

Minutes of the
Board of Water and Natural Resources Meeting

September 24, 2015
1:00 p.m. CDT

Via Digital Dakota Network

Capitol Building
Pierre, SD

Northern State University
Aberdeen

South Dakota State University
Brookings, SD

Mitchell Technical Institute
Mitchell, SD

South Dakota School of Mines and Technology
Rapid City, SD

USD School of Medicine
Sioux Falls, SD

SD Department of Human Services
Watertown, SD

CALL MEETING TO ORDER: Vice Chairman Gene Jones called the meeting to order. A quorum was present.

BOARD MEMBERS PRESENT: Gene Jones, Todd Bernhard, Paul Gnirk, and Jackie Lanning.

BOARD MEMBERS ABSENT: Brad Johnson, Paul Goldhammer, and Jerry Soholt.

OTHERS: See attached attendance sheets.

APPROVE AGENDA: Mike Perkovich noted that there were no changes to the posted agenda.

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

AMEND MINUTES OF THE MARCH 27, 2015, MEETING: Mr. Perkovich reported that some of the resolution numbers on pages 35-37 of the March meeting minutes reflected “2014” rather than “2015.” He requested that the board amend the minutes changing “2014” to “2015.”

Motion by Gnirk, seconded by Bernhard, to revise the resolution numbers on pages 35-37 as identified, and to approve the amended minutes of the March 27, 2015, meeting. A roll call vote was taken, and the motion carried unanimously.

APPROVE MINUTES OF JUNE 25, 2015, MEETING: Motion by Gnirk, seconded by Jones, to approve the minutes of the June 25, 2015, Board of Water and Natural Resources meeting. A roll call vote was taken, and the motion carried unanimously.

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

The purpose of the hearing was to receive public input and adopt the FY 2016 Brownfields Revitalization and Economic Development Program work plan. The primary purpose of the work plan is to identify proposed annual Brownfields projects to be funded through the Brownfields Revolving Loan Subfund and Brownfields Assessment and Cleanup Subfund and amounts available to fund such projects.

Kim McIntosh, DENR Ground Water Quality Program, presented and discussed the proposed FY 2016 Brownfields Revitalization and Economic Development work plan. Each year the department receives funds from EPA for the development and enhancement of a state Brownfields program.

DENR currently has no funds available to capitalize the Revolving Loan Subfund.

DENR does have limited funding for the Assessment and Cleanup Subfund. These funds will be used by the department to hire contractors to perform assessment and cleanup work on eligible Brownfields sites. The work plan includes a list of Brownfields assessment and cleanup projects to be funded.

For FY 2016, the department will receive \$450,500 for the Brownfields Program.

Notice of the public hearing was published in the Aberdeen American News, Rapid City Journal, and Pierre Capital Journal. Copies of the work plan have been provided to those parties requesting a copy.

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

Vice Chairman Jones requested public testimony regarding the proposed work plan.

No one from the public offered comments.

Ms. McIntosh requested adoption of the work plan.

Motion by Lanning, seconded by Gnirk, to adopt the FY 2016 Brownfields Revitalization and Economic Development Program work plan. A roll call vote was taken, and the motion carried unanimously.

DELMONT FORCE MAJEURE NOTIFICATION: On May 10, 2015, a tornado struck Delmont and caused extensive damage or destruction of 44 water service connections or nearly a third of the community's 153 water users.

In May, as required by section 9.1 (b) of the board's loan documents, Delmont provided written notice to the board of its inability to meet its debt service obligation due to this act of God.

At its June meeting, the board converted Delmont's state Consolidated Program loan balance of \$19,050 to a grant and concurred that Delmont's inability to make its July 15, 2015, Drinking Water SRF payment was deemed not to constitute a default by reason of force majeure.

Also at its June meeting, the board directed staff to explore options for debt forgiveness of Delmont's remaining loan. The balance of that loan is \$138,087.

