

November 4-6, 2026

WWDC MEETING

E-NOTEBOOK



*Wyoming Oil and Gas Conservation
Commission*

2211 King Blvd. | Casper, WY 82602



WYOMING WATER DEVELOPMENT COMMISSION

JOINT MEETING: WWDC/SWC
Wyoming Oil & Gas Conservation Commission
2211 King Blvd. | Casper, WY 82602
November 4-6, 2026

Livestream is available on the Legislature's website: www.wyoleg.gov.
To provide public comment for this meeting, or to view the Select Water
Committee agenda, please visit the Legislature's website.

WORKSHOP: WEDNESDAY, NOVEMBER 4, 2026 | 1:00 P.M. (Tour for Commissioners and
Select Water Committee Members to follow)

1. Call to Order
2. Roll Call
3. Sponsor Contingency Account Requests (A)
 - Enterprise WID District Canal Lining 2020
 - Hoback Junction Public Water System 2025
4. New Funding Applications and Amendments – Preliminary Review (B)
5. Discussion
6. Adjourn

*Tour - Meet at the Wyoming Area Office of the US Bureau of Reclamation
705 Pendell Blvd, Mills, WY*

JOINT MEETING AGENDA: THURSDAY, NOVEMBER 5, 2026 | 8:30 A.M.

**Action Items*

1. Call to Order
2. Pledge of Allegiance
3. Recognition of members present to establish a quorum
- *WWDC 4. Approval of Minutes (C)
 - September 24, 2026: WWDC Regular Meeting
- *WWDC 5. Planning Closeout Memos (D)
 - Wheatland Irrigation District Master Plan, Level I Study

WYOMING WATER DEVELOPMENT COMMISSION

- *WWDC 6. 2027 Funding Recommendations – New Development Program (See Attachment) (E)
 - Account I: Level III, II, I, General/Other
- *WWDC 7. 2027 Funding Recommendations – Rehabilitation Program (See Attachment) (F)
 - Account II: Level III, II, I, General/Other
- *WWDC 8. 2027 Funding Recommendations – Dam and Reservoir Program (See Attachment) (G)
 - Account III: Level III, II
- *WWDC/SWC 9. Sponsor Contingency Account Requests (A)
 - Enterprise WID District Canal Lining 2020
 - Hoback Junction Public Water System 2025
- *WWDC/SWC 10. Planning Contracts (H)
 - Greys River Basin Instream Flows (2026)
- *WWDC/SWC 11. Planning Project Amendments (I)
 - Middle Piney Reservoir, Amendment Sixteen
- *WWDC 12. Small Water Project Program Amendments (Time only) (J)
 - Clear Creek Conservation District
 - i. Johnson Holt Ditch
 - Hot Springs Conservation District
 - i. Kirby Creek Ranch Antelope Creek Spring & Pipeline
 - ii. Sonrise Pipeline
 - Little Snake River Conservation District
 - i. Bar Ranch Irrigation
 - ii. Findley Irrigation Structure
 - iii. Kelly State Pond No 1
 - iv. Kody Stocks Stock Reservoir
 - v. Little Snake Land Company Oxbow
 - vi. Montgomery Livestock Water Control Structure & Headgate
 - vii. Weber Drop Structure Rehabilitation
- *WWDC/SWC 13. Small Water Project Program Efficiency Study (K)
- *WWDC 14. Fontenelle Reservoir – 3rd Party Contract Considerations (L)
- *WWDC 15. Other Items Requiring Commission Action
- 16. Discussion

WYOMING WATER DEVELOPMENT COMMISSION

17. Future Meetings Schedule (M)

18. Adjourn

SELECT WATER COMMITTEE INTERIM TOPICS: FRIDAY, NOVEMBER 6, 2026 | 8:30 A.M.



WYOMING WATER DEVELOPMENT COMMISSION

COMMISSIONERS

Robert “Bob” Choma, Chairman | Water Division IV
robert.choma@wyoboards.gov

Dennis Pince, Vice-Chairman | Water Division III
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Todd Hoese, Secretary | Water Division II
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Patrick Kent
Attorney General’s Office

Brandon Gebhart
State Engineer

Greg Kerr
University of Wyoming

Wyoming Business Council

STAFF

Jason Mead
Director

Dale Vanlandingham
Administrative/Fiscal Manager

Holly Frank
Business Office Coordinator

Jason Mead
Dams & Reservoirs

Shawn Albrandt
High Savery Dam Technician

Cindy Hernandez
Project Manager

STAFF (Continued)

Barry Lawrence
Deputy Director – Planning

Sarah Bargsten
Grants Administrator

Keith Clarey
Project Manager

Jodie Jackson
Project Manager

Mabel Jones
Project Manager

Cheyenne Love
Project Manager

George Moser
Project Manager

Scott Otto
Project Manager

Chace Tavelli
Technical Resource Coordinator

Bill Brewer
Deputy Director – Construction

Sol Brich
Project Manager

Jeffrey Kaiser
Project Manager

Larry Mallo
Project Manager

Riley Otto
Project Manager

Jennifer Russell
Principal Engineer



WYOMING WATER DEVELOPMENT COMMISSION

Select Water Committee

Revised 01/21/2026

Vice Chairman/Senator Brian Boner (R)
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SPONSOR CONTINGENCY ACCOUNT REQUESTS

2026 RECOMMENDATION-CONSTRUCTION PROJECTS

Project Name: Enterprise WID Canal Lining 2020

Program: Rehabilitation

Project Type: Agriculture Irrigation

County: Fremont

Sponsor: Enterprise Watershed Improvement District

Proposed Budget Increase: \$116,400

Sponsor's Request: Additional Funding

Proposed Total Budget: \$726,400

WWDO Recommendation: Increase budget with Sponsor's Contingency Funds

	Existing	Changes	Revised Budget
WWDC Grant	\$ 408,700(40.9%) ¹	\$ 116,400 (50%) ³	\$ 525,100(42.6%)
WWDC Loan	\$ 201,300(20.1%) ²	\$ 0 (0%)	\$ 201,300(16.3%)
Other Funding Source	\$ 390,000(39.0%) ⁴	\$ 116,400(50%) ⁴	\$ 506,400(41.1%)
Total	\$ 1,000,000 (100%)	\$ 232,800(100%)	\$ 1,232,800 (100%)

¹ Not to Exceed 67% of project eligible costs

² 33% loan at 4% interest and a term of 50 years

³ Not to Exceed 50% of project eligible costs

⁴ Sponsor's responsibility

Project Manager: Mallo

Project Description: Sponsor contingency funding is being requested by the Enterprise Watershed Improvement District (WID) for agricultural irrigation system improvements to the upper Sawmill reach of the Enterprise Ditch, which has significant seepage losses, approximately three times greater than leakage in other areas of the system. This reach accounts for approximately 50 percent of the total seepage loss across the entire system.

The original scope of the project was for relining the canal reach, but given the nature of the area it was believed that the proposed lining system wouldn't last and the Engineer believed that they could pipe the ditch for a similar cost. The District requested the Engineer to move forward with a design for piping the ditch, but costs for piping started to escalate beyond expectations. Therefore, the District decided to revert back to a lining project, but chose a different lining material that is more suited to the conditions of the site. The project has been bid and the District will be seeking Sponsor's Contingency Funds to award, with the plan to construct next spring (2027) before the ditch is filled, if contingency funds are received.

The project bid is \$174,065 above the original budget. When combined with a 5 percent contingency, the total additional funding needed is \$232,769 (Rounded \$232,800). The Wyoming Water Development Office (WWDO) is recommending an additional \$116,400 in grant funding at a 50 percent cost-share.

RESOLUTION

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ENTERPRISE WATERSHED IMPROVEMENT DISTRICT REQUESTING ADDITIONAL CONTINGENCY FUNDING FROM THE WYOMING WATER DEVELOPMENT COMMISSION FOR COMPLETION OF THE SAWMILL LINING PROJECT

WHEREAS, the Enterprise Watershed Improvement District (the "District") is undertaking the Sawmill Lining Project (the "Project") to improve the reliability, efficiency, and long-term operation of the District's water-delivery infrastructure; and

WHEREAS, bids received for completion of the Project exceeded the available project budget, with the apparent bid approximately **\$200,000** over budget; and

WHEREAS, the Board of Directors finds that additional funding is necessary to address the bid overage, provide a reasonable construction contingency, and allow the Project to proceed to completion without reducing its intended scope or function; and

WHEREAS, the Board of Directors desires to request from the Wyoming Water Development Commission additional contingency funding in an amount equal to **twenty percent (20%) to twenty-five percent (25%)** of the applicable Project budget or eligible Project costs, subject to the Commission's approval and funding requirements, to support completion of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ENTERPRISE WATERSHED IMPROVEMENT DISTRICT:

Funding Request. The District hereby requests that the Wyoming Water Development Commission approve additional contingency funding of not less than twenty percent (20%) and up to twenty-five percent (25%) of the applicable Project budget or eligible Project costs for completion of the Sawmill Lining Project, with the final amount to be determined in coordination with the Commission.

ADOPTED by the Board of Directors of the Enterprise Watershed Improvement District this 28th day of August 2026.


Chair, Board of Directors

2027 RECOMMENDATION-CONSTRUCTION PROJECTS

Project Name: Hoback Junction Public Water System 2025

Program: New Development

Project Type: Municipal

County: Teton

Sponsor: Hoback Junction Water and Sewer District

Proposed Budget Increase: \$380,000

Sponsor's Request: Additional Funding

Proposed Total Budget: \$1,628,500

WWDO Recommendation: Increase budget with Sponsor's Contingency Funds

	Existing	Changes	Revised Budget
WWDC Grant ¹	\$ 1,248,500 (50%)	\$ 380,000 (50%)	\$ 1,628,500 (50%)
Other Funding Source ²	\$ 1,248,500 (50%)	\$ 380,000 (50%)	\$ 1,628,500 (50%)
Total	\$ 2,497,000 (100%)	\$ 760,000 (100%)	\$ 3,257,000 (100%)

¹ Not to Exceed 50% of project eligible costs

² Sponsor's responsibility

Project Manager: Mallo

Project Description: Sponsor's Contingency funding is being requested for the Hoback Junction Public Water System 2025. The project consists of standing up a new public water system with a new infiltration gallery adjacent to the Snake River, new treatment system (not eligible), new clear water vault and pump station, new transmission main, new storage tanks, a booster pump station (not eligible), and new distribution system (not eligible).

The project has been bid with the apparent low bidder exceeding the available funds. The District is seeking Sponsor's Contingency Funds to close the gap on funding with Teton County committing to providing \$300,000 in additional funds to match WWDO additional funds per the attached staff report on approved resolution. Therefore, at this point, the District will still be looking for an additional \$80,000 from other funding sources, to completely fund the project.

**HOBACK JUNCTION WATER AND SEWER DISTRICT
RESOLUTION
APPROVING STATE REVOLVING FUND LOAN**

WHEREAS the Board of Directors of the Hoback Junction Water and Sewer District (the "Board") has received bids for construction;

WHEREAS desires to submit a request to the Wyoming Water Development Commission for contingency funds in the amount of 50% of the eligible component costs plus 5% construction cost contingency for the lowest verified bidder;

WHEREAS these funds are necessary in order to move forward with award of the Project;

WHEREAS this Resolution requests these additional contingency funds in lieu of seeking additional funds for the project through legislative amendment;

WHEREAS these funds are intended to close the gap between the estimate and the received bids for construction of the WWDO Project Hoback Public Water System 2025; and

WHEREAS approval of this Resolution by the District, is approval for the District to seek contingency funds and formally withdraw the district request for legislative amendment.

NOW, THEREFORE, BE IT RESOLVED that the Board

1. Formally adopts this Resolution to submit a request to the Wyoming Water Development Commission for contingency funds in the amount of 50% of the eligible component costs plus 5% construction cost contingency for the lowest verified bidder in lieu of seeking additional funds for the project through legislative amendment.
2. Formally withdraws its request to seek additional funds for the project through legislative amendment.

APPROVED, PASSED, AND ADOPTED this 21 day of October, 2026.

Signed by:

Robert Frodeman

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Robert Frodeman, Chairman

DocuSigned by:

Chris Jaubert

48006164F1A14C9...

Chris Jaubert, Vice Chairman



Board of County Commissioners - Staff Report

Meeting Date: June 16, 2026
Submitting Dept: Public Works

Presenter: Chris Peltz, Water Resources Coordinator
Subject: Consideration of Amendment #3 to the Resolution for Hoback Junction Water and Sewer District Infrastructure Construction Funding and Agreement for Funding

Statement / Purpose: To consider Amendment #3 to Teton County Resolution #24-047 to provide up to \$300,000 towards a funding guarantee to support the Hoback Junction Water and Sewer District's (HJWSD) construction of a water supply system, and specifically to provide funding assurances to the Wyoming Water Development Commission and Wyoming State Lands and Investments Board.

Background / Description (Pros & Cons): On August 13, 2024, the Board of County Commissioners approved Resolution #24-047, which commits up to \$3M of the 2022 Water Quality Specific Purpose Excise Funds (SPET) to support construction of the HJWSD water supply system. This commitment, along with \$850,000 in funds to design and construct fire hydrants, as well as the \$25,000 the County granted the District to complete a wastewater alternatives study, represents a significant commitment to ensuring that the residents of the Hoback Junction area have access to clean and reliable water for residential, commercial, and health and safety uses.

The HJWSD now requests an additional \$300,000 in funding guarantees to satisfy requirements from the Wyoming Water Development Commission (WWDC) and the Wyoming State Lands and Investments Board (SLIB), and to meet the required construction cost estimates for "contingency." The Hoback Junction Water and Sewer District appeared before the Teton County Board of County Commissioners on June 8, 2026, to inform the Board of County Commissioners that the District needs additional funding in the amount of \$300,000. The District has informed the Teton County Board of County Commissioners that the Wyoming Water Development Commission is adding an additional requirement that the District must add a 15% contingency, which results in the updated engineer's cost estimate exceeding the previous one by \$495,000. The District will obtain funding to cover \$195,000 of the needed \$495,000, and thus now needs an additional \$300,000 from Teton County. The District is "hopeful" that the additional \$300,000 will not be needed from Teton County unless there are cost overruns that would trigger the need for using the entirety of the 15% contingency.

Interested Partner Analysis & Involvement: Outreach to interested partners has been ongoing throughout this process, and Public Works staff have prioritized involvement with the District. Coordination with other interested partners has also been ongoing, with Public Works staff regularly communicating with representatives from Teton County Fire/EMS, US Forest Service, Teton County Conservation District, engineering firms, non-profit organizations, and other governmental agencies at the local and state levels.

Fiscal Impact: \$300,000 of County funds committed will become available to the HJWSD upon BCC approval of Resolution Amendment #3, with the following contingencies:

The \$300,000 shall continue to be held by Teton County. The funding shall be available if there is a need to use the 15% contingency and the District has exhausted the District's \$195,000 of the 15% contingency. Dispersals from the \$300,000 will be permitted after the submittal of an invoice and a full explanation presented by the District to the Board of County Commissioners regarding why the contingency fund must be used. The Board of County Commissioners shall then disburse those funds on an as-needed basis, subject to the Board's approval.

Service • Excellence • Collaboration • Accountability • Positivity • Innovation



Board of County Commissioners - Staff Report

Staff Impact: Impacts on Public Works staff include time spent coordinating with the Hoback Junction Water and Sewer District.

Legal Review: Gingery

Staff Input / Recommendation: Staff recommend approval of Amendment #3 to the August 13, 2024, Resolution, which will allow the HJWSD to utilize up to \$300,000 of County Funds to meet contingency cost estimates and to facilitate the District's efforts to have the project designs released for construction bidding, with funding disbursements predicated on the identified contingencies in the resolution.

Attachments:

- 1) HBJWSD Letter requesting additional funding
- 2) Amendment #3 to Resolution #24-047

Suggested Motion: I move to approve Amendment #3 to Resolution #24-047, authorizing up to \$300,000 for the construction of an improved water treatment, storage, and distribution system in Hoback Junction.

June 3, 2026

From: The Board of the Hoback Junction Water and Sewer District

To: Teton County Board of County Commissioners

Re: Clean drinking water in Hoback

To the Commissioners,

With the help of its many partners the Hoback Junction Water and Sewer District (hereafter, the District) has been working to provide clean drinking water to the residents of Hoback. This has involved the combined efforts of the District, Teton County staff, Hoback residents, POWJH, State officials, and the Board of County Commissioners. This major effort has been in response to a critical human health challenge – the continuing problem of unsafe drinking water in the Hoback region, a need exemplified by the current crisis on J-W Drive.

We are now nearing the conclusion of this process. The design of our water system is complete, and the District is ready to put the project out to bid, with the hope of beginning construction this late summer.

However, the District recently has discovered that it has a budgetary shortfall of some \$495,000. For the Wyoming Water Development Commission to give the District permission to put this project out to bid we need to secure an additional commitment of \$300,000. (The District will cover the other \$200,000 itself, if necessary.)

We therefore request this additional commitment from the Board, in the form of a Board resolution saying that these additional monies are available, if they are necessary.

The District hopes that these additional funds will not be necessary. For instance, the WWDC requires that the District add a 15% contingency amount to the estimated cost of the water system. Even if the project went 10% over budget this would mean that the District would not need these additional monies. In addition, the Board is approaching other possible funders (e.g., USDA) to see if they can help defray some of the cost of the water system.

Thank you for considering this request, and for all the help you have already given the District to solve this ongoing challenge to human health in Hoback.

This Resolution was approved and adopted by a majority of the Board of Directors of the Hoback Junction Water and Sewer District at a properly noticed Meeting of the Board conducted on the 3rd day of June, 2026.



Robert Frodeman
Chair, Hoback Junction Water and Sewer District

BOARD OF COUNTY COMMISSIONERS OF TETON COUNTY

RESOLUTION #_____

Amendment #3 to Resolution #24-047

**(Authorizing Resolution For County Funding of an additional \$300,000
toward Hoback Junction Water and Sewer District Drinking Water
Infrastructure Construction)**

WHEREAS, the Hoback Junction Water and Sewer District (District) was established on March 7, 2023. The Hoback Junction Water and Sewer District has received Level III funding from the Wyoming Water Development Commission (WWDC) for construction of a water supply system for the District; and

WHEREAS, the Teton County voters approved a Special Excise Tax (SPET) in 2022 to provide \$10 million to fund water quality projects that will protect and improve surface and groundwater resources in Teton County, such as the Wilson sewer project, the Town of Jackson stormwater pollution prevention program, and projects to be identified in the Teton County Water Quality Management Plan; and

WHEREAS, the Teton County Board of County Commissioners approved the 2024 Teton County Water Quality Management Plan on June 4, 2024, and within the Management Plan, assisting with the water quality issues in Hoback Junction was identified; and

WHEREAS, Teton County previously committed on August 13, 2024, for the amount of \$3 million from the 2022 SPET revenue collection toward assisting with the construction of a water supply system within the Hoback Junction Water and Sewer District. Amendment #1 to the Resolution, approved on December 17, 2024, released \$100,000 of the dedicated \$3 million for pre-construction work. On July 1, 2025, Amendment #2 was approved, which released \$600,000 of the dedicated \$3 million to be used toward design work; and

WHEREAS, Teton County has provided an easement on county-owned land for the placement of a portion of the water supply infrastructure, specifically the infiltration gallery and associated pipes; and

WHEREAS, Teton County has provided an additional \$25,000 to support a wastewater feasibility study. Teton County has provided an additional \$850,000 toward adding the fire suppression system; and

WHEREAS, the Hoback Junction Water and Sewer District appeared before the Teton County Board of County Commissioners on June 8, 2026, to inform the Board of County Commissioners that the District is in need of additional funding in the amount of \$300,000. The District has informed the Teton County Board of County Commissioners that the Wyoming Water Development Commission is adding an additional requirement that the District must add a 15% contingency, which equals \$495,000. The District will obtain funding to cover \$195,000 of the needed \$495,000, and thus now needs additional funding from Teton County in the amount of \$300,000. The District is "hopeful" that the additional \$300,000 will

not be needed from Teton County unless there are cost overruns that would trigger the need for using the 15% contingency; and

WHEREAS, Teton County shall commit \$300,000 to the Hoback Junction Water and Sewer District that will be held by Teton County. It is anticipated that Teton County shall use County Funds, not SPET funds, for this additional funding. The funding shall be available if there is a need to use the 15% contingency and the District has exhausted the District's \$195,000 of the 15% contingency. Disbursements from the \$300,000 will be permitted after the District submits an invoice and provides a full explanation to the Board of County Commissioners for why the contingency fund must be used. The Board of County Commissioners shall then disburse those funds on an as-needed basis and with approval by the Board of County Commissioners.

NOW, THEREFORE, having duly met at a regular meeting and considered the matter, the Teton County Board of County Commissioners hereby resolves as follows:

1. Teton County commits to providing an additional \$300,000 in funding to the Hoback Junction Water and Sewer District for the construction and installation of a water supply system within the District's authorized boundaries, with the following contingencies:
 - a. The \$300,000 shall continue to be held by Teton County. The funding shall be available if there is a need to use the 15% contingency, and the District has exhausted the District's \$195,000 of the 15% contingency. Disbursements from the \$300,000 will be permitted after the District submits an invoice and provides a full explanation to the Board of County Commissioners for why the contingency fund must be used. The Board of County Commissioners shall then disburse those funds on an as-needed basis, with approval by the Board of County Commissioners.

Adopted on the ____ day of _____, 2026.

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

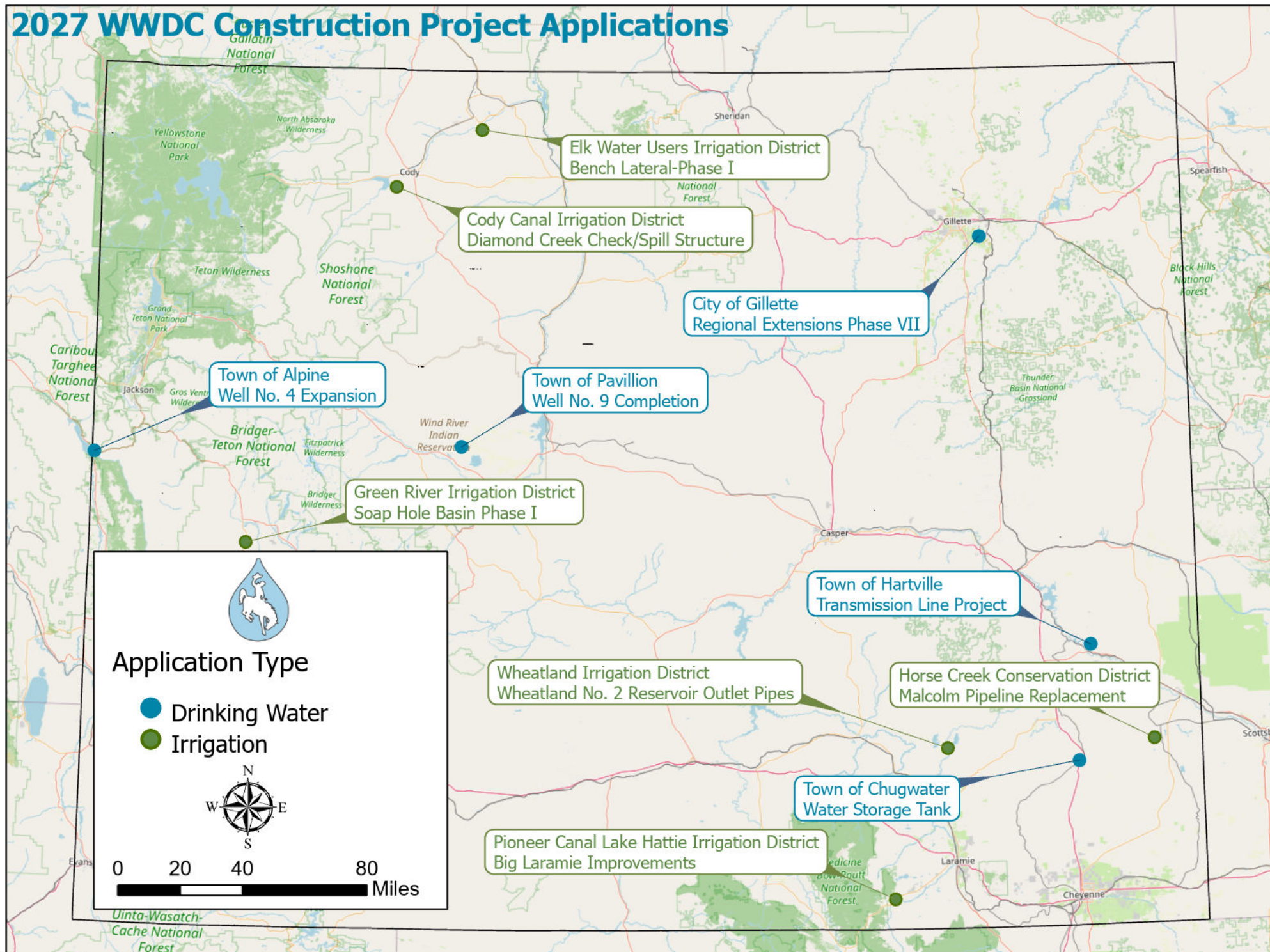
Mark Newcomb, Chair

Attest:

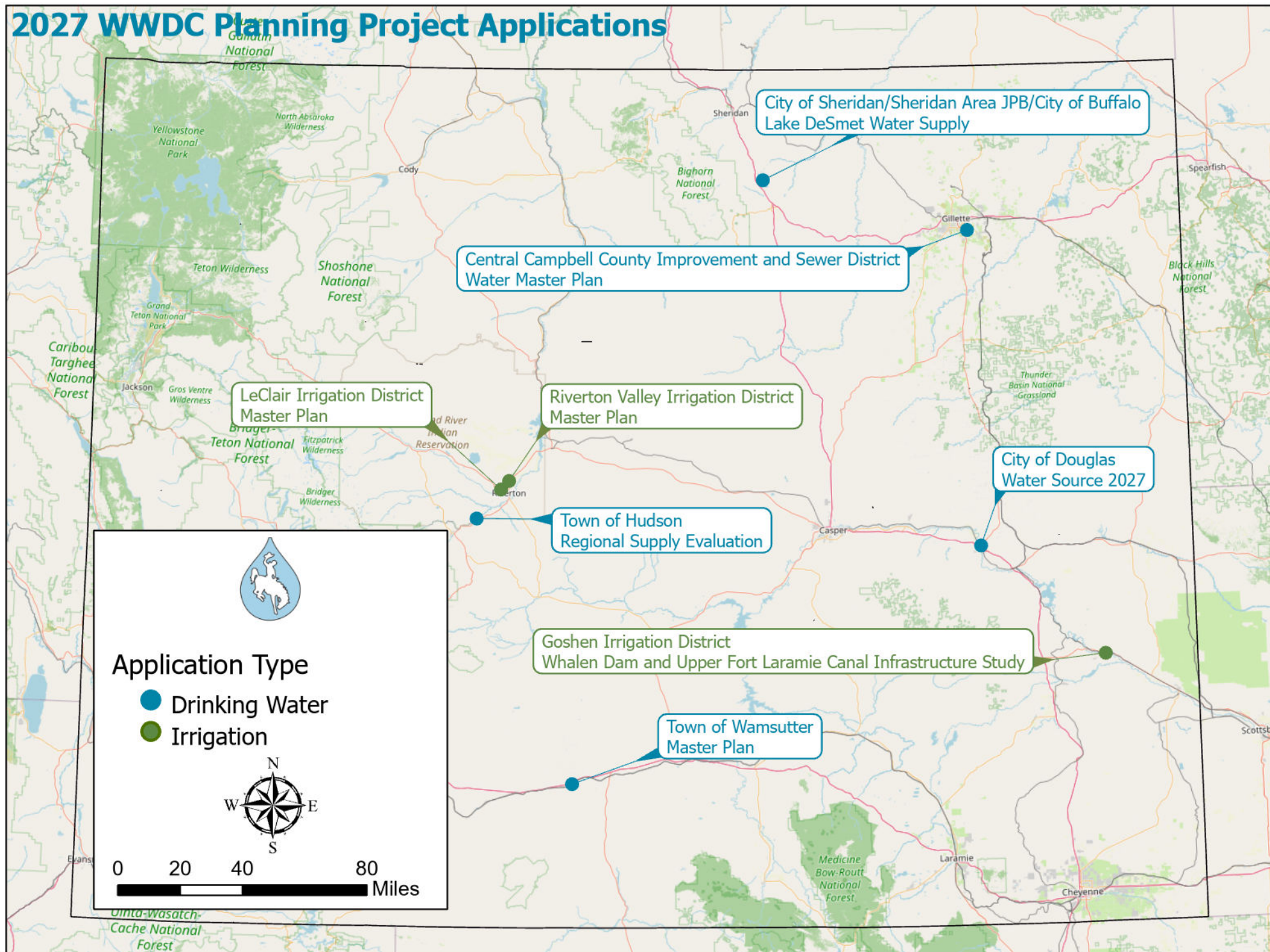
Maureen E. Murphy, Teton County Clerk

NEW FUNDING
APPLICATIONS
AND
AMENDMENTS –
PRELIMINARY
REVIEW

2027 WWDC Construction Project Applications



2027 WWDC Planning Project Applications



2027 Session
WWDC Recommendations
New Development Program - WDA I

Tab	Item	Project Title	Priority	Requested Funding	Recommended Funding	Comments	Fund Balance
		Level III Projects					\$ 46,509,610
A	1	Alpine Well #4 Expansion 2027	2	\$ 1,121,150	\$ -	Do Not Fund	
B	2	Colorado River Basin Precipitation Enhancement	9	\$ 325,000	\$ 325,000	Wind River & Sierra Madre Ranges 2028 (ground-based)	
C	3	Gillette Regional Extensions Phase VII Project 2027	3	\$ 1,184,599	\$ 123,500	Pre-Construction Only, 50% Grant	
D	4	Pavillion Well No. 9 Completion 2027	2	\$ 393,188	\$ 427,300	50% Grant	
		Subtotal		\$ 3,023,937	\$ 875,800		\$ 45,633,810
		Level III Projects - Amendments					
E	5	Big Horn Regional JPB South Transmission Project 2025	3	\$ 2,770,588	\$ 2,882,000	Construction Funding, 50% Grant	
				\$ 2,770,588	\$ 2,882,000		\$ 42,751,810
		Level II Projects					
F	6	Douglas Water Source 2027	6	\$ 270,000	\$ 270,000		
G	7	Hudson Regional Supply Evaluation	6	\$ 211,000	\$ 211,000		
H	8	Lake DeSmet Water Supply	6	\$ 854,000	\$ 854,000		
		Subtotal		\$ 1,335,000	\$ 1,335,000		\$ 41,416,810
		Level I Projects					
I	9	Central Campbell County ISD Water Master Plan	8	\$ 203,000	\$ 203,000		
J	10	Wamsutter Water Master Plan	8	\$ 209,000	\$ 209,000		
		Subtotal		\$ 412,000	\$ 412,000		\$ 41,004,810
		General/Other					
K	11	Groundwater Grant Program		\$ 1,000,000	\$ 1,000,000		
L	12	Small Water Project Program		\$ 1,000,000	\$ 1,000,000		
M	13	UW Water Research Program		TBD	TBD		
		Subtotal		\$ 2,000,000	\$ 2,000,000		\$ 39,004,810
Total For All WDA I Projects				\$ 9,541,525	\$ 7,504,800		

2027 Session
WWDC Recommendations
Rehabilitation Program - WDA II

Tab	Item	Project Title	Priority	Requested Funding	Recommended Funding	Comments	Fund Balance
							\$ 17,449,328
		Level III Projects					
Mc	1	Cody Canal ID Diamond Creek Check-Spill Structure 2027	1	\$ 1,391,413	\$ 114,000	Pre-Construction Only, 50% Grant	
N	2	Elk Water Users ID Bench Lateral Phase I 2027	2	\$ 3,532,263	\$ 265,200	Pre-Construction Only, 50% Grant	
O	3	Green River ID Soap Hole Basin Phase I 2027	2	\$ 139,000	\$ -	Do Not Fund	
P	4	Hartville Transmission Line Project 2027	3	\$ 2,409,439	\$ 186,500	Pre-Construction Only, 50% Grant	
Q	5	Horse Creek CD Malcolm Pipeline Replacement 2027	3	\$ 1,307,192	\$ 984,750	75% Grant, No Loan	
R	6	Pioneer Canal Lake Hattie ID Big Laramie Improvements 2027	1	\$ 2,187,175	\$ 219,600	Pre-Construction Only, 25% Grant	
S	7	Town of Chugwater Water Storage Tank 2027	4	\$ 707,634	\$ 551,000	50% Grant, 100,000 gal tank only	
T	8	Wheatland ID Wheatland No. 2 Reservoir Outlet Pipes 2027	6	\$ 550,000	\$ 533,500	50% Grant	
		Subtotal		\$ 12,224,116	\$ 2,854,550		\$ 14,594,778
		Level III Projects - Amendments					
U	9	Casper Tank Replacement 2025	4	\$ -	\$ -	Project Modification Only	
V	10	Enterprise WID Canal Lining 2020	2	\$ -	\$ -	Time Extension Only	
W	11	Greybull Tank and Phase I Pipeline 2026	3	\$ 3,106,479	\$ -	Do Not add Construction Funding at this time	
XYZ	12	Hanover ID Bighorn River Flume Replacement 2024	1	\$ 1,205,654	\$ 1,254,000	Additional Funding Grant and Loan	
A2	13	Laramie Valley Diversion Structure 2020	1	\$ -	\$ -	Time Extension Only	
B2	14	Riverton West Main Street Transmission Pipeline 2026	3	\$ 2,625,000	\$ 2,336,000	Project modification and additional 50% Grant	
C2	15	Sidon ID Byron Lateral 2026	2	\$ 2,875,000	\$ 2,909,000	Construction Funding, 50% Grant	
D2	16	Tillard Canal Rehabilitation and Pump Station 2026	1	\$ 594,715	\$ -	Do Not add Construction Funding at this time	
		Subtotal		\$ 10,406,848	\$ 6,499,000		\$ 8,095,778
		Level II Projects					
E2	17	GID Whalen Dam and Upper Fort Laramie Canal	7	\$ 360,000	\$ 360,000		
		Subtotal		\$ 360,000	\$ 360,000		\$ 7,735,778
		Level I Projects					
F2	28	LeClair Irrigation District Master Plan	8	\$ 302,000	\$ 302,000		
G2	29	Riverton Valley Irrigation District Master Plan	8	\$ 272,000	\$ 272,000		
		Subtotal		\$ 574,000	\$ 574,000		\$ 7,161,778
		General/Other					
H2	27	Small Water Project Program		\$ 500,000	\$ 500,000		
		Subtotal		\$ 500,000	\$ 500,000		\$ 6,661,778
Total For All WDA II Projects				\$ 24,064,964	\$ 10,787,550		

2027 Session
 WWDC Recommendations
Dams and Reservoirs Program - WDA III

Tab	Item	Project Title	Priority	Requested Funding	Recommended Funding	Comments	Fund Balance
							\$ 69,284,728
		Level III Projects - Amendments					
I2	1	Alkali Creek Reservoir	1	\$ 39,000,000	\$ 44,400,000	Grant, Adjusted for inflation	
		Subtotal		\$ 39,000,000	\$ 44,400,000		\$ 24,884,728
		Level II Projects - Amendments					
J2	2	West Fork Reservoir, Phase III	4	\$ -	\$ -	Time Extension Only	
		Subtotal		\$ -	\$ -		\$ 24,884,728
Total for All WDA III Projects				\$ 39,000,000	\$ 44,400,000		

APPROVAL OF MINUTES



WYOMING WATER DEVELOPMENT COMMISSION

WWDC MEETING:

Wyoming Water Development Office
6920 Yellowtail Road | Cheyenne, WY
Thursday, September 24, 2026

Meeting Minutes

1. Chairman Bob Choma called the meeting to order at 8:30 a.m. and asked for a moment of silence in remembrance of Commissioner Ron Vore who passed away on August 15th.

