

**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**

**REBUTTAL 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 Rebuttal 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.

The positions of WRA, CoCo, and Audubon remain as stated in their Prehearing Statement, submitted on December 20, 2020: As stated more specifically in their Prehearing Statement, WRA, CoCo, and Audubon support CWCB Staff’s proposed amendments to the ISF Rules pursuant to House Bill 20-1157, which specifically directs the CWCB to promulgate rules that will govern its review and acceptance of loans pursuant to § 37-83-105, as that statute was amended pursuant to HB 20-1157.

II. Witness List

Witnesses who will or may provide testimony on behalf of WRA, CoCo, and Audubon remain as stated in their Prehearing Statement. By this Rebuttal Prehearing Statement.

Josh Kuhn, Water Advocate, Conservation Colorado, **will call**.

Abby Burk, Western Rivers Regional Program Manager, Audubon Rockies, **may call**.

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 shall and Ms. Burk may provide written testimony addressing these matters as well as Conservation Colorado and other proponents’ intent in drafting and supporting HB 20-1157.

III. Statement of Open Legal Questions

Following the withdrawal of the City of Aurora, WRA, CoCo, and Audubon believe there remain no 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 5 minutes total time at the Rulemaking Hearing. This is a reduction in time from the 10 minutes requested in the Prehearing Statement and the 20 minutes requested at the Prehearing Conference.

VI. Exhibit List

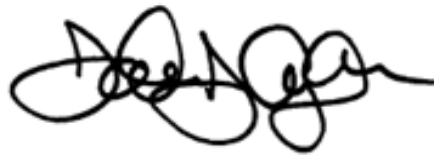
WRA, CoCo, and Audubon do not anticipate submitting any exhibits in this matter. WRA, CoCo, and Audubon reserve any right they may have to add exhibits if need arises in the course of this Rulemaking.

VII. Contact Person.

For purposes of this rulemaking hearing only, John Cyran, Senior Staff Attorney for Western Resource Advocates, Healthy Rivers Program, remains 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 5th day of January 2021.

WESTERN RESOURCE ADVOCATES



John Cyran, #23144

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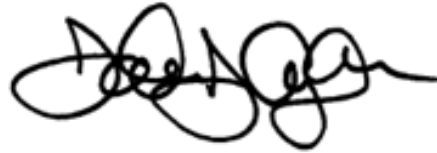
Email: john.cyran@westernresources.org

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 **Rebuttal Prehearing Statement** upon all parties herein by email, this 5th day of January 2021, addressed as follows:



Hearing Officer

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Rulemaking Parties

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<p><u>Colorado Water Trust</u> Kate Ryan 3264 Larimer Street, Suite D Denver, CO 80205 720-570-2897 Email: kryan@coloradowatertrust.org</p>	

<p><u>Mesa County, Colorado</u></p> <p>Amber Swasey Mesa County Community Development P.O. Box 20,000-5022 Grand Junction, CO 81502 970-244-1762 Email: amber.swasey@mesacounty.us</p>	<p><u>Trout Unlimited</u></p> <p>Drew Peternell Trout Unlimited P.O. Box 4165 Eagle, CO 81631 303-20-3057 Email: 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 Email: john.cyran@westernresources.org</p>	<p><u>Colorado River Water Conservation District</u></p> <p>Peter C. Fleming Jason V. Turne Lorra Nichols Colorado River Water Conservation District P.O. Box 1120 Glenwood Springs, CO 81602 970-945-8522 Email: pfleming@crwcd.org jturner@crwcd.org lnichols@crwcd.org</p>