

## **BEFORE THE COLORADO WATER CONSERVATION BOARD**

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### **IN THE MATTER OF THE PROPOSED ACQUISITION OF AN INTEREST IN THE SHOSHONE WATER RIGHTS FOR INSTREAM FLOW USE ON THE COLORADO RIVER**

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#### **ORDER RE: PROCEDURES AND DEADLINES FOR PREHEARING SUBMISSIONS**

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The Hearing Officer hereby grants the following intervenors party status after each submitted a timely Request for Party Status by July 9, 2025:

1. American Whitewater (AW)
2. Aurora Water (Aurora)
3. Basalt Water Conservancy District (BWCD)
4. City of Aspen (Aspen)
5. City of Glenwood Springs (COGS)
6. City of Rifle (Rifle)
7. Clifton Water District (CWD)
8. Clinton Ditch & Reservoir Company (CD&RC)
9. Colorado River District (CRD)
10. Colorado River Outfitters Association (CROA)
11. Colorado Springs Utility (CSU)
12. Colorado Water Conservation Board Staff (CWCB Staff)
13. Denver Water (Denver)
14. Eagle County Board of Commissioners (ECBC)
15. Eagle Park Reservoir Company (EPRCo)
16. Eagle River Coalition (Eagle River)
17. Eagle River Water and Sanitation District & Upper Eagle Regional Water Authority (ERWSD et al)
18. Garfield County Board of County Commissioners (Garfield)
19. Grand County, Colorado Board of County Commissioners (Grand)
20. Grand Valley Water Users Association (GVWUA)
21. Homestake Partners (Homestake)
22. Kobe Water Authority (KWA)
23. Mesa County (Mesa)
24. Middle Park Water Conservancy District (MPWCD)
25. Northern Colorado Water Conservancy District and Municipal Subdistrict, Northern Colorado Water Conservancy District (Northern et al)
26. Northwest Colorado Council of Governments (Northwest)
27. Orchard Mesa Irrigation District (OMID)

28. Palisade Irrigation District and Mesa County irrigation District (PID/MCID)
29. Pitkin County Board of County Commissioners (Pitkin)
30. Public Service Company of Colorado (PSCo)
31. Roaring Fork Conservancy (RFC)
32. Save The World's Rivers (SWR)
33. South Metro WISE Authority (SM WISE)
34. Southwestern Water Conservation District (SWCD)
35. Summit County (Summit)
36. Town of Basalt (Basalt)
37. Town of Eagle (Eagle)
38. Town of Vail (Vail)
39. Trout Unlimited (TU)
40. Ute Water Conservancy (UWC)
41. Western Resource Advocates, Conservation Colorado, American Rivers, and the National Audubon Society (WRA et al)

The 41 intervenors shall collectively be referred to as the “Parties.” Each individual Party is hereby assigned the initialism which is defined in parentheses after the Party’s name (e.g., American Whitewater is assigned the initialism AW). This initialism will be referred to as the “Party ID”.

The Hearing Officer establishes the following deadlines and procedures for written submissions and designation of witnesses and sets the date of the prehearing conference.

For purposes of this and all future orders in this matter, “file” means the document must be received electronically by the Hearing Officer, other Parties, and John Watson (john.watson@coag.gov) of the Colorado Attorney General’s Office by the date and time specified herein via the email addresses included in the attached Certificate of Service.

#### Ex Parte Communications

Now that the Parties are granted party status, no representatives of the Parties may discuss substantive issues related to the Shoshone acquisition with members of the Board prior to the September hearing. Should a Party or Board member seek to discuss a specific issue prior to hearing, the request must be made through the Hearing Officer who will ensure that the discussion is memorialized and shared with all Board members and Parties.

#### **I. Prehearing Processes and Deadlines**

##### ***Monday, August 4 at 5:00 p.m.: Prehearing Statements from Parties Due***

On or before 5:00 p.m. on August 4, 2025, each Party shall file a prehearing statement. Each Party must submit a prehearing statement in order to participate in

the prehearing conference. Parties with similar positions are strongly encouraged to submit joint prehearing statements and nominate witnesses to speak on behalf of multiple Parties.