2. The pledge of allegiance was recited.

3. Recognition of Members Present to Establish Quorum – Secretary Todd Hoese

Commission Attendance:

Robert “Bob” Choma, Chairman
Dennis Pince, Vice-Chairman
Todd Hoese, Secretary
Leonard “Lee” Craig
Liisa Anselmi-Dalton
Ron Kailey, Jr
Mark Kot
John Lawson
Jared Whitebull

Advisor Attendance:

Patrick Kent, Attorney General’s Office

4. Approval Of Minutes

- August 6th, 2026: WWDC/SWC Joint Meetings Minutes

A motion was made by Secretary Todd Hoese to approve the minutes for the WWDC/SWC Joint August 6th meeting. Vice-Chairman Dennis Pince seconded the motion; motion carried unanimously.

5. 2027 Planning Projects Consultant Selection Approval

Level I Projects – New Development:

Central Campbell County ISD Water Master Plan

The Selection Committee for the Central Campbell County ISD Water Master Plan Level I Project ranked the consulting firms interviewed in the following order:

1. WWC Engineering

Commissioner Mark Kot moved the Director be instructed to begin contract negotiations with WWC Engineering for consulting services on the Central Campbell County ISD Water Master Plan Level I Project with a recommended appropriation of \$203,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

1. Accept Scope Alternate #1: Removal of the Midco tank inspection from Task #5 for a contract savings amount of \$5,165.

Commissioner Lee Craig seconded the motion; motion carried unanimously.

Wamsutter Water Master Plan

The Selection Committee for the Wamsutter Water Master Plan Level I Project ranked the consulting firms interviewed in the following order:

1. Forsgren Associates
2. Sunrise Engineering
3. Inberg-Miller Engineers

Commissioner Liisa Anselmi-Dalton moved the Director be instructed to begin contract negotiations with Forsgren Associates for consulting services on the Wamsutter Water Master Plan Level I Project with a recommended appropriation of \$209,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

1. Negotiate development of an operations and maintenance manual for the sponsor as part of the discretionary task.

Seconded by Commissioner Mark Kot; motion carried unanimously.

Level II Projects – New Development:

Douglas Water Source 2017

The Selection Committee for the Douglas Water Source 2017 Level II Project ranked the consulting firms interviewed in the following order:

1. Forsgren Associates, Inc.

Commissioner Ron Kailey moved the Director be instructed to begin contract negotiations with Forsgren Associates Inc. for consulting services on the Douglas Water Source 2017 Level II Project with a recommended appropriation of \$270,000.

Seconded by Commissioner Liisa Anselmi-Dalton; motion carried unanimously.

Hudson Regional Supply Evaluation

The Selection Committee for the Hudson Regional Supply Evaluation Level II Project ranked the consulting firms interviewed in the following order:

1. HDR Engineering
2. Ayres Associates

Commissioner Ron Kailey moved the Director be instructed to begin contract negotiations with HDR Engineering for consulting services on the Hudson Regional Supply Evaluation Level II Project with a recommended appropriation of \$211,000.

Seconded by Commissioner Lee Craig; motion carried unanimously.

Lake DeSmet Water Supply

The Selection Committee for the Lake DeSmet Water Supply Level II Project ranked the consulting firms interviewed in the following order:

1. DOWL

Secretary Todd Hoese moved the Director be instructed to begin contract negotiations with DOWL for consulting services on the Lake DeSmet Water Supply Level II Project with a recommended appropriation of \$854,000.

Seconded by Commissioner Liisa Anselmi-Dalton; motion carried unanimously.

Level I Projects – Rehabilitation:

LeClair Irrigation District Master Plan

The Selection Committee for the LeClair Irrigation District Master Plan Level I Project ranked the consulting firms interviewed in the following order:

1. Trihydro Corporation
2. Engineering Associates
3. RESPEC

Vice Chairman Dennis Pince, moved the Director be instructed to begin contract negotiations with Trihydro Corporation for consulting services on the LeClair Irrigation District Master Plan Level I Project with a recommended appropriation of \$302,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

1. Include Scope Alternate #1: Web GIS development at no additional cost.

Seconded by Commissioner Lee Craig; motion carried unanimously.

Riverton Valley Irrigation District Master Plan

The Selection Committee for the Riverton Valley Irrigation District Master Plan Level I Project ranked the consulting firms interviewed in the following order:

1. WWC Engineering
2. RESPEC
3. Sunrise Engineering
4. J-U-B Engineers

Commissioner Lee Craig moved the Director be instructed to begin contract negotiations with WWC Engineering for consulting services on the Riverton Valley Irrigation District Master Plan Level I Project with a recommended appropriation of \$272,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

1. Accept Scope Alternate #1: SCADA Master Planning and Conceptual Design at a cost of \$15,000.
2. Investigate potential for reduction of total project cost.

Seconded by Vice-Chairman Dennis Pince; motion carried unanimously.

Level II Projects – Rehabilitation:

GID Whalen Dam and Upper Fort Laramie Canal Infrastructure Study

The Selection Committee for the GID Whalen Dam and Upper Fort Laramie Canal Infrastructure Study Level II Project ranked the consulting firms interviewed in the following order:

1. HDR Engineering
2. WWC Engineering
3. Ayres Associates

Secretary Todd Hoese moved the Director be instructed to begin contract negotiations with HDR Engineering for consulting services on the GID Whalen Dam and Upper Fort Laramie Canal Infrastructure Study Level II Project with a recommended appropriation of \$360,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

Include language for all three Scope Alternatives, in the Scope of Services, that work shall not begin on this task without prior approval of the Office project manager.

1. Accept Scope Alternate #1: Reclamation Directives and Standards Reporting, at a cost of \$27,280.
2. Accept Scope Alternate #2: Hydropower Reconnaissance to include the economic viability of hydropower at a cost of \$19,030.
3. Accept Scope Alternate #3: Environmental Field Work, at a cost of \$21,432.

WYOMING WATER DEVELOPMENT COMMISSION

Seconded By Vice-Chairman Dennis Pince; motion carried unanimously.

Other:

Greys River Basin Instream Flows (2026)

The Selection Committee for the Greys River Basin Instream Flows (2026) Level I Project ranked the consulting firms interviewed in the following order:

1. Follum Hydrologic Solutions

Commissioner John Lawson moved the Director be instructed to begin contract negotiations with Follum Hydrologic Solutions for consulting services on the Greys River Basin Instream Flows (2026) Level I Project with a recommended appropriation of \$102,000.

Further, the Selection Committee offered the following suggestions to the Director during contract negotiations:

1. Negotiate a modified Scope of Work for a budget not to exceed \$102,000.

Seconded by Secretary Todd Hoese; motion carried unanimously.

6. Planning Closeout Memos

Douglas Test Well, Level II Study

Project Manager George Moser presented the closeout memo for the Douglas Test Well, Level II Study. A brief discussion ensued.

A motion was made by Commissioner Liisa Anselmi-Dalton to move acceptance of the Douglas Test Well, Level II Study, as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:
 - Terminating further consideration of the proposed project.

Seconded by Secretary Todd Hoese; motion carried unanimously.

Douglas Water Master Plan, Level I Study

Project Manager George Moser presented the closeout memo for the Douglas Water Master Plan, Level I Study for recently departed Project Manager Lonnie Olson.

A motion was made by Secretary Todd Hoese to move acceptance of the Douglas Water Master Plan, Level I Study project report as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:
 - Proceeding to next Level of project development upon the submittal of an appropriate funding application by the sponsor.

WYOMING WATER DEVELOPMENT COMMISSION

Seconded by Commissioner Lee Craig; motion carried unanimously.

Green River/Little Snake River Basins Conveyance Loss, Level I Study

Project Manager Chace Tavelli Presented the Green River/Little Snake River Basins Conveyance Loss, Level I Study closeout memo. A brief discussion ensued.

Commissioner Mark Kot moved acceptance of the Green River/Little Snake River Basins Conveyance Loss project technical memorandum as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:
 - Terminating further consideration of the proposed project.

Seconded by Commissioner Anselmi-Dalton; motion carried unanimously.

Pioneer Canal Lake Hattie Irrigation District Master Plan, Level I Study

Project Manager Cheyenne Love presented the Pioneer Canal Lake Hattie Irrigation District Master Plan, Level I Study closeout memo.

Secretary Todd Hoese made a motion to move acceptance of the Pioneer Canal Lake Hattie Irrigation District Master Plan, Level I Study project as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:
 - Proceeding to the next Level of project development upon the submittal of an appropriate funding application by the sponsor.

Motion seconded by Vice-Chairman Dennis Pince; motion carried unanimously.

Salt River Watershed, Level I Study

Project Manager Mabel Jones presented the Salt River Watershed, Level I Study closeout memo. A brief discussion ensued.

Commissioner Ron Kailey Jr. moved acceptance of the Salt River Watershed, Level I Study project report as being complete and further, the WWDC makes the following findings relative to this project.

1. That the Commission recommend:
 - Proceeding to the next Level of project development upon the submittal of an appropriate funding application by the sponsor.

Seconded by Secretary Todd Hoese; motion carried unanimously.

Shoshone Municipal Pipeline Regional Water Master Plan, Level I Study

Project Manager Chace Tavelli presented the Shoshone Municipal Pipeline Regional Water Master Plan, Level I Study closeout memo for recently departed Project Manager Lonnie Olson.

WYOMING WATER DEVELOPMENT COMMISSION

Commissioner Lee Craig made a motion to move acceptance of the Shoshone Municipal Pipeline Regional Water Master Plan, Level I Study project report as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:

- Proceeding to the next Level of project development upon the submittal of an appropriate funding application by the sponsor.

Seconded by Commissioner Jared Whitebull; motion carried unanimously.

7. Discussion

On behalf of the Commission, Chairman Bob Choma thanked all of the Project Managers for their diligent work on all of the projects that were presented.

8. Future Meetings Schedule

- November 4-6, 2026 WWDC/SWC Joint Meeting (Preliminary Funding Recs prior to Wyo Legislature) (Casper)

Director Mead detailed the upcoming November Joint Commission\Legislative Select Water Committee Meeting where recommendations for construction projects would be considered to include hearing from the project sponsors. Similarly, there would also be a final review of planning projects now that consultant selection is complete and budgets have been identified. Lastly, it was noted that there would be a wrap up of the Small Water Project Program discussion started in August.

At the present time a tour of the Bureau of Reclamation Casper Command Center is being planned for the afternoon of the 4th, the joint meeting to be held on the 5th, and the morning of the 6th for the Legislative Select Water Committee to take up interim topics.

9. Adjourn

Commissioner Lee Craig motioned to adjourn the meeting of the Water Development Commission. Commissioner Ron Kailey Jr. seconded the motion; motion carried unanimously. Meeting adjourned at 9:51 a.m.

Respectfully submitted,

Todd Hoese, Secretary

PLANNING CLOSEOUT MEMOS



**FINAL PROJECT CLOSEOUT MEMO
FOR LEVEL I AND II PLANNING PROJECTS
WYOMING WATER DEVELOPMENT OFFICE
PLANNING DIVISION**



The Planning Project listed below is complete and scheduled for closeout. This memo serves to summarize the findings of the final report and to document the final contract amount.

PROJECT: Wheatland Irrigation District Master Plan
LEVEL: I
SPONSOR: Wheatland Irrigation District
LOCATION: Wheatland, Wyoming
PROGRAM: Rehabilitation
PROJECT MGR: Chace Tavelli
WWDC MTG DATE: November 5, 2026

AUTHORIZING LEGISLATION:

<u>Purpose</u>	<u>Chapter</u>	<u>Session</u>	<u>Account</u>	<u>Appropriation</u>	<u>Due Date</u>
Level I	56	2025	II	\$472,000	2028

CURRENT CONTRACT:

Consultant

Trihydro Corporation

<u>Contract Number</u>	<u>Executed</u>	<u>Original Contract Amount</u>	<u>Final Contract Amount</u>	<u>Contract Savings Amount</u>	<u>Expiration Date</u>
029CM0091377	3-27-25	\$472,000	\$404,500.17	\$67,499.83	6-30-27

PROJECT DESCRIPTION:

The Wheatland Irrigation District (WID) is located in the North Platte River Basin near Wheatland and spanning Carbon, Albany, and Platte counties. The WID serves over 50,000 irrigated acres across more than 120 miles of canals and has 11 reservoirs with approximately 186,000 acre-feet of storage capacity. The WID's water supply relies primarily on the Laramie River, storage in Wheatland Reservoir No. 2, secondary supply from Sybille Creek, and trans-basin transfers from the Medicine Bow River drainage. Water is delivered across center pivot and flood-irrigated crops through an extensive network of canals, laterals, diversions, headgates, drops, siphons, and flumes. The master plan delivers an exhaustive evaluation of system infrastructure, seepage losses, SCADA automation, economic financing, and operations during low-demand operations. Development of a comprehensive geographic information system (GIS) was also part of the project.

Based on extensive field inventories of structures, seepage analyses, and operational evaluations, the study highlights critical district challenges, including aging infrastructure, significant canal seepage losses, and management complications stemming from long water travel times during low-demand periods.

PROJECT FINDINGS/RECOMMENDATIONS:

The implementation plan recommended improvements, rehabilitation, or replacement of infrastructure in two phases. The improvements included 22 structures (replacement or rehabilitation), 30 SCADA projects, and 4 canal improvements. A breakdown of the two phases follows:

- Phase 1 – Total cost \$4,479,600

- SCADA
 - 20 sites at a total cost of \$772,600
- Canal Improvements
 - 1 location for lining at a cost of \$1,043,000
 - 1 location for further study and research
- Structure rehabilitation or replacement
 - 7 structures at a cost of \$2,664,000
- Phase 2 – total cost of \$7,525,900
 - SCADA
 - 10 sites at a total cost of \$479,900
 - Canal Improvements
 - 2 locations for lining at a total cost of \$2,358,000
 - Structure rehabilitation or replacement
 - 15 structures at a total cost of \$4,688,000

The study also provided the district with suggestions to improve operations and efficiency.

To date the district has completed 9 structure rehabilitation or replacement projects that were recommended in phases 1 and 2 of the master plan and has begun discussions for a canal lining project identified in phase 1. The WID has also submitted a Level III construction project application for the Wheatland #2 Reservoir Outlet Pipes rehabilitation project for consideration at this meeting.

PUBLIC REPORT PRESENTATION HEARING: N

<u>Date</u>	<u>Location</u>	<u>City/Town</u>
8/12/26	First State Bank - 1405 16th St	Wheatland

WWDO RECOMMENDATION:

The WWDO recommends acceptance of the final report submittals and closing the consultant services contract.

WWDC PROPOSED MOTION:

I move acceptance of the Wheatland Irrigation District Master Plan, Level I Study project report as being complete and further, the WWDC makes the following findings relative to this project:

1. That the Commission recommend:
 - Proceeding to the next Level of project development upon the submittal of an appropriate funding application by the sponsor.

PLANNING CONTRACTS



THE STATE OF WYOMING
Water Development Office

6920 YELLOWTAIL ROAD TELEPHONE: (307) 777-7626 CHEYENNE, WY 82002



MEMORANDUM

DATE: November 5, 2026
TO: Members of the Wyoming Water Development Commission and
Legislative Select Water Committee
FROM: Chace Tavelli, Program Manager, Planning Division
SUBJECT: Greys River Basin Instream Flows 2026 Contract

This memo is to serve as an explanation for the Greys River Basin Instream Flows 2026 Contract. In 2026, six instream flow segment water right applications were filed with the Wyoming State Engineer's Office in the Greys River Basin as identified by the Wyoming Game & Fish Commission. W.S. §41-3-1003(c) states that the water development commission shall file the applications in the name of the state of Wyoming making the Water Development Commission the applicant and future water right holder. Per Wyoming Statute §41-3-1004(a), "Immediately after permits have been applied for under W.S. §41-3-1003(c), the water development commission shall determine the feasibility of providing instream flows for the recommended segments of streams from unappropriated direct flows...The cost of any consultant and any associated costs that the water development commission determines are necessary to complete a feasibility study under this section shall be borne by the game and fish commission."

The Greys River Basin Instream Flows 2026 contract effectuates this portion of the statute by putting a consultant under contract to perform the feasibility study and is similar to the contract approved during last year's November joint meeting for segments in the Upper Green River Basin. The consultant was selected through the Office's consultant selection procedures which follow W.S. §9-23-105 and began in May 2026, and ended with interviews in September. The anticipated start date of the study is later this year.

**GREYS RIVER BASIN INSTREAM FLOWS (2026), LEVEL I STUDY
CONSULTANT CONTRACT FOR SERVICES NO. _____**

1. **Parties.** The parties to this Contract are the Wyoming Water Development Commission (Commission), 6920 Yellowtail Road, Cheyenne, Wyoming 82002 and Follum Hydrologic Solutions, LLC (Consultant), 1021 Goodstein Drive, Casper, WY, 82601.
2. **Purpose of Contract.** The purpose of this Contract is to set forth the terms and conditions under which the Commission will retain the services of the Consultant to render certain technical or professional services hereinafter described in connection with an undertaking to be financed by the Commission, and administered by the Wyoming Water Development Office (Office) through its Director or his designee.
3. **Term of Contract.** This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from Effective Date through June 30, 2029. All services shall be completed during this term.

This Contract may be extended by agreement of both parties in writing and subject to the required approvals. There is no right or expectation of extension and any extension will be determined at the discretion of the Commission.

4. **Payment.**

- A. **Reimbursement of Expenses.** The Commission agrees to pay the Consultant an amount based on the approved hourly rate and reimbursable expenses price schedules depicted in Attachment B, attached to and incorporated into this Contract by this reference, for the services described in Attachment A, attached to and incorporated into this Contract by this reference. Total payment under this Contract shall not exceed one hundred two thousand dollars. (\$102,000.00).
- B. **Project Budget.** The project budget for each task included in Attachment A is as follows:

<u>Task</u>	<u>Estimated Cost</u>
1. Meetings	\$ 8,390.00
2. Maps	\$ 4,320.00
3. Water Rights Inventory	\$ 4,320.00
4. Flow, Diversion, Storage, and Other Data	\$ 5,400.00
5. Hydrology Analysis	\$ 12,960.00
6. Flow Measurements	\$ 38,840.00
7. Unappropriated Flow Analysis	\$ 2,160.00
8. Storage Analysis	\$ 2,970.00
9. Daily Flow Exceedance Analysis	\$ 8,640.00
10. Draft Report	\$ 7,000.00

11. Final Report and Deliverables	\$ 7,000.00
TOTAL PROJECT COST	\$ 102,000.00

The amounts for each task are estimates only, but are not to be exceeded unless authorized in writing by the Commission. The Contract total amount is controlling. Payment shall be made directly to the Consultant. The Consultant shall maintain hourly records of time worked by its personnel to support any audits the state or the Commission may require. Billing reports shall be submitted no more often than monthly for activities and costs accrued since the last billing report and shall be made on forms approved in advance by the Commission. A brief project progress report summarizing project activities in the billing period must be submitted with each billing.

- C. Billing Procedures.** The Consultant shall submit billing reports as the services are performed for the various tasks outlined in Attachment A. The Commission shall initiate the payment process within forty-five (45) days after submission of a verified statement of services pursuant to Wyo. Stat. § 16-6-602.
- D. Money Withheld.** No payment shall be made for work performed before the Effective Date of this Contract. Should the Consultant fail to perform in a manner consistent with the terms and conditions set forth in this Contract, payment under this Contract may be withheld until such time as the Consultant performs its duties and responsibilities to the satisfaction of the Commission.
- E. Final Payment.** The final payment shall be made upon acceptance of the final report and receipt of the final billing.

5. Responsibilities of Consultant.

- A. Scope of Services.** The Consultant shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in Attachment A.
- B. Personnel.** All of the services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.
- C. Subcontracts.**
 - (i) Approval Required for Subcontracts.** Any subcontractors and outside associates or consultants required by the Consultant in connection with the services, work performed or rendered under this Contract will be limited to such individuals or firms as were specifically identified in the proposal and agreed to during negotiations or are specifically authorized by the

Commission during the performance of this Contract. The Consultant shall submit a list of the proposed subcontractors, associates or consultants; the scope and extent of each subcontract; and the dollar amount of each subcontract prior to Contract execution to the Commission for approval. During the performance of the Contract, substitutions in or additions to such subcontracts, associates, or consultants will be subject to the prior approval of the Commission. The Commission approval of subcontractors will not relieve the Consultant from any responsibilities outlined in this Contract. The Consultant shall be responsible for the actions of the subcontractors, associates, and subconsultants.

(ii) **Billings for Subcontractors.** Billings for subcontractor, associates or subconsultants services will not include any mark up. The subcontract costs will be billed to the Commission at the actual costs as billed to the Consultant. Subcontract costs will be documented by attaching subcontractor billings to the Consultant's billing submittals. Subcontractors will utilize billing forms provided by the Commission, or alternate forms if approved in advance by the Commission.

(iii) **Copies of Subcontracts.** The Consultant shall provide to the Commission copies of each subcontractor contract immediately following execution with the subcontractor. All subcontracts between the Consultant and a subcontractor shall refer to and conform to the terms of this Contract. However, nothing in this Contract shall be construed as making the Commission a party of any subcontract entered between the Consultant and a subcontractor.

- D. **Requests from the Commission.** The Consultant shall be responsible and responsive to the Commission and the Office in their requests and requirements related to the scope of this Contract.
- E. **Presentation of Data.** The Consultant shall select and analyze all data in a systematic and meaningful manner so as to contribute directly in meeting the objectives of the project, and shall present this information clearly and concisely, in a professional and workmanlike manner.
- F. **Draft of Final Report.** The Consultant shall provide to the Commission a draft of the final report covering all work elements of the project including maps, charts, conclusions and recommendations prior to the publication of any final report and no later than the date specified in Attachment A. The Commission will respond promptly with written comments to the Consultant. The Consultant will address the comments of the Commission in the final report.
- G. **Project Completion Report.** A final project completion report in the form described in Attachment A shall be submitted to the Commission by the date specified in Attachment A.

- H. Reports, Maps, Plans, Models and Documents.** One (1) copy of maps, plans, worksheets, logs, field notes or other documents prepared under this Contract, and one (1) copy of each unpublished report prepared under this Contract shall be submitted to the Commission. If the Consultant writes or uses a computer program or spreadsheet as a part of this project, the Consultant shall submit to the Commission for approval all proposed program names and data formats prior to beginning work on that task. All data shall be submitted to the Commission in written and digital forms with the final report. Digital media shall be labeled by the Consultant to provide sufficient detail to access the information on the media. All user manuals shall be submitted by the Consultant to the Commission providing complete documentation of computer programs developed under this Contract. The user manual shall also specify the source code language and the type of computer equipment necessary to operate the program(s). Any programs or computer software generated as a part of this Contract shall be the sole property of the Commission.

6. Responsibilities of the Commission.

- A. Designated Representative.** The Director of the Office shall act as the Commission's representative with respect to the Consultant's services to be performed under this Contract and shall have complete authority to transmit instructions, receive information, and interpret the Commission's policies and decisions with respect to services covered by this Contract.
- B. Data to be Furnished to the Consultant.** All information, data, reports, and maps as are available to the Commission and necessary for the carrying out of the Scope of Services set forth herein shall be furnished to the Consultant without charge and the Commission shall cooperate with the Consultant in every way possible in the carrying out of the project.
- C. Review Reports.** The Commission shall examine all studies, reports, sketches, opinions of the construction costs, and other documents presented by the Consultant to the Commission and shall promptly render in writing the Commission's decisions pertaining thereto within the time periods specified in Attachment A.
- D. Provide Criteria.** The Commission shall provide all criteria and full information regarding its requirements for the project.

7. Special Provisions.

- A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the procurement of this Contract, shall be paid by either party.
- B. Publicity.** Any publicity given to the projects, programs or services provided herein, including, but not limited to, notices, information, pamphlets, press releases,

research, reports, signs, and similar public notices in whatever form, prepared by or for the Consultant, shall identify the Commission as the sponsoring agency and shall not be released without prior written approval from the Commission.

- C. **Monitoring Activities.** The Commission shall have the right to monitor all activities related to this Contract that are performed by Consultant or its subcontractors. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine or evaluate completed work or work in progress; to examine the books, ledgers, documents, papers, and records pertinent to this Contract; and to observe all Consultant personnel in every phase of performance of Contract related work.
- D. **Kickbacks.** The Consultant certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Commission may, at its discretion, terminate this Contract without liability to the Commission, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

8. **General Provisions.**

- A. **Amendments.** Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed by all parties to this Contract.
- B. **Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms “hereof,” “hereunder,” “herein,” and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- C. **Assignment Prohibited and Contract Shall Not be Used as Collateral.** The Consultant shall not assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the Commission. The Consultant shall not use this Contract, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Commission.
- D. **Audit and Access to Records.** The Commission and its representatives shall have access to any books, documents, papers, electronic data, and records of the

Consultant which are pertinent to this Contract. The Consultant shall immediately, upon receiving written instruction from the Commission, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Consultant which are pertinent to this Contract. The Consultant shall cooperate fully with any such independent auditor or accountant during the entire course of any audit authorized by the Commission.

- E. Availability of Funds.** Each payment obligation of the Commission is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Contract, the Contract may be terminated by the Commission at the end of the period for which the funds are available. The Commission shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Commission in the event this provision is exercised, and the Commission shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- F. Award of Related Contracts.**
 - (i)** The Commission may award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Commission in all such cases.
 - (ii)** The Commission, at its sole discretion and through duly authorized contract amendments, may request the Consultant to complete additional phases beyond the scope of services included in this Contract.
- G. Certificate of Good Standing.** The Consultant shall provide to the Commission a Certificate of Good Standing from the Wyoming Secretary of State, or other proof that Consultant is authorized to conduct business in the State of Wyoming, if required, before performing work under this Contract. The Consultant shall ensure that all annual filings and corporate taxes due and owing to the Secretary of State's office are up-to-date before signing this Contract.
- H. Compliance with Laws.** The Consultant shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.
- I. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Consultant in the performance of this Contract shall be kept confidential by the Consultant unless written permission is granted by the Commission for its release. If and when the Consultant receives a request for information subject to this

Contract, the Consultant shall notify the Commission within ten (10) days of such request and shall not release such information to a third party unless directed to do so by the Commission.

J. Conflicts of Interest.

- (i) The Consultant shall not engage in providing consultation or representation of clients, agencies or firms which may constitute a conflict of interest which results in a disadvantage to the Commission or a disclosure which would adversely affect the interests of the Commission. The Consultant shall notify the Commission of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Contract. This Contract may be terminated in the event a conflict of interest arises. Termination of the Contract will be subject to a mutual settlement of accounts. In the event the contract is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Commission or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.
- (ii) A conflict of interest warranting termination of this Contract may include, but is not necessarily limited to, acting on behalf of a client in an adversarial proceeding against the State of Wyoming, its agencies, boards, commissions, or the University of Wyoming, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition, or quo warranto.

K. Entirety of Contract. This Contract, consisting of fourteen (14) pages; Attachment A, consisting of sixteen (16) pages; and Attachment B, consisting of one (1) page, represent the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.

L. Ethics. The Consultant shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, *et seq.*), and any and all ethical standards governing Consultant's profession.

M. Force Majeure. Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform

immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

- N. Indemnification.** The Consultant shall release, indemnify, and hold harmless the State, the Commission, the Office, and their officers, agents, and employees from any and all claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Consultant's negligence or other tortious conduct.
- O. Independent Contractor.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Consultant shall be free from control or direction over the details of the performance of services under this Contract. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Commission or to incur any obligation of any kind on behalf of the State of Wyoming or the Commission. The Consultant agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to State of Wyoming employees will inure to the benefit of the Consultant or the Consultant's agents or employees as a result of this Contract.
- P. Nondiscrimination.** The Consultant shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, et seq.), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq., and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Contract.
- Q. Notices.** All notices arising out of, or from, the provisions of this Contract shall be in writing either by regular mail, e-mail, or delivery in person at the addresses provided under this Contract. Notice provided by e-mail shall be delivered as follows:

Commission/Office: Chace Tavelli, chace.tavelli@wyo.gov, 307-777-7626.

Consultant: Mike Follum, mike@follumhydro.com, 307-337-7260.

- R. Notice of Sale or Transfer.** The Consultant shall provide the Commission with notice of any sale, transfer, merger, or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Commission determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Consultant's obligations under this Contract, then the Commission may, at its discretion, terminate or renegotiate the Contract.
- S. Ownership and Return of Documents and Information.** The Commission is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Consultant in the performance of this Contract. Upon termination of services, for any reason, Consultant agrees to return all such original and derivative information and documents to the Commission in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers. Upon Commission's verified receipt of such information, Consultant agrees to physically and electronically destroy any residual Commission-owned data, regardless of format, and any other storage media or areas containing such information. Consultant agrees to provide written notice to Commission confirming the destruction of any such residual Commission-owned data.
- T. Patent or Copyright Protection.** The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by the Consultant or its subcontractors will violate any such restriction. The Consultant shall defend and indemnify the Commission for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.
- U. Prior Approval.** This Contract shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Contract has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).
- V. Insurance Requirements.**
- (i)** During the term of this Contract, the Consultant shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage, below.
 - (ii)** All policies shall be primary over any insurance or self-insurance program carried by the Consultant or the State of Wyoming. All policies shall include clauses stating that each insurance carrier shall waive all rights of

recovery under subrogation or otherwise against Consultant or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

- (iii) The Consultant shall provide Certificates of Insurance to the Commission verifying each type of coverage required herein. If the policy is a “claims made” policy instead of an “occurrence” policy, the information provided shall include, but is not limited to, retroactive dates and extended reporting periods or tails.
- (iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Commission. A copy of the policy endorsement shall be provided with the Certificate of Insurance.
- (v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Commission may, at the Commission’s option, obtain and maintain, at the expense of the Consultant, such insurance in the name of the Consultant, or subcontractor, as the Commission may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Consultant under this Contract.
- (vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.
- (vii) The Commission reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

W. Insurance Coverage. The Consultant shall not commence work under this Contract until it has obtained all the insurance required by the Commission and the State. The Consultant shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth above:

- (i) Commercial General Liability Insurance. Commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as follows:
 - (a) \$1,000,000.00 each occurrence;
 - (b) \$1,000,000.00 personal injury and advertising injury;
 - (c) \$2,000,000.00 general aggregate; and
 - (d) \$2,000,000.00 products and completed operations.

The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by

endorsement.

- (ii)** Workers' Compensation and Employer's Liability Insurance. Employees hired in Wyoming to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program, if statutorily required. Employees brought into Wyoming from Consultant's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program or other state or private workers' compensation insurance approved by the Wyoming Department of Workforce Services, if statutorily required.

The Consultant shall provide the Commission with a Certificate of Good Standing or other proof of workers' compensation coverage for all of its employees who are to perform work under this Contract, if such coverage is required by law. If workers' compensation coverage is obtained by Consultant through the Wyoming Department of Workforce Services' workers' compensation program, Consultant shall also obtain Employer's Liability "Stop Gap" coverage through an endorsement to the CGL policy required by this Contract, with minimum limits as follows:

- (a)** Bodily Injury by Accident: \$1,000,000.00 each accident;
- (b)** Bodily Injury by Disease: \$1,000,000.00 each employee; and
- (c)** Bodily Injury by Disease: \$1,000,000.00 policy limit.

- (iii)** Unemployment Insurance. The Consultant shall be duly registered with the Department of Workforce Services and obtain such unemployment insurance coverage as required. The Consultant shall supply Commission with a Certificate of Good Standing or other proof of unemployment insurance coverage.

- (iv)** Automobile Liability Insurance. Automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000.00 each accident combined single limit.

- (v)** Professional Liability or Errors and Omissions Liability Insurance. Professional liability insurance or errors and omissions liability insurance protecting against any and all claims arising from the Consultant's alleged or real professional errors, omissions, or mistakes in the performance of professional duties under this Contract, with minimum limits as follows:

- (a)** \$1,000,000.00 each occurrence; and
- (b)** \$1,000,000.00 general aggregate.

The policy shall have an extended reporting period of two (2) years.

- X. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- Y. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming, the Commission, and the Office expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
- Z. Taxes.** The Consultant shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.
- AA. Termination of Contract.** This Contract may be terminated, without cause, by the Commission upon thirty (30) days written notice. This Contract may be terminated immediately for cause if the Consultant fails to perform in accordance with the terms of this Contract.
- BB. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the parties to this Contract and shall inure solely to the benefit of the parties to this Contract. The provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.
- CC. Time is of the Essence.** Time is of the essence in all provisions of this Contract.
- DD. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- EE. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- FF. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by the Consultant of an originally signed counterpart of this Contract by PDF shall be followed up

immediately by delivery of the originally signed counterpart to the Commission.

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9. **Signatures.** The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract.

The Effective Date of this Contract is the date of the signature last affixed to this page.

WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

FOLLUM HYDROLOGIC SOLUTIONS, LLC:

Michael L. Follum, Owner/COO
Employer ID Number: 87-2468501

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

ATTACHMENT A SCOPE OF SERVICES

A. AUTHORIZATION

The Wyoming Legislature has authorized the Commission to conduct the study described herein. The Consultant will complete the tasks and requirements outlined in Section D, Scope of Services, in this Attachment. The Commission, at its sole discretion and through duly authorized contract amendments, may request the Consultant to complete additional work phases beyond the following scope of services.

