



## BOULDER COUNTY BAR NEWSLETTER

# M A Y 2 0 1 2

### NUTRIENT REGULATIONS WILL CHALLENGE THE STATE, MUNICIPALITIES, INDUSTRY, AND AGRICULTURE.

By GABE RACZ

In March the Colorado Water Quality Control Commission ("WQCC") took a major step toward adopting a new suite of regulations to control nutrient pollution in water.<sup>1</sup> These regulations promise to have significant effects on wastewater, drinking water, stormwater, agriculture, and construction. They include effluent limits that impact "point sources" like wastewater treatment plants, which require discharge permits under the Federal Clean Water Act ("CWA"). Significant nutrient pollution also comes from "non-point sources" that do not have mandatory controls under the CWA, including agricultural runoff, septic systems, and construction and recreation that releases sediment into the water. Although there is relatively little current regulation of non-point sources, State law authorizes non-point source regulation and the nutrients regulations are a first step toward addressing them.

Phosphorus and Nitrogen stimulate plant and algae growth, which may harm aquatic life by causing effects

like habitat degradation and dissolved oxygen depletion. Nutrient-stimulated algae growth can also form carcinogenic chemicals when water is disinfected for drinking water use. The Environmental Protection Agency has recommended that states prioritize watersheds for short-term Nitrogen and Phosphorus load reductions while making significant progress toward development of numeric nutrient criteria.<sup>2</sup> However, the complex science linking nutrients to these effects and the expense of nutrient treatment resulted in few states adopting statewide nutrient criteria.<sup>3</sup> These difficulties prompted the Colorado General Assembly to consider a bill, HB 12-1161, which would require legislative approval of the nutrient regulations.

#### Phased Approach to Nutrient Control

WQCC adopted a phased approach to nutrient control due to concerns about the cost and feasibility of achieving water quality standards.

The regulations include stringent new "interim values" for Phosphorus, Nitrogen, and Chlorophyll-a in the Basic Standards and Methodologies for Surface Waters (Reg. 31). WQCC also adopted a new Nutrients Management Control Regulation (Reg. 85) that includes technology-based Phosphorus and Nitrogen effluent limits applicable to a majority of the permitted discharge flow in the state.

In the initial phase, the effluent limits will apply to large domestic and industrial discharges in high priority watersheds (primarily the urbanized portions of the South Platte and Arkansas basins, and the Colorado River basin). Dischargers and municipal stormwater utilities will also embark on a comprehensive nutrient monitoring and data assessment program. Non-point sources including agriculture are encouraged to implement voluntary controls, and dischargers can implement pollutant trades. Until 2022, the interim values will be considered for

*(continued on page 14)*

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## CALENDAR OF EVENTS

Pre-registration is required for all BCBA CLE programs. Register by e-mailing [lynne@boulder-bar.org](mailto:lynne@boulder-bar.org), or pay online with a credit card at [www.boulder-bar.org/calendar](http://www.boulder-bar.org/calendar).

Thursday, May 3

All Lawyers

20th JD Boulder Drug Court

A Five-Year Update on Successes:

