

## Denver Board of Water Commissioners

Title:

**Purchase of Excluded Property at Lupton Lakes**

Meeting Date: 7/8/2009

Contract/Proposal 10558A

 Action by Consent Action Information

In September 2006, Denver Water purchased the Lupton Lakes property of about 300 acres in Fort Lupton, Colorado, for future gravel pit water storage. The owners of the property, SW TKO Joint Venture, contracted with Bromley Mineral Holdings to purchase the property. Bromley Mineral Holdings retained the mineral rights and assigned the right to purchase the property to Denver Water. As part of the purchase contract, the parties agreed to exclude a parcel of 20.72 acres (the "Excluded Property") due to environmental contamination. The parties executed a Put Option under which Denver Water would be required to purchase the Excluded Property if SW TKO Joint Venture satisfied certain environmental remediation requirements within three years of the original purchase. Since the 3-year period is close to expiration, SW TKO Joint Venture is anxious to exercise the Put Option.

Denver Water and Bromley Mineral Holdings are satisfied with remediation efforts on most of the Excluded Property. However, a 2.98-acre parcel has not been sufficiently remediated. The parties have agreed to carve out this parcel ("the Permanently Excluded Property"). Denver Water will not be obligated to purchase the Permanently Excluded Property under the Put Option and does not intend to purchase it in the future. The Permanently Excluded Property was not planned to be excavated, so no water storage capacity will be lost.

In the Fifth Amendment to Contract for Purchase of Land, Denver Water agrees to purchase the remaining Excluded Property for a purchase price of \$1,186,184.21. This purchase will give Denver Water the remaining property it requires to build a water storage reservoir with an estimated capacity of 11,400 acre feet.

**RECOMMENDATION:**

It is recommended that the Board authorize execution of the Fifth Amendment to Contract for Purchase of Land.

MAHONEY, ROBERT J

Robert Mahoney, Director Engineering

Patricia L. Wells  
Patricia L. Wells, General Counselfor HJ Bann  
Manager Approval:Documents Attached:  File Attachment