



Regional Pool Leasing Program¹

PROCEDURE (Effective Date: May 13, 2023)

A. Purpose of Procedure

The *Regional Pool Program Rule* (September 2005, modified October 1, 2018) describes and implements the Northern Colorado Water Conservancy District's (Northern Water) Regional Pool Program (RPP). In certain water years, the *RPP Rule* authorizes the Northern Water Board of Directors (Board) the ability to allocate for lease all, or a portion, of the Regional Pool. Following is the Procedure used by Northern Water staff to administer the water leasing aspect of the *RPP Rule*. This Procedure is also intended to assist Colorado-Big Thompson Project (Project) allottees and water users in understanding the administration of the RPP.

The *RPP Rule* defines the purpose and the terms and conditions of the Program, however, certain unanticipated hydrological events or related management challenges associated with the RPP may arise. If necessary, and in an attempt to improve the administration and success of the RPP, Northern Water staff may periodically modify the following Procedure.

B. RPP in Relation to Other Northern Water Programs and Nomenclature

Northern Water's water administration and accounting 'systems' have evolved throughout the Project's history and often contain nomenclature unique to Northern Water. The RPP is founded on many of these concepts, and is closely related to Northern Water's Annual Carryover Program (ACP). The following discussion outlines how Project water – once allocated by the Board – is credited to individual water accounts, and subsequently made available for delivery to an Authorized Use.

An Account Entity (AE) may consist of one or more Project allottees. At a minimum, Northern Water maintains two (2) individual accounts for each AE: a Quota Account, and a Carryover Account. As graphically illustrated below, Northern Water will credit all of an AE's certified quota water to the Quota Account in the water year in which it was declared. In that same water year, the AE may take delivery of water from its Quota Account, or may elect to annually transfer a portion of its certified quota water to other AEs.

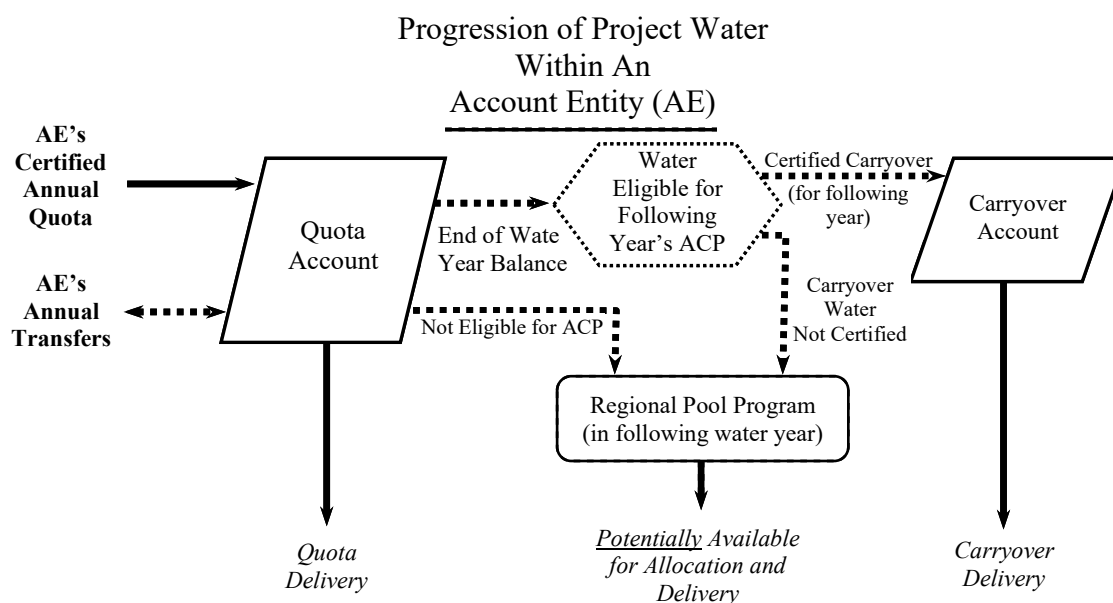
At the end of a given water year (11:59 p.m., October 31), a positive balance may exist within an AE's Quota Account. Any remaining Quota Account balance that is less than, or equal to, the AE's carryover capacity will automatically become eligible for the ACP (subject to the *Annual Carryover Program Rule* and *Procedure*). All remaining quota water in excess of the AE's respective carryover capacity is credited to the Regional Pool and in accordance with the *RPP Rule*. The water eligible for the ACP must be certified (by submitting the appropriate form and

