



**COLORADO**  
Colorado Water  
Conservation Board  
Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members

**FROM:** Kirk Russell, P.E., Finance Section Chief

**DATE:** January 25-26, 2016 Board Meeting

**AGENDA ITEM:** 19b. Change to Existing Loans  
Orphan Wells of Wiggins - Collateral Change

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### Introduction

Orphan Wells of Wiggins, LLC (Company) was originally approved for a loan in November 2003 (Loan Contract C150159) to construct a groundwater recharge augmentation system, consisting of one recharge well, one augmentation well, five miles of pipeline, and various recharge ponds (Project). The Project was substantially completed on March 1, 2011 and the Company made their first annual payment on March 1, 2012.

At the July 2011 CWCB Board meeting, the Board approved a reduction in the interest charges incurred by the Company by \$56,872.44. At that time, the Company agreed to use five shares of Riverside Reservoir stock and one share of Jackson Lake Reservoir Share as collateral. Prior to CWCB amending the loan contract, the Company sold the remaining shares and is now requesting the Board change its original collateral requirement and allow the Company to use the cash from the sale to fund water court efforts and the installation of additional pipe and augmentation ponds. Staff has requested that the Project components, including approximately five miles of pipe, pumps and wells, as security for the loan. This is collateral is consistent with most CWCB loans of this type. The Pledge of Assessment Revenues backed by an assessment covenant will remain in place.

### Staff Recommendation

Staff recommends that the Board approve an amendment to the Orphan Wells of Wiggins LLC 's Loan Contract C150159 changing the collateral from five shares of Riverside Reservoir stock and one share of Jackson Lake Reservoir to the Project components including the pipeline, pumps, and wells constructed with the CWCB funds. The amended contract amount will be established as the loan balance at the time of the contract amendment (approximately \$615,220.28) and an annual payment of \$36,961.30.



## **Background**

In November of 2003, the Company included 31 separate agricultural operators, 45 wells and 4,500 acres of irrigated farmland. Past depletions from the 45 wells must be replaced during times when there is a call on the South Platte River by senior downstream water rights. The Groundwater Appropriators of the South Platte (GASP) originally covered these depletions. When GASP dissolved, the 31 operators were required to cover their own well depletions. As a result, the Company was formed in 2003 to develop a recharge/well augmentation plan to generate credits to offset the depletions from all 45 wells to help keep wells pumping. The Company operated for three years under a temporary substitute water supply plan.

From 2005 to 2008 the Company addressed objections to its augmentation plan and purchased/leased additional senior water to add to its proposed augmentation plan. The Company attempted to reduce its number of members from 31 to 15 and to reduce its irrigated farmland by 50% to be in a better position to have its augmentation plan approved in water court. In October 2008, the water court ruled that the Company was required to cover past depletions of all of the original 31 members. This ruling caused the Company to withdraw and delay its water court application until the depletions from past pumping no longer impact the river.

## **Loan History**

The original Project loan (\$1,048,077) was approved in November 2003, to construct the Project. At the May 2006 Board Meeting, the Board approved an increase of \$202,000 to the Company's original authorization. However, due to pending water court issues at the time, the contract was not amended to reflect the approved increase.

The Project was substantially completed on March 1, 2011. CWCB disbursed \$942,494.44 to the Company for Project costs. In July 2011 the CWCB approved a reduction in the amount of IDCs due. This provided the Company some financial relief during the expensive water court efforts. At the time, the Company agreed to add the shares of water rights to the collateral used to secure the loan. The Company began repayment on the reduced balance in March of 2012.

## **Discussion**

The Company has shown perseverance in making this Project a reality so shareholders can begin irrigating again. The Company continues to make its annual payment on time and recently filed for a junior water right that will allow it to cover past depletions. The Company hopes to begin pumping in the next couple years.

The Company approached CWCB regarding changing the collateral requirement because the Company would like to use the cash from the sale of those shares in order to continue its efforts to pay for legal fees and construct additional infrastructure for its augmentation plan. CWCB currently holds a lien on the easements that contain the original Project components (ie pipeline, recharge ponds, wells, etc.).

It is staff's opinion that it is in CWCB's best interest to change the collateral. If the Company fails to repay the loan the CWCB is in a much better position to sell the assets to recoup its investment in the Project.

## **Borrower - Orphan Wells of Wiggins, LLC**

The Company is a Colorado Limited Liability Company, incorporated in 2003. The Company currently has 15 shareholders and 225 shares of stock. The 15 shareholders own 19 wells within the augmentation plan. The Company assesses its shareholders for the debt service and requires a special assessment for other activities necessary to advance the Company's mission.

cc: Steve Bruntz, President, Orphan Wells of Wiggins, LLC  
Susan Schneider/Jennifer Mele, Colorado Attorney General's Office