

**APPENDIX D**

**STATE OF ARKANSAS**

**AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**



**STATE OF ARKANSAS**  
**CLEAN WATER REVOLVING LOAN FUND PROGRAM**  
**CAPITALIZATION GRANT UNDER THE**  
**AMERICAN RECOVERY AND REINVESTMENT ACT of 2009**  
**STATE FISCAL YEAR 2009**



**WATER RESOURCES DEVELOPMENT DIVISION**  
**of the**  
**ARKANSAS NATURAL RESOURCES COMMISSION**

**June 2009**

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**INTRODUCTION**

This section is for the Clean Water Revolving Loan Fund (CWRLF) Intended Use Plan (IUP) for State Fiscal Year 2010 under the American Recovery and Reinvestment Act 2009 (ARRA). The CWRLF is administered by the Water Resources Development Division (Division) of the Arkansas Natural Resources Commission (ANRC). The Arkansas Development Finance Authority (ADFA) assists ANRC by acting as Agent, Financial Advisor and the Purchaser and Seller of Bonds.

## **I. ARRA PROJECTS AND AVAILABLE ASSISTANCE**

This section of the IUP contains a list of projects the State anticipates to fund and information on how the State plans to use the funds which were made available under the American Recovery and Reinvestment Act of 2009 (ARRA). A sources and uses of funds schedule is detailed in Table 1.

The application for the FFY 2009 ARRA appropriated funds in the amount of \$25,636,500 will be based on intended uses identified in this section of the IUP. Please note that Arkansas intends to transfer funds between Clean Water and Drinking Water program which is discussed in Section VIII.

## **II. ARRA CWRLF GOALS**

Arkansas is committed to using the ARRA capitalization grant for which it is applying to provide assistance to wastewater and nonpoint source projects which will proceed quickly to construction, creating jobs and furthering the water quality objectives of the Clean Water Act. Arkansas's goal is to enter into binding commitments for projects which will proceed to construction or award of construction contracts by February 17, 2010.

Arkansas 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 Clean Water State Revolving Loan Fund program.

### **Objectives:**

- Expediently fund eligible projects that will preserve and create jobs and promote economic recovery
- Priority for projects ready to start construction
- Generate long-term benefits from infrastructure investment

### **Short-Term Goals:**

1. The Division anticipates applying for the Federal FY 2009 ARRA Capitalization Grant which was made available under the American Recovery and Reinvestment Act of 2009 in State FY09.

2. The Division anticipates using at least 50% of ARRA funds to provide additional subsidization. Arkansas is considering using the funds from ARRA to offer zero percentage loans, principal forgiveness, negative interest loans or grants or any combination of these.
3. The Division anticipates using at least 20% (to the extent there are sufficient eligible project applications) of the ARRA funds for Green Infrastructure. Green Infrastructure includes such projects as water or energy efficiency improvements, green stormwater infrastructure or other environmentally innovative activities.
4. 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.

**Long Term Goals:**

1. Within one year of enactment (February 17, 2009), all funds must be committed to projects under construction or having awarded contracts for construction.

**III. INFORMATION ON CWRLF ARRA ACTIVITIES TO BE SUPPORTED**

Arkansas anticipates using the ARRA funds to offer zero percentage loans, principal forgiveness, negative interest loan or grants or any combination of these. The Division intends to use an amount equal to four percent (4%) of the ARRA federal grant funds for payment of administrative expenses.

Arkansas provides assistance through loans to wastewater projects for secondary treatment (1); advanced treatment (2); infiltration/inflow (3-A); major rehabilitation (3-B); new collectors (4-A); new interceptors (4-B) and other categories eligible for section 212 projects.

**IV. ASSURANCES AND SPECIFIC PROPOSALS**

Arkansas provides the necessary assurances and certifications as part of the Operating Agreement between the State of Arkansas and the U.S. Environmental Protection Agency. Arkansas' Operating Agreement includes the following requirements of section 35.3150 (b) (4).

