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Minutes of the
Board of Water and Natural Resources
Remote Meeting via Audio/Visual Conference

January 7, 2021
9:00 a.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, Todd Bernhard, Paul Gnirk, Kathryn Johnson, and Karl Adam.

BOARD MEMBERS ABSENT: Jackie Lanning and Gene Jones, Jr.

APPROVE AGENDA: Motion by Gnirk, seconded by Bernhard, to approve the agenda. A roll call vote was taken, and the motion carried unanimously.

APPROVE MINUTES FROM NOVEMBER 5, 2020, MEETING: Motion by Gnirk, seconded by Bernhard, to approve the minutes from the November 5, 2020, Board of Water and Natural Resources meeting. A roll call vote was taken, and the motion carried unanimously.

PUBLIC COMMENT PERIOD: There were no public comments.

SECTION 319 APPLICATIONS: Kris Dozark, DENR 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. Three applications requesting \$2,359,000 in Section 319 funding were received by DENR and reviewed by the Nonpoint Source Task Force.

The 2021 Clean Water SRF Intended Use Plan authorized the use of \$1,150,000 in administrative surcharge fees for Water Quality grants to supplement the Consolidated and Section 319 programs for wastewater treatment and TMDL implementation projects. DENR anticipates receiving \$2,683,000 in Section 319 funds, which is at the same level of last year's allocation. The DENR and NPS Task Force recommendations summarized in the table that was included in the board packet reflect both the anticipated FFY 2021 Section 319 federal funding allocation and \$200,000 in Clean Water SRF Water Quality grant awards. DENR proposes to use \$770,000 for administration of the NPS Program, which leaves \$2,113,000 for pass through grants.

With final FFY 2021 appropriation levels being delayed until the new budget is in place, DENR recommended that up to \$200,000 in Clean Water SRF 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 three applications and the DENR and NPS Task Force recommended funding levels.

Belle Fourche River Watershed Implementation Project - Segment 9 (Amendment)

Sponsor: Belle Fourche River Watershed Partnership

Total Cost: \$4,237,000

319 Grant Request: \$234,000

The Belle Fourche River Watershed Partnership is the project sponsor for this three-year project. This is the ninth Segment that addresses seven TMDLs. Activities planned for this segment would continue implementing BMPs that reduce *E. coli* and TSS pollutants. These BMPs include: (1) installing irrigation sprinkler systems, (2) implementing grazing management systems, (3) installing riparian/bank stability improvements, (4) implementing improved cropping systems, (5) improving and/or relocating livestock feeding areas. The Segment 9 Amendment proposes additional funds to increase BMP installment in the watershed.

DENR and NPS Task Force Recommendation: \$213,000 in Section 319 funds.

The recommendation is based on Section 319 funds available, leftover project funds, and the sponsor's ability to successfully leverage funds from other partners. The sponsor should submit future applications for Section 319 funds and continue to work with other potential funding partners to help make up the shortfall in Section 319 funds awarded.

Northeast Glacial Lakes Watershed Improvement and Protection Project – Segment 5

Sponsor: Day County Conservation District

Total Cost: \$762,137

319 Grant Request: \$525,000

This is the fifth segment of a multi-year, locally led, effort to implement best management practices recommended by completed watershed assessments and to build on previous efforts and protect water quality improvements realized from previous implementation projects.

The goal of this project is to protect and improve water quality of northeast South Dakota glacial lakes, streams and rivers by implementing best management practices that reduce the amount of fecal coliform bacteria, nutrients, and sediment loads entering the project waterbodies, maintaining their assigned beneficial uses before they become impaired.

DENR and NPS Task Force Recommendation: \$400,000 (\$200,000 in Section 319 funds and a \$200,000 Water Quality Grant).

The recommendation is based on the project history of completed practices and funding spent. The sponsor should submit future applications for Section 319 funds and continue to work with other potential funding partners to help make up the shortfall in Section 319 funds awarded. Staff recommend focusing efforts in the watersheds of the Whetstone and Yellowbank Rivers as there

are many areas that need implementation as well as protecting the glacial lakes from becoming impaired.

