

AGREEMENT

THIS AGREEMENT is made and entered into this 3 day of May, 2019, between CPW, Inc., a Colorado Corporation ("CPW"), whose address is 1201 Hilltop Circle, Windsor, Colorado 80550, and the Republican River Water Conservation District ("RRWCD"), acting by and through its Water Activity Enterprise ("Enterprise"), whose address is 410 Main Street, Suite 8, Wray, Colorado 80758.

RECITALS

WHEREAS, CPW owns several water rights decreed to divert from the South Fork of the Republican River, with differing priority dates, all as more fully described on Attachment "A" hereto and incorporated herein by this reference ("CPW water rights") which were associated with the land known as the Hutton Ranch; and

WHEREAS, CPW is willing to sell the CPW water rights to the Enterprise on the terms and conditions of this Agreement; and

WHEREAS, the Enterprise has conducted due diligence on the historical use and ownership of the CPW water rights and the Enterprise is willing to purchase said water rights on the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Purchase and Sale of the CPW Water Rights, Purchase Price for the CPW Water Rights, Dry-Up Acreage, and Revegetation. The Enterprise agrees to purchase, and CPW agrees to sell, all of CPW's right, title, and interest in and to the water rights described on Attachment

“A” hereto, in “as-is” condition, on the terms and conditions set forth in this Agreement. The purchase price for CPW’s water rights described on Attachment “A” hereto is five million, five hundred thousand dollars (\$5,500,000.00), which shall be payable in U.S. Dollars by the Enterprise as follows:

The Enterprise shall pay said amount through varying annual payments over a time of five (5) years as described in this paragraph, and unpaid amounts shall not bear interest during that time. The initial payment of Four Million, Seven Hundred Fifty Thousand Dollars (\$4,750,000.00) shall be paid at closing, which will result in the conveyance of all of CPW’s water rights except the Hutton No. 1 and No. 2 Ditches. Four (4) additional payments in the amount of One Hundred Twenty Five Thousand Dollars (\$125,000.00) shall be made to CPW by the Enterprise on or before the same date as closing in the years 2020, 2021, 2022 and 2023 as lease payments for the lease of the Hutton No. 1 and No. 2 water rights and a fifth and final payment in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be made by the Enterprise on or before the same date in 2024 to complete the purchase of the Hutton No.1 and No. 2 water rights for a total amount of Five Million, Five Hundred Thousand Dollars for the entire transaction.

- 1.1 Subject to confirmation by CPW prior to closing, the acres that are owned by CPW and have been irrigated by the CPW water rights are as follows:

Tip Jack Ditch:

Township 5 South, Range 43 West of the 6th P.M.

Section 11: Part of Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 19

Section 12: Part of Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, and 31

Hale Ditch:

Township 5 South, Range 43 West of the 6th P.M.

Section 11: Part of Lots 11, 12, 13, 14, 15, 19, 20, 22, 23, 27 and 28

Hutton No. 1 Ditch:

Township 5 South, Range 43 West of the 6th P.M.

Section 12: Part of Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, and 31

Hutton No. 2 Ditch:

Township 5 South, Range 43 West of the 6th P.M.

Section 12: Part of Lots 12, 13, 14, 15, 16, 19, 20, 21, 22, 24, 25, 26, 27, 28, and 29

1.2 If a measuring device is required to be installed in any of CPW's Ditches as a term and condition of any decree to change the use of the CPW water rights, CPW agrees to allow the Enterprise, at its sole cost and expense, to install and maintain a measuring device in the Ditch or Ditches and to maintain the Ditch headgate and a section of each Ditch from the headgates to any wasteways that may be installed and maintained by the RRWCD WAE on the Ditches that will allow water diverted at the headgates to be returned back to the South Fork of the Republican River as necessary to measure water at the measuring device and to return water diverted at any such headgate back to the South Fork of the Republican River. The parties agree that any revegetation required pursuant to this Agreement can be accomplished, using accepted best management practices, without the need for irrigation water.

1.3 1031 Exchange. The parties agree that if CPW desires to structure the sale of the water rights as an exchange under the terms and requirements of Section 1031 of the

Internal Revenue Code, the RRWCD and Enterprise shall cooperate with such exchange. The parties agree that CPW's rights under this Agreement are assignable prior to closing to structure an exchange of the water rights under Section 1031, and the RRWCD and the Enterprise agree to reasonably cooperate in such an exchange with CPW at no additional cost or liability to the RRWCD and/or the Enterprise. The parties hereto agree that they shall perform all obligations and execute all documents necessary to effectuate a 1031 tax deferred exchange.