Staff discussed the option of providing principal forgiveness for DW-01 with EPA Region 8. Due to older SRF capitalization grants being closed, and based on the award date, the use of principal forgiveness for disadvantaged communities was not allowed and newer grants not allowing the use of principal forgiveness for refinancing of an existing debt, it was determined that SRF principal forgiveness is not an option.

Staff recommended that the board inform Delmont that its inability to make its October 15, 2015, and January 15, 2016, payments is deemed not to constitute a default by reason of force majeure.

Staff will work with Delmont to determine a course of action to provide additional debt relief. It is anticipated that this cannot be addressed until additional Consolidated funding is available in March 2016.

Linda Laib, Finance Officer for Delmont, requested that the board approve a grant in the amount of \$13,220.27 to cover the payments on the Drinking Water SRF loan from October 15, 2015, through April 15, 2017. This would give the city time to see how much development and revenue will be regenerated. Ms. Laib stated that the city could then come back to the board with a better knowledge of the financial capability to meet the loan requirements.

Mr. Feeney stated that in accordance with the Consolidated rules, the board cannot consider a funding request at the board meeting; Delmont would need to submit a new application by the new application deadline. For example, if Delmont submitted an application by October 1, it would be considered by the board in January.

Mr. Feeney stated that the board is not requiring Delmont to make the payments during this force majeure period.

Motion by Bernhard, seconded by Gnirk, to inform Delmont that its inability to make the October 15, 2015 and January 15, 2016, loan payments is deemed not to constitute a default by reason of force majeure. A roll call vote was taken, and the motion carried unanimously.

AMENDMENTS TO STATE WATER FACILITIES PLAN, 2015 CLEAN WATER SRF INTENDED USE PLAN (IUP), AND 2015 DRINKING WATER SRF IUP: 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. The board packet contained a map showing the location of the projects requesting amendment onto the facilities plan.

Placement of a project on the State Water Plan by the board provides no guarantee of funding. The projects placed onto the plan at this meeting will remain on the facilities plan through December 2016.

Projects seeking a Clean Water or Drinking Water State Revolving Fund loan must be included on the project priority list of the IUP. 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 two State Water Plan applications that were submitted by the August 1, 2015, deadline.

Brookings-Deuel Rural Water System requested amendment onto the facilities plan for an automatic meter reading system. Staff recommended amending the project onto the facilities plan.

Staff recommended this project be placed on the Drinking Water SRF IUP with 17 priority points and an estimated loan amount of \$675,000 at 2.25 percent interest for 10 years.

Lead requested amendment onto the facilities plan for a water meter replacement project. The estimated total project cost is \$560,000. Staff recommended amendment onto the facilities plan.

Staff recommended the project be placed on the Drinking Water SRF IUP with 16 priority points and an estimated loan amount of \$560,000 at 2.25 percent interest for 10 years.

Staff also recommended the Lead project also be placed on the Clean Water SRF IUP with eight project priority points and an estimated loan amount of \$560,000 at 2.25 percent interest for 10 years.

Motion by Gnirk, seconded by Goldhammer, to amend Brookings-Deuel RWS and Lead onto the 2015 State Water Facilities Plan. A roll call vote was taken, and the motion carried unanimously.

Motion by Gnirk, seconded by Lanning, to amend Lead onto the 2015 Clean Water SRF IUP. A roll call vote was taken, and the motion carried unanimously.

Motion by Bernhard, seconded by Gnirk, to amend Brookings-Deuel RWS and Lead onto the 2015 Drinking Water SRF IUP. A roll call vote was taken, and the motion carried unanimously.

AVAILABLE FUNDING: Mr. Perkovich provided a summary of available funds for the Consolidated Water Facilities Construction program, Drinking Water SRF program, and Clean Water SRF program.

SANITARY/STORM SEWER FACILITIES FUNDING APPLICATIONS: Mike Perkovich presented the sanitary/storm sewer facilities funding applications and staff recommendations. A map showing the location of the applications was included in the board packet.

