

North Central Rural Water Consortium Carpio Berthold Phase I & Phase II Rural Water Supply Project Grant Cost Comparison									
Item	Cost	Percent Grant	Owner Responsibility	Grant Eligible	Annual Loan Payment and 10% Reserves @ 4% for 40 years	Monthly Cost per user (277 Users)	Water Usage Cost	Total Water Bill	% of Average ND Water Bill (\$71.50)
Permits, Legal, Administrative, & Crop Damage	\$ 150,288.00	0%	\$ 150,288.00	\$ -					
Archeological, Preliminary Engineering, & Design Engineering	\$ 491,677.00	35%	\$ 319,590.05	\$ 172,086.95					
Construction & Project Inspection	\$ 7,536,792.00	60%	\$ 3,014,716.80	\$ 4,522,075.20					
Finance Interest	\$ 290,066.00	0%	\$ 290,066.00	\$ -					
Total Per Proposed Cost Share Policy	\$ 8,468,823.00	55%	\$ 3,774,660.85	\$ 4,694,162.15	\$ 209,779.94	\$ 63.11	\$ 31.25	\$ 94.36	132%
Actual Cost	\$ 8,468,823.00	60%	\$ 3,368,823.00	\$ 5,100,000.00	\$ 187,225.16	\$ 56.33	\$ 31.25	\$ 87.58	122%
Cost at true 75%	\$ 8,468,823.00	75%	\$ 2,117,205.75	\$ 6,351,617.25	\$ 117,665.48	\$ 35.40	\$ 31.25	\$ 66.65	Within State Avg
North Central Rural Water Consortium Granville, Surrey, Deering Rural Water Supply Project Grant Cost Comparison									
Item	Cost	Percent Grant	Owner Responsibility	Grant Eligible	Annual Loan Payment and 10% Reserves @ 4% for 40 years	Monthly Cost per user (260 Users)	Water Usage Cost	Total Water Bill	% of Average ND Water Bill (\$71.50)
Permits, Legal, Administrative, Land Purchase, & Crop Damage	\$ 429,274.18	0%	\$ 429,274.18	\$ -					
Archeological, Preliminary Engineering, & Design Engineering	\$ 486,510.75	35%	\$ 316,231.99	\$ 170,278.76					
Construction & Project Inspection	\$ 6,467,731.02	60%	\$ 2,587,092.41	\$ 3,880,638.61					
Finance Interest	\$ 450,484.05	60%	\$ 200,000.00	\$ -					
Total Per Proposed Cost Share Policy	\$ 7,834,000.00	52%	\$ 3,532,598.58	\$ 4,050,917.37	\$ 196,327.13	\$ 62.93	\$ 31.25	\$ 94.18	132%
Cost at true 75%	\$ 7,834,000.00	75%	\$ 1,958,500.00	\$ 5,875,500.00	\$ 108,845.28	\$ 34.89	\$ 31.25	\$ 66.14	Within State Avg

Notes: Language in blue reflects commission discussion from February 5, 2014 and earlier meetings. Language in green reflects additional language that the staff is suggesting be addressed. There are other minor changes to have consistent use of terms that are not highlighted; one example is “Local Sponsor” is now used in place of “Sponsoring Entity”, “Project Sponsor”, “Eligible Applicant”, and “Applicant”. “Cost-Share” is defined as the state water commission funding, and “local cost-share” is changed to “local share.” Also if portions of a paragraph were moved within the same paragraph, that change in location is not noted.

NORTH DAKOTA STATE WATER COMMISSION

COST-SHARE POLICY, PROCEDURE, AND GENERAL REQUIREMENTS

The State Water Commission has adopted this policy to support local sponsors in development of sustainable water related projects in North Dakota. This policy reflects the State Water Commission’s cost-share priorities and provides basic requirements for all projects considered for prioritization during the agency’s budgeting process. Projects and studies that receive cost-share funding from the agency’s appropriated funds are consistent with the public interest. The State Water Commission values and relies on local sponsors and their participation to assure on-the-ground support for projects and prudent expenditure of funding for evaluations and project construction. It is the policy of the State Water Commission that only the items described in this document will be eligible for cost-share upon approval by the State Water Commission, unless specifically authorized by State Water Commission action.

I. DEFINITIONS AND ELIGIBILITY

- A. **CONSTRUCTION COSTS** include earthwork, concrete, mobilization and demobilization, dewatering, materials, seeding, rip-rap, re-routing electrical transmission lines, moving storm and sanitary sewer system and other underground utilities and conveyance systems affected by construction, mitigation required by law related to the construction contract, irrigation supply works, and other items and services provided by the contractor. Construction costs are only eligible for cost-share if incurred after State Water Commission approval and if the local sponsor has complied with North Dakota Century Code (N.D.C.C.) in soliciting and awarding bids and contracts, and complied with all applicable federal, state, and local laws.
- B. **COST-SHARE** is grant or loan funds provided through the State Water Commission.
- C. **ENGINEERING SERVICES** include pre-construction and construction engineering. Pre-construction engineering is the engineering necessary to develop plans and specifications for permitting and construction of a project including

preliminary and final design, material testing, flood insurance studies, hydraulic models, and geotechnical investigations. Construction engineering is the engineering necessary to build the project designed in the pre-construction phase including construction contract management, and project inspection. Administrative services and support services performed and charged by engineering companies are not engineering services. Engineering services are eligible costs if incurred after State Water Commission approval. If cost-share is expected to be greater than \$25,000, the local sponsor must follow the engineering selection process in NDCC 54-44.7 and provide a copy of the selection committee report to the Chief Engineer. The local sponsor will be considered to have complied with this requirement if they have completed this selection process for a general engineering services agreement at least once every three years and have formally assigned work to a firm or firms under an agreement. The local sponsor must inform the Chief Engineer of any change in the provider of general engineering services.

