

## **Small Water Project Program Operating Criteria**

The Small Water Project Program (SWPP) is intended to be compatible with the Wyoming Water Development Commission conventional program and criteria and to parallel and partner with other local, state and federal programs that perform water resource planning and water development in Wyoming. Small water projects are defined as those projects that provide multiple benefits and where estimated construction costs, permit procurement, construction engineering and project land procurement are one hundred thousand dollars (\$100,000) or less, or where the maximum financial contribution from the commission is fifty percent (50%) of project costs or twenty-five thousand dollars (\$25,000), whichever is less.

Projects eligible for SWPP grant funding assistance include the construction or rehabilitation of small reservoirs and stock watering ponds, wells, pipelines and conveyance facilities, springs, windmills, and wetland developments. Irrigation works/projects may also be included as long as the potential public benefits associated with the project are documented in a conservation district's existing watershed plan or state or federal agency's resource management plan or environmental evaluation.

Projects may provide improved water quality, habitat and water for fish and wildlife, improved habitat within the riparian corridor, increased recreational opportunities, and address environmental concerns by providing water supplies to support plant and animal species, or serve as instruments to improve range land conditions. Priority will be given to those projects which provide benefit for wildlife, livestock, the environment and the recreational community that are supported by state and federal natural resource management agencies and related scientific/technical resource agencies.

It is the intention of WWDC to work closely with the land management agencies and the sponsoring entities in the administration of this program. It is hoped that this additional source of grant funding will help develop a partnership where local, state, and federal agencies can work together for the benefit of the people of Wyoming.

### **1. Small Water Project Program Definitions:**

- a. **Small Reservoir:** A small reservoir is any water storage facility up to twenty feet (20') of dam height and twenty acre-feet (20 AF) of capacity.
- b. **Well:** A well may be eligible for funding depending on the depth of the well and scope of the project. Projects that propose to drill into unproven aquifers, as determined by the WWDC, are not eligible for the SWPP but may be eligible through WWDC's conventional water development program.
- c. **Windmill:** The rehabilitation of existing windmills or construction of new windmills may be eligible for funding through the SWPP.

- d. Pipelines and conveyance facilities: The rehabilitation of existing pipelines or conveyance facilities or construction of new pipelines or conveyance facilities may be eligible for funding through the SWPP.
- e. Springs: Rehabilitation measures for improving flows of existing springs and installation of collection facilities associated with springs may be eligible for funding through the SWPP.
- f. Wetland Development: Development of wetlands where multiple benefits accrue may be eligible for funding through the SWPP.
- g. Irrigation: Irrigation projects may be funded by the SWPP under the following conditions:
  - 1. A watershed plan or environmental evaluation sponsored by a local conservation district, state or federal agency must first be conducted to identify and evaluate benefits that will accrue to the public from improvements to existing irrigation diversion and conveyance systems but not to include on-farm irrigation water application facilities.
  - 2. A watershed plan or environmental evaluation sponsored by a local conservation district, state or federal agency must first be conducted to evaluate whether bringing new acreage into production is compatible with the goals and management policy for the watershed.
  - 3. Small Water Project funding is only available for proposed irrigation works that cannot be addressed or funded by the traditional Water Development Program.
- h. Project Size: A project is limited by the budget, not by the number of facilities planned for construction. The budget limitation establishes a maximum financial SWPP contribution of not more than one hundred thousand dollars (\$100,000.00) over any consecutive revolving three-year period for projects on any individual allotment/lease on public ground or involving any individual private landholdings. The budget limitation also pertains to the estimated construction costs, permit procurement costs, construction engineering costs and project land procurement costs, which are limited to a maximum total expenditure of one hundred thousand dollars (\$100,000), or where the maximum financial contribution from the commission is fifty percent (50%) of the project costs or twenty-five thousand dollars (\$25,000), whichever is less.

## 2. Legal and Institutional Constraints:

- a. Sponsoring Entity: Pursuant to 2002 Wyo. Sess. Laws, Ch.88, §1, as amended by 2003 Wyo. Sess. Laws, Ch.69, §11, and 2004 Wyo. Sess. Laws, Ch. 118, §§10 and 11, SWPP funding is available only to eligible public entities.
- b. Eligible public entities are defined by state statute and include conservation districts, watershed improvement districts, water conservancy districts, irrigation districts, municipalities, the Joint Business Council of the Eastern Shoshone and Northern Arapaho Indian Tribes or other approved assessment districts formed in accordance with Wyoming law.

