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Minutes of the
Board of Water and Natural Resources Meeting

January 4, 2018
1:00 p.m. CST

Conducted via the Digital Dakota Network

Northern State University
Aberdeen, SD

Department of Transportation
Brookings, SD

Mitchell Technical Institute
Mitchell, SD

Capitol Building
Pierre, SD

Rapid City Emergency Operations Center
Rapid City, SD

University Center
Sioux Falls, SD

University of South Dakota
Vermillion, SD

Department of Environment and Natural Resources
Watertown, SD

CALL MEETING TO ORDER: The meeting was called to order by Chairman Brad Johnson. The roll was called, and a quorum was present.

Chairman Johnson announced that the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

BOARD MEMBERS PRESENT: Brad Johnson, Gene Jones, Jr., Todd Bernhard, Jackie Lanning, Paul Goldhammer, Jerry Soholt, and Dr. Paul Gnirk.

BOARD MEMBERS ABSENT: None

OTHERS: See attached sign-in sheets.

APPROVE AGENDA: There were no changes to the posted agenda. Chairman Johnson approved the agenda.

APPROVE MINUTES OF THE NOVEMBER 9, 2017, MEETING: Motion by Gnirk, seconded by Bernhard, to approve the minutes of the November 9, 2017, Board of Water and Natural Resources meeting. A roll call vote was taken, and the motion carried unanimously.

PUBLIC HEARING TO ADOPT BROWNFIELDS REVITALIZATION AND ECONOMIC DEVELOPMENT PROGRAM WORK PLAN: Chairman Johnson opened the public hearing at 1:05 p.m.

The purpose of the hearing was to receive public input and adopt the FFY 2018 Brownfields Revitalization and Economic Development Program work plan. The primary purpose of the work plan is to identify Brownfields projects to be funded through the Brownfields Revolving Loan Subfund and Brownfields Assessment and Cleanup Subfund and amounts available to fund such projects.

Kim McIntosh, DENR Ground Water Quality Program, presented and discussed the proposed FFY 2018 Brownfields Revitalization and Economic Development work plan.

Each year the department receives funds from EPA for the development and enhancement of a state Brownfields program.

DENR currently has no funds available to capitalize the Revolving Loan Subfund. Limited funding is available for the Assessment and Cleanup Subfund. These funds will be used by the department to hire contractors to perform assessment and cleanup work on eligible Brownfields sites. The work plan includes a list of Brownfields assessment and cleanup projects to be funded.

For FFY 2018, the department received \$470,000 from EPA for the Brownfields Program.

Notice of the public hearing was published in the Aberdeen American News, Rapid City Journal, and Pierre Capital Journal. The notice is also available on the Department of Environment and Natural Resources' website. Copies of the work plan have been provided to those parties requesting a copy.

Ms. McIntosh noted that no written public comments were submitted after publication of the notice.

Chairman Johnson requested public testimony regarding the proposed work plan. There were no public comments.

Ms. McIntosh requested adoption of the work plan.

Motion by Gnirk, seconded by Lanning, to adopt the FFY 2018 Brownfields Revitalization and Economic Development Program work plan. A roll call vote was taken, and the motion carried unanimously.

SELECTION OF A CONTRACT SERVICE FOR CAPACITY DEVELOPMENT OF PUBLIC WATER AND WASTEWATER SYSTEMS: Jon Peschong reported that on November 9, 2017, the board authorized the advertisement of a Request for Proposals to provide capacity development for public water and wastewater systems. The department received two proposals by the December 8, 2017, deadline.

The proposals from Project Solutions and Midwest Assistance Program were reviewed by the board-appointed committee of Vice Chairman Gene Jones, Jackie Lanning and Jerry Soholt, and staff from DENR and the Attorney General's Office. After evaluating the proposals based on the criteria outlined in the Request for Proposals, both the board-appointed committee and staff recommended that Midwest Assistance Program be selected as the successful respondent.

The board currently has a contract with Midwest Assistance Program for public water capacity development services. This contract terminates on June 30, 2018. Section 9 of the contract states that the agreement may be terminated by either party upon a thirty day written notice. A letter was sent on November 14, 2017, notifying Midwest Assistance Program that the board authorized a Request for Proposals for a new contract, and that the letter served as notification to terminate the current contract.

A new contract between Midwest Assistance Program and the board has been drafted and reviewed by legal counsel and Midwest Assistance Program. The contract period will be through January 2021 with the option to extend the contract for three additional years. The hourly rate in the first year will be \$75.00, \$76.50 in the second year, and \$78.00 in the final year. The total contract amount will not exceed \$300,000, of which \$225,000 is funded by the Drinking Water State Revolving Fund capitalization grant set-asides for water system capacity development and \$75,000 is funded by administrative fees from Clean Water State Revolving Fund loans for wastewater system capacity development. The total billable amount is not to exceed \$100,000 per year.

Staff recommended the board authorize termination of the current contract with Midwest Assistance Program and approve a resolution authorizing the board chairman to sign a new contract with Midwest Assistance Program to provide assistance in capacity development for public water and wastewater systems.