2. Deeds. On the closing date, CPW shall execute and deliver to the Enterprise a good and sufficient general warranty deed in a form consistent with C.R.S. § 38-30-113(1) conveying all the CPW water rights shown on Attachment "A" in as-is condition, except the Hutton No. 1 Ditch and the Hutton No. 2 Ditch, or alternatively, if CPW has provided the Enterprise with an acceptable title opinion letter, then CPW shall execute and deliver to the Enterprise a good and sufficient special warranty deed in a form consistent with C.R.S. § 38-30-115 conveying all the CPW water rights shown on Attachment "A" except the Hutton No. 1 Ditch and the Hutton No. 2 Ditch. The form of the deed shall be mutually acceptable to the parties hereto and shall convey CPW's interest in and to all of the water rights described on Attachment "A" hereto, except the Hutton No. 1 and Hutton No. 2 Ditches, to the Enterprise free and clear of all liens and encumbrances. If CPW elects to provide the Enterprise with a title opinion letter, it shall cause to be furnished to the Enterprise at least seven days prior to the closing date, at CPW's expense, a title opinion, prepared by a licensed Colorado attorney acceptable to the Enterprise stating that CPW has good and marketable title to all of the water rights described on Attachment "A" hereto.

2.1 CPW agrees to ensure that any and all lease interests of John Cure of Cure Land LLC involving CPW water rights are cleared and eliminated and provide a release of the Lease Agreement on the Jim Hutton Ranch, recorded in Yuma County, CO.

2.2 CPW and the Enterprise have reviewed the Conservation Easement dated January 31, 1991, held by the Colorado Division of Parks and Wildlife ("CDP&W") and applicable to lands owned by CPW, and mutually agree it does not encumber the CPW water rights that are the subject of this Agreement. CDP&W will be provided a copy of this Agreement upon approval by the Enterprise.

3. Lease of Hutton No. 1 and Hutton No. 2 Ditches. The Parties agree that the RRWCD and its Enterprise will lease the Hutton No. 1 Ditch and the Hutton No. 2 Ditch from CPW for a term of five (5) years commencing on the date of the closing and running through April 2024. The lease price will be as set forth in Paragraph 1 above. CPW shall, at the time of closing, execute a deed in the manner called for in paragraph 2 above and deliver the same to an escrow agent, mutually acceptable to the Parties. Once the Enterprise has tendered the required five (5) lease payments to CPW in the manner set forth in Paragraph 1 above and provided documentation of said payments to the escrow agent, then the escrow agent shall deliver said deed to the Enterprise no later than April 30, 2024. All provisions of this Agreement shall be applicable to the Hutton No. 1 and Hutton No. 2 ditches, despite their lease status.

4. Dry-Up Covenant; Documents, Historical Use Affidavit, and Cooperation. CPW agrees not to irrigate the acres described in paragraph 1, above, with water from any source except to the extent that (a) the acres are included in the 194 acres that may be irrigated by the well permitted by the State of Colorado in Permit No. MF-18137-RFP, as such permit may be amended in the future, and/or (b) any of the acres are or become irrigated by a domestic well.

This agreement shall be a covenant running with the land and shall be binding upon the successors, legal representatives, heirs, and assigns of CPW. Enterprise may require the completion of a separate dry-up covenant in a reasonable and customary form to comply with this paragraph and CPW agrees to execute the same upon presentation.

4.1 At the closing, CPW agrees to provide the Enterprise with all documents and information in its possession or control relating to the physical ditch structures, the use of the water rights, and the ownership of the CPW water rights described in Attachment A hereto, and further, CPW agrees that at the closing it will provide an affidavit from John Cure describing the historical use of the CPW water rights by John Cure as the lessee of Jim Hutton and The Jim Hutton Educational Foundation and will cooperate (at no cost to CPW) with the Enterprise in any Water Court proceeding to change the use of the CPW water rights.

4.2 CPW currently owns and maintains or utilizes diversion dams or other structures in the South Fork of the Republican River. CPW agrees, at its own expense and within 180 days of closing, to remove any such structures controlled by CPW to the extent necessary to allow the natural non-flood flows of the South Fork to pass through without ponding or otherwise backing up said flows. CPW agrees to provide reasonable cooperation, if any is required, and at no cost to CPW, in securing alterations to the Hale Ditch headgate/delivery structure on Bonny Dam.