B. PROJECT DESCRIPTION

1. Location: Greys River Basin. Please Refer to the Wyoming Game & Fish Commission (WGFC) biological reports to confirm locates for the point of beginning and point of termination for each segment.
 - Lower Deadman Creek, tributary of the Greys River
 - Segment length of 1.16 miles
 - Upper Deadman Creek, tributary of the Greys River
 - Segment length of 1.62 miles
 - North Fork Deadman Creek, tributary of the Greys River
 - Segment length of 1.16 miles
 - Spring Creek, tributary of the Greys River
 - Segment length of 3.78 miles
 - North Three Fork Creek, tributary of the Greys River
 - Segment length of 3.34 miles
 - South Three Forks Creek, tributary of the Greys River
 - Segment length of 2.53 miles
2. Purpose: To perform a Level I Instream Flow Study for the associated reaches described above.
3. History: The WGFC selects location, performs biological studies, and determines requested flow rates for instream flow sites in Wyoming. The Office follows up with a hydrologic study to determine the feasibility of providing the requested flows from unappropriated flows that exist upstream from each instream flow segment. Additional information may be found at the Water Resources Data System, located at the University of Wyoming and the Office's Instream Flow website at:
https://wwdc.state.wy.us/instream_flows/instream_flows.html

Another source that may be applicable to the study is the USGS, Wyoming StreamStats application:

<https://www.usgs.gov/streamstats/wyoming-streamstats>

C. **PROJECT REQUIREMENTS:**

1. Monthly Progress Reports and Billing Statements

The Consultant shall submit a brief monthly progress report outlining the study status, progress, and results to date, regardless of whether or not a billing statement is submitted, on or before the last working day of the month.

Each billing statement must include a task-by-task report justifying the cost items contained in the billing statement. The monthly progress report may be used as the justification for the billing statement as long as all cost items covered in the billing statement are addressed in the progress report.

2. Computer Models, Geographic Information System (GIS), Statement of Assumptions, Project Work File

- a. If the Consultant writes or uses a computer program or spreadsheet as a part of this project, the Consultant shall submit to the Commission for approval all proposed program names and data formats prior to beginning work on that task. All data shall be submitted to the Commission in written and digital forms with the final report. Digital media shall be labeled by the Consultant to provide sufficient detail to access the information on the media. User manuals shall be submitted by the Consultant to the Commission providing complete documentation of computer programs developed under this project. The user manuals shall also contain the source code language and the type of computer equipment necessary to operate the program(s). The computer programs and spreadsheets (written and digital forms) are due on the same date as the final report, which contains the information generated by the programs.
- b. If the Consultant provides GIS data to the WWDC as part of this project, the Consultant shall do so in accordance with the WWDC GIS Standards Technical Memorandum utilizing provided Geodatabase Templates. Links to GIS Standards Technical Memorandum are available at <https://water.geospatialhub.org/pages/wwdc-gis-standards>. A webinar on required GIS Standards, hosted by WWDC and WRDS, will be available following consultant selection and is strongly recommended.

The Consultant shall adhere to the following GIS standards:

- (i) **FEATURE MAPPING.** The Consultant shall acquire the appropriate Geodatabase Template for feature mapping from <http://water.geospatialhub.org/search?groupIds=3e77928b1d0d49858b8916ca63ca5ca4> prior to any GIS work. Five Geodatabase Templates are available and are specific to project type. These templates define the organization and naming requirements for feature classes, tables, and the required attributes within the feature classes. Data needed for the project

and described in this contract may include core data or auxiliary data. Core data includes features which fit within one of the feature classes in the Geodatabase Template, whether newly created or acquired from another source. All core data shall be loaded into the Geodatabase Template and attributed according to the GIS data schema described in the GIS Standards Technical Memorandum. This shall include populating all relevant field attributes with contract number, primary consultant, date modified, accuracy, condition, structure type, and dependent acres (for irrigation projects) being required. In certain circumstances, the consultant may need to provide a second set of core data in a format for the benefit of the project sponsor. This would occur when a project sponsor already has GIS data in a format that differs from the Commission format, or when an alternative format would provide more benefit to the sponsor than the Commission format (e.g., a different coordinate system, or database structure). In these situations, the consultant will provide core GIS data using the Geodatabase template, and a second core GIS dataset in the format that meets the needs of the project sponsor. Auxiliary data sets include features which do not fit within one of the feature classes in the Geodatabase Templates, whether newly created or acquired from another source. The auxiliary data can be linked to the templates or managed separately as needed for project completion.

- (ii) **FORMATS and STANDARDS.** Metadata are required for each included feature class and table (including those obtained from another source) and for each newly created feature. Metadata shall be completed in accordance with the GIS Standards Technical Memorandum. If a feature class in the template is not populated or field attributes are not populated indicate the reason for this in metadata. A detailed example for feature class metadata is provided in the GIS Standards Technical Memorandum and included in the Geodatabase Templates. This includes required information and default language, where appropriate, for each of the five metadata sections. Feature-level metadata requirements are also described in the Memorandum. Codes or values created for attribute fields, which are not already included as part of the core data templates, shall be defined in the metadata. GIS data shall be saved in a Decimal Degree Coordinate system with a NAD83 datum, specifically “GCS_North_American_1983,” as indicated in the GIS Standards Technical Memorandum. In addition to the Project geodatabase(s) and map file(s), GIS deliverables may also include linked nonspatial data/databases (.accdb, .xlsx), rasters (various formats), photographs (.jpg), maps (.pdf), and file integrated metadata references (.xml, .txt). Core data shall be delivered within the Geodatabase Template. Auxiliary data can be provided as .shp files and metadata are required.
- (iii) **MAPS.** Project GIS deliverables shall be organized in such a way as to allow easy replication of the maps found in the final project report. The

GIS project files shall be provided as ESRI ArcGIS .mxd, or .apr files saved with relative path names to data sources.

- c. To facilitate the Commission's accurate evaluation of the Consultant's work product, computations, conclusions and recommendations, the Consultant shall:

(i) Include in the final report a section describing the assumptions and methodology used by the Consultant in generating the data and conclusions contained in that chapter.

(ii) Maintain a project work file containing the materials used in project analysis. This file will be available for review by the Commission and should be organized in such a way as to allow replication of the steps and procedures used by the Consultant to reach the conclusions described in the study.

(iii) Prepare a project notebook containing a description of the assumptions and methodologies used in the project analysis. The notebook shall be organized in such a way as to allow replication of the steps, calculations, and procedures used by the Consultant to reach conclusions, described in the draft final report. The project notebook shall be submitted with the draft final report.

3. Cost Estimates

The Consultant shall use the following guidelines in calculating Level III cost estimates.

WWDC ELIGIBLE PROJECT COSTS

CONSTRUCTION COSTS

Itemized Cost of Each Project Component	\$ _____
	\$ _____
	\$ _____
Cost of Project Components TOTAL	\$ _____ (subtotal #1)
Construction Engineering Cost (subtotal #1 x 10%)	\$ _____
Components + Construction Engineering Costs	\$ _____ (subtotal #2)
Contingency (subtotal #2 x 15%)	\$ _____
Construction Cost Total (subtotal #2 + Contingency)	\$ _____ (subtotal #3)

PRE-CONSTRUCTION COSTS

Preparation of Final Designs & Specifications (subtotal #1 x 10%)	\$ _____
Site Access Permit Fees (BOR, USFS, etc.)	\$ _____
Title Opinion	\$ _____
Acquisition of Access and Rights of Way	\$ _____
Pre-construction Costs Total	\$ _____ (subtotal #4)

TOTAL WWDC ELIGIBLE PROJECT COST

Total WWDC Eligible Project Cost (subtotal #3 + subtotal #4) \$_____ (subtotal #5)

WWDC INELIGIBLE PROJECT COSTS

Itemized Costs of Ineligible Project Components	\$_____
	\$_____
Additional Cost for Construction Engineering	\$_____
Additional Cost for Preparation of Final Designs & Specifications	\$_____
Total WWDC Ineligible Project Costs Total	\$_____ (subtotal #6)

TOTAL PROJECT COST

Total Project Cost (subtotal #5 + subtotal #6) \$_____

MATERIALS ONLY TOTAL

Materials Only Total Project Cost (Subtotal #1),	
Minus Contractor Costs.	\$_____

Note: Any inflation costs, as determined by the Office project manager, will be applied to the Total Project Cost during the recommendation work.

4. Final Report

The Consultant shall use the Contract Scope of Services as the outline for draft and final reports so that Consultant compliance with Contract provisions can be verified. If the final report contains information of an engineering nature, the cover of the final report, all plates, and the executive summary must be stamped and signed by a Professional Engineer licensed in the State of Wyoming. If the final report contains information of a geologic nature, the cover of the final report, all plates, and the executive summary must be stamped and signed by a Professional Geologist licensed in the State of Wyoming. If the final report contains information of both an engineering and geologic nature, the cover of the final report, all plates, and the executive summary must be stamped and signed by both a Professional Engineer and a Professional Geologist licensed in the State of Wyoming.

5. Final Report - Digital Format

In addition to the paper submittal described in Section C.4 above, the Consultant shall also provide the final documents and related materials in a digital format. This digital report shall be contained on USB drive(s), or other media as approved by the Office project manager, and shall be in Searchable Image Adobe Acrobat format (pdf).

6. Anticipated Project Funding Assistance

The Consultant shall clearly identify project components eligible for Commission funding, both in cost estimates and in project mapping. The Consultant shall verify project component funding eligibility with the Office project manager prior to commencing any economic analysis. Unless otherwise directed by the Office project manager, the Consultant shall assume that projects will be funded with a 50% grant. The remaining 50% shall be acquired from external sources (for municipal projects); or from external sources and/or a loan from the WWDC (for agricultural projects). The Commission loan will be financed at an interest rate of four percent (4%) with a term to be specified by the Office project manager. If funding is anticipated from another agency, such as the Office of State Lands and Investments or the USDA Rural Utilities Service (RUS), the Consultant shall prepare cost estimates for system components not eligible for Commission assistance in a format and level of detail acceptable to the potential funding agency.

If required in the Contract Scope of Services, the Consultant shall provide the information necessary to complete applications to RUS, the Office of State Lands and Investments, and any other identified funding sources.

7. Project Access

The Consultant shall be responsible for obtaining access as required for project tasks.

8. Stand-By Time

The Commission will not reimburse the Consultant for stand-by time charges for the Consultant's supervisory personnel.

9. Well Permitting

All wells developed under this program shall list the State of Wyoming, Water Development Office as the permittee. The Consultant shall be responsible for obtaining the permit.

10. Verification Log

After all casing has been installed in the well, the Commission may require that a geophysical log be performed on the well to verify casing placement. A copy of this log shall be included in the final report.

D. SCOPE OF SERVICES

Task 1. Meetings

The Consultant shall anticipate the following meetings further described below:

- Kickoff
- Scoping

- Monthly Coordination Meetings
- Report Presentation
- Commission (Located in either Casper or Cheyenne)

A virtual project kick-off meeting shall be held with the Office project manager shortly after notice to proceed is issued. The purpose of the project kick-off meeting will be to establish critical points of contact, outline preliminary data needs and availability, establish expectations for flow of information, prepare for the scoping meeting and outline upcoming tasks. The Consultant shall prepare all meeting materials for Office project manager review no less than one week in advance of the kick-off meeting. The kick-off meeting location and time shall be coordinated with the Sponsor and Office project manager. The Consultant shall prepare meeting minutes and provide them to the Office project manager.

A scoping meeting shall be held early in the project schedule in the project area to familiarize the public and interested parties with the scope of the project, the Consultant's approach to completing each task, as well as obtain and provide input and information to and from all affected parties. The Consultant, through consultation with the Office project manager, shall anticipate interested citizens and parties and use appropriate means to invite said constituents such as bulletins, newspapers, and emails. The Consultant shall prepare all meeting materials for the Office project manager review no less than one week in advance of the scoping meeting. The scoping meeting location and time shall be coordinated with the Office project manager and the Consultant shall be prepared to provide a virtual option. The Consultant shall prepare meeting minutes and provide them to the Office project manager.

Monthly coordination meetings with the Office project manager will be necessary during the study for the coordination of the project activities and for keeping the Office project manager informed of project progress and involved in key decisions. These meetings may be conducted virtually. The Consultant shall be responsible for coordinating the meeting dates and times. The Consultant shall prepare all presentation materials and the agenda to ensure efficient meetings and to coordinate project activities. The Consultant shall prepare meeting minutes and provide them to the Office project manager.

The report presentation will take one of two forms as determined by the WWDO; either associated with an SEO public hearing or at a public presentation meeting. The Consultant shall use the following guidelines for one of the two options:

SEO Hearing

Upon completion of the final report, the Consultant shall present the findings of the study in conjunction with an SEO hearing on the filings. Information and materials to be presented shall be developed by the Consultant after consultation with the Office project manager. The SEO will provide all of the logistical planning for the hearing such as selection of date and time and advertisements.

Public Presentation Meeting

Upon completion of the final report, the Consultant shall present the findings of the study at a public meeting near the project area. The Consultant is responsible for publishing notice

of the meeting not less than once each week for two weeks prior to the meeting. Additionally, the Consultant, through consultation with the Office project manager, shall anticipate interested citizens and parties and use appropriate means to invite said constituents such as bulletins and emails. Information and materials to be presented at the public meeting shall be developed by the Consultant after consultation with the Office project manager. The Consultant shall be responsible for developing a record of the meeting which shall become an appendix in the final report. The record will include: any formal and/or informal notices; any materials presented or handed out at the meeting; a record of attendance; any written comments, statements, or exhibits received; any available recorded testimony, or a memorandum summarizing the views and comments presented at the meeting; and other pertinent data. The public meeting agenda, location, and time shall be coordinated with the Office project manager.

The Consultant shall also budget for a meeting in Casper or Cheyenne to present the results to the Commission.

Task 2. Maps

At minimum, the Consultant shall provide the following maps:

- General location map that shows all of the segments and applicable features around the segments including all reservoirs, diversions, gaging sites, selected flow monitoring sites, irrigated lands, and other information as needed for clarity.
- Detailed map of each individual instream flow segment that shows upstream existing storage, contemplated upstream storage from existing studies/projects, diversion sites, return flow locations, gaging sites, selected flow monitoring sites, irrigated lands, and other information as needed for clarity.

The maps will be of sufficient detail to display the instream flow segments for presentation purposes and include legends, labels, callouts, etc. as needed to convey all required information about each instream flow segment.

Task 3. Water Rights Inventory

The Consultant shall research the Wyoming State Engineer's Office records and inventory the water rights, including reservoir permits, upstream from the downstream end of each of the instream flow segments. From this data, the Consultant shall determine the appropriated flows and storage accounts for the study's basins.

These water rights will be listed sequentially by priority date in a tabular form and be listed for each instream flow segment and included in the GIS where applicable. This information shall include the following:

- Permit name
- Permit number

- Priority date
- Rate (cfs) or storage amount (acre-feet)
- Source of supply
- Location
- Appropriator
- Status of the right (adjudicated, unadjudicated, temporary filing, etc.)

Task 4. Flow, Diversion, Storage, and Other Data

The Consultant shall research the Wyoming Water Resources Data System (WRDS) records, the USGS records, the Wyoming State Engineer's Office records, local water commissioner's records, local irrigators' records, and any other records of the flows, diversions, and storage within and above each instream flow segment. The Consultant shall use these records to determine each stream segment's historic flows, diversions, return flows, and storage amounts to be applied as needed in the Hydrology Analysis described in Task 5. A minimum of thirty (30) years of data is desired.

For each instream flow segment, the Consultant shall review the associated biological report produced by Wyoming Game and Fish Department (WGFD). Any other available WGFD studies or reports associated with these instream flow segments shall also be reviewed and incorporated into this study as deemed appropriate. Any available flow or stage measurement data gathered by WGFD shall be acquired and incorporated into this study as deemed appropriate. The Consultant shall coordinate with the Office project manager to obtain items from WGFD and discuss appropriateness for use.

Within the final report, the Consultant shall explain what actual data were researched, which values were used in the analysis, what values were not used, and why they were used or not used. The Consultant shall also explain what calculated or estimated flow, diversion, and storage values were used in the analysis and how they were determined. Monthly flow, diversion, and storage values used for each segment shall be listed in tabular form.

Task 5. Hydrology Analysis

Based on available data, the Consultant shall define the study period for the analysis. Once the study period is defined, the Consultant shall classify each historic year in the study period as either dry, average, or wet, with the wettest and driest years identified as the upper and lower 20 percent of the study period years on an annual flow basis, respectively. Other methods to classify the dry, average, and wet years may be proposed by the Consultant but must be approved by the Office project manager. The resulting classification of dry, average, and wet years for the historic study period shall be presented in the final report in a tabulated fashion.

The Consultant shall then perform a hydrology analysis to determine the virgin flows in each instream flow segment under what has been classified above as an average year. If historic gage flow is not available or does not represent virgin flow, the analysis will likely involve determining or estimating the historic stream flows, diversions, storage, consumptive use (depletions), and return flows as relevant and as described below. The Consultant may refer to the guidelines below

as needed during this task. Deviations or alternative methodologies can be applied as approved by the Office project manager.

A. Stream Flows

Historic flows (virgin) will be determined near the downstream end of each instream flow segment and summarized by monthly mean values over the study period. Where possible, these flows shall be based on available stream gage records and modified as necessary to reflect virgin flow. Alternatively, stream flow measurements obtained as part of this study (Task 6) may be used to estimate historical flow through the application of regression techniques using nearby long-term gaging station records as a reference station(s). Appropriate regression techniques shall be used. The entire period of record for the reference gaging station(s) shall be used to estimate historical flow prior to classifying dry, average, or wet years as prescribed above. Other methods may also include evaluating historic climate or snowpack data or other hydrology methods or models. If it becomes necessary to employ numeric models, the Consultant shall investigate more than one model and select the best alternative (or combination of alternatives) based on calibration with the in-field flow measurements that are described in Task 6 or other means as approved by the Office project manager. All numeric models that were considered shall be described in the final written report, and the Consultant shall explain in detail why the chosen method was ultimately employed.

The Consultant should consider and/or integrate the methods described in the following reports:

- Lowham Engineering LLC. (2009, May 21). Estimating Streamflow from Concurrent Discharge Measurements. Prepared for Wyoming Water Development Commission.
- Lowham, H. W. 1988. Streamflows in Wyoming. Water-Resources Investigations Report 88-4045, U.S. Geological Survey, Cheyenne, Wyoming.
- Miselis, D. V. 1999. Development of improved hydrologic models for estimating streamflow characteristics of the mountainous basins in Wyoming. M.S., Department of Renewable Resources, University of Wyoming, Laramie.
- Parrett, Charles and Cartier, Kenn D. (1990). Methods for Estimating Monthly Streamflow Characteristics at Ungaged Sites in Western Montana. U.S. Geological Survey Water-Supply Paper 2365.

The Consultant shall adhere to the prescribed practices and limitations defined by the methodologies selected for the analyses. The reference gaging station(s), methodology ultimately selected, and steps taken in application of the methodology must be fully described in the written report with all supporting data.

B. Diversions

Historic diversions determined in Task 4 can be used to reestablish virgin flows. However, depending upon the existence, availability, and extent of records, the Consultant may need to estimate historic diversions. This could involve field assessments of head gates and canals in order to estimate capacities; interviews with water right holders, ditch riders, or water district managers; or any other means that would establish reasonable estimations of the diversion amounts that took place during the established study period. The Consultant will propose the means and methods on estimating historic diversion records, and they must be approved by the Office project manager.

C. Consumptive Use

Irrigation consumptive use (CU) values can be established by the methods described below. For municipal, industrial, and out of basin use, the Consultant can estimate CU values as established for previous instream flow hydrologic studies as described below. The Consultant may propose other means and methods for estimating CU, but they must be approved by the Office project manager.

- Irrigation Use: CU values for irrigation can be estimated using the StateCU₁ software platform or alternative methods proposed by the Consultant with approval of the Office project manager. CU values, along with cropping patterns, can also be referenced from the latest river basin plans prepared by the Office (<http://waterplan.state.wy.us>).
- Municipal Use: CU values can be assumed as 45 percent of the diversion.
- Industrial Use: CU values can be assumed as 100 percent of the diversion, unless it can be shown that the particular industry effectively consumes a lesser amount and that some of the diverted flows are returned to the basin of origin.
- Out of Basin Use: CU values can be assumed as 100 percent of the diversion.

D. Return Flows

A return flow is that part of a diversion that returns to the stream. A depletion is that part of a diversion that does not return to a stream due to consumptive use, deep groundwater loss, or out-of-basin diversion. The Consultant may estimate return flow quantities, return flow patterns, and return flow timing using the following guidelines that were adopted in previous instream flow hydrologic studies unless it can be shown otherwise. With that, the Consultant shall review each guideline for appropriateness to specific situations and may choose to propose other means and methods for estimating return flow quantities, return flow patterns, and return flow timing².

Return Flow Quantities

- | | |
|------------------|---|
| ▪ Irrigation Use | For flood irrigation:
Return Flow = 0.50 x Diversion |
| | For other forms of irrigation:
Return Flow = 0.50 (Diversion – CU) |
| ▪ Municipal Use | Return Flow = 0.55 x Diversion |
| ▪ Industrial Use | Return Flow = Zero |

Return Flow Patterns

The Consultant shall identify the return flow locations which shall be plotted on the same maps containing the diversion locations.

¹ StateCU is a public domain consumptive use model developed by the State of Colorado as part of Colorado's Decision Support System tools (<https://cdss.colorado.gov/modeling-data/consumptive-use-statecu>).

² For return flows, previous instream flow studies have referenced the following document:
Wetstein, John H. Return Flow Analysis of Flood Irrigated Alluvial Aquifer. M.S. Thesis Submitted to the Department of Civil Engineering, University of Wyoming, August, 1989.

Return Flow Timing

- Irrigation return flows via surface water can occur during the month of diversion or lagged as determined by the Consultant. Return flows through groundwater may be lagged on the basis of an exponential decay rate determined to best fit the stream flow data.
- Municipal return flows occur during the month of diversion.
- Storage return flows occur during the month of storage releases.
- Out of basin diversion will have no return flows.

E. Storage

Each reservoir associated with each instream flow segment, existing or proposed, shall be analyzed to determine the yearly fill of each storage account. This will include determining the yearly carryover storage, timing and quantities of inflow to fill each account each year, and the timing and quantities of storage releases to their permitted points of use. Depletions to each reservoir in terms of evaporation shall be accounted. Storage values in acre-feet will be converted to CFS conveyance values down to their points of use.

Task 6. Flow Measurements

In order to verify flows, the Consultant shall acquire and install stage monitoring equipment and develop a rating curve (stage-discharge relationship) for each instream flow segment. The Consultant shall follow procedures outlined in Sauer, V.B. (2002). Standards for the Analysis and Processing of Surface-Water Data and Information Using Electronic Methods. U.S. Geological Survey Water-Resources Investigations Report 01-4044, 91 p.

To establish each stream gage site, the Consultant shall choose the most suitable location possible, preferably near the downstream point of each segment, with a relatively stable cross-section and geometry, free from excessive turbulence and having suitable accessibility. The selection of the gaging site shall consider existing stream segment hydrology with respect to proximal springs, seeps, and tributary flows that might affect flow measurements. Gaging site selections shall also consider the locations previously used by the Wyoming Game and Fish Department; coordinate with the Office project manager to identify these previously used sites. The gaging sites selected for this study shall be clearly identified within the final report by written description and displayed on maps; geographic coordinates of each selected site shall also be presented.

Stage recording and data-logging equipment shall be installed by the Consultant as early as practicable in the year understanding that measuring low flow conditions is valuable to the study. Early in the study the Consultant shall contact all land owners (private, state, federal) to provide notice of the work to be completed. The Consultant will be responsible for acquiring access permission, permitting, equipment acquisition, protocol, installation, operation, maintenance, development of rating curves, data collection, and all appurtenances associated with the operation of the stream gages during the life of the Contract. Prior to each field visit, the Consultant shall notify the appropriate land owner(s) and/or state and federal agencies to announce the intentions to access the sites and explain the work to be done.

Stage recording data logging devices may be acquired from the Office for use in this project if available. The Consultant shall be responsible for providing all other required equipment, including USB Reading Units, laptops and computers for data upload and processing, software, and all equipment required for the physical installation of each unit. Based upon site requirements and proximities, the Consultant shall determine and install the proper number of pressure transducers to ensure proper calibration to barometric pressure at each stage recording site. Any equipment provided by the Office under this Contract and all data collected shall be the sole property of the Office and returned to the Office prior to close of Contract. The Office project manager shall review and approve all proposed work and expenditures of funds under this task. Note that surcharges or rental fees of any kind shall not be billable within this Contract should the Consultant chose not to install equipment if available from the Office. Should the Consultant need to purchase equipment through the project budget, the equipment should meet industry standards, prior approval must be obtained from the Office project manager, and all equipment purchased shall be the sole property of the WGFD and delivered to the WGFD prior to close of Contract.

Both deployment and removal of any state-owned equipment shall be coordinated with the Office project manager.

To develop a suitable rating curve, the Consultant shall measure discharge and corresponding stage at each segment at least 5 times throughout the year, capturing seasonal high and low flows along with monthly variations in discharge as applicable to each segment. The Consultant should apply proper discharge measurement procedures such as those found in Turnipseed, D.P., and Sauer, V.B., 2010, Discharge measurements at gaging stations: U.S. Geological Survey Techniques and Methods book 3, chap. A8, 87 p. The Consultant may propose the means, methods, and timing of the flow measurements and equipment which must be approved by the Office project manager. The Consultant shall be responsible for providing the flow measuring equipment and may coordinate with the Office project manager for use of equipment owned by the Office should it be available.

As part of this task, flow measurements may also be made at diversions should such data prove useful in the Hydrology Analysis. All stage and flow measurements should be obtained throughout the project at sufficient frequencies that are fully applicable to satisfy the objectives of this project.

Stage-discharge curves developed during this study shall be displayed and described in the final report in well-defined manner with data points, axis titles, chart formats, etc. clearly presented. The Consultant may present these curves in the main body of the report with stage being the independent variable on the horizontal axis and discharge being the dependent variable on the vertical axis, consistent with the associated regression equation presented on the graph. The Consultant should also present the stage-discharge curves within an appendix of the report that displays the charts with stage on the vertical axis and discharge on the horizontal axis, consistent with standards suggested within reports such as the following.

- Rantz, S.E., and Others (1982). Measurement and Computation of Streamflow. U.S. Geological Survey Water-Supply Paper 2175, v. 2, 631 p.

- Sauer, V.B. (2002). Standards for the Analysis and Processing of Surface-Water Data and Information Using Electronic Methods. U.S. Geological Survey Water-Resources Investigations Report 01-4044, 91 p.

Task 7. Unappropriated Flow Analysis

The Consultant shall perform an Average Year Mean Monthly Unappropriated Flow Analysis based on the average years within the study period as determined in Task 5. The Consultant will determine whether the average unappropriated flow based on average flow years would result in a flow shortage or provide excess flows relative to the requested instream flow rate for each month. The Consultant shall perform this analysis for each segment and place data in tabular and graphic form. The analysis shall be performed in such a way that stream regulations and effects thereof that would occur in the field are accounted for in a realistic manner, including but not limited to adjustments in return flows when over-appropriation occurs.

Unappropriated flows are determined by removing the appropriated flows from the virgin flows. Appropriated flows are the potential diversion rates as allowed by the water right. Municipal, industrial, and other uses shall be calculated based on the maximum permitted diversion rate when the diversion is in priority. Irrigation diversion rates shall be calculated based on the legal duty, including surplus water diversions. These amounts are as follows:

- A one (1) cfs per 70-acre diversion for all pre-March 1945 permitted rights, with diversion based upon priority.
- An additional one (1) cfs per 70-acre diversion for all pre-March 1945 permitted rights, when surplus water is available.
- A one (1) cfs per 70-acre diversion for post-March 1945 to pre-March 1985 rights, when pre-March 1945 rights have been given a two (2) cfs per 70-acre supply.
- An additional one (1) cfs per 70-acre diversion for all post-March 1945 and pre-March 1985 permitted rights, when surplus water is available.
- A one (1) cfs per 70-acre diversion for all post-March 1985 rights, after all pre-March 1985 permitted rights have been given a two (2) cfs per 70-acre supply.

Under this task, to establish and account for the return flows from these legal duty diversions, the Consultant may apply the consumptive use values and subsequent return flow quantities, patterns, and timing developed under Tasks 5C and 5D.

Task 8. Storage Analysis

If the conclusions of Task 7 indicate that there will be shortages in the instream flow request, the Consultant shall evaluate the shortages and determine the hydrologic feasibility of placing storage for this shortage above the instream flow segment. The Consultant shall estimate the size of necessary storage, and investigate the potential for supplying instream flows from contemplated storage sites from existing studies/projects identified in Task 2. This storage would store water during the high-flow months and then release the stored water during low-flow months to make up the identified monthly shortages. (Refer to statute, section 41-3-1004 (a).)

The Consultant shall determine the feasibility of potential upstream storage sites for each segment found to have shortages in Task 7. The level of detail associated with this task will be established on a site-by-site basis with consultation with the Office project manager.

Task 9. Daily Flow Exceedance Analysis

The Consultant shall perform a daily flow exceedance analysis on the remaining unappropriated direct flows using the entire selected period of record. The Consultant shall then develop flow duration curves for each month for each segment. This analysis will determine the 20 percent exceedance flows and the percentage of time the requested flows are equaled or exceeded. Then based on the Wyoming Game and Fish Department's requested minimum flows and the exceedance analysis, a determination will be made as to whether or not the monthly unappropriated stream flows exceed the 20 percent exceedance. The Wyoming Water Resources Data System (WRDS) system, DURCUR, or appropriate daily flow exceedance techniques such as those described in the USGS Water Supply Paper 1542-A, "Flow Duration Curves" (Searcy, 1959) can be used to develop the flow duration curves. The duration curves shall be presented in graphic form with the requested flow clearly shown. The requested flow exceedance, the 20 percent exceedance values shall be clearly indicated in tabular form and clearly presented in the graphic forms.

Task 10. Draft Report

The Consultant will submit to the Office, for distribution to a review team, three (3) hard copies of the draft report describing the results of all work completed in this study, no later than March 1, 2028. The Consultant shall also provide, by shared electronic files:

- An exact PDF version of the draft report, assembled into one standalone file
- All flow data, calculations, graphs, and charts in their original format such as EXCEL.

Task 11. Final Report and Deliverables

After incorporation of the Office's review comments on the draft report, the Consultant shall submit one (1) final report in hard copy along with one (1) shared electronic file (consisting of the final report in a text-recognized Adobe Acrobat (PDF) format) to the Office project manager 2 weeks prior to the Task 11 deadline for final comparison purposes. The PDF version shall be completely assembled into one stand-alone file and shall be exactly the same version as the hard copies. Any discrepancies discovered by the Office project manager between the hard copy and electronic copy during this final comparison are the responsibility of the Consultant to correct.

Upon completion of the final quality assurance process by the Office project manager, the Consultant shall submit all final documents and materials to the Office on or before July 1, 2028. The final documents and materials shall include:

- Five (5) hard copies
 - final report
- Three (3) USB drives containing the following:

- the final report in a text-recognized Adobe Acrobat (PDF) format.
- the final report in the original working files (WORD, EXCEL, etc).
- a “project notebook” containing all working files including flow data, calculations, spreadsheets, methods, assumptions, correspondence, meeting records, etc.
- Two (2) USB drives containing the following:
 - the final report in a text-recognized Adobe Acrobat (PDF) format

The PDF versions of the final report will be completely assembled into one stand-alone file and shall be exactly the same version as the hard copy. The project notebook files shall include descriptions of the assumptions and methodologies used in the project analysis, and shall be organized in such a way as to allow replication of the steps, calculations, and procedures used by the Consultant to reach the conclusions described in the final report. All USB deliverables shall have a table of contents attached.

**ATTACHMENT B
HOURLY RATE AND REIMBURSABLE EXPENSES**

PRICE SCHEDULE 2026

PERSONNEL	UNIT RATE
Senior Principal	180.00/hour
Senior Engineer	180.00/hour
EXPENSES	
Subcontracts (Labor, Equipment and Services)	Cost
Shipping (i.e. Documents, Equipment, Supplies)	Cost
TRAVEL EXPENSES	
Meal Per Diem	\$68/day/person
Camp Trailer	\$75/day
Airline Tickets Hotel/Motel Rental	Cost
Rental Vehicle	Cost
FIELD EXPENSES AND EQUIPMENT	
Consumable Field Supplies	Cost
Rental Equipment	Cost
Company Vehicles	\$0.76 /mile
Level-Digital (hourly use)	\$20 hour
Level-Digital (day use)	\$80 day
Streamflow Measurement Equipment (Ott MF Pro, day use)	\$90/day
All-Terrain Vehicle (day use)	\$135/day

Rates and reimbursable expenses not listed will be charged At Cost

PLANNING PROJECT AMENDMENTS



THE STATE OF WYOMING
Water Development Office

6920 YELLOWTAIL ROAD TELEPHONE: (307) 777-7626 CHEYENNE, WY 82002



MEMORANDUM

DATE: November 5, 2026
TO: Wyoming Water Development Commission
FROM: Jeff Kaiser, P.E., Construction Division
SUBJECT: Amendment Sixteen to Middle Piney Reservoir Project

This memo is to serve as an explanation for Amendment Sixteen to the Middle Piney Reservoir Project contract with Stantec Consulting Service Inc. (Stantec). This amendment will:

- a) Increase the total Contract dollar amount by \$826,000.00 to \$3,646,217.00;
- b) Revise the Consultant's responsibilities with an updated Scope of Services; and
- c) Extend the Contract expiration date from November 30, 2028 to November 30, 2029.

The WWDO's recommendation to amend Stantec's Contract is based on the following considerations:

The reconstruction of Middle Piney Dam was deemed substantially complete in the fall of 2023. The first reservoir fill began in June 2024 and concluded in July 2024, reaching approximately 67% of capacity due to lower-than-average snowpack. The 2025 and 2026 fills also did not achieve full capacity. Filling operations will be carefully observed again in 2027 to ensure the project functions in the manner intended (date dependent on snowpack levels and weather conditions).

Since substantial completion, seepage has been identified along the toe of the original landslide, near the right groin of the dam. To address this condition and prevent the migration of fine-grained materials near the dam groin, a blanket filter drain is recommended. The blanket filter drain work will require additional design, bidding, and construction. This work requires a change order with Stantec to include:

- Design and permitting
- Bidding
- Project Management

Stantec's current construction management contract is set to expire on November 30, 2028. In addition to their scope of work and budget, Amendment Sixteen will also extend the contract through project completion, ensuring Stantec's continued availability for monitoring during the reservoir filling and completion of the change order items listed above.

