



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203
303-866-3441

September 14, 2020

Butte Irrigating and Milling Company
3889 75th Street
Boulder, CO 80301

Subject: Loan Contract No. (C150382) CT2015-016
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the Butte Irrigating and Milling Company, and the Colorado Water Conservation Board (CWCB), Loan Contract No. (C150382) CT2015-016. The documents have been stamped "PAID IN FULL" denoting that the terms of the agreement have been satisfied in full by the Company.

Should you have any questions, please contact me at Telephone No. (303) 866-3441, ext 3245 or email at lauren.miremont@state.co.us. If we can be of any further assistance to you in the near future, please let us know.

Sincerely,

Lauren Miremont

Lauren Miremont
Finance Manager
Finance Section

Attachments

cc: CWCB Files





04/30/2014 09:25 AM
Boulder County Clerk, CO

RF: \$21.00

03377616

Page: 1 of 3

DF: \$0.00

CANCELLED
RELEASED
AUG 31 2020
Boulder County
Public Trustee

Deed of Trust

DATE: February 4, 2014
GRANTOR: Butte Irrigating and Milling Company, a Colorado nonprofit corporation
BENEFICIARY: Colorado Water Conservation Board
COUNTY: Boulder
PRINCIPAL LOAN AMOUNT: \$277,750
LOAN CONTRACT: Loan Contract No. C150382
TERMS OF REPAYMENT: 30 YEARS- no payments and zero interest for the first three years followed by 27 years of amortized payments at the interest rate of 2.30% per annum
COLLATERAL: An undivided one-hundred percent interest in the Butte Mill Diversion Structure and Headgate, including any easements, rights-of-ways or other property or property interests held and used in connection with the access and operation of said diversion structure and headgate. The location is in the SE 1/4 of the SW 1/4 of Section 22, Township 1 North, Range 70 West, of the 6th P.M., Boulder County, Colorado.

This indenture is between the Grantor, and the Public Trustee of the above referenced COUNTY, State of Colorado ("PUBLIC TRUSTEE"),

FACTUAL RECITALS

1. The GRANTOR has executed a PROMISSORY NOTE of even date and amount, set forth in the LOAN CONTRACT, for a loan in the PRINCIPAL LOAN AMOUNT to be repaid to the BENEFICIARY, with TERMS OF REPAYMENT and in accordance with the PROMISSORY NOTE or until loan is paid in full.
2. The GRANTOR is desirous of securing payment of the PRINCIPAL LOAN AMOUNT and interest of said PROMISSORY NOTE to the BENEFICIARY.

The GRANTOR, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said PUBLIC TRUSTEE in trust forever, the above described COLLATERAL.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said PROMISSORY NOTE, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said PROMISSORY NOTE or LOAN CONTRACT, then upon the BENEFICIARY filing notice of election and demand for sale, said PUBLIC TRUSTEE, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said COUNTY, shall sell said COLLATERAL in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the PUBLIC TRUSTEE shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior encumbrance, with interest thereon and pay the principal and interest due on said PROMISSORY NOTE, rendering the overplus, if any, unto the GRANTOR; and after the

Appendix 5 to Loan Contract C150382

Page 1 of 3

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expiration of the time of redemption, the PUBLIC TRUSTEE shall execute and deliver to the purchaser a deed to the COLLATERAL sold. The BENEFICIARY may purchase said COLLATERAL or any part thereof at such sale.

The GRANTOR covenants that at the time of the delivery of these presents, it is well seized of the COLLATERAL in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The GRANTOR fully waives and releases all rights and claims it may have in or to said COLLATERAL as a Homestead Exemption or other exemption, now or hereafter provided by law. The GRANTOR further covenants that the COLLATERAL is free and clear of all liens and encumbrances whatever and that the GRANTOR shall warrant and forever defend the COLLATERAL in the quiet and peaceable possession of the PUBLIC TRUSTEE, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the COLLATERAL; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the COLLATERAL insured in accordance with the requirements of the LOAN CONTRACT. In the event of the sale or transfer of the COLLATERAL, the BENEFICIARY, at its option, may declare the entire balance of the PROMISSORY NOTE immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said PROMISSORY NOTE or LOAN CONTRACT, by the GRANTOR, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the BENEFICIARY, become due and payable, and the said COLLATERAL be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the PUBLIC TRUSTEE, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the PUBLIC TRUSTEE as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this DEED OF TRUST is required, the GRANTOR, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the PROMISSORY NOTE and LOAN CONTRACT shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

Executed the day and date first written above.



Butte Irrigating and Milling Company,
a Colorado nonprofit corporation

By Todd Doherty, President
Name, Title

ATTEST:

Date: 2-4-14

By [Signature], Secretary
Name, Title

Date: 2-4-14

County of _____)
State of Colorado) SS

The foregoing instrument was acknowledged before me this 4 day of February, 2013, by

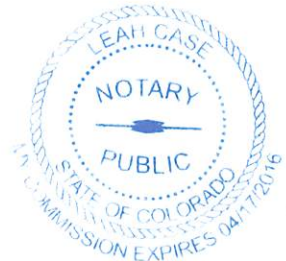
Todd Doherty (Name), president (Title) and Anne Smith (Name), secretary (Title),

of Butte Irrigating and Milling Company. Witness my hand and official seal.

Leah Case
[Signature] Notary Public

My commission expires 4/17/2016

(SEAL)



Return recorded DEED OF TRUST to: CWCB Finance Section, Attn: Contracts Manager, Peg Mason, 1313 Sherman Street, Suite 721, Denver CO 80203 (Phone Number 303-866-3441 ext. 3227).

PROMISSORY NOTE

Date: January 28, 2014

Borrower: Butte Irrigating and Milling Company, a Colorado nonprofit corporation

Principal Amount: \$277,750

Interest Rate: zero interest for first three years, followed by 2.30% for remaining 27 years

Term of Repayment: 30 years - no payments for first three years followed by 27 years of amortized payments

Loan Contract No.: C150382

Loan Payment: \$0 first three years of loan, followed by 27 remaining payments of \$13,923.83

Payment Initiation Date*: _____

Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the contract has been executed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable on the first of the month four (4) years from the Payment Initiation Date and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, and DEED OF TRUST, ("SECURITY INSTRUMENTS") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB, including the right to accelerate the maturity of this PROMISSORY NOTE in certain

Appendix 2 to Loan Contract C150382

events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this PROMISSORY NOTE occurs, the CWCB may declare the entire outstanding principal balance of the PROMISSORY NOTE, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Butte Irrigating and Milling
Company, a Colorado nonprofit corporation

(SEAL)

By Todd Doherty
Signature

Attest:

NAME: TODD DOHERTY

TITLE: PRESIDENT

DATE: 1/28/2014

By [Signature]
Signature

NAME: Anne Smith

TITLE: Secretary

DATE: 1/28/14

PAID IN FULL



03/01/2018 02:23 PM
Boulder County Clerk, CO

RF: \$18.00

03642986

Page: 1 of 2

DF: \$0.00

CANCELLED
RELEASED
AUG 31 2020
Boulder County
Public Trustee

APPENDIX C, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-016 (C150382)
AMENDMENT TO DEED OF TRUST

Date: February 8, 2018

Grantor (Borrower): Butte Irrigating and Milling Company

Beneficiary (Lender): Colorado Water Conservation Board

✓ Beneficiary (Lender) Address: 1313 Sherman Street, Room 718, Denver,
Colorado, 80203

Date of Original Deed of Trust: February 4, 2014

Recorded Date of Original Deed of Trust: April 30, 2014

County of Recording ("County"): Boulder

Deed of Trust Recording Information: Reception Number 03377616, 3 pages

Loan Contract Number: CT2015-016 (C150382)

Promissory Note: \$113,236.49 30 years - no payments and zero
interest for the first three years followed by
annual payments of \$5,676.63 for 27 years at
the interest rate of 2.30%

This Amendment to ORIGINAL DEED OF TRUST is between the Grantor and the Public Trustee of the County, State of Colorado.

