

Maynes, Bradford, Shipp & Sheftel, LLP Attorneys at Law

THOMAS H. SHIPPS
SAM W. MAYNES
JOHN BARLOW SPEAR
STEVEN C. BOOS**
ADAM T. REEVES

BYRON V. BRADFORD (1907-1985)
FRANK E. (SAM) MAYNES (1933-2004)

*ALSO ADMITTED IN ARIZONA AND NAVAJO NATION
**ALSO ADMITTED IN ARIZONA, CALIFORNIA[▲], NEW MEXICO, UTAH[▲] AND NAVAJO NATION
+ALSO ADMITTED IN WASHINGTON
++ALSO ADMITTED IN NEW MEXICO AND NAVAJO NATION
+++ALSO ADMITTED IN IDAHO, UTAH AND WYOMING
++++ALSO ADMITTED IN NEW MEXICO
▲ Denotes states in which attorney licenses are inactive

DANIEL MINZER, SPECIAL COUNSEL

ASSOCIATES:
ELISABETH J. TAKEUCHI (TAFT)+
KRISTINA N. JOHN++
CHARLES C. SPENCE+++
SHAY L. DENNING++++
JEFFREY M. KANE

OF COUNSEL:
JANICE C. SHEFTEL
PATRICIA A. HALL*

(970) 247-1755
(970) 247-8827 - Facsimile
jkane@mbsslpl.com

September 7, 2012

Water Resources Review Committee
Colorado General Assembly
State Capitol Building
200 East Colfax Avenue
Denver, Colorado 80203

**Subject: Testimony of the Southwestern Water Conservation District Regarding
Water Pollution Control and Nutrients Regulations Funding Challenges**

Dear Committee Members,

On behalf of the Southwestern Water Conservation District ("Southwestern"), our firm respectfully submits the following testimony to assist in your review of the final nutrients regulations and related funding challenges. Southwestern was created by the General Assembly to promote the conservation, use, and development of the water resources of the San Juan River and Dolores River basins. *See* C.R.S. §§ 37-47-101, *et seq.* Southwestern is dedicated to protecting and improving water quality in the basins, and has devoted substantial funding and resources to watershed monitoring and planning and to projects intended to protect and restore water quality. Southwestern raises the following points for your consideration:

- The nutrients regulations will require local governments in southwest Colorado to spend tens of millions of dollars to comply with the technology-forcing mandate of Regulation 85 and the numeric nutrient criteria in Regulation 31.
- No data demonstrate that there are significant, widespread nutrients impacts to the waters of southwest Colorado now, nor that there are likely to be such impacts. In contrast, there are opportunities to improve water quality for a number of other regulated pollutants, including legacy sources of heavy metals from mining, representing a much better place to direct the expenditure of limited public resources.

September 6, 2012

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- Most facilities need to begin planning and acquiring financing to construct plant upgrades immediately, because the typical planning horizon for such projects is 10 years.
- The E.P.A. and Water Quality Control Division have stated that the Water Pollution Control Revolving Fund (“Revolving Fund”) is available to assist local governments in paying to comply with the nutrients regulations. It is not clear how this can be true given that the Revolving Fund has less than \$70 million available to loan in 2012, yet \$3.1 BILLION in eligible projects were identified, before the nutrients regulations were even adopted. (See enclosed excerpts of “Intended Use Plan” by Water Quality Control Commission; downloaded from <http://www.cwrpda.com/WPCRFSubmenu.htm#>.)
- Even the available Revolving Fund moneys are in the form of low-interest loans, not grants that would really defray the burden on local governments.
- Simply put, if the Assembly does not (1) allocate a new source of funding to comply with the nutrients regulations and/or (2) require the nutrients regulations to be re-formulated so that enormous public expenditures on nutrients controls that may provide no demonstrable benefit to water quality are expunged, local governments throughout Colorado will be required to raise taxes and/or service rates drastically in order to comply with the new mandates.
- The Assembly has already directed by statute that state agencies are prohibited from adopting rules that require local governments to increase the level of existing services “unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate or such increased level of service.” C.R.S. § 29-1-304.5(1).

