

Water Quality Forum
September 21, 2009

Meeting Summary

Agenda Review, Introductions

It was reported that the 2009 Water Quality Forum work plan and a workgroup status (dated September 3, 2009) are available on the forum website.

Legislative Update (Jeannette Hillery/Amy Woodis)

There is not a lot to report on the State level, concerning water-related bills. It is believed that this year's session will focus on the State budget and looking for additional cuts. Paul Frohardt (WQCC) reported that the Clean Water Restoration Act bill is out of Senate Committee. Steve Gunderson (WQCD) reported that Representative Oberstar may pursue a Clean Water Restoration Act. Frohardt reported that Senators Young and Udall plan to introduce a new Good Samaritan bill soon. Barbara Biggs (Metro Wastewater) reported on a Water Infrastructure Trust Fund, which will supplement SRF money. Amy Woodis (Metro Wastewater) reported on a bill regarding the funding of the Division of Water Resources.

Water Quality Control Commission Update (Paul Frohardt)

Frohardt reported on the activities of the WQCC.

August – A Rulemaking Hearing was held to include recent legislative action concerning permit fees for CAFOs into regulation. Final action was taken by the WQCC on hearings from March, May, and June concerning the South Platte River basin and on Regulation No. 22 (Site Application). The WQCC discussed the policy regarding the advancement of external proposals. A new draft will be presented to the WQCC in October, and then will be distributed for stakeholder input, with discussion planned at the November or December meeting. A site-specific hearing for April 2010 was scheduled for consideration of a temporary modification for selenium in Marcy Gulch. Consideration of Policy 96-1 (Design Criteria for Wastewater Treatment Works) was rescheduled for December 2010. A Rulemaking Hearing to adopt the lead and copper rule into the regulations was held.

The WQCC held their annual planning retreat. Current officers were re-elected and a tour of DIA's stormwater management facility was provided. A number of briefings were scheduled: limnology (December), USDA Rural Development Program (month not noted), CERCLA (Superfund) and Water Quality Standards (August), and EPA water quality priorities (December). The WQCC will schedule briefings prior to an upcoming rulemaking hearing so that they may get

a background review of what the regulations address currently, and the expected changes, to help the Commissioners better prepare for the hearing.

September – No meeting was held in September.

October – The agenda is currently available on the WQCC website. These items are on the agenda: Issues Scoping Hearing for the San Juan/Gunnison basins, annual public comment hearing, Information hearing on the Surface Water Treatment policy, written comment Rulemaking Hearing to delay the effective date for nonylphenol and 1,2 dioxane.

November – The agenda will include: Informational hearing regarding HCSFO Financial Test and Guarantee Guidance, triennial review of the Cheraw Lake Control Regulations (regulation no. 75), update from WQCD on the implementation of the policy for the protection of irrigated crops (WQP-24), Issues Formulation Hearing on Basic Standards, and an appeal concerning penalties associated with discharging without a permit.

Water Quality Control Division Update (Steve Gunderson)

Gunderson spoke about the planned furlough days and the potential that there may be more scheduled. He also pointed out that on the weeks when there is a furlough day, employees are not allowed to work more than 8 hours per day otherwise it's considered overtime.

Gunderson alerted the group to a NY Times article that was published last week concerning the lack of enforcement actions by the States. The article indicated that Colorado did not cooperate with the reporter's request, and in fact they had, so are now making efforts to correct the reporter's information.

Gunderson provided an update on EPA's actions concerning pesticides and the potential need for a permit in certain situations. Dave Akers will serve as the State's representative at a meeting to be held soon with EPA and other States. Indications are that the rule will not be intended for pesticide use on crops and the permitting universe will increase by a third of the permits Colorado already issues. A report will be provided to the group in November.

A reminder about the WET meeting on September 28 was provided. The location of the meeting has changed to the Colorado Department of Transportation's boardroom.

Permit Update (Janet Kieler)

Kieler noted that the purpose of the WET meeting is to understand all points of view on the issue, but that the issues won't be solved in one day. The agenda includes presentations by the Division, EPA, and other stakeholders.

Concerning organization and staffing, Kieler state that the Permits Unit has lost 3 FTEs that went to the drinking water program. This reduction in staff impacts State only programs like reuse, groundwater, biosolids, and pretreatment. Staff performing this work now reports directly to Janet. She noted that there is one vacancy in the pretreatment/groundwater program and they have lost one FTE in the permit writer staff. Gary Beers now oversees stormwater (including inspections), general permits, and industrial groundwater permits. Andrew Neuhart oversees assessment based permits. Kieler noted that the contractors utilized for stormwater inspections are being phased out, 2 inspectors have been hired, and inspections will be done in-house.

