

THE COLORADO WATER CONSERVATION BOARD

DENVER WATER'S PARTY STATUS REQUEST

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

Pursuant to Rule 6(m)(5)(e) of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program of the Colorado Water Conservation Board (CWCB), the City and County of Denver, acting by and through its Board of Water Commissioners (Denver Water) hereby submits this Notice of Party Status Request.

1. Identity of Party, Mailing Address, Phone and Email:

The City and County of Denver, acting by and through its Board of Water Commissioners
1600 W. 12th Ave.
Denver, Colorado 80204

Please direct all notices, pleadings, and correspondence to Denver Water's counsel:

Jessica Brody, General Counsel
Daniel Arnold
James Wittler
Crystal Easom
1600 W. 12th Ave.
Denver, Colorado 80204
(303) 628-6469
Jessica.brody@denverwater.org
Daniel.arnold@denverwater.org
James.wittler@denverwater.org
Crystal.easom@denverwater.org

2. Statement of the Reasons Denver Water Desires Party Status:

Denver Water supports a permanent mechanism that will preserve the flow regime on the Colorado River that is created by the Senior Shoshone Call.

Pursuant to the Charter of the City and County of Denver, Denver Water supplies water to 1.5 million customers within the City and County of Denver, and its surrounding suburbs, as well

as water to fixed amount contract customers outside of Denver Water's service area. Approximately half of Denver Water's water supply is from tributaries to the Colorado River, the water from which is diverted and stored in Denver Water's West Slope storage reservoirs, including Dillon, Williams Fork and Wolford Mountain Reservoirs. A portion of this water is diverted through the Roberts and Moffat Tunnels to the Front Range as a supplemental source to meet Denver Water's customers' demands, including for public safety, health and welfare.

Denver Water is a party to the Colorado River Cooperative Agreement (CRCA) which includes perpetual terms and conditions intended to protect the flow regime created by the Senior Shoshone Call, known as the Shoshone Outage Protocol (ShOP). In addition to helping to preserve the Shoshone Call Flows, ShOP includes provisions that relieve Denver Water from its obligation to help maintain the Shoshone Call Flows when severe drought conditions and water shortages occur. If the Shoshone Water Rights are acquired and changed to instream flow purposes, it will be necessary for the CWCB to consider how to conform its acquisition of its interest in the Shoshone Water Rights to meet the purpose and intent of ShOP. This is necessary not only to abide by the terms of the CRCA and ShOP, but also to ensure that water remains available to meet essential public safety needs during extreme droughts and water shortage.

Denver Water also desires party status because the Colorado River District's proposed change of the Shoshone Water Rights will result in an unlawful enlargement of the water rights if modifications are not made. This is due to several flaws contained in the River District's historic use analysis. These flaws arise from the use of an unrepresentative study period, the omission of years within the study period when the Shoshone power plant was not operating, and the use of the Dotsero gage to represent the beneficial use of the Shoshone Water Rights. The use of a flawed historic use analysis to measure the Shoshone Water Rights has the potential to impair Denver Water's water rights and result in a retiming of Colorado River operations that will manifest in depleted reservoirs, smaller releases during certain times of the year than had otherwise occurred historically, and larger diversions to refill depleted reservoirs than had occurred historically. To avoid this impact, the CWCB must base its acquisition on an accurate measure of the historic use of the water rights that does not result in an unlawful enlargement.

Additionally, the River District's proposed acquisition agreement requires modifications to ensure the CWCB is exercising its exclusive discretion to operate the Shoshone Water Rights in accordance with the statutory authority granted to it under C.R.S. § 37-92-102, among other modifications that are required to conform to existing agreements which pertain to the Shoshone Water Rights.

The above description of Denver Water's reasons for requesting party status is intended as a summary. Denver Water reserves the right to identify and present additional data,

documents, witnesses and testimony in a more detailed statement as provided for under the In-stream Flow Rules and by the Prehearing Management Order.

Respectfully submitted this 9th day of July, 2025

JESSICA R. BRODY, General Counsel

By: /s/ Daniel J. Arnold
Daniel J. Arnold, No. 35458
James M. Wittler, No. 44050
Crystal J. Easom, No. 55130

Attorneys for the City and County of Denver, acting
by and through its Board of Water Commissioners

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July 2025, a true and correct copy of **Denver Water's Party Status Request** was electronically submitted to the Colorado Water Conservation Board via email to Jackie.Calicchio@coag.gov.

/s/ Daniel J. Arnold

Daniel J. Arnold, Attorney
Denver Water