Dimock requested \$528,000 for a wastewater treatment improvements project. The estimated total project cost is \$568,000. Dimock is contributing \$40,000 in local cash.

Dimock proposes to make improvements to its wastewater treatment facility and the influent line to the wastewater treatment facility. The existing wastewater treatment facility consists of one bi-level pond that is unable to maintain proper depth. To address this, the existing bi-level cell will be divided into two cells. One cell will be lined with a synthetic liner and the other cell converted into a wetland. The influent line includes an above-ground stream crossing that leaks wastewater into the south fork of Twelve Mile Creek. The line and supporting structure will be replaced as part of this project. The city is also proposing to extend the wastewater collection system to serve a proposed 20-home development. The town is developing a plan to replace or line portions of the collection system.

Dimock anticipates bidding the project in May 2016 with a project completion date of September 2016.

The town of Dimock has a \$25 flat rate.

Staff recommended awarding a \$478,000 Clean Water SRF loan at 3.25 percent interest for 30 years and a Water Quality grant for 8.9 percent of eligible costs not to exceed \$50,000.

Dimock has pledged a project surcharge for repayment of the loan. Based on the information provided in the application, future operating expenses will require \$3.20 per user of the \$25 per month charge. Staff analysis indicates that a surcharge of \$33.25 per user is required to provide 110 percent coverage on a \$478,000 loan. Coupling the surcharge with the operating expenses, the overall rates in Dimock would be \$36.45. Without grant assistance rates in Dimock would be \$39.90. Staff believes that providing the subsidy leaves some debt service capacity for the line repair work.

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.

Richard Herrold, town board president, and Vernon Arens, engineer, discussed the project and answered questions from the board.

Motion by Bernhard, seconded by Lanning to adopt Resolution #2015-95 approving the Clean Water State Revolving Fund loan up to a maximum committed amount of \$478,000 at 3.25 percent interest for 30 years to the town of Dimock for a wastewater treatment 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 #2015-96 approving State Revolving Fund Water Quality grant agreement 2016G-WQ-300 to the town of Dimock for up to 8.9 percent of approved total project costs not to exceed \$50,000 for a wastewater treatment improvements project. A roll call vote was taken, and the motion carried unanimously.

Lake Madison Sanitary District requested \$428,000 for a lift station and force main improvements project. The estimated total project cost is \$428,000.

The southeast corner of Lake Madison Sanitary District's sanitary sewer system is being overloaded due to high growth rates. The district proposes to increase the capacity of the sanitary sewer system by replacing 7,800 feet of 3-inch force main with 6-inch force main and upgrading three lift stations.

The sanitary district anticipates bidding the project in February 2016 with project completion in July 2016.

The sanitary district currently has a \$36 flat rate with a proposed increase to \$40 in September 2016.

Staff recommended awarding a \$428,000 Clean Water SRF loan at 3.25 percent interest for 30 years.

The sanitary district is pledging a project surcharge for repayment of the loan.

Staff analysis shows a \$2.55 surcharge would be needed to provide the required debt coverage on the \$428,000 loan. The \$36 rate is sufficient to provide the surcharge and cover the district's existing debt and current operating expenses.

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.

A representative of the Lake Madison Sanitary District discussed the project.

Motion by Gnirk, seconded by Lanning to adopt Resolution #**2015-97** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$428,000 at 3.25 percent interest for 30 years to the Lake Madison Sanitary District for a lift station and force main 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. A roll call vote was taken, and the motion carried unanimously.

SOLID WASTE MANAGEMENT PROGRAM FUNDING APPLICATIONS: Andy Bruels provided a summary of available funds.

The board packet included a map showing the locations of the Solid Waste Management Program applicants.

Mr. Bruels presented the applications and staff recommendations for funding.

Wakonda requested \$7,773 to purchase a recycling collection drop-off trailer for community residents to use. The estimated total project cost is \$9,716. Wakonda will provide the remaining funds in local cash.

