SUMMARY OF PROCEEDINGS/MOTIONS

March 13, 2017

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

The Colorado Water Quality Control Commission regular meeting was called to order by Commissioner Fabisiak at 9:15 a.m., Monday, March 13, 2017, in the Florence Sabin Conference Room, 4300 Cherry Creek Drive South, Building A, Denver, Colorado 80246.

COMMISSION MEMBERS PRESENT:

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

COMMISSION MEMBERS ABSENT:

None.

STAFF PRESENT:

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

WELCOME TO NEW COMMISSIONERS:

Commissioner Fabisiak welcomed Jane Clary and Mike Gooseff to the commission. Because they have not yet been confirmed, these commissioners abstained from the hearings at this meeting.

APPROVAL OF AGENDA:

The agenda was approved with a modification to substitute a briefing about perfluorinated compounds as the 9:30 agenda item, as well as three additions from the Administrator regarding a request from Climax to reschedule the August 2017 molybdenum hearing; a Motion to Vacate the May 2017 Graywater rulemaking hearing; and developments to the definition of “Waters of the U.S.”

RULEMAKING DELIBERATIONS:

The commission conducted deliberations for a written comment rulemaking for consideration of the adoption of revisions to the Procedural Rules, Regulation #21 (5 CCR 1002-21). Following discussion, Commissioner Hum moved for final approval of the revisions proposed by the attorney general’s office, along with the accompanying proposed Statement of Basis, Specific Statutory Authority and Purpose, in accordance with the clean version provided in
packets. Commissioner Baumgarten seconded the motion. The motion carried unanimously. Commissioners Clary and Gooseff abstained.

RULEMAKING HEARING:

Commissioner Menzer, 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). Following discussion, Commissioner Biggs moved for final approval of the revisions proposed by the division, along with the accompanying proposed Statement of Basis, Specific Statutory Authority and Purpose, in accordance with the clean version provided in packets. Commissioner Slutsky seconded the motion. The motion carried unanimously. Commissioners Clary and Gooseff abstained.

ADMINISTRATIVE ACTION HEARING:

The scheduled administrative action hearing regarding the division’s proposed projects for FY 17 Section 319 nonpoint source funds was postponed to May 8, 2017.

INFORMATIONAL BRIEFING:

Division staff provided a briefing regarding perfluorinated carbons in the Widefield Aquifer and in food.

ADMINISTRATIVE ACTION HEARING:

The commission conducted an administrative action hearing to consider approval of an updated section 303(d) Listing Methodology, to be used for development of Colorado’s 2018 section 303(d) List of Impaired Waters and Monitoring and Evaluation List.

Testimony was received from division staff, Vranesh and Raisch, Eagle River Water and Sanitation District, and the Northern Colorado Water Conservancy District. Written testimony was submitted by the Colorado Mining Association. Following the close of the record and deliberations, Commissioner Hum moved for approval of the proposed Listing Methodology in accordance with the division’s February 22, 2017 revised draft with the corrections identified in the division’s March 13, 2017 memo, and the additional revisions discussed today. Commissioner Slutsky seconded the motion. The motion carried unanimously. Commissioners Clary and Gooseff abstained.

ADMINISTRATOR’S ITEMS:

1. Commissioner Hum moved for approval of the January 9, 2017 Summary of Proceedings/Motions as published. Commissioner Menzer seconded the motion. The motion carried unanimously. Commissioners Biggs, Clary and Gooseff abstained from the motion.

2. The Administrator highlighted a number of changes to the commission’s long range schedule.

3. The commission discussed a letter received from Climax Molybdenum Company requesting that the August 2017 rulemaking hearing be postponed. The hearing was rescheduled for December 2017 and a written comment only hearing will be held in
August 2017 to consider extension of the temporary modification.

4. The commission reviewed an Order to Vacate the Graywater Rulemaking Hearing scheduled for May 2017.

5. The Administrator provided comments regarding the potential changes to the federal definition of “Waters of the U.S.”

COMMISSIONER ITEMS:

1. Commissioner Slutsky related an experience regarding the implementation of the new backflow prevention and inspection requirements.

DIVISION DIRECTOR’S REPORT:

1. Patrick Pfaltzgraff provided an update regarding legislative items.
2. Patrick provided a fee bill update.
3. Patrick updated the commission regarding division staff changes.

ATTORNEY GENERAL’S REPORT:

1. Annette Quill briefed the commission regarding water transfers rule litigation.

Approved this 10th day of April, 2017.

Water Quality Control Commission

Trisha Oeth, Administrator