

**State Water Infrastructure Authority**  
**North Carolina Department of Environmental Quality**  
**February 12, 2020**  
**Meeting Minutes**

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**State Water Infrastructure Authority Members Attending Meeting**

- Kim Colson, Chair; Director, Division of Water Infrastructure
- Melody Adams, Director, Rural Grants/Programs, Rural Development Division, NC Dept. of Commerce
- Greg Gaskins, Deputy Treasurer, State & Local Finance Division; Secretary, Local Government Commission
- Leila Goodwin, Water Resources Engineer
- Maria Hunnicutt, Manager, Broad River Water Authority
- Dr. Bernadette Pelissier
- Cal Stiles, Cherokee County Commissioner (by phone)
- Charles Vines, Mayor of Bakersville

**Division of Water Infrastructure Staff Attending Meeting**

- Cathy Akroyd, Public Information Officer
- Julie Cubeta, Community Block Development Grant – Infrastructure Unit Supervisor
- Francine Durso, Senior Project Manager
- Jennifer Haynie, Environmental and Special Projects Unit Supervisor
- Susan Kubacki, Environmental Program Manager
- Jessica Leggett, Project Manager
- Jon Risgaard, State Revolving Fund Section Chief
- Anita Robertson, SRF Wastewater Unit Supervisor
- Amy Simes, Senior Program Manager
- Vincent Tomaino, SRF Drinking Water Unit Supervisor

**Department of Justice Staff Attending Meeting**

- Jill Weese, NC Department of Justice; Assistant Attorney General, Environmental Division

**Item A. Call to Order**

Mr. Colson opened the meeting and reminded the members of the State Water Infrastructure Authority (SWIA) of General Statute 138A which states that any member who is aware of a known conflict of interest or potential conflict of interest with respect to any matters before the Authority today is required to identify the conflict or potential conflict at the time the conflict becomes apparent.

**Item B. Approval of Meeting Minutes**

Mr. Colson presented the draft meeting minutes from the December 11, 2019 Authority meeting for approval.

**Action Item B:**

- Mr. Vines made a motion to approve the December 11, 2019 Authority meeting minutes. Dr. Pelissier seconded the motion. The motion passed unanimously.

**Item C. Attorney General's Office Report**

Ms. Weese noted that the Attorney General's office is reminding citizens to be aware of unethical pricing situations related to the storm damage that occurred last week.

#### **Item D. Chair's Remarks**

Mr. Colson stated that the Authority will not meet in March 2020. Staff is gathering data related to the proposed Viable Utility Reserve (VUR) legislation but is not ready to schedule a meeting of the Authority's Viable Utility Committee. While the General Assembly has taken no action on the proposed VUR, it is important for the Division to work on ways to leverage existing programs to assist utilities in implementing viable long-term solutions.

Mr. Gaskins stated that systems are failing and the legislature has only provided for short-term operating assistance through the Emergency Operating Funds (EOF) legislation, which does not include funding to enable a long-term solution. The target of the EOF legislation was the Town of Eureka in Wayne County which has failed and been taken over by the Local Government Commission.

Mr. Colson announced that Jessica Leggett will be leaving the Division for other employment and that her last day is Feb. 14, 2020. He thanked Ms. Leggett for all her good work for the past 11 years and especially with the Authority. Ms. Leggett stated that she has greatly appreciated the opportunity to work with the Authority and the Division.

Ms. Leggett reminded the Authority members that their Statement of Economic Interest (SEI) must be filed every year by April 15. She noted that she had sent an email to the Authority with the link to file their SEI online. Ms. Leggett also noted that several members will need to complete their Ethics Education in 2020.

Mr. Colson added that much of Ms. Leggett's work will be taken on by Jennifer Haynie and Susan Kubacki.

#### **Item E. Communications Update**

Ms. Akroyd presented an update about the Division's activities including meetings, presentations, events and outreach. She highlighted Secretary Regan's participation in a dedication ceremony for the Two Rivers Utilities Water Treatment Plant located in Gastonia, and the City of Raleigh's Bio-energy Recovery Project Groundbreaking Ceremony at the Neuse River Resource Recovery Facility. She noted that Mr. Colson was elected President of the Council of Infrastructure Financing Authorities (CIFA) in November 2020. She asked Authority members to let her know about infrastructure projects in their areas that could be highlighted.

#### **Item F. Session Law 2019-226 – Emergency Operating Funds for Utilities**

Ms. Simes stated that the Cliffside Sanitary District in Rutherford County was taken over by the Local Government Commission and under Session Law 2019-226, qualifies for emergency operating funds. The Local Government Commission applied to the Division for \$150,000 to cover the District's operating deficits. There are two schools and 76 residential customers of the District and the monthly wastewater bill for 5,000 gallons is \$55.05. Without these funds, the residents and schools will have no sewer service leading to public health issues.

