

Drinking Water Board Packet

August 31, 2021

Agenda



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF DRINKING WATER
Tim Davis
Director

Drinking Water Board

Roger Fridal, Chair
Kristi Bell, Vice-Chair
Scott Morrison
Jeff Coombs
David O. Pitcher
Eric Franson, P.E.
Barbara Gardner
Blake Tullis, Ph.D.
Kimberly D. Shelley
Tim Davis
Executive Secretary

DRINKING WATER BOARD MEETING

August 31, 2021 1:30 PM

Davis Conference Center

Meridian B Room

1651 N 700 W

Layton, Utah 84041

Tim Davis Cell # 385-226-6511

1. Call to Order – Kristi Bell
2. Roll Call – Tim Davis
3. New Board Member Introduction – Tim Davis
 - A. Dawn Ramsey, Mayor South Jordan City
4. Oath of Office for New Member – Linda Ross, Notary Public
5. Approval of Meeting Minutes
 - A. [June 8, 2021 Minutes](#)
6. Disclosure for Intent to Publicly Comment – Kristi Bell
7. Disclosure for Conflict of Interest – Kristi Bell
8. Financial Assistance Committee Report
 - A. [Status Report](#) – Jeremy Andrews
 - B. [Project Priority List](#) – Heather Pattee
 - C. Applications
 - i) STATE
 - a. [Kane County WCD](#) – Heather Pattee
 - b. [LaVerkin](#) – Heather Pattee
 - ii) Deauthorizations
 - a. [Provo River Water Users Association](#) – Heather Pattee

- iii) Planning Advance
 - a. East Carbon City – Skye Sieber
- iv) Change in Scope
 - a. Hyde Park City – Skye Sieber
- D. Financial Assistance Committee New Member – Tim Davis

9. Rulemaking Activities

A. Current Rulemaking Activities (Board Action Needed)

- i. Authorization to Proceed with Rulemaking R309-700 State Drinking Water State Revolving Fund Financial Assistance Program
- ii. Authorization to Proceed with Rulemaking R309-705 Federal Drinking Water State Revolving Fund Financial Assistance Program
- iii. Authorization to Proceed with Rulemaking R309-800 Capacity Development Program

10. Rural Water Association Report – Dale Pierson

11. Directors Report – Tim Davis

- A. Fee Proposal
- B. Enforcement Report
- C. Board Training
- D. Roger Fridal Years of Service Award
- E. Other

12. Public Comment Period – Kristi Bell

13. Open Board Discussion – Kristi Bell

14. Other

15. Next Board Meeting

Date: Tuesday November 2, 2021
Time: 1:00 PM
Place: Multi Agency State Office Building
Division of Drinking Water
195 N 1950 W
Salt Lake City, Utah 84116

16. Adjourn

Agenda Item

5(A)



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF DRINKING WATER
Tim Davis
Director

Drinking Water Board

Roger Fridal, Chair
Kristi Bell, Vice-Chair
Scott Morrison
Jeff Coombs
David O. Pitcher
Eric Franson, P.E.
Barbara Gardner
Blake Tullis, Ph.D.
Kimberly D. Shelley
Tim Davis
Executive Secretary

DRINKING WATER BOARD MEETING

June 8, 2021 1:00 PM

Via Zoom Webinar

DRAFT MINUTES

1. Call to Order

Roger Fridal, Chair, called the Board meeting to order at 1:02 PM.

2. Electronic Meeting Notice – Roger Fridal

Roger Fridal read the written determination to hold the meeting electronically.

3. Roll Call – Tim Davis

Board Members Present: Roger Fridal, Kristi Bell, Scott Morrison, David Pitcher, Eric Franson, Barbara Gardner, Kimberly Shelly. Blake Tullis and Jeff Coombs arrived at 1:16 PM.

Division of Drinking Water (DDW, Division) Staff Present: Tim Davis, Michael Grange, Allyson Spevak, Skye Sieber, Heather Pattee, Elisa Brawley, Morgan Vinyard, Sarah Romero, Mimi Ujjié, Mark Berger, Michelle Deras, Nathan Lunstad

4. Approval of Meeting Minutes

A. March 4, 2021 Minutes

- Scott Morrison moved to approve the March 4, 2021 Drinking Water Board meeting minutes. Kristi Bell seconded. The motion was carried unanimously by the Board.

B. April 22, 2021 Minutes

- Barbara Gardner moved to approve the April 22, 2021 Drinking Water Board meeting minutes. David Pitcher seconded. The motion was carried unanimously by the Board.

5. Disclosure for Intent to Publicly Comment – Roger Fridal

No disclosure for the intent to publicly comment was made.

6. Disclosure for Conflict of Interest – Roger Fridal

David Pitcher disclosed a potential conflict of interest when Item 7(C)(ii)(g) Provo River Water Users Association was presented. See below for more detail and the Board's decision on the matter.

7. Financial Assistance Committee Report

A. Status Report – Michael Grange

Michael Grange, Technical Assistance Section Manager with the Division of Drinking Water, reported that as of April 30, 2021 there is a balance of approximately \$12 million in the State SRF fund. Over the course of the next year, the Division is expecting another \$3.8 million to be added to the fund through sales tax appropriation and repayment streams. By May 1, 2022 approximately \$16 million will be available for State projects.

Bear River Water Conservancy District hopes to close their State loan by the end of this month. Mountain Regional Water and Genola City State projects will both soon be closed out.

Michael then reported that as of April 30, 2021 the Federal SRF fund has a negative balance of \$23,750,000, which is an indication of the money that is obligated, not the actual money available. The available funding is in the principal repayment fund with a current balance of \$86 million. Significant funds will not be drawn from this second-round bank account by the three large on-going programmatic financing projects; Kearns Improvement District, Granger Hunter Improvement District, and Central Utah Water Conservancy District. Also, approximately \$4 million in annual repayments will be coming in from these three projects. In summary the cash flow is in a good position even though the obligated fund currently has a negative balance.

Michael reported that Wyoming turned down its 2019 EPA capitalization grant, as a result that money went back into the general fund for the SRF programs nationwide. Of that amount, \$99,000 was redistributed to Utah with a correlating State match of \$19,800.

Over the course of the next year, the Division is expecting almost \$22 million to be added to the fund from the EPA capitalization grant, state match, and principal and interest payments. By this time next year, the obligated portion of the Federal fund will be -\$1.8 million.

Michael explained that the upcoming Item 7(C)(ii)(g) Provo River Water Users Association to request \$44 million is for a long-term project which will not be drawn upon all at once, but rather over the course of a few years.

B. Project Priority List – Michael Grange

Michael Grange reported that 8 new projects are recommended to be added to the Project Priority List:

- 1) Wellington City (110.6 points) with a project to replace asbestos concrete pipe, install PRV stations, and replace meters.
- 2) East Carbon City (105.6 points) with a project to construct a new 1.5 MGD conventional water treatment plant.
- 3) Cannonville Town (67.3 points) with a project to replace a concrete storage tank, hydrants, and valves.
- 4) Irontown (47.1 points) with a project to replace and upgrade distribution lines and hydrants, and install new water meters.
- 5) Provo River Water Users Association (25 points) with a project to replace the Deer Creek Dam and Reservoir intake structure.
- 6) Bicknell Town (23 points) with a project to construct a new 300,000-gallon concrete storage tank and well in order to meet storage and source capacity requirements.
- 7) Spring Creek Water Users (20 points) with a project to drill a new well.
- 8) Little Meadows Estates (7.9 points) with a project to construct a booster station, install a chlorination system and pressure reducing station, and modify the existing storage tank in order to meet DDW requirements.

The Financial Assistance Committee recommends that the Drinking Water Board approve the updated Project Priority List as presented, with the addition of these 8 projects.

- David Pitcher moved to approve the updated Project Priority List. Jeff Coombs seconded. The motion was carried unanimously by the Board.

C. SRF Applications

i) STATE

a. Escalante City – Heather Pattee

Representing Escalante City were City Treasurer Stephanie Steed and consulting engineer Rich White.

Heather Pattee informed the Board that the Escalante City project consists of source protection fencing replacement around their 8 springs for a total project cost of \$108,294; the city is contributing \$5,294, and requesting \$103,000 from the Board. The local Median Adjusted Gross Income (MAGI) for Escalante City is 71% of the State MAGI. Their current average monthly water bill is \$67.97 which is 2.44% of the local MAGI. Based on the MAGI and the average monthly water bill the city does qualify to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a grant of \$103,000 to Escalante City.

Rich White spoke of how the city regularly spends time fixing the dilapidated fencing but runs into restrictions because the springs are on Forest Service land. Due to drought conditions, using chainsaws to repair the fencing is a concern. In order to be source protection compliant, the city feels it's best to tear out the old fences and install new ones.

Michael explained the difference between grant funds and principal forgiveness; grant funds come out of the State program, while principal forgiveness is Federally funded, and called as such to help the applicant avoid the red tape associated with a grant.

- Jeff Coombs moved that the Drinking Water Board authorize a grant of \$103,000 to Escalante City. Kristi Bell seconded. The motion was carried unanimously by the Board.

b. Green River – Heather Pattee

Representing Green River City were City Administrator Conae Black and Jeremy Williams, an engineer with Brown and Caldwell.

Heather Pattee informed the Board that the Green River project consists of conducting an in-depth analysis of various disinfection by-product (DBP) control strategies and technologies to determine the preferred strategy to develop and implement in order to reduce their DBPs, allowing them to meet Division standards. The total project cost is \$113,251 which the city is requesting half from Community Impact Board (CIB) and the other half from the Drinking Water Board. The local MAGI for Green River City is \$33,300 which is 71% of the State MAGI. Their current average monthly water bill is \$65.74 which is 2.37% of the local MAGI. Based on these figures they do qualify as a hardship community to receive additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a grant of \$56,626 to Green River City conditions include that they resolve the cross connection control deficiencies on their IPS report. Those issues can be resolved with the help of DDW staff.

After David Pitcher voiced a concern about the system's backflow deficiency; Jeremy said resolving it would be added to the project's scope of work.

- Eric Franson moved that the Drinking Water Board authorize a grant of \$56,626 to Green River City, conditions include that they resolve any deficiencies on their IPS report. Scott Morrison seconded. The motion was carried unanimously by the Board.

c. Pleasant Grove City – Heather Pattee

Representing Pleasant Grove City was Public Works Director Marty Beaumont.

Heather Pattee informed the Board that the Pleasant Grove City project consists of drilling a new well, installing a well house and mobile generator, and modifying switch gear in various well houses. The total project cost is \$4,144,949; the city is contributing \$400,000 and requesting \$3,744,949 from the Board. Because Water Revenue Bonds can only be done in \$1,000 increments, the requested amount has been rounded to \$3,745,000. The local MAGI for Pleasant Grove City is \$49,100 which is 104% of the State MAGI. Their current average monthly water bill is \$73.48 which is 1.8% of the local MAGI. The system is currently charging enough to cover additional loan debt, as they were proactive in raising their water rates to create a substantial reserve fund.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$3,745,000 at a 1.60% interest rate or fee for 20 years to Pleasant Grove City.

Marty Beaumont expressed concern over the low water quantities at two of their four wells and the need for the new well in order to meet the demand of their growing population. He's also concerned about the possibility of a large ice event or an extended power outage. This is a critical project that will address these concerns. Marty requested that the Board consider a 1.0% interest rate, like the rate on their other SRF loan.

Eric Franson commented that he appreciates the efforts made by the city to provide water to their residents. He feels more comfortable going with the staff recommended 1.6% interest rate.

- Eric Franson moved that the Drinking Water Board authorize a loan of \$3,745,000 at 1.60% interest or fee for 20 years to Pleasant Grove City. Jeff Coombs seconded. The motion was carried unanimously by the Board.

Jeff added that he agreed with Eric in that he appreciates the diligence the city has put into maintaining their system, but in an effort to maintain consistency and fairness he supports the committee's recommendation.

- ii) FEDERAL
 - a. Bicknell Town – Skye Sieber

Representing Bicknell Town were Town Councilmember Weston Johnson and Kelly Chappell with Ensign Engineering.

Skye Sieber informed the Board that the Bicknell Town project consists of constructing a new 300,000-gallon concrete storage tank and a new well, both of which will help them meet source and storage capacity requirements. The total project cost is \$2,278,000; the town is contributing \$100,000 and requesting \$2,178,000 from the Board. The MAGI for Bicknell is \$38,100 which is 81% of the State MAGI. The current average monthly water bill is \$47.80 which is 1.51% of the local MAGI. The after-project water bill at a full loan for 20 years would be \$91.51 which is 2.88% of the local MAGI. Based on the after-project water bill, the town qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$2,178,000 for 30 years at a 1.0% interest rate or fee with \$870,000 in principal forgiveness for a total repayable amount of \$1,308,000 to Bicknell Town. Currently the town has 0 IPS points.

Weston Johnson informed the Board that the town's capacity has dropped by 50%. Last year they self-funded a master plan and from that learned they need at least 50 gallons per minute to be sustainable. As of today, the town is at 28 gallons per minute. They also don't have enough fire flow capacity.

Scott Morrison inquired if there was a plan to upgrade pipe sizes to allow for more capacity.

Kelly Chappell explained that the biggest bottleneck in the system is a pipeline that leads from the tank to the distribution system and if upgraded it would increase distribution fire flow. The city determined that after the source and storage project was complete they would look at upgrading that pipeline and other key pipelines throughout the system. Overall, according to the hydraulic model, the system is just slightly deficient in meeting fire flow requirements.

David Pitcher's asked about the private property land easements and the environmental assessment. Weston responded that the private property land easements were agreed upon for the new well's location. Kelly said that the tank is on Bureau of Land Management property and they've started speaking with them about the required environmental assessment, which would be paid for with this funding.

- David Pitcher moved that the Drinking Water Board authorize a loan of \$2,178,000 for 30 years at a 1.0% interest rate or fee with \$870,000 in principal forgiveness for a total repayable amount of \$1,308,000 to Bicknell Town to construct a well and storage tank. Kristi Bell seconded. The motion was carried unanimously by the Board.

b. East Carbon City – Skye Sieber

Representing East Carbon City were Mayor David Avery, City Treasurer Elizabeth Holt, and consulting engineer Darrel Leamaster.

Skye Sieber informed the Board that the East Carbon City project consists of constructing a new 1.5 million-gallon per day conventional water treatment plant. Recently, the total project cost was re-estimated to be \$3,988,000 to account for increased material costs, which is approximately \$338,000 higher than the original estimate. The project was recently heard at the CIB funding meeting to request co-funding in the grant amount of \$2,173,000. CIB asked that the city request 50% of the project cost from the Board and then come back to CIB with a proposal that includes loan funding. CIB hinted that they may be willing to fund a 70% loan / 30% grant. The city will contribute land valued at \$10,000 toward the project. Assuming CIB funds 50% of the project with the 70/30 split, the city is amending their request today to \$1,989,000 with 50% loan / 50% grant, an increase of \$174,000 from what's presented in the packet.

The combined local MAGI for East Carbon City and the Sunnyside area (this area was incorporated by East Carbon City) is 53% of the State MAGI. The current average monthly residential water bill is estimated to be 2.52% of the local MAGI. The funding would increase the city's water bill to \$55.74 per month which is 2.68% of the local MAGI, therefore the city qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$1,989,000 at a 1.0% interest rate or fee for 20 years with \$995,000 in principal forgiveness for a total repayable amount of \$994,000 to East Carbon City. Conditions include they resolve any issues on their IPS report. Those issues are cross-connection control related, which DDW staff can help resolve.

David asked what is the expected design life of the plant and about having a set aside fund to replace parts as needed.

Darrel Leamaster responded that they're hopeful it will be 30 years before the plant will need to be replaced. The mayor replied that currently they do have a large fund for such needs.

- Scott Morrison moved that the Drinking Water Board authorize a loan of \$1,989,000 at a 1.0% interest rate or fee for 20 years with \$995,000 in principal forgiveness for a total repayable amount of \$994,000 to East Carbon City to construct a water treatment plant. Conditions include they resolve any issues on their IPS report. David Pitcher seconded. The motion was carried unanimously by the Board.

c. Irontown – Skye Sieber

Representing Irontown were Irontown Property Owners' Association President Barbara Osborne and Justin Christensen with Ensign Engineering.

Old Irontown Subdivision is a private water company located approximately 25 miles west of Cedar City.

Skye Sieber informed the Board that the Irontown project consists of upgrading distribution lines, hydrants, and installing new meters. The total estimated project cost is \$909,000 of which they're requesting the full amount from the Board. The local MAGI for Irontown was calculated based on the zip code area, which is 78% of the State MAGI. Their current average monthly water bill is approximately 1.88% of the local MAGI. At full loan for 20 years the after-project water bill would be \$180.54 which is 5.87% of the local MAGI, therefore the community qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$909,000 at 0% interest or fee for 40 years with \$455,000 in principal forgiveness for a total repayable amount of \$454,000 to Irontown for distribution system improvements. The system currently has 0 IPS points.

Justin Christensen said that upgrading the lines from 6" to 8" will improve the system's capacity and they will ensure the new lines are installed at the correct depth, unlike the current lines.

Barbara Osborne reported that new construction in the subdivision has increased, worsening their situation.

Scott Morrison asked how much of the project cost is attributed to the meter replacement. Barbara replied that she thinks it's approximately \$50,000. Barbara and Justin also said that the increased cost of materials was factored into their request.

Scott Morrison moved that the Drinking Water Board authorize a loan of \$909,000 at 0% interest or fee for 40 years with \$455,000 in principal forgiveness for a total repayable amount of \$454,000 to Irontown for distribution system improvements. Jeff Coombs seconded. The motion was carried unanimously by the Board.

d. Little Meadows Estates – Skye Sieber

Representing Little Meadows Estates were HOA President Paul Blad, and Jesse Ralphs and Brandon Stephenson with Sunrise Engineering.

Little Meadows Estates Homeowners Association is a private system located in Piute County.

Skye Sieber informed the Board that the Little Meadows Estates project consists of constructing a booster station, installing a chlorination system and pressure reducing station, and modifying existing storage tanks to meet DDW requirements. The total estimated project cost is \$246,000, of which they are requesting the full amount from the Board. The local MAGI is based on the closest community, Antimony Town, for which Skye could find data, and it is 78% of the State MAGI. Their current average monthly water bill is \$16.67 which is .54% of the local MAGI. The after-project monthly water bill at a full loan for 20 years is calculated to be \$116.36 which is 3.77% of the local MAGI, therefore the community qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$246,000 at a 0% interest rate or fee for 25 years with \$74,000 in principal forgiveness for a total repayable amount of \$172,000 to Little Meadows Estates Homeowners Association for water system improvements. Conditions include that they resolve all issues on their IPS report.

Currently the system has two pending significant deficiencies; not meeting minimum pressure requirements, and cross connection issues related to people using personal pumps. Both issues will be resolved with this project.

Little Meadows Estates was recently informed by the Division that they're now a public water system.

Paul Blad explained that they had expended their HOA funds on a fencing system to keep out cattle.

- Eric Franson moved that the Drinking Water Board authorize a loan of \$246,000 at a 0% interest rate or fee for 25 years with \$74,000 in principal forgiveness for a total repayable amount of \$172,000 to Little Meadows Estates Homeowners Association for water system improvements. Conditions include that they resolve all issues on their IPS report. Kristi Bell seconded. The motion was carried unanimously by the Board.

e. Spring Creek Water Users – Heather Pattee

Representing Spring Creek Water Users Association were President Gerald Van Iwaarden and Daniel Hawley with Jones & Demille Engineering.

Heather Pattee informed the Board that the Spring Creek Water Users project consists of drilling a new well. The total project cost is \$323,800 of which they are requesting the full amount from the Board. The local MAGI for Spring Creek Water Users is \$36,900 which is 78% of the State MAGI. The current average monthly water bill is \$40.99 which is 1.32% of the local MAGI. The estimated after-project water bill at a full loan would be \$69.85 which is 2.27% of the local

MAGI. Based on the MAGI and the average monthly water bill the system qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a loan of \$323,800 at a 0% interest rate or fee for 30 years with \$161,800 in principal forgiveness for a total repayable amount of \$162,000 to Spring Creek Water Users.

Gerald Van Iwaarden explained that the Association was previously awarded a meter replacement grant and that they were able to return some of that funding back to the Board. Furthermore, they've discovered that the steel casing within their well has deteriorated causing corrosion and pumping capacity issues.

- David Pitcher moved that the Drinking Water Board authorize a loan of \$323,800 at a 0% interest rate or fee for 30 years with \$161,800 in principal forgiveness for a total repayable amount of \$162,000 to Spring Creek Water Users. Scott Morrison seconded. The motion was carried unanimously by the Board.

f. Wellington City – Heather Pattee

Representing Wellington City were Mayor Paula Noyes, Treasurer Glenna Nelson, Water Operator Kory Moosman, and Jesse Ralphs and Mario Gonzales with Sunrise Engineering.

Heather Pattee informed the Board that the Wellington City project consists of replacing asbestos concrete pipe, installing a pressure reducing valve station, and replacing service meters. The total project cost is \$7,580,170. They're requesting \$5,863,170 from CIB and the remainder, \$1,717,000, from the Board. The city is also requesting from the Board a design advance of \$476,000 to start designing the project while the loan closing process is taking place. The local MAGI for Wellington City is \$34,800 which is 74% of the State MAGI. The current average monthly water bill is \$73.05 which is 2.52% of the local MAGI. The estimated after-project water bill at a full loan would be \$89.83 or 3.10% of the local MAGI. Based on the MAGI and average monthly water bill Wellington City qualifies to be considered for additional subsidy.

The Financial Assistance Committee recommends that the Board authorize a loan of \$1,717,000 at 1.0% interest rate or fee for 30 years with \$717,000 in principal forgiveness for a total repayable amount of \$1,000,000 to Wellington City. A design advance of \$476,000 to be deducted from the authorized principal forgiveness amount, not to exceed \$717,000 in total principal forgiveness.

Eric Franson inquired about the \$100,000 difference between the packet's design estimate of \$376,000 and today's estimate of \$476,000.

Jesse Ralphs explained that the design cost is \$351,000 with an additional \$26,000 in line items lumped in. In addition, they're anticipating costs for an environmental assessment, preliminary engineering, legal services, and DDW administrative costs.

Eric suggested that the Board and staff may need to give additional thought on how to handle pre-constructions costs. Without advances such as the one being requested by Wellington, these costs can cause financial strain.

Jessie explained that the application for the CIB funded portion of this project was submitted, and they expect to present the project to that board in the next few months.

- Jeff Coombs moved that the Drinking Water Board authorize a loan of \$1,717,000 at 1.0% interest rate or fee for 30 years with \$717,000 in principal forgiveness for a total repayable amount of \$1,000,000 to Wellington City. A design advance of \$476,000 to be deducted from the authorized principal forgiveness amount, not to exceed \$717,000 in total principal forgiveness. David Pitcher seconded. The motion was carried unanimously by the Board.

g. Provo River Water Users Association – Michael Grange

Representing the Provo River Water Users Association were General Manager Keith Denos, Jeff Budge, and consulting engineer Deon Stockert.

Michael Grange informed the Board that the Provo River Water Users Association project consists of replacing the source water intake structure at Deer Creek Dam and Reservoir. The estimated total project cost is \$60,986,000 with the Association contributing \$16,986,000 and requesting \$44,000,000 from the Board.

The Association provides raw water from the Jordanelle and Deer Creek reservoirs to water systems along the southern Wasatch Front, from the Salt Lake Valley to Utah Valley. Over 1.5 million Utah residents receive drinking water from this source. The intake structure at Deer Creek is over 75 years old and has reached the end of its useful life. The structure itself is difficult to access and replacement parts are no longer available, making repairs all but impossible. This project was included in the Association's 2014 Capital Improvement Plan.

The project cost estimate does not include costs for an environmental review. The project site is located on Bureau of Reclamation property and the Bureau has indicated that it will conduct the environmental review and prepare the associated documentation.

Due to the Association's nature as a raw water provider to many drinking water systems along the Wasatch Front, staff has determined that a MAGI analysis will not provide a meaningful indication of the Association's financial condition or its ability to repay a loan. Instead, staff reviewed the Association's financial statements and determined that it has sufficient financial capacity to repay the requested financial assistance. The proposed financial assistance package is based on terms the Board recently approved for other large water conservancy district infrastructure projects.

The Financial Assistance Committee recommends that the Drinking Water Board authorize a \$44,000,000 construction loan for 20 years at 1.5% interest or Hardship Grant Assessment Fee to the Provo River Water Users Association to replace the Deer Creek intake structure.

Michael reassured the Board that the money for this loan is in the account and repayment will begin shortly after loan closing. This loan will not impact the Board's ability to provide financial assistance to other needful projects over the course of the next 2-3 years.

Tim Davis commented that there may be additional means of funding projects through the American Rescue Plan Act (ARPA) funding. Michael explained that at this time we don't know what if any drinking water projects will be funded through ARPA, but they're encouraging water systems to get their projects in front of their legislators.

David Pitcher declared a potential conflict of interest in that he is employed by Central Utah Water Conservancy District (CUWCD) which contributes to operation maintenance costs of the dam.

Keith Denos explained that CUWCD is contributing \$10 million to the project and the DWB loan would be repaid by the Association.

- Eric Franson moved that David Pitcher not vote on this particular issue. Jeff Coombs seconded. The motion was carried unanimously by the Board.
- Eric Franson moved that the Drinking Water Board authorize a \$44,000,000 construction loan for 20 years at 1.5% interest or Hardship Grant Assessment Fee to the Provo River Water Users Association to replace the Deer Creek intake structure. Kristi Bell seconded. The motion was carried unanimously by the Board.

h. Cannonville Town – Skye Sieber

Representing Cannonville Town were Mayor Jeff Stock and Jesse Ralphs with Sunrise Engineering.

Skye Sieber reminded the Board that Cannonville Town requested emergency financial assistance to construct a replacement 300,000-gallon concrete storage tank at the April 22, 2021 DWB meeting. Per the Board's request, the town has updated their original request to include the costs of replacing 10 fire hydrants and 25 gate valves that are soon due for replacement. The total project cost is estimated to be \$2,177,000 (an increase of \$293,000 from the April request) of which the town is requesting the full amount from the Board.

The local MAGI for Cannonville is \$32,600 which is 69% of the State MAGI. The current average monthly water bill is \$41.45 which is 1.53% of the local MAGI. The after-project water bill at a full loan for 20 years would be \$176.37 which is 6.49% of the local MAGI. Based on the local MAGI and the after-project monthly water bill the community qualifies to be considered for additional subsidy.

Staff defers their recommendation to the Drinking Water Board.

Jesse Ralphs explained that Mayor Stock has been actively speaking about the project with his legislators in the hopes of securing ARPA funding. He would like the Board to consider, at this time, a request for a design advance / pre-construction funding package of \$156,500 which will allow the town to get the preliminary engineering, geotechnical survey, and design work completed and permitted now. If ARPA funding isn't an option, the town would likely return to the Board early next spring to request the balance to cover construction costs.

- Jeff Coombs moved that the Drinking Water Board authorize a grant or principal forgiveness in the amount of \$156,000 to Cannonville Water System. Scott Morrison seconded.

If the town were to request additional funding from the Board in the future, staff would ensure that this design funding wasn't a part of that request.

In order to relieve pressure on the Federal program, Michael recommended that this design funding be made grant and come out of the State program.

- Jeff Coombs amended his motion to accept Michael's recommendation that this grant come from the State fund. Scott Morrison seconded. The motion was carried unanimously by the Board.

Michael explained that there's statutory principal forgiveness which is a part of the Safe Drinking Water Act (SDWA), and then there's the congressional discretionary principal forgiveness for which the limits change each year. This year over 40% can be allocated to principal forgiveness. For the 2020 Federal Capitalization Grant, we're at a little over half of the amount available for principal forgiveness allocation.

8. Rulemaking Activities

A. Current Rulemaking Activities (Board Information Only)

- i. Update on the Rulemaking Process for Drinking Water State Revolving Fund Program Rules R309-700 and R309-705 and the Capacity Development Program Rule R309-800. Distribute Draft Rules for external stakeholder review and comment. – Michael Grange

Michael explained to the Board that the America's Water Infrastructure Act of 2018 modified many aspects of the Federal Safe Drinking Water Act, including terms and conditions within the Drinking Water State Revolving Fund (DWSRF) and Capacity Development programs. Through AWIA, we're required to revise our rules to meet those new Federal definitions and requirements.

The following financial assistance rules were reviewed and revised: R309-700 Financial Assistance: State Drinking Water Revolving Fund (SRF) Loan Program, R309-705 Financial Assistance: Federal Drinking Water Revolving Fund (SRF) Loan Program, and R309-800 Capacity Development Program.

For each of these three rules, staff has updated existing rule language, drafted new rule language where necessary, reordered certain rule sections to clarify meaning and intent, and verified and updated references to other rules and statutes.

To this point, staff has circulated to Division management the draft rules for their comment. Copies of the revised rules were included in the packet for the Board's review and comment. Staff is ready for the next step in the rulemaking process which is to submit the rules to external stakeholders for review and comment. Those reviews and comments will be incorporated before staff formally starts the rulemaking process with the Division of Administrative Rules.

Board members, let Michael know in the next few weeks if you'd like to participate in the external stakeholder review and comment of these rules.

Michael proposes that staff will bring these rules to the August 31, 2021 meeting to request the Board's authorization to begin the formal rulemaking process.

9. Rural Water Association Report – Dale Pierson

In Dale Pierson's absence, Terry Smith, RWAU Compliance Specialist, spoke to the Board on this item.

Terry reported that RWAU has resumed their on-site classes but are still offering virtual options as well. Attendance is high in the virtual classes.

The fall RWAU conference starts on August 30 at the Davis Conference Center, with the Board meeting scheduled for August 31.

10. Directors Report – Tim Davis

A. Enforcement Report

Tim noted that in the enforcement report the number of not approved systems is down 30% from the March Board enforcement report. The Division is making progress and is hoping that number goes down further for the next meeting's report.

