
District staff and legal counsel have developed this Rule and Procedures over the past 18 months. The Rule describes and implements the Carryover Capacity Transferability Program, while the Procedures describe the operational details. The Board adopted the Rule at a public hearing held on August 13, 2004

CARRYOVER CAPACITY TRANSFERABILITY PROGRAM (CCTP)

RULE

NORTHERN COLORADO WATER CONSERVANCY DISTRICT

August 2004

I. Carryover Capacity Transferability Program Background

The Northern Colorado Water Conservancy District (District) Board first established a carryover program for Colorado-Big Thompson Project (Project) water users in 1985. The District's Carryover Capacity Transferability Program (CCTP) is a new water management program initiated following a series of meetings between District staff and allottees during 2003 and 2004.

Under the District's current Annual Carryover Program (ACP), Account Entities[‡] (AEs) can preserve a limited amount of unneeded quota water in the current water year and take delivery of the same amount in the subsequent water year. Absent an ACP the District would annually cancel any water allocated, but not delivered, from an AE's Quota Account and revert the water to the District for future allocation.

The CCTP incorporates additional flexibility into the ACP by allowing an AE to either increase or decrease its capacity to carryover water from one year the next, and to market and transfer unneeded carryover capacity.

The *Carryover Capacity Transferability Program Rule* describes the CCTP and its relationship with other District programs. Detailed guidelines for daily and seasonal implementation of this rule are outlined in an accompanying document entitled *Carryover Capacity Transferability Program Procedures*. The District Board, staff, and counsel will carefully monitor the CCTP on a continuing basis and gather input from C-BT allottees and water users for review. While the Board recognizes the importance of the CCTP, its relationship to the ACP, and the benefits of these programs to many allottees, the Board may modify or discontinue the programs at any time.

II. Purpose & Authority

The CCTP allows C-BT allottees and AEs to collectively maximize the potential carryover capacity available under the ACP, and as described in the District's *Annual Carryover Program Rule*. The Board has sole discretion and authority to implement the

[‡] An Account Entity is a term used by the District to define one or more water users that certify their Project water to a similar Quota Account. See *Carryover Capacity Transferability Program Procedures*, Section C.

CCTP and allocate Project water under the 1938 Repayment Contract, the Water Conservancy Act, District allotment contracts, and all other applicable authority.

III. General CCTP Description

Each water year the District allocates Project water to allottees according to their respective C-BT contract(s). Each contract specifies that the annual yield of an acre-foot unit is “.....1/310,000 of the quantity of water annually declared by the Board of Directors of the District to be available for delivery from the water supplies of the District.” Under some conditions an AE may not use the full annual yield from its C-BT contract to meet its current water year demand. The District’s ACP allows any AE with unused Project water to maintain control over all or a portion of it into the following water year. The *Annual Carryover Program Rule* defines the mechanism and volumetric limitations for AEs to carry over water. Under the current ACP the maximum amount of carryover water is defined as a fraction of an AE’s C-BT units certified to its Quota Account. Once the water is “carried” into the following year, an AE has a limited period of time to certify this water and take delivery of it from the Carryover Account. Any carryover water remaining at year-end is cancelled and reverts to the supplies of the District.

The District’s AEs have a wide range of abilities to use C-BT carryover water. Some AEs may prefer to preserve significantly more water into the following water year than is individually available under the *Annual Carryover Program Rule*. Others may have little or no use for carryover water. The CCTP enables AEs requiring additional carryover capacity to obtain it via an annual lease from other AEs. Once the District receives a signed CCTP Transfer Card (CD-8 Card), the District will credit the lessee’s carryover capacity and debit the lessor’s carryover capacity the same amount. The CCTP insures that annual redistribution of carryover capacity will not exceed the total carryover capacity within the Project. The carryover level set by the Board is 0.20 acre-feet per C-BT allotment contract unit, which collectively equals approximately 62,000 acre-feet of carryover capacity for all allottees (0.20 x 310,000 C-BT units).

Any AE leasing additional carryover capacity may “fill” the additional capacity with quota water or water annually transferred from another AE. As outlined in the *Annual Carryover Program Rule*, all carryover water must be delivered by the end of the water year in which it is certified as carryover water. Any water remaining in an AE’s Carryover Account after October 31 will be cancelled and revert back to the District. In addition, all carryover capacity assignments expire on October 31 of each water year.

