

**BEFORE THE COLORADO WATER CONSERVATION BOARD  
DEPARTMENT OF NATURAL RESOURCES, STATE OF COLORADO**

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**IN THE MATTER OF THE RULEMAKING HEARING FOR CONSIDERATION OF  
AMENDMENTS TO THE BOARD’S RULES CONCERNING THE COLORADO  
INSTREAM FLOW AND NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

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**SUBMITTAL OF WRITTEN TESTIMONY OF ORLA BANNAN ON BEHALF OF  
WESTERN RESOURCE ADVOCATES, TROUT UNLIMITED, CONSERVATION  
COLORADO, AND THE NATIONAL AUDUBON SOCIETY**

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Western Resource Advocates (“WRA”), Trout Unlimited (“TU”), Conservation Colorado (“CoCO”), and the National Audubon Society (“Audubon”) (collectively, “WRA et al”) hereby jointly submit this Written Testimony of Orla Bannan for the Colorado Water Conservation Board’s rulemaking hearing (“Rulemaking”) concerning CWCB Staff’s proposed amendments to the CWCB’s Instream Flow Rules (the “ISF Rules”) implementing Senate Bill 24-197.

I, Orla Bannan, depose and state as follows:

I am Policy Manager for State Policy and Engagement for WRA's Healthy Rivers Program. In that role I have worked extensively with TU, CoCO, and Audubon, all nonprofit conservation organizations with long histories of successfully working with public and private entities to address issues affecting Colorado’s streams and rivers.

CoCO works to protect our state’s climate, air, land, water, and communities through organizing, and advocacy. CoCO has a long and successful history in Colorado of collaborating on key environmental issues, working collectively at the State Capitol, and establishing strategic partnerships. Specifically, CoCO has a history of working on matters pertaining to Colorado streams, including actively participating in past CWCB instream flow matters.

Audubon is an inclusive, nonpartisan bird conservation organization that collaborates with diverse stakeholders to further its mission of protecting birds and the places they need, including Colorado rivers and streams, today and tomorrow. Audubon works throughout the Americas using science, advocacy, education, and on-the-ground conservation. Twenty-three state/regional programs, 41 nature centers, 450+ local chapters, and a broad array of partners give Audubon an unparalleled wingspan that reaches millions of people each year to inform, inspire, and unite diverse communities in conservation action. A nonprofit conservation organization since 1905, Audubon seeks to advance in a world in which people and wildlife thrive.

WRA is a nonprofit conservation organization dedicated fighting climate change and its impacts on the West's land, air, and rivers. We promote river restoration and water conservation, advocate for a clean and sustainable energy future, and protect public lands for present and future generations. WRA engages with water providers, districts, and utilities, state and federal government agencies, and Colorado irrigators to find solutions to meet growing urban water demands while protecting stream flows for fish, wildlife, and recreation. WRA has experience helping western communities meet their legitimate water needs, as well as extensive knowledge of

the water delivery systems. Our employees and supporters are located throughout the arid and semi-arid states of the Interior West.

TU is a nationwide, nonprofit fisheries conservation organization. TU's mission is to conserve and restore cold water fisheries and rivers and creeks on which they depend. In Colorado, TU has 10,000 members, 22 chapters, and nearly 40 staff all working to safeguard and improve Colorado's waterways so that they support healthy trout populations.

Climate change and recent droughts highlight the need for increased modalities to address low flow events and resultant negative impacts upon the natural environments of our rivers and streams. Models show that climate change and historic drought will continue to affect Colorado in coming years. The average flow of the Colorado River has declined 20 percent over the last 20 years largely due to climate change, which is causing warming temperatures, diminished rainfall, increased evaporation, and a snowpack that's shrinking and melting earlier.

WRA was a member of the Colorado River Drought Task Force (the "Task Force"), established under Senate Bill 23-295, in 2023 and discussed this proposed modification to the CWCB's leasing authority with the Task Force. The Task Force was created by the Colorado General Assembly to develop legislative recommendations for the Colorado General Assembly that would provide the CWCB with additional tools to collaborate with the Colorado River Water Conservation District, the Southwestern Water Conservation District, and other stakeholders in the development of recommendations to address drought in the Colorado River basin. The Task Force approved and adopted the proposed statutory modification to the CWCB's leasing authority as a part of the Task Force Recommendations; the provisions related to CWCB's leasing authority were one of several recommendations ultimately included in Senate Bill 24-197.