The ORIGINAL DEED OF TRUST was recorded to secure repayment of the indebtedness evidenced by the LOAN CONTRACT and PROMISSORY NOTE between the Grantor and the Beneficiary.

Grantor and Beneficiary have agreed to amend the ORIGINAL DEED OF TRUST to reflect: a decrease in the total loan amount, from \$227,750.00 to \$113,236.49 and hereby amend the original Security Agreement to document the change of loan amount.

NOW THEREFORE, the CWCB and Grantor agree that:

1. This AMENDMENT TO DEED OF TRUST, APPENDIX C to AMENDMENT 1 to CONTRACT CT2015-016 (C150382) *shall supplement and operate* in conjunction with the DEED OF TRUST attached to the ORIGINAL CONTRACT as APPENDIX 5, recorded in Boulder County, April 30, 2014, Reception Number 03377616, 3 Pages and incorporated herein by reference.
2. The Grantor has executed a PROMISSORY NOTE, in the amount of \$113,236.49 to secure the repayment of the indebtedness, evidenced by LOAN CONTRACT NO. CT2015-016 (C150382) to be repaid to the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB") the beneficiary herein, whose address is 1313 Sherman Street, Room 718, Denver, CO 80203, payable in annual installments, in accordance with said PROMISSORY NOTE, or until the loan is paid in full.
3. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original deed of trust, the provisions of this amendment shall in all respects supersede, govern, and control.
4. Any provisions of the original deed of trust not expressly modified herein remain in full force and effect.

Appendix C

Page 1 of 2

5. Executed on the date first written above.

GRANTOR: Butte Irrigating and Milling Company

By Amy Willhite
Signature

(SEAL)

Name Amy Willhite
Title President
Date 2/8/2018

ATTEST:

By Jane E. Sliker
Signature

Name Jane E. Sliker
Title secretary / treasurer
Date 2/8/2018

NOTARY REQUIRED

State of Colorado)
County of Boulder) ss.

The foregoing instrument was acknowledged before me on February 8th, 2018, by

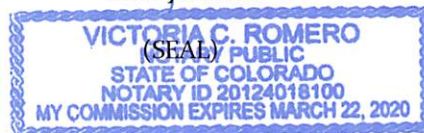
Amy Willhite (Name) as President (Title) and

Jane E. Sliker (Name) as secretary / treasurer (Title)

of the Butte Irrigating and Milling Company. Witness my hand and official seal.

Victoria C. Romero
Notary Public

My commission expires on 03/22/20



(Colorado Water Conservation Board will record Amendment to Deed of Trust with the County.)

**APPENDIX A, AMENDMENT NO. 1 TO LOAN CONTRACT CT2015-016
AMENDMENT TO PROMISSORY NOTE**

Date: February 8, 2018

Borrower: Butte Irrigating and Milling Company

Total Loan Amount: \$113,236.49

Interest Rate: \$0 interest for first three years, followed by 2.30% for remaining 27 years

Term of Repayment: 30 years

Loan Contract No.: CT2015-016 (C150382)

Loan Payment: \$0 first three years of loan, followed by 27 annual payments of \$5,676.63

Payment Initiation Date: May 1, 2014

Maturity Date: May 1, 2044

For Value Received, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this promissory note.

1. This Amendment to Promissory Note *shall replace and supersede* the Original Promissory Note attached to the Original Contract and incorporated by reference.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable on the first of the month four (4) years from the Payment Initiation Date and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within sixty (60) calendar days of the due date. **PAID IN FULL**
5. This Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This Note is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER.

The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

(SEAL)

Attest:

By

Signature

Name

Title

Date

BORROWER: Butte Irrigating and Milling
Company

By

Signature

Name

Title

Date

PAID IN FULL

APPENDIX B, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-016 (C150382)
AMENDMENT TO SECURITY AGREEMENT

DEBTOR: Butte Irrigating and Milling Company

SECURED PARTY: Colorado Water Conservation Board

REVISED LOAN AMOUNT: \$113,236.49

TERM OF REPAYMENT: 30 years - no payments and zero interest for the first three years followed by annual payments of \$5,676.63 for 27 years at the interest rate of 2.30%

LOAN CONTRACT NUMBER: CT2015-016 (C150382)

1. The Parties have amended the Original Loan Contract and Promissory Note to decrease the loan amount from \$277,750.00 to \$113,236.49, and hereby amend the Original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

(SEAL)

ATTEST:

By *James E. Smith*
Signature/Title *secretary/treasurer*
Date 2/8/2018

DEBTOR: BUTTE IRRIGATING AND MILLING COMPANY

By *[Signature]*
Signature/Title *President*
Date 2/8/2018

PAID IN FULL

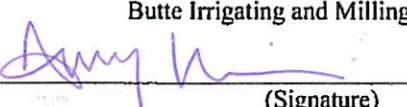

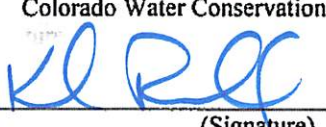
LOAN CONTRACT AMENDMENT NO. 1

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 1 Contract Number CMS 101053 CT2015-016
Borrower Butte Irrigating and Milling Company	Original Contract Number CMS 62905 C150382
Current Contract Maximum Amount \$113,236.49	Contract Performance (Project) Beginning Date 04/09/2014 Contract Performance (Project) End Date 04/09/2017
Reason for Modification Decrease due to substantial completion and change to contract condition	Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: 05/01/2014 Maturity Date: 05/01/2044

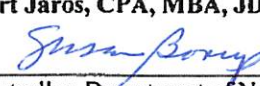
THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

BORROWER Butte Irrigating and Milling Company  (Signature) Name: <u>Amy Willhite</u> Title: <u>President</u> Date: <u>2/8/2018</u> ATTEST:  (Signature) Name: <u>Jane E. Sliker</u> Title: <u>Secretary/Treasurer</u> Date: <u>2/8/2018</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB)  (Signature) Name: Kirk Russell, P.E., Section Chief CWCB Finance Section Date: <u>2/16/18</u> PAID IN FULL
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD


By: Susan Borup, Controller, Department of Natural Resources

Amendment Effective Date: 2/22/18

APPENDIX B, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-016 (C150382)
AMENDMENT TO SECURITY AGREEMENT

DEBTOR: Butte Irrigating and Milling Company

SECURED PARTY: Colorado Water Conservation Board

REVISED LOAN AMOUNT: \$113,236.49

TERM OF REPAYMENT: 30 years - no payments and zero interest for the first three years followed by annual payments of \$5,676.63 for 27 years at the interest rate of 2.30%

LOAN CONTRACT NUMBER: CT2015-016 (C150382)

1. The Parties have amended the Original Loan Contract and Promissory Note to decrease the loan amount from \$277,750.00 to \$113,236.49, and hereby amend the Original Security Agreement to document the change of loan amount.
2. The Parties expressly agree that this Amendment to Security Agreement is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment to Security Agreement as though they were expressly rewritten, incorporated, and included herein.
3. Collateral for the loan remains the same.

(SEAL)

ATTEST:

By

James E. Smith
Signature/Title *secretary/treasurer*

Date

2/8/2018

DEBTOR: BUTTE IRRIGATING AND MILLING COMPANY

By

Danny L. ...
Signature/Title *President*

Date

2/8/2018

PAID IN FULL

The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instruments") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Note in certain events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this Promissory Note.
9. The BORROWER and any co-signer or guarantor hereby agree that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This Note shall be governed in all respects by the laws of the State of Colorado.