IV. CCTP Eligibility

Carryover capacity may only be credited to an AE’s Carryover Account for the subsequent water year if that same AE has a Quota Account in the current water year and will have a Quota Account in the subsequent water year.

Each AE is responsible for the internal accounting, administration, and/or delivery of water within its Quota Account and Carryover Account. However, for the purpose of meeting its accounting and administration obligations associated with C-BT Project return flows, the District reserves its right to require an accounting of the actual use of an AE's quota water and carryover water.

V. Transferring and Crediting of Carryover Capacity

On November 1 of each water year the District will compute each AE's carryover capacity (referred to as base carryover capacity). At such time an AE's base carryover capacity (in acre-feet) will be equal to the number of C-BT units certified to the AE multiplied by 0.20 acre-feet. An AE may transfer or assign such carryover capacity to another AE for utilization the following water year by completing and providing to the District a CCTP Transfer Card (CD-8 Card). The District will accept completed CCTP Transfer Cards from November 1 of the current water year until the following October 20 of the same water year. CCTP Transfer Cards must include the lessor's name and the quantity of carryover capacity leased. Supplemental carryover capacity can only be transferred from, or credited to, an AE (or AEs) with a certifiable Quota Account in the current water year.

At 12:01 a.m. on November 1 of the following water year the District will debit the capacity of the Carryover Account of all AEs submitting CCTP Transfer Cards an amount specified on the CCTP Transfer Card. Correspondingly, the District will credit the capacity of the Carryover Account of all AE's designated as recipients of such carryover capacity. At the same time the District will also credit the Carryover Accounts of all AEs with the newly computed base carryover capacity as provided under the *Annual Carryover Program Rule*. The District will credit and debit all carryover capacity immediately prior to defining the carryover water eligible to each AE. All supplemental carryover capacity will expire at the end of the water year (October 31) in which it was credited to and utilized in an AE's Carryover Account.

The District will not be party to any agreements, contracts, or understandings between any AE or allottee leasing carryover capacity.

VI. CCTP Modifications

The Board anticipates the ACP and CCTP will increase an AE's water management flexibility and help maintain the Project's long-term reliability. The Board considers the CCTP (as outlined in the *Carryover Capacity Transferability Program Rule* and the *Carryover Capacity Transferability Program Procedures*) "experimental". For this reason the District Board, staff, and counsel will continually monitor the impacts of the CCTP on the Project, AEs, allottees, and on other Project beneficiaries. The Board may modify or terminate the CCTP at any time. If the Board takes such action it will be

implemented prospectively (i.e. any AE leasing supplemental carryover capacity in the current water year will be allowed full use of the carryover capacity in the following water year, and within the provisions of the *Carryover Capacity Transferability Program Rule* and the *Carryover Capacity Transferability Program Procedures* then in place).

CARRYOVER CAPACITY TRANSFERABILITY PROGRAM (CCTP)

