

# APPENDIX E



## AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009



## STATE OF ARKANSAS SAFE DRINKING WATER FUND



## SUPPLEMENTAL INTENDED USE PLAN

JUNE 2009

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## **I. INTRODUCTION**

This is the State of Arkansas' (State) Supplemental Intended Use Plan (IUP), prepared jointly by the Water Resources Development Division (Water Division) of the Arkansas Natural Resources Commission (ANRC) and the Arkansas Department of Health Engineering Section (ADH Engineering Section).

This Supplemental IUP provides information on how the State plans to use the American Recovery and Reinvestment Act (ARRA) of 2009 capitalization grant in the amount of \$24,485,000. Arkansas plans to transfer from and to the Clean Water program which is discussed in Section III.

## **II. ARRA PROGRAM GOALS**

The State is committed to using the capitalization grant for which it is applying to provide assistance to water systems for capital improvement projects which will proceed quickly to construction, creating jobs and furthering the public health protection objectives of the Safe Drinking Water Act. The State's goal is to enter into binding commitments for projects which will proceed to construction or award of construction contracts by February 17, 2010. The State intends to award all assistance available under this capitalization grant in full conformance with the deadlines established under the ARRA and the terms and conditions of the capitalization grant award.

The State recognizes that the goal of the ARRA is to expeditiously fund eligible projects that simultaneously will create jobs, promote economic recovery, and generate long term benefits from infrastructure investment. In this grant, the State is being called upon to accomplish goals that may not previously have been priorities in its base SRF program. Some priorities and activities in the State's base program that may not practically be attainable within the timeframes associated with the ARRA will be pursued using funds made available through the base DWSRF program.

### **A. Objectives**

- Arkansas will continue to screen projects using the Priority System to assure the ARRA overall goals are given priority in the DWSRF program.
- Preserve and create jobs and promote economic recovery.
- The Division agrees that priority for funds appropriated herein shall be given to projects on the State priority list that are ready to proceed to construction within 12 months of the date of enactment of this Act.
- Pursuant to Section 1602, in using funds made available in this Act for infrastructure investment, the Division shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50% of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act.
- The Division agrees to enter data, as required by EPA, into the Drinking Water National Information Management System (DWNIMS). EPA agrees to provide technical assistance to the State in its use of the DWNIMS as a management information system.

## **B. Short-Term Goals**

- The Division anticipates applying for the FFY 2009 ARRA Capitalization Grant in SFY09 which was made available under the American Recovery and Reinvestment Act of 2009.
- The Division anticipates using not less than 50% of the ARRA funds to provide additional subsidization reserve. Arkansas is considering using the funds from the American Recovery and Reinvestment Act 2009 to offer principal forgiveness, negative interest loans, grants or any combination of these.
- The Division anticipates using not less than 20% of the ARRA funds (to the extent there are sufficient eligible project applications) for green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.
- The Division anticipates using ARRA funds to buy, refinance or restructure the debt obligations of eligible recipients only where such debt was incurred on or after October 1, 2008.

## **C. Long Term Goals**

- The Division will provide entities with a source of long-term, low-interest financing that will allow them to protect their customers' health and comply with the ARRA.
- The Division will maximize the number of entities meeting the ARRA requirements by combining the DWSRF program with other State and Federal funding programs.
- Within one year of enactment, all funds will be committed to projects under construction or have construction contracts awarded.

## **III. SOURCES AND USES OF FUNDS**

The State is applying for a capitalization grant in the amount of \$24,485,000. In addition, the Division plans to transfer \$8,161,000 from the Clean Water ARRA grant, which will be transferred as Additional Subsidization to the Drinking Water Additional Subsidization and transfer \$4,000,000 from the Drinking Water ARRA grant, which will be transferred as Green Reserve to the Clean Water Green Reserve. Note that the ARRA has waived the State match that the State is normally required to provide in order to receive a capitalization grant.

### **A. Transfer Authority between Drinking Water and Clean Water SRFs**

The SDWA Amendments of 1996 offered states the flexibility to meet the funding needs for drinking water and wastewater facilities by transferring funds from one SRF program to the other (Section 302). An amount equal to up to 33 percent of the DWSRF Capitalization Grant could be transferred from the DWSRF to the CWSRF program, or an equivalent amount from the CWSRF to the DWSRF program.