What's New and Different

Presenter: Judge Bailin

Noon in the Boulder County Justice

Center Jury Assembly Room

1 CLE \$20, \$10 new/young lawyers

Tuesday, May 8

Employment Law

Recent DOL Updates and Court Cases

FMLA Lessons Learned: Things I

Wish Supervisors Knew

Presenter: Megan Holstein

Noon at Caplan and Earnest

1 CLE \$20, \$10 new/young lawyers

Lunch \$10

Wednesday, May 9

Solo/Small Firm

Happy Hour 5 PM

The Rib House

Thursday, May 10

Intellectual Property

IP Valuation

Presenter: Patrick McFarlen

Noon at Hutchinson Black and Cook

1 CLE \$20, \$10 new/young lawyers

Lunch \$10

Friday, May 11

Availability of Legal Services

Noon brownbag at Boulder County

Legal Services in Louisville

Tuesday, May 15

Business Law

Tax Aspects of Entity

Formation and Operations

Presenter: Jeff Cohen

Noon at Hutchinson Black and Cook

1 CLE \$20, \$10 new/young lawyers

Lunch \$10

Tuesday, May 15

Annual Medical-Legal

Legislative Update

Boulder Country Club,

7350 Clubhouse Road

6 PM cash bar, 6:30 dinner,

7 PM discussion with legislators,

\$40 for dinner and 1 CLE

Tuesday, May 16

Alternative Dispute Resolution

Mediation Without Borders

Presenter: Prof. Anna Spain, CU law

Noon brownbag Jury Assembly Room

at the Boulder Justice Center

1 CLE \$20, \$10 new/young lawyers

Thursday, May 17

Bankruptcy Roundtable

Lunch Noon at Agave

Thursday, May 17

Young Lawyer Happy Hour

To Honor Recent Law School Grads

5:30 PM at The Attic, 949 Walnut

Thursday, May 24

Paralegals and Civil Litigation

Paralegalling in Med. Malpractice &

Personal Injury Matters

Presenter: Karen Reed Wasson of

Robert Hunter & Associates

Noon at Caplan and Earnest

1 CLE \$20, \$10 new/young lawyers

Lunch \$10

Wednesday, May 30

Elder Law

When You Really Need a New Will,

Don't Let Lack of Testamentary

Capacity Stand in the Way

Presenters: Renee Ezer & Spencer Crona

Noon at Caplan and Earnest

1 CLE \$20, \$10 new/young lawyers

Lunch \$10

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## ANNUAL PRO BONO AWARDS LUNCH



Ellen Cadette presents the Ron Porter Pro Bono Award to Mary Street.



200 Pro Bono Hours and Above

L – R: Bruce Wiener, Chris Jeffers, Hon. Thomas Mulvahill, (presenting), Brandy Rothman, Norton Steuben.

CONGRATULATIONS  
AND THANK YOU  
FOR YOUR  
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CONTRIBUTIONS



100 – 200 Pro Bono Hour Awards

L – R: Craig Small, Emma Pinter, Meg Quiat, Susan Bryant, Hon. Patrick Butler, (presenting)



100 % Firm Pro Bono Recognition

L – R: John Tweedy (Robinson Tweedy), Laura Moore (Warren Carlson & Moore), Kim Gent (Ebner & Gent), Jordan Dorrestein, Don Goulart (Goulart & Associates), Justice Gregory Hobbs, (presenting), Ron Jung (Jung & Associates),  
Right back row: Rick Romeo (Vincent Romeo & Rodriguez), Leonard Tanis (Cooper Tanis & Cohen), Chris Bosch (Robinson Tweedy),  
Right, front row: Christina Ebner (Ebner & Gent), Helen Stone (Stone & Rosen), Connie Eyster (Hutchinson Black & Cook).



## RECENT DEVELOPMENTS IN CDPS INDUSTRIAL AND CONSTRUCTION SITE PERMITS

By GREGORY TAN

The federal Clean Water Act requires construction sites and a wide array of industrial facilities to obtain a permit for their discharges of stormwater to surface waters. While the United States Environmental Protection Agency ("EPA") administers a federal permit program, most states are authorized to issue permits through their EPA-approved permit programs. In Colorado, stormwater discharge permits are issued by the Colorado Department of Public Health and Environment ("CDPHE") through

the Colorado Discharge Permit System ("CDPS"). In order to avoid the burden of preparing facility-specific individual permits for each facility, CDPHE issues general permits applicable to entire categories of industrial activities. This approach offers a streamlined permitting process which requires facilities only to file basic application materials with CDPHE in order to obtain coverage under the applicable general permit.

General permits issued under the CDPS program require renewal every five years, and CDPHE has had its hands full recently with several permits expiring in 2011 and 2012. CDPS General Permits for light industrial activity (Permit No. COR01000), heavy industrial activity (Permit No. COR020000) and the recycling industry (Permit No. 060000) expired in 2011, and all three permits have been replaced by a single multi-sector permit covering twenty-six industrial sectors, which becomes effective on July 1, 2012 (Permit No. COR 900000). Additionally, the CDPS general permit for stormwater discharges from construction activities (Permit No. COR030000) expires June 30, 2012 and will be administratively extended until a revised permit is finalized. Facilities engaged in a wide range of industrial activities, including construction, oil and gas extraction and refining, landfill operations, automobile salvage operations, scrap recycling, printing and publishing operations, and the manufacture of chemicals, paper products, roofing materials, textiles, and other products will be impacted by recent developments relating to these expiring permits. These facilities should be aware of both how to comply with new permit requirements, and what affirmative steps are required to maintain permit coverage when the old permits expire.

