDF.

River downstream of the Suncor Refinery. Denver Trout Unlimited is affected and aggrieved by the Division's Final Permit.

11. GreenLatinos is a national membership-based organization that convenes a broad coalition of Latino leaders committed to addressing issues that significantly affect the health and welfare of the Latino community in the United States. GreenLatinos has many members that live in communities near the Suncor oil refinery and suffer the effects of water pollution from that refinery. GreenLatinos is affected and aggrieved by the Division's Final Permit.
12. The Colorado Sierra Club is a local chapter of the Sierra Club, a national environmental organization with chapters in all 50 U.S. states that promotes exploration and protection of the wild places of the Earth. The Colorado Sierra Club is a powerful collective of grassroots changemakers working together across the state to advance climate solutions, act for justice, get outdoors, and protect lands, water, air, and wildlife. Sierra Club members live, work and recreate downstream of the Suncor Refinery. The Sierra Club is affected and aggrieved by the Division's Final Permit.

III. STATUTORY AND REGULATORY AUTHORITY

13. The Water Quality Control Division "shall provide the opportunity for a formal public adjudicatory hearing" for "discharge permits issued pursuant to section 25-8-501 through 504, C.R.S." 5 C.C.R. 1002-21 (Regulation 21), § 21.4(A)(3)(a); *see also* Regulation 21, § 21.7(B) (providing a public "entitle[ment] to a[n adjudicatory] hearing"); 5 C.C.R. 1002-61 (Regulation 61), § 61.7(A) (stating that any person "affected or aggrieved by the Division's final determination may demand an adjudicatory hearing").
14. An adjudicatory hearing on a discharge permit must be granted to any party adversely "affected or aggrieved" by the Final Permit. Regulation 21, § 21.7(B); *see also* Regulation 61, § 61.7(a).
15. Colorado law also allows "any aggrieved person" to request an adjudicatory hearing under § 24-4-105, C.R.S. to review technology based effluent limitations based on best professional judgment. *See* § 25-8-503(1)(c), C.R.S.; Regulation 21, § 21.4(A)(3)(c). Such a hearing "shall be held as part of a hearing requested to challenge the conditions of the permit." *Id.*; *see also* Regulation 61, § 61.8(2)(a)(v)(B).
16. The Final Permit is a final determination subject to a hearing pursuant to the Water Quality Act and Regulation 61.

IV. BASIS FOR ERROR

17. The Division has committed error in five respects. The Final Permit: (1) adopts a 70 part-per-trillion (ppt) limit for PFAS discharges that is too high to satisfy Colorado water quality standards; (2) allows Suncor a prolonged years-long schedule to come into compliance with many permit limits; (3) requires PFAS monitoring frequencies that are insufficient to ensure compliance with permit conditions; (4) fails to evaluate or include

Technology Based Effluent Limitations for PFAS discharges at relevant outfalls; and (5) adopts provisions for monitoring and studying discharges into Sand Creek and the Burlington Ditch that do not conform with applicable regulations.

A. The Division Erred in Assigning a 70 ppt Maximum Limit for PFAS Discharges from Outfalls 020Z, 023Z, 004Z, and 026Z as Sufficient to Satisfy State Water Quality Standards

