

**RULES GOVERNING THE USE OF  
COLORADO-BIG THOMPSON PROJECT WATER AND  
WINDY GAP PROJECT WATER FOR THE  
DEVELOPMENT OF OIL AND GAS WELLS**

**DEFINITIONS**

C-BT Project: Colorado – Big Thompson Project.

Northern Water: Northern Colorado Water Conservancy District.

Subdistrict: Municipal Subdistrict, Northern Colorado Water Conservancy District.

Well Development Water: Water used for the development of oil and/or gas wells encompassing related activities including, but not limited to, drilling oil and gas wells, and hydraulic fracturing of oil and gas wells. Well Development Water shall also include the water that is used in the formulation of products, compounds, or admixtures that may be used in the development of oil and/or gas wells and activities related thereto. Such products, compounds, or other admixtures, after formulation, shall be considered Well Development Water for the purposes of this Rule.

Water Hauler: A business, entity, or individual that hauls water to well drilling sites in trucks. This also includes a business, entity, or individual that hauls water or water recovered from a hydraulic fracturing process at one well site to another well site to be used as Well Development Water.

Water Supplier: An entity capable of delivering C-BT Project water or Windy Gap Project water to Water Haulers.

Windy Gap Project: Project that pumps water from the Colorado River for delivery to water users via the C-BT Project, which is managed through the Municipal Subdistrict, Northern Colorado Water Conservancy District.

**PURPOSE**

The purpose of these Rules is to assure that the use of C-BT Project water and Windy Gap Project water as Well Development Water complies with: a) the contract between the United States and Northern Water dated July 5, 1938; b) Colorado Revised Statutes 37-45-118(j); and, c) the terms and conditions of every allotment contract for either C-BT Project water or Windy Gap Project water, all of which require that the use of C-BT Project water and the first use of Windy Gap Project water by allottees or their designees be within the boundaries of Northern Water or the Subdistrict.

These Rules define the actions which must be taken if Well Development Water is supplied, directly or indirectly via lease or delivery to a Water Hauler, by the Water Supplier, including but not limited to, a Northern Water Account Entity, a C-BT Project allottee, or a Windy Gap

Project allottee. These Rules further define actions which Northern Water or the Subdistrict may take should C-BT Project water or the first use of Windy Gap Project water be beneficially used as Well Development Water outside Northern Water or Subdistrict boundaries.

#### **APPLICABILITY**

These Rules shall apply to the use of C-BT Project water and the first use of Windy Gap Project water for Well Development Water.

These Rules shall not apply to the reuse of Windy Gap Project water. The reuse of Windy Gap Project Water outside the boundaries of the Subdistrict within the State of Colorado is allowed.

#### **C-BT RETURN FLOWS**

C-BT water is limited to one use in order to make return flows which result from the first use of C-BT water available to in-district, downstream diverters. These return flows are an important source of water in the South Platte River Basin for Northern Water constituents/taxpayers. Because use of C-BT water for oil and/or gas well development may eliminate return flows, either due to the quality of the return flow water or for other reasons, the Board may at a future time require a Water Supplier to dedicate water from additional C-BT units to offset the loss of return flows if return flows resulting from the use of C-BT water as Well Development Water causes a significant reduction in return flows to the stream system..

#### **RULES**

1. The use of C-BT Project water and the first use of Windy Gap Project water as Well Development Water associated with any oil or gas well located outside the boundaries of Northern Water or the Subdistrict is a violation of the contractual and statutory provisions stated above in Purpose. Therefore, the use of C-BT Project water and the first use of Windy Gap Project water as Well Development Water cannot and shall not be made for any oil or gas well located outside the boundaries of Northern Water or the Subdistrict. The beneficial use of Well Development Water occurs at the location of the oil and/or gas well associated with that use.
2. The management, staff and legal counsel of Northern Water and the Subdistrict are directed and authorized to enforce these Rules, including, but not limited to, the initiation or prosecution of appropriate legal actions.
3. If a Water Supplier provides any water to a Water Hauler who transports water outside Northern Water or Subdistrict boundaries, such Water Supplier shall be required, through accounting requirements or other procedures acceptable to Northern Water or the Subdistrict, to demonstrate that water delivered outside Northern Water or Subdistrict boundaries was neither C-BT Project Water nor first use of Windy Gap Project Water.
4. A Water Supplier that delivers Well Development Water to a Water Hauler has the responsibility to assure, to document, and to certify to Northern Water and the Subdistrict, on a

monthly basis that the C-BT Project Water or the first use of Windy Gap Project water is being beneficially used within Northern Water or Subdistrict boundaries. Proper accounting is required of C-BT Project water and Windy Gap Project water delivered to Water Haulers as Well Development Water. The Water Supplier must certify that the beneficial use of C-BT Project water or the first use of Windy Gap Project water used as Well Development Water is occurring within Northern Water or Subdistrict boundaries. Incorrect or falsified information, documentation, and/or certifications provided to Northern Water or Subdistrict management or staff under the Rules, accounting requirements, or other procedures adopted by management or staff shall be subject to penalties pursuant to applicable law. The Water Supplier may rely on information supplied by a Water Hauler in providing the required certifications and accounting unless the Water Supplier has reason to believe that the information provided by the Water Hauler is incorrect or falsified. Information provided to the Water Supplier by a Water Hauler may be used by the Water Supplier to verify the accuracy of the representations made by the Water Supplier, including submitted accounting and certifications. The Water Supplier will be expected to take timely and appropriate corrective action against a Water Hauler that provides incorrect or falsified information regarding the use of Well Development Water. Multiple incidents of a Water Hauler providing incorrect or falsified information regarding the use of Well Development Water will result in Corrective Actions by Northern Water and/or the Subdistrict against the Water Supplier.