- D. IMPROVEMENTS** are construction related projects that upgrade a facility to provide increased efficiency or capacity. Improvements do not include any activities that are maintenance, replacement, or reconstruction.
- E. INELIGIBLE ITEMS** excluded from cost-share include:
- 1** Administrative, easement, and permit related costs;
 - 2** Property acquisitions, property surveys, and legal expenses unless specifically identified as eligible within the Flood Recovery Property Acquisition Program, the Flood Protection Program, or the Water Retention Projects;
 - 3** Work and costs incurred prior to a cost-share approval date, except for emergencies as determined by the Chief Engineer;
 - 4** Project related operation, maintenance, replacement, and reconstruction costs;
 - 5** Funding contributions provided by federal, other state, or other North Dakota state entities that supplant costs;
 - 6** Work incurred outside the scope of the approved study or project.
- F. EXPANSIONS** are construction related projects that increase the project area or users served. Expansions do not include maintenance, replacement, or reconstruction activities.
- G. LOCAL SPONSOR** is the entity submitting a cost-share application and must be a political subdivision, state entity, or commission legislatively granted North Dakota recognition that applies the necessary local share of funding to match State Water Commission cost-share. They provide direction for studies and projects, public point of contact for communication on public benefits and local concerns, and acquire necessary permits and rights-of-way.
- H. MAINTENANCE COSTS** include repairs, deferred repairs, and general upkeep of facilities to allow facilities to continue proper operation and function.

- I. **PROGRAM** is a subcategory of cost-share that is typically associated with a federal initiative and may cover all phases of a study or implementation of a project.
- J. **PROJECT** is the water-related construction activity.
- K. **REPLACEMENT AND RECONSTRUCTION COSTS** include the removal of portions of facilities or components that have completed their useful life and substitution with different components to obtain the same or similar function of the original facilities or components.
- L. **SUSTAINABLE OPERATION, MAINTENANCE, AND REPLACEMENT PLAN** is a description of the anticipated operation, maintenance, and replacement costs with a statement that the operation, maintenance, and replacement of the project will be sustainable by the local sponsor.

II. COST-SHARE APPLICATION AND APPROVAL PROCEDURES. The State Water Commission will not consider any cost-share applications for water related projects or studies unless the local sponsor first makes an application to the Chief Engineer. No funds will be used in violation of Article X, § 18 of the North Dakota Constitution (Anti-Gift Clause).

- A. **APPLICATION REQUIRED.** An application for cost-share is required in all cases and must be submitted by the local sponsor on the State Water Commission Cost-Share Application form. Applications for cost-share are accepted at any time. Applications received less than 30 days before a State Water Commission meeting will not be considered at that meeting and will be held for consideration at a future meeting. The application form is maintained and updated by the Chief Engineer and must include the following:

- 1 Category of cost-share activity
- 2 Location of the proposed project or study area
- 3 Description, purpose, goal, objective, narrative of the proposed activities
- 4 Delineation of costs
- 5 Potential federal, other state, or other North Dakota state entity participation
- 6 **Engineering plans, if applicable**
- 7 Status of required permitting
- 8 Potential territorial service area conflicts or service area agreements, if applicable
- 9 Sustainable operation, maintenance, and replacement plan for projects
- 10 Additional information as deemed appropriate by the Chief Engineer

Applications for cost-share are separate and distinct from the State Water Commission biennial project information collection effort that is part of the budgeting process. All local sponsors are encouraged to submit project and study financial needs during the budgeting process. Projects and studies not submitted as part of the project information collection effort may be held until action can be taken on those that were included during budgeting, unless determined to be an emergency that directly impacts human health and safety or that are a direct result of a natural disaster.

B. PRE-APPLICATION. A pre-application process is allowed for cost-share of assessment projects. This process will require the local sponsor to submit a brief narrative of the project, preliminary designs, and a delineation of costs. The Chief Engineer will then review the material presented, make a determination of project eligibility, and estimate the cost-share funding the project may anticipate receiving. A project eligibility letter will then be sent to the local sponsor noting the percent of cost-share assistance that may be expected on eligible items as well as listing those items that are not considered to be eligible costs. In addition, the project eligibility letter will state that the Chief Engineer will recommend approval when all cost-share requirements are addressed. The local sponsor may use the project eligibility letter to develop a project budget for use in the assessment voting process. Upon completion of the assessment vote and all other requirements an application for cost-share can be submitted.

C. REVIEW. Upon receiving an application for cost-share, the Chief Engineer will review the application and accompanying information. If the Chief Engineer is satisfied that the proposal meets all requirements, the Chief Engineer will present the application along with a recommendation to the State Water Commission for its action. The Chief Engineer's review of the application will include the following items and any other considerations that the Chief Engineer deems necessary and appropriate. For cost-share applications over \$100 million, additional information requested by the State Water Commission will be used to determine cost-share.

- 1 Applicable engineering plans;
- 2 Field inspection, if deemed necessary by the Chief Engineer;
- 3 The percent and limit of proposed cost-share determined by category of cost-share activity and eligible expenses;
- 4 Assurance of sustainable operation, maintenance, and replacement of project facilities by the local sponsor;
- 5 Status of permitting and service area agreements;
- 6 Available funding in the State Water Commission budget and budget priorities.

The Chief Engineer is authorized to approve cost-share up to \$75,000 in state funds and also approve cost overruns up to \$75,000 in state funds without State Water Commission action.

D. NOTICE. The Chief Engineer will give notice to local sponsors when their application for cost-share is placed on the tentative agenda of the State Water Commission's next meeting.

E. AGREEMENT AND DISTRIBUTION OF FUNDS. No funds will be disbursed until the State Water Commission and local sponsor have entered into an agreement for cost-share participation. No agreement will be entered until all required State Engineer permits have been acquired.

For construction projects, the agreement will address indemnification and vicarious liability language. The local sponsor must require that the local sponsor and the state be made an additional insured on the contractor's commercial general liability policy including any excess policies, to the extent applicable. The levels and types of

insurance required in any contract must be reviewed and agreed to by the Chief Engineer. The local sponsor may not agree to any provision that indemnifies or limits the liability of a contractor.

For any property acquisition, the agreement will specify that if the property is later sold, the local sponsor is required to reimburse the Commission the percent of sale price equal to the percent of original cost-share.