**AMENDMENT SIXTEEN TO
CONSULTANT CONTRACT FOR SERVICES NO. 05SC0293018
MIDDLE PINEY RESERVOIR PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND
STANTEC CONSULTING SERVICES INC.**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and Stantec Consulting Services Inc. [Consultant], whose address is: 370 Interlocken Blvd, Suite 300, Broomfield, CO 80021.
2. **Purpose of Amendment.** This Amendment shall constitute the sixteenth amendment to the Contract between the Commission and the Consultant. The purpose of this Amendment is to: a) increase the total Contract dollar amount by eight hundred twenty-six thousand dollars (\$826,000.00) to three million, six hundred forty-six thousand, two hundred seventeen dollars (\$3,646,217.00); b) amend the responsibilities of the Consultant; c) replace Exhibit A-5, as amended, with Exhibit A-6, Revised Scope of Services and d) extend the Contract expiration date from November 30, 2028 to November 30, 2029.

The original Contract, dated June 15, 2006, required the Consultant to investigate the options for reconstructing and possibly enhancing Middle Piney Reservoir while making it safe for water storage for a total Contract amount of one hundred ninety-one thousand, seven hundred seventeen dollars (\$191,717.00) with an expiration date of June 30, 2008.

Amendment One, dated June 9, 2008, extended the Contract expiration date from June 30, 2008 to October 1, 2008.

Amendment Two, dated November 17, 2008, extended the Contract expiration date from October 1, 2008 to December 31, 2009.

Amendment Three, dated March 11, 2009, documented the WWDC acceptance of the final report and released retainage.

Amendment Four, dated June 5, 2009, amended the Contract to provide assistance to WWDC in addressing permitting issues and ownership issues with the United States Forest Service. Furthermore, it included mitigation analysis, surveying, stream gauging, drilling and geotechnical design, and preliminary engineering design. The amendment increased the total Contract amount by five hundred thousand dollars (\$500,000.00) from one hundred ninety-one thousand, seven hundred seventeen dollars (\$191,717.00) to six hundred ninety-one thousand, seven hundred seventeen dollars (\$691,717.00), and extended the Contract expiration date from December 31, 2009 to December 31, 2011.

Amendment Five, dated November 7, 2011, extended the Contract expiration date from December 31, 2011 to December 31, 2012.

Amendment Six, dated November 15, 2012, extended the Contract expiration date from December 31, 2012 to December 31, 2014.

Amendment Seven, dated March 8, 2013, acknowledged the purchase of States West Water Resources Corporation by Wenck Associates, Inc. and replaced Exhibit B Hourly Rate and Reimbursable Expenses Price Schedule.

Amendment Eight, dated March 13, 2014, supplemented existing tasks to assist the WWDC in project coordination, final design and specification preparation, and permit acquisition. The amendment increased the total Contract amount by three hundred thousand dollars (\$300,000.00), from six hundred ninety-one thousand, seven hundred seventeen dollars (\$691,717.00) to nine hundred ninety-one thousand, seven hundred seventeen dollars (\$991,717.00), and extended the Contract expiration date from December 31, 2014 to March 31, 2016.

Amendment Nine, dated March 7, 2016, extended the Contract expiration date from March 31, 2016 to March 31, 2017.

Amendment Ten, dated March 17, 2017, amended the Contract to: a) add Level III bidding, construction management, field inspection, project closeout, and office support responsibilities for the Consultant; b) increase the total Contract dollar amount by eight hundred twenty-four thousand, five hundred dollars (\$824,500.00) from nine hundred, ninety-one thousand, seven hundred seventeen dollars (\$991,717.00) to one million, eight hundred sixteen thousand, two hundred seventeen dollars (\$1,816,217.00); and c) extend the term of the Contract from March 31, 2017 to December 31, 2021.

Amendment Eleven, dated May 20, 2019, amended the Contract to: a) increase the total Contract dollar amount by one hundred eighty-three thousand dollars (\$183,000.00) to one million, nine hundred ninety-nine thousand, two hundred seventeen dollars (\$1,999,217.00); b) extend the term of the Contract through June 30, 2023; c) replace Exhibit A, as amended, with Exhibit A-2, Revised Scope of Services; and d) replace Exhibit B, as amended, with Exhibit B-2.

Amendment Twelve, dated June 8, 2021, amended the Contract to: a) increase the total Contract dollar amount by four hundred eighty-one thousand dollars (\$481,000.00) to two million, four hundred eighty thousand, two hundred seventeen dollars (\$2,480,217.00); b) amend the responsibilities of the Consultant; c) replace Exhibit A-2, as amended, with Exhibit A-3, Revised Scope of Services; and d) to acknowledge the acquisition of Wenck Associates, Inc. by Stantec Consulting Services Inc.

Amendment Thirteen, dated January 31, 2022, amended the Contract to: a) increase the total Contract dollar amount by twenty-five thousand dollars (\$25,000.00) to two million, five hundred five thousand, two hundred seventeen dollars (\$2,505,217.00); b) amend the responsibilities of the Consultant; and c) replace Exhibit A-3, as amended, with Exhibit A-4, Revised Scope of Services.

Amendment Fourteen, dated April 10, 2023, extended the Contract expiration date from June 30, 2023 to November 30, 2025.

Amendment Fifteen, dated December 8, 2025, amended the Contract to: a) increase the total Contract dollar amount by three hundred fifteen thousand dollars (\$315,000.00) to two million, eight hundred twenty thousand, two hundred seventeen dollars (\$2,820,217.00); b) amend the responsibilities of the Consultant; c) replace Exhibit A-4, as amended, with Exhibit A-5, Revised Scope of Services and d) extend the Contract expiration date from November 30, 2025 to November 30, 2028.

3. Term of the Amendment. This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Contract, as amended, unless terminated at an earlier date pursuant to the provisions of the Contract, or pursuant to federal or state statute, rule or regulation.

4. Amendments.

A. The second sentence of Section 4.A. of the original Contract is hereby amended to read as follows:

“The total payment under this Contract shall not exceed three million, six hundred forty-six thousand, two hundred seventeen dollars (\$3,646,217.00).”

B. Section 4.B. of the original Contract is hereby amended in its entirety to read as follows:

“**B.** Project Budget. The Project budget for each task included in Exhibit A-6 is as follows:

<u>Level II Tasks</u>		<u>Estimated Cost</u>
Task 1.	Scoping and Project Meetings	\$ 12,368.76
Task 2.	Access	\$ 1,333.75
Task 3.	Surveying	\$ 6,466.90
Task 4.	System Efficiencies and Conservation Opportunities	\$ 9,010.94
Task 5.	Identify Areas of Need and Demand Projections	\$ 1,857.66
Task 6.	Middle Piney Creek Hydrology	\$ 31,868.69
Task 7.	Evaluation of the Existing Structure	\$ 13,375.77
Task 8.	Enlargement Potential	\$ 1,351.02
Task 9.	Geotechnical Evaluation	\$ 37,568.63
Task 10.	Preliminary Designs	\$ 17,086.00
Task 11.	Environmental and Permitting Issues	\$ 13,520.44
Task 12.	Cost Estimates	\$ 5,671.72

Task 13.	Economic Analysis and Project Financing	\$ 10,498.99
Task 14	Legal Entity	\$ 1,182.14
Task 15.	Reports	\$ 16,100.00
Task 16.	Project Presentation and Public Hearing	\$ 2,126.58
Task 17.	Project Coordination	\$ 61,300.00
Task 18.	Stream Gaging	\$ 65,880.00
Task 19.	Surveying	\$ 31,643.68
Task 20.	Permit Acquisition	\$ 136,250.00
Task 21.	Final Geotechnical Investigation	\$ 245,250.00
Task 22.	Final Design and Specification Preparation	\$ 260,056.32
Task 23.	Acquisition of Access and Rights of Way	\$ 780.22
Task 24.	Discretionary Task	\$ 9,168.79
Level II Subtotal		\$ 991,717.00

<u>Level III Tasks</u>		<u>Estimated Cost</u>
Task 1.	Bidding	\$ 10,300.00
Task 2.	Construction Management	\$ 313,400.00
Task 3.	Field Inspection	\$ 746,000.00
Task 4.	Project Closeout	\$ 47,500.00
Task 5.	Office Support	\$ 4,300.00
Task 6.	Zone 6 Embankment, Riprap and Weir Augmentation Evaluation	\$ 33,000.00
Task 7.	Discretionary Task	\$ 150,000.00
Task 8.	Final Grout Work	\$ 133,000.00
Task 9.	Project Grouting Report	\$ 51,000.00
Task 10.	Seepage Control System Improvements and Site Evaluation	\$ 50,400.00
Task 11.	Project Management	\$ 21,100.00
Task 12.	Generator, Propane and SCADA Modifications	\$ 63,600.00
Task 13.	2026 Fill Inspection and Reporting	\$ 28,300.00
Task 14.	Landslide Well Instrumentation and Monitoring	\$ 124,000.00
Task 15.	Debris Management Modifications	\$ 52,600.00
Task 16.	Seepage Filter Blanket Drain	\$ 826,000.00
Level III Subtotal		\$ 2,654,500.00
PROJECT TOTAL COST		<u>\$ 3,646,217.00</u>

The amounts for each task are estimates only, but are not to be exceeded unless authorized in writing by the Commission. The Contract total amount is controlling. Payment shall be made directly to the Consultant. The Consultant shall maintain hourly records of time worked by its personnel to support any audits the state or the Commission may require. Billing reports shall be submitted no more often than monthly for activities and costs accrued since the last billing report and shall be

made on forms provided by the Office. The Consultant may use alternate billing forms if approved in advance by the Office project manager. A brief project progress report summarizing project activities in the billing period must be submitted with each billing.”

- C. The second sentence of Section 3 of the original Contract is hereby amended to read as follows:

“The term of this Contract is from June 15, 2006 through November 30, 2029.”

5. Amended Responsibilities of the Consultant.

Responsibilities of the Consultant are hereby amended as follows:

- A. As of the Effective Date of this Amendment, Exhibit A-5, Revised Scope of Services, as amended, which was attached to the original Contract, is superseded and replaced by Exhibit A-6, Revised Scope of Services, which is attached to this Amendment and incorporated into the original Contract by this reference. All references to “Exhibit A-5” in the original Contract, and in any amendments thereto, are amended to read: “Exhibit A-6”.

6. Amended Responsibilities of the Commission.

Responsibilities of the Commission have not changed.

7. Special Provisions.

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Contract, and any previous amendments, between the Commission and the Consultant, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.
- B. **Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Consultant of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

8. General Provisions.

- A. **Entirety of Contract.** The Original Contract, consisting of twelve (12) pages; Exhibit A, Scope of Services, consisting of ten (10) pages; Exhibit B, consisting of one (1) page; Amendment One, consisting of two (2) pages; Amendment Two,

consisting of two (2) pages; Amendment Three, consisting of three (3) pages; Amendment Four, consisting of eight (8) pages; Exhibit B, consisting of one (1) page; Amendment Five, consisting of three (3) pages; Amendment Six, consisting of three (3) pages; Amendment Seven, consisting of four (4) pages; Amendment Eight, consisting of four (4) pages; Amendment Nine, consisting of three (3) pages; Amendment Ten, consisting of ten (10) pages; Amendment Eleven, consisting of six (6) pages; Exhibit A-2, Scope of Services, consisting of twenty-one (21) pages; Exhibit B-2, consisting of one (1) page; Amendment Twelve, consisting of six (6) pages; Exhibit A-3, consisting of twenty-one (21) pages; Amendment Thirteen, consisting of six (6) pages; Exhibit A-4, consisting of twenty-one (21) pages, Amendment 14, consisting of five (5) pages; Amendment Fifteen, consisting of seven (7) pages; Exhibit A-5, consisting of twenty-two (22) pages; and this Amendment Sixteen consisting of seven (7) pages; Exhibit A-6, consisting of twenty-six (26) pages represent the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements whether written or oral.

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9. **Signatures.** The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

This Amendment is not binding on either party until approved by A&I Procurement and the Governor of the State of Wyoming or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).

WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

STANTEC CONSULTING SERVICES INC.:

Dylan Wade, P.E., Associate
Employer Identification Number: 11-2167170

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

EXHIBIT A-6
REVISED SCOPE OF SERVICES

A. AUTHORIZATION:

The Wyoming Legislature has authorized the Wyoming Water Development Commission to conduct the project study and perform design and construction engineering described herein. The Consultant will complete the tasks and requirements outlined in Exhibit A-6, Revised Scope of Services.

B. PROJECT DESCRIPTION:

1. Location. Middle Piney Reservoir is located on the Middle Piney Creek, approximately thirty (30) miles west of Big Piney/Marbleton in Sublette County.
2. Purpose. To perform a Level II study of the Middle Piney Reservoir.
3. History. The Middle Piney Dam is an earthen structure that was constructed in 1940 to provide irrigation and domestic water. In 1979, the Army Corps of Engineers inspected the dam and gave it a high hazard potential classification for damage or loss of life in the event of failure. They also noted considerable seepage under and around the dam. Due to seepage, the dam is relatively ineffective for storage of water except in early spring when flow is high. The Forest Service has locked the gates in the open position.

C. PROJECT REQUIREMENTS:

1. Monthly Progress Reports and Billing Statements

The Consultant shall submit a brief monthly progress report outlining the study status, progress, and results to date, regardless of whether or not a billing statement is submitted, on or before the last working day of the month.

Each billing statement must include a task-by-task report and receipts for reimbursable expenses justifying the cost items contained in the billing statement. The monthly progress report may be used as the justification for the billing statement as long as all cost items covered in the billing statement are addressed in the progress report.

2. Computer Models, Statement of Assumptions, Project Work File
 - a. If the Consultant writes or uses a computer model or spreadsheet as a part of this project, the Consultant shall submit to the WWDC for approval all proposed model names and data formats prior to beginning work on that task. All data shall be submitted to WWDC in written and digital formats

with the final report. Digital media shall be labeled by the Consultant to provide sufficient detail to access the information on that media. User manuals shall be submitted by the Consultant to WWDC providing complete documentation of computer models developed under this project. The user manuals shall also contain the source code language and the type of computer equipment necessary to operate the model(s). All computer models, databases, and spreadsheets developed herein (written and digital formats) are due on the same date as the final report.

- b. To facilitate the Commission's accurate evaluation of the Consultant's work product, computations, conclusions and recommendations, the Consultant shall:
 - Include in the final report a section describing the assumptions and methodology used by the Consultant in generating the data and conclusions contained in that chapter.
 - Maintain a project work file containing the materials used in project analysis. This file will be available for review by the Commission and should be organized in such a way as to allow replication of the steps and procedures used by the Consultant to reach the conclusions described in the study.
 - Prepare a project notebook containing a description of the assumptions and methodologies used in the project analysis. The notebook shall be organized in such a way as to allow replication of the steps, calculations, and procedures used by the Consultant to reach the conclusions described in the draft final report. The project notebook shall be submitted with the draft final report.

3. Cost Estimates

The Consultant shall provide, as a part of project cost estimates, an estimate of:

- a. The cost to prepare final plans and specifications.
- b. The cost to acquire permits and to mitigate project impacts.
- c. The cost of project legal expenses.
- d. The cost of acquiring access and rights-of-way.

4. Calculation of Engineering Costs and Contingencies

The Consultant shall use the following guidelines in calculating Level III cost estimates:

Level III Cost Estimates

Preparation of Final Designs and Specifications	\$	_____
Permitting and Mitigation	\$	_____
Legal Fees	\$	_____
Acquisition of Access and Rights of Way	\$	_____
Cost of Project Components	\$	_____
	\$	_____
	\$	_____
Construction Cost Subtotal #1	\$	_____
Engineering Costs = CCS#1 x 10%	\$	_____
Subtotal #2	\$	_____
Contingency = Subtotal #2 x 15%	\$	_____
Construction Cost Total	\$	_____
Project Cost Total	\$	_____

5. Final Report

The Consultant shall use the Contract Scope of Services as the outline for draft and final reports so that Consultant compliance with Contract provisions can be verified. IF THE FINAL REPORT CONTAINS INFORMATION OF AN ENGINEERING NATURE, THE COVER OF THE FINAL REPORT, ALL PLATES, AND THE EXECUTIVE SUMMARY MUST BE STAMPED AND SIGNED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF WYOMING. IF THE FINAL REPORT CONTAINS INFORMATION OF A GEOLOGIC NATURE, THE COVER OF THE FINAL REPORT, ALL PLATES, AND THE EXECUTIVE SUMMARY MUST BE STAMPED AND SIGNED BY A PROFESSIONAL GEOLOGIST LICENSED IN THE STATE OF WYOMING. IF THE FINAL REPORT CONTAINS INFORMATION OF BOTH AN ENGINEERING AND GEOLOGIC NATURE, THE COVER OF THE FINAL REPORT, ALL PLATES, AND THE EXECUTIVE SUMMARY MUST BE STAMPED AND SIGNED BY BOTH A PROFESSIONAL ENGINEER AND A PROFESSIONAL GEOLOGIST LICENSED IN THE STATE OF WYOMING. As allowed by the Board of Registration for Professional Geologists and the Board of Registration for Professional Engineers, the consultant may utilize an electronic seal and signature. However, the reproducible original to be submitted as part of the deliverables required herein must utilize an original seal(s) and original signature(s).

6. Final Report - Digital Format

In addition to the paper submittal described in Section C.5 above, the Consultant shall also provide the final documents and related materials in a digital format. This digital format shall contain the final documents in their entirety, including all text, tables, plates, figures, etc. The deliverables under this section shall be contained on a standard CD ROM(s) or DVD ROM(s). The document shall be in Word 2003 and Adobe Acrobat V7 format. Any plates, figures, etc. not suitable for Word 2003 shall be in AutoCAD Map 2000, ArcGIS 8.x or higher, Adobe Acrobat, or compatible format. Other formats may be used if approved in advance by the WWDC project manager. The final documents will also be provided fully assembled into one file, in a complete "internet ready" digital format to facilitate their distribution via the WWDC website.

7. Anticipated Project Funding Assistance

The Consultant shall clearly identify project components eligible for WWDC funding, both in cost estimates and in project mapping. The Consultant shall verify project component funding eligibility with the WWDC prior to commencing any economic analysis. Unless otherwise directed by the WWDC project manager, the Consultant shall assume that rehabilitation projects will be funded with a 67% grant and a 33% loan. The WWDC loan portion of the project will be financed at a 4% interest rate with a term to be specified by the WWDC project manager. New development projects will be funded with a 67% grant and 33% loan, at a 4% interest rate with a term to be specified by the WWDC project manager. If funding is anticipated from another agency, such as the Office of State Lands and Investments, Abandoned Mine Lands (AML) or Rural Utility Service (RUS), the Consultant shall prepare cost estimates for system components not eligible for WWDC assistance in a format and level of detail acceptable to the potential funding agency.

If required in the Contract Scope of Services, the Consultant shall provide the information necessary to complete applications to RUS, the Office of State Lands and Investments, and any other identified funding sources.

8. Project Access

The Consultant shall be responsible for obtaining access as required for project tasks.

9. Stand-By Time

The WWDC will not reimburse the Consultant for stand-by time charges for the Consultant's supervisory personnel.

10. Well Permitting

All wells developed under this program shall list the State of Wyoming, Water Development Commission as the permittee. The Consultant shall be responsible for obtaining the permit.

11. Verification Log

After all casing has been installed in the well, the WWDC may require that a geophysical log be performed on the well to verify casing placement. A copy of this log shall be included in the final report.

D. LEVEL II SCOPE OF SERVICES:

Task 1. Scoping and Project Meetings

A scoping meeting shall be held early in the project schedule to familiarize the sponsor and interested parties with the scope of the project and to obtain input from affected parties. The Consultant will prepare a presentation, including maps and other visual aids, to explain the project studies.

The Consultant shall plan for a minimum of four additional project meetings to be held in the project area. Three meetings will be scheduled at the discretion of the WWDC project manager depending on developments during the study. A results presentation project meeting will be held at the conclusion of the study.

Project meetings will be conducted, as necessary, for the coordination of project activities and for keeping the sponsors informed of project progress. Several informal meetings with the project sponsor and steering committee may be necessary during the course of the study. In the interest of economy, meetings shall be scheduled to coincide with fieldwork, if possible. The Consultant shall notify the WWDC project manager in advance of any meetings with the project sponsor or other interested parties. Consultant will be responsible for setting and conducting these meetings in coordination with the WWDC and sponsor. The consultant will prepare all notices and needed materials for the meetings.

Task 2. Access

The Consultant shall be responsible for obtaining access as required for all project tasks.

Task 3. Surveying

The Consultant shall be responsible for the surveying necessary to prepare designs as required for project completion.

Task 4. System Efficiencies and Conservation Opportunities

The Consultant shall identify system efficiencies within the Middle Piney Drainage and present opportunities for conservation. This shall include, but not be limited to, a literature review and a discussion at the scoping meeting with the project sponsor on efficiencies of existing irrigation units and conservation. The Consultant shall also review conveyance losses throughout the system.

Task 5. Identify Areas of Need and Demand Projections

The Consultant shall use the spreadsheet model developed for the Green River Basin Plan or the State Mod Model developed for the Upper Green River Storage Study, as approved by the Project Manager, to identify areas of shortage. The shortages evaluation shall include, but not be limited to, an evaluation of irrigation needs, industrial needs, municipal needs, and fishery habitat needs. The Consultant shall quantify the shortage and, using the information developed in Task 6, develop a list of storage sites to satisfy the shortages.

The Consultant shall examine the need for additional water storage within the Middle Piney Creek Basin. This effort shall include meetings with the State Engineers Office and others to gain their input. After the potential needs are identified, the Consultant shall prepare demand projections for the area to the year 2025. The Consultant shall use the demand projection data in the Green River Basin Plan to complete this task. Projections shall be based on Department of Administration and Information population projections, industrial/commercial demand projections, city/county planning office records, and others. The Consultant shall utilize this information to prepare estimates of water and reservoir usage to the year 2025, including irrigation, industrial, municipal, recreation, fisheries and wildlife, and other uses.

Task 6. Middle Piney Creek Hydrology

The Consultant shall determine the water yield of the Middle Piney Creek watershed including average flows, high flows, low flows, and the annual hydrograph for the stream. This information will be used to determine water available for storage.

The Consultant shall prepare a flood inundation map of the area immediately below the reservoir to verify the hazard classification of the dam.

Task 7. Evaluation of the Existing Structure

The Consultant shall conduct a field evaluation of the existing structure on Middle Piney Reservoir to determine if the structure could be rehabilitated or enlarged to allow increased storage in the reservoir. Additionally, the Consultant shall determine if rehabilitation or enlargement of the facility will provide adequate water to meet the needs of the users.

The Consultant shall review the ownership of the structure on Middle Piney Reservoir and any water storage rights provided by the structure. A review of water rights on Middle Piney Creek shall also be conducted.

The Consultant will conduct an easement and right-of-way review of all adjacent property that would be affected by the rehabilitation or enlargement of the Middle Piney Dam and Reservoir. The information will be compiled and provided with descriptions of the easement or right-of-way type.

Task 8. Enlargement Potential

The Consultant shall evaluate the potential to enlarge Middle Piney Reservoir to allow storage to meet the water demands identified in Tasks 5 and 6. The Consultant shall evaluate structure types and spillway alternatives. Alternate storage sites to meet the needs of the users will also be evaluated for consideration in permitting. These alternative sites will be evaluated at a conceptual level only.

Task 9. Geotechnical Evaluation

The Consultant shall conduct initial geotechnical testing at Middle Piney Reservoir to evaluate materials present and subsurface conditions for the potential rehabilitation or enlargement. Testing will be limited to no more than three drill holes and three backhoe pits. The drilling and testing will require a special use permit from the USDA Forest Service. Some level of NEPA analysis will be necessary for the testing, and the Consultant shall begin working on acquisition of the special use permit early in the project schedule.

Only reconnaissance level geotechnical studies will be required for any alternative sites.

Task 10. Preliminary Designs

The Consultant shall prepare preliminary designs for rehabilitation of the existing structure on Middle Piney Reservoir if rehabilitation is a feasible means of supplying the needed additional water to the users. In addition, the Consultant shall prepare preliminary designs for enlargement of Middle Piney Reservoir, if this proves to be the best method for supplying the needed additional water. The Consultant shall include maps, drawings, and other items to clearly present its proposed preliminary designs.

Task 11. Environmental and Permitting Issues

The Consultant shall provide an overview of potential environmental issues that will be encountered if the Middle Piney Reservoir control structure is rehabilitated, if a new structure is constructed and the reservoir is enlarged, and if an alternate storage structure were to be constructed as identified under Task 8. The overview will include, but not be limited to, issues such as threatened and endangered species, wetlands, cultural and

historical resources, and water quality. Permitting issues shall also be defined and an overview of the permitting process provided.

Task 12. Cost Estimates

The Consultant shall provide construction cost estimates that include all construction components. The cost to end-user calculations shall include all identified and recommended improvements for the rehabilitation and potential enlargement of the structure.

The Consultant shall provide permitting cost estimates to include all permits, easements, and clearances necessary for the project. These cost estimates will be based on year 2009 construction and will include 10% for construction engineering and 15% for construction contingencies as outlined in Section C.4 above.

Task 13. Economic Analysis and Project Financing

Subtask A. Ability to Pay

The purpose of this analysis is to assist in determining a fair and equitable financing plan for the project and to provide information that can be used to determine conditions and level of state assistance. The Consultant shall prepare a life-cycle cost analysis for the project components of the alternatives selected in Task 7 and Task 8. Life-cycle cost estimates shall include operation and maintenance costs, administrative costs, debt retirement, WWDC "Repair and Maintenance Account" funding, costs that are not eligible for WWDC funding, etc. These cost estimates shall be itemized so the sponsor and the WWDC can understand each cost component comprising the total cost estimate. The cost estimates must be of sufficient accuracy to allow alternatives to be compared with each other. The Consultant shall generate recommendations relative to the annual financial commitments that the sponsor could make to retire the construction debt and meet operation and maintenance costs.

The Consultant shall document conversations with funding agencies to collaborate assumptions made by the Consultant based on information given by the funding agencies. The Consultant shall also develop specific information needed to make applications to local, state (including WWDC), and Federal agencies. This information should include timelines, trigger dates, agency criteria, funding requirements, and the conditions and requirements of legal entities recognized by the State of Wyoming.

Subtask B. Benefit-Cost Analysis

The Consultant shall perform a benefit-cost analysis utilizing input and data generated during the course of this study. This information may be supplemented with material acquired from or through various state agencies and the University of Wyoming. The WWDC shall assist the Consultant in the coordination of the benefit-cost analysis.

Task 14. Legal Entity

The Consultant shall review and provide recommendations on the development of a of legal entity, recognized by the State of Wyoming, that will own, operate, maintain, and manage the facilities that have been rehabilitated or enlarged by implementation of study findings. This task shall include an analysis of the type of district (public entity) that would operate in the most effective manner for the objectives and purposes of sponsor organization(s). To provide adequate time for the sponsor to make decisions regarding the type of entity to pursue, recommendations under this task shall be provided by December 31, 2006.

Task 15. Reports

On or before July 1, 2007, the Consultant shall submit to the WWDC ten (10) copies of the draft report and one (1) project notebook as described in Subsection C.2.b., above, providing the results of all work completed in the study.

After receipt and incorporation of WWDC and the Sponsor's review comments, the Consultant shall submit the final report to the WWDC on or before September 1, 2007. The final report shall include a separate environmental report in the appendix if required for additional funding. The final report shall consist of fifteen (15) hard copies and one (1) unbound reproducible original of the final report, twenty (20) hard copies and one (1) unbound reproducible original of an executive summary, twelve (12) CD copies containing both the executive summary and the final report in both Microsoft Word and Adobe Acrobat formats, and one project notebook as described in Subsection C.2.b, above. The digital reports shall be completely assembled, contained in one Word file and one Acrobat file, and shall be the same version as the hard copies. The summary shall outline the purpose, findings, recommendations, and configuration of the project and shall include detailed cost estimates. The summary shall not exceed ten (10) pages. All reports shall be signed pursuant to Section C.5 above.

Task 16. Project Presentation and Public Hearing

Upon completion of the final report, the Consultant will present its findings at a public meeting in the project area. The Consultant shall publish notice of the meeting not less than once each week for two weeks prior to the meeting. The Consultant will also meet with the WWDC in Cheyenne to present the results of the study.

The record of the project results presentation will include formal and informal notices; any written comments, statements, or exhibits received; and other pertinent data. The record will also include either recorded testimony or a memorandum summarizing the views and comments presented at the meeting.

If the sponsor chooses to request construction funding from the WWDC, a public hearing will be held in cooperation with WWDC to obtain public input. Information and materials

to be presented at the hearing will be developed by the Consultant after consultation with WWDC.

Key project personnel will attend the meeting and the hearing and will participate in the presentation.

Task 17. Project Coordination

A scoping meeting shall be held in the project area with the project sponsors and the Wyoming Water Development Office to discuss the scope, foreseeable issues, possible alternatives, and desired results. The Consultant shall also conduct a site visit to verify surveys, verify existing conditions, and meet with affected parties. Additional meetings with other appropriate entities (e.g., U.S. Forest Service, U.S. Army Corps of Engineers, and Wyoming Water Development Office) shall be held on an as-needed basis.

Task 18. Stream Gaging

The Consultant shall prepare final design plans and specifications for the installation of two gaging structures. One gaging structure shall be located on the inlet to Middle Piney Reservoir; the second gaging structure shall be located on the outlet of Middle Piney Reservoir. The location of these gaging structures will be chosen with consultation from the Wyoming Water Development Office.

The Consultant shall aid the Wyoming Water Development Office in the contractor selection process. The Consultant shall obtain the services of a subcontractor as appropriate to construct the gaging structures as per final design plans and specifications. Approval and billings for the subcontractor shall be handled per Section 5.C. of the Contract. The Consultant shall also provide construction management services during the construction of the structures.

Task 19. Surveying

The Consultant shall prepare a survey of the Middle Piney Reservoir storage area. This survey shall be of sufficient detail to obtain a Permit to Construct from the Wyoming State Engineer's Office. This survey shall have 5-foot contours. The survey shall be integrated with previous surveys that were completed as part of previous phases.

Task 20. Permit Acquisition

The Consultant shall obtain the necessary permits in order to construct the project. The following permits shall be obtained as a part of this task:

- Section 404 Dredge and Fill Permit (U.S. Army Corps of Engineers)
- Special Use Permit (U.S. Forest Service)

- Permit to Construct (Wyoming State Engineer's Office)
- NPDES Permit (Wyoming Department of Environmental Quality)

It is assumed that an Environmental Assessment (EA) will be required as a part of the permitting process. The following clearances shall be obtained as a part of the EA:

- Endangered Species Act
- National Historic Preservation Act
- Fish and Wildlife Coordination Act

Task 21. Final Geotechnical Investigation

The Consultant shall conduct a final geotechnical investigation so that the final design can be completed. It is assumed that no work shall begin on the project site until the proper permits (e.g., Special Use Permit from U.S. Forest Service) have been acquired.

Subtask 21.1 Drilling and Piezometer Installation

Additional subsurface drilling, in-situ testing, and sampling shall be performed to further explore the ground conditions in the right abutment landslide. One to two deep borings, from 100 to 250 feet deep, shall be drilled between the dam and the south slope of the valley near the campground. The drilling depth estimate is based on the observations from previous boring B-1 that the slide debris extends deeper than 77 feet. The deep boring(s) shall reach the depth required to penetrate the slide debris fully. The information gathered from these boring(s) shall support evaluation and design of any deep seepage control measures that may or may not be required in the future, depending on the performance of the shallow cutoff trench.

At least four additional borings shall be drilled, up to 50 feet deep each, to explore the dam foundation and cutoff trench alignment.

Falling head tests shall be attempted at discrete intervals as the boreholes are advanced through the slide debris. It is understood that the success of this testing method will depend on whether or not the boreholes stand open in the test zones below the casing.

The drilling conditions and recovered materials shall be carefully logged by a qualified engineering geologist as drilling proceeds (and prior to disturbance of the core by placement in core boxes). Where intact bedrock is encountered, the lithology, bedding characteristics and orientation, texture, hardness, strength, cementation, degree of fracturing and weathering, and Rock Quality Designation (RQD) shall be recorded on the core logs. Any unusual conditions encountered during drilling, such as water loss zones, voids, or soft zones shall also be recorded on the drill logs. Core samples shall be preserved in core boxes that indicate the core hole and depth interval. Soil samples collected during drilling of unconsolidated material shall be properly labeled and preserved as possible samples for laboratory analysis.

The borings shall be completed with open standpipe piezometers to allow for monitoring of groundwater levels. The depth of well screen completion intervals shall be determined based on the stratigraphy encountered.

Subtask 21.2 Test Pits

A trackhoe shall be used to investigate the shallow subsurface conditions (generally less than 15 feet) at selected locations in the dam foundation and along the cutoff trench alignment in the right abutment. Backhoe excavations shall generally consist of shallow test pits or short trenches up to 15 feet deep. The excavations shall allow for removal of surface soils for examination of the character and competency of shallow bedrock materials. Test pits shall also allow for determination of bedrock structure (strike and dip) in areas of interest where the bedrock is covered by surficial soils. Test pits shall also be used to evaluate the general depth of alluvial, colluvial (slope deposits), and shallow margins of the landslide deposit. The material exposed in the test pits or trenches shall be logged by an engineering geologist who shall also collect representative samples for soils classification and laboratory testing. The track hoe shall also be used to help create a drilling pad and access for the drill rig as needed. It is assumed that 3 days of backhoe time shall be required.

Subtask 21.3 Geotechnical Materials Testing

Soil and rock core samples recovered from the landslide deposit shall be tested for engineering index properties. If adequate intact samples can be obtained from the basal slide plane of the landslide deposit, strength testing by direct shear shall also be conducted. Additional bulk sampling and testing of soil materials from the proposed borrow area near the campground shall also be performed. Table 1 summarizes the number and types of tests that are anticipated for planning purposes.

Table 1
Laboratory Tests for Dam Foundation and Borrow Area

ASTM Designation	Test Description	Number of Tests Anticipated	
		Soil	Basal Slide
D2216	Soil Moisture	10	
D422	Grain Size Analysis	8	
D4318	Atterberg Limits	8	
D698	Standard Proctor Compaction	4	
D5607	Direct Shear		6
D4767	Consolidated, Undrained Triaxial Shear	6	
D2435	Consolidation	3	

Subtask 21.4 Engineering Geologic Report

The results of the subsurface investigation will be presented in an Engineering Geologic Design Memorandum. Interpretive geologic cross-sections will be prepared. The location of any potentially problematic zones detected during drilling such potential seepage zones will be shown on the cross-sections.

The Engineering Geologic Design Memorandum will include the following:

- Updated engineering geologic map of the dam and reservoir area;
- Interpretive geologic cross-sections of the dam foundation area;
- Description of the geologic conditions in the dam foundation and reservoir area;
- Description of available construction materials (embankment fill, filter/drain and aggregate, and riprap materials); and
- Specific recommendations for foundation treatment and use of materials for dam and cutoff construction.

Task 22. Final Design and Specification Preparation

The Consultant shall prepare final design plans and specifications for the rehabilitation of Middle Piney Reservoir. The design shall include detailed plans and specifications for all structures and systems (e.g., foundation, embankment, outlet works, spillway, gaging, and instrumentation).

