

## **THE COLORADO WATER CONSERVATION BOARD**

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### **IN THE MATTER OF PROPOSED INSTREAM FLOW ACQUISITION DIVISION 5: SHOSHONE WATER RIGHTS**

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#### **REBUTTAL STATEMENT OF AURORA WATER**

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Pursuant to Rule 6m. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level, 2 CCR 408-2 (ISF Rules) and the Hearing Officer’s July 18, 2025 Order Re: Procedures and Deadlines for Prehearing Submissions, the City of Aurora, Colorado, acting by and through its Utility Enterprise (Aurora Water) hereby submits this rebuttal statement regarding the Colorado Water Conservation Board’s (CWCB) proposed acquisition of the Shoshone Water Rights for instream flow purposes.

#### **I. Introduction**

To be clear from the outset, Aurora is not an objector to the acquisition of the Shoshone Water Rights for the purpose of adding instream flow (ISF) as a beneficial use. We do not contest the environmental benefits. Protecting flows in Glenwood Canyon is valuable. The Colorado River is a lifeline to both sides of the Continental Divide, and preserving its health is a shared interest.

Aurora’s participation in this hearing is not about securing any sort of “windfall,” as some have wrongly alleged. That claim is baseless and pure projection. Our sole position is that Shoshone should be preserved as it has historically operated—no more, no less. We recognize that downstream users must be protected from injury just as upstream users must be. The question before the Board is not whether to protect the Colorado River in Glenwood Canyon with the Shoshone Water Rights, but how to do so in a way that is legally sound, environmentally meaningful, and equitable for all Coloradans. Aurora is a supporter of the CWCB’s acquisition of the Shoshone Water Rights, but not as currently proposed. Three interrelated flaws in the current proposal combine to pose a significant threat to Aurora’s water supply.

First, the River District has offered an unrepresentative historical use (“HU”) analysis that cherry-picks data resulting in a greatly expanded quantification. They say it is just “preliminary,” yet have rejected every suggested improvement offered by Aurora and the other Front Range parties. The CWCB

is being asked to adopt this so-called “preliminary” analysis as the basis for acquisition, yet if the analysis cannot withstand testing, it cannot serve as the foundation for a binding agreement.

Second, the River District has proposed an ISF acquisition agreement that improperly delegates administrative powers to the River District and encroaches on the CWCB’s exclusive authority to hold and exercise an instream flow right – an authority that is particularly critical given the magnitude of potential effects from this acquisition. The proposed ISF agreement would require the CWCB to maximize use of the Shoshone Water Rights for ISF purposes at 1,408 cfs at all times unless the River District provides written consent. The Legislature vested the CWCB sole authority to hold instream flow rights, coupled with the obligation to balance environmental protection with the protection of existing users. The River District’s proposed ISF agreement undermines that mandate by stripping the Board of its discretion and elevating the River District to a gatekeeping role.

The River District’s reliance on ISF Rule 10 is misplaced, and the very ISF agreements it cites demonstrate that the Proposed Acquisition Agreement goes too far. Rule 10 concerns *enforcement agreements* – arrangements typically made after a water right is decreed to establish terms and conditions necessary that prevent expansion and injury. Enforcement is premature here: the senior Shoshone water right was decreed over 114 years ago, the junior Shoshone water right was decreed over 69 years ago and Water Court has yet to issue a change decree.

The ISF agreements that the River District relies upon do not support its claim to a deciding role in calling the Shoshone ISF right because those agreements involved rights that were orders of magnitude smaller—5 to 15 cfs or 1,000 to 2,000 acre-feet—rather than the proposed 1,408 cfs and 844,644 acre-feet, and they included drought protections or injury mitigation, or applied to water rights decreed immediately before the ISF agreement. None required the CWCB to sustain a call of this magnitude or ceded the Board’s discretion to another party.

