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Minutes of the
Board of Water and Natural Resources
In-Person or On-Line
Matthew Training Center
523 East Capitol
Pierre, SD

January 5, 2023
1:00 p.m. Central Time

CALL MEETING TO ORDER: Chairman Jerry Soholt called the meeting to order. The roll was called, and a quorum was present.

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

BOARD MEMBERS PRESENT: Jerry Soholt, Gene Jones, Jr., Jackie Lanning, Karl Adam, and Vance Newman participated remotely. Paul Gnirk participated in person

BOARD MEMBERS ABSENT: Todd Bernhard.

OTHERS: See attached attendance sheet.

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

Motion by Gnirk, seconded by Lanning, to approve the agenda. Motion carried unanimously.

APPROVE MINUTES FROM NOVEMBER 3, 2022, MEETING: Motion by Adam, seconded by Newman, to approve the minutes from the November 3, 2022, Board of Water and Natural Resources meeting. Motion carried unanimously.

PUBLIC COMMENT PERIOD: There were no public comments.

SECTION 319 APPLICATIONS: Kris Dozark, Section 319 Implementation Coordinator, DANR Watershed Protection Program, reported that 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 recommendations from the Nonpoint Source (NPS) Task Force as part of its selection process. Four applications requesting \$2,905,250 in Section 319 funding were received by DANR and reviewed by the NPS Task Force.

The 2023 Clean Water SRF Intended Use Plan authorized the use of \$200,000 in administrative surcharge fees for Water Quality grants to supplement the Section 319 programs for TMDL implementation projects. DANR anticipates receiving \$2,755,000 in 319 funds, which is at the same level of last year's allocation. Mr. Dozark stated that the DANR and NPS Task Force recommendations reflect both the anticipated FFY 2023 Section 319 federal funding allocation

and \$200,000 in Clean Water SRF Water Quality grant awards. The department proposed to use \$770,000 for administration of the NPS program which leaves \$2,185,000 for pass through grants.

With final FFY 2023 appropriation levels being delayed until the new budget is in place, DANR recommended that up to \$200,000 in Water Quality grant funding be allocated for these projects. If a decrease in Section 319 funding occurs, all pass through grants will be reduced proportionately.

Mr. Dozark presented the four applications and the DANR and NPS Task Force recommended funding levels.

Big Sioux River Watershed Project – Segment 4 (Amendment)

Sponsor: Minnehaha Conservation District

Total Cost: \$12,980,678

319 Grant Request: \$830,000

The Big Sioux River Watershed Project is a multiyear Total Maximum Daily Load (TMDL) implementation strategy that will be completed in multiple segments. The project will restore and/or maintain the water quality of the Big Sioux River and its tributaries to meet the designated beneficial uses. The Lower Big Sioux River, Central Big Sioux River and the North-Central Big Sioux River/Oakwood Lakes Watershed Assessment identified various segments of the Big Sioux River and certain tributaries between Estelline, South Dakota and Sioux City, Iowa as failing to meet designated uses due to impairments from TSS, dissolved oxygen and/or bacteria. The current project (Segment 4) is focused on further reducing loadings from soil erosion, animal feeding operations, damaged riparian areas, and expanding ongoing project activities. It also extends water quality monitoring through 2025.

DANR and the NPS Task Force recommended \$651,500 in Section 319 funds.

The recommendation is based on current Section 319 funds remaining in Segment 4, the sponsor's ability to successfully leverage funds from other partners, and the FFY 2023 Section 319 funds available. The sponsor should submit future applications for 319 funds to help make up for the shortfall in Section 319 funds awarded.

South Dakota Nonpoint Source Information and Education Project – Segment 7

Sponsor: South Dakota Discovery Center

Total Cost: \$513,125

319 Grant Request: \$350,000

The 2023 South Dakota Nonpoint Source Information and Education project is designed to continue providing South Dakota's citizens information and education opportunities about nonpoint source pollution in order to increase their understanding of, support for, and participation in nonpoint source pollution prevention and reduction practices. The project will focus on:

1. Outreach to South Dakota's adults using a combination of traditional and innovative methods.
2. A volunteer monitoring program to support water quality monitoring by the state.
3. Support of local and regional activities through a competitive mini-grants program.
4. Increased student and adult awareness of watershed and proficiency in watershed protection through education.

DANR and the NPS Task Force recommended \$250,000 in Section 319 funds and a \$100,000 Clean Water SRF Water Quality grant.

Northeast Glacial Lakes Upper Big Sioux Watershed Improvement and Protection Project – Segment 1

Sponsor: Day County Conservation District

Total Cost: \$1,739,150

319 Grant Request: \$759,500

The goal of this project is to protect and improve water quality of northeast South Dakota glacial lakes, streams, and rivers by implementing conservation practices that reduce the amount of fecal coliform bacteria, nutrients, and sediment loads entering project water bodies, maintaining their assigned beneficial uses, and to build on previous efforts and protect water quality improvements realized from previous implementation projects and segments.

The project combines two multi-year locally led watershed projects, Northeast Glacial Lakes Watershed Improvement and Protection Project (Segment 5) and Upper Big Sioux Watershed Project (Segment 7), into one project.

DANR and the NPS Task Force recommended \$426,500 in Section 319 funds and a \$100,000 Clean Water SRF Water Quality grant.

DANR staff recommended that until the need for two coordinators is demonstrated, only one coordinator is needed to start this new project. The initial application requested funding for two Animal Waste Management Systems (AWMS). Because of limited funds, one of the AWMS was removed. DANR recommended renaming the project to Prairie Coteau Improvement and Protection Project. DANR also recommended that the project sponsor work with DANR staff on updating the project's water quality monitoring plan.

