



## COLORADO

### Colorado Water Conservation Board

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

May 12, 2021

North Poudre Irrigation Company  
PO Box 100  
Wellington, CO 80549

Subject: Loan Contract No. C150013  
Loan Compliance Confirmation

Attached for your records are the original documents relative to the agreement between the North Poudre Irrigation Company, and the Colorado Water Conservation Board (CWCB), Loan Contract No. C150013. 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.miremونت@state.co.us](mailto:lauren.miremونت@state.co.us). If we can be of any further assistance to you in the near future, please let us know.

Sincerely,

*Lauren Miremونت*

Lauren Miremونت, Finance Manager  
Finance Section

Attachments

cc: CWCB Files



es

✓ COLORADO WATER CONSERVATION BOARD  
1313 SHERMAN ST., RM. 721  
DENVER, CO 80203

ATTN: STEVE BINDO

# Deed of Trust

This indenture, made this 1<sup>st</sup> day of October 2001, between The North Poudre Irrigation Company, a Colorado nonprofit corporation, whose address is P. O. Box 100, Wellington, CO 80549, hereinafter referred to as GRANTOR, and the Public Trustee of the County of Larimer, State of Colorado, hereinafter referred to as PUBLIC TRUSTEE,

**Witnesseth, that whereas,** GRANTOR has executed a promissory note of even date and amount, set forth in Contract No. C150013 ("Contract") for a loan in the principal sum of \$1,107,000 to be repaid to the STATE OF COLORADO for the use and benefit of the Department of Natural Resources, Water Conservation Board, whose address is 1313 Sherman Street, Room 721, Denver, Colorado 80203, with interest thereon from the date of first disbursement of funds under the Contract at the interest rate of 4.04% per annum, payable in 20 annual installments, in accordance with the Promissory Note, or until loan is paid in full.

**And whereas,** the GRANTOR is desirous of securing payment of the principal and interest of said promissory note to the State of Colorado.

**Now, therefore,** 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, to wit: Fossil Creek Dam and Reservoir located in Sections 10 and 15, Township 6 North, Range 68 West, PM, collectively or hereinafter referred to as the "Property."

**To have and to hold** the same, together with all and singular the privileges and appurtenances thereunto belonging: In Trust nevertheless, that in case of default in the payment of said note, or any part thereof, or in the payment of the interest thereon, according to the tenor and effect of said note or in the payment of any prior encumbrances, principal or interest, if any, or in case default shall be made in or in case of violation or breach of any of the terms, conditions, covenants or agreements contained in the Contract, the beneficiary hereunder may declare a violation of any of the covenants contained in the Contract and elect to advertise said Property for sale, and demand such sale by filing a notice of such election and demand for sale with the PUBLIC TRUSTEE. Upon receipt of such notice of election and demand for sale, the PUBLIC TRUSTEE shall cause a copy of the same to be recorded in the recorder's office of the county in which said Property is situated, it shall and may be lawful for the PUBLIC TRUSTEE to sell and dispose of the same (en masse or in separate parcels, as the said PUBLIC TRUSTEE may think best), and all the right, title and interest of the GRANTOR, its successors or assigns therein, at public auction at such time and at such location as shall be designated in the PUBLIC TRUSTEE's Notice of Sale, for the highest and best price the same will bring in cash, four weeks public notice having been previously given of the time and place of such sale, advertisement once each week for five consecutive weeks, in some newspaper of general circulation at that time published in said County of Larimer, a copy of which notice shall be mailed within ten days from the date of the first publication thereof to the GRANTOR at the address herein given and to such person or persons appearing to have acquired a subsequent record interest in said Property at the address given in the recorded instrument; where only the county and state is given as the address then such notice shall be mailed to the county seat,

RCPTN # 2002003548 01/10/2002 13:14:00 # PAGES - 4 FEE - \$20.00  
M RODENBERGER RECORDER, LARIMER COUNTY CO STATE DOC FEE - \$ .00

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and to make and give to the purchaser of the Property at such sale, a certificate in writing describing the Property purchased, and the sum paid therefor, and the time when the purchaser (or other person entitled thereto) shall be entitled to the deed therefor, unless the same shall be redeemed as is provided by law; and said PUBLIC TRUSTEE shall, upon demand by the person holding the said certificate of purchase, when said demand is made, or upon demand by the person entitled to a deed to and for the Property purchased, at the time such demand is made, the time for redemption having expired, make and execute to such person a deed to the Property purchased, which said deed shall be in the ordinary form of a conveyance, and shall be signed, acknowledged and delivered by the said PUBLIC TRUSTEE and shall convey and quitclaim to such person entitled to such deed, the Property purchased as aforesaid and all the right, title, interest, benefit and equity of redemption of the GRANTOR, its successors and assigns made therein, and shall recite the sum for which the said Property was sold and shall refer to the power of sale therein contained, and to the sale made by virtue thereof; and in case of an assignment of such certificate of purchase, or in case of the redemption of the Property, by a subsequent encumbrancer, such assignment or redemption shall also be referred to in such deed; but the notice of sale need not be set out in such deed and the PUBLIC TRUSTEE shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges and costs of making said sale, pay to the beneficiary hereunder the principal and interest due on said note according to the tenor and effect thereof, and all moneys advanced by such beneficiary or legal holder of said note for insurance, taxes and assessments, with interest thereon at ten per cent per annum, rendering the surplus, if any, unto the GRANTOR, its legal representatives or assigns; which sale and said deed so made shall be a perpetual bar, both in law and equity, against the GRANTOR, its successors and assigns, and all other persons claiming the Property, or any part thereof, by, from, through or under the GRANTOR, or any of them. The holder of said note may purchase Property or any part thereof; and it shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

And the GRANTOR, for itself and its successors or assigns covenants and agrees to and with the PUBLIC TRUSTEE, that at the time of the unsealing of and delivery of these presents, it is well seized of the Property in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims it may have in or to said Property as a Homestead Exemption, or other exemption, under and by virtue of any act of the General Assembly of the State of Colorado, or as any exemption under and by virtue of any act of the United States Congress, now existing or which may hereafter be passed in relation thereto and that the same is free and clear of all liens and encumbrances whatever, and the above bargained Property 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, the GRANTOR shall and will Warrant and Forever Defend.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the Property; any and all amounts due on account of principal and interest or other sums on any senior encumbrances, if any; and will keep the Property insured in accordance with the requirements of the Contract. Should the GRANTOR fail to insure the Property in accordance with the Contract or to pay taxes or assessments as the same fall due, or to pay any amounts payable upon senior encumbrances, if any, the beneficiary may make

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any such payments or procure any such insurance, and all monies so paid with interest thereon at the rate of ten percent (10%) per annum shall be added to and become a part of the indebtedness secured by this Deed of Trust and may be paid out of the proceeds of the sale of the Property if not paid by the GRANTOR. In addition, and at its option, the beneficiary may declare the indebtedness secured hereby and this Deed of Trust to be in default for failure to procure insurance or make any further payments required by this paragraph. In the event of the sale or transfer of the Property, the beneficiary, at its option, may declare the entire balance of the note immediately due and payable.