(SEAL)

Attest:

By

Signature

Name

Title

Date

BORROWER: Butte Irrigating and Milling
Company

By

Signature

Name

Title

Date

PAID IN FULL



DIETZE AND DAVIS, P.C.
ATTORNEYS AT LAW

Serving the West from Boulder since 1972

Peter C. Dietze
Robyn W. Kube
Karl F. Kumli, III*
David J. Thrower
Joel C. Maguire
Renée Ezer*
Stephen A. Closky
Star L. Waring
Tucker M. Katz
Mark D. Detsky

Siena Square Building
2060 Broadway, Suite 400
Boulder, Colorado 80302
Telephone (303) 447-1375
Fax (303) 440-9036
www.dietzedavis.com

Email: KarlK@dietzedavis.com

Joshua E. Anderson
Gabriella Stockmayer

Of Counsel:
Carmen S. Danielson
Nicholas G. Muller

Joel C. Davis 1936-2013
**Also admitted in California*

February 24, 2014

Original by mail

Via email to: peg.mason@state.co.us

CWCB Finance Section
Attn: Peg Mason, Contracts Manager
1580 Logan, Suite 600
Denver, CO 80203

Re: Attorney Opinion Letter Concerning The Butte Irrigating and Milling Company's Emergency Loan Contract with and Promissory Note to Colorado Water Conservation Board dated January 28, 2014

Dear Ms. Mason:

This office represents The Butte Irrigating and Milling Company in connection with the execution and delivery of a Loan Contract dated January 28, 2014 between The Butte Irrigating and Milling Company and the Colorado Water Conservation Board ("CWCB") and a Promissory Note made by The Butte Irrigating and Milling Company to the CWCB as of January 28, 2014 (the "Note" and, collectively with the Loan Contract, the "Loan Documents") pursuant to the Loan Contract.

The Note matures, bears interest at the rate, and is payable in the manner and subject to the conditions and limitations provided in the Loan Contract and the resolution authorizing the execution and delivery of the Loan Documents adopted on January 28, 2014 by the Board of Directors of The Butte Irrigating and Milling Company (the "Board Resolution"), and by the shareholders of The Butte Irrigating and Milling Company ("Shareholders Resolution") on January 28, 2014. Specifically, the Board approved a Small Project Loan from the CWCB not to exceed 100% of project costs of up to \$275,000.00, with a loan origination fee of 1% of the project costs in accordance with CWCB Policy No. 16, resulting in a total loan amount of \$277,750.00 over 30 years, including no payments and zero interest for the first three years followed by 27 years of amortized payments at the interest rate of 2.30%.

We have examined the Constitution and laws of the State of Colorado and such certified proceedings, certificates, documents, opinions, and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, including the status and qualification of The Butte Irrigating and Milling Company, we have relied upon the representations of The Butte Irrigating and Milling Company contained in the Loan Documents, the Shareholder Resolution, and the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation. We have assumed the due authorization, execution and delivery of the Loan Contract by, and the enforceability of the Loan Contract against, the CWCB.

Based upon and in reliance on the foregoing, we are of the opinion, under existing law and as of the date hereof, that:

- (a) The Loan Documents have been duly executed by officials of The Butte Irrigating and Milling Company who are duly elected or appointed and are authorized to execute the Loan Documents and to bind The Butte Irrigating and Milling Company.
- (b) The Board Resolution was duly adopted by the Board of Directors of The Butte Irrigating and Milling Company.
- (c) There are no provisions in the Constitution or laws of the State of Colorado that prevent the Loan Documents from binding The Butte Irrigating and Milling Company.
- (d) The Loan Documents comprise a valid and binding special revenue obligation of The Butte Irrigating and Milling Company, legally enforceable against The Butte Irrigating and Milling Company in accordance with the terms of the Loan Documents.

The rights of the CWCB under the Loan Contract and as holder of the Note and the enforceability of the Loan Documents may be limited by the effect of, and by restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment, or other similar laws affecting creditors' rights generally heretofore or hereafter enacted or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, and are further subject as to enforceability to judicial discretion, to the exercise by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State, and to the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

We express no opinion herein as to any matter not specifically set forth above. This opinion is given as of the date hereof and we assume no obligation to update, revise, or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion may be relied upon solely by the addressees hereto in connection with the execution and delivery of the Loan Documents. This opinion may not be relied upon for any other purpose or by any person other than the addressees.

Very truly yours,

DIETZE AND DAVIS, P.C.



Karl F. Kumli, III

Cc: Anne Smith, Secretary
The Butte Irrigating and Milling Company

PAID IN FULL

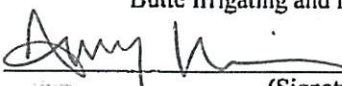

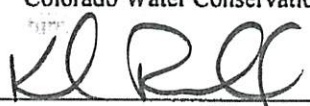
LOAN CONTRACT AMENDMENT NO. 1

SIGNATURE AND COVER PAGE (THREE SIGNED ORIGINALS REQUIRED)

State Agency: Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 1 Contract Number CMS 101053 CT2015-016
Borrower Butte Irrigating and Milling Company	Original Contract Number CMS 62905 C150382
Current Contract Maximum Amount \$113,236.49	Contract Performance (Project) Beginning Date 04/09/2014 Contract Performance (Project) End Date 04/09/2017
Reason for Modification Decrease due to substantial completion and change to contract condition	Loan Contract Repayment Schedule (See Promissory Note) Payment Initiation Date: 05/01/2014 Maturity Date: 05/01/2044

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

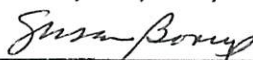
BORROWER Butte Irrigating and Milling Company  (Signature) Name: <u>Amy Willhite</u> Title: <u>President</u> Date: <u>2/8/2018</u> ATTEST:  (Signature) Name: <u>Jane E. Sliker</u> Title: <u>Secretary/Treasurer</u> Date: <u>2/8/2018</u>	STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB)  (Signature) Name: <u>Kirk Russell, P.E., Section Chief</u> CWCB Finance Section Date: <u>2/16/18</u>
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PAID IN FULL

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD



By: Susan Borup, Controller, Department of Natural Resources

Amendment Effective Date: 2/22/18

1. PARTIES

This Amendment (the "Amendment") to the Original Contract shown on the Signature and Cover Page for this Amendment (the "Contract") is entered into by and between the Borrower, and the State.

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties' respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. PURPOSE

The Borrower was approved for a CWCB Emergency Loan Contract, due to the 2013 flood event, for the Emergency Berm Repair. The Project was completed and the parties agree to amend the contract to reduce the final loan amount from \$277,750.00 to \$113,236.49. The parties also agree to revise the language in the original Contract Condition, Appendix 1, Section 7, *Additional Conditions & Contract Requirements*.

5. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

- A. The original loan contract amount is hereby deleted and replaced with the Current Contract Maximum Amount of \$113,236.49 shown on the Signature and Cover Page for this Amendment.
- B. Amendment to Promissory Note, Appendix A, in the revised loan amount, and incorporated herein *shall replace and supersede* the Original Promissory Note attached to the Original Contract as Appendix 2.
- C. Amendment to Security Agreement, Appendix B, in the revised loan amount, and incorporated herein *shall supplement and operate in conjunction with* the Original Security Agreement, attached to the Original Contract as Appendix 4.
- D. Amendment to Deed of Trust, Appendix C, in the revised loan amount, and incorporated herein *shall supplement and operate in conjunction with* the Original Deed of Trust, attached to the Original Contract as Appendix 5 and shall be recorded with the Boulder County Clerk and Recorder.
- E. Delete the original Contract Condition in Appendix 1, Section 7, *Additional Conditions & Contract Requirements* and replace with the following language: *It is required that all FEMA grant funds be applied to the balance of the emergency loan within thirty (30) calendar days after FEMA Project Closeout, as long as the borrower deposits received FEMA grant funds in a secured account prior to Project Closeout. The secured account shall only allow for repayment of rescinded grant funds, or to pay down the CWCB emergency loan principal.*

6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments or other modifications to the Contract, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Contract, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract or any prior modification to the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Contract to the extent that this Amendment specifically modifies those Special Provisions.

APPENDIX C, AMENDMENT NO.1 TO LOAN CONTRACT CT2015-016 (C150382)
AMENDMENT TO DEED OF TRUST

Date: February 8, 2018
Grantor (Borrower): Butte Irrigating and Milling Company
Beneficiary (Lender): Colorado Water Conservation Board
Beneficiary (Lender) Address: 1313 Sherman Street, Room 718, Denver,
Colorado, 80203
Date of Original Deed of Trust: February 4, 2014
Recorded Date of Original Deed of Trust: April 30, 2014
County of Recording ("County"): Boulder
Deed of Trust Recording Information: Reception Number 03377616, 3 pages
Loan Contract Number: CT2015-016 (C150382)
Promissory Note: \$113,236.49 30 years - no payments and zero
interest for the first three years followed by
annual payments of \$5,676.63 for 27 years at
the interest rate of 2.30%

This Amendment to ORIGINAL DEED OF TRUST is between the Grantor and the Public Trustee of the County, State of Colorado.

The ORIGINAL DEED OF TRUST was recorded to secure repayment of the indebtedness evidenced by the LOAN CONTRACT and PROMISSORY NOTE between the Grantor and the Beneficiary.

Grantor and Beneficiary have agreed to amend the ORIGINAL DEED OF TRUST to reflect: a decrease in the total loan amount, from \$227,750.00 to \$113,236.49 and hereby amend the original Security Agreement to document the change of loan amount.

NOW THEREFORE, the CWCB and Grantor agree that:

1. This AMENDMENT TO DEED OF TRUST, APPENDIX C to AMENDMENT 1 to CONTRACT CT2015-016 (C150382) *shall supplement and operate* in conjunction with the DEED OF TRUST attached to the ORIGINAL CONTRACT as APPENDIX 5, recorded in Boulder County, April 30, 2014, Reception Number 03377616, 3 Pages and incorporated herein by reference.
2. The Grantor has executed a PROMISSORY NOTE, in the amount of \$113,236.49 to secure the repayment of the indebtedness, evidenced by LOAN CONTRACT NO. CT2015-016 (C150382) to be repaid to the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB") the beneficiary herein, whose address is 1313 Sherman Street, Room 718, Denver, CO 80203, payable in annual installments, in accordance with said PROMISSORY NOTE, or until the loan is paid in full.
3. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original deed of trust, the provisions of this amendment shall in all respects supersede, govern, and control.
4. Any provisions of the original deed of trust not expressly modified herein remain in full force and effect.

5. Executed on the date first written above.

GRANTOR: Butte Irrigating and Milling Company

By Amy Willhite
Signature

(SEAL)

Name Amy Willhite

Title President

Date 2/8/2018

ATTEST:

By Jane E. Sliker
Signature

Name Jane E. Sliker

Title secretary/treasurer

Date 2/8/2018

NOTARY REQUIRED

State of Colorado)
County of Boulder) ss.

PAID IN FULL

The foregoing instrument was acknowledged before me on February 8th, 2018, by

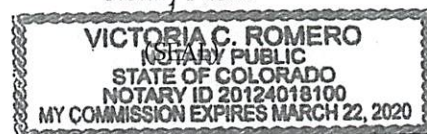
Amy Willhite (Name) as President (Title) and

Jane E. Sliker (Name) as secretary/treasurer (Title)

of the Butte Irrigating and Milling Company. Witness my hand and official seal.

Victoria C. Romero
Notary Public

My commission expires on 03/22/20



(Colorado Water Conservation Board will record Amendment to Deed of Trust with the County.)

BORROWER: BUTTE IRRIGATING AND MILLING
COMPANY
CONTRACT NO. C150382
PROJECT AMOUNT \$275,000
LOAN SERVICE FEE \$2,750
LOAN AMOUNT \$277,750

AGENCY NAME: Water Conservation Board
AGENCY NUMBER: PDA
CONTRACT FORM DATE: PRIVATE/070113
CWCB CMS #62905

LOAN CONTRACT

(STANDARD CONTRACT – WAIVER #160 – APPROVED NOVEMBER 10, 2003)

THIS CONTRACT, made between the State of Colorado for the use and benefit of The Department of Natural Resources, Colorado Water Conservation Board ("CWCB" or "STATE"), and the Butte Irrigating and Milling Company, 7416 Valmont Road, Boulder, Colorado 80301, ("BORROWER"), a Colorado nonprofit corporation.

FACTUAL RECITALS

1. Authority exists in the law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this CONTRACT under: Contract Encumbrance No. C150382, Fund Number 744, Appropriation Code P14, Organization YYYY, GBL B382, Program WTRC, Object Code 5882, Reporting Category 0382; and
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and
3. On November 20, 2013 the CWCB approved a loan request from the BORROWER for the Emergency Berm Repair to repair the damages to the berm caused by the 2013 flood event and restore the operation of the Butte Mill Ditch ("PROJECT"). This loan was approved as a 30 year loan with no payments and zero interest for the first three years followed by 27 years of amortized payments at the interest rate of 2.30 %.
4. The **PROJECT SUMMARY** attached as **APPENDIX 1** and incorporated herein, contains BORROWER Information (Section 1), the Project Description (Section 2), CWCB's authority for making this loan (Section 3), and CWCB Approval and Legislative Authorization which identifies the amount of the loan and the terms of repayment (Section 4); and
5. The CWCB now desires, by this CONTRACT, to loan money to the BORROWER for this PROJECT upon mutually agreeable terms and conditions.

THEREFORE, in consideration of the mutual and dependent covenants contained herein, the parties agree as follows:

A. LOAN PROVISIONS

1. **Loan Service Fee.** The amount of the loan (LOAN AMOUNT) shall include (1) the amount of the funds loaned by the CWCB to the BORROWER for the PROJECT and (2) a service fee of one percent (1%) of the PROJECT amount. In the event that the BORROWER does not use the LOAN AMOUNT authorized, the parties shall amend this

Loan Contract C150382

CONTRACT to revise the LOAN AMOUNT including adjustment of the service fee to reflect 1% of the actual LOAN AMOUNT disbursed to the BORROWER.