B. New Employees; Morgan Vinyard, Sarah Romero

Morgan Vinyard is the new manager for both the disinfection byproduct rule (DPB) and the maximum residual disinfectant level (MRDL) rule within the Rules section.

Sarah Romero is a new Environmental Engineer III within the Permitting section.

C. Other

Tim reported that the legislature met in special session concerning ARPA funding and some of it was left unappropriated. The Division has been working with the Governor's Office, Executive Director Kim Shelley, and others to educate the public and legislators about the need for drinking water infrastructure funding. The Division is hopeful to receive ARPA funding to use as grants for drinking water projects. Tim will keep the Board updated as we learn more about what funding may be available.

Tim congratulated Vice Chair Kristi Bell, Jeff Coombs, and Eric Franson for being appointed to 2nd terms on the Board. The Governor also nominated a new Board member, South Jordan City Mayor Dawn Ramsey. Mayor Ramsey is slated to be confirmed by the Senate in September, after which the Board will hold a special swearing in meeting.

11. Public Comment Period – Roger Fridal

No public comments were made.

12. Open Board Discussion – Roger Fridal

Eric inquired about meetings going forward, in person vs. virtual.

Tim said that all DEQ boards are looking at options for hybrid meetings and reinitiating the option for in person meetings. The Board members and the public are welcome to attend hybrid meetings virtually or in person. The August 31, 2021 meeting will be held as a hybrid.

13. Other

14. Next Board Meeting

Date: Tuesday August 31, 2021
Time: 1:30 PM
Place: Davis Conference Center
1651 N 700 W
Layton, UT 84041

15. Adjourn

- Jeff Coombs moved to adjourn the meeting. Scott Morrison seconded. The motion was carried unanimously by the Board.

The meeting adjourned at 3:02 PM.

Agenda Item

8(A)

DIVISION OF DRINKING WATER
STATE LOAN FUNDS
AS OF July 31, 2021

SUMMARY		
	Total State Fund:	\$18,546,847
	Total State Hardship Fund:	\$2,884,465
	Subtotal:	\$21,431,313
LESS AUTHORIZED	Less:	
	Authorized Loans & Closed loans in construction:	\$6,713,000
	Authorized Hardship:	\$1,540,826
	Subtotal:	\$8,253,826
	Total available after Authorized deducted	\$13,177,487
PROPOSED	Proposed Loan Project(s):	\$1,401,000
	Proposed Hardship Project(s):	\$385,000
	Subtotal:	\$1,786,000
AS OF:		
July 31, 2021	TOTAL REMAINING STATE LOAN FUNDS:	\$10,432,847
	TOTAL REMAINING STATE HARDSHIP FUNDS:	\$958,639

Total Balance of ALL Funds: \$11,391,487

Projected Receipts Next Twelve Months: and Sales Tax Revenue	
Annual Maximum Sales Tax Projection	\$3,587,500
Less State Match for 2021 Federal Grant	(\$2,202,200)
Less State Match for 2019 Federal Grant A	(\$19,800)
Less Appropriation to DDW/Board	(\$1,018,500)
SUBTOTAL Sales Tax Revenue including adjustments:	\$347,000
Payment:	
Interest on Investments (Both Loan and Hardship Accounts)	\$84,000
Principal payments	\$2,731,000
Interest payments	\$663,667
Total Projections:	\$3,825,667

Total Estimated State SRF Funds Available through 8-01-2022	\$15,217,154
--	---------------------

**DIVISION OF DRINKING WATER
STATE LOAN FUNDS
PROJECTS AUTHORIZED BUT NOT YET CLOSED
AS OF July 31, 2021**

Community	Loan #	Cost Estimate	Date Authorized	Date Closed/Anticipated	Authorized Funding		
					Loan	Grant	Total
Genola City 0% int 30 yrs	3S1732	2,849,400	Aug-19		2,273,000	326,400	2,599,400
Caineville SSD 0% int 30 yrs	3S1766	595,000	Sep-20		295,000	300,000	595,000
Pleasant Grove City 1.6% 20yrs	3S1796	3,745,000	Jun-21		3,745,000		3,745,000
Escalante City (#09004)	3S1793	108,294	Jun-21			103,000	103,000
							0
Subtotal Loans and Grants Authorized					6,313,000	729,400	7,042,400
PLANNING LOANS / GRANTS IN PROCESS							
Fairview	3S1736P	40,000	Aug-19	Sep-19		40,000	40,000
Thompson SSD	3S1747P	29,500	Jan-20	Feb-20		29,500	29,500
Kingston Town	3S1769P	40,000	Aug-20			40,000	40,000
Dutch John Town	3S1776P	40,000	Nov-20	Feb-21		40,000	40,000
Teasdale SSD	3S1779P	40,000	Jan-21	May-21		40,000	40,000
Angell Springs SSD	3S1789P	37,600	Mar-21	Apr-21		36,100	36,100
Leamington Town	3S1788P	36,000	Mar-21	Apr-21		36,000	36,000
Glen Canyon SSD of Big Water	3S1801P	39,000	May-21	Jun-21		39,300	39,300
East Carbon City	3S1802P	40,000	May-21			40,000	40,000
North Emery Water Users SSD	3S1775P	40,000	Nov-20	Jan-21		7,900	7,900
Green River City(#08005)	3S1790P	56,626	Jun-21	Jun-21		56,626	56,626
Cannonville Town (#09003)	3S1791P	156,000	Jun-21			156,000	156,000
Subtotal Planning in Process					0	561,426	561,426
CLOSED LOANS (partially disbursed)							
Mtn Regional-Community Wtr 2% 20 yr	3S254	2,600,000	Jul-18	Dec-19	400,000		400,000
Genola City Water Tank	3S1732	250,000	Aug-19	Mar-20		250,000	250,000
Subtotal Closed Loans Partially Disbursed					400,000	250,000	650,000
TOTAL AUTHORIZED/PLANNING/OR CLOSED BUT NOT YET FUNDED					\$6,713,000	\$1,540,826	\$8,253,826
PROPOSED PROJECTS FOR Aug 2021							
Austin Community SSD, 0.5% 30y	3S1803	2,500,000			250,000	250,000	500,000
Kane County WCD	3S1808P	135,000				135,000	135,000
LaVerkin, 1.57% 20y	3S1806	1,211,000			1,151,000		1,151,000
Total Proposed Projects					1,401,000	385,000	1,786,000

**DIVISION OF DRINKING WATER
STATE LOAN FUNDS
AS OF July 31, 2021**

	5235 Loan Funds	5240 Interest (use for Grants)	Total
Cash:	\$18,546,847	\$2,884,465	\$21,431,313
Less:			
Loans & Grants authorized but not yet closed (schedule attached)	(6,313,000)	(1,290,826)	(7,603,826)
Loans & Grants closed but not fully disbursed (schedule attached)	(400,000)	(250,000)	(650,000)
Proposed loans & grants	(1,401,000)	(385,000)	(1,786,000)
Administrative quarterly charge for entire year	(1,018,500)		(1,018,500)
Appropriation to DDW	0		0
FY 2021 Federal SRF 20% match	(2,202,200)		(2,202,200)
FY 2019 Federal SRF 20% match ?	(19,800)		(19,800)
	7,192,347	958,639	8,150,987
Projected repayments during the next twelve months Thru 08-01-2022			
Principal	2,731,000		2,731,000
Interest		663,667	663,667
Projected annual investment earnings on invested cash balance		84,000	84,000
Sales Tax allocation thru Aug-01-2022	3,587,500		3,587,500
Total	\$13,510,847	\$1,706,307	\$15,217,154
* All interest is added to the Hardship Fee account.			

DIVISION OF DRINKING WATER
FEDERAL SRF
AS OF July 31, 2021

FIRST ROUND FUND		FEDERAL SECOND ROUND FUND		Hardship Fund
1997 thru 2020 SRF Grants		Principal Repayments	Earnings on Invested Cash Balance	Total:
Net Federal SRF Grants:	\$196,032,661	Principal (P):	\$60,223,705	\$1,063,747
Total State Matches:	\$45,673,300	Interest (I):	\$21,050,957	
Closed Loans:	-\$230,791,061	Total P & I:	\$81,274,662	
Total Grant Dollars:	\$10,914,900			\$900,054

SUMMARY	
Total Federal State Revolving Fund:	\$93,253,309
Total Federal Hardship Fund:	\$900,054
Subtotal:	<u>\$94,153,363</u>

LESS AUTHORIZED & PARTIALLY DISBURSED	Less:		(see Page 2 for details)
	Authorized & Partially Disbursed Closed Loans:	\$101,996,000	
	Authorized Federal Hardship:	\$570,505	
	Subtotal:	<u>\$102,566,505</u>	

PROPOSED	Proposed Federal Project(s):	-\$13,962,000	(see Page 2 for details)
	Proposed Federal Hardship Project(s):	\$0	
	Subtotal:	<u>-\$13,962,000</u>	

AS OF:	July 31, 2021	TOTAL REMAINING LOAN FUNDS:	\$5,219,309
		TOTAL REMAINING HARDSHIP FUNDS:	\$329,549

Total Balance of ALL Funds after deducting proposed actions: \$5,548,858

Projected Receipts thru August 1, 2022	
2022 Fed SRF Grant & State Match	\$10,796,100
Interest on Investments	\$0
Principal Payments	\$8,548,203
Interest	\$892,846
Hardship & Technical Assistance fees	\$718,482
Fund 5215 principal payments	\$108,200
Total:	<u>\$21,063,831</u>

} **Receive 60% in January**

Total Estimated Federal SRF Funds Available through: 08/01/2022 **\$26,612,689**

**DIVISION OF DRINKING WATER
FEDERAL STATE REVIVING FUND
PROJECTS AUTHORIZED BUT NOT YET CLOSED
AS OF July 31, 2021**

PUBLIC WATER SYSTEM	Project			Authorized Date	Closing Date Scheduled or Estimated	Authorized From Loan Funds (1st or 2nd Round)			Hardship Fund
	Total Project	Terms	Loan #			Loan	Forgiveness	Total	
Moroni	3,535,000	1% HGF 30 yrs (disadvantaged No LOF)	3F1772	Nov-20		2,485,000	735,000	3,220,000	
Daniel Town	5,692,000	0% int, 30yrs	3F1777	Jan-21		3,992,000	1,700,000	5,692,000	
East Grouse Creek	343,220	\$170,000 loan @ 0% 20 yrs, \$170,000 PF	3F1783	Mar-21		170,000	170,000	340,000	
Bicknell	2,178,000	50/50 1% 30 yrs	3F1786	Jun-21		1,308,000	870,000	2,178,000	
East Carbon	1,989,000	50/50 1% 20 yrs	3F1792	Jun-21		994,000	995,000	1,989,000	
Irontown	909,000	50/50 0% 40 yrs	3F1794	Jun-21		454,000	455,000	909,000	
Little Meadows Estates HOA	246,000	70/30 0% 25 yrs	3F1795	Jun-21		172,000	74,000	246,000	
Spring Creek Water Users	323,800	50/50 0% 30 yrs	3F1787	Jun-21		162,000	161,000	323,000	
Wellington	1,717,000	60/40 1% 30 yrs	3F1797	Jun-21		1,000,000	717,000	1,717,000	
Provo River WUA	44,000,000	1.5% 20 yrs	3F1796	Jun-21		44,000,000		44,000,000	
TOTAL CONSTRUCTION AUTHORIZED:						\$ 54,737,000	\$ 5,877,000	\$ 60,614,000	\$ -
COMMITTED ADVANCES / AGREEMENTS or PARTIALLY DISBURSED CLOSED 2ND ROUND AGREEMENTS:									
					Date Closed				
Rural Water Assn of Utah	676,000	5 yr contract for Development Specialist	Ongoing	Jan-18	Jun-18			0	0
Granger Hunter Improvement District	20,000,000	1.25% HGA 20 yrs (portfolio)	3F1708	Feb-19	Jul-19	12,000,000		12,000,000	135,200
Kearns Improvement District	21,000,000	1.25% hgf, 20 yrs (portfolio)	3F1725	Jun-19	Dec-19	12,000,000		12,000,000	
Central Utah WCD-Duchesne Valley WTP	18,000,000	1.25% HGF, 30 yrs	3F1731	Aug-19	Jun-20	12,820,000		12,820,000	
Swiss Alpine Water Co	1,752,000	.75% HGF 30 yrs	3F300	Feb-20	Jul-20	512,000		512,000	
Hyde Park City	5,994,000	2.91% HGF 20 yrs	3F1744	Jan-20	Apr-21	2,500,000		2,500,000	
Sigurd Town	2,400,000	0%, 30 YRS	3F1745	Jun-20	Jul-21	1,010,000	540,000	1,550,000	
Axtell Community Service Distribution	40,000	5 yr 0% master plan & gw well siting	3F1719P	Mar-19	May-19			0	500
Hildale City	40,000	100% pf master plan	3F1704P	Nov-18	Oct-19			0	40,000
New Paria Subdivision	36,500	100% pf	3F160P	Apr-20	Oct-20			0	9,005
Clark Bench Water Company	40,000	100% principal forgiveness	3F1778P	Dec-20	Jan-21			0	30,800
Buena Vista Community	40,000	100% principal forgiveness	3F1784P	Jan-21	Mar-21			0	40,000
Willow Creek Wtr Co	200,000	1%, 25 years	3F1759	Jan-21	Jun-21			0	200,000
Paunsaugunt Cliffs SSD	40,000	100% PF	3F1799P	May-21	May-21				40,000
Junction Town	40,000	100% PF	3F1807P	Jul-21					40,000
Hanna Water and Sewer Improvement District	35,000	100% PF	3F1805P	Jul-21					35,000
TOTAL PLANNING AUTHORIZED:						\$40,842,000	\$540,000	\$41,382,000	\$570,505
TOTAL CONSTRUCTION & PLANNING:						\$101,996,000			\$570,505
AVAILABLE PROJECT FUNDS:						-\$8,742,691			
AVAILABLE HARDSHIP FUNDS:						\$329,549			
PROPOSED PROJECTS FOR June 2021:									
Provo City	77,230,000	1.0% 20 yrs	3F1764			30,038,000		30,038,000	
Provo River WUA - De-Authorization	44,000,000	1.5% 20 yrs	3F1796	Jun-21		(44,000,000)		(44,000,000)	
TOTAL PROPOSED PROJECTS FOR THIS MEETING:						-\$13,962,000	\$0	-\$13,962,000	\$0
*RWAW hardship grant is being disbursed monthly						\$3			
TOTAL FUNDS AFTER PROPOSED PROJECTS ARE FUNDED:						\$5,219,309			
TOTAL FUNDS AFTER PROPOSED HS PROJECTS ARE FUNDED:						\$329,549			

**DIVISION OF DRINKING WATER
FEDERAL SRF LOAN FUNDS
AS OF July 31, 2021**

	Loan Funds 1st Round	Loan Payments		Hardship Fund	TOTAL
		2nd Round			
		Principal	Interest		
Federal Capitalization Grants and State 20% match	\$241,705,961				
Earnings on Invested 1st Round Funds			1,063,747		
Repayments (including interest earnings on 2nd round receipts)		60,223,705	21,050,957	900,054	324,944,424
Less:					
Closed loans and grants	-230,791,061				-230,791,061
SUBTOTAL of Funds Available	\$10,914,900	\$60,223,705	\$22,114,704	\$900,054	\$94,153,363
Loans & Grants authorized but not yet closed or fully disbursed	-57,834,000	-43,622,000	-540,000	-570,505	-102,566,505
SUBTOTAL of Funds Available less Authorized	-\$46,919,100	\$16,601,705	\$21,574,704	\$329,549	-\$8,413,142
Future Estimates:					
Proposed Loans/Grants for current board package	13,962,000			0	13,962,000
SUBTOTAL of Funds Available less Proposed Loans & Grants	-\$32,957,100	\$16,601,705	\$21,574,704	\$329,549	\$5,548,858
PROJECTIONS THRU August-2022					
Projected repayments & revenue during the next twelve months		8,656,403	892,846	718,482	10,267,731
Projected annual investment earnings on invested cash balance		0			0
TOTAL	-\$32,957,100	\$25,258,107	\$22,467,551	\$1,048,031	\$15,816,589

Agenda Item

8(B)

Project Priority List
Presented to the Drinking Water Board
August 31, 2021

**DRINKING WATER BOARD
PACKET FOR PROJECT PRIORITY LIST**

There is one new project being added to the project priority list:

Provo City is being added to the Project Priority List with 12.9 points. Their project consists of a new water treatment facility, booster station, 2 discharge locations and pipeline for aquifer storage and recovery.

FINANCIAL ASSISTANCE COMMITTEE RECOMMENDATION

The Drinking Water Board approves the updated Project Priority List.

Agenda Item

8(C)(i)(a)

DRINKING WATER BOARD
BOARD PACKET FOR CONSTRUCTION LOAN

APPLICANT'S REQUEST

Kane County Water Conservancy District (the District, KCWCD) is requesting \$135,000 in financial assistance for a drainage-wide hydrogeologic study to evaluate water resource availability in the Kanab Creek and Johnson Canyon Creek drainages. The approximate study area is outlined in the map on the next page.

STAFF COMMENTS

Due to the large study area Staff determined that a weighted average MAGI would reasonably reflect the District's financial condition. Staff used MAGI data for the five major cities or towns within or close by the study area boundaries, namely Alton, Glendale, Kanab, Mount Carmel, and Orderville. The weighted average MAGI for this proposed project's service area is \$38,633, which is 81.8% of the state MAGI. KCWCD has a current average monthly water bill of \$60.75 per month which is 1.89% of the weighted average MAGI.

Based on the District's financial information, it qualifies as a disadvantaged community and is therefore eligible for additional subsidy.

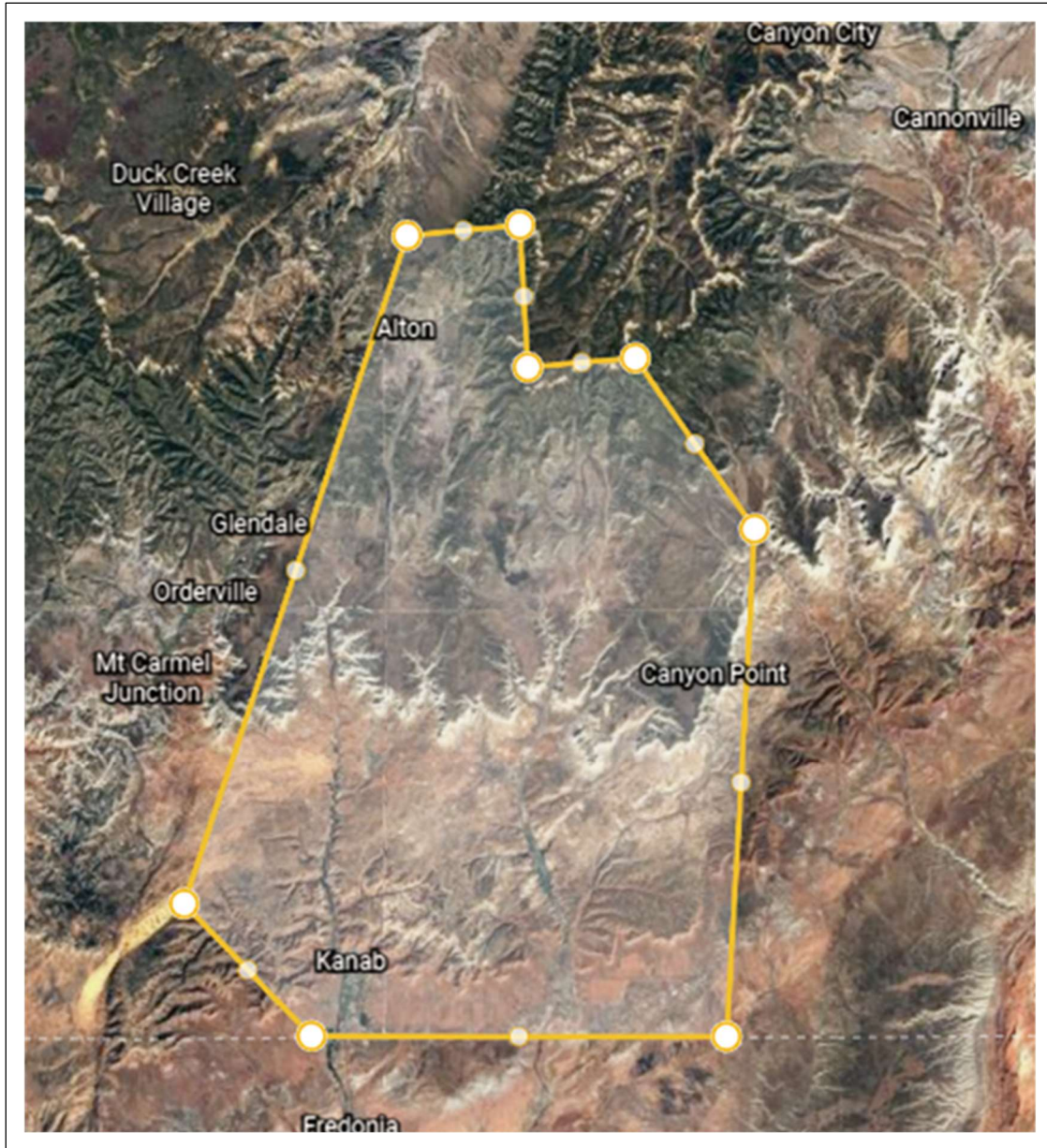
FINANCIAL ASSISTANCE COMMITTEE RECOMMENDATION

The Financial Assistance Committee recommends that the Drinking Water Board authorize a planning loan of \$135,000 with 100% principal forgiveness to the Kane County Water Conservancy District.

APPLICANT’S LOCATION

The study area encompasses the Kanab Creek and Johnson Creek drainages located in Kane County immediately north of the Utah-Arizona border.

MAP OF APPROXIMATE STUDY AREA



PROJECT DESCRIPTION

The Kane County Water Conservancy District (KCWCD) proposes to conduct a drainage-wide hydrogeologic study to evaluate the availability of water resources in the entire Kanab Creek and Johnson Canyon Creek drainages north of the Utah-Arizona border. Surface water resources are very limited in the area and the primary water resources are groundwater. The principal groundwater sources are the Navajo Sandstone aquifer and the Lamb Point aquifer. If the hydrogeologic study determines that groundwater is available from these, KCWCD may develop sources in that area and deliver the water by pipeline system to the District's service area. Moreover, the district is also interested in identifying the hydrogeologic connections between the Kanab Creek drainage and the Johnson Canyon Creek basin. In addition, research shows that the Shinarump Member of the Chinle Formation is also a relatively productive water-bearing unit and may be a potential groundwater development alternative in the area.

IMPLEMENTATION SCHEDULE

DWB Authorization
Study Completion

August 2021
September 2022

CONTACT INFORMATION

APPLICANT:

Kane County Water Conservancy District
725 Kaneplex Drive
Kanab, UT 84741
Telephone: (801) 644-3997
kanecowater@gmail.com
kcwcd@kanab.net

PRESIDING OFFICIAL or
CONTACT PERSON:

Michael Noel
Executive Administrator
725 Kaneplex Drive
Kanab, UT 84741
Telephone: (801) 644-3997
mnoel5603@gmail.com

CONSULTING ENGINEER:

Joe Phillips
Sunrise Engineering.
11 N 300 W
Washington, UT 84780
Telephone: (435) 652-8450
jphillips@sunrise-eng.com

APPLICANT'S ATTORNEY

TREASURER/RECORDER:

Amanda Buhler
Telephone: (435) 644-3997
kanecowater@gmail.com

DRINKING WATER BOARD FINANCIAL ASSISTANCE EVALUATION

SYSTEM NAME: Kane County WCD
 COUNTY: Kane
 PROJECT DESCRIPTION: hydrogeologic study

FUNDING SOURCE: Federal SRF

0 % Loan & 100 % P.F.

ESTIMATED POPULATION:	6,728	NO. OF CONNECTIONS:	3477 *	SYSTEM RATING:	APPROVED
CURRENT AVG WATER BILL:	\$60.75 *			PROJECT TOTAL:	\$135,000
CURRENT % OF AGI:	1.89%	FINANCIAL PTS:	69	LOAN AMOUNT:	\$0
ESTIMATED MEDIAN AGI:	\$38,633			PRINC. FORGIVE.:	\$135,000
STATE AGI:	\$47,200			TOTAL REQUEST:	\$135,000
SYSTEM % OF STATE AGI:	81.8%				

	@ ZERO % RATE 0%	@ RBBI MKT RATE 2.53%		AFTER REPAYMENT PENALTY & POINTS 0.78%
<u>SYSTEM</u>				
ASSUMED LENGTH OF DEBT, YRS:	5	5		5
ASSUMED NET EFFECTIVE INT. RATE:	0.00%	2.53%		0.78%
REQUIRED DEBT SERVICE:	\$0.00	\$0.00		\$0.00
*PARTIAL COVERAGE (15%):	\$0.00	\$0.00		\$0.00
*ADD. COVERAGE AND RESERVE (10%):	\$0.00	\$0.00		\$0.00
ANNUAL NEW DEBT PER CONNECTION:	\$0.00	\$0.00		\$0.00
O & M + FUNDED DEPRECIATION:	\$2,325,640.00	\$2,325,640.00		\$2,325,640.00
OTHER DEBT + COVERAGE:	\$0.00	\$0.00		\$0.00
REPLACEMENT RESERVE ACCOUNT:	\$0.00	\$0.00		\$0.00
ANNUAL EXPENSES PER CONNECTION:	\$668.86	\$668.86		\$668.86
TOTAL SYSTEM EXPENSES	\$2,325,640.00	\$2,325,640.00		\$2,325,640.00
TAX REVENUE:	\$989,565.00	\$989,565.00		\$989,565.00
<u>RESIDENCE</u>				
MONTHLY NEEDED WATER BILL:	\$55.74	\$55.74		\$55.74
% OF ADJUSTED GROSS INCOME:	1.73%	1.73%		1.73%

* Equivalent Residential Connections

Agenda Item

8(C)(i)(b)

**DRINKING WATER BOARD
BOARD PACKET FOR CONSTRUCTION ASSISTANCE**

APPLICANT'S REQUEST:

La Verkin City is requesting financial assistance to replace undersized 6" lines with 8" lines and upgrades to service connections. The City will also add a 12" culinary line to add pressure to the system that would result in taking a booster station offline to reduce maintenance costs.

The total project cost is \$1,210,909. The City will contribute \$60,000 towards the project and is asking for \$1,150,909 from the Drinking Water Board. Per bonding requirements, entities can only bond in \$1,000 increments so the project cost has been rounded to \$1,211,000.

STAFF COMMENTS:

The local MAGI for La Verkin City is \$37,900, which is 80% of the State MAGI. The current average water bill is \$41.65/ERC, which is 1.32% of the local MAGI. The estimated after project water bill at full loan would be \$42.34/ERC or 1.34% of the local MAGI.

Option	Loan	Grant (Principal Forgiveness)	Loan	Term	Interest Rate (HGA)	Water Bill	% Local MAGI
1	100%	\$0	\$1,151,000	20 yrs	1.57%	\$42.34	1.34%
2	100%	\$0	\$1,151,000	30 yrs	1.57%	\$41.29	1.31%

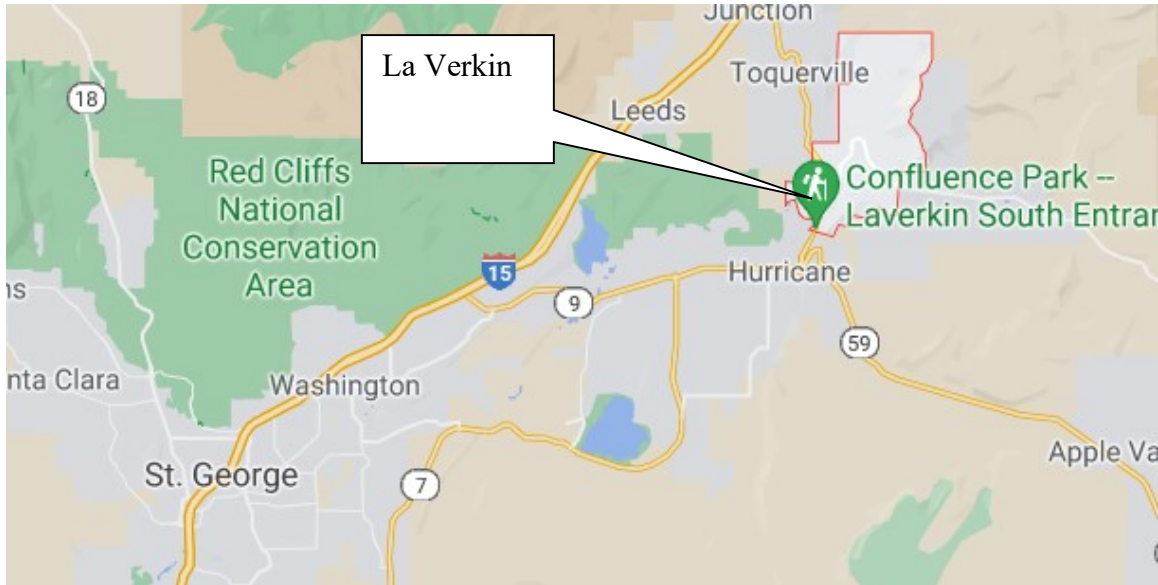
FINANCIAL ASSISTANCE RECOMMENDATION:

The Drinking Water Board authorize a loan of \$1,151,000 at 1.57% Interest/HGA Fee for 20 years to La Verkin City.

APPLICANT'S LOCATION:

La Verkin City is located in Washington County approximately 20 miles Northeast from St George City.

