

# Rule 11

## 11.1 Rule

11.1.1 A Water User that receives a Seasonal Transfer of Colorado-Big Thompson (C-BT) Project Quota Water shall pay Northern Water a Rule 11 Charge if that Seasonal Transfer is from an Allottee (“Transferor”) having a lower Weighted Assessment to a Water User (“Transferee”) with a higher Open-Rate Assessment Use.

## 11.2 Definitions

11.2.1 Account Entity - An Account Entity may be comprised of a single C-BT Project water user, or multiple C-BT Project water users. In most instances one or more Allotment Contracts have been certified for delivery through an Account Entity’s respective quota account. An Account Entity 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 Account Entity having the same name.

11.2.2 Acre Foot Unit (AFU) - Unit of measurement used for the allocation of C-BT Project Water to an Allottee in an Allotment Contract. An AFU receives 1/310,000th of the water annually declared to be available from the C-BT Project by the Northern Water Board of Directors.

11.2.3 Allotment Contract - The contract between the Allottee and Northern Water that allocates C-BT Project Water to the Allottee for a specified beneficial use. Allotment Contracts are issued on an acre-foot unit (AFU) basis.

11.2.4 Allottee - An entity (person, corporation, company, or otherwise) that owns an Allotment Contract for C-BT Project Water issued by the Northern Water.

11.2.5 Assessment Differential - The mathematical difference between the Weighted Assessment Rate of the Transferor and the Open-Rate Assessment for the Transferee’s beneficial use as calculated in Section 11.4.2.

11.2.6 Northern Water - Northern Colorado Water Conservancy District

11.2.7 Oil and Gas Water Use Accounting - The water accounting required by Northern Water for any Account Entity which may deliver C-BT Project Water for use by the oil and gas industry.

11.2.8 Open-Rate Assessment - The assessment rate determined each year by the Northern Water Board of Directors that will be levied on and payable by Allottees

holding an Open-Rate Allotment Contract. The assessment is calculated on an AFU basis in accordance with the class of beneficial use (irrigation, domestic, municipal, industrial, and multi-purpose) specified in the Allotment Contract. All assessments levied by Northern Water shall be included as part of the Open-Rate Assessment.

- 11.2.9 Open-Rate Assessment Use - The ultimate use of the C-BT Project Water by the Transferee or by the Water User in a transfer of Quota Water as described in 11.2.12.2. This use will determine the Open-Rate Assessment to be used to determine the Assessment Differential.
- 11.2.10 Quota Water - The amount of C-BT Water declared available each year by the Board of Directors from the yield of the C-BT Project to an Allottee through the determination of the annual quota. The declared quota represents the percentage of an acre-foot of C-BT Project Water made available for each AFU owned by the Allottee.
- 11.2.11 Rule 11 Charge - The payment due Northern Water resulting from a Seasonal Transfer from a lower Weighted Assessment Allottee (Transferor) to a higher Open-Rate Assessment Use (Transferee).
- 11.2.12 Seasonal Transfer
  - 11.2.12.1 The transfer of Quota Water through Northern Water's administrative process; or
  - 11.2.12.2 The transfer of Quota Water outside Northern Water's administrative process including, without limitation, river delivery and diversions of Quota Water that would result in the ultimate use of Quota Water from an Allottee with a lower Weighted Assessment being made by a Water User with a higher Open-Rate Assessment Use.
- 11.2.13 Transferee - The Water User receiving the Seasonal Transfer.
- 11.2.14 Transferor - The Allottee from which the Seasonal Transfer originates.
- 11.2.15 Water User - An entity (person, corporation, company, or otherwise) that can receive deliveries of C-BT Project Water and can beneficially use that water for irrigation, domestic, municipal, or industrial beneficial uses within Northern Water boundaries.
- 11.2.16 Water Year - Begins on November 1 and ends on the following October 31.
- 11.2.17 Weighted Assessment - The calculated weighted average assessment on an AFU

basis for all Fixed-Rate and Open-Rate Allotment Contracts held by an Allottee. The calculation of the Weighted Assessment is specified in Section 11.4.1.