2. **Contract Amendment Service Fees.** Under certain circumstances, the BORROWER shall be assessed a fee for amending the CONTRACT.
 - a. A service fee shall be imposed on the BORROWER for amendments processed for the benefit of the BORROWER and necessary for the BORROWER's course of business but not necessary for the CWCB, including, but not limited to, a change in BORROWER name, assignment of contract, substitution of collateral, loan payment deferments in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including, but not limited to, loan payment deferments (up to 3 per loan), changes in terms of loan repayment and amendments to adjust the interest rate pursuant to Paragraph Ac. herein, will be processed at no additional charge to the BORROWER.
 - b. The amount charged shall be in accordance with the fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the BORROWER shall request an amendment. The current fee for an amendment is \$1,000.
 - c. The BORROWER shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded.
3. **Promissory Note Provisions.** The CWCB agrees to loan to the BORROWER an amount not to exceed the LOAN AMOUNT and the BORROWER agrees to repay the loan in accordance with the terms as set forth in the **PROMISSORY NOTE**, attached hereto as **APPENDIX 2** and incorporated herein. The PROMISSORY NOTE shall identify the LOAN AMOUNT. If the amount of loan funds disbursed by the CWCB to the BORROWER differs from the LOAN AMOUNT, the parties agree to amend this CONTRACT, including its appendices where necessary, to revise the LOAN AMOUNT.
4. **Interest Prior to PROJECT Completion.** Interest will not accrue prior to PROJECT completion.
5. **Return of Unused Loan Funds.** Any loan funds disbursed but not expended for the PROJECT in accordance with the terms of this CONTRACT shall be remitted to the CWCB within 30 calendar days from notification from the CWCB of either (1) completion of the PROJECT or (2) determination by the CWCB that the PROJECT will not be completed.
6. **BORROWER's Authority to Contract.** The BORROWER warrants that it has full power and authority to enter into this CONTRACT. The execution and delivery of this CONTRACT and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the BORROWER. The **BORROWER'S AUTHORIZING RESOLUTION(s)** are attached as **APPENDIX 3a** (if required) and **3b** (required) and incorporated herein.
7. **Attorney's Opinion Letter.** Prior to the execution of this CONTRACT by the CWCB, the BORROWER shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that

- a. the CONTRACT has been duly executed by officers of the BORROWER who are duly elected or appointed and are authorized to execute the CONTRACT and to bind the BORROWER;
 - b. the resolutions of the BORROWER authorizing the execution and delivery of the CONTRACT were duly adopted by the BORROWER'S board of directors and/or shareholders
 - c. there are no provisions in the BORROWER'S articles of incorporation or bylaws or any state or local law that prevent this CONTRACT from binding the BORROWER; and
 - d. the CONTRACT will be valid and binding against the BORROWER if entered into by the CWCB.
8. **PLEDGE OF PROPERTY.** The BORROWER irrevocably pledges to the CWCB for purposes of repayment of this loan: (1) revenues from assessments levied for that purpose as authorized by the BORROWER'S resolution(s) and (2) all of the BORROWER'S rights to receive said assessment revenues, hereinafter collectively referred to as the "PLEDGED PROPERTY".
- a. **Segregation of Pledged Revenues.** The BORROWER shall set aside and keep the pledged revenues in an account separate from other BORROWER revenues and warrants that these revenues will not be used for any other purpose.
 - b. **Establish Security Interest.** The BORROWER has duly executed a **SECURITY AGREEMENT**, attached hereto as **APPENDIX 4** and incorporated herein, to provide a security interest to the CWCB in the PLEDGED PROPERTY. The CWCB shall have priority over all other competing claims for said PLEDGED PROPERTY, except for the liens of the BORROWER'S existing loans as listed in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s).
 - c. **Revenue Assessments.** Pursuant to its statutory authority, articles of incorporation and bylaws, the BORROWER shall take all necessary actions consistent therewith during the term of this CONTRACT to levy assessments sufficient to pay this loan as required by the terms of this CONTRACT and the PROMISSORY NOTE, to cover all expenditures for operation and maintenance and emergency repair services, and to maintain adequate debt service reserves. In the event the assessments levied by the BORROWER become insufficient to assure such repayment to the CWCB, the BORROWER shall immediately take all necessary action consistent with its statutory authority, its articles of incorporation and bylaws including, but not limited to, levying additional assessments to raise sufficient revenue to assure repayment of this loan.
 - d. **Debt Service Reserve Account.** To establish and maintain the debt service reserve account, the BORROWER shall deposit an amount equal to one-tenth of an annual payment into its debt service reserve fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the BORROWER applies funds from this account to repayment of the loan, the BORROWER shall replenish the account within ninety (90) days of withdrawal of the funds.

9. **Collateral.** The COLLATERAL for this loan is described in Section 6 (COLLATERAL) of the PROJECT SUMMARY, and secured by the SECURITY INSTRUMENT(S), THE SECURITY AGREEMENT and the DEED OF TRUST (APPENDIX 5).
10. **Collateral during Loan Repayment.** The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the COLLATERAL or the PLEDGED PROPERTY so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB. In the event of any such sale, transfer or encumbrance without the CWCB's written concurrence, the CWCB may at any time thereafter declare all outstanding principal, interest, and late charges, if any, on this loan immediately due and payable.
11. **Release After Loan Is Repaid.** Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the PROMISSORY NOTE, the CWCB agrees to release and terminate any and all of the CWCB's right, title, and interest in and to the COLLATERAL and the PLEDGED PROPERTY.
12. **Warranties.**
- The BORROWER warrants that, by acceptance of the loan under this CONTRACT and by its representations herein, the BORROWER shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this CONTRACT.
 - The BORROWER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the BORROWER, to solicit or secure this CONTRACT and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this CONTRACT.
 - The BORROWER warrants that the PLEDGED PROPERTY and COLLATERAL for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for any existing lien(s) identified in Section 5 (Schedule of Existing Debt) of the PROJECT SUMMARY, which sets forth the position of the lien created by this CONTRACT in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the PROJECT SUMMARY and incorporated herein.
13. **Change of Ownership of Water Shares during Term of Contract.** If the interest rate for this loan is based on the CWCB's agricultural or blended agricultural and municipal and/or commercial and/or industrial rates, the BORROWER agrees to notify the CWCB of any change of the ownership of the water rights represented by its shares from irrigation to municipal or commercial or industrial use. The interest rate shall be revised when said change in ownership would increase the original interest rate by 0.5% or more. The parties shall amend this CONTRACT, including a revised PROMISSORY NOTE, to effect said change in interest rate.

14. **Remedies for Default.** Upon default in the payments to be made by the BORROWER under this CONTRACT, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may:

- a. suspend this CONTRACT and withhold further loan disbursements pending corrective action by the BORROWER, and if the BORROWER does not cure the default as provided for below, permanently cease loan disbursements and deem the PROJECT substantially complete;
- b. declare the entire principal amount, accrued interest, and late charges, if any, then outstanding immediately due and payable;
- c. exercise its rights under any appendices to this CONTRACT, including, but not limited to, the PROMISSORY NOTE, SECURITY AGREEMENT, DEEDS OF TRUST and/or any instrument securing COLLATERAL; and/or
- d. take any other appropriate action.

The CWCB shall provide written notice to the BORROWER of any such default and shall give the BORROWER an opportunity to cure within thirty (30) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this CONTRACT at its option without regard to prior waivers of previous defaults by the BORROWER, through judicial proceedings to require specific performance of this CONTRACT, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this CONTRACT and the laws and regulations under which this CONTRACT is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the BORROWER of any of its duties and obligations under this CONTRACT.

15. **Operation of PROJECT.** The BORROWER shall, without expense or legal liability to the CWCB, manage, operate, and maintain the PROJECT continuously in an efficient and economical manner.

PAID IN FULL

16. **BORROWER's Liability Insurance.**

- a. Upon execution of this CONTRACT and continuing until complete repayment of the loan is made to the CWCB, the BORROWER shall maintain commercial general liability insurance, with a company that is satisfactory to the CWCB, with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate, including products/completed operations and personal injury.
- b. Prior to the disbursement of any loan funds, the BORROWER shall provide the CWCB with an Acord Form 25 evidencing said insurance and shall provide the CWCB with documentation of renewals of said insurance.

17. **Additional Contract Requirements.** Any additional contract requirements are set forth in Additional Contract Requirement (Section 7) of the PROJECT SUMMARY.