**And that in case of any default**, whereby the right of foreclosure occurs hereunder, the PUBLIC TRUSTEE, the State as holder of the note, or the holder of a certificate of purchase, shall at once become entitled to the possession, use and enjoyment of the Property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and the period of redemption, if any there be, and such possession shall at once be delivered to the PUBLIC TRUSTEE, the State as holder of the note, or the holder of said certificate of purchase on request, and on refusal, the delivery of the Property may be enforced by the PUBLIC TRUSTEE, the State as holder of the note, or the holder of said certificate of purchase by an appropriate civil suit or proceeding, and the PUBLIC TRUSTEE, or the holder of said note or certificate of purchase, or any thereof, shall be entitled to a Receiver for said Property, and of the rents, issues and profits thereof, after such default, including the time covered by foreclosure proceedings and the period of redemption, if any there be, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the GRANTOR or of the then owner of said Property and without regard to the value thereof, and such Receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice - notice being hereby expressly waived - and all rents, issues and profits, income and revenue therefrom shall be applied by such Receiver to the payment of the indebtedness hereby secured, according to the law and the orders and directions of the court.

**And**, that in case of default in any of said payments of principal or interest, according to the tenor and effect of said promissory note or any part thereof, or of a breach or violation of any of the covenants or agreements contained herein and in the Contract, by the GRANTOR, its successors or assigns, then and in that case the whole of said principal sum hereby secured, and the interest thereon to the time of the sale, may at once, at the option of the legal holder thereof, become due and payable, and the said Property 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 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.



# Promissory Note

Date October 1, 2001

Date of Completion \_\_\_\_\_

1. FOR VALUE RECEIVED, The North Poudre Irrigation Company ("BORROWER") promises to pay the State of Colorado Water Conservation Board ("CWCB"), the principal sum of One Million One Hundred and Seven Thousand Dollars (\$1,107,000) plus interest at the rate of 4.04 percent per annum for a term of twenty (20) years, pursuant to Loan Contract No. C150013 dated October 1, 2001 ("LOAN CONTRACT").
2. Principal and interest shall be payable in equal installments of \$81,743.77, with the first payment due and payable one year from the date that the State determines that the project is substantially complete, and annually thereafter until all principal, interest, and late charges, if any, have been paid in full, with all such principal, interest, and late charges, required to be paid within 20 years.
3. Payments shall be made payable to the Colorado Water Conservation Board and mailed to 1313 Sherman Street, Room 721, Denver, Colorado 80203.
4. If the CWCB does not receive the annual payment within 15 calendar days of the due date, the CWCB may impose a late charge in the amount of 5% of the annual payment.
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 dated October 1, 2001, 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. The security interests, evidenced by a Security Agreement and a Deed of Trust, both of even date and amount, cover certain revenues and real property of the BORROWER. The LOAN CONTRACT, Security Agreement and Deed of Trust 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 Agreement or Deed of Trust securing this Note occurs, the STATE 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, any guarantor, and any other person who is now or may hereafter become primarily or secondarily liable for the payment of this Note or any portion thereof hereby agree that if this Note or interest thereon is not paid when due or if suit is

**PAID IN FULL**

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.



BORROWER: The North Poudre Irrigation Company

By *Gary E. Simpson*  
Gary Simpson, President

Attest:

By *Sharon Seaworth*  
Sharon Seaworth, Corporate Secretary

**PAID IN FULL**



RCPTN# **2005-0031900**

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SCOTT DOYLE, CLERK  
LARIMER COUNTY CO

04/21/2005  
10:04:00  
#458529

## AMENDMENT NO. 1 TO DEED OF TRUST

Date: November 1, 2004

Grantor (Borrower): The North Poudre Irrigation Company

Beneficiary (Lender): Colorado Water Conservation Board

Date of Deed of Trust: October 1, 2001

Recording Date of Deed of Trust: January 10, 2002

County of Recording ("County"): Larimer

Deed of Trust Recording Information: RCPTN #2002003548 (4 Pages)

Loan Contract: C150013, dated October 1, 2001, amended November 1, 2004

Promissory Note: \$623,777.90, 4.04%, 20 Years, dated November 1, 2004

This Amendment to the 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 Loan Contract and Promissory Note between the Grantor and the Beneficiary.

The amount of the loan to the Grantor was decreased from \$1,107,000 to \$623,777.90. The Grantor and Beneficiary have agreed to amend the Original Deed of Trust to reflect the loan amount of \$623,777.90

NOW THEREFORE, the CWCB and Grantor agree that:

1. The second full paragraph of the Original Deed of Trust is hereby amended to read as follows:

The Grantor has executed a Promissory Note dated November 1, 2004, to secure the repayment of the indebtedness evidenced by Contract No. C150013, dated October 1, 2001, as amended on November 1, 2004, for the total principal sum of \$623,777.90, 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 721, Denver, CO 80203, payable in 20 annual installments, in accordance with said Promissory Note, or until the loan is paid in full.

2. 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.

### Appendix C to Loan Contract C150013 Amendment No. 1

COLORADO WATER CONSERVATION BOARD  
S S BIONDO  
1580 LOGAN ST #750  
DENVER, CO 80203

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3. Any provisions of the original deed of trust not expressly modified herein remain in full force and effect.

Executed on the date first written above.

GRANTOR: The North Poudre Irrigation Company, a Colorado nonprofit corporation



By Gary E. Simpson  
Gary Simpson, President

Attest

By Sharon Seaworth  
Sharon Seaworth, Corporate Secretary

State of Colorado )  
County of Larimer ) ss.

The foregoing instrument was acknowledged before me on October 22, 2004, by Gary Simpson and Sharon Seaworth as President and Corporate Secretary, respectively of The North Poudre Irrigation Company. Witness my hand and official seal.

Cynthia Sullivan  
Notary Public

My commission expires 9-25-2006

Return recorded document to: CWCB Finance Section, Attn: Steve Biondo, 1580 Logan Street, Suite 750, Denver CO 80203 (Phone Number 303-866-3495)



## PROMISSORY NOTE

Date: November 1, 2004  
Borrower: The North Poudre Irrigation Company  
Principal Amount: \$623,777.90  
Interest Rate: 4.04% per annum  
Term of Repayment: 20 years  
Loan Contract No.: C150013, dated October 1, 2001, amended November 1, 2004  
Loan Payment: \$46,061.39  
Payment Initiation Date\*: May 1, 2004  
Maturity Date\*: May 1, 2024

Payment Initiation Date and Maturity Date fields are filled in after the project has been substantially completed.

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. This Promissory Note replaces and supersedes the Promissory Note dated October 1, 2001, in the principal amount of \$1,107,000.
3. Principal and interest shall be payable in equal Loan Payments, with the first payment due and payable one year from Payment Initiation Date (the date the CWCB determines that the project is substantially complete), 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.
4. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 721, Denver, Colorado 80203.
5. 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.
6. 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.
7. All payments received shall be applied first to late charges, if any, next to accrued interest and then to reduce the principal amount.
8. 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

**PAID IN FULL**

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 Note in certain events.

9. 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.
10. 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.
11. This Note shall be governed in all respects by the laws of the State of Colorado.

BORROWER: The North Poudre Irrigation Company, a Colorado nonprofit corporation

CORPORATE  
SEAL



Attest

By Sharon Seaworth  
Sharon Seaworth, Corporate Secretary

By Gary E. Simpson  
Gary Simpson, President

**PAID IN FULL**

## AMENDMENT NO. 1 TO SECURITY AGREEMENT

DEBTOR: The North Poudre Irrigation Company

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: OCTOBER 1, 2001

Original Promissory Note: \$1,107,000, dated October 1, 2001, Interest at the rate of 4.04% per annum with annual payment for a period of 20 years or until paid in full.

