

# STATE OF COLORADO

## Colorado Water Conservation Board Department of Natural Resources

1580 Logan Street, Suite 600  
Denver, Colorado 80203  
Phone: (303) 866-3441  
Fax: (303) 894-2578  
www.cwcb.state.co.us



John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

January 18, 2013

Mr. Daniel Sherwood, President  
Silver Springs Trout Farm, Inc.  
62188 Silver Springs Lane  
Montrose, CO 81403

Subject: Loan Contract No. C150091  
Loan Compliance Confirmation

Dear Mr. Sherwood:

Attached for your records are the original documents relative to the agreement between the Silver Springs Trout Farm, Inc. and the Colorado Water Conservation Board, Loan Contract No. C150091, dated August 1, 2002. The documents have been stamped "PAID IN FULL" denoting that the terms of the agreement have been satisfied in full by you.

Also included are the following documents:

1. The original recorded Request for Full Release of Deed of Trust and Release;
2. The original recorded Deed of Trust dated August 1, 2002;
3. The original Promissory Note dated August 1, 2002.

Should you have any questions, please contact me at Telephone No. (303) 866-3441, ext. 3205. If we can be of any further assistance to you in the future, please let us know.

Very truly yours,

S. S. Biondo  
Finance Manager  
Finance Section

BORROWER: SILVER SPRINGS TROUT FARM, INC.  
Contract No. C150091  
Loan Amount \$365,000

Agency Name: Water Conservation Board  
Agency Number PDA  
Routing Number 03 PDA 00015

## LOAN CONTRACT

THIS CONTRACT, made this August 1, 2002, is by and between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" and/or "STATE"), and the Silver Springs Trout Farm, Inc., a Colorado corporation, and Daniel A. and Jacqueline P. Sherwood Trust, U/A DTD 12/6/95, 13221 Marine Road, Montrose, Colorado 81401 ("BORROWER" and/or "CONTRACTOR").

### 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 payment as follows: Fund Number 424, Organization YYYY, Appropriation Code L02, GBL S091, Program WTRC, Object Code 5881, Reporting Category 0091, Contract Encumbrance No. C150091.
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
3. CWCB's authority for making this loan: **Construction Fund**: Pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S. the CWCB is authorized 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.
4. House Bill 01-1024, Section 1, provides that pursuant to § 37-60-122, C.R.S., the CWCB is authorized to loan money to enable commercial aquaculturists, whose aquaculture facilities are fish production facilities that test positive for *myxobolus cerebralis* ("whirling disease") to make any such facility achieve a negative whirling disease certification, or prevent the introduction of whirling disease to any aquaculture facility or prevent the spread of whirling disease.
5. The **Project Summary**, attached as **Appendix 1** and incorporated herein, contains BORROWER Information (Section 1) and the PROJECT Description (Section 2).
6. Board approval and legislative authorization, if required, is included in Board Approval and Legislative Authorization (Section 3) of the Project Summary.
7. 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. **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.

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 completion of the PROJECT and the BORROWER shall repay that amount to the CWCB either within ten (10) days after the date the CWCB determines that the PROJECT has been substantially completed, 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.

3. **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 days of either (1) completion of the PROJECT or (2) upon the determination by the CWCB that the PROJECT will not be completed.
4. **BORROWER's Authority To Contract.** The BORROWER's board of directors (and stockholders, if required) have adopted resolutions, attached as **Appendix 3** and incorporated herein, authorizing the BORROWER to perform in accordance with the terms of this contract.
5. **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 person signing for the BORROWER was duly elected or appointed and has authority to sign such documents on behalf of the BORROWER and to bind the BORROWER;
  - b. the BORROWER's board of directors and/or stockholders for the Silver Springs Trout Farm, Inc. have validly adopted resolutions approving this contract;
  - 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.
6. **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 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.
7. **Collateral.** The collateral for this loan is described in Section 4 (Collateral) of the **Project Summary**, and secured by the instrument(s) attached hereto as **Appendix 4** and incorporated herein.
8. **Collateral during Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the collateral for this loan 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.
9. **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 property pledged to repay this loan.