Arkansas intends to transfer \$8,161,000 of Clean Water ARRA funds to Drinking Water ARRA funds as additional subsidization. The State acknowledges that the only such transfer of funds that is permissible under the ARRA appropriation is between these two capitalization grants. The State commits to manage and

expend all funds thus transferred consistent with the requirements of the American Recovery and Reinvestment Act of 2009 as outlined in the USEPA guidance.

Arkansas also plans to transfer \$4,000,000 of its Drinking Water Green Reserve funds to the Clean Water Green Reserve. Arkansas will meet the 20% required for the DWSRF Green Reserve through DWSRF Green Reserve projects and the \$4 million transfer to the Clean Water Green Reserve.

The following table summarizes the sources and uses of the capitalization grant for which the State is applying:

**Table 1  
Sources and Uses of Capitalization Grant**

<b>SOURCES</b>	<b>AMOUNT</b>
Capitalization Grant	\$24,485,000
Transfer from CWSRF Grant	\$8,161,000
Transfer to CWSRF Green Reserve	(\$4,000,000)
<b>USES</b>	<b>AMOUNT</b>
4% DWSRF Program Admin	\$0
2% Small System Technical Assist	\$0
10% State Program Management	\$0
Infrastructure Assistance Agreements	\$28,646,000

**IV. SET-ASIDE ACTIVITIES**

Arkansas plans to reserve the authority to pull from a future capitalization grant funding for the three allowable set-aside programs under the ARRA. The programs are:

- Administration of the DWSRF program. 4% of total grant. Used by Water Division
- Small Systems Technical Assistance. 2% of total grant. Used by Engineering Section
- State Program Management. 10% of total grant. Used by Engineering Section

At the time the funds are requested from a future grant, the ADH will provide a work plan that will discuss the use of the funds associated with the Small Systems Technical Assistance and the State Program Management set asides.

**V. CRITERIA AND METHODS FOR DISTRIBUTION OF FUNDS**

In this section of the IUP, we will discuss the decisions Arkansas makes in choosing how to distribute the funds made available by the ARRA. Our expectation is to have binding commitments of \$104.1 million from nine projects. These projects are all designed to (a) help ensure public health protection, (b) comply with the ARRA, and (c) ensure affordable drinking water. Arkansas has defined the binding commitment date as the date the Bond Purchase Agreement (BPA) is signed by all parties.

## **A. Distribution to Specific Projects in the DWSRF Program**

Arkansas' method for the development of the Priority List and Fundable List explains the process used to select systems to receive assistance.

### **1. Priority System**

The Engineering Section is responsible for developing the Priority System. They have developed a System that includes factors for projects that:

- (a) Address the most serious risk to human health,
- (b) Assist systems most in need on a per household basis according to State affordability criteria.

A copy of the Priority System Questionnaire is sent to each Public Water System (PWS) in the State each year. The Questionnaire describes the Priority System used by the DWSRF program and lists the point values assigned to each category in the Priority System. The Engineering Section sends the Questionnaire to the PWS so they can add new projects to the Priority List. The Engineering Section evaluates the Questionnaires that are returned and assigns point values to the various categories, included as Appendix A. A project's total points are used to determine the project's ranking. The more points that a project receives, the higher it is placed on the priority list. The new projects are added to the projects which were not funded from the previous Priority List and a new Priority List is assembled.

For the purpose of adding ARRA projects to the Priority List, the Water Division solicited for projects that would meet the requirement for a signed construction contract within one year of enactment of ARRA. This solicitation generated 100 projects with \$ 314,074,312 in requested funds. The Water Division reviewed the submittals to verify the likelihood the project could meet the construction start deadline. The eligibility under the DWSRF regulations was also reviewed. With the elimination of the projects that could not meet those two criteria, the remaining projects were then reviewed. Priority was given to large regional projects that could not proceed without receiving large additional subsidization, which the DWSRF normally can not provide. Preference was also given to projects that have already conducted their environmental review or qualify for a categorical exclusion. The final list developed after going through this screening process were then asked to submit a Questionnaire to the Engineering Section, if they were not already on the Priority List.

