

BORROWER: MONTEZUMA VALLEY IRRIGATION
COMPANY
Contract No. C150333
Project Amount \$335,250
Loan Service Fee \$3,353
Loan Amount \$338,603

Agency Name: Water Conservation Board
Agency Number PDA

CMS # 47601

LOAN CONTRACT

(STANDARD CONTRACT – WAIVER #160 – APPROVED NOVEMBER 10, 2003)

THIS CONTRACT, made this 2nd day of July, 2012, is by and between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "STATE"), and the Montezuma Valley Irrigation Company, P.O. Box 1056, Cortez, CO 81321, a Colorado nonprofit corporation, ("BORROWER").

FACTUAL RECITALS

1. Authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this contract under: Contract Encumbrance No. C150333, Fund Number 424, Appropriation Code M12, Organization YYYY, GBL M333, Program WTRC, Object Code 5882, Reporting Category 0333.
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
3. The **PROJECT Summary**, attached as **Appendix 1** and incorporated herein, contains BORROWER Information (Section 1), the PROJECT Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval and Legislative Authorization which identifies the amount of the loan and the terms of repayment (Section 4).
4. The CWCB now desires, by this contract, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

A. LOAN PROVISIONS

1. **Loan Service Fee.** The amount of the loan (LOAN AMOUNT) shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a service fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the LOAN AMOUNT authorized, the parties shall amend this contract to revise the LOAN AMOUNT including adjustment of the service fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.
2. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a fee for amending the contract.

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- a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER's course of business but not necessary for the CWCB, including, but not limited to, a change in borrower name (novation), assignment of contract, substitution of collateral, loan payment deferrals in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including, but not limited to, loan payment deferrals (up to 3 per loan), changes in terms of loan repayment and amendments to adjust the interest rate pursuant to Paragraph A.13 herein, will be processed at no additional charge to the borrower.
 - b. The amount charged shall be in accordance with the fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current fee for an amendment is \$1,000.
 - c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded
3. **Promissory Note Provisions.** The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the Promissory Note, attached hereto as **Appendix 2** and incorporated herein. The Promissory Note shall identify the LOAN AMOUNT. If the amount of loan funds disbursed by the CWCB to the BORROWER differs from the LOAN AMOUNT, the parties agree to amend this contract, including its appendices where necessary, to revise the LOAN AMOUNT.
4. **Interest Prior to PROJECT Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to PROJECT's substantial completion (as determined by the CWCB) and notify BORROWER of such amount. The BORROWER shall repay that amount to the CWCB either within ten (10) days from the date of notification from the CWCB, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.
5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this contract shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed.
6. **BORROWER's Authority To Contract.** The BORROWER warrants that it has full power and authority to enter into this contract. The execution and delivery of this contract and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The BORROWER's authorizing resolution(s) are attached as **Appendix 3** and incorporated herein.
7. **Attorney's Opinion Letter.** Prior to the execution of this contract by the CWCB, the BORROWER shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that

- a. the contract has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the contract and to bind the BORROWER;
 - b. the resolutions of the BORROWER authorizing the execution and delivery of the contract were duly adopted by the BORROWER's board of directors and/or stockholders
 - c. there are no provisions in the BORROWER's articles of incorporation or bylaws or any state or local law that prevent this contract from binding the BORROWER; and
 - d. the contract will be valid and binding against the BORROWER if entered into by the CWCB.
8. **Pledge Of Property.** The BORROWER irrevocably pledges to the CWCB for purposes of repayment of this loan: (1) revenues from assessments levied for that purpose as authorized by the BORROWER's resolution(s) and (2) all of the BORROWER's rights to receive said assessment revenues, hereinafter collectively referred to as the "Pledged Property."
- a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the pledged revenues in an account separate from other BORROWER revenues, and warrants that these revenues will not be used for any other purpose.
 - b. **Establish Security Interest.** The BORROWER has duly executed a Security Agreement, attached hereto as **Appendix 4** and incorporated herein, to provide a security interest to the CWCB in the Pledged Property. The CWCB shall have priority over all other competing claims for said Pledged Property, except for the liens of the BORROWER's existing loans as listed in Section 5 (Schedule of Existing Debt) of the **Project Summary**, which sets forth the position of the lien created by this contract in relation to any existing lien(s).
 - c. **Revenue Assessments.** Pursuant to its statutory authority, articles of incorporation and bylaws, the BORROWER shall take all necessary actions consistent therewith during the term of this contract to levy assessments sufficient to pay this loan as required by the terms of this contract and the Promissory Note, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves. In the event the assessments levied by the BORROWER become insufficient to assure such repayment to the CWCB, the BORROWER shall immediately take all necessary action consistent with its statutory authority, its articles of incorporation and bylaws including, but not limited to, levying additional assessments to raise sufficient revenue to assure repayment of this loan.
 - d. **Debt Service Reserve Account.** To establish and maintain the debt service reserve account, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds.