10. **Warranties.**

- a. The BORROWER warrants that, by accepting the loan money 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 collateral for this loan is 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 pre-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 that pre-existing lien. Documentation establishing the relative priorities of said liens, if necessary, is attached to the **Project Summary** and incorporated herein.

11. **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 STATE 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 rate 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.

12. **Remedies For Default.** Upon default in the payments to be made by the BORROWER under this contract, or if the BORROWER fails to comply with any provision of this contract, 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, Assignment of Certificate of Deposit, and/or Deed of Trust; 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.

13. **BORROWER's Indemnification Of The CWCB.** The BORROWER agrees to indemnify and hold the CWCB harmless from any liability incurred by the CWCB as a result of the CWCB's interest in the PROJECT facilities and any other property identified in Section 4 (Collateral) of the **Project Summary**.
14. **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.
15. **BORROWER's Liability Insurance.** 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. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acord Form 27 evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

#### 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 6), of the **Project Summary**.
2. **Eligible Expenses.** The items for which the BORROWER is eligible for loan disbursements are listed in Eligible Project Expenses (Section 7) of the **Project Summary**.
3. **Loan Disbursements.** The BORROWER shall provide to the CWCB a report prior to each loan disbursement that states the PROJECT tasks completed and the costs expended for that period. The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 8) 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 9) of the **Project Summary**.
5. **Indemnification By The Construction Firm.** The BORROWER shall require all Construction Firms and their subcontractors to indemnify the CWCB 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. Said 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. **Adhere To 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 agents and employees are hereby designated as the agents of the CWCB for the purpose of this contract.
4. **Contract Is Not Assignable.** 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. **Complete Integration Of All Understandings.** This agreement 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. **In Event Of A Conflict.** In the event of conflict between the terms of this contract and conditions as set forth in any of the appendices, the provisions of this contract shall control.

8. **CWCB May Release Contract.** In its sole discretion, the CWCB may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of the BORROWER'S obligations under this contract, with valuable consideration, upon such terms and conditions as the CWCB may determine to be advisable to further the purposes of this contract or to protect the CWCB's financial interest therein, and consistent with both the statutory purposes of this Contract and the limitations of the statutory authority under which it is made.
9. **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 opts 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.
10. **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.
11. **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 shall be solely responsible for the accuracy and completeness of such documents.
12. **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.
13. **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

14. **Additional Contract Requirements.** Any additional contract requirements are shown in Additional Contract Requirement (Section 10) of the **Project Summary**.

**SPECIAL PROVISIONS** (12/01 version). State Fiscal Rule 3-1 requires the inclusion of these Special Provisions in every STATE contract, including grants.



**1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)**

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

**2. FUND AVAILABILITY. CRS 24-30-202 (5.5)**

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**3. INDEMNIFICATION.**

The Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

**4. INDEPENDENT CONTRACTOR. 4 CCR 801-2**

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

**5. NON-DISCRIMINATION.**

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

**6. CHOICE OF LAW.**

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

**7. VENDOR OFFSET. CRS 24-30-202 (1) & CRS 24-30-202.4**

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

**8. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507**

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

Revised: 12/1/01

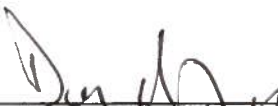


**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

CONTRACTOR: Silver Springs Trout Farm,  
Inc. a Colorado corporation

State of Colorado  
Bill Owens, Governor

By   
Daniel A. Sherwood, President

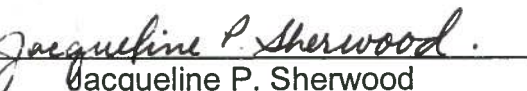
By   
For the Executive Director  
Department of Natural Resources  
Colorado Water Conservation Board  
Rod Kuharich, Director

Federal ID Number: 84-1380369

(SEAL)

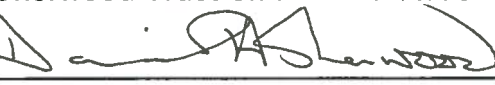
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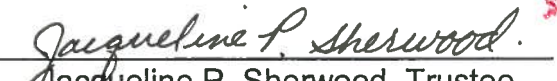
Legal Review:  
KEN SALAZAR, ATTORNEY GENERAL