Mr. Colson noted that the \$150,000 is only to pay for operating needs until June 30, 2020, which is the end of this fiscal year (FY). With the few number of customers, the District has no capacity to generate revenue. As a result, the Authority will likely see a request again for Cliffside Sanitary District next FY. Mr. Gaskins stated that all the District's Board members had resigned and the District has collapsed, and added that this funding is only buying some time to figure out the next step, and as of now, there is no potential solution identified.

Mr. Stiles asked if the General Assembly is providing additional funds to the Division to pay for these emergency operating expenses. Mr. Colson stated that there is no additional money being provided by the legislature to meet these emergency needs, and the funds are coming out of the current appropriation to the Division. Mr. Stiles stated that he is concerned about approving funding that does not create a permanent solution. He further stated that this is obviously the beginning of a trend and that the use of the limited appropriated funds for short-term operations reduces the funds available for long-term solutions for other utilities that have not failed. Mr. Colson added that this Session Law is currently open-ended, but when the

VUR passes, there is already legislation that will go into effect to close the open-endedness. This is important because the financial situation of failed systems will not get better and there needs to be a mechanism to leverage long-term funding.

Ms. Goodwin asked what the FY 2020-2021 needs might be. Mr. Gaskins stated that there has not been a full assessment of the situation and the amount of additional funds needed is not known. The General Assembly now has two cases of failing utilities in front of them – Eureka and Cliffside Sanitary District – which demonstrates the serious nature of these situations, more of which are waiting to happen.

Dr. Pelissier asked who is developing solutions for these situations. Mr. Colson stated that the Division and the LGC, as much as possible. Mr. Gaskins added that he does not have dedicated staff – although he has requested 5 staff to work specifically on these issues – and does not have enough time or money to determine the best solution. He has told legislators that failing systems cannot continue, ultimately leading to bankruptcy and people left without water or wastewater services. Dr. Pelissier stated that these situations are putting more stress on the use of staff time and we need to bring it to the attention of the General Assembly.

**Action Item F:**

- Mr. Gaskins made a motion to award \$150,000 of emergency operating funds for the Cliffside Sanitary District’s operating deficits. Ms. Hunnicutt seconded the motion. The motion passed unanimously.

**Item G. Introduction to Funding Decisions for Fall 2019 Application Round**

Mr. Risgaard stated that this is the first funding round in which he has been involved since joining the Division in July 2019. He has seen that the processes in place for reviewing, scoring and coming to a consensus on funding recommendations is handled accurately by the Division staff through application of the Authority’s project and affordability criteria, and he has much confidence in the recommendations made to the Authority. He reviewed the funding methodology and decision order for this round which included applications for all funding programs. The materials provided to the Authority were reviewed.

**Item H. Funding Recommendations for CDBG-I Grants**

Ms. Cubeta presented the CDBG-I applications and recommended funding amounts, noting that several communities with recommended projects have received CDBG-I funding in previous rounds and that notes on their performance are on the Authority’s spreadsheet.

Ms. Cubeta stated that the application from the Town of Pollockville for \$2 million is to construct a new wastewater treatment plant. The award would be conditional and during the Engineering Report (ER) phase, the applicant would be required to explore an alternative to connect with another system. Ms. Goodwin asked whether the full \$2 million should be awarded if the project would be delayed to examine alternatives which might result in a different project. Mr. Colson stated that this approach is standard for the Division. Potentially viable alternatives must be examined in the ER and as long as the original project purpose is met, the applicant may proceed with an alternative within the original budget. Delays can occur if a regional approach is being pursued and it takes time to get agreements in place. If the proposed project is the best approach, we want the applicant to have the ability to move forward with the project. Unfortunately, since the VUR is not in place, there is not a process or funding available to examine the best long-term solution and it may seem that we are continuing to fund projects as usual. Ms. Goodwin asked what can be done to ensure that the funding spent is for the most meaningful solution possible? Mr. Colson stated that staff would like to consider the situation further and bring ideas back to the Authority at a later meeting.

Ms. Cubeta stated that the application from the Town of Enfield is recommended for partial funding. The application stated that the project was for both water and sewer lines in the same footprint, but during the

review, the projects were not in the same footprint and were treated as two separate projects. The water portion of the project scored highly enough to be recommended but the sewer portion of the project did not. Therefore, the recommendation is to provide funds for only the water portion of the project.