Currently, in order to recycle, the residents of Wakonda must gather the materials on their own then drive 20 miles to Vermillion to drop them off at the recycling center. This is a large burden on residents and has kept the number of residents who recycle to a minimum because of the time and cost to participate. The purchase of a trailer will allow residents to collect recyclables in smaller quantities at their homes and make a short trip to the trailer to drop them off. The town and the county have agreed that the county will, on an as needed basis, haul the trailer to the Vermillion recycling center to be emptied. The trailer is expected to significantly increase the rate of recycling participation within the community.

Mr. Bruels noted that the project has received letters of support from the Landfill Joint Powers Board, the Clay County Commission, and community residents, all of whom feel this project will be beneficial to the community and the landfill by reducing the amount of material currently being thrown away.

Staff recommended awarding a Solid Waste Management Program recycling grant for 80 percent of total project costs not to exceed \$7,773.

Mr. Bruels and Nancy Anderson, Wakonda Finance Officer, answered questions from the board.

Motion by Bernhard, seconded by Lanning, to adopt Resolution #**2015-98** approving the South Dakota Solid Waste Management Program grant agreement (2016G-REC-300) between the Board of Water and Natural Resources and the town of Wakonda for up to 80 percent of

approved total project costs not to exceed \$7,773 to purchase a recycling collection drop-off trailer. A roll call vote was taken, and the motion carried unanimously.

Watertown requested \$500,000 for the construction of a new landfill cell and leachate collection system. The estimated total project cost is \$1,073,436. The city intends to use local cash for the remaining funds.

The city of Watertown proposes to construct a new landfill cell (Cell #6) and leachate collection system for disposal of solid waste at the regional landfill site.

Staff recommended no funding for this project due to limited funding available for disposal projects. Staff believes that the Yankton project is a higher priority for funding at this time.

Mr. Bruels stated that the staff recommendation for no funding is based on two primary issues.

The first issue is that Watertown has indicated the city would not accept a loan to fund this project because sufficient local cash is available and the city is only interested in receiving grant funds at this time. Watertown's application indicates that the city has sufficient reserves to fund this entire expansion project.

The second issue is that the department does not agree the city needs to construct a new landfill cell at this time. While the application notes that the existing landfill cells are nearly filled to match the existing grade, the landfill cells are permitted to be filled up to 48 feet above grade. Mr. Bruels stated that this management decision to continue expanding the footprint of the landfill instead of filling above grade, as is permitted and done by nearly all other regional landfills in the state, does not effectively utilize all available landfill space.

DENR's Waste Management program staff estimates that up to 15 years of capacity exists within the landfill's current cell footprint if the existing cells are filled to permitted levels.

Mr. Bruels stated that if Watertown were to resubmit an application by the January 1, 2016, deadline for the March funding round when additional funds will be available from the 2016 Omnibus bill, staff may recommend some level of grant funding for the project. There is some justification for constructing Cell 6 at this time due to the layout of Cells 4 and 5 and related storm water drainage considerations. However, after Cell 6 construction is completed, no additional grant funding will be recommended for future cell construction until above ground disposal occurs. Mr. Bruels noted that construction of Cell 6 will add five to seven years of capacity to the landfill.

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

Motion by Bernhard, seconded by Lanning, to deny funding to the city of Watertown. A roll call vote was taken, and the motion carried unanimously.

Yankton requested \$750,000 for a transfer station entrance reconfiguration and scale replacement project. The estimated total project cost is \$750,000.

The city of Yankton is proposing to replace the existing scale, make improvements to the scale house and reconfigure the entrance at the city's solid waste transfer station. The Yankton transfer facility operates as the primary spot for waste disposal for materials collected within the city of Yankton and nearby areas. The waste is collected in Yankton and then transported to the regional landfill near Vermillion. The cities of Yankton and Vermillion along with Clay and Union Counties jointly oversee the landfill through a Joint Powers Board.

