

ACTION MEMORANDUM
CHATFIELD WATERSHED AUTHORITY

TO: Chatfield Watershed Authority (CWA) Board of Directors (Board)
FROM: Michael Daugherty, Somach Simmons & Dunn
RE: Colorado Parks and Wildlife Commission (CPWC) Rulemaking Petition to
Establish Chatfield State Park Water Quality Fee
DATE: April 8, 2024

SUMMARY OF ACTION REQUESTED:

The Board should discuss the draft Rulemaking Petition Form attached as Exhibit A to this memorandum, propose any revisions, and vote to send the final form to CPW. TAC recommends approval of the draft petition.

PURPOSE / BACKGROUND:

SB23-267 created a process for CWA to request the establishment of a water quality fee at Chatfield State Park to support CWA's proposed water quality projects throughout the Chatfield watershed, with 25 percent of the funding going toward projects within Chatfield State Park. At its March 13, 2024, meeting, CPWC approved regulatory revisions to add a new provision regarding the implementation of the water quality fee. Accordingly, the next step is for CWA to submit a rulemaking petition form to CPWC by May 31, 2024. The petition process is as follows: (1) initiate the process by contacting CPW's regulation manager; (2) submit rulemaking petition form; (3) CPW staff will review petition; (4) if CPW staff supports the petition, they will present it to CPWC; and (4) CPWC will vote whether to grant or deny the petition. CPW staff expects CWA's petition to be considered by CPWC at its August 21-22, 2024, meeting. CWA originally sought legislation that would allow it to establish a \$1 fee, but the final bill passed into law allows CWA to seek either a \$1 or \$2 fee. In its draft form, CWA proposed a \$2 fee. At its March meeting, TAC voted to move forward with recommending a \$2 fee and approval of the petition as drafted.

PROPOSED MOTION TO TAC:

The Board should move to submit the attached rulemaking petition (Exhibit A) as currently drafted (which includes a \$2 fee) to CPW for consideration, or to revise the petition and submit the revised petition to CPW.

EXHIBIT A

RULEMAKING PETITION FORM

Date:

Issue:	Chatfield State Park Water Quality Fee (SB23-267)
Which rule are you seeking to create or revise? Please include a copy of the rule you are proposing to create or change, preferably with the change made in redline format.	
Redline changes to P-7 to reflect Commission granting Chatfield Watershed Authority petition to impose water quality fee	
P-7 <u>#700 - VEHICLE PASS</u>	
4. Daily vehicle passes are as follows:	
a. A fee of \$10.00 per vehicle <u>except for:</u>	
<u>1. for any vehicle except for passenger vans and buses operated by a commercial business-;</u>	
<u>2. A \$2.00 per vehicle Chatfield Water Basin Fee will be added to the cost of daily vehicle passes at Chatfield State Park.</u>	
b. School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible to purchase a daily vehicle pass.	
c. For passenger vans and buses operated by a commercial business, the daily vehicle pass fee will be based upon the number of passengers on-board. The fee shall be \$10.00 for up to fifteen passengers on-board, \$40.00 for sixteen to thirty passengers on-board, and \$50.00 for more than thirty passengers on-board.	
<u>#708 - PASS AND PERMIT FEE SCHEDULE</u>	
1. The fees for the types of vehicle passes issued by the Division are as follows.	
a. Aspen leaf annual pass.....\$70.00	
b. Annual affixed vehicle pass.....\$80.00	
c. State parks annual transferable pass\$120.00	
d. Each additional annual affixed vehicle pass for noncommercial vehicles.....\$40.00	
(1) Each additional Aspen Leaf vehicle pass for noncommercial vehicles.....\$35.00	
e. Each replacement annual affixed vehicle pass, without proof of necessary replacement\$40.00	
(1) Each replacement additional annual affixed vehicle pass, without proof of necessary replacement\$20.00	
(2) Each replacement Aspen Leaf vehicle pass, without proof of necessary replacement\$35.00	
(3) Each replacement additional Aspen Leaf vehicle pass, without proof of necessary replacement\$17.50	
(4) Customers with proof of necessary replacement shall be issued a replacement annual affixed vehicle pass, additional annual affixed vehicle pass, or Aspen Leaf vehicle pass at no cost. Circumstances for necessary replacement include vehicle stolen, destroyed, traded, or sold; windshield replaced; pass damaged or 16 faded; new legal name or address; or Division error. Other circumstances will be considered by the Division on a case-by-case basis.	
f. Each replacement state parks annual transferable vehicle pass\$60.00	
g. Each daily vehicle pass\$10.00	
<u>(1) At Chatfield State Park\$12.00</u>	
h. Each daily vehicle pass for a passenger van or bus operated by a commercial business:	
(1) carrying up to fifteen passengers.....\$10.00	
(2) carrying sixteen to thirty passengers.....\$40.00	

(3) carrying more than thirty passengers.....	\$50.00
i. Keep Colorado Wild annual pass, as provided for in section § 33-12-108, C.R.S., available for purchase through the Colorado Department of Revenue vehicle registration process starting with January 2023 vehicle registrations	\$29.00
j. Keep Colorado Wild Collector's Plate pass, for applicable vehicles only and valid for the length of the vehicle registration. Available for purchase only through the Colorado Department of Revenue vehicle registration process starting with January 2023 vehicle registrations.....	\$145.00

Why are you seeking to create or revise this rule? Please include a general statement of the reasons for the requested rule or revision and any relevant information related to the request.