The prehearing statement shall identify all exhibits, engineering data, biological data, and reports or other information that the Party will rely upon at the hearing and shall contain:

- a) A statement of the Party's position(s).
- b) A witness list with a brief description of each witness's testimony and a resume for each witness who will present testimony on technical issues.
- c) A statement of any open legal questions.
- d) A statement of the relief requested.
- e) The amount of time desired for the Party's presentation at the hearing.
- f) An exhibit list and exhibits. Exhibits must be titled by the Party ID as defined above and numbered in the order presented in the exhibit list. E.g., "CWCB Staff-1." Each exhibit must be labeled separately and filed electronically as a separate file at the time of submission of the prehearing statement. All exhibits filed in this proceeding must be filed according to this process.

All arguments an individual Party wishes to make regarding the Shoshone acquisition must be included in the prehearing statement. Prehearing statements are limited to twelve (12) double-spaced pages in 12-point font, excluding the certificate of service, the exhibit list, and any exhibits. Should Parties opt to submit a joint prehearing statement, joint prehearing statements are limited to seventeen (17) double-spaced pages in 12-point font, excluding the certificate of service, the witness list, the exhibit list, and any exhibits.

Each Party may list no more than three (3) witnesses to represent a Party's position. Parties opting to present together are permitted a maximum of four (4) witnesses. Exhibits must be submitted as described above—i.e., appropriately labeled and separately submitted—at the time of filing or they may be excluded at the Hearing Officer's discretion. Please note that it is the Party's responsibility to find an appropriate manner to submit filings so that they are received by the deadline.

***Tuesday, August 12, 2025 at 10:00 a.m.: Prehearing Conference***

A prehearing conference will be held on Tuesday, August 12 at 10:00 a.m. via Zoom or GoogleMeets. A Zoom or GoogleMeets link will be provided in advance of the prehearing conference.

The prehearing conference will afford the Parties the opportunity to address such issues as desired time for each Party to present at the hearing, how to avoid presentation of duplicative information, and consolidation of concerns. The Parties may formulate stipulations respecting the issues to be raised, witnesses and exhibits

to be presented, and any other matters which may be agreed to or admitted by the Parties. Coordination of written submissions and presentations is encouraged.

At the prehearing conference, each Party shall identify any objections it anticipates raising at the hearing (unless such objections could not have been reasonably determined by the time of the prehearing conference).

***Friday, August 29, 2025 at 5:00 p.m.: Rebuttal Statements and Pre-filed Written Testimony Due***

On or before 5:00 p.m on August 29, 2025, each Party may file its rebuttal statement. All rebuttal statements are limited to ten (10) double-spaced pages in 12-point font, excluding the certificate of service, the exhibits list, and any attached exhibits. Any exhibits shall be submitted in accordance with the same requirements as the prehearing statement outlined above. No further filings in support of a prehearing statement are authorized.

In addition to filing a rebuttal statement, on or before 5:00 p.m. on August 29, 2025, a Party may file pre-filed written testimony for any witness listed in its prehearing statements. Pre-filed written testimony encourages Parties to fully develop and disclose their arguments prior to the hearing. This allows the CWCB to better prepare for the hearing by reviewing the Parties' positions in advance. Pre-filed written testimony is limited to eight (8) double-spaced pages per witness in 12-point font, excluding the certificate of service. No new exhibits may be filed with the pre-filed written testimony without approval by the Hearing Officer.

All witnesses who prepared pre-filed written testimony must be available at the time of the hearing to answer any questions the CWCB might have about such pre-filed written testimony.

**II. Party Status**

Party status may be lost due to a Party's failure to appear for the initial prehearing conference or any additional prehearing conferences, or for failure to file a prehearing statement. Filing of rebuttal statements is not required to maintain party status. A Party that loses party status will be able to address the CWCB during the public comment period.

