

# In the Matter of the Proposed Acquisition of an Interest in the Shoshone Power Plant Water Rights

## CWCB Staff Presentation

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**COLORADO**  
Colorado Water  
Conservation Board

Department of Natural Resources



# TODAY'S PRESENTERS, STAFF, & COUNSEL

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## **Acquisition Process, Proposal, Board Factors**

CWCB Staff: Rob Viehl, Kaylea White, Colin Watson, Kara Scheel

AGO: Jen Mele

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## **CPW Recommendation**

CPW Staff: Katie Birch, Kendall Bakich

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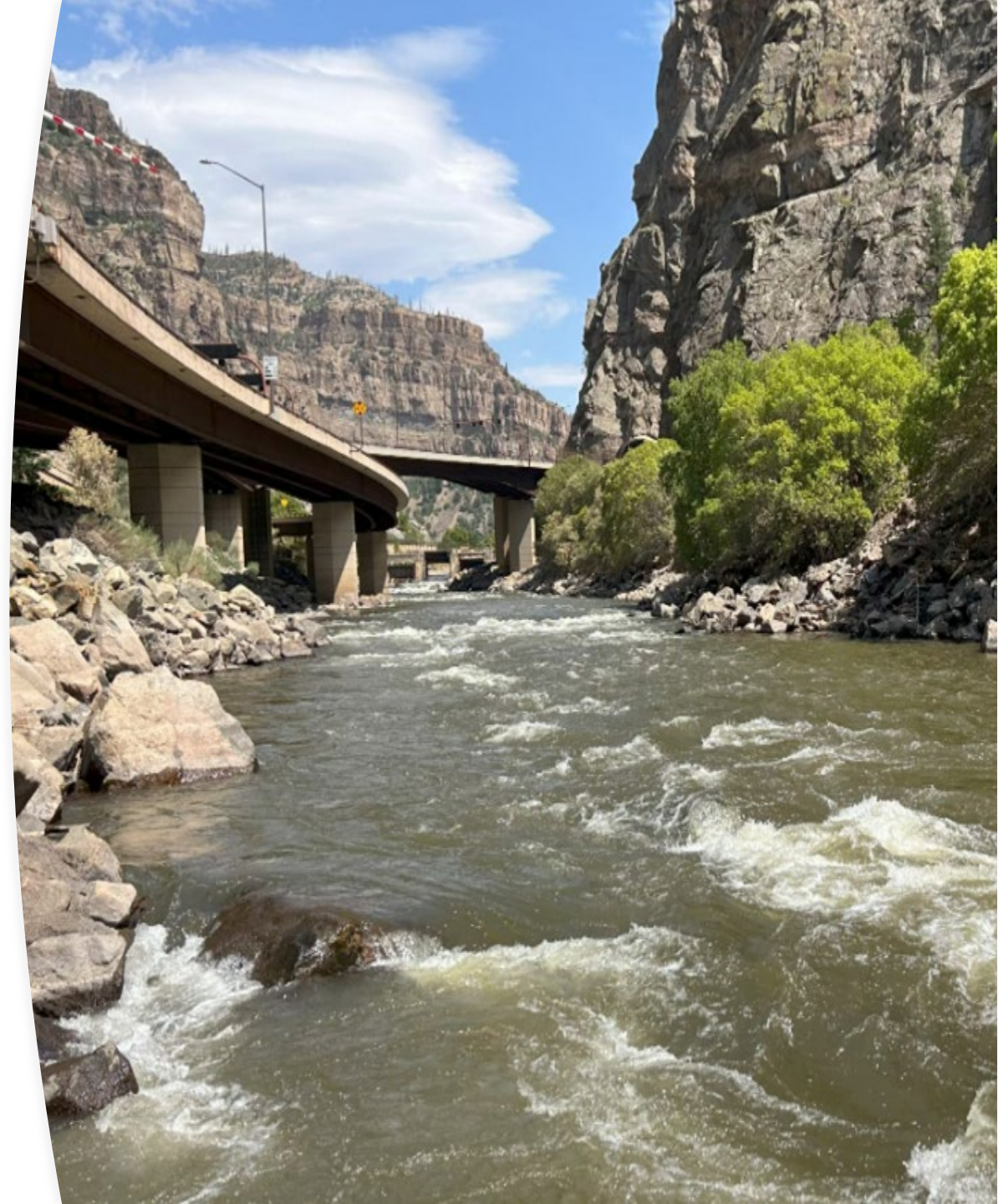


# THE PROPOSAL

- River District will purchase the Shoshone Water Rights, maintain ownership, and dedicate to CWCB for ISF Use.
- PSCo will hold a lease for hydropower use.
- CWCB will hold a perpetual lease for the exclusive right to use the water rights for ISF use in the Shoshone Reach when water is not being fully used, or is only partially used for hydropower.