Soil Health Improvement and Planning Project – Segment 3

Sponsor: South Dakota Soil Health Coalition

Total Cost: \$1,617,000

319 Grant Request: \$965,750

The goal of this three-year project is to improve water quality through planning and implementation of soil health agricultural best management practices (BMPs) and outreach to producers in selected 303(d) listed waterbodies in South Dakota. Implementing and promoting BMPs in the watershed that reduce sediment loading and prevent bacterial contamination working to attain TMDLs developed for the rivers, tributaries, and lakes and meet the designated

beneficial uses. Outreach will include planning and holding workshops and field demonstration tours to educate and inform producers of ways to manage land to reduce runoff and improve nutrient cycling which will ultimately improve water quality. The project will also provide information and education to local landowners and the public to provide a better understanding of water quality and its relationship to soil health benefits.

DANR and the NPS Task Force recommended \$657,000 in Section 319 funds.

The recommendation is based on the ability of the project sponsor to successfully leverage other funds and the availability of FFY 2023 Section 319 funds. Staff wants the Section 319 funds to be used to focus on Product 3: Cover Crops, Product 5: Forage/Biomass planting, Product 7: Pasture Grazing Management. Staff also recommends funding Product 2: reduce tillage management and no-till as a pilot. With the ability of the sponsor to leverage funds, staff recommended not using Section 319 funds to pay for the three-quarter time technician.

The NPS Task Force met on December 6, 2022, to review the applications. The task force voted to concur with the DANR funding recommendations.

Jay Gilbertson, chairman of the NPS Task Force reported that in addition to endorsing the DANR staff funding recommendations, the task force added a condition that prior to the Board of Water and Natural Resources meeting today, the short-comings, typographical errors, and other errors be corrected on all four applications. Mr. Gilbertson noted that Mr. Dozark had confirmed that all of the identified problems have been fixed.

Mr. Gilbertson encouraged the Board of Water and Natural Resources to support the DANR staff and NPS Task Force recommendations for all four applications.

Mr. Dozark requested that the board authorize the department to enter into a grant agreement with the Day County Conservation District in the amount of \$100,000 and the South Dakota Discovery Center in the amount of \$100,000 from Clean Water SRF administrative surcharge fees pursuant to the 2023 Clean Water SRF Intended Use Plan, contingent upon the 2023 Legislature authorizing the required budget authority for the awards. Mr. Dozark noted that this will allow the department to prepare and execute two agreements with these entities for both the 319 and Clean Water administrative surcharge fee funds and not have to bring this back before the board for approval of separate Water Quality grants.

Motion by Jones, seconded by Adam, to authorize the department to enter into a grant agreement with the Day County Conservation District in the amount of \$100,000 and the South Dakota Discovery Center in the amount of \$100,000 from Clean Water SRF administrative surcharge fees pursuant to the 2023 Clean Water SRF Intended Use Plan, contingent upon the 2023 Legislature authorizing the required budget authority for the awards. A roll call vote was taken, and the motion carried unanimously.

Mr. Dozark also requested that the board pass a motion to concur with the funding recommendations of DANR and the Nonpoint Source Task Force and authorize the department

to forward the FFY 2023 Section 319 funding recommendations to EPA with adjustments to final federal funding levels.

Motion by Gnirk, seconded by Newman, to concur with the funding recommendations of DANR and the Nonpoint Source Task Force and to authorize the department to forward the FFY 2023 Section 319 funding recommendations to EPA with adjustments to final federal funding levels. A roll call vote was taken, and the motion carried unanimously.

Mr. Dozark answered questions from Chairman Soholt regarding why the Northeast Glacial Lakes project doesn't include addressing invasive species. He noted that the project is mainly geared toward nutrients, e-coli, harmful algal blooms, and sedimentation.

In response to questions from Dr. Gnirk, Mr. Dozark stated that the South Dakota Discovery Center is located in Pierre, and the administrator of the South Dakota Soil Health Coalition is the South Dakota Association of Conservation Districts.

DEFERRED APPLICATION FROM SEPTEMBER 29, 2022: Andy Bruels the South Dakota Ellsworth Development Authority submitted an application for funding consideration at the September 29, 2022, meeting. The application was deferred to be presented at a later board meeting. Administrative rules allow the board to defer action on funding applications for no more than 120 days.

The department received a letter from the South Dakota Ellsworth Development Authority on December 6, 2022, withdrawing the funding application because the project, as submitted, is no longer able to move forward. South Dakota Ellsworth Development Authority has not secured the necessary state permits to proceed with the project and Meade County has denied the water pipeline permit application. South Dakota Ellsworth Development Authority intends to reevaluate how to move forward with providing water to the areas impacted by PFOS and PFOA.

Ms. Bruels stated that no board action was required.

AVAILABLE FUNDS: Andy Bruels reviewed available funds for the American Rescue Plan Act (ARPA) grants, Consolidated Water Facilities Construction Fund Program, Clean Water SRF Water Quality grants, Drinking Water SRF Principal Forgiveness, and Clean Water SRF Principal Forgiveness .

DRINKING WATER FACILITIES FUNDING APPLICATION: Mr. Bruels presented the Drinking Water Facilities funding applications and staff recommendations. A map showing the location of these projects was presented.

Terry Trojan Water Project District requested funding to replace water meters with meter pits and to install an automatic meter reading system. Installation of new pits and meters will allow the district to read meters remotely. A handheld data collector will be used to easily collect data from all the meters. Terry Trojan was awarded a previous Drinking Water SRF loan that included some funding for water meter replacements.

Terry Trojan Water Project District has already begun parts of the project and intends to complete construction in 2023.

The estimated total project amount is \$1,175,303, and the amount requested is \$700,000. The funding package includes \$100,000 in local cash and funds from the prior SRF loan.