¹ Pursuant to the *Regional Pool Program Rule* adopted October 2005 and modified October 1, 2018.

payment to Northern Water) by the end of April. Once certified the carryover water is credited to the same AE's Carryover Account and delivered upon request for use by that same AE. Any eligible ACP water that is not certified by the April deadline is also credited to the Regional Pool.

Water credited to the Regional Pool may only be allocated by the Board and in accordance with the *RPP Rule*.

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



C. Notification Process

Providing interested water users with timely RPP-related information is key to a successful program. Northern Water's primary means of communication pertaining to ongoing RPP information will be its website (northernwater.org) and information sent directly to interested water users' e-mail addresses. Current RPP information will similarly be posted in Northern Water's lobby (220 Water Avenue, Berthoud, CO). Water users desiring current information pertaining to the RPP, and any Board actions related to the RPP, are encouraged to register for such notifications by creating an account at Northern Water's website or e-mailing regionalpool@northernwater.org and specifying name and e-mail address.

D. Pre-Approval Requirements

When allocated by the Board, water may be leased from the Regional Pool by any water user (i.e., Project allottees, non-Project allottees, or Account Entity) having a known Authorized Use within the boundaries of Northern Water. In those years in which Regional Pool water is made

available for lease, water users desiring to submit a sealed bid must complete a *Regional Pool Program Pre-Approval Form* (Attachment A). A *Regional Pool Program Pre-Approval Form* should be submitted to Northern Water prior to, or accompanying, a bidder's initial bid submittal. The *Regional Pool Program Pre-Approval Form* need only be completed once per water year and will be held on file by Northern Water throughout that water year and referenced if, and when, the respective water user is successful in leasing Regional Pool water. Water users with multiple delivery points (e.g. irrigating land under multiple ditches) must submit a *Regional Pool Program Pre-Approval Form* for each delivery point. Water users not having a completed *Regional Pool Program Pre-Approval Form* on record with Northern Water will be ineligible to bid on RPP water. Information required on the form will include:

- The water user's name, address, telephone number(s), and e-mail address;
- The anticipated type of use of all water leased from the RPP (i.e., irrigation/municipal/domestic/industrial);
- A description of all base (i.e., native) water supplies presently available to the water user used to partially supply existing water needs;
- The physical location of the beneficial use of all RPP water successfully leased. If used for agriculture, RPP water may only be applied to lands having a history of irrigation. RPP water must be used in accordance with Northern Water's policies as related to the use of Project water on lands affected by dry-up covenants or other irrigation restrictions.
- The anticipated point of delivery of all leased RPP water.
- A description as to how the water user intends to physically take delivery of RPP water successfully leased through the RPP (i.e., ditch or canal name, referred to herein as intermediate carrier), and documentation illustrating the concurrence or agreement of an intermediate carrier to deliver RPP water.

To eliminate redundant information, bidders that are currently either an AE or an individual Project allottee are not required to submit all of the information requested on the *Regional Pool Program Pre-Approval Form* (see Attachment A for more information). Interested water users with a known Authorized Use² within the boundaries of Northern Water will be eligible to bid. Bidders desiring to use RPP water for irrigation purposes will be limited to 2.0 acre-feet per acre of irrigable land measured at the farm field (i.e., location of Authorized Use). Prior to bidding, interested water users should contact the Division of Water Resources, Division One Water Engineer, and essential representatives of any and all intermediate carrier(s) to determine the anticipated "shrink" RPP water may incur when delivered to the farm field. Bidders desiring to use RPP water for an Authorized Use of oil and gas well development will be limited to 10 acre-feet per drilling site.

If, by definition, the water user is an AE, additional approval criteria apply. If the AE has not, or did not, fully exercise its carryover option (as defined in the *ACP Rule and Procedure*) by signing up and paying for any and all Carryover Water available from the previous water year, the AE is prohibited from bidding on water from the RPP in the current year.

