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

September 24, 2020  
1:00 p.m. Central Time

CALL MEETING TO ORDER: The meeting was called to order by Chairman Jerry Soholt. 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, Todd Bernhard, Paul Gnirk, and Kathryn Johnson.

BOARD MEMBERS ABSENT: Jackie Lanning and Karl Adam.

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

APPROVE MINUTES OF JUNE 5, 2020 AND JUNE 25, 2020, MEETINGS: Motion by Gnirk, seconded by Johnson, to approve the minutes of the June 5, 2020 and June 25, 2020, Board of Water and Natural Resources meetings. A roll call vote was taken, and the motion carried unanimously.

PUBLIC COMMENT PERIOD: There were no public comments.

DEPARTMENT UPDATE: Mike Perkovich reported that the Department of Environment and Natural Resources and the Department of Agriculture are combining into one department. He introduced Brian Walsh, DENR Public Affairs Director, who updated the board on the department merger.

Mr. Walsh stated that the two departments will merge to form the Department of Agriculture and Natural Resources. The two departments have been working to find synergies and build the organizational structure of the new agency.

Early in her term, Governor Noem moved the Agriculture Business Development group to the Governor's Office of Economic Development. With that move, both the Department of Agriculture and the Department of Environment and Natural Resources are largely regulatory agencies. With agriculture, conservation, and natural resources all working hand in hand, it made sense to combine the two departments into a single department.

Governor Noem announced the merger on August 27, 2020. On September 8, 2020, Secretary Roberts was appointed as interim secretary of the Department of Agriculture. Between now and early in the 2021 legislative session, the departments will be working on the new organizational

structure and budgets so the legislature can be presented with a unified budget for FY 2022. Within the first five days of the 2021 legislative session, Governor Noem will issue an executive order that merges the two departments and creates the Department of Agriculture and Natural Resources. Ninety days after the executive order is issued it becomes effective.

Mr. Walsh noted that all of the Department of Agriculture and Department of Environment and Natural Resources' programs and regulatory responsibilities will remain in place moving forward, and the combined departments will continue to do their jobs as they have been.

Mr. Walsh answered questions from the board.

PUBLIC HEARING TO ADOPT BROWNFIELDS REVITALIZATION AND ECONOMIC DEVELOPMENT PROGRAM WORK PLAN: Chairman Soholt opened the hearing at 1:15p.m. Central Time.

The purpose of the hearing was to receive public input and adopt the FFY 2021 Brownfields Revitalization and Economic Development Program work plan. The primary purpose of the work plan is to identify Brownfields projects to be funded through the Brownfields Revolving Loan Subfund and Brownfields Assessment and Cleanup Subfund and amounts available to fund such projects.

Nayyer Syed, DENR Ground Water Quality Program, presented and discussed the proposed FFY 2021 Brownfields Revitalization and Economic Development work plan.

Each year the department receives funds from EPA for the development and enhancement of the state Brownfields Program. Limited funding is available for the Assessment and Cleanup Subfund. The funds will be used by the department to hire contractors to perform assessment and cleanup work on eligible Brownfields sites. The work plan includes a list of Brownfields assessment and cleanup projects to be funded.

Notice of the public hearing was published in the Aberdeen American News, Rapid City Journal, and Pierre Capital Journal on August 20, 2020. The notice is also available on the Department of Environment and Natural Resources' website.

Mr. Syed noted that no public comments were received after publication of the notice. He requested approval of the workplan.

Chairman Soholt requested public testimony regarding the proposed work plan. There was no public testimony.

Mr. Syed answered questions from the board regarding assessment and cleanup funds.

Motion by Jones, seconded by Gnirk, to adopt the FFY 2021 Brownfields Revitalization and Economic Development Program work plan. A roll call vote was taken, and the motion carried unanimously.