ORIGINAL LOAN CONTRACT: C150013, DATED OCTOBER 1, 2001

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to increase/decrease/other the loan amount from \$1,107,000 to \$623,777.90 and hereby amend the original Security Agreement to document the decreased loan amount.
2. The Parties expressly agree that this Amendment is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

Amended Loan Contract: C150013, dated October 1, 2001, amended November 1, 2004

Replacement Promissory Note: \$623,777.90, dated November 1, 2004, interest at the rate of 4.04% per annum with annual payments for a period of 20 years or until paid in full

Date of Amended Security Agreement: November 1, 2004

DEBTOR: The North Poudre Irrigation Company, a Colorado nonprofit corporation

CORPORATE

SEAL

Attest

By

Sharon Seaworth  
Sharon Seaworth, Corporate Secretary

By Gary E. Simpson  
Gary Simpson, President

BORROWER: NORTH POUDDRE IRRIGATION CO. Agency Name: Water Conservation Board  
Contract No. C150013 Agency Number PDA  
Original Loan Amount \$1,107,000 Routing Number: 05 PDA 00028  
Adjustment (Decrease): \$483,222.10  
Adjusted Loan Amount \$623,777.90

## LOAN CONTRACT AMENDMENT No. 1

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

**This Amendment**, made this November 1, 2004, by and between the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board (“CWCB”), and The North Poudre Irrigation Company, 3229 Cleveland Avenue, P. O. Box 100, Wellington, Colorado 80549, a Colorado nonprofit corporation (“BORROWER” or “CONTRACTOR”).

### FACTUAL RECITALS

- A. Authority exists in the law, and funds have been budgeted, appropriated, and otherwise made available for payment as follows: Fund Number 424, Organization YYYY, Appropriation Code L98, GBL NPI2, Program WTRC, Object Code 5881, Reporting Category 0013, Contract Encumbrance No. C150013.
- B. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
- C. The CWCB and the BORROWER entered into Contract Encumbrance Number C150013, dated October 1, 2001, (“ORIGINAL CONTRACT”), incorporated herein by reference, wherein the CWCB agreed to loan money in the total amount up to \$1,107,000, and the BORROWER agreed to repay the loan in accordance with the terms of the ORIGINAL CONTRACT.
- D. The Project was substantially complete as of May 1, 2004.
- E. Of the \$1,107,000 loan amount available, only \$623,777.90 was disbursed to the BORROWER for the PROJECT.
- F. The parties agree to amend the contract to reduce the final loan amount.

**PAID IN FULL**

**NOW THEREFORE**, it is hereby agreed that

1. Consideration for this Amendment to the ORIGINAL CONTRACT consists of the payments that shall be made pursuant to this Amendment and ORIGINAL CONTRACT and the promises and agreements herein set forth.
2. It is expressly agreed by the parties that this Amendment is supplemental to the ORIGINAL CONTRACT, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.
3. The BORROWER agrees that it shall execute the following documents, all of which shall set forth the revised loan amount of \$623,777.90:
  - a. Promissory Note, attached as Appendix A and incorporated herein, which shall replace and supersede the Promissory Note in the amount of \$1,107,000, dated October 1, 2001,

attached to the ORIGINAL CONTRACT as Appendix 2.

- b. Amended Security Agreement, attached hereto as Appendix B and incorporated herein, which shall supplement and operate in conjunction with the Security Agreement dated October 1, 2001, attached to the ORIGINAL CONTRACT as Appendix 4.
  - c. Amendment No. 1 to Deed of Trust, attached hereto as Appendix C and incorporated herein, which shall supplement and operate in conjunction with the Deed of Trust dated October 1, 2001, attached to the ORIGINAL CONTRACT as Appendix 5.
4. The Contract is amended by the addition of the following:
- A.15 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, including, but not limited to, a change in borrower name (novation), assignment of contract, substitution of collateral, loan payment deferrals in excess of 3 per loan, and loan consolidation. Amendments in the course of CWCB business, including, but not limited to, loan payment deferrals (up to 3 per loan) and changes in terms of loan repayment will be processed at no additional charge to the borrower.
  - b. The amount charged shall be the fee rate structure in accordance with 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.
12. Special Provision M. Software Piracy Prohibition Governor's Executive Order
- No State or other public funds payable under this Contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.
5. Except for the SPECIAL PROVISIONS, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the ORIGINAL CONTRACT, the provisions of this Amendment shall in all respects supersede, govern, and control. The SPECIAL PROVISIONS shall always be controlling over other provisions in the contract or amendments. The representations in the SPECIAL PROVISIONS concerning the absence of bribery or corrupt influences and personal interest of STATE employees are presently reaffirmed.
6. 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.
7. This amendment shall not be deemed valid or effective until it shall have been approved by the controller of the State of Colorado or such assistant as he may designate.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day first above written.

The North Poudre Irrigation Company, a Colorado nonprofit corporation

State of Colorado  
Bill Owens, Governor

By *Gary Simpson*  
Gary Simpson, President

By *Mike Seck*  
For the Executive Director  
Department of Natural Resources  
Colorado Water Conservation Board  
Rod Kuharich, Director

Federal ID Number: 84-0281680



Attest  
By *Sharon Seaworth*  
Sharon Seaworth, Corporate Secretary

Pre-Approved Form  
By *Janis Illian*  
Janis Illian, CWCB Contract Manager

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 there are no loan funds available until the State Controller, or such assistant as he may delegate, has signed it

Leslie M. Shenefelt, State Controller

By *Dianne C Stump*

Effective Date 11-9-04

# AMENDMENT NO. 1 TO SECURITY AGREEMENT

DEBTOR: The North Poudre Irrigation Company

SECURED PARTY: COLORADO WATER CONSERVATION BOARD

DATE OF ORIGINAL SECURITY AGREEMENT: OCTOBER 1, 2001

Original Promissory Note: \$1,107,000, dated October 1, 2001, Interest at the rate of 4.04% per annum with annual payment for a period of 20 years or until paid in full.

ORIGINAL LOAN CONTRACT: C150013, DATED OCTOBER 1, 2001

1. The Parties have amended the ORIGINAL LOAN CONTRACT and Promissory Note to increase/decrease/other the loan amount from \$1,107,000 to \$623,777.90 and hereby amend the original Security Agreement to document the decreased loan amount.
2. The Parties expressly agree that this Amendment is supplemental to the Security Agreement and all terms, conditions, and provisions thereof, unless specifically modified below, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

Amended Loan Contract: C150013, dated October 1, 2001, amended November 1, 2004

Replacement Promissory Note: \$623,777.90, dated November 1, 2004, interest at the rate of 4.04% per annum with annual payments for a period of 20 years or until paid in full

Date of Amended Security Agreement: November 1, 2004

DEBTOR: The North Poudre Irrigation Company, a Colorado nonprofit corporation

CORPORATE

SEAL

Attest

By Sharon Seaworth  
Sharon Seaworth, Corporate Secretary

By Gary E. Simpson  
Gary Simpson, President

**PAID IN FULL**

BORROWER: THE NORTH POUFRE IRRIGATION  
COMPANY  
Contract No. C150013  
Loan Amount \$1,107,000

Agency: Water Conservation Board  
Agency Number PDA

Routing Number 02 PDA 00027

## LOAN CONTRACT

THIS CONTRACT, made this 1<sup>st</sup> day of October 2001 by and between the State of Colorado for the use and benefit of the Department of Natural Resources, Colorado Water Conservation Board ("CWCB" and/or "STATE"), and The North Poudre Irrigation Company, a Colorado nonprofit corporation, 3729 Cleveland Avenue, P. O. Box 100, Wellington, CO 80549, ("BORROWER" and/or "CONTRACTOR").