The Chatfield Watershed Authority (“CWA”) seeks to establish a water quality fee for certain visitors to Chatfield State Park (the “Park”) in order to support water quality projects throughout the entire Chatfield watershed. A list of proposed water quality projects throughout the watershed that this funding would support is attached to this rulemaking petition form as **Exhibit A**. Pursuant to SB23-267, the list includes both projects within the Park and in the broader watershed, and 25 percent of the funds raised from the proposed fee would go toward projects within the Park.

Recreators and other visitors to the Park benefit from high-quality water, which allows them to swim, boat, and fish in Chatfield Reservoir. Park visitors can also negatively impact water quality, such as additional erosion from wave activity as well as direct impacts from boats and vehicles, including runoff, leaks, and spills. For a variety of reasons, poor water quality in Colorado reservoirs can impact recreation and lead to toxic algal blooms, which necessitates closing the reservoir to citizens. Although Chatfield Reservoir has never experienced a toxic algal bloom, it has been closed due to concerning water quality and non-toxic algal blooms in the past. Maintaining water quality in Chatfield Reservoir will protect its designated uses, which include aquatic life, recreation, and water supply.

Furthermore, as the region’s population continues to grow and development expands further into the Chatfield watershed, protecting the water quality of Chatfield Reservoir has become increasingly difficult and costly, at the same time that record amounts of citizens are visiting the Park to enjoy its water and other amenities. CWA’s member entities already expend millions of dollars on work aimed at maintaining and improving water quality throughout the Chatfield watershed; at the same time, state and federal regulations continue to tighten and have and will continue to necessitate expensive water treatment processes and facility upgrades. To ensure that Chatfield Reservoir maintains its high-quality water and remains open to the public throughout the summer months, stakeholders (including park visitors) need to work together to tackle water quality issues on all fronts.

CWA has been dedicated to protecting water quality throughout the Chatfield watershed for over forty years, and this additional funding is necessary to support the development and construction of water quality projects that will help continue CWA’s mission. For a variety of reasons, including increased costs associated with state regulatory compliance, CWA lacks the funds to support the scale of projects necessary to protect the water quality of the Chatfield watershed, and this small fee will help enormously in CWA’s efforts to implement many of the important projects included on the list attached as **Exhibit A**.

Petitioner’s name: Chatfield Watershed Authority	By: Michael Daugherty, Alan Leak, and Diane Kielty
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***The following information will not be posted publicly.**

*Petitioner's email address:	mdaugherty@somachlaw.com; alan.leak@respec.com; diane@coloradowater.org
*Petitioner's address:	Chatfield Watershed Authority, P.O. Box 460736, Glendale, CO 80246
*Petitioner's telephone number:	(303) 916-4645