The Chief Engineer may make partial payment of cost-sharing funds as deemed appropriate. Upon notice by the local sponsor that all work or construction has been completed, the Chief Engineer may conduct a final field inspection. If the Chief Engineer is satisfied that the work has been completed in accordance with the agreement, the final payment will be disbursed to the local sponsor, less any partial payment previously made.

- F. **LITIGATION.** If a project submitted for cost-share is the subject of litigation, the application may be deferred until the litigation is resolved. If a project approved for cost-share becomes the subject of litigation before all funds have been disbursed, the Chief Engineer may withhold funds until the litigation is resolved. Litigation for this policy is defined as legal action that would materially affect the ability of the local sponsor to construct the project; that would delay construction such that the authorized funds could not be spent; or is between political subdivisions related to the project.

III. COST-SHARE CATEGORIES. The State Water Commission supports the following categories of projects and studies for cost-share. Generally, engineering expenses are cost-shared as follows: Pre-construction engineering and other expenses approved by the State Water Commission are cost-shared up to 35 percent.

Option 1- Engineering expenses related to construction are cost-shared at the same percent as the construction costs when approved by the State Water Commission.

Option 2 – All engineering expenses approved by the State Water Commission cost-shared up to 50 percent.

Option 3 – Preconstruction expenses approved by the State Water Commission cost-shared up to 35 percent, and if the project is approved for construction cost-share then engineering changes to 50 percent including retroactive of pre-construction engineering costs.

- A. **PRE-CONSTRUCTION EXPENSES.** The State Water Commission supports local sponsor development of feasibility studies, mapping, and engineering designs as part of pre-construction activities to develop support for projects within this cost-share policy including:

- 1 Feasibility studies to identify water related problems, evaluate options to solve or alleviate the problems based on technical and financial feasibility, and provide recommendation and cost estimate, of the best option to pursue.

- 2 Engineering design to develop plans and specifications for permitting and construction of a project, including associated cultural resource and archeological studies.
- 3 Mapping and surveying to gather data for a specific task such as flood insurance studies and flood plain mapping, LiDAR acquisition, and flood imagery attainment, which are valuable to managing water resources.

Copies of the deliverables must be provided to the Chief Engineer upon completion. The Chief Engineer will determine the payment schedule and interim progress report requirements.

B. WATER SUPPLY

- 1 **WATER SUPPLY PROJECT.** The State Water Commission supports water supply efforts and will use a grant and loan program. The local sponsor may apply for water supply funding, and the application will be reviewed to determine project priority. Projects will be prioritized within categories (1) thru (5) below. Projects within categories (1) and (2) may be considered for grant funding of up to 60 percent cost-share. Grant funding within category (3) will be on a case-by-case basis. Projects within categories (1) through (5) may be considered for loan funding. After cost-share for grant funding has been determined, the local sponsor may be considered for loan funding in addition to the grant funding. The combination of grant and loan funding will not exceed 80 percent from the State Water Commission.

- (1) Addresses a lack of water supply for domestic use or upgrades a water supply to primary safe drinking water act standards.
- (2) Supports improvements and expansions of a water supply system serving an area that has a 3-year average population growth in excess of 3% per year, as determined by the Chief Engineer
- (3) Water treatment improvements that address impacts from other State Water Commission projects. Grant funding to be determined based on level of impact by State Water Commission project.
- (4) Assists with improvements in service areas where the anticipated cost per user each year (based on 5,000 gallons per month) divided by the average annual median income per user is in the top quartile of its peer group water systems in the state (large city, small city, and regional) as determined by the Chief Engineer. Debt per capita, either actual or anticipated, may be used as an additional determinant of financial need.
- (5) Addresses extraordinary repairs or replacement needs of a water supply system due to damages from a recent natural disaster.

The State Water Commission will periodically set the interest rate on the loan program, taking into consideration other loan programs. If ability to pay for the local share is a concern, the Chief Engineer may provide a recommendation for public finance options or loan funding.

Water Depots for industrial use receiving water from facilities constructed using State Water Commission funding or loans have the following additional requirements:

- a) Domestic water supply has priority over industrial water supply in times of shortage. This must be explicit in the water service contracts with industrial users.
- b) If water service will be contracted, public notice of availability of water service contracts is required **when the depot becomes operational**.
- c) A portion of the water supply at any depot must be available on a non-contracted basis for public access.

2 MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY PROGRAM. The Municipal, Rural, and Industrial Water Supply Program, **which uses federal funds**, is administered according to North Dakota Administrative Code Article 89-12.

3 DROUGHT DISASTER LIVESTOCK WATER SUPPLY PROJECT ASSISTANCE PROGRAM. This program is to provide assistance with water supply for livestock impacted during drought declarations and is administered according to North Dakota Administrative Code Article 89-11.

C. FLOOD CONTROL. The State Water Commission may provide cost-share for eligible items of flood control projects protecting communities from flooding and may include the repair of dams that provide a flood control benefit.

1 FLOOD RECOVERY PROPERTY ACQUISITION GRANT PROGRAM. This program is used to assist local sponsors with flood recovery expenses that provide long term flood damage reduction benefits through purchase and removal of structures **in areas where flood damage has occurred**. All contracted costs directly associated with the acquisition will be considered eligible for cost-share. Contracted costs may include: appraisals, legal fees (title and abstract search or update, etc.), property survey, closing costs, hazardous materials abatement needs (asbestos, lead paint, etc.), and site restoration.

The State Water Commission may provide cost-share of the eligible costs of approved flood recovery expenses that provide long term flood reduction benefits based on the following criteria and priority order:

- a) Local Sponsor has flood damage and property may be needed for construction of temporary or long-term flood control projects, may be cost-shared up to 75 percent.
- b) Local Sponsor has flood damage and property would increase conveyance or provide other flood control benefits, may be cost-shared up to 60 percent.

Prior to applying for assistance, the local sponsor must adopt and provide to the Chief Engineer an acquisition plan (similar to plans required by Hazard Mitigation Grant Program (HMGP)) that includes the description and map of properties to be acquired, the estimated cost of property acquisition including contract costs, removal of structures, the benefit of acquiring the properties, and

information regarding the ineligibility for HMGP funding. Property eligible for HMGP funding is not eligible for this program. The acquisition plan must also include a description of how the local sponsor will insure there is not a duplication of benefits.

