



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

P (303) 866-3441
F (303) 866-4474

Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Kirk Russell, P.E., Finance Section Chief
Lauren Miremont, Finance Manager

DATE: November 18-19, 2020, Board Meeting

AGENDA ITEM: 7a. Loan Delinquency Action
Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.

Staff Recommendation:

Staff recommends the Board continue delinquency action against Two Rivers Water & Farming Company and the Two Rivers Farms F-2, Inc., as approved at the September 2020 CWCB Board meeting. This includes notifying the Borrower on December 1, 2020 that the entire loan obligation, including late fees and interest, is due by March 1, 2021, if the current annual obligation plus fees and interest are not paid prior to December 1, 2020.

Introduction:

At the September 2020 CWCB Board meeting, the Board approved the following schedule/actions related to the Two Rivers Water & Farming Company and the Two Rivers Farms K-2, Inc. ("Two Rivers" or "Borrower") contract C150328A (CT2015-164) loan delinquency if no resolution by the Borrower has been reached.

As of November 6, 2020, the Borrower has not resolved the delinquency and therefore the staff is recommending the Board proceed with the actions/schedule as approved (actions and updates are provided in italics):

- October 1, 2020 - Notify Borrower via certified mail of Board's intent to proceed with this collection and foreclosure schedule.

Actions & Updates:

Greg Harrington, Borrower CEO, was notified via email on October 2, 2020 (read receipt received) of the Board's action at the September meeting. On the same day, a U.S. Mail certified letter was sent to an incorrect address. That letter was returned to CWCB undeliverable on November 2, 2020. The certified letter was resent on November 4, 2020 to two separate addresses on file for the Borrower.

Upon receipt of the returned undeliverable letter, staff left a voice message with Mr. Herrington that resulted in a return voicemail. A follow up call/voicemail made on Nov 4 to Mr. Harrington's phone has not been returned as of November 6. Staff will continue to attempt to reach Mr. Harrington to offer an opportunity to address the Board and resolve the delinquency.

Staff has contracted with a Title company and a certified appraiser regarding the property and water rights securing the loan. Staff and the Attorney General's Office will review these products and prepare a recommendation for action as needed.

- November 2020 Board Meeting - Borrower's last opportunity to address the Board prior to the Board's decision to declare the entire loan obligation due in full unless resolved prior to December 1, 2020.
- December 1, 2020 - staff will notify the Borrower via certified mail that the entire loan obligation is due by March 1, 2021. This includes the outstanding loan balance and late fees payable by March 1, 2021 in the amount of \$637,146.97 (\$621,637.50 Principal + \$3,800.54 Late fee + \$11,708.93 Accrued Interest).
- January 2021 Board Meeting - Staff and the Attorney General's Office will present options available for foreclosure proceedings if loan is not paid in full by March 1.
- March 1, 2021 - CWCB will foreclose on the loan as directed by the Board.

Background:

The CWCB entered into a loan contract (C150328A) with Two Rivers Water Company, TRWC, Inc., and Two Rivers Farms F-2, LLC. on March 5, 2012 for the Orlando Rehabilitation Reservoir Project. Security for this loan was a lien on the water rights in Orlando Reservoir #2, the Orlando Reservoir #2 itself (Huerfano County), and 1,200 acres of irrigated farm land located in Pueblo County.

An amendment to the loan contract was signed on September 15, 2015 which released a portion of the farmland in consideration of a principal payment of \$210,000. The amendment also updated the borrower's name to Two Rivers Water & Farming Company (formally known as Two Rivers Water Company), and Two Rivers Farms F-2, Inc. (formally known as Two Rivers Farms F-2, LLC).

Per CWCB Policy #3, "staff will refer all loans to the Board, for which any individual loan payment is at least 180 days past due with a specific recommendation."

The Borrower's March 1, 2020 loan payment of \$76,006.78 is currently over 260 days past due.

cc: Greg Herrington, Two Rivers Water & Farming Company
Jennifer Mele, Colorado Attorney General's Office