4.3 CPW covenants and agrees to promptly secure the dismissal of any legal actions maintained by CPW or The Jim Hutton Educational Foundation which challenge the statutes, court decisions and administrative actions related to the management, control and administration of the CPW water rights, Colorado Ground Water Management Act, the Northern High Plains Designated Basin and any of the Ground Water Management Districts within the

Northern High Plains Designated Basin, including but not limited to Case No. 15CW3018, District Court, Water Division No. 1, but subject to the requirement that all parties incur their own costs and fees. Neither CPW nor its individual shareholders will initiate, continue, or prosecute a legal action in the future that raises claims materially similar to those raised in Case No. 15CW3018. CPW, and its individual shareholders, further covenants and agrees that it will not, in its capacity as owner of the Hutton Ranch, challenge any effort by the RRWCD or its Enterprise to change, modify or adjust the fee structure used to finance the RRWCD Compact Compliance programs, except that CPW may challenge future modifications of such fees, if any, that seek to assess pre-Compact wells. CPW further agrees to withdraw the Protest filed by The Jim Hutton Educational Foundation to the proposed Compact Rules and Regulations promulgated by the Colorado State Engineer, related to the Republican River Basin and the associated portions of the High Plains Aquifer, Case No. 19CW3002, District Court, Water Division No. 1, and, CPW, and its individual shareholders, agrees not to protest said proposed Compact Rules and Regulations itself.

4.4 To the extent that an obstruction to the flows of the South Fork of the Republican River ever occurs on the Hutton Ranch, such as a beaver dam or landslide, that interferes with the State of Colorado's compliance with the Republican River Compact, and to the extent that CPW or its successors and assigns cannot or do not desire to remove the obstruction, then upon reasonable notice under the circumstances, RRWCD and its Enterprise may access the Hutton Ranch property for the limited purpose of removing the obstruction.

5. Approval by the RRWCD Board of Directors. The parties acknowledge and agree that this Agreement must be approved by the board of directors of the RRWCD before it is binding on the Enterprise. For up to 15 days after the date of this Agreement, this Agreement

shall be an irrevocable offer by CPW that may be accepted by approval of this Agreement by the board of directors of the RRWCD as provided herein. The board of directors of the RRWCD will hold a regular or special meeting within 15 days of the date of this Agreement to approve this Agreement. Upon approval of this Agreement by the RRWCD board of directors, this Agreement shall be binding upon CPW and the Enterprise. Notice of such approval shall be provided to CPW. If the board of directors of the RRWCD does not approve this Agreement within 15 days of the date of this Agreement, this Agreement shall be null and void.

6. Closing Date. The closing on all CPW water rights except the Hutton No. 1 and Hutton No. 2 ditches shall take place within 30 days after the date of this Agreement at a time and place mutually agreed upon by CPW and the Enterprise, subject to the right to extend the closing date by mutual agreement of the parties. If CPW and the Enterprise cannot agree upon a time and place for the closing, the closing shall be at the RRWCD office at 11:00 am on the 30th day after the date of this Agreement. At the closing CPW shall execute and deliver the appropriate deed, as provided in paragraph 2 above, and the Enterprise shall deliver the payment for the water rights, as provided in paragraph 1 above.

6.1. A second closing on the Hutton No. 1 Ditch and the Hutton No. 2 Ditch shall take place no later than April 30, 2024 at a time and place mutually agreed upon by CPW, the escrow agent and the Enterprise. If CPW and the Enterprise cannot agree upon a time and place for the closing, the closing shall be at the RRWCD office at 11:00 am on the 30th day of April 2024. At the closing the escrow agent shall deliver the appropriate deed, as provided in paragraph 2 above, and the Enterprise shall deliver the final payment for the water rights, as provided in paragraph 1 above.

