



## **PUBLIC NOTICE**

### **INVITATION TO BID**

Northern Colorado Water Conservancy District (Northern Water) is accepting sealed bids to purchase up to **two (2)** acre-foot units of Colorado-Big Thompson Project water. These units have been declared terminated by actions of the Board of Directors of Northern Water in accordance with its Rule Regarding Notice of Claim of Lien and Change or Removal of Allotment Contracts Issued by Northern Water. **Interested parties meeting all bid qualifications may submit the required application information and sealed bids to Northern Water, 220 Water Avenue, Berthoud, CO, 80513, Attention: Dirk Banks prior to 2:00 p.m., on May 1, 2019.** If you have any questions regarding bid qualifications, please contact Sherri Rasmussen at 970-622-2217. A public opening of all sealed bids will be held at 2:10 p.m. on May 1, 2019, at Northern Water. **Please follow instructions contained in this document for bid submittal.** Late bids will not be accepted and will be returned to the bidder unopened. Sole responsibility rests with the Bidder to see that its Bid is received on time at the stated location.

**A transfer of a Colorado-Big Thompson Project allotment contract is subject to the authority and discretion of the Northern Water Board of Directors. The Board may deny an application for transfer pursuant to its authority and discretion under the Water Conservancy Act, other relevant laws, Northern Water rules, regulations, policies and procedures, or based on specific circumstances. Circumstances that may provide bases for denial of an application for transfer may include, without limitation, prior acquisition and subsequent transfer of C-BT units.**

For additional information please call (800) 369-7246.

March 29, 2019

To All Interested Bidders:

The Northern Colorado Water Conservancy District (Northern Water) is responsible for allocating, administering, and delivering water from the Colorado-Big Thompson Project in Northern Colorado. In total, the Project delivers supplemental water supply to approximately 985,000 people and to nearly 640,000 acres of irrigated farmland in the region. For more information about Northern Water please contact or visit us at:

**Northern Water**  
**220 Water Avenue**  
**Berthoud, Colorado 80513**  
**(800) 369-7246**  
[www.northernwater.org](http://www.northernwater.org)

Northern Water invites you to submit a bid to purchase all, or part, of **two (2)** acre-foot units of Colorado-Big Thompson Project water that have been declared terminated pursuant to its Rule Regarding Notice of Claim of Lien and Change or Removal of Allotment Contracts Issued by Northern Water.

Enclosed please find information pertaining to the bidding requirements, and a description of the bidding process. Specifically you will find:

- ✓ Rule Regarding Notice of Claim of Lien and Change or Removal of Allotment Contracts Issued by Northern Water (adopted August 2009).
- ✓ A Public Notice regarding the availability of the C-BT units and important dates related to bid submittal and bid opening.
- ✓ The *Parking and Storage Agreement Procedures* which outline, in detail, the requirements of interested bidders and how Northern Water will select the winning bidder and ultimately issue a C-BT Allotment Contract.
- ✓ Forms Associated with a Class B Contract or Class C Contract Application:
  - Supplemental Information Form – Class B Contract or Class C Contract Applicant (bid packet Attachment I).
  - Affidavit of Verification of Base Water Supply – Class B Contract or Class C Contract Applicant (bid packet Attachment II).
- ✓ Forms Associated with a Class D Contract Application:
  - Supplemental Information Form – Class D Contract Applicant (bid packet Attachment III).
  - Affidavit of Verification of Base Water Supply – Class D Contract Applicant (bid packet Attachment IV).
- ✓ Bid Form to be submitted separately and in sealed envelope (bid packet Attachment V).
- ✓ Illustrations of how Northern Water will select the winning bidder(s) (bid packet Attachment VI).

As noted in the Public Notice, all supplemental information and bids must be submitted to Northern Water prior to 2:00 p.m., May 1, 2019. It will not be necessary or required to submit funds at the time of bid submittal.

Thank you for your interest in this process and if you desire additional information please contact Sherri Rasmussen at (970) 622-2217 or online at [www.northernwater.org](http://www.northernwater.org). Look for “**Invitation to Bid on 2 acre-foot units of C-BT Project Water**” at the top of the Home page in the What’s New section.