Shoshone Hearing 2025

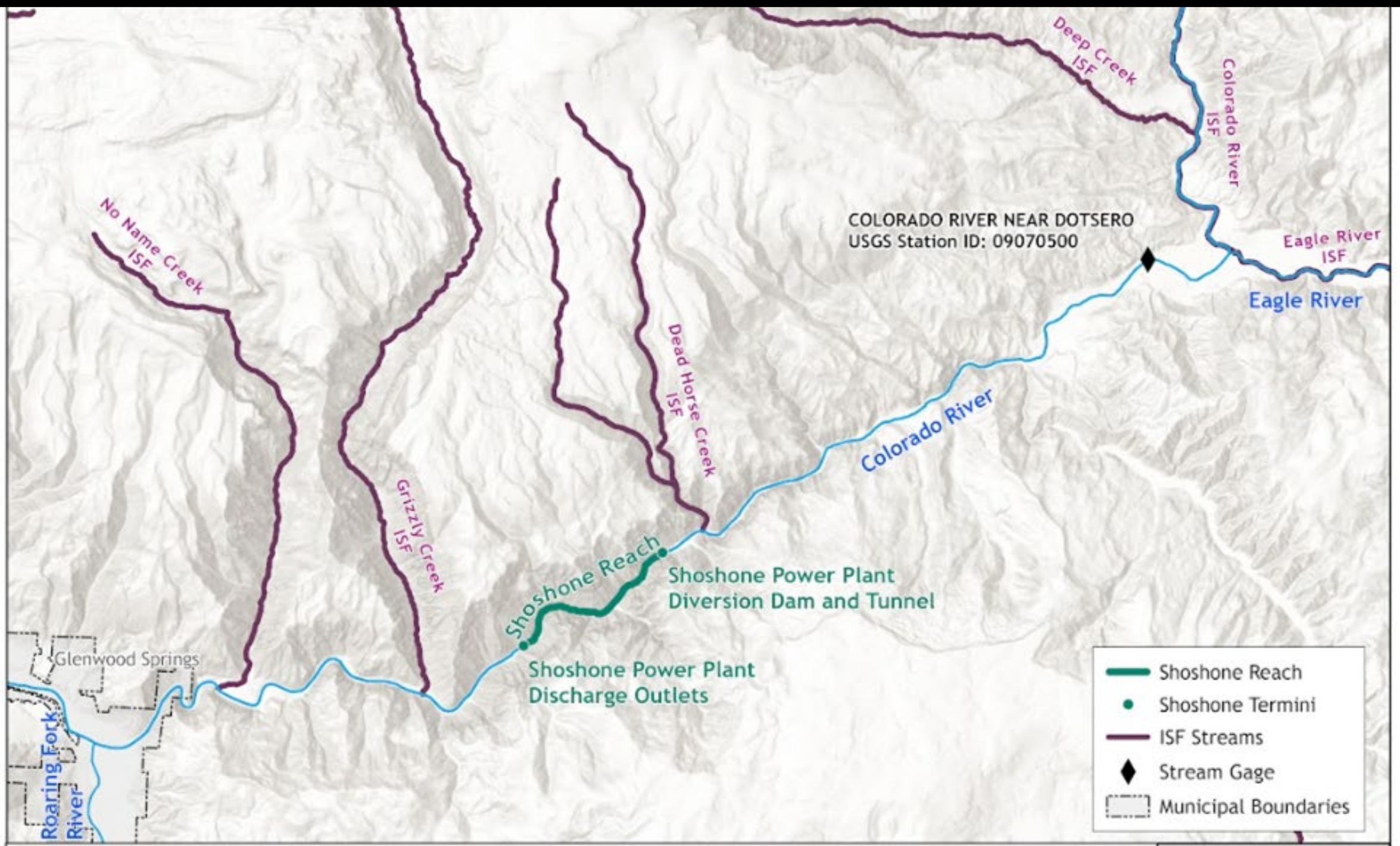


# SHOSHONE WATER RIGHTS

Priority Date*	Appropriation Date	Adjudication Date/ Water Court Decree	Decreed Rate of Diversion & Diversion Rate Intended to Change
December 5, 1905	January 7, 1902	December 9, 1907 Civil Action Nos. 466 and 553	1,250 cfs
May 31, 1940	May 15, 1929	February 7, 1956 Civil Action No. 1123	158 cfs
TOTAL			1,408 cfs



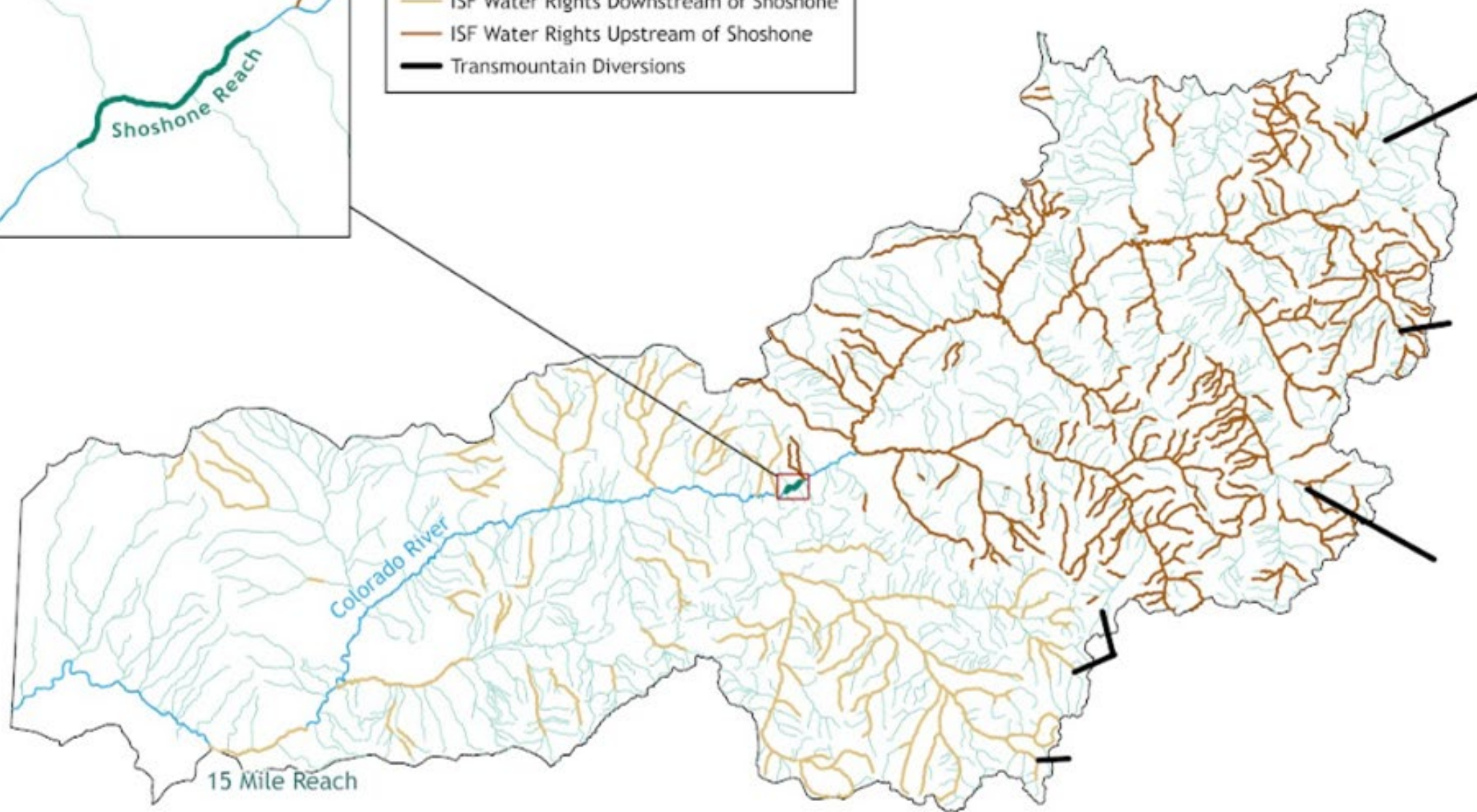








- Shoshone Reach
- ISF Water Rights Downstream of Shoshone
- ISF Water Rights Upstream of Shoshone
- Transmountain Diversions