## 3. Application and Evaluation Process:

- a. Applications shall be received throughout the calendar year on the following dates: March 1, June 1, and September 1 to allow sufficient time for Water Development Office staff review of the applications. Applications meeting all of the requirements of these criteria will be considered during the regularly scheduled WWDC meetings in May, August, and November/December, respectively. The sponsoring entity should seek assistance from the Natural Resources Conservation Service (NRCS) or an appropriate land management agency in the application process. Preference will be given to projects that have support and participation from NRCS, or an appropriate land management agency. Applications shall include any letters of authorization or commitment of participation that may be available from other funding sources. The applications shall include any feasibility analyses that may be available and budgets necessary for and appurtenant to the project.
- b. Projects that provide multiple benefits and where estimated construction costs, permit procurement, construction engineering and project land procurement are one hundred thousand dollars (\$100,000) or less are eligible for commission consideration. Projects with a greater total cost are more complex and need a higher level of engineering than is required under this program. Those projects may be considered under the conventional WWDC program.
- c. The sponsoring entity shall demonstrate that proposed project development opportunities are in accord with the entity's long-range management plan for the watershed or submit evidence that documents that existing impairments will be re-mediated or addressed by a project proposed for funding under the SWPP. The sponsoring entity shall also provide available technical information, including hydrologic or geologic

data, generated by a WWDC Level I watershed plan, Programmatic Environmental Impact Statement or Environmental Assessment, or other equivalent planning process that outlines the conditions and assessments of the watershed and the site specific activities that may re-mediate existing impairments or adverse conditions. A professional engineer and/or geologist, as appropriate, shall certify any hydrologic or geologic analysis submitted by the sponsoring entity unless they have been generated by a federal agency.

- d. Contractors shall be selected using a competitive bid process with consideration given to NRCS County Average Cost guidelines.
- e. To address limitations described in Section 6 and Section 10 of Article 16, of the Constitution of the State of Wyoming, and to conform to the public benefit principle as defined in W.S. 41-2-501 (a)(v), the WWDC will determine, in its discretion and based upon supportive data presented, whether sufficient benefit will accrue to the public to justify construction of the project. Recommendations should be based on the ability of the proposed project to address watershed needs and concerns, e.g., stream impairments, stock watering shortages, water for wildlife, degradation of the riparian corridor or of the adjacent rangelands. The sponsor shall provide any available supporting documentation from the NRCS, the USFWS, the Wyoming Game and Fish Department and recognized wildlife/fishery organizations, e.g., Trout Unlimited, Ducks Unlimited, Rocky Mountain Elk Foundation or other recognized wildlife professionals and organizations that have historically contributed resources for habitat improvement in Wyoming. Possible justification for expenditure of funds may include but are not necessarily limited to the following:
  - 1. To improve water quality by the creation of new or by the enhancement of existing wetlands;
  - 2. To benefit fish and wildlife by constructing small reservoirs/stock ponds, spring developments, windmills, pipeline/water tank distribution systems to serve as a year-round water supply where appropriate;
  - 3. To increase public recreational opportunities that may accrue as a result of granting access to water projects for purposes of wildlife/bird watching; hunting and fishing;
  - 4. To improve rangelands and riparian communities by constructing and operating pipeline/water tank distribution systems;

5. To address stream impairments and other “total maximum daily load” issues pursuant to the Clean Water Act by improving irrigation efficiencies and practices; and,
6. To make beneficial use of water.

The sponsoring entity will be required to address the commission and provide testimony and other additional supporting evidence that justifies SWPP funding whenever the public benefit documentation, submitted with the application, is deemed to be insufficient by the Water Development Office.

- f. Projects may be constructed on private lands only where:
    1. a. Supporting “public benefit” documentation from a technical/resource agency, environmental/regulatory agency, or a wildlife professional or wildlife entity has been provided; and,
    - b. Public benefits have been described in a watershed plan or its substantive equivalent, such as:
      - i. A detailed long range management plan developed by the sponsoring entity; or,
      - ii. An environmental evaluation (EA) pursuant to the National Environmental Policy Act requirements sponsored by a local conservation district, state or federal agency;
  - or,
  2. Evidence has been provided that the project would assist with the resolution of a substantiated environmental impairment, aid in the recovery of threatened or endangered species or assists in preventing the listing of ESA candidate species.
- g. In approving any SWPP application, the WWDC shall make a specific finding of public benefit based upon such determination.