Motion by Gnirk, seconded by Jones, to authorize the termination of Contract #2018-02 with Midwest Assistance Program and to adopt **Resolution No. 2018-01** approving the South Dakota Consulting Contract between the Board of Water and Natural Resources and Midwest Assistance Program in an amount not to exceed \$300,000 for water and wastewater capacity development services. A roll call vote was taken, and the motion carried unanimously.

SECTION 319 APPLICATIONS: Jim Feeney provided background information on the Section 319 Program, an overview of Section 319 funding levels in past years, and the amount anticipated for FFY 2018.

The Board of Water and Natural Resources is the designated entity that provides the state's Section 319 nonpoint source project funding recommendations to EPA. The board considers the funding recommendations of the Nonpoint Source (NPS) Task Force and DENR staff.

The 2018 Clean Water SRF Intended Use Plan authorized the use of \$900,000 in administrative surcharge fees for Water Quality grants to supplement the Consolidated and Section 319 programs for wastewater treatment and TMDL implementation projects. Staff anticipates receiving \$2,631,000 in 319 funds, which is at the same level as last year's allocation.

The DENR and NPS Task Force recommendations summarized in the table included in the board packet reflect both the anticipated FFY 2018 Section 319 federal funding allocation and \$150,000 in Clean Water SRF Water Quality grant awards. The department proposes to use \$770,000 for administration of the NPS program, which leaves \$2,011,000 for pass through grants.

Barry McLaury presented the three applications and recommended funding levels.

Belle Fourche River Watershed Implementation Project - Segment 8 (Amendment)

Total Cost: \$2,536,900

319 Grant Request: \$250,000

The project sponsor is Belle Fourche River Watershed Partnership. This two-year project is the eighth segment that addresses seven Total Maximum Daily Loads (TMDLs). Activities planned for this segment will implement Best Management Practices (BMPs) that reduce E. coli and Total Suspended Solid pollutants. BMPs include irrigation sprinkler systems, grazing management systems, riparian vegetation improvements, improved cropping systems, and relocation of livestock feeding areas. The Segment 8 Amendment proposes additional funds to increase BMP installments in the watershed.

DENR Recommendation: \$250,000 as requested.

DENR recommended this increase in funding be used for installation of BMPs in the watershed and not to exceed \$200,000 for irrigation projects in the Horse Creek Watershed, as stated in the original project budget.

Big Sioux River Watershed Implementation Project - Segment 3 (Amendment)

Total Cost: \$12,222,056

319 Grant Request: \$1,100,000

The project sponsor is the Moody County Conservation District. The Big Sioux River Watershed Project is a multi-year TMDL implementation strategy that will be completed in multiple segments and parts. The project will restore and/or maintain the water quality of the Big Sioux River and its tributaries to meet the designated beneficial uses by implementing BMPs such as seasonal riparian area management, animal waste management systems, grazing management systems, bank stabilization, and perpetual easements. The current project is focused on further reducing loadings from animal feeding operations, overland sediment

transport and expanding ongoing project activities. It also extends water quality monitoring, begun under Segment 1, through 2020.

DENR Recommendation: \$611,000 in funding.

The recommended a reduction in funding based on available 319 funds. DENR recommended the sponsor continue to access the city of Sioux Falls' Clean Water SRF Nonpoint Source Incentive loan funding to make up for the reduced Section 319 funding level.

South Central Watershed Implementation Project - Segment 1 (Amendment)

Total Cost: \$13,243,092

319 Grant Request: \$1,300,000

The project sponsor is the James River Water Development District. This three-year project is the first segment of a locally planned multi-year (10-15 year) effort to implement BMPs in the Lewis and Clark Lake, Lake Andes, Geddes, and Platte Lake watersheds, impaired stretches of the Lower James River tributaries, and impaired reaches in the Vermillion River watershed. BMPs implemented include animal waste management systems, seasonal riparian area management, riparian buffers, grazing management systems, and cropland/grassland management practices. This effort is aimed at restoring water quality to meet designated beneficial uses and address TMDLs already established and to be established for waterbodies in these watersheds.

DENR Recommendation: \$1,150,000 (\$1,000,000 in Section 319 funds and \$150,000 Water Quality Grant).

The department's recommendation is based on available 319 funds. DENR recommends the sponsor continue to work with the Natural Resources Conservation Service and other funding partners to help make up the reduced Section 319 funding level.

Jay Gilbertson, chairman of the NPS Task Force, stated that on December 12, 2017, the NPS Task Force met and voted to concur with the DENR funding recommendations.

Mr. Gilbertson answered questions from the board members.

Mr. McLaury requested separate board actions to provide for the awards from the Clean Water SRF Water Quality grant funding source and to provide the state 319 funding recommendations to EPA.

Motion by Gnirk, seconded by Goldhammer, to concur with the funding recommendations of DENR and the Nonpoint Source Task Force, and to authorize the department to forward the FFY 2018 Section 319 funding recommendations to EPA with adjustments to final federal funding levels. A roll call vote was taken, and the motion carried unanimously.