AMENDMENTS TO STATE WATER PLAN, 2020 CLEAN WATER SRF INTENDED USE PLAN, AND 2020 DRINKING WATER SRF INTENDED USE PLAN

**Amendments to State Water Plan**

Andy Bruels reported that Water projects which will require state funding or need state support for categorical grant or loan funding need to be on the State Water Plan. The Board of Water and Natural Resources annually approves projects for placement onto State Water Facilities Plan and provides for amendments of projects onto the plan on a quarterly basis. Placement of a project on the State Water Plan by the board provides no guarantee of funding. The projects placed on the plan at this meeting will remain on the facilities plan through December 2021.

Projects seeking a Clean Water or Drinking Water State Revolving Fund loan must be included on the project priority list of the Intended Use Plan (IUP). The State Water Plan applications are used to determine which projects should be amended onto the State Revolving Fund Project Priority Lists.

The department received four State Water Plan applications received by the August 1, 2020, deadline. Mr. Bruels provided a map showing the location of the applications. He identified those projects to be placed on the Clean Water SRF and Drinking Water SRF project priority lists as he presented the State Water Plan applications.

**Minnehaha Community Water Corp** requested placement onto the facilities plan to increase capacity for existing users in two areas of the distribution system. The project includes construction of two elevated water storage tanks, a new control valve station, and installation of approximately eight miles of 12-inch transmission lines. The estimated total project cost is \$7,505,900. The project will be placed on the Drinking Water SRF IUP with 32 priority points and an estimated loan amount of \$7,505,900 at 2.125 percent interest for 30 years.

**Sioux Falls Pump Station 240** requested placement onto the facilities plan to increase the capacity of the existing Pump Station 240 from 3.5 million gallons per day to 7 million gallons per day and to install a parallel 30-inch force main from the pump station to the Water Reclamation Facility. The total funding also includes \$3,538,000 of nonpoint source improvements to the Big Sioux watershed project. The estimated total project cost is \$39,038,000. The project will be placed on the Clean Water SRF IUP with 12 priority points and an estimated loan amount of \$39,038,000 at 1.25 percent interest for 20 years.

**Sioux Falls Basin 15** requested amendment onto the facilities plan to install approximately two miles of sanitary sewer trunk line in the Basin 15 collection area. This is located in the northwest part of Sioux Falls near 12<sup>th</sup> St and Ellis Rd and will open up 1,200 acres for future development. The total funding also includes \$918,145 of nonpoint source improvements to the Big Sioux watershed project. The estimated total project cost is \$10,128,145. The project will be placed on the Clean Water SRF IUP with 12 priority points and an estimated loan amount of \$10,128,145 at 1.25 percent interest for 20 years.

**Yankton** requested amendment onto the facilities plan for upgrades at the wastewater treatment facility to include construction of a new equalization basin, replacing influent piping, installing a splitter at the plant headworks, making upgrades to the electrical system, and installing a back-up

generator. The estimated total project cost is \$9,638,400. The project will be placed on the Clean Water SRF IUP with 18 priority points and an estimated loan amount of \$3,180,000 at 2.125 percent interest for 30 years. Yankton received nearly \$6 million in funding from the Economic Development Administration for the remaining funds in the project.

Staff recommended amending all four projects onto the facilities plan.

Motion by Bernhard, seconded by Johnson, to place the four projects on the State Water Facilities Plan. A roll call vote was taken, and the motion carried unanimously.

### **Amendments to the Clean Water SRF IUP**

Staff recommended the addition of the three projects discussed above to the Project Priority List of the Clean Water SRF IUP.

Motion by Gnirk, seconded by Bernhard, to add the Yankton, Sioux Falls Pump Station 240, and Sioux Falls Basin 15 projects to the Clean Water SRF IUP. A roll call vote was taken, and the motion carried unanimously.

### **Amendment to the Drinking Water SRF IUP**

Staff recommended the addition of the project discussed above to the Project Priority list of the Drinking Water SRF IUP.

Motion by Gnirk, seconded by Johnson, add the Minnehaha Community Water Corporation project to the Project Priority List of the Drinking Water SRF IUP. A roll call vote was taken, and the motion carried unanimously.

