



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

DATE: November 17-18, 2021 Board Meeting

CONSENT AGENDA ITEM: 3. CWCB Policy Change
Financial Policy Number 3 - Loan Delinquency, Loan Restructuring and
Collections - Policy Update

Staff Recommendation:

Staff recommends the Board approve updates to Financial Policy Number 3 - *Construction Fund and Severance Tax Trust Fund Perpetual Base Fund - Loan Delinquency, Loan Restructuring, and Collection* as shown on the attached redlined version of the policy.

Background:

With the passage of SB21-055, signed by Governor Polis in March 2021, there is no longer a State Agency dedicated to the collection of debts owed to the State. Individual departments are now tasked with the responsibility to collect their own debts. Fiscal Rules have been developed by the Office of the State Controller to guide departments and approved vendors have been selected. This policy update reflects this change and only updates the words “state central collections” to “a collection agency”.

POLICY NUMBER: 3

SUBJECT: **CONSTRUCTION FUND AND SEVERANCE TAX TRUST
FUND PERPETUAL BASE FUND LOAN DELINQUENCY,
LOAN RESTRUCTURING AND COLLECTION**

EFFECTIVE DATE: October 1, 1999

REVISED DATE: November 16, 2017

REVISED DATE: November 17, 2021

POLICY: The Colorado Water Conservation Board (CWCB) shall review all loans for which annual payments are 180 days, or more, past due. The Board's review shall include an examination of the Project Sponsor's payment history, Project Sponsor statements regarding extenuating circumstances and reasons for the delinquent or non-payment, and the consideration of problem solving opportunities, including referral for collection.

PURPOSE: To provide the Board with information regarding past due loan payments. This policy will allow Project Sponsors a reasonable time to make late loan payments, restructure their existing loan or develop other financial solutions to recover from periods of economic difficulties, drought, flood, or other hardships beyond their control. This policy will also define how loans will be referred to collections.

APPLICABILITY: This policy and procedure applies to ALL current and future loans from the CWCB Construction Fund and the Severance Tax Trust Fund Perpetual Base Fund.

PROCEDURE: The statutes and provisions in the loan contract and contract documents provide the Board several options in dealing with delinquent loan payments, including, but not limited to, the following:

- Deferral of the loan payment
- Restructuring the loan terms
- Assessment of a revised loan interest rate
- Assessment of a late charge fee
- Forgive all or part of the loan
- Debt referral to ~~the State Central Collections Agency-A~~
**COLLECTIONS AGENCY APPROVED BY THE
OFFICE OF THE STATE CONTROLLER**

At every Board meeting, staff will give the Board a comprehensive delinquency list or Loan Aging Schedule. The report will include a list of loan payments that are past due and the date payment was due.

To initiate loan re-payment, staff will send a reminder letter to each Project Sponsor 30 days prior to the loan payment due date.

In the event of a delinquency, staff will send a reminder letter to each Project Sponsor every 30 days. A late fee of 5% of the current annual payment may be assessed for loan payments not received within 60 days of the due date.

Staff will contact the Project Sponsor by phone concerning a loan payment that is 60 days past due to remind the Project Sponsor of its debt obligation and to determine the extenuating circumstances preventing the Project Sponsor from meeting that obligation. Staff and the Project Sponsor will then agree upon an alternate date by which the payment will be made. If the Project Sponsor makes the payment as agreed all late fees associated with the delinquency may be waived at the discretion of the Director or his designee.

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 for one of the following actions, depending on the individual circumstance:

- Deferral of the loan payment
- Restructuring the loan terms
- Assessment of an accelerated loan interest rate
- Accelerate the loan

If the delinquency continues, and is at least one year past due, staff will recommend that the Board either:

- Refer the bad debt to a **Central Collections A COLLECTIONS AGENCY APPROVED BY THE OFFICE OF THE STATE CONTROLLER** and/or the Attorney General’s Office to take appropriate legal action against the Project Sponsor
- Forgive all or part of the loan
- Continue to work with the Project Sponsor towards a successful re-payment schedule.