The only way a project can be placed on the Priority List is by an entity submitting a Questionnaire for the project. Since submitting the Questionnaire is a voluntary task, only projects that expect to be funded by the DWSRF program are listed on the Priority List. Once the Engineering Section prepares the Priority List, it is the Water Division's responsibility to create a Fundable List from the Priority List.

### **2. Priority List of Projects**

The Priority List is a list of projects that are interested in utilizing funding from the DWSRF program. Each project goes through an evaluation process to determine its relative priority as compared to the rest of the projects seeking funding through the DWSRF program. The Engineering Section prepares the Priority System used to rank projects, included as Appendix A, sends out the Questionnaires, determines the priority points for the projects that return Questionnaires and develops the Priority List. The Water Division then takes the Priority List and from this list establishes a Fundable List. The Fundable List is **not** a separate list, but is instead composed of projects from the Priority List that expect to expend funds in the near future (twelve months).

In theory, the projects with the highest priority points get funded first. But in practice, it does not work that way. Most of the projects on the list cannot be funded exclusively through the DWSRF program. These projects typically require large amounts of grant funds that the DWSRF program cannot provide. The projects on the Fundable List are projects that either can be funded exclusively through the DWSRF program or have all of their other funding in place.

40 CFR 35.3555(d) states that the Priority Lists of projects may be amended during the year under provisions established in the IUP as long as additions or other substantive changes to the lists, except projects funded on an emergency basis, go through a public review process.

### **3. Fundable List of Projects**

40 CFR 35.3555I(2)(i) states that the IUP must contain a fundable list of projects that are expected to receive assistance from available funds designated for use in the current IUP. The Water Division defines “receive assistance” to mean closing a loan and expending funds. So, the planned start of construction or of expending funds is our indication of when a project will “receive assistance.” The process whereby the Water Division has developed a Fundable List from the Priority List consists of contacting -- in writing -- each PWS that submitted a project on the Priority List. In this letter we ask each PWS if it is going to start construction or expending funds on its project within the next twelve months. The letter makes it clear that by telling us that they will not be ready to proceed within 12 months does not jeopardize their chance for receiving funding from the DWSRF program. We explain that this process is how the Water Division makes its cash flow projections.

With this information, the Water Division can project the amount of funds needed and compare these projections with the amount of funds available. By comparing projections with funding availability, the Water Division can determine if all of the projects can be funded or if some will have to wait for the base DWSRF program.

The ARRA Fundable Project Priority List is provided as Appendix 1.

### **4. Bypass Procedures**

Arkansas’ intention is to fund every project on the PPL as it becomes ready to proceed. With the exception of an emergency public health project, the State does not plan to bypass a project that is ready to proceed for another project with a lower ranking.

If a project’s readiness to proceed status changes after it was placed on the Fundable List, the State reserves the right to put the project on hold and take another project from the Priority List that is ready to proceed in its place. Previous examples of this kind of problem include court cases being filed, other funding being withdrawn, or change in administration of the entity proposing the project. If a project is not ready to proceed, the Water Division will substitute the next project on the priority list that is ready to proceed.

If the situation develops which causes the State to bypass a project that is ready to proceed for another project, the State will report the case to EPA and include an explanation of the situation in the Annual Report.



## **B. Proposed Green Reserve Projects and Descriptions**

- 1. Cotton Plant** - plans to rehabilitate its water distribution system to reduce the high water losses in the system. This project was selected because Cotton Plant has chronic operation and maintenance problems. The city has low income and a relatively high debt load. The reduction in water loss should make it a Green Project. We believe that the city can meet ARRA deadline for the start of construction.
- 2. Lonoke White Public Water Authority** - plans to take water from Greers Ferry Lake, treat it and transmit it to water systems in Lonoke, Pulaski and White counties. The PWA is also planning to add an in-line generator to produce and sell power. The total project cost is estimated to be \$65 million. The transmission line from the proposed water treatment plant to Lonoke and White counties can meet the ARRA construction start deadline. The water treatment plant is currently being designed and should begin construction in 18-24 months. This project was selected because of its regional nature. It will serve water systems without adequate water and is not affordable without some debt relief. The pipeline will utilize an electric generator installed in the pipeline to recoup some energy from the decrease in elevation from Greers Ferry to central Arkansas which should make at least a portion of the Green Project. We are confident the project can meet the ARRA deadline for the start of construction.

