



**COLORADO**  
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**TO:** Colorado Water Conservation Board Members

**FROM:** Tim Feehan, Deputy Director, Resource Management

**DATE:** January 26-27, 2015 Board Meeting

**AGENDA ITEM:** 19a - Changes to Existing Loans  
Pagosa Area Water and Sanitation District - Dry Gulch Reservoir Loan Restructuring

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## Introduction

At the November 2014 CWCB Board meeting, the Board approved a loan restructuring proposal for the Pagosa Area Water and Sanitation District (PAWSD). The CWCB loan contract (C150261) is for the purchase of land at the site of the proposed Dry Gulch Reservoir (Project). The proposal approved by the Board allowed for the San Juan Water Conservation District (SJWCD) to manage the Project, with participation from PAWSD, while providing PAWSD sufficient debt relief to address its immediate water infrastructure and distribution needs. The intent of the proposal was to provide all entities with the necessary financial flexibility, security, and oversight to allow the Project the necessary time to develop. Attached is the November 2015 Board memo that provides a detailed summary of PAWSD's loan with CWCB, the Project history and the current approved proposal.

## Discussion

Since the November 2014 Board meeting, staff has met with members of the PAWSD Board and they have expressed concerns with moving forward with the approved proposal. Their main concerns are: 1) PAWSD accepting all the risk on the future value of the 660 acres Running Iron Ranch and being responsible to repay CWCB for all the original principal, lost interest, and the \$1,000,000 grant to SJWCD, if the Project is not constructed; and 2) the \$4,565,000 balloon payment concept at the end of 20 years and being able to have PAWSD board members and water users comfortably understand and accept the balloon payment concept.

Staff's main emphasis during these negotiations was to develop a financial path forward that provided sufficient time for the Project to mature and be successful, while supporting the PAWSD financially for their efforts to construct the Project. The previous proposal and current proposal still retain the basic concept that if the Project is constructed, the PAWSD will not be required to pay deferred interest to CWCB (reduced interest from 3.5% to 1.75%) and the \$1 million grant to SJWCD will remain as its investment in the Project. The main difference in the revised proposal presented below is that CWCB would accept the risk of the future value of the 660-acre Running Iron Ranch and would agree to amend the existing loan into two separate loans, as further summarized below:



1. SJWCD has provided CWCB with a certified appraisal of the Running Iron Ranch that established its value at \$4,565,000. Upon review and approval of the appraisal by CWCB, PAWSD's existing loan with CWCB will be restructured by reducing the existing principal balance by the appraised value of the Ranch and amortizing that new loan amount over 20 years, at a reduced interest rate of 1.75%. This restructured loan would be referred to as "Loan A." For example, if the agreed value of the land is \$4,565,000 (fee simple estate), PAWSD's new amortized Loan A amount would be  $\$8,866,930.22 - \$4,565,000 = \$4,255,930.22$ , amortized over 20 years at an interest rate of 1.75%. Based on the example above, PAWSD's new annual payment would be \$254,041.69, which would result in an annual savings of \$247,228. CWCB would agree to reduce the interest rate from 3.50% to 1.75% if PAWSD would agree to use 50% of its annual payment savings for the repair and replacement of its aging distribution system to address leakage. PAWSD's leakage reduction efforts shall be consistent with the American Water Works Association Water, Audits and Loss Control Program, M36 Manual of Water Supply Practice. Leakage reduction efforts shall continue until an acceptable delivered supply to metered usage ratio has been achieved. At that time PAWSD would be allowed to apply its entire annual payment savings directly to debt reduction. The PAWSD will provide CWCB with an annual report of leakage prevention measures that have been accomplished. Security for Loan A would be a Pledge of Revenues backed by a Rate Covenant, with the additional collateral of the 660-acre Running Iron Ranch, including PAWSD shares in Park Side Ditch.
2. The remaining principal balance of \$4,565,000 (appraised value of the ranch) will be restructured into a separate loan, referred to as "Loan B" which will have a 40-year term. The first 20 years there will be no interest charged or payment due on the loan. For the remaining 20 years the principal due will start accruing interest at a rate of 3.5% with an annual payment of \$321,198. Security for Loan B would be a pledge of revenues backed by a Rate Covenant, with the additional collateral to include the 660-acre Running Iron Ranch and PAWSD shares in Park Side Ditch.
3. The revised 20-year repayment term under Loan A will become the planning period by which PAWSD and SJWCD shall make substantial progress towards the development of the Project. PAWSD agrees that it will not sell the Running Iron Ranch during that 20-year period. If, for any reason, the PAWSD should sell the Running Iron Ranch during this period, the terms and conditions under Loan contracts A & B will no longer apply, with the exception of collateral, and CWCB shall be immediately entitled to all outstanding principal (unpaid balance on Loan A plus the \$4,565,000 in principal due under Contract B), including the difference in interest charges from 1.75% to 3.5% on Loan A over the years the loan was held, and an additional 3.5% interest charge on the \$4,565,000 over that same period. Additionally, the PAWSD shall be responsible to repay CWCB the \$1,000,000 grant issued to the SJWCD plus 3.5% in interest charges.
4. 20 years from the date that Loan Contract A is executed, the PAWSD, in consultation with CWCB and SJWCD, shall have the option of abandoning the Project and selling Running Iron Ranch to repay debt. After 20 years, Loan Contract A will be paid off and PAWSD will only owe CWCB the principal under Loan Contract B. If PAWSD should elect to sell Running Iron Ranch and not move forward with the Project, CWCB shall be entitled to the \$4,565,000 in principal, \$2,785,901 in reduced interest that accrued when the debt was restructured, and the \$1,000,000 in grant funds provided to the SJWCD and \$407,221 (3.5% over 20 years) in lost interest on the grant. The actual payment to CWCB shall be based on the sale price of the Running Iron Ranch, as further described below:
  - a. If the sale price is less than or equal to \$4,565,000, the PAWSD shall provide CWCB with all moneys received from the sale and pay CWCB immediately any additional moneys necessary to cover the full \$4,565,000 million in principal due.
  - b. If the sale price is between \$4,565,000 and \$8,758,122, the PAWSD shall provide CWCB will all moneys received from the sale, up to \$8,758,221, to cover all of the \$4,565,000