### 11.3 Rule 11 Charge

- 11.3.1 The Rule 11 Charge will be calculated by Northern Water in accordance with Section 11.4.3, except as specified in Section 11.3.2.
- 11.3.2 If, based on the Oil and Gas Water Use Accounting, C-BT Project Water was delivered by an Account Entity for use by the oil and gas industry, a Rule 11 Charge will be applicable to such delivery and shall be calculated in accordance with Section 11.4.4 of this Rule 11. Any Account Entity delivering C-BT Project Water to the oil and gas industry shall be subject to, and deemed by Northern Water to have approved, the Rule 11 Charge in accordance with Section 11.3.3.
- 11.3.3 Any Seasonal Transfer that would result in a Rule 11 Charge being assessed to an Account Entity shall not be made by Northern Water until that Rule 11 Charge is approved by that Account Entity. Any Account Entity receiving a Seasonal Transfer by means other than through Northern Water's administrative process as described in Section 11.2.12.2 shall be subject to, and deemed by Northern Water to have approved, the Rule 11 Charge.

### 11.4 Calculations

- 11.4.1 Weighted Assessment - The Weighted Assessment shall be calculated for each Allottee on November 1 of each year, and the calculated Weighted Assessment shall be applicable for the remainder of the then current Water Year. The Weighted Assessment shall be based on the number of fixed-rate Allotment Contract AFUs owned, the number of open-rate Allotment Contract AFUs owned, and the assessments for each Allotment Contract, including special assessments. The calculation shall be:
- A) The sum of the following three products:
    - 1) Number of fixed-rate AFUs (FR\_AFU) owned multiplied by the fixed-rate assessment (FRA);
    - 2) Number of open-rate AFUs (OR\_AFU) owned multiplied by the applicable Open-Rate Assessment (ORA); and
    - 3) Any special assessment (SA) multiplied by the number of AFUs against which the special assessment (SA\_AFU) is levied;
  - B) Divided by the total number of AFUs (TN\_AFU) owned by the Allottee.

Equation:      Weighted Assessment =  
$$\{[(FR\_AFU) \times (FRA)] + [(OR\_AFU) \times (ORA)] + [(SA\_AFU) \times (SA)]\} / TN\_AFU$$

11.4.2 Assessment Differential - The Assessment Differential shall be calculated by subtracting the Weighted Assessment rate for the Transferor (WATr) from the Open-Rate Assessment for the beneficial use of the Transferee (ORATe).

$$\text{Equation: Assessment Differential} = (\text{ORATe}) - (\text{WATr})$$

11.4.3 Rule 11 Charge - The Rule 11 Charge shall be calculated as:

- 1) The number of acre-feet of water in the Seasonal Transfer (STAF);
- 2) Divided by the final quota declared by Northern Water for that Water Year (Q);
- 3) Multiplied by the Assessment Differential (AD)

$$\text{Equation: Rule 11 Charge} = [(\text{STAF})/(\text{Q})] \times (\text{AD})$$

*If this calculation results in a negative number, no Rule 11 Charge will be levied.*

11.4.4 Oil and Gas Rule 11 Charge - This charge shall be calculated as follows:

- 1) The number of acre-feet of water delivered by the Account Entity to the oil and gas industry (OGAF);
- 2) Divided by the final quota declared by Northern Water for that Water Year (Q);
- 3) Multiplied by the difference between the Open-Rate Assessment for industrial use (applicable to the oil and gas industry, which is the Transferee) (ORAI) and the Open-Rate Assessment for the Account Entity (Transferor) (ORAAE)

$$\text{Equation: Rule 11 Charge} = [(\text{OGAF})/(\text{Q})] \times [(\text{ORAI}) - (\text{ORAAE})]$$

11.4.5 Calculation Examples - Examples of the calculations described in Sections 11.4.1, 11.4.2, 11.4.3, and 11.4.4 are included in Rule 11, Exhibit A. Exhibit A is revised annually to reflect changes in open-rate assessments and is available upon request from Northern Water or can be obtained from the Northern Water Website [www.northernwater.org](http://www.northernwater.org). Exhibit A is not part of this Rule 11 but is provided only for the purpose of providing ease of understanding.

## **11.5 Billing and Payment of Rule 11 Charge**

11.5.1 The timing of the billings of the Rule 11 Charge shall be at the discretion of the staff of Northern Water.

11.5.2 Invoices for the Rule 11 Charge will be sent to the Account Entity through which the Seasonal Transfer is delivered to the Transferee.