MAP OF APPLICANT'S LOCATION:



PROJECT DESCRIPTION:

La Verkin City is requesting financial assistance to replace undersized 6" lines with 8" lines and upgrades to service connections. The City will also add a 12" culinary line to add pressure to the system that would result in taking a booster station offline to reduce maintenance costs. This project was identified in the Master Plan as a priority.

POPULATION GROWTH:

Population growth is based on the City's estimates

Year	Population	Connections
2020	4,520	1,611
2030	5,770	2,060
2040	7,635	2,730

COST ESTIMATE:

Legal/Bonding/Admin	\$20,000
Engineering - Design	\$102,500
Engineering - CMS	\$63,000
Construction -	\$844,900
Other (land	
Contingency (~10%)	\$169,090
1% Loan Origination Fee	\$11,510
Total	\$1,211,000

COST ALLOCATION:

<u>Funding Source</u>	<u>Cost Sharing</u>	<u>Percent of Project</u>
DWB Loan (1.57 %, 20-yr)	\$1,151,000	95%
Local Contribution	\$60,000	5%
Total	\$1,211,000	100%

IMPLEMENTATION SCHEDULE:

DWB Funding Authorization:	August 2021
Complete Design	September 2021
DDW Plan Approval:	October 2021
Advertise for Bids:	October 2021
Bid Opening:	October 2021
Loan Closing:	October 2021
Begin Construction:	November 2021
Complete Construction:	April 2022

CONTACT INFORMATION:

APPLICANT: La Verkin City
435 North Main St
La Verkin, Utah 84745
Telephone:435-635-2581

PRESIDING OFFICIAL &
CONTACT PERSON: Richard Hirschi, Mayor
435 North Main St
La Verkin, Utah 84745
Telephone:435-632-2243
mhirshi@gmail.com

TREASURER/RECORDER: Troylinn Benson
Troylinn.benson@laverkincity.org

CONSULTING ENGINEER: Joe Phillips
Sunrise Engineering
11 North 300 West
Washington, Utah 84780
Telephone:435-652-8450
jphillips@sunrise-eng.com

BOND ATTORNEY: Richard Chamberlain
Olsen & Chamberlain
225 North 100 East
Richfield, Utah 84701
Telephone:435-869-4461
rchamberlain13@gmail.com

DRINKING WATER BOARD FINANCIAL ASSISTANCE EVALUATION

SYSTEM NAME: LaVerkin City
 COUNTY: Washington
 PROJECT DESCRIPTION: water line replacment

FUNDING SOURCE: Federal SRF

100 % Loan & 0 % P.F.

ESTIMATED POPULATION:	4,520	NO. OF CONNECTIONS:	1611 *	SYSTEM RATING:	APPROVED
CURRENT AVG WATER BILL:	\$41.65 *			PROJECT TOTAL:	\$1,211,000
CURRENT % OF AGI:	1.32%	FINANCIAL PTS:	50	LOAN AMOUNT:	\$1,151,000
ESTIMATED MEDIAN AGI:	\$37,900			PRINC. FORGIVE.:	\$0
STATE AGI:	\$47,200			TOTAL REQUEST:	\$1,151,000
SYSTEM % OF STATE AGI:	80%				

	@ ZERO % RATE 0%	@ RBBI MKT RATE 2.53%		AFTER REPAYMENT PENALTY & POINTS 1.57%
SYSTEM				
ASSUMED LENGTH OF DEBT, YRS:	20	20		20
ASSUMED NET EFFECTIVE INT. RATE:	0.00%	2.53%		1.57%
REQUIRED DEBT SERVICE:	\$57,550.00	\$74,042.74		\$67,504.36
*PARTIAL COVERAGE (15%):	\$0.00	\$0.00		\$0.00
*ADD. COVERAGE AND RESERVE (10%):	\$5,755.00	\$7,404.27		\$6,750.44
ANNUAL NEW DEBT PER CONNECTION:	\$39.30	\$50.56		\$46.09
O & M + FUNDED DEPRECIATION:	\$580,373.00	\$580,373.00		\$580,373.00
OTHER DEBT + COVERAGE:	\$59,935.00	\$59,935.00		\$59,935.00
REPLACEMENT RESERVE ACCOUNT:	\$34,293.55	\$35,118.19		\$34,791.27
ANNUAL EXPENSES PER CONNECTION:	\$418.75	\$419.26		\$419.06
TOTAL SYSTEM EXPENSES	\$737,906.55	\$756,873.20		\$749,354.07
TAX REVENUE:	\$0.00	\$0.00		\$0.00
RESIDENCE				
MONTHLY NEEDED WATER BILL:	\$41.75	\$42.73		\$42.34
% OF ADJUSTED GROSS INCOME:	1.32%	1.35%		1.34%

\$0.00

Agenda Item

8(C)(ii)(a)

DRINKING WATER BOARD
BOARD PACKET FOR CONSTRUCTION ASSISTANCE

APPLICANT'S REQUEST

On June 8, 2021, the Drinking Water Board Authorized a \$44 million construction loan to the Provo River Water Users Association for capital improvements at the Association's Deer Creek Reservoir Intake Structure.

On July 13, 2021, staff received a letter from the Association declining the Board's authorized funding in lieu of more favorable funding from the Division of Water Resources. The letter is attached for reference.

FINANCIAL ASSISTANCE COMMITTEE RECOMMENDATION

The Drinking Water Board deauthorizes the \$44,000,000 construction loan for 20 years at 1.5% interest to the Provo River Water Users Association to replace the Deer Creek Intake Structure.



PROVO RIVER
WATER USERS
ASSOCIATION

BOARD OF DIRECTORS
TOM GODFREY, PRESIDENT
CHRISTOPHER R. TSCHIRKI, VICE PRESIDENT
LAURA BRIEFER
PATRICIA COMARELL
JOAN DEGIORGIO
MICHAEL J. DEVRIES
BART A. FORSYTH
DAN JOHNSON
JOHN S. KIRKHAM
DONALD Y. MILNE
TOM WARD

July 8, 2021

G. KEITH DENOS, GENERAL MANAGER

Mayor Roger G. Fridal – Chair
Utah Drinking Water Board
P.O. Box 144830
Salt Lake City, Utah
84114-4830

Re: Provo River Water Users Association Funding Authorization Relinquishment

Dear Mayor Fridal,

Provo River Water Users Association (Association) wishes to express its gratitude to the Drinking Water Board for its consideration and authorization of \$44 Million in funding to complete the Deer Creek Intake Project (DCIP). The help and support of the Drinking Water Division staff was also very much appreciated throughout the application process.

The Association was aware that both the Drinking Water Board and the Board of Water Resources had funds available to loan this year, and applied concurrently to both funding groups. For your information, the Board of Water Resources also authorized funding for the DCIP in its June meeting. After reviewing the terms and conditions of the two funding opportunities and following discussions with the Association's financial advisors Zions Bank Public Finance, the Board of Directors found the terms of the Board of Water Resources funding a better fit for the long-term needs of the Association and its shareholders.

By this letter and with regret, the Association hereby retracts its request of funds from the Drinking Water Board and relinquishes the \$44 million funding authorization. The Association Board of Directors requested that staff notify you of this decision promptly so that the Drinking Water Board funds could be quickly

reassigned to other projects needing funding. Thank you again for the Drinking Water Board's consideration and funding authorization of this important project.

Sincerely
Provo River Water Users Association



G. Keith Denos, PE
General Manager

GKDJDB

Cc via email

Directors
Johnathan Ward
Mark Anderson

Provo River Water Users Association
Zions Bank Public Finance
Zions Bank Public Finance

Agenda Item

8(C)(iii)(a)

DRINKING WATER BOARD
BOARD PACKET FOR CONSTRUCTION ASSISTANCE

BACKGROUND

On June 8, 2021, the Drinking Water Board authorized a loan of \$994,000 for 20 years at 1.0% interest/fee and \$995,000 in principal forgiveness to East Carbon for construction of a new 1.5 MGD water treatment plant.

APPLICANT'S REQUEST

On July 28, 2021, staff received a letter from the city requesting a \$400,000 advance to cover upfront material and design costs that will be incurred prior to bond closing. The letter is attached for reference. Advance funds would cover a minimum down payment required by the package plant supplier after submittals and design information are received. Additionally, funds would be used to secure package plant materials at a firm price and stockpile them until construction begins.

STAFF RECOMMENDATION

The Drinking Water Board authorize a release of up to \$400,000 from principal forgiveness for package water treatment plant design and materials.



CITY OF EAST CARBON

101 WEST GENEVA DRIVE

PO BOX 70

EAST CARBON, UT 84520

435-888-6613

July 28, 2021

Division of Drinking Water
Drinking Water Board
Attn: Skye Sieber
SRF Project Manager

RE: Request for Design Advance
East Carbon City, System #04012
Federal Loan Authorization Loan #3F1792

Dear Board Members,

On June 8, 2021, the Drinking Water Board authorized a loan of \$995,000 for 20 years at 1.0% interest and a Hardship Grant Assessment Fee in lieu of interest with \$995,000 in principal forgiveness. The Permanent Community Impact Fund Board (CIB) has also authorized a \$1,442,000 grant and a loan of \$547,000 at 0.5% interest rate for 30 years. This provides the City with the necessary funding of \$3,979,000 for the construction of this new 1.5 MGD Water Treatment Plant.

The CIB and the Drinking Water Board both have provisions that plans and specifications for the project be completed and approved by the Division of Drinking Water, following which the project can be advertised for bids. The opened bids must demonstrate that the available sources of funding are adequate to cover the total cost of the project. The loans can not be closed until after the opening has occurred.

The City understands and accepts the Boards reasoning and requirements for not closing the loan until after the bid opening and demonstration that sufficient funds are available. However, it does create a serious "cash flow" problem for the City and is the reason for our request for a Design Advance for this project.

The amount of the Design Advance and the reasons for it are outlined as follows:

1. **Packaged Water Treatment Plant Design.**
The Engineering report prepared for this project recommended a 1.5MGD conventional package plant design for this project and all of the funding estimates and preliminary plant layouts have been based upon this package plant concept.
The plan to proceed on the design of the project is to issue an advertisement (Request for Proposal) for the package plant equipment and make a selection for the package plant equipment suppliers. The City would purchase the package plant equipment directly and it would be installed later by the project general contractor.
Upon receipt of a purchase order, the equipment supplier would then provide all of the details on the package plant units such as the number of tanks units, the size of the tanks, weight of the units hydraulic connections, electrical and instrumentation connections and etc. so that the project design engineer could design the building and all other appurtenances and connections for the system. The package plant supplier require a 10% down payment for these details and submittals.

2. **Material Cost Escalations**

The proposed package plant equipment will be constructed in tanks fabricated from marine grade aluminum.

Because of the escalating costs and shortage of materials, the aluminum suppliers will not quote a future price for the material. They will only quote a firm price for immediate order and delivery. Thus, the package plant suppliers, can't offer a firm price for the RFP. To resolve this problem, we are suggesting that the city would offer a 15% down payment at the time of order to allow the package plant supplier to secure the materials and stock pile them until the time of construction.

This would allow the package plant suppliers to quote a firm price in the RFP and be able to prevent any future price escalations for the aluminum.

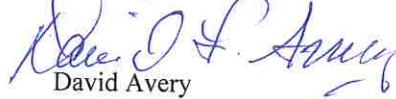
3. Requested Amount of Design Advance

The city is requesting that a design advance of \$400,000 be granted to them. This would be used to finance the terms to the package plant equipment suppliers of 15% down payment on order to secure materials, and a 10% payment after submittals and design information are received.

Note that the design engineering firm has agreed to delay or withhold any requests for payment until after the bid opening and release of funds at the bond closing.

If you have any questions concerning this request, or need any additional information, please contact us. Thank you for your continued support of our project.

Sincerely,

A handwritten signature in blue ink that reads "David Avery". The signature is fluid and cursive, with a large initial "D" and "A".

David Avery

East Carbon City Mayor

Cc: Candice Powers, CIB
Bill Prator, Board Attorney
Eric Johnson, Bond Attorney
Christian Bryner, City Attorney
Merial Johansen, Design Engineer

Agenda Item

8(C)(iv)(a)

DRINKING WATER BOARD
BOARD PACKET FOR CONSTRUCTION ASSISTANCE

BACKGROUND

On January 14, 2020, the Drinking Water Board authorized a loan of \$5,000,000 to Hyde Park for construction of a 2 MG tank, a transmission line, distribution line, dedicated pumping line, and 2 booster pump stations. Construction began in April 2021 and is expected to finish by the end of this year.

APPLICANT'S REQUEST

Bids for the authorized project came in lower than originally estimated. Based on the bid tabulations and 10% contingency factored into the project budget, Hyde Park will have approximately \$1,620,000 left over after the current construction project is complete.

The city would like to apply their remaining loan proceeds towards other needed water system improvements:

- Lion's Park Pump Upgrade (\$200,730): Upsize an existing pump capable of 300 gpm at the Lion's Park Tank to the higher Greystone Tank to two pumps capable of 300 gpm (600 gpm total).
- SV Tank Repair (\$40,000): Repair existing cracks in the existing 1 MG SV tank by chipping out the cracks and filling with a high Xypex concentrate grout. **This will resolve 50 significant deficiency points pending on the system's IPS report.*
- Birch Canyon Spring Pipe Replacement (\$1,378,183): Replace 14,000 LF of existing 8" PVC with 12" DIP on a portion of transmission line from Birch Canyon Spring to SV Tank.

The total estimated cost of these additional system improvements is \$1,618,913.

STAFF RECOMMENDATION

The Drinking Water Board authorize a change in project scope for Hyde Park City's \$5,000,000 construction loan to include pump upgrades, tank repair, and spring transmission line replacement.

Agenda Item

9(A)(i-iii)

**DRINKING WATER BOARD
BOARD PACKET FOR RULE REVISION
PRESENTED TO THE DRINKING WATER BOARD**

BACKGROUND

The America's Water Infrastructure Act (AWIA) became law in 2018. AWIA modified many aspects of the federal Safe Drinking Water Act (SDWA), including terms and conditions in the Drinking Water State Revolving Fund Financial Assistance Program and the Capacity Development Program. These changes required that Utah revise existing program rules to meet the new federal definitions and requirements. The following Financial Assistance Program Rules were reviewed and revised: R309-700 Financial Assistance: State Drinking Water Revolving Fund (SRF) Loan Program, R309-705 Financial Assistance: Federal Drinking Water Revolving Fund (SRF) Loan Program, and R309-800 Capacity Development Program.

For each of these rules Staff updated existing rule language, drafted new rule language where necessary, reordered certain rule sections to clarify meaning and intent, and verified and updated references to other rules and statutes. Draft rules were circulated to Division Management for comment. Comments from the management team were considered and staff made appropriate changes to the rule language. The revised rules presented to the Board at the June 8, 2021 Board Meeting contained the management team's recommended edits.

After the June 8, 2021 Board Meeting staff approached 20 external stakeholders who have worked extensively with the DWSRF and Capacity Development Programs over many years and asked them to review the proposed rules and provide comment or questions. Seventeen of the people staff approached agreed to act as subject matter experts for this step in the rule revision process. Stakeholders included consulting engineers, technical assistance providers, water system operators and managers, and Environmental Protection Agency (EPA) Region 8 staff. Sixteen of those stakeholders who agreed to provide review and comment for the rule revisions responded to staff with their comments, including EPA staff who provided comments specifically for the proposed Capacity Development Rule Revision.

Most comments received were positive and constructive. Only one respondent questioned the Asset Management changes to the Capacity Development Program Rule and offered some insight into Asset Management from a water system perspective. Staff acknowledged each respondent who submitted comments. Furthermore, staff will individually respond to each stakeholder who submitted detailed comments or questions.

Staff met several times after receiving stakeholder comments and carefully considered each substantive comment to determine its applicability. If staff found the comment applicable, the corresponding rule section language was modified to reflect the comment. If the comment was not applicable, staff noted the reason, and the respondent will be informed why the rule language was not modified.

The next step in the rule revision process is submitting the proposed rule revisions to the Division of Administrative Rules (DAR) for publication in the Utah Bulletin. Once published the general public will then have 30 days to submit comments or question on the proposed rules. After the 30-day comment period staff will meet to consider whether or not comments are substantive, and the rule language will be modified accordingly. Once that process is complete staff will approach the Board for authorization to finalize the rule. After Board authorization, staff will submit the final rules to DAR.

RECOMMENDATION

Division DWSRF staff proposes the Drinking Water Board authorize staff to continue the rule-making process for Financial Assistance Program Rules: R309-700 Financial Assistance: State Drinking Water State Revolving Fund (SRF) Financial Assistance Program, R309-705 Financial Assistance: Federal Drinking Water State Revolving Fund (SRF) Financial Assistance Program, and R309-800 Capacity Development Program.

The next step is submitting the proposed rule revisions to DAR for publication in the August 15, 2021 Utah Bulletin. The general public will have 30 days to submit comments to DDW. Staff will consider those comments and make appropriate changes to the proposed rules.

Staff further proposes to come before the Board at the November 2, 2021 meeting to request authorization to finalize the rules and submit them to DAR with an effective date of January 1, 2022.

R309. Environmental Quality, Drinking Water.

R309-700. Financial Assistance: State Drinking Water State Revolving Fund (SRF) ~~Loan-Financial Assistance~~ Program.

R309-700-1. Purpose.

This rule establishes criteria for financial assistance to public drinking water systems in accordance with Title 73, Chapter 10c, Utah Code Annotated using funds made available by the Utah legislature from time to time for this purpose.

R309-700-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancement agreements", "interest buy-down agreements", and "Hardship Grants" is provided in Title 73, Chapter 10c, Utah Code.

R309-700-3. Definitions and Eligibility.

Title 73, Chapter 10c, subsection 4(2)(a) limits eligibility for financial assistance under this section to political subdivisions. Definitions for terms used in this rule are given in R309-110.

Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance project costs associated with an approved improvement project

"Eligible Water System" means any community drinking water system owned by a political subdivision of the State.

"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water

supply, threatening the health and/or safety of the public/water users.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means the charge the Drinking Water Board assesses to loan recipients in lieu of or in addition to interest charged on a loan.

"Interest" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary project, easement or right of way, engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

~~"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).~~

~~"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.~~

~~"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to~~

~~improve the security for and marketability of drinking water project obligations.~~

~~"Eligible Water System" means any community drinking water system owned by a political subdivision of the State.~~

~~"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.~~

~~"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.~~

~~"Interest" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal.~~

~~"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water supply, threatening the health and / or safety of the public / water users.~~

R309-700-4. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

~~(2) The applicant is required to submit a completed application form, an engineering report listing the project alternatives considered and including a justification for the chosen alternative, a project financing plan that includes an evaluation of credit enhancement, interest buy-down and loan methods applicable to the project, and documents necessary to perform a financial capability assessment (when requested), and capacity assessment (when determined to be beneficial for evaluating project feasibility). Comments from the local health department and/or district engineer may accompany the application. Comments from other interested parties such as an association of governments will also be accepted. Those costs incurred subsequent to the submission of a completed funding application form to the Board and prior to the execution of a financial assistance agreement and which meet the criteria for project costs are eligible for reimbursement from the proceeds of the financial assistance agreement~~

~~The applicant is required to submit a complete application package:~~

~~(a) A completed financial assistance application form~~

~~(b) An engineering report listing the project alternatives considered and including a justification for the chosen alternative~~

~~(c) Documents necessary to perform a financial cost effectiveness analysis~~

~~(d) Capacity Development Assessment forms found in the financial assistance application form (when determined to be beneficial for evaluating project feasibility).~~

~~(e) Comments from the local health department, district engineer or other interested parties such as an association of governments will also be accepted.~~

(f) The costs associated with preparation of the completed application package are eligible for reimbursement after executing the financial assistance agreement.

(3) Division staff will evaluate the application and supporting documentation, calculate proposed terms of financial assistance, prepare a report for review by the Board, and present said report to the Board for its consideration.

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, hardship grant or any combination thereof, is to be entered into, and approve the project schedule (see R309-700-13). The Board shall authorize a hardship grant only if it determines that other financing alternatives are unavailable or unreasonably expensive to the applicant (see R309-700-5). If the applicant seeks financial assistance in the form of a loan of amounts in the security account established pursuant to Chapter 10c, Title 73 Utah Code, which loan is intended to provide direct financing of projects costs, then the Board shall authorize such loan only if it determines that credit enhancement agreements, interest buy-down agreements and other financing alternatives are unavailable or unreasonably expensive to the applicant or that a loan represents the financing alternative most economically advantageous to the state and the applicant; provided, that for purposes of this paragraph and for purposes of Section 73-10c-4(2), Utah Code, the term "loan" shall not include loans issued in connection with interest buy-down agreements as described in R309-700-10(2) or in connection with any other interest buy-down arrangement.

~~(5) Planning Grant - The applicant must submit an application provided by the Division and attach a scope of work, project schedule, cost estimates, and a draft contract for planning services.~~

~~(6) Planning Loan - The applicant requesting a Planning Loan must complete an application for a Planning Loan, prepare a plan of study, satisfactorily demonstrate procurement of planning services, and prepare a draft contract for planning services including financial evaluations and a schedule of work.~~

Planning Advances - The applicant must submit an application and attach a scope of work, project schedule, cost estimates, and a draft contract for planning services.

~~(7) Design Grant or Loan - The applicant requesting a Design Grant or Loan must have completed an engineering study or master plan meeting program requirements.~~

~~(8) The applicant must demonstrate public support for the project. As a minimum, for a loan to be secured by a revenue bond, the Sponsor applicant must mail notices to each water user in the Sponsor's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the Sponsor's applicant's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the rate of interest, the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the Sponsor~~

applicant in writing within ten days after the date of the notice or in the public hearing ~~within ten days after the date of the notice~~. A copy of all written responses and a certified record of a public hearing shall be forwarded to the Division of Drinking Water.

(~~98~~) For financial assistance mechanisms when the applicant's bond is purchased by the Board, the project applicant's bond documentation, ~~including~~ shall include an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant (see R309-700-13(3)), ~~and~~ and must be submitted to the Assistant Attorney General for preliminary approval. ~~and the~~ The applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to the Utah Code, ~~Section 11-14-21~~. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant.

(~~109~~) Hardship Grant - The Board or its designee will execute ~~executes~~ a grant agreement setting forth the terms and conditions of the grant.

(~~110~~) As authorized in 19-4-106(2)(c) of the Utah Code, the Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ~~insure~~ ensure proper design and construction, ~~as specified in rule R309-500-4-General~~. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Director.

(~~1211~~) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement as described in R309-700-10(2) to cover any part of project costs an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for qualified project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement as described in R309-700-10(1) all project funds will be maintained in a separate account and a quarterly report of project expenditures will be provided to the Board.

(~~1312~~) If a revenue bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to ~~insure~~ ensure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to ~~insure~~ ensure the system will have adequate resources to provide acceptable service.

~~(14) A plan of operation for the completed project, including staffing with an appropriately certified (in accordance with R309-300) operator, staff training, and procedures to assure efficient start-up, operation and maintenance of the project, must be submitted by the applicant and approved by the Board, its Director or other designee.~~

(~~1513~~) The applicant's contract with its engineer must be submitted to the Board for review to determine that there will be ~~adequate~~ appropriate engineering involvement, including project supervision and inspection, to successfully complete the project.

(14) A position fidelity bond, that insures against theft by local staff positions handling system revenue, may be required by the Board.

~~(1615)~~ The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, and adequacy of bidding and contract documents.

~~(1716)~~ CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board executes the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and notifies the applicant to sell the bonds (See R309-700-9 and -10).

~~(1817)~~ CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant sells the bonds and notifies the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by Section 73-10c-6(3)(d), Utah Code. If an interest buy-down agreement is utilized, the bonds shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

~~(1918)~~ The applicant opens bids for the project.

~~(19)~~ The applicant must have adopted a Water Conservation Plan prior to executing the loan agreement.

(20) LOAN ONLY - The Board approves purchase of the bonds and executes the loan contract (see R309-700-4(24)).

(21) LOAN ONLY - ~~The loan closing is conducted~~ Project Stakeholders shall hold a loan closing.

(22) A preconstruction conference shall be held.

(23) The applicant issues a written notice to proceed to the contractor.

~~(24) The applicant must have adopted a Water Conservation Plan prior to executing the loan agreement.~~

R309-700-5. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy.

(1) Board Priority Determination. In determining the priority for financial assistance, the Board shall consider:

(a) The ability of the applicant to obtain funds for the drinking water project from other sources or to finance such project from its own resources~~+~~.

(b) The ability of the applicant to repay the loan or other project obligations~~+~~.

(c) Whether a good faith effort to secure all or part of the services needed from the private sector through privatization has been made~~+~~ and.

(d) Whether the drinking water project:

(i) meets a critical local or state need~~+~~

(ii) is cost effective~~+~~

(iii) will protect against present or potential hazards~~+~~

(iv) is needed to comply with the minimum standards of the Federal Safe Drinking Water Act, 42 USC, 300f, et. seq. or similar or successor statute~~+~~

(v) is needed to comply with the minimum standards of the Utah Safe Drinking Water Act, Title 19, Chapter 4 or similar or successor statute.

(vi) is needed as a result of an Emergency.

(e) The overall financial impact of the proposed project on the citizens of the community, including direct and overlapping indebtedness, tax levies, user charges, impact or connection fees, special assessments, etc., resulting from the proposed project, and anticipated operation and maintenance costs versus the median income of the community.

(f) Consistency with other funding source commitments which may have been obtained for the project.

(g) The point total from an evaluation of the criteria listed in Table 1.

TABLE 1

NEED FOR PROJECT

	POINTS
1. PUBLIC HEALTH AND WELFARE (SELECT ONE)	
A. There is evidence that waterborne illnesses have occurred	15
B. There are reports of illnesses which may be waterborne	10
C. No reports of waterborne illness, but high potential for such exists	5
D. No reports of possible waterborne illness and low potential for such exists	0
2. WATER QUALITY RECORD (SELECT ONE)	
A. Primary Maximum Contaminant Level (MCL) violation more than 6 times in preceding 12 months	15
B. In the past 12 months violated a primary MCL 4 to 6 times	12
C. In the past 12 months violated a primary MCL 2 to 3 times or exceeded the Secondary Drinking Water Standards by double	9
D. In the past 12 months violated MCL 1 time	6
E. Violation of the Secondary Drinking Water Standards	5
F. Does not meet all applicable MCL goals	3
G. Meets all MCLs and MCL goals	0
3. VERIFICATION OF POTENTIAL SHORTCOMINGS (SELECT ONE)	
A. Has had sanitary survey within the last year	5
B. Has had sanitary survey within the last five years	3
C. Has not had sanitary survey within last five years	0
4. GENERAL CONDITIONS OF EXISTING FACILITIES (SELECT ALL THOSE WHICH ARE TRUE AND PROJECT WILL REMEDY)	
A. The necessary water treatment facilities do not exist, not functioning, functioning but do not meet the requirements of the Utah	

Public Drinking Water Rules (UPDWR)	10
B. Sources are not developed or protected according to UPDWR	10
C. Source capacity is not adequate to meet current demands and system occasionally goes dry or suffers from low pressures	10
D. Significant areas within distribution system have inadequate fire protection	8
E. Existing storage tanks leak excessively or are structurally flawed	5
F. Pipe leak repair rate is greater than 4 leaks per 100 connections per year	2
G. Existing facilities are generally sound and meeting existing needs	0
5. ABILITY TO MEET FUTURE DEMANDS (Select One)	
A. Facilities have inadequate capacity and cannot reliably meet current demands	10
B. Facilities will become inadequate within the next three years	5
C. Facilities will become inadequate within the next five to ten years	3
6. OVERALL URGENCY (Select One)	
A. System is generally out of water. There is no fire protection or water for flushing toilets	10
B. System delivers water which cannot be rendered safe by boiling	10
C. System delivers water which can be rendered safe by boiling	8
D. System is occasionally out of water	5
E. Situation should be corrected, but is not urgent	0
TOTAL POSSIBLE POINTS FOR NEED FOR PROJECT	100

(h) Other criteria that the Board may deem appropriate.

(2) Drinking Water Board Financial Assistance Determination. The amount and type of financial assistance offered will be based on the following considerations:

(a) An evaluation based upon the criteria in Table 2 of the applicant's financial condition, the project's impact on the community, and the applicant's commitment to operating a responsible water system. The interest rate to be charged by the Board for its financial assistance will be computed using the number of points assigned to the project from Table 2 to reduce, in a manner determined by Board resolution from time to time, the most recent Revenue Bond ~~Buyer~~ Index (RBI) as published by the Bond Buyer's Guide. ~~The interest rate so calculated will be assigned to the financial assistance. To encourage rapid repayment of a loan the Board will increase the interest rate 0.02 per cent (0.02%) for each year the repayment period exceeds five (5.0) years.~~

For hardship grant consideration, exclusive of planning and design grants or loans described in Sections R309-700-6, 7 and 8, the estimated

annual cost of drinking water service for the average residential user should exceed 1.75% of the median adjusted gross ~~household~~-income from the most recent available State Tax Commission records or the local median adjusted gross income (MAGI) is less than or equal to eighty-percent (80.0%) of the State's median adjusted gross income. When considering funding for planning and design grants and loans described in Sections R309-700-6, 7 and 8, the Board will consider whether or not the applicant's local MAGI meets the above criteria for hardship grant funding. If, in the judgment of the Board, the State Tax Commission data is insufficient, the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filings for a given zip code or city). The Board will also consider the applicant's level of contribution to the project.