PROCEDURES

NORTHERN COLORADO WATER CONSERVANCY DISTRICT

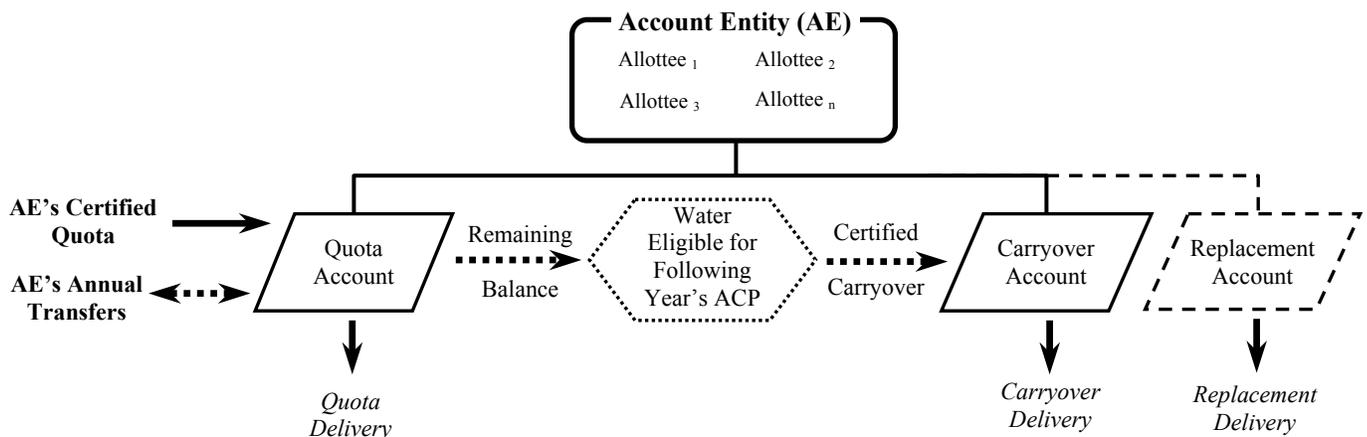
August 2004

A. Purpose of Procedures

The *Carryover Capacity Transferability Program (CCTP) Rule* (August 2004) describes and implements the Northern Colorado Water Conservancy District's (District) CCTP. Following are the specific Procedures used by District staff to administer the *Carryover Capacity Transferability Program Rule*. The *Carryover Capacity Transferability Program Procedures* should also assist Colorado-Big Thompson (C-BT) allottees in understanding the Program's administration and demonstrate the water management benefit(s) that the Program may offer.

B. District and ACP Nomenclature

The District's water administration and accounting have evolved throughout the Project's history, including unique District nomenclature. The CCTP is founded on many of these concepts. The following illustration and description clarify this nomenclature.



An Account Entity (AE) may consist of one or more C-BT allottees, all of which have certified their quota water to that particular AE. The District individually maintains up to three (3) Accounts for each AE: a Quota Account, a Carryover Account, and for some AEs, a Replacement Account. As illustrated, the District will credit all of an AE's certified quota water to the Quota Account throughout the water year in which it was declared. Some AEs may elect to transfer annually a portion of their certified quota

water to another AE. In that same water year, the AE may take delivery of water from its Quota Account, and potentially at multiple delivery points.

At the end of the water year, any water remaining in the Quota Account automatically becomes eligible for the ACP (subject to the *Rule* and all applicable *Procedures*). If an AE elects to certify all or part of its eligible carryover water for use in the next water year (by submitting the appropriate form and payment), the District will credit the then certified water to the Carryover Account and deliver it upon request to the same delivery point(s) identified for the AE's Quota Account.

Some AEs receive replacement water. Like carryover water, the District will credit replacement water to an AE's Replacement Account and deliver it to the AE as requested.

In certain circumstances an AE may not have a C-BT allotment contract(s) certified for delivery through its Quota Account. This condition only arises when C-BT water is rented and transferred on an annual basis to a water user that is not an allottee. Any AE having this characteristic cannot participate in the ACP because it would not meet the program's C-BT ownership criteria.

For the sake of simplicity, the illustration above does not depict other water supplies that may be available to certain AEs. "Additional" water supplies may include Windy Gap Project water or water held in the Project under the terms and conditions of a C-BT carriage contract.

C. CCTP Related Definitions

The following definitions and principles are used in formulating and describing the *Rules* and *Procedures* that govern the implementation of the CCTP.

Account Entity (AE) - An AE may be comprised of a single C-BT water user, or multiple C-BT water users. In most instances one or more C-BT allotment contracts have been certified for delivery through an AE's respective Quota Account. An AE may have multiple physical delivery points from the C-BT Project. For some agricultural water users, a C-BT "carrier" may be synonymous with an AE having the same name.

Carryover Account - An account that is maintained by the District for each AE that had a Quota Account in the previous water year and that has a Quota Account in the current water year. The District will automatically establish this account on November 1 of the current water year. If, and when, an AE elects to certify all, or a portion, of its eligible carryover water from its previous water year's Quota Account the Carryover Account is credited an amount equal to the certified volume. Water can only be delivered from the Carryover Account during the current water year and for those uses and

purposes consistent with all the District's rules, policies, procedures, and guidelines. Only under certain circumstances can carryover water be transferred from one AE's Carryover Account to another AE's Carryover Account.