Draft copies of the design shall be provided to the Wyoming Water Development Office for review at the 60 and 90 percent completion stages. A project meeting shall be held at the project site after the 60 percent comments have been incorporated into the design so that the project sponsors can review the status and direction of the project. Progress and review meetings shall be held with Wyoming Water Development Office on an as needed basis throughout this task.

The Consultant shall perform appropriate geotechnical analyses to develop the design layouts in sufficient detail to support detailed engineering cost opinions for embankment construction and associated earthwork and foundation treatment requirements. The following analyses shall be completed in support of dam safety evaluation and design:

- Evaluation of foundation treatment requirements;
- Seepage and slope stability analyses;
- Embankment zoning template (upstream/downstream slopes, use of on-site borrow and materials from required excavations, special filter/drain zones, etc.); and
- Earthwork and foundation design plans and cost estimates.

The final design plans and specifications shall include the following components:

- Site map showing dam footprint, cutoff trench footprint, and general location of other structural elements such as spillway and outlet works;
- Design drawings showing foundation and cutoff trench excavation plans;
- Design drawings showing treatment requirements for the dam and cutoff trench;
- Design drawings detailing typical sections of the dam and cutoff trench (including details for tie-in between the dam Zone 1 and cutoff trench backfill at the right abutment);
- Design drawings detailing spillway and outlet works (including typical sections and construction details); and
- Design specifications for all work to be completed.

A detailed cost estimate shall be provided at the 100 percent completion stage. The design plans shall be generated using AutoCAD 2006 or later. All design plans and specifications shall be completed by or under the direct supervision of a professional engineer (PE) licensed in the State of Wyoming.

Task 23. Acquisition of Access and Rights of Way

The Consultant shall aid the Wyoming Water Development Office and the project sponsor in identifying and acquiring access and rights of way.

Task 24. Discretionary Task

The Consultant shall place \$20,000 of the proposed project budget in the discretionary task. The task is included to allow changes in the scope as the project develops or as new issues are discovered. The Office project manager and the Consultant shall agree on any work to be accomplished under this task and the cost of the work. No work will be initiated or funds spent for this task without direct written authorization from the Office project manager.

LEVEL III SCOPE OF SERVICES:

Task 1. Bidding

This task assumes that the Wyoming State Procurement Office will complete solicitation of the Bid Documents. The Consultant will assist the Wyoming Water Development Commission (WWDC) in bidding the project by performing the following, which also serve as the work products for this task.

Work Products:

- A. Coordinate bid letting date, time, and place with Owner and prepare final Invitation to Bid.
- B. Identify potential contractors and suppliers, and distribute copies of Invitation to Bid as appropriate. Maintain a record of prospective bidders and suppliers whom contract documents have been issued.
- C. Conduct, at a date and time selected and a place provided by the Office project manager, a pre-bid conference to:
 - a. Instruct prospective bidders and suppliers as to the types of information required by the contract documents and the format in which bids should be presented.
 - b. Review special project requirements and contract documents in general.
 - c. Receive requests for interpretations and answer questions.
 - d. Prepare minutes of the conference and issue required addendum.
- D. Interpret construction contract documents. Prepare and issue addenda to the construction contract documents when necessary.
- E. Review the bids for accuracy and determine the acceptability of the apparent successful bidder. Review the formal bid tabulation sheets (from Procurement), evaluate bids, and make written recommendations to the WWDC concerning contract award.
- F. Provide additional sets of plans, specifications, and contract documents to the successful bidder and the U.S. Forest Service (USFS), if necessary.
- G. Review the Contractor's performance bonds, payment bonds and insurance certificates for completeness, accuracy, and acceptability. Consultant's review of the insurance certificates is only for determining if the Contractor maintains the type and amounts of insurance required by the contract documents.

Task 2. Construction Management

The Consultant shall complete the Construction Management tasks listed below. All work shall be performed by or supervised by a professional engineer licensed in the State of Wyoming.

Work Products:

- A. Conduct a pre-construction conference. The Consultant shall prepare an agenda for the conference, and prepare and distribute minutes. The pre-construction conference will include, but not be limited to, a discussion of the project startup, project schedule, staffing, submittals, processing payment applications, critical

work sequencing, change orders, record documents, permit compliance and project safety.

- B. Review and comment on the Contractor's initial and updated construction schedule and advise the Office project manager and USFS as to acceptability.
- C. Schedule and conduct weekly progress meetings, and other meetings with the Office project manager, USFS and the Contractor when necessary, to review and discuss construction procedures and progress, scheduling, engineering management procedures, and other matters concerning the project. Prepare and distribute accurate meeting minutes. Provide weekly progress reports and photologs to the Office project manager.
- D. Review drawings, submittals, and other data submitted by the Contractor as required by the construction contract documents. The Consultant's review shall be to assure conformity to the construction contract documents.
- E. Serve as liaison with Contractor, working principally through Contractor's superintendent, and assist in providing interpretation of the construction contract documents. Transmit clarifications and interpretations of construction contract documents to Contractor, Office project manager, and USFS.
- F. Receive and review guarantees, tests and approvals which are to be assembled by the Contractor in accordance with construction contract documents.
- G. Interpret construction contract documents when requested to do so by the Office project manager, USFS, or Contractor. Formally respond to any Requests for Information (RFI's).
- H. Give written notifications of observations regarding defects or deficiencies in the Contractor's work relating to compliance with drawings, specifications, and contract documents.
- I. Advise Contractor or its superintendent of the commencement of any work requiring shop drawing or sample submission if the drawing or submission has not been approved.
- J. Investigate pertinent site conditions when Contractor maintains that differing subsurface and physical conditions have been encountered, and document actual site conditions. Review and analyze Contractor claims for differing subsurface and physical conditions.
- K. Establish and furnish Contractor with necessary baselines and control points which will be used as survey datum for the work.

- L. Conduct on-site compaction density testing services during construction. Review test results for compliance with the plans and specifications. Copies of testing results will be maintained.
- M. Provide documentation and administer the processing of change orders, including applications for extension of construction time. Evaluate the cost and scheduling aspects of all change orders and, where necessary, negotiate with the Contractor to obtain a fair price for the work. Said negotiation shall be subject to the prior approval of the Office project manager.
- N. Review and process the Contractor's monthly payment requests, and forward to the Office project manager when appropriate. Consultant's review shall be for making a full independent mathematical check of the Contractor's payment request. Consultant is responsible for verifying the quantities of work and materials which are the basis of the payment requests. Consultant shall keep a record of daily quantities and have the Contractor sign off on totals before submitting payment requests to the Office project manager.
- O. Issue Field Orders or Work Change Directives as necessary to ensure conformance of work products with the overall design intent.
- P. Maintain log of certified payrolls to be supplied from Contractor. Review payrolls for conformance with applicable 2017 and future Wyoming Wage Rate Determinations. Provide notice to Contractor, the Office project manager, and/or USFS if discrepancies are identified.

Task 3. Field Inspection

The Consultant shall complete the Field Inspection tasks listed below. All work shall be performed by or supervised by a professional engineer, or in some cases a professional geologist, licensed in the State of Wyoming.

Work Products:

- A. Staff the construction site full time with the necessary number of qualified engineers/inspectors to observe progress of the work and to adequately manage the project. Maintain a daily construction log of activities.
- B. Conduct onsite observations of the work to determine if the work is proceeding in accordance with the construction contract documents.
- C. Monitor the changes in the apparent integrity of the site (such as differing subsurface and physical conditions, existing structures, and site related utilities when such utilities are exposed) resulting from construction related activities.

- D. Inspect materials, equipment, and supplies delivered to the worksite. Reject materials, equipment, and supplies which do not conform to the construction contract documents.
- E. Complete materials testing as required by the Contract Documents.
- F. Observe field tests of equipment, structures, pipe and appurtenances and review the resulting testing reports to assure conformity with the contract specifications, informing the Office project manager of results as appropriate.
- G. Report to the Office project manager work which is known to be defective, or which fails any required inspections, tests, or approvals, or has been damaged prior to final payment; and advise whether the work should be corrected or rejected or should be uncovered for observation, or requires special and/or additional testing, inspection, or approval.
- H. Maintain a photograph and/or video file and a file of submittals for the project and provide same to the Office project manager and USFS upon project completion. The photo records shall include date, time, and location of the photo.
- I. Provide geotechnical inspection of foundations below all bearing structures and during grouting operations.

Task 4. Project Closeout

The Consultant shall complete the Project Closeout tasks listed below. All work shall be performed by or supervised by a professional engineer, or in some cases a professional geologist, licensed in the State of Wyoming.

Work Products:

- A. Upon substantial completion, inspect the construction work and prepare a punch-list of the items to be completed or corrected before final acceptance of the project. Submit results of the inspection to the Office project manager, USFS, and the Contractor.
- B. Upon completion or correction of all items of work on the punch list, conduct a final inspection to determine if the work is completed. Provide written recommendations to the Office project manager concerning final payment, including a list of items, if any, to be completed prior to making such payment.
- C. As-Constructed Drawings:

Maintain a marked set of drawings and specifications at the job site based on personal observations and data provided by the Contractor. Upon completion of

the project, revise the construction drawings and produce an As-Constructed set of Record Drawings. Submit draft copies of the drawings to the Office project manager and USFS for review. Provide a final As-constructed drawing set of 3 mil wash-off Mylar reproducible to both the Office project manager and the USFS, and a final electronic copy created in a USFS supported version of AUTODESK/CIVIL 3D, as well as a printable .pdf, to both the Office project manager and the USFS.

- D. Coordinate project closeout with relevant permitting agencies and project stakeholders including the USFS, U.S. Army Corps of Engineers, and Wyoming State Engineer's Office, Safety of Dams Division.
- E. Complete and submit a final construction report to the Office Project Manager and USFS. Report shall detail overall construction activities, issues encountered and how issues were addressed, and any changes made during construction.
- F. Create and provide hard copy and printable .pdf operation and maintenance manuals/data to WWDC, USFS, and Middle Piney Watershed Improvement District staff.
- G. Provide qualified staff to assist WWDC, USFS, and Middle Piney Watershed Improvement District staff with startup of the completed project.
- H. Provide warranty inspection after warranty period is complete. Advise WWDC and USFS of warranty items. Provide Notice to Contractor regarding warranty items and ensure that warranty items are corrected.

Task 5. Office Support

Wenck shall provide the following services in support of the primary project tasks:

Work Products:

- A. Office Support for the in-field inspection staff
 - a. Secretarial services;
 - b. Accounting services;
 - c. Copying;
 - d. Printing

Task 6. Zone 6 Embankment, Oversized Rock and Weir Augmentation Evaluation

The Consultant shall perform the following:

- Evaluate excavated material from the cutoff trench and existing embankment excavations to determine if the Zone 6 Embankment specification requirement of 15% passing the No. 200 sieve can be reduced to 5% passing the No. 200 sieve.
- Evaluate if the excavated oversize rock material from the cutoff trench and existing embankment excavations can be used as grouted riprap to replace the articulated concrete blocks (ACBs) revetments planned for road embankment protection.
- Evaluate relocating the weir downstream from the location identified in the bid documents to facilitate construction and protect the structure from rock slides/avalanches.

In addition to the indicated evaluations, this task shall also include all necessary coordination with the Contractor, USACE, USFS and the WWDO. The Consultant shall hold a review meeting with the USACE, USFS and the WWDO to discuss their evaluation findings and recommendations.

Work Products:

- A. The Consultant shall prepare a Tech Memo detailing their investigations and recommendations. The Tech Memo shall include a detailed description of the recommendation benefits and include cost estimates for each of the identified evaluations. The Consultant shall provide a draft of the Tech Memo to the USACE, USFS and the WWDO for review and comment. The Consultant shall incorporate USACE, USFS and WWDO review comments into the final Tech Memo.
- B. Following written USACE, USFS and the WWDO concurrence to the Tech Memo, the Consultant shall make the necessary revisions to the plans and/or specifications to reflect the approved changes.
- C. The Consultant shall prepare Contractor Work Order(s) and/or Contractor Change Order(s) and negotiate with the Contractor for a price to incorporate the approved changes into the project.

Task 7. Discretionary Task

The Consultant will place \$150,000 of the proposed project budget in the discretionary task. The task is to allow the Consultant to evaluate changes to the project during the construction phase. The Consultant shall not use any of the Discretionary Task funding without prior written approval of the Office project manager.

Task 8. Final Grout Work

At the request of the Office, and if needed, the Consultant shall design, bid and perform construction management services to complete the reservoir grouting program. Work shall include, but not be limited to:

- Project management, coordination, and meetings
- Final design of modified grouting program to efficiently target remaining areas of concern
- Data gathering and analysis of the curtain's response to first fill of the reservoir
- Drawings, specifications and bidding documents
- Bidding and award of the grouting program to a grouting contractor
- Construction management and administration of the grouting program.

The Consultant shall not use any of the Final Grout Work Task funding without prior written approval of the Office project manager.

Task 9. Project Grouting Report

The Consultant shall provide a project grouting report at the completion of the project. The Report shall address the project permeation and improvement grouting programs. The Report shall include sections addressing:

- Grout Curtain Design
- Drilling Including: Location, Hole Sizes, Depth, Logging, etc.
- Grout Materials and Mixes
- Drilling and Grouting Equipment
- Construction Sequencing
- Drilling Procedures
- Grouting Methods
- Packer Testing Including: Procedures, Locations, Testing and Results, etc.
- Grout Results Including: Take Volumes, Injection Pressure, etc.
- Field Supervision, Inspection and Monitoring
- Contractor/Engineer Daily Field Reports
- Post Grouting Assessment
- Project grouting costs.

Task 10. Seepage Control System Improvements and Site Evaluation

Considering dewatering efforts during construction have exceeded expectations, the Consultant shall evaluate the seepage collection and drainage system to determine if improvements are necessary for post-construction operations. Should improvements to the system be required, the Consultant shall make recommendations as to the modification,

coordinate with the USFS, as well as provide design and construction management services to complete such improvements.

Through previous reservoir filling efforts, and observed seepage, the Consultant will prepare a measurement/monitoring protocol, establish baseline measurement data, and continue to monitor for a three-year period. This work would commence in 2026 and run through 2028 filling seasons. Results will be provided to the WWDO.

Task 11. Project Management

For the proposed 3-year work extension, the Consultant will provide project management services to include invoicing, meetings, change orders, contracting, and other project management services.

Task 12. Generator, Propane and SCADA Modifications

To prevent unwanted snow accumulation within the generator area, a roof is recommended to provide coverage, reduce snow accumulation near the generator, and to maintain adequate ventilation for exhaust and air intake. The roof will provide full coverage of the generator area, made of steel construction, and provide an open overhang over the generator storage area on the leeward side to allow for airflow.

In addition to this cover, a fence will be provided for the propane tank storage area. The chain link fence will include a seven-foot height with barbed wire security lines at the top. The gate will be locked via a padlock, with an additional padlock on the tank lid.

Remote gate operation and generator controls shall be provided to WWDO. Any required SCADA updates will also be provided.

Task 13. 2026 Fill Inspection and Reporting

For the 2026 reservoir filling, the Consultant will assist with inspections during these efforts. This includes weekly inspections (as needed) of the dam, downloading of piezometer data, manual flow measurement within the inspection manholes, and weekly observation of SCADA data via the dam website while water levels are below the depths noted in the detailed scope below. If water levels rise to a level greater than previous seasons, the Consultant will provide a fill summary memo.

Task 14. Landslide Well Instrumentation and Monitoring

The Consultant shall add six additional wells with piezometers to assist in collecting groundwater data.

Task 15. Debris Management Modifications

The Consultant will coordinate with WWDO project staff to evaluate alternative trash rack configurations/improvements, modifications to the boom system, or adjustment maintenance protocols, or a combination of the above.

Task 16. Seepage Filter Blanket Drain

This task includes the project management, design, permitting requirements, bidding, and construction management for a blanket filter drain along the toe of the natural landslide unless the scope is modified as required during the design. The scope includes the following subtasks.

Subtask 16.1 Preliminary Data Collection

- Site Survey – The Consultant has already collected this data, combined with flight data from NW Construction provided during the original construction work.
- Geotechnical Information – The Consultant will utilize gradations from the previous construction work run on the landslide materials and dam fill zones.
- The Consultant will evaluate existing gravel material quarry suppliers near the dam to determine availability of aggregate supplies and their viability for drain construction.

Subtask 16.2 Contractor Notification and Site Visit

- The Consultant will prepare an advertisement for bidding or site visit.
- With advertising, the Consultant will conduct a pre-bid tour at the site.
- The site visit will focus on a full toe blanket drain placement, with the caveat that work scope and extent may change depending upon USFS design criteria.

Subtask 16.3 Project Kickoff/Design Criteria Establishment

- A virtual workshop will be held with WWDO, the Consultant, and the USFS which will determine and agree to the following by all parties:
 - Design intent and goal of blanket drain.
 - Agreement to design assumptions (gradations, groundwater flow data, etc.)
 - Understanding and agreement on permitting needs.
 - Agreement on site access and temporary improvements/modifications to the site to allow for work to progress.

- The Consultant will prepare a Basis of Design Memo (BODM) following this effort so that the agreed-upon scope and intent of the design is accurately documented and distributed to stakeholders. This will be supplemented by design memos via appendices to track the design details and to show that design requirements are met.
 - This document will also serve to assist with design related change orders should site conditions not match or meet the agreed upon stipulations noted above.

Subtask 16.4 Permitting and Initial Design

- Permitting efforts will start as soon as the Basis of Design is set. Permit applications will be submitted as soon as the design is to a minimum point of providing accurate information as required to fulfill the permit application data needs (60% completion).
- Permits anticipated at this time and included in the scope are as follows:
 - Wyoming State Engineer's Office Permit to Construct
 - SF-299 USFS Permit USACE NWP

Subtask 16.5 75% Design Plan and Specification Review

- A 75% set of plans, specifications, estimate of probable cost (+/-25%), and design summary memo will be provided to WWDO, SEO, and USFS.
- This will include the following:
 - The 75% design will include horizontal and vertical alignments for the filter blanket, drain lines, piping, access roads, and proposed grading.
- USFS, WWDO, and SEO will review and provide comments back to the Consultant for incorporation into the 100% plan set.
- The Consultant will provide written responses within 2 weeks of receipt detailing how these comments will be incorporated into the design.

Subtask 16.6 100% Design Plan and Specification Review

- A 100% set of plans, specifications, estimate of probable cost, and design summary memo will be provided to WWDO, SEO, and USFS for review.
- This will include the following:
 - Construction details for project components, full specifications and bidding documents, estimate of probable cost (+/-15%).
- USFS, WWDO, and SEO will review and provide comments back to the Consultant for incorporation.
- The Consultant will provide written responses describing how each comment was addressed.

- Following resolution of the 100% review comments, the Consultant will prepare an issued-for-bid package.

Subtask 16.7 Bidding

- Concurrently with preparation of the technical specifications, Consultant will work with WWDO to prepare bidding and front-end contract documents for the work. 100% Plans, Specs, and bid documents will be provided to bidders.
- Consultant will conduct a virtual pre-bid conference with bidders to verify items including but not limited to:
 - Work areas
 - Access
 - Material needs
 - Discussion of measurement and payment of work scope
 - Schedule
 - Coordination with USFS and general public.

Subtask 16.8 Contracting and Award

- Consultant will travel to Big Piney to attend the opening in person.
- A Notice of Award will be provided allowing for contracting between the State and the successful bidder to commence.
- Consultant will provide a bid review of accepted bids from qualified and responsible bidders. This will include a recommendation for award letter to WWDO.
- WWDO will be responsible for contracting and award of bid to the successful bidder.

Subtask 16.9 Notice to Proceed, Procurement, and Preconstruction Submittal Support

- A notice to proceed should be given by WWDO.
- Consultant will review required shop drawings, submittals and RFIs from the Contractor.

Subtask 16.10 Construction inspection

- Consultant will provide a full-time resident project representative (RPR) as needed dependent upon the work being performed to provide Quality Assurance (QA) inspection of the work, daily record keeping and inspection logs, respond to contractor questions and agency reporting (USFS, WWDO, SEO). The RPR will maintain daily inspection records, respond to contractor questions, prepare required agency reports, review contractor-provided quantity records supporting payment applications, participate in

progress meetings, and provide one preliminary review of each payment application.

- Consultant will provide a project technical lead/engineer to assist in review of material submittals and shop drawings, provide periodic work inspections, review contractor Quality Control (QC) testing data, prepare change orders and field orders as necessary, provide final answers on questions regarding the drawings or specifications, review pay applications, attend progress meetings, and assist the project manager in preparing pay requests to WWDO.
- Consultant will provide a project manager who will support payment applications to WWDO, assist with staffing needs and gaps as they arise, track project deliverables and milestones, provide required internal reporting and project forecasting to Consultant accounting and business line management.

Subtask 16.11 Punchlist and Project Closeout

- Consultant will provide a notice of substantial completion after the contractor has completed the work required for substantial completion, excluding approved remaining seeding, reclamation, punch-list, or corrective work.
- Final completion will be awarded once reclamation has been completed and all punch list and warranty work are completed to the satisfaction of the WWDO and USFS.
- Consultant will prepare a construction completion report (CCR) and record drawings for the site that include the filter blanket system.
- Consultant will provide an updated Operation and Maintenance Manual for additional instrumentation and dam components that are installed as part of this work.
- Consultant will provide recommendations for implementation into the Middle Piney Emergency Action Plan by others.

SMALL WATER PROJECT PROGRAM AMENDMENTS



September 23, 2026

Wyoming Water Development Commission

RE: Johnson Holt Ditch Project Agreement #029CM0091092 Extension Request

Clear Creek Conservation District (CCCD) is requesting a project timeline extension for the Johnson Holt Ditch Project Agreement #029CM0091092. The Johnson Holt Ditch project purpose is to address sedimentation caused by the Johnson Holt ditch and to restore the ability to irrigate approximately 685 acres. Specific problems include a down-cut ditch channel and erosive turnouts and failed and/or undercut infrastructure which has led to sedimentation build-up in six (6) reservoirs on upper Bull Creek, a tributary to Clear Creek in northern Johnson County, Wyoming. In addition, the eroded turnouts have effectively cut off a lateral ditch previously used to irrigate 325 acres. This area has not been in full production for numerous years due to unreliable irrigation and the inability to control irrigation water. Practices being used to address these issues include the installation of six (6) turnout control structures. This project has a current deadline of December 31, 2026. Unfortunately, the contractor hired to complete the work has informed us that they will not be able to finish the project within the current project timeline. Three (3) of the turnouts have been installed (please see pictures) and we remain committed to completing the project and have been working with the contractor to determine a revised completion schedule. CCCD appreciates the Commissions consideration of this extension request.

Respectfully,

A handwritten signature in cursive script that reads "Zach Byram".

Zach Byram
District Manager
Clear Creek Conservation District
Zach.byram@clearcreekcd.org
(307) 620-3001



**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091092
JOHNSON HOLT DITCH PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND CLEAR CREEK CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Clear Creek Conservation District, Johnson County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 500 West Lott Street, Unit B, Buffalo, WY 82834.
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 16, 2024 authorized the design and construction of the Johnson Holt Ditch Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.
4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

- B. Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Sponsor of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

8. General Provisions.

- A. Entirety of Agreement.** The Original Agreement, consisting of eight (8) pages; and this Amendment One, consisting of three (3) pages; represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements whether written or oral.

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9. **Signatures.** The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

This Amendment is not binding on either party until approved by A&I Procurement and the Governor of the State of Wyoming or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).

WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

CLEAR CREEK CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date



Jodie Jackson <jodie.jackson@wyo.gov>

Kirby Creek Ranch Antelope Creek Spring & Pipeline

1 message

Hot Springs <hotspringscd@gmail.com>
To: Jodie Jackson <jodie.jackson@wyo.gov>

Wed, Oct 7, 2026 at 4:05 PM

Hi Jodie,

I am requesting a 12 month extension for the Kirby Creek Ranch Antelope Creek Spring & Pipeline project. The landowner was one of the hardest hit in last year's Red Canyon fire. With the time needing to be spent fixing fences and getting emergency water in place, they did not have the opportunity to start this project.

Thank you,
Kathy Sorensen

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091130
KIRBY CREEK RANCH ANTELOPE CREEK SPRING & PIPELINE PROJECT
BETWEEN WYOMING WATER DEVELOPMENT COMMISSION
AND HOT SPRINGS CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Hot Springs Conservation District, Hot Springs County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 601 Broadway, Suite A, Thermopolis, WY 82443.
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated May 7, 2024 authorized the design and construction of the Kirby Creek Ranch Antelope Creek Spring & Pipeline Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.
4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

- B. Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Sponsor of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

8. General Provisions.

- A. Entirety of Agreement.** The Original Agreement, consisting of eight (8) pages; and this Amendment One, consisting of three (3) pages; represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements whether written or oral.

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9. **Signatures.** The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

This Amendment is not binding on either party until approved by A&I Procurement and the Governor of the State of Wyoming or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).

WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

HOT SPRINGS CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date



Jodie Jackson <jodie.jackson@wyo.gov>

Sonrise Pipeline Extension Request

1 message

Hot Springs <hotspringscd@gmail.com>
To: Jodie Jackson <jodie.jackson@wyo.gov>

Wed, Oct 7, 2026 at 4:01 PM

Hi Jodie,

I would like to request an 12 month extension for the Sonrise Pipeline project. The landowner has an EQIP contract with NRCS that this project is a part of. He was planning on using a second advance from NRCS to get the pipeline portion started but NRCS is unable to process that advance due to a software problem that they are trying to fix.

Kathy Sorensen

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091142
SONRISE PIPELINE PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND HOT SPRINGS CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Hot Springs Conservation District, Hot Springs County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 601 Broadway, Suite A, Thermopolis, WY 82443.

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated May 7, 2024 authorized the design and construction of the Sonrise Pipeline Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.

4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

- B. Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Sponsor of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

8. General Provisions.

- A. Entirety of Agreement.** The Original Agreement, consisting of eight (8) pages; and this Amendment One, consisting of three (3) pages; represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements whether written or oral.

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This Amendment is not binding on either party until approved by A&I Procurement and the Governor of the State of Wyoming or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).

WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

HOT SPRINGS CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date



Little Snake River Conservation District

285 N Penland - PO Box 355
Baggs, WY 82321
(307) 383-7860

October 1, 2026

Wyoming Water Development Commission
6920 Yellowtail Road
Cheyenne, WY 82002

RE: 2024 Projects in the Small Water Project's Program – Extensions

Due to the nature of these projects being cumbersome on permitting and engineering and the district's bottle neck of engineering, we are requesting an extension for the following projects.

2024 Bar Ranch Irrigation – this project needs an easement and is tied to the 2024 Weber Drop Structure Rehab project. It will require extensive engineering. Our engineer has been out to look at them both and is working through the details. This project should be ready for notice to proceed this winter for construction summer 27.

2024 Weber Drop Structure – for the reasons above.

2024 Findley Irrigation Structure – this project is tied to NRCS and we are at their mercy for engineering and trying to get it done. It has been surveyed and I am assured we will have plans this winter for notice to proceed.

2024 Kelly State Land Pond 1 – This pond was bigger than we had thought during application process and so it requires more extensive permitting. The engineer is working through the process. I have been assured we should have plans this winter for notice to proceed.

2024 Kody Stocks Livestock Reservoir – This project is tied to NRCS and we are at their mercy for engineering. They have surveyed at it and designs should be ready by this winter for notice to proceed.

2024 Little Snake Land Company Oxbow – This is an extensive project that requires a lot of engineering and we are working through the process with NRCS. The designs should be done this winter and ready for notice to proceed.

2024 Montgomery Livestock Water Control Structure and headgate – This project was tied to NRCS funding and their engineering. It has been surveyed and will be ready for notice to proceed this winter.

The State NRCS office is sending a state engineer down to help with the bottle neck of engineering this fall. The LSRCD board has a position advertised for an in-house engineer to accompany the one we have now. In the mean time the board has authorized funds to hire a firm to help.

Thank you,

Dawn Arnell

Dawn Arnell

Assistant Natural Resource Coordinator
Little Snake River Conservation District

arnelld@yahoo.com

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091062
BAR RANCH IRRIGATION PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Bar Ranch Irrigation Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.

4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

- B. Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Sponsor of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

8. General Provisions.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091065
FINDLEY IRRIGATION STRUCTURE PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Findley Irrigation Structure Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.
4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091044
KELLY STATE POND NO 1 PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Kelly State Pond No 1 Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.

4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

- B. Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Amendment. Delivery by the Sponsor of an originally signed counterpart of this Amendment by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091045
KODY STOCKS STOCK RESERVOIR PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Kody Stocks Stock Reservoir Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.
4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091053
LITTLE SNAKE LAND COMPANY OXBOW PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Little Snake Land Company Oxbow Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.
4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091048
MONTGOMERY LIVESTOCK WATER CONTROL STRUCTURE & HEADGATE
PROJECT BETWEEN WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Montgomery Livestock Water Control Structure & Headgate Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.

4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

**AMENDMENT ONE TO
PROJECT AGREEMENT MSC NO. 029CM0091067
WEBER DROP STRUCTURE REHABILITATION PROJECT BETWEEN
WYOMING WATER DEVELOPMENT COMMISSION
AND LITTLE SNAKE RIVER CONSERVATION DISTRICT**

1. **Parties.** This Amendment is made and entered into by and between the Wyoming Water Development Commission [Commission], whose address is: 6920 Yellowtail Road, Cheyenne, Wyoming 82002; and the Little Snake River Conservation District, Carbon County, Wyoming, a duly organized conservation district existing under the laws of that state [Sponsor], whose address is: 285 N Penland St., Baggs, WY 82321.

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Agreement between the Commission and the Sponsor. The purpose of this Amendment is to extend the term of the Agreement through December 31, 2027.

The original Agreement, dated April 10, 2024 authorized the design and construction of the Weber Drop Structure Rehabilitation Project and all appurtenances necessary to make the project complete and function in the manner intended.

3. **Term of the Amendment.** This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date), and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule or regulation.

4. **Amendments.** The third sentence of Section 4(D) of the original Agreement is hereby amended to read as follows:

“The Sponsor shall complete the Project no later than **December 31, 2027** and shall have settled all claims and paid all Project expenses by said date.”

5. **Amended Responsibilities of the Sponsor.**

Responsibilities of the Sponsor have not changed.

6. **Amended Responsibilities of the Commission.**

Responsibilities of the Commission have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement, and any

previous amendments, between the Commission and the Sponsor, including but not limited to sovereign immunity, shall remain unchanged and in full force and effect.

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WYOMING WATER DEVELOPMENT COMMISSION:

Robert Choma, Chairman

Date

Todd Hoese, Secretary

Date

LITTLE SNAKE RIVER CONSERVATION DISTRICT:

Chairman

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

SMALL WATER
PROJECT
PROGRAM
EFFICIENCY
STUDY



SMALL WATER PROJECT PROGRAM EFFICIENCY ANALYSIS

October 27, 2026

ABSTRACT

This document provides a review of the Small Water Project Program to evaluate opportunities for streamlining and identifying potential efficiencies that could reduce the time and cost of project submissions and has been prepared pursuant to 2026 Wyoming Session Laws, Chapter 73, Section 5.

Wyoming Water Development Office

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Introduction

The purpose of the Wyoming Water Development Commission (WWDC) Small Water Project Program (SWPP) is to participate with land management agencies and sponsoring entities in providing incentives for improving watershed condition and function. Projects eligible for SWPP grant funding assistance include the construction or rehabilitation of the following:

- Small Reservoirs
- Wells
- Solar Platforms
- Pipelines and Conveyance Facilities
- Springs
- Guzzlers
- Wetland Developments
- Environmental Projects
- Irrigation Projects
- Windmills
- Rural Community Fire Suppression
- Recreational Projects

Activities should improve watershed condition and function and provide benefit for wildlife, livestock, and the environment. Projects may provide improved water quality, riparian habitat, habitat for fish and wildlife, and address environmental concerns by providing water supplies to support plant and animal species or serve to improve natural resource conditions.

The Small Water Project Program was established by 2002 Wyoming Session Laws, Chapter 88 with an appropriation of \$500,000 from both Water Development Accounts I and II. At that time, “Small project” meant a project where estimated construction or rehabilitation costs, construction engineering, permit procurement, and project land procurement were \$50,000 or less. As part of the establishing legislation, the Commission was directed to conduct two (2) pilot studies in two separate watersheds to establish eligibility criteria and administration procedures for development of small projects. Once the criteria and administration procedures were approved and adopted by the Commission, the program could be applied on a statewide basis. It was further noted that the project sponsors had to substantiate the public benefit that would be derived from the proposed projects, a requirement which exists to this day.

Chapter 1. Project Genesis

The purpose of this chapter is to describe the process that a typical Small Water Project undertakes before a project application is received by the Commission.

Landowner’s First Steps

As is typical with most Water Development Projects, Small Water Projects are sponsor driven. They must come from local stakeholders. While watershed studies can provide information about resource needs and suggest projects that might be useful to address them, projects must ultimately be derived from local landowners with a sincere desire to help restore watershed functionality. Landowners must apply for

program funds through an eligible public entity. This is typically a conservation district. However, other public entities are also eligible to receive program funds.

After identifying an area of need, the landowner's next step is to approach the project area specific conservation district to see if they would be willing to sponsor the project. At this point the district meets with the landowner and conducts a field visit of the project area. During the field visit, the district is responsible for assessing the needs of the resource, the viability of the proposed project, eligibility of the project, and the public benefit. If additional technical resources are needed, any number of sources may be consulted, for example, Natural Resources Conservation Service (NRCS) Staff or pertinent watershed studies. With this information in hand, the district will develop an estimated total project cost, and if necessary, seek additional funding partnerships to match WWDC Funding. No studies are required for SWPP eligibility or for application consideration. See Appendix A for a copy of the newly revised SWPP Application, which correlates with the recommendations of this study.

Sponsor Completes the Application

At this point the project sponsor completes the project application. Application requirements are discussed in more detail below.

The first page of the application, Sections 1 - 20 are basic information such as project name, contact information, mailing address, and signature of the authorized official making application.

Page 2 includes the section of the application where the project sponsor defines and quantifies components of the proposed project. Additionally, to facilitate a faster and more secure contract signature process, the Wyoming Water Development Office (Office), who administers the SWPP on behalf of the WWDC, recently switched to docusign for Agency Contracts. All but one of this year's project sponsors were able to utilize docusign for their contracts. As a result of this switch, Section 21 asks for basic information like board member names and email addresses for docusign transmittal. Section 22 of the application is the project components table which lists the eligible project types, the quantity of each to be installed, a checkbox to indicate if it is new development or rehabilitation, and two columns for Latitude and Longitude coordinates. The last section on Page 2 is Section 23. This section is for the written project description. This section should describe what is being installed with the proposed project and all appurtenances.