South Central Watershed Implementation Project - Segment 2

Sponsor: James River Water Development District

Total Cost: \$19,255,340

319 Grant Request: \$1,600,000

This proposal is the second segment of a locally planned multi-year (10-15 year) effort to implement best management practices (BMPs) in the Lewis and Clark Lake watershed, Lake Andes, Geddes, Academy and Platte Lake watersheds, impaired stretches of the Lower James River tributaries, and impaired reaches in the Vermillion watershed. This effort is aimed at restoring water quality to meet designated beneficial uses and address TMDLs established, and to be established, for waterbodies in these watersheds.

DENR and NPS Task Force Recommendation: \$1,500,000 of Section 319 funds.

The recommendation is based on the history of practices implemented in the project area. The sponsor should submit future applications for Section 319 funds and continue to work with other potential funding partners to help leverage the Section 319 funds awarded.

Jay Gilbertson, Chairman of the NPS Task Force, stated that on December 8, 2020, the NPS Task Force met and received presentations from the three applicants. The NPS Task Force voted to concur with the DENR funding recommendations. Mr. Gilbertson requested board support of the staff and NPS Task Force recommendations for funding.

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

Motion by Gnirk, seconded by Adam, to authorize the department to enter into a grant agreement with the Day County Conservation District in the total amount of \$200,000 from Clean Water SRF administrative surcharge fees pursuant to the 2021 Clean Water SRF Intended Use Plan, contingent upon the 2021 Legislature authorizing the required budget authority for the awards. A roll call vote was taken, and the motion carried unanimously.

Motion by Gnirk, seconded by Johnson, to concur with the funding recommendations of the department and the Nonpoint Source Task Force and authorize the department to forward the FFY 2021 Section 319 funding recommendations to EPA with adjustments to final federal funding levels.

Dr. Gnirk requested that staff provide the board with a report outlining what has been accomplished over the years by the projects that have received Section 319 funding. He requested that the report also include projects that cannot be accomplished because of lack of available funds.

Mr. Dozark stated that staff will provide the board with a report. He noted that each project submits an annual report to the department.

Dr. Gnirk asked why the board has never received the reports.

Barry McLaury, administrator of the Watershed Protection Program, stated that all of the final reports are posted on the department's website at <https://denr.sd.gov/dfta/wp/wqinfo.aspx>.

Dr. Gnirk asked whether Section 319 projects are coordinated with other states that border South Dakota.

Mr. Dozark answered that each state received a Section 319 allocation every year. He said there is some coordination between Wyoming and South Dakota in the Belle Fourche watershed project. He stated that Nebraska and Minnesota are in different EPA regions.

Mr. Gilbertson stated that on the eastern side of the state the Big Sioux basin is not entirely within South Dakota. Parts of the lower basin are in southwest Minnesota and western Iowa. The Section 319 funding South Dakota receives is designed for South Dakota. Minnesota and Iowa have their own programs and priorities. For both the Big Sioux watershed project and portions of the Northeast Glacial Lakes project, South Dakota has maintained fairly strong connections across the state line. Because those states are in a different EPA region, it is not always possible to coordinate quickly, but when there is an activity involving those projects, South Dakota tries to make sure the other states are aware of it.

A roll call vote was taken on the motion to concur with the funding recommendations and to authorize the department to forward the FFY 2021 Section 319 funding recommendations to EPA, and the motion carried unanimously.

DRINKING WATER FACILITIES FUNDING APPLICATIONS: Andy Bruels reviewed available funds for this funding round. He then presented the Drinking Water Facilities applications and staff recommendations. A map showing the location of the projects was included in the board packet.

Edgemont requested funding to install an iron-reducing pretreatment system at its water treatment facility. Edgemont has recently completed a new water treatment plant, new wells, and a new water storage tank. After completion of the facility, high iron levels were found in the incoming raw water from the wells. The high iron content is causing a buildup of deposits in the treatment facility's radionuclide removal system causing it to not properly function. It also contributes to undesirable taste and odor in the municipal water supply.

The project is expected to be bid in Spring 2021 with construction completion in the fall of 2021.

The total estimated project amount is \$637,000, and the amount requested is \$637,000.

Rates in Edgemont are \$62.80 per 5,000 gallons.

Since June 2015, Edgemont has received a total of \$4,590,000 to address the deficiencies in its drinking water system. Of this amount, 75.2 percent or \$3,452,890 has been awarded as grants or principal forgiveness. The remaining \$1,137,110 in funds are Drinking Water SRF loans at 0 percent interest for 30 years, based on Edgemont's median household income being less than 60 percent of the statewide median household income.

