March 15, 2023

Governor Jared Polis
Members of the House Agriculture, Water, and Natural Resources Committee
Members of the Senate Agriculture and Natural Resources Committee

Re: Need for Delay Before Adopting Water Quality Standards That Would Cost Colorado Public Wastewater Utilities and their Rate Payers Tens of Billions of Dollars

Dear Governor Polis, Representatives, and Senators:

The Town of Castle Rock requests your support for a delay in the currently-scheduled April 10 Water Quality Control Commission ("Commission") hearing to consider revisions to nutrient standards for lakes and reservoirs. The Water Quality Control Division ("Division") of the Department of Public Health and Environment has proposed revisions that, if implemented as currently proposed, threaten to unreasonably and unnecessarily burden Colorado's domestic wastewater utilities, water providers, and the public that fund these essential services. Castle Rock Water's initial rate modelling of the preliminary estimates of capital upgrades and additional operational costs required for the Town's share in the water reclamation authority to meet the potential permit requirements that may stem from the revised standards indicates that **rates on our customers will have to be tripled over current rates**.

On March 14, the Division provided parties with alternative approaches, one of which would be acceptable to Castle Rock and not cause untenable rate increases on our customers and residents. However, the Division's preferred alternative still imposes unacceptable risks and costs on wastewater utilities. **The Division identified, but still does not recommend, an alternative that would not impose these infeasible standards on specific lakes and reservoirs located downstream of wastewater utilities. This alternative would be acceptable to Castle Rock.** Unless the Division changes course and recommends this more reasonable alternative, a delay of the hearing is necessary to allow enough time for a) consideration of a cost-benefit analysis; b) development of feasible standards and variances for specific lakes and reservoirs; and c) outreach to communities whose utility rates would be significantly increased by the proposal.

Reducing nutrients down to concentrations in the Division proposal is expected to cost public wastewater utilities across the state tens of billions of dollars (with no source of funding identified to address this change) and to significantly reduce water supplies. A cost-benefit analysis prepared when the Commission considered less stringent standards in 2012 estimated the statewide cost would be $25 Billion and would result in relatively few water quality benefits for the dollars spent. This figure is considerably higher today. Furthermore, the required treatment technology requires evaporation or deep-well injection of large amounts of water that would otherwise be used and reused by Colorado municipalities.

While a cost-benefit analysis of the Division's current proposal is being prepared, it is being completed by the Division without input from wastewater utilities that have the expertise in implementing water treatment systems. The Division has said this critical cost-benefit analysis will only be available nineteen days before the Commission's scheduled rulemaking on the proposal on April 10, 2023 — far too late to meaningfully inform the Division's development of appropriate standards which balance protecting water quality and the cost to everyday Coloradans that will be required pay for potentially infeasible and unnecessary treatment. While the Commission previously extended the hearing schedule to allow time to prepare the cost-benefit analysis, the revised schedule still does not allow enough time for meaningful input or consideration of alternatives to the proposal.

Wastewater utilities are publicly funded and provide an essential service of protecting water quality and public health. In carrying out this mission, utilities have the responsibility to efficiently use and manage public funds in order to avoid an unreasonable burden on the general public, including rural and disadvantaged communities, that pay for their services. Wastewater utilities must therefore balance water quality priorities with the economic health of the community. This requires utilities to develop long-term capital plans for implementing upgrades to their infrastructure and treatment technologies.

While wastewater utilities share the Division's goal of reducing the harmful effects of nutrient pollution in Colorado's waterways and want to be partners with the Division in improving water quality, nutrient pollution poses a unique problem for wastewater utilities and water providers. Meeting the Division's proposed standards would require wastewater utilities to implement advanced water treatment systems, which have enormous costs, high energy demands, and negative collateral environmental

consequences, including high levels of water consumption and the need to dispose of the resulting brine. Therefore, any proposal to adopt numeric standards for nutrients must take into consideration the cost and feasibility of their implementation as required by the Colorado Water Quality Control Act. However, the Division's proposal in the upcoming hearing has not considered these costs, and instead includes generally applicable nutrient standards that are lower than necessary to prevent the harmful effects of nutrients for many lakes and reservoirs.

These costs are expected to hit communities whose wastewater is currently discharged upstream of reservoirs particularly hard. Many communities are hard-pressed to meet their current obligations, let alone new requirements for nutrients. Increases in wastewater utility rates to meet these requirements would disproportionately affect lower-income households. These communities should have the opportunity to comment on the balancing of the added costs to the expected water quality benefits. Therefore, it is very important for the Commission to conduct outreach to inform disproportionately impacted communities about the proposed rules and to provide information about how the public can participate.

The wastewater utilities signing this letter do not oppose regulations that prioritize the development of standards and implementation methods that result in a reasonable relationship between the water quality benefits of the rule and the economic, environmental, energy, and public health costs and benefits. The utilities are asking the Division to agree to a delay of the rulemaking hearing in order to provide sufficient time to develop and consider a thorough cost-benefit analysis and to develop standards for specific lakes and variances for specific facilities. Additional time is also needed to conduct outreach to disproportionately impacted communities. There is simply no reason to rush to adopt infeasible nutrient standards. Therefore, The Town of Castle Rock requests a delay of the rulemaking hearing in order to ensure that Coloradans' dollars are efficiently and effectively spent in achieving actual water quality benefits.

Sincerely,

Jason Gray
Mayor of the Town of Castle Rock

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