**STORAGE AND PARKING AGREEMENT PROCEDURES**  
as related to  
**Northern Water's**  
**STORAGE AND PARKING AGREEMENT RULE**  
**August 2009**

BACKGROUND

On August 8, 2008 the Board of Directors (Board) of the Northern Colorado Water Conservancy District (Northern Water) adopted the *Storage and Parking Agreement Rule* (Rule). The Rule provides an express prohibition of any, and all, parking and storage agreements for Class D Allotment Contracts. As defined in the Rule, certain situations may result in the Board declaring a Colorado-Big Thompson (C-BT) Allotment Contract held by a Class D Allottee forfeited if it determines that the Allottee has violated the Rule. Moreover, the Rule specifies that Northern Water will provide the opportunity for any qualified water user illustrating a beneficial use for such water within Northern Water's District boundary to apply for a transfer of any, and all, forfeited allotment contract acre-foot units made available for purchase as per this procedure. A sealed bid process is described in the Rule as the method by which the forfeited C-BT units will be re-allotted. Once the highest qualified bidder(s) is identified pursuant to the Rule, and pursuant to the Storage and Parking Agreement Procedures described herein, the final transfer of the units to the winning bidder shall be contingent upon final Board approval.

The purpose of these Procedures is to describe, in greater specificity, the requirements associated with: 1) submitting a qualifying bid application, 2) awarding the winning bid, and 3) allotting the associated allotment contract unit(s) via a Northern Water allotment contract. All Bid Packet information and forms can be obtained directly from Northern Water, 220 Water Avenue, Berthoud, Colorado, or retrieved online at: [www.northernwater.org](http://www.northernwater.org).

QUALIFICATIONS AND BID PACKET SUBMITTAL

1. C-BT Project allotment contract units declared forfeited by action of the Board pursuant to the Rule may be acquired for irrigation, domestic, municipal, multi-purpose, or industrial purposes. Future use and classification of such units is independent of their previous classification. The successful bidder(s) will be required to qualify for and comply with the terms of an allotment contract, and comply with the Water Conservancy Act and the rules, regulations, policies, and procedures of Northern Water. Outlined below are the requirements that must be met for an individual or entity to be considered a qualified bidder.

Requirements Specific to Class B Contract and Class C Contract Bidders (i.e. municipal, domestic, multi-purpose, or industrial):

If the C-BT allotment contract unit(s) made available for acquisition by Northern Water is intended to be used for municipal, domestic, multi-purpose, industrial, or irrigation<sup>1</sup> purposes, the bidding entity/potential allottee must satisfy all of the Board's related rules, regulations, and policies, including, but not limited to:

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<sup>1</sup> Class C allotment contract units used for irrigation purposes are not required to be attached to a specific and unique parcel of land.

- The bidding entity and its service area must be located within the boundary of Northern Water.
- The bidding entity must presently own some source of base (i.e. native) water supply.
- The bidding entity must be able to illustrate a beneficial need for the additional supplemental C-BT water pursuant to Northern Water’s Guidelines on Limitations of Ownership of C-BT Allotment Contracts (Resolution D-962-02-95). To that end, an updated Ownership Limitation Calculation must be completed by interested bidders.

To provide the information required for Northern Water to determine that a Class B or Class C bidder is qualified, the following forms must be completed and returned to Northern Water prior to the bid submittal date and time described in the associated Public Notice:

- *Supplemental Information Form – Class B Contract or Class C Contract* (see bid packet Attachment I).
- *Affidavit of Verification of Base Water Supply – Class B Contract or Class C Contract* (see bid packet Attachment II).
- *Updated Ownership Limitation Calculation – Class B Contract or Class C Contract* (provided by Class B or Class C Contract Bidder).

In the event the available C-BT allotment contract unit(s) is intended to furnish a water requirement for a new residential or industrial development, or be used by a homeowner for a new water tap requirement, the allotment contract will be transferred directly to the entity supplying the new water service. As such, a letter from the water purveyor will be required to confirm that the unit will be used for the specified water requirements associated with procuring the new water service.

All of the information outlined above and provided to Northern Water by a bidder seeking the issuance of a Class B or Class C allotment contract must be placed in a separate envelope, the envelope sealed, and labeled: “Supplemental Information – Confidential”. Supplemental Information must be submitted to Northern Water prior to the bid submittal date and time described in the associated Public Notice. The envelope enclosing the Supplemental Information will be date and time stamped upon receipt by Northern Water.

All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label.