Staff recommended awarding a \$700,000 Drinking Water SRF loan at 1.875 percent interest for 10 years with 42.9 percent interest as principal forgiveness not to exceed \$300,000.

Terry Trojan Water Project District pledged system revenue for repayment of the loan. Rates are \$95.00 for 7,000 gallons. Staff analysis showed that to provide the necessary 110 percent debt coverage, the cost per user will be an additional \$15.95 for a total rate to \$110.00 per month.

Staff recommended the loan being contingent upon the borrower adopting a bond resolution and the resolution becoming effective, contingent upon the borrower establishing rates at a level sufficient to provide the required debt coverage, and contingent upon receipt of the 2022 Drinking Water State Revolving Fund capitalization grant from EPA.

Lysann Zeller, Black Hills Council of Local Governments, was available to answer questions.

Motion by Gnirk, seconded by Lanning, to adopt **Resolution No. 2023-01** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$700,000 at 1.875 percent interest for 30 years with up to \$300,000 principal forgiveness to the **Terry Trojan Water Project District** for a system-wide water meter pit 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 establishing rates at a level sufficient to provide the required debt coverage, and contingent upon receipt of the 2022 Drinking Water State Revolving Fund capitalization grant from EPA. Motion carried with Adam, Gnirk, Jones, Lanning, and Sohlt voting aye. Newman abstained.

Clay Rural Water System requested funding for a project to address water treatment and water source needs. Clay RWS is proposing to construct a 2.5 MGD conventional lime softening water treatment plant. This plant will be designed with the ability to increase the capacity from 2.5 MGD to 5.0 MGD in the future.

In addition to the proposed plant, at least two additional wells are needed within the existing wellfield to provide the necessary capacity and redundancy. A raw water pipeline from the new wells to the proposed plant will also be required.

Clay Rural Water System anticipates beginning construction in March 2024 with project completion in August 2026.

The estimated total project amount is \$21,843,000, and the amount requested is \$21,843,000.

Staff recommended awarding a \$21,843,000 Drinking Water SRF loan at 2.125 percent interest for 30 years.

Clay Rural Water System pledged system revenue for repayment of the loan. Rates are \$77.10 for 7,000 gallons. Staff analysis indicates that current rates provide debt coverage of 55 percent. To provide the required 110 percent debt coverage for the loan, if it were to be added all to the base rate, staff anticipates total rates of approximately \$117.00 based on 7,000 gallons usage. Clay RWS may choose to raise rates somewhat differently; however, staff anticipates that total rates would still need to be over \$100.00 per user.

Staff recommended the loan being contingent upon the borrower adopting a resolution approving the form of the loan agreement, the promissory note, and the pledge of revenues for repayment of the loan, contingent upon the borrower approving a security agreement and mortgage, contingent upon the borrower establishing rates at a level sufficient to provide the required debt coverage, and contingent upon an Intercreditor Agreement being approved and executed by Cobank, Clay Rural Water System, and the Conservancy District.

Erin Steever, Bartlett & West, thanked the board for consideration of funding.

Motion by Lanning, seconded by Jones to adopt **Resolution No. 2023-02** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$21,843,000 at 2.125 percent interest for 30 years to **Clay Rural Water System** for a water treatment plant 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 resolution approving the form of the loan agreement, the promissory note, and the pledge of revenues for repayment of the loan, contingent upon the borrower approving a security agreement and mortgage, contingent upon the borrower establishing rates at a level sufficient to provide the required debt coverage, and contingent upon an Intercreditor Agreement being approved and executed by Cobank, Clay Rural Water System, and the Conservancy District. Motion carried unanimously.

The city of Brookings requested funding to upgrade the water system facilities including the construction of a new 6 MGD lime softening Water Treatment Facility along 34th Avenue. The new treatment plant will require 28,500 feet of 16-inch raw water line and 19,890 feet of 16-inch finished water line to feed into the distribution system. It also includes the construction of six municipal wells and an additional 17,400 feet of 20-inch transmission main.

This project received funding in April of 2022, but additional funds are required with the current increase in construction costs.

The city of Brookings bid the project in October 2022 with a project completion date of August 2025.

The estimated total project amount is \$114,702,500, and the amount requested is \$40,700,000. The prior Drinking Water SRF loan in the amount \$50,963,200, the \$21,039,300 ARPA grant, and \$2,000,000 local cash will provide the remainder of the funding for the project.

Staff recommended awarding a \$40,700,000 Drinking Water SRF loan at 1.875 percent interest for 30 years.

The city pledged project surcharge for repayment of the loan. Rates are currently \$40.43 for 5,000 gallons usage. Staff analysis indicates that Brookings would need to establish a surcharge of \$20.10 to provide 110 percent debt coverage for this loan.

Mr. Bruels noted that Brookings has a second funding application that would require a \$0.25 surcharge, and when combined with funding provided in April, staff analysis indicates that total rates of \$61.85 for 5,000 gallons would be necessary.

Staff recommended the loan being contingent upon the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage.

Eric Witt, Brookings Municipal Utilities, discussed the project and thanked the board for consideration of funding.

Motion by Adam, seconded by Newman, to adopt **Resolution No. 2023-03** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$40,700,000 at 1.875 percent interest for 30 years to the **city of Brookings** for water treatment facility and water system upgrades; 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 and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

The city of Brookings requested funding to work with property owners to remove lead service lines. There are currently 48 known lead service lines remaining in the system. This project is intended to address the emphasis to reduce lead exposure in drinking water.

The city expects to proceed with the lead water service line replacement program during the 2023 construction season.

The estimate total project amount is \$1,000,000, and the amount requested is \$1,000,000.

