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

September 28-29, 2023

SEPTEMBER 28, 2023 – 1:00 P.M. CENTRAL TIME

CALL MEETING TO ORDER: Chairman Jerry Soholt called the meeting to order. A quorum was present.

The meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

BOARD MEMBERS PRESENT: Jerry Soholt, Todd Bernhard and Paul Gnirk participated in person. Gene Jones, Jr. and Jackie Lanning participated remotely.

BOARD MEMBERS ABSENT: Karl Adam and Vance Newman.

LEGISLATIVE OVERSIGHT COMMITTEE MEMBERS: Senator Shawn Bordeaux (Sept. 28 only).

OTHERS: See attached attendance sheet.

Andy Bruels introduced grant and loan specialist, Casey Kahler.

APPROVE AGENDA: Motion by Gnirk, seconded by Bernhard, to approve the agenda. Motion carried unanimously.

APPROVE MINUTES OF JUNE 29, 2023, MEETING: Motion by Bernhard, seconded by Gnirk, to approve the minutes of the June 29, 2023, Board of Water and Natural Resources meeting. Motion carried unanimously.

PUBLIC COMMENT PERIOD: Justin Williams, assistant city attorney with the city of Rapid City, read a letter dated September 27, 2023, from Rapid City Mayor Jason Salamun to the Board of Water and Natural Resources in support of the Black Hawk Water User District petition for expansion.

PUBLIC HEARING TO ADOPT THE FFY 2024 BROWNFIELDS REVITALIZATION AND ECONOMIC DEVELOPMENT PROGRAM WORK PLAN: Chairman Soholt opened the hearing at 1:05 p.m. Central Time.

The purpose of the hearing was to receive public input and adopt the FFY 2024 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 Assessment and Cleanup Subfund and amounts available to fund such projects.

The effect of adoption of the FFY 2024 work plan for the Brownfields Revitalization and Economic Development Program will be to identify projects and procedures for administration of the state's Brownfields funds as provided by the U.S. Environmental Protection Agency. The FFY 2024 work plan outlines information on the Assessment and Cleanup Subfund and a list of projects being assessed or cleaned up using the State Brownfields Assessment and Cleanup Subfund.

Nayyer Syed, DANR Inspection, Compliance and Remediation Program, presented and discussed the proposed FFY 2024 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. There are currently no funds available to capitalize the revolving loan fund. 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 Pierre Capital Journal on August 23, 2023, and in the Aberdeen American News and Rapid City Journal on August 24, 2023. Affidavits of Publication were received for these public notices. The notice was also available on the Department of Agriculture and Natural Resources' website. Copies of the work plan were provided to those parties requesting a copy. Mr. Syed noted that no public comments were received after publication of the notice.

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

Mr. Syed answered questions from the board and requested approval of the work plan.

Motion by Gnirk, seconded by Bernhard, to adopt the FFY 2024 Brownfields Revitalization and Economic Development Program Work Plan. Motion carried unanimously.

Dr. Gnirk commended Mr. Syed on the work he does with the Brownfields Program.

Chairman Soholt closed the hearing.

AMENDMENTS TO THE STATE WATER PLAN, 2023 CLEAN WATER STATE REVOLVING FUND AND 2023 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLANS:

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 amendment of projects onto the plan. 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 2024.

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. The State Water Plan applications are used to determine which projects should be amended onto the State Revolving Fund Project Priority Lists.

Mr. Bruels presented the three State Water Plan applications that were received by the August 1, 2023, deadline. A list of projects was included in the board packet. As he presented the State Water Plan applications, Mr. Bruels also identified those projects to be placed on the Clean Water SRF and Drinking Water SRF project priority lists.

<b>Project Sponsor</b>	<b>Description</b>	<b>Projected State Funding (\$)</b>	<b>Recommendation</b>
Bowdle	Rehabilitation and Repairs for Sewer System	\$405,000	Place on Facilities Plan
Parkston	First Street Utilities	\$2,963,362	Place on Facilities Plan
Weston Heights Homeowners Association	New Spheroid Water Storage Tank (Revised Project Scope)	\$4,834,650	Place on Facilities Plan

Staff recommended amending the three applications listed above on to the State Water Facilities Plan.

Motion by Bernhard, seconded by Gnirk, to place the three projects on the State Water Facilities Plan. Motion carried unanimously.

Staff recommended the following projects be added to the Project Priority list of the 2023 Clean Water SRF Intended Use Plan:

<b>Priority Points</b>	<b>Loan Recipient</b>	<b>Estimated Loan Amount</b>	<b>Expected Loan Rate &amp; Term</b>
9	Parkston	\$1,791,919	3.25%, 30 years
7	Bowdle	\$1,988,133	2.125%, 30 years

Motion by Jones, seconded by Lanning, to approve the addition of Parkston and Bowdle to the Project Priority List of the 2023 Clean Water SRF Intended Use Plan. Motion carried unanimously.