### 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 payment as follows: Fund Number 424, Organization YYYY, Appropriation Code L98, GBL NPI2, Program WTRC, Object Code 5881, Reporting Category 0013, Contract Encumbrance No. C150013.
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
3. CWCB's authority for making this loan: Pursuant to the provisions of §§ 37-60-119 and 37-60-120, C.R.S. the CWCB is authorized to loan money for the construction of water projects for the benefit of the people of the State, provided that the borrower assures repayment of that money.
4. The **Project Summary**, attached as **Appendix 1** and incorporated herein, contains BORROWER Information (Section 1) and the PROJECT Description (Section 2).
5. Board approval and legislative authorization, if required
  - a. At its January 1999, meeting, the CWCB approved a loan to the BORROWER in an amount up to \$1,107,000, ("LOAN AMOUNT") not to exceed 90% of the cost of the PROJECT, at an interest rate of 4.04% per annum for a repayment term of 20 years.
  - b. Pursuant to Bill SB99-173, the Colorado General Assembly authorized CWCB to loan to the BORROWER an amount up to \$1,107,000 for the PROJECT.

**PAID IN FULL**

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

#### A. LOAN PROVISIONS

1. **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.

2. **Interest Prior to Project Completion.** As the loan funds are disbursed by the CWCB to the BORROWER, interest shall accrue at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to completion of the PROJECT and the BORROWER shall repay that amount to the CWCB either within ten (10) days after the date the CWCB determines that the PROJECT has been substantially completed, or, at the CWCB's discretion, said interest shall be deducted from the final disbursement of loan funds that the CWCB makes to the BORROWER.
3. **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 days of either (1) completion of the PROJECT or (2) upon the determination by the CWCB that the PROJECT will not be completed.
4. **BORROWER'S Authority To Contract.** The BORROWER'S board of directors and/or stockholders have adopted resolutions, attached as **Appendix 3** and incorporated herein, authorizing the BORROWER to perform in accordance with the terms of this contract.
5. **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 person signing for the BORROWER was duly elected or appointed and has authority to sign such documents on behalf of the BORROWER and to bind the BORROWER;
  - b. the BORROWER'S board of directors and/or stockholders have validly adopted resolutions approving this contract;
  - 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.
6. **Pledge Of Property.** The BORROWER hereby 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 hereby agrees to set aside and keep the pledged revenues in an account separate from other BORROWER revenues, and warrants that it shall not use the pledged revenues for any other purpose.
  - b. **Establish Security Interest.** The BORROWER agrees that, to provide a security interest to the CWCB in the Pledged Property so that the CWCB shall have priority over all other competing claims for said property, it shall execute a Security Agreement, attached hereto as **Appendix 4**, and incorporated herein. The CWCB shall perfect its security interest in the BORROWER'S right to receive assessment revenues by filing a UCC-1 Form with the Colorado Secretary of State.
  - c. **Assessments For Repayment Of The Loan.** Pursuant to its statutory authority, articles of incorporation and bylaws, the BORROWER shall take all necessary actions consistent therewith to levy assessments sufficient to pay this loan as required by the terms of this contract and the Promissory Note. 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. **Assessments For Operations, Maintenance And Reserves.** Pursuant to its statutory authority, articles of incorporation and bylaws, the BORROWER shall levy assessments in sufficient amounts to provide funds for adequate operation and maintenance, emergency repair services, and obsolescence and debt service reserves.
  - e. **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 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.
7. **Collateral.** The collateral for this loan is described in Section 3 (Collateral) of the **Project Summary**. The BORROWER shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the collateral for this loan, including 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.
  8. **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 property pledged to repay this loan.
  9. **Warranties.**
    - a. The BORROWER warrants that, by accepting the loan money 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.
    - b. 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.
    - c. The BORROWER warrants that the collateral for this loan is not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner.
  10. **Change of Use 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 rates, the BORROWER agrees to notify the STATE of any change of the use of the water rights represented by its shares from irrigation to municipal or commercial use. The interest rate shall be revised when the blend of the agricultural rate and the municipal/commercial rate increases 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.

11. **Remedies For Default.** Upon default in the payments to be made by the BORROWER under this contract, or if the BORROWER fails to comply with any provision of this contract, 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;
- a. exercise its rights under any appendices to this contract, including, but not limited to, the Promissory Note, Security Agreement, and/or Deed of Trust; and/or
- b. 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.

12. **BORROWER's Indemnification Of The CWCB.** The BORROWER agrees to indemnify and hold the CWCB harmless from any liability incurred by the CWCB as a result of the CWCB's interest in the PROJECT facilities and any other property identified in Section 3 (Collateral) of the **Project Summary**.

13. **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.

14. **BORROWER's Liability Insurance.** 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 covering the management, operation, and maintenance of the PROJECT 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.

Said general liability insurance shall name the CWCB as additional insured. The BORROWER shall provide the CWCB with a certificate of said insurance and an additional insured endorsement, and proof of renewals of said insurance. The CWCB shall not disburse any loan funds without evidence of said insurance coverage. Throughout the life of this contract, the CWCB reserves the right to increase the above amount of insurance.

## B. PROJECT PROVISIONS

1. **Construction Fund Program Procedures.** During the completion of the PROJECT, the BORROWER shall adhere to the following:

- a. The BORROWER shall employ an engineer, registered in the state of Colorado to prepare plans and specifications for the PROJECT.

- b. The BORROWER'S and the Engineering Consultant's Agreements 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. CWCB staff must be present at bidding and must approve the award of the construction contract.
  - 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 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.
2. **Eligible Expenses.** Listed below are the PROJECT expenses for which the BORROWER is eligible for reimbursement:
- 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.3 herein.
  - 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.
3. **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 Section 4 (Time For Performance) of the **Project Summary**.
4. **Indemnification By The Construction Firm.** The BORROWER shall require all Construction Firms and their subcontractors to indemnify the CWCB 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.
5. **Liability Insurance During Construction.** During construction of the PROJECT, the BORROWER shall require the following insurance coverage in the limits shown with a company that is satisfactory to the CWCB.
- a. BORROWER shall maintain builder's risk insurance for construction in progress for all perils of loss including fire, wind, hail, and vandalism in an amount equal to the completed value of the PROJECT.
  - b. The construction firms and subcontractors shall maintain during the term of their contracts for construction of the PROJECT the following.
    - j. Worker's compensation and employer's liability insurance in the required statutory amounts.
    - ii. 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.
    - iii. 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 personal injury.
  - c. Said general liability insurance shall name the BORROWER and the CWCB as additional insured. An additional insured endorsement and a current copy of a certificate of said liability insurance must be provided to the CWCB prior to commencement of construction and maintained until construction is complete. No payments shall be made to the BORROWER unless all insurance certificates are current. The BORROWER shall file notices of renewals of said policies with the CWCB as renewals occur.
  - d. Before or during the time of construction, the CWCB reserves the right to increase the above limits of insurance as may be warranted by the size of the PROJECT.