This project is solely for the purpose of replacing lead water service lines, which allows staff to recommend funding through the Bipartisan Infrastructure Law (BIL) Drinking Water SRF Lead Service Line Replacement capitalization grant funds. A requirement of this Drinking Water SRF grant is that total subsidy provided must be 49 percent of the grant funds received and must be

provided to disadvantaged communities. Brookings qualifies as a disadvantaged community based on South Dakota's criteria.

Staff recommended awarding a \$1,000,000 Drinking Water SRF loan at 1.875 percent interest for 30 years with 49 percent principal forgiveness not to exceed \$490,000.

The city of Brookings pledged a project surcharge for repayment of the loan. Current rates in Brookings are \$40.43 for 7,000 gallons usage. Staff analysis indicates that Brookings would need to establish a surcharge of \$0.25 to provide the required 110 percent debt coverage for this loan. The required surcharge for the loan the board approved previously is \$20.10, and when combined with funding provided in April, staff analysis is that total rates of \$61.85 would be necessary.

Staff recommended the loan being contingent upon the borrower adopting a bond resolution and the resolution becoming effective, contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage, and contingent upon receipt of the 2022 Drinking Water State Revolving Fund Lead Service Line Replacement capitalization grant from EPA.

Eric Witt, Brookings Municipal Utilities, discussed the project and thanked the board for consideration of funding. He answered questions from the board.

Motion by Jones, seconded by Lanning, to adopt **Resolution No. 2023-04** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$1,000,000 at 1.875 percent interest for 30 years with up to 49 percent principal forgiveness not to exceed \$490,000 to the **city of Brookings** for a lead water service line replacement 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 establishing a surcharge at a level sufficient to provide the required debt coverage, and contingent upon receipt of the 2022 Drinking Water State Revolving Fund Lead Service Line Replacement capitalization grant from EPA. Motion carried unanimously.

SANITARY/STORM SEWER FUNDING APPLICATION: Mike Perkovich presented the applications and staff recommendations for funding. A map showing the location of the applications was presented.

The city of Vermillion requested funding to construct a new leachate collection pond. The pond will consist of a four-layer liner system, a leak detection system, and drain tile system to remove groundwater beneath the pond.

The estimated total project amount is \$1,304,000, and the amount requested is \$1,043,200.

Vermillion has submitted a Solid Waste Management Program application for the remaining \$260,800. That application will be presented to the board at its March 2023 meeting.

Current tipping fees in Vermillion are \$53.00 per ton for licensed haulers and \$59.50 for unlicensed haulers.

Staff recommended awarding a \$1,043,000 Clean Water SRF loan at 2.00 percent interest for 20 years.

The city pledged system revenues for repayment of the loan. Staff analysis indicates current revenues provide 963 percent debt coverage, which exceeds the required 110 percent coverage requirement.

Staff recommended the award being contingent upon the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower executing a Joint Powers Agreement between the city of Vermillion, the city of Yankton, Clay County, and Yankton County.

Luke Rodig, Burns and McDonnell Engineering, thanked the board for consideration of funding for the project.

Motion by Gnirk, seconded by Newman, to adopt **Resolution No. 2023-05** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$1,043,000 at 2.00 percent interest for 20 years to the **city of Vermillion** for the construction of a new leachate pond treatment facility improvements, 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 and contingent upon the borrower executing a Joint Powers Agreement between the city of Vermillion, the city of Yankton, Clay County, and Yankton County. A roll call vote was taken, and the motion carried unanimously.

The city of Sioux Falls requested funding for the first phase of a project to expand sewer service to Basin 15, which is located northwest of the current city limits. The initial phase of this project will involve nearly three miles of 24- and 48-inch sanitary sewer trunk lines. The trunk line is sized to for approximately 100 years of growth and will open approximately 1,200 acres for development.

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

The estimated total project amount is \$17,951,000, and the amount requested is \$17,951,000. Of that amount \$1,240,000 is for nonpoint source improvements and \$16,711,000 is for the sewer extension project.

Effective January 1, 2023, rates in Sioux Falls are \$41.06 based on 5,000 gallons usage.

Staff recommended awarding a \$17,951,000 Clean Water SRF loan at the nonpoint source incentive rate of 1.25 percent interest for 20 years. This will consist of two bond series – one in the amount of \$16,711,000 for the sewer extension and one in the amount of \$1,240,000 for the nonpoint source component.

The city pledged system revenues for repayment of the loan. Staff analysis indicates that the current revenues will provide 129 percent debt coverage, meeting the 110 percent debt coverage requirement.

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

Staff also recommended the following Special Condition on the award: 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.

Chad Comes, principal engineer for water reclamation with the city of Sioux Falls, thanked the board for consideration of funding for the project.

Motion by Lanning, seconded by Adam, to adopt **Resolution No. 2023-06** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$17,951,000 at the nonpoint source incentive rate of 1.25 percent interest for 20 years to the **city of Sioux Falls** for the Basin 15 sanitary sewer extension 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 that identifies both series and the resolution becoming effective. Motion carried unanimously.

The city of Sturgis requested funding to upsize approximately 8,000 feet of an existing eight-inch trunk line to a 15-inch line and extend it another 3,500 feet. The city will also replace the 8-inch trunk line that conveys flows from the downtown area. This line is undersized and becomes surcharged in times of high flow. The line will be replaced with a 10-inch line.

The estimated total project amount is \$10,339,000, and the amount requested is \$10,339,000.

Effective January 1, 2023, rates are \$43.92 based on 5,000 gallons usage.

Staff recommended awarding a \$10,339,000 Clean Water SRF loan at 2.125 percent interest for 30 years.