Staff recommended the following project be added to the Project Priority List of the 2023 Drinking Water SRF Intended Use Plan:

Priority Points	Loan Recipient	Estimated Loan Amount	Expected Loan Rate & Term
18	Weston Heights Homeowners Association	\$1,544,300	2.125%, 30 years
5	Parkston	\$563,357	3.25%, 30 years

Motion by Gnirk, seconded by Bernhard, to approve the addition of Weston Heights Homeowners Association and Parkston to the Project Priority List of the 2023 Drinking Water SRF Intended Use Plan. Motion carried unanimously.

AVAILABLE FUNDS: Andy Bruels provided an overview of available funds.

DRINKING WATER FACILITIES FUNDING APPLICATIONS: Mr. Bruels presented the funding applications and staff recommendations.

**Clark Rural Water System (RWS)** requested funding for improvements to the town of Raymond's water distribution system including pipe replacement, looping of lines, and installation of water meters and pits. At the completion of the project Clark RWS will take ownership of the Raymond system and serve residents as individual customers.

The estimated total project amount is \$610,000, and the amount requested is \$610,000.

Clark Rural Water System is the applicant for the funds and is ultimately responsible for any debt, however, residents of Raymond will be the sole beneficiary of the project and any debt associated with the project will be repaid by those users. In evaluating the funding request and developing a recommendation for the board, staff focused on rate impacts to the residents of Raymond.

Since this project is to improve Raymond's system, Clark RWS is eligible for the disadvantaged rate and term which is 2.75 percent interest for 30 years.

Staff recommended awarding a \$610,000 Drinking Water SRF loan at 2.75 percent interest for 30 years with 79.6 percent as principal forgiveness not to exceed \$485,000.

Clark RWS pledged system revenue for repayment of the loan. Rates are \$64.50 for 7,000 gallons. Staff analysis indicates that Clark RWS has sufficient revenue at current rates to provide the required 110 percent debt coverage.

Staff reviewed the anticipated impacts to Raymond users from the recommendation, which would have a net loan to be repaid of \$125,000. Based on Raymond's users being Clark RWS individual users, the rates will be \$60.00 for 5,000 gallons usage plus an additional \$14.80 for debt service. This will bring total rates to \$74.80. While this is higher than many communities, Raymond will no

longer have any responsibilities for operation and maintenance of the system. This is consistent with other recent recommendations for system consolidation projects.

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, and contingent upon an Intercreditor Agreement being approved and executed by Cobank, Clark Rural Water System and the Conservancy District.

Steve Arneson, Clark RWS board member representing the town of Raymond, thanked the board for consideration of funding.

Motion by Jones, seconded by Bernhard, to adopt **Resolution No. 2023-96** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$610,000 at 2.75 percent interest for 30 years with 79.6 percent as principal forgiveness not to exceed \$485,000 to **Clark Rural Water System** for improvements to the town of Raymond's water distribution 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 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 Cobank, Clark Rural Water System and the Conservancy District. Motion carried unanimously.

**Garretson** requested funding for improvements to the water distribution system by replacing 4,020 feet of water main and 42 water services.

The estimated total project amount is \$2,394,000, and the amount requested is \$2,394,000.

Staff recommended awarding a \$2,394,000 Drinking Water SRF loan at 3.00 percent interest for 30 years with 52.8 percent as principal forgiveness not to exceed \$1,264,000.

Garretson pledged a project surcharge for repayment of the loan. Rates are \$64.60 for 5,000 gallons. Staff analysis indicates that a surcharge of \$10.00 is needed for repayment of the \$1,130,000 loan. Staff analysis also shows that Garretson can restructure existing rates and remain at \$64.60 based on 5,000 gallons usage.

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.

Motion by Lanning, seconded by Jones, to adopt **Resolution No. 2023-97** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$2,394,000 at 3.00 percent interest for 30 years with 52.8 percent as principal forgiveness not to exceed \$1,264,000 to

the **city of Garretson** for water distribution system 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 establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

SANITARY/STORM SEWER FACILITIES FUNDING APPLICATIONS: Tina McFarling presented the applications and staff recommendations.

**Whitewood** requested funding for improvements to its wastewater treatment facility to properly treat wastewater to meet projected permit limits. Improvements have been subdivided into four priority levels, and the city is seeking funding for Priority Level 1 at this time.

Priority Level 1 improvements include the construction of a two-channel oxidation ditch and the installation of a lift station and associated piping to pump wastewater from the primary treatment process to the oxidation ditch.

The estimated total project amount is \$4,150,000, and the amount requested is \$4,150,000.

Staff recommended awarding a \$4,150,000 Clean Water SRF loan at 3.25 percent interest for 30 years with principal forgiveness of 29.8 percent not to exceed \$1,235,000.