9. **Collateral.** The collateral for this loan is described in Section 6 (Collateral) of the **Project Summary**, and secured by the instrument(s) attached hereto as **Appendix 5** and incorporated herein.
10. **Collateral During Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the Collateral or the Pledged Property so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB. In the event of any such sale, transfer or encumbrance without the CWCB's written concurrence, the CWCB may at any time thereafter declare all outstanding principal, interest, and late charges, if any, on this loan immediately due and payable.
11. **Release After Loan Is Repaid.** Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the Promissory Note, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the Collateral and the Pledged Property.
12. **Warranties.**
- a. The BORROWER warrants that, by acceptance of the loan under this contract and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this contract.
 - b. The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this contract and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this contract.
 - c. The BORROWER warrants that the Pledged Property and Collateral for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in Section 5 (Schedule of Existing Debt) of the **Project Summary**, which sets forth the position of the lien created by this contract in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the **Project Summary** and incorporated herein.
13. **Change of Ownership of Water Shares During Term of Contract.** If the interest rate for this loan is based on the CWCB's agricultural or blended agricultural and municipal and/or commercial and/or industrial rates, the BORROWER agrees to notify the CWCB of any change of the ownership of the water rights represented by its shares from irrigation to municipal or commercial or industrial use. The interest rate shall be revised when said change in ownership would increase the original interest rate by 0.5% or more. The parties shall amend this contract, including a revised promissory note, to effect said change in interest rate.

14. **Remedies For Default.** Upon default in the payments to be made by the BORROWER under this contract, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:

- a. suspend this contract and withhold further loan disbursements pending corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;
- b. declare the entire principal amount, accrued interest, and late charges, if any, then outstanding immediately due and payable;
- c. exercise its rights under any appendices to this contract, including, but not limited to, the Promissory Note, Security Agreement, and/or any instrument securing collateral; and/or
- d. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this contract at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this contract, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this contract and the laws and regulations under which this contract is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this contract.

15. **Operation of PROJECT.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate, and maintain the PROJECT continuously in an efficient and economical manner.

16. **BORROWER's Liability Insurance.**

- a. Upon execution of this contract and continuing until complete repayment of the loan is made to the CWCB, the BORROWER shall maintain commercial general liability insurance, with a company that is satisfactory to the CWCB, with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate, including products/completed operations and personal injury.
- b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acord Form 25 evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

17. **Additional Contract Requirements.** Any additional contract requirements are set forth in Additional Contract Requirement (Section 7) of the **Project Summary**.

B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB Construction Fund Program Procedures (Section 8), of the **Project Summary**.
2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses (Section 9) of the **Project Summary**.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 10) of the **Project Summary**.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this contract. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance (Section 11) of the **Project Summary**.
5. **Indemnification By The Construction Firm.** The BORROWER shall require all Construction Firms and their subcontractors to indemnify the STATE and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance During Construction.** During construction of the PROJECT, the BORROWER shall require the construction firm(s) and any subcontractors to maintain the following insurance coverage in the limits shown during the term of their contracts for the construction of the PROJECT. The BORROWER shall provide the CWCB with an Acord Form 27 evidencing said insurance prior to commencement of construction, maintained until construction is complete, and shall provide the CWCB with documentation of renewals of said insurance. No payments shall be made to the BORROWER unless all insurance certificates are current.
 - a. Builder's risk insurance for construction in progress for all perils of loss including fire, wind, hail, and vandalism in an amount equal to the completed value of the PROJECT.
 - b. Worker's compensation and employer's liability insurance in the required statutory amounts.
 - c. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.
 - d. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property

damage.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this contract, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this contract and shall not be construed nor interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this contract.
3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this contract.
4. **Assignment.** The BORROWER may not assign this contract except with the prior written approval of the CWCB.
5. **Contract Relationship.** The parties to this contract intend that the relationship between them under this contract is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this contract.
6. **Integration of Terms.** This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to STATE fiscal rules, unless expressly provided for herein.
7. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this contract and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, (2) the remainder of this contract, and (3) the Appendices.
8. **Casualty and Eminent Domain.** If, at any time, during the term of this contract, (a) the BORROWER'S PROJECT facilities, including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of

the PROJECT facilities or any portion thereof, or to repayment of this loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to repay the loan, BORROWER shall remain responsible for the full loan amount outstanding regardless of the amount of such insurance proceeds or condemnation award.