Third, CWCB staff has uncritically aligned with the River District’s expansive HU analysis and supported a proposed acquisition agreement that relinquishes Board discretion. This posture raises serious concerns about whether the CWCB is fulfilling its obligation to consider material injury to existing rights as part of its “appropriateness” determination under ISF Rule 6. By agreeing to acquire the Shoshone Water Rights under the River District’s terms, the CWCB would be effectively aligning itself with the River District in Water Court—throwing its institutional weight behind an analysis that enlarges the Shoshone rights and positioning itself at odds with the very Front Range communities that stand to be harmed.

Moreover, even if Rule 10 allows the CWCB to relinquish limited enforcement authority in certain contexts does not mean it should do so here. The stakes are categorically different. This proposed acquisition involves the senior, controlling right on the Colorado River - water that supplies millions of Coloradans – and has drawn legitimate and substantial concerns from municipal providers on the eastern slope. In this context, ceding authority would not be a technical adjustment; it would be an abdication of the CWCB’s core statutory responsibility to balance environmental protection with the protection of existing users.

If the CWCB seeks to grant the River District enforcement authority to call the Shoshone ISF rights, it should first require Public Service Company of Colorado and the River District to quantify those rights in Water Court before any acquisition occurs. This would align with past practice, as shown by the six ISF agreements the River District itself cites, and would ensure that the ISF rights are exercised without expansion or injury.

The Board must also consider that the River District has already entered into agreements with other water users, including Aurora, to address Shoshone permanence. Those agreements were negotiated in good faith, based on historic operations, with protections carefully balanced among competing interests. Any CWCB acquisition should build upon those commitments—not discard them. To disregard them

would unravel years of cooperative effort and destabilize the balance between East Slope and West Slope interests.

For these reasons, Aurora respectfully asks the CWCB to pause and take a careful look at the multiple flaws in this proposed acquisition. Consider how to forge a balanced ISF acquisition that preserves the status quo of Shoshone's historic operation and avoids injury both upstream and downstream of the plant. Take the time to work with the parties to get this right. The acquisition of controlling rights on the Colorado River is a watershed decision with far reaching consequences. Do not rush or push this through on the basis of a flawed record, risking disruption to river administration across the state.

The CWCB's decisions are not symbolic—they carry real weight in shaping how Water Court and water users across Colorado understand Shoshone's historic operation and define status quo. This is the Board's chance to set the framework for the future of Colorado's most important river.

## **II. Technical Analysis Demonstrates Expansion Beyond Historical Operation**

Technical work by the Front Range parties' expert witness, Heather Thompson, shows that the River District's proposal enlarges the Shoshone Water Rights beyond historical operation. By requiring CWCB to request administration of up to 1,408 cfs whenever the plant is not generating power, the proposal creates a new "all the time" call that has never existed in practice. Thompson's analysis demonstrates that this expansion directly reduces the supplies available to upstream municipal users, including Aurora. Those reductions are material. They translate into reduced reliability for replacement reservoirs, reduced flexibility in drought operations, and diminished dependability for the water supplies serving hundreds of thousands of Coloradans. That is not reasonable preservation. It is injurious expansion.

Thompson's analysis further identifies several key flaws in the River District's work: (1) the District's modeling ignores drawdowns at Homestake Reservoir, masking the real-world impacts on municipal reliability; (2) it selectively relies on periods that inflate Shoshone's historic diversions while disregarding years that show less use; and (3) it conflates the Junior and Senior Shoshone rights, creating an inflated

“all-in” quantification that goes well beyond actual historic operation. Taken together, these flaws present a distorted picture of Shoshone’s history and inflate the scope of the right far beyond its actual use.

The River District continues to rely on this selective and incomplete approach despite numerous efforts over the last year and a half by the Front Range parties to improve the methodology. It characterizes its analysis as “preliminary,” yet has rejected every reasonable suggestion offered by Aurora and other Front Range entities. Further, this “preliminary” analysis is the very analysis the CWCB is being asked to endorse through acquisition. If the analysis is not reliable enough to be tested, it is not reliable enough to support a binding acquisition agreement.

Without a sound and transparent technical foundation, the CWCB cannot meet its duty under Rule 6(e)(3) to consider whether the acquisition is appropriate and capable of being decreed without injury. Approving the acquisition on the record as it now stands would mean endorsing the River District’s inflated and skewed analysis, tilting the process toward expansion and away from the balanced approach required by statute.