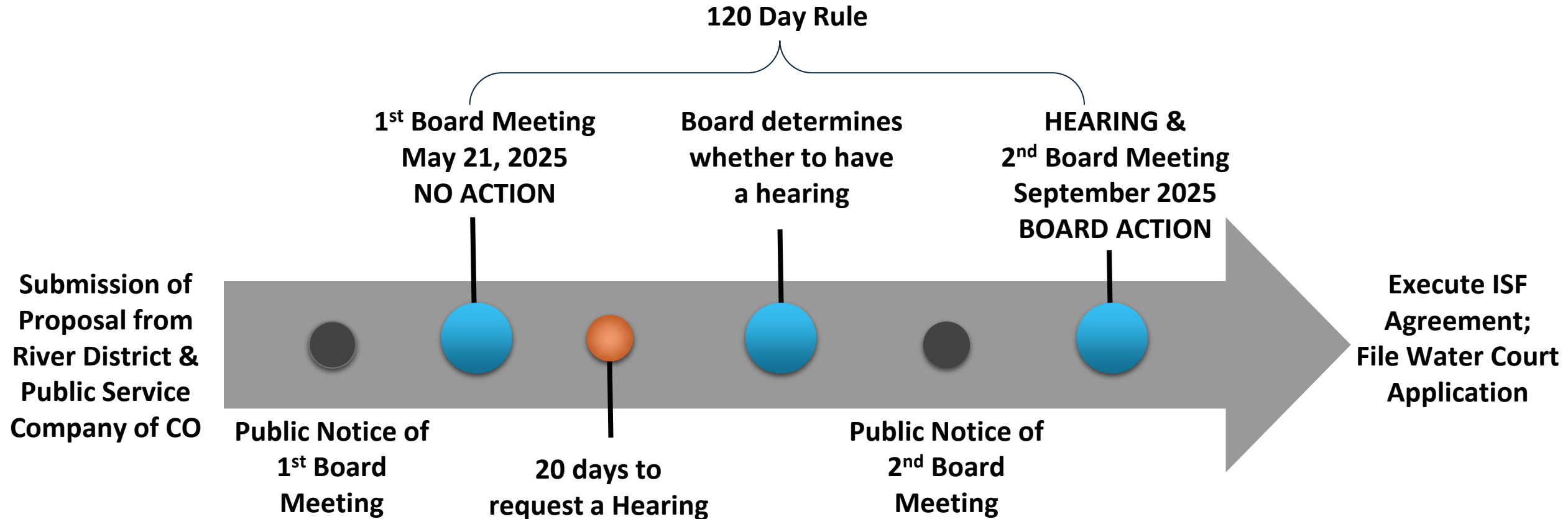
# ISF ACQUISITIONS

The Board can accept several types of ISF acquisitions for water, water rights, or interests in water, for various durations including temporary, long-term, and permanent acquisitions.

- 37-92-102(3) C.R.S. Permanent Acquisitions operate under the jurisdiction of the Water Court;
- This acquisition will require the CWCB, River District, and PSCo file a joint water court application to change the water rights to add ISF use.



# CWCB ACQUISITION PROCESS & TIMELINE



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# BOARD INVOLVEMENT TO DATE

- **September 2023** CRWCD applied for a non-reimbursable project towards purchase of the Shoshone Water Rights
- November 2023 AGO agreements overview & DWR administration overview
- January 2024 CWCB Shoshone Permanency Workshop
- January 2024 CWCB Unanimously approved funding \$20 million
- May 2024 Projects Bill HB 24-1435 approved
- November 2024 CRWCD project update
- May 2025 Acquisition presented to the Board
- June 2025 Hearing requested
- July 2025 Special Board Meeting granting request & July Board meeting update
- **September 2025 Hearing**



# STAFF RECOMMENDATION

1. Accept a perpetual interest in the junior and senior Shoshone Water Rights for ISF use up to the full decreed amounts and determine that this use will preserve and improve the natural environment to a reasonable degree;
2. Direct the CWCB Director to sign the ISF Agreement after the hearing.
3. Determine that protecting the Shoshone Water Rights in the Shoshone Reach, subject to the terms and conditions in the final water court decree, in amounts up to the stream flow rates recommended by CPW to preserve and improve the natural environment, is the best utilization of the acquired water to preserve and improve the natural environment to a reasonable degree; and
4. Direct Staff to work with the Attorney General's Office and the River District and PSCo as Co-Applicants to file a water court application requesting to add an instream flow use to the Shoshone Water Rights in accordance with section 37-92-102(3), C.R.S.