**Requirements Specific to Class D Contract Bidders (i.e. Irrigation):**

If the C-BT allotment contract unit(s) made available for acquisition by Northern Water is intended to be used by an individual or entity other than a ditch or reservoir company, or irrigation or water conservancy district, for irrigation purposes (i.e. Class D), the unit(s) must ultimately be “attached” to the irrigable land(s) owned by the successful bidder, and meet all of the Board’s related rules, regulations, and policies, including, but not limited to:

- The lands to which the C-BT unit(s) is anticipated to be attached must be located within the boundary of Northern Water.
- The lands to which the C-BT unit(s) is anticipated to be attached must have a

history of irrigation.

- The lands to which the C-BT unit(s) is anticipated to be attached must have a base (native) water supply that is in the same ownership as the recorded ownership of the irrigable land.
- The lands to which the C-BT unit(s) is anticipated to be attached must illustrate a beneficial use and need for new, or additional, supplemental C-BT water.

To provide the information required for Northern Water to determine that a Class D bidder is qualified, the following forms must be completed and returned to Northern Water prior to the bid submittal date and time described in the associated Public Notice:

- *Supplemental Information Form – Class D Contract* (see bid packet Attachment III).
- *Affidavit of Verification of Base Water Supply – Class D Contract* (see bid packet Attachment IV).

All of the information outlined above and provided to Northern Water by a bidder seeking the issuance of a Class D allotment contract must be placed in a separate envelope, the envelope sealed, and labeled: “Supplemental Information – Confidential”. Supplemental Information must be submitted to Northern Water prior to the bid submittal date and time described in the associated Public Notice. The envelope enclosing the Supplemental Information will be date and time stamped upon receipt by Northern Water.

All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label.

2. Each bidder must complete a Bid Form (see bid packet Attachment V) for submittal to Northern Water prior to the bid submittal date and time described in the associated Public Notice. 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. A completed Bid Form must include the number of allotment contract units being bid upon, and the associated bid price. The completed Bid Form must be placed into an envelope, the envelope sealed, and labeled: “C-BT Bid – Confidential.” All interested bidders that obtain a bid packet from the office of Northern Water (versus an online bid packet) will be supplied an envelope and label. Supplemental Information and the Bid Form should NOT be placed into the same envelope.

An interested bidder may bid on all available C-BT allotment contract units, or as few C-BT allotment contract units as desired. If bidding on multiple C-BT allotment contract units the bidder may elect to submit a single per C-BT allotment contract unit bid that applies to all C-BT allotment contract units of interest. Alternatively, an interested bidder may submit an individual and unique bid for each, and every, C-BT allotment contract unit of interest. Regardless of the bidder’s preferred bidding method, only one Bid Form is allowed per bidding entity or individual.

To mitigate the possibility of one or more tie bids, bidders are encouraged not to bid in round figures (i.e. please include cents). Bidding on fractional C-BT allotment contract units is prohibited and will result in disqualification. No monetary funds of any amount are required to be included with the bid submittal.

An illustration of how Northern Water will select the “winning” bid is shown as Attachment VI.

3. The Supplemental Information Envelope and the Bid Envelope must be submitted together.

#### BID OPENING AND AWARDING OF C-BT ALLOTMENT CONTRACT UNIT(S)

1. Following submittal of a sealed bid to Northern Water, but prior to the date and time of the bid opening (per the associated Public Notice), Northern Water staff may, at its discretion, review all supplemental information provided by each bidder. Further, upon the request of a bidder, and prior to the opening of sealed bids, Northern Water staff will review the supplemental information submitted by that bidder to determine if that bidder is indeed qualified to be allocated any or all of the offered units.

If, upon reviewing the provided supplemental information, either before or after bid opening, it is determined by Northern Water staff that a bidder does not meet all of the requirements as defined by the Rule, the Water Conservancy Act, and the applicable regulations, policies, and procedures of Northern Water, the bidder will be disqualified. Any bidder determined to be non-qualifying prior to bid opening will be contacted immediately by Northern Water staff.