9. **Captions.** The captions and headings contained in this contract are for convenience and reference only and shall not be construed so as to define or limit the terms or provisions contracted herein.
10. **CWCB's Approval.** This contract requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER's compliance with this contract and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.
11. **Waiver.** The waiver of any breach of a term of this contract shall not be construed as a waiver of any other term, or of any subsequent breach of the same term.
12. **Addresses for mailing.** All notices, correspondence, or other documents required by this contract shall be delivered or mailed to the addresses shown in the Section 1 (BORROWER Information) of the **Project Summary**, for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Construction Fund Section
1313 Sherman Street, Room 721
Denver, CO 80203

SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

- 1. CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
- 2. FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 3. GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
- 4. INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
- 5. COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- 6. CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
- 7. BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
- 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c). Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

BORROWER: Montezuma Valley
Irrigation Company, a Colorado
nonprofit corporation

By Randy Carver
Randy Carver, President

State of Colorado
John W. Hickenlooper, Governor

By K. R. R. R.
For the Executive Director
Department of Natural Resources
Colorado Water Conservation Board
Jennifer L. Gimbel, Director

(SEAL)

Attest

By Rowdy Sukla
Rowdy Sukla, Secretary

Pre-Approved Form

By [Signature]
CWCB Contract Manager

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

David J. McDermott, CPA, State Controller

By [Signature]
DNR Contract Manager

Effective Date 8/24/12

Loan Contract C150333

Project Summary – Montezuma Valley Irrigation Company – Contract No. C150333

SECTION 1 –BORROWER INFORMATION

Name: Montezuma Valley Irrigation Company
Address: P.O. Box 1056, Cortez, CO 81321
Contact: Don Magnuson, Manager
Phone Number: 970-565-3332
E-mail address: dmagnuson@mvic.info
Type of Entity: a Colorado nonprofit corporation

Section 2 – Project Description

- A. Description of PROJECT: The BORROWER applied to the CWCB for a loan to be used for the construction of the Lone Pine and May Pipeline Improvements Project, located in Montezuma County, hereinafter referred to as the PROJECT, at an estimated total cost of \$472,500.
- B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report on the PROJECT entitled "Loan Feasibility Study: Lone Pine and May Pipeline Improvements," dated January 2012, prepared by the Applegate Group, Inc., which is incorporated herein by reference, and, based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

Construction Fund: This loan is made pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Construction Fund for the benefit of the people of the state, provided that the borrower assures repayment of that money.

Section 37-60-122(1)(b) C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's Construction Fund and the State Severance Tax Trust Fund Perpetual Base Account Fund without prior approval from the General Assembly.

SECTION 4 - BOARD APPROVAL

At its March 2012 meeting, the CWCB approved a Small Project Loan from the Construction Fund to the BORROWER in an amount up to \$338,603 for PROJECT costs, not to exceed 90% of the cost of the PROJECT, with a loan origination fee of 1% in accordance with CWCB Policy No. 16, at an interest rate of 2.75% per annum for a repayment term of 30 years.

SECTION 5 – SCHEDULE OF EXISTING DEBT

CWCB has an existing loan to Borrower secured by a first-position lien on Borrower's assessment revenues, with an original principal amount of \$2,979,825, interest at 2.25% per annum, and a term of 30 years. This lien is on a parity basis with the DWCD obligations listed below.

Appendix 1 to Loan Contract C150333

The Dolores Water Conservancy District, a Colorado quasi-municipal corporation ("DWCD"), has two agreements with the Borrower (MVIC), under which the Borrower has repayment obligations to DWCD secured by a first lien on the Borrower's assessment revenues. These Agreements include the "Contract between DWCD and MVIC for Adjustment of Water Rights and Sale of the Use of Irrigation Water, Dolores Project, Colorado River Storage Project" (Articles 4, 6, 7 and 8), and the "Contract Among the United States and DWCD, MVIC and the Ute Mountain Ute Tribe Providing for the Adjustment of Water Rights and for the Rehabilitation, Operation, Maintenance and Replacement of Facilities to Reduce Salinity Inflow to Colorado River" (Articles 5 and 6).

SECTION 6 - COLLATERAL

In addition to the property pledged in paragraph 8 of the loan contract, the collateral provided for this loan, as evidenced by the executed Deed of Trust, in the form attached as **Appendix 5** and incorporated herein, shall be the May Pipeline, as more particularly described in the attached Deed of Trust ("Collateral").

SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

- A. Prior to disbursement of loan funds, the CWCB shall receive a parity position with the Dolores Water Conservancy District on the Company's assessment revenues for the new debt added by this loan.
- B. Any funds received by the Borrower from the Bureau of Reclamation related to the water accounting system shall be given to the CWCB and will be applied to the outstanding principal loan balance, and the loan contract shall be amended to the reduced loan amount.

SECTION 8 – CONSTRUCTION FUND PROGRAM PROCEDURES

- A. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.
- B. The BORROWER'S and the Engineering Consultant's Agreements and the plans and specifications must be submitted to the CWCB staff for verification of compliance with the terms of this Contract when available prior to bidding. Any modifications to the plans and specifications must be approved in writing by the CWCB staff.
- C. For plans and specifications for all jurisdictional dams and reservoirs, as defined by § 37-87-105 C.R.S., the BORROWER shall provide a letter of approval from the State Engineer's Office prior to construction.
- D. CWCB staff must be present at bid opening and must approve the award of the construction contract.
- E. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, which said Construction Firms shall be selected by the BORROWER and found acceptable by the CWCB staff.