Page 3 asks the project sponsor to provide a public benefit statement and additional high-level details about the project that are used later in the Notice to Proceed process. Title 99 – Non-Codified Wyoming Statutes require all project sponsors to substantiate the public benefit that is to be derived from the proposed project. Section 24 of the application asks the project sponsor to provide all information necessary to accurately document the public benefit of their proposed project. Section 25 asks the project sponsor to list all other project participants. This is where additional technical and financial partners are listed. Section 26 asks the project sponsor to list who is the owner of the project and who is the owner of the land that it is being built on. This information is used during the Notice to Proceed review to ensure that there is written documentation of the landowner's approval to construct the project. In many cases projects are being built on leased private, state, and/or federal land. Typically, these take the form of a signed letter from a private landowner or permits/approvals from state and federal agencies. Section 27 is the estimated Total Project Cost and the requested amount of SWPP funds. This is used to determine the amount of grant dollars for which the project is eligible.

Section 28 starts on Page 3 and continues onto Page 4. This section defines what is required to receive a “Shovel Ready” designation and asks the project sponsor to check either a yes or no box as to their desire to seek a shovel ready designation. There is also room to list the documents that are being provided to support this request. Section 29, on Page 4, asks the project sponsor to provide a location/site map. Maps don’t need to be complicated, but at a minimum, should include the project location, a labeled point/line for each proposed project component to be installed, and clarification for which practices the sponsor is requesting SWPP grant funds. Section 30, on Page 4, invites the sponsor to provide any other optional attachments and support documentation they feel necessary to inform the WWDC of their project.

This completes the required information for the newly revised project application. Applications are due to the Water Development Office by November 15th of each year. In most cases applications are emailed to the Small Water Project Program Manager, however they can be submitted in hard copy to the Office, at 6920 Yellowtail Rd, Cheyenne, WY 82002.

Prior to this efficiency study of the SWPP, a Notice to Proceed package was required to be delivered to the Office for review, in advance of construction. As detailed in later sections of this report, due to the comfort level of the Commission, Select Water Committee, Legislators, and sponsors with this now mature program of 20+ years, the liability of acquiring all necessary documents, permits, and approvals to construct, operate, and maintain a project is being placed on the sponsor, with less oversight by the Office. However, the Office will continue to assist sponsors as requested.

Chapter 2. Project Review

Upon receipt of SWPP applications by November 15th, projects are reviewed and analyzed for the following.

Eligibility

Project applications are reviewed in comparison to eligible project program definitions listed in Section C of the Program Criteria (see Appendix B for a copy of the newly revised SWPP Criteria). Proposed public benefits are also reviewed. Projects that don’t meet program criterion will receive a “Do Not Fund” recommendation by the Director when presented, as submitted, to the Commission and Select Water Committee (SWC). Project applications that end up in this category will receive a call, in advance, from the Office to see if the project needs to be updated, changed or withdrawn. Sponsors are always given the opportunity to present their request to the Commission and SWC regardless of the Director’s recommendation.

Completeness

Project applications are reviewed to make sure that all necessary information was included in the application. Project Sponsors that submit incomplete applications will receive a call from the Office to request the missing information.

Constructability

The project description and components table are reviewed to make sure that there aren’t any immediate concerns with constructability. In a recent example, a project sponsor requested that a well be drilled to target a specific aquifer that was only minimally available in their area and had a very limited potential for successful water development. Rather than giving the project a “Do Not Fund” recommendation, a

conference call was held with the project sponsor, and with the assistance of the NRCS and their knowledge, an updated application was submitted and the project was recommended for funding.

Priority

Projects are given a priority as defined in Section D of the Program Criteria. Projects are grouped into 6 categories as listed below.

1. Source Water Development
2. Storage
3. Pipelines, Conveyance Facilities, Solar Platforms, and windmills
4. Irrigation
5. Environmental
6. Recreational

In many cases a project may fit into more than one category. To determine which category a project fits into, staff references the project components table and detailed cost estimate to identify which component is driving the cost of the project. As an example, a well project with a 200-foot pipeline to a trough, would likely be classified as a source water development project. Whereas, a similar well project with a 3000-foot pipeline will likely be classified as a pipeline project.

Program Database

With all of the new applications reviewed and categorized, the new project summary sheets are used to create a database entry for each new project application. The database entry captures the highlights for each project to aid in records management. With a database entry created for each new project it is now time to export the new projects to an excel file to create the summary spreadsheets that are presented to the Commission and SWC. Utilizing the summary spreadsheets, the final Account I and Account II grant request totals are calculated. If funding is not available for all the recommended applications, then projects are recommended for funding up to the last fully fundable priority.

At this point recommendations and project agreements are prepared for the respective meetings of the Commission and SWC in March. After receiving a recommendation for approval from the Select Water Committee and approval from the Commission, project agreements are sent to project sponsors for signature.

Chapter 3. Project Development

Once signed project agreements are returned by the project sponsor to the Office, Notice to Proceed letters are sent to all Shovel Ready projects, so construction can begin. Projects that were not Shovel Ready at the time of application now begin the design process, acquisition of project permits, and securing of landowner permissions. The SWPP has sponsors of all experience levels, from first time project managers, to Districts with licensed professional engineers on staff. To aid the sponsors in project development, the Office has available a Project Sponsor Checklist to complete. Not all items on the list are applicable for every project, but their presence on the list is intended to help a less experienced sponsor think through what may be required. The Checklist covers construction factors, as well as legal, design, and permitting factors. In addition, the Office provides sage grouse analysis, well evaluation, and

hydrologic evaluation sheets and checklists to assist with project development and readiness, as applicable.

Once design plans are completed (typically by the NRCS, sponsor engineers, or contracted engineers), permits are acquired, landowner approvals are received, and any other applicable information is developed by the sponsor, this documentation is submitted to the Office as a package for Notice to Proceed review.

Notice to Proceed Document Review

Notice to Proceed documents are reviewed for SWPP eligibility, project constructability, and clarity of design and layout. The project plans submitted with the Notice to Proceed package provides a detailed view of the proposed project. After an evaluation of the project plan details, the Office puts together any questions and/or comments it may have about the technical nature of the project and its potential operability. The Notice to Proceed package is reviewed for the appropriate permits, depending on the project type, to ensure due diligence by the sponsor. Landowner permission letters, when necessary, are required to indicate that the landowner is aware of the project and has provided authorization for construction, or in the case of federal landownership, such as the Bureau of Land Management (BLM), that the appropriate approvals and clearances have been provided.

Once all documentation in the Notice to Proceed package is reviewed by the Office, any questions, comments, or requests for missing items are sent to the project sponsor. Also, if any part of the project plans included ineligible items, it would be brought to the sponsor's attention at this time. The sponsor can then plan to pay for the ineligible component independently without SWPP funding or remove the item. Once the sponsor addresses any issues raised or missing items, a Notice to Proceed letter is sent giving approval to begin project construction.

Chapter 4. Project Construction

With a Notice to Proceed letter in hand, project construction may begin. Project Sponsors must follow the requirements of State Law, statutes, and the bylaws/rules of their respective public entity, when selecting contractors. The Office does not participate in, or oversee this process. The only requirement the Office places on project sponsors is that they keep the bid documents for their project files to substantiate any audit. Once a contractor has been selected, construction may begin at the sponsor's discretion. Upon completion of construction, the project is required to be inspected by the Engineer of Record or federal agency that completed the designs, so a certification letter or "As-Built" drawings can be completed. This ensures the Office that the project is functioning as intended. As-Built Drawings may be as simple as a signed red pen markup of the plans. This saves the project sponsor and the engineer time and money as it is not required to redraft the plans.

Chapter 5. Project Payment

Upon completion of construction, the project sponsor submits the following to the Office for payment.

1. A certified Payment Request Form, the template is provided by the Office.
2. Signed contractor invoices. The invoices must be signed by the sponsor to show that they agree all invoiced items were used in the construction of the project.
3. Project photos. Before and after photos are required by Program Criteria.
4. Affidavit of Publication (if applicable)
5. As-Built Certification
6. Final State Engineer's Office paperwork for wells. (UW6 as provided by a licensed driller)

Once received by the Office, the documents are reviewed for completeness, ineligible expenses, and concurrence with the approved plans. If any documents are missing or are incomplete the Office will coordinate with the sponsor to correct the issues. After corrections are received, the payment will be processed and funds electronically transferred to the sponsor. After final payment the project is closed.

Chapter 6. Program Comparison – WWNRT

The Office sat down with the Director of the Wyoming Wildlife and Natural Resources Trust (WWNRT), a program with similarities to SWPP, to understand their processes and potentially get ideas that could help streamline SWPP processes. WWNRT was created by the Wyoming Legislature in 2005. The purpose of the Program is to enhance and conserve wildlife habitat and natural resource values throughout the State. While projects are funded by revenue generated by the permanent account, the legislature can appropriate additional funding for specific purposes. Projects designed to improve wildlife habitat or natural resource values are eligible for funding, typically 70-100 projects per year. The WWNRT is an independent state agency governed by a nine-member citizen board appointed by the Governor. Legislative oversight is guided by the Select Committee for Natural Resources Funding.

Project Sponsor Applies for Funds

Eligible applicants include non-profits and governmental organizations. The WWNRT may participate with for-profit entities provided there is no allocation of financial resources to any for-profit. As with the SWPP, projects are required to provide a public benefit. Per Wyoming Statute 9-15-103, WWNRT eligible projects include:

1. Improvement and maintenance of existing terrestrial habitat necessary to maintain optimum wildlife populations
2. Preservation of open spaces by purchase or acquisition of development rights
3. Improvement and maintenance of existing aquatic habitat necessary to maintain optimum fish populations
4. Acquisition of terrestrial or aquatic habitat when existing habitat is determined critical, or is present in minimal amounts, and acquisition presents the necessary factor in attaining or preserving desired wildlife or fish population levels
5. Conservation, maintenance, protection and development of wildlife resources, the environment and Wyoming's natural resource heritage

6. Participation is water enhancement projects to benefit aquatic habitat for fish populations and allow for other watershed enhancements that benefit wildlife
7. To address and mitigate impacts detrimental to wildlife habitat, the environment and the multiple use of renewable natural resources attributable to residential, mineral and industrial development
8. To mitigate conflicts and reduce potential for disease transmission between wildlife and domestic livestock.

Applications for Funding

Application deadlines are March 1 and September 1 annually. Information to be submitted as part of the application process includes location, description, habitat type, area affected, and surface ownership; permits, agreements in place and those required prior to implementation; project readiness, timeline for completion; project costs, matching funds; and supporting documentation to include a detailed map, letters of support, and designs.

Funding Approval Process\Project Payment

Each application is reviewed and ranked by the WWNRT Board. Projects selected for final consideration by the Board are visited onsite by a committee of WWNRT Board Members & the agency Director prior to any funding decision. Questions are raised in the field and are followed up on within 2-3 weeks. Projects might move up or down the ranked list based on the site visit. During the application review process, projects are often deferred to the next funding cycle to assure permits are in place, matching funds are secured, project design is correct, or where funds are not available due to competition with other applications. The WWNRT Board then meets in June and December to make final funding decisions. Funds are available after contracts are completed and fully executed (July and January). As construction begins, progress reports and payment requests with invoices are submitted to the WWNRT Office. Any unallocated funds are returned to the WWNRT.

When comparing this process to the SWPP's application process, WWNRT projects have a much more intensive up front application review and ranking process to include onsite visits. Once funded and under contract, these projects would have the equivalent of Shovel Ready status under WWDC SWPP Criteria.

Chapter 7. Conservation District Survey

Methods

The SWPP provides funding for projects requested by eligible public entities on behalf of themselves or private landowners. Local Conservation Districts (CDs) are the most frequent applicants and usually represent private landowners. As part of the SWPP efficiency evaluation, the Office surveyed Wyoming's 34 CDs using a questionnaire designed pursuant to study requirements in 2026 Wyoming Session Laws Chapter 73, Section 5. (a). (i) and (ii). The questionnaire examined the SWPP application and funding processes, application requirements, project design reviews, and associated applicant costs (Table 1). Distribution of the survey was coordinated in partnership with the Executive Director of the Wyoming Association of Conservation Districts (WACD).

Table 1. Questions submitted to local Conservation Districts	
Section 1. Application Process	If you have not applied to the SWPP grant program in the last 5 years, why not?
	Do you find any part of the application process particularly burdensome? Please explain.
	Has the application process caused excessive costs for your entity? Please explain.
	Do you have any suggestions to streamline the application process?
Section 2. Design Review	Do you find any part of the design review process particularly burdensome? Please explain.
	Has the design review process caused excessive costs for your entity? Please explain.
	Do you have any suggestions to streamline the design review process?
Section 3. General	What do you think functions well with the SWPP?
	Do you have any suggestions to improve the SWPP?
	Is there anything else you would like to add?

Results

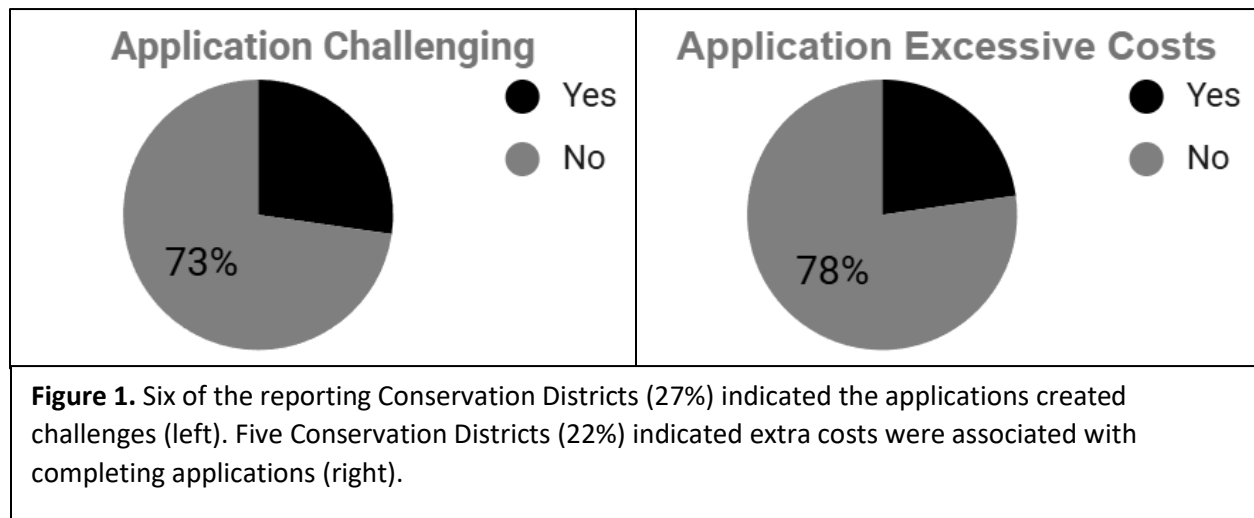
Over 80% of the CDs replied to the survey for a total of 28 surveys received. Responses were received from all but one of the top ten users of the program. Of the 28 responses, all but six CDs had utilized and were familiar with the SWPP. The first question targeted non users to look at why they may not be utilizing the program. The six CDs who had not used the program cited limited staff capacity to administer grants, lack of program awareness, utilization of other funding sources, and lack of requests for eligible projects as reasons for not applying.

Ease of and Costs Associated with Application Process

The majority of the 22 participating CDs indicated the application process did not create a burden (73%) or extra costs (78%) (Figure 1). Comments relating to the application process included the following:

- Coordination between affected parties (landowners, agencies and contractors) is time consuming.
- Extensive paperwork and documentation, though respondents indicated an understanding of the necessity and had learned to manage it.
- NEPA analysis should be responsibility of the applicant, not the Office.
- Application is straightforward compared to other funding applications.
- Applicant's lack of engineering capacity can create extra costs.

Suggestions for streamlining were limited with 12 respondents having no suggestions or indicating the application process works well. Single comments received included increased Office staff, making all projects Shovel Ready and additional communication throughout process on status/next steps.



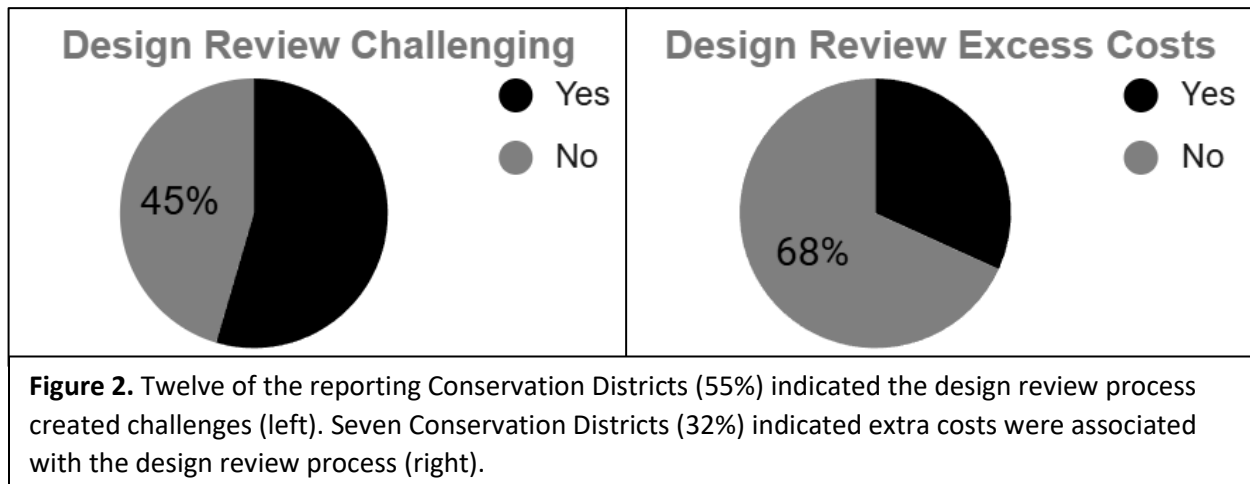
Ease of and Costs Associated with Project Design Review Process

The design review process is defined as review of project designs, permits, specifications, access agreements, and other documentation as required for Notice to Proceed. CDs expressed more frequent challenges and costs during the design review phase of the SWPP process. Design review was indicated as challenging by 55% of the CDs and 32% of respondents indicated this phase results in extra costs (Figure 2). Challenges and comments noted include the following:

- Stamped designs have been questioned by the Office, creating delays and additional expense. CD acquisition of permitting requirements is difficult.
- The Office may be taking on jurisdiction of other agencies in review of permitting requirements.
- Review of Notice to Proceed and payments have lagged. It was expressed that is not necessarily due to lack of Office effort, but perhaps lack of staff and also delays on CD end.
- Several respondents indicated that the process takes a lot of time, but there is an understanding that it is reasonable and not burdensome. It was noted that the thoroughness is appreciated.
- Requirement for engineering designs do drive up costs, especially if revisions are required.

Suggestions for streamlining included:

- Reduce Office checks on engineering designs, review of permitting documents, and let liability/burden of responsibility fall to sponsor.
- Provide updates estimating review timelines and project status.
- Dedicate additional Office staff to SWPP.
- It is a cost savings to Districts to testify at meetings virtually.



SWPP General Strengths and Opportunities for Improvement

- The Office is regarded for their responsiveness, expertise, clear guidance and willingness to assist throughout the application and reimbursement process. This communication is vital for resolving issues and managing project changes effectively. Office staff are frequently praised for their responsiveness.
- Overall process works well and payment process is efficient.
- SWPP provides essential funding and incentives that enable crucial local water resource projects, supporting improved livestock water availability, watershed health, and rangeland management. It is viewed as an effective tool for economic stimulus and community investment.
- Additional staffing and other opportunities to speed up the review process were suggested.
- Six respondents indicated no improvements were recommended.

Chapter 8. Program Recommendations

After reviewing the Small Water Projects Program processes, comparing the SWPP with the Wyoming Wildlife and Natural Resources Trust grant program, and analyzing the results of the SWPP survey conducted with the Wyoming Association of Conservation Districts, the following recommendations are being brought forward for consideration of the Commission.

Option 1 Simplified Notice to Proceed Approval

Under this proposed option, Notice to Proceed requirements would be greatly reduced. Instead of providing proof of permits, plans, specs, landowner permissions, approvals, clearances, etc., project sponsors would instead fill out an affidavit adapted from the Project Sponsor Checklist that certifies they have met all requirements of local, state, and federal law. Designs or drawings would still have to be provided before Notice to Proceed can be issued, but now, at a minimum, would just need to include layout and location of components to be installed, land ownership, and a table of quantities for each project component. In other words, the designs or drawings must be of sufficient quality to determine eligibility of components and a common understanding of what the sponsoring entity will be requesting payment on. After receipt of project drawings, the signed affidavit, and before photos, the Notice to Proceed can be issued. Project closeout and payment would remain the same. The project would have to

be inspected by a land management or resource management agency who is not the project sponsor to ensure that the project is providing beneficial use and functioning in the manner that was intended. This is consistent with how the program operates now. This option for a simplified Notice to Proceed approval would apply to Shovel Ready projects at the time of application, as well as to projects seeking Notice to Proceed after agreements are signed, which is more typical.

Option 1a Unproven Aquifers and Wells

This option is the same as Option 1, except it further clarifies that all wells will be classified as unproven. Currently, if an aquifer is determined to be unproven by the Office, and the project sponsor moves forward with drilling a well that is ultimately unsuccessful, the cost is completely borne by the sponsor. On the other hand, if a project sponsor drills an unsuccessful well in an aquifer that was determined to be proven by the Office, the SWPP and the sponsor would share the cost of the unsuccessful well. Option 1a would simply change Program Criteria to state that if the well does not function in the manner intended, the sponsoring entity will be solely responsible to pay the drilling cost with no reimbursement from the WWDC. This is in keeping with the desire of the Commission and SWC to reduce agency overhead and transfer liability to project sponsors. As a result, no geologic report would be required of the sponsor, and no review will be required by the Office.

Chapter 9. Commission Discussion and Comment Summary

The information above was presented to the Joint Wyoming Water Development Commission/Select Water Committee meeting on August 6, 2026. The presentation slides may be found in Appendix E. An excerpt from the Select Water Committee meeting minutes of that meeting is included below for reference.

“COST AND ADMINISTRATION IMPROVEMENTS FOR WATER PROJECTS

Jodie Jackson, Project Manager; Barry Lawrence, Deputy Director – Planning; Mabel Jones, Project Manager, and Director Jason Mead, Wyoming Water Development Office, presented slides on the Small Water Projects Program, including information on the purpose of the program, the application process, and a plan to streamline the program’s application process ([Appendix 10-01](#)).

Senator Larry Hicks provided information on the history of the Small Water Projects Program, describing the impacts of the program on wildlife habitats, tourism, and wildlife populations and suggested improvements which could be made to the program.

Public Comments

Justin Shilling, Wyoming Farm Bureau Federation, provided public comment.

Committee Directives

The Select Committee moved to recommend that the WWDO adopt the plan to streamline the application process. The motion passed by roll call vote, with Senator Driskill excused.”

To clarify the motion and recommendation of the Select Water Committee, both options to streamline the SWPP; Option 1 Simplified Notice to Proceed Approval and 1a Unproven Aquifers and Wells were accepted. Members of the Commission were also present during the discussion and generally agreed with the concepts.

Chapter 10. Implementation

Per direction and approval given by the Select Water Committee at their August 6, 2026 meeting to implement the proposed changes to the SWPP, program documentation and reference materials have been updated. The primary exception to this is the Small Water Project Program Rules, which will not need to be changed. Please see the complete list below for more specifics.

- SWPP Application – Appendix A
- SWPP Criteria – Appendix B
- Project Agreement – Appendix C
- Project Sponsor Affidavit – Appendix D
- Notice to Proceed Flow Chart – Appendix E
- Select Water Committee Meeting – SWPP Efficiency Report Update Presentation Slides – Appendix F

Public outreach will need to be completed to notify project sponsors of the changes to the program. Active projects that were previously funded will be able to continue and project sponsors will be notified of the new procedures. Updated documents will be placed online for download along with the new project application for use in the 2027-2028 funding cycle. There will also be project submittals that are no longer required, such as the Sage Grouse analysis sheet, well evaluation checklist, and hydrologic evaluation checklist. These documents will be removed from the website to reduce misunderstanding moving forward.

Appendix A – SWPP Application



2026 WATER DEVELOPMENT PROGRAM APPLICATION

SMALL WATER PROJECT PROGRAM

The purpose of the Small Water Project Program (SWPP) is to participate with land management agencies and sponsoring entities in providing incentives for improving watershed condition and function. Projects eligible for grant funding assistance include the construction or rehabilitation of small reservoirs, wells, pipelines and conveyance facilities, springs, guzzlers, solar platforms, irrigation works, windmills, wetland developments, environmental, rural community fire suppression, and recreational. Projects should improve watershed condition and function, and provide benefit for wildlife, livestock, and the environment. Projects must also benefit the public.

Sponsors should refer to the operating criteria of the SWPP, which provides the Wyoming Water Development Commission (WWDC) and the Wyoming Water Development Office (WWDO) with general standards for evaluating and prioritizing applications for funding from the SWPP;

http://wwdc.state.wy.us/small_water_projects/SWPPopCriteria.html

Applications to this program must be received by November 15 of each calendar year. Applications meeting criteria requirements will be considered during the regularly scheduled WWDC and Select Water Committee (SWC) meetings in March.

1. Project Name

2. Applicant – Name of Entity

3. Phone

4. Date

5. Physical Address (Street Address)

6. City

7. County

8. State

9. Zip Code

10. Mailing Address (If Different From Above)

11. Primary Contact Person (Type or Print Name)

12. Phone

13. Email

14. Authorized Official (Type or Print Name)

15. Signature of Authorized Official¹

16. Date

¹By signing the above the Sponsor understands and agrees with the conditions set forth in the operating criteria of the SWPP.

If the application was prepared by someone other than the contact person, please provide the following:

17. Name

18. Affiliation

19. Phone

20. Email

21. DocuSign Information

21a. Can the Sponsor entity utilize DocuSign?

☐ Yes☐ No

If No, then please continue to Question #22. If Yes, please provide the following contact information for the Sponsor Board Chair and Secretary, which will be used as the signatories via DocuSign.

Board Chair (Type or Print Name)

Email

Board Secretary (Type or Print Name)

Email

22. Project Components *(Please identify all applicable components.)*

Type ²	Quantity	New Development	Rehabilitation	Latitude (Required)	Longitude (Required)
Small Reservoir		☐	☐		
Well		☐	☐		
Solar Platform		☐	☐		
Pipeline		☐	☐		
Tank		☐	☐		
Spring Development		☐	☐		
Guzzler		☐	☐		
Wetland		☐	☐		
Environmental		☐	☐		
Irrigation		☐	☐		
Windmill		☐	☐		
Rural Community Fire Suppression		☐	☐		
Recreational		☐	☐		

²The project types listed in the above table are considered eligible as defined by the SWPP Criteria. Environmental projects are defined as those that provide for stream bank stability, water quality improvements, or erosion protection.

23. Project Description

Provide all information necessary to accurately describe the proposed project and its eligibility per operating criteria. Include specific practices to be installed. Additional information may be attached to this application as necessary.

[illegible]

24. Public Benefit

Title 99 – Non-Codified Wyoming Statutes require all SWPP Sponsors to substantiate the public benefit that is to be derived from the proposed project. Check all public benefit(s) that this project may support;

☐ Water Quality ☐ Riparian Habitat ☐ Fish and Wildlife Habitat

☐ Water Supply ☐ Natural Resource Conditions

☐ Other (Please Explain):

Please provide a narrative to accurately document public benefit from the proposed project. Additional information on anticipated project public benefit(s) may be provided as necessary.

25. Project Participants

Please list all project participants (e.g. - District, NRCS, WWNRT, BLM, Landowner, etc.) and their type of participation (e.g. - technical, financial, project oversight, etc.).

26. Surface Ownership

Please provide estimated % of each if mosaic of land ownership.

☐ Federal ____ ☐ State ____ ☐ Private ____

26a. Who is the owner of the project? _____

26b. Who owns the land on which the project is to be built? _____

27. Project Costs

Total Estimated Project Cost \$_____

Requested Funds from WWDC (50% of eligible project expenses of a project with a maximum grant award limited to \$35,000.00, whichever is less) \$_____

28. Project Readiness

Sponsors may seek a "Shovel-Ready" status for projects which meet requirements as ready for immediate construction upon WWDC approval.

28a. Is the project seeking “Shovel-Ready” Status? ☐ Yes ☐ No

If No, then please continue to Question #29. The requirements described in Question #28b are not required at this time if you are not seeking a “Shovel-Ready” designation.

28b. If Yes, please ensure the following items are completed and attached to this application;

☐ Before Photos

☐ Project Designs or Drawings – to include layout and location of components to be installed, land ownership, and a table of quantities for each project component. (Must be of sufficient quality to determine eligibility of components and a common understanding of what the Sponsor will be requesting payment on)

☐ Project Sponsor Affidavit³

³Project Sponsor Affidavit is available at http://wwdc.state.wy.us/small_water_projects/small_water_project.html

29. Project Location/Site Map

A project location/site map is required for application consideration. Please attach the map to this application. At a minimum the map should include the project location, a labeled point/line for each proposed project component to be installed, and clarification for which practices the Sponsor is requesting SWPP grant funds.

30. Attachments and Supporting Documentation

- a.** Letters of Support (Optional)
- b.** Other Reference Material

Appendix B – SWPP Criteria

Operating Criteria of the Small Water Project Program of the Wyoming Water Development Program

A. Introduction:

The purpose of the Small Water Project Program (SWPP) is to participate with land management agencies and sponsoring entities in providing incentives for improving watershed condition and function. Projects eligible for SWPP grant funding assistance include the construction or rehabilitation of small reservoirs, wells, pipelines and conveyance facilities, springs, guzzlers and other water collection systems, solar platforms, irrigation works, windmills and wetland developments. Projects should improve watershed condition and function and provide benefit for wildlife, livestock and the environment. Projects may provide improved water quality, riparian habitat, habitat for fish and wildlife and address environmental concerns by providing water supplies to support plant and animal species or serve to improve natural resource conditions.

These Operating Criteria (Criteria) provide the Wyoming Water Development Commission (WWDC) and the Wyoming Water Development Office (WWDO) with general standards for evaluating and prioritizing applications for funding from the SWPP. In addition, the Criteria serve as a tool to coordinate with the public and other state and federal agencies.

B. Legal and Institutional Constraints:

1. Sponsoring Entity: Pursuant to ~~W.S. 99-3-1903(k)(i) and W.S. 99-3-1904(m)(i)~~¹ [Title 99 – Non-Codified Wyoming Statutes](#), funding is available only to eligible public entities.

~~2.~~—Eligible public entities are defined by state statute and include, but are not limited to, conservation districts, watershed improvement districts, water conservancy districts, irrigation districts, municipalities, a joint business council of the Eastern Shoshone and Northern Arapaho Indian Tribes, the Business Council of the Eastern Shoshone Indian Tribe, the Business Council of the Northern Arapaho Indian Tribe, or other approved assessment districts formed in accordance with Wyoming law.

~~32.~~ Project Description: Pursuant to ~~W.S. 99-3-1903(k)(iii) and W.S. 99-3-1904(m)(iii)~~ [Title 99 – Non-Codified Wyoming Statutes](#), the SWPP may provide for construction or rehabilitation and replacement of small dams, windmills, spring development, guzzlers and other water collection, [storage and drinking](#) systems, pipelines, etc., to impound, develop and convey water for livestock, wildlife, irrigation, environmental and recreational purposes.

~~43.~~ Project Funding: Pursuant to ~~W.S. 99-3-1903(k)(vii) and 99-3-1904(m)(vii)~~ [Title 99 – Non-Codified Wyoming Statutes](#), a small project is a project where the maximum financial contribution from the WWDC is fifty percent (50%) of the ~~construction cost~~ [eligible project expenses](#) of a project with a maximum grant award limited to thirty-five thousand dollars (\$35,000.00), whichever is less.

¹—~~For reference and identification only special statute numbers [appearing in Title “99” of the Wyoming Statutes] have been assigned to selected water projects by the Legislative Service Office.~~

C. Small Water Project Program Definitions:

1. Small Reservoir: Small reservoirs may be eligible for funding through the SWPP.

2. 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 WWDO, may be eligible for the SWPP at the discretion of the WWDC. Such discretion will be exercised in cases including, but not limited to, cases where the well does not meet the minimum requirements of the project in terms of quality and quantity through the SWPP. If the well does not function in the manner intended, the sponsoring entity will be solely responsible to pay the drilling cost with no reimbursement from the WWDC.~~

~~The determination of unproven aquifer status will be clearly communicated by the WWDO prior to the issuance of notice to proceed so the project sponsor may decide to cancel the project before funding is committed. If the sponsor decides to proceed with a well into an unproven aquifer they should be prepared to pay the drilling cost with the understanding that reimbursement for eligible expenses will be contingent upon meeting minimum water quality and quantity requirements.~~

3. Solar Platforms: Construction of solar platforms may be eligible for funding through the SWPP.

4. Pipelines and Conveyance Facilities: Rehabilitation of existing pipelines or conveyance facilities or construction of new pipelines or conveyance facilities may be eligible for funding through the SWPP.

5. Springs: Improving flows of existing springs and installation of collection facilities associated with springs may be eligible for funding through the SWPP.

6. Wetland Development: Development of wetlands where multiple benefits accrue may be eligible for funding through the SWPP.

7. Environmental: Projects that provide for stream bank stability, water quality improvements, or erosion protection may be eligible for funding through the SWPP.

8. Irrigation: Irrigation projects may be eligible for funding through the SWPP.

9. Windmill: Rehabilitation of existing windmills or construction of new windmills may be eligible for funding through the SWPP.

10. Rural Community Fire Suppression: Supply and storage projects for rural community fire suppression may be considered for funding through the SWPP.

11. Recreational: Projects for recreational purposes may be considered for SWPP funding.

12. Guzzlers: Guzzlers and other water collection, storage and drinking systems may be considered for SWPP Funding.

13. Notice to Proceed: A signed letter issued by the WWDO on behalf of the WWDC, accepting that pre-construction requirements have been met and providing concurrence to proceed with construction.

D. Application and Evaluation Process:

1. Small water projects must adequately demonstrate a public benefit. ~~Public benefit may be demonstrated for projects included in WWDC Watershed Studies.~~ Eligible projects may be located on Federal, State, public, or private lands.

2. Applications shall be received by November 15 of each calendar year. Applications meeting Criteria requirements will be considered during the regularly scheduled WWDC meeting in March. Applications ~~shall include a project application, detailed project description, description of public benefit, outline of financial and technical contributions, project location map, project cost estimates and any letters of authorization or commitment of participation that may be available from other funding sources.~~ are provided through the WWDC website at https://wwdc.state.wy.us/small_water_projects/small_water_project.html. Application must be complete to be considered.

