

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

1313 Sherman Street, Room 721
Denver, Colorado 80203
Phone: (303) 866-3441
Fax: (303) 866-4474
www.cwcb.state.co.us



TO: Colorado Water Conservation Board Members

Bill Ritter, Jr.
Governor

FROM: Vaughn McWilliams, Contract Manager
Tim Feehan, P.E., Chief
Finance Section

James B. Martin
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

DATE: May 11, 2010

SUBJECT: **Agenda Item 11b, May 18-19, 2010 Board Meeting**
Finance Section – Revisions to Existing Loans
Tom C. Hill - McElroy Reservoir Rehabilitation – Loan Restructure Request

Introduction

Tom Hill is requesting a loan payment deferral for Loan Contract No. C150233 between Tom C. Hill and the Colorado Water Conservation Board (CWCB) dated January 12, 2007 and amended May 30, 2008. By letter to Tim Feehan, CWCB, dated April 27, 2010 (copy attached), Tom Hill and his wife, Linda, (the Hills) have requested that the principal portion of the May 2010 payment be deferred for one year and that the annual loan payment amount remain the same for the remaining term of the loan.

Recommendation

Staff recommends that the Board approve Tom C. Hill's request to defer the principal portion of his May 2010 annual loan payment, to continue the May 2011 annual loan payment in the amount of \$96,023.58, and to allow the repayment term to extend one year so that the loan will mature in May 2020. The Promissory Note and contract amendment shall be completed for Loan Contract No. C150223 to reflect the revised terms and conditions stated herein.

This deferral is based on the CWCB's finding that Tom Hill has encountered significant hardship and unexpected financial difficulties, and that he has been duly diligent in his efforts to comply with the repayment provisions of the loan contract with the CWCB.

Background

The McElroy Reservoir (Reservoir) has been owned and operated by the Hills for the last 30 years. The Hills use the water stored in the Reservoir to irrigate approximately 400 acres of the 800 acres of hay production on their 2,588 acre Gore Pass Ranch (Ranch). The Ranch is located

upstream of Wolford Mountain Reservoir near Kremmling and receives irrigation water from storage rights. The Ranch produces approximately 1,200 tons of hay annually and the Hills have a 140-head cow/calf operation.

On June 17, 2006, the outlet works failed and erosion along the outlet conduit through the dam embankment began to occur. Given the potential failure of the dam and no means to release water, the Hills received a verbal breach order from the State Engineer's Office (SEO).

At the November 2006 board meeting, the CWCB approved a loan to Tom Hill in the amount of \$862,540 from the Severance Tax Trust Fund Perpetual Base Account for the rehabilitation of the dam. The project was completed May 1, 2008.

At the end of May 2008, the CWCB subordinated its interest in the Gore Pass Ranch so that the Hills could sell a conservation easement on the Ranch to the Colorado Division of Wildlife (DOW) for \$3,750,000. The conservation easement preserves in perpetuity the Gore Pass Ranch in its current state for agricultural use, and with the easement proceeds Tom Hill was able to pay off his debt to Grand Mountain Bank. The new CWCB loan contract terms after the sale of the conservation easement are 10 years at 2.0% per annum, with the Hills granting the CWCB a first-position lien on both the Ranch and their principal residence near Olathe. While the Hills' net proceeds from the sale of the conservation easement were not sufficient to pay off both the bank and the CWCB, the CWCB has more than sufficient collateral in the event of a default.

Discussion

The Board has the statutory authority under section 37-60-120 (3), C.R.S. (2009) to make loan deferments to an entity (borrower) provided that the entity has demonstrated that it has encountered significant and unexpected financial difficulties, and that it has been duly diligent in its efforts to comply with the repayment provisions of its contract with the Board.

The original purpose of the CWCB loan to the Hills was to rehabilitate the Reservoir dam after the SEO emergency breach order, thereby regaining the water storage rights on the Ranch that are necessary for the irrigation of hay and the sustainability of the Ranch. The CWCB loan to the Hills hinged upon the fact that the sale of the Ranch was in the near future, and that rehabilitating the dam was necessary to attract a buyer. No acceptable offer has been made for the Ranch during the four years it has been on the market.

The sale of the conservation easement allowed the Hills to drop the listing price by over \$3 million, and they have recently dropped the price an additional \$400,000 to \$3.1 million. Historically, they have been unable to operate the Ranch at a profit; however, the sale of the Ranch will allow the Hills to repay the CWCB loan with the sale proceeds and to net a profit. The Hills understand that the sale of the Ranch is necessary both to repay the CWCB loan and to re-establish a positive cash flow to their finances. The principal deferment will give the Hills one more year to sell the Ranch.

Tom Hill made the interest portion of the annual payment in the amount of \$16,414.57 for May 2010 in good faith. By deferring the principal portion and not changing the payment amount, the term of the loan extends an additional year. At an annual payment of \$96,023.58, the maturity date will be May 2020 instead of 2019.

Recommendation

Staff recommends that the Board approve Tom C. Hill's request to defer the principal portion of his May 2010 annual loan payment, to continue the May 2011 annual loan payment in the amount of \$96,023.58, and to allow the repayment term to extend one year resulting in maturity of the loan in May 2020. The Promissory Note and contract amendment shall be completed for Loan Contract No. C150223 to reflect the revised terms and conditions stated herein.

This deferral is based on the CWCB's finding that Tom Hill has encountered significant hardship and unexpected financial difficulties, and that he has been duly diligent in his efforts to comply with the repayment provisions of the loan contract with the CWCB.

cc: Tom and Linda Hill
Patricia DeChristopher, AGO
Susan Schneider, AGO

C150233

April 27, 2010

RECEIVED

APR 30 2010

Colorado Water
Conservation Board

Mr. Tim Feehan, P.E.
Chief, Finance Section
Colorado Water Conservation Board
1580 Logan Street, Room 600
Denver, CO 80203

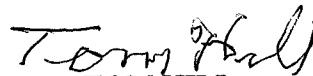
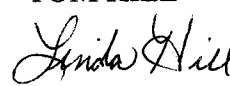
Re: Loan Contract #C150233

Dear Mr. Feehan:

We would like to request an interest only payment for the 2010 payment of \$16,414.57. Because of the depressed real estate market we have been unable to sell Gore Pass Ranch which has always been our intent. We were very close to a contract in the fall of 2008 when the economy fell. Our buyer could not obtain the needed financing and we were advised not to finance him as well. We recently reduced the price of the ranch by \$400,000.00 in an attempt to attract more buyers. By making an interest only payment this year, we will have the time to keep attempting to sell the ranch without taking a drastic reduction in price in order to make the \$96,023.58 payment.

We are also enclosing a copy of the letter from our realtor, Lisa Palmer, of Mountain Marketing Associates, Ltd. stating their intent to sell Gore Pass Ranch.

Thank you,


TOM HILL

LINDA HILL

LH