Carryover Capacity - The potential maximum volumetric limitation of a given Carryover Account. Each Carryover Account has an automatically computed carryover capacity and generally referred to as the base carryover capacity. An AE may voluntarily increase or decrease its respective carryover capacity by utilizing the District's Carryover Capacity Transferability Program (CCTP) as defined in the *Carryover Capacity Transferability Program Rule*. Any carryover capacity leased by an AE to increase its respective carryover capacity beyond the computed base carryover capacity is referred to as supplemental carryover capacity. The amount of carryover water credited to an AE's Carryover Account must be less than, or equal to, the AE's respective carryover capacity. Carryover capacity is measured in acre-feet.

Carryover Water - The quantity of water in an AE's Carryover Account that has been carried over from the previous water year's Quota Account. This water is allocated and credited to the AE's Carryover Account in accordance with the District's *Annual Carryover Program Rule and Procedures*. An AE may use its carryover water only after its eligible carryover water is certified. Furthermore, carryover water must be used by the holding AE and may only be transferred in certain circumstances. Any carryover water not used in the current water year will be cancelled from the AE's Carryover Account and revert back to the Project.

Quota Account - An account established and maintained by the District to administer the delivery of quota water. Quota Account water consists of water allocated in the current water year and may be Project quota water and/or water annually transferred from the Quota Account of another AE. Only water remaining in a Quota Account at the end of the water year is eligible for carryover under the ACP.

Quota Water - Project water that is made available or allocated to an allottee owning a Project water allotment contract or contracts. The total volume of quota water in a given water year is the summation of the initial quota declaration, which takes effect on November 1 of the current water year, plus any subsequent supplemental quota declarations made by the Board. Each allottee or Project water user must notify the District and identify which Quota Account should be credited with its respective quota water.

Replacement Account - An account established and maintained by the District to administer the delivery of replacement water.

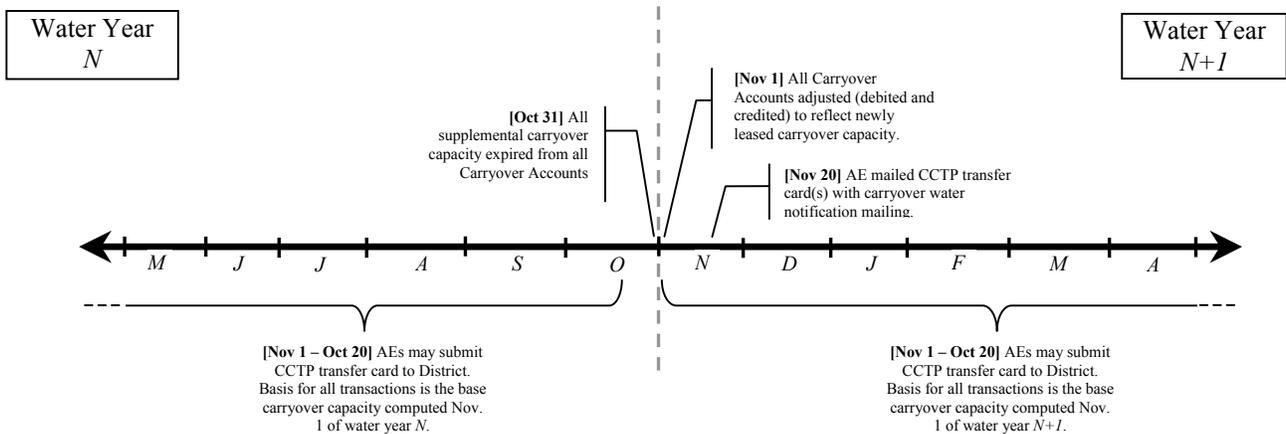
Replacement Water - Water that is credited to a water user's Replacement Account each water year because of an existing Replacement Contract or other contractual obligation between the District and the water user. The District makes Replacement water available to select water users in lieu of certain pre-existing water supplies that were interrupted due to Project construction. AEs with replacement water must take delivery of replacement water prior to any quota water and/or carryover water. Replacement water is not eligible for the ACP.