18. The Final Permit includes three 70 ppt limits on discharges of PFAS from outfalls 020Z, 023Z, 004Z, and 026Z. Final Permit at 30 (§ I.E.1). *First*, it sets a 30-day average limit on discharges of two PFAS compounds—perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS)—from Outfall 020Z. *Second*, it sets a daily maximum limit on the combined total of seven PFAS compounds (PFOA, PFOS and five others) in the discharge from each outfall. *See id.* *Third*, it sets a monthly limit on those combined discharges at each outfall. *See id.*
19. PFAS is a class of “forever chemicals” that persist in the environment and build up in the human body over time. PFAS are linked with severe health effects including cancer, reproductive and development harm, and immune system suppression.⁴ A significant pathway of human exposure to these toxic chemicals is through drinking water. PFAS can pollute drinking water when products or wastes containing them are disposed of, used, or spilled onto the ground or into rivers.
20. The 70 ppt PFAS limits are water quality based effluent limitations (WQBEL). The state must establish WQBELs where technology based effluent limitations “will not provide sufficient treatment to meet water quality standards, including narrative standards, for the receiving waters.” Regulation 61, § 61.8(2)(b)(i).
21. The state has established a legally binding narrative water quality standard that all rivers and streams shall be free from pollution that is “harmful to the beneficial uses or toxic to humans, animals, plants, or aquatic life,” 5 CCR § 1002-31 (Regulation 31), § 31.11(1)(a)(iv) (Narrative Water Quality Standard). This Narrative Water Quality Standard applies to all surface waters in the state, including Sand Creek and the South Platte.
22. To translate this narrative standard into a numeric limit, the state adopted Policy 20-1 in 2020.⁵ Policy 20-1 adopted a 70 ppt limit for the same seven compounds. The state determined that this level was necessary to satisfy the Narrative Water Quality Standard

⁴ Press Release, Harvard T.H. Chan School of Public Health, PFAS levels lower in buildings with healthier furnishings (Nov. 7, 2022), available at <https://www.hsph.harvard.edu/news/press-releases/pfas-levels-lower-in-buildings-with-healthier-furnishings/>.

⁵ Available at https://drive.google.com/file/d/1nmX36TBR8YsSkdvc3M53McmQTh7eD_Av/view.

“based on the 2016 EPA health advisory for PFOA and PFOS, which established a non-regulatory lifetime health advisory . . . for PFOS and PFOA (individually or combined).” Policy 20-1 at 10. Policy 20-1 also states that the Division may “implement more stringent translation values under its authority and responsibility to implement the narrative standard where scientifically supportable (for example where additional toxicological data or site-specific information become available).” *Id.* at 16.

23. In June 2022, the Environmental Protection Agency issued a new health advisory based on updated scientific research that superseded the 2016 levels that the state relied upon in Policy 20-1.⁶ The new health advisory sets PFAS levels that are orders of magnitude lower than the prior 2016 advisory, including 0.004 ppt for PFOA and 0.02 ppt for PFOS.⁷
24. Despite having relied on EPA’s 2016 health advisory levels in arriving at its 70 ppt permit limit, the Division did not update the Final Permit to reflect the new 2022 health advisory levels.
25. The Division erred when it relied on the outdated 2016 health advisory levels in setting the Final Permit limits to satisfy the Narrative Water Quality Standard. The Division should have established substantially lower limits for the PFAS discharges.
26. This issue was raised during the public comment period. *See* Written Comments on the Draft Colorado Discharge Permit System (CDPS) Permit Number CO0001147 for Suncor Energy (USA) Inc., Commerce City Refinery (Response to Comments), attached as Attachment 2.3 to Fact Sheet, at 235-241 (comments stating that the Division should include in the Final Permit a non-detectable limit for PFAS, and putting the Division on notice of the EPA’s interim health advisory levels for PFOS and PFOA). Furthermore, commenters notified the Division that one month after the conclusion of the comment period on the Draft Permit, EPA finalized updated interim health advisory levels for PFOS and PFOA at below detectable levels.⁸

B. The Final Permit’s Prolonged Compliance Schedules are Inconsistent with Federal and State Regulations and Division Policy

27. The Final Permit establishes compliance schedules that are (i) longer than necessary and appropriate, and (ii) do not set mandatory interim requirements. The Final Permit includes three compliance schedules that fail to meet applicable regulations and policy.

⁶ Lifetime Drinking Water Health Advisories for Four Perfluoroalkyl Substances, 87 Fed. Reg. 36,848 (June 21, 2022).

⁷ *Id.* at 36,848.

⁸ Letter from Conservation and Justice Groups to Nicole Rowan, February 22, 2023, *available at* <https://oitco.hylandcloud.com/CDPHERMPop/docpop/docpop.aspx?clienttype=html&docid=12443212>.

