

current permit when the temporary modification expires at the end of 2014.

In 2018, the Tri-Lakes facility staff would conduct further seasonal experimentation while establishing the first one-year statistical base of plant performance before being required to meet a rolling one-year median requirement in 2019. This rolling median standard looks backward at the previous 12 months of facility discharge monitoring reports and uses the median of this data set as the basis of compliance for operation of this new supplementary phosphate removal treatment equipment. The total phosphorus removal technology that will be installed is new, and there is significant risk associated with how well it will actually operate at altitude with the larger temperature swings that occur on Monument Ridge, the highest point in the country east of the Front Range.

Much bigger fines a danger

Foster noted that any fine imposed for violation of the rolling one-year median nutrient standards in the future would be for the entire one-year look-back period and would be much higher than for any of the more traditional one-month average standards in the facility's current permit, a much greater risk with unproven, albeit state-mandated, technology.

"Your civil penalty could be horrendous," he said. "That's why two years of practice before you really have to meet the limit are important. It would give you time to figure out how to dial in your operation under all kinds of weather events and figure out how to make it work."

Foster stated that there has been no discussion by the division regarding what new effluent discharge limits may be imposed on the Tri-Lakes facility for the chemicals that may be used— aluminum, sulfate, iron, or chloride—to remove total phosphorus. The facility has to report the concentrations of sulfate, iron, and chloride for the first time under the current permit. The division may add limits on these constituents in a new permit, increasing operational risks for the new treatment equipment.

The award-winning Tri-Lakes facility, although not designed or required to treat nutrients or copper when it was built in 1998, already meets the total inorganic nitrogen requirements of Control Regulation 85 and the new Monument Creek copper standards. However, the facility does not have the ability to meet the requirements imposed for total phosphorus and total nitrogen in 2022 when the commission created the state's new Regulation 31.17. There is no currently available treatment technology to meet the new state limits. The nutrient limits that the EPA is demanding of the state are even more restrictive and unattainable.

The three special districts then jointly received a state planning grant (\$80,000) and a state design/construction grant (\$1 million) to help build the new total phosphorus removal equipment mandated by Regulation 85, but only after Monument District Manager Mike Wicklund and Fountain Sanitation District Manager Jim Heckman protested what was an unfunded state mandate at several hearings of the state Legislature and directly to Gov. John Hickenlooper at his office.

Hickenlooper responded to these protests by proposing a \$15 million statewide grant program, which the Legislature approved earlier this year. Monument and Palmer Lake will have to gain voter approval through district elections for a TABOR waiver to be able to accept their one-third shares of the \$1 million design/construction grant. The state design/construction grant statute requires that

the Water Quality Control Division must approve full operation of the new nutrient equipment by May 1, 2016.

After a lengthy detailed technical discussion of the pros and cons of amending the current permit or requesting a new permit with an appropriate nutrients compliance schedule, there was JUC consensus to start negotiations for a new permit with the condition that the division agrees to the compliance schedule noted above that runs to the end of the new permit. Foster said he would ask for a meeting with the division permit staff to present the JUC's conditions for requesting a new permit. If the division permit writers support this request, Burks will formally submit an application for a new permit.

Discharger specific variance procedures reviewed

Foster also briefed the JUC on state discharger specific variances that the commission will award to an individual discharger—such as the Tri-Lakes facility—rather than approve a temporary modification for an entire stream segment. During a public hearing before the commission, a discharger must meet one of three tests to receive a variance:

- The treatment equipment necessary to meet the state standard is beyond the limits of technology.
- Modifying the treatment equipment to meet a standard will result in a new environmental impact that is worse than the one being treated by the existing equipment.
- Paying for the treatment equipment needed to meet a new permit requirement will cause a substantial and widespread social and economic impact, because monthly fees would be greater than 2 percent of median household income for a district.

The first and third tests will apply to the new total nitrogen and total phosphorus effluent limits that will be required by Regulation 31 in 2022. Foster stated that the facility will have to conduct nutrient studies on both phosphorus and nitrogen, similar to those already completed, for several years to prove that the effluent copper concentrations don't cause any of the damage or adverse impact to Monument Creek aquatic life that had been presumed by the EPA and the division for over a decade.

Burks added that the facility has been limiting nitrogen for years and will study the effect on aquatic life of also limiting phosphorus when the new phosphate removal equipment becomes operational.

Financial reports

Burks advised the JUC that there had been an error in the formulas used in his previous 2013 spreadsheet invoices to compute

individual district shares of treatment costs for flow and biosolid waste. During the first eight months of 2013, Monument was under-billed by \$3,281 and Palmer Lake was under-billed by \$2,533. Woodmoor was overbilled by \$5,814. Burks stated that each of his three September invoices to the owner districts contained an additional line item to correct these billing errors with equivalent extra charges

for Monument and Palmer and a credit for Woodmoor. The financial statements were unanimously accepted as presented.

Burks reviewed several line items in his final update to the facility's draft 2014 budget. He said the architect had lost the plans for the new facility storage building while switching to a new computer. There was JUC consensus to postpone construction of the building another year and add



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