Whitewood pledged a project surcharge for repayment of the loan. Rates are \$30.00 for 5,000 gallons usage. Staff analysis indicates that a surcharge of \$30.00 is needed for repayment of the net loan, bringing overall rates to \$60.00 for 5,000 gallons usage.

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.

DJ Werlinger, city of Whitewood, thanked the board for consideration of funding for the project.

Ms. McFarling answered questions from Dr. Gnirk regarding the two-channel oxidation ditch.

Motion by Gnirk, seconded by Bernhard, to adopt **Resolution No. 2023-98** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$4,150,000 at 3.25 percent interest for 30 years with 29.8 percent as principal forgiveness not to exceed \$1,235,000 to the **city of Whitewood** for wastewater 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 establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

**Hartford** requested funding to construct a wastewater treatment facility. The city was previously awarded funding for this project in April 2022. This application is requesting an additional \$5,750,000 for the original project due to increased construction costs.

The city intends to construct a regional wastewater treatment facility that will treat and discharge residential and industrial waste from Hartford and the surrounding area. The project also includes upgrading the city's gravity collection system, installing a new lift station, and force main to the new facility.

The estimated total project amount is \$23,448,791, and the amount requested is \$5,750,000.

Other funding for the project includes \$599,784 in local ARPA funds, \$936,791 in local cash, \$8,980,784 in state ARPA funds, and a \$7,181,432 Clean Water SRF loan.

Staff recommended awarding a \$5,750,000 Clean Water SRF loan at 3.25 percent interest for 30 years.

The city pledged a project surcharge for repayment of the loan. Rates in Hartford are \$73.09 for 5,000 gallons usage. Staff analysis indicates that a surcharge of \$23.40 is needed for repayment of the \$5,750,000 loan, bringing overall rates to \$96.49 for 5,000 gallons usage. Staff noted that the surcharge can likely be reduced in the future as new users, including industrial users, are added to the system.

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.

Teresa Sidel, city administrator, discussed the project and thanked the board for consideration of funding.

Motion by Gnirk, seconded by Jones, to adopt **Resolution No. 2023-99** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$5,750,000 at 3.25 percent interest for 30 years to the **city of Hartford** for the construction of a wastewater treatment facility, 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.

**Hecla** requested funding to clean and televise the wastewater lines and to reconstruct the existing sanitary sewer collection system. This includes replacing vitrified clay, asbestos-cement, and cast iron sewer piping with polyvinyl chloride (PVC) pipe and replacing the manholes.

The estimated total project amount is \$4,000,000, and the amount requested is \$4,000,000.

Staff recommended that the board defer action on this application.

Ms. McFarling stated that staff does not believe it is feasible to provide funding on the full project scope identified in the application and still keep the rates reasonable. Staff has asked Hecla to review the project and submit a revised application to reduce the project scope and look at project phasing.

Per administrative rules, the board has 120 days from the presentation of an application to make a final funding decision. Staff proposes to bring the Hecla application to the board at the January 2024 meeting, which meets that requirement.

Motion by Gnirk, seconded by Bernhard, to defer the Hecla application until the January 2024 board meeting. Motion carried unanimously.

**Garretson** requested funding to replace 5,460 feet of sanitary sewer and 1,000 feet of storm sewer. The project will be done in conjunction with the reconstruction of several streets throughout the city.

The estimated total project amount is \$2,593,000, and the amount requested is \$2,593,000.

Staff recommended awarding a \$2,593,000 Clean Water SRF loan at 3.25 percent interest for 30 years.

The city pledged a project surcharge for repayment of the loan. Rates in Garretson are \$64.45 for 5,000 gallons. Staff analysis indicates that a surcharge of \$25.00 is needed for repayment of the loan. However, staff believes rates could be restructured and stay at the current rate of \$64.45 for 5,000 gallons usage.

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.

Motion by Lanning, seconded by Jones, to adopt **Resolution No. 2023-100** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$2,593,000 at 3.25 percent interest for 30 years to the **city of Garretson** for a sanitary sewer and storm sewer 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 and contingent upon the borrower establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

**Claremont** requested funding to replace a portion of the storm sewer lines and make improvements to the lift station.

The estimated total project amount is \$505,000, and the amount requested is \$505,000.

Staff recommended awarding a \$505,000 Clean Water SRF loan at 3.25 percent interest for 30 years with principal forgiveness of 60.6 percent not to exceed \$306,000.

Claremont pledged a project surcharge for repayment of the loan. Claremont has a \$51.70 per month flat rate. Staff analysis indicates that a surcharge of \$15.65 is needed for repayment of the loan, which would take rates to \$67.35. However, staff believes rates could be restructured to a rate of approximately \$60.00 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.

Jason Spencer, town of Claremont trustee, thanked the board for consideration of funding for the project.