By   
Jacqueline P. Sherwood  
Corporate Secretary

By 

CONTRACTOR: Daniel A. and Jacqueline  
P. Sherwood Trust U/A DTD 12/6/95

By   
Daniel A. Sherwood, Trustee


By   
Jacqueline P. Sherwood, Trustee

**PAID  
IN FULL**

**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.

Arthur L. Barnhart, State Controller

By   
Effective Date 9/12/02

Revised: 12/1/01

## **PROJECT SUMMARY –SILVER SPRINGS TROUT FARM– CONTRACT NO. C150091**

### **SECTION 1 –BORROWER INFORMATION**

Name: Silver Springs Trout Farm, Inc. & Daniel A. and Jacqueline P. Sherwood Trust, U/A DTD 12/6/95  
Address: 13221 Marine Road  
Montrose, CO 81401  
Phone Number: 970-249-5888  
E-mail address: silversprings@dmea.net  
Contact: Daniel Sherwood, President  
Type of Entity: a Colorado Corporation and a Colorado trust

### **Section 2 – Project Description**

- A. Description of Project: Rehabilitation of the Silver Springs Trout Farm hatchery located in Mesa County, and to refinance existing debt associated with rehabilitation work already completed. The purpose for the rehabilitation is to eliminate whirling disease from the facility.
- B. Description of Feasibility Study: The CWCB reviewed a feasibility report on the Project completed by John Van Sciver, which is incorporated herein by reference, and based upon this feasibility report, the CWCB determined the report meets the requirements of the CWCB Construction Fund Guidelines for feasibility studies.

### **SECTION 3 – BOARD APPROVAL AND LEGISLATIVE AUTHORIZATION**

- A. At its November 19-20, 2001 meeting, the CWCB approved a loan to the BORROWER in an amount up to \$365,000, not to exceed 90% of the cost of the PROJECT, at an interest rate of 2.5% per annum for a repayment term of 15 years to rehabilitate the PROJECT, and to refinance debt associated with rehabilitation work already completed.
- B. Pursuant to House Bill 02-1152, Section 1, the Colorado General Assembly authorized CWCB to loan to the BORROWER an amount up to \$365,000 for refinancing the PROJECT wholly or partially completed.

### **SECTION 4 - COLLATERAL**

The security provided for this loan, as evidenced by the executed Deed of Trust attached as **Appendix 5a** and incorporated herein, shall be an undivided one hundred percent (100%) interest in (1) a parcel of land located in Section 19 and Section 30, Township 49 North, Range 9 West, NMPM, (2) perpetual easement and right of way for the West Spring Ditch, the Waste Water Ditch and the Tile Collection Line, and (3) water rights tributary to Mexican Gulch, a tributary of the Uncompahgre River (also secured by Security Agreement attached as **Appendix 5b** and incorporated herein), hereafter referred to as the Collateral, and more completely described in said deed of trust.

## SECTION 5 – SCHEDULE OF EXISTING DEBT

Lienholder	Contract Date	Original Amount	Term of Repayment	
Ray Thompson	November 1999	\$350,000	30 years	Loan to be repaid with proceeds from CWCB loan funds

The BORROWER obtained a loan from Ray Thompson to finance a portion of the Project rehabilitation. To secure repayment of said loan, the BORROWER security agreement (perfected by a UCC1 recorded with the Secretary of State 11/22/99 recording no. 657973 and a deed of trust, recorded 11/22/99 in Montrose County, Reception No. 657972 B1016 P936-941. Proceeds of this loan shall be used to repay the Ray Thompson loan. Upon full repayment of the BORROWER's loan from Ray Thompson, Ray Thompson shall record a UCC3 to release the UCC1 and a request for release of deed of trust and release of deed of trust.

## SECTION 6 – DISBURSEMENT SCHEDULE

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 7 – 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 bidding 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.
- 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 8 - 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.2 herein.
- I. Legal services for reviewing engineering services contracts, reviewing this contract, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.