TABLE 2

FINANCIAL CONSIDERATIONS

	POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)	
A. Project cost \$0 to \$500 per benefitting connection	16
B. \$501 to \$1,500	14
C. \$1,501 to \$2,000	11
D. \$2,001 to \$3,000	8
E. \$3,001 to \$5,000	4
F. \$5,001 to \$10,000	1
G. Over \$10,000	0
2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)	
A. Less than 70% of State Median AGI	19
B. 71 to 80% of State Median AGI	16
C. 81 to 95% of State Median AGI	13
D. 96 to 110% of State Median AGI	9
E. 111 to 130% of State Median AGI	6
F. 131 to 150% of State Median AGI	3
G. Greater than 150% of State Median AGI	0
3. APPLICANT'S COMMITMENT TO PROJECT	
PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)	
A. Greater than 25% of project funds	17
B. 15 to 25% of project funds	14
C. 10 to 15% of project funds	11
D. 5 to 10% of project funds	8
E. 2 to 5% of project funds	4
F. Less than 2% of project funds	0
4. ABILITY TO REPAY LOAN:	
4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)	
A. Greater than 2.50% of local median AGI	16
B. 2.01 to 2.50% of local median AGI	12
C. 1.51 to 2.00% of local median AGI	8
D. 1.01 to 1.50% of local median AGI	3

E. 0 to 1.00% of local median AGI 0
5. SPECIAL INCENTIVES: ~~Applicant~~ (SELECT ALL THAT APPLY.)

Applicant:

A. Has a capital facilities replacement and reserve fund receiving annual deposits of ~~about~~ 5% of the system's annual drinking water (DW) budget and fund has already accumulated a minimum of 10% of ~~said annual~~ its annual DW budget in this reserve fund. 5

B. Has, in addition to item 5.A., accumulated an amount equal to at least 20% of its annual DW budget in ~~its replacement~~ this reserve fund. 5

C. Is creating or enhancing a regionalization plan 16

D. Has a rate structure encouraging conservation 6

TOTAL POSSIBLE POINTS FOR FINANCIAL NEED 100

(b) Optimizing return on the security account while still allowing the project to proceed.

(c) Local ~~political and~~ economic conditions.

(d) Cost effectiveness evaluation of financing alternatives.

(e) Availability of funds in the State Drinking Water SRF Program security account.

(f) Environmental need.

(g) Other criteria the Board may deem appropriate.

R309-700-6. Planning Grant.

(1) ~~A Planning Grant can only be made to a political subdivision with a population less than 10,000 people demonstrating an urgent need to evaluate its drinking water system's technical, financial and managerial capacity, and lacks the financial means to readily accomplish such an evaluation. The Drinking Water Board may make grants from the State Drinking Water SRF Program security account to political subdivisions for planning of drinking water projects.~~

(2) Qualifying for a Planning Grant will be based on the criteria listed in R309-700-5(2) (a).

(3) The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Grant will be deposited with these other funds into a supervised escrow account at the time the grant agreement between the applicant and the Board is executed or the Board may choose to provide the funds in incremental disbursements as the applicant incurs expenses on the project.

(4) Failure on the part of the recipient of a Planning Grant to implement the findings of the plan may prejudice any future applications for drinking water project funding.

(5) The recipient of a Planning Grant must first receive written approval for any cost increases or changes to the scope of work.

(6) The Planning Grant recipient must provide a copy of the planning project results to the Division. The planning effort shall conform to rules R309.

R309-700-7. Planning Loan.

~~(1) A Planning Loan can only be made to a political subdivision which demonstrates a financial hardship preventing the completion of project planning.~~

(21) A Planning Loan is made to a political subdivision with the intent to provide interim financial assistance for project planning until the long-term project financing can be secured. The Planning Loan must be repaid to the Board unless the payment obligation is waived by the Board.

(32) The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Loan will be deposited with these other funds into a supervised escrow account at the time the loan agreement between the applicant and the Board is executed.

(43) The recipient of a Planning Loan must first receive written approval from the Division Director for any cost increases or changes to the scope of work.

(54) A copy of the document(s) prepared by means of the planning loan shall be submitted to the Division.

R309-700-8. Design Grant or Loan.

(1) ~~A Design Grant or Loan can only be made to a political subdivision demonstrating financial hardship preventing completion of project design.~~ For purposes of this Section ~~R309-700-8~~, project design means engineering plans and specifications, construction contracts, and associated work.

(2) A Design Grant or Loan is made to a political subdivision with the intent to provide interim financial assistance for the completion of the project design until the long-term project financing can be secured. The Design Grant or Loan must be repaid to the Board unless the payment obligation is waived by the Board as authorized by 73-10c-4(3)(b).

(3) The applicant must demonstrate that all funds necessary to complete the project design will be available prior to commencing the design effort. The Design Grant or Loan will be deposited with these other funds into a supervised escrow account at the time the grant or loan agreement between the applicant and the Board is executed.

(4) The recipient of a Design Grant or Loan must first receive written approval from the Board before incurring any cost increases or changes to the scope of work.

R309-700-9. Credit Enhancement Agreements.

The Board will determine whether a project may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement subject to the criteria in R309-700-5. To provide security for project obligations the Board may agree to purchase project obligations of applicants or make loans to the applicants to prevent defaults in payments on project obligations. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. In addition, the Board may consider other methods and assistance to applicants to properly enhance the marketability of or security for project obligations.

R309-700-10. Interest Buy-Down Agreements.

Interest buy-down agreements may consist of:

(1) A financing agreement between the Board and applicant whereby a specified sum is loaned or granted to the applicant to be placed in a

trust account. The trust account shall be used exclusively to reduce the cost of financing for the project.

(2) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board is combined with proceeds from publicly issued bonds to finance the project. The rate of interest on bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

(3) Any other legal method of financing which reduces the annual payment amount on locally issued bonds. After credit enhancement agreements have been evaluated by the Board and it is determined that this method is not feasible or additional assistance is required, interest buy-down agreements and loans may be considered. Once the level of financial assistance required to make the project financially feasible is determined, a cost effective evaluation of interest buy-down options and loans must be completed. The financing alternative chosen should be the one most economically advantageous for the state and the applicant.

R309-700-11. Loans.

The Board may make loans to finance all or part of a drinking water project only after credit enhancement agreements and interest buy-down agreements have been evaluated and found either unavailable or unreasonably expensive. The financing alternative chosen should be the one most economically advantageous for the state and its political subdivisions. A loan origination fee will be assessed to the loan recipient as a percentage of the principal balance of the loan. This fee will not be charged to any disadvantaged community receiving a loan subsidy as part of the Drinking Water State Revolving Fund financial assistance program.

R309-700-12. Project Authorization (Reference R309-700-4(4)).

A project may be "Authorized" for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant in writing by the Board following submission and favorable review of an application form, engineering report (if required), financial capability assessment, staff feasibility report, and capacity assessment (when determined to be beneficial for evaluating project feasibility). The engineering report shall include a cost effectiveness analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations. If it is anticipated that a project will be a candidate for financial assistance from the Board, the Staff should be contacted, and the plan of study for the engineering report (if required) should be approved before the planning is initiated.

Once the application form and other related documents have been reviewed and assessments made, the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include a detailed

evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant). Project Authorization is not a contractual commitment and is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, interest buy-down, or grant agreement and upon adherence to the project schedule approved at that time. If the project is not proceeding according to the project schedule the Board may withdraw the project Authorization so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

R309-700-13. Financial Evaluations.

(1) The Board considers it a proper function to assist and give direction to project applicants in obtaining funding from such State, Federal or private financing sources as may be available to achieve the most effective utilization of resources in meeting the needs of the State. This may also include joint financing arrangements with several funding agencies to complete a total project.

(2) Hardship Grants will be evidenced by a grant agreement.

(3) In providing any form of financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel to the effect that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.

(a) In providing any form of financial assistance in the form of a loan, the Board may purchase either a taxable or non-taxable bonds; provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt and are accompanied by a legal opinion of recognized municipal bond counsel to the effect that interest on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(i) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(ii) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(b) In any other situations, the Board may purchase taxable bonds if it determines, after evaluating all relevant circumstances including the applicant's ability to pay, that the purchase of the taxable bonds is in the best interests of the State and applicant.

(c) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax-exempt status of the loan fund.

(d) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or interest) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(4) The Board will consider the financial feasibility and cost effectiveness of the project in detail. The financial capability assessment must be completed as a basis for the review. The Board may require that a full capacity assessment be made for a given project. The Board will generally use these reports and assessments to determine whether a project will be Authorized to receive a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant (Reference R309-700-9, -10 and -11). If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. The Board will require the applicants to repay the loan as rapidly as is reasonably consistent with the financial capability of the applicant. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

(5) Normal engineering and investigation costs incurred by the Department of Environmental Quality or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization. ~~If the credit enhancement agreement or interest buy-down agreement does not involve a loan of funds from the Board, then administrative costs will not be charged to the project. However, if the project is Authorized to receive a loan or grant of funds from the Board, all costs from the beginning of the project will be charged to the project and paid by the applicant as a part of the total project cost. If the applicant decides not to build the project after the Board has Authorized the project, all costs accruing after the Authorization will be reimbursed by the applicant to the Board.~~

(6) The Board shall determine the date on which the scheduled payments of principal and interest will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system one year of actual use of the project facilities before the first repayment of principal is required.

(7) The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.

(8) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(9) The Board will not forgive the applicant of any payment after the payment is due.

(10) The Board will require a debt service reserve account be established by the applicant at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Annual reports/statements will be required. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. Annual reports/statements will be required.

(11) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or interest on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system. ~~and to~~ The applicant must notify the Board prior to making any disbursements from the fund. ~~so the Board can confirm that any expenditure is for an acceptable purpose~~ However, The applicant will not need ~~the consent of~~ the Board's consent prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. ~~Annual reports/statements will be required.~~

(12) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125% or such other amount as the Board may determine of the total annual debt service.

R309-700-14. Committal of Funds and Approval of Agreements.

~~After the has issued a Plan Approval and received the appropriate legal documents and other items required by Rule R309-700, the Board will determine whether the project loan, interest buy-down, credit enhancement, and/or grant meets the conditions of its authorization. If so, the Board will give its final approval. The Executive Secretary or designee may then execute the financial assistance agreement if no aspects of the project have changed significantly since the Board's authorization of the loan or credit enhancement, provided all conditions imposed by the Board have been met. If significant changes have occurred the Board will then review the project and, if satisfied, the Board will then commit funds, approve the signing of the contract, credit enhancement agreement, interest buy-down agreement, or grant agreement, and instruct the Executive Secretary to submit a copy of the signed contract or agreement to the Division of Finance.~~

(1) The Executive Secretary, or designee, may execute the loan agreement, credit enhancement agreement, or interest buy-down agreement when the following are complete:

(i) All financial assistance authorization conditions, as outlined in the Authorization Letter sent to the Recipient, have been met;

including Division approval of all submitted legal documents and other items required by this rule.

(ii) The Recipient has received written approval for the engineering plans and specifications of the authorized project from the Division of Drinking Water.

(2) If the approved scope of work has changed significantly since the Board's initial authorization, the Board shall review the modified project scope of work to determine if it meets the Board's requirements. If satisfied, the Board shall authorize the Executive Secretary, or designee, to proceed with executing the loan agreement, credit enhancement agreement or interest buy-down agreement.

R309-700-15. Construction.

~~The Division of Drinking Water staff may conduct inspections and will report to the applicant and applicant's engineer. Contract change orders must be properly negotiated with the contractor and approved in writing. Change orders in excess of \$10,000 must receive prior written approval by the Director before execution. The applicant shall notify the Director when the project is near completion and request a final inspection. When the project is complete to the satisfaction of the applicant, the applicant's engineer, and the Director, written approval will be issued by the Director in accordance with R309-500-9 to commence using the project facilities.~~

(1) The Division of Drinking Water staff shall conduct inspections and will report to the applicant and applicant's engineer.

(2) Contract change orders must be properly negotiated with the contractor and approved in writing. All Change orders, which either increase the project cost in excess of \$10,000, or which modify the scope of the project, must be reviewed by staff to determine eligibility for reimbursement and to determine that the project will be completed as authorized by the Drinking Water Board.

(3) The applicant shall notify the Executive Secretary when the project is near completion and request a final inspection.

(4) When the project is complete, but before facilities can be placed into service, the recipient must receive an operating permit in accordance with current Division of Drinking Water rules.

KEY: loans, interest buy-downs, credit enhancements, hardship grants

Date of Enactment or Last Substantive Amendment: July 1, 2011

Notice of Continuation: March 12, 2020

Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

R309-700. Financial Assistance: State Drinking Water State Revolving Fund Financial Assistance Program.

Table of Contents

R309-700-1. Purpose.	3
R309-700-2. Statutory Authority.	3
R309-700-3. Definitions and Eligibility.	3
R309-700-4. Application and Project Initiation Procedures.	5
R309-700-5. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration	8
R309-700-6. Planning Grant.	12
R309-700-7. Planning Loan.	13
R309-700-8. Design Grant or Loan.	13
R309-700-9. Credit Enhancement Agreements.	14
R309-700-10. Interest Buy-Down Agreements.	14
R309-700-11. Loans.	15
R309-700-12. Project Authorization (Reference R309-700-4(4)).	15
R309-700-13. Financial Evaluations.	15
R309-700-14. Committal of Funds and Approval of Agreements.	18
R309-700-15. Construction.	18

This Page Intentionally Left Blank

R309-700. State Drinking Water State Revolving Fund Financial Assistance Program.

R309-700-1. Purpose.

This rule establishes criteria for financial assistance to public drinking water systems in accordance with Title 73, Chapter 10c, Utah Code Annotated using funds made available by the Utah legislature from time to time for this purpose.

R309-700-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancement agreements", "interest buy-down agreements", and "Hardship Grants" is provided in Title 73, Chapter 10c, Utah Code.

R309-700-3. Definitions and Eligibility.

Title 73, Chapter 10c, subsection 4(2)(a) limits eligibility for financial assistance under this section to political subdivisions.

Definitions for terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance project costs associated with an approved improvement project

"Eligible Water System" means any community drinking water system owned by a political subdivision of the State.

"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water supply, threatening the health and/or safety of the public/water users.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means the charge the Drinking Water Board assesses to loan recipients in lieu of or in addition to interest charged on a loan.

"Interest" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary project, easement or right of way, engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; asset management plans and related system software; fees and interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

R309-700-4. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

(2) The applicant is required to submit a complete application package:

(a) A completed financial assistance application form

(b) An engineering report listing the project alternatives considered and including a justification for the chosen alternative

(c) Documents necessary to perform a financial cost effectiveness analysis

(d) Capacity Development Assessment forms found in the financial assistance application form (when determined to be beneficial for evaluating project feasibility).

(e) Comments from the local health department, district engineer or other interested parties such as an association of governments will also be accepted.

(f) The costs associated with preparation of the completed application package are eligible for reimbursement after executing the financial assistance agreement.

(3) Division staff will evaluate the application and supporting documentation, calculate proposed terms of financial assistance, prepare a report for review by the Board, and present said report to the Board for its consideration.

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, hardship grant or any combination thereof, is to be entered into, and approve the project schedule (see R309-700-13). The Board shall authorize a hardship grant only if it determines that other financing alternatives are unavailable or unreasonably expensive to the applicant (see R309-700-5). If the applicant seeks financial assistance in the form of a loan in the amounts shown in the security account established pursuant to Chapter 10c, Title 73 Utah Code, which loan is intended to provide direct financing of projects costs, then the Board shall authorize such loan only if it determines that credit enhancement agreements, interest buy-down agreements and other financing alternatives are unavailable or unreasonably expensive to the applicant or that a loan represents the financing alternative most economically advantageous to the state and the applicant; provided, that for purposes of this paragraph and for purposes of Section 73-10c-4(2), Utah Code, the term "loan" shall not include loans issued in connection with interest buy-down agreements as described in R309-700-10(2) or in connection with any other interest buy-down arrangement.

(5) Planning Advances - The applicant must submit an application and attach a scope of work, project schedule, cost estimates, and a draft contract for planning services.

(6) Design Grant or Loan - The applicant requesting a Design Grant or Loan must have completed an engineering study or master plan meeting program requirements.

(7) The applicant must demonstrate public support for the project. As a minimum, for a loan to be secured by a revenue bond, the applicant must mail notices to each water user in the applicant's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the applicant's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the rate of interest, the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the applicant in writing within ten days after the date of the notice or in the public hearing. A copy of all written responses and a certified record of a public hearing shall be forwarded to the Division of Drinking Water.

(8) For financial assistance mechanisms when the applicant's bond is purchased by the Board, the project applicant's bond documentation shall include an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant (see R309-700-13(3)) and must be submitted to the Assistant Attorney General for preliminary approval. The applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to Utah Code. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant.

(9) Hardship Grant - The Board or its designee will execute a grant agreement setting forth the terms and conditions of the grant.

(10) As authorized in 19-4-106(3) of the Utah Code, the Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ensure proper design and construction. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Director.

(11) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement as described in R309-700-10(2) to cover any part of project costs, an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for qualified project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement as described in R309-700-10(1) all project funds shall be maintained in a separate account and a quarterly report of project expenditures shall be provided to the Board.

(12) If a revenue bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to ensure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User

Charge Ordinance must be submitted to the Board for review and approval to ensure the system will have adequate resources to provide acceptable service.

(13) The applicant's contract with its engineer must be submitted to the Board for review to determine that there will be appropriate engineering involvement, including project supervision and inspection, to successfully complete the project.

(14) A position fidelity bond, that insures against theft by local staff positions handling system revenue, may be required by the Board.

(15) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, and adequacy of bidding and contract documents.

(16) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board executes the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and notifies the applicant to sell the bonds (See R309-700-9 and 10).

(17) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant sells the bonds and notifies the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by Section 73-10c-6(3)(d), Utah Code. If an interest buy-down agreement is utilized, the bonds shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(18) The applicant opens bids for the project.

(19) The applicant must have adopted a Water Conservation Plan prior to executing the loan agreement.

(20) LOAN ONLY - The Board approves purchase of the bonds and executes the loan contract (see R309-700-4(24)).

(21) LOAN ONLY - Project Stakeholders shall hold a loan closing..

(22) A preconstruction conference shall be held.

(23) The applicant issues a written Notice to Proceed to the contractor.

R309-700-5. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy.

(1) Board Priority Determination. In determining the priority for financial assistance, the Board shall consider:

(a) The ability of the applicant to obtain funds for the drinking water project from other sources or to finance said project from its own resources.

(b) The ability of the applicant to repay the loan or other project obligations.

(c) Whether a good faith effort to secure all or part of the services needed from the private sector through privatization has been made.

(d) Whether the drinking water project:

(i) meets a critical local or state need

(ii) is cost effective

(iii) will protect against present or potential hazards

(iv) is needed to comply with the minimum standards of the Federal Safe Drinking Water Act, 42 USC, 300f, et. seq. or similar or successor statute

(v) is needed to comply with the minimum standards of the Utah Safe Drinking Water Act, Title 19, Chapter 4 or similar or successor statute

(vi) is needed as a result of an Emergency.

(e) The overall financial impact of the proposed project on the citizens of the community, including direct and overlapping indebtedness, tax levies, user charges, impact or connection fees, special assessments, etc., resulting from the proposed project, and anticipated operation and maintenance costs versus the median income of the community.

(f) Consistency with other funding source commitments which may have been obtained for the project.

(g) The point total from an evaluation of the criteria listed in Table 1.

TABLE 1 NEED FOR PROJECT		
1. PUBLIC HEALTH AND WELFARE (SELECT ONE)		POINTS
	A. There is evidence that waterborne illnesses have occurred	15

	B. There are reports of illnesses which may be waterborne	10
	C. No reports of waterborne illness, but high potential for such exists	5
	D. No reports of possible waterborne illness and low potential for such exists	0
2. WATER QUALITY RECORD (SELECT ONE)		
	A. Primary Maximum Contaminant Level (MCL) violation more than 6 times in preceding 12 months	15
	B. In the past 12 months violated a primary MCL 4 to 6 times	12
	C. In the past 12 months violated a primary MCL 2 to 3 times or exceeded the Secondary Drinking Water Standards by double	9
	D. In the past 12 months violated MCL 1 time	6
	E. Violation of the Secondary Drinking Water Standards	5
	F. Does not meet all applicable MCL goals	3
	G. Meets all MCLs and MCL goals	0
3. VERIFICATION OF POTENTIAL SHORTCOMINGS (SELECT ONE)		
	A. Has had sanitary survey within the last year	5
	B. Has had sanitary survey within the last three years	3
	C. Has not had sanitary survey within last five years	0
4. GENERAL CONDITIONS OF EXISTING FACILITIES (SELECT ALL THOSE WHICH ARE TRUE AND PROJECT WILL REMEDY)		
	A. The necessary water treatment facilities do not exist, are not functioning, or are functioning but do not meet the requirements of the Utah Public Drinking Water Rules (UPDWR)	10
	B. Sources are not developed or protected according to UPDWR	10
	C. Source capacity is not adequate to meet current demands and system occasionally goes dry or suffers from low pressures	10
	D. Significant areas within distribution system have inadequate fire protection	8
	E. Existing storage tanks leak excessively or are structurally flawed	5
	F. Pipe leak repair rate is greater than 4 leaks per 100 connections per year	2
	G. Existing facilities are generally sound and meeting existing needs	0
5. ABILITY TO MEET FUTURE DEMANDS (Select One)		

	A. Facilities have inadequate capacity and cannot reliably meet current demands	10
	B. Facilities will become inadequate within the next three years	5
	C. Facilities will become inadequate within the next five to ten years	3
6. OVERALL URGENCY (Select One)		
	A. System is generally out of water. There is no fire protection or water for flushing toilets	10
	B. System delivers water which cannot be rendered safe by boiling	10
	C. System delivers water which can be rendered safe by boiling	8
	D. System is occasionally out of water	5
	E. Situation should be corrected, but is not urgent	0
TOTAL POSSIBLE POINTS FOR NEED FOR PROJECT		100

(h) Other criteria that the Board may deem appropriate.

(2) Drinking Water Board Financial Assistance Determination. The amount and type of financial assistance offered will be based on the following considerations:

(a) An evaluation based upon the criteria in Table 2 of the applicant's financial condition, the project's impact on the community, and the applicant's commitment to operating a responsible water system.

The interest rate to be charged by the Board for its financial assistance will be computed using the number of points assigned to the project from Table 2 to reduce, in a manner determined by Board resolution from time to time, the most recent Revenue Bond Index (RBI) as published by the Bond Buyer's Guide.

For hardship grant consideration, exclusive of planning and design grants or loans described in Sections R309-700-6, 7 and 8, the estimated annual cost of drinking water service for the average residential user should exceed 1.75% of the median adjusted gross income from the most recent available State Tax Commission records or the local median adjusted gross income (MAGI) is less than or equal to eighty percent (80%) of the State's median adjusted gross income. When considering funding for planning and design grants and loans described in Sections R309-700-6, 7 and 8, the Board will consider whether or not the applicant's local MAGI meets the above criteria for hardship grant funding. If, in the judgment of the Board, the State Tax Commission data is insufficient, the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filings for a given zip code or city). The Board will also consider the applicant's level of contribution to the project.

<p>TABLE 2 FINANCIAL CONSIDERATIONS</p>

1. COST EFFECTIVENESS RATIO (SELECT ONE)		POINT S
	A. Project cost \$0 to \$500 per benefitting connection	16
	B. \$501 to \$1,500	14
	C. \$1,501 to \$2,000	11
	D. \$2,001 to \$3,000	8
	E. \$3,001 to \$5,000	4
	F. \$5,001 to \$10,000	1
	G. Over \$10,000	0
2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)		
	A. Less than 70% of State Median AGI	19
	B. 71 to 80% of State Median AGI	16
	C. 81 to 95% of State Median AGI	13
	D. 96 to 110% of State Median AGI	9
	E. 111 to 130% of State Median AGI	6
	F. 131 to 150% of State Median AGI	3
	G. Greater than 150% of State Median AGI	0
3. APPLICANT'S COMMITMENT TO PROJECT PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)		
	A. Greater than 25% of project funds	17
	B. 15 to 25% of project funds	14
	C. 10 to 15% of project funds	11
	D. 5 to 10% of project funds	8
	E. 2 to 5% of project funds	4
	F. Less than 2% of project funds	0
4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)		
	A. Greater than 2.50% of local median AGI	16
	B. 2.01 to 2.50% of local median AGI	12
	C. 1.51 to 2.00% of local median AGI	8
	D. 1.01 to 1.50% of local median AGI	3
	E. 0 to 1.00% of local median AGI	0
5. SPECIAL INCENTIVES (SELECT ALL THAT APPLY.) Applicant:		
	A. Has a capital facilities replacement and reserve fund receiving annual deposits of 5% of the system's annual drinking water (DW) budget and has already accumulated a minimum of 10% of its annual DW budget in this reserve fund	5
	B. Has, in addition to item 5.A., accumulated an amount equal to at least 20% of its annual DW budget in this reserve fund	5

	C. Is creating or enhancing a regionalization plan	16
	D. Has a rate structure encouraging conservation	6
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED		100

- (b) Optimizing return on the State Drinking Water SRF Program security account while still allowing the project to proceed.
- (c) Local economic conditions.
- (d) Cost effectiveness evaluation of financing alternatives.
- (e) Availability of funds in the State Drinking Water SRF Program security account.
- (f) Environmental need.
- (g) Other criteria the Board may deem appropriate.

R309-700-6. Planning Grant.

- (1) The Drinking Water Board may make grants from the State Drinking Water SRF Program security account to political subdivisions for planning of drinking water projects.
- (2) Qualifying for a Planning Grant will be based on the criteria listed in R309-700-5(2)(a).
- (3) The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Grant will be deposited with these other funds into a supervised escrow account at the time the grant agreement between the applicant and the Board is executed or the Board may choose to provide the funds in incremental disbursements as the applicant incurs expenses on the project.
- (4) Failure on the part of the recipient of a Planning Grant to implement the findings of the plan may prejudice any future applications for drinking water project funding.
- (5) The recipient of a Planning Grant must first receive written approval for any cost increases or changes to the scope of work.
- (6) The Planning Grant recipient must provide a copy of the planning project results to the Division prior to final reimbursement. The planning effort shall conform to rules R309.

R309-700-7. Planning Loan.

- (1) A Planning Loan is made to a political subdivision with the intent to provide interim financial assistance for project planning until the long-term project financing can be secured. The Planning

R309-700 Financial Assistance: State Drinking Water State Revolving Fund Financial Assistance Program

Loan must be repaid to the Board unless the payment obligation is waived by the Board as authorized by statute.

(2) The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Loan will be deposited with these other funds into a supervised escrow account at the time the loan agreement between the applicant and the Board is executed or the Board may choose to provide the funds in incremental disbursements as the applicant incurs expenses on the project.

(3) The recipient of a Planning Loan must first receive written approval for any cost increases or changes to the scope of work.

(4) A copy of the planning project results shall be submitted to the Division prior to final reimbursement.

R309-700-8. Design Grant or Loan.

(1) For purposes of this Section, project design means engineering plans and specifications, construction contracts, and associated work.

(2) A Design Grant or Loan is made to a political subdivision with the intent to provide interim financial assistance for the completion of the project design until the long-term project financing can be secured. The Design Grant or Loan must be repaid to the Board unless the payment obligation is waived by the Board as authorized by 73-10c-4(3)(b).

(3) The applicant must demonstrate that all funds necessary to complete the project design will be available prior to commencing the design effort. The Design Grant or Loan will be deposited with these other funds into a supervised escrow account at the time the grant or loan agreement between the applicant and the Board is executed.

(4) The recipient of a Design Grant or Loan must first receive written approval from the Board before incurring any cost increases or changes to the scope of work.

R309-700-9. Credit Enhancement Agreements.

The Board will determine whether a project may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement subject to the criteria in R309-700-5. To provide security for project obligations the Board may agree to purchase project obligations of applicants or make loans to the applicants to prevent defaults in payments on project obligations. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. In addition, the Board may consider other methods and assistance to applicants to properly enhance the marketability of or security for project obligations.

R309-700-10. Interest Buy-Down Agreements.

Interest buy-down agreements may consist of:

(1) A financing agreement between the Board and the applicant whereby a specified sum is loaned or granted to the applicant to be placed in a trust account. The trust account shall be used exclusively to reduce the cost of financing for the project.

(2) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board are combined with proceeds from publicly issued bonds to finance the project. The rate of interest on bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

(3) Any other legal method of financing which reduces the annual payment amount on locally issued bonds. After credit enhancement agreements have been evaluated by the Board and it is determined that this method is not feasible or additional assistance is required, interest buy-down agreements and loans may be considered. Once the level of financial assistance required to make the project financially feasible is determined, a cost-effective evaluation of interest buy-down options and loans must be completed. The financing alternative chosen should be the one most economically advantageous for the state and the applicant.

R309-700-11. Loans.

The Board may make loans to finance all or part of a drinking water project only after credit enhancement agreements and interest buy-down agreements have been evaluated and found either unavailable or unreasonably expensive. The financing alternative chosen should be the one most economically advantageous for the state and its political subdivisions. A loan origination fee will be assessed to the loan recipient as a percentage of the principal balance of the loan. This fee will not be charged to any disadvantaged community receiving a loan subsidy as part of the Drinking Water State Revolving Fund financial assistance program.

R309-700-12. Project Authorization (Reference R309-700-4(4)).

A project may be "Authorized" for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant in writing by the Board following submission and favorable review of an application form, engineering report (if required), financial capability assessment, staff feasibility report, and capacity assessment (when determined to be beneficial for evaluating project feasibility). The engineering report shall include a cost effectiveness analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must

be the most economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other non-monetary considerations. If it is anticipated that a project will be a candidate for financial assistance from the Board, the Staff should be contacted, and the plan of study for the engineering report (if required) should be approved before the planning is initiated.

Once the application form and other related documents have been reviewed and assessments made, the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include a detailed evaluation of the project with regard to the Board's funding priority criteria and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant).

Project Authorization is not a contractual commitment and is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, interest buy-down, or grant agreement and upon adherence to the project schedule approved at that time. If the project is not proceeding according to the project schedule, the Board may withdraw the project Authorization so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

R309-700-13. Financial Evaluations.