Motion by Jones, seconded by Bernhard, to adopt **Resolution No. 2023-101** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$505,000 at 3.25 percent interest for 30 years with 60.6 percent as principal forgiveness not to exceed \$306,000 to the **town of Claremont** for storm sewer and lift station 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 establishing a surcharge at a level sufficient to provide the required debt coverage. Motion carried unanimously.

SMALL WATER FACILITIES FUNDING APPLICATION: Mr. Bruels presented the application and staff recommendation.

**Medicine Mountain Scout Ranch** requested funding to increase the water supply to meet permitted pumping capacity of 20 gallons per minute. The project will furnish and install approximately 120 feet of 24-inch perforated high density polyethylene (HDPE) pipe encased in gravel to construct an infiltration gallery for additional water supply.

The estimated total project amount is \$73,000, and the amount requested is \$73,000.

The Medicine Mountain Scout Ranch is a private, non-profit entity, and the water system is used for only a portion of the year for non-residential use by scouts and other associated personnel to support the scout activities.

Mr. Bruels stated that this is not for primary residential in-home water use, and DANR staff does not believe it is appropriate to recommend grant funding for the water system improvements for this type of activity. This type of system, on the whole, is a lower priority to receive funding, and providing of grant funds may set a precedent that other non-residential use systems that do not pay individually for the water being used receive grant funding in the future.

Staff recommended awarding a \$73,000 Consolidated loan at 3.25 percent interest for 30 years.

Medicine Mountain Scout Ranch pledged system revenue for repayment of the loan. Staff analysis indicates that current revenues for the organization are not able to support any level of loan funding. Staff will require in the recommended contingencies a dedicated source of revenue to be established and assure repayment for the life of the loan.

To assure the organization moves forward with necessary steps to close the loan in a timely manner, staff recommended an additional contingency that sets a timeframe for the organization to meet other contingencies. If this timeframe is not met, staff will bring the loan back to the board for potential de-obligation.

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 providing financials that present adequate and consistent revenue, and contingent upon being able to meet other contingencies within a six-month timeframe. If the six-month timeframe is not met, loan funds will be de-obligated.

Mr. Bruels answered questions from the board.

Motion by Gnirk, seconded by Bernhard, to adopt **Resolution No. 2023-102** approving a South Dakota Consolidated Water Facilities Construction Program loan agreement not to exceed \$73,000 at 3.25 percent interest for 30 years to **Medicine Mountain Scout Ranch** for a water supply project 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 providing financials that present adequate and consistent revenue, and contingent upon being able to meet other contingencies within a six-month timeframe. If the six-month timeframe is not met, loan funds will be de-obligated. Motion carried unanimously.

**BROOKINGS-DEUEL RURAL WATER SYSTEM ADDITIONAL FUNDING REQUEST**  
**DRINKING WATER SRF LOAN C462453-04** Holly Briggs reported that on April 13, 2022, Brookings-Deuel Rural Water System (RWS) was awarded a \$5,607,560 Drinking Water SRF loan and a \$2,703,240 APRA grant for the phase tank mainline project.

On July 7, 2023, the Department of Agriculture and Natural Resources received a letter from Brookings-Deuel RWS requesting that Drinking Water SRF loan C462453-04 be amended to include an additional \$1,600,000 due to increased construction bids, bringing the total requested amount to \$7,207, 560.

Staff recommended the board rescind Resolution No. 2022-47, which awarded the original Drinking Water SRF loan, and award a \$7,207,560 Drinking Water SRF loan at 2.125 percent interest for 30 years.

Brookings-Deuel RWS is pledging system revenue for repayment of the loan. With the current rates of \$60.50 for 7,000 gallons usage, the rural water system would achieve the required 110 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, Cobank, Brookings-Deuel Rural Water System and the Conservancy District.

Patrick Deering, DGR Engineering, thanked the board for consideration of the funding request.

Motion by Bernhard, seconded by Lanning, to rescind Resolution No. 2022-47 and adopt **Resolution No. 2023-103** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$7,207,560 at 2.125 percent interest for 30 years to the **Brookings-Deuel Rural Water System** for the phase tank mainline 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, Cobank, Brookings-Deuel Rural Water System and the Conservancy District. Motion carried unanimously.

**WESTON HEIGHTS HOMEOWNERS ASSOCIATION ADDITIONAL FUNDING REQUEST FOR DRINKING WATER SRF LOAN C462495-01:** Abbey Larson reported that on June 23, 2022, Weston Heights Homeowners Association was awarded a \$580,650 Drinking Water SRF loan and a \$3,290,350 ARPA grant for the new water storage reservoir project.

On July 24, 2023, the Department of Agriculture and Natural Resources received a letter from the Weston Heights Homeowners Association stating that a revised engineer's opinion of probable estimated project costs had been prepared, and project costs would be higher than originally expected. The project scope has also been amended to include additional distribution line work to connect the new tower to the distribution system.

