



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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John Hickenlooper, Governor

Mike King, DNR Executive Director

James Eklund, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Kirk Russell, P.E., Finance Section Chief
Peg Mason, Loan Contracts Manager

DATE: September 15-17, 2015 Board Meeting

AGENDA ITEM: 24a. Change to Existing Loans
Bull Creek Reservoir, Canal and Power Company - Collateral Change
CT2015-165 (C150240)

Introduction

At the January 2007 CWCB Board meeting, the Board approved a loan to the Bull Creek Reservoir, Canal and Power Company (Company) to rehabilitate and enlarge Reservoir #4. The collateral for the Loan required shareholders in the Company to convey a security interest in their personal shares of Company stock. This extreme measure was due to CWCB staff's concern that the Company's increased assessments were not sustainable. At the time, Project costs were continuing to escalate, raising more concerns that the Project may not be affordable or even completed. Without Reservoir #4 the Company would likely have dissolved.

The Project was substantially completed in September of 2011, considerably over budget and two years late. At the time of substantial completion, a lien was placed on the Company by the contractor that went bankrupt and by its subcontractors. The lien was settled out of court and the Company began repaying the loan per the repayment schedule as outlined in the contract. The Company has been in compliance with the Loan Contract for four years and has requested CWCB remove the requirement to have its shareholders personally secure the loan with personal stock certificates. (See attached J. Groo Letter)

During the last couple of years, the shareholders have bought and sold shares of Company stock and found the complexities related to the CWCB collateral to be confusing, which impacts buyer confidence and price. It is staff's opinion that making the change as requested may reduce the risk of default by allowing shareholders the ability to sell shares as necessary to those that can afford them. Since Reservoir #4 construction is complete and the Company has proven the ability to repay the loan, staff agrees that the excess collateral is no longer necessary to secure the loan.

The Company has demonstrated a history of annual assessments at a level high enough to operate and repay the CWCB loan. In September 2015, the Company made an advance principal payment, further demonstrating the ability to repay the loan.

The original borrowed amount was \$1,801,630 it now has a current balance of \$1,699,038.94.

Staff Recommendation to Change Collateral

Upon payment of the 2016 annual payment, the Loan Contract collateral shall be changed to a pledge of assessment revenues backed by an assessment covenant and the Company's storage water rights. This is in compliance with the CWCB Financial Policy #5.



Background

The CWCB and the Company entered into a Loan Contract dated June 18, 2007, amended September 21, 2009, and again amended on December 14, 2010, for a total loan of \$1,801,630 to finance 90% of the total Project costs.

The numerous amendments were due to cost overruns as a result of an inexperienced design engineer that provided inadequate and multiple design iterations; selection of a low-bid contractor that failed to complete the project; unforeseen weather conditions; and permit complications related to the Reservoir's location on Forest Service Land.

The current Loan Contract includes conditions & contract requirements that established the following:

- 1) Upon resolution of the pending litigation, Borrower shall attempt in good faith to sell Reservoirs #1 and #2 or some other combination of assets to maintain its annual assessments at a maximum of \$125 per share. The CWCB shall have the right of first refusal to acquire any such assets in exchange for a reduction of the Company's loan balance.
- 2) If the two mechanics liens and the contractor's claims cannot be resolved satisfactorily within a four year period, the Company shall sufficiently cover the outstanding claims and CWCB debt service payments through the liquidation of assets or other means with the written consent of the CWCB.
- 3) The Promissory Note allowed for lower initial repayment amounts. For the first four years, \$49,550 and for years 5 through 30, \$94,081.68. This allowed the Company to deal with the uncertainty of the Contractors' lien, subcontractor's lien, and the significant increase in annual assessments due to the cost overrun.
- 4) As security for the Loan, the Company members pledged their individual stock certificates. CWCB originally received over 90% of the shareholders stock.

