

DISTRICT COURT, WATER DIVISION NO. 2,
COLORADO

207 Judicial Building
329 West 10th Street, rm. 207
Pueblo, CO 81003

IN THE MATTER OF THE PROPOSED COMPACT
RULES GOVERNING IMPROVEMENTS TO
SURFACE WATER IRRIGATION SYSTEMS IN THE
ARKANSAS RIVER BASIN IN COLORADO

In Baca, Bent, Chaffee, Cheyenne, Costilla, Crowley,
Custer, Douglas, El Paso, Elbert, Fremont, Huerfano,
Kiowa, Lake, Las Animas, Lincoln, Otero, Park,
Prowers, Pueblo, Saguache & Teller Counties

JOHN W. SUTHERS

Attorney General

EVE W. MCDONALD*

Assistant Attorney General

Atty. Reg. No. 26304

1525 Sherman St., 5th Floor

Denver, CO 80203

(303) 866-5072

eve.mcdonald@state.co.us

*Counsel of record

COURT USE ONLY

Case Number: 09CW_____

**APPLICATION TO APPROVE COMPACT RULES GOVERNING
IMPROVEMENTS TO SURFACE WATER IRRIGATION SYSTEMS IN THE
ARKANSAS RIVER BASIN IN COLORADO**

State Engineer Dick Wolfe, by and through the undersigned Assistant Attorney General, hereby files proposed Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado (“Irrigation Improvement Rules” or “Rules”). As grounds therefore, the State Engineer states as follows:

1. Name, address, email address, and telephone number of Applicant:

Dick Wolfe, State Engineer and Director of Colorado Division of Water Resources
1313 Sherman St., 8th floor

Denver, CO 80203
dick.wolfe@state.co.us
(303) 866-3581

2. Text of the Rules: See **Exhibit A**.

3. Attachments to the Rules:

The map referenced in Rule 5.A.4. is submitted herewith as **Exhibit B**.

The general permits referenced in Rule 11.A. are submitted herewith as **Exhibit C**.

4. Purpose of the Rules:

The purpose of the Irrigation Improvement Rules is to ensure that improvements to surface water irrigation systems in the Arkansas River Basin in Colorado, such as sprinklers and drip systems that replace flood and furrow irrigation, comply with Article IV-D of the Arkansas River Compact, § 37-69-101, C.R.S. (2009).

A statement on the basis and purpose of the Rules is submitted herewith as **Exhibit D**.

5. Publication and Notice Requirements for the Adoption of Proposed Rules and Regulations of the State Engineer:

Procedural requirements for the adoption of proposed rules and regulations by the State Engineer are set forth in §§ 37-92-501(2)(g), 37-92-501(3)(a) and (b), and 37-92-304, C.R.S. (2009). Section 37-92-501(2)(g) provides that certain types of rules and regulations be published once in the county or counties affected by such rules and regulations not less than 60 days prior to the proposed adoption of such rules and regulations. Consistent with § 37-92-501(2)(g), the Irrigation Improvement Rules will be published in October 2009 in all counties in which the Rules apply. By their terms, the Rules will not become effective until January 1, 2011, or until all protests are judicially resolved, whichever is later. See Rule 17.

A proposed resume notice which includes the full text of the Rules is attached as **Exhibit E**. This notice includes the link to the State Engineer's website (<http://water.state.co.us/wateradmin/ArkansasRiver.asp>) for access to the attachments to the Rules and other related documents. The attachments are also available for inspection at the office of the Water Clerk, Water Division No. 2, and the Division Engineer's Office, Water Division No. 2.

6. Protests to the Proposed Rules:

Section 37-92-501(3)(a) C.R.S. (2009), states that any person desiring to protest a proposed rule and regulation may do so in the same manner as provided in § 37-92-304 for

the protest of a ruling of a referee, and the water judge shall hear and dispose of such protests as promptly as possible.

7. Request for Approval:

The State Engineer respectfully requests that the Water Judge order the publication of the proposed Rules in all counties in which the proposed Rules apply during the month of October 2009 and include notice of the proposed Rules in the resume of all applications filed with the Water Clerk for Water Division No. 2 during the month of September. In addition, the State Engineer respectfully requests that the Water Judge approve the adoption of the Rules if no protests are filed within 60 days of the publication of the Rules in the counties in which the Rules apply or, in the alternative, if any protests are timely filed, hear and dispose of such protests as promptly as possible.

Respectfully Submitted this 30th of September, 2009, by:

JOHN W. SUTHERS
Attorney General

*/s/ Eve W. McDonald***

EVE W. MCDONALD, *
Assistant Attorney General
Federal and Interstate Water Unit
Natural Resources Section
Attorneys for Division of Water Resources
*Counsel of Record

***E-Filed Pursuant to Rule 121, Original Signature on File in Office of Attorney General*

VERIFICATION

I, Dick Wolfe, state under oath that I have read this Application for Approval of Compact Rules and verify its content.



Dick Wolfe,
State Engineer / Director of Colorado Division of
Water Resources

Subscribed and sworn to before me in the City and County of Denver, State of Colorado,
this 30th day of September, 2009.



NOTARY PUBLIC

My Commission expires:

August 31, 2011

