

nitrogen, first imposed in January 2012, is 23 milligrams per liter (mg/l), well in excess of the new Control Regulation 85 limit of 15 mg/l and the new Regulation 31.17 interim value for total nitrogen for Monument Creek 2.01 mg/l in that will take effect in 2022.

No affordable treatment option available would allow any currently operational Colorado wastewater treatment to meet these pending 2022 total phosphorus or total nitrogen limits in Regulation 31.17. Phosphorus is a common ingredient in most multi-vitamins. Nitrogen comprises 78 percent of the earth's atmosphere and is absorbed at the surface of every water body on the planet. Neither is a pollutant unless it is added to water in highly concentrated amounts.

The Tri-Lakes facility and Lower Fountain's nearly completed Harold Thompson facility are classified as large facilities because they are rated at over 1 million gallons per day. Both are lumped in the same category as Denver Metro—even though Denver Metro treats about 140 million gallons per day for 1.7 million people, while

Tri-Lakes and Lower Fountain each treat less than 2 million gallons per day for only about 5,500 and 2,000 homes respectively. The actual daily flows treated by Tri-Lakes rarely exceed 1.2 million gallons per day and the Lower Fountain facility will not likely treat over 2 million gallons per day in the near future.

The governor's executive order

As a result of pressure from small facilities through the Colorado Rural Communities Coalition to have the state government comply with its own law against unfunded mandates, one of Hickenlooper's initial actions on Jan. 11, 2011, his first day as governor, was publication of Executive Order D 2011-005. Some the statements in this order were:

- "For many years, state government has imposed an ever-increasing number of legal requirements on local governments, without regard to the costs such requirements impose on already-strained local budgets, and without providing additional funding to enable local governments to comply. Local governments continue to face difficulties such as funding, complexity, and delay in securing flexibility and approvals regarding state requirements.
- "In order to assist local governments in effectively complying with such requirements, this Executive Order gives direction to state agencies on consulting and working with local governments before imposing new regulations or other obligations.
- "To the extent authorized by law, no state agency shall promulgate any regulation creating a mandate on local governments unless ... the state government provides the funding necessary to pay for the direct costs incurred by local governments in complying with the mandate."

For more information see <http://statebillnews.com/2011/01/text-of-hickenlooper-executive-orders-issued/>

The Legislature then approved Senate Joint Resolution 11-005. This resolution stated that in 1991 the General Assembly enacted section 29-1-304.5 of the Colorado Revised Statutes, which prohibits any new state mandate or increase in the level of service for a previously existing state mandate on any local government without the provision of additional monies from the state to cover the local government's costs of the new mandate or increased level of service. For more information on SJR 11-005 see www.leg.state.co.us.

The Tri-Lakes facility's treated effluent that is discharged to upper Monument Creek already complies with the state's annual median limit for total inorganic nitrogen of 15 milligrams per liter (mg/l) or parts per million (ppm) that was created in the new Control Reg-

ulation 85 on Sept. 30, 2012. Subsequently, Hickenlooper delayed enforcement of these limits for a year to give the large wastewater facilities time to plan, design, and budget for the complex and costly plant modifications to meet these new Reg. 85 restrictions.

Costly improvements

However, about \$1 million in capital construction, \$333,333 per district, will have to be incurred by the three districts that own the Tri-Lakes facility just to meet the new Reg. 85 annual median limit of 1 mg/l for total phosphorus that was also created on Sept. 30. This new total phosphorus limit will be imposed on Tri-Lakes when the facility's current five-year discharge permit is renewed on Jan. 1, 2017. It will cost an estimated \$1 million more to design and build additional nutrient removal equipment to meet Regulation 31.17 total phosphorus and total nitrogen limits that will be imposed on May 31, 2022.

The restrictions in Reg. 85 only apply to the 45 largest publicly owned wastewater treatment facilities in Colorado—those rated at over 2 million gallons per day (MGD) of treatment capacity. The Tri-Lakes facility is rated at 4.2 MGD. Reg. 85 does not apply to the other 345 smaller treatment facilities in Colorado rated at less than 2 MGD, such as the Upper Monument Creek Regional Wastewater Treatment Facility and Academy Water and Sanitation District's wastewater treatment lagoons in the OCN coverage area. There are 391 wastewater treatment facilities in Colorado.

The Tri-Lakes facility's current five-year discharge permit limit for both total inorganic nitrogen and nitrate is 23 mg/l. These two Tri-Lakes permit limits were put into effect on Jan. 1, 2012, and will remain in effect until the end of 2016. The current Reg. 85 total inorganic nitrogen and nitrate limits will now become effective Sept. 30, 2013, but will not apply to Tri-Lakes until the next Tri-Lakes five-year discharge permit is approved. There is no permit limit for ammonia because Tri-Lakes has already demonstrated in previous discharge monitoring reports submitted to the state that its ammonia removal is more than sufficient to show that there is no reasonable potential for a permit violation.

There is no phosphorus or phosphate limit in the current Jan. 1, 2012, Tri-Lakes discharge permit, which is scheduled to expire on Dec. 31, 2016. Monthly phosphate monitoring, which is now required by Reg. 85, has shown that effluent concentrations are about 3 to 6 mg/l.

The current interim value listed in Regulation 31.17 for total phosphorus in a warm plains stream like Monument Creek is 0.17 mg/l. This interim value will become effective on May 31, 2022, for the Tri-Lakes facility. The total nitrogen interim value in Regulation 31.17 that will become effective on May 31, 2022, for Tri-Lakes is 2.01 mg/l. However, the EPA has still not approved the new language in either of these new state regulations.

The EPA has proposed even tighter and costlier restrictions on nutrients as well as metals and other naturally occurring elements like selenium. The EPA has stated that it would prefer that the state immediately approve EPA's warm water nutrient criteria—0.067 mg/l for total phosphorus and 0.88 mg/l for total nitrogen—but has not yet made these criteria a federal requirement or a mandate on the state. Neither of these EPA interim nutrient values can be achieved by any existing technology.

Using \$1 million of grant money to pay half of the cost of building capital improvements in the next three years that will be designed to meet 2022 nutrient discharge permit restrictions in Reg. 31.17 would significantly reduce the cost of chemicals used to treat total phosphorus from 2016 through 2022, as compared to a previously planned smaller and simpler total phosphorus removal system.

A cost-benefit study was approved on June 11 by the Tri-Lakes facility's Joint Use Committee to study the best long-term nutrient treatment options that are currently available and have become affordable with the award of the Hickenlooper grant (<http://www.ocn.me/v13n7.htm#juc>.) The facility's consultant engineering firm Tetra Tech will conduct this new study using the \$80,000 Hickenlooper planning grant just awarded, which has now made this desired but previously unfunded type of study affordable. The facility's \$16,000 match will be paid out of 2013 contingency funds, costing the Monument, Palmer Lake, and Woodmoor districts \$5,333 each.

Hickenlooper's announcement

Hickenlooper announced 15 design and construction grants totaling \$13.5 million and 15 planning grants totaling \$1.2 million. Each of the planning grants requires a 20 percent match by the grant recipient. Eleven treatment facilities received both types of grants, four facilities

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