Transferred Water - Water that is transferred during the water year from the Quota Account of one AE into the Quota Account of another AE utilizing a CD-4 card, or other District-approved means, to document the transfer of C-BT Project quota water. Such transfers must be done in accordance with all District rules, policies, guidelines, and procedures.

Water Year - November 1 of one calendar year through the end of October 31 of the following calendar year.

D. Annual Timeline and Key Dates

Throughout the water year certain CCTP-related events occur and are contingent upon previous actions taken by an AE or the District. Below is a timeline outlining such key events and procedures related to the CCTP. The timeline spans mid-water year to mid-water year to accurately portray end of the water year events.



E. Notification and Posting of CCTP Transfers

The District will accept completed CCTP Transfer Cards (CD-8 Cards) from November 1 of the current water year until the following October 20 of the current water year. An AE must submit a CCTP Transfer Card to increase its carryover capacity beyond its base carryover capacity computed on November 1 of the forthcoming water year. The ratio of base carryover capacity (in acre-foot) to C-BT ownership (in units) depends upon the carryover level set by the Board, and as outlined in the *Annual Carryover Program Rule*.

An AE may only obtain supplemental carryover capacity (measured in acre-feet) and/or credit carryover capacity to another AE if that AE has a Quota Account in the current water year and will likely (reasonably anticipated) have a Quota Account in the subsequent water year.

An AE acquiring carryover capacity may not subsequently transfer carryover capacity to another AE. However, an AE that transfers “away” carryover capacity may at a later date acquire carryover capacity. An AE may only utilize a CCTP Transfer Card to enact a single transfer between AEs, and the card must be signed by the authorized representative of the AE leasing “away” all, or a portion of, its base carryover capacity (i.e. lessor). The CCTP Transfer Card must include the amount of carryover capacity transferred (in acre-feet). The District will only accept carryover capacity transfers in increments equal to, or greater than 0.1 acre-feet, and the transfer cannot exceed the lessor’s remaining carryover capacity.

For accounting purposes, the District will credit and debit all supplemental carryover capacity to, and base carryover capacity from, each corresponding Carryover Account at 12:01 a.m. on November 1 of the water year in which the capacity may be utilized. The District will process CCTP Transfer Cards on a first-in-first-out (FIFO) basis.

The District will not be a party to any agreements, contracts, or understandings between AEs leasing carryover capacity. The District will not assess an administrative fee for any activity related to the CCTP.

For convenience the District will provide each AE with several CCTP Transfer Cards by November 20 of each water year (enclosed within each AE’s carryover water notification and as described in the *Annual Carryover Program Procedures*). Additional CCTP Transfer Cards may be obtained directly from the District.

F. Expiration of Leased Carryover Capacity

At 11:59 p.m. on October 31 of each water year the District will cancel all water remaining within a Carryover Account. This water will revert back to the District for Board allocation at a future date. Likewise, any supplemental carryover capacity the District credits to one AE and debits from another AE at the beginning of the then current water year will expire. The District will recompute base carryover capacity for each AE on November 1, and as outlined in the *Annual Carryover Program Procedures*.

G. Public Posting of Potential CCTP Lessee's and Lessor's

The District will sponsor a CCTP Web page that an AE may use to advertise its desire to lease excess carryover capacity from, or to, another AE. Interested AEs must furnish the District with basic contact information (AE name, phone number, and authorized representative). Optional information may include lease price and the quantity of carryover capacity (in acre-feet) desired or available. It is the responsibility of any AE posting such information on the District's CCTP Web page to notify the District when information becomes obsolete. The District will publicly post the same information in written form at the District's headquarters.

H. C-BT Permanent Transfers and the CCTP

An AE's carryover capacity will not increase in the current water year as the result of a permanent transfer of C-BT units to an allottee underlying the AE in that same year. In accordance with Procedure E.1 of the *Annual Carryover Program Procedures*, the District will only compute carryover capacity on November 1 of any given water year. Thus, any AE that has permanently gained additional C-BT units in the current water year will not have access to the associated carryover capacity until the following water year.

Alternatively, any AE permanently transferring C-BT units in any given year will not suffer an instantaneous loss in carryover capacity in that same water year. A reduction in carryover capacity will be reflected in the following year's carryover capacity computation.