

PLEASE NOTE THAT THE FOLLOWING DRAFT SUMMARY OF PROCEEDINGS/MOTIONS HAS NOT YET BEEN REVIEWED AND APPROVED BY THE WATER QUALITY CONTROL COMMISSION.

SUMMARY OF PROCEEDINGS/MOTIONS

January 14, 2013

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Evans as Acting Chair at 9:00 a.m., Monday, January 14, 2013, in the Florence Sabin Conference Room, 4300 Cherry Creek Drive South, Building A, Denver, Colorado.

COMMISSION MEMBERS PRESENT:

Lauren Evans, Mary Fabisiak, Mark Pifher, Jon Slutsky, Patti Wells and Chris Wiant.

COMMISSION MEMBERS PARTICIPATING BY PHONE:

Peter Butler and Jill McConaughy.

COMMISSION MEMBERS ABSENT:

Andrew Todd.

STAFF PRESENT:

Paul Frohardt, Administrator; Steve Gunderson, Division Director; Jerry Goad, First Assistant Attorney General; Nancy Horan, Program Assistant.

APPROVAL OF AGENDA:

The agenda was approved with the addition of Administrator's Items regarding (1) follow-up concerning the Arkansas/Rio Grande Issues Formulation Hearing, (2) a new Colorado Water Quality Forum web site, (3) a proposal to reschedule the Colorado Water Quality Management and Drinking Water Protection Handbook Administrative Action Hearing, (4) a Pueblo Area Council of Governments' request to schedule a section 208 plan hearing, and (5) several other scheduling items.

INFORMATIONAL HEARING:

The Commission conducted an Informational Hearing for triennial review of the Biosolids Regulation, Regulation #64 (5 CCR 1002-64). Comments were received from the Division staff and interested members of the public. Following the close of the hearing it was agreed that a rulemaking hearing will be scheduled to consider potential revisions to this rule proposed by the Rocky Mountain Water Environment Association Biosolids Committee, as identified in their submission for today's hearing. The rulemaking hearing will be scheduled for May 2014. A hearing chair will be selected at the 2013 Commission retreat.

ADMINISTRATOR'S ITEMS:

1. Commissioner Wells moved for approval of the December 10, 2012 Summary of

Proceedings/ Motions with one correction identified today. Commissioner Fabisiak seconded the motion. The motion carried unanimously. Commissioner McConaughy abstained.

2. The Commission discussed a draft notice and proposal for a May 2013 rulemaking regarding the Reclaimed Water Control Regulation, Regulation #84. It was agreed that these documents should be finalized and filed.
3. The Commission discussed a draft notice and proposal for a May 2013 rulemaking regarding the Procedural Rules, Regulation #21. It was agreed that these documents should be finalized and filed with one correction noted today.
4. Commissioner Slutsky moved to reopen the record from the December 2012 temporary modifications rulemaking, for the limited purpose of accepting into the record the comments received on the draft final action documents, including the cover memo regarding those comments. Commissioner Wiant seconded the motion. The motion carried unanimously. The record was again closed. Following discussion, Commissioner Wiant moved for final approval of the Division's proposal of no changes to the temporary modifications for Fountain Creek segments 1a, 2a, 4 and 6, along with the related statement of basis and purpose language, in accordance with the draft final action documents included in the Commission packet. Commissioner Fabisiak seconded the motion. The motion carried unanimously. Commissioners Pifher and McConaughy abstained. Commissioner Evans moved for final approval of the remaining proposed actions regarding temporary modifications in Regulations #32, #33, #35, #36, #37 and #38, along with the accompanying proposed Statements of Basis, Specific Statutory Authority and Purpose in accordance with the draft final action documents included in the Commission packets and the corrections identified. Commissioner Fabisiak seconded the motion. The motion carried unanimously. Commissioner McConaughy abstained.

INFORMATIONAL HEARING:

The Commission conducted an Informational Hearing for triennial review of the Pretreatment Regulations, Regulation #63 (5 CCR 1002-63). Comments were received from the Division staff. No public comments were offered. Following the close of the hearing it was agreed that a rulemaking hearing will not be scheduled to consider potential revisions to this rule.

