

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

## WATER QUALITY CONTROL COMMISSION

<http://www.cdphe.state.co.us/op/wqcc/index.html>

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Colorado  
Department  
of Public Health  
and Environment

February 25, 2009

The Honorable Jim Isgar, Chair  
Senate Agriculture, Natural Resources and Energy Committee  
State Capitol Building  
200 East Colfax Avenue  
Denver, CO 80203

The Honorable Kathleen Curry, Chair  
House Agriculture, Livestock and Natural Resources Committee  
State Capitol Building  
200 East Colfax Avenue  
Denver, CO 80203

Dear Senator Isgar and Representative Curry:

Thank you for scheduling an opportunity for the Water Quality Control Commission to brief this year's joint House-Senate Agriculture Committee on March 11, 2009. I am enclosing copies of brief summaries for each of the three topics mentioned in my December 16, 2008 letter: (1) the Commission's role regarding energy impacts; (2) drinking water regulation issues; and (3) an update regarding water and wastewater infrastructure needs.

Of course, we will also be pleased to address any other specific issues or concerns you might have in the water quality arena. Thanks again for scheduling this briefing. We look forward to meeting with you. If you or your staff have any questions prior to the briefing, please contact me at (303) 628-6464 or the Commission's Administrator, Paul Frohardt at (303) 692-3468.

Sincerely,

Patricia Wells  
Commission Chair

cc: Jim Martin  
Adam Eichberg  
David Beaujon

Water Quality Control Commission  
**WQCC ROLES REGARDING ENERGY DEVELOPMENT IMPACTS**  
Issue Summary  
March 11, 2009

The rapid increase in the scope of oil and gas development in Colorado in the last several years has raised issues regarding the potential environmental impacts of such development, including potential impacts to water quality. The following is a summary of the Water Quality Control Commission's role in addressing these impacts.

Stormwater Management

All construction activities in Colorado that disturb five or more acres of land, including construction associated with the development of oil and gas wells, have been subject since 1992 to a requirement to obtain a stormwater discharge permit from the Water Quality Control Division. Permits require the development of a stormwater management plan that describes "best management practices" (BMPs) to be used to control stormwater pollution from a construction site, and periodic inspection to ensure BMPs are properly implemented. Beginning June 30, 2005, this requirement has also applied to all oil and gas construction activities disturbing one or more acres.

In January 2006, the Water Quality Control Commission held a rulemaking hearing to consider whether, in view of the provisions of the federal Energy Policy Act of 2005 (the Energy Bill), any revisions should be adopted to current Colorado requirements regarding stormwater discharge permits for oil and gas construction activities. The 2005 federal Energy Bill conditionally exempts most oil and gas construction activities from the EPA stormwater discharge permit program under the federal Clean Water Act. At the conclusion of the 2006 rulemaking hearing, the Commission voted unanimously to leave unchanged the then-current stormwater discharge permit requirements for oil and gas construction activities in Colorado. The result of this action is that these stormwater discharge permitting requirements remain in effect pursuant to state water quality authority, independent of the federal Clean Water Act program. The Water Quality Control Division has provided numerous training events for the oil and gas industry around the state to improve understanding and compliance with permitting requirements.

Coalbed Methane

The development of coalbed methane wells in Colorado often results in significant quantities of "produced water" that is removed from an underground seam of coal to access the methane gas. The disposition of this produced water has in many areas become a point of contention among various elements of the affected public. On the one hand, because Colorado is a water-short state, some see this water as a valuable resource to be utilized – e.g. for uses such as livestock watering. On the other hand, some are concerned about the adverse water quality impacts that can result from potentially high levels of salinity or sodicity (sodium levels) in this water – e.g. for uses such as irrigation. Discharges of produced water to surface streams require a discharge permit from the Water Quality Control Division, and must meet water quality standards.

Some have suggested that the Water Quality Control Commission adopt new water quality standards for salinity and/or sodicity to protect beneficial uses such as irrigation. After a lengthy stakeholder process, the Water Quality Control Division has developed and is implementing a policy regarding implementation of current narrative standards to protect irrigated crops. Because of the flexibility that this approach provides to take site-specific circumstances into account, the Commission believes that this is a logical first step before determining whether there is a need for it to adopt any new numerical standards for salinity and/or sodicity.

### Interaction with COGCC

Since 1989, the Colorado Oil and Gas Conservation Commission (COGCC) has been identified in statute as an “implementing agency”, with principal responsibility for implementing ground water quality standards with respect to oversight of oil and gas operations. COGCC and Water Quality Control Commission and Division representatives meet quarterly to discuss and coordinate regarding issues of overlapping interest.

During 2008, the COGCC adopted a number of new rules to protect public health and the environment from the impacts of oil and gas development, pursuant to HB07-1341. These rules are currently pending legislative review. A number of these rules relate to the protection of water quality (e.g. source water protection, waste pit construction and post-construction stormwater management). These COGCC rules are separate and independent from Water Quality Control Commission rules. Department of Public Health and Environment staff have a consultation role under the COGCC rules, providing recommendations regarding the implementation of these rules in certain circumstances.

### Source Water Protection Planning

In 2006, oversight of Colorado’s drinking water program was transferred from the Colorado Board of Health to the Water Quality Control Commission. The 1996 amendments to the federal Safe Drinking Water Act provided funding for the Colorado Source Water Assessment and Protection (SWAP) effort that assists public drinking water systems and other interests in developing plans to protect the source of their water. Throughout the state, 84 source water protection plans have been completed or are in development. Five of the 16 communities with “substantially implemented” source water protection plans are located in the energy development area along the Interstate 70/Colorado River corridor.