² See Definition of Authorized Use in related RPP Rule Definitions.

E. Submitting a Bid for Regional Pool Water

In water years in which the allocation criteria for the Regional Pool are satisfied (*RPP Rule*, Section V.B.), Northern Water staff will apprise the Board at each regularly scheduled Board meeting as to the amount of water that has accumulated to the Regional Pool. In addition, Northern Water staff will provide the Board with an RPP summary that indicates the amount of Regional Pool water that has been allocated to date, the amount of Regional Pool water that has been successfully leased, and an aggregate lease price.

Pursuant to the *RPP Rule*, the Board may elect to allocate all, or portions, of the Regional Pool starting in the month of January, but not later than September 15 of any given water year. If, and when, such Regional Pool water is allocated for lease, a public notice specifying the amount of Regional Pool water allocated by the Board, and the date and time by which sealed bids must be submitted to Northern Water, will be publicly posted (per Section D above). Similar information will be sent electronically to all water users who have registered for updates via regionalpool@northernwater.org.

In some instances, the Board may also specify delivery terms that require the allocated Regional Pool water to be leased, and subsequently delivered, by a date earlier than the end of the current water year. In this instance such delivery terms will be explicitly defined by the Board when allocating water from the Regional Pool and will supersede the normal delivery terms outlined herein. The Board may elect to allocate one pool that is available to all Authorized Uses and all water users within the Northern Water boundaries. Or the Board may elect to allocate multiple sub-pools. Sub-pools may be defined by basin (e.g. Poudre, Big Thomson, St. Vrain, Boulder Creek etc.), or by C-BT feature (e.g. Horsetooth, Carter Lake, Hansen Feeder Canal etc.). In addition, the board may designate Authorized Use in each sub-pool. All bids and deliveries for a Regional Pool sub-pool must be for Authorized Uses and water users within that sub-pool; Regional Pool water cannot be transferred.

Following any monthly allocation of Regional Pool water by the Board, water users will have until 2:00 p.m., local time, five (5) business days (or as determined by the Board) after the day in which the Board allocates Regional Pool water to submit a completed and sealed *Regional Pool Program Bid Form* (Attachment B). It is recommended that bids be hand delivered to Northern Water. Northern Water will not be responsible for bids that are lost or delayed if mailed or shipped. Late bids will not be accepted. For bids to be accepted, all bidders are required to complete a *Regional Pool Program Pre-Approval Form* (Attachment A) either prior to, or at the time of, bid submittal.

A *Regional Pool Program Bid Form* must include the volume of RPP water being bid upon (in acre-feet), the water user's corresponding bid price, point of delivery or Account Entity (AE), and sub-pool (if applicable). A water user must submit one *Regional Pool Program Bid Form* for each point of delivery. An interested bidder may bid on all, or a portion, of the Regional Pool water allocated by the Board. Limitations on the amount of Regional Pool water that may be leased by a bidder may be imposed by the Board at the time the Board declares an allocation of the Regional Pool. In addition, a bidder may submit multiple bids for varying quantities of RPP water. If multiple bid amounts and volumes are included on a single form, the bidder will be obligated to lease all water designated as having a "winning bid." To mitigate the possibility of one or more tied bids, bidders are encouraged not to bid in rounded numbers (i.e., please include

cents). Bidding on fractional acre-feet volumes is prohibited and will result in disqualification. In addition, bids received from AEs not having paid for all current year Carryover Water will not be eligible to bid. No monetary funds of any amount are required to be included with the bid submittal.

The completed *Regional Pool Program Bid Form* must be placed into an envelope, the envelope sealed, and labeled: “Regional Pool Bid – Confidential, Attention: Financial Services Department.” The sealed envelope must also identify the name of the associated water user, phone number, and email address. The sealed envelope must also include the name of the sub-pool if the board allocates sub-pools in the regional pool allocation. For bidders that would like to hand deliver their bids to Northern Water, there will be detailed instructions in the Northern Water lobby for creating a label. This label will include the bidders name, date and time stamp and bid number. The label will be placed on the sealed bid envelope and placed in the locked drop box. Bids must be placed in the locked drop box before 2:00 p.m. the day bids will be opened. Bids received by mail on a given day will have identical date and time stamps but will be assigned a bid number based first on the bidder’s numeric street or P.O.B. address, and secondly on the bidder’s zip code number. A tabulation of the bid number and the time and date of receipt will be maintained by Northern Water and available to the public upon request.

