



March 31, 2009

Senator Ted Harvey, District 30, Colorado State Senate
Senator Mark Scheffel, District 4, Colorado State Senate
Representative Frank McNulty, District 43, Colorado State House of Representatives
Representative Mike May, District 44, Colorado State House of Representatives
Representative Carole Murray, District 45, Colorado State House of Representatives
200 E. Colfax Avenue
Denver, CO 80203

The Honorable Governor Bill Ritter
136 State Capitol
Denver, CO 80203-1792

Mr. Steve Gunderson, Water Quality Control Division Director
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

RE: Regulation No. 73 - Chatfield Reservoir Control Regulation

Regulation No. 38 - Classifications And Numeric Standards South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin

The Town of Castle Rock is a member of the Chatfield Watershed Authority (Authority) and the Castle Rock Town Council is concerned with the implications and potential financial impact to our community with changes in the above-referenced regulations. Specifically, the change in the chlorophyll goal of 17 ug/L to a chlorophyll standard of 10 ug/L in Regulation No. 73 and the change in Total Maximum Annual Load (TMAL) for phosphorus from 59,000 lbs/year to 19,600 lbs/year in Regulation No. 38 are of great concern.

In November 2008, a rule-making hearing was conducted before the Water Quality Control Commission (Commission) in which changes to the phosphorus standard and chlorophyll goal for Chatfield Reservoir were proposed by the Water Quality Control Division (Division). The Chatfield Watershed Authority objected to the proposed changes and to the need for the hearing for the following reasons:

- All beneficial uses of the Reservoir are being maintained.
- All stakeholders agree, there are no water quality issues identified for Chatfield Reservoir, yet it has come under intense scrutiny for nutrient criteria.

- Although there have been some exceedances of the previous phosphorous standard (27 ug/L), in 23 years of monitoring, the chlorophyll goal of 17 ug/L, has never been exceeded.

Ultimately, the Commission adopted the Division's proposed changes and now the Reservoir has a chlorophyll standard (no longer a goal) of 10 ug/L (41% reduction) and a TMAL of 19,600 lbs/year (67% reduction). These changes are in advance of statewide nutrient criteria being considered for adoption in the 2010 Regulation No. 31 hearing. Because there is no real or perceived water quality issue in Chatfield Reservoir that would be resolved by removing more phosphorus from the inflow to the reservoir, there is no compelling reason to address nutrient standards for Chatfield Reservoir prior to development of statewide nutrient criteria in 2010. There is a wide degree of variability between total phosphorus and chlorophyll concentrations across the 23 years of data, indicative of a weak relationship. It is a case where the science does not support the financial resources spent on phosphorus reduction in the watershed.

The Denver Post reported on water quality issues on the front page of their Sunday, March 22, 2009 edition. In that report they cite Division testimony to the Colorado legislature that:

"Currently there is a backlog of about 120 community public water systems with unresolved violations and resources have allowed only one such system to be referred for enforcement."

With over \$1.3 billion in identified water and wastewater infrastructure needs, we question why so many resources are being spent on the water quality non-issue in Chatfield Reservoir. This appears to be an irresponsible prioritization of extremely limited funds considering that *"almost one-eighth of Colorado's community water supplies violated health standards."* (Denver Post 3/22/09)


Another compelling reason not to pursue any changes to nutrient criteria in Chatfield Reservoir at this time is the Chatfield Reallocation Project. The Chatfield Reallocation project is ongoing and will likely have an impact on water quality in the Reservoir. The much needed additional 20,000 acre feet of water supply storage may be online by as soon as 2010 and it would be better to wait to revise the TMAL and waste load allocations until the impacts of such a large change in the Reservoir are understood.

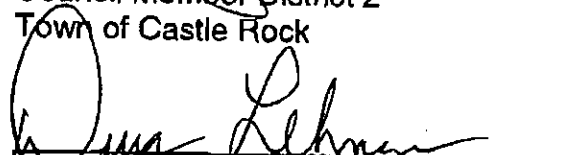
The Colorado Department of Public Health and Environment (CDPHE) and the Division face many challenging water quality problems and must determine where and how to allocate their resources. In view of the fact that there is no water quality problem in Chatfield Reservoir, we question the Division's decision to devote significant resources to a research project. We hasten to point out that not only are CDPHE/Division resources involved, but also local authorities must now, in turn, devote resources to address this non-issue. The Colorado Water Quality Control Act requires that the Commission consider the "need" for standards and control regulations and the "beneficial uses of water." Further, that Colorado water quality programs consider the benefits of pollution control measures and that those benefits bear a reasonable relationship to the costs of implementation. There will be significant costs associated with the

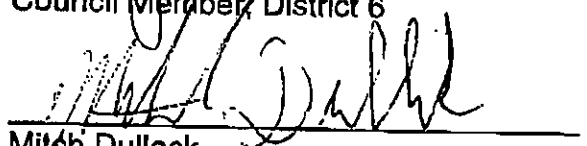
recently adopted changes. We are unaware of any benefits of the new standard and TMAL in view of the fact that Chatfield Reservoir meets all beneficial uses.

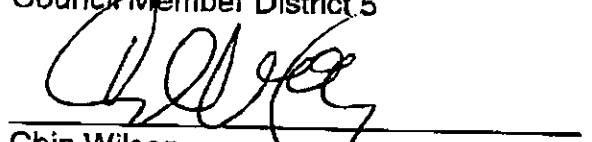
In Chatfield Reservoir, no improvements to water quality are required. The vast majority of nutrients (phosphorus and nitrogen) entering the reservoir ($\approx 87\%$) are from uncontrolled, non-point sources. These sources include runoff from agricultural fields, livestock management areas and small rural developments/earth disturbance activities, as well as unstable stream channels. However, the State currently only regulates phosphorus from point sources contributed by Publicly Owned Treatment Works (POTWs) and storm sewer systems under the MS4 permit program. The 67% reduction in TMAL for phosphorus can translate into a 67% reduction of phosphorus wasteload allocations for POTWs. Estimates for additional phosphorus removal at the Town's wastewater treatment facility range from \$18 - \$24/year, a 5 - 7% increase for an average Castle Rock resident. We need to be sure that there will be significant improvements to water quality before we require rate payers to assume the burden of financing the effort. We need to understand why the Division pursued changes at this time, and what benefit our constituents will receive from these changes. We appreciate your time and attention to this matter and look forward to further discussion.

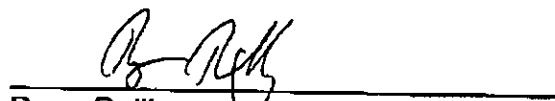
Sincerely,



Mayor Randy A. Reed
Council Member District 2
Town of Castle Rock

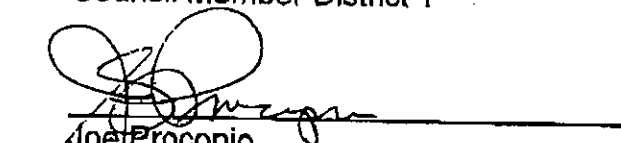

Doug Lehnen, Mayor Pro-Tem
Council Member District 6


Mitch Dulleck
Council Member District 5


Chip Wilson
Council Member District 4


Ryan Reilly
Council Member District 3


Paul Donahue
Council Member District 1


Joe Procopio
Council Member District 7

cc: Amy Conklin, Manager, Chatfield Watershed Authority
6795 S. Elati Street, Littleton, CO 80120