AVAILABLE FUNDING: Mike Perkovich reviewed available funds for the Consolidated Water Facilities Construction Program, Drinking Water Facility Grants Build America Bonds (BABs) Federal Subsidy Payments, Drinking Water SRF Loans, Drinking Water SRF Principal Forgiveness, Clean Water SRF Water Quality Grants, Wastewater Facility Grants Build America Bonds (BABs) Federal Subsidy Payments, Clean Water SRF loans, and Clean Water SRF Principal Forgiveness.

SANITARY/STORM SEWER FACILITIES FUNDING APPLICATIONS: Mr. Perkovich presented the applications and staff recommendations for funding.

**Sioux Falls** requested funding to modernize and expand the Water Reclamation Facility. This funding application is the second of four anticipated loans to fund the project. A \$41,625,000 loan was awarded in September 2019.

The project will address the need to improve reliability due to age and condition to avert a risk of failure, increase hydraulic and organic capacity to accommodate growth, meet potential future regulations, and improve treatment operations.

Improvements will be made to the influent flow equalization, headworks facilities, primary clarifiers, aeration basins, final clarifiers, return activated sludge and waste activated sludge pumps, tertiary filters, disinfection units, effluent flow meter, and solids handling capabilities.

Design of the project is currently underway, and it is anticipated that the project will be bid in 2021 with project completion in the of fall of 2024.

Total estimated total project amount is \$159,000,000, and the amount requested is \$18,500,000.

Rates in Sioux Falls are \$36.49 per month based on 5,000 gallons usage.

Staff recommended awarding a \$18,500,000 Clean Water SRF loan at 2.00 percent interest for 20 years.

Sioux Falls has pledged system revenues for repayment of the loan. Staff analysis indicates Sioux Falls would have 150 percent coverage based on estimated wastewater revenue and expenses projected in 2023. The city has enacted an ordinance that will increase rates each year through the year 2023 when rates will be \$44.82 per for 5,000 gallons.

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

Ryan Johnson, principal engineer for the city of Sioux Falls, and Mark Perry discussed the project and answered questions from the board.

Motion by Johnson, seconded by Bernhard, to adopt **Resolution No. 2020-93** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$18,500,000 at 2.00 percent interest for 20 years to the **city of Sioux Falls** for a Water Reclamation Facility expansion 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. A roll call vote was taken, and the motion carried with unanimously.

**Mitchell** requested funding to construct a new sewage lift station in northern Mitchell to replace the nearby Dailey Drive lift station. The project includes extension of a six-inch force main to the new lift station site. The existing Dailey Drive lift station is beyond its useful life and in need of rehabilitation. This lift station is located on residential property and needs to be moved to a city-owned location. The application also includes a nonpoint source component to install nonpoint source best management practices in the Firesteel Creek Watershed.

The estimated total project amount is \$1,686,202, and the amount requested is \$1,663,000, which consists of \$1,500,000 for the lift station project and \$163,000 for the nonpoint source component.

Rates in Mitchell are \$30.52 based on 5,000 gallons usage.

Staff recommended awarding a \$1,663,000 Clean Water SRF loan at the nonpoint source incentive rate of 1.375 percent interest for 30 years.

Mitchell has pledged a project surcharge for repayment of the loan. Staff analysis indicates Mitchell would have to establish a surcharge of approximately \$1.11. Mitchell's current rate of \$30.52 does not include the required \$4.20 surcharge for a \$4,618,000 loan that the board awarded in April 2020, but has not yet closed. Mitchell's rate will be approximately \$35.83 when all required surcharges are established.

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

Staff also recommended a special condition that the borrower may not draw funds from the proceeds of the Series NPS Borrower Bond until EPA approves the revised budget for the Project Implementation Plan.

Joe Schroeder, city engineer, discussed the project and answered questions from the board.

Motion by Jones, seconded by Bernhard, to adopt **Resolution No. 2020-94** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$1,663,000 at 1.375 percent interest for 30 years to the **city of Mitchell** for the Dailey Drive sewage lift station 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 two bond resolutions and the resolutions becoming effective and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage., and with the special condition that the borrower may not draw funds from the proceeds of the Series NPS Borrower Bond until EPA approves the revised budget for the Project Implementation Plan. A roll call vote was taken, and the motion carried unanimously.