6. **Loan Disbursements.** The BORROWER shall provide to the CWCB a report prior to each loan disbursement that states the PROJECT tasks completed and the costs expended for that period. The CWCB shall disburse loan funds in accordance with Section 5, (Disbursement Schedule) of the **Project Summary**.

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. Said 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. **Adhere To 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 agents and employees are hereby designated as the agents of the CWCB for the purpose of this contract.
4. **Contract Is Not Assignable.** 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. **Complete Integration Of All Understandings.** This agreement 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 novation, 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. **In Event Of A Conflict.** In the event of conflict between the terms of this contract and conditions as set forth in any of the appendices, the provisions of this contract shall control.
8. **CWCB May Release Contract.** In its sole discretion, the CWCB may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of the BORROWER'S obligations under this contract, with valuable consideration, upon such terms and conditions as the CWCB may determine to be advisable to further the purposes of this contract or to protect the CWCB'S financial interest therein, and consistent with both the statutory purposes of this Contract and the limitations of the statutory authority under which it is made.
9. **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 opts 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.

10. **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.
11. **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 shall be solely responsible for the accuracy and completeness of such documents.
12. **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.
13. **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: Construction Fund Section  
1313 Sherman Street, Room 721  
Denver, CO 80203

**PAID IN FULL**

**SPECIAL PROVISIONS** (6/97 version). State Fiscal Rule 3-1 requires the inclusion of these Special Provisions in every STATE contract, including grants.

#### **Controller's Approval**

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the STATE.

#### **FUND AVAILABILITY**

2. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

#### **BOND REQUIREMENT**

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this STATE, the CONTRACTOR shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the STATE official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall

provide that if the CONTRACTOR or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provendor or other supplies used or consumed by such CONTRACTOR or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosecution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the CONTRACTOR arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with C.R.S. 38-26-106.

#### INDEMNIFICATION

4. To the extent authorized by law, the CONTRACTOR shall indemnify, save, and hold harmless the STATE, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the CONTRACTOR, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

#### DISCRIMINATION AND AFFIRMATIVE ACTION

5. The CONTRACTOR agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (C.R.S. 24-34-402), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. *Pursuant thereto, the following provisions shall be contained in all STATE contracts or sub-contracts.*

During the performance of this contract, the CONTRACTOR agrees as follows:

- a. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The CONTRACTOR will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.
- b. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- c. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the CONTRACTOR'S commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.
- d. The CONTRACTOR and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- e. A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry.
- f. A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either

directly or indirectly, to commit any act defined in this contract to be discriminatory.

- g. In the event of the CONTRACTOR'S non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further STATE contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.
- h. The CONTRACTOR will include the provisions of paragraphs (a) through (h) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation, with the subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

#### **COLORADO LABOR PREFERENCE**

- 6. a. Provisions of C.R.S. 8-17-101 & 102 for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.
  - b. When construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (C.R.S. 8-19-101 and 102).

#### **GENERAL**

**PAID IN FULL**

- 7. The laws of the State of Colorado and rules and regulations adopted pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution.
- 8. At all times during the performance of this contract, the CONTRACTOR shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.
- 9. Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.
- 10. The signatories aver that they are familiar with C.R.S. 18-8-301, et seq., (Bribery and Corrupt Influences) and 18-8-401, et seq., (Abuse of Public Office), and that no violation of such provisions is present.

11. The signatories aver that to their knowledge, no state employee has any personal or beneficial interest whatsoever in the service or property described herein.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the day first above written.

CONTRACTOR: The North Poudre Irrigation Company, a Colorado nonprofit corporation

By *Gary Simpson*  
Gary Simpson, President

Federal ID Number: 84-0281680

Attest (Seal)

By *Sharon Seaworth*  
Sharon Seaworth, Corporate Secretary

State of Colorado  
Bill Owens, Governor

By *Rod Kuharich*  
For the Executive Director  
Department of Natural Resources  
COLORADO WATER CONSERVATION BOARD  
Rod Kuharich, Director

**APPROVALS**

KEN SALAZAR, ATTORNEY GENERAL

By *[Signature]*

ARTHUR L. BARNHART, STATE CONTROLLER

By *[Signature]*

Effective Date 11/20/01

## PROJECT SUMMARY

THE NORTH POUDBRE IRRIGATION COMPANY - LOAN CONTRACT C150013 – OCTOBER 1, 2001

### SECTION 1 –BORROWER INFORMATION

Name: The North Poudre Irrigation Company  
Address: P. O. Box 100  
Wellington, CO 80549  
Phone Number: 970-568-3612  
Type of Entity: Colorado nonprofit corporation

### Section 2 – Project Description

- A. DESCRIPTION OF PROJECT. The CWCB loan will cover work on four of the company's facilities, all located in Larimer County, Colorado. (1) Reservoir No. 4 – relocate the spillway, replace the outlet works, fill low areas, new toe drain, reshape dam face and replace rip rap, (2) Reservoir No. 5 – enlarge existing spillway, raise area near east abutment, and purchase easements, (3) Indian Creek Reservoir – enlarge spillway, replace outlet works, reduce downstream slope of dam, and new toe drains, and (4) Reservoir No. 6 Outlet Ditch – install 1,300 feet of reinforced concrete pipe in ditch alignment and provide underdrain.
- B. DESCRIPTION OF FEASIBILITY STUDY. Feasibility study conducted by Smith Geotechnical. Feasibility of project approved by staff on March 12, 1999.

### SECTION 3 – COLLATERAL

**Collateral.** Part of the security provided for this loan, as evidenced by the executed Deed of Trust attached as **Appendix 5** and incorporated herein, shall be an undivided one hundred percent (100%) interest in Fossil Creek Dam and Reservoir located in Sections 10 and 15, Township 6 North, Range 68 West, PM, as more thoroughly described on Attachment 1 hereto, collectively or hereinafter referred to as the "Property."

### SECTION 4 – TIME FOR PERFORMANCE

Project Beginning: Upon effective date of this contract  
Project Finish: Two (2) years from date of this contract

### SECTION 5 – DISBURSEMENT SCHEDULE

After receipt of the periodic progress report from the BORROWER in accordance with Paragraph B.6 and review and acceptance of the items therein as eligible expenses as described in Paragraph B.2, 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.

**BOARD OF DIRECTORS' RESOLUTION**

The Board of Directors of The North Poudre Irrigation Company hereby approves and authorizes the President and corporate Secretary to sign any Loan Contract, Promissory Note, Deeds of Trust, Security Agreement, Loan Agreement No. C150013, and Amendments to Loan Contracts Nos. C153385, C153449, C153496, and C153572. This approval and authorization shall include any amendments, supplements, additions, revisions, and alterations required by the State of Colorado acting through the Colorado Water Conservation Board, Department of Natural Resources.

Passed unanimously by the Directors at a regular Board meeting this 3<sup>rd</sup> day of October, 2001.

THE NORTH POUUDRE IRRIGATION COMPANY

By: *Gary E. Simpson*  
President

ATTEST:

*Sharon Seaworth*  
Corporate Secretary



I certify the above is a true and correct copy passed on October 3, 2001.

