



COLORADO
**Colorado Water
Conservation Board**
Department of Natural Resources

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Jared Polis, Governor
Dan Gibbs, DNR Executive Director
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TO: Colorado Water Conservation Board Members

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

DATE: March 15-16, 2022, Board Meeting

AGENDA ITEM: 27. Loan Delinquency Action
Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.

Staff Recommendation:

The Board direct staff that in the event that borrower 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) does not pay the delinquent loan payment for Loan Contract #C150328A (CT2015-164) by May 2, 2022, staff issue a Notice of Default, informing the borrower that failure to pay during the thirty day cure period will result in the entire loan becoming due and foreclosure action if the loan is not paid in full.

This recommendation is inconsistent with Policy #3 regarding the passing of the 180 day 'past due' period and the 'one year past due' period before staff takes action to cure a loan delinquency.

Update as of March 11, 2022:

- On January 18, 2022, staff sent a letter indicating annual payment is due on March 1, 2022, in the amount of \$76,006.78 via US mail.
- On March 7, 2022, staff reached out via phone to discuss the late payment. A voice mail message was left on the phone number on file and a voice recording indicating the number was that of Mr. Greg Harrington.
- A Late Payment Notice letter was sent on March 8, 2022 indicating the steps to be taken by the CWCB regarding the Boards intent to act if there are additional delays in the annual payment. This includes a 60-day grace period; followed by a Notice of Default with a 30-day cure period; followed by a Foreclosure Notice on the Promissory Note indicating the entire loan balance due.

Next Steps and Foreclosure Preparation:

At the appropriate time staff and the AG's Office will restart preparation for foreclosure actions that were paused last September when the borrower cured the delinquency to avoid foreclosure action.

If the annual payment is not made and staff's recommendation is approved, the process will be:

- Allow for a 60 day grace period prior to the Notice of Default, and assessing a late fee of 5% of the annual payment to be assessed after 60 days.
- After 60 days, on or after May 2, 2022, a Notice of Default will be sent providing a 30-day cure period and notifying borrower that the entire loan will become due if the annual payment is not made within 30 days.
- If the cure is not received within 30 days after receipt of the Notice and the loan not repaid in full, staff will ask the Attorney General's Office to prepare to file the complaint.
- Staff will provide an update at the May 2022 Board Meeting.