Staff recommended awarding a \$637,000 Drinking Water SRF loan at 0.0 percent interest for 20 years with 25.2 percent as principal forgiveness, not to exceed \$160,000. The shorter loan term is due to the 20-year useful life of the iron removal equipment being funded.

Edgemont has pledged a project surcharge for repayment of the loan. The surcharge required for repayment of the loan is \$5.50. Current water rates in Edgemont are \$62.80 for 5,000 gallons usage. This includes \$10 that is put into a repair and replacement fund and \$14.60 that goes into an operation and maintenance (O&M) fund. The surcharges on the previous two SRF loans amount to \$8.75 per month due to the large amount of subsidy and zero percent loans.

Previously, staff has recommended that Edgemont use a portion of the replacement and O&M funds to establish the surcharge to allow overall rates to remain lower. The city has chosen to establish the surcharges without decreasing these funds. Mr. Bruels stated that staff would once again recommend that Edgemont restructure its rates to implement this new surcharge. Staff analysis indicates Edgemont is bringing in sufficient revenue to establish the \$5.50 surcharge without raising its rates further.

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.

Dr. Gnirk asked what system Edgemont is using to remove the radionuclides. Mr. Bruels answered that the city is using the WRT system, which is a proprietary system that absorbs the radionuclides. It is not a water softener.

Abbey Larson, AE2S answered questions from Dr. Gnirk about the system.

Motion by Johnson, seconded by Bernhard, to adopt **Resolution No. 2021-01** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$637,000 at 0 percent interest for 20 years with 25.2 percent principal forgiveness not to exceed \$160,000 to the **city of Edgemont** for an iron-reducing water pretreatment system; 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. A roll call vote was taken, and the motion carried unanimously.

Minnehaha Community Water Corporation (MCWC) requested funding for a project to improve the water storage capacity in two separate areas of the water distribution system. The

project consists of approximately 8.2 miles of 12-inch water transmission main, a 250,000-gallon water tower located near Humboldt, a 750,000-gallon water tower located near Brandon, and a control valve station.

MCWC anticipates bidding the project in April 2021 with project completion in November 2022.

The estimated total project amount is \$7,510,000, and the amount requested \$7,510,000.

MCWC's rates are \$56.24 per 7,000 gallons.

Staff recommended awarding a \$7,510,000 Drinking Water SRF loan at 2.125 percent interest for 30 years.

MCWC has pledged system revenue for repayment of the loan. Staff analysis indicates revenues at this rate will provide 140 percent debt coverage.

Staff recommended the award 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, and contingent upon an Intercreditor Agreement being approved and executed by Rural Utilities Service, Minnehaha Community Water Corporation and the Conservancy District.

Motion by Johnson, seconded by Bernhard, to adopt **Resolution No. 2021-02** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$7,510,000 at 2.125 percent interest for 30 years to the **Minnehaha Community Water Corporation** for a water storage and capacity 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 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, and contingent upon an Intercreditor Agreement being approved and executed by Rural Utilities Service, Minnehaha Community Water Corporation, and the District. A roll call vote was taken, and the motion carried unanimously.

Mr. Bruels provided an overview of available funds for the March 2021 funding round.

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 applications and the staff recommendations for funding. A map showing the location of the projects was included in the board packet.

Brown County requested funding to construction Landfill Cell #4 at the regional solid waste facility. The proposed project will allow Brown County to absorb the population growth in its

service area and provide for continued operation of the facility. Without the construction of Cell #4, it is estimated that Brown County landfill could reach maximum capacity in 2022.

The estimated total project cost is \$2,603,750, and the amount requested is \$1,301,875.

Brown County opened bids for the project on December 22, 2020, and is anticipating construction will be complete by the end of 2021.

Staff recommended awarding a Solid Waste Management Program grant of up to 10.0 percent of the total project cost, not to exceed \$260,000.

For landfill projects, grant awards have historically been between 15 to 20 percent of the total project costs. Mr. Huisken stated that Brown County has repeatedly transferred large quantities of money from the landfill to other county departments, demonstrating that Brown County requires less financial assistance than other applicants. Brown County is not interested in a Solid Waste Management Program loan and will fund the remainder of the project with local cash.