The city pledged a project surcharge for repayment of the loan. Staff analysis indicates a surcharge of \$11.10 is needed to provide the required debt coverage. This will bring overall rates to \$55.02 per month.

Staff recommended the award being contingent upon the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage.

Rick Bush, city of Sturgis, thanked the board for consideration of funding for the project.

Motion by Gnirk, seconded by Newman, to adopt **Resolution No. 2023-07** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$10,339,000 at the nonpoint source incentive rate of 2.125 percent interest for 30 years to the **city of Sturgis** for a sanitary sewer improvements 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 and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

Mr. Perkovich provided an update on available funds for the next meeting.

SOLID WASTE MANAGEMENT PROGRAM FUNDING APPLICATIONS: Drew Huisken provided an overview of available funds for the Solid Waste Management Program.

Mr. Huisken presented the Solid Waste Management Program application and the staff recommendation for funding.

The city of Belle Fourche requested funding to purchase a pre-shredding machine to reduce the on-site volume of its municipal solid waste stream at the landfill. Pre-shredding the solid waste will increase operational efficiency and extend the useful life of landfill. The shredder will also be used to grind tree branches, larger wood, and yard waste for composting resale. The shredder will also shred tires for use as fill material or reuse

The estimated total project amount is \$718,385, and the amount requested is \$359,192.

Belle Fourche plans to purchase the equipment in the spring of 2023.

Staff recommended awarding a Solid Waste Management Program grant up to 10.1 percent of the eligible project costs not to exceed \$72,000.

Mr. Huisken stated that for landfill projects, grant awards have historically been awarded at 10 to 25 percent of total project costs. The city of Belle Fourche indicated that they are seeking a Solid Waste Management loan.

Ryan Reeves, Belle Fourche landfill foreman, thanked the board for consideration of funding.

Motion by Gnirk, seconded by Jones, to approve **Resolution No. 2023-08** approving a South Dakota Solid Waste Management Program grant agreement for the **city of Belle Fourche** for up to 10.1 percent of all approved total project costs not to exceed \$72,000 purchase a pre-shredding machine for the landfill. The motion carried unanimously.

Mr. Huisken provided an update of remaining Solid Waste Management Program funds.

RESCIND KEYSTONE CONSOLIDATED WATER FACILITIES CONSTRUCTION PROGRAM LOAN 2022L-200: Abbey Larson reported that on June 23, 2022, the Board of Water and Natural Resources awarded a \$102,200 Consolidated Water Facilities Construction Program loan and a \$92,800 ARPA grant to the city of Keystone for a new well construction project.

On September 27, 2022, DANR received a letter from Keystone requesting to deobligate the loan. In the letter, Keystone stated that the city will utilize ARPA funds and local funds for the project.

Staff recommended the board rescind Resolution No. 2022-357, which awarded the Consolidated Water Facilities Construction Program loan for this project.

Motion by Gnirk, seconded by Newman, to rescind Resolution No. 2022-357, which awarded the \$102,200 Consolidated Water Facilities Construction Program loan to the city of Keystone. Motion carried unanimously.

RESCIND BRYANT'S CLEAN WATER SRF LOAN C461121-01, ARPA GRANT 2022G-ARP-120, DRINKING WATER SRF LOAN C462121-02, AND ARPA GRANT 2022G-ARP-119: Drew Huisken reported that on April 13, 2022, the Board of Water and Natural Resources awarded a \$1,800,050 Clean Water SRF loan and a \$708,450 American Rescue Plan Act grant to the city of Bryant for its wastewater improvements project. The Board also awarded a \$920,000 Drinking Water SRF loan and a \$1,152,100 American Rescue Plan Act grant to the city of Bryant for a drinking water system Improvements project.

On September 22, 2022, DANR received a letter from the city declining all funding that was provided to the city at the April 13, 2022, meeting.

Staff recommended the board rescind Resolution No. 2022-48 and Resolution No. 2022-49 which awarded the Clean Water SRF loan and ARPA funding for the wastewater improvements project; and to rescind Resolution No. 2022-50 and Resolution No 2022-51, which awarded the Drinking Water SRF loan and ARPA funding for the drinking water system improvements project.

In response to a question from Dr. Gnirk, Mr. Huisken stated that the city declined the funding because it believed that the funding package would bring the city's water and wastewater rates to a level that would be too high.

Motion by Lanning, seconded by Jones, to rescind Resolution No. 2022-48 and Resolution No. 2022-49 which awarded the Clean Water SRF loan and ARPA funding to the city of Bryant for the wastewater improvements project; and to rescind Resolution No. 2022-50 and Resolution No. 2022-51, which awarded the Drinking Water SRF loan and ARPA funding to the city of Bryant for the drinking water system improvements project. Motion carried unanimously.

TRIPP COUNTY WATER USER DISTRICT'S REQUEST TO AMEND DRINKING WATER SRF LOAN C462434-05: Stephanie Riggle reported that on April 13, 2022, the Tripp County Water User District was awarded a \$9,250,000 Drinking Water SRF loan and a \$4,050,000 ARPA grant for system-wide improvements to the water infrastructure.

On December 5, 2022, DANR received a letter from Tripp County Water User District requesting that Drinking Water SRF loan C462434-05 be amended to include an additional \$9,500,000. The additional funding is to cover increased construction material and labor costs. This increase will bring the project total to \$22,800,000.

Staff recommended the board rescind Resolution No. 2022-218 which awarded the original Drinking Water SRF loan and adopt a new resolution awarding a \$18,750,000 Drinking Water SRF loan at 0.00 percent interest for 30 years contingent on the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower establishing rates at a level sufficient to provide the required debt coverage.

Lyle Schumack with Bartlett and West thanked the board for consideration of funding.