Southwestern appreciates your careful consideration of this testimony, and looks forward to working with legislators and other stakeholders to craft solutions to these challenges.

Sincerely,

MAYNES, BRADFORD, SHIPPS & SHEFTEL, LLP



Jeffrey M. Kane

enclosure

STATE OF COLORADO

2012

WATER POLLUTION CONTROL REVOLVING FUND

INTENDED USE PLAN

WQCC Approval: November 14, 2011

Effective Date: January 1, 2012

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Addendum #1 State of Colorado 2009 Water Pollution Control Revolving Fund and State Domestic Wastewater Treatment Grant Intended Use Plan (American Recovery and Reinvestment Act)

TABLE IV
Water Pollution Control Revolving Fund
Calculation of Loan Capacity for the 2012 as of June 30, 2011
Assuming Various transfer from the DWRF

	<u>0\$ Transfer</u>	<u>\$10 million</u>	<u>\$7million</u>	<u>\$5 million</u>
Capitalization grants through 2011	\$ 282,626,923	\$ 282,626,923	\$ 282,626,923	\$282,626,923
Obligated for loans and admin through 6/30/11	\$ 267,704,846	\$ 267,704,846	\$ 267,704,846	\$267,704,846
Remainder	\$ 14,922,077	\$ 14,922,077	\$ 14,922,077	\$ 14,922,077
Estimated 2012 Capitalization Grant	\$ 8,547,900	\$ 8,547,900	\$ 8,547,900	\$ 8,547,900
Less 4% Administrative Fee	\$ 341,916	\$ 341,916	\$ 341,916	\$ 341,916
Total 2012 Grant	\$ 8,205,984	\$ 8,205,984	\$ 8,205,984	\$ 8,205,984
Less 2011 Grant Funds Used	\$ 2,496,000	\$ 2,496,000	\$ 2,496,000	\$ 2,496,000
Less Grant Funds Expected for 2012 Additional Subsidy	\$ 2,564,370	\$ 2,564,370	\$ 2,564,370	\$ 2,564,370
Plus Transfer from DWRF in 2012	\$ -----	\$ 10,000,000	\$ 7,000,000	\$ 5,000,000
Total Grant Fund Available	\$ 18,067,691	\$ 28,067,691	\$ 25,067,691	\$ 23,067,691
Re-loan funds as of 06/30/11	\$ 8,368,121	\$ 8,368,121	\$ 8,368,121	\$ 8,368,121
plus: Deallocation on 9/1/11	\$ 20,579,765	\$ 20,579,765	\$ 20,579,765	\$ 20,579,765
plus: Deallocation on 9/1/12	\$ 18,238,385	\$ 18,238,385	\$ 18,238,385	\$ 18,238,385
less: Re-loan funds used for direct loans remainder 2011	\$ 9,276,818	\$ 9,276,818	\$ 9,276,818	\$ 9,276,818
Total Re-Loan Funds Available	\$ 37,909,452	\$ 37,909,452	\$ 37,909,452	\$ 37,909,452
Loan Capacity for 2012 (includes 9/1/12 deallocation				
Leveraged Loans from Grant Funds X 1.70	\$ 30,715,075	\$ 47,715,075	\$ 42,615,075	\$ 39,215,075
Less: 2011A Clean Water Bond Issue	\$ 17,818,867	\$ 17,818,867	\$ 17,818,867	\$ 17,818,867
2012 WPCRF Loan Capacity (less 2011A Bond Issue)	\$ 53,370,030	\$ 70,370,030	\$ 65,270,030	\$ 61,870,030

**Appendix A
Water Pollution Control Revolving Fund
2012 Project Eligibility List**

Green Categories: 1 = Green Infrastructure; 2 = Water Efficiency; 3 = Energy Efficiency; 4 = Environmentally Innovative