5. The management and staff of Northern Water and the Subdistrict are directed and authorized to prepare and adopt appropriate accounting requirements and other procedures for enforcement of the Rules.

6. A Water Supplier who determines that a violation of these Rules has occurred may cure the violation within 72 hours of learning of the occurrence of the violation by complying with correction CA1 and report the cure to Northern Water or the Subdistrict, as is applicable, with no further corrective actions taken by Northern Water or the Subdistrict. A violation cured by a Water Supplier shall not be considered a violation under these rules. More than two violations and cures under this Rule 6 due to the actions of one Water Hauler may result in imposition of one or more Corrective Actions at the discretion of management, staff, and legal counsel.

7. The management and staff of Northern Water and the Subdistrict are directed and authorized to take the following corrective actions (CA) when, in their judgment, there is a violation of the Rules or the accounting requirements or other enforcement procedures adopted by management and staff.

8. Nothing in these Rules alters or amends the contract or statutory right and authority of Northern Water or the Subdistrict to suspend the delivery of water or determine forfeiture of water allotments. A violation of these Rules may result in a suspension or termination of an allotment contract.

9. Water supplied by a Water Supplier as Well Development Water shall not be included as a demand or commitment to serve in the calculations to determine the ownership limitation for C-BT Project Water Allotment Contracts. Water Suppliers will be required to provide the

accounting necessary to determine the amount of Well Development Water provided by the Water Supplier as necessary for Northern Water to perform the ownership limitation calculations. Any proposed transfer of C-BT Project water allotment contracts to the Water Supplier shall not be considered by the Northern Water Board of Directors unless and until such accounting is provided.

### **CORRECTIVE ACTIONS FOR VIOLATIONS (CA)**

Unless cured by the Water Supplier, the initial violation will result in enforcement of CA1. Second and subsequent violations will result in the enforcement of CA1, in addition to one or more of Corrective Actions CA2 through CA6.

#### **CA1**

1. The Water Supplier will be required to provide a replacement water supply to Northern Water and/or the Subdistrict. Management and staff are directed and authorized to define the requirements for replacement water supply.

#### **CA2**

1. The net of water transferred into the Water Supplier's C-BT Project account at the end of the month in which the violation occurred will be deducted from the balance of the Water Supplier's account and will be returned to the general pool of C-BT Project water or Windy Gap Project water, as appropriate. If the water is returned to the C-BT Project, it shall be considered a contribution to the Regional Pool Program for the current Water Year and the subsequent Water Year.
2. Additional transfers of water into the Water Supplier's C-BT Project account and/or Windy Gap Project account for the remainder of the then current Water Year will not be permitted.

#### **CA3**

1. As of the first of the month following the discovery of a violation, the amount of C-BT Project water certified for delivery to the Water Supplier will be considered to be based on a 50% quota, regardless of the quota(s) declared by Northern Water Board of Directors and in effect on the date of the discovery of the violation. For the purpose of CA3 and the calculations to be performed under this Corrective Action, the balance of C-BT Project water in the Water Supplier's account at the beginning of the then current Water Year will be based on a 50% quota. Further, net water transferred into the account, as of the date of the discovery of the violation, will be deducted from the beginning balance. Lastly, any C-BT Project water used by the Water Supplier from the beginning of the C-BT Water Year to the date of the discovery of the violation will be deducted from the Water Supplier's C-BT Project account balance. Any excess water in the

Water Supplier's account in excess of the calculated balance will be deducted from the Water Supplier's account and returned to the general pool of the C-BT Project. Water returned to the C-BT Project general pool will be considered a contribution to the Regional Pool Program for the current Water Year and the subsequent Water Year.

2. Additional transfers of water into the Water Supplier's C-BT Project and/or Windy Gap Project account for the remainder of the then current Water Year will not be permitted.

#### **CA4**

1. In the two subsequent C-BT Project Water Years following the date of discovery of the violation, the C-BT Project quota used to determine the amount of water that will be certified to be delivered to the Water Supplier will be based on a 50% quota, regardless of the quotas declared by the Northern Water Board of Directors during the applicable C-BT Project Water Year.
2. The Water Supplier will not be allowed to transfer C-BT Project water into its account utilizing a CD-4 Card during the two subsequent C-BT Project Water Years following the date of discovery of the violation.
3. The Water Supplier will not be allowed to acquire the ownership of any additional acre-foot units of C-BT Project water during the two subsequent C-BT Project Water Years for any purpose, including, but not limited to, units to meet commitments to serve, units that would otherwise be transferred to the Water Supplier to meet development water requirements, or units that would otherwise be purchased by the Water Supplier.

#### **CA5**

1. Well Development Water delivered by a Water Supplier will be excluded and subtracted from historic water demand calculations used to determine C-BT Project Ownership Limitations. Well Development Water will be excluded and subtracted from water demand records beginning with C-BT Project Water Year 2002.

#### **CA6**

1. Northern Water and the Subdistrict reserve the right, at the discretion of the Board of Directors of Northern Water and/or the Subdistrict to pursue legal actions to enforce these Rules.

#### **RIGHT OF APPEAL**

Any allotment contract holder that is subject to corrective action imposed by management and staff of Northern Water or the Subdistrict for violation of these

Rules shall have the right to petition the Board of Directors to review the decision of management and staff. The decision of the Board of Directors regarding such petition shall be final.

Northern Colorado Water Conservancy District  
Berthoud, Colorado  
Effective Date: June 1, 2012