Over the long-term development of a flood control project following a voluntary acquisition program, the local sponsor's governing body must officially adopt a flood risk reduction plan or proposal including the flow to be mitigated. The flow used to develop the flood risk reduction plan must be included in zoning discussions to limit new development on other flood-prone property. An excerpt of the meeting minutes documenting the local sponsor's official action must be provided to the Chief Engineer.

Local sponsor must fund the local share for acquisitions; this requirement will not be waived. Federal funds are considered "local" for this program if they are entirely under the authority and control of the local sponsor.

The local sponsor must include a perpetual restrictive covenant similar to the restrictions required by the federal HMGP funding with the additional exceptions being that the property may be utilized for flood control structures and related infrastructure, paved surfaces, and bridges. These covenants must be recorded either in the deed or in a restrictive covenant that would apply to multiple deeds.

The local sponsor must provide justification, acceptable to the Chief Engineer, describing the property's ineligibility to receive federal HMGP funding. This is not meant to require submission and rejection by the federal government, but rather an explanation of why the property would not be eligible for federal funding. Example explanations include: permanent flood control structures may be built on the property; project will not achieve required benefit-cost analysis to support HMGP eligibility; or lack of available HMGP funding. If inability to receive federal funding is not shown to the satisfaction of the Chief Engineer, following consultation with the North Dakota Department of Emergency Services, the cost-share application will be returned to the local sponsor for submittal for federal funding prior to use of these funds.

- 2 **FLOOD PROTECTION PROGRAM.** This program supports local sponsor efforts to prevent future property damage due to flood events. The State Water Commission may provide cost-share grants for up to 60 percent of eligible costs. For projects with federal participation, the cost-share may be up to 50 percent of eligible costs.

Engineering design suitable for permitting by the State Engineer must be completed before any construction cost-share is approved. The cost-share application must include the return interval or design flow for which the structure will provide protection. Local share must be provided on a timely basis. The State Water Commission may lend a portion of the local share based on demonstrated financial need.

Property acquisition costs not eligible for HMGP funding, within the footprint of a project and that only include the purchase price of the property may be eligible under this program. Contracted costs related to property acquisition are not eligible. The local sponsor must include a perpetual restrictive covenant on any properties purchased under this program similar to the restrictions required by the federal HMGP funding with the additional exceptions being that the property may be utilized for flood control structures and related infrastructure, paved surfaces, and bridges. These covenants must be recorded either in the deed or in a restrictive covenant that would apply to multiple deeds.

- 3 **FEMA LEVEE SYSTEM ACCREDITATION PROGRAM.** The State Water Commission may provide cost-share up to 60 percent for eligible services for FEMA 44 CFR 65.10 flood control or reduction levee system certification analysis. The analysis is required for FEMA to accredit the levee system for flood insurance mapping purposes. Typical eligible costs include site visits and field surveys to include travel expenses, hydraulic evaluations, closure evaluations, geotechnical evaluations, embankment protection, soils investigations, interior drainage evaluations, internal drainage hydrology and hydraulic reports, system modifications, break-out flows and all other engineering services required by FEMA. The analysis will result in a comprehensive report to be submitted to FEMA and the Chief Engineer.

Administrative costs to gather existing information or to recreate required documents, maintenance and operations plans and updates, and emergency warning systems implementation are not eligible.

- 4 **DAM SAFETY AND EMERGENCY ACTION PLANS.** The State Water Commission supports dam safety including repairs and removals, as well as emergency action plans. The State Water Commission may provide cost-share for up to 75 percent of the eligible items for dam safety repair projects and dam breach or removal projects. Dam safety repair projects that are funded with federal or other agency funds may be cost-shared up to 75 percent of the eligible non-matched costs. The intent of these projects is to return the dam to a state of being safe from the condition of failure, damage, error, accidents, harm or other events that are considered non-desirable. The State Water Commission may lend a portion of the local share based on demonstrated financial need.

The State Water Commission may provide cost-share up to 80 percent, for emergency action plans (EAPs) of each dam classified as high or medium significant hazard. The cost of a dam break model is only eligible for reimbursement for dams classified as a high hazard.

- 5 **WATER RETENTION PROJECTS.** The goal of water retention projects is to reduce flood damages by storing floodwater upstream of areas prone to flood damage. The State Water Commission may provide cost-share up to 60 percent of eligible costs for flood retention projects including purchase price of the property. Contracted costs related to property acquisition are not eligible. For projects with federal participation, the cost-share may be up to 50 percent. Water retention structures constructed with State Water Commission cost-share must meet state dam safety requirements, including the potential of cascade

failure. A hydrologic analysis including the operation plan, quantifying the flood reduction benefits for 25, 50, and 100-year events must be submitted with the cost-share application.

- 6 **SNAGGING AND CLEARING PROJECTS.** Snagging and clearing projects consist of the removal and disposal of fallen trees and associated debris encountered within or along the channel. Snagging and clearing projects are intended to prevent damage to structures such as bridges, and maintain the hydraulic capacity of the channel during flood flows. The State Water Commission may provide cost-share for up to 50 percent of the eligible items for snagging and clearing as well as any sediment that has accumulated in the immediate vicinity of snags and any trees in imminent danger of falling in the channel on watercourses as defined in N.D.C.C. § 61-01-06. Items that are not eligible include snagging and clearing of man-made channels; the dredging of watercourses for sediment removal; the clearing and grubbing of cattails and other plant vegetation; or the removal of any other unwanted materials.

D. RURAL FLOOD CONTROL. The primary purpose of rural flood control projects is to manage runoff or drainage from agricultural sources or to provide flood control in a rural setting. Typically, rural flood control projects consist of drains, channels, diversion ditches, or ring dikes. Items that are not eligible include projects that are managing runoff or drainage from residential or urban sources.

- 1 **DRAINS, CHANNELS, OR DIVERSION PROJECTS.** These projects are intended to improve the drainage and management of runoff from agricultural sources. The State Water Commission may provide cost-share up to 45 percent of the eligible items for the construction of drains, channels, or diversion ditches. Expansions and improvements may be cost-shared on the basis of increased drainage capacity achieved or increased area served. Construction costs for public road and railroad crossings that are integral to the project are eligible for cost-share. If an assessment-based rural flood control project involves multiple districts, each district involved must join in the cost-share application.