The Company significantly raised its assessments over the last 15 years. In 2000 - \$5/share; 2002 - \$20/share; 2004 - \$30/share; 2006 - \$50/share, 2007 - \$200/share, 2012(current) - \$250/share.

The Company has demonstrated success in assessing and receiving the \$250/share assessments for four years. The Company made an advance principal payment in 2012. In 2015, the Company made a \$94,081.68 payment. The 2015 payment was made at the higher payment amount to demonstrate their financial capacity and ability to make payments and avoid selling assets as contemplated in the Loan Contract.

As indicated above, the existing loan contract requires the Company to market the Company's Reservoir #1 and #2, in order to pay down the principal on the CWCB Loan. The reservoirs were not sold; however, the Company has been in compliance with the reporting requirement. The Company has determined that selling the reservoirs is not in the Company's best interest at this time. Therefore, the Company is requesting that this requirement no longer be included in the loan contract.

Borrower - Bull Creek Reservoir, Canal & Power Company

The Company is a mutual ditch company located in the Town of Mesa, approximately 30 miles east of Grand Junction. The Company was registered in the State of Colorado in 1895 and is a non-profit corporation in good standing. The Company provides irrigation water to approximately 800 acres of agricultural land primarily used for cattle ranching. The Company had 19 shareholders when the Project began and currently has 27 shareholders and a total of 500 shares of stock. The Company has the power to set members' annual assessments, cut off water deliveries to shareholders that fail to pay assessments, and to sell stock to pay back assessments.

Water Rights

The Bull Creek Reservoirs hold the senior storage rights on Bull Creek and tributaries to Bull Creek. Many of the senior rights on the Creek are also owned and used by shareholders of the Company. Other senior water rights of significance are irrigation rights owned by the Grand Valley Irrigation Company on the Colorado River near Palisade. However, these senior rights seldom need to place a call during winter and spring snowmelt when the reservoirs fill. The table below shows a summary of existing reservoir capacities and water rights owned by the Company.

Table 1: Reservoir Storage Water Rights Summary

Name	Amount (AF)	Appropriation Date	Adjudication Date	Water Court Case No.
Bull Creek No. 1	92.06	6/18/1895	8/16/1920	CA 3681
Bull Creek No. 2	75.6	6/18/1895	8/16/1920	CA 3681
Bull Creek No. 3	57.94	6/18/1895	8/16/1920	CA 3681
Bull Creek No. 4	156.26	11/18/1901	8/16/1920	CA 3681
	156.43	10/1/1930	7/21/1959	CA 8303
	112.31	8/22/2006	9/20/2008	14CW1303
Bull Creek No. 5	92.3	11/18/1901	8/16/1920	CA3681
	124.42	8/15/1938	7/21/1959	CA 8303
	25.42	7/22/1959	10/21/2008	06CW262
Total Volume	892.74			

Original Project Description

The Company had a storage restriction placed on Reservoir #4 in 1984 by the State Engineer's Office, Dam Safety Branch. This Project removed the restriction and enlarged the reservoir from 313AF to 425AF. Reservoir #4 is located at 10,000 feet elevation on US Forest Service property, which required a Special Use Permit for an access roadway and dam construction. The Project took three construction seasons and the original contractor was replaced after the second construction season. The Project was completed in the fall of 2010 and had its first official full fill in the spring of 2011.

Financial Analysis

The Company's loan terms are an interest rate of 2.5% per annum and a repayment period of 30 years.

TABLE 2: Financial Summary

Contracted Total Loan Amount	\$1,801,360
Annual Loan Payment	\$94,081.68
Annual Loan Obligation (Years 2016-2040)	\$103,489.85
Current Reserves Fund Balance	\$36,700
Number of Shares	500
Annual Loan Obligation per Share	\$207
2015 Assessment per Share	\$250/share

Creditworthiness: The Company has no other debt and is in good standing with CWCB regarding scheduled loan payments.

