

**COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO**

**IN THE MATTER OF THE PROPOSED ACQUISITION OF AN INTEREST IN THE
SHOSHONE POWER PLANT WATER RIGHTS**

**STAFF OF COLORADO WATER CONSERVATION BOARD'S MOTION FOR
ADDITIONAL WITNESSES AND PRESENTATION BY THE DIVISION ENGINEER, AND
REQUEST FOR CLARIFICATION**

Staff of the Colorado Water Conservation Board (CWCB Staff), through undersigned counsel, submits this Motion and Request for Clarification in the above-captioned matter.

Pursuant to the Hearing Officer's July 18, 2025 Order, each party is limited to three witnesses. In determining whether or not to acquire an interest in a water right, the CWCB Board is required to hear from representatives from Colorado Parks and Wildlife (CPW) and the Division of Water Resources (DWR). Since CWCB Staff typically coordinates the presentations of CPW representatives but also has its own presentation, CWCB Staff requests permission to have more than three witnesses in order to call CPW representatives. CWCB Staff further moves that any information provided by DWR be presented separate from CWCB Staff's presentation.

CWCB relies on CPW as its biological expert for all acquisitions of water rights or interests in water rights for instream flow purposes. Under section 37-92-102(3), C.R.S., prior to the initiation of any acquisition, the Board must request a recommendation from CPW. Because the Board must rely on representatives of CPW for its evaluation of an instream flow acquisition, and CPW is not a party and therefore cannot introduce its own witnesses, CWCB Staff hereby requests permission to include witnesses from CPW in addition to CWCB Staff members who will be testifying. In addition to the three CWCB Staff witnesses, CWCB Staff requests two additional CPW witnesses for a total of five witnesses.

CWCB also must rely on DWR under section 37-92-102(3) and ISF Rule 6e.(11) to ensure administrability of an acquisition. The Division Engineer should appear in his role as Division Engineer, not a witness of CWCB Staff, to discuss administrability of the proposed acquisition and administration. CWCB Staff therefore requests that the presentation of the Division Engineer not be considered as part of the presentation of CWCB Staff.

CWCB Staff also seeks clarification of the Hearing Officer's July 18, 2025 Order in regards to answering questions from the CWCB Board and rebuttal presentations. While parties can plan their presentations, at this point in the process they cannot predict what questions the Board may ask or what issues may be raised by another party and therefore may not list the appropriate witnesses to address any given question or issues raised. Therefore, CWCB Staff requests clarification from the Hearing Officer that rebuttal statements and responses to questions from the Board can be made by people not listed as witnesses.

If, however, only listed witnesses can respond to questions from the Board and make statements for rebuttal purposes, CWCB Staff revises its request to allow seven witnesses total, four from CWCB Staff, two from CPW, and counsel for CWCB Staff.

Dated this 4th day of August 2025.

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/s/ Jennifer Mele

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