Weston Heights Homeowners Association is requesting an additional \$963,650 to cover the remainder of the project cost. This increase will bring the total project amount to \$4,834,650.

Staff recommended the board rescind Resolution No 2022-408, which awarded the original Drinking Water SRF loan, and award a \$1,479,938 Drinking Water SRF loan at 2.125 percent interest for 30 years with 26.7 percent principal forgiveness not to exceed \$393,938, and that the board award a \$64,362 SRF Drinking Water Grant.

Weston Heights pledged system revenues for repayment of the loan. Current rates are \$75.00 per month. At the recommended funding level, staff analysis indicates Weston Heights will not need to increase rates.

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 the repayment of the loan and contingent upon the borrower approving a security agreement and mortgage.

Jay Evenson, vice president of Weston Heights Homeowners Association, discussed the project and thanked the board for consideration of the funding request.

Motion by Gnirk, seconded by Bernhard, to rescind Resolution No. 2022-408 and adopt **Resolution No. 2023-104** approving a Drinking Water State Revolving Fund loan up to a maximum committed amount of \$1,479,938 at 2.125 percent interest for 30 years with 26.7 percent as principal forgiveness not to exceed \$393,938 to the **Weston Heights Homeowners Association** for the new water storage reservoir project, and authorizing the execution of the loan agreement, the acceptance of the Local Obligation, the assignment of the Local Obligation to the Trustee, and the execution and delivery of such other documents and the performance of all acts necessary to effectuate the loan approved in accordance with all terms as set forth in the Indenture of Trust, contingent upon the borrower adopting a 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 to adopt **Resolution No. 2023-105** approving an SRF Drinking Water Grant for up to 1.4 percent of all approved total project costs not to exceed \$64,362 for the new water storage reservoir project. Motion carried with Bernhard, Gnirk, Lanning, and Soholt voting aye. Jones abstained.

BOWDLE ADDITIONAL FUNDING REQUEST FOR CLEAN WATER SRF LOAN C461243-0:  
Megan Briggs reported that on April 13, 2022, the city of Bowdle was awarded a \$1,583,133 Clean Water SRF loan and a \$762,176 ARPA grant for the wastewater improvements project.

On August 1, 2023, the Department of Agriculture and Natural Resources received a letter from the city of Bowdle requesting that scope of the project be amended to include the installation of a new lift station and force main to prevent surcharging of the outfall line to the wastewater treatment lagoons. The letter also included a request that Clean Water SRF loan C461243-01 be amended to include an additional \$405,000. The additional funding is to cover abandonment of the old gravity

sewer outfall line to the treatment ponds and the implementation of a new lift station and force main.

This increase will bring the total project amount to \$2,750,309.

Staff recommended the board rescind Resolution No. 2022-37, which awarded the original Clean Water SRF loan, and award a \$1,988,133 Clean Water SRF loan at 2.125 percent interest for 30 years with the revised project scope.

The city pledged a project surcharge for repayment of the loan. Current rates in Bowdle are \$60.00 per month. Staff analysis indicates that the city will have to establish a surcharge of approximately \$30.00. Staff analysis also indicates that rates can be restructured to remain at the current \$60.00 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.

Staff also recommended that the board approve amendment of the scope of ARPA grant agreement 2022G-ARP-113 to include a lift station and fore main to convey wastewater to the treatment lagoons.

Peter Adair, IMEG Corp., thanked the board for consideration of funding and amendment of the scope of the project.

Motion Jones, seconded by Bernhard, to rescind Resolution No. 2022-37 and adopt **Resolution No. 2023-106** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$1,988,133 at 2.125 percent interest for 30 years to the **city of Bowdle** for the wastewater 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; and to adopt **Resolution No. 2023-107** approving amendment of American Rescue Plan Act Grant Agreement 2022G-ARP-113 to amend the scope of the project to include a lift station and fore main to convey wastewater to the treatment lagoons. Motion carried unanimously.

RESCIND BROOKINGS CLEAN WATER SRF LOAN C461019-11: Tina McFarling reported that on April 13, 2022, the board awarded a \$4,000,000 Clean Water SRF loan to the city of Brookings for its 34th Avenue wastewater collection improvement project.

On May 12, 2022, the Department of Agriculture and Natural Resources received a letter from the city of Brookings requesting to de-obligate the loan. The letter stated the city will use other funds for this project.

Staff recommended the board rescind Resolution No. 2022-43 which awarded the Clean Water SRF loan for this project.

Motion by Bernhard, seconded by Jones, to rescind Resolution No. 2022-43. Motion carried unanimously.