Cost-share applications for rural assessment drains will only be processed after the assessment vote has passed, the final design is complete, and a drain permit has been obtained. If the local sponsor wishes to submit a cost-share application prior to completion of the aforementioned steps, a pre-application process will be followed.

- 2 **RING DIKE PROGRAM.** This program is intended to protect individual rural homes and farmsteads. All ring dikes within the program are subject to the Commission's Individual Rural and Farmstead Ring Dike Criteria provided in Attachment A. Protection of a city, community or development area does not fall under this program, but may be eligible for the flood control program. The State Water Commission may provide up to 60 percent cost-share of eligible items for ring dikes. Landowners enrolled in the Natural Resource Conservation Service's (NRCS) Environmental Quality Incentive Program (EQIP) who intend to construct rural or farmstead ring dikes that meet the State Water Commission's elevation design criteria are eligible for a cost-share

reimbursement of 20 percent of the NRCS construction payment, limited to a combined NRCS and State Water Commission contribution of 80 percent of eligible project costs. *Cost share is limited to \$40,000 per ring dike.*

- E. **RECREATION.** The State Water Commission may provide cost-share up to 40 percent for projects intended to provide water-based recreation. *Typical projects provide or complement water-based recreation associated with dams.*
- F. **IRRIGATION.** The State Water Commission may provide cost-share for up to 50 percent of the eligible items for irrigation projects. The items eligible for cost-share are those associated with new central supply works, including water storage facilities, intake structures, wells, pumps, power units, primary water conveyance facilities, and electrical transmission and control facilities.
- G. **BANK STABILIZATION.** The State Water Commission may provide cost-share up to 50 percent of eligible items for bank stabilization projects on public lands or those lands under easement by federal, state, or political subdivisions. Bank stabilization projects are intended to stabilize the banks of lakes or watercourses, as defined in N.D.C.C § 61-01-06, with the purpose of protecting public facilities. Drop structures and outlets are not considered for funding as bank stabilization projects, but may be eligible under other cost-share program categories. Bank stabilization projects typically consist of a rock or vegetative design and are intended to prevent damage to public facilities including utilities, roads, or buildings adjacent to a lake or watercourse.

Draft Cost Share Comments

Executive Summary

Page 1*

I. Definitions and Eligibility

Eligibility should not be included in this section (*ND Rural Water Systems Assoc. & ND Water Users Assoc.*)

A. Construction Costs:

Project costs should be eligible for cost share. (*Garrison Diversion, NDWRDA, Michael Gunsch & ND Water Users Assoc., City of Grand Forks*)

All related project costs (planning, feasibility study, land acquisition, design, construction, etc.) should be eligible (except preliminary engineering reports and operations and maintenance). (*City of Grand Forks*)

Add language that includes facilities and underground work for water supply, treatment, pumping, storage and distribution/transmission. (*ND Water Users Assoc. & Southeast Water Users*)

B. Engineering Services:

Start engineering cost-share at 35%, but then if the project moves forward, increase it to the same percentage as the project. (*City of Grand Forks*)

Increase percentage cost share for engineering. (*Stutsman Rural Water, Dennis Reep, Greater Ramsey Water District, North Valley Water District*)

USACE engineering services should be eligible for funding. (*City of Fargo*)

All project categories should be eligible for cost share regarding engineering expenses and all at the same cost share level. (*Red River Retention Authority, Trill County WRD, RRJWRD, Richland County WRD, Cass County WRD, Walsh County WRD, North Cass WRD & Red River Watershed MGT. Board*)

Engineering administrative support services should be eligible. (*Dennis Reep, NDWRDA, ND Water Users Assoc. & Southeast Water Users, Michael Gunsch*)

Modify or remove engineering selection requirement. (*Michael Gunsch, ACEC, RRJWRD, Trill County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority, Red River Watershed Mgt. Board, City of Fargo, City of Grafton, NDWRDA, Dennis Reep & Southeast Water Users*)

C. Improvements:

(ND Rural Water Systems Assoc.)

Are construction related projects that upgrade a facility to provide increased efficiency or other benefits? Improvements do not include any activities that are operation, maintenance, replacement, or reconstruction.

(Ackerman-Estvold)

It is recommended that the definition of "Improvements" be expanded to incorporate the following:

"... except in cases where facility upgrades require a replacement or reconstruction of the existing facility to complete the upgrade."

Projects built in the 1970s were not built as they should have been. These projects are improvements and not maintenance. *(North Valley Water District)*

D. Ineligible Items:

Should be moved *(ND Rural Water Systems Assoc.)*

Should be removed *(ND Water Users Assoc., NDWRDA, City of Fargo)*

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1. Permit related cost should be eligible. *(ND Rural Water Systems Assoc., Michael Gunsch)*

Administrative, easement, and permit related costs should be eligible. *(Southeast Water Users & City of Fargo)*

2. **Property & Easement Acquisitions as ineligible items:**

Property acquisition should be eligible. *(RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority & Red River Watershed Mgt. Board)*

Property acquisitions, property surveys, and legal expenses should be considered "eligible" for all projects. *(City of Fargo)*

(ND Rural Water Systems Assoc.)

Legal expense should be eligible.

3. *(Michael Gunsch, Dennis Reep)*

Allow greater flexibility to approve projects that have commenced.