### Multi-Sector General Permit

On March 7, 2012, CDPHE finalized a new general permit for storm water discharges from twenty-six sectors of industrial sites (the "Multi Sector General Permit" or "MGSP"). The permit becomes effective on

*(continued on page 10)*



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## PRESIDENT'S PAGE

By ELLEN CADETTE



May 1 is "Law Day" across the United States. At the urging of his legal counsel, President Eisenhower declared it so in 1958.<sup>1</sup> "Law Day, U.S.A." became codified as such in 1961, right between "Honor America Days" and "Leif Erikson Day" in the United States Code. It is a "special day of celebration by the people of the United States . . . in appreciation of their liberties and the reaffirmation of their loyalty to the United States and of their rededication to the ideals of equality and justice under law in their relations with each other and with other countries; and [f]or the cultivation of the respect for law that is so vital to the democratic way of life."<sup>2</sup>

By the time you may be reading this, our own bar association will have honored Law Day by presenting to students at four Boulder County high schools on May 3rd and 4th regarding the legal rights and responsibilities they will have once they turn eighteen. Thanks to Christine Hylbert and to our Law Day committee (Jud Hite, Tucker Katz, Keith Olivia, and Dave Cheval), and to all who helped and volunteered for that effort by speaking in the schools.

Law Day provides us with an annual opportunity to reflect upon and appreciate what our laws mean to us, and the importance of the judicial system in our lives. Here's my two cents:

We are lucky to live in Colorado, where our judges are merit-selected and not elected. Our system of judicial appointment is over 45 years old, adopted by voters as a Constitutional amendment.<sup>3</sup> With the merit-based system, judges are appointed by the Governor from candidates selected by a nominating commission for the Governor's review. There is a separate nominating commission for the Supreme Court and the Court of Appeals, and one commission for each judicial district in the state for the district and county courts.<sup>4</sup> The commissions are comprised in a very specific manner. The commissions must consist of certain numbers of non-lawyer and lawyer citizens, with no more than half of such persons plus one belonging to the same political party among

other requirements, including geographical requirements for the district commissions.<sup>5</sup> Our Constitutional amendment adopting the merit-based system of judicial selection in Colorado took many years to accomplish; the process began in 1939.<sup>6</sup>

Other aspects of our merit-based selection process include judicial performance reviews and retention elections once a judge's term has expired. For an excellent summary on how Coloradans select and retain judges, see the article entitled "How Colorado Chooses Judges-Summary of Colorado's Non-Partisan Judicial Merit Selection, Evaluation, and Retention Processes" on the Colorado Judicial Institute's website.<sup>7</sup>

*(continued on page 8)*



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## LAWYERS ANNOUNCEMENTS



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Stevens, Littman, Biddison, Tharp, & Weinberg, LLC, a peer rated "AV" law firm, and the Law Offices of Rohn K. Robbins, LLC, proudly announce their association.

**Mr. Robbins will continue to practice in the areas of Real Estate Transactions and Litigation, Business Transactions, Family and Domestic Law. Mr. Robbins will become Of Counsel to the firm, enhancing service to clients in Vail and surrounding mountain communities as well as along Colorado's Front Range.**

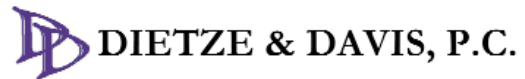
**Mr. Robbins will office in Eagle County where he will continue his work as Chair of the Vail Charitable Fund and as a board member of the Vail Symposium. He will also continue to write his weekly legal column for the Vail Daily and to host Community Focus, a weekly radio/TV interview program.**

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**Mr. Muller's practice with  
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Mr. Muller may be reached as follows:

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Phone: (303) 447-1375

-or-

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Phone: (303) 297-1970  
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### JOHNSON & REPUCCI LLP

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**Philip A. ("Alex") Goiran**  
has joined the firm as Of Counsel.

Alex brings 17 years of experience to the Firm in the areas of oil and gas law, real estate transactions, real estate and business litigation and estate administration litigation.

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What a great success the  
Tree Planting Project was on  
April 21 at FourMile Canyon Burn area.  
congratulations to all those who helped plant  
and those who donated money for the trees.  
The BCBA collected \$3000 for trees.

### ANNUAL LONGMONT LAWYERS LUNCH

President Ellen Cadette (left) welcomes  
Judge Kari Quevli and her division clerks,  
Amanda Talbott and Jan Davison.  
The lunch was attended by 50 Longmont Lawyers.