Dr. Gnirk asked what the useful life of the new cell will be. A representative of Brown County stated that the landfill contains a total of 12 cells, and Cell #4 will add 7.5 years of life to the landfill.

Motion by Bernhard, seconded by Gnirk, to adopt **Resolution No. 2021-03** approving the South Dakota Solid Waste Management Program grant agreement to **Brown County** for up to 10 percent of approved total project costs not to exceed \$260,000 for the construction of Landfill Cell #4. A roll call vote was taken, and the motion carried unanimously.

Huron requested funding to purchase a new walking floor trailer for recyclables. The current trailer is in poor condition and no longer usable. The trailer will transport recyclables collected in Huron to the recyclable processor in Sioux Falls.

The estimated total project cost is \$99,800, and the amount requested is \$49,900.

The city plans to purchase the trailer in April 2021, if assistance is awarded.

Staff recommended awarding a Solid Waste Management Program grant of up to 50.0 percent of the total project cost, not to exceed \$49,900.

For recycling projects, grant awards have historically been between 35 and 50 percent of total project costs. Mr. Huisken stated that the city is not interested in a Solid Waste Management Program loan and will fund the remainder of the project with local cash.

Motion by Johnson, seconded by Adam, to adopt **Resolution No. 2021-04** approving the South Dakota Solid Waste Management Program grant agreement to the **city of Huron** for up to 50 percent of approved total project costs not to exceed \$49,900 for the purchase of a walking floor recycling trailer. A roll call vote was taken, and the motion carried unanimously.

Mitchell requested funding to construct Landfill Cell #4 at the regional solid waste facility. The construction of Cell #4 will be done in conjunction with the closure of Cell #2 to maximize efficiency and capacity usage. It is estimated that without the construction of Cell #4, the Mitchell landfill will reach maximum capacity by Spring 2022.

The estimated total project cost is \$1,621,905, and the amount requested is \$800,000.

The city plans to begin construction in April 2021 with completion in December 2021.

Staff recommended awarding a Solid Waste Management Program grant of up to 20.0 percent of the total project cost, not to exceed \$324,000.

For landfill projects, grant awards have historically been between 15 and 20 percent of total project costs. The city is not interested in a Solid Waste Management Program loan and will fund the remainder of the project with local cash.

Joe Schroeder, city engineer, and Leif Redinger, Helms & Associates, were available for questions.

Dr. Gnirk asked what the useful life of the new cell will be. Mr. Redinger stated that the cell will add approximately nine years to the landfill.

Motion by Gnirk, seconded by Adam, to adopt **Resolution No. 2021-05** approving the South Dakota Solid Waste Management Program grant agreement to the **city of Mitchell** for up to 20 percent of approved total project costs not to exceed \$324,000 for the construction of Landfill Cell #4 and the closure of Cell #2. A roll call vote was taken, and the motion carried unanimously.

Mr. Huisken provided an overview of remaining funds in the Solid Waste Management Program for the next funding round.

FFY 2020 CLEAN WATER SRF ANNUAL REPORT: Stephanie Riggle presented the FFY 2020 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 2020 report discusses activities from October 1, 2019 to September 30, 2020. The report is in the same format as in previous years.

Some of the highlights for FFY 2020 include the board awarding 31 Clean Water SRF loans and approving one amendment for total funding of over \$105.6 million. Of these 31 loans, four received principal forgiveness in the aggregate amount of \$3 million dollars. Loan repayments for the year totaled more than \$42.6 million, with \$35 million in principal, \$5.8 million in interest, and \$1.7 million 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 Bernhard, to approve the FFY 2020 Clean Water SRF program annual report and to authorize staff to finalize and distribute the report. A roll call vote was taken, and the motion carried unanimously.

FFY 2020 DRINKING WATER SRF ANNUAL REPORT: Ms. Riggle presented the FFY 2020 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 2020 report discusses activities from October 1, 2019 to September 30, 2020. The report is in the same format as in previous years.

In FFY 2020, the board awarded 22 Drinking Water SRF loans and one loan amendment for a total amount of nearly \$39 million. Of those loans, nine received principal forgiveness in the aggregate total of \$7.4 million. Loan repayments totaled more than \$28.7 million with \$23.6 million in principal, \$4.1 million in interest, and nearly \$1 million in administrative surcharge.

