

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Anna Mauss, P.E., Project Manager
Kirk Russell, P.E., Chief
Finance and Administration Section

DATE: November 13, 2013

SUBJECT: **Agenda Item 31h, November 19-20, 2013 Board Meeting**
Finance – Emergency Loans
Palmerton Consolidated Ditch Company – Emergency Palmerton Diversion
and Ditch Repairs

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

Introduction

The Palmerton Consolidated Ditch Company (Company) is applying for an Emergency Loan for the Emergency Palmerton Diversion and Ditch Repairs Project (Project). During the unprecedented flood of September 2013 in the tributaries to the South Platte River, a significant number of diversion structures and dams along the river corridor were damaged. The purpose of this Project is to repair the diversion structure and ditch to allow the Company to deliver water to shareholders. The total Project cost is estimated to be \$1,274,800. See attached Project Data Sheet for a location map and project summary.

Staff Recommendation

Staff recommends the Board approve a loan not to exceed \$1,287,548 (\$1,274,800 for project cost and \$12,748 for the 1% service fee) to the Palmerton Consolidated Ditch Company for 100% of engineering and construction costs related to the Emergency Palmerton Diversion and Ditch Repairs Project from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be three years of no interest followed by 27-years at a blended interest rate of 1.95% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

Staff additionally recommends the following contract condition:

Any future grant funds obtained for the purpose of this Project shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds.

Background

The Company's diversion structure and ditch infrastructure were substantially damaged as a result of the September 2013 flood. Without repair/rehabilitation (best case) or without the complete reconstruction (worst case) of these facilities, the Company will be unable to deliver water to its shareholders who collectively irrigate approximately 1,420 acres of cropland located generally to the East of Lyons and into the Hygiene area. Nor will it be able to deliver water to the City of Longmont for municipal use. Additionally, the Palmerton Ditch is the decreed point of diversion for McCall Lake and for Burch Lake (a/k/a Oligarchy Reservoir No. 1), both of which are utilized for storage and delivery of municipal water to the City's Wade Gaddis water treatment facility just east of the Town of Lyons.

Loan Feasibility Study

Amy Aschenbrenner, the Company Secretary/Treasurer, prepared the Loan Feasibility Study titled "*Emergency Loan Application and Feasibility Study*," dated November 2013. The study includes an alternative analysis and cost estimates. Preliminary engineering was provided by Glenn Newlon, P.E., of GN Engineering. The study was prepared in accordance with the CWCB guidelines.

Borrower – Palmerton Ditch Company

The Company is nonprofit ditch company, established in 1928. It is in good standing with the Colorado Secretary of State. The Company has 111 shareholders that own 53.54 shares of stock. The Company's income comes from assessment revenues. If assessments are unpaid, water delivery can be curtailed and the delinquent shares sold.

Water Rights

The water rights impacted by this project include:

TABLE 1: IMPACTED WATER RIGHTS

Name	Amount	Appropriation Date	Adjudication Date
Palmerton Consolidated Ditch Company (Priority 23)	32.35 cfs	5/31/1865	6/2/1882
Palmerton Consolidated Ditch Company (Priority 30) (1 st Enlargement)	47.70 cfs	5/31/1866	6/2/1882
Palmerton Consolidated Ditch Company (Priority 30) (2 nd Enlargement)	84.26 cfs	6/30/1874	6/2/1882

Average annual yield of these water rights is 4,285 AF.

Project Description

The Company intends to repair/rehabilitate/reconstruct its diversion structures and portions of its conveyance infrastructure to allow it to distribute water to its shareholders. The Company notes that some, but not all, of the infrastructure related to this request may also have been included in the loan requested by the Rough & Ready Irrigating Ditch Company and approved by the CWCB at its special Board meeting on October 21, 2013. Subsequent to the submittal of the Rough & Ready loan request, the two companies began discussions related to what each entity structurally requires for their respective ditch systems and how to collaboratively work on the combined elements of the project(s) to maximize efficiency of resources including funding.

Additional elements of the proposed Project are unrelated to the Rough & Ready Project. Although the two ditch companies have shared some infrastructure for approximately 150 years, they do not have an agreement specifying the companies' respective obligations for operation and maintenance of the joint infrastructure and each company has a slightly different concept of how to improve the system(s) through this repair/rehabilitate/reconstruct process. The Company has committed to continued discussion with Rough & Ready to reach resolution on these issues as soon as possible.

Alternative 1 – Do Nothing: Failure to rebuild the damaged infrastructure may result in the eventual abandonment of the Company's water rights. Additionally, the Company would not be able to uphold its legal obligations to deliver water to its shareholders and to the reservoir structures, which will cause financial hardship for the Company's shareholders and will restrict water availability that is currently used for municipal purposes.

Alternative 2 – Rebuilding Collaboratively with Improvements: The Company has begun discussions with the Rough & Ready to collaboratively move forward on a joint project, but no decisions have yet been reached.