### **III. Rule 10 Does Not Authorize Surrender Of CWCB Discretion, And Prior ISF Agreements Prove The Shoshone Proposal Is An Outlier**

The River District seeks not only to enlarge the Shoshone Water Rights, but also to enlarge its role by stripping the CWCB of its exclusive authority to hold and exercise an ISF right prior to quantification in Water Court. The River District’s reliance on ISF Rule 10 is misplaced. Rule 10 provides in part: “*The Board may enter into **enforcement agreements** that limit the Board’s discretion ... and/or may delegate limited authority to act on the Board’s behalf.*” By its plain terms, Rule 10 applies to *enforcement agreements*—arrangements that operate once a right has already been decreed—allowing coordination on monitoring, compliance, or limited delegation to assist in enforcement. The River District stretches this narrow enforcement language beyond its scope. In doing so, the River District’s reading of Rule 10 undermines the very reason the legislature vested the CWCB with exclusive ISF authority: to balance environmental protection with injury prevention and the broader public interest.

The CWCB should not invoke Rule 10 to surrender its discretion or to bind itself, in advance, to exercise a right in a predetermined way before that right has been changed in Water Court, with terms and conditions that prevent expansion and injury. The proposed Shoshone acquisition agreement would do exactly that: obligate the CWCB, as a condition of acquisition, to demand administration of up to 1,408 cfs whenever the plant is not generating power. That is not enforcement—it dictates how the right itself must be exercised in the first instance, effectively expanding Shoshone beyond its historic operation.

The River District cites prior ISF agreements (CRD-19 through CRD-24) as supposed precedent to support its position. In truth, those examples highlight why the Shoshone proposal is an outlier. Each of the cited agreements involved de minimis quantities of water compared to Shoshone—measured in single-digit cfs or a few thousand acre-feet—and *preserved the CWCB’s discretion to exercise or decline to exercise* the ISF rights. In the two rare instances where another party was authorized to act as the CWCB’s agent, the rights had just been changed and decreed—one with the CWCB reserving the sole right to revoke the authorization, and the other with the CWCB retaining its role in making calls. None ceded the CWCB’s discretion or imposed a perpetual obligation on the CWCB to call for administration of a right anywhere near the seniority or magnitude of the Shoshone Water Rights, which control a substantial share of Colorado’s largest river. One of those agreements was subject to a contested hearing before the Board but none were the subject of a contested hearing opposed by such a broad cross-section of Colorado water users, as is the case here. Specifically:

- **CRD-19 (2011, Denver Water/Grand County):** Result of the Colorado River Cooperative Agreement (CRCA). Denver committed 1,000–2,000 acre-feet per year of bypass or delivery water. CWCB retained discretion to call.
- **CRD-20 (2019, City of Boulder):** IGA between Denver, Boulder and Lafayette concerning an environmental pool at Gross Reservoir. Allowed up to 1,500 acre-feet of discretionary releases by Boulder. CWCB retained discretion to call.
- **CRD-21 (2009, Pitkin County Trust):** Conveyed a limited Aspen-area water right (~3.5 cfs) into a revocable trust with CWCB acting as Trustee. CWCB retained discretion to call. Subject to a contested hearing before the CWCB.
- **CRD-22 (1990, City of Boulder):** Agreement to maintain 15 cfs in Boulder Creek. CWCB authorized Boulder to call, but retained right to terminate its delegation of authority at its sole discretion. The water rights had been changed and decreed in 1989.

- **CRD-23 (2013, Denver Water):** Part of South Platte operations agreement. Up to 5 cfs targeted releases from Strontia Springs/Waterton Canyon. Included drought protections. CWCB retained discretion to call.
- **CRD-24 (2015, Colorado Water Trust):** Split-season change of 5.8 cfs on the Yampa. Included explicit injury-mitigation terms. CWCB authorized the Trust to be its agent but preserved its right to place a call. The water rights were changed and decreed in 2013.