**SECTION 9— TIME FOR PERFORMANCE**

Project Beginning: Upon the effective date of this contract

Project Finish: 2 years from the effective date of this contract

**SECTION 10 – Additional Contract Requirements**

No additional contract requirements



# PROMISSORY NOTE

Date: August 1, 2002

Borrower: Silver Springs Trout Farm, Inc. and Daniel A. and Jacqueline  
Sherwood Trust U/A DTD 12/6/95, jointly and severally  
13221 Marine Road  
Montrose, CO 81401

Principal Amount: \$ 365,000

Interest Rate: 2.5% per annum

Term of Repayment: 15 years

Loan Contract No. : C150091, dated August 1, 2002

Loan Payment: \$29,479.76

Date of Completion: November 1, 2002

Maturity Date: November 1, 2017

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.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from the Date of Completion, which is the date the CWCB determines that the project is substantially complete, and annually thereafter until all principal, interest, and late charges, if any, have been paid in full, with all such principal, interest, and late charges, required to be paid 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(s), Deed(s) of Trust, and/or Assignment(s) of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT, Security Agreement, Deed of Trust, and/or Assignment 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 Agreement, Deed of Trust, or Assignment securing this Note occurs, the CWCB may


declare the entire outstanding 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.

(SEAL)

BORROWER: Silver Springs Trout Farm, Inc.

By   
Daniel A. Sherwood, President

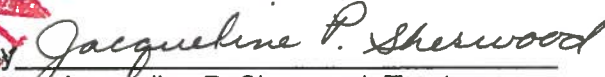
Attest:

By   
Jacqueline P. Sherwood, Corporate Secretary

ROSEMARY M. MURPHY  
PUBLIC TRUSTEE  
MONTROSE COUNTY, CO  
January 11, 2013  
CANCELLED

Borrower: Daniel A. and Jacqueline P.  
Sherwood Trust, U/A DTD 12/6/95

By   
Daniel A. Sherwood, Trustee

By   
Jacqueline P. Sherwood, Trustee

**CONSENT TO ACTION OF  
THE SHAREHOLDERS OF  
SILVER SPRINGS TROUT FARM INC.**

DATE: August 13, 2002.

The undersigned, Daniel A. Sherwood and Jacqueline P. Sherwood, acting as the trustees of the Daniel A. and Jacqueline P. Sherwood Trust under trust dated December 6, 1995, which trust is the sole shareholder of Silver Springs Trout Farm Inc. (the "Corporation"), make and execute this Consent to Action concerning a loan in the amount of up to \$365,000 from the State of Colorado Water Conservation Board (CWCB), for the purpose of rehabilitation of the Silver Springs Trout Farm hatchery to eliminate whirling disease in the facility and to refinance existing debt associated with rehabilitation work already completed:

1. By this consent, BE IT RESOLVED, by the shareholder of Silver Springs Trout Farm Inc., that the Corporation shall:

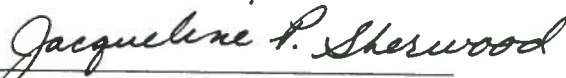
- a. Enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$365,000, or such actual amount, more or less, as needed for the project costs, and
- b. Make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund, and
- c. Pledge certain property of the Company as collateral for the loan and execute documents necessary to convey a security interest in said property to the CWCB, and
- d. Execute, by its officers, all documents as required by the loan contract, including, but not limited to, a Promissory Note.
- e. Take such other actions and to execute such other documents, by its officers, as may be necessary to consummate and implement the loan.

This Consent to Action is executed by the sole shareholder of Silver Springs Trout Farm Inc. pursuant to C.R.S. 7-107-104 and shall have the same force and effect as a unanimous vote of the shareholders at duly called meeting of the shareholders.

DATED this 13 day of August, 2002.



Daniel A. Sherwood, Trustee of the Daniel A. and  
Jacqueline P. Sherwood Trust, Shareholder



Jacqueline P. Sherwood, Trustee of the Daniel A. and  
Jacqueline P. Sherwood Trust, Shareholder

**PAID  
IN FULL**



STATE OF COLORADO     )  
  )  
COUNTY OF Delta     )     ss.

