

**Colorado Department of Public Health and Environment
WATER QUALITY CONTROL COMMISSION**

M E M O R A N D U M

TO: Water Quality Control Commission

FROM: Paul Frohardt

DATE: November 6, 2011

SUBJECT: 2012 Retreat Summary

This memorandum summarizes the major areas of discussion and actions agreed upon at the November 5 and 6, 2012 Commission retreat.

1. Participants

Commission members: Peter Butler, Lauren Evans, Mary Fabisiak, Jill McConaughy,
Mark Pifher, Jon Slutsky, Andrew Todd, Chris Wiant

Commission staff: Paul Frohardt and Nancy Horan

Division staff: Steve Gunderson, Dick Parachini, Donna Davis, Sarah Johnson, Aimee
Konowal, Janet Kieler, Mike Beck

Attorney General's Office: Jerry Goad, Trisha Oeth, Annette Quill

Patti Wells was not able to attend.

2. The following officers were re-elected unanimously for the upcoming year:

Chair: Peter Butler

Vice-Chair: Andrew Todd

The following officer was elected unanimously for the upcoming year:

Secretary: Lauren Evans

3. Steve Gunderson briefed the Commission regarding the status of Division reorganization efforts. Steve and Donna Davis provided an overview of the status of the Division's resources and funding. Steve, Donna and Dick Parachini provided an overview of the status of the Division's strategic planning efforts. Janet Kieler provided a briefing regarding a Division LEAN event related to construction stormwater permits. Donna Davis provided a briefing regarding a Division LEAN event related to the state laboratory data reporting. Mike Beck mentioned an upcoming LEAN effort related to SRF eligibility lists and the application process.

4. The Commission discussed this past year's pilot effort to provide feedback regarding Division staff support, particularly in rulemaking hearings. Division staff provided its

perspective on the usefulness of the feedback. It was agreed that a survey will be distributed by the Administrator by email after each of four hearings this year. The survey will include numerical ratings and specifically request feedback on what was done well and suggestions for improvement, and request that a narrative explanation be provided for any ratings of 3 or lower. The four hearings will be the March onsite wastewater treatment systems rulemaking hearing, the March section 303(d) listing methodology administrative action hearing, the May hearing on the Colorado Water Quality Management and Drinking Water Protection Handbook, and the June Arkansas/Rio Grande water quality standards rulemaking hearing.

5. The Commission discussed issues related to its interaction with the public and parties outside of the formal hearing process. It was suggested that if individual Commission members are contacted by parties or the public during a rulemaking process they should indicate that they cannot discuss the rulemaking outside of the formal process, and if they individually receive written materials outside of the process those should not be read unless they are admitted into the record. If individual Commission members are approached outside of Commission meetings with issues regarding actions taken by the Division, Commissioners should let Steve Gunderson and Paul Frohardt know, to help minimize surprises, while trying to be responsive to public concerns.
6. It was agreed that the Commission representatives/liaisons for the Commission's various external coordination efforts, and the established frequency of coordination meetings for the coming year, would be as follows:
 - A. State Engineer's Office/Colorado Water Conservation Board/Division of Wildlife/Dept. of Agriculture (water quality/quantity coordination): Patti Wells; Mark Pifher as back-up. (quarterly)
 - B. Mined Land Reclamation Board/Division of Reclamation, Mining and Safety: Peter Butler; Andrew Todd as back-up. (quarterly)
 - C. Oil and Gas Conservation Commission: Chris Wiant; Lauren Evans. (quarterly)
 - D. Hazardous Materials and Waste Management Division: Lauren Evans; Mary Fabisiak as back-up. (twice a year)
 - E. Division of Oil and Public Safety: Chris Wiant; Lauren Evans as back-up. (twice a year)
 - F. Department of Agriculture (SB90-126): Jon Slutsky.
 - G. Colorado Water Quality Forum: Mary Fabisiak; Mark Pifher as back-up.

- H. Board of Health: none; Division will keep the Commission apprised as issues develop.
- I. Air Quality Control Commission: none; Division will keep the Commission apprised as issues develop.
- J. Nonpoint Source Alliance: Andrew Todd; Jon Slutsky as back-up.
- K. Ground Water Quality Protection Council: Lauren Evans.
- L. Water Resources and Power Development Authority: Patti Wells; Mark Pifher as back-up. (twice a year)
- M. Healthy Rivers Fund: Mary Fabisiak and Dick Parachini to continue as the Commission's designees.

After the 2013 Commission appointments, this list of contacts will be reviewed at a regular Commission meeting.