## PRESIDENT'S PAGE *(continued from page 5)*

The alternative to merit-based selection, which many states have, is the popular election of judges. Imagine the consternation for your client, knowing that the opposing counsel or party to a case contributed a hefty sum to the presiding judge's campaign, and your client belongs to a different political party. Or, picture this: the presiding judge in your case hinted at how she might rule on your type of case while out on the campaign trail last year, and it doesn't go your way.

Between 2000 and 2009, \$206.9 million was raised by Supreme Court Judicial candidates in 26 states using the elective process of judicial selection (or some hybrid system), compared to less than half that amount raised during the preceding decade.<sup>8</sup> Spending on nasty attack advertising saw a similar surge during the last decade.<sup>9</sup>

It is not just the political pressure and potential for bias that is prob-

lematic for judges under the election system; it is the perceptions that litigants have about whether justice is being served in those courts.<sup>10</sup> When people don't have confidence in the fairness of our justice system, they lose respect for it. Given that our judicial branch is one of three of branches upon which our very democracy is based, this, for lack of a better phrase, is not good!

While not perfect, at least the merit-based system of selecting judges strives to keep political pressures from dominating our courtrooms and interfering with public perceptions of fairness in our courts.

Hope to see you all at the Annual Dinner on June 7th at the Folsom Center Plate at C.U.!

### FOOTNOTES

1. Charles S. Rhyne, president of the American Bar Association in 1957-58.
2. 36 U.S.C. §113.
3. Constitutional Amendments and a Referred Law submitted to and adopted by the People

at the General Election, Nov. 8, 1966, 1967 Colo. Sess. Laws, ch. 455, 5-10 (1966 supplement) (amending Colo. Const. art. VI).

4. Colo. Const. art. VI, section 24 (1).

5. Colo. Const. art. VI, section 24 (2) and (3).

6. Hon. Gregory J. Hobbs, Jr., Colorado Judicial Merit Selection – "A Well-Deserved 40th Anniversary Celebration," 35 The Colorado Lawyer 13 (April 2006). This article contains an interesting summary of the history behind the amendment.

7. [www.coloradojudicialinstitute.org](http://www.coloradojudicialinstitute.org)

8. James Sample, Adam Skaggs and Jonathan Blitzer, Linda Casey, "The New Politics of Judicial Elections," 2000-2009: Decade of Change" at p. 8 (2010).

9. *Id.* at 25.

10. "Whether or not [judicial campaign] contributions tilt the scales of justice, three out of every four Americans believe that campaign contributions affect courtroom decisions." Sandra Day O'Connor, forward, James Sample, Adam Skaggs and Jonathan Blitzer, Linda Casey, "The New Politics of Judicial Elections, 2000-2009: Decade of Change (2010)."



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## PRO BONO PAGE

### Pro Bono Referrals

Thirteen cases were referred during March. Thank you to the following attorneys:

William Benjamin  
Daniel Flynn  
Judson Hite  
Chris Jeffers  
William Meyer  
Karen Radakovich  
Curt Rautenstrauss  
Ellen Ross  
Craig Small  
Ginger Vidrine

### Pro Se Program Volunteers

Joyce Bergmann  
John Hoelle  
Lauren Ivison  
Tucker Katz  
Michael Morphew  
Craig Small  
Michelle Stoll  
Leonard Tanis  
Karen Trojanowski

### BCAP Volunteers

Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project in March:  
Paul Bierbaum

### Pro Bono Corner

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### Boulder County Bar Association Professionalism Committee On-Call Schedule

April 30	Steve Meyrich	303.440.8238	May 7	Helen Stone	303.442.0802
May 14	Curt Rautenstrauss	303.666.8576	May 21	Bruce Fest	303.494.5600
May 28	Trip DeMuth	303.447.7775			



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## INDUSTRIAL AND CONSTRUCTION SITE PERMITS *(continued from page 4)*

July 1, 2012. The MSGP will apply to industrial activities that were previously covered by the general permits for light industrial activities, heavy industrial activities and the recycling industry. The combined general permit is largely modeled on the 2008 Multi-Sector General Permit issued by EPA. CDPHE determined that the combined permit is a more user-friendly approach, promotes consistency of permit requirements, and will allow for a more efficient process for reviewing and issuing permit certifications.