B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the CWCB Construction Fund Program Procedures (Section 8), of the PROJECT SUMMARY.
2. **Eligible Expenses.** The PROJECT expenses for which the BORROWER is eligible for loan disbursements are listed in Eligible Expenses (Section 9) of the PROJECT SUMMARY.
3. **Loan Disbursements.** The CWCB shall disburse loan funds in accordance with the Disbursement Schedule (Section 10) of the PROJECT SUMMARY.
4. **Time for Performance.** The BORROWER recognizes that time is of the essence in the performance of all of its obligations under this CONTRACT. Therefore, the BORROWER shall complete the PROJECT within the time specified in Time for Performance (Section 11) of the PROJECT SUMMARY.
5. **Indemnification by the Construction Firm.** The BORROWER shall require all construction firms and their subcontractors to indemnify the STATE and the BORROWER against all liability and loss, and against all claims and actions based upon or arising out of damage or injury, including death, to persons or property, caused by any acts or omissions of those parties or sustained in connection with the performance of any contract related to the PROJECT or by conditions created thereby, or based upon any violation of any statute, ordinance, or regulation, and the defense of any such claims or actions.
6. **Liability Insurance during Construction.** During construction of the PROJECT, the BORROWER shall require the construction firm(s) and any subcontractors to maintain the following insurance coverage in the limits shown during the term of their contracts for the construction of the PROJECT. The BORROWER shall provide the CWCB with an Acord Form 25 evidencing said insurance prior to commencement of construction, maintained until construction is complete, and shall provide the CWCB with documentation of renewals of said insurance. No payments shall be made to the BORROWER unless all insurance certificates are current.

PAID IN FULL

 - a. Worker's compensation and employer's liability insurance in the required statutory amounts.
 - b. Automobile liability insurance that includes coverage for all owned, non-owned and hired vehicles with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage.
 - c. Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit for each occurrence and \$2,000,000 general aggregate. This insurance coverage shall include products/completed operations and bodily injury/property damage.

C. GENERAL PROVISIONS

1. **Periodic Inspections.** Throughout the term of this CONTRACT, the BORROWER shall permit a designated representative of the CWCB to make periodic inspections of the PROJECT. Such inspections shall cover the condition of the PROJECT, operating records, maintenance records, and financial records. These inspections are solely for the purpose of verifying compliance with the terms and conditions of this CONTRACT and shall not be construed nor interpreted as an approval of the actual design, construction or operation of any element of the PROJECT facilities.
2. **Applicable Laws.** The BORROWER shall strictly adhere to all applicable federal, state, and local laws and regulations that are in effect or may hereafter be established throughout the term of this CONTRACT.
3. **Designated Agent Of The CWCB.** The CWCB's employees are designated as the agents of the CWCB for the purpose of this CONTRACT.
4. **Assignment.** The BORROWER may not assign this CONTRACT except with the prior written approval of the CWCB.
5. **Contract Relationship.** The parties to this CONTRACT intend that the relationship between them under this CONTRACT is that of lender-borrower, not employer-employee. No agent, employee, or servant of the BORROWER shall be, or shall be deemed to be, an employee, agent, or servant of the CWCB. The BORROWER shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, engineering firms, construction firms, and subcontractors during the term of this CONTRACT.
6. **Integration of Terms.** This CONTRACT is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to STATE fiscal rules, unless expressly provided for herein.
7. **Controlling Terms.** In the event of conflicts or inconsistencies between the terms of this CONTRACT and conditions as set forth in any of the appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: (1) Colorado Special Provisions, provided that the parties hereby agree that, for the purposes of such Special Provisions, (a) "Contractor" shall mean BORROWER (2) the remainder of this CONTRACT, and (3) the Appendices.
8. **Casualty and Eminent Domain.** If, at any time, during the term of this CONTRACT, (a) the BORROWER'S PROJECT facilities, including buildings or any portion thereof, are damaged or destroyed, in whole or in part, by fire or other casualty, or (b) title to or use of the PROJECT facilities or any part thereof shall be taken under the exercise of the power of eminent domain, the BORROWER shall cause the net proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the PROJECT facilities or any portion thereof, or to repayment of this

loan. Any net proceeds remaining after such work has been completed or this loan has been repaid, shall be retained by the BORROWER. If the net insurance proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the BORROWER shall complete the work and pay any cost in excess of the net proceeds. In the event BORROWER chooses to repay the loan, BORROWER shall remain responsible for the full loan amount outstanding regardless of the amount of such insurance proceeds or condemnation award.

9. **Captions.** The captions and headings contained in this CONTRACT are for convenience and reference only and shall not be construed so as to define or limit the terms or provisions contracted herein.
10. **CWCB's Approval.** This CONTRACT requires review and approval of plans, specifications, and various other technical and legal documents. The CWCB's review of these documents is only for the purpose of verifying BORROWER'S compliance with this CONTRACT and shall not be construed or interpreted as a technical review or approval of the actual design or construction of the PROJECT. Notwithstanding any consents or approvals given to the BORROWER by the CWCB on any such documents, BORROWER and any of its consultants, by preparing any such documents, shall be solely responsible for the accuracy and completeness of any of said documents.
11. **Waiver.** The waiver of any breach of a term of this CONTRACT shall not be construed as a waiver of any other term, or of any subsequent breach of the same term.
12. **Addresses for mailing.** All notices, correspondence, or other documents required by this CONTRACT shall be delivered or mailed to the addresses shown in the Section 1 (BORROWER Information) of the PROJECT SUMMARY, for the BORROWER and to the address below for the CWCB:

Colorado Water Conservation Board
Attn: Finance Section
1313 Sherman Street, Room 721
Denver, CO 80203

PAID IN FULL

Special Provisions
The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental

agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating

to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

PAID IN FULL

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural

person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SPs Effective

1/1/09

[END OF SPECIAL PROVISIONS]

Loan Contract C150382

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IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT.

* Persons signing for BORROWER hereby swear and affirm that they are authorized to act on BORROWER's behalf and acknowledge that the State is relying on their representations to that effect.

BORROWER:

Butte Irrigating and Milling Company, a
Colorado nonprofit corporation

BY: Tom D. Witty
Signature

NAME: Tom D. Witty

TITLE: President

DATE: 1/28/2014

STATE OF COLORADO

John W. Hickenlooper, Governor
Department of Natural Resources
Mike King, Executive Director

BY: Kirk Russell

Name: Kirk Russell, P.E., Chief
Finance & Administration Section
Colorado Water Conservation Board

DATE: 2/25/14

Attest (Seal)

BY: Anne Smith
Signature

NAME: Anne Smith

TITLE: Secretary

DATE: 1/28/14

Pre-Approved Form Contract Reviewer

BY: Peg Mason
Peg Mason, Contracts Manager

DATE: 2-25-14

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid and the loan funds under this contract are not available until the State Controller, or such assistant as he may delegate, has signed it.

PAID IN FULL

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By Susan Borup
Susan Borup, Controller, Department of Natural Resources

Effective Date 4/9/14

PROJECT SUMMARY
Butte Irrigating and Milling Company
Contract No. C150382

SECTION 1 –BORROWER INFORMATION

Name: Butte Irrigating and Milling Company, a Colorado nonprofit corporation
Address: 7416 Valmont Road, Boulder, Colorado 80301
Contact: John Ellis, President
Phone Number: 303-440-0750
E-mail address: farmerjohns@wildblue.net
Type of Entity: Colorado nonprofit corporation

SECTION 2 – PROJECT DESCRIPTION

- A. Description of PROJECT: The BORROWER applied to the CWCB for a loan for the Emergency Berm Repair to repair damages to the diversion structure and headworks caused by the 2013 flood event ("PROJECT"). The PROJECT is located in Boulder County and the estimated PROJECT cost is \$275,000.
- B. Description of Feasibility Study: The CWCB has reviewed a feasibility study report dated November 1, 2013 on the PROJECT, titled "*Emergency Loan Application and Feasibility Study*", which was prepared by John Ellis, President, Butte Irrigating and Milling Company, Boulder, Colorado, with assistance from Olsson Associates, and is incorporated herein by reference. Based upon the feasibility report, the CWCB determined the PROJECT to be technically and financially feasible.

