



## COLORADO

### Water Quality Control Commission

Department of Public Health & Environment

## SUMMARY OF PROCEEDINGS/MOTIONS

February 8, 2016

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Evans at 9:00 a.m., Monday, February 8, 2016, in the Florence Sabin Conference Room, 4300 Cherry Creek Drive South, Building A, Denver, Colorado 80246.

### COMMISSION MEMBERS PRESENT:

David Baumgarten, Barbara Biggs, Lauren Evans, Mary Fabisiak, Rick Hum, Jim Rada, Jon Slutsky and Chuck Wanner.

### COMMISSION MEMBERS ABSENT:

Andrew Todd.

### STAFF PRESENT:

Trisha Oeth, Administrator; Patrick Pfaltzgraff, Division Director; Jerry Goad, First Assistant Attorney General; Nancy Horan, Operations Manager for the commission.

The commission thanked and recognized Jim Rada for his years of service on the commission.

### APPROVAL OF AGENDA:

The agenda was approved as published.

### ADMINISTRATOR'S ITEMS:

1. Commissioner Rada moved for approval of the January 11, 2016 Summary of Proceedings/Motions as published. Commissioner Wanner seconded the motion. The motion carried unanimously. Commissioners Biggs, Evans and Fabisiak abstained.
2. The commission discussed the draft notice and proposals for a June 2016 rulemaking regarding the Basic Standards and Methodologies for Surface Water, Regulation #31 (5 CCR 1002-31). The commission received memos from the following entities expressing ripeness concerns with portions of the division's proposal regarding temperature standards: Colorado Parks and Wildlife, Colorado Wildlife Federation, Trout Unlimited, Ashley Rust and Eagle River Water and Sanitation District. In addition, EPA submitted a letter regarding the division's shoulder season and transition zones proposals. Responsive comments were received from the division, the City of Boulder, the City of Fort Collins, Plum Creek Water Reclamation Authority, the City of Pueblo,

Littleton/Englewood Wastewater Treatment Plant, Public Service Company of Colorado and Tri-State Generation and Transmission Association, Inc.

Following discussion, the commission determined that the division's proposals regarding temperature contained in the Exhibit 1 to the draft notice are ripe for consideration in this rulemaking. Accordingly, the commission agreed that the draft notice and proposals should be finalized and filed as reflected in commission packets with the changes reflected in the division's February 4, 2016 memo identifying errors and omissions.

3. The commission discussed plans for a tentative March 9, 2016 briefing of the House-Senate Joint Agriculture Committee and reviewed draft "issue summary" documents concerning (1) challenges for small communities with aging water and wastewater infrastructure, and (2) nutrients. Following discussion, it was agreed that the issue summaries should be finalized for distribution to committee members. The administrator will keep commissioners updated regarding the committee's response to the commission's offer to provide the briefing.
4. The commission discussed plans for a March 7, 2016 Joint Meeting with the Colorado Water Resources and Power Development Authority.
5. The commission discussed an August 2016 rulemaking hearing on the long range schedule to consider a site-specific TDS standard proposal by Cherokee Metropolitan District. It was agreed that a change to Regulation #41 to allow consideration of site-specific groundwater standards for agriculture standards, which will be proposed by the division, should be added to the scope of the hearing.
6. The commission discussed a letter from Suncor Energy requesting the commission hold a rulemaking hearing in October 2016 to consider a proposal for a discharger specific variance for selenium. The commission agreed to schedule the hearing, and commissioner Evans will serve as hearing chair.

COMMISSIONER ITEMS:

None.

DIVISION DIRECTOR'S REPORT:

1. Patrick Pfaltzgraff provided an update regarding legislative items, issues related to lead and drinking water, and the Gold King Mine spill.

ATTORNEY GENERAL'S REPORT:

None.

WORK SESSION:

The commission conducted a work session with interested stakeholders regarding participation in rulemaking hearings.

THORNTON'S APPEAL OF NORTHGLENN'S SITE APPROVAL:

Commissioner Evans, as chair, noted that the Commission has received from the City of Thornton an Appeal and Request for Adjudicatory Hearing Concerning the Water Quality Control Division's Approval of Northglenn's Site Application. The appeal has been scheduled for hearing on March 8, 2016. On January 12, 2016, the City of Northglenn filed a Motion to Dismiss in this proceeding. On January 20, 2016, the Water Quality Control Division and the City of Thornton filed responses. On January 25, 2016, the City of Thornton and the City of Northglenn filed replies. Being fully briefed, the commission took up the Motion to Dismiss.

Commissioner Fabisiak disclosed that as a former employee of Northglenn from 1998-2005, she was involved in numerous issues regarding the Northglenn wastewater treatment facility but was not involved in the current site application. Commissioner Fabisiak believes she can participate impartially in the hearing and render any decisions necessary based on the evidence presented.

Commissioner Biggs disclosed that as a former employee of Metro Wastewater Reclamation District, she was involved in numerous issues regarding the Northglenn wastewater treatment plant, lift station, and force main. Commissioner Biggs believes she can participate impartially in the hearing and render any decisions necessary based on the evidence presented.

Commissioner Evans disclosed her company has provided services unrelated to this rulemaking to the City of Thornton. She has not had any discussions with Thornton regarding the issues that are subject to this rulemaking, and believes she can participate impartially in the hearing and render any decisions necessary based on the evidence presented.

Commissioner Baumgarten moved that the commission go into executive session to receive advice from conflicts' counsel regarding a Motion to Dismiss filed by the City of Northglenn in the adjudicatory hearing appealing the approval of Northglenn's site application. Commissioner Wanner seconded the motion. The motion carried unanimously.

Commissioner Hum moved that the commission come out of executive session. Commissioner Rada seconded the motion. The motion carried unanimously.

Following discussion, commissioner Baumgarten moved that Northglenn's Motion to Dismiss be granted. Commissioner Wanner seconded the motion. The motion carried unanimously.

INFORMATIONAL BRIEFING:

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

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WORK SESSION:

Matt Lepore and Greg Deranleau of the Colorado Oil and Gas Conservation Commission conducted a work session with the commission regarding water quality protection tools and processes.

Approved this 7<sup>th</sup> day of March, 2016.

Water Quality Control Commission

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Trisha Oeth, Administrator