The State is approaching the end of their fiscal year (September 30). Their focus is trying to issue the priority permits – approximately 24 – which means that the backlog rate will still be around 80 to 90%. Coal-bed methane permits will not be issued by the end of the fiscal year, but will likely be issued 1st quarter of the next fiscal year. Next year there are 40 priority permits to be issued. She expects that not all will be issued. Approximately eight permits are on the list due to completed TMDLs.

Kieler stated that with the issuance of the low-risk policy for potable water, the general permit that previously covered these activities has been allowed to expire. A low-risk policy concerning power washing is now available for public comment. She notes that there is not much change from the existing policy. She expects the discharge of uncontaminated groundwater to land will be finalized soon. EPA provided a comment on the Compliance Plan policy in regards to technology-based limits.

Kieler stated that they have been updating forms and have created them in Adobe Professional, which will allow users to fill out the form electronically. However, the form will still need to be printed, signed in ink, and submitted to the Division. They are also working on making the website more user friendly.

Drinking Water (Steve Gunderson)

The Division expects to release a report on the Alamosa salmonella outbreak soon. The report will include the Division's conclusion about the cause and lessons learned.

Gunderson reported that the lead and copper rule was adopted by the WQCC in August. This is the last EPA promulgated rule to be adopted by the State. Gunderson reminded the group about the review of the surface water treatment policy by the WQCC in October. Inquiry was made as to the availability of the policy on the Division's website, as it could not be located by stakeholders. The Division will make sure that it is available.

Gunderson reported that the drinking water section would be evaluating disinfection exemption waivers. The groundwater rule becomes effective December 1, 2009, and impacts 1600 public water systems.

Retreat Recap (Lisa Carlson)

The workplan developed at the retreat as well as the group memory is available on the website. One workgroup was added to address on-site wastewater treatment. The highlight of the meeting was Denise Keehner's presentation, as well as attendance by Keehner and other EPA staff for most of the retreat. It was acknowledged that some stakeholders were not able to participate due to another scheduled meeting. The group agreed that we would continue to make efforts to avoid other meeting conflicts.

The scheduled meeting dates and locations were reviewed:

November 16 – Metro Wastewater

January 19 – Location TBD

March 15 – CDPHE, Sabin Room

May 17 – CDPHE, Sabin Room

Conservation Community Concerns (Meghan Maloney)

Megan Maloney, with San Juan Citizens Alliance, summarized the conservation community's concerns about water quality forum activities and their participation. A letter describing their concerns was provided to the group and is available on the Forum's website.

Water Quality Program Funding Issues (Steve Gunderson)

Gunderson reported that the Division would not proceed with a fee bill during this legislative session, but will begin to meet with stakeholders now to perhaps proceed with a bill in 2011. A memo from Martha Rudolph dated September 18, 2009, describing the Division's intentions was distributed at the meeting and is available on the Forum's website.

Permits Implementation Coordination (Steve Gunderson)

Gunderson reported that Kieler provided a Standard Operating Procedure to the Permits Implementation Workgroup. This procedure describes the Division's process for review of permits, communication with the permittee, and issuance of the permit for public notice. Christine Johnston (Xcel Energy), chair of the workgroup, indicated that the group had not met to discuss the Division's procedure, but would meet on September 22 and would discuss and provide feedback. The Procedure is available on the Forum website, under the Permits Implementation Workgroup link.

Antidegradation Policy Implementation (Steve Gunderson)

Gunderson provided a summary of the discussion held at the Standards Framework Workgroup held in the morning of September 21. The Division agreed to provide the response to comments and the Division's proposal on the website.

Other Issues of Concern/Next Meeting Agenda Topics (Lisa Carlson)

Carlson reminded group of the discussion at the retreat concerning identification of issues of concern that are perhaps contentious and need further discussion. No one had any topics for discussion.

The list of agenda topics for November 16 from the Workplan was reviewed. It was agreed that Water Quality Standards Data Base and the 2010 Section 305 Report would be included on the agenda. A discussion on oil and gas issues would be tabled, as it appeared that there was no interest, and the status of the Colorado Water Quality Monitoring Council would be tabled until January. Additional topics added were Urban Water Restoration Act, emerging contaminants and drug take-back programs, and perhaps pesticides and WET if there is new information to report.

It was suggested that the meeting should be restructured to allow a little more time to be spent discussing one issue rather than a series of issues. It was suggested that the fee bill might be a topic that warrants additional discussion.

Adjourn