



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

1313 Sherman Street
Denver, CO 80203

P (303) 866-3441
F (303) 866-4474

John Hickenlooper, Governor

Robert Randall, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Steve Biondo, Finance Manager
Kirk Russell, P.E., Finance Section Chief

DATE: November 15-16, 2017 Board Meeting

AGENDA ITEM: 18b. Financial Matters
Financial Policy 3 Change

Introduction

CWCB staff continues to try to provide a lending environment that is friendly, efficient and secure. The State Controller is currently updating the templates for CWCB's contracts. One of these provisions necessitates a change in CWCB's Financial Policy 3. The attached Policy 3 is redlined to show the proposed changes.

Current Policy

Financial Policy 3 currently provides that a late fee of 5% may be assessed on the current annual payment if the payment is not received within 15 days of the due date.

Background

Historically, late annual payments were not considered during the course of the contracting process. In 1999, CWCB established its Financial Policies in an effort to provide an effective process that could deal with issues that arose during the repayment of loans while still maintaining flexibility to work with Project Sponsors that may have extenuating circumstances. Loan contracts were then updated to include Policy 3 as a provision.

Although, there have been concerns regarding CWCB's flexibility in applying late fees within the Department of Natural Resources recently, the State Controller initiated a process to update CWCB's Loan Contracts; this provided a means to clarify and strengthen the provisions to continue workable relations with our Project Sponsors. The late fee "may" be applied because we have the right but not the obligation to apply the fee and at our discretion may choose to apply it or not. Additionally, a 60 day grace period would be acceptable as the payments are annual not monthly. At this end, staff proposes to update Policy 3 to align with the State Controller's new loan contract templates.

Staff recommendation

Staff recommends changing Financial Policy 3 - Delinquency, Loan Restructuring and Collection by changing the late fee assessment from 15 days to 60 days.



POLICY NUMBER: 3

SUBJECT: **CONSTRUCTION FUND AND SEVERANCE TAX TRUST
FUND PERPETUAL BASE FUND LOAN DELINQUENCY,
LOAN RESTRUCTURING AND COLLECTION**

EFFECTIVE DATE: October 1, 1999

REVISED DATE: November 2017

POLICY: The Colorado Water Conservation Board (CWCB) shall review all loans for which annual payments are 180 days, or more, past due. The Board's review shall include an examination of the Project Sponsor's payment history, Project Sponsor statements regarding extenuating circumstances and reasons for the delinquent or non-payment, and the consideration of problem solving opportunities, including referral for collection.

PURPOSE: To provide the Board with information regarding past due loan payments. This policy will allow Project Sponsors a reasonable time to make late loan payments, restructure their existing loan or develop other financial solutions to recover from periods of economic difficulties, drought, flood, or other hardships beyond their control. This policy will also define how loans will be referred to collections.

APPLICABILITY: This policy and procedure applies to ALL current and future loans from the CWCB Construction Fund and the Severance Tax Trust Fund Perpetual Base Fund.

PROCEDURE: The statutes and provisions in the loan contract and contract documents provide the Board several options in dealing with delinquent loan payments, including, but not limited to, the following:

- Deferral of the loan payment
- Restructuring the loan terms
- Assessment of a revised loan interest rate
- Assessment of a late charge fee
- Forgive all or part of the loan
- Debt referral to the State Central Collection Agency

At every Board meeting, staff will give the Board a comprehensive delinquency list or Loan Aging Schedule. The report will include a list of loan payments that are past due and the date payment was due.

To initiate loan re-payment, staff will send a reminder letter to each Project Sponsor 30 days prior to the loan payment due date.

In the event of a delinquency, staff will send a reminder letter to each Project Sponsor every 30 days. A late fee of 5% of the current ~~one~~-annual payment may be assessed for loan payments not received within 60~~45~~ days of the due date.

Staff will contact the Project Sponsor by phone concerning a loan payment that is 60 days past due to remind the Project Sponsor of its debt obligation and to determine the extenuating circumstances preventing the Project Sponsor from meeting that obligation. Staff and the Project Sponsor will then agree upon an alternate date by which the payment will be made. If the Project Sponsor makes the payment as agreed all late fees associated with the delinquency may be waived at the discretion of the Director or his designee.

Staff will refer all loans to the Board, for which any individual loan payment is at least 180 days past due with a specific recommendation for one of the following actions, depending on the individual circumstance:

- Deferral of the loan payment
- Restructuring the loan terms
- Assessment of an accelerated loan interest rate
- Accelerate the loan

If the delinquency continues, and is at least one year past due, staff will recommend that the Board either:

- Refer the bad debt to Central Collections and/or the Attorney General's Office to take appropriate legal action against the Project Sponsor
- Forgive all or part of the loan
- Continue to work with the Project Sponsor towards a successful re-payment schedule.