Currently, all traffic coming into and leaving the transfer station must go over the scale, which is near the road entrance. This can result in backups on the road and it discourages many residents from being more active in recycling and yard waste collection programs offered by the transfer station. The new configuration will move the scale house and scale further from the entrance allowing residents with only yard waste or recycling to bypass the scale. This will help improve traffic flow and encourage participation in those programs.

The scale used at the transfer station has outlived its useful life and is in need of replacement. This project will install a new scale capable of accommodating the larger trucks. The scale house will be moved, and an addition will be added to better accommodate users and transfer station staff.

Staff recommended awarding a Solid Waste Management Program grant for 40 percent of total project costs not to exceed \$300,000 and awarding a Solid Waste Management Program loan for \$450,000 at 2.25 percent interest for 10 years. The loan will be split between two separate sources because not enough funds are available in either solid waste disposal funds or in the Regional Landfill Assistance program to fund the project entirely from either one. The solid waste disposal loan amount will be \$159,736 and the Regional Landfill Assistance loan amount will be \$290,264, for a total loan of \$450,000.

Yankton has pledged solid waste fee revenue for repayment of the loan. Staff analysis indicated that the city's existing solid waste revenue will provide 190 percent debt coverage.

Staff recommended the loan be contingent upon the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower executing a revised Joint Powers Agreement.

A representative from the city of Yankton discussed the project and answered questions from the board.

Mr. Bruels also answered questions from the board.

Motion by Jones, seconded by Bernhard, to adopt Resolution #**2015-99** approving South Dakota Solid Waste Management Program grant agreement 2016G-SW-301 between the Board of Water and Natural Resources and the city of Yankton for up to 40 percent of approved total project costs not to exceed \$300,000 for a transfer station entrance reconfiguration and scale replacement project, and to adopt Resolution #**2015-100** approving South Dakota Solid Waste Management Program loan agreement 2016L-SW-301 between the Board of Water and Natural

Resources and the city of Yankton not to exceed \$450,000 at 2.25 percent interest for 10 years for a transfer station entrance reconfiguration and scale replacement project. The loan is contingent on the borrower adopting a bond resolution and the resolution becoming effective and contingent upon the borrower executing a revised Joint Powers Agreement. A roll call vote was taken, and the motion carried unanimously.

Mr. Bruels reviewed available funds for upcoming funding rounds.

EMERY REQUEST TO AMEND LOAN C461248-01: Mr. Perkovich reported that at the June 25, 2015, board meeting Emery received a \$2,890,000 Clean Water SRF loan with \$1,677,000 in principal forgiveness. The loan was to be used to replace the majority of Emery's wastewater collection system.

The engineer has revised the estimated project cost, resulting in a shortfall of \$194,000, on the wastewater side of the project. The city has submitted a letter requesting the June award be increased by \$194,000 to cover the shortfall.

Staff recommended the board rescind Resolution 2015-75, which approved the \$2,890,000 Clean Water SRF loan, and award a new \$3,084,000 Clean Water SRF loan at 3.25 percent for 30 years, with 60.7 percent as principal forgiveness not to exceed \$1,871,000.

This recommendation provides an additional \$194,000 of principal forgiveness to cover the shortfall.

Staff analysis at the June meeting indicated that rates of \$40.80 were needed to cover operating expenses and provide the 110 percent debt coverage on the surcharge required in order to repay the \$1,213,000 loan.

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.

A representative from Emery discussed the project.

Motion by Gnirk, seconded by Bernhard, to rescind Resolution #2015-75 and to adopt Resolution #**2015-101** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$3,084,000 at 3.25 percent interest for 30 years with 60.7 percent principal forgiveness not to exceed \$1,871,000 to the city of Emery for a wastewater collection system 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 unanimously.

LENNOX REQUEST TO AMEND LOAN C462105-01: Dave Ruhnke reported that in July 2004 the Board of Water and Natural Resources approved Drinking Water SRF loan #C462105-01 in the amount of \$2,000,000 for the construction of three wells, two 500,000-gallon water towers, and upgrading a portion of the water distribution system for the city of Lennox.