DRINKING WATER FACILITIES FUNDING APPLICATION: Mr. Bruels presented the Drinking Water Facilities application and the staff recommendation for funding.

**Tea** requested funding to construct a 750,000-gallon water tower to provide adequate storage and uniform pressure throughout the city.

The city bid the project in July 2020, and the project is currently under construction. A project completion date of November 2021 is anticipated.

The estimated total project amount is \$2,700,000, and the amount requested is \$2,700,000.

Rates is Tea are \$32.00 for 5,000 gallons.

Staff recommended awarding a \$2,700,000 Drinking Water SRF loan at 2.125 percent interest for 30 years.

Tea pledged system revenue for repayment of the loan. Staff analysis indicates current rates will provide 111 percent coverage upon project completion.

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

Gabe Labor, HDR Engineering, discussed the project.

Motion by Gnirk, seconded by Johnson, to adopt **Resolution No. 2020-95** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$2,700,000 at 2.125 percent interest for 30 years to the **city of Tea** for a water tower 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. A roll call vote was taken, and the motion carried with Bernhard, Gnirk, Johnson, and Soholt voting aye. Jones abstained.

Mr. Bruels provided a recap of available funding.

SOLID WASTE FUNDING APPLICATIONS: Drew Huisken discussed available funding. He presented the funding applications and staff recommendations. A map showing the location of the projects was included in the board packet.

**Gregory**, in partnership with the Gregory Recycling Team, requested funding to purchase a recycling trailer for use in the community to increase local recycling efforts. The proposed trailer will include an eight-foot by twenty-foot box with a 25 cubic yard capacity, three internal compartments to separate different types of recycling, and a cardboard container. The container will be in an accessible location in the city and made available to all residents for their recycling needs.

The Gregory Recycling Team has volunteered to monitor the trailer and transport the container to an appropriate handler when it is full.

The estimated total project amount is \$14,425, and the amount requested is \$11,500.

The city plans to purchase the recycling trailer in October 2020.

Staff recommended awarding a Solid Waste Management Program grant up to 50.0 percent of the total project cost not to exceed \$7,200.

Mr. Huisken noted that for recycling projects, grant awards have historically been between 35 and 50 percent of total project costs. The city of Gregory is not interested in a Solid Waste Management loan and has committed to funding the remaining project costs with local cash.

Mr. Huisken answered questions from the board.

Motion by Gnirk, seconded by Bernhard, to adopt **Resolution No. 2020-96** approving the South Dakota Solid Waste Management Program grant agreement to the **city of Gregory** for up to 50 percent of approved total project costs not to exceed \$7,200 for the purchase of a recycling trailer. A roll call vote was taken, and the motion carried unanimously.

**South Eastern Council of Governments (SECOG)** requested funding to pass through to the South Eastern Development Foundation to recapitalize its revolving loan fund program. This program assists with economic development and makes loans to for-profit entities that request assistance for eligible projects that advance South Dakota's Solid Waste Hierarchy.

Since 2010, SECOG has used previous DENR grants and other funding to leverage approximately \$21.3M in total funding and the creation and retention of 61 jobs in the solid waste industry. The funding is available to eligible entities in SECOG's region which includes Clay, Lincoln, McCook, Minnehaha, Turner, and Union Counties.

Since 2010, the board has awarded \$1,845,000.00 to these projects.

The estimated total project amount is \$625,000, and the amount requested is \$500,000.

Staff recommended awarding a Solid Waste Management Program grant up to 80.0 percent of the total project cost not to exceed \$500,000.

Historically, the Board of Water and Natural Resources has awarded 80 percent grants to the South Eastern Council of Governments for this type of pass-through project.

Lynne Keller Forbes, SECOG, answered questions from the board.

Motion by Jones, seconded by Gnirk, to adopt **Resolution No. 2020-97** approving the South Dakota Solid Waste Management Program grant agreement to **South Eastern Council of Governments** for up to 80 percent of approved total project costs not to exceed \$500,000 for the Regional Revolving Loan Fund Recapitalization project. A roll call vote was taken, and the motion carried unanimously.