## **C. Loan Terms and Fees**

The ARRA DWSRF Program will offer the following loan terms:

- Lending Rate - 1%
- Principal Forgiveness
- Combination of Principal Forgiveness and a 3.25% Lending Rate
- Repayment Term: Up to 20 Years
- Loan Origination Fee: None
- Administrative Fee is 1%. The administrative fee is to help meet program operating expenses.

## **D. Additional Subsidization**

The ARRA requires that at least 50% of assistance provided be in the form of additional subsidization. The Legislature of the State recently passed Act 457, which establishes authority to provide additional forms of subsidization with monies in the DWSRF account effective March 18, 2009.

Depending upon whether subsidization is provided, Arkansas plans to use our current SRF loan rates or a rate lower than what we currently use. Arkansas is also using the funds from the ARRA to offer principal forgiveness, negative interest loans or grants or any combination of these.

The Fundable Project Priority List (PPL) demonstrates that at least 50% of the available funding for projects will be provided via principal forgiveness, negative interest loans or grants or any combination of these. Any subsequent revision to this Fundable PPL will likewise demonstrate that at least 50% of the available funding for projects will be provided via principal forgiveness, negative interest loans or grants or any combination of these.

## **E. Green Infrastructure**

Arkansas is committed to the implementation of green infrastructure. The ARRA requires that, to the extent there are sufficient eligible project applications, not less than 20% of the funds provided for projects be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities. All projects listed on the FY 2009 Project Priority List have been evaluated to determine elements which are considered Green Infrastructure. There were two projects listed that meet one or more of the specific objectives required by this provision.

Arkansas plans to transfer \$4,000,000 of its Green Reserve to CWSRF Green Reserve leaving \$897,000 of its original Green Reserve in the DWSRF. The DWSRF Green Reserve will transfer 81% of its 20% requirement, based on the initial cap grant amount, into the CWSRF Green Reserve. Arkansas will meet the full amount of the 20% required for the DWSRF through DWSRF projects and the amount transferred to the CWSRF Green Reserve.

Where it is not clear that a project or component qualifies to be included as counting towards the 20% requirement, the files for such project will contain documentation of the business case on which the project was judged to qualify, as described in Attachment 8 to the USEPA guidance for the ARRA.

## **F. Priority for Projects Ready to Proceed to Construction in 12 Months/Preference for Expeditious Activities**

The State has a priority system for its DWSRF program that ranks projects in accordance with criteria associated with public health, compliance and economic need. However, the ARRA requires that priority be given to projects that will be ready to proceed to actual construction within 12 months of the date of enactment.

The State solicited for new projects for ARRA funding, included as Appendix 5. The State also consulted with all potential assistance recipients with projects on the Fundable PPL that was included in our 2009 IUP in order to determine which projects are most likely to be able to proceed to actual construction within the next 12 months. These systems have been given priority, and that priority is reflected in ranking the projects received on the Fundable PPL. The PPL included within this Supplemental IUP reflects the projects that will be funded using ARRA funds and the State's new priority list for 2010.

## **G. Avoidance of Reallotment/Relationship to Base Program**

In order to meet the requirements and deadlines of the ARRA for the expeditious and timely commitment and expenditure of funds, the State will regularly review the data reported to USEPA on the progress of assistance recipients under the statutory deadlines specified in this Supplemental IUP to identify any issues with the timeliness of this progress. If such issues are identified, the State intends to work with USEPA to resolve such issues as may place the State at risk of reallotment if not timely resolved. The State will include conditions in its binding commitments to ensure that assistance recipients make timely progress with respect to entering into contracts and/or construction. If a recipient fails to maintain progress with these conditions, they will receive funding from other DWSRF monies so that ARRA funding can be provided for a project that is ready to proceed.