Appendix 1 to Loan Contract C150333

- F. The BORROWER must provide a copy of the executed construction contract documents consisting of the contractor's proposal, construction contract, performance bond, payment bond, notice of award, notice to proceed, sample change order, and sample field order, as well as the advertisement for bid and bid bond at bidding. After the CWCB staff verifies that these documents comply with the terms of this contract, the BORROWER may issue the notice to proceed to the Construction Firms.
- G. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction schedule.
- H. If the CWCB staff determines that the PROJECT requires a resident inspector during construction, the BORROWER shall employ an inspector who has been approved by the CWCB staff.
- I. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.
- J. Upon completion of the PROJECT construction, the BORROWER shall provide as-built drawings of the PROJECT to the CWCB staff, or, if required by § 37-87-105, C.R.S., the BORROWER shall provide the as-built drawings to the State Engineer's Office for approval and filing.
- K. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.
- L. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

SECTION 9 – ELIGIBLE EXPENSES. The following items are eligible for loan disbursements.

- A. Preparing final designs and specifications for the PROJECT.
- B. Preparing bid and construction contract documents.
- C. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- D. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- E. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- F. Actual construction as called for in the design documents and in change orders approved by the CWCB and the BORROWER.
- G. Engineering services for construction management, including design and construction management for CWCB-approved change orders.
- H. Interest during completion of the PROJECT pursuant to Paragraph A.4 of the Contract.
- I. Legal services for reviewing engineering services contracts, reviewing this Contract, reviewing construction contract documents, and for complying with all federal, state,

Appendix 1 to Loan Contract C150333

and local regulatory requirements.

- M. PROJECT-related expenses incurred prior to the Effective Date of this contract in accordance with the approval of this loan.

10 – DISBURSEMENT SCHEDULE

For Project costs: The BORROWER shall prepare a periodic progress report which contains a statement of the PROJECT costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the BORROWER, and review and acceptance of the items therein as eligible expenses as described below, the CWCB will pay to the BORROWER the amount set forth in the report or such portion that has been approved by the CWCB. Such payment shall be made within thirty (30) days from the CWCB's approval of each progress report.

SECTION 11 – TIME FOR PERFORMANCE

PROJECT Beginning: Upon Effective Date of this Contract (the date this contract is signed by the State Controller or his designee).

PROJECT Finish: Four (4) years from the Effective Date of this Contract

PROMISSORY NOTE

Date: July 2, 2012
Borrower: Montezuma Valley Irrigation Company
Principal Amount: \$338,603
Interest Rate: 2.75% per annum
Term of Repayment: 30 years
Loan Contract No.: C150333, dated June 12, 2012
Loan Payment: \$16,721.71
Payment Initiation Date*: _____
Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.
8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding

Appendix 2 to Loan Contract C150333

principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.

9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

Company

(S E A L)

BORROWER: Montezuma Valley Irrigation

By Randy Carver
Randy Carver, President

Attest:

By Rowdy Sukla
Rowdy Sukla, Secretary

**RESOLUTIONS OF THE BOARD OF DIRECTORS
OF THE MONTEZUMA VALLEY IRRIGATION COMPANY**

The Board of Directors of the Montezuma Valley Irrigation Company (Company), at a meeting held June 12, 2012 at Cortez, Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of constructing the Lone Pine and May Pipeline Improvements Project in the amount of \$338,603 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, RESOLVED as follows.

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$338,603, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the Loan Contract, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
5. to pledge the May Pipeline as collateral for the loan and execute all documents, including a deed of trust, necessary to convey a security interest in said property to the CWCB,
6. to execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, THE PRESIDENT AND THE CORPORATE SECRETARY HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S BOARD OF DIRECTORS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 9th DAY OF July 2012.

(SEAL)

By Randy L. Carver
Randy Carver, President

ATTEST:
By Rowdy Sukla
Rowdy Sukla, Secretary

MONTEZUMA VALLEY IRRIGATION COMPANY

RESOLUTIONS OF THE CORPORATE BOARD OF DIRECTORS

HERE FOLLOWS the Resolution adopted at the regularly scheduled meeting of the Board of Directors of the Montezuma Valley Irrigation Company held on June 12, 2012.

