

# EXHIBIT F

## 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 WESTERN RESOURCE ADVOCATES, CONSERVATION COLORADO, AND THE NATIONAL AUDUBON SOCIETY

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Western Resource Advocates, Conservation Colorado, and the National Audubon Society (collectively, “Applicants”) hereby jointly submit 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 (the “Rulemaking Hearing”).

#### **I. Introduction**

House Bill 20-1157 was passed in the 2020 session of the Colorado General Assembly to amend several provisions of C.R.S. § 37-83-105 (2019), which authorizes the CWCB to accept temporary loans of water for instream flow purposes. Prior to the passage of House Bill 20-1157, C.R.S. § 37-83-105 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. House Bill 20-1157, *inter alia*, amends C.R.S. § 37-83-105 to allow water users to loan water to the CWCB for up to five years during a ten-year period, authorizes the parties to renew such loan for up to two additional ten-year periods, and allows the CWCB to accept loans of water to both protect and improve the natural environment to a reasonable degree.

House Bill 20-1157 also directs the CWCB to promulgate rules that will govern its review and acceptance of loans pursuant to section 37-83-105, C.R.S. At the Rulemaking Hearing, scheduled for January 26, 2021, the CWCB will conduct a hearing to hear argument, review evidence and consider rules proposed pursuant to that statutory directive.

#### **II. Applicants’ Contact Person.**

For purposes of this application for party status and Applicants’ subsequent participation in the rulemaking hearing only, John Cyran, Senior Staff Attorney for Western Resource Advocates, Healthy Rivers Program, shall be Applicants’ contact person. The appropriate mailing address, phone number, and email address for Mr. Cyran are listed in the address block below.

#### **III. Applicants’ Interest in the Rulemaking Hearing.**

The Applicants are each nonprofit conservation organizations with long histories of successfully working with public and private entities to address issues affecting Colorado’s streams and rivers.

Conservation Colorado works to protect our state’s climate, air, land, water, and communities through organizing, advocacy, and elections. Conservation Colorado 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, Conservation Colorado has a history of working on

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matters pertaining to Colorado streams, including actively participating in past CWCB instream flow matters

The National Audubon Society 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.

Western Resource Advocates (“WRA”) is a nonprofit conservation organization dedicated to protecting the Interior West's land, air, and water. 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 in the Colorado River Basin. Our members and employees are located throughout the arid and semi-arid states of the Interior West.

The Applicants were proponents of House Bill 20-1157 and are keenly interested in the CWCB’s promulgation of rules governing the Bill’s effectuation. Climate change and recent droughts have spotlighted 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.

As proponents of House Bill 20-1157, Applicants worked with partners to develop a suite of tools that can be used to enhance flows during times of drought, while ensuring other water right holders do not incur injury. This resulted in the Colorado General Assembly, through House Bill 20-1157, passing legislation that allow the CWCB to accept loans necessary to address important flow needs of a stream or river, while including a robust review process to condition such loans so as to protect the interests of existing water users. The Applicants’ interest in the Rulemaking Hearing stems from their desire to ensure that the rules adopted by the CWCB to govern its application of House Bill 20-1157 will accurately and fully effectuate the General Assembly’s intent in passing the legislation.

#### **IV. General Description of Information the Applicants May in these Proceedings.**

The Applicants worked to develop and advocate in support of House Bill 20-1157 so the Colorado General Assembly might provide the State of Colorado with a needed tool to improve stream flows through voluntary arrangements with water users. House Bill 20-1157 thus not only helps protect Colorado’s streams but reduces arbitrary limitations on the use of property rights, while expanding notice requirements to ensure that water users have appropriate opportunities to prevent injury. Applicants may present information relevant to determining whether rules proposed by CWCB staff or by other parties to the Rulemaking Hearing are consistent with the intent of the General Assembly in passing House Bill 20-1157, such as evidence demonstrating how House Bill 20-1157 provides for increased protection of river

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and stream environments, and information regarding the increasing need for flexible water management tools to address climate change induced effects upon stream flows.

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

WESTERN RESOURCE ADVOCATES

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John Cyran, #23144

2260 Baseline Road

Boulder, CO 80302

Phone: (303)746-3802

Email: [john.cyran@westernresources.org](mailto:john.cyran@westernresources.org)

Senior Staff Attorney, Healthy Rivers Program

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