F. Auction Method and Awarding the Regional Pool Lease

Sealed bids will be opened in a public forum at approximately 2:10 p.m., local time and on the last day on which Regional Pool bid submittals are permissible for a given monthly allocation. Bids will be opened in sequential order as defined by the date and time stamp. As sealed bids are opened the bid amount(s) and price(s) will be tabulated by bid number and made available to the public. If no tiebreaker is necessary, Northern Water staff will preliminarily award the allocated RPP water to the respective bidder or bidders submitting the highest per acre-foot bid(s). In most instances there will not be adequate water to fully satisfy the amount of water requested by the lowest “winning bidder.” In the case of this bidder, only the remaining un-awarded amount of the Board’s RPP monthly allocation will be awarded. In no circumstance will the cumulative amount of water awarded via this auction method exceed the volume of RPP water allocated by the Board in the same month. If the Board elects to allocate multiple sub-pools, bids will be opened for one sub-pool before opening bids for the next sub-pool. If one sub-pool has more water allocated than water requested, the unawarded water will be made available to other sub-pools that had more RPP water requested than RPP allocated. The un-awarded water will be available to the next highest bid in all other sub-pools.

A final staff determination of awarding RPP water will be made only after all pre-approval requirements are determined to be satisfactory. In some instances field examinations may be required prior to awarding the RPP water. In such instances it may be several days before final determination of winning bids for all allocated RPP water. In the event a field examination demonstrates that RPP water may not be applied to such lands, the awarded bidder will be disqualified and the RPP water will be allocated to the next highest bidder or bidders.

In the event of a tied bid, the first-received bid will be declared the winning bid.

Northern Water will inform all successful bidder(s) as soon as practicable, but no later than five (5) business days following the bid-opening date. RPP award letters and invoices will be sent to

all successful bidders (addressed according the respective *Regional Pool Program Pre-Approval Form*) via the USPS First-Class mail and e-mail (if an e-mail address is provided on the *Regional Pool Program Pre-Approval Form*). Water users awarded RPP water must make payment to Northern Water with cashable funds for all RPP water leased in any given month by 2:00 p.m., local time, on the tenth (10) business day after bids are opened. Any and all successful bidders not submitting full payment for their respective RPP water, and prior to the payment deadline, will automatically forfeit all awarded RPP water. In addition, the same bidder(s) will be prohibited from participating in the RPP the remainder of the current year and the following year in which RPP water is allocated by the Board.

Any RPP water automatically forfeited as the result of untimely payment or nonpayment will be offered sequentially to unsuccessful bidders (i.e., non-winning bidders) beginning with the highest per acre-foot non-winning bidder. When offered “forfeited” water, bidders will be limited to the amount and bid price as described on their respective Bid Form. When offered forfeited RPP water, bidder will not be obligated (i.e., required) to lease such water. Northern Water staff will initially contact such bidders by telephone to notify them of the availability of forfeited RPP water. If the contacted bidder desires to lease the forfeited RPP water, Northern Water will send an award letter and invoice to the interested bidder, as described above. However, bidders offered forfeited RPP water will have only five (5) business days in which to make full lease payment to Northern Water. Bidders awarded forfeited RPP water, but not submitting full payment by 2:00 p.m., local time, on the fifth (5) business day will be prohibited from participating in the RPP the remainder of the current year and the following year in which RPP water is allocated by the Board. The offering of forfeited RPP water will continue as necessary until the monthly allocation of RPP water is successfully leased.

Upon receiving funds from the successful bidder(s), and in the amount representing all of the water awarded to that same water user, Northern Water will certify and credit the leased water to a unique and separate Regional Pool Water Account of the AE identified on the lessee’s respective *Regional Pool Program Pre-Approval Form*. If the lessee is not affiliated with an existing AE, as defined in Northern Water’s Water Accounting System, a new AE and associated Regional Pool Water Account will be created to administer RPP water. Northern Water will not be responsible for the administration, accounting, and/or delivery of water between an AE and the RPP water lessee.