3. Projects that improve watershed condition and function, provide multiple benefits, and meet the funding criteria ~~specified in W.S. 99-3-1903(k)(vii) or W.S. 99-3-1904(m)(vii),~~ as described in B.4.3 herein, are eligible for consideration.

4. The sponsoring entity will be required to address the WWDC and provide testimony and other additional supporting evidence that justifies SWPP funding whenever the public benefit documentation, as required in ~~W.S. 99-3-1903(k)(viii)(e) and W.S. 99-3-1904(m)(viii)(e)~~ Title 99 – Non-Codified Wyoming Statutes, submitted ~~with as part of~~ the application is deemed to be insufficient by the WWDO.

5. In order to establish priorities for both New Development and Rehabilitation projects, and to utilize available program funds effectively and efficiently, it is necessary to develop priorities. A project's priority will be assigned based on the projects primary purpose, while secondary benefits may be considered at the WWDC's discretion. Project priorities in order of preference, are defined as follows.

Account I New Development Project Priorities

- (1.) Source Water Development
- (2.) Storage
- (3.) Pipelines, Conveyance Facilities, Solar Platforms, and Windmills
- (4.) Irrigation
- (5.) Environmental
- (6.) Recreational

Account II Rehabilitation Project Priorities

- (1.) Diversion structures and Spring Developments
- (2.) Storage
- (3.) Pipelines, Conveyance Facilities, Solar Platforms, and Windmills
- (4.) Irrigation other than the above
- (5.) Environmental
- (6.) Recreational

6. Projects that have completed the following requirements prior to application ~~will~~ may be classified as “Shovel Ready”, and may be considered as a funding priority at the WWDC’s discretion.

- ~~• Permit procurement~~
- ~~• State and Federal agency notifications~~
- ~~• Land procurement, right of way, or easement acquisition~~
- ~~• Have finalized all other financial agreements~~
- Before Photos
- Project Designs or Drawings – to include layout and location of components to be installed, land ownership, and a table of quantities for each project component. (Must be of sufficient quality to determine eligibility of components and a common understanding of what the sponsoring entity will be requesting payment on.)
- Project Sponsor Affidavit

~~To establish completion of the above listed requirements, the project applicant may be asked to submit additional documentation as determined by the Commission at the time of application.~~

7. In the case of limited funding for this program the WWDC will prioritize the applications according to project priority.

8. The WWDC may take into consideration a sponsoring entity’s existing back log of previously funded projects that are not completed, when awarding grants for new projects.

E. Project Development:

1. ~~The sponsoring entity shall adhere to appropriate design standards for small water projects. Plans may be provided by the NRCS, an appropriate land management agency or a registered Professional Engineer and/or registered Professional Geologist.~~ The sponsoring entity is responsible for complying with all Criteria and acquiring all necessary access agreements, permits, plans, specifications, change orders, operation and maintenance plans, funding participation and construction budgets, and any other document, permit, or clearance required by local, state and federal law necessary to construct, operate, and maintain the Project. The sponsoring entity shall submit a signed Project Sponsor Affidavit to the WWDC prior to the issuance of Notice to Proceed verifying that the sponsoring entity has complied with all Criteria and has obtained all -required and necessary documents, permits, and clearances as set forth above to construct, operate, and maintain the Project.

~~2. Project water rights shall be in good standing with the State of Wyoming prior to construction of the project.~~

~~32.~~ If the sponsoring entity initiates the construction process without prior written notification, issued through a Notice to Proceed by the WWDO on behalf of the WWDC, the sponsoring entity shall bear all costs resulting from said action.

3. In addition to the application, a sponsoring entity has to complete and submit the following requirements to the WWDC, to be issued a Notice to Proceed:

- Before Photos
- Project Designs or Drawings – to include layout and location of components to be installed, land ownership, and a table of quantities for each project component. (Must be of sufficient quality to determine eligibility of components and a common understanding of what the sponsoring entity will be requesting payment on.)
- Project Sponsor Affidavit

4. Sponsoring entities shall have Notice to Proceed review requests to the WWDO by August 1st of any given year during the contract period. Notice to Proceed review requests received after August 1st until the following March WWDC meeting of any given year will be considered a lower priority for review by the WWDO and will be reviewed in the order received, regardless of project expiration dates. During this time period, the WWDO will prioritize those notice to proceed requests received by the August 1st deadline, payment requests and new project applications.

F. Program Expenditures:

1. Project Description: Projects that develop unused and/or unappropriated water will be considered SWPP New Development Projects and will be funded from SWPP Account I, which is funded by appropriations from Water Development Account I [W.S. 41-2-124(a)(i)]. Projects that improve completed water projects, decrease operation and maintenance costs, and/or improve efficiency of use of existing water supplies will be considered SWPP Rehabilitation Projects and will be funded from SWPP Account II, which is funded by appropriations from Water Development Account II [W.S. 41-2-124(a)(ii)].

2. Project Funding: ~~W.S. 99-3-1903(k)(vii) and W.S. 99-3-1904(m)(vii)~~ Title 99 – Non-Codified Wyoming Statutes, as described in B.4-3 herein, establish the funding limitations for the SWPP.

3. Activities eligible for SWPP funding include design, permit procurement, project land procurement, construction engineering (design and construction inspections), project materials and invoiced contractor expenses. In-kind contributions are only eligible for installation of project materials that were purchased specifically for the project as documented by invoices.

~~4. Required permits and clearances shall be obtained prior to construction of the project. Copies of the final permits and clearances must be submitted to the WWDO before the WWDO will issue the notice to proceed for construction.~~ WWDC funds may be used as necessary to secure the technical assistance required to complete permitting activities before construction commences.

~~5. The sponsoring entity shall provide the WWDO an operation and maintenance plan for the estimated life of the project.~~

~~65.~~ SWPP funds shall not be used to refinance projects that have already been completed. SWPP funds shall not be used to augment the operating budget of a sponsoring entity or any other entity. Maintenance costs, as determined by the WWDO, are not eligible expenditures under the SWPP. SWPP funding is limited to a one-time construction of a new project or a single rehabilitation of an existing project.

~~76.~~ 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. Changes, modifications, revisions or amendments to the Project Agreement may be granted by the WWDC.

~~87.~~ Construction contractors shall be selected using ~~a competitive bid process~~ the sponsoring entity's statutory procurement procedures.

~~98.~~ Upon project completion, WWDC funds will be disbursed when a certified bill is received from the sponsoring entity including statement of completion, before and after photographs, project longitude/latitude coordinates and an affidavit of publication documenting final settlement as required under W.S. 16-6-116 if the sponsoring entity determines the Project meets the definition of a "public work" as defined in W.S. 16-6-101(ix).

~~109.~~ If the sponsoring entity submits a certified bill, WWDC funds can be disbursed for a component of a project upon receipt of a certification by the project engineer or an appropriate land management entity, other than the proposed small water development project sponsoring entity, that the component provides a beneficial use and functions in the manner intended. Retainage on the cost of the component may be held until conditions described in F.9 are met.

~~110.~~ Upon receipt of WWDC funds, the sponsoring entity shall promptly pay outstanding obligations.

~~1211.~~ Unexpended funds allocated under the Project Agreement will revert to SWPP Account I or SWPP Account II, as appropriate, upon the expiration date of the Project Agreement. Expiration dates may be extended in writing by the WWDC.

~~1312.~~ In order to receive payment before the expiration of funds for projects expiring on December 31st, final payment requests shall be provided to the WWDO no later than December 1st of the year of expiration.

Appendix C – Project Agreement

PROJECT AGREEMENT
MSC No. _____
(PROJECT) PROJECT

1. **Parties.** The parties to this Agreement are the STATE OF WYOMING, acting by and through the WYOMING WATER DEVELOPMENT COMMISSION, (Commission), whose address is: 6920 Yellowtail Road, Cheyenne, WY 82002 and the **SPONSOR NAME**, Sponsor's County, Wyoming, a duly organized water and sewer district / water district / improvement and service district / watershed improvement district / conservation district / conservancy district / joint powers board / other existing under the laws of that state (Sponsor), whose address is: Address, City, WY Zip Code.
2. **Purpose of Agreement.** The purpose of this Agreement is to authorize the design and construction of a small water development project and specify terms for the project. The following project is hereby authorized and financed according to the terms of enacted legislation and this Agreement:
 - (a) Project [Project]; and
 - (b) Appurtenances necessary to make the Project complete and function in the manner intended.
3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of this Agreement is from the Effective Date until all provisions and conditions set forth herein have been satisfied.
4. **Special Provisions.**
 - A. The Commission approved a grant to the Sponsor of not more than **XXXX THOUSAND DOLLARS (\$XXXX.00)** or fifty percent (50%) of the actual development costs, whichever is less, which shall be disbursed to the Sponsor according to the terms of this Agreement. The Sponsor is responsible for acquiring the remaining fifty percent (50%) of the Project funds from other sources.
 - B. The Sponsor is responsible for complying with all Small Water Project Program Operating Criteria and acquiring; ~~and shall submit to the Commission,~~ all necessary ~~public~~-access agreements, permits, plans, specifications, change orders, operation and maintenance plans, funding participation and construction budgets, and any other document, permit, or clearance ~~—deemed necessary~~required by ~~by the Commission~~local, state and federal law necessary to construct, operate, and maintain the Project. The Sponsor shall submit a signed Project Sponsor Affidavit to the Commission prior to the issuance of Notice to Proceed verifying that the Sponsor has complied with all Small Water Project Program Criteria and has obtained all required and necessary documents, permits, and clearances as set forth above to construct, operate, and maintain the Project. ~~The Commission shall have~~

~~a reasonable time to examine the documents and submit comments. If the plans and specifications require modifications, or if the proposed Project cannot be constructed with the funds available, the Sponsor shall be informed in writing and the Sponsor shall have a reasonable time to provide such information as may be required by the Commission, make authorized alterations to the proposed Project that are necessary to provide the Commission with a reasonable expectation that the Project may be constructed with the funds available, or terminate the Project.~~

- C. ~~If the Commission determines that~~ The Sponsor shall confirm it has met all necessary requirements described in Section 4(B) of this Agreement by submitting the signed Project Sponsor Affidavit and the supporting documentation referenced in the conditions of the Small Water Project Program Operating Criteria, to the Commission. The Commission shall then notify the Sponsor that construction may commence through the issuance of a Notice to Proceed letter. The Commission shall not reimburse the Sponsor for construction costs incurred prior to the receipt of the Notice to Proceed with construction, from the Commission.
- D. The Sponsor shall complete the Project and shall be responsible for operation and maintenance of the Project ~~in accordance with accepted engineering practices~~. The Sponsor shall be responsible for all operation, maintenance, and repair expenses, including labor. The Sponsor shall complete the Project no later than **December 31, 20XX**, and shall have settled all claims and paid all Project expenses by said date. No funds shall be paid by the Commission after said date specified, and the Sponsor shall be solely responsible for payment of any expenses incurred or claims received after said date.
- E. Funds disbursed under this Agreement may only be used as approved by the Commission ~~to defray costs identified in the final plans and specifications or authorized by approved change orders~~ to pay for permit procurement, Project land procurement, or design or construction engineering services essential to construction of the Project, or approved change orders for the same. Necessary and reasonable Project expenses or costs not directly identified above require prior written approval by the Commission. Disbursement of funds for project eligible expenses essential to the construction of the Project incurred prior to the execution of this Agreement shall be at the sole discretion of the Commission.
- F. ~~Prior to the disbursement of any funds, the Sponsor shall submit to the Commission a certified pay request, signed contractor invoices, before and after photos of the individual component, latitude and longitude coordinates, as-built drawings, and any applicable finalized State Engineer's Office paperwork.~~ Prior to the ~~final payment~~ disbursement of any funds, the Sponsor shall submit to the Commission ~~an operation and maintenance plan,~~ signed contractor invoices, and a certified payment request ~~to the Commission~~, including: a Notice of Final Payment; affidavit of publication documenting final settlement as required under W.S. 16-6-116 if the Sponsor determines the Project meets the definition of a "public work" as defined in W.S. 16-6-101(ix); before, during, and after photographs of the Project; certified

as-constructed Project plans; or a letter from the engineer or appropriate land management entity that is not the project sponsor; certifying the Project is functioning in the manner intended; and latitude/longitude coordinates; ~~and finalized State Engineer's Office paperwork for any wells constructed~~. Requests for payment shall be certified by the Sponsor or its designated representative and accompanied by material invoices. Upon approval of the payment requests by the Commission, requests will be processed and disbursements will be delivered to a representative of the Sponsor. The Sponsor shall use funds disbursed by the Commission immediately upon receipt and in strict accordance with the requests for payment submitted by the Sponsor and approved by the Commission.

Payments made by the Commission shall be coordinated with all other Sponsor funding sources, including in-kind contributions, so that the total amount provided to the Sponsor from all funding sources shall not exceed ONE-HUNDRED PERCENT (100%) of total Project costs. Total Project costs may include the value of any in-kind contributions for the installation of Project materials purchased specifically for the Project, as documented by invoice and determined by the Commission. For the purposes of calculating total Project costs, in-kind contributions shall not exceed FIFTY PERCENT (50%) of total Project costs. The total amount provided to the Sponsor shall not exceed FIFTY PERCENT (50%) of total Project costs.

- G. Representatives of the Commission shall have the right of ingress and egress to enter upon the premises at any time, for the purpose of inspection for the life expectancy of the Project. If the Sponsor does not own the premises upon which the Project is located, or does not own access to the Project, the Sponsor shall obtain written permission from the landowner(s) of the premises on which the Project is located, and any land needed for access to the Project, for representatives of the Commission to have access to the Project for inspection purposes, and the ability to collect necessary resource data, as defined by Wyo. Stat. § 6-3-414(e)(iv).
- H. If through any cause, either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this document, the other party shall thereupon have the right to terminate this Agreement if such default or violation is not corrected within thirty (30) days after submitting written notice to the defaulting party. If the Commission determines that the Sponsor has failed to comply with all Small Water Project Program criteria or failed to obtain the required documents to construct, operate, and maintain the Project as described in Section 4(B) of this Agreement, or that the Sponsor has, without good cause, abandoned completion of the Project, the Sponsor shall be obligated to immediately repay the full amount of all grant funds actually expended plus interest as established by the State Treasurer in an amount equal to the interest that would have accrued on the expended grant funds in the water development account from the date of expenditure.

Notwithstanding the above, the Sponsor shall not be relieved of liability to the Commission for damages sustained by the Commission by virtue of any breach of this Agreement by the Sponsor, and the Commission may withhold any payments to the Sponsor for the purposes of offset until such time as the exact amount of damages due the Commission from the Sponsor is determined. In the event of default or the Sponsor's negligent or intentional failure to complete the Project, the Commission shall have the right of offset against any State of Wyoming accounts or sources of funding designated for use by, or on behalf of the Sponsor for the full amount owed to the Commission pursuant to this Agreement.

5. General Provisions.

- A. Amendments.** Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
- B. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms “hereof,” “hereunder,” “herein,” and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- C. Audit and Access to Records.** If at any time after execution of this Agreement and before one (1) year after the date of final payment to the Sponsor, the Commission requests an audit of funds disbursed, the Sponsor agrees to submit to and cooperate with the audit conducted by duly authorized representatives of the Commission. The Commission and its representatives shall have access to any books, documents, papers, electronic data, and records of the Sponsor which are pertinent to this Agreement.
- D. Availability of Funds.** Each payment obligation of the Commission is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Agreement, the Agreement may be terminated by the Commission at the end of the period for which the funds are available. The Commission shall notify the Sponsor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Commission in the event this provision is exercised, and the Commission shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- E. Compliance with Laws.** The Sponsor shall keep informed of and comply with all applicable federal, state and local laws and regulations, and all federal grant

requirements and executive orders in the performance of this Agreement, including but not limited to laws and regulations governing assessment processes, public bidding, and public works. The Sponsor shall comply with all resident and other preference requirements, including but not limited to those applicable to labor, materials and subcontractors.

- F. Entirety of Agreement.** This Agreement, consisting of eight (8) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.
- G. Extensions.** Nothing in this Agreement shall be interpreted or deemed to create an expectation that this Agreement will be extended beyond the term described herein. Any extension of this Agreement shall be initiated by the Agency and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Agreement or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Agreement.
- H. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- I. Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.
- J. Independent Contractor.** The Sponsor shall function as an independent contractor for the purposes of this Agreement and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the Sponsor shall be free from control or direction over the details of the performance of services under this Agreement. The Sponsor shall assume sole responsibility for any debts or liabilities that may be incurred by the Sponsor in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Sponsor or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Commission or to incur any obligation of any kind on behalf of the State of Wyoming or the Commission. The Sponsor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance or similar benefits available to State of Wyoming

employees will inure to the benefit of the Sponsor or the Sponsor's agents or employees as a result of this Agreement.

- K. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail or delivery in person at the addresses provided under this Agreement.
- L. Nondiscrimination.** The Sponsor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.*, and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin or disability in connection with the performance under this Agreement.
- M. Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Agreement has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).
- N. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- O. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and the Commission expressly reserve sovereign immunity by entering into this Agreement and the Sponsor expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 1-39-101, *et seq.*, and all other applicable law. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.
- P. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

- Q. Time is of the Essence.** Time is of the essence in all provisions of this Agreement.
- R. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.
- S. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- T. Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement. Delivery by the Sponsor of an originally signed counterpart of this Agreement by PDF shall be followed up immediately by delivery of the originally signed counterpart to the Commission.

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6. **Signatures.** The parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The Effective Date of this Agreement is the date of the signature last affixed to this page.

WYOMING WATER DEVELOPMENT COMMISSION:

Chairman _____	_____
	Date

Secretary _____	_____
	Date

DISTRICT (Sponsor):

Chairman _____	_____
	Date

Secretary _____	_____
	Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

_____ Megan Pope, Senior Assistant Attorney General	_____
	Date

Appendix D – Project Sponsor Affidavit



THE STATE OF WYOMING
Water Development Commission
6920 YELLOWTAIL ROAD TELEPHONE: (307) 777-7626 CHEYENNE, WY 82002



PROJECT SPONSOR AFFIDAVIT
SMALL WATER PROJECT PROGRAM

Project Name

Sponsor

County

Prepared By

Date

Description	Check One		Notes
	Completed	N/A	
Project Development Documentation			
WWDC Project Application	☐	☐	
Project Designs or Drawings	☐	☐	
Before Photographs	☐	☐	
Legal and Permitting Considerations			
Landowner Permission (In Writing)	☐	☐	
NEPA Analysis	☐	☐	
Permits:	☐	☐	
USACE (Nationwide Permit, 404 Permit, etc)	☐	☐	
WYDEQ (401 Certification, Storm Water Permit, etc)	☐	☐	
BLM (ROW Permit, etc)	☐	☐	
USFS (Special Use Permit, etc)	☐	☐	
WGFD (Sage Grouse)	☐	☐	
Sensitive Species and/or T&E Clearance	☐	☐	
WYSEO (Surface/Groundwater Permits, etc.)	☐	☐	
Other - County, City, etc. (Floodplain, Road Crossing, etc.)	☐	☐	
Utility Notifications	☐	☐	

1. This checklist is intended to be used as a guideline and should not be considered an exhaustive list.
2. If there have been any changes to the project description since the project application was submitted, please coordinate with the Small Water Project Program Administrator.
3. Project Designs or Drawings shall include layout and location of components to be installed, land ownership, and a table of quantities for each project component. (Must be of sufficient quality to determine eligibility of components and a common understanding of what the sponsoring entity will be requesting payment on.)
4. All lines must be marked as either Completed or N/A before Notice to Proceed will be issued.

To Be Completed by Project Sponsor
(Conservation District, Irrigation District, etc.)

Name

Organization

Address

Phone

Email

The Project Sponsor is responsible for complying with all Small Water Project Program Operating Criteria and acquiring all necessary access agreements, permits, plans, specifications, change orders, operation and maintenance plans, funding participation and construction budgets, and any other document, permit or clearance required by local, state, and federal law necessary to construct, operate, and maintain the Project. Please review the checklist above and sign below to indicate your agreement that all necessary documents, permits, and approvals been obtained by the Project Sponsor to construct, operate, and maintain the Project.

I certify under penalty of perjury that the foregoing is true and correct:

- I am the authorized representative of the Project Sponsor identified in this document and am authorized to execute this Affidavit on the Project Sponsor's behalf.
- I have reviewed the items on the above checklist and that, to the best of my knowledge and belief, the information provided is true and accurate.
- I understand the Project Sponsor is responsible for complying with all Small Water Project Program Operating Criteria and acquiring all necessary access agreements, permits, plans, specifications, change orders, operation and maintenance plans, funding participation and construction budgets, and any other document, permit or clearance required by local, state, and federal law necessary to construct, operate, and maintain the Project.

Signature

Date

STATE OF WYOMING)
)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me by _____ this ____ day of _____, 2026.

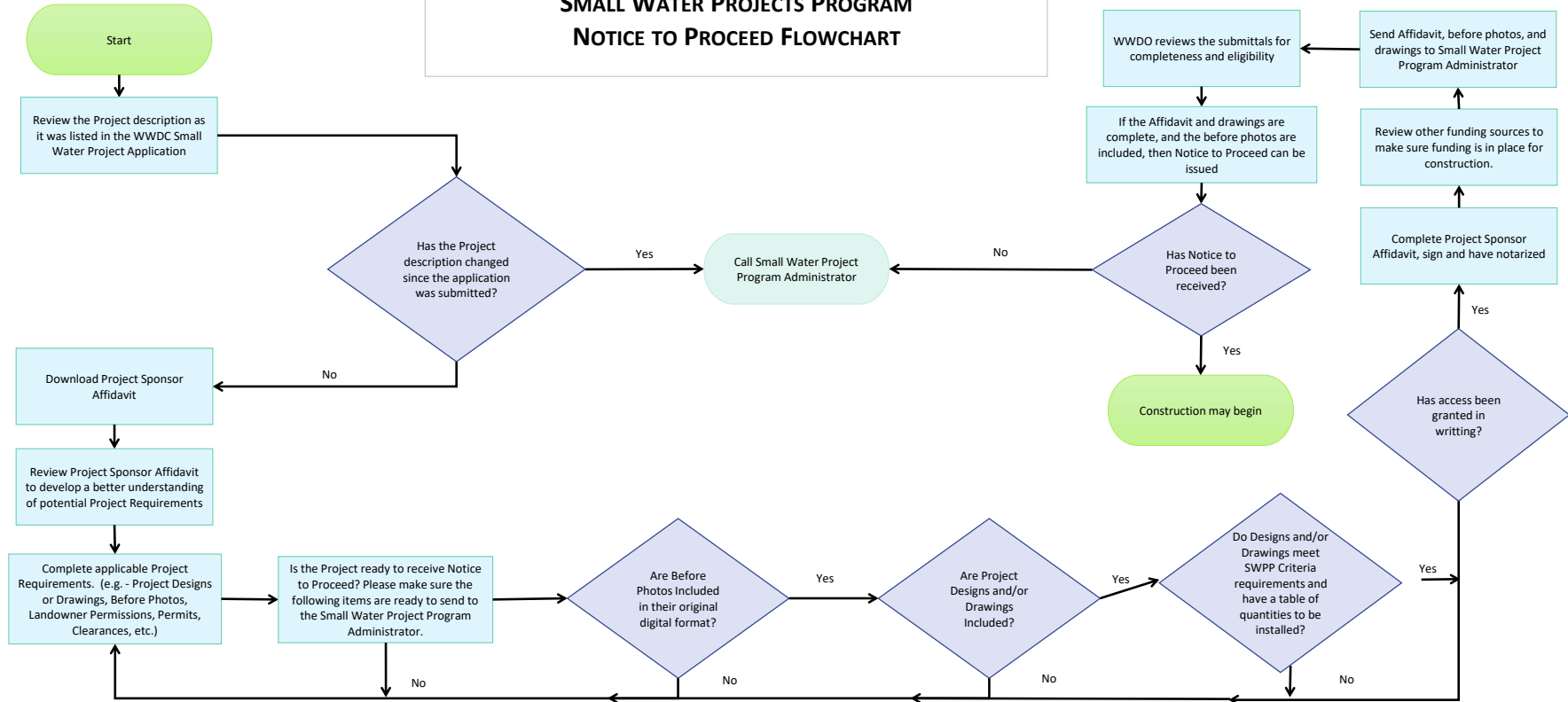
WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

Appendix D – Notice to Proceed Flowchart

SMALL WATER PROJECTS PROGRAM NOTICE TO PROCEED FLOWCHART



Small Water Project Program Administrator

Jodie Jackson, PE
Small Water Project Program Manager
6920 Yellowtail Rd
Cheyenne, WY 82002
(307) 777-7626
Jodie.Jackson@wyo.gov

http://wwdc.state.wy.us/small_water_projects/small_water_project.html



Appendix F – Select Water Committee Meeting – SWPP Efficiency Report Update Presentation Slides

SMALL WATER PROJECTS PROGRAM EFFICIENCY REPORT UPDATE

WYOMING WATER DEVELOPMENT COMMISSION & SELECT WATER
COMMITTEE JOINT MEETING

AUGUST 6, 2026



PRESENTATION OUTLINE

- INTRODUCTION
- WHAT WE DO AND WHY
- WWNRT PROGRAM OVERVIEW
- SWPP CONSERVATION DISTRICT SURVEY
- OPTIONS TO STREAMLINE
- DISCUSSION
- IMPLEMENTATION AND TIME FRAME

INTRODUCTION

- FUNDING FOR THE SMALL WATER PROJECTS PROGRAM WAS FIRST AUTHORIZED IN 2002
- THE PURPOSE OF THE PROGRAM IS TO PROVIDE INCENTIVES FOR IMPROVING WATERSHED CONDITION AND FUNCTION
- PROJECTS ELIGIBLE FOR FUNDING INCLUDE
 - SMALL RESERVOIRS
 - WELLS
 - SOLAR PLATFORMS
 - PIPELINES AND CONVEYANCE FACILITIES
 - SPRINGS
 - GUZZLERS
 - WETLAND DEVELOPMENTS
 - ENVIRONMENTAL PROJECTS THAT PROVIDE FOR STREAM BANK STABILITY OR EROSION PROTECTION
 - IRRIGATION PROJECTS
 - WINDMILLS
 - RURAL COMMUNITY FIRE SUPPRESSION
 - RECREATIONAL

WHAT WE DO AND WHY APPLICATION PROCESS

- APPLICATIONS ARE DUE NOVEMBER 15TH EACH YEAR
- APPLICATION OVERVIEW
- APPLICATIONS ARE REVIEWED FOR THE FOLLOWING
 - ELIGIBILITY
 - INSTALLED COMPONENTS
 - LOCATION
 - PUBLIC BENEFIT
 - SHOVEL READINESS
 - PROJECT COST/FUNDING PARTNERS
- PROJECTS APPLICATIONS ARE ASSIGNED A PRIORITY BASED ON THE PROJECTS PRIMARY PURPOSE
- APPLICATIONS THAT DON'T MEET PROGRAM REQUIREMENTS WILL RESULT IN A CONFERENCE CALL WITH THE PROJECT SPONSOR TO AMEND OR WITHDRAW THE APPLICATION — **ALL PROJECT SPONSORS ARE GIVEN THE OPTION OF MAKING THEIR CASE AT THE MARCH MEETING REGARDLESS OF THE OFFICE'S RECOMMENDATION.**



21. Project Components (Please identify all applicable components.)

Type ¹	Quantity	New Development	Rehabilitation	Latitude (Required)	Longitude (Required)
Small Reservoir		☐	☐		
Well		☐	☐		
Solar Platforms		☐	☐		
Pipeline		☐	☐		
Tank		☐	☐		
Spring Development		☐	☐		
Wetland		☐	☐		
Environmental		☐	☐		
Irrigation		☐	☐		
Windmill		☐	☐		
Rural Community Fire Suppression		☐	☐		
Recreational		☐	☐		

1. The project types listed in the above table will be considered eligible as defined by the Small Water Projects Program Criteria. Environmental projects are defined as those that provide for stream bank stability, water quality improvements, or erosion protection.

22. Legal Description (Optional)

Township	Range	Section	Quarter Section
Township	Range	Section	Quarter Section
Township	Range	Section	Quarter Section
Township	Range	Section	Quarter Section

23. Project Description

Planning for Small Water Projects may be generated by a WWDC watershed study. Provide all information necessary to accurately describe the proposed project and its eligibility per operating criteria. Additional information may be attached to this application as necessary.

WHAT WE DO AND WHY APPLICATION PROCESS

- APPLICATIONS ARE DUE NOVEMBER 15TH EACH YEAR
- APPLICATION OVERVIEW
- APPLICATIONS ARE REVIEWED FOR THE FOLLOWING
 - ELIGIBILITY
 - INSTALLED COMPONENTS
 - LOCATION
 - PUBLIC BENEFIT
 - SHOVEL READINESS
 - PROJECT COST/FUNDING PARTNERS
- PROJECTS APPLICATIONS ARE ASSIGNED A PRIORITY BASED ON THE PROJECTS PRIMARY PURPOSE
- APPLICATIONS THAT DON'T MEET PROGRAM REQUIREMENTS WILL RESULT IN A CONFERENCE CALL WITH THE PROJECT SPONSOR TO AMEND OR WITHDRAW THE APPLICATION — **ALL PROJECT SPONSORS ARE GIVEN THE OPTION OF MAKING THEIR CASE AT THE MARCH MEETING REGARDLESS OF THE OFFICE'S RECOMMENDATION.**



24. Public Benefit

Wyoming statute 99-3-1903(k)(viii)(c) and 99-3-1904(m)(viii)(c) requires all Small Water Project Sponsors to substantiate the public benefit that is to be derived from the proposed project. Please provide all information necessary to accurately document public benefit from the proposed project. Additional information may be attached as necessary.

25. Project Participants

Please list all project participants (e. g.: District, NRCS, WWRN, BLM, Landowner, etc.), and their type of participation (e.g.: technical, financial, project oversight, etc.).

26. Who is the owner of the project? _____

27. Who owns the land on which the project is to be built? _____

28. How many acres will benefit from this project? _____

29. What is the total estimated project cost? _____

30. Was the project specifically identified in a WWDC Watershed Study? ☐ Yes ☐ No
If yes, what was the name of the study? _____

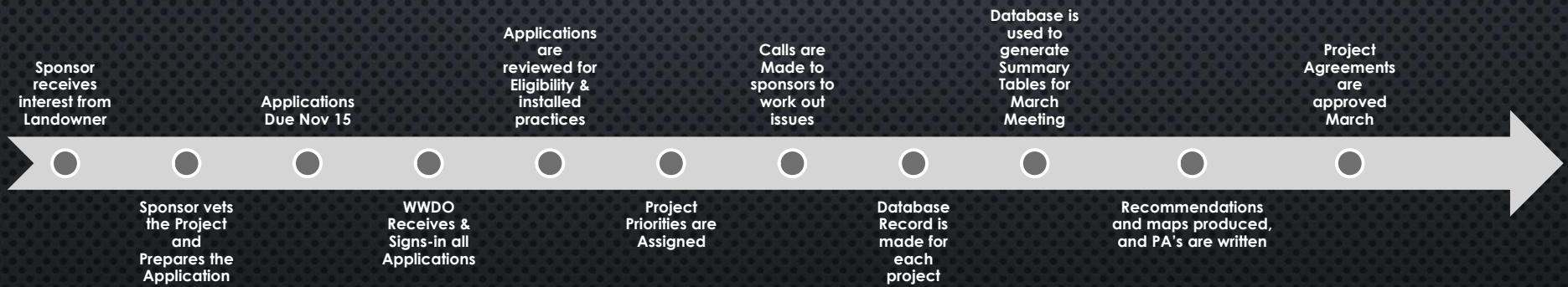
31. Project Readiness

Projects that have completed the following requirements prior to application may request a "Shovel-Ready" designation and may be considered as a funding priority at the Commission's discretion:

- Project designs and specifications
- Permit procurement
- State and federal agency notifications
- Land procurement, right of way, or easement acquisition
- Have finalized all other financial agreements

WHAT WE DO AND WHY APPLICATION PROCESS

- THE OFFICE PREPARES RECOMMENDATIONS AND PROJECT AGREEMENTS FOR THE MARCH MEETING
- AFTER APPLICATIONS ARE REVIEWED AND RECOMMENDATIONS ARE PREPARED, PROJECT SPONSORS ARE SENT A COPY OF WHAT WILL BE PRESENTED TO THE COMMISSION AND SELECT WATER COMMITTEE TO MAKE SURE THEY AGREE WITH WHAT IS BEING PRESENTED AND UNDERSTAND FUNDING AVAILABILITY AND PRIORITY ASSIGNMENTS
- AFTER APPROVAL AT THE MARCH MEETING PROJECT AGREEMENTS ARE SENT OUT FOR SIGNATURE BY THE DISTRICT'S BOARD.



SPONSOR GETS STARTED



THE STATE OF WYOMING
Water Development Commission
6920 YELLOWTAIL ROAD TELEPHONE: (307) 771-7626 CHEYENNE, WY 82002



PROJECT SPONSOR CHECKLIST FORM
SMALL WATER PROJECT PROGRAM

Project Name _____

Sponsor _____ County _____

Prepared By _____ Date _____

Signature _____

Project Sponsor Checklist:

Description	Check As Applicable			Notes
	Yes	No	N/A	
Construction Factors				
WWDC Project Application	☐	☐	☐	
Project Description	☐	☐	☐	
Designs and Specifications	☐	☐	☐	
Operation and Maintenance Plan	☐	☐	☐	
Budget and Cost Estimates	☐	☐	☐	
Funding Participation (Identify)	☐	☐	☐	
Project Location Information:				
Photographs (Before, During, After)	☐	☐	☐	
Longitude/Latitude Coordinates	☐	☐	☐	
Legal, Design, and Permitting Factors				
Public Benefit (Submit with Application)	☐	☐	☐	
Right-of-Way/Access Agreement	☐	☐	☐	
Easements/Option Agreement	☐	☐	☐	
Agency Commitment:				
NRCS	☐	☐	☐	
BLM	☐	☐	☐	
USFS	☐	☐	☐	
Notifications:				
Wyoming Game and Fish Dept.	☐	☐	☐	
U.S. Fish and Wildlife Service	☐	☐	☐	
Utility Owners	☐	☐	☐	
Land Procurement	☐	☐	☐	
State/County/Local Requirements	☐	☐	☐	
Wyoming SEO Water Rights	☐	☐	☐	

PROJECT SPONSOR CHECKLIST FORM SMALL WATER PROJECT PROGRAM PAGE 1 OF 2
VERSION: 06/01/2016

Legal, Design, and Permitting Factors (Continued)

Environmental Evaluation	☐	☐	☐
Cultural Resources Review	☐	☐	☐
CWA Section 401 Certification	☐	☐	☐
CWA Section 404 Permit	☐	☐	☐
DEQ Permit to Construct	☐	☐	☐
Wetlands Delineation	☐	☐	☐
Hydrologic Evaluation	☐	☐	☐
Other (Specify)	☐	☐	☐
Other (Specify)	☐	☐	☐

1. This checklist is intended to be used as a guideline and should not be considered an exhaustive list. Additional items may be required for final approval. The signature and supporting documentation discussed below are required to receive notice to proceed.

