



MEMORANDUM

April 7, 2011

**TO: BOARD OF DIRECTORS
ERIC KUHN, GENERAL MANAGER**

FROM: DAN BIRCH, DEPUTY GENERAL MANAGER

SUBJECT: ORCHARD MESA IRRIGATION DISTRICT (OMID) EFFICIENCY IMPROVEMENTS

There have been some recent developments that we wanted to report to the Board. *These are informational items and no Board action is requested at this time.*

BACKGROUND

In 2009 the River District purchased a 15-acre property on Orchard Mesa to accommodate the construction of a re-regulating reservoir which is part of the OMID water efficiency improvements. The property was purchased for \$1.25MM.

You may recall this is a \$15MM Bureau of Reclamation project, funded by the Upper Colorado Endangered Fish Recovery Program, which results in water savings of over 17,000 acre-feet annually. In average and wet years savings accrue to the 15-Mile Reach and benefit flows for the endangered fish and in dry years water savings primarily benefit Grand Valley water users.

The concept was for the Bureau to purchase the property from the River District with the proceeds of the sale going to a trust account held by OMID. The earnings from the trust will help defray a portion of the estimated \$340,000 annual operations and maintenance (O&M) costs for the project.

In 2010 we began working with the Bureau and OMID to develop the relatively complicated agreements to implement the project and the property transfer. The property agreement was originally proposed as a form of option agreement with OMID, the Bureau, and the River District all being parties to the agreement.

RECENT DEVELOPMENTS

A few months ago we heard from the Bureau that they were nervous about the property agreement passing muster with their solicitor. Given our experience working with the solicitor on the Elkhead agreements we understood and were sympathetic.

The good news is that the Bureau will likely have funds in their FY2011 budget – once they receive it -- to purchase the property. This will be done as a relatively straightforward purchase

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and acquisition agreement between the River District and the Bureau. We just received a draft of the agreement this week and it is under review. The proceeds from the purchase will return to the River District, and in turn, we will convey those under a separate agreement with OMID.

We reviewed the proposal with our auditor and with special counsel and concluded such a transaction would not present any TABOR problems. Attached is a memorandum from Lee Leavenworth on the matter.

The Bureau has completed their appraisal of the property and it is going through their internal review. We have not seen the result but we expect the appraised price will be significantly less than our purchase price (we purchased the property knowing we were purchasing it near the peak of the market). A purchase price that is very low would threaten the viability of the O&M fund; however, the Bureau has informed us there is an exception process and they have assured us they will be able to pay the \$1.25 million we paid for the property.

We hope to be able to complete the needed agreements and transactions by year end.

Attachment