Mr. Huisken provided a recap of available funds.

MONTROSE CLEAN WATER SRF LOAN RE-AWARD: Mr. Perkovich reported that in April 2020 the Board of Water and Natural Resources awarded a \$1,008,000 Clean Water State Revolving Fund loan with \$200,000 of principal forgiveness to the city of Montrose for a wastewater project.

It recently came to the department's attention that Montrose was awarded a \$644,800 grant from the Economic Development Administration (EDA) for the same wastewater project. Had the city secured the EDA grant prior to the April 2020 board meeting, the staff recommendation would have been for a \$363,200 loan with no principal forgiveness.

Staff recommended that the board rescind Resolution 2020-62 and adopt a new resolution awarding a \$363,200 Clean Water SRF loan at 2.125 percent interest for 30 years to the city of Montrose.

Mr. Perkovich answered questions from the board.

Motion by Bernhard, seconded by Gnirk, to rescind Resolution No. 2020-62 and adopt **Resolution No. 2020-98** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$363,200 at 2.125 percent interest for 30 years to the **city of Montrose** for a wastewater 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. A roll call vote was taken, and the motion carried with unanimously.

BRANT LAKE SANITARY DISTRICT UPDATE: Mr. Perkovich reported that the department received a Declaration of Financial Insolvency from the Brant Lake Sanitary District (BLSD).

BLSD was awarded a \$1,700,000 Clean Water SRF loan on June 24, 2010, to replace septic systems with a conventional wastewater collection system. The current balance of the loan is \$1,471,311.27, and the loan does not mature until 2044.

The district is having financial problems due primarily to a judgement in a civil case brought on by the contractor on the wastewater project. The contractor was awarded \$2,026,483 and has incurred additional interest of approximately \$430,000. The district has also incurred unforeseen expenses due to flood events in 2019.

The board packet included a letter from BLSD explaining its financial situation, the Declaration of Insolvency resolution, the response from DENR and the follow-up from Brant Lake.

The district's next loan payment is due on October 15, 2020. There is a chance that the BLSD situation may result in the first default in the history of both the Clean and Drinking Water SRF programs.

Mr. Perkovich stated that this was an informational update, and not board action is required at this time. The department will monitor the situation and update the board at a later date.

Mr. Perkovich and Mr. Bruels answered questions from the board.

SFY 2020 STATE REVOLVING FUNDS REPORT TO THE INTERIM BOND REVIEW COMMITTEE: The South Dakota Conservancy District is required to present an annual report to the Legislature's Interim Bonding Review committee at its meeting in November 2020.

A combined report for both SRF programs for the legislative committee's review was developed for this purpose. Information in this report presents program activity and financial statements on a state fiscal year basis and contains additional information on the District's bond issues.

Mr. Perkovich presented the report and answered questions from the board. .

Staff recommended the board approve the SFY 2020 State Revolving Funds report to the Interim Bonding Review Committee and authorize distribution of the report.

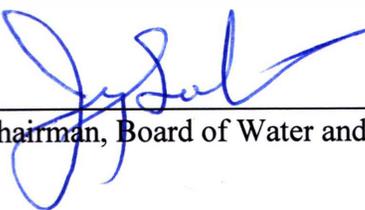
Motion by Jones, seconded by Bernhard, to approve the SFY 2020 State Revolving Funds report to the Interim Bonding Review Committee and authorize distribution of the report. A roll call vote was taken, and the motion carried unanimously.

NOVEMBER 5, 2020, MEETING: The next meeting is scheduled for November 5, 2020, at 9:00 a.m. Central Time. Mr. Perkovich highlighted some possible agenda items for that meeting.

ADJOURN: Motion by Jones, seconded by Gnirk, that the meeting be adjourned. Motion carried unanimously.

Approved this 5<sup>th</sup> day of November 2020.

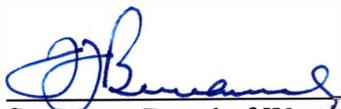
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Chairman, Board of Water and Natural Resources

ATTEST:



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Secretary, Board of Water and Natural Resources