Motion by Bernhard, seconded by Lanning, to authorize DENR to enter into a grant agreement with the James River Water Development District in the total amount of \$150,000 in Clean Water SRF administrative surcharge fees pursuant to the 2018 Clean Water SRF Intended Use

Plan, contingent upon the 2018 Legislature authorizing the required budget authority for the award. A roll call vote was taken, and the motion carried unanimously.

SANITARY/STORM SEWER FACILITIES FUNDING APPLICATION: Mike Perkovich discussed available funds for the Consolidated Water Facilities Construction Program and State Revolving Fund programs.

A map showing the location of the applicants requesting funding was included in the board packet.

Mr. Perkovich presented the Sanitary/Storm Sewer Facilities applications and staff recommendations for funding.

Sioux Falls requested funding for upgrades to the storm sewer system in the drainage basin bounded by Interstate I-29 to Marion Road and 41st Street to 47th Street. The purpose of the project is to reduce overland flow on Marion Road and the neighborhood to the east during major storm events by constructing an underground storm water retention system. The retention system will utilize corrugated metal pipe and provide 17 acre-feet of storage. Approximately 4,000 feet of reinforced concrete pipe ranging in size from 24 to 48 inches will need to be installed.

The request also includes a nonpoint source component to make improvements within the Big Sioux River Basin. The nonpoint improvements include stream bank stabilization, grazing management, agricultural waste management, and vegetative buffers.

Sioux Falls anticipates bidding the project in February 2018 with project completion in July 2019.

The estimated total project amount is \$11,330,540 and the amount requested is \$8,829,000 (\$429,000 for Nonpoint Source activities and \$8,400,000 for the storm water project).

Staff recommended awarding an \$8,829,000 Clean Water SRF loan at the nonpoint source incentive interest rate of 1.0 percent for 10 years, which will consist of two bond series – one in the amount of \$8,400,000 for the storm water improvements and one in the amount of \$429,000 for the nonpoint source component.

Sioux Falls has pledged drainage fees for repayment of the loan. The drainage fee is \$47.76 per residence per year based on a 7,500 square foot lot. Staff analysis indicates that the drainage fees will provide 648 percent coverage.

Staff recommended the loan being awarded contingent upon the borrower adopting two bond resolutions and the resolutions becoming effective, and with the special condition that the borrower may not draw funds from the proceeds of the Series NPS-A Borrower Bond until EPA approves the revised budget for the Big Sioux Watershed Implementation Project.

Shannon Ausen, city of Sioux Falls, discussed the project.

Motion by Soholt, seconded by Lanning, to adopt **Resolution No. 2018-02** approving a Clean Water State Revolving Fund loan to the **city of Sioux Falls** up to a maximum committed amount of \$8,829,000 consisting of two bond series, one in the amount of \$8,400,000 for the storm water improvements and one in the amount of \$429,000 for the nonpoint source component at the nonpoint source incentive interest rate of 1.0 percent for 10 years; and authorizing the execution of the loan agreement, the acceptance of the Local Obligation, the assignment of the Local Obligation to the Trustee, and the execution and delivery of such other documents and the performance of all acts necessary to effectuate the loan approved in accordance with all terms as set forth in the Indenture of Trust contingent upon the borrower adopting two bond resolutions and the resolutions becoming effective, and with the special condition that the borrower may not draw funds from the proceeds of the Series NPS-A Borrower Bond until EPA approves the revised budget for the Big Sioux Watershed Implementation Project. A roll call vote was taken, and the motion carried unanimously.

Tyndall requested funding to replace old clay sewer lines and manholes on three blocks of Maple Street which is being reconstructed as part of a Department of Transportation Community Access Grant project.

Tyndall anticipates bidding the project in February 2018 with project completion in September 2018.

The estimated total project amount is \$374,460 and the amount requested is \$374,000.

Wastewater rates in Tyndall were recently raised from \$27 per month for 5,000 gallons usage to \$45 per month for 5,000 gallons usage.

Staff recommended awarding a \$374,000 Clean Water SRF loan at 2.25 percent interest for 20 years.

Tyndall is pledging system revenues for repayment of the loan. Staff analysis indicates coverage of 195 percent with the revenues expected from the rate increase. In 2016, with rates at \$27 per month for 5,000 gallons, the wastewater fund generated a surplus of \$30,800. This would have provided 132 percent coverage; therefore, the recent rate increase was unnecessary.

Staff recommended the loan being awarded contingent upon the borrower adopting a bond resolution and the resolution becoming effective.

Motion by Goldhammer, seconded by Jones, to adopt **Resolution No. 2018-03** approving a Clean Water State Revolving Fund loan to the **city of Tyndall** up to a maximum committed amount of \$374,000 at 2.25 percent interest for 20 years; and authorizing the execution of the loan agreement, the acceptance of the Local Obligation, the assignment of the Local Obligation to the Trustee, and the execution and delivery of such other documents and the performance of all acts necessary to effectuate the loan approved in accordance with all terms as set forth in the Indenture of Trust contingent upon the borrower adopting a bond resolution and the resolution becoming effective. A roll call vote was taken, and the motion carried unanimously.

WATERSHED RESTORATION PROJECT FUNDING APPLICATION: Mr. Perkovich presented the application and staff recommendation for funding.