**A. Binding Commitments (35.3135(c))**

A binding commitment is defined as the execution of a contract called the Bond Purchase Agreement between the borrower and ANRC. The Bond Purchase Agreement sets out the terms of the bond that will be issued by the borrower and purchased by ADFA. The binding commitment date is the date when both parties have signed that contract. The bond closing will take place within six months of the execution of the Bond Purchase Agreement.

**B. Expedious and Timely Expenditures (35.3135(d))**

Federal EPA payments shall be expended in accordance with the American Reinvestment and Recovery Act of 2009 with preference given to projects that are ready to proceed.

**C. First Use of Funds (35.3135(e))**

The State of Arkansas confirms that any publicly owned treatment works previously identified as part of the National Municipal Policy (NMP) universe are either in compliance, on an enforcement schedule, has an enforcement action filed, or has a funding commitment from a prior year.

**D. Environmental Review Requirements (35.3140)**

The State of Arkansas will conduct environmental reviews as specified in the Project Review Procedures of the Operating Agreement.

**E. State Matching Funds (35.3135(b) (1))**

The American and Recovery Investment Act of 2009 require no State Match.

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

The approach used to develop Arkansas' proposed distribution of its SFY 2009 CWRLF ARRA funds is as follows:

**1. Source and Use of Funds**

Table 1 identifies the funds and uses which are made available by the American Recovery and Reinvestment Act of 2009. Arkansas intends to transfer \$8,161,000 from Clean Water ARRA cap grant to Drinking Water ARRA cap grant. The \$8,161,000 transferred from Clean Water is 100% allocated from additional subsidization funds. Arkansas intends to transfer \$4,000,000 from Drinking Water ARRA cap grant to Clean Water ARRA cap grant. The \$4,000,000 transfer from Drinking Water is 100% allocated to the Green Project Reserve for Clean Water. 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.

**TABLE 1 SOURCES AND USES OF ARRA CAPITALIZATION GRANT**

<b>SOURCES</b>	<b>AMOUNT</b>
Capitalization Grant	25,636,500

Transfer from Drinking Water SRF	4,000,000
<b>TOTAL SOURCES</b>	<b>29,636,500</b>
<b>USES</b>	
<b>Project Assistance Loans</b>	
Program Loans	5,550,040
Green Reserve Loans	9,300,000
<b>Project Assistance Subsidization</b>	
Transfer to Drinking Water SRF	8,161,000
Program Assistance Subsidization	4,000,000
Green Reserve Assistance Subsidization	1,600,000
<b>Administration (4%)</b>	<b>1,025,460</b>
<b>TOTAL USES</b>	<b>29,636,500</b>

## 2. Allocation of Funds among ARRA Projects

### A. ARRA Project List

Arkansas conducted a comprehensive outreach campaign to alert potential borrowers of federal plans to provide economic recovery stimulus funding. Notices were placed in the Arkansas Democrat Gazette (a state wide newspaper), emails were distributed, and a new web site went on-line that covered the economic recovery loan application process. The state has focused on reaching out to communities with ready to go projects and those that may be eligible for principal forgiveness subsidy assistance. As a result of this effort the CWSRF program has identified over \$62 million in eligible projects that could be ready to proceed to construction within the time deadlines established by the ARRA. The attached project list includes projects that have been assessed through the CWSRF prioritization process.

## 3. Additional Subsidization

ARRA requires that not less than 50 percent of assistance provided be in the form of additional subsidies. The Arkansas legislature approved House Bill 1645 which would establish authority to provide zero percentage loans, principal forgiveness, and negative interest loan. Arkansas House Bill 1645 became Act 458 on March 18, 2009.

Arkansas plans to provide additional subsidization to those entities that demonstrate an inability to fully fund their project from loan funds. The Division will use the Median Household Income, current user charge rates and the unavailability of a revenue source



for the projects that are not traditional Publicly Owned Treatment Works. The attached project list demonstrates that at least 50 percent (which includes the transfer of \$8,161,000) of the available funding for projects will be provided via principal forgiveness.

#### **4. Green Infrastructure**

ARRA requires that, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds provided for a Green Project Reserve. Projects must be one of the following: water or energy efficient, green infrastructure, or other environmentally innovative activities. Arkansas has three projects for nonpoint source which either provide for stream restoration or restore wetlands. One other Section 212 project will create significant energy savings.