WRA et al became aware of the need for Senate Bill 24-197 from our experience working to protect Colorado streams from the impacts of climate change. Specifically, our members, supporters, and staff have experienced drought conditions impacting headwaters streams in some instances requiring recreational closure of stream reaches to better protect fish and stream health. Efforts to lease water to augment flows in these streams through release of storage water from upstream reservoirs were hampered by perceived limitations in existing law on the State's authority to administer or "shepherd" such water through stream reaches that are not protected by CWCB instream flow rights.

WRA et al accordingly worked with the CWCB and other interested parties to develop a simple statutory modification to the CWCB's existing leasing authority to allow the CWCB to approve loans necessary to address important flow needs of a stream or river where the CWCB does not currently hold a current instream flow water right, while also including a robust review process to condition such loans as necessary to preserve or improve the environment while protecting the interests of existing water users. WRA et al were proponents of Senate Bill 24-197 and are keenly interested in the CWCB's promulgation of rules governing the Bill's effectuation.

The purpose of this rulemaking proceeding is to modify the CWCB's existing rules governing CWCB leasing authority to reflect the statutory modification enacted by Senate Bill 24-197. WRA et al's interest in the Rulemaking Hearing stems from their desire to ensure the rules adopted by the CWCB accurately and fully effectuate the General Assembly's intent in passing the legislation. WRA et al believe the rules proposed by CWCB Staff in this rulemaking proceeding, as

modified by Colorado Parks and Wildlife (the “Proposed Rules”), do accurately and fully effectuate the General Assembly’s intent in passing Section 2 of Senate Bill 24-197. CWCB Staff wisely relied on the CWCB’s existing rules governing CWCB loans, making only minimal modifications where necessary to provide for loans of water to benefit streams without existing instream flow water rights. Similarly, CWCB Staff’s Proposed Rules maintain existing language and utilize established procedures for State Engineer review of CWCB loans to ensure protection of Colorado’s water users. This approach ensures that this rulemaking proceeding will leverage existing, known procedures, with only minimal impact to CWCB’s current processes.

As the CWCB is well aware, Colorado’s streams and rivers are facing unprecedented challenges from both increased demand as well as the effects of climate change. The current drought, which began in 2000, is considered the worst in 1,200 years. In the face of such drought, the CWCB’s Instream Flow Program is one of our State’s most important conservation tools. WRA et al worked to develop and advocate in support of Senate Bill 24-197 to provide the State of Colorado with necessary modifications to this needed tool to improve stream flows on environmentally compromised streams where the CWCB does not have an instream flow water right. The implementation of Senate Bill 24-197 helps protect Colorado’s streams \while maintaining existing protections to ensure water users are not injured.

Accordingly on behalf of our 60,000+ members, supporters, and employees, WRA et al urges the Board to adopt CWCB Staff’s Proposed Rules, as modified by CPW, implementing Senate Bill 24-197, thus providing the CWCB with greater flexibility to manage instream flows and all those dependent upon them.

I declare the above to be true and correct to the best of my knowledge.

*/s/ Orla Bannan*

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Respectively submitted this 3rd day of July 2025.

Western Resource Advocates

A handwritten signature in black ink, appearing to read 'John Cyran', with a long horizontal stroke extending to the right.

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John Cyran, #23144

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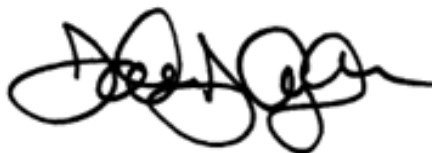
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On behalf of Western Resource Advocates, Trout  
Unlimited, Conservation Colorado, and the National  
Audubon Society

## **CERTIFICATE OF SERVICE**

I hereby certify that I have duly served the copies of the foregoing **Submittal of Written Testimony** upon all parties herein by email, this 3rd day of July 2025, addressed as follows:



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