- 11.5.3 Payment of Rule 11 Charge by the Account Entity will be due within 30 calendar days of the receipt of the Rule 11 Charge invoice by the Account Entity.
- 11.5.4 Payment by the Account Entity of the Rule 11 Charge specified in Section 11.3.2 shall be due within 30 days of invoice to the Account Entity by Northern Water unless evidence is presented that the Rule 11 Charge has already been paid or will be paid in accordance with Section 11.5.2.
- 11.5.5 If payment of the Rule 11 Charges is not made in accordance with this Rule, any future Seasonal Transfers to the Transferee Account Entity will not be made until such payments are made in full.

## **11.6 Applicability**

- 11.6.1 This Rule 11 shall be applicable to all Seasonal Transfers of Quota Water with the exception of the following:
  - 11.6.1.2 Seasonal Transfers from any higher Weighted Assessment Allottee to any lower Open-Rate Assessment Use will not be subject to a Rule 11 Charge.
  - 11.6.1.3 A Rule 11 Charge shall not be applied to a Seasonal Transfer if the Seasonal Transfer is required by the Allottee (Transferor) to achieve the same beneficial use by the same Allottee as authorized by the Allottee's (Transferor's) Allotment Contract. To eliminate a Rule 11 Charge in the circumstances described in this Section 11.6.1.3, signed documentation demonstrating the applicability with this Section 11.6.1.3 must be submitted to Northern Water prior to the time of the Seasonal Transfer.

# Rule 11 Examples - WY 2022

## 11.4.1 Weighted Assessment

### WY 2022 Rates:

- Municipal & Industrial Open Rate: \$49.10 per AFU
- Agricultural Open Rate: \$29.00 per AFU
- Fixed Rate: \$1.50 per AFU
- There is not a Special Assessment in WY 2022

**Example 1: On November 1, 2021, Municipality A owns 4,000 fixed-rate AFUs and 2,000 open-rate AFUs**

$$\frac{\left( \left( 4,000 \text{ AFU} * \frac{\$ 1.50}{\text{AFU}} \right) + \left( 2,000 \text{ AFU} * \frac{\$ 49.10}{\text{AFU}} \right) + \left( 0 \text{ AFU} * \frac{\$ 0.00}{\text{AFU}} \right) \right)}{6,000 \text{ AFU}} = \$17.37 \text{ per AFU}$$

**Example 2: On November 1, 2021, Farmer B owns 100 fixed-rate AFUs and 150 open-rate AFUs**

$$\frac{\left( \left( 100 \text{ AFU} * \frac{\$ 1.50}{\text{AFU}} \right) + \left( 150 \text{ AFU} * \frac{\$ 29.00}{\text{AFU}} \right) + \left( 0 \text{ AFU} * \frac{\$ 0.00}{\text{AFU}} \right) \right)}{250 \text{ AFU}} = \$18.00 \text{ per AF}$$

**Example 3: On November 1, 2021, Municipality C owns 0 fixed-rate AFUs and 2,000 open-rate AFUs**

$$\frac{\left( \left( 0 \text{ AFU} * \frac{\$ 1.50}{\text{AFU}} \right) + \left( 2,000 \text{ AFU} * \frac{\$ 49.10}{\text{AFU}} \right) + \left( 0 \text{ AFU} * \frac{\$ 0.00}{\text{AFU}} \right) \right)}{2,000 \text{ AFU}} = \$49.10 \text{ per AFU}$$

# Rule 11 Examples - WY 2022

## 11.4.2 Assessment Differential

### WY 2022 Rates:

- Municipal & Industrial Open Rate: \$49.10 per AFU
- Agricultural Open Rate: \$29.00 per AFU
- Fixed Rate: \$1.50 per AFU
- There is not a Special Assessment in WY 2022

### Weighted Assessments:

- Municipality A: \$17.37 per AFU
- Farmer B: \$18.00 per AFU
- Municipality C: \$49.10 per AFU

### Example 1: Municipality A transfers water to Municipality C for municipal use

$$\frac{\$49.10}{\text{AFU}} - \frac{\$17.37}{\text{AFU}} = \$31.73 \text{ per AFU}$$