Along with placing information about the American Recovery and Reinvestment Act of 2009 on ANRC's website, solicitation efforts included e-mailing copies of the solicitations to the Arkansas Municipal League, the Arkansas Rural Water Association, the American Consulting Engineers Council of Arkansas, the Arkansas Water and Wastewater Managers' Association, the Arkansas Department of Health and the Community Resource Group. These groups agreed to e-mail or fax the solicitations on to their membership. Each of these groups was targeted because their membership has a direct connection to water and sewer systems. We feel that between all of these groups we have been able to contact all of the entities that would be eligible for funding from our two programs. We have also placed a legal notice in the Arkansas Democrat Gazette (a state wide newspaper) to make every effort in getting the word out about these funds being available for water and sewer projects.

#### **5. Preference for Expeditious Activities**

ARRA requires priority be given to projects that will be ready to proceed to actual construction within 12 months of the date of enactment. In anticipation of compliance with this requirement, Arkansas is consulting with all potential assistance recipients with projects on the project priority list and making a determination as to which of these projects can be started and completed expeditiously. After receiving a capitalization grant, Arkansas will provide ARRA assistance to projects who qualify for this preference.

#### **6. 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, Arkansas will regularly review the data reported to EPA on the progress of assistance recipients under the statutory deadlines specified in this IUP to identify any issues with the timeliness of this progress. If such issues are identified, Arkansas intends to work with EPA to resolve such issues. Arkansas will include conditions in its assistance agreements to ensure that assistant 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 CWSRF monies so that ARRA funding can be provided for a project that is ready to proceed. Arkansas understands that the U.S. Environmental Protection Agency may deobligate grant funds from States that fail to meet requirements on use of ARRA funds. However, if Arkansas is eligible for additional funds made available by a reallocation of ARRA funds, Arkansas will provide EPA with a list of projects from its project priority list that are immediately prepared to proceed to construction.

## **7. Loan Terms and Fees**

The Recovery CWSRF Program will offer the following loan terms:

- Lending Rate - 1% for projects without principal forgiveness
- Principal Forgiveness – for projects without loan funds
- Combination of Principal Forgiveness and lending rate of 3.25%
- Repayment Term - Up to 20 Years
- Loan Origination Fee - None
- Administrative Fee - 1% - this helps meet program operating expenses.

## **VI. PUBLIC REVIEW AND COMMENT**

A public notice was placed in a statewide newspaper to announce the required public review dates and locations for the Arkansas Intended Use Plan including the list of projects expected to be assisted through funding from the CWRLF ARRA. The review/comment period remained open for 14 days. A copy of the legal notice published in the newspaper and a summary of the results of these public review/comments are attached.

## **VII. INTENDED USE PLAN AMENDMENT PROCEDURES**

Revisions to this IUP that are determined significant will require Public Notice and EPA notification and approval.

Revisions to this IUP which are deemed to be insignificant shall be made by the Division with notification to EPA.

Any changes in the project funding list shall be in accordance with procedures provided in the CWRLF Priority System and List.

