

**BEFORE THE COLORADO WATER CONSERVATION BOARD  
STATE OF COLORADO**

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**IN THE MATTER OF PROPOSED ACQUISITION OF AN INTEREST IN THE  
SHOSHONE WATER RIGHT FOR INSTREAM FLOW USE ON THE COLORADO  
RIVER**

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**REBUTTAL STATEMENT OF KOBE WATER AUTHORITY**

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Pursuant to the Hearing Officer's July 18, 2025, Order re: Procedures and Deadlines for Prehearing Submissions, Kobe Water Authority ("KWA") submits this rebuttal statement in support of the proposed acquisition by the Colorado Water Conservation Board ("Board") of the Shoshone Water Rights for Instream Flow Uses.

The prehearing briefs of the Front Range opposers ignore the very important fact that historical return flows must be maintained in order to prevent injury to downstream junior water rights. As KWA made clear in its prehearing statement, maintenance of the historical return flow regime of the Shoshone Water Rights is vital to KWA's continued ability to operate the Kobe Project. Similarly, maintenance of those return flows is essential for all the junior water rights located on the 145 miles of Colorado River between the Shoshone Power Plant and the Utah border.

Junior appropriators have a legally protected right in the maintenance of historical return flows in any change proceeding, *City of Thornton v. Bijou Irr. Co.*, 926 P.2d 1, 80 (Colo. 1996). In evaluating the appropriateness of the proposed acquisition, ISF Rule 6e(3) requires the Board to consider "[a]ny potential material injury to existing decreed water rights", which necessarily includes consideration of the need to maintain historical return flows and protect junior appropriators' rights in those.

For the reasons described above and in KWA's prehearing statement, KWA requests the Board determine that: (1) the acquisition is appropriate to preserve and improve the natural environment to a reasonable degree; (2) the best use of the acquired interest in the Shoshone Water Rights is to preserve and improve the natural environment of the Shoshone Reach to a reasonable degree, and (3) that the Board accept the donation agreement as tendered.

Respectfully submitted this 29th day of August 2025

JVAM PLLC

*Attorneys for Kobe Water Authority*



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**Certificate of Service**

I hereby certify that on August 29, 2025, a true and correct copy of the foregoing REBUTTAL STATEMENT OF KOBE WATER AUTHORITY was served via email to the Parties and contacts referenced in the Party Status below.



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