

C-BT Allotment Hearing Procedures
Northern Colorado Water Conservancy District

1. **Scope.** These Procedures apply to any Hearing held by the Board of Directors of the Northern Colorado Water Conservancy District (“Northern Water” or “Northern Water Board,” as appropriate) regarding an Allotment of Colorado-Big Thompson Project Water to specific lands or specific Allottees, or a claim by any person or entity regarding ownership of a specific Allotment of Colorado-Big Thompson Project water, or an alleged violation of Northern Water rules, regulations, policies, or procedures that could result in the Northern Water Board taking action affecting a specific Allotment of Colorado-Big Thompson Project Water. These Procedures do not modify or amend the substantive provisions of any applicable statute, contract, rule, or policy. These Procedures may be modified at any time by the Northern Water Board as it deems appropriate.

2. **Notices, Objections, Transcripts and Documents.**
 - 2.1. Public Notice of a Hearing will be provided by Northern Water in accordance with the applicable statutes, contracts, rules, or policies.

 - 2.2. Any person or entity that participates in a Hearing or Preliminary Hearing held pursuant to these Procedures **shall be deemed to have consented to these Procedures unless an Objection is received by Northern Water no later than 4:30 pm of the Friday before the Board Meeting** at which the Hearing will be held. Any Objection shall be in writing, shall specify the basis for the Objection, and shall propose an alternate Procedure that would be acceptable to the person or entity making the Objection.

 - 2.3. All persons or entities **shall be deemed to have consented to the audio recording** of the Hearing or Preliminary Hearing by Northern Water in the absence of a request by that person or entity for a transcription of the Hearing or Preliminary Hearing. Any person or entity may request that a Hearing or Preliminary Hearing be transcribed by a qualified court reporter. Any person or entity requesting that the Hearing or Preliminary Hearing be transcribed shall bear the costs of having the Hearing or Preliminary Hearing transcribed, and shall pay to Northern Water the estimated costs of such transcription in advance of the Hearing or Preliminary Hearing. Northern Water may, in the absence of a request for transcription, determine that a transcription of the Hearing or Preliminary Hearing is appropriate, in which case the Northern Water Board shall allocate the costs of transcription as it deems appropriate.

- 2.4. All Documents related to any claim or position regarding the subject of the Hearing must be received by Northern Water no later than 4:30 pm of the Friday before the Board Meeting at which the Hearing will be held.** All Documents will be distributed to the Northern Board in electronic format prior to the Hearing. Any Documents will be a public record and available to the public in electronic format prior to the Hearing. Any person or entity submitting Documents shall execute and include an affidavit in the form provided by Northern Water that affirms that any official records submitted to Northern Water are true and correct copies of the official records and that any submitted written statement regarding the Hearing is true and correct. A failure to submit such an affidavit may be considered by the Northern Water Board as a factor in its decision.
- 2.5. Any person or entity who wishes to provide oral testimony at the Hearing must provide Notice to Northern Water of their desire to provide oral testimony before 4:30 pm of the business day before the Hearing, and shall execute an affidavit that the oral testimony will be true and correct.** A failure to submit such an affidavit may be considered by the Northern Water Board as a factor in its decision.
- 2.6. Any Notice, Objection, and all Documents required by these Procedures shall be provided to the Northern Water Allotment Contract Department at the offices of Northern Water, 220 Water Ave., Berthoud, CO 80513. A Notice, Objection or Document may be provided via email to srasmussen@northernwater.org and any Hearing Officer appointed by the Northern Water Board in pdf format, but shall not be considered to have satisfied the requirements of these Procedures unless and until confirmation of receipt is sent by email by Ms. Rasmussen or the Hearing Officer.

3. Conduct of Hearing.

3.1. Initial Proceedings.

- 3.1.1. Opening of Hearing and Hearing Officer. The presiding officer of the Northern Water Board will open the Hearing at the time provided for in the applicable Notice.
- 3.1.2. The Northern Water Board will consider any Objection to these Procedures made pursuant to Section 2 and determine whether it wishes to modify these Procedures for the purpose of the Hearing.
- 3.1.3. The presiding officer of the Northern Water Board will appoint a Hearing Officer at the beginning of the Hearing. A hearing may, once opened, be postponed to a date certain by the presiding officer of the Northern Water Board or by the appointed Hearing Officer for the purpose of allowing a Preliminary Hearing by the Hearing Officer or for

other reasons. The Hearing Officer will conduct the Hearing and any Preliminary Hearing.

