

BEFORE THE COLORADO WATER CONSERVATION BOARD

**IN THE MATTER OF THE PROPOSED ACQUISITION OF AN INTEREST IN THE
SHOSHONE WATER RIGHTS FOR INSTREAM FLOW USE ON THE COLORADO
RIVER, WATER DIVISION NO. 5**

**PROPONENTS' RESPONSE RE: MOTION FOR MODIFICATION OF OCTOBER 14,
2025 "PROCEDURAL ORDER: NEXT STEPS AND NOVEMBER 2025
DELIBERATION"**

The Colorado Water Conservation Board Staff ("CWCB Staff"); Colorado River Water Conservation District ("River District" or "CRD"); and Public Service Company of Colorado ("PSCo") (together, the "Proponents") through their respective undersigned counsel, submit this response to the Movants' Motion for Modification of the October 14, 2025, "Procedural Order: Next Steps and November 2025 Deliberation" (the "Motion").

Response to Request for Specific Allocation of Time at November 19th Hearing.

1. The Motion makes two distinct requests for relief with respect to the Hearing Officer's October 14, 2025, Procedural Order: Next Steps and November 2025 Deliberation (the "Procedural Order"). The Movants first request is that, to the extent that any new written materials or presentation/testimony is/are provided to the Board (regardless of whether that new information constitutes a settlement or stipulation), the Movants be allowed to provide comment or testimony on the new information. Related to this request, the Movants propose that the Hearing Officer modify the Procedural Order to allow time and the opportunity to provide comments or testimony limited in scope to the substance of any additional written materials or testimony.

2. With respect to the Movants' first request for relief, the Proponents do not agree with and reject the mischaracterizations and conclusory statements contained in the first section of the Motion. For that reason, the Proponents oppose the first request for relief contained in the

Motion. However, the Proponents would not oppose the entry of a modified Procedural Order in the form attached hereto that provides the Movants an opportunity to provide comment that is specifically in response to the Proponents' new written materials and testimony related to the Board's four directives.

3. The Proponents believe that the following allocation of time is more equitable than the time allocation proposed by the Movants and request that the Hearing Officer enter a modified Procedural Order, in the form provided herewith, as set forth below:

- a. CWCB Staff: 15 minutes.
- b. CRD, supporting groups, and PSCo: Collectively, 15 minutes.
- c. Front Range Entities (Northern et al., Denver Water, Aurora, CSU, and Homestake): Collectively, 15 minutes.
- d. SM Wise: 10 minutes.
- e. Pitkin County: 10 minutes.
- f. CRD, supporting groups, and PSCo Rebuttal: Collectively, 5 minutes.
- g. CWCB Staff Rebuttal: 5 minutes.

Response to Request Regarding Submission of a Written Response.

4. The Movants second request is that "all parties to the hearing should have an equal opportunity to submit proposed revisions to the ISF Agreement relative to the directives outlined in the Order for the Board's consideration." *See* Motion, p. 4. The Proponents oppose this second part of the Motion for the following reasons.

5. Pursuant to the Procedural Order, the Board will reopen the administrative record for three limited purposes: (1) to allow CWCB Staff and the River District to respond to the four directives the Board gave to CWCB Staff and the River District at the September 2025 meeting;

(2) to consider any settlement or stipulation documents provided by the deadline set forth in the Procedural Order; and (3) to consider related optional PowerPoint presentations provided by the deadline. *See* Procedural Order, 1; *see also id.* at 4 (providing that PowerPoint submittals, if any, must be limited to discussing settlement and/or stipulation or, if no settlement/stipulation is reached, must be limited to a CWCB Staff and River District PowerPoint related to the four directives).

6. The Procedural Order provides that CWCB Staff “will provide a revised ISF Agreement in November[.]” *Id.* at ¶ 1. The Procedural Order does not contemplate, nor did the Board contemplate during the September 2025 hearing, that any parties other than the Proponents would submit proposed revisions to the ISF Agreement relative to the Board’s four directives. While the Movants include numerous references to the recording of the September 2025 hearing to support their first request for relief, no such references are made to support their second request for relief. This is because the Board issued its directives to CWCB Staff and the River District. The Board could have provided directives to the Movants—or to any of the other 41 parties to this administrative proceeding—but it did not do so. Allowing the Movants to submit their own proposed redline ISF Agreement would not be appropriate because the Movants are not parties to the proposed ISF Agreement and multiple submissions would add unnecessary and unwarranted complication to the process and the Board’s deliberations.

7. The Board delivered its four directives to the River District and CWCB Staff. The Hearing Officer should not override the Board’s directives by allowing the submittal of a revised ISF Agreement by Movants as requested in the Motion. Accordingly, the second request for relief in the Motion should also be denied.

WHEREFORE, the Proponents request that the Hearing Officer enter a modified Procedural Order consistent with the proposed order attached to this Response.

Respectfully submitted: November 13, 2025.

COLORADO RIVER WATER CONSERVATION DISTRICT

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CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, a true and correct copy of this **PROPONENTS' RESPONSE RE: MOTION FOR MODIFICATION OF OCTOBER 14, 2025 "PROCEDURAL ORDER: NEXT STEPS AND NOVEMBER 2025 DELIBERATION"** was electronically filed to the Hearing Officer and the Parties via email (Jackie.Calicchio@coag.gov) in accordance with the Hearing Officer's July 18, 2025, Order Re: Procedures and Deadlines for Prehearing Submissions.

s/ Bruce C. Walters

Bruce C. Walters, Attorney Reg. No. 50235