The city pledged system revenue for repayment of the loan, and the loan was closed in July 2005 with a rate and term of 3.25 percent interest for 30 years.

The city of Lennox has requested that the board approve amending the revenue pledge from system revenue to a project surcharge.

Mr. Ruhnke noted that the city worked with its bond counsel and department staff has worked with Harold Deering, Attorney General's Office, on this issue.

Staff recommended the board approve the city's request to change the revenue pledged for repayment for Drinking Water SRF loan DW-01 from system revenue to a pledge of project surcharge revenue and that the amendment be 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 Bernhard, to adopt Resolution #**2015-102** approving an amendment to the city of Lennox Drinking Water SRF loan (C462105-01) security pledge from system revenue to project surcharge revenue and that loan be 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.

SIOUX FALLS REQUEST TO AMEND LOANS C461232-36 AND C461232-36NPS: Jim Anderson reported that the city of Sioux Falls requested an amendment for Clean Water SRF Loan 36.

In March 2015, the city received an SRF loan for \$18,533,000 and a \$942,025 Nonpoint Source loan.

Additional project items have increased the total project costs. As a result of the increased project costs, the city of Sioux Falls has requested an additional \$6,267,000 in SRF loan funds and an additional \$317,975 in Nonpoint Source loan funds.

The project will replace the existing 66-inch outfall line with a 72-inch line using open cut and trenchless technology from the equalization basin to the Brandon Road pump station. The city will also install two manually operated pump stations, a connection to the original diversion box and equalization basin outlet, siphon box rehabilitation, additional siphon boxes and barrels for increased capacity.

The nonpoint source improvements in the Big Sioux River basin include stream stabilization, grazing management, agricultural waste management, and creating vegetative buffers.

Staff recommended the board rescind Resolution #2015-33 that was approved in March of 2015, and that the board approve a new Clean Water SRF loan for \$26,060,000 at 1.25 percent interest for 10 years. The city has pledged a sanitary sewer surcharge for repayment of the loans. The loan will consist of two bond series: \$24,800,000 for the outfall line and \$1,260,000 for nonpoint source activities.

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 sufficient to provide the required debt coverage.

Motion by Lanning, seconded by Bernhard, to rescind Resolution #2015-33 and to adopt Resolution #**2015-103** approving a Clean Water State Revolving Fund loan up to a maximum committed amount of \$26,060,000 at 1.25 percent interest for 10 years consisting of two bond series - \$24,800,000 for the outfall line and \$1,260,000 for nonpoint source activities to the city of Sioux Falls for an outfall 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. A roll call vote was taken, and the motion carried unanimously.

APPROVAL OF STATE FISCAL YEAR (SFY) 2015 STATE REVOLVING FUNDS REPORT TO THE INTERIM BOND REVIEW COMMITTEE: Mr. Perkovich presented the draft SFY 2015 South Dakota Conservancy District Report to the Interim Bond Review Committee.

The South Dakota Conservancy District is required to present an annual report on its bond-related activities to the Legislature's Interim Bond Review Committee.

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 it contains additional information on the district's past bond issues.

Staff recommended the board approve the SFY 2015 State Revolving Fund report to the Interim Bond Review Committee and authorize distribution of the report.

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

Motion by Bernhard, seconded by Lanning, to approve the SFY 2015 South Dakota Conservancy District report to the Interim Bond Review Committee and to authorize distribution of the final report. A roll call vote was taken, and the motion carried unanimously.

BLACK HILLS COUNCIL OF LOCAL GOVERNMENTS REQUEST TO AMEND JOINT POWERS AGREEMENT FOR SRF APPLICATION AND ADMINISTRATION AND DAVIS-BACON MONITORING: Mr. Perkovich reported that the board has contracted with the planning districts since 2005 to assist entities with SRF applications and administration and since 2009 for Davis-Bacon monitoring.

The joint powers agreements with the planning districts were amended at the November 2014 meeting. Since that time, Black Hills Council of Local Governments has prepared more loan applications than anticipated, and costs per SRF application administration has increased since the November 2014 meeting.