**III. September 16-18, 2025: Hearing**

The Notice set the hearing in this matter in conjunction with the CWCB's September 2025 meeting. The specific location, start and end times for the hearing shall be provided at a later date.

Parties and members of the public seeking to make public comment may also join via Zoom video conference upon request. Please send all requests to the Hearing Officer and John Watson of the Attorney General's Office ([john.watson@coag.gov](mailto:john.watson@coag.gov)) no later than seven (7) days before the hearing.

A watch-only option will be available on YouTube. The YouTube link will be posted on the CWCB website on the day of the meeting.

More specific participation information will be provided: (1) on the CWCB's website at <https://cwcbs.colorado.gov/>; and/or (2) by order of the Hearing Officer sent to the Parties prior to the hearing as needed.

In addition to other matters related to the conduct of the hearing, the Hearing Officer will determine the final time allocations for each Party to present its case after consideration of, among other things, the prehearing statements and the number of witnesses. Time allocations given will be for total presentation time, meaning the overall allocation will be applicable to both the Parties' direct presentations and rebuttal presentations. The Hearing Officer may limit testimony or presentation of evidence to prevent repetitive, irrelevant, or unnecessary testimony.

The Hearing Officer acts as hearing chair at the hearing. Parties may not cross-examine witnesses. The Hearing Officer provides remaining time at the conclusion of all direct testimony for Parties to provide rebuttal testimony based on the remaining amount of the Parties' time allocations. Board member questions to the Parties do not count against the Parties' time allocations and are not time barred in any manner.

Once all public comment and argument has been heard, the Hearing Officer will close the hearing record and the Board will commence deliberations. During this time, the Board will discuss the information they have received and make decisions on the proposal in public session. The Board may approve or disapprove the acquisition, as proposed, or decide to make changes to the proposal as they deem necessary and appropriate, and adopt the amended proposal. The Board is required to take action at the hearing. In other words, the Board cannot conclude the hearing and vote at the next board meeting without approval of the requester, the Colorado River District.

During deliberations and decision-making, no more comment from any Party or other members of the public is accepted unless the Board votes to re-open the hearing to take additional information.

Typically, the Board's deliberations occur in public. However, the Board may opt to conduct an Executive Session to ask for advice from their counsel, in this case, the Hearing Office, or to discuss other topics, to the extent permissible under Colorado Open Meetings Law. Executive Sessions are closed to the public. Once such topics are addressed, the Board will re-open the public meeting to make any decisions.

Members of the public are encouraged to participate in the hearing by providing written or oral comments to the Board. Written comment from members of the public is most effective if the Board can review the comments prior to the hearing. Therefore, the Hearing Officer encourages interested persons submit all written comment to the Board at least fourteen (14) days prior to the hearing. Members of the public wishing to provide oral comments should appear at

the hearing in-person or virtually so the Board has a record of the person providing testimony. Members of the public are afforded a maximum of five (5) minutes to comment at the hearing.

The Hearing Officer will issue such additional orders as are necessary to provide for any additional prehearing processes and to establish the hearing process.

The following is a summary of the schedule as set forth in this order:

Deadline for Parties' Submission of Prehearing Statements	August 4, 2025, 5:00 p.m.
Prehearing Conference	August 12, 2025, 10:00 a.m.
Deadline for Parties' Submission of Rebuttal Statements/Pre-filed Written Testimony	August 29, 2025, 5:00 p.m.
Hearing	September 16-18, 2025

*IT IS SO ORDERED.*

Dated this 18th day of July, 2025.

By the Hearing Officer:

/s/ Jackie Calicchio

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### Certificate of Service

I hereby certify that on July 18, 2025, a true and correct copy of the foregoing **ORDER RE: PROCEDURES AND DEADLINES FOR PREHEARING SUBMISSIONS** was served via email to the Parties and contacts referenced in the Party Status below:

Hearing Officer: Jackie.calicchio@coag.gov

Attorney General's Office: John.Watson@coag.gov

#### **Parties**

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/s/ John Watson  
John Watson