3.1.4. Preliminary Hearing. The Northern Water Board may, if the issues are complex or the relevant documents and testimony are voluminous, recess the Hearing and direct that the Hearing Officer conduct a "Preliminary Hearing." A Preliminary Hearing shall be conducted by the Hearing Officer at such times as the Hearing Officer may determine ("the Preliminary Hearing"). Northern Water Board members may, but are not required to, attend the Preliminary Hearing. All persons or entities who have submitted documents, a written statement or a notice of the intent to provide oral testimony shall be notified of the place, date(s) and time(s) of the Preliminary Hearing. The Hearing Officer shall provide all such persons or entities with a reasonable opportunity to submit written statements or oral testimony in the course of the Preliminary Hearing. In the event that the Northern Water Board directs the Hearing Officer to conduct a Preliminary Hearing, the Hearing Officer shall submit a written report and recommendation to the Board upon conclusion of the Preliminary Hearing.

3.2. Evidentiary Phase before Northern Water Board.

3.2.1. If no Preliminary Hearing is held, Northern Water management, staff, and counsel will provide a summary of the facts relevant to the Hearing. If a Preliminary Hearing is held, the Hearing Officer shall present the written report and recommendation to the Northern Water Board.

3.2.2. The Hearing Officer will open the Hearing to oral testimony by any person or entity who has notified Northern Water of the intent to provide oral testimony. Oral testimony shall be limited to a maximum of 10 minutes for each person or entity unless additional time is granted by the Hearing Officer. Oral testimony will be allowed in the following order: 1) The person or entity requesting a Hearing; 2) the owner of lands, based upon Northern Water's records, to which the relevant Colorado-Big Thompson Project Water has been allotted; and 3) any other person or entity. After the conclusion of oral testimony any person or entity that has provided oral testimony may, in the order established above, have a maximum of 5 minutes to provide additional or rebuttal testimony unless additional time is granted by the Hearing Officer. Questions by a person or entity to another person or entity shall only be allowed if the Hearing Officer determines that the question is not argumentative or abusive. The Hearing Officer may also allow oral testimony by a person who has not provided notice of their intent to provide oral testimony.

- 3.2.3. The Hearing Officer may allow the submission of additional Documents at the request of any person or entity or Northern Water management, staff, and counsel.
 - 3.2.4. Board Members and Northern Water management and counsel may ask questions of any person or entity providing oral testimony at any time during the Hearing.
 - 3.2.5. The Hearing Officer may provide for or require that any interested person or entity submit additional Documents or a written statement of its factual and legal positions regarding the subject matter of a Hearing prior to the conclusion of the Evidentiary Phase of the Hearing.
 - 3.2.6. The Northern Water Board may continue the Hearing for any purpose, including providing interested persons or entities with the ability to submit additional written materials or rebuttal materials, or for the purpose of allowing additional oral testimony or written statements.
4. **Board Action and Conclusion of Hearing.** Following conclusion of the Evidentiary Phase of the Hearing, the Northern Water Board will take such time as it deems appropriate to consider, discuss, and take action with respect to the subject matter of the Hearing. The adoption of a motion, other than a motion to continue the hearing to a date certain, by the Board of Directors regarding the subject matter of the hearing shall conclude the Hearing.
 5. The Board may allocate the costs of the Hearing among affected parties using the following guidelines. Hearing Costs up to \$500.00 will be borne by Northern Water. Hearing Costs over \$500.00 will be allocated in the following order: 1) pursuant to any relevant Northern Water Policy or Rule, 2) any Allottee determined by the Northern Water Board to have been in violation of the Water Conservancy Act, any Northern Water policy or rule, or in breach of any Allotment Contract for Colorado-Big Thompson Project Water; and 3) the person or entity requesting the Hearing. Northern Water may, in the case of request for a Hearing from a person or entity that is not a Colorado-Big Thompson Project Allottee, require an advance deposit for the estimated costs of the Hearing.