7. Notices. Notices, consents, approvals or other communications provided for herein or given in connection herewith shall be deemed given, made, delivered, or served if made in writing and delivered personally or sent by registered or certified United States mail, return receipt requested and postage prepaid, to:

CPW, Inc:
c/o John Cure
1201 Hilltop Circle
Windsor, CO 80550

ENTERPRISE:
Deb Daniel
Republican River Water Conservation District
410 Main Street, Suite 8
Wray, CO 80758

With copy to: David W. Robbins, Esq.
Hill & Robbins, P.C.
1660 Lincoln Street, Ste. 2720
Denver, CO 80264

or to such other address as either party hereto may from time to time designate in writing and deliver in a like manner to the other party. Such notices or other communications shall be deemed given or made upon delivery, if delivered personally, or upon the date of the mailing, if sent by registered or certified United States mail.

8. Default, Right to Cure and Remedies. In the event that either party believes that the other is in default of any obligation under this Agreement, the non-defaulting party shall give written notice of the default to the party it believes is in default. If a notice of default is provided, the party accused of the default shall either cure it or provide a written statement explaining why it is not in default. If the alleged default is not cured or otherwise resolved within 30 days, the parties may resort to their remedies.

9. Time is of the Essence. Time is of the essence hereof and if any payment or condition hereof is not made, tendered, or performed by either CPW or the Enterprise as provided herein, and such default is not cured as provided above, the non-defaulting party may have any such remedies as provided by law, including the right to specific performance and damages. If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday, or federal or Colorado state holiday, then such date shall automatically be extended to the next day which is not a Saturday, Sunday, or federal or Colorado state holiday. In no event shall either party hereto be liable to the other for lost profits or punitive, exemplary, or consequential damages. However, the Parties agree that any late payment shall accrue interest at a rate of 12% per annum, compounded monthly.

10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs and successors.

11. Assignment. There shall be no assignment of any interest under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Upon an authorized assignment, all the provisions hereof shall inure to the benefit and be binding upon the successors, heirs, and assigns of CPW and the Enterprise.

12. Waiver. No delay in exercising any remedy shall constitute a waiver thereof, and no waiver by CPW or the Enterprise of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same, or any other covenant or condition of this Agreement.

13. Captions. The captions of the paragraphs of this Agreement are for convenience only and shall not govern or influence the interpretation hereof.

14. Colorado Law. This Agreement shall be governed by the laws of the State of Colorado.

15. Place of Performance and Venue. The parties agree that this Agreement is performable in the Yuma County, Colorado, and that venue for any disputes over any issue resulting from this Agreement shall be in Yuma County District Court.

16. Further Documents, Etc. Each party shall execute and deliver all such documents and perform all such acts as are reasonably requested by the other party from time to time at and after the closing to carry out the matters contemplated by this Agreement.

17. Entire Agreement and Changes. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understanding of the parties, oral or written, are hereby superseded and merged herein. No change or addition may be made to this Agreement, except by a written agreement executed by the parties.

18. Survival of Closing. All terms and conditions of this Agreement shall survive the closing and shall not merge into the deed.

19. Counterparts. This Agreement may be executed in duplicate counterparts and the counterparts shall together constitute this Agreement.

20. Date of this Agreement. The date of this Agreement shall be the date of the execution of this Agreement by CPW and the Enterprise, if executed on the same date. If the Agreement is not executed by CPW and the Enterprise on the same date, then the date of this Agreement shall be the latest date on which CPW or the Enterprise executed this Agreement.

21. Additional Warranties by the Enterprise. If this Agreement is approved by the Board of Directors of the RRWCD as provided herein, the Enterprise makes the following representations, warranties, and covenants to CPW:

(a) The execution and performance of this Agreement has been duly approved by the board of directors of the RRWCD, which is the Governing Body of the Enterprise, in accordance with applicable law.

(b) The Enterprise has the right, power, and authority to enter into this Agreement and to perform its obligations hereunder, and the person executing this Agreement on behalf of the Enterprise has the right, power, and authority to do so.

(c) This Agreement constitutes the legal, valid, and binding obligation of the Enterprise enforceable against the Enterprise in accordance with its terms. Neither this Agreement nor the consummation of any of the transactions contemplated hereby violates or shall violate any provision of any agreement or documents to which the Enterprise is a party or to which the Enterprise is bound.

(d) There is no suit, action, or arbitration, or legal, administrative, or other proceeding, formal or informal, pending or threatened, which affects the Enterprise's ability to perform this Agreement.

22. Additional Warranties by CPW. If the conditions set forth in paragraph 4, above are satisfied, CPW make the following representations, warranties, and covenants to the Enterprise:

(a) CPW has the right, power, and authority to enter into this Agreement and to perform the obligations hereunder.