- 7. With respect to external interactions, the Commission also discussed the following:
 - A. It was agreed that the annual Commission briefing of the House-Senate Joint Agriculture Committee should resume after this past year's break due to the Nutrients rulemaking hearing. Potential issues to address will be discussed at the December Commission meeting.
 - B. It was agreed that EPA Region 8 will be invited to present a briefing regarding EPA water quality issues and priorities at a Commission meeting in spring 2013.
 - C. The Commission discussed interaction with the Governor's Office regarding rulemaking hearings and expressed concern regarding the timing of input in the nutrients rulemaking hearing.
 - D. It was suggested that press inquiries to individual Commission members should be referred to the Commission Office.
- 8. It was agreed that an Attorney General's Report item will be scheduled at a regular Commission meeting to discuss the Open Meetings Law.
- 9. Division staff summarized and discussed with the Commission the major water quality management issues and challenges coming up in the near future with respect to each of the major program areas. These discussions were factored into planning regarding the Commission's long-range schedule, work sessions, tours and informational briefings for the upcoming year.

10. The Commission discussed options for several process refinements.
 - A. Paper reduction for Commission packets: There was a consensus to explore options for providing some packet materials to the Commission only in electronic form, rather than in paper copies. It was agreed that Nancy will circulate a survey regarding which types of documents Commission members may be willing to receive only electronically, and that the results will be discussed at a regular Commission meeting.
 - B. Rulemaking hearing documents: It was agreed that revisions to the Procedural Rules will be proposed for the May rulemaking hearing to consider streamlining the requirements for the exchange of documents between parties in rulemaking hearings. The proposal will also include a proposed requirement that the Division and parties submit rulemaking hearing documents in PDF format.
 - C. Mailing List Status: It was agreed that revisions to the Procedural Rules will be proposed for the May rulemaking hearing to consider eliminating “mailing list status” in rulemaking hearings.
 - D. Data submissions for rulemaking: It was agreed that revisions to the Procedural Rules will be proposed for the May rulemaking hearing to consider new provisions regarding the submission of data in rulemaking hearings. In particular, the proposal would provide that where a party’s position or proposal in a hearing is based in part on analysis of water quality data, the party would be required to submit its analysis of the data, and a description of the data upon which the analysis is based, but would not be required to submit the raw data into the hearing record. The party would be required to submit an electronically manipulable copy of the data to the Division, and make it available to the parties upon request. If the Division or any party chooses to submit some or all of the data into the hearing record, they would be required to submit a copy of the data in PDF format.
11. The Commission discussed concerns regarding sound in the Sabin Room, and the need for Commission members to speak up to be heard at meetings.
12. The Commission reviewed the status of Water Quality Forum work groups for the upcoming year. Commission contacts to monitor the stakeholder discussion process for these work groups will be as follows:
 - A. Practical Quantitation Limits: Andrew Todd, Lauren Evans
 - B. Permit Issues Forum: Jill McConaughy, Mary Fabisiak

- C. E. coli: Chris Wiant, Mary Fabisiak, Jon Slutsky
- D. Onsite Wastewater Treatment Systems: Chris Wiant
- E. Section 303(d) Listing Methodology: Peter Butler, Andrew Todd, Mary Fabisiak, Mark Pifher
- F. Water Reuse: Mark Pifher, Lauren Evans, Mary Fabisiak, Jon Slutsky
- G. Discharger Specific Variances: Lauren Evans, Mary Fabisiak
- H. Arsenic Standards: Peter Butler
- I. Drinking Water Regulations: Mary Fabisiak, Jon Slutsky
- J. Design Criteria for Potable Water Systems: Mary Fabisiak
- K. Stormwater Construction Compliance: Going forward issues to be addressed by MS4 Issues Forum
- L. MS4 Issues Forum: Mark Pifher

This list of contacts will be reviewed after 2013 Commission appointments.

- 13. Several revisions and additions to the Commission's long-range schedule were agreed to, including:
 - A. It was agreed that the Primary Drinking Water Regulations rulemaking scheduled for August 2013 will be moved to November 2013.
 - B. The September 2013 retreat will be held in Glenwood Springs.
 - C. The November 2013 Upper and Lower Colorado River basins Issues Formulation Hearing will be held at a location to be determined in Summit County.
 - D. The June 2014 Upper and Lower Colorado River basins rulemaking will be held in Grand Junction.
 - E. The Commission will tentatively not hold meetings in February 2013, July 2013, and January 2014.
 - F. Hearing Chairs were identified for several rulemaking hearings.

The Administrator noted the Commission Office actions to comply with HB12-1008, regarding

the development of an annual Regulatory Agenda, and Executive Order 2, regarding a plan for regular review of regulations.

14. The Commission identified the following topics for potential work sessions during the upcoming year:
 - A. Basic Standards 101; possible additional sessions regarding human health-based water quality standards, recreation standards and aquatic life standards.
 - B. Drinking Water Program.
 - C. Discharge Permit Program.

15. The Commission identified the following topics for informational briefings for the upcoming year:
 - A. Emerging contaminants (as developments warrant).
 - B. Colorado's Operator Certification Program.
 - C. CSU research regarding lower Arkansas River basin water quality.

16. The Commission identified the following potential tour opportunities for the upcoming year:
 - A. Red Rocks Community College distribution system training facility.
 - B. Potential tours in conjunction with meetings outside of Denver.