



DIVISION OF WATER RESOURCES

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JANUARY 4, 2011

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SUBJECT: Requirements for 2011 Compact Rules Governing Improvements to Surface Irrigation in the Arkansas River Basin in Colorado

Irrigation Improvement Rules Applicant:

The purpose of this letter is to provide you with specific requirements for information to be included in your application for approval for the [Compact Rules Governing Improvements to Surface Irrigation in the Arkansas River Basin in Colorado](#) (IRRIGATION IMPROVEMENT RULES). Information for guidance in the application review process and timelines are also provided.

- 1) **Under the provisions of the Irrigation Improvement Rules, a Notification List will be established** for anyone wishing to receive e-mail notifications in regard to the Irrigation Improvement Rules process, both in terms of general updates to the program and specific details about individual applications. To sign up to be on the Notification List go to:
<http://water.state.co.us/layouts/FormServer.aspx?XsnLocation=/FormServerTemplates/dwrnotification.xsn&SaveLocation=/IPforms/DWRNotification&Source=/SurfaceWater/RulemakingAndAdvising/ArkRiverAC/Pages/ArkACProposedRulesWDrafts.aspx&DefaultItemOpen=1&OpenIn=Browser> .

A list of items that would trigger a Notification include:

- a) Posting of applications and exhibits
 - b) Posting of application amendments
 - c) Posting of decisions (including requests for more information)
 - d) Scheduling of hearings
 - e) Posting of variances granted
 - f) Posting notification of any model changes
- 2) **Under the provisions of the Irrigation Improvement Rules, an application for approval of a planned improvement** (as defined under Rules 4 and 5 of the Irrigation Improvement Rules) to divert surface irrigation water must be submitted by each Water User or Designated Agent acting on behalf of the Water User. All applications made under Rules 8 and 10 of the Irrigation Improvement Rules must contain the items listed under Rules 7, 8 and 10 of the Irrigation Improvement Rules as well as the information discussed in the following paragraphs.
 - a) Approvals requested for each improvement under Rule 11 (General Permits) only require submission of a General Permit Notification Form attached at **Enclosure 1**.
 - b) Each improvement under Rule 11 (General Permits) requires an individual notification form submittal. There are three currently approved [General Permits](#).
 - c) The basic information required for each improvement, or existing improvement for sprinkler and drip systems within the H-I Model Domain area, should be provided on either the application form at Enclosure 2 or similar application forms provided by each plan proponent (e.g. the application

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form for the LAVWCD Rule 10 Plan may be obtained from the LAVWCD office in Rocky Ford.

- d) Complete copies of the Rule 8 application with all supporting documents and exhibits must be submitted the Division Engineer on or after January 1, 2011 AND authorization received from the Division Engineer prior to making any improvement to a surface water irrigation system as required by the Irrigation Improvement Rules. The Division Engineer prefers Rule 8 applications to be submitted electronically.
- e) Complete copies of the Rule 10 Compact Compliance Plan application with all supporting documents and exhibits must be submitted electronically to the Division Engineer on or after January 1, 2011 AND authorization received from the Division Engineer prior to making any improvement to a surface water irrigation system as required by the Irrigation Improvement Rules.
- f) The initial review of the Irrigation Improvement Rules application will be done by the Division Engineer's office. Once the initial review is complete, comments about additional information needed to finalize the review will be sent to the Applicant.
 - i) All communications concerning the Irrigation Improvement Rules application must be directed to the Division Engineer's office.
 - (1) Copies of all applications, exhibits, and other pertinent documents will be made available to all interested parties via the Notification List as described above.
 - (2) The Division Engineer will consider comments on pending applications if they are received within 30 days after posting the application through the Notification List.
 - (3) E-mails can be sent to SW.Improvement.Notices@state.co.us.
 - (a) E-mails sent in regard to specific applications/Plans should have subject line notation with "Exact Name of Application: Reason for Correspondence" (e.g. "Smith, John: Application Exhibits" OR "Doe, Mary: Comment" OR "LAVWCD: Application Amendment"
 - (b) E-mails sent in regard to general Rule comments should have subject line notation with "General Comment: Reason for Correspondence" (e.g. "General Comment: Model Question" OR "General Comment: Request Clarification of Rules"
 - (4) All applications under these rules are subject to an appeal process as described in Rule 13.
 - B.
 - (5) All applications under these rules are subject to a variance process as described in Rule 15

3) **Rule 8 Application submittals:**

- a) Applications under Rule 8 must use only the subject water right as defined in Rule 5 of the Irrigation Improvement Rules. The applicant may propose terms and conditions to prevent violation of Article IV-D of the Compact.
- b) To the extent necessary, provide documentation of approval to utilize the facilities of a mutual ditch company or shared by other owners of a private ditch.
- c) Applications submitted to the Division Engineer must contain:
 - i) Name and contact information of the owner/user of the improvement
 - ii) Detailed description of the improvement that is the subject of the application
 - iii) Detailed description of the lands irrigated by the proposed or existing improvement to include location, size and current method(s) of irrigation used on this acreage
 - iv) Detailed description of all subject water rights to include water right name for direct flow rights and water right name and storage location for stored subject water rights
 - v) ISAM Model run data representing both pre and post improvement conditions for each improvement
 - vi) Model run data for lagged impacts from the Ground Water Accounting Model, Analytical Stream Depletion Factor (Glover) Model or IDS AWAS Model
 - vii) Signature of irrigation system owner or their designated agent
- d) Rule 8 Applications and exhibits shall be posted and provided to the Notification List
- e) Within 90 days of receipt of application, the Division Engineer will render a decision. This decision

maybe a formal approval, denial, or approval with terms and conditions. It may also be a request for more information

- i) If more information is requested from the applicant, the applicant has 90 days to provide it to the Division Engineer
- ii) The Division Engineer shall then render a decision within 90 days of receipt of said information
- f) Once an approval has been granted for a Rule 8 application, no further application is required unless the applicant wishes to modify or replace the improvement or alter the terms and conditions of the approval.
- g) The Division Engineer may adjust terms and conditions of a Rule 8 approval within three years after approval. After the three year period, adjustments may only be made to comply with a final court order pursuant Rule 9.C.