Motion by Gnirk, seconded by Adam, to rescind Resolution No. 2022-218, and to adopt **Resolution No. 2023-09** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$18,750,000 at 0.00 percent interest for 30 years to the **Tripp County Water User District** for system-wide improvements to the water infrastructure; 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 and contingent upon the borrower establishing rates at a level sufficient to provide the required debt coverage. Motion carried unanimously.

GAYVILLE ADDITIONAL FUNDING REQUEST FOR CLEAN WATER SRF LOAN C461250-02: Drew Huisken reported that on April 13, 2022, the Board of Water and Natural Resources awarded a \$1,364,900 Clean Water SRF loan and a \$2,993,100 American Rescue Plan Act grant to the town of Gayville for a sanitary and storm sewer rehabilitation project. On June 23, 2022, the board amended the loan to provide an additional \$500,000 to reflect adjusted project costs.

On December 6, DANR staff received a letter from the town of Gayville requesting \$400,000 in additional Clean Water SRF loan funding to complete the project. The project was bid in fall

2022, and bids were approximately \$2.7 million over the project estimate. The project scope was revised and re-bid again, and the low bid was \$380,000 over estimated construction costs.

Staff recommended the board rescind Resolution No. 2022-303 and award a \$2,264,900 Clean Water SRF Loan at 2.125 percent interest for 30 years.

Staff analysis indicates that a surcharge of \$52.70 will provide the required debt coverage to repay the loan. The surcharge will result in overall expected rates of \$77.00.

Staff recommended the award being contingent upon the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage.

Jay Jorgensen, Gayville town president, thanked the board for consideration of additional funding for the project.

Motion by Jones, seconded by Lanning, to rescind Resolution No. 2022-203, and to adopt **Resolution No. 2023-10** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$2,264,900 at 2.125 percent interest for 30 years to the **town of Gayville** for a sanitary and storm sewer rehabilitation 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 and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

WESTBERRY TRAILS WATER USERS ASSOCIATION'S REQUEST TO AMEND THE PROJECT SCOPE FOR DRINKING WATER SRF LOAN C462503-01 AND ARPA GRANT 2022G-ARP-510: Suzanne McKinley reported that on September 29, 2022, Westberry Trails Water Users Association was awarded a \$1,177,0000 Drinking Water SRF Loan and a \$288,650 ARPA grant for new water meter installation, construction of a new well, and a chemical feed system. At the time of the application, the water users association decided to focus on the new source and chemical feed system, and the funding award was made accordingly.

On December 13, 2022, DANR received a letter from the Westberry Trails Water Users Association requesting that the scope of the Drinking Water SRF loan and ARPA grant be amended to include approximately 67 water meters, appurtenances, and replacement of some of the existing water main. The letter expressed an intent to shift the focus of the project to the water meters and distribution main.

Although the estimated cost of the project replacement exceeds the awarded funds, the association believes it can reduce costs with a single bid package. If necessary, the scope of this project can be further reduced by prioritizing and phasing construction of water distribution main sections. Westberry Trails is not requesting additional funding at this time.

Staff recommended the board approve amendment of the scope of Drinking Water SRF loan C462503-01 and ARPA grant 2022-ARP-510 to include the proposed work.

Bill Lass, Black Hills Council of Local Governments, thanked the board for consideration of the change in scope request.

Motion by Gnirk, seconded by Lanning, to amend the scope of Drinking Water SRF loan C462503-01 and Westberry Trails Water Users Association, and to adopt Resolution No. 2023-11 approving the first amendment to ARPA grant agreement 2022-ARP-510 to include amending the scope of the project for Westberry Trails Water Users Association as presented. Motion carried unanimously.

FFY 2022 CLEAN WATER SRF ANNUAL REPORT: Annie Thurs presented the FFY 2022 Clean Water SRF annual report.

The South Dakota Conservancy District is required to submit an annual report to the Environmental Protection Agency for the Clean Water State Revolving Fund. The FFY 2022 report follows the same format as previous years and discusses activities from October 1, 2021, to September 30, 2022.

Highlights for FFY 2022 Clean Water SRF funding include the board awarding 87 Clean Water SRF loans and approving one amendment for total funding of over \$490,768,207. Two loans received principal forgiveness in the aggregate amount of \$3,418,653. Loan repayments for the year totaled more than \$34,000,000 with \$26,800,000 in principal, \$6,000,000 in interest, and \$2,100,000 in administrative surcharge.

Staff recommended that 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 Jones, to approve the FFY 2022 Clean Water SRF program annual report and to authorize staff to finalize and distribute the report. Motion carried unanimously.

FFY 2022 DRINKING WATER SRF ANNUAL REPORT: Megan Johnson presented the FFY 2022 Drinking Water SRF annual report.

The South Dakota Conservancy District is required to submit an annual report to the Environmental Protection Agency for the Drinking Water State Revolving Fund. The FFY 2022 report follows the same format as in previous years and discusses activities from October 1, 2021, to September 30, 2022.

In FFY 2022, the board awarded 104 Drinking Water SRF loans and approved one loan amendment for a total amount of \$629,203,413. Nine of those loans received principal forgiveness in the aggregate total of \$14,870,765. Loan repayments totaled just over \$16,200,000 with \$10,800,000 in principal, \$4,300,000 in interest, and \$1,100,000 in administrative surcharge.

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

Motion by Gnirk, seconded by Lanning, to approve the FFY 2022 Drinking Water SRF program annual report and to authorize staff to finalize and distribute the report. Motion carried unanimously.

AMENDMENTS TO THE JOINT POWER’S AGREEMENT CONTRACTS: Stephanie Riggle reported that the Board of Water and Natural Resources has contracted with the planning districts to assist entities with SRF applications and administration since 2005 and with Davis-Bacon monitoring since 2009. Pursuant to the Intended Use Plans and Omnibus bills, the board has allocated funds to each of the planning districts to continue to provide this assistance to recipients of SRF funding.