By contrast, the 2025 Proposed Shoshone Acquisition Agreement strips the CWCB of discretion, locks the Board into the River District’s expansionary view of Shoshone, and fundamentally departs from past practice. It is inconsistent with the Board’s statutory role, inconsistent with every prior ISF acquisition and improperly cedes CWCB’s exclusive authority to the River District.

#### **IV. CWCB Cannot Defer Its Duty To Water Court Or Use Rule 10 To Justify Surrendering Its Discretion**

CWCB Staff’s suggestion that the Board can defer injury concerns to Water Court—while at the same time invoking Rule 10 to justify the River District’s stripping of CWCB discretion—is misplaced. Rule 6(e)(3) expressly requires the CWCB, before approving an acquisition, to consider whether it “can be acquired ... without injury to other water rights.” Staff’s framing would have the CWCB blindly align with the River District’s flawed HU analysis and become adversarial to the Front Range parties. That obligation takes on even greater significance because staff does more than defer to Water Court: it affirmatively recommends that the Board approve the River District’s acquisition agreement as-is, which obligates the CWCB to demand administration of up to 1,408 cfs whenever the plant is not generating power. Endorsing that obligation does not defer to Water Court—it predetermines the CWCB’s position and places the Board in the role of advocate for enlargement.

Staff’s reliance on Rule 10 is equally misplaced. Rule 10 applies to enforcement agreements—arrangements made after a right has been decreed, allowing for coordination on monitoring or limited delegation to assist in enforcement. It does not authorize the CWCB to bind itself at the acquisition stage to exercise a right in a predetermined way, before Water Court has imposed terms and conditions to

prevent injury. By stretching Rule 10 in this way, staff and the River District attempt to convert a narrow enforcement tool into a license for expansionary acquisition terms.

Rule 6(e)(3) does not require the Board to quantify historical use or predict Water Court's decree. Nor does it require the Board to guarantee that no injury will occur. But it does require the Board to make its own threshold judgment that there is a reasonable basis to proceed *without injury*. If the CWCB sidesteps that inquiry—or worse, embraces the River District's methodology—it throws its institutional weight behind an inflated analysis, rendering Rule 6(e)(3) meaningless. If every acquisition can be deferred wholesale to Water Court, there is no role for the Board's independent consideration at all.

Accordingly, the CWCB should not accept the River District's proposed agreement in its current form. To do so would lock the Board into supporting expansionary terms that eliminate its ability to balance the interests of competing users. Instead, the Board should preserve its exclusive statutory authority to determine when, how, and under what conditions to enforce an ISF right—authority designed precisely to ensure instream flow acquisitions protect the environment without causing material injury.

## **V. Aurora's Request: Get It Right Before Moving Forward**

The Board's responsibility is twofold: to ensure that any acquisition proceeds without material injury to other water users, and to preserve its own exclusive discretion in administering ISF rights. Both duties are put at risk by the River District's proposal. Aurora is not asking the CWCB to fix a number or select a methodology. What we ask is simpler: that the Board decide whether the River District's analysis is reasonable on its face, and if not, condition the acquisition on further work to ensure Water Court receives a fair and accurate record of Shoshone's historic operation. Both downstream and upstream users stand to be injured if flows are mischaracterized, and it is the Board's duty to weigh those competing risks before committing itself as co-applicant.

The Board must not abdicate its unique responsibility. As the only entity in Colorado authorized to hold an instream flow right, the CWCB cannot outsource its judgment to Water Court or the River District.



It must decide now whether the proposal has a reasonable basis to avoid material injury—and do so without ceding its exclusive authority to administer and exercise instream flow rights. The CWCB should not approve the proposed ISF acquisition agreement in its current form. Instead, it should be modified to preserve the Board’s authority and ensure it retains its role as arbiter balancing the interests of all Colorado water users. Accepting the River District’s version as-is would predetermine the CWCB’s position in Water Court and undermine the very reason the legislature entrusted the Board with this authority.

