

**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 TO IMPLEMENT
HOUSE BILL 20-1157, 2 CCR 408-2**

**PREHEARING STATEMENT OF WESTERN RESOURCE ADVOCATES, CONSERVATION
COLORADO, AND THE NATIONAL AUDUBON SOCIETY**

Western Resource Advocates (“WRA”), Conservation Colorado (“CoCo”), and the National Audubon Society (“Audubon”) hereby jointly submit this Prehearing Statement 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.

I. Introduction and Statement of Position

WRA, CoCo, and Audubon support the CWCB’s proposed amendments to the ISF Rules.

House Bill 20-1157 amends several provisions of C.R.S. § 37-83-105 (2019), which authorizes the CWCB to accept temporary loans of water for instream flow purposes, *inter alia*, to allow water users to loan water to the CWCB for up to five years during a ten-year period. House Bill 20-1157 also specifically directs the CWCB to promulgate rules that will govern its review and acceptance of loans pursuant to § 37-83-105. House Bill 20-1157 does not direct or authorize any other rulemaking.

WRA, CoCo, and Audubon support CWCB Staff’s proposed amendments to the ISF Rules because such amendments appropriately implement the provisions of House Bill 20-1157, consistent with the intent of the General Assembly, by providing water users with greater flexibility to voluntarily loan water to the CWCB for instream flow use and provides greater streamflow restoration opportunities, while maintaining protection to other water rights on Colorado’s rivers. In addition, the proposed amendments necessarily and appropriately update references in the ISF Rules to Colorado Parks and Wildlife and to the CWCB website.

WRA, CoCo and Audubon reserve the right to oppose additional amendments to the ISF Rules that may be proposed as part of this Rulemaking insofar as such amendments were not properly noticed or are inconsistent with the intent of the General Assembly in enacting House Bill 20-1157.

II. Witness List

Josh Kuhn, Water Advocate, Conservation Colorado.

Abby Burk, Western Rivers Regional Program Manager, Audubon Rockies.

Mr. Kuhn and Conservation Colorado and Ms. Burk and Audubon participated in the drafting of House Bill 20-1157, the stakeholder outreach, and in other matters related to the General Assembly’s enactment of the Bill. Mr. Kuhn and Ms. Burk may provide testimony addressing these matters as well as Conservation Colorado and other Bill proponents’ intent in drafting and supporting the Bill.

III. Statement of Open Legal Questions

At this time WRA, CoCo, and Audubon have not identified any open legal questions at issue in this Rulemaking. WRA, CoCo, and Audubon reserve the right to raise legal questions as such questions may arise in the course of this Rulemaking.

IV. Statement of Relief Requested

WRA, CoCo, and Audubon requests that the Board approve amendments to the ISF Rules substantively identical to Staff's proposed amendments as published and noticed.

V. Time Requested at Hearing

WRA, CoCo, and Audubon request 10 minutes total for the testimony of Josh Kuhn and Abby Burk.

VI. Exhibit List

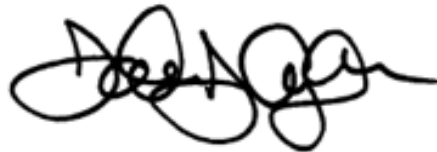
WRA, CoCo, and Audubon do not anticipate submitting any exhibits in this matter. WRA, CoCo, and Audubon reserve the right to add exhibits if need arises in the course of this Rulemaking.

VII. Contact Person.

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

Respectively submitted this 10th day of December 2020.

WESTERN RESOURCE ADVOCATES



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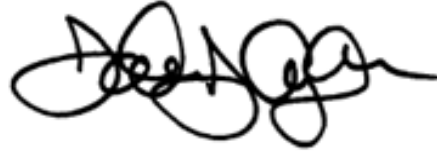
Email: john.cyran@westernresources.org

Senior Staff Attorney, Healthy Rivers Program

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

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing **Prehearing Statement** upon all parties herein by email, this 10th day of December, 2020, addressed as follows:



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Rulemaking Parties

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