ACTION MEMORANDUM CHATFIELD WATERSHED AUTHORITY

Date: November 14, 2022

TO: Chatfield Watershed Authority (CWA) Board of Directors (Board)

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

SUBJECT: Discuss CWA's position in the WQCC's lakes nutrients rulemaking for prehearing statement, due to be filed 12/21/22; vote in support of TAC's chosen position

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. TAC discussed the rulemaking and the proposed table value standards at the November 1 TAC meeting and determined that CWA will request a site-specific TN standard, will propose to develop that site-specific standard once CWA has completed work on its revised TMDL (expected to be finished in 2026), and will request that no TN standard apply to Chatfield Reservoir until the site-specific standard is in place. TAC recommends that the Board vote in support of this position.

SUMMARY OF ACTION REQUESTED:

TAC has determined that CWA should take the following position in the WQCC's lakes nutrients rulemaking:

TAC consensus is to not support the Division's proposal to impose a table value TN standard of 380 ug/L for Chatfield Reservoir.

The TAC recommendation is to request a site-specific TN standard (rather than the imposition of the table value standard) for Chatfield Reservoir, and propose that CWA will begin developing the site-specific once it has finalized work on the TMDL (estimated to be completed in 2026). In addition, TAC recommends CWA request that no standard be imposed on Chatfield prior to the development of a site-specific standard.

Chatfield Reservoir has unique characteristics that justify a site-specific standard rather than a state-wide table value standard, given Chatfield has both cold and warm water sources. The Division's proposal classifies Chatfield Reservoir as a cold-water reservoir. TAC recommends discussing how CWA fully supports the imposition of a TN standard that is supported by science and relevant data, and how Chatfield Reservoir is currently in compliance with regard to chlorophyll-a, and therefore, how the immediate imposition of a standard is likely unnecessary to protect public health at this time.

TAC moved to direct SSD to draft a prehearing statement for the rulemaking that indicates CWA takes the above-described position, which is due to be filed with the WQCC by December 21, 2022.

At the November 1, 2022, TAC meeting, TAC moved to recommend the CWA Board vote at the November 17, 2022, Board of Directors meeting in support of the above rulemaking position.

PROPOSED MOTION TO BOARD:

Motion to support CWA's above-stated position in the 2022-2023 lakes nutrient rulemaking as voted on by TAC.