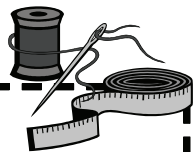


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(and equally dreaded) Regulation 85 cost increases for all the wastewater districts in the Tri-Lakes area will still loom when the next round of five-year permits are issued. Monument's facility will be able to handle the Regulation 85 nitrogen standard of 15 parts per million, but not the upcoming Regulation 31 interim limit of 0.6 mg/l. Upper Monument may be able to meet the Regulation 85 nitrogen limit, but Academy's lagoons will never be able to meet them. All three facilities will need upgrades for total phosphorus removal.

Furthermore, future costs for monitoring water quality in Monument Creek may bring about a "modest increase in user fees for all the affected districts throughout the Fountain Creek watershed," said Wicklund.

### What the commission considered

During the final deliberations, the commissioners discussed, among many things:

- Their preference to encourage cleanup of nutrients biologically, not chemically. The goal is for all treatment facilities to eventually have enhanced BNR (biological nutrient removal) plants on site and no longer use chemicals to treat nitrogen.
- The need to keep nitrogen part of the cleanup package, despite the much higher cost, instead of first trying to clean up only phosphorus to see if that would solve the problems. They considered dropping the nitrogen limit but decided that if nitrogen limits were not part of the regulations, then treatment facilities would not consider it in their future building or up-

grade plans.

- The need to demonstrate "progress" toward nutrient cleanup "encouraged" by the EPA during testimony.
- The need to be sensitive to the heavy burden of the cost of treatment, which would be borne by ratepayers, to be "fair and equitable," and to be able to convincingly demonstrate "harm" to the waters before asking the ratepayers for more money.
- The idea of "pollution trading," which has been done in other industries and involves cleaner, larger facilities removing more nutrients than required and trading credits for this additional removal with smaller facilities that cannot afford an upgrade to meet new nutrient standards. These trades would ensure more overall nutrient removals to better meet the goals in Regulation 31.
- The need to match the pace of the treatment standards with the technology available to accomplish it, giving the technology time to "catch up." The commission's hope is that by the time new standards kick in, the technology will exist to treat to those levels; currently it does not.
- Not part of the equation was Gov. John Hickenlooper's Executive Order 5, which prohibits unfunded state mandates that have no basis in federal law. On the Friday prior to the hearings, the governor's office had sent letters to the commission and the EPA explaining that the nutrient regulations were the first test of this executive order and that the governor's office was still reviewing the implications. The letter said the hearings should maintain their focus on the proposed regulations and not the executive order.

### What happens next

On May 14, the Water Quality Control Commission will be presented with the final draft of the two regulations and their supporting statements, showing all the

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