If the CWCB seeks to grant the River District enforcement authority to call the Shoshone ISF rights, then those rights should first be quantified in Water Court before any acquisition. This step would be consistent with past practice and is necessary to ensure they can be exercised without expansion or injury.

Additionally, the Board should build on the River District’s prior good-faith agreements with Aurora and others—crafted to preserve historic Shoshone operations and balance East Slope and West Slope interests—rather than disregard them and risk unraveling years of cooperative effort.

Finally, Aurora urges the Board to consider timing. What is the harm of taking a few more months to get this right—especially when the stakes are so high? The Shoshone Water Rights have been operated for more than a century. The Board now has one chance to set the framework for their future. Rushing to approve a flawed agreement risks tilting the system in a way that cannot be undone.

## **VI. Conclusion**

Aurora supports the concept of adding ISF use to the Shoshone Water Rights. Aurora supports preserving the environmental benefits that the Shoshone Water Rights have historically provided. Aurora supports protecting downstream users from injury. But Aurora cannot support an agreement that expands the Shoshone Water Rights beyond its historic operation, injures upstream users, and strips the Board of its discretion. The CWCB’s responsibility is clear. Consider the potential for material injury. Ask whether the River District’s analysis holds up under review. Condition any acquisition on a fairer path forward. Balance the interests of all Coloradans. That is the task before you.

RESPECTFULLY submitted this 29<sup>th</sup> day of August 2025.

/s/ Joshua Mann  
Joshua Mann  
Attorney for Aurora Water

## CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of August 2025, a true and correct copy of Aurora Water's Rebuttal Statement was electronically served to the Parties and contacts referenced in the Party Status below:

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/s/ Joshua Mann  
Joshua Mann  
Attorney for Aurora Water



**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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**WRITTEN TESTIMONY OF ALEXANDRA DAVIS ON BEHALF OF AURORA WATER**

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As provided for in the July 18, 2025 order of the hearing officer, I, Alexandra (Alex) Davis, have prepared my pre-filed written testimony on behalf of Aurora Water, as set forth in this document, for the Shoshone Water Rights Acquisition Hearing currently scheduled for September 16-18, 2025 before the Colorado Water Conservation Board (“CWCB”).

**I. Qualifications**

I am an Assistant General Manager of Aurora Water. I lead the Water Supply and Demand Division of Aurora Water. The Water Supply and Demand Division acquires, administers, develops, protects and operates aspects of the City's raw water supplies in the Colorado, Arkansas and South Platte basins. It provides short term and long-term planning regarding water supply, storage and demand to meet the City's existing and future water resource needs while protecting the City's water rights portfolio. The Division also administers our water demand (conservation) management program and leads regarding water supply related partnerships.

I have almost 30 years of water resources law, management and policy experience. Before coming to Aurora Water in 2015, I spent many years with the State of Colorado where I served in multiple leadership capacities in different agencies including the Department of Natural Resources, the Attorney General’s Office, the Governor’s Office, and Colorado Parks and Wildlife. I have also served on numerous boards and committees including the Colorado River Drought Task Force, Colorado Anti-Speculation Work Group, the Metro Basin Roundtable, the Colorado Water Center Advisory Board, Colorado Water Trust Board, InterBasin Compact

Committee, Colorado Ground Water Commission, Colorado Water Conservation Board, Western States Water Council, Governor Ritter's South Platte Task Force, Colorado Foundation for Water Education Board and the Colorado Supreme Court Water Rules Committee.

## **II. Aurora - its Importance and its Commitment to Stewardship and Conservation**

Aurora Water provides clean reliable drinking water to nearly 400,000 residents living in the City of Aurora, making it the third largest municipal water provider in Colorado. Anchored by the world-renowned Anschutz Medical Campus, UCHHealth, Children's Hospital Colorado, and the Medical Center of Aurora, Aurora is a global leader in bioscience and healthcare innovation, industries which provide over 30,000 healthcare and bioscience jobs supporting 160+ bioscience companies fostering research and innovation. Additionally, Aurora supports over 22,000 jobs in aerospace and defense, contributing to national security and technological advancements.

