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

November 5, 2012

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Butler as Chair at 9:00 a.m., Monday, November 5, 2012, in the Snow/Miller Room, El Paso County Public Health, 1675 West Garden of the Gods Road, Suite 2044, Colorado Springs, Colorado 80907.

COMMISSION MEMBERS PRESENT:

Peter Butler, Lauren Evans, Mary Fabisiak, Jill McConaughy, Mark Pifher, Jon Slutsky, Andrew Todd and Chris Wiant.

COMMISSION MEMBERS ABSENT:

Patti Wells.

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 an Attorney General's Report item regarding the status of litigation concerning water transfers and discharge permits.

ADMINISTRATOR'S ITEMS:

1. Commissioner Slutsky moved for approval of the October 9, 2012 Summary of Proceedings/ Motions. Commissioner Evans seconded the motion. The motion carried unanimously.

2. Commissioner Pifher moved to reopen the record from the September 2012 Regulations #34 and #35 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 Fabisiak seconded the motion. The motion carried unanimously. The record was again closed. Following discussion, Commissioner Wiant moved for final approval of the proposed revisions to Animas and Florida River segments 1-9, 12a, and 16-21, along with the related statement of basis and purpose language, in accordance with the draft final action documents included in the Commission packet, with the typographical corrections noted today. Commissioner Slutsky seconded the motion. The motion carried unanimously. Commissioner Butler abstained. Commissioner Wiant moved for final approval of the remaining proposed revisions to Regulations #34 and #35, along with the accompanying Statements of Basis, Specific Statutory Authority and Purpose, in accordance with the draft final action

documents included in the Commission packet, with the typographical corrections noted today. Commissioner Todd seconded the motion. The motion carried unanimously.

3. The Commission discussed a draft notice and proposal for a March 2013 rulemaking to consider repeal of the Individual Sewage Disposal Systems Guidelines and adoption of an On-Site Wastewater Treatment Systems Regulation, Regulation #43, proposed to be codified at 5 CCR 1002-43. It was agreed that these documents should be finalized and filed, with correction of typographical errors.

4. The Commission discussed the Division's proposal regarding scheduling of a review of Policy 98-1, Implementation Guidance for Determining Sediment Deposition Impacts to Aquatic Life in Streams and Rivers, currently scheduled for an administrative action hearing on May 13, 2013. Commissioner Fabisiak moved to extend the expiration date of Policy 98-1 to December 31, 2014. Commissioner Pifher seconded the motion. The motion carried unanimously. An administrative action hearing for review of Policy 98-1 will be scheduled for October 2014.

INFORMATIONAL HEARING:

The Commission conducted an Informational Hearing for triennial review of the Cheraw Lake Control Regulation, Regulation #75 (5 CCR 1002-75). Comments were received from the Division staff. Following the close of the hearing, it was agreed that this informational hearing will be continued to April 2013, following additional discussion of this regulation with interested stakeholders.

DIVISION DIRECTOR'S REPORT:

1. There was no separate Division Director's Report at this month's meeting.

ATTORNEY GENERAL'S REPORT:

1. Jerry Goad provided a brief update on the status of the Southern Delivery System section 401 certification judicial appeal.

2. Jerry briefed the Commission regarding the status of litigation concerning EPA's regulations addressing water transfers and discharge permits.

ISSUES FORMULATION HEARING:

The Commission conducted an Issues Formulation Hearing for the Classifications and Numeric Standards for the Arkansas River Basin, Regulation #32 (5 CCR 1002-32) and Rio Grande River Basin, Regulation #36 (5 CCR 1002-36). Comments were received from the Division staff and interested members of the public. Following discussion, Commissioner Evans moved that the June 2013 rulemaking hearing consider revisions proposed by the Water Quality Control Division, as well as potential proposals by the Hazardous Materials and Waste Management Division, the City of Pueblo, the State of Kansas (issues 1 and 2), XTO Energy/Pioneer Natural Resources, the Board of Water Works of Pueblo, Tri-Lakes Wastewater Treatment Facility, Cherokee Metropolitan District, Pueblo West Metropolitan District, Public Service Company of Colorado, Cripple Creek & Victor Gold Mining Company, Colorado Springs Utilities and Rio Grande Silver addressing the issues raised in this informational hearing, provided that if XTO/Pioneer (for issues other than boron) or Colorado Springs Utilities choose to advance a

draft

proposal the Commission will further consider the ripeness of those proposals at the January 2013 Commission meeting. Commissioner Fabisiak seconded the motion. The motion carried on a vote of seven to one. Commissioners Butler, Slutsky, Wiant, Fabisiak, Evans, Pifher and Todd voted in favor of the motion. Commissioner McConaughy voted against the motion.

All interested parties that intend to advance proposals for consideration in the June rulemaking hearing shall submit their specific proposals and proposed statement of basis and purpose language to the Commission Office electronically by January 15, 2013, except that if XTO Energy/Pioneer or Colorado Springs Utilities choose to advance proposals those will be submitted by January 2, 2013.

Approved this ____ day of December 2012.

Water Quality Control Commission

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Paul D. Frohardt, Administrator

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