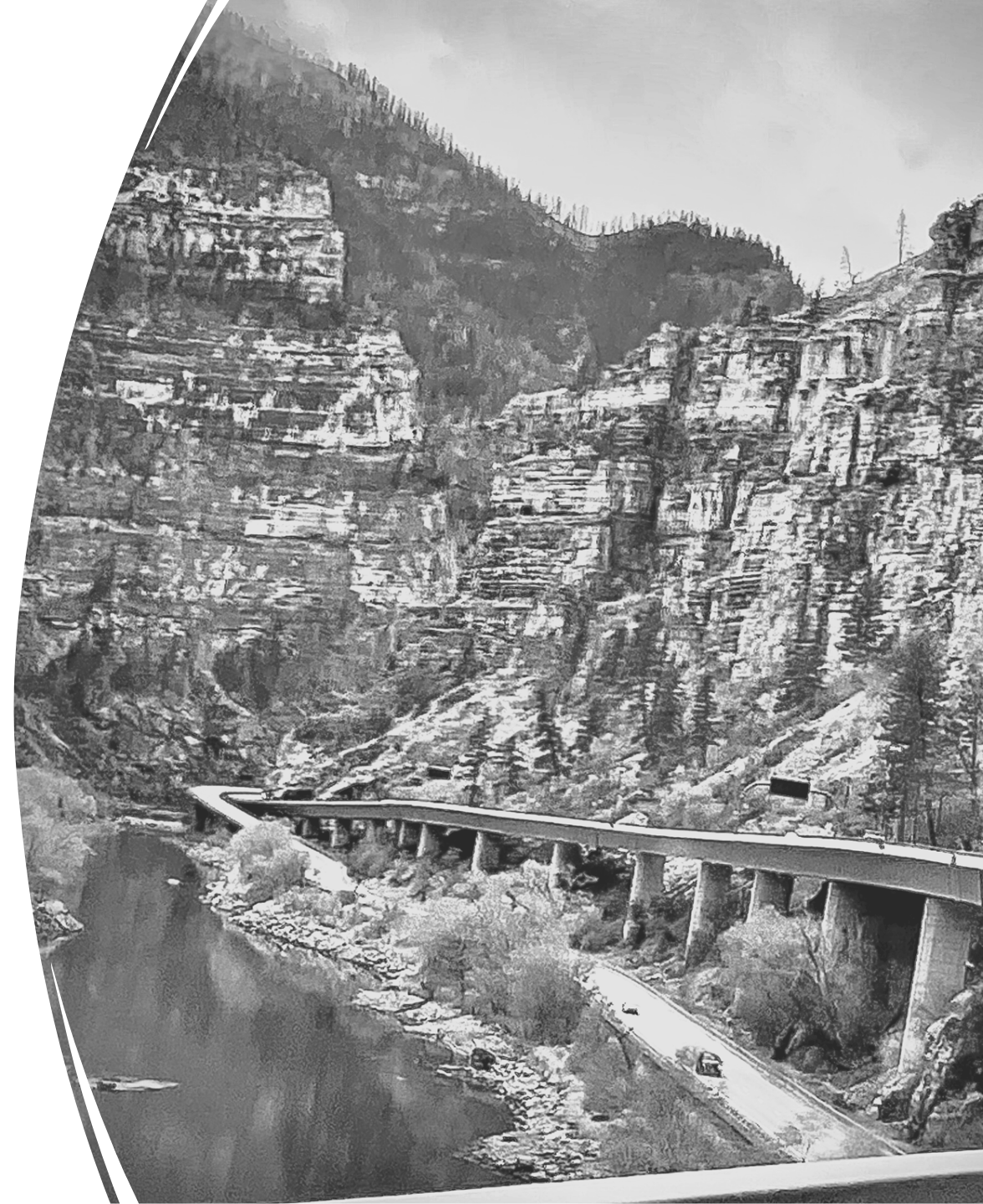


# ISF AGREEMENT

- CWCB, RD, PSCo
- Dedicates interest in the water rights to CWCB for ISF Use
- Parties to obtain a decreed right for ISF use up to the ISF Rate, confirming administrability
- Coordinate on any needed Infrastructure, cost covered by RD
- To be finalized before water court application is filed
- Will be effective on signature date, but rights & obligations only at closing of PSA, after a court decree is issued
- CWCB agrees to use the Shoshone water rights for ISF subject to decree terms & conditions



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# RELATED AGREEMENTS

ShOP, 2016

- DW, RD, WEST SLOPE, BOR, DWR

CRCA, 2012

- DW, RD, WEST SLOPE

RELAXATION,  
2007

- DW & PSCo

CHECK CASE,  
1996

- RD, WEST SLOPE, DWR, CWCB, CPW, CSU & PBWW





# BOARD'S ROLE

- The Board may acquire in such amounts as the Board determines are appropriate for stream flows to preserve or improve the natural environment to a reasonable degree. (6a)

The Board Shall:

- Determine, in a timely manner (120 days), what terms and conditions the Board will accept in an agreement (6b)
- Evaluate the appropriateness of the acquisition (6e)
  - Consider the factors listed and may consider other factors
- Determine how best to utilize the acquired water to preserve or improve the natural environment (6e)
- File a change of water right application (6i)
- Request the Water Court to verify quantification of historical use and return flows and include T&Cs necessary to prevent injury (6i)