The State understands that the USEPA may deobligate grant funds from States that fail to meet requirements on use of funds. The State intends to avoid deobligation. If the State is eligible for additional funds made available from other States that fail to meet deadlines, the State will provide USEPA with a list of projects from its priority list that are ready to proceed to construction, and will also provide a certification through an

amendment to this Supplemental IUP that all funds received for these projects will be under contract for construction within 120 days of reallocation.

## **H. Public Review and Comment**

On June 7, 2009, the State of Arkansas published the required public notice advertisement for the Intended Use Plan in the Arkansas Democrat-Gazette, a statewide paper. A public meeting was scheduled for June 22, 2009 and a deadline for submittal of written comments was set for June 22, 2009. Copies of the IUP were available for public inspection at the Water Resources Development Division of the Arkansas Natural Resources Commission, on the Commission's website at [www.anrc.arkansas.gov](http://www.anrc.arkansas.gov), and also, on the State of Arkansas' Recovery website at [www.recovery.arkansas.gov](http://www.recovery.arkansas.gov). A meeting was held on June 22, 2009 at the ANRC offices in Little Rock, to accept comments on the Intended Use Plan. Representatives of ANRC and the ADH were available to answer questions about the ARRA IUP.

## **I. Reporting**

Arkansas will report no less than monthly on the uses of funds provided by the ARRA. The major reporting vehicle will be the DWSRF Benefits Reporting Database and will include information regarding FY2010 Arkansas Drinking Water SRF Intended Use Plan.

The new requirements of the ARRA including but not limited to Davis-Bacon Act and American Iron, Steel and Manufactured Goods will be included as part of the bid documents for communities receiving ARRA funding. Additionally, ARRA funding will be tracked separately using a specialized funding code so that funds are not co-mingled with other DWSRF funds.

## APPENDICES



### **CHART ARRA 1A**

ARRA Fundable Project Priority List

### **CHART ARRA 1B**

DWSRF Comprehensive Project Priority List

### **CHART ARRA 2**

Comparison of Grant Payments, Required Binding Commitments  
and Actual Binding Commitments

### **CHART ARRA 3**

ARRA Binding Commitments Chart

### **CHART ARRA 4**

ARRA Program Projected Disbursement Schedule

### **CHART ARRA 5**

Solicitation for Public Water System Projects  
Under the Drinking Water Revolving Loan Fund Program

**CHART ARRA 1A  
STATE OF ARKANSAS  
ARRA Fundable Project Priority List**

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**CHART ARRA 1B  
STATE OF ARKANSAS  
ARRA Fundable Project Priority List**

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**CHART ARRA 2**

Comparison of Grant Payments, Required Binding Commitments and Actual Binding Commitments

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**CHART ARRA 3**  
ARRA Binding Commitments Chart

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**CHART ARRA 4**  
ARRA Program Projected Disbursement Schedule

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## CHART ARRA 5 Solicitation for Public Water System Projects Under the Drinking Water Revolving Loan Fund Program



The Arkansas Natural Resources Commission (Commission) is soliciting for water projects from Public Water Systems (PWS) to be funded from the Drinking Water State Revolving Fund Program (Program). The Program will be using funds from the American Recovery and Reinvestment Act (ARRA) as well as other funds from the Program.

To be eligible for funding from this solicitation, the applicant must be a PWS and the project must demonstrate that it will facilitate compliance with national primary drinking water regulations or otherwise significantly further the public health protection objectives of the Safe Drinking Water Act (Act). Projects that address present or prevent future violations of health-based drinking water standards are eligible, including projects to replace aging infrastructure if they are needed to maintain compliance or further public health protection objectives of the Act. Funding from the ARRA will be in the form of low interest loans, grants, or grant equivalents. Assistance from other Program funds will be in the form of low interest loans.

To be eligible for ARRA funds, a project must have a Facilities Plan, Environmental Review and Plans and Specification of all completed and approved by the Commission by September 1, 2009. If this deadline can not be met, ARRA funds will not be offered. The decision as to the likelihood of completion of these items by the deadline will be in the sole discretion of the Commission. Funding using other Program funds will still be available for eligible projects that can not meet this deadline.