RESCIND CASTLEWOOD'S DRINKING WATER SRF LOAN C462246-01: Ms. McFarling reported that on March 25, 2021, the board awarded an \$800,000 Drinking Water SRF loan to the city of Castlewood for a water tower rehabilitation project and 6,500 feet of water main replacement project.

On August 9, 2023, the department received a letter from the city of Castlewood requesting to de-obligate the loan. The city stated they will utilize only ARPA funds for the project.

Staff recommended the board rescind Resolution No. 2021-52 which awarded the Drinking Water SRF loan for this project.

Motion by Lanning, seconded by Bernhard, to rescind Resolution No. 2021-52. Motion carried unanimously.

RESCIND CHESTER SANITARY DISTRICT'S DRINKING WATER SRF LOAN C462073-01: Ms. McFarling reported that on March 30, 2023, the Board of Water and Natural Resources awarded a \$2,342,000 Drinking Water SRF loan with 62.5 percent principal forgiveness not to exceed \$1,462,000 to the Chester Sanitary District for its water tower replacement project.

On July 1, 2023, the department received a letter from the Chester Sanitary District requesting to de-obligate the loan.

Staff recommended the board rescind Resolution No. 2023-36 which awarded the Drinking Water SRF loan for this project.

Motion by Bernhard, seconded by Gnirk, to rescind Resolution No. 2023-36. Motion carried unanimously.

RESCIND NORTH SIOUX CITY'S DRINKING WATER SRF LOAN C462009-01: Ms. McFarling reported that on April 27, 2020, the board awarded a \$2,700,000 Drinking Water SRF loan to the city of North Sioux City for its new water tower project.

On July 24, 2023, the department received a letter from the city of North Sioux City requesting to de-obligate the loan. The letter stated the city is planning on connecting with the Dakota Dunes Community Improvement District water system and the new water tower will not be necessary.

Staff recommended the board rescind Resolution No. 2020-68, which awarded the Drinking Water SRF loan for this project.

Motion by Gnirk, seconded by Bernhard, to rescind Resolution No. 2020-68. Motion carried unanimously.

Ms. McFarling provided a recap of available funds.

CAPACITY DEVELOPMENT FOR PUBLIC WATER AND WASTEWATER SYSTEM

REQUESTS FOR PROPOSALS: SDCL 5-18D-17 provides that state agencies may not award or renew a contract for professional services exceeding \$50,000 without complying with the procedures set forth in Sections 5-18D-17 to 5-18D-22, inclusive.

Ms. McFarling reported that a draft “Request for Proposal (RFP) to Provide Capacity Development for Public Water and Wastewater Systems” was provided as part of the board packet for the board’s review.

The following is an estimated timeline for the RFP process:

- RFP advertised – October 2, 2023
- RFP submittal deadline – November 17, 2023
- Contractor selection – January 4, 2024 (Staff will review the submitted proposals and be prepared to make a consultant selection recommendation to the board at this board meeting.)
- Contract execution – January 31, 2024

The primary objective of this RFP is to seek proposals from qualified contractors to provide assistance to public water and wastewater systems in South Dakota as part of the capacity development strategy. This process is to gain and maintain adequate technical, managerial, and financial capacity for the safe operation and upkeep of public water and wastewater systems. Some tasks include, but are not limited to, providing board training, review of rate structures, provide assistance in water loss, vulnerability assessments, emergency response plans, chemical safety plans, financial training, and record keeping.

The department has used a technical assistance provider for these services since the early 2000’s and this is soliciting proposals for a new contract term.

Staff recommended the board authorize distribution of the RFP to provide capacity development for public water and wastewater systems.

Motion by Gnirk, seconded by Jones, to authorize the department to distribute the RFP to provide capacity development for public water and wastewater systems. Motion carried unanimously.

STATE FISCAL YEAR 2023 STATE REVOLVING FUND PROGRAMS REPORT TO THE

INTERIM BOND REVIEW COMMITTEE: Ms. McFarling reported that 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 2023.

A combined report for the Clean Water and Drinking Water State Revolving Fund 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 Conservancy District's bond issues.

Ms., McFarling presented the SFY 2023 report. She discussed the following highlights of the report.

The board awarded 46 Drinking Water SRF loans and five loan amendments totaling \$276,658,747. The board awarded 24 Clean Water SRF loans and three loan amendments totaling \$104,182,037. This is a total of 70 loans, eight loan amendments, and a total award of \$380,840,784.

In October 2022, bids were received for the 2022 Bond Issues. The Series A-taxable revenue bonds provided \$7.7 million in Clean Water SRF state match funds, \$12.9 million in Drinking Water SRF state match funds, and \$38.2 million in leveraged proceeds for the Drinking Water SRF program for Private Activity Borrowers. The Series B-tax-exempt revenue bonds provided \$72.9 million in leveraged proceeds for the Clean Water SRF program and \$35.1 million in leveraged proceeds for the Drinking Water SRF program.