Once RPP water has been paid for and credited to an AE, it will be delivered to the AE at the request of an authorized AE representative. Such RPP deliveries will be made until all the leased water has been released from the Project, or until the end of the water year, whichever occurs first. All RPP water is non-transferrable and all RPP water ordered and delivered must be utilized for direct beneficial use in the same water year in which it was awarded (i.e., no multi-water year storage), and in accordance with all of Northern Water’s rules, policies, guidelines, and procedures.

All Regional Pool water is non-transferable. If unforeseen circumstances occur that result in the lessee not needing all or a portion of its leased RPP water, the water may be re-assigned to Northern Water. At its discretion, the Board may reallocate the re-assigned or returned RPP water in a subsequent auction with sealed bids, or the Board may direct staff to use the bid list from the last auction and offer the water to the next highest bidder.

In any given month in which not all of the allocated Regional Pool water is leased, the remainder may be available for RPP allocation by the Board in the following month(s). At 11:59 p.m., local time, on October 31 of the same water year, Northern Water will consider all RPP related accounts as being cancelled and associated water reverting back to Project Reserves.

G. Tracking and Accounting for the Delivery of Regional Pool Water

Tracking and accounting for the Authorized Use and actual destination of C-BT Project water, including RPP water, is critical to Northern Water. In most instances in which an existing AE is awarded RPP water, Northern Water has information necessary to track and account for the delivery of such water. However, for non-AE water users that are awarded RPP water, Northern Water may require water users to provide additional documentation that verifies the location and Authorized Use of RPP water. Such information may be necessary on a near real-time basis as RPP water is released from the Project, and ultimately delivered to the respective RPP water lessee.

H. Payment to Contributors to the Regional Pool

On, or before, October 15 of each water year in which any water user leases water from the Regional Pool, Northern Water will pay back lease revenues, less an administrative fee imposed by Northern Water to those AEs that contributed water to the Regional Pool and are eligible to receive revenues. AE's that contribute to the Regional Pool and subsequently submit a successful bid to lease water are not eligible to receive revenues from Regional Pool allocations in that year. The payment will be accompanied with a reconciliation of all Regional Pool activities throughout the water year. The amount paid back to each AE will be dependent upon the quantity of water contributed to the Regional Pool in the current water year (either from water in excess of its Carryover Capacity or eligible Carryover Water not certified) and the annual weighted average leasing rate (per acre-foot) for all Regional Pool water successfully leased by Northern Water throughout the current water year. The annual weighted average leasing rate (per acre-foot) will be computed as the ratio of the sum total of all revenues received by Northern Water from Regional Pool lessees in the current water year (in dollars), less an administrative fee, to the total quantity of water contributed to the Regional Pool by all AEs eligible to receive Regional Pool revenue in the current water year (in acre-feet). Therefore, the amount paid by Northern Water to each contributing AE eligible to receive Regional Pool revenue will be equal to the product of the amount of water the respective AE contributed to the Regional Pool and the annual weighted average leasing rate.

$$\text{Annual weighted average leasing rate (\$/AF)} = \frac{\text{Revenues received for Regional Pool leases (\$) - Administrative fee (\$)}}{\text{Total contributed to the Regional Pool by AE's eligible to receive revenue (AF)}}$$

$$\text{Payment to each contributing AE eligible to receive revenue (\$)} = \text{Annual weighted average leasing rate (\$/AF)} \times \text{Water contributed by AE (AF)}$$

AE's that contribute to the Regional Pool and successfully bid on an allocation in that year will not receive a payment from the Regional Pool revenue. In this instance, the water contributed to the Regional Pool will be greater than the water contributed to the Regional Pool by AE's eligible to receive revenue.

Years in which RPP water is leased, an administrative fee will be charged to recover Northern Water's approximated cost for administering the Regional Pool Program. The first 10,000 acre-feet leased each Water Year will incur an administrative fee of one dollar and fifty cents per acre-foot (\$1.50/AF); any additional water leased in the same water year will incur an administrative fee of fifty cents per acre-foot (\$0.50/AF).