SECTION 3 – CWCB'S AUTHORITY

Severance Tax Perpetual Base Fund: This loan is made pursuant to the provisions of §§ 39-29-109(1)(a)(I), 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Severance Tax Perpetual Base Fund for the benefit of the people of the state, provided that the BORROWER assures repayment of that money.

Section 37-60-122(1)(b), C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from the CWCB's Construction Fund and the State Severance Tax Perpetual Base Fund without prior approval from the General Assembly.

PAID IN FULL

SECTION 4 - BOARD APPROVAL

At its November 20, 2013 meeting, the CWCB approved a Small Project Loan from the Severance Tax Perpetual Base Fund to the BORROWER in an amount up to \$275,000 for PROJECT costs, not to exceed 100% of the cost of the PROJECT, with a loan origination fee of 1% of the cost of the PROJECT, in accordance with CWCB Policy No. 16, resulting in a total loan amount of **\$277,750** for 30 years with no payments and zero interest for the first three years followed by 27 years of amortized payments at the interest rate of 2.30%.

SECTION 5 – SCHEDULE OF EXISTING DEBT

No other debt, backed by Borrower's assessment revenues or pledged collateral, exists.

SECTION 6 - COLLATERAL

The COLLATERAL provided for this loan, as evidenced by the executed SECURITY AGREEMENT (Appendix 4) and DEED OF TRUST (APPENDIX 5) and incorporated herein, shall be a pledge of assessment revenues backed by a rate covenant and an undivided one hundred percent (100%) interest in the Butte Mill Ditch Diversion Structure and Headgate, as more particularly described in the attached DEED OF TRUST ("COLLATERAL").

SECTION 7 – ADDITIONAL CONDITIONS & CONTRACT REQUIREMENTS

Any future grant funds obtained for the purpose of this PROJECT shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds.

SECTION 8 – CONSTRUCTION LOAN PROGRAM PROCEDURES

- A. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.
- B. Engineering Contracts and the plans and specifications must be submitted to the CWCB staff for verification of compliance with the terms of this CONTRACT when available prior to bidding. Any modifications to the plans and specifications must be approved in writing by the CWCB staff.
- C. For plans and specifications for all jurisdictional dams and reservoirs, as defined by § 37-87-105 C.R.S., the BORROWER shall provide a letter of approval from the State Engineer's Office prior to construction.
- D. The BORROWER shall extend an invitation to CWCB to be present at the bid opening.
- E. The BORROWER shall contract for the construction of the work with responsible and capable Construction Firms, which said Construction Firms shall be selected by the BORROWER and found acceptable by the CWCB staff.
- F. The BORROWER must provide a copy of the executed construction contract documents consisting of the contractor's proposal, construction contract, performance bond, payment bond, notice of award, notice to proceed, sample change order, and sample field order, as well as the advertisement for bid and bid bond at bidding. After the CWCB staff verifies that these documents comply with the terms of this CONTRACT, the BORROWER may issue the notice to proceed to the Construction Firms.
- G. The BORROWER shall conduct a pre-construction conference at which time the CWCB staff shall have the opportunity to review and approve the construction

PAID IN FULL

Appendix 1 to Loan Contract C150382

schedule.

- H. If the CWCB staff determines that the PROJECT requires a resident inspector during construction, the BORROWER shall employ an inspector who has been approved by the CWCB staff.
- I. The BORROWER shall construct the PROJECT in accordance with the approved plans and specifications.
- J. Upon completion of the PROJECT construction, the BORROWER shall provide as-built drawings of the PROJECT to the CWCB staff, or, if required by § 37-87-105, C.R.S., the BORROWER shall provide the as-built drawings to the State Engineer's Office for approval and filing.
- K. Upon completion of the PROJECT construction, the BORROWER shall arrange a final inspection for the CWCB staff.
- L. The BORROWER shall pay all of the expenses related to the PROJECT when such bills are due.

SECTION 9 – ELIGIBLE EXPENSES. The following items are eligible for loan disbursements.

- A. Preparing final designs and specifications for the PROJECT.
- B. Preparing bid and construction contract documents.
- C. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- D. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- E. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- F. Actual construction as called for in the design documents and in change orders approved by the CWCB and the BORROWER.
- G. Engineering services for construction management, including design and construction management for CWCB-approved change orders.
- H. Interest during completion of the PROJECT pursuant to Paragraph A.4 of the CONTRACT.
- I. Legal services for reviewing engineering services contracts, reviewing this CONTRACT, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.
- M. PROJECT-related expenses incurred prior to the Effective Date of this CONTRACT in accordance with the approval of this loan.

10 – DISBURSEMENT SCHEDULE

For Project costs: The BORROWER shall prepare a periodic progress report which contains a statement of the PROJECT costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the BORROWER, and review and acceptance of the items therein as eligible

Appendix 1 to Loan Contract C150382

expenses as described below, the CWCB will pay to the BORROWER the amount set forth in the report or such portion that has been approved by the CWCB. Such payment shall be made within thirty (30) days from the CWCB's approval of each progress report.

SECTION 11 – TIME FOR PERFORMANCE

PROJECT Beginning: Upon Effective Date of this CONTRACT (the date this CONTRACT is signed by the State Controller or his designee).

PROJECT Finish: Three (3) years from the Effective Date of this CONTRACT.

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PAID IN FULL

PROMISSORY NOTE

Date: January 28, 2014

Borrower: Butte Irrigating and Milling Company, a Colorado nonprofit corporation

Principal Amount: \$277,750

Interest Rate: zero interest for first three years, followed by 2.30% for remaining 27 years

Term of Repayment: 30 years - no payments for first three years followed by 27 years of amortized payments

Loan Contract No.: C150382

Loan Payment: \$0 first three years of loan, followed by 27 remaining payments of \$13,923.83

Payment Initiation Date*: _____

Maturity Date*: _____

* Payment Initiation Date and Maturity Date fields are filled in after the contract has been executed.

1. FOR VALUE RECEIVED, the BORROWER promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the LOAN CONTRACT and this PROMISSORY NOTE.
2. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable on the first of the month four (4) years from the Payment Initiation Date and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of 5% of the annual payment if the CWCB does not receive the annual payment within 15 calendar days of the due date.
5. This PROMISSORY NOTE may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
7. This PROMISSORY NOTE is issued pursuant to the LOAN CONTRACT between the CWCB and the BORROWER. The LOAN CONTRACT creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a SECURITY AGREEMENT, and DEED OF TRUST, ("SECURITY INSTRUMENTS") of even date and amount and cover certain revenues, real property, water rights and/or accounts of the BORROWER. The LOAN CONTRACT and SECURITY INSTRUMENTS grant additional rights to the CWCB, including the right to accelerate the maturity of this PROMISSORY NOTE in certain

Appendix 2 to Loan Contract C150382

events.

