



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

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

DATE: January 29-30 2024 Board Meeting

AGENDA ITEM: 8b. Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.
Loan Delinquency

For Information Only - No action required

Introduction

At the July 2023 Board Meeting, staff was directed to issue a Notice of Default to Two Rivers Water & Farming Company (f/n/a Two Rivers Water Company) and Two Rivers Farms F-2, Inc. (f/n/a Two Rivers Farms F-2 LLC) regarding the delinquent 2023 annual loan payment for Loan Contract #C150328A (CT2015-164). The Notice was sent to eleven addresses and contacts that CWCB has on file to assure proper outreach. The Notice reads "Failure to make to make the payment within a thirty-day cure period will result in the entire outstanding loan principal balance, interest and late fees becoming immediately due and payable."

This action is consistent with CWCB Policy #3 "Loan Delinquency, Loan Restructuring and Collection" regarding loan delinquency.

Recent Staff Actions

On September 1, 2023, eleven Notice of Default letters were sent via certified US Mail. In addition, several calls to Mr. Greg Harrington, CEO of Two Rivers Water & Farming Company, were not returned.

In October, it was discovered that the annual payment amount that is delinquent was wrong in the Notice of Default Letter. A revised Notice of Default letter was resent on November 1, 2023 which restarted the 30-day cure period.

As of this date, there has been no communication from the borrower regarding this Notice of Default. The 30 day cure period has passed. Therefore, the entire loan balance and late fees are due in full. In addition, per the Promissory Note, the debt will begin to accrue a 7% interest rate.

Update

On December 6, 2023, Two Rivers Farms F-2 filed for bankruptcy protection in the District of Colorado. This effectively means no collection efforts can be made without first filing a motion for relief from the automatic stay in the bankruptcy case. All deadlines to respond to default letters are stayed temporarily as well.

Two Rivers' bankruptcy filing properly scheduled its debt to the CWCB. The CWCB will file a proof of claim setting forth the exact amount owing as of the date the bankruptcy filing (12/6/2023) and the interest accruing. This amount is shown in the following table:

| Loan Details C150328A (CT2015-164) | Amount |
|------------------------------------|--------------|
| Principal Balance | \$433,011.94 |
| Interest accrued as of 12/06/23 | \$19,094.63 |
| March 1, 2023 Late Fee Charge | \$3,800.34 |
| Total Due as of 12/06/23 | \$455,906.91 |

According to our legal counsel, it will be a few months before much happens in this case. The first few months in a Chapter 11 case are considered a “breathing spell” for the debtor to compile financial records and draft a plan.

Staff will continue to work with the Colorado AG's Office to determine the next course of action.

Supporting Historic Information

This original loan contract for \$1.2M was approved by the Board in November 2011 at 2.5% for 20 years. The loan was primarily used for the rehabilitation of the Orlando Reservoir dam and ditch headgate near Walsenburg, Colorado. The construction was completed and the loan was put into repayment in March 2013. Of the ten annual payments made which have come due since the loan repayment period began, six have been late and assessed a 5% late fee of \$3,800.34 each. The March 1, 2022, was made on time. The March 1, 2023, annual payment of \$76,006.78 was never made.