(1) The Board considers it a proper function to assist and give direction to project applicants in obtaining funding from such State, Federal or private financing sources as may be available to achieve the most effective utilization of resources in meeting the needs of the State. This may also include joint financing arrangements with several funding agencies to complete a total project.

(2) Hardship Grants will be evidenced by a grant agreement.

(3) In providing any form of financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel to the effect that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.

(a) In providing any form of financial assistance in the form of a loan, the Board may purchase either a taxable or non-taxable bonds; provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt and are accompanied by a legal opinion of recognized municipal bond counsel to the effect that interest on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(i) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(ii) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(b) In any other situations, the Board may purchase taxable bonds if it determines, after evaluating all relevant circumstances including the applicant's ability to pay, that the purchase of the taxable bonds is in the best interests of the State and applicant.

(c) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax-exempt status of the loan fund.

(d) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or interest) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(4) The Board will consider the financial feasibility and cost effectiveness of the project in detail. The financial capability assessment must be completed as a basis for the review. The Board may require that a full capacity assessment be made for a given project. The Board will generally use these reports and assessments to determine whether a project will be Authorized to receive a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant (Reference R309-700-9, 10 and 11). If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. The Board will require the applicants to repay the loan as rapidly as is reasonably consistent with the financial capability of the applicant. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

(5) Normal engineering and investigation costs incurred by the Department of Environmental Quality or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization.

(6) The Board shall determine the date on which the scheduled payments of principal and interest will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system a period of time not to exceed 18 months of actual use of the project facilities before the first repayment of principal is required.

(7) The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.

(8) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(9) The Board will not forgive the applicant of any payment after the payment is due.

(10) The Board will require a debt service reserve account be established by the applicant at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Annual reports/statements will be required. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed.

(11) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or interest on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system. The Applicant must notify the Board prior to making any disbursements from the fund. However, the applicant will not need the Board's consent prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed.

(12) If the Board decides to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125%, or such other amount as the Board may determine, of the total annual debt service.

R309-700-14. Committal of Funds and Approval of Agreements.

(1) The Executive Secretary, or designee, may execute the loan agreement, credit enhancement agreement, or interest buy-down agreement when the following are complete:

(i) All financial assistance authorization conditions, as outlined in the Authorization Letter sent to the Recipient, have been met; including Division approval of all submitted legal documents and other items required by this rule.

(ii) The Recipient has received written approval for the engineering plans and specifications of the authorized project from the Division of Drinking Water.

(2) If the approved scope of work has changed significantly since the Board's initial authorization, the Board shall review the modified project scope of work to determine if it meets

the Board's requirements. If satisfied, the Board shall authorize the Executive Secretary, or designee, to proceed with executing the loan agreement, credit enhancement agreement or interest buy-down agreement.

R309-700-15. Construction.

- (1) The Division of Drinking Water staff shall conduct inspections and will report to the applicant and applicant's engineer.
- (2) Contract change orders must be properly negotiated with the contractor and approved in writing. All Change orders, which either increase the project cost in excess of \$10,000, or which modify the scope of the project, must be reviewed by staff to determine eligibility for reimbursement and to determine that the project will be completed as authorized by the Drinking Water Board.
- (3) The applicant shall notify the Executive Secretary when the project is near completion and request a final inspection.
- (4) When the project is complete, but before facilities can be placed into service, the recipient must receive an operating permit in accordance with current Division of Drinking Water rules.
KEY: loans, interest buy-downs, credit enhancements, hardship grants
Date of Enactment or Last Substantive Amendment: July 1, 2011
Notice of Continuation: March 23, 2010
Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

R309. Environmental Quality, Drinking Water.

R309-705. Financial Assistance: Federal Drinking Water State Revolving Fund Financial Assistance ~~(SRF) Loan~~ Program.

R309-705-1. Purpose.

The purpose of this rule is to establish criteria for financial assistance to public drinking water system in accordance with a federal grant established under 42 U.S.C. 300j et seq., federal Safe Drinking Water Act (SDWA).

R309-705-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue financial assistance for drinking water projects from a federal capitalization grant is provided in 42 U.S.C. 300j et seq., federal Safe Drinking Water Act, and Title 73, Chapter 10c, Utah Code.

R309-705-3. Definitions.

Definitions for general terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Capacity Development" is a process for water systems to acquire and maintain adequate technical, managerial, and financial (TMF) capability. Capacity Development is a fundamental component of the 1996 Safe Drinking Water Act (SDWA) Amendments which provide a framework for states and water systems to work together to protect public health. (See Rule R309-800)

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance project costs associated with an approved improvement project.

"Eligible Water System" means any community drinking water system, either privately or publicly owned; and nonprofit noncommunity water systems.

"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water supply, threatening the health and / or safety of the public / water users.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means the charge the Drinking Water Board assesses to loan recipients in lieu of or in addition to interest charged on a loan.

"Interest" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.

"Negative Interest" means a loan with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Drinking Water Board.

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by section 4 of this rule and by the Drinking Water Board.

"Programmatic Financing" is a financial assistance option under the DWSRF Program that is designed to provide funding for a water system's Capital Improvement Plan, or any portion thereof, so long as the projects are eligible and comply with DWSRF Program requirements.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way, except property condemnation cost, which are not eligible costs; engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; Hardship Grant Assessments, fees and interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

~~"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to~~

~~80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).~~

~~"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.~~

~~"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.~~

~~"Eligible Water System" means any community drinking water system, either privately or publicly owned; and nonprofit noncommunity water systems.~~

~~"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.~~

~~"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.~~

~~"Hardship Grant Assessment" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.~~

~~"Negative Interest" means a loan with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Drinking Water Board.~~

~~"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by section 4 of this rule and by the Drinking Water Board.~~

~~"Interest" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.~~

~~"Emergency" means an unexpected, serious occurrence of situation requiring urgent or immediate action. With regard to a water system this would be a situation resulting from the failure of equipment or other infrastructure, or contamination of the water supply, which threatens the health and / or safety of the public / water users.~~

"SRF Technical Assistance Fund" means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.

"Technical Assistance" means financial assistance provided for a feasibility study or master plan, to identify and / or correct system deficiencies, to help a water system overcome other technical problems. The system receiving said technical assistance may or may not be required to repay the funds received. If repayment is required, the Board will establish the terms of repayment.

~~"SRF Technical Assistance Fund" means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.~~

R309-705-4. Financial Assistance Methods.

(1) Eligible Activities of the SRF.

Funds within the SRF may be used for loans and other authorized forms of financial assistance. Funds may be used for the construction of publicly or privately owned works or facilities, or any work that is an eligible project cost as defined by 73-10c-2 of the Utah Code or as allowed by 42 U.S.C.A. 300f et seq. ~~Those costs incurred subsequent to the submission of a funding application to the Board and prior to the execution of a financial assistance agreement and which meet the above criteria are eligible for reimbursement from the proceeds of the financial assistance agreement~~ Project planning and design costs incurred prior to submitting a funding application to the Board and executing a financial assistance agreement are eligible for reimbursement.

(2) Types of Financial Assistance Available for Eligible Water Systems.

(a) Loans.

To qualify for "negative interest" or "principal forgiveness", the system must qualify as a "disadvantaged community" as defined in section 3 of this rule. Upon application, the Board will make a ~~case by case~~ case-by-case determination whether the system is a "disadvantaged community". To be eligible to be considered as a disadvantaged community, the system must meet the definition provided in section 3 of this rule. Additionally, the Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and other such information as the Board determines relevant to making the decision to recognize the system as a "disadvantaged community".

(i) Loan Origination Fee (LOF)

~~A fee assessed to the loan recipient as a percentage of the principal balance of the loan. This fee will not be charged to any disadvantaged community receiving a loan subsidy as part of the DWSRF financial assistance.~~

(ii) Hardship Grant Assessment.

The assessment will be calculated based on the procedures and formulas shown in section 6 of this rule.

~~(ii)-(iii)~~ (iii) Repayment.

Annual repayments of principal, interest, fees and/or Hardship Grant Assessment generally commence not later than ~~one year~~ 18 months after project completion. Project completion shall be defined as the date

the funded project is capable of operation and a notice of "beneficial occupancy" is given to the general contractor. Where a project has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments.

The loan must be fully amortized not later than ~~20~~ 30 years after project completion or infrastructure design life, whichever is shorter, or ~~not no~~ later than ~~30~~ 40 years ~~after project completion if the community served by the water system is determined to be a disadvantaged community for disadvantaged communities~~. The yearly amount of the principal repayment is set at the discretion of the Board.

~~(iii)~~ (iv) Principal Forgiveness.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of forgiveness of a portion of the principal loan amount. Terms for principal forgiveness will be determined by Board resolution. Eligible applicants for "principal forgiveness" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

~~(iv)~~ (v) Negative Interest Rate.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of a loan with a negative interest rate, as determined by Board resolution. Eligible applicants for "negative interest" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

(vi) Dedicated Repayment Source and Security.

Loan recipients must establish one or more dedicated sources of revenue for repayment of the loan. As a condition of financial assistance, the applicant must demonstrate a revenue source and security, as required by the Board.

(b) Refinancing Existing Debt Obligations.

The Board may use funds from the SRF to buy or refinance SRF-related debt from municipal, inter-municipal, or interstate agencies, where the initial debt was incurred and construction started after July 1, 1993. Refinanced projects must comply with the requirements imposed by the Safe Drinking Water Act (SDWA) as though they were projects receiving initial financing from the SRF.

(c) Credit Enhancement Agreements and Interest Buy-Down Agreements.

The Board will determine whether a project's funding may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement. To provide security for project obligations, the Board may agree to purchase project obligations of applicants, or make loans to

the applicants. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. The Board may also consider other methods of assistance to applicants to properly enhance the marketability of or security for project obligations.

Interest buy-down agreements may consist of any of the following:

(i) A financing agreement between the Board and applicant whereby a specified sum is loaned to the applicant. The loaned funds shall be placed in a trust account, which shall be used exclusively to reduce the cost of financing for the project.

(ii) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board ~~is-are~~ combined with proceeds from publicly issued bonds to finance the project. The ~~rate-of interest-on~~ bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

(iii) Any other legal method of financing which reduces the annual payment amount on publicly issued bonds. The financing alternative chosen should be the one most economically advantageous for the State and the applicant.

(d) Technical Assistance.

The Board may establish a fund (or account) into which the proceeds of an annual fee on loans will be placed. These funds will be used to finance technical assistance for eligible water systems.

This fund will provide low interest loans for technical assistance and any other eligible purpose as defined by Section 1452 of the ~~Safe Drinking Water Act (SDWA) Amendments of 1996~~ SDWA, as amended, to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

(i) The Board may establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".

(ii) The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis, the same as the annual interest and hardship grant assessment are assessed. The borrower will pay the fee annually when paying the principal and interest or hardship grant assessments.

(iii) The Board may set / change the amount of the fee from time to time as they determine meets the needs of the program.

(iv) This fee will be part of the "effective rate" calculated for the loan using Table 2, R309-705-6. This fee may be charged in lieu of or in addition to the interest rate or hardship grant assessment, but in no case will the total of the technical assistance fee, the interest rate, and hardship grant assessment exceed the "effective rate".

(v) The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the federal SDWA Amendments of 1996.

(3) Ineligible Projects.

Projects which are ineligible for financial assistance include:

(a) Any project for a water system in significant non-compliance, as measured by a "not approved" (R309-400) rating, unless the project will resolve all outstanding issues causing the non-compliance.

(b) Any project where the Board determines that the applicant lacks the technical, managerial, or financial capability to achieve or maintain SDWA compliance, unless the Board determines that the financial assistance will allow or cause the system to maintain long-term capability to stay in compliance.

(c) Any project meant to finance the expansion of a drinking water system to supply or attract future population growth. Eligible projects, however, can be designed and funded at a level which will serve the population that a system expects to serve over the useful life of the facility.

(d) Projects which are specifically prohibited from eligibility by Federal guidelines. These include the following:

(i) Dams, or rehabilitation of dams;

(ii) Water rights, unless the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;

(iii) Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;

(iv) Laboratory fees for monitoring;

(v) Operation and maintenance costs;

(vi) Projects needed mainly for fire protection.

R309-705-5. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

~~(2) A completed application form and project engineering report (facility plan) listing the project alternatives considered and including a justification for the chosen alternative, a project financing plan including an evaluation of credit enhancement, interest buy-down and loan methods applicable to the project and financial capability assessment and a history of the applicant's compliance with the SDWA are submitted to the Board. Comments from other interested parties such as an association of governments, the local health and planning departments, and the Department of Environmental Quality (DEQ) District Engineers will also be accepted. Those costs incurred subsequent to the submission of a completed funding application form to the Board and prior to the execution of a financial assistance agreement and which meet the criteria for project costs are eligible for reimbursement from the proceeds of the financial assistance agreement.~~

The applicant is required to submit a complete application package:

(a) A completed financial assistance application form,

(b) An engineering report listing the project alternatives considered and including a justification for the chosen alternative,

(c) Documents necessary to perform a financial cost effectiveness analysis,

(d) Capacity Development Assessment forms found in the financial assistance application form (when determined to be beneficial for evaluating project feasibility).

(e) Comments from the local health department, district engineer or other interested parties such as an association of governments will also be accepted.

(f) The costs associated with preparation of the completed application package are eligible for reimbursement after executing the financial assistance agreement.

(3) An engineering and financial feasibility report and a capacity development analysis are prepared by Division staff for presentation to and consideration by the Board. A Capacity Assessment will be made by Division staff ~~(See rule R309-352) for "equivalency" projects, essentially, those funded by the annual federal Capitalization Grant as defined by federal regulations. A capacity assessment may be prepared for a "non-equivalency project when it is determined to be beneficial for evaluating project feasibility.~~

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, or any combination thereof, is to be entered into, and approve the project schedule (see section 7 of this rule).

(5) The applicant must demonstrate public support for the project prior to bonding, as deemed acceptable by the Drinking Water Board. As a minimum, for a loan to be secured by a revenue bond, the Sponsor must mail notices to each water user in the Sponsor's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the Sponsor's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the "effective rate", the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the Sponsor in writing or in the public hearing within ten days after the date of the notice. A copy of all written responses and a certified record of the public hearing shall be forwarded to the Division of Drinking Water.

(6) For financial assistance mechanisms where the applicant's bond is purchased by the Board, the project applicant's bond documentation must include an opinion from recognized bond counsel. Counsel must be experienced in bond matters, and must include an opinion that the drinking water project obligation is a valid and binding obligation of the applicant (see section 8 of this rule). The opinion must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to 11-14-21 of the Utah Code. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel, experienced in bond matters, that

the drinking water project obligation is a valid and binding obligation of the applicant.

(7) As authorized in 19-4-106(2)(c) of the Utah Code, the Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ~~insure~~ ensure proper design and construction, as specified in rule R309-500-4 General. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Director.

(8) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement, an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for eligible project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement, all project funds will be maintained in a separate account, and a quarterly report of project expenditures will be provided to the Board. Incremental disbursement bonds will be required. Cash draws will be based on a schedule that coincides with the rate at which project related costs are expected to be incurred for the project.

(9) If a revenue bond is to be used to secure a loan, a User Charge Ordinance, or water rate structure, must be submitted to the Board for review and approval to insure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to ~~insure~~ ensure the system will have adequate resources to provide acceptable service.

(10) A "Private Company" will be required to enter into a Loan Agreement with the Board. The loan agreement will establish the procedures for disbursement of loan proceeds and will set forth the security interests to be granted to the Board by the Applicant to secure the Applicant's repayment obligations.

(a) The Board may require any of the following forms of security interest or additional/other security interests to guarantee repayment of the loan: deed of trust interests in real property, security interests in equipment and water rights, and personal guarantees.

(b) The security requirements will be established after the Board's staff has reviewed and analyzed the Applicants financial condition.

(c) These requirements may vary from project to project at the discretion of the Board

(d) The Applicant will also be required to execute a Promissory Note in the face amount of the loan, payable to the order of the lender, and file a Utah Division of Corporations and Commercial Code Financing Statement, Form UCC-1.

(e) The Board may specify that loan proceeds be disbursed incrementally into an escrow account for expected construction costs, or it may authorize another acceptable disbursement procedure.

(11) The applicant's contract with its engineer must be submitted to the Board for review to determine if there will be adequate engineering involvement, including project supervision and inspection, to successfully complete the project.

(12) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to

rights-of-way and the project site, validity and quantity of water rights, and adequacy of bidding and contract documents, as required.

(13) A position fidelity bond may be required by the Board insuring the treasurer or other local staff handling the repayment funds and revenues produced by the applicant's system and payable to the State of Utah through the Drinking Water Board.

(14) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board shall execute the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and shall notify the applicant to sell the bonds.

(15) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant shall sell the bonds and shall notify the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by 73-10c-6(3)(d) of the Utah Code. If an interest buy-down agreement is being utilized, the bonds shall bear a legend referring to the interest buy-down agreement and state that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(16) The applicant shall open bids for the project.

(17) ~~LOAN ONLY - The Board shall give final approval to purchase the bonds and execute the loan contract~~ The applicant must have adopted a Water Conservation Plan prior to executing the loan agreement.

(18) LOAN ONLY - ~~The closing of the loan is conducted~~ The Board shall give final approval to purchase the bonds and execute the loan contract.

(19) LOAN ONLY - Project Stakeholders shall hold a loan closing.

(20) A preconstruction conference shall be held.

(21) The applicant shall issue a written notice to proceed to the contractor.

R309-705-6. Applicant Priority System and Selection of Terms of Assistance.

(1) Priority Determination.

The Board may, at its option, modify a project's priority rating based on the following considerations:

(a) The project plans, specifications, contract, financing, etc., of a lesser-rated project are ready for execution.

(b) Available funding.

(c) Acute health risk.

(d) Capacity Development (financial, technical, or managerial issues needing resolution to avoid EPA intervention).

(e) An Emergency.

The Board will utilize Table 1 to prioritize loan applicants as may be modified by (a), (b), (c), or (d) above.

TABLE 1

Priority System

Deficiency Description

Points
Received

Source Quality/Quantity

Health Risk (select one)

A. There is evidence that waterborne illnesses have occurred.	25
B. There are reports of illnesses which may be waterborne.	20
C. High potential for waterborne illness exists.	15
D. Moderate potential for waterborne illness	8
E. No evidence of potential health risks	0
Compliance with SDWA (select all that apply)	
A. Source has been determined to be under the influence of surface water.	25
B. System is often out of water due to inadequate source capacity.	20
-or-	
System capacity does not meet the requirements of UPDWR.	10
C. Source has a history of three or more confirmed microbiological violations within the last year.	10
D. Sources are not developed or protected according to UPDWR.	10
E. Source has confirmed MCL chemistry violations within the last year.	10
Total	100

Treatment

Deficiency Description	Points Available
Health Risk/Compliance with SDWA (select all that apply)	
A. Treatment system cannot consistently meet log removal requirements, turbidity standards, or other enforceable drinking water quality standards.	25
B. The required disinfection facilities are not installed, are inadequate, or fail to provide adequate water quality.	25
C. Treatment system is subject to impending failure, or has failed.	25
-or-	
Treatment system equipment does not meet demands of UPDWR including the lead and/or copper action levels.	20
-or-	
System equipment is projected to become inadequate without upgrades.	5
Total	75

Storage

Deficiency Description	Points Available
Health Risk / Compliance with SDWA (select all that apply)	
A. Storage system is subject to impending failure, or has failed.	25
-or-	
System is old, cannot be easily cleaned, or subject to contamination.	15
B. Storage system is inadequate for existing demands.	20
-or-	
Storage system demand exceeds 90% of storage capacity.	10
C. Applicable contact time requirements cannot be met	

without an upgrade.	15
D. System suffers from low static pressures.	15
Total	75

Distribution

Deficiency Description	Points Available
Health Risk/Compliance with SDWA (select all that apply)	
A. Distribution system equipment is deteriorated or inadequate for existing demands.	20
-or-	
Distribution system is inadequate to meet 5 year projected demands.	10
B. Applicable disinfectant residual maintenance requirements are not met or high backflow contamination potential exists.	20
C. Project will replace pipe containing unsafe materials (lead, asbestos, etc).	15
D. Minimum dynamic pressure requirements are not met.	10
E. System experiences a heavy leak rate in the distribution lines.	10
Total	75

Emergencies

Upon the Board finding of an emergency as required by R309-705-9. Total 100

~~Priority Rating = (Average Points Received) x (Rate Factor) x (AGI Factor)~~

~~Where:~~

~~* Rate Factor = (Average System Water Bill/Average State Water Bill)~~

~~** AGI Factor = (State Median AGI/System Median AGI)~~

(2) Financial Assistance Determination. The amount and type of financial assistance offered will be based upon the criteria shown in Table 2. As determined by Board resolution, disadvantaged communities may also receive zero-percent loans, or other financial assistance as described herein.

Effective rate calculation methods will be determined by Board resolution from time to time, using the Revenue Bond ~~Buyer~~ Index (RBI) as a basis point, the points assigned in Table 2, and a method to reduce the interest rate from ~~a recent RBI the index~~ rate down to a potential minimum of zero percent. ~~To encourage rapid repayment of a loan the Board will increase the interest rate 0.02 per cent (0.02%) for each year the repayment period exceeds five (5.0) years.~~

TABLE 2

INTEREST, HARDSHIP GRANT FEE AND OTHER FEES REDUCTION FACTORS	POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)	
A. Project cost \$0 to \$500 per benefitting connection	16
B. \$501 to \$1,500	14
C. \$1,501 to \$2,000	11
D. \$2,001 to \$3,000	8
E. \$3,001 to \$5,000	4

F. \$5,001 to \$10,000	1
G. Over \$10,000	0
2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)	
A. Less than 70% of State Median AGI	19
B. 71 to 80% of State Median AGI	16
C. 81 to 95% of State Median AGI	13
D. 96 to 110% of State Median AGI	9
E. 111 to 130% of State Median AGI	6
F. 131 to 150% of State Median AGI	3
G. Greater than 150% of State Median AGI	0
3. APPLICANT'S COMMITMENT TO PROJECT	
PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)	
A. Greater than 25% of project funds	17
B. 15 to 25% of project funds	14
C. 10 to 15% of project funds	11
D. 5 to 10% of project funds	8
E. 2 to 5% of project funds	4
F. Less than 2% of project funds	0
4. ABILITY TO REPAY LOAN:	
4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)	
A. Greater than 2.50% of local median AGI	16
B. 2.01 to 2.50% of local median AGI	12
C. 1.51 to 2.00% of local median AGI	8
D. 1.01 to 1.50% of local median AGI	3
E. 0 to 1.00% of local median AGI	0
5. SPECIAL INCENTIVES: Applicant (SELECT ALL THAT APPLY.)	
<u>Applicant:</u>	
A. Has a <u>capital facilities</u> replacement <u>and reserve</u> fund receiving annual deposits of 5% of the system's annual drinking water (DW) budget and fund has already accumulated a minimum of 10% of said annual DW budget in this reserve fund.	5
B. Has, in addition to item 5.A., accumulated an amount equal to at least 20% of its annual DW budget in its replacement <u>this reserve</u> fund.	5
C. Is creating or enhancing a regionalization plan	16
D. Has a rate structure encouraging conservation	6
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED	100

R309-705-7. Project Authorization.

A project may receive written authorization for financial or technical assistance from the Board following submission and favorable review of an application form, engineering report (if required), capacity development (including financial capability) assessment and staff feasibility report. The engineering report shall include a cost effective analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most

economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.

Once the application submittals are reviewed, the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include an evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, or interest buy-down agreement).

The Board may authorize financial assistance for any work or facility to provide water for human consumption and other domestic uses.

Generally, work means planning, engineering design, or other eligible activities defined elsewhere in these rules.

Project Authorization is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, or interest buy-down and upon adherence to the project schedule approved at that time. The Board, at its own discretion, may require the Applicant to enter into a "Commitment Agreement" with the Board prior to execution of final loan documents or closing of the loan. This Commitment Agreement or Binding Commitment may specify date(s) by which the Applicant must complete the requirements set forth in the Project Authorization Letter. The Commitment Agreement shall state that if the Department of Environmental Quality acting through the Drinking Water Board is unable to make the Loan by the Loan Date, this Agreement shall terminate without any liability accruing to the Department or the Applicant hereunder. Also, if the project does not proceed according to the project schedule, the Board may withdraw project Authorization, so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

R309-705-8. Financial Evaluations.

(1) The Board considers it a proper function to assist project applicants in obtaining funding from such financing sources as may be available.

(2) In providing financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel. Bond counsel must provide an opinion that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.

(3) In providing financial assistance in the form of a loan, the Board may purchase either taxable or non-taxable bonds; or a secured promissory note provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt. Tax-exempt bonds must be accompanied by a legal opinion of recognized municipal bond counsel to the effect that the Interest and the Hardship Grant Assessment, or a fee (also interest) on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(a) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(b) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(4) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax exempt status of the loan fund.

(5) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or Hardship Grant Assessment) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(6) If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. It is the Board's intent to avoid repayment schedules exceeding the design life of the project facilities.

(7) Normal engineering and investigation costs incurred by the Department of Environmental Quality (DEQ) or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization.

~~If the credit enhancement agreement or interest buy-down agreement does not involve a loan of funds from the Board administrative costs will not be charged to the project. However, if the Board Authorizes a loan for the project, all costs incurred by the DEQ or Board on the project will be charged against the project and paid by the applicant as a part of the total project cost. Generally, this will include all DEQ and Board costs incurred from the beginning of the preliminary investigations through the end of construction and close-out of the project. If the applicant decides not to build the project after the Board has Authorized the project, all costs accrued after the Authorization date will be reimbursed by the applicant to the Board.~~

(8) The Board shall determine the date on which the scheduled payments of principal, Hardship Grant Assessment, and interest will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system up to ~~one year~~ 18 months of actual use of the project facilities before the first repayment of principal is required.

(9) The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.

(10) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(11) The Board will not forgive the applicant of any payment after the payment is due.

(12) The Board will require that a debt service reserve account be established by the applicant at or before the time that the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Failure to maintain the reserve account will constitute a technical default on the bond(s).

(13) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or Hardship Grant Assessment on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system and to notify the Board prior to making any disbursements from the fund so the Board can confirm that any expenditure is for an acceptable purpose. The applicant will not need the consent of the Board prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed.

(14) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125% or such other amount as the Board may determine of the total annual debt service.

~~(15) The applicant must have adopted a Water Management and Conservation Plan prior to executing the loan agreement.~~

R309-705-9. Emergency Assistance.

(1) Authority: Title 73, Chapter 10c of State Statute and the SDWA Amendment of 1996 give the Board authority to provide emergency assistance to drinking water systems.

(2) Eligibility Criteria: Generally, any situation occurring as defined in Section R309-705-3 would qualify qualifies for consideration for emergency funding. However, prior to authorizing funds for an emergency, the Board may consider one or more of the various factors listed below:

(i) Was the emergency preventable? Did the utility / water system have knowledge that this emergency could be expected? If not, ~~it~~ Should should it have been aware of the potential for this problem? Did its management take reasonable action to either prevent it or to be as

prepared as reasonably possible to correct the problem when it occurred (prepared financially and technically for the event causing the problem)?

(ii) Has the utility / system established a capital improvement replacement reserve fund? Has the utility / system been charging ~~reasonably high rates~~ sufficient user rates ~~in order~~ to establish a reserve fund to cover normal infrastructure replacement and emergencies?

(iii) Is the community a disadvantaged (hardship) community?

(iv) Is the potential for illness, injury, or other harm to the public or system operators sufficiently high that the value of providing financial assistance outweighs other factors that would preclude providing this assistance. (Even though the State does not have any legal obligation to provide financial assistance to help correct the problem.)

(3) Requirements for the Applicant: The applicant will be required to do the following as a condition of receiving financial assistance to cope with a drinking water emergency:

(i) To the extent feasible, the utility / system shall first use its own resources, e.g. capital improvement replacement fund, to correct the problem.

(ii) If the utility / system is not placing funds into a reserve fund on a regular basis and / or is charging relatively low water rates it shall be required to examine its current rate structure and policies for placing funds into a reserve account. The Board may require the utility / system to establish a reserve account and / or to revise its rate structure (increasing its rate) as a condition of the loan.

(iii) The Board may place other requirements on the utility / system.

(4) Financial Agreements, Bonding, etc: The State will work with the Applicant to help secure obligating documents. For example, the Board:

(i) Could waive the 30-day notice period, if legally possible.

(ii) Could accept a generic bond.

(iii) Could accept an unsecured loan or bond.

(5) Funding Alternatives: An Applicant may be authorized to receive a loan by any of the financial assistance methods specified in R309-705-4 for funding an emergency project. The Board may set and revise the methodology and factors to be considered when determining the terms of financial assistance it provides including assigning a priority it deems appropriate. The terms of the loan, including length of repayment period, interest or hardship grant assessment, and principal forgiveness (grant) or repayment waivers will be determined at the time the emergency funding is authorized.

(6) Funding Process - The Board must find that an emergency exists according to the criteria in R309-705-9(2). It is anticipated that under normal emergency conditions time restraints will not allow a request for emergency funding to be placed on the agenda of a regularly scheduled Board meeting or adoption and advertisement of a project priority list. Therefore, the following procedures will be followed in processing a loan application for emergency assistance:

(i) Division staff will evaluate each application for emergency funding according to the criteria listed in R309-705-9(2). Staff will solicit recommendations from the LHD and District Engineer about the proposed

project to mitigate the emergency. Staff will submit a report of its findings to the Board Chairperson or designee.

(ii) The Board Chairperson or designee will arrange for a timely meeting of the Board to consider authorizing assistance for the emergency. This meeting may be conducted by telephone.

R309-705-10. Committal of Funds and Approval of Agreements.