2. Upon the receipt by Northern Water of the Confidential Supplemental Information Envelope and the Confidential Bid Envelope, each envelope will be date and time stamped and will be assigned a Bid Number. The Bid Number will be assigned in increasing order based on the chronological sequence in which each submittal is received. A tabulation of the Bid Number and the time and date of receipt will be maintained by Northern Water. Each bidder will be notified of its respective Bid Number.
3. Sealed bid envelopes will be opened publicly by Northern Water staff at the office of Northern Water, on the date and at the time indicated on the associated Public Notice. Sealed Bids will be opened in Bid Number order. As sealed bids are opened the bid will be tabulated by Bid Number. If no tiebreaker is necessary, Northern Water staff will preliminarily allocate the forfeited C-BT allotment contract unit(s) to the respective bidder or bidders submitting the highest per C-BT unit bid. A final staff determination will be made only after all supplemental information is thoroughly reviewed. Once allocated, each successful entity/individual, and its associated number of units and bid price(s), will be posted publicly. All bidders and interested parties are welcome and encouraged to attend the bid opening.
4. If the Allotment Contract classification associated with one or more of the winning bids is Class D, Northern Water staff, as soon as practicable, will conduct a field examination of the lands described in the Supplemental Information submitted with the application. The field examination must substantiate the Supplemental Information provided to Northern Water by the bidder. In the event the field examination demonstrates that C-BT water may not be applied to such lands, the awarded bidder will be disqualified and the C-BT allotment contract unit(s) will be allocated to the next highest bidder.
5. In the event of a tie, all tying bidders preliminarily found to be qualified to be allocated the subject units will be contacted as soon as possible following the initial bid opening. Tied bidders will be offered the opportunity by Northern Water to submit a second sealed bid which may improve their respective bids, and to break the tie. Tiebreaking bids must

be received by Northern Water prior to 4:00 p.m. on the business day following the day on which the tied bidders were notified of a tying bid situation. If no tie-breaker bids are submitted, the first received original bid will be declared the winning bid.

If the tie-breaking procedure is necessary to break a tie other than a tie for highest bidder (i.e. tie for second highest bid), resubmitting a second bid will not usurp the allocation of the initial allotment contract units to the highest bidder.

6. Once the C-BT allotment contract units have been finally allocated to one or more bidders, Northern Water will contact winning bidder(s) by telephone notifying them of their status. Bidders allocated C-BT allotment contract units will be required to submit full payment equal to the product of the C-BT allotment contract units allocated and the associated per C-BT allotment contract unit bid. Payment must be made to, and received by, Northern Water by 4:00 p.m. on the second business day following the day the successful bidder is notified. Payment must be made in the form of a certified cashier's check payable to Northern Water.

If no payment is received by the payment deadline, the initially successful bidder will be disqualified. In this instance, Northern Water will contact the next highest qualified bidder to allocate the same C-BT allotment contract units and require fund submittal under identical terms. If necessary, this process will be repeated until adequate funds are provided by a qualified bidder.

#### CONTRACT ISSUANCE

1. Following full payment by the successful bidder(s) to Northern Water for the forfeited C-BT allotment contract units, Northern Water will prepare one or more Allotment Contract applications. Successful bidders will be required to pay all applicable contract application fees.
2. Final allocation of the C-BT allotment contract units must be approved by the Board. The Board will consider the allotment contract for transfer to the successful bidder at a regularly scheduled Board meeting occurring no fewer than 20 days following the bid-opening date, but no more than 90 days following the bid-opening date.
3. If the Board does not approve the transfer to the successful bidder, the payment by the bidder for the right to apply for the transfer of the allotment contract units will be refunded. However, the allotment contract application fees will not be refunded. Northern Water will contact the next highest qualified bidder and follow the same process for fund submittal and application for the transfer of allotment contract.





5. I understand that the Board of Directors of Northern Water will rely upon the statements made by me in this Affidavit in considering this application for the Allotment Contract, and that such statements are subject to the provisions of C.R.S. § 18-8-503 which provides that a person commits perjury in the second degree if, with an intent to mislead a public servant in the performance of his or her duty, that person makes a materially false statement, which that person does not believe to be true, under oath required or authorized by law.
6. I understand that the approval of the Board of Directors of Northern Water of the application for the Allotment Contract may be rescinded if it is determined that one or more of my statements herein are materially false.