*Sharon Seaworth*  
Sharon Seaworth, Corporate Secretary

(alden/hp/ggm/resolution October 2001)

RESOLUTIONS OF THE STOCKHOLDERS OF  
THE NORTH POUDBRE IRRIGATION COMPANY

The stockholders of The North Poudre Irrigation Company ("Company"), at a stockholders' meeting held February 7, 2000 at Fort Collins, Colorado, adopted the following resolutions concerning a loan from the State of Colorado Water Conservation Board ("State"), for the purpose of rehabilitation of portions of the North Poudre system, including North Poudre Indian Creek Reservoir spillway, North Poudre's Reservoir #4, Reservoir #5 and Indian Creek Reservoir and necessary appurtenances and improvements, work and material which are part of both of the above rehabilitation projects in an amount of \$1,107,000.00 or such actual amount, more or less, as may be needed by the Company and available from the State for up to 90% of the actual project costs .

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 as follows:

1. RESOLVED, to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in the amount of \$1,107,000 or such actual amount as needed to finance up to 90% of the project costs; and

2. RESOLVED, 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. RESOLVED, to place said pledged revenues in a special account separate and apart from other Company revenues; and

4. RESOLVED, to make the annual payments required by the promissory note and to make annual deposits to a debt service reserve fund; and

5. RESOLVED, to pledge certain property of the Company as collateral for the loan and execute documents necessary to convey a security interest in said property to the CWCB; and

6. RESOLVED, to execute all documents as required by the loan contract and approved by the North Poudre Board of Directors including, but not limited to a Security Agreement, Assignment of Deposit Account as Security, and Promissory Note and deed or deeds of trust; and

7. RESOLVED, to take such other actions and to execute such other documents as may be necessary to consummate and implement any loan with the State of Colorado.



RESOLUTION #\_\_\_-2000

BE IT RESOLVED by the shareholders of The North Poudre Irrigation Company as follows:

The actions of the Directors and Officers on behalf of the company during the fiscal and calendar year last past are ratified and approved. The North Poudre Irrigation Company shall indemnify the Directors and Officers and hold them harmless from any personal liability for their actions as Directors and Officers as provided by Colorado law.

APPROVED this 7<sup>th</sup> day of February, 2000, at the annual meeting at Fort Collins, Colorado.

CERTIFIED to be a true copy of the Resolution.

THE NORTH POUFRE IRRIGATION COMPANY

By Sharon Seaworth  
Sharon Seaworth, Secretary

Date of Certification:

2/7/00

**PAID IN FULL**

## SECURITY AGREEMENT

DEBTOR: The North Poudre Irrigation Company  
P. O. Box 100  
Wellington, CO 80549

FEDERAL TAX NUMBER: 84-0281680

COUNTY: LARIMER (CODE: 06)

SECURED PARTY: State of Colorado - Colorado Water Conservation Board  
1313 Sherman Street, Room 721  
Denver, CO 80203

COLLATERAL: Contract Rights (Code: 030)

DEBTOR, for consideration, hereby grants to SECURED PARTY a security interest in the following property and any and all additions, accessions and substitutions thereto or therefor, hereinafter called the COLLATERAL: All revenues derived from assessments on stock and all of DEBTOR'S right to receive said assessment revenues to repay the indebtedness on the amount loaned to debtor by secured party, as described in Pledge of Property provisions in Contract No. C150013 dated October 1, 2001 (CONTRACT).

To secure payment of the indebtedness evidenced by the Promissory Note dated October 1, 2001, between the parties, payable to the SECURED PARTY, the loan amount of \$1,107,000 for a period of 20 years in accordance with said Promissory Note or until all principal, interest, and late charges, if any, are paid in full.

### DEBTOR EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby, DEBTOR is, or to the extent that this agreement states that the COLLATERAL is to be acquired after the date hereof, will be, 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 anytime 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. That, if DEBTOR is a corporation, its certificate and articles of incorporation and by-laws do not prohibit any term or condition of this agreement.
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 which may be levied or assessed against the COLLATERAL.
6. 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.
7. That the DEBTOR will not use the COLLATERAL in violation of any applicable statutes, regulations, ordinances, articles of incorporation or by-laws.

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 the happening of any of the following events or conditions:

- a. default in the payment or performance of any obligation, covenant or liability contained or referred to herein or in any note evidencing the same;
- b. 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;
- c. loss, theft, damage, destruction, sale or encumbrance to or of any of the COLLATERAL, or the making of any levy seizure or attachment thereof or thereon;
- d. 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 any guarantor or surety for DEBTOR.

UPON SUCH DEFAULT and at any time thereafter, or if it deems itself insecure, SECURED PARTY may declare all Obligations secured hereby immediately due and payable and shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. 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. 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.

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 said 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 said SECURED PARTY shall retain its rights of set-off against DEBTOR.

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 heirs, executors or administrators or its successors or assigns. If there be more than one DEBTOR, their liabilities hereunder shall be joint and several.

Dated this 1<sup>st</sup> day of October 2001.

SEAL

ATTEST:  
By Sharon Seaworth  
Sharon Seaworth, Secretary

DEBTOR: The North Poudre Irrigation Company, a Colorado nonprofit corporation

By Gary E. Simpson  
Gary Simpson, President

✓ COLORADO WATER CONSERVATION BOARD  
1313 SHERMAN ST., RM. 721  
DENVER, CO 80203

ATTN: STEVE BINDO

# Deed of Trust

This indenture, made this 1<sup>st</sup> day of October 2001, between The North Poudre Irrigation Company, a Colorado nonprofit corporation, whose address is P. O. Box 100, Wellington, CO 80549, hereinafter referred to as GRANTOR, and the Public Trustee of the County of Larimer, State of Colorado, hereinafter referred to as PUBLIC TRUSTEE,

Witnesseth, that whereas, GRANTOR has executed a promissory note of even date and amount, set forth in Contract No. C150013 ("Contract") for a loan in the principal sum of \$1,107,000 to be repaid to the STATE OF COLORADO for the use and benefit of the Department of Natural Resources, Water Conservation Board, whose address is 1313 Sherman Street, Room 721, Denver, Colorado 80203, with interest thereon from the date of first disbursement of funds under the Contract at the interest rate of 4.04% per annum, payable in 20 annual installments, in accordance with the Promissory Note, or until loan is paid in full.

And whereas, the GRANTOR is desirous of securing payment of the principal and interest of said promissory note to the State of Colorado.

Now, therefore, 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, to wit: Fossil Creek Dam and Reservoir located in Sections 10 and 15, Township 6 North, Range 68 West, PM, collectively or hereinafter referred to as the "Property."