James River Water Development District requested funding for the South Central Watershed Implementation Project - Segment 1. This effort is aimed at restoring water quality to meet designated beneficial uses and address established TMDLs, and those to be established at a later date, for water bodies in these watersheds.

The estimated project amount is \$13,243,000 and the amount requested is \$275,000.

Staff recommended awarding a consolidated grant for 15 percent of a project cost of \$1,833,333 not to exceed \$275,000.

The Consolidated grant will provide 15 percent cost share for the design and construction of up to eight animal waste management systems. This consolidated award will continue leveraging a \$1.5 million USDA Regional Conservation Partnership Program grant that requires 50 percent nonfederal cost share.

Mr. Feeney, Mr. McLaury, and Rocky Knippling, James River Water Development District, answered questions from the board.

Motion by Bernhard, seconded by Soholt, to adopt **Resolution No. 2018-04** approving the South Dakota Consolidated Water Facilities Construction Program grant agreement to the **James River Water Development District** for up to 15 percent of approved total project costs not to exceed \$275,000 for the South Central Watershed Implementation – Segment I project. A roll call vote was taken, and the motion carried unanimously.

Mr. Perkovich noted that after the award of Consolidated funding today, approximately \$1,000,000 will be carried over into the upcoming funding year.

SOLID WASTE MANAGEMENT PROGRAM FUNDING APPLICATIONS: Drew Huisken discussed available funding for the Solid Waste Management Program.

Mr. Huisken presented the Solid Waste Management Program applications and the staff recommendations for funding. A map showing the location of the projects was included in the board packet.

Brown County is proposing to construct a landfill cell at its regional landfill to ensure continuing operation. The existing cell is nearing full capacity. Brown County Landfill currently serves over 35,000 people in a four-county area. No new areas will be served as a result of this project.

The estimated total project cost is \$2,474,350 and the funding request is for \$1,237,175.

Current fees for the Brown County Landfill are \$38.00 per ton for municipal solid waste.

Construction is expected to begin in summer 2018 with completion sometime in 2019.

Staff recommended awarding a Solid Waste Management Program grant at 19.9 percent of the total project cost not to exceed \$490,000. Brown County has indicated that they are not interested in a loan and are only seeking grant funding for this project. The grant award is consistent with the percentages of other landfill expansion projects which are typically around 15 to 25 percent of project costs.

Staff analysis indicates that Brown County has sufficient funds to cover the remainder of the project.

Mike Scott, Brown County Landfill manager, answered questions from the board.

Motion by Gnirk, seconded by Jones, to adopt **Resolution No. 2018-05** approving the Solid Waste Management Program grant agreement to **Brown County** for up to 19.9 percent of approved total project costs not to exceed \$490,000 for the Brown County Landfill cell project. A roll call vote was taken, and the motion carried unanimously.

Vermillion operates a curbside recycling program that serves 2,500 single-family units and several multi-family units. The curbside program usually collects 180 tons of co-mingled products including plastics, tin, magazines, paper, and cardboard.

Collection is currently done using a pickup and a recycling trailer. The current recycling trailer, which was purchased in 2009, is in poor condition and needs to be replaced. This replacement will allow Vermillion to continue operating the curbside program effectively and reduce any increased down time caused by the current trailer's condition.

The total project cost is \$22,800 and the funding requested is \$20,000.

Current fees for the curbside program in Vermillion are \$3.70 per customer per month.

Staff recommended awarding a Solid Waste Management Program loan of \$10,000 at 2.0 percent interest for five years, and awarding a Solid Waste Management Program grant up to 50 percent of a total project cost of \$20,000 not to exceed \$10,000. Vermillion has indicated that they are interested in a loan. The recommended grant and loan award is consistent with previous awards for curbside collection projects.

Vermillion has pledged curbside recycling revenue for repayment of the loan. Staff analysis indicates that Vermillion has 331 percent debt coverage based on projected revenues, which exceeds the required coverage of 100 percent.

Staff recommended the loan being contingent upon the borrower adopting a bond resolution and the resolution becoming effective.

Bob Iverson, city of Vermillion, answered questions from the board.

Motion by Lanning, seconded by Jones, to adopt **Resolution No. 2018-06** approving a Solid Waste Management Program loan to the **city of Vermillion** in an amount not exceeding \$10,000

at 2.0 percent interest for five years; and to adopt **Resolution No. 2018-07** approving the Solid Waste Management Program grant to the **city of Vermillion** for up to 50 percent of approved total project costs not to exceed \$10,000 for the Vermillion Curbside Collection Trailer Replacement project. A roll call vote was taken, and the motion carried unanimously.

Watertown is proposing to install ditches, culverts, and erosion control structures such as rip-rap and silt fences on the northern portion of its landfill facility to adequately channel storm water to the landfill's detention basins.

Sediment from existing storm water detention ponds will be excavated to increase storage volumes, and existing storm water ditches will be re-graded. The proposed project will also modify a perimeter access road between cells #1 and #2. Additionally, the project will fund the design of site-wide storm water improvements to account for interim waste filling operations above grade, final landfill cover, and final facility build-out conditions.