Selected Alternative 3 – Repair Diversion Structure and Sections of Ditch: Damage to the Company's system included a loss of its diversion structure and measuring weir/flume. Approximately 400 linear feet of the ditch must also be rebuilt. Additionally, the ditch generally needs restoration between the diversion structure on St. Vrain Creek and the north side of Highway 66. These are the elements of the Company's submitted loan request. These elements may be modified depending on the ongoing discussions with the Rough & Ready and/or the Oligarchy. These elements may also be modified as the high water recedes in St. Vrain Creek and the Company's consultants can refine the damage analysis.

Due to the agricultural exemption, this alternative is exempt from the Clean Water Act and therefore a U.S. Army Corps of Engineers permit will not be required. The Company will submit project information to the Army Corps of Engineers as well as to Boulder County for any necessary flood plain/grading permits.

The estimated construction cost of the selected Alternative is \$1,274,800 (as provided by GN Engineering) and is further broken down as follows:

TABLE 2: PROJECT COST SUMMARY

Task	Cost
Construction	\$1,013,500
Contingency	\$101,300
Engineering & Permitting	\$160,000
Total	\$1,274,800

Collaboration: The borrower is encouraged to consider rebuilding a river diversion system that enhances consumptive and nonconsumptive uses of water within the river corridor. Examples include improved fish passage, improved rafting/boating navigation, and possible shared ownership/use of a single diversion structure where possible. If needed, loan funds may be used for the construction of temporary diversion until such time that a multi-beneficial structure can be designed and constructed.

Schedule: Project construction is expected to commence mid-December 2013 with completion no later than April 2014.

Financial Analysis

Table 3 provides a summary of the Project's financial aspects. The first three years of the loan will be assessed a 0% interest rate. The remaining term of the loan will be assessed a blended interest rate of 1.95% with the principal amortized over 27-years (Ownership: 90% Agricultural, 8% middle-income municipal, and 13% high-income municipal). Staff is recommending an exemption to Financial Policy #11 to allow for 100% funding of eligible Project costs.

TABLE 3: FINANCIAL SUMMARY

Total Project Cost	\$1,274,800	
CWCB Loan Amount (100% of total Project cost)	\$1,274,800	
CWCB Loan Amount (Including 1% Service Fee)	\$1,287,548	
CWCB Annual Loan Payment	\$61,790	
CWCB Loan Obligation (Including 10% Reserve)	\$67,969	
Number of Shares	53.54	
Annual Cost Per Share for Loan (Including 10% Reserve)	\$1,270	
Current Assessment per Share	\$150 per ½ share	\$300 per share
Cost of Loan per Share	\$450 per ½ share	\$900 per share
Future Assessment per Share	\$600 per ½ share	\$1200 per share

Creditworthiness: The Company has no existing debt.

TABLE 4: FINANCIAL RATIOS

Financial Ratio	Past 2 Years	Future w/ Project
Operating Ratio (revenues/expenses) weak: <100% - average: 100% - 120% - strong: >120%	136% (Strong) \$34K/\$25K	100%* (Average) \$93K/\$93K
Debt Service Coverage Ratio (revenues-expenses)/debt service weak: <100% - average: 100% - 120% - strong: >120%	N/A	100% (Average) \$93K - \$25K \$68K
Cash Reserves to Current Expenses weak: <50% - average: 50% - 100% - strong: >100%	24% (Weak) \$6K/\$25K	6% (Weak) \$6K/\$93K
Annual Operating Cost per Acre-Foot (4,285 AF) weak: >\$20 - average: \$10 - \$20 - strong: <\$10	\$5.83 (Strong) \$25K/4,285 AF	\$21.70 (Weak) \$93K/4,285 AF

**Assumes a new assessment of \$600 per ½ share and \$1,200 per share.*

Collateral: As security for the loan, the Company will pledge its assessment revenues backed by a rate covenant and the Palmerton headgate. This is in compliance with the CWCB Financial Policy #5 (Collateral).

cc: Amy Aschenbrenner , Secretary/Treasurer, Palmerton Consolidated Ditch Company
Susan Schneider/Jennifer Mele, Colorado's Attorney General Office

Attachment: Water Project Loan Program – Project Data Sheet

C150386

County: Boulder

Project Type: Diversion Rehabilitation

Water Source: St. Vrain River

Funding Source: Severance Tax PBF

Average Annual Diversion: 4,285 AF

Interest Rate: 1.95% Term: 30-years
(90% Ag, 8% Mid-Muni, 13% High-Muni)

The Company's diversion structure and ditch infrastructure were substantially damaged as a result of the September 2013 flood. Without repair or complete reconstruction of these facilities, the Company will be unable to deliver water to its shareholders and approximately 1,420 acres of cropland east of Lyons or deliver water to the City of Longmont for municipal use. Some of the infrastructure related to this request may include coordination with the Rough & Ready Irrigating Ditch Company to maximize efficiency of resources including funding.