To have and to hold the same, together with all and singular the privileges and appurtenances thereunto belonging: In Trust nevertheless, that in case of default in the payment of said note, or any part thereof, or in the payment of the interest thereon, according to the tenor and effect of said note or in the payment of any prior encumbrances, principal or interest, if any, or in case default shall be made in or in case of violation or breach of any of the terms, conditions, covenants or agreements contained in the Contract, the beneficiary hereunder may declare a violation of any of the covenants contained in the Contract and elect to advertise said Property for sale, and demand such sale by filing a notice of such election and demand for sale with the PUBLIC TRUSTEE. Upon receipt of such notice of election and demand for sale, the PUBLIC TRUSTEE shall cause a copy of the same to be recorded in the recorder's office of the county in which said Property is situated, it shall and may be lawful for the PUBLIC TRUSTEE to sell and dispose of the same (en masse or in separate parcels, as the said PUBLIC TRUSTEE may think best), and all the right, title and interest of the GRANTOR, its successors or assigns therein, at public auction at such time and at such location as shall be designated in the PUBLIC TRUSTEE's Notice of Sale, for the highest and best price the same will bring in cash, four weeks public notice having been previously given of the time and place of such sale, advertisement once each week for five consecutive weeks, in some newspaper of general circulation at that time published in said County of Larimer, a copy of which notice shall be mailed within ten days from the date of the first publication thereof to the GRANTOR at the address herein given and to such person or persons appearing to have acquired a subsequent record interest in said Property at the address given in the recorded instrument; where only the county and state is given as the address then such notice shall be mailed to the county seat,

RCPIN # 2002003548 01/10/2002 13:14:00 # PAGES - 4 FEE - \$20.00  
M RODENBERGER RECORDER, LARIMER COUNTY CO STATE DOC FEE - \$ .00

PAID IN FULL

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and to make and give to the purchaser of the Property at such sale, a certificate in writing describing the Property purchased, and the sum paid therefor, and the time when the purchaser (or other person entitled thereto) shall be entitled to the deed therefor, unless the same shall be redeemed as is provided by law; and said PUBLIC TRUSTEE shall, upon demand by the person holding the said certificate of purchase, when said demand is made, or upon demand by the person entitled to a deed to and for the Property purchased, at the time such demand is made, the time for redemption having expired, make and execute to such person a deed to the Property purchased, which said deed shall be in the ordinary form of a conveyance, and shall be signed, acknowledged and delivered by the said PUBLIC TRUSTEE and shall convey and quitclaim to such person entitled to such deed, the Property purchased as aforesaid and all the right, title, interest, benefit and equity of redemption of the GRANTOR, its successors and assigns made therein, and shall recite the sum for which the said Property was sold and shall refer to the power of sale therein contained, and to the sale made by virtue thereof; and in case of an assignment of such certificate of purchase, or in case of the redemption of the Property, by a subsequent encumbrancer, such assignment or redemption shall also be referred to in such deed; but the notice of sale need not be set out in such deed and the PUBLIC TRUSTEE shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges and costs of making said sale, pay to the beneficiary hereunder the principal and interest due on said note according to the tenor and effect thereof, and all moneys advanced by such beneficiary or legal holder of said note for insurance, taxes and assessments, with interest thereon at ten per cent per annum, rendering the surplus, if any, unto the GRANTOR, its legal representatives or assigns; which sale and said deed so made shall be a perpetual bar, both in law and equity, against the GRANTOR, its successors and assigns, and all other persons claiming the Property, or any part thereof, by, from, through or under the GRANTOR, or any of them. The holder of said note may purchase Property or any part thereof; and it shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

PAID IN FULL  
And the GRANTOR, for itself and its successors or assigns covenants and agrees to and with the PUBLIC TRUSTEE, that at the time of the unsealing of and delivery of these presents, it is well seized of the Property in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims it may have in or to said Property as a Homestead Exemption, or other exemption, under and by virtue of any act of the General Assembly of the State of Colorado, or as any exemption under and by virtue of any act of the United States Congress, now existing or which may hereafter be passed in relation thereto and that the same is free and clear of all liens and encumbrances whatever, and the above bargained Property 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, the GRANTOR shall and will Warrant and Forever Defend.

Until payment in full of the indebtedness, the GRANTOR shall timely pay all taxes and assessments levied on the Property; any and all amounts due on account of principal and interest or other sums on any senior encumbrances, if any; and will keep the Property insured in accordance with the requirements of the Contract. Should the GRANTOR fail to insure the Property in accordance with the Contract or to pay taxes or assessments as the same fall due, or to pay any amounts payable upon senior encumbrances, if any, the beneficiary may make

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any such payments or procure any such insurance, and all monies so paid with interest thereon at the rate of ten percent (10%) per annum shall be added to and become a part of the indebtedness secured by this Deed of Trust and may be paid out of the proceeds of the sale of the Property if not paid by the GRANTOR. In addition, and at its option, the beneficiary may declare the indebtedness secured hereby and this Deed of Trust to be in default for failure to procure insurance or make any further payments required by this paragraph. In the event of the sale or transfer of the Property, the beneficiary, at its option, may declare the entire balance of the note immediately due and payable.

**And that in case of any default**, whereby the right of foreclosure occurs hereunder, the PUBLIC TRUSTEE, the State as holder of the note, or the holder of a certificate of purchase, shall at once become entitled to the possession, use and enjoyment of the Property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and the period of redemption, if any there be, and such possession shall at once be delivered to the PUBLIC TRUSTEE, the State as holder of the note, or the holder of said certificate of purchase on request, and on refusal, the delivery of the Property may be enforced by the PUBLIC TRUSTEE, the State as holder of the note, or the holder of said certificate of purchase by an appropriate civil suit or proceeding, and the PUBLIC TRUSTEE, or the holder of said note or certificate of purchase, or any thereof, shall be entitled to a Receiver for said Property, and of the rents, issues and profits thereof, after such default, including the time covered by foreclosure proceedings and the period of redemption, if any there be, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the GRANTOR or of the then owner of said Property and without regard to the value thereof, and such Receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice - notice being hereby expressly waived - and all rents, issues and profits, income and revenue therefrom shall be applied by such Receiver to the payment of the indebtedness hereby secured, according to the law and the orders and directions of the court.

**And**, that in case of default in any of said payments of principal or interest, according to the tenor and effect of said promissory note or any part thereof, or of a breach or violation of any of the covenants or agreements contained herein and in the Contract, by the GRANTOR, its successors or assigns, then and in that case the whole of said principal sum hereby secured, and the interest thereon to the time of the sale, may at once, at the option of the legal holder thereof, become due and payable, and the said Property 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 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.



# UCC Financing Statement Amendment

**Colorado Secretary of State**

Date and Time: 04/12/2021 11:53:23 AM

Master ID: 20102049841

Validation Number: 20212033936

Amount: \$8.00

## Initial Financing Statement

File #: 20102049841

File Date: 06/14/2010 01:03:34 PM

Filing office: Secretary of State

This amendment is a termination.

## Authorizing Party (Secured Party): (Organization)

Name: STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD

Address1: 1580 LOGAN STREET

Address2: SUITE 600

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

North Poudre C150013

**UCC Financing Statement Amendment**

**Colorado Secretary of State**

Date and Time: 02/28/2020 10:17:25 AM

Master ID: 20102049841

Validation Number: 20202020404

Amount: \$8.00

**Initial Financing Statement**

File #: 20102049841

File Date: 06/14/2010 01:03:34 PM

Filing office: Secretary of State

This amendment is a continuation.

**Authorizing Party (Secured Party): (Organization)**

Name: STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD

Address1: 1580 LOGAN STREET

Address2: SUITE 600

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

# UCC Financing Statement Amendment

**Colorado Secretary of State**

Date and Time: 03/17/2015 10:15:51 AM

Master ID: 20102049841

Validation Number: 20152023859

Amount: \$8.00

## Initial Financing Statement

File #: 20102049841

File Date: 06/14/2010 01:03:34 PM

Filing office: Secretary of State

This amendment is a continuation.