28. *First*, the Final Permit sets a three-year compliance schedule for PFAS discharges from Outfall 020Z. Under this schedule, Suncor does not need to meet the daily 70 ppt PFAS limit at the outfall until April 30, 2027. Final Permit at 48 (§ I.H.3.1).
29. *Second*, the Final Permit establishes a six-and-a-half year compliance schedule for discharge limits on temperature, electrical conductivity, sodium absorption ratios, and chloride from Outfall 020A. Under this schedule, Suncor does not need to meet those limits until October 31, 2030. Final Permit at 48-49 (§ I.H.3.3).
30. *Third*, the Final Permit establishes effectively another six-and-a-half-year compliance schedule for discharge limits on total recoverable arsenic from Outfall 020A.⁹ Under this schedule, Suncor does not need to comply with the new arsenic limit until October 31, 2030. Final Permit at 49-50 (§ I.H.3.4).
31. These compliance schedules (collectively Compliance Schedules) do not conform with applicable regulations.
32. Under certain circumstances, the Division has authority to delay the deadline for sources to comply with water quality based effluent limitations by imposing a compliance schedule. Compliance schedules must be “necessary and appropriate,” Regulation 31, § 31.9(2), and “must ensure compliance with the associated effluent limit as soon as possible.” Colo. Water Quality Control Div., Implementation Policy Clean Water 3: Permit Compliance Schedules (Mar. 2, 2014) (Policy CW-3) at 4;¹⁰ *see also* 40 C.F.R. §§ 122.47(a)(1) (schedules allowed “when appropriate” but “shall require compliance as soon as possible”); 123.25(a)(18) (federal rules applicable to state programs); Regulation 61, § 61.8(3)(b)(v) (allowing compliance schedules in discharge permits).
33. Additionally, when compliance schedules are longer than one year, they must include interim requirements, with those interim dates being no more than one year apart. 40 C.F.R. § 122.47(a)(3); *see also* 30 U.S.C. § 1362(17) (Clean Water Act defining compliance schedule as “schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with” the permit limit); 40 C.F.R. § 122.2 (same); Division Policy CW-3 at 4 (compliance schedules “must include 1 year milestones as a minimum [and] must contain enforceable milestones”).
34. The Compliance Schedules fail to comply with either of these standards.

⁹ The Fact Sheet identifies this compliance schedule as five-and-a-half years, Fact Sheet at 116, but the Final Permit delays the start date of the compliance schedule so it ends on the same day as the six-and-a-half-year schedule for the other pollutants, *see* Fact Sheet at 116; Final Permit at 49-50 (§ I.H.3.4).

¹⁰ Available at https://drive.google.com/open?id=18E_Mh208kfv85gDIVBHUUpUznwraEZEzC.

35. *First*, the three-year period for PFAS, and six-and-a-half year period for other pollutants, do not bring Suncor into compliance “as soon as possible” because the treatment upgrades can be planned and constructed in substantially less time than the permit allows.
36. *Second*, the Compliance Schedules extend well over one year, but they do not require enforceable interim steps that must be completed to move the refinery toward compliance. *See* Final Permit at 48-50 (§ I.H.3). Instead, the permit only requires submittal of a “progress report” each year describing the “activities and timelines” Suncor is pursuing. *See id.* These “progress reports” are insufficient to comply with the Clean Water Act and Division policy. Instead, the Division must include permit conditions requiring Suncor to complete concrete tasks each year to ensure it actually comes into compliance by the end of the compliance period.
37. For these reasons, the Division erred when it imposed the Compliance Schedules.
38. This issue was raised during the public comment period. *See* Response to Comments at 69-80 (comments regarding compliance schedules from Suncor, the Conservation and Community Groups, the City of Thronton, and the Division’s response); Response to Comments at 291-293 (comments stating that the Division failed to assign compliance schedules consistent with state and federal regulations, including the assignment of enforceable interim requirements).