Currently there are 10 outstanding bond series with an overall principal balance of \$474,615,000.

Staff recommended that the board approve the SFY 2023 State Revolving Fund Programs report to the Interim Bonding Review Committee and authorize distribution of the report upon receipt of the financial statements.

Motion by Bernhard, seconded by Gnirk, to approve the SFY 2023 State Revolving Funds report to the Interim Bonding Review Committee and authorize distribution of the report upon receipt of the financial statements. Motion carried unanimously.

UPDATE AUTHORIZED REPRESENTATIVES TO ACT ON BEHALF OF THE BOARD OF WATER AND NATURAL RESOURCES AND THE SOUTH DAKOTA CONSERVANCY DISTRICT: Mr. Bruels 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 and the Conservancy District.

Specific staff are authorized to perform duties on behalf of the board and the 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 Authorized Representative's document needs to be updated. Attached is the document outlining the designated staff for certain activities.



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 Gnirk, seconded by Bernhard, to authorize the board chairman and board secretary to execute the Authorized Representative(s) 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.

ELECTION OF OFFICERS: Dr. Gnirk nominated Jerry Soholt as chairman, Gene Jones as vice chairman, and Todd Bernhard as secretary.

There were no other nominations.

Motion by Lanning, seconded by Jones, to cast a unanimous vote for the slate of officers as nominated. Motion carried unanimously.

NOVEMBER 8, 2023, MEETING: Ms. McFarling discussed possible agenda items for the November 8, 2023, board meeting.

Chairman Soholt declared the meeting in recess until 1:00 p.m. on September 29.

SEPTEMBER 29, 2023 – 1:00 P.M. CENTRAL TIME

Chairman Soholt called the meeting back to order. The roll was called, and a quorum was present.

REVIEW OF THE BLACK HAWK WATER USER DISTRICT EXPANSION PETITION: Andy Bruels reported that on April 3, 2023, DANR received a petition and supporting documentation to add additional territory to the Black Hawk Water User District. An amended petition was submitted on July 27, 2023.

Upon receipt of the petition, it is the duty of the Board of Water and Natural Resources to review the submission and act upon the request as required by SDCL 46A-9-23.

SDCL 46A-9-19 through 46A-9-23 details the following requirements to allow for the extension of a water user district.

1. A Petition signed by at least twenty-five percent of the landowners in the area to be included.
2. A resolution by the Black Hawk Water User District board of directors approving the addition of territory to the district.
3. A map showing the additional territory to be included in the district.
4. Publication of the petition in a newspaper in each county to have area included in the additional territory for two successive weeks, the last date of publication must be at least thirty days prior to the Board of Water and Natural Resources' consideration.

Mr. Bruels stated that DANR staff verified the validity of the landowners' signatures to verify compliance with SDCL 46A-9-20, and staff certifies that the petition contains the required twenty-five percent of valid landowner signatures.

DANR received a copy of the resolution and the amended resolution passed by the Black Hawk Water User District board of directors dated November 10, 2022, and July 26, 2023, respectively, and a map showing the lands to be included in the district.

Affidavits of Publication from the Faith Independent newspaper, which is the newspaper of general circulation in the county, verify the petition was published in the newspaper for two successive weeks; August 16 and 23, 2023.

SDCL §46A-9-16 requires the board to, within 90 days of the petition:

1. Determine whether the petition is feasible and conforming to the public convenience and welfare or not.
2. If the board determines the petition is not feasible and conforming to the public convenience and welfare, it must be dismissed.
3. If the board determines the petition is feasible and conforming to the public convenience and welfare the board shall immediately execute a certificate, in duplicate, setting forth a true copy of the petition and declaring that the petition is approved.

Mr. Bruels stated that, based on the procedural steps taken to this point, staff recommended that the board execute a certificate of approval, approving the extension of the Black Hawk Water User District boundaries. The certificate will be filed with the Secretary of State and copies provided to Meade County.

Ken LeBon, manager of the Black Hawk Water User District, Talbot Wiczorek, counsel for the Black Hawk Water User District, and Joe Noble, AE2S, answered questions from the board regarding the boundaries of the water user district and the reasons for expansion.

Motion by Bernhard, seconded by Gnirk, that the board execute a certificate of approval, approving the extension of the Black Hawk Water User District boundaries. Motion carried unanimously.

REVIEW OF THE TRIPP COUNTY WATER USER DISTRICT EXPANSION PETITION: Mr. Bruels reported that on April 3, 2023, DANR received a petition and supporting documentation to add additional territory to the Tripp County User District.

Upon receipt of the petition, it is the duty of the Board of Water and Natural Resources to review the submission and act upon the request as required by SDCL 46A-9-23.

SDCL 46A-9-19 through 46A-9-23 details the following requirements to allow for the extension of a water user district.