RECITATIONS

Upon Motion duly made and seconded it was resolved that:

WHEREAS the Montezuma Valley Irrigation Company ("MVIC" or the "Company") is required by Colorado statutory law, its Articles of Incorporation, and its By-Laws to deliver water to its shareholders and maintain its water infrastructure in good condition;

WHEREAS the water delivery infrastructure owned and maintained by MVIC requires constant maintenance, and periodic repair and modifications in order to efficiently and effectively deliver water to its Shareholders, and MVIC is unable to fund said maintenance, repairs, and modifications from its existing revenues;

WHEREAS the Colorado Water Conservation Board ("CWCB") provides low-interest loans to agricultural, municipal, and commercial borrowers for the maintenance, repair, and modifications of water infrastructure in Colorado;

WHEREAS MVIC previously received a loan from the CWCB pursuant to a Loan Contract dated December 7, 2007 in the principle amount of two million, nine hundred fifty thousand, twenty-seven dollars (\$2,950,027.00) for the purpose of the construction of the May Lateral Pipeline Project, and the proceeds of this loan have been fully used and dispersed for their designated purpose; and

WHEREAS MVIC desires to receive and utilize additional funds from the CWCB in the form of a second loan in the principle amount of Three Hundred Thirty Nine Thousand Six Hundred and Three Dollars (\$339,603.00) to be used to maintain, repair, and/or modify its water delivery infrastructure.

RESOLUTION

BY MOTION, BE IT RESOLVED that the President of the Company, or his successors in office, or any of them and the Secretary of the Company, or his successors in office, or any of them be and are hereby is authorized for, on behalf of, and in the name of the Company to:

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of Three Hundred Thirty Nine Thousand Six Hundred and Three Dollars (\$339,603.00), or such actual amount, more or less, as needed to finance the

- project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the Loan Contract, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
 3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
 4. to make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
 5. to pledge the May Pipeline as collateral for the loan and execute all documents, including a deed of trust, necessary to convey a security interest in said property to the CWCB,
 6. to execute all documents as required by the loan contract, including, but not limited to, a Security Agreement and a Promissory Note, and
 7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

BE IT FURTHER RESOLVED that the foregoing Resolution is irrevocable during the term of the loan.

WE, BEING ALL OR A MAJORITY OF THE SEVEN DIRECTORS OF THE COMPANY, HEREBY APPROVE the foregoing Resolution this 12th day of June 2012.

Director Randy L. Carr

Director Donny J. Deak

Director David S. Smith

Director Tom Blackmer

Director Wayne E. Gardner

Director _____

Director Greg Black

CERTIFICATION


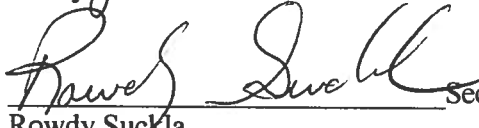
IT IS HEREBY CERTIFIED that that this is a true and correct copy of the Resolution duly adopted at a special meeting of the Company's Board of Directors duly called and held as above recited, pursuant the Company's By-Laws, and that said Resolution has not been amended or rescinded;

WE HEREBY FURTHER CERTIFY, that the signatures appearing above are the genuine, original signatures of members of the duly appointed President, duly appointed Secretary of the Company, and members of the Board of Directors, respectively; and

WE HEREBY FURTHER CERTIFY, that the following named persons have been duly elected to the offices set opposite their respective names, and that they continue to hold these offices as of the date hereof.

Randy Carver	President
Rowdy Sucla	Secretary

IN WITNESS WHEREOF, We have hereunto affixed our names as President and Secretary and have caused the corporate seal of the Company to be affixed this 12th day of June, 2012.

	President
Randy Carver	
	Secretary
Rowdy Suckla	

(SEAL)

SECURITY AGREEMENT

(PLEDGE OF REVENUES)

DATE: July 2, 2012

DEBTOR: MONTEZUMA VALLEY IRRIGATION COMPANY

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

PROMISSORY NOTE: \$338,603, DATED July 2, 2012

TERMS OF REPAYMENT: 2.75% PER ANNUM FOR 30 YEARS

LOAN CONTRACT: C150333, DATED July 2, 2012

COLLATERAL: All revenues derived from assessments on stock and all of Debtor's right to receive said assessment revenues to repay the loan as described in Pledge of Property provisions of the LOAN CONTRACT and Debtor's Resolutions adopted June 12, 2012.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interest, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described COLLATERAL.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the Loan Contract Project Summary, DEBTOR is the owner of the COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the COLLATERAL and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the COLLATERAL pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature which may be levied or assessed against the COLLATERAL.
6. That the DEBTOR's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

Appendix 4 to Loan Contract C150333

- a. default in the payment or performance of any obligation contained herein or in the Promissory Note or Loan Contract;
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

UPON SUCH DEFAULT and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. SECURED PARTY may require DEBTOR to deliver or make the COLLATERAL available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY's reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this Security Agreement. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this security agreement shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this security agreement; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

DEBTOR: Montezuma Valley Irrigation
Company, a Colorado nonprofit
corporation

SEAL

ATTEST,
By

Rowdy Sukla, Secretary

By Randy Carver
Randy Carver, President

Appendix 4 to Loan Contract C150333

Deed of Trust

DATE: July 2, 2012
GRANTOR: MONTEZUMA VALLEY IRRIGATION COMPANY
BENEFICIARY: COLORADO WATER CONSERVATION BOARD
COUNTY: MONTEZUMA
PRINCIPAL LOAN AMOUNT: \$338,603
LOAN CONTRACT: Loan Contract No. C150333, dated July 2, 2012
TERMS OF REPAYMENT: 2.75% per annum for 30 years
COLLATERAL: An undivided one-hundred percent interest in any rights to the May Pipeline that the Grantor holds including approximately five (5) miles of pipeline commencing at the NE ¼ of the NW ¼ of Section 33, Township 36 North, Range 14 West, N.M.P.M., diverting from the Dolores River.