### Example 2: Farmer B transfers water to Municipality C for municipal use

$$\frac{\$49.10}{\text{AFU}} - \frac{\$18}{\text{AFU}} = \$31.10 \text{ per AFU}$$

### Example 3: Municipality A transfers water to Farmer B for agricultural use

$$\frac{\$29.00}{\text{AFU}} - \frac{\$17.37}{\text{AFU}} = \$11.63 \text{ per AFU}$$

### Example 4: Municipality C transfers water to Farmer B for agricultural use

$$\frac{\$29.00}{\text{AFU}} - \frac{\$49.10}{\text{AFU}} = -\$20.10 \text{ per AFU}$$

### Example 5: Ditch Company D delivers water to a Water User for industrial use

$$\frac{\$49.10}{\text{AFU}} - \frac{\$29.00}{\text{AFU}} = \$20.10 \text{ per AFU}$$

# Rule 11 Examples - WY 2022

## 11.4.3 Rule 11 Charge

### Assumption:

- 70% final quota declared. (Note: This is for illustrative purpose only; it is intended to show how a Rule 11 charge will be calculated. The Northern Water Board of Directors will determine the final quota.)

### WY 2022 Rates:

- Municipal & Industrial Open Rate: \$49.10 per AFU
- Agricultural Open Rate: \$29.00 per AFU
- Fixed Rate: \$1.50 per AFU
- There is not a Special Assessment in WY 2022

### Weighted Assessments:

- Municipality A: \$17.37 per AFU
- Farmer B: \$18.00 per AFU
- Municipality C: \$49.10 per AFU

### Assessment Differential:

- Municipality A transfers water to Municipality C: \$31.73 per AFU
- Farmer B transfers water to Municipality C: \$31.10 per AFU
- Municipality A transfers water to Farmer B: \$11.63 per AFU
- Municipality C transfers water to Farmer B: -\$20.10 per AFU

### Example 1: Municipality A transfers 350 AF to Municipality C for municipal use

$$\left( \frac{350 \text{ AF}}{0.7 \frac{\text{AF}}{\text{AFU}}} \right) * \frac{\$31.73}{\text{AFU}} = \$15,865.00$$

Municipality C will receive a bill for \$15,865.00

### Example 2: Farmer B transfers 70 AF to Municipality C for municipal use

$$\left( \frac{70 \text{ AF}}{0.7 \frac{\text{AF}}{\text{AFU}}} \right) * \frac{\$31.10}{\text{AFU}} = \$3,110.00$$

Municipality C will receive a bill for \$3,110.00

### Example 3: Municipality A transfers 210 AF to Farmer B for agricultural use

$$\left( \frac{210 \text{ AF}}{0.7 \frac{\text{AF}}{\text{AFU}}} \right) * \frac{\$11.63}{\text{AFU}} = \$3,489.00$$

Farmer B's Account Entity will receive a bill for \$3,489.00

### Example 4: Municipality C transfers 210 AF to Farmer B for agricultural use

$$\left( \frac{210 \text{ AF}}{0.7 \frac{\text{AF}}{\text{AFU}}} \right) * \frac{-\$20.10}{\text{AFU}} = -\$6,030.00$$

No Rule 11 Charge



# Rule 11 Examples - WY 2022

## 11.4.4 Oil and Gas Rule 11 Charge

### Assumption:

- 70% final quota declared. (Note: This is for illustrative purpose only; it is intended to show how a Rule 11 charge will be calculated. The Northern Water Board of Directors will determine the final quota.)

### WY 2022 Rates:

- Municipal & Industrial Open Rate: \$49.10 per AFU
- Agricultural Open Rate: \$29.00 per AFU
- Fixed Rate: \$1.50 per AFU
- There is not a Special Assessment in WY 2022

### Example 1: Ditch Company D delivers 70 AF to a Water User for industrial use

$$\left( \frac{70 \text{ AF}}{0.7 \frac{\text{AF}}{\text{AFU}}} \right) * \left( \frac{\$49.10}{\text{AFU}} - \frac{\$29.00}{\text{AFU}} \right) = \$2,010.00$$

Ditch Company D will receive a bill for \$2,010.00