4. Replacement and reconstruction costs should be eligible for cost-share when infrastructure has reached the end of its intended useful life. *(City of Fargo)*

- 6. Policy:**
Policies should not apply until after a project has been adopted by the SWC.
(Garrison Diversion)
- E. Expansions**
(ND Water Users Assoc., ND Rural Water Systems Assoc., Southeast Water Users)
Allow replacement and reconstruction.
- F. Local Sponsor**
Tribal entities be included as local sponsors *(NDWRDA)*
- (ND Rural Water Systems Assoc., ND Water Users Assoc. & Michael Gunsch)*
Remove federal entity as local sponsor.
- Tribal water supply projects are supposed to be the responsibility of the federal government. *(SWC Member)*
- G. Maintenance Costs**
Remove: “including deferred repairs” *(ND Water Users Assoc., & ND Rural Water Systems Assoc.)*
- H. Project**
(NDWRDA, ND Water Users Assoc., Southeast Water Users & ND Rural Water Systems Assoc.)
Add planning and engineering to project definition.
- I. Replacement and Reconstruction Costs**
Remove this paragraph. *(ND Water Users Assoc.)*
- J. Sustainable Operation, Maintenance, and Replacement Plan**
Remove capital replacement. *(ND Water Users Assoc., Michael Gunsch)*
- (ND Rural Water Systems Assoc.)*
- K. Affordability**
Add section describing.

II. Cost-Share Application and Approval Procedures

The process should generally follow the exiting process used by the MR&I Program. *(ND Water Users Assoc. & Southeast Water Users)*

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A. Application Required

9. *(ND Water Users Assoc.)*
Remove replacement plan.

C. Review

4. *(Michael Gunsch)*
Add where applicable of project.

(ND Water Users Assoc.)
Delete replacement.

(Ackerman-Estvold)
Strengthen language.

Increase Chief Engineer authorization to \$100,000. *(ND Water Users Assoc., Michael Gunsch)*

It is recommended that the Chief Engineer present applications along with a recommendation to approve or deny the application. *(NDWRDA)*

If the proposal or parts of the proposal are not eligible for funding, the Chief Engineer shall notify the applicant of and include the reasons for ineligibility in writing. *(ND Rural Water Systems Assoc.)*

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F. Litigation:

Remove this paragraph. *(NDWRDA, ND Water Users Assoc. & City of Fargo)*

Define litigation. *(Michael Gunsch)*

Blanket application of this policy to any project that might require some litigation seems unnecessary. This should have a closer review. *(RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority & Red River Watershed Mgt. Board)*

III. Cost-Share Categories

Change cost share percentage for engineering. It is recommended engineering services be treated the same as any other eligible item. There are other areas where a 35% cost share is inadequate as well. (*Michael Gunsch*)

Suggested to remove: Engineering services for all categories may be eligible for cost-share up to 35 percent. (*ND Water Users Assoc., Michael Gunsch, ND Water Users Assoc. & ND Rural Water Systems Assoc.*)

A. Pre-Construction Expenses:

All project costs (except O&M and deferred maintenance) should be eligible for cost-share, including pre-construction costs (planning, engineering, etc.) (*City of Fargo*)

Suggest limiting pre-construction and engineering cost-share to 60% rather than 35%. (*City of Fargo*)

50%-75%. (*Michael Gunsch suggested wording*)

75% (*ND Rural Water Systems Assoc.*)

Would like to see preconstruction expenses at 35% as the minimum rather than the maximum. (*Mercer County WRD*)

1. Feasibility Studies:

Engineering costs for feasibility studies should be funded at 75% (*Garrison Diversion*)

There is opportunity for the Local Sponsor to recoup the local share cost of mapping and surveying data, but it should not be in excess of what was spent by the Local Sponsor. (*Ackerman-Estvold*)

B. Water Supply Projects:

Policy should address water service to un-served areas. (*Garrison Diversion*)

Allow 50% cost-share for improvements. (*City of Devils Lake*)

Establish an upper limit per hookup. (*Garrison Diversion*)

All prudent and regional water supply projects should qualify for funding. (*City of Grand Forks*)

Should the SWC be granting cities a competitive advantage in economic development? *(SWC Member)*

Per user hook-up cap should be part of the discussion. *(SWC Member)*

There should be no per user hook-up cap. *(Western Area Water Supply)*

Include individuals that are not part of a project expansion. *(Great Ramsey)*

Cost-share for water supply should be higher than for flood control. *(All Seasons)*

Water Supply Grant and Loan Program:

Separate water rates by large and small cities, and then rural. *(Garrison Diversion)*

Regional and rural systems loans should be at a higher percentage – possibly as high as 80% of the total cost. *(Representative Jim Schmidt)*

Recommend a tiered grant system. Maximum grant of 75% for rural water systems and small municipals (under 5,000 population), and 50 % for large municipals. *(City of Grafton)*

60% State grant funding should be applied to all five project categories. *(City of Fargo)*

Increase Grant Fund amount to 65% *(City of Minot & Bob Schempp)*

Population growth should not be required for grant eligibility *(City of Fargo)*

Grant funding should be considered for recovery for natural disasters *(City of Fargo)*

Cost-share, at a minimum, grant funding for 50 percent of project costs. In instances warranted by local needs and project rankings, grant funding of up to 75 percent may be awarded on a project-by-project basis. *(City of Grand Forks)*

Additional language should be added that the local sponsor should show a good faith effort to work with neighboring entities. This language could indicate that funding would not be considered for local sponsors who have been in litigation with a neighboring entity for more than 7 years regarding Water Supply. *(Ackerman-Estvold)*

Loan programs should be for smaller or larger municipal projects. Grant percentages for rural/regional should remain at 75%, and even be approved up to 90% in special cases. *(North Valley Water District)*

A new policy that would only provide grants to support expansion of a water supply system serving an area that has a 3-year population growth in excess of 3% per year is discriminatory *(North Valley Water District)*

Cost-share for water supply with a grant on a scale from 50 percent to 75 percent. *(City of Grand Forks)*

A state sponsored loan program (preferably funded with monies other than the Resources Trust Fund) should be available to cover the local share. *(City of Grand Forks)*

Funding should be considered for all prudent rural/regional water supply projects. The cost-share for these projects should include grants of between 60 to 75 percent. *(Southeast Water Users)*

Suggested a rewrite. *(ND Rural Water Systems Assoc.)*

(2) Recommend that all prudent water supply, treatment, and distribution of improvements, independent of the average population growth anticipated, be eligible. *(Southeast Water Users)*

(2) City of Minot's water use and population has grown 20% in past 3-4 years. Census info presented only shows 2%. *(City of Minot)*

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(Matt Peterson suggested the following)