Black Hills Council of Local Governments has requested an amendment to its Joint Powers Agreement for an additional \$52,000. This will bring the total agreement to \$170,800.

Staff recommends approval of the second amendment to the Joint Powers Agreement with Black Hills Council of Local Governments for SRF loan application and administration and Davis-Bacon monitoring.

Motion by Gnirk, seconded by Bernhard, to adopt Resolution # **2015-104** approving the second amendment to the Joint Powers Agreement with Black Hills Council of Local Governments increasing the amount by \$52,000 to a total of \$170,800 for SRF loan application and administration and Davis-Bacon monitoring. A roll call vote was taken, and the motion carried unanimously.

BROWN COUNTY MUD CREEK WATERSHED DISTRICT'S GENERAL IMPROVEMENT PLAN: Pete Jahraus reported that Brown County Mud Creek Watershed District is a new watershed district which was formed on July 26, 2012.

In September of 2012, the department received a request from the watershed district to participate in the special purpose water district loan program (SDCL 46A-1-96). The request for \$30,000 was approved for the first year of administrative and operating expenses. The loan has been repaid in full.

On September 4, 2015, the department received a copy of watershed district's general improvement plan, as required by SDCL 46A-14-47.

SDCL 46A-14-47 states that the general improvement plan shall consist of a map on which is shown the area to be benefitted, the location of the proposed works of improvement, the location of buildings, roads, streams, and such other topographic features pertinent to the proposed works of improvement. The statute also requires that the general improvement plan include a narrative stating the estimated benefits that will result and the proposed method of financing and accomplishing the work to be done. Upon receipt of a copy of the general improvement plan, the Board of Water and Natural Resources shall examine the plan and within 30 days transmit a report of their recommendations to the watershed district's managers.

Mr. Jahraus noted that a copy of the general improvement plan was included in the board packet.

Mr. Jahraus stated that he received one public comment regarding the general improvement plan in the form of a telephone call from State Senator Jim White. Senator White commented that the watershed district should contact and involve the James River Water Development District in the proposed works of improvement.

Staff has reviewed the general improvement plan and has concluded that the plan does contain the necessary items outlined in statute.

Staff recommended the board approve a motion to proceed with the Brown County Mud Creek Watershed District's general improvement plan as submitted.

Roger Rix, chairman of the watershed district, and Randy Bacon, Helms & Associates, discussed the general improvement plan and answered questions from the board.

Motion by Lanning, seconded by Bernhard, to proceed with the Brown County Mud Creek Watershed District's general improvement plan as submitted. A roll call vote was taken, and the motion carried unanimously.

MILLENNIUM RECYCLING, ING. REQUEST TO PROVIDE LOAN PAYMENT

DEFERMENT: Andy Bruels reported that in June 2012, Millennium Recycling was awarded an \$860,000 Solid Waste Management Program recycling loan at 2.25 percent interest for 10 years. The loan funded the purchase of equipment to accept aseptic containers (i.e., milk and juice cartons), reconfigure the sorting stream, and add additional tipping capacity in the sorting area.

Millennium Recycling has requested a one-year deferment on loan payments beginning with the upcoming December 2015 payment. This request is based on poor global recycling commodities prices, which has resulted in a downturn in Millennium Recycling's earnings.

Staff recommended loan payment deferment for one year to include the December 2015 and June 2016 loan payments. Staff also recommended that during the one-year time period Millennium be required to make interest payments based on the outstanding principal loan balance. The payment would be \$8,009.70 each time based on the current outstanding balance, which would be a reduction of \$38,237.97 each in the total payment amount for those semi-annual payments. After the one-year deferment for loan payments, the original payment schedule would remain in place and an additional year would be added to the term of the loan.

Staff recommended the board approve the First Amendment to the Loan Agreement and the Amended and Restated Promissory Note. Mr. Bruels noted that staff worked with the Attorney General's office to prepare amended loan documents for this request.

