

POLICY NUMBER: 5

SUBJECT: **COLLATERAL FOR CONSTRUCTION FUND AND SEVERANCE TAX PERPETUAL BASE ACCOUNT PROJECT LOANS**

EFFECTIVE DATE: September 27, 1999

REVISED DATES: January 22, 2003  
July 21, 2004

POLICY: The Colorado Water Conservation Board (CWCB), pursuant to Section 37-60-120(1), C.R.S., shall take a sufficient security interest in property or take such bonds, notes or other securities evidencing an obligation, as will assure repayment of Construction Fund and Severance Tax Perpetual Base Account loans. The Board's determination of sufficient security will be based on the type of entity applying for project funding as well as the entity's creditworthiness, repayment capacity, and available assets.

PURPOSE: To establish a consistent method for determining sufficient collateral requirements of potential loan recipients.

APPLICABILITY: This policy applies to the consideration of all loan applications from the CWCB Construction Fund and Severance Tax Perpetual Base Account.

PROCEDURE: The CWCB staff will evaluate and recommend to the Board collateral requirements for project loan applications based on the following table. Collateral types will be evaluated and taken in priority until sufficient security is established for a specific loan. If real property is offered as collateral, the applicant shall be required to submit supporting documentation of land values, based on current land use and including improvements financed by the CWCB, from a Colorado Certified General Appraiser.

**Prioritized Types of Collateral Per Type of Project Sponsor Entity**

<b>Public</b>	<b>Public</b>	<b>Private</b>	<b>Private</b>
Governments	Districts	Incorporated	Unincorporated
1. Pledge of revenues backed by rate covenant and annual financial reporting	1. Pledge of revenues backed by rate covenant and annual financial reporting	1. Pledge of assessment revenues backed by assessment covenant	1. Facilities, water rights, and/or other real property valued at an amount equal to or greater than 110% of the loan amount
	2. Facilities, water rights, and/or other real property	2. Facilities, water rights, and/or other real property	2. Any other assets
	3. Any other assets	3. Any other assets	

Entity Types are defined as:

Public (Governments):

Municipalities  
Enterprises  
Counties  
Federal Govt.

Public (Districts):

Special  
Water/San.  
Conservancy  
Irrigation

Private (Incorporated):

Mutual Ditch Co.  
Homeowners Assoc.  
Non-profit Corp.

Private (Unincorporated):

Individuals  
Partnerships  
Sole Proprietors  
Closely Held Corp.

Rate and assessment covenants are a standard provision in all CWCB loan contracts. The covenants require the borrower to levy rates or assessments that are adequate to repay the loan and to cover all operating expenses as well as debt service reserve requirements.

Annual financial reporting will be required in all contracts with public entities as of the date this policy is adopted and will entail the submittal of an annual audit report and a certificate of debt service coverage by a Certified Public Accountant at the time that the annual audit report is submitted to the CWCB staff; or, in the absence of an audit, annual financial reports normally filed by the entity, or as such other information as the Director may require.

Section 37-60-120(1), C.R.S. gives the CWCB discretion to determine what constitutes sufficient collateral that will assure repayment of CWCB Construction Fund and Severance Tax loans. To assure the repayment of such loans, the Board will require a first lien on revenues and other collateral pledged as security, or a parity lien if the borrower meets the existing lien holder's parity requirements. Collateral requirements will be related to the creditworthiness and repayment capacity of each potential borrower. The Board will determine the adequacy of collateral for each individual funding request.

For any specific funding request, the Board may instruct the CWCB Director to make a final determination on the adequacy of collateral, based on guidance provided by the Board. In such cases, the Director will report to the Board on the determination of collateral at a subsequent Board meeting.