The Watertown landfill has inadequate infrastructure to handle storm water drainage within the facility and is seeking to construct these improvements in order to remain in compliance with Subtitle D regulations. Leachate produced by storm water intrusion into the waste disposal cells will be reduced by the proposed improvements.

The Watertown Regional landfill currently serves 41,000 people in a multi-county area.

The total project cost is \$540,000 and the funding requested is \$270,000

Current fees for the Watertown Regional Landfill are \$37.50 per ton for municipal solid waste.

Construction is expected to begin in May 2018 with completion in September 2018.

Staff recommended awarding a Solid Waste Management Program loan for \$108,000 at 2.0 percent interest for seven years, and awarding a Solid Water Management Program grant for up to 30.0 percent of total project costs not to exceed \$162,000.

Watertown has pledged landfill revenue for repayment of the loan. Staff analysis indicates that Watertown has 250 percent debt coverage based on projected revenues, which exceeds the required coverage of 100 percent.

Staff recommended the award being contingent upon the borrower adopting a bond resolution and the resolution becoming effective.

Mike Boerger, city of Watertown, answered questions from the board.

Motion by Goldhammer, seconded by Bernhard, to adopt **Resolution No 2018-08** approving a Solid Waste Management Program loan to the **city of Watertown** in an amount not exceeding \$108,000 at 2.0 percent interest for seven years; and to adopt **Resolution No. 2018-09** approving the Solid Waste Management Program grant to the **city of Watertown** for up to 30 percent of approved total project costs not to exceed \$162,000 for Watertown Landfill Storm Water Improvements project. A roll call vote was taken, and the motion carried unanimously.

Mr. Huisken provided an overview of available funds for the next funding round.

FFY 2017 CLEAN WATER SRF ANNUAL REPORT: Lukus Leidholt presented the FFY 2017 Clean Water SRF annual report. He pointed out updates that were made to amounts on the title page that was sent to the board in the board packet.

Mr. Leidholt reported that the South Dakota Conservancy District is required to submit an annual report to EPA for the Clean Water SRF. The FFY 2017 report follows the same format as previous years and discusses activity from October 1, 2016, to September 30, 2017.

Highlights of FFY 2017 Clean Water SRF funding include the following:

- a. Twenty five Clean Water SRF loans were awarded for total funding of \$57,887,125.
- b. Three loans received principal forgiveness in the aggregate total of \$1,765,000.
- c. Loan repayments totaled more than \$29.2 million dollars, with \$22.5 million in principal, \$5.4 million in interest, and \$1.3 million in administrative surcharge.

Staff recommended the board approve the draft annual report for the Clean Water SRF program and authorize staff to finalize and distribute the report.

Motion by Gnirk, seconded by Soholt, to approve the draft annual report for the Clean Water SRF program and authorize staff to finalize and distribute the report. A roll call vote was taken, and the motion carried unanimously.

FFY 2017 DRINKING WATER SRF ANNUAL REPORT: Mr. Leidholt presented the FFY 2017 Drinking Water SRF annual report. He pointed out updates that were made to amounts shown on the title page that was sent to the board in the board packet.

Mr. Leidholt reported that the South Dakota Conservancy District is required to submit an annual report to the EPA for the Drinking Water SRF. The FFY 2017 report follows the same format as previous years and discusses activity from October 1, 2016, to September 30, 2017.

Highlights of FFY 2017 Drinking Water SRF funding include the following:

- a. Sixteen Drinking Water SRF loans and two loan amendments were awarded for total funding of \$51,777,500.
- b. Four loans received principal forgiveness in the aggregate total of \$1,045,000.
- c. Loan repayments totaled more than \$15.6 million dollars, with \$10.8 million in principal, \$3.8 million in interest, and \$1.0 million in administrative surcharge.

Staff recommended the board approve the draft annual report for the Drinking Water SRF program and authorize staff to finalize and distribute the report.

Motion by Bernhard, seconded by Lanning, to approve the draft annual report for the Drinking Water SRF program and authorize staff to finalize and distribute the report. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO AMEND LAKE POINSETT SANITARY DISTRICT PROJECT SCOPE: Mr. Huisken reported that in March 2014, the board awarded a \$1,917,000 Clean Water SRF loan, a \$1,000,000 Consolidated Water Facilities Construction Program grant, and an \$812,000 Clean Water SRF Water Quality grant to the Lake Poinsett Sanitary District for construction of an extension of the wastewater system to the east and northeast sides of Lake Poinsett and construction of a new treatment pond system in the same area. An additional 100 users will be connected to the Lake Poinsett Sanitary District wastewater collection system as a result of this project. Construction for this project is nearly finished, and the Lake Poinsett Sanitary District anticipates having an excess in funding of approximately \$1,000,000.

On December 6, 2017, the department received a letter from Lake Poinsett Sanitary District requesting to amend the scope of the current project to include a sewer extension project in the Pier 81 area and for rehabilitation of several lift stations.

The sewer extension project will include installing sanitary sewer main in a new area to serve a residence, business, and proposed campground. Rehabilitation of Lift Stations 5,6,7,8 and 11 includes improvements to the wet wells, pumps, control panels, and other appurtenances. These improvements are expected to increase the useful life of the lift stations and lower operation and maintenance costs.