VC Flood Control Long-term loan

- Base on State Revolving Loan Fund of 1% plus .5% for a total of 1.5%
- Amortize over 30 years
- Consider forgivable option to loan
- Allow the loan program to be used for the 40% local share of flood control project

Fund at 60%. *(North Prairie Rural Water District & Stutsman Rural Water)*

Up to 75% *(Garrison Diversion)*

All new pipe installed cost share 75% to new or existing customers. *(Greater Ramsey Water District)*

If a customer needs water and is not included in a project and the District has a construction policy to defray the cost of construction to the member, the SWC shall also participate in the cost share with the district. (*Greater Ramsey Water District*)

Water Depots:

Do not fund water depots. (*City of Minot*)

2. Municipal, Rural and Industrial Water Supply Program

There is apparently an issue with the use of the NDAC in this section and how it applies to the federal funds. During the discussion of the ND Water Users Board meeting it was a critical issue. If for some reason that issue is not raised by them I would recommend the question be asked as the thought should not be lost that there is some inconsistency here. (*Michael Gunsch*)

Policies should be the same for drinking water projects regardless if they are state or federal. (*Garrison Diversion*)

With federal MR&I funds becoming for scarce, the state should address more of those funding needs. (*City of Grand Forks*)

- 3. Rural Water Individual Connection Assistance Program.** This program is intended to assist individuals, who are not part of an expansion project, to connect to an existing regional/rural water supply system. The State Water Commission may provide up to 75 percent cost-share of eligible items for individuals connecting to a regional/rural water supply system, limited to a maximum cost-share of \$40,000(possibly what SWA currently uses). Project eligibility shall be consistent with current water supply project policies. (*ND Rural Water Systems Assoc.*)

C. Flood Control Projects:

Ability to pay should be considered for flood control projects. (*Valley City*)

Low interest loans for flood control projects finance over 20 to 40 years. (*Valley City*)

Clarify federal involvement. (*Bob Schempp*)

For projects less than \$100 million, the SWC may provide a grant not to exceed 75% of eligible costs. For projects over \$100 million, the SWC may provide a grant not to exceed 65% of eligible costs. Remove federal/no federal participation language. (*City of Grafton*)

Cost-share 75% of non-Federally funded projects in this category. (*City of Devils Lake*)

3. FEMA Levee System Certification Analyses and Reports

Remove: Ineligible costs include project administration; data and document gathering; maintenance and operations plans and updates; services to recreate required documents/plans that have not been developed; and emergency warning systems implementation. *-(NDWRDA & ND Water Users Assoc.)*

The language needs to be revised to clarify the eligible costs. *(Ackerman-Estvold)*

4. Dam Safety and Emergency Action Plans:

(Michael Gunsch)

Cost-share for up to 75 percent for dam safety repair projects and dam breach or removal projects.

(Michael Gunsch)

Dam safety repair projects that are funded with federal or other agency funds may be cost-shared up to 75 percent.

(Michael Gunsch)

Remove \$25,000 limit for EAP's.

Provide cost-share for up to 100 percent for dam safety repair projects and dam breach or removal projects. *(ND Water Users Assoc.)*

5. Water Retention Projects:

Provide cost-share up to 60 percent on projects without federal funding and 50 percent on projects with federal funding. *(ND Water Users Assoc.)*

Funding for retention should be increased to at least 60%. *(RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority & Red River Watershed Mgt. Board)*

Cost sharing should be 60% on projects without federal funding. This assumes engineering services are cost-shared as recommended. *(NDWRDA)*

Increase funding for retention to 75% at the very least increase for water supply projects at 60% of eligible costs. *(Red River Retention Authority, Trail County WRD, RRJWRD, Richland County WRD, Cass County Joint*

WRD, Walsh County WRD, North Cass WRD & Red River Watershed Mgt. Board)

Make land acquisition eligible. (*Jurgen Suhr*)

Land acquisition eligible cost share 75%. (*City of Grafton*)

Identification of easement and property acquisition expenses be eligible. (*RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority & Red River Watershed Mgt. Board*)

Surveying, easements and land acquisition should be eligible. (*City of Devils Lake*)

Increase the cost share amount in recognition of land cost but not fund land purchase. (*Michael Gunsch*)

It is clear that some want much higher cost-share, and land acquisition funds for land buyout. How many entities are promoting this, and how widespread over the whole state is this? Will this benefit the whole state, or a small section of the state? (*Tim Iwen*)

I am in contrast with those that want much higher cost-share and land acquisition cost- share, or grants, in the retention section. I believe the heavier the local involvement in projects, the wiser the states funds are used. (*Tim Iwen*)

The State should continue to encourage retention projects. The cost-share policy seems to discount water retention projects. (*City of Fargo*)

6. Snagging & Clearing Projects:

Removal of vegetation or debris other than trees should be eligible. (*Upper Sheyenne River Joint WRD*)

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D. Rural Flood Control Projects:

The term “stormwater” has been removed, which I agree with. The question here then is if the runoff or drainage that creates the flooding problem, (i.e., the source of floodwaters) is unrelated to the impact area the project costs are eligible? (*Michael Gunsch*)

1. Drains, Channels & Diversion Ditches:

Remove cap. (*RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority, Red River Watershed Mgt. Board, ND Water Users Assoc., Michael Gunsch, & NDWRDA*)

2. Ring Dikes:

Clarify application to rural residential properties and individual rural homes. (*Michael Gunsch*)

Create policy allowing individual users to connect to a rural/regional water system similar to the policy for the individual rural/farmstead ring dike is requested, with a maximum cost-share of \$40,000. (*Southeast Water Users*)

(*Ackerman-Estvold*)

Suggested additional design criteria.