~~After the Director has issued a Plan Approval, the loan, credit enhancement, interest buy-down, or hardship grant will be considered by the Board for final approval. The Board will determine whether the agreement is in proper order. The Executive Secretary, or designee, may then execute the loan or credit enhancement agreement if no aspects of the project have changed significantly since the Board's authorization of the loan or credit enhancement, provided all conditions imposed by the Board have been met. If significant changes have occurred the Board will then review the project and, if satisfied, the Board will then commit funds, approve the signing of the contract, credit enhancement agreement, or interest buy-down agreement, and instruct the Executive Secretary to submit a copy of the signed contract or agreement to the Division of Finance.~~

(1) The Executive Secretary, or designee, may execute the loan agreement, credit enhancement agreement, or interest buy-down agreement when the following are complete:

(i) All financial assistance authorization conditions, as outlined in the Authorization Letter sent to the Recipient, have been met; including Division approval of all submitted legal documents and other items required by this rule.

(ii) The Recipient has received written plan approval of the engineering plans and specifications for the authorized project from the Division of Drinking Water.

(2) If the approved scope of work has changed significantly since the Board's initial authorization, the Board shall review the modified project scope of work to determine if it meets the Board's requirements. If satisfied, the Board shall authorize the Executive Secretary, or designee, to proceed with executing the loan agreement, credit enhancement agreement or interest buy-down agreement.

R309-705-11. Construction.

~~The Division of Drinking Water staff may conduct inspections and will report to the applicant and applicant's engineer. Contract change orders must be properly negotiated with the contractor and approved in writing. Change orders in excess of \$10,000 must receive prior written approval by the Executive Secretary before execution. When the project is complete to the satisfaction of the applicant, the applicant's engineer, and the Director, written approval will be issued by the Director in accordance with R309-500-9 to commence using the project facilities.~~

(1) The Division of Drinking Water staff shall conduct inspections and will report to the applicant and applicant's engineer.

(2) Contract change orders must be properly negotiated with the contractor and approved in writing. All Change orders, which either increase the project cost in excess of \$10,000, or which modify the scope of the project, must be reviewed by staff to determine

eligibility for reimbursement and to determine that the project will be completed as authorized by the Drinking Water Board.

(3) The applicant shall notify the Executive Secretary when the project is near completion and request a final inspection.

(4) When the project is complete, but before facilities can be placed into service, the recipient must receive an operating permit in accordance with current Division of Drinking Water rules.

R309-705-12. Compliance with Federal Requirements.

(1) Applicants must show the legal, institutional, managerial, and financial capability to construct, operate, and maintain the drinking water system(s) that the project will serve.

(2) Applicant(s) shall require its contractors to comply with federal provisions for disadvantaged business enterprises and exclusions for businesses under suspension and/or debarment. Any bidder not complying with these requirements shall be considered a non-responsive bidder.

(3) As required by Federal Code, applicants may be subject to the following federal requirements (all assessments shall consider the impacts of the project twenty (20) years into the future):

Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended

Clean Air Act, Pub. L. 84-159, as amended

Coastal Barrier Resources Act, Pub. L. 97-348

Coastal Zone Management Act, Pub. L. 92-583, as amended

Endangered Species Act, Pub. L. 92-583

Environmental Justice, Executive Order 12898

Floodplain Management, Executive Order 11988 as amended by Executive Order 12148

Protection of Wetlands, Executive Order 11990

Farmland Protection Policy Act, Pub. L. 97-98

Fish and Wildlife Coordination Act, Pub. L. 85-624

National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190

National Historic Preservation Act of 1966, PL 89-665, as amended

Safe Drinking Water Act, Pub. L. 93-523, as amended

Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Age Discrimination Act of 1975, Pub. L. 94-135

Title VI of the Civil Rights Act of 1964, Pub. L. 88-352

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)

Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)

Equal Employment Opportunity, Executive Order 11246

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

Anti-Lobbying Provisions (40 CFR Part 30)

Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended

Procurement Prohibitions under Section 306 of the Clean Water Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Debarment and Suspension, Executive Order 12549

Accounting procedures, whereby applicants agree to maintain a separate project account in accordance with Generally Accepted Accounting Standards and Utah State Uniform Accounting requirements.

KEY: SDWA, financial assistance, loans

Date of Enactment or Last Substantive Amendment: ~~July 1, 2011~~ January 1, 2022

Notice of Continuation: ~~March 12, 2020~~

Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

R309-705. Federal Drinking Water State Revolving Fund Financial Assistance Program.

Table of Contents

R309-705-1. Purpose.	3
R309-705-2. Statutory Authority.	3
R309-705-3. Definitions.	3
R309-705-4. Financial Assistance Methods.	5
(1) Eligible Activities of the SRF.	5
(2) Types of Financial Assistance Available for Eligible Water Systems.	5
(3) Ineligible Projects.	9
R309-705-5. Application and Project Initiation Procedures.	9
R309-705-6. Applicant Priority System and Selection of Terms of Assistance.	13
(1) Priority Determination.	13
(2) Financial Assistance Determination.	15
R309-705-7. Project Authorization.	17
R309-705-8. Financial Evaluations.	18
R309-705-9. Emergency Assistance.	20
R309-705-10. Committal of Funds and Approval of Agreements.	22
R309-705-11. Construction.	22
R309-705-12. Compliance with Federal Requirements.	22

This Page Intentionally Left Blank

R309-705. Federal Drinking Water State Revolving Fund Financial Assistance Program.

R309-705-1. Purpose.

The purpose of this rule is to establish criteria for financial assistance to public drinking water systems in accordance with a federal grant established under 42 U.S.C. 300j et seq., federal Safe Drinking Water Act (SDWA).

R309-705-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue financial assistance for drinking water projects from a federal capitalization grant is provided in 42 U.S.C. 300j et seq., federal Safe Drinking Water Act, and Title 73, Chapter 10c, Utah Code.

R309-705-3. Definitions.

Definitions for general terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Capacity Development" is a process for water systems to acquire and maintain adequate technical, managerial, and financial (TMF) capability. Capacity Development is a fundamental component of the 1996 Safe Drinking Water Act (SDWA) Amendments which provide a framework for states and water systems to work together to protect public health. (See Rule R309-800)

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local

income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance project costs associated with an approved improvement project.

"Eligible Water System" means any community drinking water system, either privately or publicly owned; and nonprofit noncommunity water systems.

"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water supply, threatening the health and / or safety of the public / water users.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means the charge the Drinking Water Board assesses to loan recipients in lieu of or in addition to interest charged on a loan.

"Interest" means an assessment applied to a loan. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.

"Negative Interest" means a loan with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Drinking Water Board.

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by section 4 of this rule and by the Drinking Water Board.

"Programmatic Financing" is a financial assistance option under the DWSRF Program that is designed to provide funding for a water system's Capital Improvement Plan, or any portion thereof, so long as the projects are eligible and comply with DWSRF Program requirements.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way, except property condemnation cost, which are not eligible costs; engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; asset management plans and related system software; Hardship Grant Assessments, fees and interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

"SRF Technical Assistance Fund" means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.

"Technical Assistance" means financial assistance provided for a feasibility study, or master plan, or consolidation assessment to identify and/or correct system deficiencies, to help a water system overcome other technical problems. The system receiving said technical assistance may or may not be required to repay the funds received. If repayment is required, the Board will establish the terms of repayment.

R309-705-4. Financial Assistance Methods.

(1) Eligible Activities of the SRF.

Funds within the SRF may be used for loans and other authorized forms of financial assistance. Funds may be used for the construction of publicly or privately owned works or facilities, or any work that is an eligible project cost as defined by 73-10c-2 of the Utah Code or as allowed by 42 U.S.C.A. 300f et seq. Project planning and design costs incurred prior to submitting a funding application to the Board and executing a financial assistance agreement are eligible for reimbursement.

(2) Types of Financial Assistance Available for Eligible Water Systems.

(a) Loans.

To qualify for "negative interest" or "principal forgiveness", the system must qualify as a "disadvantaged community" as defined in section 3 of this rule. Upon application, the Board will make a case-by-case determination whether the system is a "disadvantaged community". To be

R309-705. Financial Assistance: Federal Drinking Water State Revolving Fund Financial Assistance Program

eligible to be considered as a disadvantaged community, the system must meet the definition provided in section 3 of this rule. Additionally, the Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and other such information as the Board determines relevant to making the decision to recognize the system as a "disadvantaged community".

(i) Loan Origination Fee (LOF)

A fee assessed to the loan recipient as a percentage of the principal balance of the loan. This fee will not be charged to any disadvantaged community receiving a loan subsidy as part of the DWSRF financial assistance.

(ii) Hardship Grant Assessment.

The assessment fee will be calculated based on the procedures and formulas shown in section 6 of this rule.

(iii) Repayment.

Annual repayments of principal, interest, fees and/or Hardship Grant Assessment generally commence not later than 18 months after project completion. Project completion shall be defined as the date the funded project is capable of operation and a notice of "beneficial occupancy" is given to the general contractor. Where a project has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments.

The loan must be repaid no later than 30 years after project completion or infrastructure design life, whichever is shorter, or no later than 40 years for disadvantaged communities. The annual amount of the principal repayment is set at the Board's discretion.

(iv) Principal Forgiveness.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of forgiveness of a portion of the principal loan amount. Terms for principal forgiveness will be determined by Board resolution.

Eligible applicants for "principal forgiveness" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

(v) Negative Interest Rate.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of a loan with a negative interest rate, as determined by Board resolution.

Eligible applicants for "negative interest" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

(vi) Dedicated Repayment Source and Security.

Loan recipients must establish one or more dedicated sources of revenue for repayment of the loan. As a condition of financial assistance, the applicant must demonstrate a revenue source and security, as required by the Board.

(b) Refinancing Existing Debt Obligations.

The Board may use funds from the SRF to buy or refinance municipal, inter-municipal or interstate agencies, where the initial debt was incurred and construction started after July 1, 1993. Refinanced projects must comply with the requirements imposed by the Safe Drinking Water Act(SDWA) as though they were projects receiving initial financing from the SRF.

(c) Credit Enhancement Agreements and Interest Buy-Down Agreements.

The Board will determine whether a project's funding may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement. To provide security for project obligations, the Board may agree to purchase project obligations of applicants or make loans to the applicants. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. The Board may also consider other methods of assistance to applicants to properly enhance the marketability of or security for project obligations.

Interest buy-down agreements may consist of any of the following:

(i) A financing agreement between the Board and applicant whereby a specified sum is loaned to the applicant. The loaned funds shall be placed in a trust account, which shall be used exclusively to reduce the cost of financing for the project.

(ii) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board are combined with proceeds from publicly issued bonds to finance the project. The bonds purchased by the Board may carry an interest rate lower than the interest rate

on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

(iii) Any other legal method of financing which reduces the annual payment amount on publicly issued bonds. The financing alternative chosen should be the one most economically advantageous for the State and the applicant.

(d) Technical Assistance.

The Board may establish a fund (or account) into which the proceeds of an annual fee on loans will be placed. These funds will be used to finance technical assistance for eligible water systems.

This fund will provide low interest loans for technical assistance and any other eligible purpose as defined by Section 1452 of the SDWA, as amended, to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

(i) The Board may establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".

(ii) The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis, the same as the annual interest and hardship grant assessment are assessed. The borrower will pay the fee annually when paying the principal and interest or hardship grant assessments.

(iii) The Board may set / change the amount of the fee from time to time as they determine meets the needs of the program.

(iv) This fee will be part of the "effective rate" calculated for the loan using Table 2, R309-705-6. This fee may be charged in lieu of or in addition to the interest rate or hardship grant assessment, but in no case will the total of the technical assistance fee, the interest rate, and hardship grant assessment exceed the "effective rate".

(v) The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the federal SDWA Amendments of 1996.

(3) Ineligible Projects.

Projects which are ineligible for financial assistance include:

(a) Any project for a water system in significant non-compliance, as measured by a "not approved" (R309-400) rating, unless the project will resolve all outstanding issues causing the non-compliance.

(b) Any project where a Capacity Development evaluation determines that the applicant lacks the technical, managerial, or financial capability to achieve or maintain SDWA compliance, unless the Board determines that the financial assistance will allow or cause the system to maintain long-term capability to stay in compliance.

(c) Any project meant to finance the expansion of a drinking water system solely to supply or attract future population growth. Eligible projects, however, can be designed and funded at a level which will serve the population that a system expects to serve over the useful life of the facility.

(d) Projects which are specifically prohibited from eligibility by Federal guidelines. These include the following:

(i) Dams, or rehabilitation of dams;

(ii) Water rights, unless the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;

(iii) Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;

(iv) Laboratory fees for monitoring;

(v) Operation and maintenance costs;

(vi) Projects needed mainly for fire protection.

R309-705-5. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

(2) The applicant is required to submit a complete application package:

(a) A completed financial assistance application form,

(b) An engineering report listing the project alternatives considered and including a justification for the chosen alternative,

- (c) Documents necessary to perform a financial cost effectiveness analysis,
- (d) Capacity Development Assessment forms found in the financial assistance application form (when determined to be beneficial for evaluating project feasibility).
- (e) Comments from the local health department, district engineer or other interested parties such as an association of governments will also be accepted.
- (f) The costs associated with preparation of the completed application package are eligible for reimbursement after executing the financial assistance agreement.

(3) An engineering and financial feasibility report and a capacity development analysis are prepared by Division staff for presentation to and consideration by the Board. A Capacity Assessment will be made by Division staff.

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, or any combination thereof, is to be entered into, and approve the project schedule (see section 7 of this rule).

(5) The applicant must demonstrate public support for the project prior to bonding, as deemed acceptable by the Drinking Water Board. As a minimum, for a loan to be secured by a revenue bond, the Sponsor must mail notices to each water user in the Sponsor's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the Sponsor's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the "effective rate", the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the Sponsor in writing or in the public hearing within ten days after the date of the notice. A copy of all written responses and a certified record of the public hearing shall be forwarded to the Division of Drinking Water.

(6) For financial assistance mechanisms where the applicant's bond is purchased by the Board, the project applicant's bond documentation must include an opinion from recognized bond counsel. Counsel must be experienced in bond matters, and must include an opinion that the drinking water project obligation is a valid and binding obligation of the applicant (see section 8 of this rule). The opinion must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to 11-14-21 of the Utah Code. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel, experienced in bond matters, that the drinking water project obligation is a valid and binding obligation of the applicant.

(7) As authorized in 19-4-106(3) of the Utah Code, the Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ensure proper design and construction, as specified in rule R309-500-4 General. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Director.

(8) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement, an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for eligible project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement, all project funds will be maintained in a separate account, and a quarterly report of project expenditures will be provided to the Board.

Incremental disbursement bonds will be required. Cash draws will be based on a schedule that coincides with the rate at which project related costs are expected to be incurred for the project.

(9) If a revenue bond is to be used to secure a loan, a User Charge Ordinance, or water rate structure, must be submitted to the Board for review and approval to ensure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to ensure the system will have adequate resources to provide acceptable service.

(10) A "Private Company" will be required to enter into a Loan Agreement with the Board. The loan agreement will establish the procedures for disbursement of loan proceeds and will set forth the security interests to be granted to the Board by the Applicant to secure the Applicant's repayment obligations.

(a) The Board may require any of the following forms of security interest or additional/other security interests to guarantee repayment of the loan: deed of trust interests in real property, security interests in equipment and water rights, and personal guarantees.

(b) The security requirements will be established after the Board's staff has reviewed and analyzed the Applicants financial condition.

(c) These requirements may vary from project to project at the discretion of the Board

(d) The Applicant will also be required to execute a Promissory Note in the face amount of the loan, payable to the order of the lender, and file a Utah Division of Corporations and Commercial Code Financing Statement, Form UCC-1.

(e) The Board may specify that loan proceeds be disbursed incrementally into an escrow account for expected construction costs, or it may authorize another acceptable disbursement procedure.

(11) The applicant's contract with its engineer must be submitted to the Board for review to determine if there will be adequate engineering involvement, including project supervision and inspection, to successfully complete the project.

(12) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, validity and quantity of water rights, and adequacy of bidding and contract documents, as required.

(13) A position fidelity bond may be required by the Board insuring the treasurer or other local staff handling the repayment funds and revenues produced by the applicant's system and payable to the State of Utah through the Drinking Water Board.

(14) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board shall execute the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and shall notify the applicant to sell the bonds.

(15) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant shall sell the bonds and shall notify the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by 73-10c-6(3)(d) of the Utah Code. If an interest buy-down agreement is being utilized, the bonds shall bear a legend referring to the interest buy-down agreement and state that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(16) The applicant shall open bids for the project.

(17) The applicant must have adopted a Water Conservation Plan prior to executing the loan agreement.

(18) LOAN ONLY - The Board shall give final approval to purchase the bonds and execute the loan contract.

(19) LOAN ONLY - Project Stakeholders shall hold a loan closing.

(20) A preconstruction conference shall be held.

(21) The applicant shall issue a written notice to proceed to the contractor.

R309-705-6. Applicant Priority System and Selection of Terms of Assistance.

(1) Priority Determination.

The Board may, at its option, modify a project's priority rating based on the following considerations:

(a) The project plans, specifications, contract, financing, etc., of a lesser-rated project are ready for execution.

R309-705. Financial Assistance: Federal Drinking Water State Revolving Fund Financial Assistance Program

(b) Available funding.

(c) Acute health risk.

(d) Capacity Development (financial, technical, or managerial issues needing resolution to avoid EPA intervention).

(e) An Emergency.

The Board will utilize Table 1 to prioritize loan applicants as may be modified by (a), (b), (c), or (d) above.

TABLE 1 Project Priority Rating Methods		
	Deficiency Description	Points Received
	Source Quality/Quantity	
	Health Risk (select one)	
	A. There is evidence that waterborne illnesses have occurred.	25
	B. There are reports of illnesses which may be waterborne.	20
	C. High potential for waterborne illness exists.	15
	D. Moderate potential for waterborne illness	8
	E. No evidence of potential health risks	0
	Compliance with SDWA (select all that apply)	
	A. Source has been determined to be under the influence of surface water.	25
	B. System is often out of water due to inadequate source capacity.	20
	-or-	
	System capacity does not meet the requirements of UPDWR.	10
	C. Source has a history of three or more confirmed microbiological violations within the last year.	10
	D. Sources are not developed or protected according to UPDWR.	10
	E. Source has confirmed MCL chemistry violations within the last year.	10
	Total	100
	Treatment	
	Deficiency Description	Points Available

Health Risk/Compliance with SDWA (select all that apply)		
	A. Treatment system cannot consistently meet log removal requirements, turbidity standards, or other enforceable drinking water quality standards.	25
	B. The required disinfection facilities are not installed, are inadequate, or fail to provide adequate water quality.	25
	C. Treatment system is subject to impending failure, or has failed.	25
	-or-	
	Treatment system equipment does not meet demands of UPDWR including the lead and/or copper action levels.	20
	-or-	
	System equipment is projected to become inadequate without upgrades.	5
	Total	75
	Storage	
	Deficiency Description	Points Available
Health Risk / Compliance with SDWA (select all that apply)		
	A. Storage system is subject to impending failure, or has failed.	25
	-or-	
	System is old, cannot be easily cleaned, or is subject to contamination.	15
	B. Storage system is inadequate for existing demands.	20
	-or-	
	Storage system demand exceeds 90% of storage capacity.	10
	C. Applicable contact time requirements cannot be met without an upgrade.	15
	D. System suffers from low static pressures.	15
	Total	75
	Distribution	
	Deficiency Description	Points Available
Health Risk/Compliance with SDWA (select all that apply)		
	A. Distribution system equipment is deteriorated or inadequate for existing demands.	20
	- or-	

	Distribution system is inadequate to meet 5-year projected demands.	10
	B. Applicable disinfectant residual maintenance requirements are not met or high backflow contamination potential exists.	20
	C. Project will replace pipe containing unsafe materials (lead, asbestos, etc).	15
	D. Minimum dynamic pressure requirements are not met.	10
	E. System experiences a heavy leak rate in the distribution lines.	10
	Total	75
Emergencies		
	Upon the Board finding of an emergency as required by R309-705-9.	
	Total	100

(2) Financial Assistance Determination.

The amount and type of financial assistance offered will be based upon the criteria shown in Table 2. As determined by Board resolution, disadvantaged communities may also receive zero-percent loans, or other financial assistance as described herein.

Effective rate calculation methods will be determined by Board resolution from time to time, using the Revenue Bond Index (RBI) as a basis point, the points assigned in Table 2, and a method to reduce the interest rate from the index rate down to a potential minimum of zero percent.

TABLE 2		
INTEREST, HARDSHIP GRANT FEE AND OTHER FEES REDUCTION FACTORS		POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)		
A.	Project cost \$0 to \$500 per benefitting connection	16
B.	\$501 to \$1,500	14
C.	\$1,501 to \$2,000	11
D.	\$2,001 to \$3,000	8
E.	\$3,001 to \$5,000	4
F.	\$5,001 to \$10,000	1
G.	Over \$10,000	0
2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)		
A.	Less than 70% of State Median AGI	19
B.	71 to 80% of State Median AGI	16

C.	81 to 95% of State Median AGI	13
D.	96 to 110% of State Median AGI	9
E.	111 to 130% of State Median AGI	6
F.	131 to 150% of State Median AGI	3
G.	Greater than 150% of State Median AGI	0
3. APPLICANT'S COMMITMENT TO PROJECT: FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)		
A.	Greater than 25% of project funds	17
B.	15 to 25% of project funds	14
C.	10 to 15% of project funds	11
D.	5 to 10% of project funds	8
E.	2 to 5% of project funds	4
F.	Less than 2% of project funds	0
4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)		
A.	Greater than 2.50% of local median AGI	16
B.	2.01 to 2.50% of local median AGI	12
C.	1.51 to 2.00% of local median AGI	8
D.	1.01 to 1.50% of local median AGI	3
E.	0 to 1.00% of local median AGI	0
5. SPECIAL INCENTIVES (SELECT ALL THAT APPLY.) Applicant:		
A.	Has a capital facilities replacement and reserve fund receiving annual deposits of 5% of the system's annual drinking water (DW) budget and has already accumulated a minimum of 10% of it's annual DW budget in this reserve fund.	5
B.	Has, in addition to item 5.A., accumulated an amount equal to at least 20% of its annual DW budget in this reserve fund.	5
C.	Is creating or enhancing a regionalization plan	16
D.	Has a rate structure encouraging conservation	6
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED		100

R309-705-7. Project Authorization.

A project may receive written authorization for financial or technical assistance from the Board following submission and favorable review of an application form, engineering report (if required), capacity development (including financial capability) assessment and staff feasibility report. The engineering report shall include a cost effective analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all

capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other non-monetary considerations.

Once the application submittals are reviewed, the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include an evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, or interest buy-down agreement).

The Board may authorize financial assistance for any work or facility to provide water for human consumption and other domestic uses. Generally, work means planning, engineering design, or other eligible activities defined elsewhere in these rules.

Project Authorization is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, or interest buy-down and upon adherence to the project schedule approved at that time. The Board, at its own discretion, may require the Applicant to enter into a "Commitment Agreement" with the Board prior to execution of final loan documents or closing of the loan. This Commitment Agreement or Binding Commitment may specify date(s) by which the Applicant must complete the requirements set forth in the Project Authorization Letter. The Commitment Agreement shall state that if the Department of Environmental Quality acting through the Drinking Water Board is unable to make the Loan by the Loan Date, this Agreement shall terminate without any liability accruing to the Department or the Applicant hereunder. Also, if the project does not proceed according to the project schedule, the Board may withdraw project Authorization, so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

R309-705-8. Financial Evaluations.

- (1) The Board considers it a proper function to assist project applicants in obtaining funding from such financing sources as may be available.
- (2) In providing financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel. Bond counsel must provide an opinion that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.
- (3) In providing financial assistance in the form of a loan, the Board may purchase either taxable or non-taxable bonds; or a secured promissory note provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt. Tax-exempt bonds must be accompanied by a legal opinion of recognized municipal

bond counsel to the effect that the Interest and the Hardship Grant Assessment, or a fee (also interest) on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

- (a) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.
- (b) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.
- (4) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax exempt status of the loan fund.
- (5) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or Hardship Grant Assessment) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.
- (6) If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. It is the Board's intent to avoid repayment schedules exceeding the design life of the project facilities.
- (7) Normal engineering and investigation costs incurred by the Department of Environmental Quality (DEQ) or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization.
- (8) The Board shall determine the date on which the scheduled payments of principal and interest or Hardship Grant Assessment Fee will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system up to 18 months of actual use of the project facilities before the first repayment of principal is required.
- (9) The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.
- (10) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(11) The Board will not forgive the applicant of any payment after the payment is due.

(12) The Board will require that a debt service reserve account be established by the applicant at or before the time that the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Failure to maintain the reserve account will constitute a technical default on the bond(s).

(13) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or Hardship Grant Assessment on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system and to notify the Board prior to making any disbursements from the fund so the Board can confirm that any expenditure is for an acceptable purpose. The applicant will not need the consent of the Board prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed.

(14) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125%, or such other amount as the Board may determine, of the total annual debt service.

R309-705-9. Emergency Assistance.

(1) Authority: Title 73, Chapter 10c of State Statute and the SDWA Amendment of 1996 give the Board authority to provide emergency assistance to drinking water systems.

(2) Eligibility Criteria: Generally, any situation occurring as defined in Section R309-705-3 qualifies for consideration for emergency funding. However, prior to authorizing funds for an emergency, the Board may consider one or more of the various factors listed below:

(i) Was the emergency preventable? Did the utility / water system have knowledge that this emergency could be expected? If not, should it have been aware of the potential for this problem? Did its management take reasonable action to either prevent it or to be as prepared as reasonably possible to correct the problem when it occurred (prepared financially and technically for the event causing the problem)?

(ii) Has the utility / system established a capital improvement replacement reserve fund? Has the utility / system been charging sufficient user rates to establish a reserve fund to cover normal infrastructure replacement and emergencies?

(iii) Is the community a disadvantaged (hardship) community?

(iv) Is the potential for illness, injury, or other harm to the public or system operators sufficiently high that the value of providing financial assistance outweighs other factors that would preclude providing this assistance. (Even though the State does not have any legal obligation to provide financial assistance to help correct the problem.).

(3) Requirements for the Applicant: The applicant will be required to do the following as a condition of receiving financial assistance to cope with a drinking water emergency:

(i) To the extent feasible, the utility / system shall first use its own resources, e.g. capital improvement replacement fund, to correct the problem.

(ii) If the utility / system is not placing funds into a reserve fund on a regular basis and / or is charging relatively low water rates it shall be required to examine its current rate structure and policies for placing funds into a reserve account. The Board may require the utility / system to establish a reserve account and / or to revise its rate structure (increasing its rate) as a condition of the loan.

(iii) The Board may place other requirements on the utility / system.

(4) Financial Agreements, Bonding, etc: The State will work with the Applicant to help secure obligating documents. For example, the Board:

(i) Could waive the 30-day notice period, if legally possible.

(ii) Could accept a generic bond.

(iii) Could accept an unsecured loan or bond.

(5) Funding Alternatives: An Applicant may be authorized to receive a loan by any of the financial assistance methods specified in R309-705-4 for funding an emergency project. The Board may set and revise the methodology and factors to be considered when determining the terms of financial assistance it provides including assigning a priority it deems appropriate. The terms of the loan, including length of repayment period, interest or hardship grant assessment, and principal forgiveness (grant) or repayment waivers will be determined at the time the emergency funding is authorized.

(6) Funding Process - The Board must find that an emergency exists according to at least one of the criteria in R309-705-9(2). It is anticipated that under normal emergency conditions time restraints will not allow a request for emergency funding to be placed on the agenda of a regularly scheduled Board meeting or adoption and advertisement of a project priority list. Therefore, the following procedures will be followed in processing a loan application for emergency assistance:

(i) Division staff will evaluate each application for emergency funding according to the criteria listed in R309-705-9(2). Staff will solicit recommendations from the LHD and District Engineer about the proposed project to mitigate the emergency. Staff will submit a report of its findings to the Board Chairperson or designee.

(ii) The Board Chairperson or designee will arrange for a timely meeting of the Board to consider authorizing assistance for the emergency. This meeting may be conducted by telephone.

R309-705-10. Committal of Funds and Approval of Agreements.

(1) The Executive Secretary, or designee, may execute the loan agreement, credit enhancement agreement, or interest buy-down agreement when the following are complete:

(i) All financial assistance authorization conditions, as outlined in the Authorization Letter sent to the Recipient, have been met; including Division approval of all submitted legal documents and other items required by this rule.

(ii) The Recipient has received written plan approval of the engineering plans and specifications for the authorized project from the Division of Drinking Water.

(2) If the approved scope of work has changed significantly since the Board's initial authorization, the Board shall review the modified project scope of work to determine if it meets the Board's requirements. If satisfied, the Board shall authorize the Executive Secretary, or designee, to proceed with executing the loan agreement, credit enhancement agreement or interest buy-down agreement.

R309-705-11. Construction.

(1) The Division of Drinking Water staff shall conduct inspections and will report to the applicant and applicant's engineer.

(2) Contract change orders must be properly negotiated with the contractor and approved in writing. All Change orders, which either increase the project cost in excess of \$10,000, or which modify the scope of the project, must be reviewed by staff to determine eligibility for reimbursement and to determine that the project will be completed as authorized by the Drinking Water Board.

(3) The applicant shall notify the Executive Secretary when the project is near completion and request a final inspection.

(4) When the project is complete, but before facilities can be placed into service, the recipient must receive an operating permit in accordance with current Division of Drinking Water rules.

R309-705-12. Compliance with Federal Requirements.

(1) Applicants must show the legal, institutional, managerial, and financial capability to construct, operate, and maintain the drinking water system(s) that the project will serve.

(2) Applicant(s) shall require its contractors to comply with federal provisions for disadvantaged business enterprises and exclusions for businesses under suspension and/or debarment. Any bidder not complying with these requirements shall be considered a non-responsive bidder.