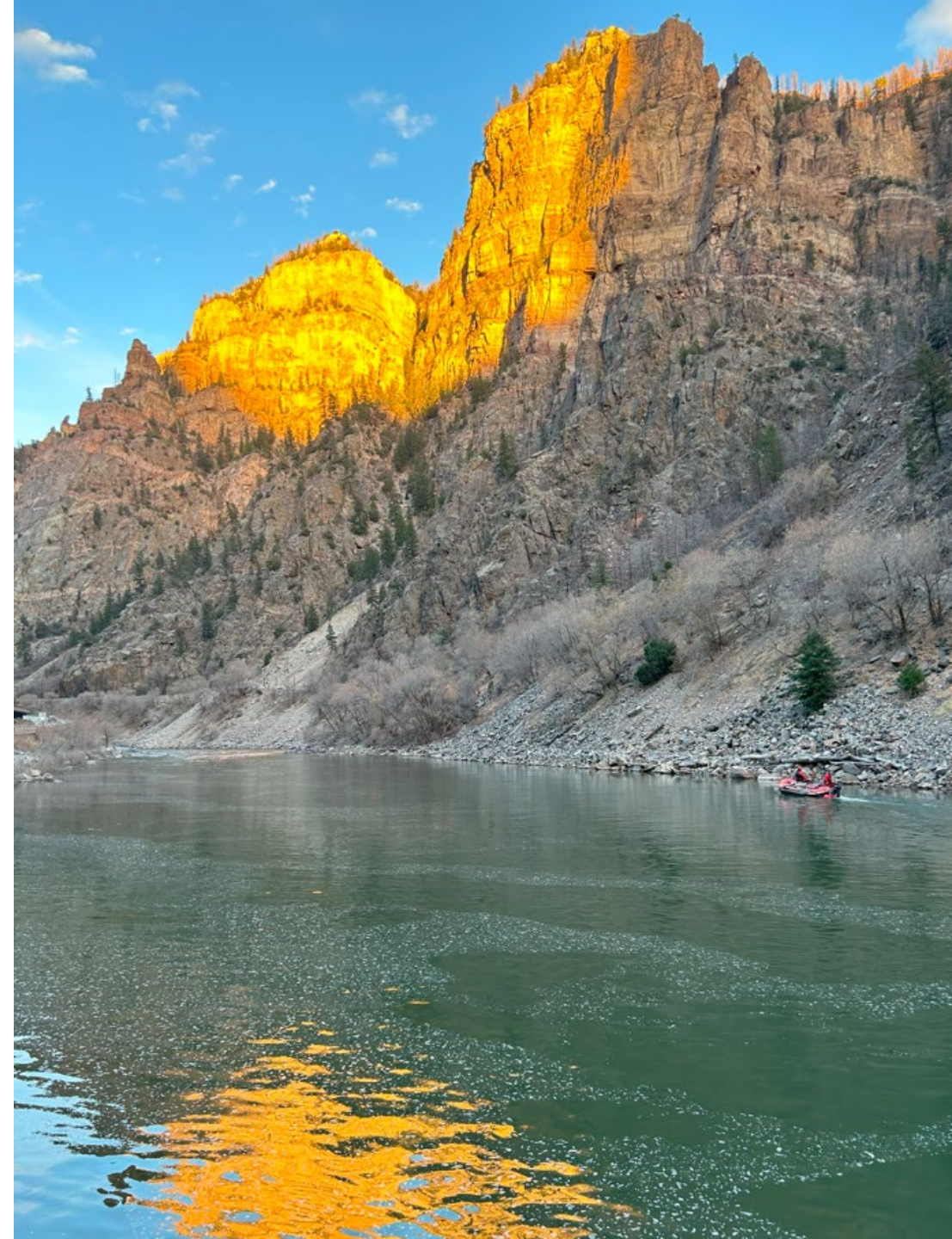


# APPROPRIATENESS OF AN ACQUISITION

The Board shall evaluate the appropriateness of any acquisition of water, water rights, or interests in water to preserve or improve the natural environment. Such evaluation shall include but need not be limited to consideration of several factors to be covered today.



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# ISF Rule 6, Factors 1, 2, & 5 - Reach, Flow Regime, & Natural Environment

- No existing ISF water rights in the 2.4 mile Shoshone Reach
  - running through central part of Glenwood Canyon, which is
  - nearly 15 miles between 2,500 ft high walls of sedimentary rock
- From Rocky Mountain National Park
  - Origins along the continental divide @14,300 feet
  - Colo River flows 166 miles to the Shoshone plant, 4,470 sq mile basin
- Natural snowmelt runoff regime
  - significant flow alteration due to diversions
- The Shoshone Reach in Glenwood Canyon supports a high-quality fishery.
- This acquisition will restore habitat to this reach to preserve and improve the natural environment to a reasonable degree



# Shoshone Reach Natural Environment & CPW Recommendation



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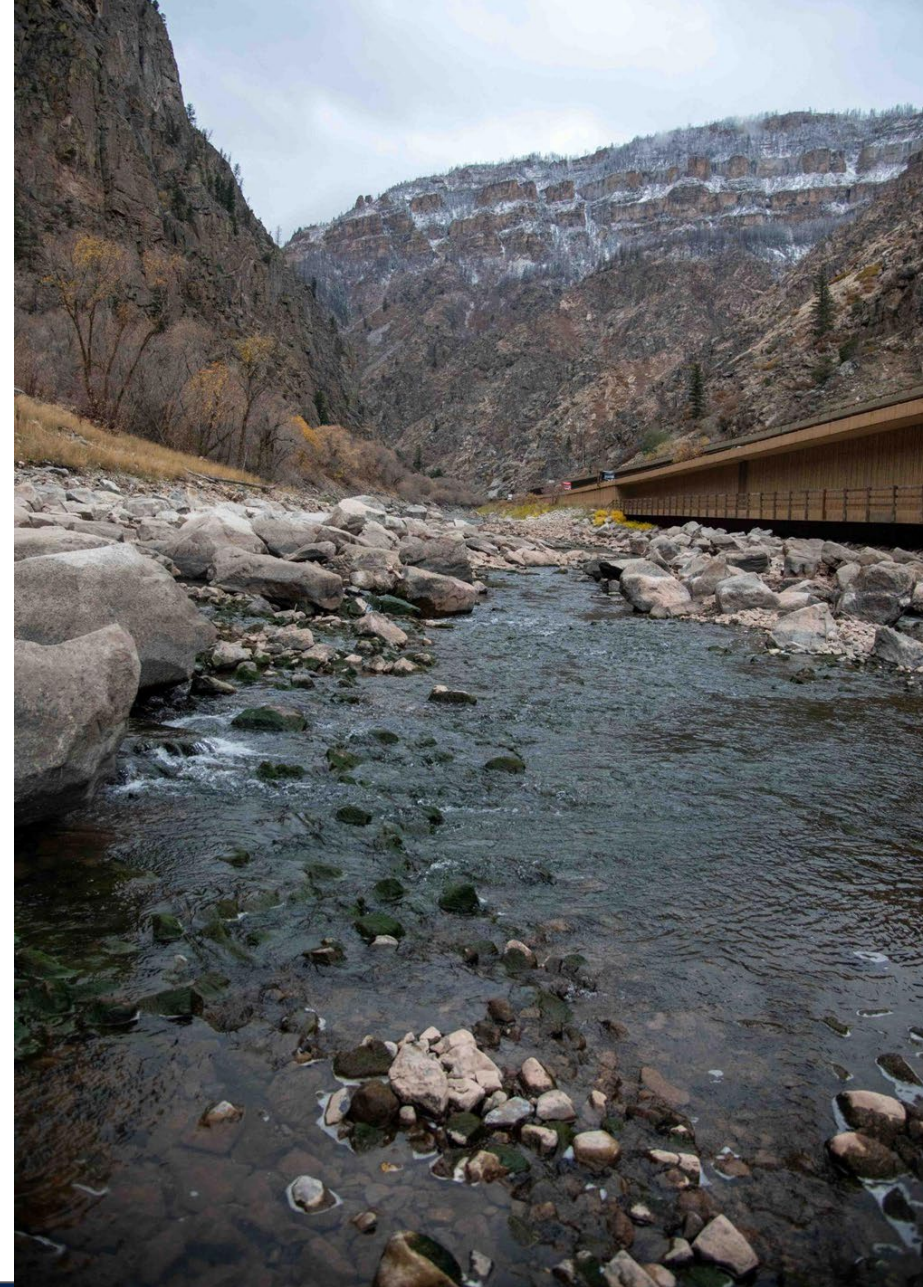


# Colorado River: Shoshone Reach

Confined, canyon-bound river

- Constrained channel
- Large substrate (boulders)
- High gradient
- Deep pools and holding habitat

→ **Diverse and  
dynamic  
aquatic  
habitat**





# Aquatic, Riparian, and Terrestrial Communities

- Native and sportfish communities
- Abundant and diverse macroinvertebrate community
- Terrestrial wildlife
  - Bighorn sheep
  - River otters and beaver
  - Mule deer and elk
  - Peregrine falcons and eagles
- Healthy riparian community



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# CPW Data Collection Efforts