8. If any annual payment is not paid when due or any default under the LOAN CONTRACT or the Security Instruments securing this PROMISSORY NOTE occurs, the CWCB may declare the entire outstanding principal balance of the PROMISSORY NOTE, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of 7% per annum from the date of default. The CWCB shall give the BORROWER written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the BORROWER shall be considered in default for purposes of this PROMISSORY NOTE.
9. The BORROWER and any co-signer or guarantor hereby agree that if this PROMISSORY NOTE or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
10. This PROMISSORY NOTE shall be governed in all respects by the laws of the State of Colorado.

BORROWER: Butte Irrigating and Milling
Company, a Colorado nonprofit corporation

(SEAL)

Attest:

By Todd Doherty
Signature

NAME: TODD DOHERTY

TITLE: PRESIDENT

DATE: 1/20/2014

By [Signature]
Signature

NAME: Anne Smith

TITLE: Secretary

DATE: 1/28/14

PAID IN FULL

**RESOLUTIONS OF THE SHAREHOLDERS
OF BUTTE IRRIGATING AND MILLING COMPANY**

The Shareholders of the Butte Irrigating and Milling Company, (Company), at a Shareholders' meeting held Jan 28, 2014, located at Boulder Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Emergency Berm Repair, in the amount of \$277,750 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Shareholders charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the Board of Directors and officers, RESOLVED as follows:

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$277,750 or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge, as COLLATERAL, for the loan the Company's, assessment revenues backed by a rate covenant and an undivided one hundred percent (100%) interest in the BUTTE MILL DIVERSION STRUCTURE AND HEADGATE, and
6. to execute all documents as required by THE LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT, and DEED OF TRUST necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, RESPECTIVELY, THE PRESIDENT AND SECRETARY OF THE COMPANY, HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S SHAREHOLDERS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 28 DAY OF January 2014.

(SEAL)

By Todd Doherty
Signature

ATTEST:

By [Signature]
Signature of Corporate Secretary

NAME: Todd Doherty
TITLE: PRESIDENT
DATE: 28 Jan / 2014

DATE: 1/28/14

PAID IN FULL

**RESOLUTIONS OF THE BOARD OF DIRECTORS
OF BUTTE IRRIGATING AND MILLING COMPANY**

^{Jan 28}
~~2013~~ ²⁰¹⁴ The Board of Directors of Butte Irrigating and Milling Company (Company), at a meeting held ~~Jan 28~~ ^{Jan 28} 2014, at ~~Boulder~~ Colorado, adopted the following resolutions concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose of the Emergency Berm Repair, in the amount of \$277,750 or such actual amount, more or less, as may be needed by the Company and available from the CWCB including the CWCB loan origination fee of 1% of the loan amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, RESOLVED as follows:

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$277,750, or such actual amount, more or less, as needed to finance the project costs, including the CWCB loan origination fee of 1%, and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the LOAN CONTRACT, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to place said pledged revenues in a special account separate and apart from other COMPANY revenues, and
4. to make the annual payments required by the PROMISSORY NOTE and to make annual deposits to a debt service reserve fund, and
5. to pledge, as COLLATERAL, for the loan the Company's, assessment revenues backed by a rate covenant and an undivided one hundred percent (100%) interest in the BUTTE MILL DIVERSION STRUCTURE AND HEADGATE, and
6. to execute all documents as required by THE LOAN CONTRACT, including, but not limited to, a PROMISSORY NOTE, SECURITY AGREEMENT, and DEED OF TRUST necessary to convey a security interest in said property to the CWCB, and
7. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

CERTIFICATION

THE UNDERSIGNED, THE PRESIDENT AND THE CORPORATE SECRETARY HEREBY CERTIFY THAT THE FOREGOING ARE TRUE AND CORRECT COPIES OF RESOLUTIONS DULY ADOPTED AT A MEETING OF THE COMPANY'S BOARD OF DIRECTORS DULY CALLED AND HELD AS ABOVE RECITED, PURSUANT TO THE COMPANY'S BYLAWS, AND THAT SAID RESOLUTIONS HAVE NOT BEEN AMENDED OR RESCINDED.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE COMPANY THE 18 DAY OF January 2013.

(S E A L)

ATTEST:

By [Signature]
Signature of Corporate Secretary

DATE: 1/28/14

By Todd Doherty
Signature

NAME: TODD DOHERTY
TITLE: PRESIDENT
DATE: 28/JAN/2014

PAID IN FULL

SECURITY AGREEMENT

(PLEDGE OF REVENUES)

DATE: January 28, 2014

DEBTOR: Butte Irrigating and Milling Company, a Colorado nonprofit corporation

SECURED PARTY: Colorado Water Conservation Board

PROMISSORY NOTE: \$277,750

TERMS OF REPAYMENT: 30 years - no payments and zero interest for the first three years followed by 27 years of amortized payments at the interest rate of 2.30% per annum

LOAN CONTRACT: C150382

COLLATERAL: All revenues derived from assessments on stock and all of DEBTOR's right to receive said assessment revenues to repay the loan as described in PLEDGED PROPERTY provisions of the LOAN CONTRACT and DEBTOR'S RESOLUTIONS adopted on January 28, 2014.

To secure payment of the loan evidenced by the PROMISSORY NOTE payable in accordance with the TERMS OF REPAYMENT, or until all principal, interests, and late charges, if any, are paid in full, the DEBTOR grants to SECURED PARTY a security interest in the above described COLLATERAL.

DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Section 5 of the LOAN CONTRACT PROJECT SUMMARY, DEBTOR is the owner of the COLLATERAL free from any adverse lien, security interest or encumbrances; and that DEBTOR will defend the COLLATERAL against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by DEBTOR will not violate any law or agreement governing DEBTOR or to which DEBTOR is a party.
3. To not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the COLLATERAL and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the CONTRACT and by its representations herein, DEBTOR shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the COLLATERAL pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the COLLATERAL.
6. That the DEBTOR's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT DEBTOR may have possession of the COLLATERAL, provided that DEBTOR keeps the COLLATERAL in an account separate from other revenues of DEBTOR and does not use the COLLATERAL for any purpose not permitted by the CONTRACT. Upon default, SECURED PARTY shall have the immediate right to the possession of the COLLATERAL.

DEBTOR SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the PROMISSORY NOTE or LOAN CONTRACT;

Appendix 4 to Loan Contract C150382

- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against DEBTOR; or
- c. the making or furnishing of any warranty, representation or statement to SECURED PARTY by or on behalf of DEBTOR which proves to have been false in any material respect when made or furnished.

UPON SUCH DEFAULT and at any time thereafter, SECURED PARTY shall have the remedies of a secured party under Section 11-57-208, Colorado Revised Statutes, as amended. SECURED PARTY may require DEBTOR to deliver or make the COLLATERAL available to SECURED PARTY at a place to be designated by SECURED PARTY, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include SECURED PARTY's reasonable attorney's fees and legal expenses.

The SECURED PARTY shall give the DEBTOR written notice of any alleged default and an opportunity to cure within thirty (30) days of receipt of such notice before the DEBTOR shall be considered in default for purposes of this Security Agreement. No default shall be waived by SECURED PARTY except in writing, and no waiver by SECURED PARTY of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this security agreement shall not waive or impair any other security SECURED PARTY may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this security agreement; but SECURED PARTY shall retain its rights of set-off against DEBTOR. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and DEBTOR consents to venue and personal jurisdiction in said Court.

All rights of SECURED PARTY hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of DEBTOR shall bind its successors or assigns.

DEBTOR: Butte Irrigating and Milling Company, a Colorado nonprofit corporation

(S E A L)

By Todd Doherty
Signature

Attest:

By [Signature]
Signature

NAME: Todd Doherty
TITLE: PRESIDENT
DATE: 1/28/14

NAME: Anne Smith
TITLE: Secretary
DATE: 1/28/14

PAID IN FULL