

**State Water Infrastructure Authority**  
**North Carolina Department of Environmental Quality**  
**February 10, 2021**

**Note: This meeting was held via WebEx due to the COVID-19 pandemic**

**Meeting Minutes**

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**State Water Infrastructure Authority Members Attending Meeting via WebEx or by Phone**

- Kim Colson, Chair; Director, Division of Water Infrastructure
- Melody Adams, Director, Rural Grants/Programs, Rural Development Division, NC Dept. of Commerce
- Sharon Edmundson, 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
- Juhann Waller, Principal, JC Waller & Associates, PC

**Division of Water Infrastructure Staff Attending Meeting via WebEx or by Phone**

- Cathy Akroyd, Public Information Officer
- Linda Culpepper, Viable Utility Reserve Support
- Jennifer Haynie, Program Development Coordinator
- Susan Kubacki, Program Development Coordinator
- Jon Risgaard, State Revolving Fund Section Chief
- Amy Simes, Senior Program Manager

**Department of Justice Staff Attending Meeting via WebEx**

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

**Item A. Call to Order**

Chair Colson opened the meeting and reminded the members of the State Water Infrastructure Authority (Authority) 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. Mr. Colson noted that he may have a potential conflict of interest relating to certain aspects of Agenda Item C. He recused himself from Agenda Items E through G, and Vice-Chair Ms. Hunnicutt conducted the meeting during those agenda items.

Chair Colson noted that this meeting is being held via WebEx. All attendees except the members of the Authority are muted to reduce background noise. The PowerPoint slides for the meeting are visible via WebEx; video is not being used.

### **Item B. Approval of Meeting Minutes**

Mr. Colson presented the draft meeting minutes from the Dec. 9, 2020 Authority meeting for approval.

#### **Action Item B:**

- Ms. Goodwin made a motion to approve the meeting minutes listed above. Mr. Waller seconded the motion. The motion passed unanimously.

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

Ms. Weese stated that Chair Colson's potential conflict of interest is under review. Mr. Colson will recuse himself from Agenda Item C as a precautionary measure. The Attorney General has reached a \$573 million settlement with McKenzie related to its advertising of opioids. This is a multi-state settlement.

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

Ms. Haynie read Statements of Economic Interest (SEI) into the record for several Authority members as follows: Ms. Edmundson (2020), Ms. Goodwin (2020), Mr. Stiles (2020), and Ms. Hunnicutt (2020 and 2021). She reminded Authority members that their 2021 SEI is due on April 15.

Mr. Colson stated that the Clean Water State Revolving Fund (CWSRF) reauthorization may be taken up this spring in Congress, and there may be the potential for an increase in funding levels.

The week before, the Local Government Commission (LGC) did take action related on grants for distressed local government units (LGUs). Ms. Edmundson added that LGC staff did attempt to have grants approved in January and that they were approved in February at the Feb. 2 meeting of the LGC.

### **Item E. Introduction to Funding Decisions for Fall 2020 Application Round**

Due to the potential conflict of interest, Mr. Colson recused himself from this agenda item.

Mr. Risgaard presented the information. Funding Decisions were made for eight funding programs as follows:

- Merger / Regionalization Feasibility (MRF) grants
- Asset Inventory and Assessment (AIA) grants
- Drinking Water State Revolving Fund related to the "Additional Supplemental Appropriations for Disaster Relief Act, 2019" (ASADRA)
- Drinking Water State Revolving Fund (DWSRF)
- Drinking Water State Reserve
- Clean Water State Revolving Fund ASADRA
- Clean Water State Revolving Fund (CWSRF)
- Wastewater State Reserve

Authority members were presented information to consider the City of Henderson's request for additional funding for the Kerr Lake Regional Water System (KLRWS). The KLRWS Water Treatment Plant provides drinking water to 15 municipal and community water systems throughout Granville,

Warren, and Franklin Counties and is owned by the City of Henderson, City of Oxford, and Warren County. Previously, the project had been awarded approximately \$39.9 million via the City of Henderson and Warren County for the project. Pricing and quotes in September 2020 indicated significantly higher construction costs with an estimated project cost of \$57 million. The project has a \$17,107,000 shortfall in its budget. Currently, it is scheduled to begin construction in the spring or summer of 2021. Mr. Risgaard stated that a decision to award the City of Henderson the balance of funds would impact available funding for projects that applied for Fall 2020 awards. The funding scenarios that were presented in Agenda Item F reflect potential impacts related to fully funding the KLRWS project.