(b) This Agreement constitutes the legal, valid, and binding obligation of CPW enforceable against CPW in accordance with its terms. Neither this Agreement nor the consummation of any of the transactions contemplated hereby violates or shall violate any provision of any agreement or documents to which CPW is a party or to which CPW is bound.

(c) There is no suit, action, or arbitration, or legal, administrative, or other proceeding, formal or informal, pending or threatened, which affects CPW's ability to perform this Agreement.

(d) The execution, delivery, and performance of this Agreement shall not breach or constitute a default, or grounds for the acceleration of the maturity of, any agreement, indenture, undertaking or other instrument, to which CPW is a party or by which CPW or any of its property may be bound or affected, subject to Section 2.2, above.

[signature page follows]

REPUBLICAN RIVER WATER

CPW, Inc.

CONSERVATION DISTRICT, Acting by

and through its WATER ACTIVITY

ENTERPRISE

By:

Rod Lenz
Rod Lenz

President

By:

John Cure
John Cure
President

ATTEST:

By:

Timothy Pautler
Timothy Pautler

Secretary

STATE OF COLORADO

)

) ss.

Morgan
COUNTY OF ~~YUMA~~

)

Subscribed and sworn to before me this 3 day of May, 2019, by Rod Lenz as
President of the Republican River Water Conservation District, acting by and through its Water
Activity Enterprise.

Witness my hand and seal.

My commission expires:

7/12/2022



Danielle Mertens
Notary Public

Subscribed and sworn to before me this _____ day of May, 2019, by Timothy Pautler as Secretary of the Republican River Water Conservation District, acting by and through its Water Activity Enterprise.

Witness my hand and seal.

My commission expires:

Notary Public

STATE OF COLORADO

)

) ss.

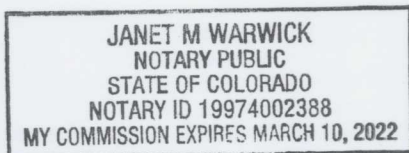
COUNTY OF YUMA

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Subscribed and sworn to before me this 2nd day of May, 2019, by John Cure, as President of CPW, Inc., a Colorado corporation.

Witness my hand and seal.

My commission expires:



Janet M. Warwick
Notary Public

ATTACHMENT "A"

To the Agreement between CPW, Inc. and the Republican
River Water Conservation District and its Water Activity
Enterprise

All of Grantor's right, title and interest in and to "The Tip Jack Ditch" and all of Grantor's right, title and interest in and to any water rights heretofore belonging to Grantor as owner of an interest in the aforesaid Tip Jack Ditch and all of Grantor's right, title and interest in and to priority No. 10 adjudicated to the Tip Jack Ditch by the District Court of Arapahoe County, Colorado under date of December 28, 1893 in action No. 18162, the same an interest in and to a total adjudication of 2.0 cubic feet of water per second of time awarded to the said Tip Jack Ditch by the aforesaid Decree,

All of Grantor's right, title and interest in and to "Hutton No. 1" and "Hutton No. 2" and all of Grantor's right, title and interest in and to any water rights heretofore belonging to Grantor as owner of an interest in the aforesaid Hutton No. 1 and Hutton No. 2 and all of Grantor's right, title and interest in and to priority adjudicated to Hutton No. 1 and Hutton No. 2 by the Water Court in and for Water Division I, State of Colorado under date of May 3, 1978 in Case No. W-8667-77, the same being an interest in and to a total adjudication of 12.9 cubic feet of water per second of time awarded to the said Hutton No. 1 and 4.92 cubic feet of water per second of time awarded to the said Hutton No. 2 by the aforesaid Decree,

All of Grantor's right, title and interest in and to "The Hale Ditch" and all of Grantor's right, title and interest in and to any water rights heretofore belonging to Grantor as owner of an interest in the aforesaid Hale Ditch and all of Grantor's right, title and interest in and to priority No. 38 adjudicated to the Hale Ditch by the District Court of Kit Carson County, Colorado under date of September 8th, 1938, the same being an undivided one-third interest in and to a total adjudication of twenty-three cubic feet of water per second of time awarded to the said Hale Ditch by the aforesaid Decree, together with any and all rights and privileges to the use of the said water allowed by the laws of the State of Colorado, with all its appurtenances, subject to easements, restrictions, and reservations of record, if any.