1. A Petition signed by at least twenty-five percent of the landowners in the area to be included.
2. A resolution by the Tripp County Water User District board of directors approving the addition of territory to the district.
3. A map showing the additional territory to be included in the district.
4. Publication of the petition in a newspaper in each county to have area included in the additional territory for two successive weeks, the last date of publication must be at least thirty days prior to the Board of Water and Natural Resources' consideration.

Mr. Bruels stated that DANR staff verified the validity of the landowners' signatures to verify compliance with SDCL 46A-9-20, and staff certifies that the petition contains the required twenty-five percent of valid landowner signatures.

DANR received a copy of the resolution passed by the Tripp County Water User District board of directors dated July 10, 2023, and a map showing the lands to be included in the district.

Affidavits of Publication from the following newspapers, which are the newspapers of general circulation in the county, verify the petition was published in the newspaper for two successive weeks.

Gregory County: Times-Advocate on August 9 and 16, 2023

Lyman County: Lyman County Herald on August 9 and 16, 2023

Mellette County: Mellette County News on August 9 and 16, 2023

Todd County: Todd County Tribune on August 9 and 16, 2023

Tripp County: Winner Advocate on August 9 and 16, 2023

SDCL §46A-9-16 requires the board to, within 90 days of the petition:

1. Determine whether the petition is feasible and conforming to the public convenience and welfare or not.
2. If the board determines the petition is not feasible and conforming to the public convenience and welfare, it must be dismissed.
3. If the board determines the petition is feasible and conforming to the public convenience and welfare the board shall immediately execute a certificate, in duplicate, setting forth a true copy of the petition and declaring that the petition is approved.

Mr. Bruels stated that, based on the procedural steps taken to this point, staff recommended that the board execute a certificate of approval, approving the extension of the Tripp County Water User District boundaries. The certificate will be filed with the Secretary of State and copies provided to the county auditor in Gregory, Lyman, Mellette, Todd, and Tripp counties.

Tim Engel, counsel for Tripp County Water User District, Craig Covey, president of the Board of Directors, Roger Kingsbury, treasurer, and Lisa Steele, general manager, were present on behalf of the Tripp County Water User District. Mr. Engel answered questions from the board regarding the boundaries of the water user district and the reasons for expansion.

Motion by Bernhard, seconded by Jones, that the board execute a certificate of approval, approving the extension of the Tripp County Water User District boundaries. Motion carried unanimously.

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

Approved November 8, 2023.

(SEAL)

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Chairman, Board of Water and Natural Resources

ATTEST:

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Secretary, Board of Water and Natural Resources

BOARD OF WATER AND NATURAL RESOURCES  
ATTENDANCE SHEET

DATE 9-28-23

LOCATION Matthew Training Center- Pierre

Name (PLEASE PRINT)	Address	Representing
PAUL GNIRK	New Underwood	BWNR
Andy Brvels	Pierre	DANR
Julie M Johnson	Mina	WEB Water-
TODD BEANHARD	FORT PIERRE	BWNR
Steve Arnesen	Florence, SD	Clark Rural Water
Holly Briggs	Pierre, SD	DANR
Shayenne Ritzman	Pierre, SD	DANR
Tina McFarling	Pierre, SD	DANR
Megan John Briggs	Pierre, SD	DANR
Jermy Scholt	SioxFalls	DANR
Casey Kahler	Pierre, SD	DANR
Macy Jo Peterson	Pierre, SD	DANR
Nayyer Syed	Pierre	DANR
Suzanne McKinley	Pierre	DANR
DAI GERHARDT	PIERRE	DANR
Mike Perkovich	Pierre	Brosz Engineering
Karin Zhar	Pierre	DANR
Terry Horvath	Pierre	DANR

## BOARD OF WATER AND NATURAL RESOURCES ATTENDANCE SHEET

DATE 9-29-23

LOCATION Matthew Training Center- Pierre

Name (***PLEASE PRINT***)

Address

## Representing

Andy Bouvels      Pierre      DANR

Paul Gnirk      New Underwood      BWNR

Jerry Scholt Seaw Falls BWNR

Shaykhine <sup>Shaykh</sup> Pierres <sup>Pierres</sup> DANIZ

Lina McFarling	Pierre	DANR
T. B. ...	T. B. ...	3-1-10

<u>TODD BERNHARD</u>	<u>FOOT PIERCE</u>	<u>BWNR</u>
<u>Lisa Stahl</u>	<u>Wm</u>	<u>TOWN</u>

25th Street	Winnere	TOWARD
26th Street	Hamill	TOWARD

Roger Kingsbury	Wood	Tawny D
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Tim Engel	Pierre	Thomas
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Casy Kaller	Prene	DANR
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Meach Bros Pierre DANR

Cheryl Chigona      Rapid City      WDRWS-

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