The application for the Town of Garland is recommended for partial funding so that the Town does not exceed the cap of \$2 million in CDBG-I grant funds in a 3-year period. Ms. Goodwin stated that the monitoring comments seem to be out of the ordinary and why is the Division comfortable that they will do a better job than with the 2014 grant. Ms. Cubeta stated that during the 2014 project, the Town had three different grant administrators and some records were lost. Mr. Colson stated that is not an unusual situation given the limited organizational capacity of many small systems. Ms. Cubeta noted that the Division conducts risk assessments on all grantees, examining past performance, audit status, etc., and the risk determines how often Division staff monitor during the project.

Ms. Cubeta stated that the application from Forsyth County is not recommended for funding because completion of the project depends on the County receiving funds from two other sources: the Department of Commerce which will not receive an application until this spring, and the Appalachian Regional Commission, which was unaware of the project, takes applications in the fall. She noted that a grant contract cannot be executed until all funding is in place. Funding the project at this time would tie up \$1.8 million in grant funds but the project would be delayed in moving forward and the expenditure of funds would also be delayed.

The application for the Town of Hobgood is recommended to be funded partially with the remaining FY 2019 funded and the remainder funded with deobligated funds from FY 2015. The application for the Town of Clyde is recommended to be funded with deobligated FY 2015 funds as well.

Ms. Goodwin expressed concern about whether the Town of Hoffman's residents would sign up for sewer service and if the Town will have the revenue to operate the system. Ms. Cubeta stated that there are septic system failures and that hookups can be enforced, but the Public Health Dept. must be involved. The 2014 Phase I project is not in operation yet.

Ms. Goodwin stated that she had received a letter from the Town of Selma and wants to understand why the project was determined to be ineligible. Ms. Cubeta stated this is project is planned around public housing, and as stated in the application guidance and covered during application training, the mayor or other designated signatory for the application must certify that they believe the income information is correct. In the Selma application, the information was not certified by the mayor or designated signatory. She noted that one out of three applications prepared by the same firm for this type of project had been done correctly but the other two did not have the certification. Staff had to treat the public housing project citizens as over-income and the LMI was not over the 51% required for CDBG-I funding. Ms. Goodwin stated that the Town commented that by certifying the whole application, they thought the requirement was met. Ms. Cubeta stated that in the guidance and during training, it is stated that the applicant must certify this in a letter. Mr. Colson stated that staff will review the guidance to make sure the requirement is clear.

**Action Item H:**

- Ms. Hunnicutt made a motion to approve full funding for CDBG-I Project Numbers 1 through 8, 10, 12-14, and 16-17, and the partial funding of Project Numbers 9, 11 and 18 with FY19 CDBG funds, and completing the funding for Project Number 18 and fully funding Project Number 19 using deobligated FY15 funds. Mr. Gaskins seconded the motion. The motion passed unanimously.

**Item I. Example Funding Scenario for Drinking Water Projects**

Mr. Risgaard presented the potential funding scenario for the drinking water projects. Mr. Risgaard noted that the application from the Town of Bethel for water system improvements is recommended for funding with 100% Principal Forgiveness because Bethel is a non-viable system and the project sets the Town up to consolidate with the Greenville Utilities Commission, resulting in a long-term viable solution for Bethel.

Ms. Goodwin asked if a project requesting a large amount of funds could be funded at a lesser amount to stretch the money to fund a qualifying but lower-priority project. Mr. Colson stated that for DWSRF funding, higher-priority projects cannot be “by-passed” to fund a lower-priority project; this is a federal requirement unique to the DWSRF program. In accordance with the current Intended Use Plan (IUP), projects are funded up to the cap of \$20 million. Mr. Stiles stated that at a later meeting, he would like to discuss lowering the cap from \$20 million; Mr. Colson stated that staff will discuss this and bring it back to the Authority at a later meeting this year.

**Action Item I:**

- Ms. Goodwin made a motion to approve funding for Drinking Water Project Numbers 1-9. Mr. Vines seconded the motion. The motion passed unanimously.

**Item J. Example Funding Scenario for Wastewater Projects, Asset Inventory and Assessment Grants, and Merger/Regionalization Feasibility Grants**

Mr. Risgaard presented the potential funding scenario for the wastewater projects, Asset Inventory and Assessment (AIA) projects, and Merger/Regionalization Feasibility (MRF) projects. Mr. Risgaard noted that the two applications from the Town of Bethel for wastewater system improvements are recommended for funding with 100% state grant because Bethel is a non-viable system and the project sets the Town up to consolidate with the Greenville Utilities Commission, resulting in a long-term viable solution for Bethel.