NPDES	Project No.	Elig. Cat.	Borrower / Entity	Project Name	County	Project Description	Estimated Project Cost	Population	Green Amount	Categorical=C Business=B	Categories 1,2,3, or 4
COG-589020	040043W	2	Academy Water & Sanitation District		El Paso	Improvement / Expansion of Wastewater Treatment Facilities; Collection System and/or Interceptor Construction or Rehabilitation; Improvement / New Biosolids Handling Facility	\$2,480,000	800			
589020	090065W	2	Academy Water & Sanitation District		El Paso	Connect to Existing Facility; Collection System and/or Interceptor Construction or Rehabilitation	\$3,200,000	800			
NA	030001W	4	Adams County		Adams	Nonpoint Source Project	\$1,000,000	363,857			
33065	030002W	2	Aguilar, Town of		Las Animas	New Wastewater Treatment Plant	\$3,500,000	600			
6589061	090050W	3	Akron, Town of		Washington	Improvement / Expansion of Wastewater Treatment Facilities; Collection System and/or Interceptor Construction or Rehabilitation	\$250,000	1,785			
NA	030004W	1	Alamosa County	Mosca ID	Alamosa	New Wastewater Treatment Plant; Improvement / Expansion of Wastewater Treatment Facilities; Connect to Existing Facility; Collection System and/or Interceptor Construction or Rehabilitation; Eliminate ISDS	\$729,000	50			
NA	100078W	1	Allenspark Water & Sanitation District		Boulder	New Wastewater Treatment Plant; New Regional Wastewater Treatment Plant; Collection System and/or Interceptor Construction or Rehabilitation; Improvement/New Biosolids Handling Facility; Eliminate ISDS	\$2,297,000	250			
NA	100099W	4	Allenspark Water & Sanitation District		Boulder	Nonpoint Source Project	\$200,000	250			
NA	030005W	4	Alma, Town of		Park	Nonpoint Source Project	\$1,300,000	235			
35769	050002W	2	Alma, Town of		Park	New Wastewater Treatment Plant	\$2,500,000	235			
NA	120044W	1	AltaColorado Metropolitan District	Village at East Fork	Lake	New Regional Wastewater Treatment Facilities; Collection System and/or Interceptor Construction or Rehabilitation; Green Infrastructure, Water Efficiency Improvements, Energy Efficiency Improvements or Environmentally Innovative Projects	\$2,300,000	180	\$100,000	B, C	1, 3
40681	040049W	2	Arapahoe County WWA		Arapahoe	Improvement / Expansion of Wastewater Treatment Facilities; Consolidation of Wastewater Treatment Facilities; Collection System and/or Interceptor Construction or Rehabilitation; Reuse Facility	\$31,500,000	20,000			
NA	090116W	4	Arapahoe County WWA		Arapahoe	Stormwater Project	\$589,667	20,000			
NA	090127W	3	Arapahoe County WWA		Arapahoe	Green Infrastructure, Water Efficiency Improvements, Energy Efficiency Improvements or Environmentally Innovative Projects	\$4,760,900	20,000			
NA	100026W	5	Arriba, Town of		Lincoln	Source Water Protection Plan Implementation	\$10,000	217			

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NPDES	Project No.	Elig. Cat.	Borrower / Entity	Project Name	County	Project Description	Estimated Project Cost	Population	Green Amount	Categorical-C Business=B	Categories 1,2,3, or 4
20435	110030W	3	Woodmoor Water and Sanitation District	Tri-Lakes WWTF	El Paso	Improvement / Expansion of Wastewater Treatment Facilities; Green Infrastructure, Water Efficiency Improvements, Energy Efficiency Improvements or Environmentally Innovative Projects	\$500,000	14,924	\$200,000	C,B	3
23833	030295W	1	Wray, City of		Yuma	Improvement / Expansion of Wastewater Treatment Facilities; Collection System and/or Interceptor Construction or Rehabilitation; Eliminate ISDS	\$5,000,000	2,380			
NA	060016W	4	Yuma Conservation District		Yuma	Nonpoint Source Project	\$250,000	187			
644595	030296W	2	Yuma, City of		Yuma	Collection System and/or Interceptor Construction or Rehabilitation; Improvement / Expansion of Wastewater Treatment Facilities	\$2,000,000	3,500			
47210	060013W	2	Yuma, City of		Yuma	Improvement/New Biosolids Handling Facility	\$500,000	3,500			
NA	090131W	4	Yuma, City of		Yuma	Stormwater Project	\$875,000	3,500			
Total:							\$3,151,520,081		\$85,835,000		