In addition to traditional PWS projects, ARRA reserves a portion of its funds for green infrastructure projects. ANRC is accepting submittals for projects wishing to use funds from this reserve. To be eligible for funding from this reserve, a project must meet all Program requirements as well as one of the following four green requirements:

Energy Efficiency – The project must conserve energy above the norms available in equipment currently.

Water Efficiency – The project must conserve water above the norms for operations and maintenance of a PWS.

Green Infrastructure – The project must manage and treat stormwater while maintaining or restoring natural hydrology.

Environmentally Innovative – The project must demonstrate innovative approaches to manage water resources in a more sustainable way.

Additional information on green infrastructure projects can be found at [www.anrc.arkansas.gov](http://www.anrc.arkansas.gov).

To submit a project for consideration under this solicitation, please send a preliminary engineering report containing information on the problem the PWS is having with its system, alternatives to solve the problem, costs estimates for the alternatives and the selected alternative the PWS is seeking funding for.

Additional information on the Program and this solicitation can be found at [www.anrc.arkansas.gov](http://www.anrc.arkansas.gov). You may also contact Mike Chandler at 501-682-0547 or via email at [mike.chandler@arkansas.gov](mailto:mike.chandler@arkansas.gov).

All requested information should be submitted to:

ARRA Drinking Water Revolving Loan Fund Projects  
Water Development Division  
Arkansas Natural Resources Commission  
101 E. Capitol Avenue Suite 350  
Little Rock, Arkansas 72201

Submittals will be accepted until 4:30 pm on Monday, April 20, 2009.



## CHART ARRA 6 NOTICE OF PUBLIC HEARING



The Arkansas Natural Resources Commission (ANRC) has prepared the Clean Water State Revolving Fund (CWSRF) Intended Use Plan (IUP) and the CWSRF American Recovery and Reinvestment Act of 2009 (ARRA) IUP for the U. S. Environmental Protection Agency for State Fiscal Year 2010. The CWSRF IUP identifies wastewater construction projects and other eligible projects to be funded by the Arkansas Clean Water Revolving Loan Fund in SFY 2010, and a priority system and priority listing of projects. The ARRA IUP identifies the projects receiving stimulus funds.

The ANRC has also prepared the Drinking Water State Revolving Fund (DWSRF) IUP and the DWSRF ARRA IUP for the U. S. Environmental Protection Agency for State Fiscal Year 2010. The DWSRF IUP identifies loan projects in order of their priority and provides funds for the set-aside programs administered by the Arkansas Department of Health (Department). The ARRA IUP identifies the projects receiving stimulus funds.

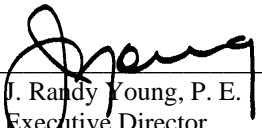
A public hearing concerning all proposed IUPs will be held on June 22, 2009, at 1:00 p.m. at the ANRC office located at 101 East Capitol Avenue, Suite 350, in Little Rock. At the hearing, ANRC and Department staff will explain the IUP's and answer questions and take comments concerning both the CWRLF and DWSRF programs including the ARRA funds.

Oral and written comments will be accepted at the meeting, but written comments are preferred. Written comments for the CWRLF IUPs can be sent to Marylen Smith at the above address or by email to [marylen.smith@arkansas.gov](mailto:marylen.smith@arkansas.gov). Written comments for the DWSRF IUPs can be sent to Deborah Christopher at the above address or by email to [deborah.christopher@arkansas.gov](mailto:deborah.christopher@arkansas.gov). The comment period will remain open until 4:30 p.m. on June 22, 2009. Copies of CWRLF, DWSRF and the ARRA documents are available for public inspection at the Water Resources Development Division of the ANRC. Copies are also available on the Arkansas Recovery website located at [www.recovery.arkansas.gov](http://www.recovery.arkansas.gov) and on ANRC website located at [www.anrc.arkansas.gov](http://www.anrc.arkansas.gov).

Dated this 7<sup>th</sup> day of June, 2009.

ARKANSAS NATURAL RESOURCES COMMISSION

By: \_\_\_\_\_

  
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