Staff recommended approval of the First Amendment to the Clean Water SRF Loan C461027-04, Consolidated Water Facilities Construction Program Grant 2015G-102, and Clean Water SRF Water Quality Grant 2015G-WQ-100, changing the scope to include the described projects.

Mr. Huisken answered questions from the board.

Motion by Jones, seconded by Soholt, to adopt **Resolution No. 2018-10** approving the first amendment to the **Lake Poinsett Sanitary District** Clean Water SRF loan authorizing the use of the remaining loan proceeds to pay a sewer extension project in the Pier 81 area and for rehabilitation of several lift stations; to adopt **Resolution No. 2018-11** approving the first amendment to the Consolidated Water Facilities Construction Program grant agreement for up to 26.9 percent of all approved total project costs not to exceed \$1,000,000 amending the project scope to include a sewer extension project in the Pier 81 area and for rehabilitation of several lift stations; and to adopt **Resolution No. 2018-12** approving the first amendment to the SRF Water Quality grant agreement amending the project scope to include a sewer extension project in the Pier 81 area and for rehabilitation of several lift stations. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO AMEND TC&G WATER ASSOCIATION, INC. FUNDING PACKAGE: Mr. Huisken reported that in June 2015, the board awarded a \$210,000 Drinking Water SRF loan and a \$1,390,000 Consolidated grant to the TC&G Water Association. These funds were for the replacement of 140 water meters, installation of a new booster station, and replacement of 94,000 feet of 2-to 5-inch PVC and 6-inch ductile iron pipe throughout the system with 6-inch PVC water main.

On March 30, 2017, the board amended the loan to include \$775,000 in additional loan funding for work to add 10 users to the system which included 40,000 feet of water line, improvements to the east booster station, an upsize in a primary transmission pipe, and meter installations. This additional work brought the total project costs to \$2,890,000.

On November 29, 2017, the department received a letter from TC&G Water Association requesting additional funding assistance in the amount of \$500,000. TC&G opened bids for its water system expansion project on September 21, 2017. Bids were competitive and very close to the estimated price, but additional funding is still required to complete the project. The updated overall budget for the project is now estimated at \$3,390,000.

TC&G and their consulting engineer met with Central SD Enhancement District and DENR staff and decided that amending the current funding package would save time and be preferable over submitting an additional application. Therefore, TC&G Water Association has requested that an additional \$500,000 in funds be amended onto their current funding package.

If all funding is provided as loan, it is expected that TC&G will have to increase revenue by 10 percent to cover the \$500,000 in additional funding. However, the additional 10 customers that are being added to the system are projected to increase water sales to provide an estimated coverage of over 130%, which exceeds the required 110 percent.

Staff recommended approval of the first amendment to Drinking Water SRF Loan C462479-01, resulting in a loan of \$1,485,000 at 2.25 percent interest for 30 years contingent upon the borrower adopting a resolution approving the first amendment of the loan agreement, the promissory note, and the pledge of system revenues as repayment for the loan, and contingent upon the borrower approving a security agreement and mortgage.

Motion by Jones, seconded by Lanning, to adopt **Resolution No. 2018-13** approving amendment of Drinking Water SRF Loan C462479-01 for **TC&G Water Association, Inc.** increasing the loan amount to \$1,485,000 at 2.25 percent interest for 30 years contingent upon the borrower adopting a resolution approving the first amendment of the loan agreement, the promissory note, and the pledge of system revenues as repayment for the loan, and contingent upon the borrower approving a security agreement and mortgage. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO RESCIND HOWARD CLEAN WATER SRF LOAN C461127-01: Mr. Perkovich reported that on March 27, 2015, the board awarded a \$1,764,000 Clean Water SRF loan to the city of Howard for televising of its wastewater collection system and to expand the city's wastewater treatment facility.

On June 25, 2015, the board amended the loan amount down to \$979,000 at the city of Howard's request. The original project has not moved forward since that date. The loan has not been closed, and no eligible project costs have been incurred.

On October 23, 2017, the department received a letter from the city of Howard indicating that they are declining the loan. The letter indicates that the city of Howard funded the cleaning and televising of its wastewater system with city funds, and the city does not believe that a lagoon

expansion is necessary at this time. The city of Howard explains that because of a decreasing population and the withdrawal of a proposed beef packing plant that the city can operate its facility successfully through aeration and chemical treatment, and the proposed expansion is not necessary.

On November 28, 2017, the department's Surface Water Quality Program sent a letter to the city of Howard indicating disagreement with the city's position that it can operate the system and meet the requirements of the Surface Water Discharge Permit. The letter from the Surface Water Quality Program notes violations of several of the limits that have occurred and are anticipated to continue without an expansion of the wastewater treatment system. Of particular note, the city of Howard has a new limit on ammonia of 10.1 milligrams per liter, which the department believes will be difficult to meet without improvements to the treatment system. These ammonia limits have been set due to the receiving waters being a habitat for the Topeka Shiner, an endangered species.