Staff recommend 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 Johnson, to approve the FFY 2020 Drinking Water SRF program annual report and to authorize staff to finalize and distribute the report. A roll call vote was taken, and the motion carried unanimously.

MIDWEST ASSISTANCE PROGRAM CONTRACT RENEWAL: Jon Peschong reported that on January 4, 2018, the Board of Water and Natural Resources approved a \$300,000 consulting contract with Midwest Assistance Program to provide water and wastewater capacity development services throughout South Dakota. The contract is based on an hourly rate of \$75.00 per hour for calendar year 2018, \$76.50 per hour for 2019, and \$78.00 per hour in 2020. The contract was executed on January 12, 2018, and goes through January 31, 2021. It has a provision to allow for an extension for up to three additional years with a mutually agreed upon annual inflation adjustment.

On December 2, 2020, the department received a request from Midwest Assistance Program to extend the contract for three additional years and an hourly rate of \$78.00 per hour in 2021 and 2022, and \$80.00 through the end of the contract. The letter was included in the board packet.

With assistance from Assistant Attorney General David McVey, the first amendment to the consultant contract was prepared. The consultant contract period is from February 1, 2021 through January 31, 2024.

Staff recommended that the board approve a resolution authorizing the execution of the first amendment to the consultant contract with Midwest Assistance Program.

Motion by Gnirk, seconded by Adam, to adopt **Resolution No. 2021-06** approving the First Amendment to Consultant Contract with **Midwest Assistance Program** in an amount not to exceed \$300,000. A roll call vote was taken, and the motion carried unanimously.

RESCIND EAGLE BUTTE CLEAN WATER SRF LOAN C461148-03: Mr. Bruels reported that on June 22, 2017, the board awarded a Clean Water SRF loan for \$670,000 to the city of Eagle Butte to replace an existing gravity sewer line with a new lift station and force main.

The area where the work was to be performed has disputed ownership between the city of Eagle Butte and the Cheyenne River Sioux Tribe, which has not been able to be resolved. As a result, the proposed work has not been completed, and the city and tribe remain in discussions regarding ownership and necessary work to be performed. No resolution appears imminent, and the city believes the funds are no longer needed at this time.

On November 24, 2020 a letter was submitted to the board from the city requesting for the loan funds to be rescinded.

Staff recommended that the board rescind Resolution No. 2017-70, which approved the Clean Water SRF loan to the city of Eagle Butte.

Motion by Johnson, seconded by Gnirk, to rescind Resolution No. 2017-70.

Dr. Gnirk stated that the people of Eagle Butte need this project. He asked if there is any way to set up a group to negotiate these issues.

Mr. Bruels stated that the department tried to work with the city on alternative solutions, and the city has tried working with the tribal government, and the issues have not been able to be resolved.

A roll call vote on the motion was taken, and the motion carried unanimously.

PRESHO CLEAN WATER SRF C461236-01 REQUEST FOR SCOPE CHANGE: Tyler Zettl reported that on June 28, 2018, the city of Presho was awarded a \$4,048,000 Clean Water SRF Loan with 34.6 percent principal forgiveness not to exceed \$1,400,000 to replace sanitary sewer lines throughout the city.

The department received a letter dated December 7, 2020, from the city requesting that the scope of the funding be amended to include the replacement of the sanitary sewer outfall line. The outfall line has been cleaned and televised and was found to be in poor condition.

Staff recommended the approve amending the scope of Clean Water SRF Loan C461236-01 to include the proposed sanitary sewer outfall replacement.

Dr. Gnirk asked if this a request for additional funding.

Jacob Stein, SPN & Associates, answered that the city is not requesting additional funding. The request is to change the scope of the project by adding the sanitary sewer outfall line to the project.

Motion by Bernhard, seconded by Gnirk, to adopt **Resolution No. 2021-07** approving the request by the **city of Presho** to amend the scope of Clean Water SRF Loan C461236-01 to include the

replacement of the sanitary sewer outfall line. A roll call vote was taken, and the motion carried unanimously.

ELKTON CLEAN WATER SRF LOAN 461229-02, WATER QUALITY GRANT 2020G-WQ-101, AND CONSOLIDATED GRANT 2020G-101 REQUEST FOR SCOPE CHANGES: Mr. Zettl reported that on March 29, 2019, the city of Elkton was awarded a \$1,206,000 Clean Water SRF Loan, a \$2,000,000 Consolidated grant and a \$794,000 Water Quality Grant to clean and televise the system and replace approximately 22,000 feet of storm and sewer pipe along with 29 manholes.

