



Draft 7-7-06

RRCA Regulation No. _____. Permitting a new appropriation of water in one state to be beneficially consumed in another state.

A. Any new application to divert water in the Republican River Basin in one state to be put to beneficial consumptive use in another state shall meet the following requirements:

1. A new appropriation that has a point of diversion proposed to be located in an area under a moratorium, closure, or other regulation limiting the development of new appropriations, shall be approved only if the new beneficial consumptive use to be authorized will be offset by a decrease in beneficial consumptive use under an existing water right in the same state that the beneficial use will occur.
2. The decrease in existing beneficial consumptive use shall be equal to or greater than the proposed beneficial consumptive use on an annual basis and from an existing water right that:
 - A. Is from the same source of water supply;
 - B. Is not abandoned or forfeited and is in good standing in the state in which the existing point of diversion is located; and
 - C. Does not exceed the annual quantity of water authorized by the state where the existing point of diversion is located.
3. The beneficial consumptive use of the proposed appropriation and for the offsetting water right for purposes of compact accounting shall be determined by using the existing statutes, rules and regulations, and policies of the state in which the points of diversion are, or will be, located.
4. The proposed point of diversion shall meet all of the requirements imposed by the state in which the proposed point of diversion will be located. The place of use and the use made of water shall meet the requirements of the state in which the beneficial consumptive use and the offset will occur.

B. The following procedure shall be used for approving a new appropriation of water which will be diverted in one state and put to beneficial use in another state:

1. Within 30 days of the receipt of a complete application which proposes to divert water in one state which is proposed to be put to beneficial consumptive use in another state, copies of the application and any pertinent attachments shall be provided to other states by the state in which the application is made.

This draft started with accepting all changes proposed by NE on 7-31-06 and those provided later by Pam. The changes shown in this draft are those proposed by KS to the NE draft. Lee

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Draft 8-8-06

RRCA Regulation No. _____. Permitting a new authorized use of water in one state to be beneficially consumed and offset in another state.

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A. For the purpose of this regulation the term "authorized use of water" means the formal authorization of the use of surface or groundwater under state law and/or local regulations, including, but not limited to, terms such as "water right," "permit to appropriate water," "permitted use," and "appropriation." "Point of diversion" means a surface water point of diversion from a stream or a groundwater well. Any new application to divert or withdraw water in the Republican River Basin in one state to be put to beneficial consumptive use in another state shall meet the following requirements:

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1. A new authorized use of water that has a point of diversion proposed to be located in an area under a moratorium, closure, or other regulation limiting a new authorized use of water, shall be approved by the appropriate state and/or local governmental entity only if the new beneficial consumptive use to be authorized will be offset by a decrease in beneficial consumptive use in an existing authorized use of water. The offset shall be required to be in the same state that the beneficial use will occur. The offset(s) shall be made in accordance with applicable state laws and regulations, and local regulations.

2. The decrease in existing beneficial consumptive use shall be equal to or greater than the proposed beneficial consumptive use on an annual basis and from an existing authorized use of water, that:

- A. Is from the same source of water supply;
- B. Is not abandoned or forfeited and is in good standing in the state in which the existing point of diversion is located; and
- C. Does not exceed the annual quantity of water authorized for the existing point of diversion.

3. For the purpose of compact accounting, the proposed beneficial consumptive use and the beneficial consumptive use of the offsetting authorized use of water shall be determined by using the existing statutes, rules and regulations, and policies within the state in which the offsetting beneficial consumptive use(s) are, or will be, located.

4. The proposed point of diversion shall meet all of the requirements imposed by the state and/or local governmental entity in which the proposed point of diversion will be located. The place of use, the use made of water, and the required offset shall meet the requirements of the state and/or local governmental entity in which the beneficial consumptive use and offset will occur.

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B. The following procedure shall be used for authorizing a use of water which will be diverted or withdrawn in one state and put to beneficial use in another state:

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1. Within 30 days of the receipt of a complete application which proposes to divert or withdraw ground or surface water in one state which is proposed to be put to beneficial consumptive use in another state, copies of the application and any pertinent attachments shall be provided to other affected state(s) by the state in which the application is made.
2. The state in which the proposed point of diversion will be located shall provide the applicant with the requirements that must be met in order to obtain approval. The applicant shall also be notified that joint approval of the state in which the proposed consumptive use and offset will occur will be required.
3. The applicant shall provide each affected state(s) with all of the data needed to evaluate and process the application.
4. The applicant must receive both the approval of: (i) the state and/or local governmental entity in which the point of diversion will be located, and (ii) the state and/or local governmental entity in which the new beneficial consumptive use and offset will occur. When each state and/or local governmental entity issues its approval, a copy shall be submitted to the state(s) and/or local governmental entity involved. The approval shall also be noted in that state's annual report to the RRCA.

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C. If a new use of water is authorized:

1. The state, and/or local governmental entity, whichever is applicable, in which the proposed point of diversion will be located, shall approve: (a) the location of the new point of diversion, (b) the priority of the new point of diversion, if applicable (c) the maximum annual quantity of water that may be diverted, (d) the maximum instantaneous rate of diversion, (f) the source of supply, and (g) any necessary terms, conditions, and limitations for applying the water to beneficial use as necessary to protect the public interest.
2. The state and/or local governmental entity in which the proposed beneficial use and offset will occur shall approve: (a) the authorized

place of use, (b) the source of supply of the offset, (c) any necessary terms, conditions, and limitations for applying the water to beneficial use as necessary to protect the public interest, (d) any annual quantity of beneficial consumptive use that will be required to offset the new authorized use, (e) the priority of the surface water right or well used as an offset, if applicable, and (f) the terms and conditions for any water use under that authorized use of water that will not be used as an offset.

- D. The new authorized use of water may be allowed only if it is approved by: (1) the state and/ or local governmental entity, if applicable, in which the proposed point of diversion will be located, and (2) the state and/or local governmental entity, if applicable, in which the beneficial consumptive use and offset will occur.
- E. As provided in Article IV.C.1 of the FSS, streamflow depletions are assessed to the State in which the beneficial consumptive use occurs.

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