

**BEFORE THE COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

**IN THE MATTER OF REVISIONS TO COLORADO WATER CONSERVATION
BOARD'S RULES CONCERNING THE COLORADO INSTREAM FLOW AND
NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

SUPPLEMENTAL STATEMENT OF COLORADO PARKS AND WILDLIFE

In accordance with the Hearing Officer's Procedural Order dated June 9, 2025, Colorado Parks and Wildlife (CPW) submits this Supplemental Statement in the Rulemaking Hearing to consider revisions to Colorado Water Conservation Board's Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (Rules).

I. Statement of CPW's Interest

CPW is a party in this hearing to review the revisions to the Rules proposed by CWCB Staff (Staff) to the Colorado Water Conservation Board (Board), to support CWCB's programs and provide biological expertise and recommendations, to review and respond to testimony submitted by other parties or public comment, as needed, and to ensure that any revisions adopted by the Board are consistent with section 37-83-105, C.R.S., and the intent of the Instream Flow (ISF) Program.

II. Supplemental Statement

A. Summary of CPW's Position

After reviewing the Prehearing Statements submitted by the other Parties, CPW continues to generally support the Rule revisions proposed by Staff and believes they are consistent with the intent of the ISF program and tailored to implement changes enacted through SB 24-197. As explained in its Prehearing Statement, CPW proposes the following modification to both Rule

6.k.1.b and Rule 6.k.2.f (CPW's revision appearing underlined):

. . .In the case of loans made pursuant to Section 37-83-105(1)(c), C.R.S., such documentation shall include an analysis of historical diversions to storage and/or releases of the loaned water right for its decreed beneficial uses, as relevant.

CPW proposes this language as an entity that owns water rights which are decreed for many different beneficial uses, including storage rights for in-reservoir use, as well as for release for subsequent beneficial use. In the past, CPW has loaned stored water to CWCB for use in the Instream Flow Loan Program, and worked with CWCB and DWR staff to provide relevant information as part of DWR's review. Typically, water rights that are decreed solely for in-reservoir use will not have a record of historical releases in the same manner as a water right that is stored primarily for subsequent release and use. Therefore, CPW proposes minor edits to this provision to recognize that water storage rights decreed for different purposes may have different patterns of diversions and releases, and therefore some analysis may not be relevant for evaluating all water rights.

B. CPW Conferral with other Parties and DWR

CPW has conferred with the other Parties to this Rulemaking, specifically staff and counsel for CWCB, and counsel for Colorado Water Trust, and Western Resource Advocates, Trout Unlimited, Conservation Colorado, and the National Audubon Society (WRA, et al.). In lieu of submitting separate Supplemental Statements, Colorado Water Trust and WRA, et al. authorized CPW to represent that they are in support of CPW's proposed revisions.

Because CPW's proposed revisions relate to DWR's administrative role, CPW also consulted with DWR. Although DWR is not a formal party to this rulemaking, DWR representatives did participate in the stakeholder process and provided comments at that stage. CPW staff met with DWR staff prior to submitting CPW's Prehearing Statement, and also

provided DWR staff a copy of the filed Prehearing Statement. DWR staff informed CPW staff that they have no concerns with CPW's proposed revisions.

CPW files this Supplemental Statement primarily to note these conferrals with other Parties and to represent that to CPW's understanding, there are no issues in dispute between the Parties.

Submitted this 26th day of June, 2025.

FOR COLORADO PARKS AND WILDLIFE



Matt Nicholl, Assistant Director for Aquatics Wildlife
Branch
Colorado Parks and Wildlife
6060 Broadway
Denver, Colorado 80216

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing **Supplemental Statement of Colorado Parks and Wildlife** upon all parties herein by email, this 26th day of June, 2025, addressed as follows:

Hearing Officer

Jackie Calicchio
Senior Assistant Attorney General
Colorado Attorney General's Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6250
Jackie.calicchio@coag.gov

Rulemaking Parties

<u>Staff to the Colorado Water Conservation Board</u> Kaylea M. White Stream and Lake Protection Section 1313 Sherman St., Rm. 721 Denver, CO 80203 303-866-3441 Kaylea.white@state.co.us	<u>Counsel for Staff to the Colorado Water Conservation Board</u> Jen Mele Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6259 jennifer.mele@coag.gov
<u>Colorado Water Trust</u> Josh Boissevain 1317 17th Street #766 Denver, CO 80202 720-570-2897 jboissevain@coloradowatertrust.org	<u>Western Resource Advocates, Conservation Colorado, the National Audubon Society, and Trout Unlimited</u> John Cyran 2260 Baseline Road Boulder, CO 80302 303-746-3802 john.cyran@westernresources.org

/s/ Elizabeth M. Joyce