

**BEFORE THE COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

**IN THE MATTER OF REVISIONS TO COLORADO WATER CONSERVATION
BOARD'S RULES CONCERNING THE COLORADO INSTREAM FLOW AND
NATURAL LAKE LEVEL PROGRAM, 2 CCR 408-2**

REBUTTAL STATEMENT OF COLORADO PARKS AND WILDLIFE

Colorado Parks and Wildlife (CPW) submits this Rebuttal Statement in the Rulemaking Hearing to consider revisions to Colorado Water Conservation Board's Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (Rules).

I. Statement of CPW's Interest

CPW is a party in this hearing to review the revisions to the Rules proposed by CWCB Staff (Staff) to the Colorado Water Conservation Board (Board), to review and respond to testimony submitted by other parties or public comment, as needed, and to ensure that any revisions adopted by the Board are consistent with section 37-83-105, C.R.S., and the intent of the Instream Flow (ISF) Program.

II. Rebuttal Statement

After reviewing the prehearing statements submitted into the record, CPW continues to support the Rule revisions proposed by Staff, as noticed on October 14, 2020, and published in the Colorado Register on October 25, 2020. The proposed Rule revisions are consistent with the requirements and direction of House Bill 20-1157, are within the scope of issues noticed in the Notice of Public Rulemaking, and will enable the proper implementation of section 37-83-105, C.R.S., regarding temporary loans of water for instream flow use.

CPW files this Rebuttal Statement primarily to note that the City of Aurora filed a

withdrawal of its Request for Party Status on December 21, 2020, following discussions with CWCB Staff and counsel. Many of the suggestions proposed by Aurora in its Prehearing Statement were outside the scope of the noticed rulemaking, and would have had impacts to the ISF Program beyond implementing HB 20-1157. However, because the Hearing Officer confirmed Aurora's withdrawal in her January 4, 2021 Order, CPW believes no further response to Aurora's Prehearing Statement is necessary at this time.

All remaining Parties to this proceeding support the Rule revisions as proposed by Staff, and there are no identified open legal issues or alternate proposals pending before the Board. Accordingly, CPW respectfully requests that the Board adopt the Rule revisions proposed by Staff.

Submitted this 5th day of January, 2021.

FOR COLORADO PARKS AND WILDLIFE



Reid DeWalt, Assistant Director for Aquatics, Terrestrial &
Natural Resources
Colorado Parks and Wildlife
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CERTIFICATE OF SERVICE

I hereby certify that I have duly served the copies of the foregoing **Rebuttal Statement of Colorado Parks and Wildlife** upon all parties herein by email, this 5th day of January, 2021, addressed as follows:

Hearing Officer

<p>Amy Beatie Deputy Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, Colorado 80203 720-508-6296 Email: Amy.Beatie@coag.gov</p> <p><u>Copy To:</u> john.watson@coag.gov</p>
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Rulemaking Parties

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<p><u>The Nature Conservancy</u></p> <p>Aaron Citron 2424 Spruce Street Boulder, CO 80302 520-730-3421 aaron.citron@tnc.org</p>	<p><u>Colorado Water Trust</u></p> <p>Kate Ryan 3264 Larimer Street, Suite D Denver, CO 80205 720-570-2897 kryan@coloradowatertrust.org</p>

<p><u>Colorado River Water Conservation District</u></p> <p>Peter C. Fleming Jason V. Turner Lorra Nichols Colorado River Water Conservation District P.O. Box 1120 Glenwood Springs, Colorado 81602 970-945-8522 pfleming@crwcd.org jturner@crwcd.org lnichols@crwcd.org</p>	<p><u>Trout Unlimited</u></p> <p>Drew Peternell Trout Unlimited P.O. Box 4165 Eagle, Colorado 81631 303-204-3057 drew.peternell@tu.org</p>
<p><u>Western Resource Advocates, Conservation Colorado, and the National Audubon Society</u></p> <p>John Cyran 2260 Baseline Road Boulder, CO 80302 303-746-3802 john.cyran@westernresources.org</p>	

/s/ _____