This indenture is between the Grantor, and the Public Trustee of the above referenced COUNTY, State of Colorado ("PUBLIC TRUSTEE"),

FACTUAL RECITALS

1. The GRANTOR has executed a Promissory Note of even date and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the Promissory Note or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said Promissory Note to the BENEFICIARY.

The GRANTOR, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said PUBLIC TRUSTEE in trust forever, the above described COLLATERAL.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said Promissory Note, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said Promissory Note or LOAN CONTRACT, then upon the BENEFICIARY filing notice of election and demand for sale, said PUBLIC TRUSTEE, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said COUNTY, shall sell said COLLATERAL in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the PUBLIC TRUSTEE shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon and pay the principal and interest due on said Promissory Note, rendering the overplus, if any, unto the GRANTOR; and after the expiration of the time of redemption, the PUBLIC TRUSTEE shall execute and deliver to the purchaser a deed to the COLLATERAL sold. The BENEFICIARY may purchase said COLLATERAL or any part thereof at such sale.

The GRANTOR covenants that at the time of the delivery of these presents, it is well seized of the COLLATERAL in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The GRANTOR fully waives and releases all rights and claims it may have in or to said COLLATERAL as a Homestead

Appendix 5 to Loan Contract C150333

Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the collateral is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the COLLATERAL in the quiet and peaceable possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the COLLATERAL; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the COLLATERAL insured in accordance with the requirements of the LOAN CONTRACT. In the event of the sale or transfer of the COLLATERAL, the BENEFICIARY, at its option, may declare the entire balance of the note immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said Promissory Note or LOAN CONTRACT, by the GRANTOR, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the BENEFICIARY, become due and payable, and the said COLLATERAL be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the PUBLIC TRUSTEE, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the PUBLIC TRUSTEE as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this Deed of Trust is required, the GRANTOR, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the Promissory Note and LOAN CONTRACT shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Executed the day and date first written above.

Montezuma Valley Irrigation Company, a
Colorado nonprofit corporation

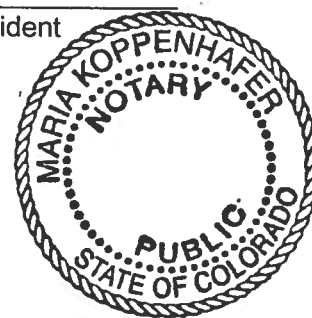
(SEAL)

By Randy L. Carver
Randy Carver, President

ATTEST:

By Rowdy Sukla
Rowdy Sukla, Secretary

County of Montezuma)
State of Colorado) SS



The foregoing instrument was acknowledged before me this 9th day of July 2012, by Randy Carver and Rowdy Sukla, as President and Secretary, respectively, of Montezuma Valley Irrigation Company. Witness my hand and official seal.

Maria Koppenhafer Notary Public

Appendix 5 to Loan Contract C150333

My commission expires 3/9/2014

**Return recorded deed of trust to: CWCB Finance Section, Attn: Contract Manager, 1580
Logan Street, Suite 600, Denver CO 80203 (Phone Number 303-866-3441)**

Appendix 5 to Loan Contract C150333

PARITY AGREEMENT

THIS AGREEMENT is entered into and effective on the day last executed below by and among the Dolores Water Conservancy District ("DWCD"), the Montezuma Valley Irrigation Company ("MVIC"), and the Colorado Water Conservation Board ("CWCB").

RECITALS

A. The DWCD, a Colorado quasi-municipal corporation, has two agreements with MVIC, a Colorado nonprofit corporation organized under the Ditch and Reservoir Companies Act (C.R.S. §§ 7-42-101 et seq.), among others, under which MVIC has repayment obligations to DWCD secured by a first lien on MVIC's "annual and special assessments collected from the landowners of [MVIC]". These agreements include the "Contract between DWCD and MVIC for Adjustment of Water Rights and Sale of the Use of Irrigation Water, Dolores Project, Colorado River Storage Project," dated September 23, 1977, ("D/M Contract") (Articles 4, 6, 7 and 8), and the "Contract Among the United States and DWCD, MVIC and the Ute Mountain Ute Tribe Providing for the Adjustment of Water Rights and for the Rehabilitation, Operation, Maintenance and Replacement of Facilities to Reduce Salinity Inflow to Colorado River," dated April 21, 1989 ("T/HC Contract") (Articles 5 and 6).

B. MVIC intends to enter into a loan contract with the CWCB to borrow \$339,603.00 for thirty (30) years with interest at the rate of two and three quarters percent (2.75%) per annum, also to be secured by a lien interest in MVIC's "Pledged Revenues," as

defined in that contract, as well as a first lien interest in MVIC's May Lateral Pipeline Project ("CWCB Loan Contract 2).