4) **Rule 10 Compact Compliance Plan submittals:**

- a) Applications under Rule 10 Compact Compliance Plans (Plans) may include water other than the subject water right as defined in Rule 5 of the Irrigation Improvement Rules for use in maintaining historic seepage and return flows. The Applicant may propose terms and conditions to prevent violation of Article IV-D of the Compact.
- b) Rule 10 Plan applications submitted to the Division Engineer must contain:
 - i) Name and contact information of the owner/user
 - ii) Detailed description of the subject improvement(s)
 - iii) Detailed description of the lands irrigated by the proposed improvement to include location, size and current method(s) of irrigation used on this acreage
 - iv) Detailed description of all subject water rights to include water right name for direct flow rights and water right name and storage location for stored subject water rights
 - v) Detailed description of all proposed imported/fully consumable waters including place of storage, point(s) of delivery and terms of use
 - vi) ISAM Model run data representing both pre and post improvement conditions for each improvement
 - vii) Model run data for lagged impacts from the Ground Water Accounting Model, Analytical Stream Depletion Factor (Glover) Model or IDS AWAS Model
 - viii) Signature of irrigation system owner or their designated agent
- c) The Division Engineer shall provide notice of all Rule 10 Plan applications and exhibits to the Notification List
- d) Within 90 days of receipt of application, the Division Engineer will render a decision. This decision maybe a formal approval, denial, or approval with terms and conditions. It may also be a request for more information
 - i) If more information is requested from the applicant, the applicant has 90 days to provide it to the Division Engineer
 - ii) The Division Engineer shall then render a decision within 90 days of receipt of said information
- e) Rule 10 Compact Compliance Plans require annual review and approval unless the Division Engineer determines that a longer approval period is appropriate
 - i) An annual accounting of estimated operations of the Plan considering the lagged impacts of any prior plan years shall be submitted to the Division Engineer
 - (1) The accounting report shall include:
 - (a) The change in historical seepage losses and return flows by month from each improvement under the Plan at the structure level (farm, ditch or lateral) as well as the lagged impact of the seepage losses and return flows due to the improvements in aggregate by month and stream reach.
 - (b) The amount, time and location of all water projected to be provided under the Plan to maintain historical seepage losses and return flows
 - (c) The projected monthly operations under the Plan for the application year incorporating

estimated transit losses on deliveries from storage locations to replacement reaches.

(2) The plan year shall be a 12 month period unless determined otherwise by the Division Engineer

(3) The Division Engineer may grant temporary approval at the beginning of the plan year to allow verification of projected water availability or other Plan assumptions

- f) An amendment for a Rule 10 Compact Compliance Plan may be submitted for review by the Division Engineer to add and/or delete improvements under the Plan or to add/delete maintenance sources under the Plan
 - i) The Division Engineer shall post all amendments to the Notification List
 - ii) The Division Engineer shall render a decision on the amendment within 90 days of receipt of the amendment

5) **Information about all sources of return flow maintenance water to be incorporated into the Rule 10 Compact Compliance Plan** must be addressed in the Plan application.

- a) Applicants must submit evidence of their entitlement to utilize the surface water right intended for use as a source for return flow maintenance water and its conformity with Rule 10. B.
- b) A copy of all leases or contracts for each source of replacement water used in the proposed Plan should be provided with the Plan application. Accretions to stream flow as a result of improvements made by parties not included within the applicant's Rule 10 application that are claimed as a source of return flow maintenance must be evidenced by contract. If copies of these documents are not available at the time of the Plan application, the Division Engineer may grant an extension.
- c) Return flow maintenance sources must be available in the proper amount and location and the timing of replacement water must be planned and administered such that carry-forward deficits will be no larger than 50% of the following month's projected maintenance flow credits, releases will be initiated by no later than the 5th of the following month to ensure complete replacement of the carry-forward deficit. The Division Engineer or designated representative will require stored replacement water to be released by the plan proponent to eliminate excess deficits.
- d) To the extent necessary, provide documentation of approval to utilize the facilities of a mutual ditch company or shared by other owners of a private ditch.

6) **Surface water improvements outside the H-I Model Domain**

- a) Applicants filing a Rule 8 or Rule 10 Plan outside the H-I Model Domain shall recommend factors to be substituted into ISAM that are appropriate to enable a reasonable evaluation of the improvement. The relevant factors can be reviewed in the ISAM documentation at: ftp://dwrftp.state.co.us/dwr/09CW0110/Models/ISAM/ISAM_Documentation.pdf

I am looking forward to working with you to prepare applications under the Irrigation Improvement Rules that meet the requirements that we have to satisfy and are as easy as possible for the Water User, Plan Proponents and Division 2 staff to implement. Thank you for your cooperation and compliance with the Compact Rules Governing Improvements to Surface Irrigation in the Arkansas River Basin in Colorado. Your efforts are greatly appreciated.

Sincerely,



Steven J. Witte, P.E.
Division Engineer
Colorado Division of Water Resources