- Macroinvertebrate sampling
- Fishery surveys
  - December 2023 - bank electroshocking
  - October 2024 - detailed population estimate



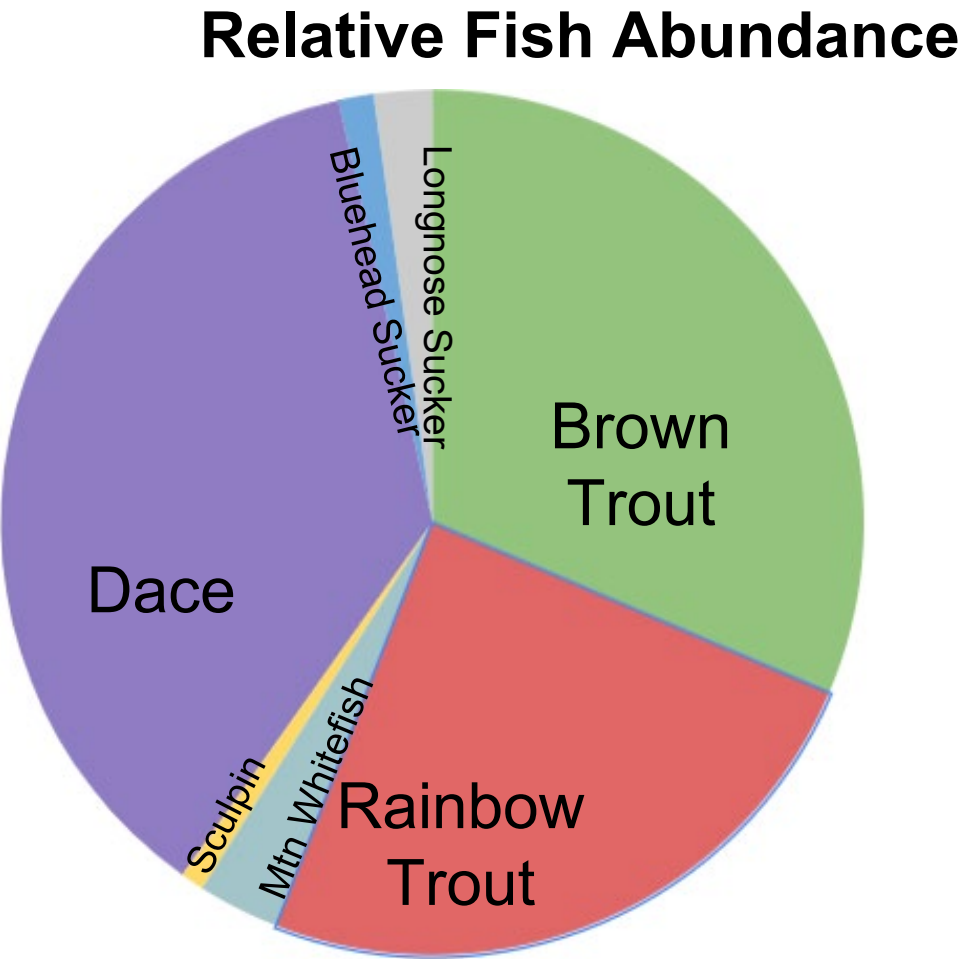
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# Fishery Data - 2024 Population Estimate





# Significant Findings

## “Quality” trout

- > 14”
- Signal to high-quality angling opportunity



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# Significant Findings

## Bluehead Sucker

- Federal “sensitive” species
- Listed in the State Wildlife Action Plan
  - **Tier 1 Species of Greatest Conservation Need**
- Three Species Rangewide Conservation Strategy & Agreement



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# Habitat Suitability Instream Flow Quantification Studies

- Two studies using the Instream Flow Incremental Methodology
  - IFIM is standard methodology used nationally and in Colorado on large, complex instream flow determinations
- GEI Literature review

Final Shoshone Reach, Colorado River Instream Flow Report

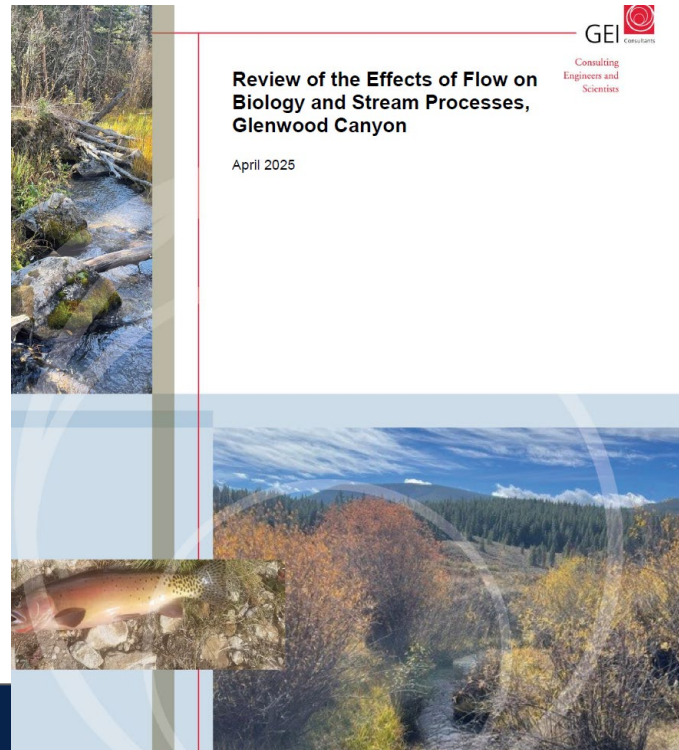
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Final Report (CA23044)

Shoshone Reach Instream Flow Habitat Data Analysis, Habitat Simulations and  
Habitat Evaluation of Colorado River from the Shoshone Diversion to the Shoshone  
Power Plant Outfall

Submitted to:

Peter Fleming  
Colorado River District  
Glenwood Springs, Colorado



Submitted By:

J. Miller, PhD  
r Consulting, LLC  
oroughbred Ln.  
aan, Montana

ember 30, 2024

## SHOSHONE REACH

*Instream Flow  
Beneficial Use and  
Hydraulic Habitat Suitability  
Assessment*