\_\_\_\_\_

Sworn and affirmed under oath by \_\_\_\_\_ on  
\_\_\_\_\_, 20 \_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION - CONFIDENTIAL"  
AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE  
PUBLIC NOTICE.**



**ATTACHMENT IV**

**Affidavit of Verification of Base Water Supply**  
Irrigation Purposes  
(Class D Contact)

State of Colorado                    )  
  ) ss.  
County of \_\_\_\_\_            )

I, \_\_\_\_\_, hereby swear and affirm under oath;

1. I have applied for a new allotment contract for \_\_\_\_ units of water from the Colorado-Big Thompson (C-BT) Project (the "Allotment Contract"), which can only be obtained by approval of the Board of Directors of the Northern Colorado Water Conservancy District (Northern Water).
  
2. In conjunction with my application, I warrant and represent to Northern Water that the base water supply on the property on which the water from the Allotment Contract will be used is as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The water and water rights described in paragraph 2 above are owned or permanently controlled by me.
  
4. In conjunction with my application, I also warrant and represent to Northern Water that I do not have any present plan or intention to acquire ownership or permanent control of any water, water right or right to water that could be used as a base water supply on the property on which the water from the Allotment Contract will be used, that is not listed in paragraph 2 above, except as follows: \_\_\_\_\_.
  
5. I understand that the Board of Directors of Northern Water will rely upon the statements made by me in this Affidavit in considering my application, and that such statements are subject to the provisions of C.R.S. § 18-8-503 which provides that a person commits perjury in the second degree if, with an intent to mislead a public servant in the performance of his duty, that person makes a materially false statement, which that person does not believe to be true, under oath required or authorized by law.

6. I understand that the approval of the Board of Directors of Northern Water of my application may be rescinded if it is determined that one or more of my statements herein are materially false.

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Sworn and affirmed under oath by \_\_\_\_\_ on  
\_\_\_\_\_, 20 \_\_\_\_.

My commission expires: \_\_\_\_\_

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Notary Public

**ENCLOSE IN SEALED ENVELOPE MARKED "SUPPLEMENTAL INFORMATION - CONFIDENTIAL"  
AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE  
PUBLIC NOTICE.**

**ATTACHMENT V**

**Bid Form**

**Name of Bidder or Bidding Entity:** \_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Phone:** (Office) \_\_\_\_\_

\_\_\_\_\_ (Home) \_\_\_\_\_

(Mobile) \_\_\_\_\_

*Listed below is the number of C-BT allotment contract units and the Bid Price per C-BT allotment contract unit:*

<u>Number of C-BT Allotment Contract Units</u>	<u>Bid Price per C-BT Allotment Contract Unit</u>
_____	\$ _____.
_____	\$ _____.
_____	\$ _____.
_____	\$ _____.

**Total Number of C-BT Allotment Contract Units Bidding on:** \_\_\_\_\_

**By signing this Bid Form, you agree that you are submitting a bid to purchase the right to apply for Colorado-Big Thompson Project allotment contract units declared forfeited by action of the Board of Directors of Northern Water in accordance with the Storage and Parking Agreement Rule.**

**Authorizing Individual:**

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ENCLOSE IN SEALED ENVELOPE MARKED "C-BT BID - CONFIDENTIAL" AND RETURN TO NORTHERN WATER PRIOR TO THE DATE AND TIME PURSUANT TO THE ASSOCIATED PUBLIC NOTICE.**

**ATTACHMENT VI**

**Illustration of Selecting the Winning Bid**

*The following examples are meant only as illustrations as to how Northern Water will select a winning bid.*

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*Example #1*

**(4 C-BT allotment contract units available for bid):**

Four Bids Received

Bidder "EX1-A" bids for 4 allotment contract units at \$7,500 per unit.  
Bidder "EX1-B" bids for 4 allotment contract units at \$7,000 per unit.  
Bidder "EX1-C" bids for 3 allotment contract units at \$6,000 per unit.  
Bidder "EX1-D" bids for 1 allotment contract unit at \$5,000 per unit.

*Northern Water will award all 4 C-BT allotment contract units to Bidder "EX1-A" for \$7,500 per C-BT unit.*

*Total sale amount: \$30,000.00.*

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*Example #2*

**(4 C-BT allotment contract units available for bid):**

Four Bids Received

Bidder "EX2-A" bids for 1 allotment contract unit at \$7,999.99 per unit.  
Bidder "EX2-B" bids for 2 allotment contract units at \$7,998.99 per unit.  
Bidder "EX2-C" bids for 4 allotment contract units at \$7,995.00 per unit.  
Bidder "EX2-D" bids for 2 allotment contract unit at \$7,899.99 per unit.