ADDITIONAL ADMINISTRATOR'S ITEMS:

1. The Commission discussed plans for the requested March 13, 2013 House-Senate Joint Agriculture Committee briefing and reviewed draft "issues summary" documents concerning (1) the Colorado nutrients rules and status of implementation, and (2) state roles regarding water quality management. Following discussion it was agreed that, with the revisions to the nutrients summary identified today, the issue summaries should be finalized for distribution to Committee members.
2. With respect to follow-up concerning the Arkansas/Rio Grande Issues Formulation Hearing, the Administrator noted that XTO/Pioneer and Colorado Springs each decided not to submit a rulemaking proposal for the June 2013 hearing. It was agreed that Peter Butler, as hearing chair, will review the draft notice and proposal for this rulemaking on behalf of the Commission prior to filing.

3. The Administrator noted that the Colorado Water Quality Forum has a new web site: www.colowqforum.org. Following discussion it was agreed that the quarterly updates of Water Quality Forum work group status will be discontinued. In addition, the separate calendar of water quality meetings maintained by the Commission Office will be discontinued.
4. The Commission discussed a recommendation regarding scheduling of the review of the Colorado Water Quality Management and Drinking Water Protection Handbook, Policy 98-2, currently scheduled for an administrative action hearing on May 13, 2013. Commissioner Wells moved to extend the expiration date of Policy 98-2 to December 31, 2013. Commissioner Wiant seconded the motion. The motion carried unanimously. The administrative action hearing for review of Policy 98-2 will be moved to August 2013.
5. The Commission discussed a request from the Pueblo Area Council of Governments that the Commission schedule a hearing to consider approval of recent revisions to their Section 208 water quality management plan. It was agreed that an administrative action hearing will be scheduled for the March 2013 Commission meeting.
6. Several other scheduling issues were discussed.

INFORMATIONAL BRIEFING:

Loretta Pineda, Tony Waldron and Bruce Stover of the Division of Reclamation, Mining and Safety provided a briefing regarding that agency's annual SB89-181 report to the Commission.

INFORMATIONAL BRIEFING:

Matt Lepore and Jim Milne of the Colorado Oil and Gas Conservation Commission provided a briefing regarding that agency's annual SB89-181 report to the Commission.

DIVISION DIRECTOR'S REPORT:

1. Steve Gunderson briefed the Commission regarding water quality-related legislation for 2013. With respect to potential legislative action authorizing capital construction grants for compliance with nutrients management requirements, the Commission agreed that the Administrator should work with Jerry Goad and Mark Pifher, as hearing chair, to develop a notice for a potential May 2013 rulemaking hearing for the adoption of regulations for expenditure of these potential new grant monies. The notice will be for emergency and permanent adoption of regulatory provisions, and will provide for a shorter and more flexible comment process in view of the short time frames involved.
2. Steve briefed the Commission regarding Division LEAN activities, including events related to the financial assistance program and to the handling of internal records.
3. Steve briefed the Commission regarding pending EPA developments concerning water quality, including EPA's release of finalized 2012 recreational water quality criteria.

ATTORNEY GENERAL'S REPORT:

1. Jerry Goad recommended that the Commission go into executive session to receive legal

advice regarding Colorado's Open Meetings Law. Commissioner Fabisiak moved that the Commission go into executive session to receive legal advice regarding Colorado's Open Meetings Law. Commissioner Slutsky seconded the motion. The motion carried unanimously. Commissioner Wiant was not present for this vote. An executive session discussion was held. Commissioner Evans moved that the Commission conclude the executive session. Commissioner Fabisiak seconded the motion. The motion carried unanimously. Commissioner Wiant was not present for this vote. Jerry Goad provided a brief summary of the subject matter of the executive session discussions.

Approved this ____ day of March 2013.

Water Quality Control Commission

Paul D. Frohardt, Administrator