The department received a letter dated December 3, 2020, from the city requesting that the scope of the funding be amended to include the replacement of the west lift station. The west lift station has experienced significant deterioration within the past year and need to be replaced.

Staff recommended that the board approve the request to amend the scope of Clean Water SRF Loan C461229-02, Consolidated Grant 2020G-101, and Clean Water SRF Water Quality Grant 2020G-WQ-101 to include the proposed lift station replacement.

Motion by Adam, seconded by Johnson, to adopt **Resolution No. 2021-08** approving the request by the **city of Elkton** to amend the scope of Clean Water SRF Loan C461229-02 to include the lift station replacement, to adopt **Resolution No. 2021-09** approving the request by the **city of Elkton** to amend the scope of Consolidated Water Facilities Construction Program Grant 2020G-101 to include the lift station replacement, and to adopt **Resolution No. 2021-10** approving the request by the **city of Elkton** to amend the scope of Clean Water SRF Water Quality Grant 2020G-WQ-101 to include the lift station replacement. A roll call vote was taken, and the motion carried unanimously.

TERRY VALLEY-TROJAN COMMUNITY WATER CORPORATION DRINKING WATER SRF LOAN C462455-01 REQUEST FOR SCOPE CHANGE: Eric Meintsma reported that on January 5, 2017, the Terry Valley Trojan Water Project District was awarded a \$812,000 Drinking Water SRF Loan with 9.9 percent principal forgiveness not to exceed \$80,000 to replace water lines and provide other miscellaneous distribution system improvements throughout the district.

The department received a letter dated November 6, 2020, from the Terry Valley Trojan Water Project District requesting that the scope of the funding be amended to include the installation of a remote read water meter reading system. This includes replacement of existing water meters with remote read meters and the computer hardware and software needed for system operation.

Staff recommended that the board approve the request to amend the scope of Drinking Water SRF Loan C462455-01 to include the proposed remote read meter system.

Motion by Gnirk, seconded by Bernhard, to adopt **Resolution No. 2021-11** approving the request by the **Terry Valley Trojan Water Project District** to amend the scope of Drinking Water SRF Loan C462455-01 to include the installation of a remote read water meter reading system.

Dr. Gnirk asked how many users there are in Terry Valley Trojan Water Project District and what is the cost of the remote read meters.

Mr. Meintsma estimated that there are 100 users.

Abbey Larson, AE2S, stated that the total cost of the project is estimated at \$244,000.

A roll call vote on the motion was taken, and the motion carried unanimously.

LOAN AGREEMENT AMENDMENT PROHIBITING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OF EQUIPMENT: Mr. Peschong reported that staff received a memo from EPA that was signed December 12, 2020, stating that effective August 13, 2020, State Revolving Fund recipients must comply with regulations 2 CFR 200.216, Prohibition on certain telecommunication and video surveillance services or equipment, implementing section 889 of Public Law 115-232. The regulation prohibits the use of Federal funds to procure or obtain equipment, systems, or services that use certain telecommunications equipment or services.

EPA concluded that SRF programs must ensure that equivalency assistance agreements or loan agreements include specific language regarding the telecommunications prohibition.

To comply with this directive, staff has identified 4 Clean Water loans and 17 Drinking Water loans that need loan amendments to include the telecommunications prohibition language.

The following language will be inserted in Section 1.3 in the standard SRF loan agreements going forward.

Section 1.3 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

As required by 2 CFR 200.216, EPA recipients and sub-recipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, sub-recipients, and borrowers also may not use EPA funds to purchase:

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances: a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:

- (1) Procure or obtain, extend or renew a contract to procure or obtain;
- (2) Enter into a contract (or extend or renew a contract) to procure; or
- (3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.

Mr. Perkovich noted that this same language is being put into the contract documents when a project goes out to bid.

This agenda item was informational only and no board action was required, but staff wanted to go on record about the change and notify the board about the loan amendments.

NEXT MEETING: The next meeting is March 25, 2021. Mr. Perkovich discussed possible agenda items for the meeting.

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

Approved March 25, 2021.

(SEAL)

Chairman, Board of Water and Natural Resources

ATTEST:

Secretary, Board of Water and Natural Resources