*Northern Water will award:*

*1 allotment contract unit to Bidder "EX2-A" for \$7,999.99 per unit;  
2 allotment contract units to Bidder "EX2-B" for \$7,998.99 per unit; and  
1 allotment contract unit to Bidder "EX2-C" for \$7,995.00 per unit.*

*Total sale amount: \$31,992.97.*

# STORAGE AND PARKING AGREEMENT RULE

## **Purpose**

This Storage and Parking Agreement Rule defines storage and parking agreements, provides an express prohibition of parking and storage agreements for Class D Allotment Contracts, and defines a process for allottees involved in such agreements to come into compliance with the terms of the allotment contract, the Water Conservancy Act, and Northern Colorado Water Conservancy District (Northern Water) rules, regulations, policies, and procedures.

## **Background**

Northern Water has, since 1938, issued Class D Allotment Contracts for the irrigation beneficial use of water yielded from the Colorado-Big Thompson (C-BT) Project to petitioning owners of lands on which the water can be beneficially used. As pre-requisites for the issuance of a Class D Allotment Contract, the potential allottee must demonstrate: 1) that it is the owner of the land to which the Class D Allotment Contract is to be attached; 2) a history of irrigation of the parcel of land to which the Class D Allotment Contract is to be attached; 3) a need for the supplemental water supply provided by the Class D Allotment Contract; and 4) an ability to deliver the C-BT Project water for beneficial use to the parcel to which the Class D Allotment Contract is to be attached. Under C.R.S. § 37-45-125, the allotment contract is issued to a petitioning owner of lands for use on such lands.

As land ownership changes within the boundaries of Northern Water and the value of land and allotment contracts (acre-foot units) for C-BT Project water increases, real estate transactions, particularly those associated with land parcels to which C-BT Project Class D Allotment Contracts have been attached, are becoming more complex. In most cases, land and water transactions involve significant amounts of money. Tax considerations, financial planning, estate planning and administration, and monetary return from the land and water assets become pertinent considerations as these transactions are planned. Further complicating these transactions is the ever-present requirement by Northern Water that all transactions involving C-BT Project Class D Allotment Contracts be accomplished in full compliance with the allotment contract, the Water Conservancy Act, and the rules, regulations, policies, and procedures of Northern Water.

It has become apparent to Northern Water that there are instances where the land is conveyed separately from the attached Class D Allotment Contract. These actions, or variations of them, have resulted in the beneficial ownership interest in Class D Allotment Contracts being held by an entity or entities that do not own the land to which the Class D Allotment Contracts are attached. This has been facilitated by “storage” or “parking” agreements whereby the owner of the land parcel, referred to hereafter as the “parcel owner,” who is also the owner of the allotment contract as shown on Northern Water’s records, hereafter referred to as the “allottee of record,” grants control and beneficial ownership of the allotment contract to another entity, referred to hereafter as the “unauthorized allottee.” Through the typical storage or parking

agreement, the allottee of record agrees to act as directed by the unauthorized allottee in seeking any transfers or actions taken by Northern Water related to the Class D Allotment Contract that is the subject of the storage or parking agreement. Storage or parking agreements have been entered into without the knowledge and approval of the Northern Water Board of Directors, and are in direct conflict with the allotment contract, the Water Conservancy Act, and the rules, regulations and policies of Northern Water. All such agreements, whether written or oral, are referred to as storage or parking agreements.

### **Prohibition of Storage or Parking Agreements**

Storage or parking agreements relating to Class D Allotment Contracts are prohibited regardless of whether they were created before or after the date of adoption of this Rule. Storage or parking agreements have the effect of separating the ownership of a Class D Allotment Contract from the ownership of the land parcel to which they are attached. This separation violates the allotment contract, which is granted to a specific allottee for irrigation of specific lands owned by that allottee, and circumvents the statutory authority of the Board of Directors of Northern Water to allocate and reallocate the use of C-BT Project water under C.R.S. § 37-45-134. The Board of Directors of Northern Water shall make the determination, if a dispute arises, as to whether an agreement constitutes a storage or parking agreement.

### **Grace Period**

There shall be no grace period for any storage or parking agreements that are entered into on or after August 9, 2008. The grace period for the dissolution of storage or parking agreements that exist as of August 8, 2008, shall extend from August 8, 2008, until February 13, 2009.