Authority members were also given information to consider funds that were declined during the Spring 2020 funding round. A total of 12 projects declined \$28 million of funding that was awarded during the Spring 2020 funding round. Division staff identified four projects the Authority could consider for additional funding if projects awarded funds in Spring or Fall 2020 declined the funding. The funding scenarios that were presented in Agenda Item F reflect the possible scenarios the Authority could consider related to declined funding.

### **Agenda Item F. Example Funding Scenario for All Projects**

Due to the potential conflict of interest, Mr. Colson recused himself from this agenda item. Mr. Risgaard gave the presentation.

#### **Merger / Regionalization Feasibility Grants**

For the MRF grants, Division staff recommended all ten complete and eligible projects for funding for a total of \$500,000. These would be funded as State Reserve grants.

#### **Asset Inventory and Assessment Grants**

For the AIA grants, Division staff recommended 31 complete and eligible projects for funding. Nash County submitted four applications for consideration. Each local government unit (LGU) is eligible for \$150,000 per utility type every year. Division staff recommended 31 applications (\$4,425,000) for funding. These would be funded as State Reserve grants.

Ms. Goodwin noted that, upon cross-referencing the proposed list for distressed utility designation, that ten of the AIA grants recommended for funding would go to seven LGUs proposed for distressed designation.

#### **Drinking Water Projects**

Division staff recommended seven projects for funding from the DWSRF ASADRA program. These projects would be funded as \$18,199,195 in ASADRA loans and \$5,394,172 as ASADRA principal forgiveness.

For the regular DWSRF and Drinking Water State Reserve Projects (SRP), Division staff recommended six projects for funding. Davie County would be funded via multiple funding sources. If the Authority decided to fund the City of Henderson, then the City of Winston-Salem would receive less funding (from \$20,000,000 to \$15,393,000) and Cleveland County Water and Rocky Point Topsail Water and Sewer District would not receive funding. Overall, the Division recommended that the Authority fund \$50 million as loans, with \$4,718,967 of that being DWSRF

principal forgiveness. Principal forgiveness caps were exceeded to utilize available funds. The Division also recommended funding \$1,123,807 as drinking water SRP grant.

Ms. Goodwin asked about the status of Henderson's score when they previously received funding. Mr. Risgaard replied that the project has changed over the years. The original score as a rehabilitation was in the upper 30s, and what with the change an expansion, the project scored in the upper 20s. The City of Oxford's portion is higher because of it being a smaller utility with different financials.

### Wastewater Projects

Division staff recommended six projects for funding from the CWSRF ASADRA program. These projects would be funded as \$15,259,823 in loans and \$5,700,000 in principal forgiveness. Division staff recommended that the Town of St. Pauls and the City of Eden be funded with a combination of CWSRF ASADRA and regular CWSRF funds. The Town of St. Pauls would receive the balance of available CWSRF ASADRA principal forgiveness.

For the regular CWSRF program, and Wastewater SRP, Division staff recommended 35 projects for funding. The Town of St. Pauls would receive funding as described in the paragraph above. The Town of Woodland would be funded with a combination of CWSRF and wastewater SRP funds. Johnston County would be funded the balance of CWSRF loan funds.

Ms. Goodwin observed that for the wastewater projects, many of the applicants would not move forward without grant or principal forgiveness funding. Many of those were proposed to be designated as distressed. A couple of the applicants receiving multiple grants were also proposed to be designated as distressed. She asked about any conditions that might be placed on the loans and grants. Mr. Risgaard replied that Division staff would continue to proceed as normal. Any LGU designated as distressed would have to fulfill the requirements related to the VUR statutes. Part of that discussion would be to ensure that the projects funded would meet the long-term goals and needs of the community.

### Agenda Item G. Funding Decisions for All Projects

Due to the potential conflict of interest, Mr. Colson recused himself from this agenda item. Mr. Risgaard gave the presentation.