STATEMENT OF AUTHORITY  
(Pursuant to C.R.S., 38-30-172)

The undersigned, **Daniel A. Sherwood and Jacqueline P. Sherwood**, being of lawful age and being first duly sworn upon oath, depose and state:

1.     The **Daniel A. and Jacqueline P. Sherwood Trust** was created by Living Trust Agreement dated December 6, 1995, and is a valid and existing testamentary trust under the laws of the State of Colorado.

2.     The names and mailing addresses of the trustees of the trust are:

Daniel A. Sherwood  
13221 Marine Road  
Montrose, CO 81401

Jacqueline P. Sherwood  
13221 Marine Rd.  
Montrose, CO 81401

3.     The trustees are authorized to execute instruments and otherwise act on behalf of the trust to acquire, convey, encumber, lease, or otherwise deal with any interest in real property in the name of the trust, including, without limitation, all of that certain real property located in Delta County, Colorado, more particularly described as follows:

All of that certain real property more particularly described in Schedule A attached hereto and incorporated herein by this reference.

also known by street and number as: 13221 Marine Rd., Montrose, CO 81401

4.     The trustees have full power and authority to manage any business interest received by the Trustee and with respect to such business interest to endorse or guarantee on behalf of the Trust any loan made to the business and to secure the loan by the Trust's interest in the business or any other property of the Trust.

5.     The trustees further have the authority to pledge, encumber or hypothecate any asset or assets to secure financing from any source and for any purpose deemed appropriate by trustees in the trustee's sole and absolute discretion.

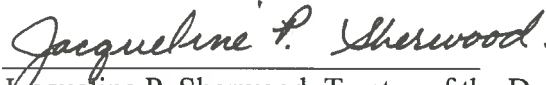
6.     This affidavit is executed pursuant to C.R.S. 38-30-172 for the purpose of evidencing the existence and validity of the **Daniel A. and Jacqueline P. Sherwood Trust** and the authority of the trustees to convey, encumber or otherwise act on behalf of the trust insofar as

the trustee's actions affect title to any interest in property, both real and personal.

Further the affiant sayeth naught.



Daniel A. Sherwood, Trustee of the Daniel A. and  
Jacqueline P. Sherwood Trust



Jacqueline P. Sherwood, Trustee of the Daniel A. and  
Jacqueline P. Sherwood Trust

Subscribed and sworn or affirmed before me this 13 day of August,  
2002, by Daniel A. Sherwood and Jacqueline P. Sherwood, trustees of the **Daniel A. and  
Jacqueline P. Sherwood Trust** under trust agreement dated December 6, 1995.

WITNESS my hand and official seal.

My commission expires: Feb 6, 2003



  
Notary Public

## Schedule A

### Legal Description of property at 13221 Marine Road, Montrose, CO

A tract of land situated in the E $\frac{1}{2}$ SW $\frac{1}{4}$  and the W $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 19 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 30, all in Township 49 North, Range 9 West, N.M.P.M., more particularly described as beginning at the quarter corner common to said Sections 19 and 30; thence South 00°21'46" East, 449.79 feet along the East boundary of said NE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 30 (a No. 4 rebar and cap marked LS 7160 is offset North 00°21'46" West, 77.54 feet); thence North 89°57'23" West, 906.21 feet (a No. 4 rebar and cap marked LS 7160 is offset North 10°53'44" East, 78.95 feet); thence North 10°53'44" East, 517.40 feet to a No. 4 rebar and cap marked LS 7160; thence North 12°37'02" East, 597.21 feet to a No. 4 rebar and cap marked LS 7160; thence North 28°03'46" East, 423.61 feet to a No. 4 rebar and cap marked LS 7160; thence North 21°43'26" East 323.70 feet to a No. 4 rebar and cap marked LS 7160; thence North 02°56'57" East, 168.78 feet to a No. 4 rebar and cap marked LS 7160; thence South 87°12'49" West, 17.41 feet to a No. 4 rebar and cap marked LS 7160; thence North 16°52'31" West, 194.15 feet to a No. 4 rebar and cap marked LS 7160; thence South 89°57'23" East, 685.76 feet to a No. 4 rebar and cap marked LS 7160; thence South 00°02'36" East, 347.31 feet to a No. 5 rebar and cap marked LS 7160 on the South boundary of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 19 from which the Southwest corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  bears South 89°57'18" West, 272.97 feet; thence South 89°57'18" West, 62.97 feet; thence South 06°08'18" West, 837.85 feet, thence South 42°16'04" West, 170.36 feet to the West boundary of said W $\frac{1}{2}$ SE $\frac{1}{4}$  (a No. 4 rebar and cap marked LS 7160 is offset South 00°20'52" East, 31.59 feet); thence South 00°20'52" East, 362.80 feet to the point of beginning.

