

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

**IN THE MATTER OF THE RULEMAKING HEARING TO REVISE RULES CONCERNING THE
COLORADO INSTREAM FLOW AND NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

**SUBMITTAL OF WRITTEN TESTIMONY OF AARON CITRON FOR THE NATURE
CONSERVANCY**

The Nature Conservancy (“TNC”) hereby submits this Written Testimony of Aaron Citron 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 House Bill 20-1157.

The Nature Conservancy is a non-profit conservation organization working in all 50 states and in more than 70 countries around the world to protect the lands and waters on which all life depends. Protecting and restoring flows in Colorado’s rivers and streams is among our highest conservation priorities. The protection and restoration of healthy rivers and watersheds is also a critical component of Colorado’s Water Plan. TNC strongly supports the CWCB’s instream flow program and the temporary instream flow program. We have participated in temporary instream flow loans in the past and work periodically with CWCB staff on issues related to flow enhancement. In 2018, TNC helped create the Yampa River Fund which provides grants to local organizations for riparian restoration, agricultural infrastructure projects, and storage releases to support the instream flow near the City of Steamboat Springs. The temporary instream flow program provided for under C.R.S. §37-83-105 has been the basis for these storage releases and, without statutory amendment, there was a risk that future releases under this authority would not be allowed.

TNC initially engaged in and supported House Bill 20-1157 and its predecessor, House Bill 19-1218, to ensure that the temporary instream flow tool could continue to be used to support the goals of the Yampa River Fund and in a range of other scenarios across Colorado. From the beginning, CWCB staff and representatives from the State Engineer’s Office provided technical support to ensure that this program, if amended, would be administrable and that other water users would be protected from injury. In addition, Aaron Citron co-led with Kathleen Curry a stakeholder process hosted by the Colorado Water Congress in the Summer of 2019 to discuss concerns raised when this legislative concept was first introduced during the 2019 legislative session. That process focused on a number of issues, including notice, transparency, and protection from injury. The stakeholder process was a success and the Colorado Water Congress, along with multiple other participants, actively supported the legislation in 2020 – which included detailed provisions regarding the proposed rulemaking. House Bill 20-1157 accomplished The Nature Conservancy’s goal of expanding the number of tools available to voluntarily improve flows in Colorado’s rivers and balanced this with notice and processes agreed upon by the stakeholder group to protect water rights from injury. The rules proposed by CWCB staff are consistent with this effort and clarify program implementation to further these goals. For these reasons, TNC supports the amendments to the ISF rules as proposed and would like to thank staff and the many stakeholders across the state who participated in the effort to draft and pass the underlying legislation with broad, bipartisan support during the 2020 legislative session.

Thank you for the opportunity to testify and I will be happy to answer any questions.

Respectively submitted this 12th day of January 2021.

THE NATURE CONSERVANCY

A handwritten signature in black ink, appearing to read 'A Citron', with a long horizontal flourish extending to the right.

Aaron Citron

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CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing **Rebuttal Prehearing Statement** upon all parties herein by email, this 12th day of January 2021, addressed as follows:



Hearing Officer

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Parties

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Aaron Citron