Regarding the drinking water projects. Ms. Hunnicutt favored Option B with additional funding going to Rocky Point Topsail Water and Sewer District only because of the amount and frequency of funding provided to the KLRWS and their ability to apply in the Spring 2021 funding round. She preferred funding to be spread to Projects 8 and 10. Mr. Stiles agreed and added that someone else who would otherwise be approved would have to step aside if Henderson, which was requesting additional funding, were coming in for more funding. Ms. Goodwin leaned toward Option A because it would score evenly with Winston-Salem. Additionally, funds to Rocky Point Topsail Water and Sewer District would only be a small amount of what they need. However, she agreed with Option B, provided that Henderson would receive any funding that would come available through declined funds. Dr. Pelissier also reminded the Authority that the motion on the table regarding Henderson is related to increased costs, which is something the Authority had considered in the past when awarding additional funding.

### **Action Item G:**

- Ms. Goodwin made a motion to fund MRF Project Numbers 1-10. Dr. Pelissier seconded the motion. The motion passed unanimously.
- Ms. Edmundson made a motion to fund AIA Project Numbers 1 through 18 and 20 through 32. Mr. Stiles seconded the motion. The motion passed unanimously.
- Mr. Stiles made a motion to approve the following:
  - DWSRF ASADRA Project Numbers 1, and 3 through 8<sup>1</sup>; and
  - DWSRF Project Numbers 1, 2, 4, 6, 8, and 10<sup>2</sup>; and
  - Drinking water SRP Project Number 2<sup>2</sup>; and
  - Any declined drinking water SRF funding from the Spring or Fall 2020 funding rounds would up to \$11,107,000 would go to the City of Henderson (KLRWS) project.

Ms. Goodwin seconded the motion. The motion passed unanimously.

- Dr. Pelissier made a motion to approve the following:
  - CWSRF ASADRA Project Numbers 1, 2, 16, 18, 29, and 32<sup>3</sup>; and
  - CWSRF Project Numbers 2, 5, 7, 10, 17, 19, 20, 24, 25, 31, 46, 53, 58, 61, 63, 68, and 70<sup>4</sup>; and
  - Wastewater SRP Project Numbers 1 through 3, 5, 21, 30, 33, 34, 36, 37, 42, 57, 59, 60, 62, 64, 65, 67, and 71<sup>4</sup>.

Mr. Waller seconded the motion. The motion passed unanimously.

### **Agenda Item H. Final List of Distressed Units**

Mr. Colson gave the presentation. At previous meetings, the Authority and LGC approved the criteria utilized for distressed unit designation. Additionally, four LGUs had already been designated using those criteria. Division staff presented the LGUs with their assessment criteria scores at the December meeting. The list presented at this month's meeting contained some updated data and included only those LGUs expected to be designated as distressed. Overall, a total of 114 LGUs were proposed by Division staff to be designated as distressed. Some additional LGUs might be recommended as distressed. Ms. Edmundson added that the LGC deadline for 2020 audits was on January 31, 2021. It had the potential to bump up the list significantly, but she hoped that by the time data would be reviewed and reconsidered, the number would drop significantly.

### **Discussion**

Ms. Hunnicutt discussed the fallout from the distressed unit list. In previous meetings, the Authority had discussed the importance of expressing the intent behind the list. From a public relations standpoint, the name of the list, which has distressed unit in it, can impact LGUs and have morale implications, especially related to the way that business and industry might view these LGUs in light

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<sup>1</sup> Project numbers from DWSRF ASADRA sheets only.

<sup>2</sup> Project numbers from DWSRF and drinking water SRP sheets only.

<sup>3</sup> Project numbers from CWSRF ASADRA sheets only.

<sup>4</sup> Project numbers from CWSRF and wastewater SRP sheets only.

of the list. Mr. Colson replied that the term distressed is a statutory term, and from an action item standpoint, the Authority would need to utilize that term.

Ms. Hunnicutt also wanted to better understand the way that mitigating factors such as fund balance would influence designation as a distressed unit. Many LGUs with whom she's talked have pointed to anomalies in their finances that only relate to one year. Ms. Edmundson stated that the LGC had been having a number of good conversations with various LGUs about the data. There may be some issues in some of the ways that LGUs may be accounting for things. For example, one LGU has another entity that collects for them, so they are a month behind in noting that number. The LGC also looks at reimbursables.

