

# EXHIBIT E

## 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 THE PROPOSED RULES TO IMPLEMENT HOUSE BILL 20-1157

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#### APPLICATION FOR PARTY STATUS OF TROUT UNLIMITED

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Trout Unlimited hereby submits this Application for Party Status to participate in the Colorado Water Conservation Board's (the "CWCB") rulemaking hearing concerning its proposed rules to implement House Bill 20-1157.

#### **I. Introduction**

House Bill 20-1157 was passed in the 2020 session of the Colorado General Assembly to amend several provisions of section 37-83-105, C.R.S., which provides the CWCB's authority to accept temporary loans of water for instream flow purposes to preserve the environment to a reasonable degree. Prior to the passage of this legislation, the statute allowed water users to loan water to the CWCB for up to one-hundred twenty days in up to three calendar years during a ten-year period. Water users could not reapply for a subsequent loan after the expiration of the initial three years in ten period. The amended statute allows the loans to operate in up to five years during a ten-year period and authorizes the parties to renew the loan for up to two additional ten-year periods. The amended statute will also allow for the CWCB to accept loans of water to both protect and improve the natural environment to a reasonable degree on stream reaches with a decreed instream flow water right. House Bill 20-1157 directed the CWCB to promulgate rules that will govern its review and acceptance of loans proposed pursuant to section 37-83-105, C.R.S. At the rulemaking hearing, scheduled for January 26, 2021 the CWCB will consider the rules that its staff has proposed pursuant to that statutory directive.

#### **II. Trout Unlimited's interest in the proposed rules**

Trout Unlimited is interested in the proposed rules because they will directly impact its work and mission. Trout Unlimited's mission is to conserve and restore coldwater fisheries and the rivers and streams they inhabit. In Colorado, Trout Unlimited works with landowners, water users, and communities to ensure that both people and nature thrive. We work extensively with water users in the Colorado River Basin to improve flows for fish, wildlife, and recreation. We have used a number of legal tools to facilitate this work, including loans made pursuant to section 37-83-105, C.R.S. Trout Unlimited's interest in the proposed rules stems from the opportunity for the amended section to directly benefit its mission to conserve waters and Trout Unlimited's interest in continuing to facilitate loans made pursuant to the amended section 37-83-105, C.R.S. in the future.

#### **III. Description of the general nature of the information that Trout Unlimited will present in the course of the proceedings**

Trout Unlimited worked with partners to develop and advocate in support of House Bill 20-1157 because it provides a needed tool to improve stream flows through voluntary arrangements with water users and reduces arbitrary limitations on the use of property rights. In addition, the bill expanded notice requirements to ensure that water users have appropriate opportunities to engage and ensure that injury is

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avoided. The amended statute is consistent with the underlying objectives of 37-83-105, C.R.S and will allow for additional participation by water users and further improvements to Colorado's rivers in the face of drought and climate change. Trout Unlimited supports the CWCB staff's proposed rules, which are consistent with the General Assembly's intent as provided by the language in House Bill 20-1157. Trout Unlimited seeks party status in order to testify in support of the CWCB staff's proposed rules.

#### **IV. Contact person**

For purposes of this application for party status and Trout Unlimited's participation in the rulemaking hearing, Drew Peternell, Trout Unlimited's Colorado Water Program Director, should be considered the contact person. Contact information for Mr. Peternell is provided below.

Respectively submitted this 12<sup>th</sup> day of November, 2020.

TROUT UNLIMITED



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