Ms. Adams asked if the funding for Bethel would complete the work needed for the merger with Greenville Utilities Commission (GUC) or if more funds would be needed. Mr. Colson stated that it is likely that additional funds will be needed. The system has high infiltration/inflow and the AIA grant will be used to identify the sources; the funds needed to repair all the issues are not known at this point. In discussions with the Town and with GUC, both agree that the consolidation is needed but the Town’s system needs significant work to get it to the point that GUC will take it over because they cannot burden their existing customers with the cost to repair the Town’s system. However, there is the potential that it could fall through and in that case, Bethel will go bankrupt. The Division is recommending the obligation of significant funding to start the consolidation process to try to move the Town toward viability, noting that the total package is not available because the VUR has not passed. Mr. Gaskins stated that Bethel was one of the first towns that the LGC became concerned with due to the possibility of bankruptcy and its finances are tenuous.

Dr. Pelissier asked for information in the future about AIA applicants that have applied or been funded in the past to help sort through the many utilities requesting AIA funding. In addition, it would be helpful to know applicants that may be “at-risk” and possibly facing failure. Mr. Colson stated that our current work with the LGC on infrastructure and financial data will enable the Division to provide this information for future rounds.

**Action Item J:**

- Dr. Pelissier made a motion to approve funding for Wastewater Project Numbers 1-8, 10-13, and 16-22; Asset Inventory and Assessment Project Numbers 1-31; and Merger/Regionalization Feasibility Project Numbers 1-10. Mr. Gaskins seconded the motion. The motion passed unanimously.

**Item K. Federal “Additional Supplemental Appropriations for Disaster Relief Act, 2019” (ASADRA)**

Mr. Risgaard stated that ASADRA was signed into law in June 2019 and the state provided the required 20% match under Session Law 2019-250. The ASADRA funds will be administered through the CWSRF and DWSRF programs. The funds are designated for wastewater treatment works and drinking water facilities impacted by Hurricanes Florence and/or Michael to: prepare for, adapt to, or recover from hydrologic change; reduce the likelihood of physical damage; or reduce the susceptibility to physical damage caused by floods. Maximum CWSRF funds available are \$23 million and maximum DWSRF funds available are \$82.3 million, totaling \$105.3 million. In order to meet the federal award deadline of Sept. 30, 2020, the Division proposes

an application deadline of April 30, 2020, allowing the Authority to approve funding on July 8, 2020. Mr. Colson noted the very tight timeframe and that the final amount of funds available from EPA will depend on how much funding is recommended by the Division based on the applications received. It is possible that the full \$105.3 million might not be provided if the eligible applications total less than that amount.

To get the word out, the Division will hold “How to Apply” training for the ASADRA funds at the same time as training for the regular Spring 2020 funding cycle. Training will be held at 6 locations around the state at the end of February, and 92 people have already registered to attend. Ms. Goodwin suggested that staff reach out to applicants that did not get funded this round that are eligible for ASADRA funding. Mr. Colson stated that if enough eligible ASADRA applications are not received, it might be necessary to hold a special funding round just for ASADRA.

At its December 11, 2019 meeting, the Authority approved a proposed Priority Rating System to proceed to public comment. A public meeting was held on Jan. 13, 2020 and the comment period closed on Jan. 17, 2020. Mr. Risgaard reviewed the comments received and the changes proposed by the Division to address some of the comments.

**Action Item K:**

- Mr. Vines made a motion to approve the changes to the Priority Rating System as provided in the Staff Report. Mr. Stiles seconded the motion. The motion passed unanimously.

**Item L. Water Loss Pilot Program Update**

At its April 2019 meeting, the Authority heard a presentation about the Division’s Water Loss Pilot Program. Ms. Ambikadevi presented an update on the Program which concluded in Dec. 2019. Ten small water systems across the state participated in the Program, learning how to evaluate their data using the American Water Works Association’s M36 Methodology and to determine their real and apparent losses, and unbilled authorized consumption, ultimately to determine the revenue not collected as a result of their system losses. At the conclusion of the Program, the participants felt that the overall time and effort put into the program was appropriate and reasonable; they were more equipped to complete future water audits; they learned tools to communicate the importance of water loss management and intervention strategies to their town administrators; and indicated their desire to participate in further studies.

**Item M. Informal Comments from the Public**

Chair Colson stated that public comments could be made at this time with the reminder that in accordance with the Authority’s Internal Operating Procedures, comments must be limited to the subject of business falling within the jurisdiction of the Authority and should not be project specific. There were no informal comments from the public.

**Item N. Concluding Remarks by Authority Members, Chair and Counsel**

The Authority members thanked Jessica Leggett for her work over the years and wished her the very best on her future endeavors. Members also commented that they feel progress is being made on issues facing smaller utilities, even though solutions are difficult and challenging, and the funding is not yet available.

Mr. Colson reminded the Authority that there will not be a March 2020 meeting and that the next Authority meeting will be held on April 7-8, 2020 at a location to be determined.

**Item O. Adjourn** – The meeting was adjourned.