### Authorizing Party (Debtor): (Organization)

Name: NORTH Poudre IRRIGATION COMPANY (THE)

Address1: PO BOX 100

Address2:

City: WELLINGTON

State: CO

ZIP/Postal Code: 80549

Province:

Country: United States

### Authorizing Party (Secured Party): (Organization)

Name: STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD

Address1: 1580 LOGAN STREET

Address2: SUITE 600

City: DENVER

State: CO

ZIP/Postal Code: 80203

Province:

Country: United States

# COLORADO UCC FINANCING STATEMENT

Filing Fee: \$18

Follow Instructions Carefully

20102049841 C

\$ 18.00

SECRETARY OF STATE

06-14-2010 13:03:34

A. NAME & PHONE OF CONTACT (optional)
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
Colorado Water Conservation Board Attn: Water Supply Planning & Finance 1580 Logan Street, Suite 600 Denver, CO 80203

ABOVE SPACE FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

OR	1a. ORGANIZATION'S NAME NORTH Poudre IRRIGATION COMPANY (THE)			
	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS P.O. BOX 100	CITY WELLINGTON	STATE CO	POSTAL CODE 80549	COUNTRY USA
ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION DNC	1f. JURISDICTION OF ORGANIZATION CO		1g. ORGANIZATIONAL ID#, if any CO19871033067 <input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

OR	2a. ORGANIZATION'S NAME			
	2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION		2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME OF TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

OR	3a. ORGANIZATION'S NAME State of Colorado - Colorado Water Conservation Board			
	3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS 1580 Logan Street, Suite 600	CITY Denver	STATE CO	POSTAL CODE 80203	COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:

SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF \$623,777.90 IN ACCORDANCE WITH LOAN CONTRACT NO. C150013, AS AMENDED, AND PROMISSORY NOTE, DATED NOVEMBER 1, 2004.

5. ALTERNATIVE DESIGNATION (if applicable):  LESSEE/LESSOR  CONSIGNEE/CONSIGNOR  BAILEE/BAILOR  SELLER/BUYER  AG LIEN  NON-UCC FILING

6.  This FINANCING STATEMENT is to be filed (for record) in the REAL ESTATE RECORDS

8. OPTIONAL FILER REFERENCE DATA  
Loan Contract No. C150013

# UCC FINANCING STATEMENT AMENDMENT

Filing Fee: \$15

Follow Instructions (front and back) Carefully

A. NAME & PHONE OF CONTACT (optional) Steve Biondo 303-866-3495
B. SEND ACKNOWLEDGMENT TO: (Name and Address)  [ COLORADO WATER CONSERVATION BOARD ] ATTN: WATER SUPPLY PLANNING & FINANCE 1580 LOGAN STREET, SUITE 750 DENVER, COLORADO 80203  [ ]

20062060838 C  
\$ 15.00  
SECRETARY OF STATE  
06-21-2006 14:43:02

ABOVE SPACE FOR FILING OFFICE USE ONLY

## 1. Initial Financing Statement Information (Required)

1a. Original Filing Number: 20032110115	1b. Original Filing Date: 10/8/03	1c. If filed prior to January 1, 2000, indicate Original Filing Office:
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**Termination:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

**Continuation:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

**Assignment:** Give name of assignee in item 7a or 7b and address of assignee in item 7c; also give name of assignor in item 9.

**5. Amendment (Party Information):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.  
 **CHANGE** name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.  
 **DELETE** name: Give record name to be deleted in 6a or 6b.  
 **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable)

**6. CURRENT RECORD INFORMATION:**

OR	6a. ORGANIZATION'S NAME NORTH POUDDRE IRRIGATION COMPANY (THE)			
	6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

**7. CHANGED (NEW) OR ADDED INFORMATION:**

OR	7a. ORGANIZATION'S NAME			
	7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. MAILING ADDRESS P. O. BOX 100	CITY WELLINGTON	STATE CO	POSTAL CODE 80549	COUNTRY USA
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7d. TAX ID#: SSN OR EIN (OPTIONAL: NOT REQUIRED)	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION DNC	7f. JURISDICTION OF ORGANIZATION CO	7g. ORGANIZATION ID#, if any CO19871033067 <input type="checkbox"/> NONE
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**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned  
  
SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF \$623,777.90 IN ACCORDANCE WITH LOAN CONTRACT NO. C150013, AS AMENDED, AND PROMISSORY NOTE DATED NOVEMBER 1, 2004.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment

OR	9a. ORGANIZATION'S NAME STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD			
	9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

**10. OPTIONAL FILER REFERENCE DATA**  
LOAN CONTRACT NO. C150013, AMENDMENT NO. 1

# COLORADO UCC FINANCING STATEMENT

Filing Fee: \$15

Follow Instructions (front and back) Carefully

A. NAME & PHONE OF CONTACT (optional) Steve Biondo 303-866-3495
B. SEND ACKNOWLEDGMENT TO: (Name and Address) <div style="border: 1px solid black; padding: 10px; margin: 5px 0;">                     [ COLORADO WATER CONSERVATION BOARD                      ATTN: WATER SUPPLY PLANNING AND FINANCE                      1313 SHERMAN STREET, ROOM 721                      DENVER, COLORADO 80203 ]                 </div>

20032110115 C  
 \$ 15.00  
 SECRETARY OF STATE  
 10-08-2003 15:38:39

ABOVE SPACE FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

OR	1a. ORGANIZATION'S NAME NORTH Poudre IRRIGATION COMPANY (THE)			
	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS P.O. BOX 100		CITY WELLINGTON	STATE CO	POSTAL CODE 80549
ADD'L INFO RE ORGANIZATION DEBTOR		1e. TYPE OF ORGANIZATION DNC	1f. JURISDICTION OF ORGANIZATION CO	1g. ORGANIZATIONAL ID#, if any CO19871033067 <input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

OR	2a. ORGANIZATION'S NAME			
	2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
ADD'L INFO RE ORGANIZATION DEBTOR		2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID#, if any <input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

OR	3a. ORGANIZATION'S NAME STATE OF COLORADO - COLORADO WATER CONSERVATION BOARD			
	3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS 1313 SHERMAN STREET, ROOM 721		CITY DENVER	STATE CO	POSTAL CODE 80203
				COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:

**SECURED PARTY'S REVENUES PLEDGED TO REPAY LOAN OF \$1,107,000.00 IN ACCORDANCE WITH LOAN CONTRACT NO. C150013 AND PROMISSORY NOTE DATED OCTOBER 1, 2001.**

5. ALTERNATIVE DESIGNATION (if applicable):  LESSEE/LESSOR  CONSIGNEE/CONSIGNOR  BAILEE/BAILOR  SELLER/BUYER  AG LIEN  NON-UCC FILING

6.  This FINANCING STATEMENT is to be filed (for record) in the REAL ESTATE RECORDS

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (Optional)  
 All Debtors  Debtor 1  Debtor 2

8. OPTIONAL FILER REFERENCE DATA  
**LOAN CONTRACT NO. C150013**

**For this Record...**

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**Information On File**

ID Number: 19871033067  
 Name: THE NORTH POUDDRE IRRIGATION COMP.

Registered Agent: STEVE SMITH  
 Registered Agent Street Address: 3729 CLEVELAND AVENUE, WELLINGTON, CO 80549, United States

Registered Agent Mailing Address: PO BOX 100, WELLINGTON, CO 80549, United States

Principal Office Street Address: 3729 CLEVELAND AVENUE, WELLINGTON, CO 80549, United States

Principal Office Mailing Address:

Status: Good Standing  
 Form: Nonprofit Corporation  
 Jurisdiction: Colorado  
 Formation Date: 08/01/1901  
 Term of Duration: Perpetual  
 Annual Report Month: August

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