C. In 2007, MVIC and CWCB executed Loan Contract C150251 under which MVIC borrowed \$2,979,826, at an interest rate of 2.25% annually from CWCB for 30 years. In addition to other security MVIC pledged to CWCB as security for repayment a position of parity in MVIC's "Pledged Revenues" ("CWCB Loan Contract 1), as defined in that Contract. DWCD agreed to the parity pledge by MVIC for the CWCB Loan Contract 1.

D. The parties desire to enter into a new parity agreement regarding CWCB Loan Contract 2.

NOW, THEREFORE, DWCD, MVIC and CWCB hereby agree, subject to the terms and conditions set forth below, as follows:

1. The CWCB's lien interest in MVIC's "Pledged Revenues," under CWCB Loan Contract 2, shall be on parity with DWCD's existing lien interest in MVIC's "annual and special assessments collected from the landowners of [MVIC]". In the event of a default by MVIC, under its payment obligations to either DWCD or the CWCB, DWCD and the CWCB will divide the available MVIC "Pledged Revenues" on a pro-rata basis, based on MVIC's payments due DWCD and CWCB for the year of any MVIC default.
2. MVIC agrees that the phrase "the proceeds of annual and special assessments," in the D/M and T/HC Contracts for the purpose of securing payments only to DWCD, includes MVIC's account fees owed MVIC by MVIC's shareholders.

3. In addition to the terms and conditions regarding an MVIC default to DWCD under the D/M and T/HC Contracts, should MVIC be delinquent in any payments under these contracts, MVIC shall:

a. pay a late fee of one-half percent (0.5%) per month upon the balance of unpaid payments to DWCD as long as any payment owed to DWCD continues to be delinquent, in addition to paying default interest as set forth in the D/M and T/HC Contracts.

b. allow DWCD to immediately shut off any Project water deliveries to MVIC shareholders, including any deliveries of "Call Water," as defined under the T/HC Contract, Article 10(d), no earlier than thirty (30) days following the receipt of written notice from DWCD to MVIC setting forth the detail of any delinquency in payment and the amount necessary to cure, including the arithmetic calculation thereof, until all payments owed DWCD, including late fees and interest, are made.

c. use the proceeds from MVIC's Prudential Annuity/Anima Capitol Fund ("Annuity") to make not only payments owed CWCB under CWCB Loan Contracts 1 and 2, but also payments owed DWCD under the D/M and T/HC Contracts. The payments from the Annuity to DWCD and CWCB will be pro rata, e.g., if, for the year in question, the Annuity payment is \$100,000, and MVIC owes DWCD \$100,000 and CWCB \$200,000, under both CWCB Loan Contracts 1 and 2, DWCD would receive \$33,334 and CWCB would receive \$67,773 from MVIC's receipt of the Annuity

payment. If either CWCB or DWCD has already been paid for the year in question, but the other entity has not, the full Annuity payment shall go to the unpaid entity.

4. This Parity Agreement is approved by the Board of Directors ("Board") of the Montezuma Valley Irrigation Company at a special/regular meeting of the Board, on June 12, 2012, by a vote of 6 to 0.

Montezuma Valley Irrigation Company

Randy Carver
Randy Carver, President

Date: June 12, 2012

Dolores Water Conservancy District

Joe Mahaffey
Joe Mahaffey, President

Date: 6/14/12, 2012

Colorado Water Conservation Board

[Signature]
For the CWCB Director

Date: 7/30/12, 2012

July 17, 2012

Colorado Water Conservation Board
Construction Fund Section
1313 Sherman Street, Room 721
Denver Colorado, 80203
Attn: Mr. Steve Biondo

*Attorney
Opinion*

Re: Montezuma Valley Irrigation Company; Loan Contract No. C150333

Dear Ladies and Gentlemen:

We represent the Montezuma Valley Irrigation Company ("MVIC" or "Borrower") a duly organized and existing in good standing pursuant to Colorado statutes located at 11501 Highway 491, Cortez, Colorado 81321.

As you are aware, MVIC is in the process of obtaining a loan from the Colorado Water Conservation Board's ("CWCB") Water Project Loan Program pursuant to Loan Contract No. C150333 (the "Loan Contract"). Paragraph 7 of section A of the Loan Contract requires an attorney's opinion letter relating to MVIC's authority to enter into the Loan Contract. This letter may be considered as fulfillment of said requirement.

After review of MVIC's Articles of Incorporation (and Amendments thereto), Corporate By-Laws, and relevant state and local law, it is our opinion based on our knowledge that:

1. Mr. Randy Carver, President of MVIC, and Mr. Rowdy Suckla, Corporate Secretary of MVIC, are duly authorized in their respective corporate capacities to execute the Loan Contract and to bind MVIC thereunder;
2. The resolution of MVIC authorizing the execution and delivery of the Loan Contract was duly adopted by MVIC's Board of Directors as required by its Articles of Incorporation and By-Laws;
3. We are unaware of any provisions in MVIC's Articles of Incorporation or By-Laws or any state or local law that prevent the Loan Contract from binding MVIC to the terms thereof; and
4. The contract will be valid and binding as to MVIC upon mutual execution.