C. The Final Permit Monitoring Frequencies Are Insufficient to Ensure Compliance With Combined PFAS Permit Conditions from Outfalls 020Z, 023Z, 004Z, and 026Z

39. When its daily combined PFAS effluent limit of 70 ppt does take effect, the Final Permit fails to require monitoring frequently enough to ensure compliance with that limit. While the effluent limit sets a daily maximum, the Final Permit only requires monitoring on a weekly basis. *See* Final Permit at 30 (§ I.E.1). The monitoring frequency should be increased from weekly to daily.
40. The permit must include monitoring frequency requirements that are “sufficient to yield data which are representative of the monitored activity.” Regulation 61, § 61.8(4)(d); *see also* 40 C.F.R. § 122.48(b). For pollutants such as PFAS that are not specifically covered by the Division’s existing monitoring frequency policy, the Division considers monitoring frequency on a case-by-case basis. Colo. Water Quality Control Div., Policy No. WQP-20: Baseline Monitoring Frequency, Sample Type, and Reduced Monitoring Frequency Policy for Industrial and Domestic Wastewater Treatment Facilities (May 1, 2007) (Monitoring Policy) at 2.¹¹

¹¹ Available at <https://oitco.hylandcloud.com/CDPHERMPop/docpop/docpop.aspx?clienttype=html&docid=9025480>.

41. For such case-by-case determinations, the Division considers three factors: (a) the discharge's variability, (b) the type of activity leading to the discharge, and (c) the discharge's size. *Id.*
42. All three factors point toward requiring daily monitoring and demonstrate that weekly testing cannot assure compliance with the permit's daily limits.
43. *First*, Suncor's PFAS discharges are highly variable: existing sampling has found periodic spikes in PFAS levels that differ by orders of magnitude. *See* Fact Sheet at 57-58, Table VI-19.
44. *Second*, this variability is likely related to the type of activity leading to Suncor's PFAS discharges—the company's discharges of contaminated groundwater into Sand Creek. Suncor's existing interim treatment system has been unable to manage the high levels of PFAS it receives and failed to keep discharges below 70 ppt, even measured as a monthly average. At least until Suncor can demonstrate consistent compliance with a daily effluent limit, daily monitoring is necessary to yield the necessary representative data.
45. *Third*, the size of Suncor's PFAS discharges heightens the need for more frequent monitoring. Suncor has a history of high concentrations of PFAS discharges. For example, a sample at Outfall 020 in March 2021 measured 1,029 ppt of PFOA, PFNA, and PFOS combined. Suncor Energy, LLC, Table 1, Results of Analysis for PFAS Compounds, Outfall 020A (CO0001147) (Jan. 7, 2022).¹² The month prior measured 161 ppt, and the month before that measured 220 ppt. *Id.* These voluminous discharges have continued in more recent samples and strongly support more frequent PFAS monitoring.
46. This issue was raised during the public comment period. *See* Response to Comments at 277-280.

D. The Final Permit Fails to Evaluate or Include Technology Based Effluent Limitations Based on Best Professional Judgment for PFAS Discharges from Outfalls 020Z, 023Z, 004Z, and 026Z

47. The Division erred in issuing the Final Permit because the Division failed to: (1) address the factors for establishing technology based effluent limitations based on best professional judgment for PFAS discharges from Outfalls 020Z, 023Z, 004Z, and 026Z, and (2) establish technology based effluent limitations for those PFAS discharges.
48. A discharge permit issued to a point source like Suncor must contain "effluent limitations" meant to restrict "quantities, rates, and concentrations of chemical, physical,

¹² Available at <https://oitco.hylandcloud.com/cdphermipop/docpop/docpop.aspx?clienttype=activex&docid=9145779>, beginning on page 526 of PDF.

biological, and other constituents which are discharged from point sources into state waters.” *See* § 25-8-103(6), C.R.S.