### **Dissolution of Existing Parking or Storage Agreements during the Grace Period**

Entities involved in storage or parking agreements that exist as of August 8, 2008, can implement the following courses of action to dissolve such agreements during the grace period.

1. Submit completed transfer application(s) to Northern Water seeking the transfer of the acre-foot units included in the storage or parking agreements to other qualified potential allottees.
2. Submit a completed transfer application seeking to transfer the subject Class D Allotment Contract to an Inactive Allotment Contract to be held in the Inactive Contract Account.

The Board of Directors of Northern Water shall act on such transfer application(s) submitted during the grace period as though the Class D Allotment Contract and associated acre-foot units were not included in a storage or parking agreement. If acre-foot units are transferred to an Inactive Allotment Contract, those units shall be administered in accordance with the Inactive Contract Account Rule.

### **Disposition of Acre-foot Units within Storage or Parking Agreements that are not Dissolved, or Eligible for Dissolution, During the Grace Period**

With regard to storage or parking agreements entered into on or after August 9, 2008, and storage or parking agreements not dissolved during the grace period, upon Northern Water learning that acre-foot units are involved in a storage or parking agreement(s), those acre-foot units shall be forfeited to Northern Water pursuant to C.R.S. § 37-45-134 and pursuant to the procedures of this Rule for violation of the allotment contract, the Water Conservancy Act, this Rule, and other rules, regulations, policies and procedures of Northern Water.

Water shall not be certified by Northern Water for delivery for those acre-foot units forfeited to Northern Water in accordance with this Rule. If water has been certified for delivery prior to the acre-foot units being forfeited, that water will remain certified for delivery and will be delivered to the Account Entity on demand.

If it is determined by Northern Water that a Class D Allotment Contract unit is involved in a storage or parking agreement a Notice of Violation of this Rule shall be mailed by regular mail and certified mail, return receipt requested, to the allottee of record. Such notice shall include the Storage and Parking Agreement Rule and a notice that the units may be forfeited as provided in this Rule. Such notice shall be provided to the allottee of record forty-five (45) days prior to the Board meeting on which agenda the Board determination of a violation and forfeiture appears in accordance with this Rule. Thirty (30) days prior to the Board Meeting on which agenda the Board determination of a violation and forfeiture appears, a second notice of the Board meeting and agenda item shall be mailed to the allottee of record. Such notice shall also include a copy of this Storage and Parking Agreement Rule. The allottee of record shall have a right to address the Board concerning the Class D Allotment Contract and any purported storage or parking agreement.

The units associated with a Class D Allotment Contract forfeited to Northern Water under this Rule shall be sold through a sealed bidding process conducted by Northern Water. The availability of these units for sale shall be posted on the Northern Water website for a period of no less than 30 days, and shall be advertised as a public notice in one paper of general circulation in each of the counties of Boulder, Larimer, and Weld in accordance with the requirements of C.R.S. § 37-45-103(9). Sealed bids shall be submitted in accordance with Northern Water's Storage and Parking Agreement Procedures.

Bids submitted without full pre-payment and such supplemental information, or with supplemental information that indicates a bidder is not qualified to be the recipient of the subject acre-foot units, will be rejected.

Submitted, qualified bids will be opened on the specified date at the specified time in public. Transfer of the acre-foot units to the successful bidder(s) shall be contingent on final Board approval, which is discretionary.

Northern Water shall calculate and document all incurred expenses associated with the disposal of the acre-foot units through the bid process.

The allottee of record shall be entitled to receive the lesser of \$9,500 per acre-foot unit, which is the approximate value of C-BT Project acre-foot units at the time the Rule was adopted, and the actual amount paid per acre-foot unit in the bidding process. If the amount paid per acre-foot unit in the bidding process is less than \$9,500 per acre-foot unit, then the allottee of record shall receive only the lesser amount. Documented expenses incurred by Northern Water for the bidding process shall be deducted from the amount due the allottee of record. This money shall be made in a single payment to the allottee of record within 30 days following the date on which all remaining forfeited acre-foot units have been sold and transfer of the forfeited acre-foot units has been completed through the sealed bid and transfer process.

Any difference between the net proceeds from the sealed bid process and the payment to the allottee of record shall be credited to the Northern Water C-BT Project Improvement Reserve Fund.

**Fee**

There shall be a reasonable cost-based administrative fee charged for each application for any transfer proceeding related to the dissolution of a storage or parking agreement.