This letter also urges the city to reconsider rescinding the loan, as DENR anticipates that this funding will be essential to construct a facility that can meet the limits of Howard's Surface Water Discharge Permit. The letter from DENR requests a letter to withdraw the proposed loan rescission as well as adjust the compliance schedule for Howard's wastewater treatment system. No such letter has been received.

Staff requested that the board rescind Resolution No. 2015-66 which approved the \$979,000 Clean Water SRF loan to the city of Howard.

No representatives of the city of Howard were present at the board meeting.

Mr. Perkovich answered questions from the board.

Motion by Goldhammer, seconded by Bernhard, to rescind Resolution No. 2015-66, which approved Clean Water State Revolving Fund Loan C461127-01 to the city of Howard. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO RESCIND VEBLER CLEAN WATER SRF LOAN C46118-01: Andy Bruels reported that on June 22, 2017, the board awarded a \$1,387,000 Clean Water State Revolving Fund loan to the city of Veblen for a wastewater system improvements project. Veblen was also awarded a \$750,000 Community Development Block Grant to fund this project. This project was to clean and televise Veblen's entire sewer system to identify pipe condition and potential causes of infiltration and inflow. Based on the results of the cleaning and televising, the city would have either replaced or relined most of the collection system and some services through a combination of open-cut pipe replacement and cast-in-place pipe relining. A gravel access road would also have been built to the three existing treatment ponds for improved access, and the treatment ponds were to be rip-rapped and a new lid installed for the lift station that conveys water to the treatment ponds.

On October 26, 2017, the department received a letter from Veblen declining the Clean Water SRF loan. The town stated the repair of the sewer lines remained a priority and that they were pursuing some repairs with local funds. Veblen does not believe that they are able to afford the

cost of the entire project and the resulting rate increase, which was anticipated to raise rates to \$43.50 for 5,000 gallons.

A similar letter was sent to the Governor's Office of Economic Development requesting the Community Development Block Grant be de-obligated.

Staff recommended the board rescind Resolution No. 2017-78, which approved the \$1,387,000 Clean Water SRF loan to the city of Veblen.

Mr. Bruels answered questions from the board.

Motion by Lanning, seconded by Soholt, to rescind Resolution No. 2017-78 which approved Clean Water SRF loan C461186-01 to the city of Veblen. A roll vote was taken, and the motion carried unanimously.

REQUEST TO RESCIND BALCON SOLID WATER MANAGEMENT PROJECT LOAN 2018L-REC-300: Jon Peschong reported that on September 29, 2017, the board approved Resolution No. 2017-91 awarding a \$954,000 Solid Waste Management Program loan to Balcon Enterprises, Inc.

After the board meeting, draft loan documents were forwarded to Balcon and its legal counsel for review. Staff and legal counsel were later contacted about several items in the draft loan agreement including the audit requirements. At that time, Balcon requested that the audit requirements be removed from the loan agreement. DENR staff declined their request stating that it would be in the best interest of the board that the audit requirements be upheld.

On October 5, 2017, the department received an e-mail from Balcon Enterprises declining the loan. The email, which was included in the board packet, indicates that the primary reason for declining the loan was due to the high costs associated with doing biennial audits. Balcon estimated that these costs could run up to \$15,000 per biennial audit, which would cancel out any projected savings that were anticipated due to the low interest rate loan.

Mr. Peschong noted that if Balcon did bi-annual audits they would be required to complete 10 audits during the life of the loan. Staff had estimated that Balcon would receive approximately \$190,000, or about 20 percent in subsidy, with the reduced rate and term of 20 years.

Since Balcon has declined the loan, staff recommended the board rescind Resolution No. 2017-91, which approved the South Dakota Solid Waste Management Program loan agreement between the Board of Water and Natural Resources and Balcon Enterprises, Inc.

Mr. Peschong answered questions from the board.

Motion by Jones, seconded by Lanning, to rescind Resolution No. 2017-91, which approved the South Dakota Solid Waste Management Program loan agreement between the Board of Water and Natural Resources and Balcon Enterprises, Inc. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO AMEND B-Y WATER DISTRICT DRINKING WATER SRF LOAN

CONTINGENCY: Mr. Peschong stated that on March 31, 2017, the board approved Resolution No. 2017-44 approving a \$4,700,000 Drinking Water SRF loan to B-Y Water District for its water treatment plant reservoir project. At that time, staff recommended a contingency that an Intercreditor Agreement be approved and executed by Cobank, Rural Utilities Service, the borrower, and the district.

B-Y Water District's loan with CoBank is an unsecured loan. The secured loan approved by the board is senior to the CoBank's unsecured loan, and therefore, no Intercreditor agreement is required with CoBank.

Staff recommended the board rescind Resolution No. 2017-44 and approve a new resolution for the same amount and terms, with the revised contingency that an Intercreditor Agreement be approved and executed by Rural Utilities Service, the borrower, and the district.