County of Montrose  
State of Colorado



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11/25/2002 08:52A

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R 21.00 D 0.00

# Deed of Trust

**DATE:** August 1, 2002

**GRANTOR:** Daniel A. and Jacqueline P. Sherwood Trust U/A  
DTD 12/6/95  
13221 Marine Road  
Montrose, CO 81401

**BENEFICIARY:** COLORADO WATER CONSERVATION BOARD  
1313 SHERMAN STREET, ROOM 721  
DENVER, CO 80203

**COUNTY:** Montrose County

**PRINCIPAL LOAN AMOUNT:** \$365,000.00

**LOAN CONTRACT:** Loan Contract No. C150091, dated August 1, 2002

**TERMS:** Interest of 2.5% per annum and repayment period  
of 15 years

**COLLATERAL:** Real property, easement, right-of-way and water  
rights located in Montrose County, Colorado, as  
described on Schedule A.

**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 as shown above 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, interest of said Promissory Note, and late charges, if applicable, 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

## Appendix 4a to Loan Contract C150091





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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 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.



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Page: 3 of 4  
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Executed the day and date first written above.

ROSEMARY M. MURPHY  
PUBLIC TRUSTEE  
MONTROSE COUNTY, CO

*January 11, 2013*

**CANCELLED**

Daniel A. and Jacqueline P. Sherwood  
Trust U/A DTD 12/6/95

By *[Signature]*  
Daniel A. Sherwood, Trustee

By *Jacqueline P. Sherwood.*  
Jacqueline P. Sherwood, Trustee

County of Montrose )  
State of Colorado ) SS  
)

The foregoing instrument was acknowledged before me this August 13, 2002,  
by Daniel E. Sherwood and Jacqueline P. Sherwood, as trustees of the Daniel A. and  
Jacqueline P. Sherwood Trust U/A DTD 12/6/95. Witness my hand and official seal.

*James D. Braun* Notary Public

My commission expires Feb 6, 2003



Schedule A

Legal Description of property at 13221 Marine Road, Montrose, CO

A tract of land situated in the E $\frac{1}{2}$ SW $\frac{1}{4}$  and the W $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 19 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 30, all in Township 49 North, Range 9 West, N.M.P.M., more particularly described as beginning at the quarter corner common to said Sections 19 and 30; thence South 00°21'46" East, 449.79 feet along the East boundary of said NE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 30 (a No. 4 rebar and cap marked LS 7160 is offset North 00°21'46" West, 77.54 feet); thence North 89°57'23" West, 906.21 feet (a No. 4 rebar and cap marked LS 7160 is offset North 10°53'44" East, 78.95 feet); thence North 10°53'44" East, 517.40 feet to a No. 4 rebar and cap marked LS 7160; thence North 12°37'02" East, 597.21 feet to a No. 4 rebar and cap marked LS 7160; thence North 28°03'46" East, 423.61 feet to a No. 4 rebar and cap marked LS 7160; thence North 21°43'26" East 323.70 feet to a No. 4 rebar and cap marked LS 7160; thence North 02°56'57" East, 168.78 feet to a No. 4 rebar and cap marked LS 7160; thence South 87°12'49" West, 17.41 feet to a No. 4 rebar and cap marked LS 7160; thence North 16°52'31" West, 194.15 feet to a No. 4 rebar and cap marked LS 7160; thence South 89°57'23" East, 685.76 feet to a No. 4 rebar and cap marked LS 7160; thence South 00°02'36" East, 347.31 feet to a No. 5 rebar and cap marked LS 7160 on the South boundary of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 19 from which the Southwest corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  bears South 89°57'18" West, 272.97 feet; thence South 89°57'18" West, 62.97 feet; thence South 06°08'18" West, 837.85 feet, thence South 42°16'04" West, 170.36 feet to the West boundary of said W $\frac{1}{2}$ SE $\frac{1}{4}$  (a No. 4 rebar and cap marked LS 7160 is offset South 00°20'52" East, 31.59 feet); thence South 00°20'52" East, 362.80 feet to the point of beginning.