Shoshone Reach,  
Colorado River, Colorado

April 22, 2025

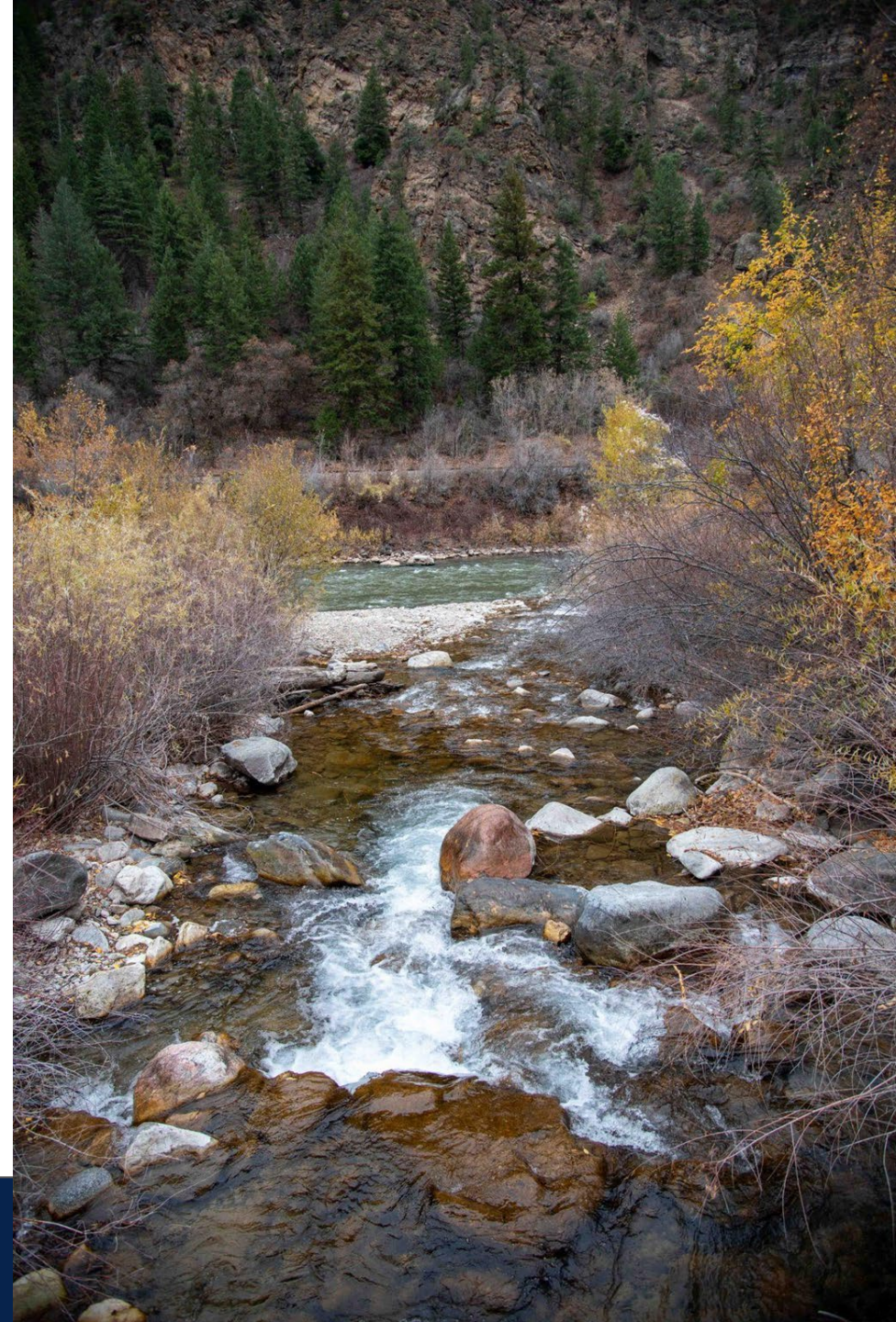
Ecosystem Sciences, LLC  
Science · Planning · Design



# Benefits of Instream Flows

- Studies show instream flows will:
  - Connect Habitat
  - Increase wetted area =  
increase suitable fish habitat
  - Provide Thermal Refugia
  - Support sediment transport

***= Improved Fish Habitat Supporting  
Population Resiliency***





# Benefits of Instream Flows

- Current state is dewatered much of the year
- Restored flows to an additional of 2.4 miles of the Colorado River



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# CPW Conclusions

- A flow-dependent natural environment exists in the Shoshone Reach
  - Including an abundant and diverse macroinvertebrate community, recreationally-important fish, and and **native fish which are species of greatest conservation need.**
- Acquisition of the senior and junior Shoshone rights will preserve and improve the natural environment
  - Leading to increases in habitat availability and connectivity.





# CPW Recommendation

- Best use of the Shoshone water rights is to preserve and improve the natural environment in the amount offered  
**up to 1408 cfs**
- Fish habitat improves in the Shoshone Reach **up to at least 3000 cfs**



\*\*\*Additionally, high flows in excess of 3000 cfs provide:

- Geomorphic benefits: Flushing fines, habitat maintenance, nutrient cycling, and allochthonous inputs
- Connectivity, Thermal refugia, and increased wetted area for macros and fish

# ISF Rule 6, Factors 3, 4, & 6 – Location of Other Water Rights, Non-injury, Hist. Use, & Rtn. Flows

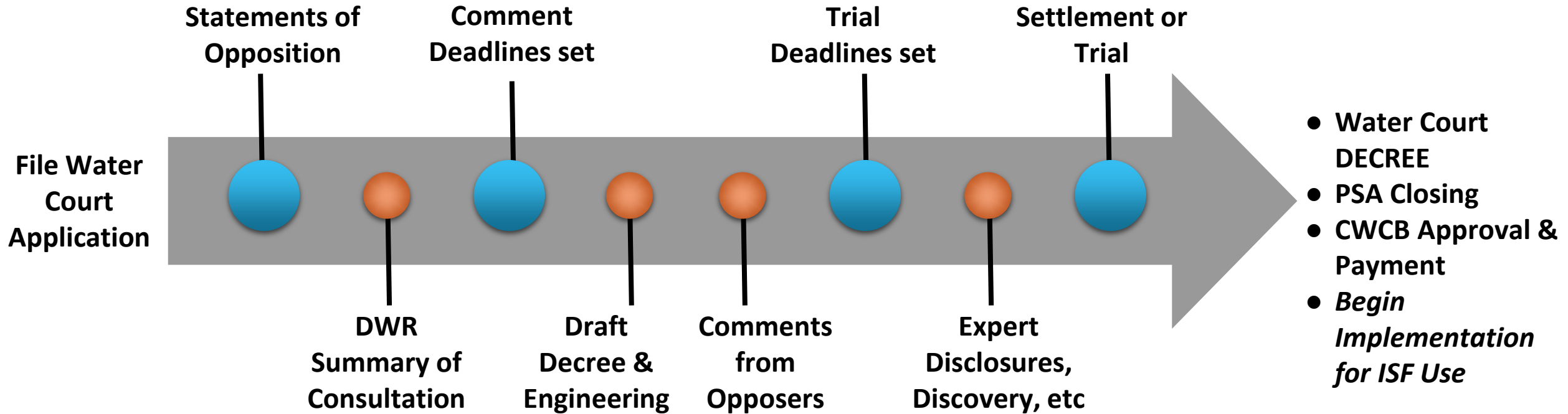
- No other diverting water rights w/in the reach, but augmentation plans, exchanges, and deliveries extend through the Shoshone reach
- Many decreed junior and senior water rights both upstream and downstream of the reach, including diversions for in-basin use, as well as TMD & ISF's
- Water Court Stipulations & Decree will:
  - Determine or affirm method and quantification
  - Include allowance and limits on ISF use based on historical use
  - Require maintenance of historical return flows
  - Provide restrictions to prevent injury to other water users