Ms. Edmundson pointed out that the biggest issue that they have had is reporting in the media regarding the distressed unit designation. The LGC had been working to make it clear that the list was not final until action was taken by the Authority. The message did not get through to the press, and there have been some inaccurate articles written as a result, and many LGUs are questioning why they were hearing about the proposed distressed designation from the press.

The LGC is also very concerned that the VUR money gets spent the way it should be. For example, LGC staff had to move the LGC away from trying to look at fund spending on a per capita basis.

Ms. Hunnicutt asked about the benefits of being designated as distressed. Mr. Colson stated that for LGUs barely in the distressed range that may be moving out of the range, there is still a conversation that should be held with them so that they can understand their situation and longer-term plans. It is not clear that the whole process is solely a distressed unit process. There is a larger conversation that needs to take place by looking at the numbers to make sure the utility and elected officials for the utility understand their condition and focus on continuing to move toward viability.

Ms. Hunnicutt stated that a LGU should not be penalized for parameters because they are rural, including such parameters as service population, LGU indicators, and population per mile of pipe. It seemed that small systems have parameters that they cannot control. At the same time, those factors put systems at risk for potential issues. When these communities are trying to do something to better themselves, being designated as distressed makes it seem like they are going under. It will not help them from an educational or public relations standpoint unless there is something the Authority and Division can do for them right away.

### Outreach

Ms. Goodwin stated that the Authority did discuss this a fair amount, and she was under the impression that there were conversations and communications that were happening. It was unacceptable that a LGU first heard about their potential designation of distressed from a reporter. She asked about the options of moving forward, as she was hesitant to provide approval at this point since there was a significant step missed.

Mr. Colson replied that there was always an option to defer taking action on the 114 LGUs to be designated as distressed (note that four LGUs were previously designated as distressed). Division staff have worked with stakeholders in crafting the letter that would be sent to LGUs designated as distressed to state that the designation is an effort to look at the utility, the situation, and what can be done to move the system toward viability. That was the emphasis of the letter. Designating a LGU as distressed reflected the statutory requirement. Division staff had begun working on

outreach efforts both in general and with respect to those LGUs that meet the distressed designation. For example, the Division has scheduled a webinar with the NC League of Municipalities (NCLM) to speak about the VUR, which will go forward whether or not the designation of distressed systems is approved. Also, the Division has created a website for the VUR, which contains detailed information, including a story map, that will assist people in understanding that sometimes it is a significant challenge for LGUs to manage a utility. The Town of Bethel is used as an example. The Division has been working behind the scenes to try and move the conversation forward, not from the sense that everyone is distressed but from a sense of reflecting the challenges facing small utilities. These were some of the activities that were planned by the Division to be rolled out.

The Division had not planned on publishing a list other than what was already on the web with the Authority agenda items. The VUR website would discuss the issue and the Division's approach to it. If someone had a question about who was designated, then they would go to the Authority's web page. Outreach would be a letter that would contain all of the parameters reviewed by the Division and show what their scores are. That would be the starting point for outreach. The list is not a list to be publicized but was already posted through the LGC and Authority.

#### *Delay of Designation of LGUs as Distressed*

Ms. Goodwin agreed that it all sounded very good in terms of outreach; however, hindsight revealed that the outreach efforts should have begun before the proposed designation. She suggested that this discussion presented an opportunity to pause and figure out the best way to move forward, before the Authority took action.

Ms. Hunnicutt inquired about whether there would be a grace period for those who are proposed to be designated as distressed. Additionally, Mr. Stiles asked if there was some way the Authority could delay the designation for 60 days before taking action. He also voiced concerns related to the potential to start redirecting dollars to this situation at the expense of those who are trying to do the right thing.

Mr. Colson agreed. The Division does not want the LGC to have to take over more LGUs because so much focus is on systems that are doing okay. Some systems are aware of where they stand in terms of utility management and others are really struggling to develop that awareness because they do not have the organizational capacity in place to do so. This program would give some structure for those LGUs who feel like they are struggling and funding to be supplied in a structured, organized manner. The \$9 million provided will not cover starting the process with all 114 LGUs. The Division was aware of the need for the discussion of prioritization and will be scheduling the discussions for the March and April Authority meetings.

Mr. Stiles asked if there would be any benefit to deferring a vote for 60 days for systems on the proposed list to provide comment. Ms. Edmundson replied that deferring for 60 days would give the LGC more time to respond, but there could be more systems on the list due to missing two years of audits. There could potentially be more fallout from adding systems to the list.