Colorado's aerospace sector has average annual wages exceeding \$140,000. The Gaylord Rockies resort and convention center employs over 1,200 individuals, attracts 450,000+ visitors annually, generates a net economic benefit of \$273.3 million per year to Colorado. Aurora's workforce exceeds 210,000 individuals, with 42% holding an associate's degree or higher and a median annual wage of over \$61,000. The Community College of Aurora enrolls more than 9,000 students while the University of Colorado Anschutz Medical Campus enrolls more than 4,500 students, significantly contributing to the talent pipeline in Colorado.

Ninety five percent of Aurora's water supply is surface water. Aurora started developing its water rights in the 1950s. As a result, the City has been extremely innovative in building a reliable though complex water supply system. Aurora implemented permanent water conservation measures decades ago and since then customers have cut water use by 36%. Today, Aurora has one of the lowest per-capita use rates along the Front Range at 115 gallons per capita per day (gpcd), well below the 2050 conservation goal of 129 gpcd in the Colorado Water Plan.

This ethic of stewardship is reflected in a comprehensive and robust portfolio of programs designed to drive efficiency across all sectors - commercial, industrial, and residential. Among its numerous programs to reduce demand in the city, Aurora is a leader in developing and implementing programs that address large industrial water users, reducing high consumption turf, instituting sophisticated tiered rates, and using of AMI and other technologies to detect leaks and reduce loss. A full list of these programs is set forth in Aurora Exhibit 1 (Water Conservation Programs), which demonstrates both the breadth of Aurora's efforts and the heavy emphasis placed on water savings.

Aurora was also an early adopter of reclaimed water for irrigating parks and golf courses and became the first city in Colorado to capture and treat reused water for drinking water. Through the Prairie Waters System – the largest indirect potable water reuse facility in Colorado – up to 95 percent of the city's water can be reused to the point of extinction. In 2022, Aurora was the first municipality in the state to adopt a groundbreaking ordinance prohibiting nonfunctional cool-weather turf in new development.

Taken together, Aurora's operational responsibilities, diverse water portfolio, and unmatched conservation and reuse record demonstrate a deep commitment to using our water critical to our economy and our citizens as efficiently as possible

### **III. Aurora's Water Rights Portfolio and Concerns with the ISF Dedication and Agreement as Currently Presented.**

Aurora co-owns the Homestake Project with Colorado Springs Utilities, which diverts from tributaries of the Eagle River into Homestake Reservoir and through the Homestake Tunnel. Aurora also holds one half of the Busk-Ivanhoe Ditch water rights and two thirds of the Columbine Ditch system, also transmountain systems diverting from the Colorado River.

In whole, Aurora diverts on average 25,000 acre feet annually from the Colorado River. 25,000 acre feet is a tiny fraction of the amount of water the Colorado River produces in

Colorado (which in a dry year on the mainstem is around two million acre feet), a small amount of the Colorado River diverted by other water users and a fraction of the 840,000 plus acre feet of water sought by the River District for the Shoshone instream flow. While it is a small amount relative to these other diversions, it is 25% of Aurora water supply - 25% of the drinking water supply for 400,000 Coloradans. The importance of this transmountain water is further heightened by the fact that the water is fully reusable in the South Platte Basin. Losing one acre foot of trans-mountain water translates to the loss of two to three acre feet in the South Platte basin. Additionally, any loss of this supply inappropriately increases pressure on the South Platte Basin water supplies because by diminishing our existing water supply, Aurora would be forced to replace that lost water from other sources. The CWCB as the water policy arm of the State of Colorado should not take actions to better a situation in one Basin in a manner that diminishes or harms critical water supplies in another river Basin.

The specific water rights decreed to the Homestake Project, including amounts absolute and conditional, are detailed in Aurora Exhibit 2 (Summary of Aurora Water Rights Affected by Shoshone). The skewed historical use analysis provided by the River District's quantification, its inflation of Shoshone's historical diversions by roughly 36 percent and Hydros Consulting's flawed yield assessment of the Shoshone Water Rights has been clearly set forth in other Aurora documents submitted for this proceeding. Rick Keinitz (witness for Homestake Partners) will discuss in more detail the injury awaiting Aurora's water supply if the River District's analysis were to be adopted, for example, the decrease of up to 6,869 acre-feet of storage annually.