# WATER COURT PROCESS

## *Negotiations & Stipulations*



# RESOLVING TECHNICAL ISSUES IN WATER COURT

- Expert reports of both applicants and opposers lay out positions on technical issues before the court
- Expert meetings are held to facilitate the resolution of these issues
- Organization, deadlines and overall timing of process helps to lead to resolution





# ISF Rule 6, Factors 7, 8, & 9 – Max Utilization, Interstate Compacts, & Downstream Use

- By not expanding use and continuing utilization, this acquisition will promote maximum utilization of the waters of the state.
  - Beneficial use for ISF to P&I the NERD
  - Subsequent use downstream
    - By other water users in the Grand Valley and beyond
    - By CWCB's ISF in the 15-mile reach
- CWCB will ensure that this acquisition will not have a negative impact on interstate compacts
- ISF, like hydropower, is a non-consumptive use, for which RF's will become part of the natural streamflow downstream of the reach



# ISF Rule 6, Factor 10 - Costs

- Total Cost of Purchase is \$99M
  - CWCB Non-reimbursable project \$20M
  - River District's financial commitments \$20M
  - West Slope supporters \$17.1M
  - USBR B2E Funds \$40M
- CWCB Staff & AGO Resources
- Possible Trial Expenses

Ute Water Conservancy District	\$2 million
Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority	\$1 million
Grand County	\$1 million
City of Grand Junction	\$1 million
Mesa County	\$1 million
Summit County	\$1 million
Pitkin County	\$1 million
Colorado Mesa University	\$500,000
Clifton Water District	\$250,000
Grand Valley Irrigation Company	\$250,000
Basalt Water Conservancy District	\$100,000
Grand Valley Power	\$100,000
Grand Valley Water Users Association	\$100,000
Middle Park Water Conservancy District	\$100,000
Town of New Castle	\$100,000
Orchard Mesa Irrigation District	\$100,000
City of Rifle	\$100,000
Snowmass Water & Sanitation District	\$100,000
Town of Silverthorne	\$100,000
Mesa County Irrigation District	\$50,000
Palisade Irrigation District	\$50,000
West Divide Water Conservancy District	\$50,000
Kobe Water Authority	\$25,000
Town of Parachute	\$25,000
De Beque Plateau Valley Soil Conservation District	\$5,000
Town of De Beque	\$5,000
Total:	\$17.11 million





# ISF Rule 6, Factor 11 - Administrability

- DWR indicated this acquisition is administrable:
  - Subject to T&C in the decree
  - Subject to measurement and reporting requirements



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# WATER COURT APPLICATION

- 3 Co-applicants (CWCB, RD, PSCo)
- Application
  - Change entire Shoshone Water Rights
  - Change of use requested to add ISF Use
    - Place of use
    - Type of use to preserve and improve
    - Amount of use is “up to the full decreed rate”

DISTRICT COURT, WATER DIVISION 5, COLORADO  
Garfield County Courthouse  
109 8<sup>th</sup> Street, Suite 104  
Glenwood Springs, CO 81601  
(970) 947-3861

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE  
COLORADO WATER CONSERVATION BOARD, PUBLIC SERVICE  
COMPANY OF COLORADO, AND THE COLORADO RIVER WATER  
CONSERVATION DISTRICT.

In GARFIELD AND EAGLE COUNTIES, COLORADO.

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▲ COURT USE ONLY ▲

Case Number:  
Div.: Civ.

APPLICATION FOR CHANGE OF WATER RIGHTS



# NEXT STEPS

- Action can be taken at this Board meeting.
- Upon acceptance, file a water court application.
- Multi-year water court process.
- A final decree triggers closing of the Purchase and Sale Agreement.
- CWCB votes to confirm if closing conditions are met, then CWCB funds are released.
- After all of these steps, the Shoshone Water Right will be placed to ISF Use in the Shoshone Reach pursuant to Terms and Conditions in the water court decree.




# STAFF RECOMMENDATION

1. Accept a perpetual interest in the junior and senior Shoshone Water Rights for ISF use up to the full decreed amounts and determine that this use will preserve and improve the natural environment to a reasonable degree;
2. Direct the CWCB Director to sign the ISF Agreement after the hearing.
3. Determine that protecting the Shoshone Water Rights in the Shoshone Reach, subject to the terms and conditions in the final water court decree, in amounts up to the stream flow rates recommended by CPW to preserve and improve the natural environment, is the best utilization of the acquired water to preserve and improve the natural environment to a reasonable degree; and
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# In the Matter of the Proposed Acquisition of an Interest in the Shoshone Power Plant Water Rights

## CWCB STAFF REBUTTAL AND CONCLUSIONS



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# STAFF RECOMMENDATION

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# Recovery Program

## Storage Pools in Upper Colorado River System

Pool	Amount	Type
East Slope 10,825 water (Granby)	5,412.5 AF	Firm
West Slope 10,825 water (Ruedi)	5,412.5 AF	Firm
Ruedi Firm Pool	5,000 AF	Firm
Ruedi '4 in 5' Pool	0 or 5,000 AF	Availability based on fill
Wolford Fish Pool	Up to 6,000 AF	Prorated based on fill
Green Mountain HUP Surplus	0 to 66,000 AF	Subject to availability
Leases/Donations	Up to 12,000 AF historically	Based on need and availability