in principal, and all or a portion of the \$3,193,122 in lost interest and the \$1,000,000 grant funds to SJWCD.

- c. If the sale price is greater than \$8,758,122, the PAWSD shall provide CWCB with \$8,758,122 in moneys received from the sale, and any amount in excess of \$8,758,122 will be split 44.5% to CWCB, 44.5% to PAWSD and 11% to SJWCD.

CWCB shall have the right of first refusal to acquire the property. If PAWSD is not interested in pursuing the Project, there may be the situation where CWCB, in conjunction with other stakeholders, would want to pursue the Project independently.

5. 20 years from the date that Loan Contract B is executed, the PAWSD, in consultation with CWCB and SJWCD may elect to extend the planning period of the Project an additional 1 to 20 years. If PAWSD should elect to extend the planning period of the Project, the principal balance under Loan Contract B will be charged an interest of 3.5% over 20 years with an annual payment of \$321,198. PAWSD, in consultation with CWCB and SJWCD will have the option of abandoning the Project and selling the Ranch during this extended 20-year planning period, with the terms and conditions of that sale being the same as specified under Item 4 of this Agreement.
6. CWCB, PAWSD, and SJWCD all agree that it is in their best interests to protect the conditional water rights associated with the Project, and pledge cooperation with each other to accomplish this goal.
  - a. The Parties' cooperation includes, but is not limited to: (i) PAWSD agrees to make long-term planning commitments and acknowledge the Dry Gulch Project and its attendant conditional water rights as a preferred option; (ii) PAWSD agrees to include the Dry Gulch Project in its planning documents as a principal storage option for future water demand growth that cannot be met by existing reservoirs; (iii) PAWSD commits to an ongoing evaluation of future water purchases from the Dry Gulch Project based on long-term demand projections, an evaluation of costs, and viable alternative sources of existing water; (iv) PAWSD commits that any future water demands will first be met by the Dry Gulch Project, unless those demands can be met with other existing sources; and (v) PAWSD and SJWCD agree to file a joint application for finding of reasonable diligence on the Dry Gulch Project.
7. By restructuring PAWSD debt, CWCB and PAWSD believe that the long-term management of the Project should be led by the SJWCD, given that PAWSD has other immediate infrastructure needs to address, that SJWCD and PAWSD both hold the conditional water right for the Project, and that SJWCD was created to conserve, maximize, and utilize water resources of the San Juan River and surrounding tributaries. The SJWCD, in consultation with CWCB and PAWSD, shall have the obligation and authority to acquire land necessary for the pool basin or to facilitate a land exchange with the U.S. Forest Service or others, and will promote and develop additional Project stakeholders, take the lead on future conditional water right diligence proceedings, and provide day-to-day management and Project facilitation as needed. The PAWSD and CWCB are not committing to any future financial support for the Project. .
8. Given that the value of the Ranch directly affects CWCB's future reimbursement on its investment with the PAWSD, the SJWCD will consult with, and get approval from, CWCB and the PAWSD to proceed forward with any future land exchange with the US Forest Services or other parties.
9. If the Project is constructed, SJWCD's \$1,000,000 initial investment will remain as its vested interest in the Project.

**Caveat**

CWCB staff's involvement in these discussions has been from the perspective of water supply and water storage for the basin as well as protecting its interests in the loan and grant. It is not CWCB staff's intent in these discussions to provide the PAWSD and/or SJWCD any indications that it is promoting or advocating future development in the basin, but rather an attempt to provide sufficient financial flexibility to allow the Project to succeed on its own merit.

**Staff Recommendation**

The Board directs staff to proceed with negotiations with Pagosa Area Water and Sanitation District, to amend its existing loan contract with the Colorado Water Conservation Board, Contract C150261, per the terms and conditions listed as 1 through 9 above.

The terms and conditions detailed above shall be in the form of a signed agreement, between the Pagosa Area Water and Sanitation District, the San Juan Water Conservancy District, and the Colorado Water Conservation Board. The agreement must be executed prior to Loan Contract C150261 being amended.