County of Montrose  
State of Colorado

# SECURITY AGREEMENT

## (Water Rights)

DATE: AUGUST 1, 2002

DEBTOR: Daniel A. and Jacqueline P. Sherwood Trust U/A DTD 12/6/95  
13221 Marine Road  
Montrose, CO 81401

SECURED PARTY: COLORADO WATER CONSERVATION BOARD  
1313 SHERMAN STREET, ROOM 721  
DENVER, CO 80203

PROMISSORY NOTE: \$365,000, DATED AUGUST 1, 2002

TERMS: Repayment period of 15 years, Interest at the rate of 2.5% per Annum

LOAN CONTRACT: C150091, DATED AUGUST 1, 2002

COLLATERAL: ALL OF THE FOLLOWING DESCRIBED WATER RIGHTS TRIBUTARY TO MEXICAN GULCH, A TRIBUTARY OF THE UNCOMPAHGRE RIVER: (1) 5.00 CUBIC FEET OF WATER PER SECOND OF TIME (HEREINAFTER ABBREVIATED "CFS") DECREED TO THE R.D. COREY COLLECTION LINE, HATCHERY AND RESERVOIRS NO. 1, 2 AND 3 UNDER PRIORITY NO. 243 FOR FISH CULTURE PURPOSES ON A YEAR-AROUND BASIS. (2) 2.5 CFS DECREED TO THE R.D. COREY FEEDER LINE #7, REARING POND AND RESERVOIR UNDER PRIORITY NO. 244 FOR FISH CULTURE ON A YEAR-AROUND BASIS. (3) 5.00 CFS DECREED TO THE R.D. COREY FEEDER LINE #8 AND RESERVOIRS NO. 1, 2, AND 3 UNDER PRIORITY NO. 245 FOR FISH CULTURE ON A YEAR-AROUND BASIS. (4) 2.00 CFS DECREED TO THE R. D. COREY COLLECTION LINE UNDER PRIORITY NO. 229 FOR IRRIGATION WITH RIGHTS OF TRANSFER TO THE R.D. COREY COLLECTION LINE, HATCHERY AND RESERVOIRS NO. 1, 2, AND 3 FOR PISCATORIAL PURPOSES. (5) 1.0 CFS DECREED TO THE R.D. COREY FEEDER LINE #7 UNDER PRIORITY NO. 230 FOR IRRIGATION WITH RIGHTS OF TRANSFER TO THE R.D. COREY FEEDER LINE NO. 7 REARING POND AND RESERVOIR FOR FISH PURPOSES. (6) 0.02 CFS DECREED TO THE R.D. COREY DOMESTIC PIPELINE UNDER PRIORITY NO. 231 FOR DOMESTIC AND STOCK WATER PURPOSES. (7) AN UNDIVIDED ONE-THIRD (1/3) INTEREST IN AND TO THE BANCROFT DITCH AND THE 1.0 CFS DECREED THERETO UNDER PRIORITY NO. 1 (THE PORTION OF SAID DECREE TRANSFERRED BEING .33 CFS). TOGETHER WITH ANY AND ALL UNADJUDICATED SPRINGS, SEEPS AND WASTE WATERS TRIBUTARY TO THE SAID BANCROFT DITCH AND PRESENTLY AND HISTORICALLY USED BY THE GRANTORS FOR PISCATORIAL, IRRIGATION, STOCK WATERING, DOMESTIC OR OTHER PURPOSES.