Exhibit A to Rulemaking Petition

CHATFIELD WATERSHED AUTHORITY WATER QUALITY PROJECTS ROADMAP : 2025 - 2029											
4/2/2024 DRAFT - Based on Estimated \$200,000 Funding / Year from SB-267											
PROJECT CATEGORY	DESCRIPTION	ACTIVITY	2025	2026	2027	2028	2029	Beyond 2029	TOTAL COST	PRIORITY	IMPLIMENTATION COMMENTS/ STATEGY
WATER QUALITY PROTECTION											"In Progress"
1	Watershed Modeling	Use and upgrade the existing watershed model to: 1.Keep model current; 2. Predict the effectiveness and potential changes in stream and reservoir inflow pollutant loads and concentrations from proposed water quality improvments; and 3. Support regulatory compliance.	\$1,000	\$4,000	\$10,000	\$30,000	\$30,000	\$75,000	\$150,000	1	Initiate planning for watershed model update.
2	Stream Management Planning	Partner with CPW and others in stream management plans to identify opportunites for water quality improvement projects.	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$75,000	\$100,000	1	Continued Support for West Plum Creek Stream Management Plan.
3	Wildfire Mitigation	Participate in wildfire mitigation projects to minimize and mitigate the risk and effect on water quality of future wildfires in the watershed.			\$15,000	\$15,000	\$15,000	\$30,000	\$75,000	3	Identify partner agencies and grant opportunities.
4	Watershed Plan Update	Continue to document the progress made in improving watershed and reservoir water quality and develop and prioritize future watershed programs and projects.				\$45,000	\$50,000	\$0	\$95,000	3	Last update to the Watershed Plan was in May 2015. Plan and budget for watershed plan update.
5	Reservoir Beneficial Use Monitoring	Partnering with CPW in collecting, monitoring, and documenting, as applicable, the quantity and quality of reservoir beneficial uses (i.e. fishery biodiversity, swimmer satisfaction, etc.) over time.					\$5,000	\$20,000	\$25,000	4	Discuss with CPW possible beneficial use metrics that can be measured and tracked.
6	Landowner Engagement	Continue engament efforts with landowners abuting and/or crossing watershed streams to educate on best management practices for stream interaction and protection.		\$1,000	\$1,000	\$1,000	\$1,000	\$6,000	\$10,000	3	Monitor WPCSMP landowner outreach efforts and responses to inform viability of landowner outreach in other parts of the Chatfield watershed.
SUB-TOTAL			\$6,000	\$10,000	\$31,000	\$96,000	\$106,000	\$206,000	\$455,000		
WATER QUALITY MONITORING											
1	Chatfield Reservoir Monitoring	Collect additional water quality data in the reservoir to support water quality protection measures.			\$15,000	\$15,000	\$15,000	\$130,000	\$175,000	2	Use "Site Specific" analysis work to inform additional parameters /data /locations for future water quality monitoring.
2	Watershed Streams Monitoring	Collect additional water quality data in the tributary watershed streams (both base flows and storm flows) to understand existing sources and magnitudes of pollutant loads and concentrations.			\$15,000	\$15,000	\$15,000	\$180,000	\$225,000	2	Analyze existing data /trends to inform need for additional parameters /data /locations for future water quality monitoring.
3	Water Quality Improvement Project Monitoring	Collect pre-project and post-project water quality data upstream and downstream of water quality projects to document their effectiveness over time in improving water quality.			\$4,000	\$6,000	\$6,000	\$24,000	\$40,000	2	Establish water quality monitoring guidelines for water quality projects.
4	Sediment Sampling and Testing	Perform watershed wide sediment testing to map and pinpoint hotspots of phosphorus rich soils for future project identification and prioritization.					\$20,000	\$0	\$20,000	3	Use previous /future CSM data/analysis and CWA monitoring data to help inform sampling locations to test for phosphorus rich soils.
SUB-TOTAL			\$0	\$0	\$34,000	\$36,000	\$56,000	\$334,000	\$460,000		
WATER QUALITY IMPROVEMENTS											
1	Stream Improvements	Contribute to and participate in the implementation of stream improvements identified in stream management plans that improve water quality in the streams tributary to the reservoir.	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$0	\$250,000	1	Monitor and document stream improvement plans and opportunities.
2	Erosion Mitigation	Contribute to and participate in the constructionof stream reclamation along critical degraded watershed stream reaches to enhance water quality and reduce streambank erosion.	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$325,000	\$750,000	1	Identify projected future stream reclamation projects (local governments and MHFD).
3	Grant Funding Opportunities	Partner with CPW and other government and non-profit agencies to identify and apply for grant funding for implimentation of water quality improvement projects and programs in the state park and throughout the watershed.	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$0	\$50,000	1	Update and maintain a CWA qualifying list of grant opportunities. Explore actions needed to overcome restrictions to grant qualification.
4	Non-point Source Mitigation Projects	Contribute to and participate in the construction of retrofits to existing detention ponds and other stormwater facilities to improve nutrient and pollutant reduction efficiencies.			\$5,000	\$5,000	\$5,000	\$185,000	\$200,000	2	Work with member governments to identify retrofit opportunities.
6	Mitigate Agricultural Impacts to Water Quality	1. Participate in the implementation of agricultural best management practices (BMPs) and demonstrations at Colorado Agricultural Leadership Foundation (CALF) at Lowell Ranch to educate members of the public that visit the working ranch on the water quality and cost efficiencies associated with implementing various agricultural management practices; and 2. Participate with the Douglas County Conservation District to educate agricutural users on state-of-the -art practices to reduce pollutant impacts from agricultural activities.			\$5,000	\$5,000	\$5,000	\$85,000	\$100,000	3	Reach out to CALF, JDC, and DCD to identify opportunities for educational outreach.
7	Mitigate On-site Wastewater Treatment Systems (OWTS) Impacts to Water Quality	Contribute to and participate in the Implimentation of a rebate program for septic system upgrades that use new technology to reduce pollutant loads in critical stream reaches.				\$1,000	\$1,000	\$48,000	\$50,000	4	Document location of OWTS. Coordinate with DCHD and JCHD on possible opportunities for promotion of improvements to aging OWTS.
8	Wastewater Treatment Improvements	Engage with wastewater treatment providers to assist in promoting improved treatment for continued nutrient reduction.				\$2,500	\$2,500	\$5,000	\$10,000	4	Monitor WQCD's activities and processes for nutrient regulations related to WWTF improvements.
9	Reservoir Improvements	Funding of Water Quality Related Improvements in Chatfield State Park	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$0	\$250,000	1	Partner with CPW to Develop Proposed Water Quality Improvement Projects in Chatfield State Park
SUB-TOTAL			\$195,000	\$195,000	\$205,000	\$208,500	\$208,500	\$648,000	\$1,660,000		
GRAND TOTAL			\$201,000	\$205,000	\$270,000	\$340,500	\$370,500	\$1,188,000	\$2,575,000		
							PRIORITY 1		\$1,550,000		
							PRIORITY 2		\$640,000		
							PRIORITY 3		\$300,000		
							PRIORITY 4		\$85,000		