Motion by Bernhard, seconded by Gnirk, to rescind Resolution No. 2017-44 and adopt **Resolution No. 2018-14** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$4,700,000 at 2.5 percent interest for 30 years to the **B-Y Water District** for a water treatment plant reservoir project; and authorizing the execution of the loan agreement, the acceptance of the Local Obligation, the assignment of the Local Obligation to the Trustee, and the execution and delivery of such other documents and the performance of all acts necessary to effectuate the loan approved in accordance with all terms as set forth in the Indenture of Trust, contingent upon the borrower adopting a bond resolution and the resolution becoming effective, contingent upon the borrower approving a security agreement and mortgage, and contingent upon an Intercreditor Agreement being approved and executed by Rural Utilities Service, the borrower, and the district. A roll call vote was taken, and the motion carried unanimously.

IRS AUDIT NOTIFICATION AND PERKINS COIE CONTRACT AMENDMENT: Jim Feeney reported that the department received a letter dated December 15, 2017, from the Internal Revenue Service notifying DENR that it would be auditing the \$38,695,000 State Revolving Fund Program, Taxable Revenue Bond Series 2010A (Build America Bonds). Responses to a series of questions by the Internal Revenue Service are due by January 11, 2018.

The Conservancy District's bond counsel, Bruce Bonjour, Perkins Coie, LLC will prepare the responses. This task falls outside the scope of the existing contract with Perkins Coie, LLC, therefore, an amendment to the existing contract is necessary.

Staff recommended the board approve the amended Perkins Coie, LLC contract to provide additional services as bond counsel for the Conservancy District for the Internal Revenue Service examination of the Series 2010A Bonds.

Motion by Bernhard, seconded by Gnirk, to adopt **Resolution No. 2018-15** approving the amended contract for legal services with Bruce A. Bonjour of Perkins Coie for additional services as counsel for the Internal Revenue Service examination of the South Dakota Conservancy District's \$38,695,000 Taxable Revenue Bonds, Series 2010A (Build America

Board of Water and Natural Resources
January 4, 2018, Meeting Minutes

Bonds), and authorizing the board chairman to execute the agreement for legal services. A roll call vote was taken, and the motion carried unanimously.

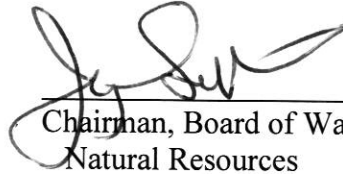
Mr. Perkovich introduced Assistant Attorney General David McVey, who will be working with Harold Deering to provide legal services to DENR.

NEXT MEETING: The next regularly scheduled board meeting is March 28-29, 2018 in Pierre. Mr. Perkovich discussed possible agenda items.

ADJOURN: Motion by Jones, seconded by Goldhammer, that the meeting be adjourned. A roll call vote was taken, and the motion carried unanimously.


Approved this 28th day of March, 2018.

(SEAL)



Chairman, Board of Water and
Natural Resources

ATTEST:



Secretary, Board of Water and
Natural Resources

ATTENDANCE SHEET

BOARD OF WATER AND NATURAL RESOURCES MEETING

CONDUCTED VIA THE DIGITAL DAKOTA NETWORK

JANUARY 4, 2018

MITCHELL

MITCHELL TECHNICAL INSTITUTE

NAME (PLEASE PRINT)

ADDRESS

REPRESENTING

J. E. Jim Parnham

ARMOUR

SCWD

Rich Jones

Tyndall

CITY OF TYNDALL

Camden Hoyer

Mitchell

SPN and Assoc.

BOBKY TA GELING

Chamberlain

South Central 319

ATTENDANCE SHEET
BOARD OF WATER AND NATURAL RESOURCES MEETING

CONDUCTED VIA THE DIGITAL DAKOTA NETWORK

JANUARY 4, 2018

PIERRE
CAPITOL BUILDING

<u>NAME (PLEASE PRINT)</u>	<u>ADDRESS</u>	<u>REPRESENTING</u>
Marlene Knutson	PO Box 220 Pierre, SD	CSD&D
Andy Bruels	PO Box 220 Pierre, SD	DENR
Don Hollenbeck	Box 167 Trail City, SD	TC&G
William R. Helme	P.O. Box 156 Trail City, SD	TC&G
Mary Duvall	Pierre	legislative Oversight
David Ruhnke	Pierre	DENR
Allen Prince	Pierre	DENR
DAVID McVey	Pierre	AG
Bob Iverson	Vermillion	City of Vermillion
Trish Kiest	Joe Foss Bldg, Pierre	DENR
Mike Perkovich	Pierre	DENR
Jim Feeney	Pierre	DENR
Kim McArthur	Pierre	DENR
Barry McLaury	Pierre	DENR
Jon Peschang	Pierre	DENR
Abbey Larson	Pierre	DENR
Lukas LETZHOLT	PIERRE	DENR

ATTENDANCE SHEET
BOARD OF WATER AND NATURAL RESOURCES MEETING

CONDUCTED VIA THE DIGITAL DAKOTA NETWORK

JANUARY 4, 2018
SIOUX FALLS
UNIVERSITY CENTER

NAME (PLEASE PRINT)

ADDRESS

REPRESENTING

Shannon Auser

224 W. 9th St

City of Sioux Falls

Gene Jones Jr.

SF, SD

BWNR

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