The new Colorado MSGP includes significant changes from the three permits that it replaces. CDPHE

explains in the MSGP fact sheet that these changes were deemed necessary because the expiring permits have not been significantly modified since 1992, and new information developed since that time supports both the consolidation of the permits and certain major changes to permit requirements. One such change is the addition of a practice-based effluent limitation requiring permittees to minimize the exposure of pollutant sources associated with manufacturing, processing, and storage areas to rain, snow, snowmelt and runoff, such as by locating industrial materials and activities inside or protecting them with storm resistant coverings. The MGSP also contains new provi-

sions that could require a facility to meet site-specific water quality-based effluent limitations, rather than industry-wide effluent limitations, if necessary to comply with water quality standards. Additional new requirements apply to discharges to water quality impaired waters and waters designated as critical habitat for threatened or endangered species. The MSGP also includes new requirements relating to stormwater management plan revisions, inspection and monitoring procedures, and related recordkeeping.

Current permittees with coverage under any of the three expiring industrial general permits will remain covered until they obtain a permit certification under the new MSGP. However, permittees will have to modify facility processes and procedures to comply with MSGP requirements before July 1, 2012. While the MSGP covers a broad range of industrial activities, it does not apply to discharges associated with metal mining operations and mine waste remediation (covered by CDPS Permit No. COR040000) or stormwater discharges associated with sand and gravel mining and processing (covered by CDPS Permit No. COR340000).

### Construction General Permit

CDPHE's CDPS general permit for stormwater discharges from construction sites expires June 30, 2012; however, CDPHE has not published a draft replacement permit, and intends to administratively extend the expiring construction general permit ("CGP"). Construction sites that obtained coverage under the expiring permit on or after February 6, 2012 will be automatically covered after June 30, 2012, but construction

*(continued on page 11)*

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## INDUSTRIAL AND CONSTRUCTION SITE PERMITS *(continued from page 11)*

sites permitted before February 6, 2012 were required to file permit renewal papers with CDPHE by March 31, 2012 to extend their coverage after the permit's expiration date.

While CDPHE has not made available a draft renewal CGP, the renewal undoubtedly will be impacted—as the MSGP was—by actions at the federal level. Specifically, in 2009, EPA promulgated what is known as the Construction and Development (“C&D”) Rule. See 74 Fed. Reg. 63057 & 40 C.F.R. Part 450. The C&D Rule requires construction site operators to control the discharge of pollutants contained in stormwater from their construction sites by implementing a range of erosion and sediment control measures and pollution prevention practices. These requirements became effective February 1, 2010, and all states that issue CGPs (as well as EPA) are required to incorporate the C&D rule requirements into the next renewal of their CGP.

The most significant provision of the C&D rule required construction

sites ten acres or more in size to meet a numeric standard for turbidity and conduct sampling of stormwater discharges to confirm compliance with the standard. However, EPA stayed the effectiveness of the numeric effluent limit portion of the C&D rule after finding errors in the methodology used to reach it. See 75 Fed. Reg. 68215. As a result, neither EPA nor the states are required to include numeric effluent limits in reissued CGPs. EPA is currently seeking new data in connection with numeric effluent limits and intends to correct the C&D rule, after which all CGPs will be required to include a numeric effluent limit. See 77 Fed. Reg. 112.

As for the Colorado CGP, the expiring general permit does not contain numeric effluent limits, and the renewal permit will not be required to if it is issued before EPA corrects the federal numeric effluent limit. However, the renewed Colorado CGP will have to incorporate the currently active federal C&D rule, which contains new requirements for erosion and sedimentation control such as maintaining natural

buffers around surface waters, stringent requirements for the prompt initiation of soil stabilization measures in inactive areas of the construction site, and additional requirements intended to protect impaired and high quality waters.

*Gregory Tan is a former EPA enforcement attorney now in private practice at Greenberg Traurig, LLP. Greg counsels clients on CDPS and NPDES permit compliance, as well as a variety of other environmental enforcement and compliance matters, from his office in Denver. Greg lives in Boulder County.*



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3) When the public searches the CBA website for Boulder County lawyers, the list used is our Find a Lawyer index.

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Return this form to the bar office by June 1 with your check written to BCBA.

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## NUTRIENT REGULATIONS *(continued from page 1)*

adoption as site-specific standards only upstream of wastewater discharges, or to protect lakes with drinking water intakes.

In the next phase of nutrient regulation beginning after 2022, the interim values may be considered as water quality standards for any waters of the state. Because current treatment technology cannot achieve the interim values for Nitrogen, the burden will be on dischargers to justify either alternative standards that are protective of aquatic life, or variances based on feasibility and cost of treatment. After 2022, the WQCC may also add mandatory controls for agriculture, construction, and other non-point sources if the voluntary approach in the initial phase is insufficient.