Ms. Hunnicutt suggested looking at the 2020 data or at least have some form of opportunity where LGUs would have a chance to respond with additional data. Mr. Colson replied that if everything were recalculated using 2020 data, it would extend the timeline to at least July because of the need to redo the analysis and conducting the outreach. He added that there are several LGUs that are

geographically near the LGUs that are already designated as distressed. To receive funding, these LGUs would also need to be designated as distressed. Delaying approval of the distressed designations would in turn delay access these LGUs would have to VUR funds.

Ms. Goodwin did not advocate to redo the entire list with 2020 data but suggested refining the process before formalizing the designation. She asked if it were possible to propose a shorter list for consideration.

Mr. Stiles indicated he was leaving the meeting for another obligation.

#### Proposal of Shorter List for Designation of Distressed

Ms. Goodwin suggested designating as distressed those LGUs that have high scores. Ms. Hunnicutt added that for a reconsideration period, Division staff should consider information that would change a score. For example, if a LGU says they know they have a weakness and are addressing it, then they could express the plan in some manner. The biggest issue would be to communicate that they have the opportunity to say why they should not be on the list.

After Division staff discussed the proposal, Mr. Colson stated that approving a partial list did not seem practical. Staff proposed to send out a letter to let LGUs know they are proposed to be designated as distressed, then to tell them their total assessment score, data used in the evaluation, and points for each parameter. Division staff would propose the final list of LGUs to be designated as distressed in April so staff could begin conversations with the LGUs and get funding in place as quickly as possible. Funding requests would come right on the heels of the final designation. Ms. Goodwin clarified scores that would remove a LGU from consideration as distressed would be those that matter, not those whose score would drop but still remain distressed. Also, it would be up to the LGU to refine the data to update the snapshot in time taken. That aspect would need to be communicated. Ms. Hunnicutt suggested a word limit to any explanations.

Ms. Goodwin suggested entertaining a motion to designate LGUs in Category Number 1 and Category Number 2 as distressed. Ms. Edmundson agreed that there would be no harm in designating those systems under Category 2 as distressed. Those systems would be the Towns of Robersonville (#7), Askewville (#8), Ronda (#10), and Wilkesboro (#11).

Ms. Adams voiced concerns about what would happen if the entire \$9 million was not encumbered before the end of the fiscal year. Mr. Colson noted that it is always a concern. However, if action were taken in April, then Division staff could start working with the designated LGUs. Part of the issue will be trying to get the conversation going and having to do a lot of work to understand the situation; without the funding in place, it would be difficult to get to know the system. If the LGUs are designated as distressed in April, then more funding would be obligated by the end of the month.

Dr. Pelissier left the meeting due to another obligation.

#### Next Steps

Mr. Colson described the next steps Division staff would take regarding the VUR program. Letters will be sent to LGUs asking for any input. The education program continues to be developed. Division staff are also moving forward with the approved grants for Bethel, Cliffside Sanitary District, and Kingstown. Bethel is receiving assistance to review the merger agreement with Greenville Utilities Commission as well as a rates analysis. Cliffside Sanitary District is receiving a sewer



assessment, alternatives analysis, and rate study. Kingstown is receiving a sewer assessment and rate study.

Division staff will also present information related to grant prioritization in March. Currently, Division staff proposed to prioritize LGUs for which the LGC has taken control of fiscal affairs; have a higher priority for the highest assessment criteria; and prioritize regional aspects. Division staff are considering how to roll out the process to eligible LGUs and how to present the points system (narrative-based versus points-based). Division staff will also consider how to leverage all funding sources in concert with the VUR program.

**Action Item H:**

Ms. Goodwin made a motion to designate the following as distressed based on Category Numbers 1 and 2: Town of Robersonville (#7), Town of Askewville (#8), Town of Ronda (#10), and the Town of Wilkesboro (#11). Ms. Hunnicutt seconded the motion. The motion passed unanimously.

**Agenda Item I: Concluding Remarks by Authority Members**

Authority members expressed their appreciation for the work that Division staff did. It was a good discussion and highlighted the effort to maintain the intent of the program the Authority and Division staff manage.

**Agenda Item J. Adjourn** – The meeting was adjourned.