Jake Anderson, Millennium Recycling, answered questions from the board regarding the deferment request.

Motion by Gnirk, seconded by Bernhard, to adopt Resolution # **2015-105** approving the First Amendment to Solid Waste Management Program Loan Agreement 2013L-REC-201 with

Millennium Recycling, Inc., and approving the Amended and Restated Promissory Note. A roll call vote was taken, and the motion carried unanimously.

REQUEST TO ADVERTISE REQUEST FOR PROPOSALS FOR DRINKING WATER SRF SMALL SYSTEM TECHNICAL ASSISTANCE: Jon Peschong reported that the current Drinking Water SRF Program Small System Technical Assistance contract with South Dakota Association of Rural Water Systems ends December 31, 2015.

SDCL 5-18D-17 provides that state agencies may not award or renew a contract for professional services exceeding fifty thousand dollars without complying with the procedures set forth in Sections 5-18D-17 through 22.

A draft "Request for Proposal to provide Small System Technical Assistance for the Drinking Water SRF Program" was provided in the supplemental board packet.

Mr. Peschong stated that the department proposes to advertise the RFP on September 28, 2015, with proposals due on October 19, 2015. Staff will review the submitted proposals and be prepared to make a consultant selection recommendation to the board at its November 5, 2015, meeting. With the board's approval, the contract will be executed on January 1, 2016.

Staff requested the board approve distribution of the Request for Proposals to provide Small System Technical Assistance for the Drinking Water SRF Program.

Motion by Gnirk, seconded by Lanning, to authorize distribution of the Request for Proposals to provide Small System Technical Assistance for the Drinking Water SRF program. A roll call vote was taken, and the motion carried unanimously.

NOVEMBER BOARD MEETING: The next meeting is November 5, 2015, and will be held via the Digital Dakota Network. Mr. Perkovich discussed possible agenda items.

ADJOURN: Vice Chairman Jones declared the meeting adjourned.

Approved this 5th day of November, 2015.

(SEAL)



Chairman, Board of Water and Natural Resources

ATTEST:



Secretary, Board of Water and Natural Resources

ATTENDANCE SHEET
BOARD OF WATER AND NATURAL RESOURCES MEETING

CONDUCTED VIA THE DIGITAL DAKOTA NETWORK

SEPTEMBER 24, 2015

PIERRE
CAPITOL BUILDING

<u>NAME (PLEASE PRINT)</u>	<u>ADDRESS</u>	<u>REPRESENTING</u>
Jim Putnam	ARMONA SD	SCWDD
Vim Anderson	Pierre	DENR
Mike Perkovich	Pierre	DENR
Linda Laib	Delmont, SD	FD City of Delmont
Ernie Peterson	Delmont SD	City of Delmont " " "
NICK NELSON	PIERRE, SD	DENR
CLAIRE PESCHONG	PIERRE	DENR
JONATHAN PESCHONG	PIERRE	DENR
Kim McIntosh	Pierre	DENR
Jim Feeney	Pierre	DENR
Andy Bruels	Pierre	DENR
David Ruhnke	Pierre	DENR
PAUL GNIRK	NEW UNDERWOOD	BWNR
Drew Huisken	SD DENR - Pierre	DENR
Pete Jahraus	Pierre	DENR
Bob Mercer	Pierre	Newspapers

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BOARD OF WATER AND NATURAL RESOURCES MEETING

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SEPTEMBER 24, 2015

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RAPID CITY, SD

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REPRESENTING

TODD BERNHARD

FORT PIERRE, SD

BWNR

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BOARD OF WATER AND NATURAL RESOURCES MEETING

CONDUCTED VIA THE DIGITAL DAKOTA NETWORK

SEPTEMBER 24, 2015

ABERDEEN
NORTHERN STATE UNIVERSITY

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REPRESENTING

Randy Bran

Aberdeen

Helm & Assoc.

Roger Ritz

Groton

Brown County Mad Creek
Watershed District

Jordan King

Aberdeen

NECOG

