

plant and sludge lagoon are of high enough quality to be directly applied to agricultural fields. In contrast, the vast majority of wastewater treatment facility wastes must be hauled to landfills for disposal.

However, the EPA now considers the Tri-Lakes plant inadequate rather than revolutionary and is compelling the state to force the construction of costly total phosphorus removal modifications as a state mandate. The facility received the \$1 million state grant because the state cannot legally impose these kinds of unfunded mandates. The Monument Sanitation District staff has spent the past five years participating in stakeholder meetings and lobbying the Legislature and governor on behalf of the facility owners to become eligible for this grant. The Monument staff has worked with the division grant staff at numerous meetings to ensure that it drafted rules that would apply to Tri-Lakes' unique ownership structure so that the facility would be able to accept the grant even though it is not a taxing entity. The Monument staff also worked with its TABOR attorneys to hold a successful election on Nov. 5—question 5C was approved 739 to 281—so the district could receive its \$360,000 share of the state grants.

The Monument staff is working with the Palmer Lake staff so that town can hold a TABOR waiver election on May 6 to also become eligible to receive its \$360,000 of the state grants. Woodmoor's operating budget is large enough for the district to be able to accept \$360,000 and remain under TABOR's 10 percent grant revenue limit.

The second year of operational testing under the proposed Tri-Lakes compliance schedule is necessary to build a valid one-year operational nutrient testing record for its treated effluent. The time is also needed to experimentally verify the procedures developed during the first year of operational testing in a new geographical environment. At the end of the second year of testing the Tri-Lakes facility will have gathered the minimum 12 months of valid total phosphorus data at the end of the "voluntary" new discharge permit's five-year timeframe to be prepared to negotiate a new five-year discharge permit. The new rolling annual median permit limit for total phosphorus in the new discharge permit will apply in its first month to all the testing results for these preceding 12 months. As a point of comparison, all other testing limits in the current Tri-Lakes discharge permit, other than quarterly whole effluent toxicity tests, only apply to the previous month.

This proposed compliance schedule for the new permit's total phosphorus limit is necessary to preclude otherwise inevitable and far more costly civil penalties for nutrient violations. Each month, nutrient compliance depends on the testing results from each of the previous 12 months; hence a nutrient violation will result in a fine based on a violation for a full year. A plant upset caused by copper, for example, will distort median results for several more months at a minimum, resulting in even heavier fines. All other permit violations would only depend on the testing results for the previous month and would result in a much smaller one-month fine.

Foster stated on Oct. 8 that two years of experimentation is the minimum time required to establish and validate actual plant performance capabilities for this new type of treatment and establish treatment protocols that protect the environment and financial solvency of the special districts that own the Tri-Lakes facility.

While the division has stated that compliance with its request for an early permit renewal is voluntary for all the wastewater treatment facilities in the Arkansas basin, the head of the division's permits section, Janet Kieler, has stated in the past month that she may make new more restrictive permits mandatory for facilities in the Monument/Fountain Creek Watershed. Arkansas basin facilities must apply for a permit renewal by the end of 2013 for Kieler to consider them voluntary.

The state Water Quality Control Division has never before discussed revoking discharge permits before they expire. The division is under a great deal of pressure from the EPA, which provides 75 percent of the

division's funding via annual performance partnership agreements, to set a national precedent for tighter nutrient restrictions, despite the continuing scientific controversy over the effectiveness of simultaneously imposing tighter total phosphorus and total nitrogen constraints.

The Tri-Lakes facility does not have the ability to meet the requirements that the commission imposed in June 2012 for total phosphorus and total nitrogen when it created the state's new Regulation 31.17. There is no currently available treatment technology to meet the new state limits that will now take effect in 2022, due to this sudden division policy change, rather than just become long-term goals that year. The nutrient limits that the EPA is demanding of the state are even more restrictive and unattainable with currently available and very expensive state of the art technology.

The meeting was adjourned at 11:05 a.m.

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The next meeting will be held at 10 a.m. on Dec. 10 at

the at the Tri-Lakes facility's conference room, 16510 Mitchell Ave. Meetings are normally held on the second Tuesday of the month. Information for these meetings is available at 481-4053.

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