4. Program Expenditures:

- a. Costs that are eligible for funding include permit procurement, project land procurement, design and construction, project materials and invoiced contractor expenses. In-kind contributions are only eligible for projects

where installation of purchased and invoiced project materials is applicable.

- b. The sponsoring entity shall be responsible for ensuring that all permits, i.e., water rights, archaeological clearances, the Permit to Construct and any other needed environmental clearances, are obtained. The required permits and clearances shall be obtained prior to construction of the project. Copies of the permits and clearances shall be sent to the Water Development Office prior to the release of funds for construction. WWDC funds may be used as necessary to secure the technical assistance required to complete permitting activities before construction commences.
- c. Prior to project closeout, the sponsoring entity shall provide the WWDC an operation and maintenance plan for the life of the project.
- d. SWPP funds shall not be used to refinance projects that have already been completed. WWDC funds shall not be used to augment the operating budget of a sponsor or any other entity.
- e. A “Project Agreement” between the WWDC and the sponsoring entity, which documents the roles and responsibilities of the project participants, must be finalized prior to expenditure of SWPP funds.
- f. WWDC funds will not be disbursed until the project is completed, a certified bill is received from the sponsoring entity, including before, during and after photographs or video tape recordings, longitude and latitude coordinates for the project are submitted and the required notices of final settlement and payment to contractor pursuant to W.S. 16-6-116 (includes a 30 day advertisement) have been met. WWDC grant funds will be limited to fifty percent (50%) of eligible costs, as described in the “Project Agreement”, up to a maximum WWDC contribution of twenty-five thousand dollars (\$25,000).
- g. Project payments may only be made to the sponsoring entity at the time of completion of the project. The project sponsor may request payment for individual projects specified in the “Project Agreement” upon project completion.
- h. Upon receipt of WWDC funds, the sponsoring entity shall promptly pay the contractor.
- i. Any unspent funds remaining after three years have lapsed from the date the project agreement was finalized will revert to Water Development Account I or Water Development Account II, as appropriate.

#### 5. Rehabilitation Projects:

- a. A higher priority will be given to projects located on public land that is managed by a federal agency where matching cash or in-kind contributions are available from the federal land management agency.
- b. The sponsoring entity shall adhere to design standards for small water projects provided by the NRCS, an appropriate land management agency or a registered Professional Engineer and/or registered Professional Geologist.
- c. Projects may be financed by SWPP grant funds for fifty percent (50%) of the total project cost, not to exceed a total grant of twenty-five thousand dollars (\$25,000).
- d. Maintenance costs, as determined by the WWDC, are not eligible expenditures under the SWPP. Small Water Project Program funding is limited to a “one-time” or single rehabilitation of an existing project. Subsequent rehabilitation efforts would not be eligible for SWPP funding.
- e. The project application shall include, as available, all information necessary to accurately determine project feasibility. This information shall include pertinent hydraulic, hydrologic, geotechnical or natural resource management information and shall include a detailed description of the project including project cost estimates and an allowance for contingencies. For a storage project, the height of the embankment and the estimated capacity of the facility are required. The application shall include a project map, complete with latitude and longitude coordinates.
- f. Project water rights shall be in good standing with the State of Wyoming prior to construction of the project. It is the responsibility of the sponsoring entity to provide this information.

6. New Development Projects:

- a. A higher priority will be given to projects located on public land that is managed by a federal agency where matching cash or in-kind contributions are available from the federal land management agency.
- b. The sponsoring entity shall adhere to design standards for small water projects provided by the NRCS, an appropriate land management agency or a registered Professional Engineer and/or registered Professional Geologist.
- c. Projects may be financed by SWPP grant funds for fifty percent (50%) of the total project cost, not to exceed a total grant of twenty-five thousand dollars (\$25,000).

- d. The project application shall include, as available, all information necessary to accurately determine project feasibility. This information shall include pertinent hydraulic, hydrologic, geotechnical or natural resource management information and shall include a detailed description of the project including project cost estimates and an allowance for contingencies. For storage projects, an estimate of the height of the embankment and the estimated capacity of the facility are required. The application shall include a project map, complete with latitude and longitude coordinates.
- e. Project water rights shall be in good standing with the State of Wyoming and other any other required regulatory permits shall have been obtained prior to construction of the project. It is the responsibility of the sponsoring entity to provide this information.

7. Project Agreements

- a. The sponsoring entity may have more than one Project Agreement.
- b. A single Project Agreement may define terms and conditions for more than one project.