### Unfunded Mandate

The nutrient regulations raise significant questions about the relationship among the federal, state, and local governments. CRS § 29-1-304.5 prohibits rules that create any “new state mandate” without state funding to reimburse local government, unless the mandate is the result of “any requirement of federal law.” Executive Order D 2011-005 (“EO5”) contains a similar prohibition against unfunded mandates on local government. Many of the costs of nutrient control will be borne by cities, drainage districts, and sanitation districts. The Governor’s office requested an explanation from EPA of “the precise nature of [any] legal requirement” under the CWA for states to adopt rules to control the discharge of nutrients.<sup>4</sup> EPA has not yet responded, but stated in filings before the WQCC that “action by the Commission to adopt some version of the proposed rules would move the State’s program in the right direction.”<sup>5</sup>

The key question is whether the nutrient regulations are “specifically

required” by federal law. The CWA requires States to adopt numeric standards if they are “necessary to protect the designated use” of waters (such as aquatic life). 40 C.F.R. 131.11(a). The EPA may make a determination that new or revised water quality standards for nutrients are necessary, CWA § 303(c)(4)(B), but has not done so in Colorado. In addition, discharge permits must contain effluent limits to comply with existing narrative standards, see, e.g., Reg. 31.11(1) (5 CCR 1002-31) (“state surface waters shall be free from substances . . . which . . . are harmful to the beneficial uses . . .”), but Federal regulations allow states to choose from multiple methods to do so. 40 C.F.R. 122.44(d). State regulators took the position that the absence of specific nutrient standards under the CWA does not mean standards are not required by federal law, and that adoption of the proposed nutrient regulations was preferable because EPA would adopt more stringent nutrient standards if the State did not act first. Notably, environmental groups filed two separate lawsuits filed on March 13 pushing EPA to take actions that could result in nutrients effluent limitation and water quality standards mandates<sup>6</sup>.

### The Future

If the nutrient regulations survive review under EO5 and action by the state legislature, they will represent a major turning point in nutrient regulation in Colorado and potentially a template for other states to follow. Over the next several years, wastewater dischargers will be challenged to implement new technology for nutrient control. In addition, they will need to collect data, and plan in the hope that they can develop site-specific standards that both protect the environment and are feasible to attain. This process will require difficult technical, scientific, and policy choices for the regulated community and state regulators for years to come.

*Gabe Racz is Counsel at Vranesh and Raisch, LLP in Boulder. Gabe specializes in water quality, water rights, environmental, and eminent domain matters. He has a Bachelor of Music degree from Ithaca College and a J.D. degree from the University of Illinois at Urbana-Champaign, and has practiced in Colorado since 2000.*

### Footnotes

1. WQCC took preliminary final action on March 14 after a three-day hearing and plans to approve the final regulations at its May 14 meeting.
2. See, e.g., Nancy K. Stoner, Acting Assistant Administrator, “Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions,” March 16, 2011 (available at [http://water.epa.gov/scitech/swguidance/standards/criteria/nutrients/upload/memo\\_nitrogen\\_framework.pdf](http://water.epa.gov/scitech/swguidance/standards/criteria/nutrients/upload/memo_nitrogen_framework.pdf)).
3. EPA has summarized state progress at <http://water.epa.gov/scitech/swguidance/standards/criteria/nutrients/progress.cfm>
4. Letter to James Martin, Regional Administrator, March 9, 2012 (available at [http://www.cdphe.state.co.us/op/wqcc/Hearings/Rulemaking/31\\_85nutrients/PublicComment/31\\_85pcGovernorEx1.pdf](http://www.cdphe.state.co.us/op/wqcc/Hearings/Rulemaking/31_85nutrients/PublicComment/31_85pcGovernorEx1.pdf)).
5. Nutrients hearing written rebuttal comments of EPA (available at [http://www.cdphe.state.co.us/op/wqcc/Hearings/Rulemaking/31\\_85nutrients/RebuttalComments/31\\_85rebuttalcommentsEPA.pdf](http://www.cdphe.state.co.us/op/wqcc/Hearings/Rulemaking/31_85nutrients/RebuttalComments/31_85rebuttalcommentsEPA.pdf)).
6. *Natural Resources Defense Council v. Jackson*, 12-cv-1848 (S.D.N.Y.); *Gulf Restoration Network v. Jackson*, 12-cv-677 (E.D. La.).



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