(3) As required by Federal Code, applicants may be subject to the following federal requirements (all assessments shall consider the impacts of the project twenty (20) years into the future):

Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended

Clean Air Act, Pub. L. 84-159, as amended

Coastal Barrier Resources Act, Pub. L. 97-348

Coastal Zone Management Act, Pub. L. 92-583, as amended

Davis Bacon Act, Pub. L. 107-217

Endangered Species Act, Pub. L. 92-583

Environmental Justice, Executive Order 12898

Floodplain Management, Executive Order 11988 as amended by Executive Order 12148

Protection of Wetlands, Executive Order 11990

Farmland Protection Policy Act, Pub. L. 97-98

Fish and Wildlife Coordination Act, Pub. L. 85-624

National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190

National Historic Preservation Act of 1966, PL 89-665, as amended

Safe Drinking Water Act, Pub. L. 93-523, as amended

Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Age Discrimination Act of 1975, Pub. L. 94-135

Title VI of the Civil Rights Act of 1964, Pub. L. 88-352

R309-705. Financial Assistance: Federal Drinking Water State Revolving Fund Financial Assistance Program

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)

Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)

Equal Employment Opportunity, Executive Order 11246

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

Anti-Lobbying Provisions (40 CFR Part 30)

Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended

Procurement Prohibitions under Section 306 of the Clean Water Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Debarment and Suspension, Executive Order 12549

Accounting procedures, whereby applicants agree to maintain a separate project account in accordance with Generally Accepted Accounting Standards and Utah State Uniform Accounting requirements.

KEY: SDWA, financial assistance, loans

Date of Enactment or Last Substantive Amendment: January 1, 2022

Notice of Continuation:

Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

R309. Environmental Quality, Drinking Water.

R309-800. Capacity Development Program.

R309-800-1. Authority.

(1) Under authority granted in Utah Code Subsection 19-4-104(1)(a)(v), the Drinking Water Board adopts this rule implementing the capacity development program for new and existing community, and non-transient non-community water systems and governing the allotment of federal funds to public water systems to assist them to comply with the Federal Statute 1996 Reauthorized Safe Drinking Water Act (SDWA).

R309-800-2. Purpose.

(1) The Safe Drinking Water Act (SDWA) makes certain federal funds available to states, through the Drinking Water State Revolving Fund Financial Assistance Loan Program as defined in section 1452(k)(2)(C) to provide assistance to any eligible public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(e) the SDWA, to ensure all new public water systems will be able to comply with the SDWA, to enhance existing public water systems' capability to comply with the SDWA, and determine which public water systems applying for financial assistance are eligible to use the State Revolving Funds.

(2) The purpose of the Capacity Development Program for new and existing systems is to enhance and ensure the technical, managerial, and financial capacity of water systems and encourage water systems to develop an asset management program. The Program's goals are:

(a) to promote long-term compliance with drinking water regulations, ~~and~~

(b) to promote the public health protection objectives of the SDWA, ~~and-~~

(c) to promote ~~compliance with the requirements of the State of Utah's Groundwater Rule, R309-215-16, in identifying and correcting significant deficiencies in technical, managerial, and/or financial capacity and encourage water systems to implement best practices and other activities associated with an asset management program.~~

R309-800-3. Definitions.

~~(1) Definitions for terms used in this rule are given in R309-110, except as modified below.~~

~~(2) "Asset Management Plan" A written plan developed by a water system to implement asset management or an asset management program within the system. The asset management plan describes the five-core asset management components at R309-800-5(3) and provides an outline the water system can use to make appropriate improvements.~~

~~"Asset Management Program" The practice of managing infrastructure assets to maximize the efficiency and life expectancy of operating these assets while delivering the desired service levels.~~

"Capacity Development" ~~means~~ the technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"Community Water System" An existing system providing water for human consumption and other domestic uses through pipes or other constructed conveyances, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year.

~~(3) "Drinking Water Region Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring including consumer confidence reports, capacity development including technical, financial and managerial aspects, environmental issues, available funding and related studies.~~

~~(4) "Small Water System" means a water system with less than 3,300 people being served.~~

~~(5) "Public Water System" means a system providing water for human consumption and other domestic uses through pipes or other constructed conveyances, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year.~~

~~(6) "Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.~~

~~(7) "New Water System" means a A newly proposed or discovered system that will become a community water system or non-transient, non-community water system.~~

"Non-Transient Non-Community Water System (NTNCWS) means a An existing public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

~~(8) "New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.~~

~~(9) "Required reserve Reserve" means funds Funds set aside to meet requirements set forth in a loan covenant/bond indenture. Additional definitions are provided in R309-110.~~

R309-800-4. General.

(1) Capacity development criteria ~~are to be used as a guideline for all water systems. These criteria~~ constitute a standard applied in the following situations:

(a) when reviewing new or proposed water systems applications~~;~~
(b) reviewing applications for financial assistance~~and~~
(c) assessing the capacity of all water systems that are rated unapproved or are in significant non-compliance with SDWA requirements or State drinking water rules by the State or the EPA. These criteria may be used as guidelines for other water systems.

(2) ~~Water systems shall meet the following criteria~~ Capacity Development Criteria:

(a) ~~Technical Capacity~~ Criteria:

(i) Finished water shall meet all drinking water standards as required by Utah State Rules~~;~~.

(ii) Personnel shall operate the system in accordance with the operations and maintenance manual~~;~~.

(iii) ~~A valid water right shall be obtained;~~ Water systems shall provide proof of sufficient water rights or valid water purchase contracts.

(iv) Water systems shall meet the source, storage, and distribution requirements ~~as per~~ as described in Utah State Rules~~;~~.

(v) ~~Water system~~ Existing water systems shall not be rated unapproved or with a history of in-significant noncompliance by the State or the EPA shall agree to undertake appropriate action to resolve noncompliance or become an approved system.

(b) ~~Managerial Capacity~~ Criteria:

(i) The system owner(s) shall be clearly identified to the Executive Secretary to the Drinking Water Board.~~Director;~~

(ii) The system shall meet all of the ~~operator~~ certification requirements defined in R309-300 and R309-305. ~~as per R309-300 and backflow technician certification requirements as per R309-305.~~

(iii) ~~A~~ The system or method shall be in-place implement a program to effectively maintain ~~manage~~ all requisite system records, such as distribution system histories/~~maps~~, maps, asset inventory, and compliance information.~~;~~ ~~and~~

(iv) ~~An~~ The system shall develop and maintain an operating plan shall that includes, but is not limited to, system operator names and certification levels, include names and certification level of the system operator(s), facility operation and maintenance manuals, routine maintenance procedures, water quality monitoring plan and violations response procedures, ~~water quality monitoring plan,~~ training plan, and emergency response plan~~;~~.

~~(v) The Director shall be informed of management changes.~~

(c) ~~Financial Capacity~~ Criteria:

(i) Revenues shall be greater than expenses~~;~~.

~~(ii) A financial statement compilation by a Certified Public Accountant, or an audit if otherwise required of the water system, shall be completed every three years; A Certified Public Accountant must prepare a financial statement or perform an audit if otherwise required of the water system, at least every three years.~~

(iii) The water system shall devise and implement a managerial budget and accounting process in accordance with generally accepted principals~~†~~.

(iv) The operating ratio (operating revenue divided by operating expenses excluding depreciation and required reserves) shall be greater than 1.0~~†~~.

(v) The coverage ratio (total revenues minus operating expenses excluding depreciation and required reserves divided by annual debt service) shall be greater than 1.0~~†~~.

~~(vi) Customers shall be metered; and Customers shall be metered or the water system shall take action to install meters.~~

(vii) An emergency/replacement reserve shall be created and funded.

(d) Asset Management:

(i) Existing systems should develop and implement an asset management plan that addresses the technical, managerial, and financial aspects of the five core questions of asset management at R309-800-5(3).

~~(3) Public Water Systems that use ground water, except those that combine all of their ground water with surface water or with ground water under the direct influence of surface water prior to treatment, but including consecutive systems receiving finished ground water shall be subject to the sanitary survey requirements of R309-100-7 and the significant deficiency requirements of R309-215-16(3) in order to be in compliance with the Capacity Development Program requirements.~~

R309-800-5. Implementing an Asset management Program.

(1) Water systems are encouraged to develop and implement an asset management program. An asset management program provides the following benefits to water systems:

(a) Prolonging asset life

(b) Reducing overall costs for both operations, maintenance, and capital expenditures

(c) Improving decisions about asset maintenance, rehabilitation, repair, and replacement

(d) Meeting consumer demands with a focus on system sustainability

(e) Meeting service expectations and regulatory requirements

(f) Improving responses to emergencies

(g) Improving the security and safety of assets

(h) Budgeting focused on critical activities for sustained performance

(i) Setting rates based on sound operational and financial planning

(2) An effective asset management program includes: detailed asset inventories, operation and maintenance tasks and long range financial planning. These items should be captured in an asset management plan, which can be tailored to fit individual water system size and complexity.

(3) The asset management plan shall address the following 5 core components:

(a) The current state of the utility's assets

(i) Prepare an asset inventory

(ii) Develop a system map

(iii) Develop a method to assess and prioritize assets based on condition

(iv) Assess remaining useful life of the asset

(v) Determine asset value and replacement cost

(b) The utility's required "sustainable" level of service

(i) Analyze current customer demand and satisfaction

(ii) Analyze anticipated customer demand and satisfaction

(iii) Understand current regulatory requirements

(iv) Communicate system performance goals with the public

(v) Identify standard levels of service and track system performance

(c) Assets that are critical to sustained performance

(i) Conduct a failure analysis on all assets

(ii) Determine probability of failure

(iii) Analyze risk and consequences of failure

(iv) Prioritize system assets based on criticality to system operation

(v) Develop specific response plans based on potential asset failure

(d) Minimum infrastructure life-cycle cost

(i) Implement an appropriate maintenance schedule including costs for all assets

(ii) Identify life cycle costs for all assets

(iii) Develop a capital improvement plan and an operations and maintenance strategy

(iv) Identify and compare the cost of rehabilitation versus replacement

(v) Determine the related costs of responding to asset failure

(e) Long term budgeting strategy

(i) Regularly review system budget

(ii) Establish and fund a capital facilities replacement account

(iii) Implement a rate structure to ensure financial sustainability

- (iv) Explore asset renewal and replacement financing
- (v) Identify financial assistance options for major asset repair or replacement
- (vi) Prioritize financial resources based on asset condition and importance
- (4) All water systems subject to this rule shall complete the following:
 - (a) Prepare an asset management plan as described above
 - (b) The system's governing body shall formally adopt the asset management plan
 - (c) Submit proof of adoption to the Division
- (5) In addition to the above requirements, water systems applying for financial assistance under the Federal State Revolving Fund Financial Assistance Program must also submit their asset management plan to the Division for review or request sufficient funds to create an asset management plan.

R309-800-~~56~~. Requirements for New Community and New Non-transient, Non-community Water Systems.

- ~~(1) Feasibility Review, (See R309-100-6).~~
- ~~(2) Each proposed, new water system must demonstrate that it has adequate technical, managerial, and financial capacity before it may provide water for human consumption. Proposed water systems shall submit the following for Capacity Assessment Review:~~
- ~~(3) Project Notification form, available on the Internet at www.drinkingwater.utah.gov/blank_forms.htm.~~
- ~~(4) A business plan, which includes a facilities plan, management plan, and financial plan.~~
 - ~~(a) Facilities plan. The facilities plan shall describe the scope of the water services to be provided and shall include the following:~~
 - ~~(i) A description of the nature and extent of the area to be served, and provisions for extending the water supply system to include additional area. The description shall include population and land use projections and forecasts of water usage;~~
 - ~~(ii) An assessment of current and expected drinking water compliance based on monitoring data from the proposed water source;~~
 - ~~(iii) A description of the alternatives considered, including interconnections with other existing water systems, and the reasons for selecting the method of providing water service. This description shall include the technical, managerial, financial and operational reasons for the selected method, and~~
 - ~~(iv) An engineering description of the facilities to be constructed, including the construction phases and future phases and future plans for expansion. This description shall include~~

~~an estimate of the full cost of any required construction, operation, and maintenance;~~

~~(b) Management plan. The management plan shall describe what is needed to provide for effective management and operation of the system and shall include the following:~~

~~(i) Documentation that the applicant has the legal right and authority to take the measures necessary for the construction, operation, and maintenance of the system. The documentation shall include evidence of ownership if the applicant is the owner of the system or, if the applicant is not the owner, legally enforceable management contracts or agreements;~~

~~(ii) An operating plan that describes the tasks to be performed in managing and operating the system. The operating plan shall consist of administrative and management organization charts, plans for staffing the system with certified operators, and provisions for an operations and maintenance manual; and~~

~~(iii) Documentation of credentials of management and operations personnel, cooperative agreements or service contracts including demonstration of compliance with R309-300 water system operator certification rule; and~~

~~(c) Financial plan. The financial plan shall describe the system's expected revenues, cash flow, income and issuance and repayment of debt for meeting the costs of construction, and the costs of operation and maintenance for at least five years from the date the applicant expects to begin system operation.~~

~~(5) After the information submitted by the applicant is complete, the Division of Drinking Water shall conduct a Capacity Assessment Review. The applicant shall be notified in writing whether or not the new system has demonstrated adequate capacity. No new community or non-transient, non-community system will be approved if it lacks adequate capacity.~~

~~(6) Those systems constructed without approval shall be subject to: points as specified in R309-400, and/or administrative and/or civil penalties and fines.~~

Each proposed, new water system must demonstrate that it has adequate technical, managerial, and financial capacity before it may provide water for human consumption. These water systems shall submit the following for Capacity Assessment Review:

(1) Project Notification form, available on the Division of Drinking Water website.

(2) A business plan, which includes a facilities plan, management plan, and financial plan.

(a) Facilities plan. The facilities plan shall describe the scope of the water services to be provided and shall include the following:

(i) A description of the nature and extent of the area to be served, and provisions for extending the water supply system to

include additional area. The description shall include population and land use projections and forecasts of water usage.

(ii) An assessment of current and expected drinking water compliance based on monitoring data from the proposed water source.

(iii) A description of the alternatives considered, including interconnections with other existing water systems, and the reasons for selecting the method of providing water service.

This description shall include the technical, managerial, financial, and operational reasons for the selected method, and

(iv) An engineering description of the facilities to be constructed, including construction and future phases, and plans for expansion. This description shall include an estimate of the full cost of any required construction, operation, and maintenance.

(b) Management plan. The management plan shall describe what is needed to provide for effective management and operation of the system, and shall include the following:

(i) Documentation that the water system has the legal right and authority to take the measures necessary for the construction, operation, and maintenance of the system. The documentation shall include evidence of ownership.

(ii) An operating plan that describes the tasks to be performed in managing and operating the system. The operating plan shall consist of administrative and management organization charts, plans for staffing the system with certified operators, and provisions for an operations and maintenance manual; and

(iii) Documentation of credentials of management and operations personnel, cooperative agreements or service contracts including demonstration of compliance with R309-300 water system operator certification rule; and

(c) Financial plan. The financial plan shall describe the water system's expected revenues, cash flow, issuance and repayment of debt for meeting the costs of construction, and the costs of operation and maintenance for at least five years from the date the water system applicant expects to begin system operation.

(3) After the information submitted by the water system is complete, the Division of Drinking Water shall conduct a Capacity Assessment Review. The water system shall be notified in writing whether or not the new system has demonstrated adequate capacity. No new community or non-transient, non-community system will be approved if it lacks adequate capacity.

(4) Those systems constructed without approval shall be subject to: points as specified in R309-400, and/or administrative and/or civil penalties and fines.

R309-800-67. Minimum Capacity Required for Financial Assistance Under Provisions of R309-700 and R309-705.

(1) Applicants for financial assistance shall complete an application form, available on the ~~Internet at~~ www.drinkingwater.utah.gov/blank_forms.htm The Division of Drinking Water website. The application shall include project information and water system financial information, ~~and This information~~ will be used to determine eligibility, establish project priority ranking, and provide a basis for determining financial assistance parameters.

(2)(a) As described in (3) below, applicants for financial assistance from the Federal Drinking Water State Revolving ~~Loan Fund Financial Assistance~~ Program are required to complete and submit Capacity Development worksheets, which are available on the Division of Drinking Water website, to the Executive Secretary.

(b) As described in (4) below, the Executive Secretary may require an applicant for a loan from the State's Revolving ~~Loan Fund Financial Assistance~~ Program to complete and submit Capacity Development worksheets for review.

(3) Financial assistance under the provisions of R309-705, Financial Assistance: Federal Drinking Water State Revolving Fund ~~Loan Financial Assistance~~ Program. Financial assistance shall not be available to a water system that lacks the technical, managerial, or financial capability to maintain SDWA compliance, lacks a viable Asset Management Program, or is in significant non-compliance with any Division of Drinking Water rule provisions ~~of R309-200 through 225 or 500 through 550~~, unless:

(a) The use of the financial assistance will ensure compliance with SDWA and Utah rules; or

(b) The owner of the system agrees to undertake feasible and appropriate changes in operation to ensure technical, managerial, and financial capacity to maintain long-term compliance with SDWA.

(4) Financial assistance under the provisions of R309-700 Financial Assistance: State Drinking Water State Revolving Fund Financial Assistance ~~Loan~~ Program. A Capacity Development Assessment may be necessary before the Executive Secretary considers whether a project is eligible for financial assistance under the State's Revolving ~~Loan Fund Financial Assistance~~ Program. The decision will be based on available water system information obtained through sanitary surveys, site visits, monitoring and reporting data, or other valid means. If, after review of available information, the Executive Secretary determines that a Capacity Development Assessment is necessary, ~~he will require that~~ the applicant shall complete and submit the

Capacity Development worksheets to the Division. Otherwise, a Capacity Development Assessment is not required.

KEY: drinking water, funding, ~~regionalization~~ asset management, capacity development

Date of Enactment or Last Substantive Amendment: ~~May 23, 2011~~ January 1, 2022

Notice of Continuation: ~~March 12, 2020~~

Authorizing, and Implemented or Interpreted Law: 19-4-104

R309-800. Capacity Development Program.

Table of Contents

R309-800-1. Authority.	3
R309-800-2. Purpose.	3
R309-800-3. Definitions.	3
R309-800-4. General.	4
R309-800-5. Implementing an Asset Management Program.	4
R309-800-6. Requirements for New Community and New Non-transient, Non-community Water Systems.	6
R309-800-7. Minimum Capacity Required for Financial Assistance Under Provisions of R309-700 and R309-705.	7

This Page Intentionally Left Blank

R309-800. Capacity Development Program.

R309-800-1. Authority.

Under authority granted in Utah Code Subsection 19-4-104(1)(a)(v), the Drinking Water Board adopts this rule implementing the capacity development program for new and existing community, and non-transient non-community water systems and governing the allotment of federal funds to public water systems to assist them to comply with the Federal Statute.

R309-800-2. Purpose.

(1) The Safe Drinking Water Act (SDWA) makes certain federal funds available to states, through the Drinking Water State Revolving Fund Financial Assistance Program to provide assistance to eligible public water systems as part of a capacity development strategy developed and implemented in accordance with the SDWA to ensure all new public water systems will be able to comply with the SDWA, to enhance existing public water systems' capability to comply with the SDWA, and determine which public water systems applying for financial assistance are eligible to use the State Revolving Funds.

(2) The purpose of the Capacity Development Program for new and existing systems is to enhance and ensure the technical, managerial, and financial capacity and encourage water systems to develop an asset management program.

The Program's goals are:

- (a) to promote long-term compliance with drinking water regulations, and
- (b) to promote the public health protection objectives of the SDWA.
- (c) to promote and encourage water systems to implement best practices and other activities associated with an asset management program

R309-800-3. Definitions.

“Asset Management Plan” A written plan developed by a water system to implement asset management or an asset management program within the system. The asset management plan describes the five-core asset management components at R309-800-5(3) and provides an outline the water system can use to make appropriate improvements.

“Asset Management Program” The practice of managing infrastructure assets to maximize the efficiency and life expectancy of operating these assets while delivering the desired service

levels.

"Capacity Development" The technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"Community Water System" An existing system providing water for human consumption and other domestic uses through pipes or other constructed conveyances, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year.

"New Water System" A newly proposed or discovered water system that will become a regulated community water system or non-transient, non-community water system.

"Non-Transient Non-Community Water System" (NTNCWS) An existing public water system, that is not a community water system, that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Required Reserve" Funds set aside to meet requirements set forth in a loan covenant/bond indenture.

Additional definitions are provided in R309-110.

R309-800-4. General.

(1) Capacity development criteria constitute a standard applied in the following situations:

- (a) when reviewing new or proposed water system applications
- (b) reviewing applications for financial assistance
- (c) assessing capacity of all water systems that are rated unapproved or are in significant non-compliance with SDWA requirements or State drinking water rules by the State or the Environmental Protection Agency (EPA)

These criteria may be used as a guideline for other water systems.

(2) Capacity Development Criteria:

(a) Technical Capacity:

- (i) Finished water shall meet all drinking water standards as required by Utah State Rules.
- (ii) Personnel shall operate the system in accordance with the operations and maintenance manual.

(iii) Water systems shall provide proof of sufficient water rights or valid water purchase contracts.

(iv) Water system shall meet source, storage, and distribution requirements required by Utah State Rules.

(v) Existing systems rated unapproved or with a history of significant noncompliance as determined by the State or the EPA, shall agree to undertake appropriate action to resolve noncompliance or become an approved system.

(b) Managerial Capacity:

(i) The system owner(s) and any management changes shall be clearly identified to the Executive Secretary of the Drinking Water Board.

(ii) The system shall meet all of the certification requirements defined in R309-300 and R309-305.

(iii) The system shall implement a program to effectively manage all system records, such as distribution system histories, maps, asset inventory, and compliance information.

(iv) The system shall develop and maintain an operating plan that includes, but is not limited to, system operator names and certification levels, facility operation and maintenance manuals, routine maintenance procedures, water quality monitoring plan and violations response procedures, training plan, and emergency response plan.

(c) Financial Capacity:

(i) Revenues shall be greater than expenses.

(ii) A Certified Public Accountant must prepare a financial statement or perform an audit if otherwise required of the water system, at least every three years.

(iii) The water system shall devise and implement a managerial budget and accounting process in accordance with generally accepted accounting principles.

(iv) The operating ratio (operating revenue divided by operating expenses excluding depreciation and required reserves) shall be greater than 1.0.

(v) The coverage ratio (total revenues minus operating expenses excluding depreciation and required reserves divided by annual debt service) shall be greater than 1.0.

(vi) Customers shall be metered or the water system shall take action to install meters.

(vii) An emergency/replacement reserve account shall be created and funded.

(d) Asset Management:

(i) Existing systems should develop and implement an asset management plan that addresses the technical, managerial, and financial aspects of the five core questions of asset management at R309-800-5(3).

R309-800-5. Implementing an Asset Management Program.

(1) Water systems are encouraged to develop and implement an asset management program. An asset management program provides the following benefits to water systems:

- (a) Prolonging asset life
- (b) Reducing overall costs for operations, maintenance, and capital expenditures
- (c) Improving decisions about asset maintenance, rehabilitation, repair, and replacement
- (d) Meeting consumer demands with a focus on system sustainability
- (e) Meeting service expectations and regulatory requirements
- (f) Improving responses to emergencies
- (g) Improving the security and safety of assets
- (h) Budgeting focused on critical activities for sustained performance
- (i) Setting rates based on sound operational and financial planning

(2) An effective asset management program includes: detailed asset inventories, operation and maintenance tasks and long range financial planning. These items should be captured in an asset management plan, which can be tailored to fit individual water system size and complexity.

(3) The asset management plan shall address the following 5 core components:

- (a) The current state of the utility's assets
 - (i) Prepare an asset inventory
 - (ii) Develop a system map
 - (iii) Develop a method to assess and prioritize assets based on condition
 - (iv) Assess remaining useful life of the asset

- (v) Determine asset value and replacement cost
- (b) The utility's required "sustainable" level of service
 - (i) Analyze current customer demand and satisfaction
 - (ii) Analyze anticipated customer demand and satisfaction
 - (iii) Understand current regulatory requirements
 - (iv) Communicate system performance goals with the public
 - (v) Identify standard levels of service and track system performance
- (c) Assets that are critical to sustained performance
 - (i) Conduct a failure analysis on all assets
 - (ii) Determine probability of failure
 - (iii) Analyze risk and consequences of failure
 - (iv) Prioritize system assets based on criticality to system operation
 - (v) Develop specific response plans based on potential asset failure
- (d) Minimum infrastructure life-cycle cost
 - (i) Implement an appropriate maintenance schedule including costs for all assets
 - (ii) Identify life cycle costs for all assets
 - (iii) Develop a capital improvement plan and an operations and maintenance strategy
 - (iv) Identify and compare the cost of rehabilitation versus replacement
 - (v) Determine the related costs of responding to asset failure
- (e) Long term budgeting strategy
 - (i) Regularly review system budget
 - (ii) Establish and fund a capital facilities account
 - (iii) Implement a rate structure to ensure financial sustainability

- (iv) Explore asset renewal and replacement financing
- (v) Identify financial assistance options for major asset repair or replacement
- (vi) Prioritize financial resources based on asset condition and importance
- (4) All water systems subject to this rule shall complete the following:
 - (a) Prepare an asset management plan as described above
 - (b) Systems governing body shall formally adopt the asset management plan
 - (c) System shall submit proof of adoption to the Division
- (5) In addition to the above requirements, water systems applying for financial assistance under the Federal State Revolving Fund Financial Assistance Program must also submit their asset management plan or request sufficient funds to create an asset management plan.

R309-800-6. Requirements for New Community and New Non-transient, Non-community Water Systems.

Each proposed, new water system must demonstrate that it has adequate technical, managerial, and financial capacity before it may provide water for human consumption. These water systems shall submit the following for Capacity Assessment Review:

- (1) Project Notification form, available on the Division of Drinking Water website.
- (2) A business plan, which includes a facilities plan, management plan, and financial plan.
 - (a) Facilities plan. The facilities plan shall describe the scope of the water services to be provided and shall include the following:
 - (i) A description of the nature and extent of the area to be served, and provisions for extending the water supply system to include additional area. The description shall include population and land use projections and forecasts of water usage.
 - (ii) An assessment of current and expected drinking water compliance based on monitoring data from the proposed water source.
 - (iii) A description of the alternatives considered, including interconnections with other existing water systems, and the reasons for selecting the method of providing water service. This description shall include the technical, managerial, financial, and operational reasons for the selected method, and

(iv) An engineering description of the facilities to be constructed, including construction and future phases, and plans for expansion. This description shall include an estimate of the full cost of any required construction, operation, and maintenance.

(b) Management plan. The management plan shall describe what is needed to provide for effective management and operation of the system, and shall include the following:

(i) Documentation that the water system has the legal right and authority to take the measures necessary for the construction, operation, and maintenance of the system. The documentation shall include evidence of ownership.

(ii) An operating plan that describes the tasks to be performed in managing and operating the system. The operating plan shall consist of administrative and management organization charts, plans for staffing the system with certified operators, and provisions for an operations and maintenance manual; and

(iii) Documentation of credentials of management and operations personnel, cooperative agreements or service contracts including demonstration of compliance with R309-300 water system operator certification rule; and

(c) Financial plan. The financial plan shall describe the water system's expected revenues, cash flow, issuance and repayment of debt for meeting the costs of construction, and the costs of operation and maintenance for at least five years from the date the water system expects to begin operation.

(3) After the information submitted by the water system is complete, the Division of Drinking Water shall conduct a Capacity Assessment Review. The water system shall be notified in writing whether or not the new system has demonstrated adequate capacity. No new community or non-transient, non-community system will be approved if it lacks adequate capacity.

(4) Those systems constructed without approval shall be subject to: points as specified in R309-400, and/or administrative and/or civil penalties and fines.

R309-800-7. Minimum Capacity Required for Financial Assistance Under Provisions of R309-700 and R309-705.

(1) Applicants for financial assistance shall complete an application form, available on the Division of Drinking Water website. The application shall include project information and water system financial information. This information will be used to determine eligibility, establish project priority ranking, and provide a basis for determining financial assistance parameters.

(2) (a) As described in (3) below, applicants for financial assistance from the Federal Drinking Water State Revolving Fund Financial Assistance Program are required to complete and submit Capacity Development worksheets, which are available on the Division of Drinking Water website, to the Executive Secretary.

(b) As described in (4) below, the Executive Secretary may require an applicant for a loan from the State's Revolving Fund Financial Assistance Program to complete and submit Capacity Development worksheets for review.

(3) Financial assistance under the provisions of R309-705, Financial Assistance: Federal Drinking Water State Revolving Fund Financial Assistance Program. Financial assistance shall not be available to a water system that lacks the technical, managerial, or financial capability to maintain SDWA compliance, lacks a viable Asset Management Program, or is in significant non-compliance with any Division of Drinking Water rule provisions, unless:

(a) The use of the financial assistance will ensure compliance with SDWA and Utah rules; or

(b) The owner of the system agrees to undertake feasible and appropriate changes in operation to ensure technical, managerial, and financial capacity to maintain long-term compliance with SDWA.

(4) Financial assistance under the provisions of R309-700 Financial Assistance: State Drinking Water State Revolving Fund Financial Assistance Program. A Capacity Development Assessment may be necessary before the Executive Secretary considers whether a project is eligible for financial assistance under the State's Revolving Fund Financial Assistance Program. The decision will be based on available water system information obtained through sanitary surveys, site visits, monitoring and reporting data, or other valid means. If, after review of available information, the Executive Secretary determines that a Capacity Development Assessment is necessary, the applicant shall complete and submit the Capacity Development worksheets to the Division. Otherwise, a Capacity Development Assessment is not required.

