ACTION MEMORANDUM CHATFIELD WATERSHED AUTHORITY

Date: October 24, 2022

TO: Chatfield Watershed Authority (CWA) Technical Advisory Committee (TAC)

FROM: Michael Daugherty, Somach Simmons & Dunn (SSD)

SUBJECT: Determine CWA's position in the WQCC's lakes nutrients rulemaking for PHS due 12/23/22

PURPOSE / BACKGROUND:

CWA is participating in the Colorado Water Quality Control Commission's rulemaking regarding revisions to Regulation Nos. 85, 31, and 32-38, which involves revising the nutrient standards for lakes and reservoirs across the state. The Water Quality Control Division's supplemental prehearing statement clarified that the state is proposing to impose a total nitrogen (TN) standard of 380 ug/L for Chatfield Reservoir starting in 2023. Based on data provided by Alan Leak, Chatfield Reservoir has varied in its attainment of this standard over the past ten years, and would likely be out of compliance currently if the standard had existed for the past five (5) years. We plan to discuss the rulemaking and the proposed table value standards at the November 1 TAC meeting and recommend that TAC vote to determine CWA's stance so that SSD can begin drafting CWA's prehearing statement.

SUMMARY OF ACTION REQUESTED:

Determine CWA's position in the rulemaking discussed above. CWA has many options related to its position in the rulemaking, but for simplicity, we have broken down certain options below. TAC may modify these options if the preceding discussion so warrants.

1. Does CWA want to support the Division's proposed TN standard for Chatfield?
    a. Yes? The PHS will indicate support for the Division's proposal.
    b. No? Continue to (2).
2. Does CWA want to pursue a site-specific standard?
    a. Yes? By what date should we indicate that we will provide the State with our recommended site-specific standard? 2025? What if we don't provide one?
    b. No? Do we not want a TN standard at all for Chatfield?
        i. Because of the errors in the Division's data/methodology?
        ii. Because the science does not support a TN standard for water quality purposes?
        iii. Cost/practical concerns?
        iv. Other reasons?
3. If CWA decides to pursue a site-specific standard, do we want to accept the State's proposed standard for the period of 2023-2025 (or the date that CWA provides a recommended site-specific standard, if later than 2025)?
    a. Yes? Do we want to request any specific concessions (i.e. that the five-year compliance period start over once we have implemented a site-specific standard)?
    b. No? Do we want to request to not have a TN standard at all until we have a site-specific standard in place?

PROPOSED MOTION TO TAC:

Motion to direct SSD to draft a prehearing statement for the WQCC's lakes nutrients rulemaking that indicates CWA takes the following position regarding the Division's proposed TN standard for Chatfield Reservoir: (position voted on).

Motion to recommend the CWA Board of Directors vote at the November 17, 2022, Board of Directors meeting in support of CWA's position as determined by TAC.