



**To:** Honorable Mayor and Members of Town Council

**Through:** David L. Corliss, Town Manager

**From:** Mark Marlowe, P.E., Director of Castle Rock Water

**Title** **PFAS CERCLA Liability Exemption for Water and Wastewater Utilities**

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### **Executive Summary**

Castle Rock Water is concerned that the U.S. Environmental Protection Agency's (EPA) proposed designation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) as hazardous substances under Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) – which is now in final review at the U.S. Office of Management and Budget (OMB) – will cause water systems and our ratepayers – rather than polluters – to incur environmental cleanup liability that should be faced by entities responsible for that pollution. Castle Rock Water already has to treat for and remove per- and polyfluoroalkyl substances (PFAS) in raw water to meet upcoming regulatory drinking water requirements. This is despite the fact that the Town did not create the problem or pollute the raw water supplies. Castle Rock Water's rate payers carry the cost for this treatment. While Castle Rock Water has joined a class action lawsuit and potential settlement for these costs against some of the manufacturer's, Castle Rock Water will only recover a tiny amount of the actual long-term costs.

With the proposed designation of some PFAS compounds as hazardous substances, additional liability could be created for Castle Rock Water and our rate payers. Granular activated carbon is used by Castle Rock Water to remove PFAS. The PFAS is not destroyed in the process. Once the granular activated carbon's ability to remove PFAS is exhausted, the carbon must be disposed. Solids generated in other treatment processes both at Plum Creek Water Purification Facility and at our wastewater plant, the Plum Creek Water Reclamation Authority, may also contain residual PFAS. These solids are disposed at landfills or in the case of PCWRA for agriculture. With the designation of the some PFAS compounds as hazardous, Castle Rock Water could become liable for again carrying costs to remediate PFAS from future landfill sites, agricultural uses of biosolids or treatment of exhausted carbon. The US Senate has proposed legislation (see **Attachment A**) that would specifically exempt water and wastewater providers from the liability for PFAS under this new hazardous waste designation. Castle Rock Water and other water providers like Aurora Water strongly support this type of legislation to protect our rate payers from future costs and liability associated with the disposal of PFAS compounds. We have prepared a letter to

Colorado's two US Senators urging them to support this legislation to exempt water and wastewater providers from liability under CERCLA, see **Attachment B**.

**Attachments**

Attachment A: US Senate Bill S.1430  
Attachment B: Letter to Colorado's US Senators