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E. Recreation Projects:

Clarify if roads to recreation areas are eligible. (*Michael Gunsch*)

Obligate an amount of funds for water based recreation projects. (*City of Devils Lake*)

G. Bank Stabilization

Add a section allowing private homes and farmsteads currently under the threat of a meandering stream/river to be eligible for cost share up to 60 percent of the cost for bank stabilization, limited to a maximum cost share of \$40,000. (*Ackerman-Estvold*)

Project Prioritization

Project Prioritization:

Legislators would like to see not only a list of priorities, but the full list of needs to see all of the projects that might be out there. (*Senator Wardner*)

Look at project eligibility up-front prior to inclusion in the State Water Plan. This would include a review similar to what is conducted for cost-share. (*North Valley*)

If addressing “black water” is a high priority, is the state willing to do that at unlimited expense? (*City of Fargo*)

DOT develops plans to prioritize projects across the state, but then legislation gets passed and projects that might not get funded or are lower priority jump to the front. ***(City of Fargo)***

If ring dikes and retention are part of a larger flood control project, do they get higher priority? ***(City of Fargo)***

If a project misses the deadline for inclusion in the planning/prioritization process, do they need to wait for the next funding cycle? ***(James River Water Board)***

Consider, in part, the economic development impact of a project from a regional perspective and the benefit to the State's core agricultural economy. ***(City of Grand Forks)***

Prioritization of rural/regional water projects for expansion less than 25 percent of the system is a cause for concern with the current draft policy. Priority ranking for rural/regional water expansion projects are in the lower tier and the potential for receiving any grant funding with this lower priority ranking will be unlikely. We recommend that the priority ranking of any prudent rural/regional water expansion project be considered a high priority ranking, no matter the percentage of expansion. ***(Southeast Water Users)***

The prioritization of the project should consider a regionalization aspect. ***(Southeast Water Users)***

Water retention is in the 3rd quartile, and the studies for them are in the bottom quartile. Why even have a Prioritization Guidance Concept, if the funding for them is raised to the levels (or even higher) of the projects in the top two quartiles? ***(Tim Iwen)***

Projects should be prioritized based on their overall benefit to the State, including expanding the value added agricultural economy and diversification of opportunities. Mirror the Federal MR&I program, where a local sponsor at its own expense will be expected to provide a preliminary engineering report outlining the preliminary project specifics. ***(City of Grand Forks)***

General Comments

Too many cost-share percentages. Create uniformity and standardize. ***(Various Commenters)***

Local investment in projects is important as indication of seriousness of applicant. ***(SWC Member)***

Major Projects: (SWPP, NAWS, WAWS, RRVWSP, Minot flood control, Fargo flood control)

Water supply projects in excess of \$100M should be addresses on a case-by-case basis and not remain subject to the proposed cost share policies. *(NDWRDA, Michael Gunsch, City of Fargo, Garrison Diversion & Southeast Water Users)*

Sustainable Financing Program should be developed. Ex: long-term (50-year), low interest (0.5 or 1.0 percent) loan program. *(City of Fargo)*

Regional Providers and Regional Projects should be recognized and given preferential funding consideration. *(City of Fargo)*

Streamline Permit Process is necessary to facilitate cost participation agreements that require that all State permits be obtained prior to the “execution” of the cost participation agreements. *(City of Fargo)*

Policy needs to meet the SWC mission statement *(City of Fargo)*

All project-specific costs should be eligible for cost-share funding at a consistent level. *(City of Grand Forks)*

Equity:

Equity between flood control projects and water supply projects should be addressed by balancing the amount of funding allocated between the two different types of projects rather than attempting to equalize the cost-share percentage for these two distinctly different types of projects. *(Garrison Diversion)*

Secondary Standards:

A policy that gives a High Priority to secondary standards such as Iron, Manganese, and Sulfate have a direct impact on the quality of life in North Dakota. Providing a quality water supply for all of North Dakota should be a High Priority. *(Garrison Diversion)*

Engineering/Reports:

Instead of various amounts for projects use one standard percentage for everything. Should be 50 or 60 percent of engineering cost for every project. *(City of Minot)*

As-Built Plans and Reports

It is recommended that all projects receiving cost share funding greater than \$250,000 be required to submit As-Built plans to the SWC for filing with the state agency. *(Ackerman-Estvold)*

Additional Cost Share Project Categories:

Closed Basin Flood Outlet Projects:

Proposing an additional cost-share project category for Closed Basin Flood Outlet Projects, a category for projects similar to the Devils Lake Outlets. *(RRJWRD, Trail County WRD, Richland County WRD, Cass County WRD, North Cass WRD, Red River Retention Authority & Red River Watershed Mgt. Board)*

Separate Cost Share Policies:

There should be different cost-share policies for the three main program areas: Water Supply, Flood Control, and General Water Management. *(NDWRDA & Southeast Water Users)*

If the SWC could lead in developing a co-operative program, many small communities near the oil fields could grow by more than 3% if the money were available to acquire land to put in water and sewer in cooperation with a developer if there was one stop shopping to acquire the loan. If such a program could be developed then population growth could be spread over a larger area and more communities could grow. *(Mercer County)*

Ability to Pay:

Establish clearer criteria as to what the maximum cost for an individual service should be. *(Michael Gunsch)*

There needs to be a basis of affordability tied to Median Household Income (MHI). *(North Valley Water District)*

Utility rates alone should not be compared to determine affordability. *(City of Fargo)*

(City of Fargo suggests the following)

More comprehensive analysis of affordability or ability to pay considering the total effective water cost per meter or per volume including:

- All local funding options including, but not limited to utility rates, special assessments, property taxes, sales tax, etc.
- Develop an average ability to pay metric for all communities, or groups of similar communities by population.
- Base funding on a sliding scale comparing water system's effective rates within the peer-group.

(Matt Peterson suggested the following)

Ability to Pay Flexibility:

- Base local share percentage on ability to pay
- Valley City would request a local cost share of 10-15% versus the 40% in proposed policy for flood control projects

(Ackerman-Estvold had the following questions)

1. Will the Benefit/Cost Analysis be required for projects that have an overall cost greater than \$500,000 or will the \$500,000 threshold only be subject to the Cost Share portion?
2. What will the Benefit/Cost Analysis look like? What information will need to be provided to satisfy this analysis?
3. Has the SWC considered providing money in an initial project cost to help fund future major maintenance and/or project replacement?
4. Has the SWC considered providing instruction for funding regular maintenance and/or project replacement?

A problem in small counties with fewer local resources is that they have the need and support for good projects but can't get them started due to lack of sufficient funding. ***(Upper Sheyenne River Joint)***