Furthermore, it is our opinion that pursuant to MVIC's Articles of Incorporation and By-Laws presently in effect that the MVIC Board of Directors is empowered with the authority to execute this Loan Contract and bind MVIC thereunder without obtaining the consent or approval of the MVIC stockholders.

In basing the conclusions and other matters set forth herein on "our knowledge," the words

Kent Holsinger
Jack Silver, Of Counsel

Laura L. Chartrand
Alyson Meyer Gould

P: (303) 722-2828
F: (303) 496-1025
www.holsingerlaw.com

104 Broadway, 3rd Floor
Denver, CO 80203



Holsinger Law, LLC

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"our knowledge" signify that, in the course of our representation of the Borrower in matters with respect to which we have been engaged by the Borrower as counsel, no information has come to our attention that would give us actual knowledge or actual notice that any such opinions or other matters are not accurate or that any of the documents, certificates, reports and information on which we have relied are not accurate and complete. Except as otherwise stated herein, we have undertaken no independent investigation or verification of such matters. The words "our knowledge" and similar language used herein are intended to be limited to the knowledge of the lawyers within our firm who we reasonably believe have knowledge of the affairs of the Borrower.

In reaching the opinions set forth below, we have assumed, and to our knowledge there are not facts inconsistent with, the following:

- (a) each of the parties thereto has duly and validly executed and delivered each instrument, document and agreement executed in connection with the Loan Contract to which such party is a signatory and such party's obligations set forth therein are its legal, valid and binding obligations, enforceable in accordance with their respective terms;
- (b) each person executing any such instrument, document or agreement on behalf of any such party is duly authorized to do so;
- (c) each natural person executing any such instrument, document or agreement is legally competent to do so;
- (d) there are no oral or written modifications of or amendments to the Loan Contract, and there has been no waiver of any of the provisions of the Loan Contract, by actions or conduct of the parties or otherwise;
- (e) all documents submitted to us as originals are authentic; all documents submitted to us as certified or photostatic copies conform to the original documents; all signatures on all documents submitted to us for examination are genuine; and all public records reviewed are accurate and complete.

Based on our review of the foregoing and subject to the assumptions and qualifications set forth herein, it is our opinion that, as of the date of this letter:

1. The Borrower is a not-for-profit corporation validly existing in good standing under the laws of the State of Colorado with a stated term of existence beyond the term of the Loan Contract.



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2. The Borrower has the authority to own its properties and conduct its business as now conducted, to borrow the proceeds of the Loan and to execute and perform its obligations under the Loan Contract.

3. All necessary action has been taken to authorize the execution, delivery and performance of the Loan Contract by the Borrower.

4. The Loan Contract has been duly executed and delivered by the Borrower (as the case may be) and constitutes the valid and legally binding obligations of the Borrower enforceable against the Borrower in accordance with their terms, subject to the following:

- (i) applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally; and
- (ii) the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or of equity).

5. To our knowledge, no consent, approval, authorization or other action by, or filing with, any governmental authority is required in connection with the execution and delivery by the Borrower, or if required, the requisite consent, approval or authorization has been obtained, the requisite filing has been accomplished or the requisite action has been taken.

In addition to the qualifications set forth above, the opinions set forth herein are also subject to the following qualifications:

(i) We express no opinion as to the laws of any jurisdiction other than the laws of the State of Colorado and the laws of the United States of America. The opinions expressed herein concern only the effect of the laws (excluding the principles of conflict of laws) of the State of Colorado and the United States of America as currently in effect. We assume no obligation to supplement this opinion if any applicable laws change after the date hereof, or if we become aware of any facts that might change the opinions expressed herein after the date hereof.

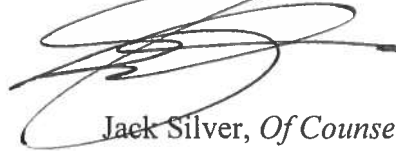
(ii) The opinions expressed in this letter are solely for the use of the CWCB and these opinions may not be relied on by any other persons without our prior written approval. The opinions expressed in this letter are limited to the matters set forth in this letter, and no other opinions should be inferred beyond the matters expressly stated.

Please contact us should the Colorado Water Conservation Board require further assurances related to this matter.

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Sincerely,

HOLSINGER LAW, LLC

A handwritten signature in black ink, appearing to read "Jack Silver", written over the printed name.

Jack Silver, *Of Counsel*

Enclosures

cc: R. Carver, President of MVIC
D. Magnuson, Manager of MVIC
Kent Holsinger, Esq.



Holsinger Law, LLC