TABLE 3: Existing Debt

Lender	Loan Contract	Current Balance	Annual Payment	Maturity Date	Collateral
CWCB (CT2015-165)	\$1,801,630	\$1,699,039	\$49,550.00 (1-4) \$94,081.68 (5-30)	2041	Pledge of Assessments and Member Stock Certificates

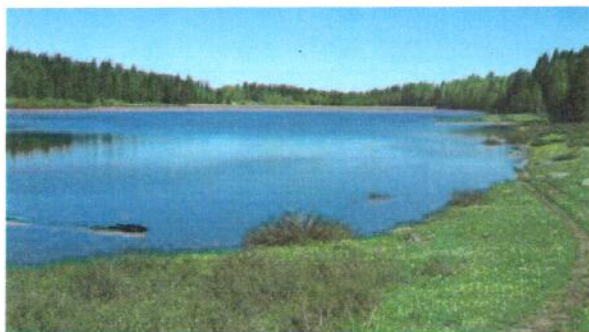
TABLE 4: Financial Ratios

Financial Ratio	Current
Operating Ratio (revenues/expenses) weak: <100% - average: 100% - 120% - strong: >120%	103% (Average) \$126K/122K
Debt Service Coverage Ratio (revenues-expenses)/debt service weak: <100% - average: 100% - 120% - strong: >120%	105% (Average) (\$126K-\$18K) \$103K
Cash Reserves to Current Expenses weak: <50% - average: 50% - 100% - strong: >100%	36% (Weak) \$44K/\$122K
Annual Operating Cost per Acre-Foot (895 AF) weak: >\$20 - average: \$10 - \$20 - strong: <\$10	\$136 (Weak) \$122K/895AF

Collateral: Security for this loan will change to a pledge of the Company's assessment revenues backed by an assessment covenant, and the water rights described in Table 1. This is in compliance with the CWCB Financial Policy #5 (Collateral).

cc: John Groo, Secretary/Treasurer, Bull Creek Reservoir, Canal and Power Company
Susan Schneider/Jennifer Mele, Colorado Attorney General's Office

Attachment: John Groo Letter, September 1, 2015



Bull Creek Reservoir Company

PO Box 25

Molina, CO 81646

September 1, 2015

Kirk Russell, Finance Section Chief
Colorado Water Conservation Board
1313 Sherman St, Rm 718
Denver CO 80203

Mr. Russell,

The Bull Creek Reservoir, Canal and Power Company requests that the CWCB consider a change to the contract conditions and collateral requirement on the Company's CWCB loan contract CT2015-165. The loan was used to rehabilitate and enlarge the Company's Bull Creek Reservoir No. 4. The project was completed in the fall of 2010 and the enlarged reservoir has been in operation ever since.

The Company has demonstrated a history of collecting \$250 per share for the past five years. (see Company Financial statements provided) This was a major concern of CWCB's when the loan was originally approved. We have not only made all payments on time but have been aggressive in our repayment of the loan by paying advanced principal on two occasions.

During the last couple of years, shareholders who have sought to buy and sell shares of Company stock have found difficulties with the CWCB's lien on their stock certificates. This lien can have an impact on buyer confidence and sale price. The Company requests that a change be made to the contract to remove the lien on individual shares of Company stock. This will allow the market to work and will facilitate the transfer of shares to people who can afford the annual assessment, which will in turn provide a more secure revenue stream for repayment of the loan.

The existing loan contract also requires the Company to report to CWCB annually any progress made on the sale of the Company's assets, in particular Reservoir #1 and #2, in order to pay down the principal on the CWCB Loan. The Company has complied with the reporting and also has determined that the sale is not in the Company's best interest at this time. Therefore, the Company further requests that it no longer be required to market its assets, as shareholders have accepted the fact that assessments of \$250/share are necessary until the debt is paid off or until there is a viable market for its water.

Thank you for your consideration in this matter.

John W. Groo, Secretary / Treasurer