



# COLORADO

Water Quality  
Control Commission

Department of Public Health & Environment

## SUMMARY OF PROCEEDINGS/MOTIONS

April 9, 2018

Prior to the regular meeting, the Colorado Water Quality Control Commission met informally with the Engineering Section of the Water Quality Control Division.

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Baumgarten at 9:00 a.m., Monday, April 9, 2018, in the Florence Sabin Conference Room, 4300 Cherry Creek Drive South, Building A, Denver, Colorado 80246.

### COMMISSION MEMBERS PRESENT:

David Baumgarten, Barbara Biggs, Mary Fabisiak, Mike Gooseff, Kevin Greer, Rick Hum, Fred Menzer and Jon Slutsky.

COMMISSION MEMBERS ABSENT: Jane Clary.

### STAFF PRESENT:

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

### APPROVAL OF AGENDA:

The agenda was approved as published with one additional Administrator's Item regarding EPA's action on the Southern Ute Indian Tribe's application for treatment as a state.

### RULEMAKING HEARING:

Commissioner Menzer, as hearing chair, opened a rulemaking hearing for consideration of the adoption of revisions to the Colorado Primary Drinking Water Regulations, Regulation #11 (5 CCR 1002-11).

Testimony was received from the Water Quality Control Division. No written or oral public comment was offered. Following the close of the hearing the commission conducted its deliberations. Following discussion, Commissioner Fabisiak moved for preliminary final action of the proposed revisions to Regulation #11 as set forth in division Exhibit B, along with accompanying Statement of Basis, Statutory Authority and Purpose with typographical errors corrected as noted. Commissioner Baumgarten seconded the motion. The motion carried unanimously. Final approval will be considered at the May 2018 commission meeting.

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### ADMINISTRATOR'S ITEMS:

1. Commissioner Hum moved for approval of the March 12, 2018 Summary of Proceedings /Motions as published. Commissioner Gooseff seconded the motion. The motion carried unanimously.
2. The commission discussed a draft notice and proposal for an August 2018 rulemaking hearing regarding Regulation #84. It was agreed that these documents should be finalized and filed.
3. The commission agreed to a request from Mine Water to reschedule a rulemaking hearing to consider its proposal for a site specific standard from August 2018 to December 2018.
4. The administrator discussed logistics for the commission's June meeting with the commissioners.
5. The administrator noted that EPA approved the Southern Ute Indian Tribe's application for treatment as a state.

COMMISSIONER ITEMS: None.

### DIVISION DIRECTOR'S REPORT:

1. Patrick Pfaltzgraff provided an update regarding funding for the Drinking Water Program. He also provided an update regarding federal funding.
2. Patrick provided a staffing update and a legislative update.
3. Patrick provided an update regarding Denver Water's optimal corrosion control treatment.

ATTORNEY GENERAL'S REPORT: None.

### RULEMAKING HEARING:

Commissioner Slutsky, as hearing chair, opened a rulemaking hearing for consideration of the adoption of revisions to the Site-Specific Water Quality Classifications and Standards for Ground Water, Regulation #42 (5 CCR 1002-42).

Testimony was received from the Hazardous Materials and Waste Management Division (HMWMD), the Water Quality Control Division and the parties to the hearing. Oral comments were received from interested members of the public.

Following testimony, Commissioner Baumgarten moved that the commission go into Executive Session to receive legal advice from the commission's counsel on the level of evidence

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necessary and the burden of proof on factual evidence on the matters raised today. Commissioner Hum seconded the motion. The motion carried unanimously.

Commissioner Biggs moved to come out of executive session. Commissioner Hum seconded the motion. The motion carried unanimously.

Following the executive session, the commission's attorney noted for the record that the commission received legal advice regarding burdens of proof, weight of evidence, and the legal implications of decisions before the commission.

Following the close of the hearing the commission conducted its initial deliberations. Following discussion, Commissioner Hum moved for preliminary final action of the proposed revisions to Regulation #42 proposed by HMWMD as set forth in HMWMD Exhibit B to the Proponent Prehearing Statement with Figure 7 as shown in HMWMD Exhibit A to the Responsive Prehearing Statement, along with the accompanying Statement of Basis, Statutory Authority and Purpose as set forth in HMWMD Exhibit M with the additional language noted. Commissioner Fabisiak seconded the motion. The motion carried unanimously. Final approval will be considered at the May 2018 commission meeting.

Approved this 7<sup>th</sup> day of May, 2018.

Water Quality Control Commission



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Trisha Oeth, Administrator