At its meeting on June 24, 2021, the board entered into new Joint Powers Agreements with each of the planning districts to provide for SRF application and administration and Davis-Bacon monitoring. Due to the influx of applications during the past year, the agreements need to be amended to allow for additional costs.

The First Amendments to the Joint Powers Agreements are as follows:

<u>Planning District</u>	<u>Amending Amount</u>	<u>New Contract Amount</u>
Black Hills Council of Local Governments	\$300,000	\$540,000
Central South Dakota Enhancement District	\$55,000	\$165,000
First District Assn of Local Governments	\$485,000	\$735,000
Northeast Council of Governments	\$140,000	\$440,000
South Eastern Council of Governments	\$255,000	\$980,000
Planning and Development District III	\$355,000	\$605,000

Ms. Riggle noted that the contract expiration date is January 30, 2026, for all six contracts.

Staff recommended the board approve the First Amendments to the Joint Powers Agreements with the planning districts for SRF loan application and administration and Davis-Bacon monitoring.

Motion by Adam, seconded Jones, to adopt **Resolution No. 2023-12** approving the First Amendment to the Joint Powers agreement for financial services with **Black Hills Council of Local Governments** increasing the total contract amount to \$540,000; **Resolution No. 2023-13** approving the First Amendment to the Joint Powers agreement for financial services with **Central South Dakota Enhancement District** increasing the total contract amount to \$165,000; **Resolution No. 2023-14** approving the First Amendment to the Joint Powers agreement for financial services with **First District Association of Local Governments** increasing the total contract amount to \$735,000; **Resolution No. 2023-15** approving the First Amendment to the

Joint Powers agreement for financial services with **Northeast Council of Governments** increasing the total contract amount to \$440,000; **Resolution No. 2023-16** approving the First Amendment to the Joint Powers agreement for financial services with **South Eastern Council of Governments** increasing the total contract amount to \$980,000; and **Resolution No. 2023-17** approving the First Amendment to the Joint Powers agreement for financial services with **Planning and Development District III** increasing the total contract amount to \$605,000. Motion carried unanimously.

UPDATE AUTHORIZED REPRESENTATIVES TO ACT ON BEHALF OF THE BOARD OF WATER AND NATURAL RESOURCES AND THE SOUTH DAKOTA CONSERVANCY DISTRICT: Stephanie Riggle reported that in May 2019 staff worked with the Attorney General's Office to create a document that designated authorized representatives to perform specific duties on behalf of the Board of Water and Natural Resources and the South Dakota Conservancy District.

Staff was authorized to perform duties on behalf of the Board of Water and Natural Resources and the South Dakota Conservancy District through a series of forms from the Trustee, U.S. Bank, and designation letters from the Department Secretary.

Due to staff changes, the document needs to be updated.

Staff recommended the board approve the updated Authorized Representatives document outlining authority for staff to perform specific duties on behalf of the Board of Water and Natural Resources and the South Dakota Conservancy District.

Motion by Lanning, seconded by Gnirk, to authorize the board chairman to execute the Authorized Representatives document outlining authority for staff to perform specific duties on behalf of the Board of Water and Natural Resources and the South Dakota Conservancy District. Motion carried unanimously.

AMENDMENTS TO THE 2022 DRINKING WATER SRF INTENDED USE PLAN AND BIL ADDENDUM: Andy Bruels reported that the FFY 2022 Drinking Water State Revolving Fund Intended Use Plan was approved by the Board of Water and Natural Resources in November 2021 and amended in January, March, June, and September of 2022. Amendments in September 2022 were specifically to address funding provisions of the Bipartisan Infrastructure Law (BIL) and an addendum specific to uses of those funds.

The proposed uses of BIL funds included the use of BIL Lead Service Line Replacement set-aside funds to complete lead service line inventories and for the board to select a contractor to perform the inventories. After submission of grant applications to EPA, it was determined the set-aside funds were not available for use through the BIL Lead Service Line Replacement grant as anticipated.

To provide necessary funding to allow contracting for the lead service line inventories it is necessary to amend the BIL Addendum. The source of funds for lead service line inventories will now be provided through the BIL General Supplemental grant and the Local Assistance set-

aside. The amended Addendum to the 2022 Drinking Water State Revolving Fund Intended Use Plan was included in the board packet.

Mr. Bruels explained the proposed amendments.

Staff recommended the board approve the amended FFY 2022 Drinking Water State Revolving Fund Intended Use Plan and BIL Addendum.

Motion by Gnirk, seconded by Jones, to approve the amended FFY 2022 Drinking Water State Revolving Fund Intended Use Plan and BIL Addendum. Motion carried unanimously.

SELECTION OF CONTRACTOR(S) FOR DRINKING WATER STATE REVOLVING FUND PROGRAM LEAD SERVICE LINE INVENTORY: Andy Bruels stated that the board approved the release of a Request for Proposals (RFP) for Lead Service Line Inventory for the Drinking Water SRF program at its November 2022 meeting.

The Board approved the release of a “Request for Proposal for Lead Service Line Inventory for the Drinking Water State Revolving Fund Program” at its November 2022 meeting.

The RFP was advertised on November 4, 2022. Proposals were due to the department by December 9, 2022. Today the board will select a Lead Service Line Inventory provider, and contract execution is scheduled to take place January 31, 2023. The contract period is from January 31, 2023, through December 31, 2024.

Proposals to provide lead service line inventory services were submitted by Advanced Engineering and Environmental Services, LLC (AE2S), Bartlett & West, HDR Engineering, Inc., and 120 Water Audit, Inc.