49. Technology based effluent limitations (TBELs) “represent the *minimum level of control that must be imposed* in a permit issued under” the Clean Water Act. 40 C.F.R. § 125.3(a) (emphasis added).¹³
50. EPA regulations allow TBELs to be established in one of three ways.
51. *First*, TBELs can be established as effluent limitations in EPA regulations. 40 C.F.R. § 125.3(c)(1).
52. *Second*, TBELs can be established on a “case-by-case basis . . . to the extent that EPA-promulgated effluent limitations are inapplicable.” 40 C.F.R. § 125.3(c)(2).
53. *Third*, TBELs can be established as a combination of EPA regulations and case-by-case provisions. 40 C.F.R. § 125.3(c)(3) (“Where promulgated effluent limitations guidelines only apply to certain aspects of the discharger’s operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Act.”).
54. Colorado regulations on TBELs largely track EPA regulations except that they also allow TBELs to be established in state regulations. *See* Regulation 61, § 61.8(2)(a). Under state regulations, case-by-case TBELs are based on the Division’s “best professional judgment” and, consistent with federal regulations, “shall be made only for good cause and in the absence of Federally promulgated effluent guidelines or effluent limitation regulations promulgated by the Commission.” Regulation 61, § 61.8(2)(a)(v).
55. EPA guidance states that case-by-case TBELs are appropriate where among other things, (1) “a pollutant is present . . . in amounts that can be treated or otherwise removed,” and (2) “[w]hen effluent guidelines are available for the industry category, but no effluent guidelines requirements are available for the pollutant of concern.” EPA, NPDES Permit Writers’ Manual § 5.2.3.2 (Sept. 2010).¹⁴
56. Both factors are met here.
57. *First*, the Division recognizes that Suncor is regularly discharging high levels of PFAS.
58. *Second*, there are no EPA or state regulations that impose TBELs on Suncor’s PFAS discharges. The state has not established any TBELs for PFAS in state regulations, *see* 5

¹³ These requirements expressly apply to state permitting programs. *See* 40 C.F.R. § 123.25(a)(36).

¹⁴ Available at <https://www.epa.gov/npdes/npdes-permit-writers-manual>.

C.C.R. 1002-62 (“Regulation 62”), while EPA has established effluent guidelines for petroleum refineries, but they include no guidelines for PFAS discharges, *see* 40 C.F.R. Chapter I, Part 419.

59. EPA has specifically recognized that case-by-case TBELs may be particularly appropriate for PFAS discharges. *See* EPA, Memorandum re Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs 3-4 (Dec. 2022) (“Site-specific technology-based effluent limits [] for PFAS discharges developed on a best professional judgment (BPJ) basis may be appropriate for facilities for which there are no applicable effluent guidelines.”).¹⁵
60. Therefore, because no other PFAS TBELs were available, the Division was required to establish case-by-case TBELs for Suncor’s PFAS discharges. *See* NPDES Permit Writers’ Manual 5.2 (Sept. 2010) (“Without applicable effluent guidelines for the discharge or pollutant, permit writers must identify any needed TBELs on a case-by-case basis, in accordance with the statutory factors specified in CWA sections 301(b)(2) and 304(b).”).
61. When establishing TBELs based on best professional judgment, the Division must evaluate several factors: “the availability of appropriate technology, its economic reasonableness, the age of equipment and facilities involved, the process employed, and any increase in water or energy consumption.” Regulation 61, § 61.8(2)(a)(v)(A); *see also* § 25-8-503(b), C.R.S.; 40 C.F.R. § 125.3(d).
62. However, the Division failed to consider including case-by-case PFAS TBELs in Suncor’s Final Permit and did not evaluate the required factors. Ample information was available in the record for the Division to evaluate these factors, *see, e.g.*, Response to Comments at 269-70, 273-76 (comment summarizing information available to evaluate PFAS TBELs), but the Division did not do so.
63. Instead, the Division concluded, without analysis, that “technology-based limits will not provide sufficient treatment to meet water quality standards” based entirely on its conclusion that EPA had not established specific effluent guidelines for PFAS from petroleum refineries. Response to Comments at 269; *see also* Fact Sheet at 28.
64. For these reasons, the Division erred by failing to: (1) evaluate the TBEL factors for Suncor’s PFAS discharges, and (2) impose TBELs for the PFAS discharges based on those factors.