## **VIII. TRANSFER OF FUNDS**

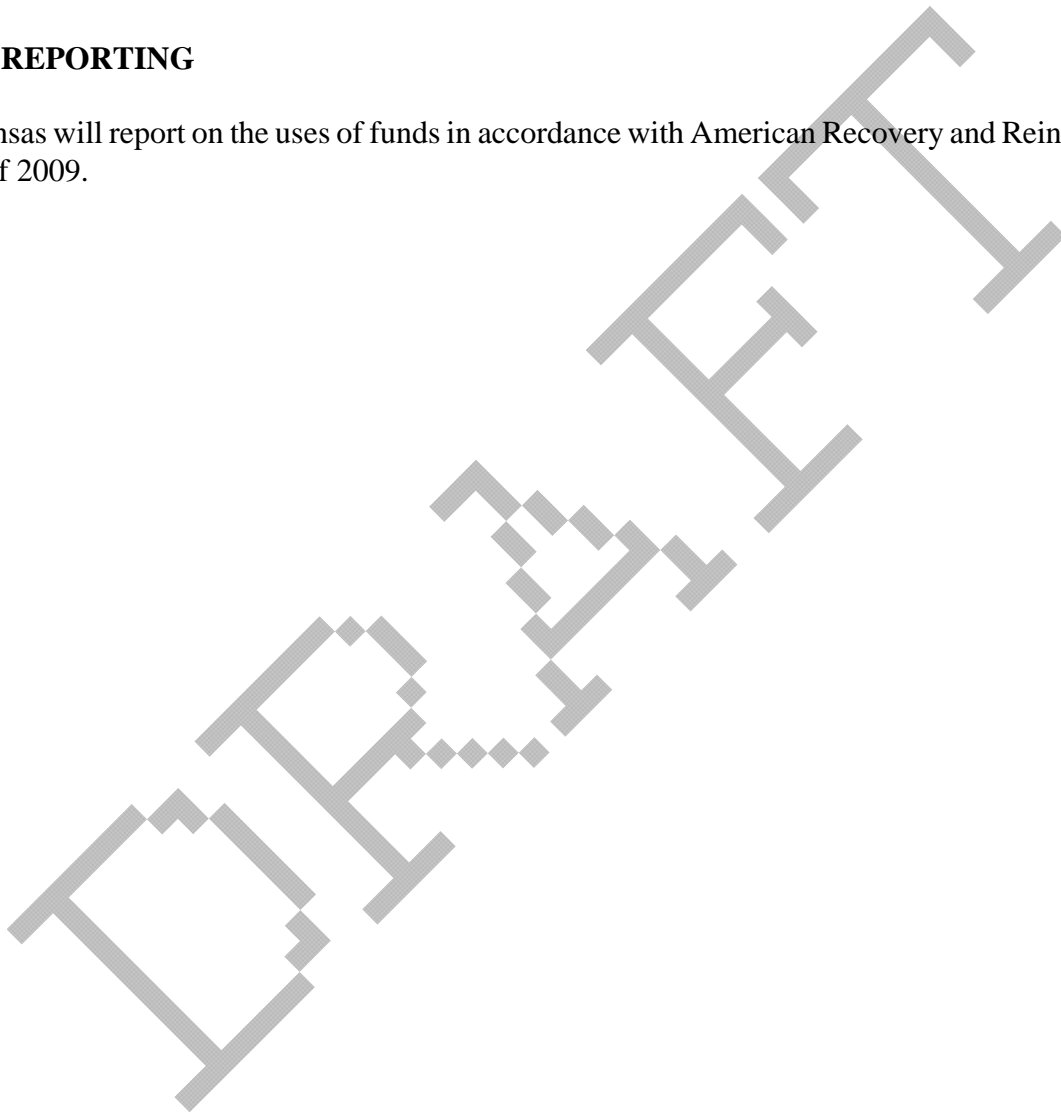
Arkansas intends to transfer \$8,161,000 from Clean Water ARRA cap grant to Drinking Water ARRA cap grant. The \$8,161,000 transferred from Clean Water is 100% allocated from additional subsidization. Arkansas intends to transfer \$4,000,000 from Drinking Water ARRA cap grant to

Clean Water ARRA cap grant. The \$4,000,000 transfer from Drinking Water is 100% allocated to Green Project Reserve for Clean Water.

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.

## **IX. REPORTING**

Arkansas will report on the uses of funds in accordance with American Recovery and Reinvestment Act of 2009.



**APPENDIX D-1**

**PUBLIC NOTICE**

**STATE OF ARKANSAS**

**ARKANSAS NATURAL RESOURCES COMMISSION**

**PUBLIC HEARING & NOTICE REPORTS**

**ARRA FUNDS**

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, [www.recovery.gov](http://www.recovery.gov), and [www.anrc.arkansas.gov](http://www.anrc.arkansas.gov). A meeting was held on June 22, 2009 at ANRC offices in Little Rock, to accept comments on the Intended Use Plan. Representatives of ANRC were available to answer questions about the Clean Water IUP.

**CHART D-2**

**ARRA INTENDED USE PLAN PROJECTS**

**ITEMS**

**D-2 Project Priority List for SFY 2010**