To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS, 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, or to the extent that this agreement states that the COLLATERAL is to be acquired after the date hereof, will be, 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 anytime 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. That the DEBTOR's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.
4. That, by its acceptance of the loan money pursuant to the terms of the LOAN 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. 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.

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

- a. default in the payment or performance of any obligation contained herein or in the Promissory Note or Loan Contract evidencing the same;
- 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 may declare all Obligations secured hereby immediately due and payable and shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. In addition, upon default, SECURED PARTY shall have the right to transfer the COLLATERAL to and register the COLLATERAL in the name of SECURED PARTY, and, whether or not so

transferred and registered, to receive the income, dividends and other distributions thereon and apply them to repayment of the loan. 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, assigns, or administrators.

DEBTOR: Daniel A. and Jacqueline P. Sherwood  
Trust U/A DTD 12/6/95

By   
Daniel A. Sherwood, Trustee

By   
Jacqueline P. Sherwood, Trustee

Original Note and Deed of Trust Returned to:

WHEN RECORDED RETURN TO:

Prepared/Received by:

Colorado Water Conservation Board  
Department of Natural Resources  
1580 Logan Street, Suite 600  
Denver, CO 80203

REQUEST FOR ☒ FULL ☐ PARTIAL ☐

RELEASE OF DEED OF TRUST AND RELEASE BY OWNER OF INDEBTEDNESS WITH PRODUCTION OF EVIDENCE  
OF DEBT PURSUANT TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES

December 10, 2012

Daniel A. and Jacqueline P. Sherwood Trust U/A DTD 12/6/95

13221 Marine Road

Montrose, CO 81401

Date

Original Grantor (Borrower)

Current Address of Original Grantor,  
Assuming Party, or Current Owner

☐ Check here if current address is unknown

State of Colorado, Colorado Water Conservation Board

Original Beneficiary (Lender)

08/01/02

Date of Deed of Trust

11/25/02

Date of Recording and/or Re-Recording of Deed  
of Trust

Montrose County, 695331 (4 pages)

Recording Information

County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No.

TO THE PUBLIC TRUSTEE OF

MONTROSE

COUNTY (The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should  
grant an interest in the property described in the Deed of Trust.)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured  
by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in  
regard to the property encumbered by the Deed of Trust as described therein as to a full release or, in the event of a partial release, only  
that portion of the real property described as: **(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A  
FULL RELEASE)**

State of Colorado, Co. Water Conservation Board, 1313 Sherman Street, Room 721, Denver, CO 80203

Name and Address of Current Owner and Holder of the Indebtedness Secured by Deed of Trust (Lender)

Kirk Russell, Finance Chief, CWCB, 1313 Sherman Street, Room 721, Denver, CO 80203

Name, Title and Address of Officer, Agent, or Attorney of Current Owner and Holder

Signature

Signature

State of Colorado, County of Denver  
The foregoing Request for Release was acknowledged before  
me on December 14, 2012 (date) by\*  
Kirk Russell

P. MASON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20034023618  
MY COMMISSION EXPIRES JULY 17, 2015

Date Commission Expires

\*If applicable, insert title of officer and name of current owner and holder

MY COMMISSION EXPIRES JULY 17, 2015

Notary Public

Witness my hand and official seal

### RELEASE OF DEED OF TRUST

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the  
Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness  
referred to therein; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust  
has been fully or partially satisfied according to the written request of the current owner and holder of the indebtedness;

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby  
acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge  
the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and  
appurtenances thereto belonging.

STATE OF COLORADO,  
COUNTY OF MONTROSE

The foregoing instrument was acknowledged  
before me on January 11, 2013

By CHRISTY WATSON, Deputy Public Trustee  
of Montrose County, Colorado



ROSEMARY M. MURPHY

Public Trustee

Christy Watson  
Deputy Public Trustee

Sharon [Signature]  
DEPUTY, MONTROSE COUNTY CLERK

(If applicable, Name and Address of Person Creating New Legal Description as Required by § 38-35-106.5, Colorado Revised Statutes.)

RELEASED  
No. 679411

Dot. Note C/w  
Full