¹⁵ Available at https://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Memo_December_2022.pdf.

65. This issue was raised during the public comment period. *See* Response to Comments at 269-76 (comments stating that the Division must impose TBELs on Suncor’s PFAS discharges).

E. The Final Permit Lacks Limits for Discharges into Sand Creek and Burlington Ditch

66. The Final Permit does not require adequate conditions addressing discharges through groundwater to Sand Creek and Burlington Ditch.

67. Applicable regulations require that “[n]o permit shall be issued which allows a discharge that by itself or in combination with other pollution will result in pollution of the receiving waters in excess of the pollution permitted by an applicable water quality standard or applicable antidegradation requirement unless the permit contains effluent limitations and a schedule of compliance specifying treatment requirements.” Regulation 61, § 61.8(1)(e). In addition, permits must “ensure compliance with the applicable water quality requirements of all affected States.” Regulation 61, § 61.8(1)(b).

68. Suncor in the past has unlawfully discharged pollutants, including benzene, to Sand Creek. *See, e.g.*, Fact Sheet at 29-34; Colo. Water Quality Control Div., Notice of Violation/Cease and Desist Order/Clean-up Order No. IO-130221-1 (Feb. 21, 2013).¹⁶ There is substantial evidence that discharges of benzene and PFAS continue to occur through groundwater into Sand Creek and the Burlington Ditch. *See, e.g.*, Suncor Response to Questions from Email of 4/16/2021 Regarding Virtual Site Visit at 4 (Division noting its understanding that “up to 20 gpm [gallons per minute] of groundwater from the Suncor facility” containing PFAS were flowing into Sand Creek).¹⁷

69. The Final Permit, however, does not include any permit limits for such discharges. Instead, it requires Suncor to conduct monitoring and studies of Sand Creek and Burlington Ditch and if discharges of pollutants are identified, to apply for a permit modification to address those discharges. *See* Final Permit at 41-42 (§ I.G.4).

70. To comply with the law, the Final Permit should either: (a) include appropriate effluent limits for discharges through groundwater to Sand Creek and the Burlington Ditch, or (b) expressly provide that no groundwater discharges are authorized to those water bodies. *See* Final Permit at 6 (§ I.C) (providing that the “permit does not authorize any discharge from” two ponds at the refinery, but not mentioning groundwater discharges to Sand Creek and Burlington Ditch). The Division’s Final Permit Fact Sheet states that “Any discharges of contaminated groundwater from seeps or other point sources would be

¹⁶ Available at https://drive.google.com/file/d/1logiwQ5dSYVZ5M2RKOLXvcyORKIazbd_/view.

¹⁷ Available at https://drive.google.com/file/d/1O2B4UvnoDjbhOe3TXe_el2pq-yWVKnCQ/view.

unlawful unpermitted discharges,” Fact Sheet at 35, but this language is not incorporated into the permit itself.

71. In addition, the Division should require more frequent monitoring and reporting on whether seeps are reaching Sand Creek and Burlington Ditch, so that unlawful discharges can more readily be identified and addressed.
72. The Division also should require that Suncor line the Burlington Ditch, rather than giving it the option of doing a study. Lining the Ditch would create a physical barrier preventing groundwater discharges from reaching surface water in the ditch.
73. This issue was raised during the public comment period. *See* Response to Comments at 312-316 (comments stating that the Division must take further steps to protect Sand Creek and the Burlington Ditch from discharges of contaminated groundwater).

V. **ESTIMATE OF TIME FOR A HEARING**

74. At this time, the Conservation and Community Groups estimate that one week will be required to conduct an administrative hearing on the issues related to the Final Permit. They reserve the right to request additional time for a hearing if necessary.

Respectfully Submitted this 5th day of April, 2024.

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Certificate of Service

I certify that on the 5th day of April, 2024, a true and correct copy of this Request for Adjudicatory Hearing was electronically submitted to the Colorado Water Quality Control Division via the following recipients:

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