It is clear that the ISF acquisition proposal as currently postured would dramatically expand the frequency and volume of Shoshone calls beyond historic operation, thereby reducing Aurora's yield from Homestake by several thousand acre-feet annually. Such reductions are

contrary to Colorado Water law, directly impair Aurora’s ability to meet demands and maintain storage reliability and inappropriately take water from the South Platte Basin.

Currently, ISF Dedication and ISF agreement inappropriately requires CWCB to call for 1408 CFS under the Shoshone water rights for ISF purposes at all times. While the CWCB may have delegated such authority once or twice before, the magnitude of the potential impact of such a delegation in this case cannot be understated. This is not only a de facto expansion of use in contravention to Colorado water law, but it also strips the CWCB of its exclusive statutory authority under C.R.S. § 37-92-102(3) to balance the needs of the environment with the needs of existing water users. The CWCB is statutorily charged to be more thoughtful, nimble and protective of Colorado water users particularly in times of scarcity regardless of the cause of that scarcity. The current delegation of authority would completely obviate the CWCB's ability to meet its charge.

#### **IV. Existing Commitments Must Be Honored**

Aurora and the River District have already negotiated a binding agreement to address Shoshone permanence in the 2018 Intergovernmental Agreement (2018 IGA) among Aurora, the River District, and West Slope parties. Under the 2018 IGA, Aurora Water agreed to support changing the Senior Shoshone Water Right to include ISF use, and in return, the River District agreed to several important protections:

1. That the change of the Senior Shoshone Water Right to ISF uses would maintain the flow regime created by the Senior Water Right (see ¶ 34);
2. That the “Agreement Regarding Shoshone Call Reduction,” between the Denver Water, the River District and PsCO, dated April 30, 2007 (2007 Call Reduction Agreement) is made permanent and applies to any ISF use (¶ 34.4.1); and

3. That in the event of curtailment or the threat of curtailment under the Colorado River Compact or the Upper Colorado River Basin Compact, the CWCB and ISF parties will work cooperatively with all water users, including Aurora, to minimize adverse impacts across the divide (§ 34.4.2).

The River District's proposed draft Shoshone Water Rights Dedication and ISF Agreement fails to meet these requirements of the 2018 IGA. In the 2018 IGA, Aurora also agreed to negotiate in good faith regarding the possible addition of ISF use to the Junior Shoshone Right. However, given the River District's expansion of historic use through flawed analysis and its proposed delegation of CWCB's exclusive authority to administer the Shoshone ISF rights, Aurora cannot at this time support adding ISF to the Junior Right. To do so under the current proposal would allow administrative calls far beyond historic operation and result in material injury.

## **V. Conclusion**

Aurora supports CWCB's acquisition of the Shoshone Water Rights in principle and in accordance with Colorado water law. Preserving flows through Glenwood Canyon is beneficial for the environment and for Colorado as a whole. Aurora is not seeking to enlarge its existing entitlements. However, Aurora must adamantly protect every drop of what it has. And the State should not knowingly injure or impede critical drinking water rights of its citizens but should only approve the acquisition of the Senior Shoshone Right subject to conditions that preserve its historic operation and prevent injury to existing water rights. This requires the Board to take a measured approach, not rush through adoption of a flawed agreement. Aurora asks the Board to act carefully and independently: protect the environment, safeguard existing rights, and maintain the trust of all Coloradans who depend on this river.

Respectfully submitted,

/s/ Alex Davis  
Alexandra L. Davis  
On Behalf of Aurora Water

**Exhibit References:**

- Aurora Ex. 1 – Water Conservation Programs (Aurora 1 Slides, pg. 3)
- Aurora Ex. 2 – Summary of Aurora’s Water Rights Affected by Shoshone

## CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of August 2025, a true and correct copy of Alexandra Davis's Written Testimony was electronically served to the Parties and contacts referenced in the Party Status below:

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