KEY: drinking water, funding, regionalization, capacity development

Date of Enactment or Last Substantive Amendment: May 23, 2011

Notice of Continuation: March 23, 2010

Authorizing, and Implemented or Interpreted Law: 19-4-104

Agenda Item

10

DRINKING WATER BOARD PACKET
Rural Water Association Report

Table of Contents

Terry Smith – Compliance Specialist.....2

Janell Braithwaite – Management Technician.....4

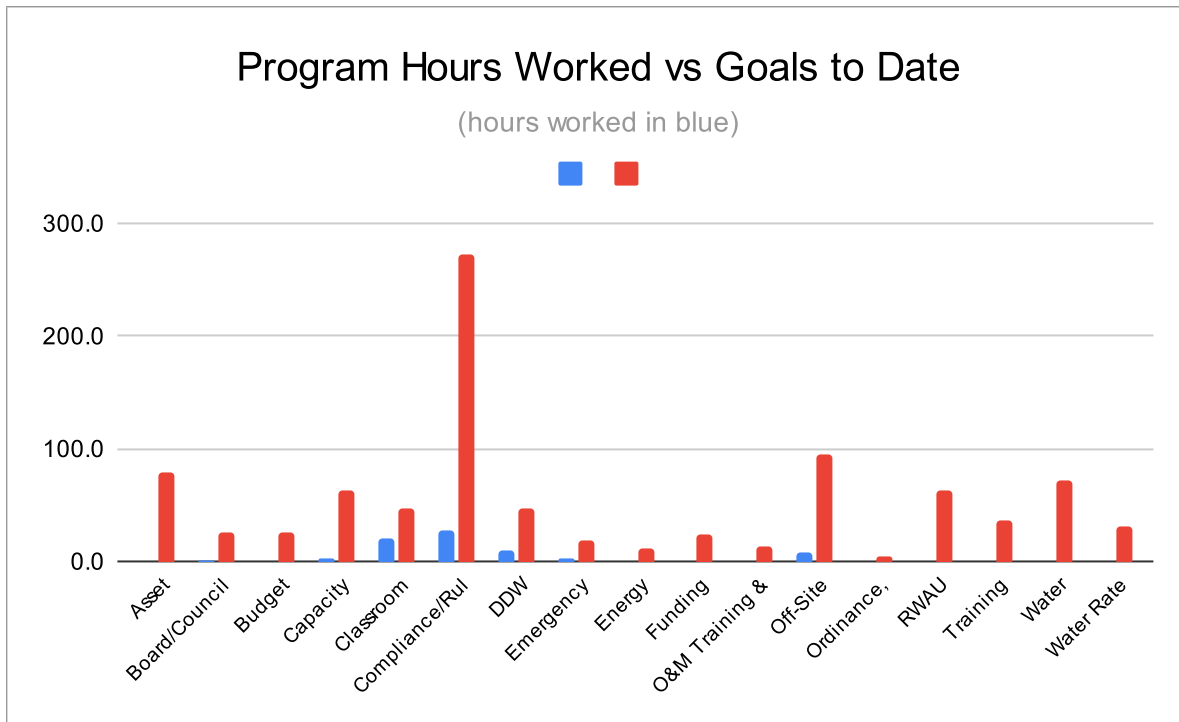
Curt Ludvigson – Management Technician.....6

Rural Water Association - DWB Report

Report Period: July, 2021

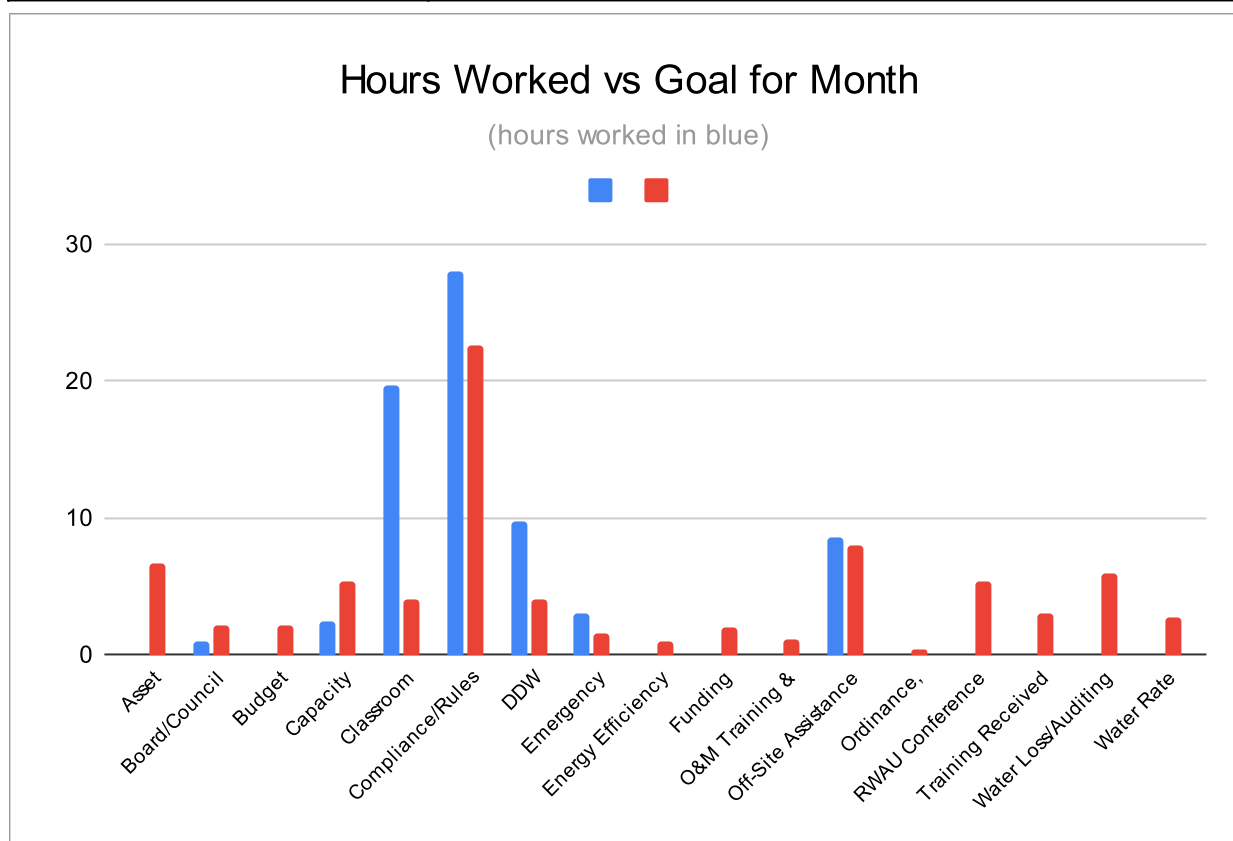
Terry Smith - Compliance Specialist

Contract Goal Titles	YTD Goal Hours Achieved	YTD Goal Hours	Annual Program Goals
Asset Management/Evaluation	0.0	80.0	80.0
Board/Council Training	1.0	26.0	26.0
Budget Planning/Evaluation	0.0	26.0	26.0
Capacity Development/Master Planning	2.5	64.0	64.0
Classroom Instruction/Training	19.8	48.0	48.0
Compliance/Rules Assistance	28.0	272.0	272.0
DDW Interaction/Meetings/Reports	9.8	48.0	48.0
Emergency Response	3.0	18.0	18.0
Energy Efficiency Study	0.0	12.0	12.0
Funding Procurement	0.0	24.0	24.0
O&M Training & Assistance	0.0	14.0	14.0
Off-Site Assistance	8.5	96.0	96.0
Ordinance, Resolutions, By-Laws Development	0.0	4.0	4.0
RWAU Conference	0.0	64.0	64.0
Training Received	0.0	36.0	36.0
Water Loss/Auditing	0.0	72.0	72.0
Water Rate Development/Analysis	0.0	32.0	32.0
Totals:	73	936	936



Report Period: July, 2021
Notable Assistance & Work Performed

System	Description:
WILSON ARCH (19069)	Working on capacity spreadsheet
RIO MESA CENTER (10041)	Advising Hau as to TCR violation response & mitigation
ECHO MUTUAL WATER CO	Echo Mutual emergency response
ST GEORGE CITY	Proctoring exams
MOUNTAIN VIEW SSD	Discussion with Paula on Cross Connection program/policy
FOUNTAIN GREEN CITY	Advised Roger on CC Admin. Sent email containing report link, etc.
BRYCE WOODLAND EST	Helping Erich with CC rule and reporting
	Presenting in drought response class
JORDANELLE SSD	Responding to CC CEU training request
SPRING CREEK WTR USERS	Advising Jeremy with sampling site plans
ENOCH CITY	Proctoring exam - David Shinost
PALISADES WC (20063)	Helping JD with chlorine dosing - sodium hypochlorite
PARAGONAH TOWN	Assisting Robert with CC ordinance
ESCALANTE VLY HOUSING	Assisting Pat with 2020 CCR violation
NEPHI CITY WATER	Advised Justin - lead/copper sampling and notification

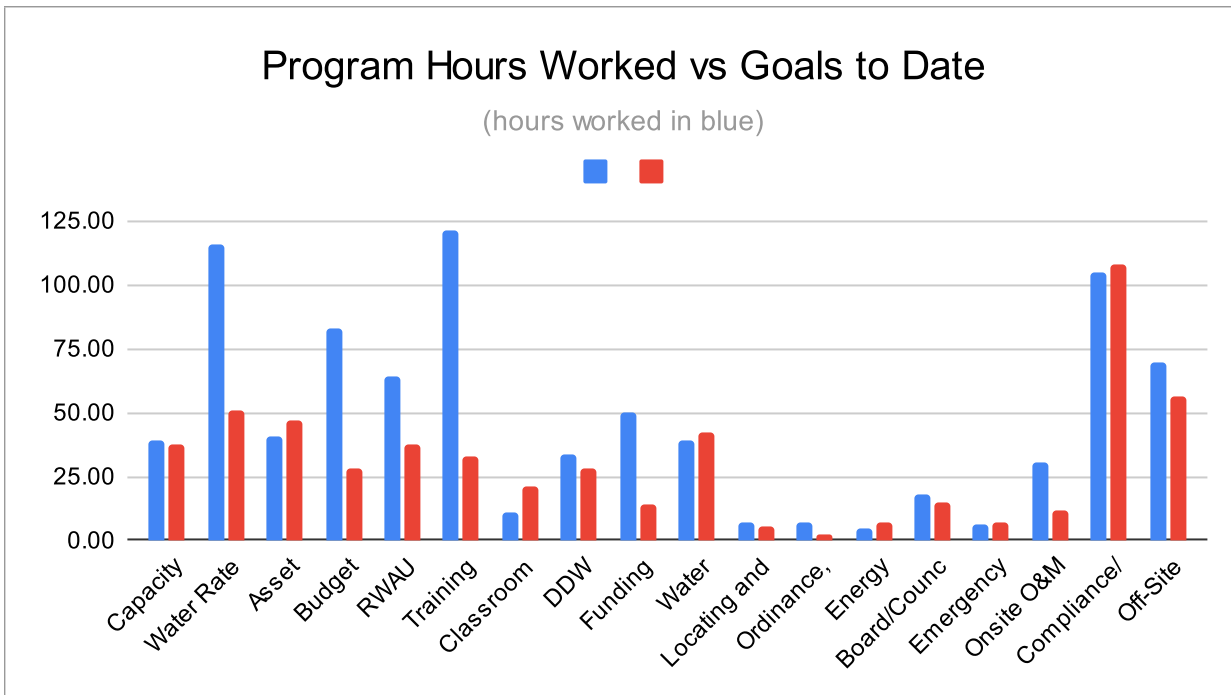


Rural Water Association - DWB Report

Report Period: July, 2021

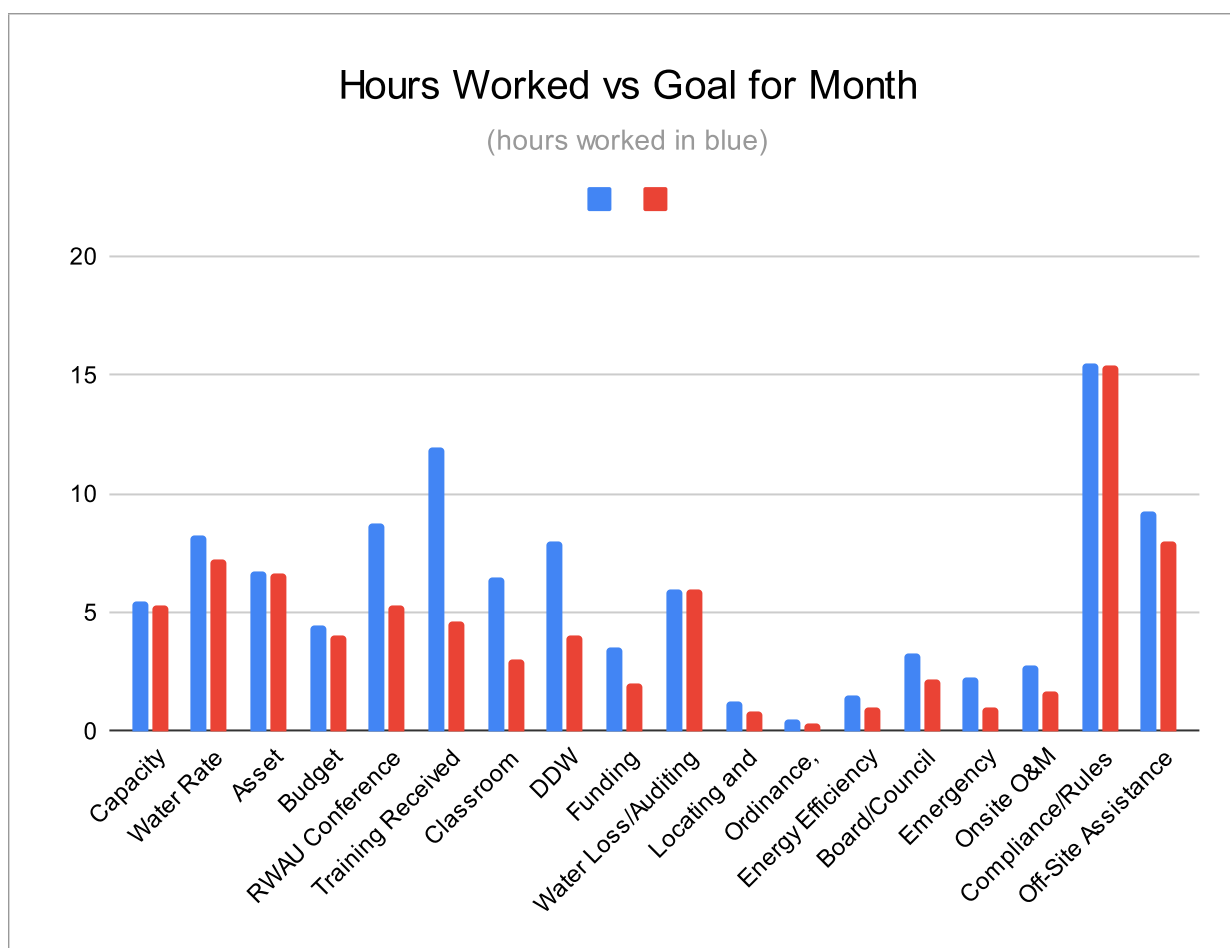
Janell Braithwaite - Management Technician

Contract Goal Titles	YTD Goal Hours Achieved	YTD Goal Hours	Annual Program Goals
Capacity Development/Master Planning	39.0	37.3	64.0
Water Rate Development & Fee Analysis	116.0	50.8	8.2
Asset Management/Evaluation	40.5	46.7	80.0
Budget Planning/Evaluation	82.5	28.0	48.0
RWAU Conference	64.2	37.3	64.0
Training Received	121.0	32.7	56.0
Classroom Instruction/Training	10.7	21.0	36.0
DDW Interaction/Meetings/Reports	33.2	28.0	48.0
Funding Procurement	50.0	14.0	24.0
Water Loss/Auditing	39.0	42.0	72.0
Locating and Securing Engineering	7.3	5.8	10.0
Ordinance, Resolution, By-Law Development	7.0	2.3	4.0
Energy Efficiency Study	4.5	7.0	12.0
Board/Council Training	18.0	15.2	26.0
Emergency Response	6.3	7.0	12.0
Onsite O&M Training	30.3	11.7	20.0
Compliance/Rules Assistance, CCC, Water Monitor	105.0	107.9	185.0
Off-Site Assistance	69.5	56.0	96.0
Totals:	844	551	865



Report Period: July, 2021
Notable Assistance & Work Performed

System	Description:
LEEDS DOMESTIC WATER	Met w/Mark re: drought and IPS points, gave book for ccc program
KANARRAVILLE TOWN	Met w/Kanarraville Town Council to review budget, rates, compliance
ASHLEY VALLEY W/S ID	Reviewed Ashley Valley water rate study online w/Ryan and Nora
	RWAU conference planning meeting-Teams
WILLARD CITY	Review Willard's info for pending IPS points-contacted Terry to help
CLINTON CITY	Visit w/City Manager, Dennis, and Recorder, Lisa, re:assets, drought
WILLARD CITY	Review budget, rates and master planning with Willard City Council
DEWEYVILLE WATER	Visit w/Nathan, water op, re: drought, capacity and water, rates
CENTERFIELD TOWN	Discuss drought rates needed with Mayor Tom Sorensen
LEEDS DOMESTIC WATER	Work on Leeds water information, need a master plan and engineer
UINTAH CITY	Discuss rates, fees and budget with Uintah City Council
PACK CREEK RANCH	Contact Mark to discuss funding information from Michael Grange
RIVERDALE CITY	Contact Shawn re: IPS points, water use data, flow meter, etc.
HIGH VALLEY WATER CO	Meet w/High Valley Board re: budget, rates, project, water loss
ECHO MUTUAL WATER CO	Visit w/Leah re:Echo's water loss -still not resolved, contacted Terry

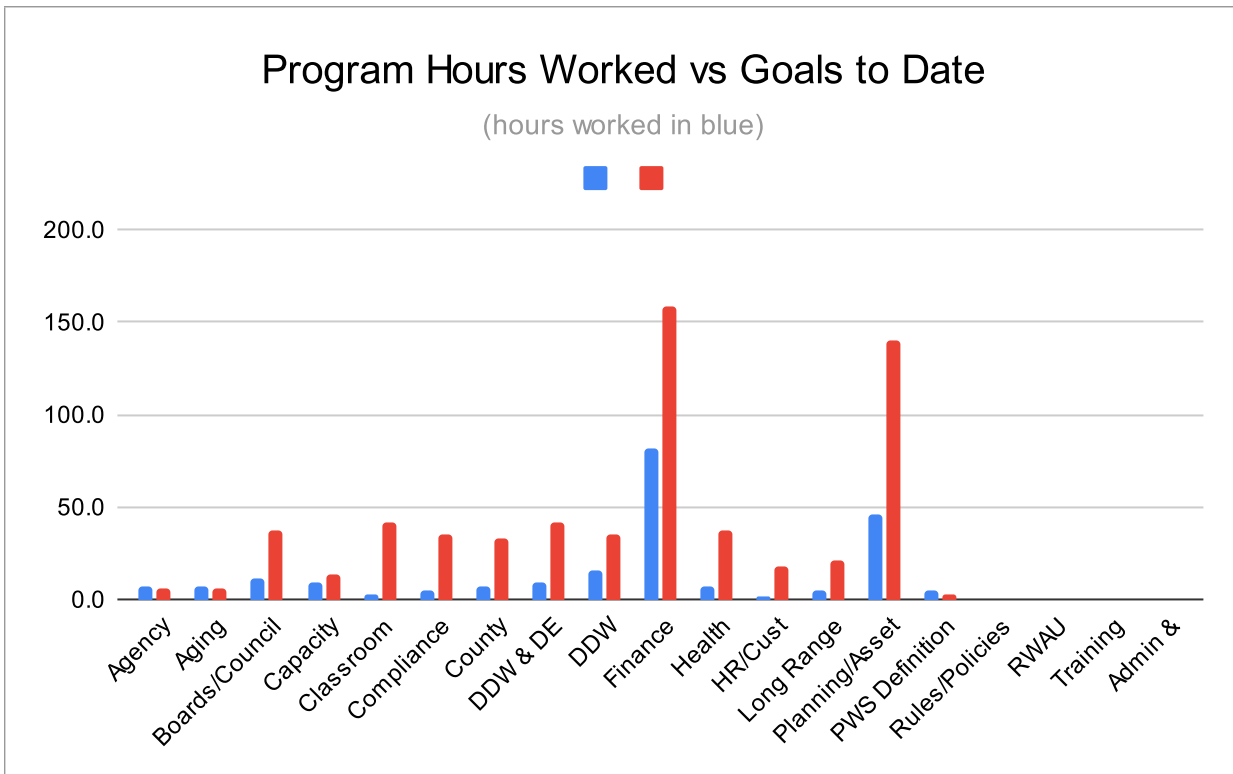


Rural Water Association - DWB Report

Report Period: July, 2021

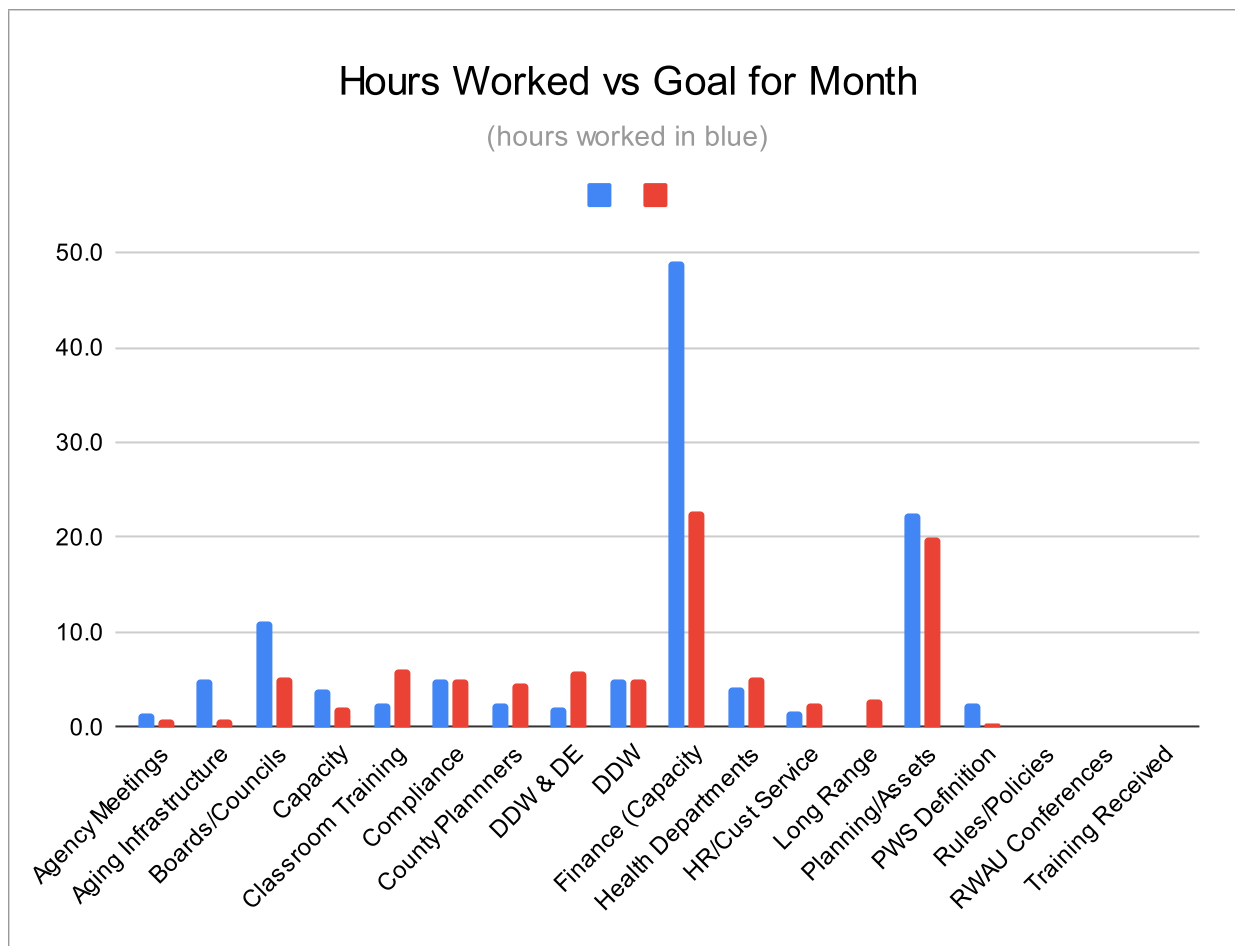
Curt Ludvigson - Development Specialist

Contract Goal Titles	YTD Goal Hours Achieved	YTD Goal Hours	Annual Program Goals
Agency Meetings	7	6	10
Aging Infrastructure Planning	7	6	10
Boards/Councils	11	37	64
Capacity Development Planning	9	14	24
Classroom Training	3	42	72
Compliance (Capacity Development)	5	35	60
County Planners	7	33	56
DDW & DE	9	41	71
DDW Interaction/Meetings	16	35	60
Finance (Capacity Development)	82	159	272
Health Departments	7	37	64
HR/Cust Service (Capacity Development)	2	18	30
Long Range Planning	5	21	36
Planning/Assets (Capacity Development)	46	140	240
PWS Definition Training	5	2	4
RWAU Conferences	0	21	36
Training Received	6	14	24
Totals:	228	661	1,133



Report Period: July, 2021
Notable Assistance & Work Performed

System	Description:
CIRCLEVILLE WTR SYSTEM	Working on rates Resolution for Circleville
LOA WATERWORKS	Working with Loa on their budget and discussing another project they a
TEASDALE SSD	I met with the Secretary and went over their budget and rates and discu
HENRIEVILLE TOWN	I met with the Town Clerk and discussed funding options for a project th
ESCALANTE TOWN (09004)	I met with the Mayor and Operator and discussed the need for them to
HATCH TOWN	I met with the Town Clerk, at her request, and did a review of their budg
ANTIMONY TOWN	I met with the Mayor of Antimony and discussed some projects he is thi
KOOSHAREM WTR SYSTEM	I met with the Town Clerk and worked with her on drafting a Resolution
CIRCLEVILLE WTR SYSTEM	I met with the Circleville Council and discussed projects they need to d
Garfield County	Working on drafting a Non-Public Water System Ordinance for Garfield
FAIRVIEW CITY	I met with the new City Manager and the Public Works people and I trai
UINTAH CITY	I met with the Uintah Council and presented rates and discussed fundir
CENTERVILLE CITY	I met with Mike Carlson and discussed some aging infrastructure in the
CLARK BENCH (13060)	Working on getting things in place for Clark Bench in order to meet the
WALLSBURG TOWN	I met with the Wallsburg Town Board and discussed projects they need



Agenda Item

11(B)

Processed Enforcement Actions August 2021

PWS ID	PWS Name	PWS Type	Pop Served	IPS Pts	Rating	Rating Date
Finalized AO						
UTAH11043	OLD MEADOWS	Community	48	75	Not Approved	04/18/2017
Corrective Action Systems						
UTAH22001	CLUFFWARD PIPELINE	Community	188	100	Corrective Action	9/30/2019
UTAH27093	BIG PLAINS CANAAN RANCH	Community	56	320	Corrective Action	8/26/2020
UTAH02062	WILLOW CREEK WATER	Community	175	75	Corrective Action	8/11/2020
UTAH15013	COTTONWOOD MUTUAL	Community	2600	0	Corrective Action	8/26/2020
UTAH22003	ECHO MUTUAL	Community	70	100	Corrective Action	8/28/2020
UTAH08043	TRAIL CANYON RESIDENTS	Community	42	135	Corrective Action	9/1/2020
UTAH02010	EAST GROUSE CREEK PIPELINE	Community	70	50	Corrective Action	9/9/2020
UTAH26059	WASATCH MOBILE HOME PARK	Community	31	15	Corrective Action	9/21/2020
UTAH18104	MOUNTAIN DELL	Non-Community	300	120	Corrective Action	10/15/2020
UTAH23022	TOOELE ARMY DEPOT	Non-Tranist	541	30	Corrective Action	2/9/2021
UTAH22114	BULL MOOSE WATERWORKS	Transit Non Community	136	175	Corrective Action	8/18/2020
UTAH18179	L & B RESOURCES	Non-Transient	100	380	Corrective Action	8/27/2020
Failure to Comply						
UTAH25077	RIVERBEND GROVE, INC.	Non-Community	25	625	Not Approved	2/10/2021
UTAH25013	GOSHEN TOWN WATER SYSTEM	Community	925	115	Corrective Action	3/8/2016
UTAH07067	SOUTH DUCHESNE	Community	128	105	Not Approved	4/24/2019
UTAH25133	JEHOVAHS WITNESS CHURCH	Non-Community	100	175	Corrective Action	9/16/2019
UTAH25184	BATEMANS MOSIDA FARMS	Community	90	215	Corrective Action	4/14/2020
UTAH27093	CANAAN SPRINGS/BIG PLAINS SSD	Community	48	320	Corrective Action	8/26/2020
UTAH27086	NORTH VALLEY RANCHES	Community	25	130	Corrective Action	5/4/2021
Not Approved Systems						
UTAH02078	M & J TRAILER HOME COMMUNITY	Community	27	245	Not Approved	8/20/2018
UTAH07039	ESCAPE RV-LAKESIDE PARK	Non-Community	28	185	Not Approved	11/3/2016
UTAH03005	CORNISH TOWN WATER SYSTEM	Community	270	15	Not Approved	9/27/2018
UTAH15018	SOUTH ROBINSON SPRINGS	Community	28	60	Not Approved	9/9/2019
UTAH09028	CALF CREEK	Non-Community	300	65	Not Approved	9/9/2019
UTAH15029	STODDARD INN	Non-Community	25	120	Not Approved	4/24/2020
UTAH10018	BUCKS GRILL HOUSE	Transient Non-Community	150	180	Not Approved	6/2/2020