Mr. Bruels stated that staff from the DANR Environmental Funding Program and Drinking Water Program reviewed the proposals and evaluated each proposal based on the criteria outlined in the RFP. Staff recommended the board select Bartlett & West as the Lead Service Line Inventory provider and authorize the Secretary of the Department of Agriculture and Natural Resources to execute the contract for the Lead Service Line Inventory for the Drinking Water State Revolving Fund Program contract contingent upon the review and approval of contract terms by the board’s legal counsel.

In response to questions from Dr. Gnirk, Mr. Bruels stated that staff did not interview each firm in person. Bartlett & West is teaming with Black and Veatch Engineering, which has experience in this area, and Brosz Engineering. The first phase of the Lead Service Line Inventory will be a public education and information campaign and putting together the process. Phase two will be the actual completion of the inventories. The firms will provide guidance and expertise, but it is an undertaking the systems themselves will have to put some effort into, and that would be required regardless of whether or not a firm were hired to assist. Phase three will be to develop cost estimating, putting the data into a more cohesive and usable format. Phase four will be finalizing the information.

Dr. Gnirk requested that the engineering firm provide a presentation to the board at the next meeting.

Mark Mayer, DANR Drinking Water Program, stated that Bartlett & West's plan includes a public relations communications firm to help develop tool kits for the water systems to communicate what needs to be done. He said staff believes that with the assistance this contract will provide, water systems will be much more able to meet the EPA requirement for their inventories. There will be a wide range of replacement needs, and Phase three is intended to help the department to get a better handle on what the replacement need is on a statewide basis so staff can plan accordingly and utilize the BIL funding to make good recommendations to the board for future lead pipe removal projects.

Motion by Gnirk, seconded by Jones, to adopt **Resolution No. 2023-18** approving the selection of Bartlett & West to provide services for the completion of Lead Service Line Inventories for the Drinking Water SRF Program, authorize staff to enter into negotiations for a Consultant Contract with Bartlett & West for those services, and authorize the Secretary of the Department of Agriculture and Natural Resources to execute the contract for the Lead Service Line Inventory for the Drinking Water State Revolving Fund Program contract contingent upon the review and approval of contract terms by the board's legal counsel. Motion carried unanimously.

APPROVE AN AMENDED INTERCREDITOR AGREEMENT AMONG RANDALL COMMUNITY WATER DISTRICT, US BANK, AS TRUSTEE, AND THE SOUTH DAKOTA CONSERVANCY DISTRICT: Stephanie Riggle reported that in March 2021 the board approved an amended Intercreditor Agreement between the South Dakota Conservancy District, Randall Community Water District and US Bank, as Trustee for a Series 2021 bond issuance. Randall Community Water District used the proceeds to pay off debt with CoBank and Rural Development. This agreement was executed in April of 2021.

Randall Community Water District is preparing to issue Series 2023 Bonds to finance a \$5,800,000 project for the water treatment plant in Platte. Randall Community Water District is requesting the Conservancy District agree to amend the current Intercreditor Agreement with the updated bond issuance. Staff has reviewed the proposed rate increases and increased debt capacity and determined Randall Community Water District will have the required debt coverage for their SRF loans.

Staff recommended the board authorize the chairman to execute the Intercreditor Agreement.

Motion by Jones, seconded by Lanning, to authorize the chairman to execute the Intercreditor Agreement. Motion carried unanimously.

ADMINISTRATIVE RULES UPDATE: Mike Perkovich reported that staff is proposing to amend the administrative rules governing the Clean Water and Drinking Water SRF programs.

The primary purpose for amending the rules is to update references to census data, median household income, and employment data. These items are used to determine which communities meet affordability criteria for the Clean Water Program and qualify as a disadvantaged

community for the Drinking Water Program. The 2010 census data and older data for median household income is currently being used so the rules need to be updated for the 2020 census data. Other proposed changes include raising the minimum rates needed for subsidy, establishing a special interest rate for borrowers that are going to be subject to the Build America Buy America (BABA) provisions. These two changes would apply to both the Clean Water and Drinking Water SRF programs.

Staff is proposing to expand the eligible systems in the Drinking Water SRF program to allow assistance from the Emerging Contaminant funding or the Lead Service Line Replacement funding. This will allow systems that would not have previously qualified for an SRF loan to receive a loan as a special allotment from the BIL.

Staff proposes revisions to the Drinking Water SRF priority points. The most significant change is adding priority points for projects that address Emerging Contaminants and also increasing priority points for projects that replace lead lines.

Other changes proposed amendments include amending the affordability criteria in the Clean Water SRF program to increase the number of borrowers that would be eligible for principal forgiveness, revising some of the items that need to be submitted for an application to be considered complete, removing a set-aside section from the Drinking Water SRF rules that mimics the wording from the federal act, allowing a zero percent interest rate on the Drinking Water SRF loans to replace lead service lines, and other miscellaneous cleanup amendments.

Mr. Perkovich requested permission to advertise for a public hearing to consider amendments to ARSD 74:05:08, State Water Pollution Control Revolving Fund Program rules, and ARSD 74:05:11, Drinking Water SRF Program.

Motion by Newman, seconded by Gnirk, to authorize the department to advertise for a public hearing to consider amendments to ARSD 74:05:08 and ARSD 74:05:11. Motion carried unanimously.

MARCH 30, 2023, MEETING: Mr. Perkovich discussed possible agenda items for the March meeting.

ADJOURN: Motion by Jones, seconded by Adam, to adjourn the meeting. Motion carried.

Approved March 30, 2023.

(SEAL)

Chairman, Board of Water and Natural Resources

ATTEST:

Secretary, Board of Water and Natural Resources