

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

March 7, 2016

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Evans at 8:00 a.m., Monday, March 7, 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, and Chuck Wanner.

COMMISSION MEMBERS ABSENT:

Jon Slutsky.

STAFF PRESENT:

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

APPROVAL OF AGENDA:

The agenda was approved as published.

ADMINISTRATOR'S ITEMS:

1. Commissioner Fabisiak moved for approval of the February 8, 2016 Summary of Proceedings/Motions as published. Commissioner Hum seconded the motion. The motion carried unanimously.
2. The commission finalized plans for a March 9, 2016 briefing of the House-Senate Joint Agriculture Committee.
3. The commission agreed to add some rulemaking hearings to the long range schedule. A rulemaking hearing will be scheduled in August 2016 to consider listing Segment COUCNP04a (Sand Creek) on the 303(d) list in Regulation 93, and Commissioner Biggs will serve as hearing chair. A rulemaking hearing will be scheduled in October 2016 to consider changes to Regulation No. 61 to allow the division to retain permit fees when a permittee ceases discharge mid-year, and Commissioner Evans will serve as hearing chair. A rulemaking hearing will be scheduled in October 2016 to consider a discharger

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specific variance for ammonia for the Town of Nucla, and Commissioner Baumgarten will serve as hearing chair.

4. The commission expressed interest in a briefing from the Colorado Oil and Gas Conservation Commission (COGCC) regarding its investigation of tert-Butyl alcohol (TBA) in Colorado. The administrator will schedule this with COGCC for a future commission meeting.

COMMISSIONER ITEMS:

1. Commissioner Wanner asked about sampling efforts for the Gold King Mine. Patrick Pfaltztraff described monitoring discussions occurring between the state, EPA, New Mexico, Utah, and the Southern Ute Indian Tribe. Patrick will provide a copy of the sampling plan when it is available.

ADMINISTRATIVE ACTION HEARING:

The commission conducted an administrative action hearing to consider approval of the Water Quality Control Division's proposed submittal of projects for FY 16 Section 319 nonpoint source funds. Testimony was received from Lucia Machado on behalf of the Division. No public comment was offered. Following discussion, Commissioner Fabisiak moved for approval of the proposed list of nonpoint source projects for FY 16 as circulated in commission packets. Commissioner Hum seconded the motion. The motion carried unanimously.

DIVISION DIRECTOR'S REPORT:

1. Patrick Pfaltzgraff provided an update regarding legislative items, efforts to inventory all abandoned mines in Colorado that are suspected to be contributing to water quality impacts, the MOU signed regarding Mt. Emmons Mine, lead in drinking water, and perfluorated compounds in the Security/Widefield/Fountain area.

ADMINISTRATIVE ACTION HEARING:

The commission conducted an administrative action hearing to consider approval of a 2016 Section 305(b) report entitled "Integrated Water Quality Monitoring and Assessment Report". Testimony was received from Tatyana DiMascio and Robert Hillegas on behalf of the Division staff. No public comment was offered. Following the close of the hearing and deliberations, Commissioner Hum moved for approval of the proposed report as circulated in the commission packets with the modifications noted. Commissioner Biggs seconded the motion. The motion carried unanimously.

INFORMATIONAL BRIEFING:

Elizabeth Garner, the state demographer, provided a briefing regarding population growth in Colorado.

ATTORNEY GENERAL'S REPORT:

1. Commissioner Baumgarten moved that the commission go into executive session to receive advice from counsel regarding legal issues raised in the February 8, 2016 stakeholder work session. Commissioner Wanner seconded the motion. The motion carried unanimously.

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

The commission discussed suggestions made during a February 8, 2016 work session with interested stakeholders regarding participation in rulemaking hearings. The commission is grateful for the robust discussion and the suggestions for improvements that were offered. The commission engaged in discussion regarding many of the suggestions made, including ways to ensure that each party's position and rationale is clearly understood by the commissioners prior to entering deliberations. It was agreed that parties will generally not be given less than 5 minutes of time for oral testimony, that the commission will not conduct deliberations in phases but rather will continue to deliberate on all issues at one time, that the commission administrator will work on improving the public participation documents, that the commission will continue to utilize its current practice for the allowance of cross-examination, and that a follow-up work session will be scheduled for the fall 2016.

WORK SESSION:

Andrew Ross from the division conducted a work session with commissioners regarding groundwater.

JOINT MEETING WITH COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY:

The commission met with the Colorado Water Resources and Power Development Authority to discuss issues of common interest.

Approved this 11th day of April, 2016.

Water Quality Control Commission

Trisha Oeth, Administrator