



COLORADO

Water Quality
Control Commission

Department of Public Health & Environment

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

October 9, 2018

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Hum at 9:00 a.m., Tuesday, October 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, Joan Card, Mike Gooseff, Kevin Greer, Rick Hum, Fred Menzer and Troy Waters.

COMMISSION MEMBERS ABSENT: Jane Clary.

STAFF PRESENT:

Trisha Oeth, Administrator; Patrick Pfaltzgraff, Division Director; Jerry Goad, Senior Assistant Attorney General; Judi Carey, Program Assistant.

APPROVAL OF AGENDA:

The agenda was approved as published.

ADMINISTRATOR'S ITEMS:

1. Commissioner Gooseff moved for approval of the August 6, 2018 Summary of Proceedings /Motions as published. Commissioner Greer seconded the motion. The motion carried unanimously.
2. Commissioner Biggs moved to reopen the record from the August 6, 2018 rulemaking regarding Regulation #84 for the limited purpose of accepting into the record the draft final action documents and comments received on the draft final action documents. Commissioner Menzer seconded the motion. The motion carried unanimously. Commissioner Biggs moved to close the record. Commissioner Menzer seconded the motion. The motion carried unanimously and the record was closed again.

Commissioner Gooseff moved for final approval of the proposed revisions to Regulation #84, along with the accompanying proposed Statement of Basis, Specific Statutory Authority and Purpose, in accordance with the final action documents provided in packets and the additional correction noted today. Commissioner Greer seconded the

motion. The motion carried unanimously.

3. The commission discussed the draft memo summarizing action from the commission's September 10-11, 2018 annual planning work session. Commissioner Card moved for approval of the memo as published with the change noted regarding the basins that are the subject of the June 2019 hearing. Commissioner Gooseff seconded the motion. The motion carried unanimously. The finalized memo will be posted on the commission's website.
4. The administrator discussed with the commission the draft agenda for the commission's November meeting, and noted the addition of a written comment only rulemaking hearing for Regulation #11 in November to address an incorporation by reference issue and a start time of 10:00.

COMMISSIONER ITEMS: None.

DIVISION DIRECTOR'S REPORT:

1. Patrick Pfaltzgraff provided an update regarding the division's OCCT determination for Denver Water and the upcoming stakeholder efforts.
2. Patrick provided an update regarding PFCs.
3. Patrick provided budget and staffing updates.
4. Patrick presented the division's annual report and answered questions from the commissioners.

ATTORNEY GENERAL'S REPORT: None.

ADMINISTRATIVE ACTION HEARING:

The commission conducted an administrative action hearing to consider approval of the Water Quality Control Division's proposed 2019 Intended Use Plans for the Water Pollution Control Revolving Fund and the Drinking Water Revolving Fund. Testimony was received from Brad Monson from the division and from Keith McLaughlin with the Power Authority. No public comment was offered. Following discussion, Commissioner Biggs moved for approval of the Water Quality Control Division's proposed Water Pollution Control Revolving Fund and Drinking Water Revolving Fund Intended Use Plans for 2019, in accordance with the versions of these documents in commissioners' packets and as amended by the division in its initial comments and its September 26 additions and deletions. Commissioner Baumgarten seconded the motion. The motion carried unanimously.

INFORMATIONAL HEARING:

The commission opened an Informational Hearing to receive public comment on water quality problems within the State and recommendations regarding water quality issues. Comments were received from Save South Park and John Sutherland.

ISSUES SCOPING HEARING:

The commission conducted an Issues Scoping Hearing for the Classifications and Numeric Standards for the South Platte River basins, Regulation #38 (5 CCR 1002-38). Comments were received from the division staff and interested members of the public. No issues were identified that the commission believes need to be considered in a rulemaking hearing prior to the rulemaking hearing in June 2020.

TOWN HALL MEETING #4:

The commission held a town hall meeting with stakeholders to discuss hearing participation and other interaction with the commission.

RULEMAKING HEARING:

Commissioner Greer, as hearing chair, opened a rulemaking hearing for consideration of the adoption of revisions to the Colorado Discharge Permit System Regulations, Regulation #61 (5 CCR 1002-61).

As Commissioner Clary was not present for this hearing, no disclosure was provided at the hearing.

Commissioner Biggs is the General Manager of the Roxborough Water & Sanitation District, which has entered into a Joint Operating Agreement with Dominion Water & Sanitation District that includes the future operation of the Chatfield Basin Water Reclamation Facility as Dominion's contract operator. Commissioner Biggs believes this contractual relationship is unrelated to the matters to be considered in this rulemaking, and believes she can participate impartially.

Roxborough Water & Sanitation District also has an Intergovernmental Agreement with the City of Littleton to convey and treat Roxborough's wastewater at the South Platte Water Renewal Partners facility owned by the Cities of Englewood and Littleton. Commissioner Biggs believes this contractual relationship is unrelated to the matters to be considered in this rulemaking, and believes she can participate impartially.

No concerns regarding potential commission member conflicts or disclosures were raised.

Testimony was provided by the division and parties to the hearing. Following the close of the record and deliberations, Commissioner Hum moved for preliminary final approval of the proposed revisions to Regulation #61, along with the accompanying proposed Statement of Basis, Specific Statutory Authority and Purpose, as set forth in the division's Exhibit 4 and as

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modified in the division's exhibit 5 with the additional changes to (1) change the word "unduly" to "unreasonably" in section 61.5(2)(d)(i)(A) and (2) to add to the statement of basis: "An intent is that issues (interpreted broadly) are brought to the division's attention early in the permitting process, so that the division has the opportunity to address the issues prior to reaching the adjudicatory hearing procedure stage." Commissioner Biggs seconded the motion. The motion carried unanimously.

Approved this 13th day of November, 2018.

Water Quality Control Commission

Trisha Oeth, Administrator