To Be Completed by Project Sponsor
(Conservation District, Irrigation District, etc.)

Name _____

Organization _____

Address _____

Phone _____ Email _____

Acquisition of all permits, designs, certificates, and approvals is the responsibility of the project Sponsor. Please review the checklist above and sign below to indicate your agreement that all necessary permits, approvals, and certificates have been obtained:

Signature _____ Date _____

Please list the attachments included with this package provided that document the necessary approvals:

PROJECT SPONSOR CHECKLIST FORM SMALL WATER PROJECT PROGRAM PAGE 2 OF 2
VERSION: 06/01/2016

The Project Sponsor Checklist is intended to be an aid in project development, and to facilitate communication between the sponsor and office. Not all of the items on the list are required for every project, but their presence on the list can help the sponsor think through what may be required before construction can begin.

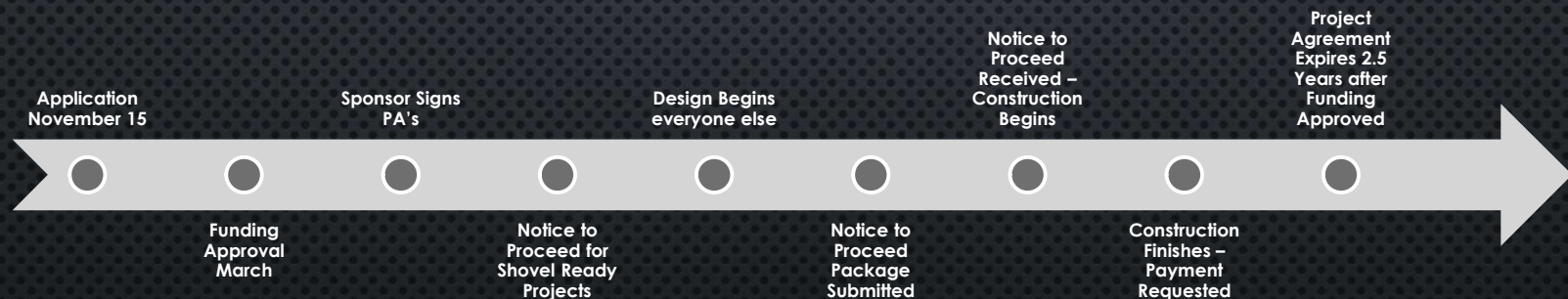
THE SPONSOR BEGINS ACQUIRING PERMITS, PREPARING DESIGNS, AND PREPARING THE PROJECT FOR CONSTRUCTION. THIS PROGRAM HAS SPONSORS OF ALL EXPERIENCE LEVELS, FROM FIRST TIME PROJECT MANAGERS, TO DISTRICTS WITH LICENSED PROFESSIONAL ENGINEERS ON STAFF.

PROJECT NOTICE TO PROCEED REVIEW

- AFTER THE SPONSOR HAS THE PROJECT READY TO CONSTRUCT THE SPONSOR SENDS THE NOTICE TO PROCEED PACKAGE TO THE OFFICE FOR REVIEW
- THE OFFICE REVIEWS THE PACKAGE FOR COMPLETENESS
 - THE PLANS ARE REVIEWED AT A HIGH LEVEL TO VERIFY THAT THE INDIVIDUAL PROJECT COMPONENTS ALIGN WITH THE APPROVED PROJECT APPLICATION, MEET BASIC CONSTRUCTABILITY AND OPERABILITY BEST PRACTICES, AND ENSURE THAT THE PROPOSED SCOPE IS REASONABLE. FOR EXAMPLE, IF A PROJECT APPLICATION SPECIFIES FOUR SOLAR PANELS, THE REVIEW HELPS CONFIRM THAT THE PLANS DO NOT LATER INCLUDE OR BILL FOR EIGHT PANELS WITHOUT JUSTIFICATION.
 - APPROVED PLANS ALSO SERVE AS OUR AGREEMENT WITH THE SPONSOR OF WHAT COMPONENTS WE WILL REIMBURSE FOR AFTER COMPLETION. SO IF THE PROJECT GETS CHANGED DURING CONSTRUCTION, A WRITTEN REQUEST FOR A CHANGE SHOULD BE SUBMITTED FOR THE RECORD TO ENSURE PROPER PAYMENT AT THE END OF THE PROJECT
 - CLEARANCES, APPROVALS, PERMITS, ETC. ARE DISCUSSED AND REVIEWED TO ASSIST SPONSORS WITH LESS PROJECT CONSTRUCTION EXPERIENCE
 - LANDOWNER APPROVALS ARE RECEIVED TO ENSURE AUTHORIZATION AND ACCESS REQUIREMENTS ARE IN WRITING
 - CHECKLISTS ARE REVIEWED TO ENSURE PROJECT READINESS

PROJECT NOTICE TO PROCEED REVIEW - CONTINUED

- THE PROJECT SPONSOR CHECKLIST WAS DESIGNED TO BE FILLED OUT AND SIGNED RIGHT BEFORE THE SPONSOR IS READY TO REQUEST NOTICE TO PROCEED, SO THE SPONSOR CAN USE IT TO ENSURE THE PACKAGE IS COMPLETE
- SAGE GROUSE ANALYSIS SHEET IS USED TO DOCUMENT THE PROJECTS LOCATION RELATIVE TO SAGE GROUSE CORE AREA AND SPECIFIC SAGE GROUSE LEKS, DISTANCES ARE USED TO GIVE GUIDANCE REGARDING CONSTRUCTION TIMING



NOTICE TO PROCEED

ONCE ALL DOCUMENTS HAVE BEEN RECEIVED AND REVIEWED, THE OFFICE ISSUES NOTICE TO PROCEED. THE DATE ON THE TOP OF THE NOTICE TO PROCEED LETTER SERVES AS THE DATE FOR START OF ELIGIBLE CONSTRUCTION EXPENSES.

UPON RECEIPT OF NOTICE TO PROCEED CONSTRUCTION MAY BEGIN.



	WYOMING WATER DEVELOPMENT OFFICE 6920 Yellowtail Road Cheyenne, WY 82002 Phone: (307) 777-7626 wwdc.state.wy.us	Mark Gordon Governor
		Commissioners Lee Craig Robert R. Choma Dennis Pince Lisa Anseloni-Dalton Clinton W. Glick
		Todd Hesse Governor Ronald E. Kaley, Jr. Mark Kot John H. Lawson Ronald E. Vore
		Jason Mead, P.E. Director

August 29, 2025

Shannon Darrough
Powell Clarks Fork Conservation District
1017 HWY 14A
Powell, WY 82435

Dear Shannon:

Please find enclosed the Project Agreement between the Wyoming Water Development Commission (Commission) and the Powell Clarks Fork Conservation District (Sponsor) for the Silver Lake Restoration Project. The application for this project is complete and the Project Agreement is approved according to the Small Water Project Program operating criteria and administrative procedures.

This project can now proceed to construction in accordance to laws of the State of Wyoming pertaining to the construction of such projects and the terms set forth in the Project Agreement. The Project Agreement is limited to a grant of not more than fifty percent (50%) of total eligible project cost or twenty-one thousand one hundred twenty-five dollars (\$21,125.00) whichever is less. The expiration date for this project agreement is December 31, 2026.

Bids for materials and the construction of this project as required by the Commission are to be included in the project file. In addition, the Commission requests to be informed about pricing and purchase of materials and other invoiced items not included in the approved project application that may be pertinent to this project prior to any commitment of funds.

The project is located inside of Sage Grouse Core Area, so please limit construction activities to the July 1st through March 14th time frame. Also please note that construction on a lek is prohibited. Construction activities for wetland developments and reservoirs are limited to no more than 10 wetland acres or 10 water surface acres. If the location of the project changes please note that additional stipulations may be required. Should this occur, please contact the Water Development Office with the new project location information prior to construction.

Thank you for your participation in the Wyoming Water Development Commission Small Water Project Program.

Sincerely,

Jodie Jackson, P.E.
Program Manager

PROJECT COMPLETION

- ONCE CONSTRUCTION IS COMPLETED THE SPONSOR SUBMITS A PAYMENT REQUEST INCLUDING THE FOLLOWING:
 - CERTIFIED PAYMENT REQUEST FORM
 - AFTER PHOTOS
 - NRCS TYPE AS-BUILTS OR A LETTER OF CERTIFICATION FROM THE ENGINEER
 - INVOICES SIGNED BY THE SPONSOR
 - UW6 FOR WELLS
- INVOICES AND AFTER PHOTOS ARE COMPARED TO THE PLANS TO ENSURE THAT WE ARE ONLY PAYING FOR WHAT WAS AGREED UPON IN THE PLANS

PROJECT COMPLETION - CONTINUED

- **INELIGIBLE ITEMS ARE REMOVED – USUALLY THIS IS ON IN-KIND CONSTRUCTED PROJECTS, THINGS LIKE COOLERS, BOTTLED WATER, AND HOUSEHOLD GOODS THAT DIDN'T GET SUBTRACTED OUT.**
- **CRITERIA REQUIRES THAT WELLS DRILLED INTO UNPROVEN AQUIFERS PROVIDE PROOF OF QUALITY AND QUANTITY BEFORE WE RELEASE FUNDS.**
- **PROJECT FUNDS ARE RELEASED AND THE PROJECT IS CLOSED**



- THE WYOMING LEGISLATURE CREATED THE WILDLIFE AND NATURAL RESOURCE TRUST IN 2005. FUNDED BY REVENUE GENERATED BY PERMANENT ACCOUNT. THE LEGISLATURE CAN APPROPRIATE ADDITIONAL FUNDING FOR SPECIFIC PURPOSES.
- THE PURPOSE OF THE PROGRAM IS TO ENHANCE AND CONSERVE WILDLIFE HABITAT AND NATURAL RESOURCE VALUES THROUGHOUT THE STATE.
- PROJECTS DESIGNED TO IMPROVE WILDLIFE HABITAT OR NATURAL RESOURCE VALUES ARE ELIGIBLE FOR FUNDING. (70-100 PROJECTS/YEAR)
- THE WWNRT IS AN INDEPENDENT STATE AGENCY GOVERNED BY A NINE MEMBER CITIZEN BOARD APPOINTED BY THE GOVERNOR. LEGISLATIVE OVERSIGHT IS GUIDED BY THE SELECT COMMITTEE FOR NATURAL RESOURCES FUNDING.

WYOMING WILDLIFE & NATURAL RESOURCES TRUST PROGRAM OVERVIEW

- **PROJECT SPONSOR APPLIES FOR FUNDS**
 - ELIGIBLE APPLICANTS: NON-PROFITS AND GOVERNMENTAL ORGANIZATIONS; MAY PARTICIPATE WITH FOR-PROFIT ENTITIES PROVIDED THERE IS NO ALLOCATION OF FINANCIAL RESOURCES TO ANY FOR-PROFIT
 - PROJECTS ARE REQUIRED TO PROVIDE A PUBLIC BENEFIT
 - TWO BATCHING DEADLINES PER YEAR: MARCH 1ST AND SEPTEMBER 1ST
- **APPLICATIONS FOR FUNDING**
 - PROJECT LOCATION/DESCRIPTION/HABITAT TYPE/AREA AFFECTED/SURFACE OWNERSHIP
 - PERMITS, AGREEMENTS IN PLACE AND THOSE REQUIRED PRIOR TO IMPLEMENTATION
 - PROJECT READINESS/TIMELINE FOR COMPLETION
 - PROJECT COSTS/MATCHING FUNDS
 - SUPPORTING DOCUMENTATION: DETAILED MAP, LETTERS OF SUPPORT, DESIGNS



WYOMING WILDLIFE & NATURAL RESOURCES TRUST PROGRAM OVERVIEW - CONTINUED

- **FUNDING APPROVAL PROCESS**
 - EACH APPLICATION IS REVIEWED AND RANKED BY THE WWNRT BOARD.
 - PROJECTS SELECTED FOR FINAL CONSIDERATION BY THE BOARD ARE VISITED ONSITE BY A COMMITTEE OF WWNRT BOARD MEMBERS & THE AGENCY DIRECTOR PRIOR TO FUNDING DECISION. (QUESTIONS RAISED IN THE FIELD WITH 2-3 WEEKS FOR FOLLOW UP)
 - PROJECTS MIGHT MOVE UP OR DOWN THE LIST BASED ON THE SITE VISIT; THOSE THAT ARE NOT READY TO CONSTRUCT MAY BE DEFERRED TO THE NEXT FUNDING CYCLE (3 MONTHS).
 - WWNRT BOARD MEETS IN JUNE AND DECEMBER TO MAKE FINAL FUNDING DECISIONS. (3 MONTH PROCESS)
 - FUNDS ARE AVAILABLE AFTER CONTRACTS ARE COMPLETED AND FULLY EXECUTED. (JULY AND JANUARY)
- **CONSTRUCTION BEGINS**
- **PROGRESS REPORTS AND PAYMENT REQUESTS WITH INVOICES ARE SUBMITTED TO WWNRT OFFICE**
- **PAYMENTS ARE MADE; UNALLOCATED FUNDS ARE RETURNED TO THE WWNRT**



SWPP CONSERVATION DISTRICT SURVEY

(34 WYOMING CONSERVATION DISTRICTS)

SURVEY ADMINISTRATION

- **CONTENT**
- **DELIVERY METHODS**
- **RESPONSE RATE**

10 Questions

Section 1. Application Process

1. If you haven't applied to the SWPP in the last 5 years, why?
2. Do you find the application process burdensome?
3. Has the application process caused excessive costs?
4. Do you have suggestions to streamline application process?

Section 2. Design Review Process

5. Do you find the design review process burdensome?
6. Has the design review process caused excessive costs?
7. Do you have suggestions to streamline design review process?

Section 3. General

8. What do you think functions well with the SWPP?
9. Do you have any suggestions to improve the SWPP?
10. Is there anything else you would like to add?

SWPP CONSERVATION DISTRICT SURVEY

(34 WYOMING CONSERVATION DISTRICTS)

SURVEY ADMINISTRATION

- CONTENT
- DELIVERY METHODS
- **RESPONSE RATE**

Total Responses
(22 SWPP Users)

28

SWPP CONSERVATION DISTRICT SURVEY

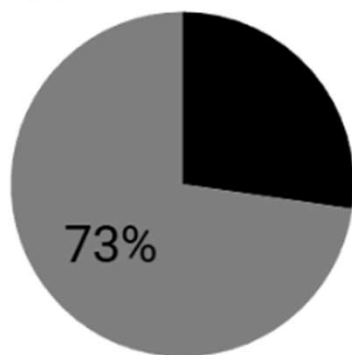
RESULTS-APPLICATION PROCESS

(22 SWPP USERS)

Application Challenging-Yes

6

Application Challenging

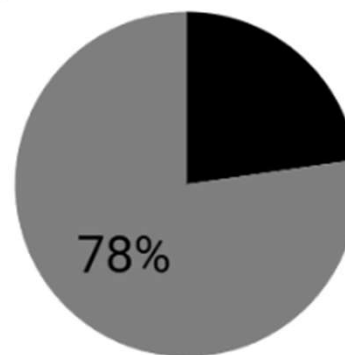


● Yes
● No

Application Excessive Costs-Yes

5

Application Excessive Costs



● Yes
● No

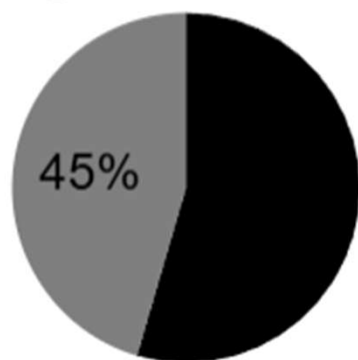
SWPP CONSERVATION DISTRICT SURVEY

RESULTS-DESIGN REVIEW PROCESS (22 SWPP USERS)

Design Review Challenging-Yes

12

Design Review Challenging

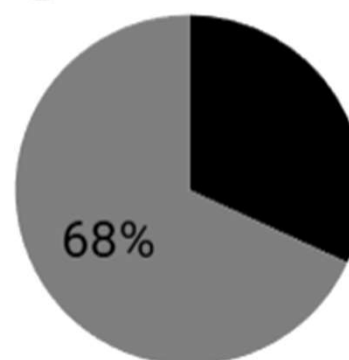


● Yes
● No

Design Review Excess Costs - Yes

7

Design Review Excess Costs



● Yes
● No

SWPP CONSERVATION DISTRICT SURVEY

RESULTS-GENERAL QUESTIONS

- **WHAT DO YOU THINK FUNCTIONS WELL WITH THE SWPP?**
- **DO YOU HAVE ANY SUGGESTIONS TO IMPROVE THE SWPP?**
- **IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD?**

SWPP CONSERVATION DISTRICT SURVEY

RESULTS-KEY THEMES & IDEAS/EFFICIENCIES

KEY THEMES

- PROGRAM UTILITY AND IMPACT
- DESIGN REVIEW BOTTLENECK
- DESIGN AND ENGINEERING COSTS
- SUPPORT AND COMMUNICATION
- PROGRAM AWARENESS AND OUTREACH
- WWDO STAFFING

IDEAS AND EFFICIENCIES

- PROGRAM ADMINISTRATION
- WWDO COMMUNICATION

OPTIONS TO STREAMLINE

OPTION 1 – SIMPLIFIED NOTICE TO PROCEED APPROVAL

- **SPONSORS PROVIDE THE FOLLOWING:**
 - **APPLICATION BY NOVEMBER 15TH**
 - **AFTER AGREEMENT IS SIGNED, FOR NOTICE TO PROCEED APPROVAL, PROVIDE:**
 - **DRAWING OF SUFFICIENT DETAIL... TO INCLUDE THE LAYOUT/LOCATION OF COMPONENTS TO BE INSTALLED, LAND OWNERSHIP, AND A TABLE OF QUANTITIES FOR EACH PROJECT COMPONENT**
 - **DRAWINGS SHOULD BE OF SUFFICIENT QUALITY TO DETERMINE ELIGIBILITY OF COMPONENTS - DRAWING REVIEWS WILL BE LIMITED TO ELIGIBILITY AND AGREEMENT OF INSTALLED COMPONENTS FOR PAYMENT**
 - **PROJECT CHECKLIST AFFIDAVIT TO VERIFY ACCESS, CLEARANCES, APPROVALS, PERMITS, ETC. HAVE BEEN OBTAINED – NO REQUIREMENT TO SUBMIT A NOTICE TO PROCEED PACKAGE**
 - **NOTICE TO PROCEED WILL BE ISSUED AFTER RECEIPT OF THE ABOVE ITEMS, AND CONSTRUCTION MAY BEGIN**
 - **PROJECT PAYMENT – STAYS LARGELY THE SAME. AN APPROPRIATE LAND MANAGEMENT OR RESOURCE MANAGEMENT ENTITY, OTHER THAN THE PROPOSED SMALL WATER DEVELOPMENT PROJECT SPONSOR, SHALL CERTIFY THAT THE PROPOSED SMALL WATER DEVELOPMENT PROJECT OPERATES AND FUNCTIONS AS INTENDED.**

OPTION 1 – SIMPLIFIED NOTICE TO PROCEED APPROVAL - CONTINUED

- FOR SPONSORS APPLYING FOR SHOVEL READY STATUS AT THE TIME OF APPLICATION, PROVIDE THE FOLLOWING:
 - APPLICATION BY NOVEMBER 15TH, **WITH THE FOLLOWING INCLUDED:**
 - DRAWING OF SUFFICIENT DETAIL... TO INCLUDE THE LAYOUT/LOCATION OF COMPONENTS TO BE INSTALLED, LAND OWNERSHIP, AND A TABLE OF QUANTITIES FOR EACH PROJECT COMPONENT
 - DRAWINGS SHOULD BE OF SUFFICIENT QUALITY TO DETERMINE ELIGIBILITY OF COMPONENTS - DRAWING REVIEWS WILL BE LIMITED TO ELIGIBILITY AND AGREEMENT OF INSTALLED COMPONENTS FOR PAYMENT
 - PROJECT CHECKLIST AFFIDAVIT TO VERIFY ACCESS, CLEARANCES, APPROVALS, PERMITS, ETC. HAVE BEEN OBTAINED – NO REQUIREMENT TO SUBMIT A NOTICE TO PROCEED PACKAGE
 - **NOTICE TO PROCEED WILL BE ISSUED AS PART OF THE SIGNED PROJECT AGREEMENT**
 - CONSTRUCTION MAY BEGIN AS SOON AS THE SIGNED PROJECT AGREEMENT IS RECEIVED
 - PROJECT PAYMENT – STAYS LARGELY THE SAME. AN APPROPRIATE LAND MANAGEMENT OR RESOURCE MANAGEMENT ENTITY, OTHER THAN THE PROPOSED SMALL WATER DEVELOPMENT PROJECT SPONSOR, SHALL CERTIFY THAT THE PROPOSED SMALL WATER DEVELOPMENT PROJECT OPERATES AND FUNCTIONS AS INTENDED.

OPTION 1A – UNPROVEN AQUIFERS AND WELLS

- SAME AS OPTION 1, EXCEPT THAT ALL WELLS ARE TREATED AS UNPROVEN
 - REMOVES THE TIME AND EXPENSE OF A GEOLOGIC REPORT, AND THE WWDO REVIEW
 - THE SPONSOR ASSUMES THE LIABILITY AND RISK OF DRILLING THE WELL
 - WWDO ONLY ENCOURAGES WATER QUALITY TESTING OF THE WELL TO INSURE IT WILL FUNCTION IN THE MANNER INTENDED

NO ACTION

- MAINTAIN PROCESSES AS THEY CURRENTLY EXIST

DISCUSSION

IMPLEMENTATION

- **NEEDED CHANGES FOR IMPLEMENTATION**

- **STATUTES - NO AMENDMENT TO EXISTING LEGISLATION – SOME CLARIFYING LANGUAGE IN FUTURE LEGISLATION**
- **CRITERIA - CHANGES WILL BE NEEDED**
- **RULES - A RULE CHANGE IS UNNECESSARY BECAUSE CHAPTER 8, SECTION 3 OF THE WWDC RULES AND REGULATIONS ALREADY DELEGATES BROAD AUTHORITY TO THE OFFICE TO ADMINISTER THE SMALL WATER PROJECT PROGRAM. CHAPTER 8 SECTION 3(Y) PROVIDES A LIST OF DUTIES THE OFFICE MAY PERFORM IN ADMINISTERING THE PROGRAM. THE “INCLUDING BUT NOT LIMITED TO” LANGUAGE IN THIS SECTION DEMONSTRATES THAT THESE DUTIES ARE ILLUSTRATIVE RATHER THAN MANDATORY OR EXHAUSTIVE. THE EXISTING RULES THEREFORE PROVIDE SUFFICIENT AUTHORITY AND FLEXIBILITY FOR THE OFFICE TO ADMINISTER THE PROGRAM IN A MANNER THAT FACILITATES ITS EFFECTIVE OPERATION CONSISTENT WITH APPLICABLE STATUTES.**
- **APPLICATION - SOME MINOR CLEAN UP AND CLARIFICATION NEEDED**
- **PROJECT AGREEMENT - SOME CLEAN UP AND CLARIFICATION NEEDED**
- **CHECKLIST AFFIDAVIT - EXISTING PROJECT SPONSOR CHECKLIST WILL BE SIMPLIFIED**
- **GUIDANCE DOCUMENT - CHANGES WILL BE NEEDED**
- **FLOW CHART - ON WEBSITE TO EXPLAIN NEW PROCESS**

TIME FRAME

- **REPORT WILL BE PROVIDED IN ADVANCE OF NOVEMBER 1ST AND WILL INCLUDE:**
 - A WRITTEN VERSION OF THE PRESENTATION AND DISCUSSION TODAY
 - A COPY OF THE PRESENTATION
 - THE DIRECTION PROVIDED BY THE SWC AND WWDC
 - AN APPENDIX WITH PROPOSED CRITERIA, REVISED APPLICATION, PROJECT AGREEMENT, CHECKLIST AFFIDAVIT, UPDATED FLOW CHART, ETC.
- **SWC AND WWDC CAN FINALIZE AT THE NOVEMBER MEETING**
- **TRANSITION PERIOD INTO NEXT YEAR...FULLY OPERATIONAL BY NOVEMBER 15, 2027 APPLICATION DEADLINE**

SMALL WATER PROJECTS PROGRAM EFFICIENCY REPORT UPDATE

QUESTIONS?

WYOMING WATER DEVELOPMENT COMMISSION & SELECT WATER
COMMITTEE JOINT MEETING

AUGUST 6, 2026



FONTENELLE
RESERVOIR – 3RD
PARTY CONTRACT
CONSIDERATIONS

**CONTRACT BETWEEN
STATE OF WYOMING,
WYOMING WATER DEVELOPMENT COMMISSION
AND
WE SODA WYOMING LIMITED PARTNERSHIP (GRANGER FACILITY)**

1. **PARTIES.** The Parties to this Contract are THE STATE OF WYOMING, acting through the Wyoming Water Development Commission (“State”), whose address is 6920 Yellowtail Road, Cheyenne, Wyoming 82002, and, WE Soda Wyoming Limited Partnership, whose address is P.O. Box 872, Green River, Wyoming 82935 (“Contractor”). The State and Contractor are sometimes referred to herein individually as a “Party” and jointly as the “Parties.”

2. **RECITALS.**
 - A. The United States of America, acting through the Secretary of the Interior, has constructed Fontenelle Reservoir (“Fontenelle”) on the Green River, a tributary of the Colorado River in the State of Wyoming, as a feature of the Seedskaadee Project, a participating project of the Colorado River Storage Project authorized under the Act of Congress approved April 11, 1956 (43 U.S.C 620, 70 Stat. 105).

 - B. Waters storable in Fontenelle are within the portion of the waters of the Colorado River apportioned to the State of Wyoming under the Colorado River Compact (Wyoming Session Laws 1923, Ch. 3, Sec. 1) as approved by the United States Congress, December 21, 1928, (45 Stat. 1064) and the Upper Colorado River Basin Compact (Wyoming Session Laws 1949, Ch. 6, Sec. 1) as approved by the United States Congress, April 6, 1949, (63 Stat. 31).

 - C. The rights to store water in Fontenelle and to divert the waters of the Green River are evidenced by Wyoming Permit No. 6629-Res., with a priority date of January 22, 1962, and Permit No. 22364 with a priority date of April 26, 1955.

 - D. Pursuant to the authority granted by Chapter 190, Session Laws of Wyoming 1959 and Chapter 128, Session Laws of Wyoming 1973, the State of Wyoming has contracted with the United States of America, by Contract Number 14-06-400-2474 dated June 14, 1962, and by Contract Number 14-06-400-6193 dated December 27, 1974 (“Federal Contracts”), by which the State has the right to use 120,000 acre-feet of Fontenelle Reservoir storage water under Permit Nos. 6629 Res. and 22364 for municipal and industrial (“M & I”) use and other uses.

 - E. The Wyoming Attorney General has furnished his written opinion declaring that the proceedings on the part of the State for authorization and execution of the Federal Contracts were valid and proper and that said contracts are legal and binding obligations of the State.

- F. This Contract is entered into pursuant to and subject to the compacts, laws, permits and Federal Contracts hereinabove described, which Federal Contracts are attached hereto and incorporated herein as Attachment B and Attachment C.
- G. All water contracted for by Contractor under the provisions of this Contract shall be deemed, for the purposes of said Federal Contracts, to have been used by the State.

NOW THEREFORE, for good and valuable consideration, and intending to be legally bound, each of the Parties to this Contract hereby agrees to the following:

- 3. **PURPOSE OF CONTRACT.** The Parties wish to enter into this Contract for the purpose of the State providing Readiness-To-Serve services to Contractor for two thousand three hundred ninety (2,390) acre-feet of water per calendar year from Fontenelle and the right to purchase all or a portion of this amount for use at Township 20 North, Range 111 West, Section 36 located in Sweetwater County, Wyoming (Granger Facility). The State has a right to water from Fontenelle under the Federal Contracts.

4. **TERM OF CONTRACT.**

- A. **Effective Date.** This Contract is effective on the date of the signature last affixed to the signature page.
- B. **Term.** The initial period of this Contract shall commence on the Effective Date and end on December 31, 2060. In addition, Contractor shall have the option to extend the initial period up to three additional, successive ten year periods (the initial period plus any successive periods referred to collectively as the "Term"). Written notice of Contractor's election to extend the initial period or any successive period in this manner shall be delivered to the State at least six (6) months prior to the expiration of the period sought to be extended.

5. **SERVICES & PAYMENT.**

A. **Readiness-To-Serve Annual Payments.**

- (i) The State shall make available to Contractor each calendar year during the Term, on a Readiness-To-Serve basis, two thousand three hundred ninety (2,390) acre-feet of water ("Contract Water Amount") from Fontenelle for use at the Granger Facility. Readiness-To-Serve shall mean that the State assures sufficient water, as provided by the Federal Contracts, is available to Contractor in Fontenelle during the Term so that any portion of the Contract Water Amount can be purchased and used by Contractor under the terms and conditions of this Contract.
- (ii) In the event of drought or other acts of nature (force majeure) that would interrupt or limit releases of the Contract Water Amount, the State agrees to

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meet with representatives of the United States and Contractor to identify and seek administrative and operational remedies that would maximize releases prescribed by the referenced Federal Contracts.

- (iii) In consideration for the State providing the Readiness-To-Serve services, Contractor shall pay the State annually a fee equal to ten dollars (\$10.00) per acre-foot of the annual Contract Water Amount. The Readiness-To-Serve fee shall be credited to Contractor up to the amount of the Base Rate or the Revised Rate as applicable in the event Contractor elects to purchase water under Section 5.B. Contractor shall pay the Readiness-To-Serve fee in accordance with Section 5.E.
- (iv) The Readiness-To-Serve annual fee shall be reduced or credited to the Contractor, as applicable, proportionately to the extent the State is unable to make available the full Contract Water Amount in that year. If any portion of the Readiness-To-Serve annual fee is credited to the Contractor, that credit amount shall be applied towards Contractor's subsequent Readiness-To-Serve annual fees until the credit is exhausted, or refunded to the Contractor in the event this Contract is terminated pursuant to Section 7.L.

B. Purchase Water Amount.

- (i) In addition to the Readiness-To-Serve services under Section 5.A., the State shall release to Contractor, at Contractor's option and upon written notice as set forth in Section 6.D., an amount of stored water from Fontenelle ("Purchase Water Amount") not to exceed the Contract Water Amount during each calendar year of the Term.
- (ii) Contractor may exercise its option to purchase the Purchase Water Amount from the State at any time and from time to time throughout the calendar year upon written notice as set forth in Section 6.D. Contractor's purchase of the Purchase Water Amount in any calendar year does not obligate Contractor to purchase the Purchase Water Amount in any subsequent years.
- (iii) In consideration of the State delivering the Purchase Water Amount, Contractor shall pay the State, in advance of any such water delivery in a given calendar year, the rate of eighty-eight dollars and no cents (\$88.00) per acre-foot per year ("Base Rate") for each acre foot that Contractor elects to purchase. This Base Rate shall be in effect during the initial five-year period of the Term.
- (iv) At the end of each successive five year period of the Term following the initial five-year period, the Base Rate shall be automatically revised (the "Revised Rate") as set forth in Attachment A, which is attached to and

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incorporated into this Contract by this reference. In no event shall the Revised Rate be less than the Base Rate.

- C. Normal Annual OM&R Payments.** In addition to payments under Sections 5.A. and 5.B., Contractor shall pay to the State a proportionate share of the Normal Annual Operation Maintenance & Replacement (“OM&R”) Charges for Fontenelle as allocated to the State by the United States Department of the Interior (“United States”) and determined in accordance with the following formula:

The Contract Water Amount available to Contractor on a Readiness-To-Serve basis (2,390 acre-feet) divided by the total amount of water for which the State contracts with the United States to receive from Fontenelle (currently, 120,000 acre-feet), times the total Normal Annual OM&R Charges allocated to the State by the United States.

The use of the word “normal” in this subsection is intended to indicate the customary OM&R charges incurred at Fontenelle, other than the cost of Major Dam Repair and Construction which shall not be included in the Normal Annual OM&R Charges allocated to Contractor by the State. OM&R payments shall not be reduced in the event drought or other acts of nature (force majeure) interrupt or limit releases of the Contract Water Amount. The cost of Normal Annual OM&R Charges allocated to Contractor by the State shall not include the initial construction costs of any future Fontenelle Reservoir or dam projects designed to increase the useable active capacity of Fontenelle, including without limitation the riprap project under consideration by the State as of the Effective Date of this Contract, which is designed to increase the useable active capacity of Fontenelle Reservoir by approximately eighty thousand (80,000) acre-feet. However, should the State increase the useable active capacity of Fontenelle Reservoir after the Effective Date of this Contract, and the State has a right to water made available due to the increase, the expanded active capacity of Fontenelle Reservoir, to the extent the State has a right to that water, shall be included in the total amount of water for which the State contracts with the United States to receive from Fontenelle in the denominator of the formula set forth in this Section 5.C. of the Contract, which is used to determine Contractor’s Normal Annual OM&R Charges.

- D. Major Dam Repair and Construction Payments.** In addition to payments under Section 5.A., 5.B. and 5.C., Contractor shall pay to the State a proportionate share of the actual cost of any Major Dam Repair and Construction at Fontenelle which is allocated to the State by the United States and computed in the same manner as the Normal Annual OM&R Payment in Section 5.C. of this Contract. Major Dam Repair and Construction payments shall not be reduced in the event drought or other acts of nature (force majeure) interrupt or limit releases of the Contract Water Amount. However, costs incurred by the State to further expand the useable active capacity of Fontenelle, including without limitation the riprap project under consideration by the State as of the date of this Contract, which is designed to

increase the useable active capacity of Fontenelle by approximately eighty thousand (80,000) acre-feet, shall not be included in the Major Dam Repair and Construction Costs allocated to Contractor by the State. To the extent that such Major Dam Repair and Construction charges exceed five dollars (\$5.00) per acre-foot, Contractor may elect to pay that portion of such charges which exceed five dollars (\$5.00) per acre-foot over a period not to exceed twenty (20) years after such charges are first invoiced to Contractor. Contractor's right to make such an election is conditioned upon executing a separate written agreement with the State which contains all payment terms as mutually agreed upon by the Parties. If Contractor's obligation under this section will not be paid in full by the twentieth year, that portion of Contractor's obligation which remains due at the end of the twentieth year shall be paid by Contractor at that time.

E. Annual Payments. Contractor shall make the annual payments specified in Sections 5.A., 5.C. and 5.D. in the following manner (payments for the Purchase Water Amount, as specified in Section 5.B. are addressed in Section 6.A.):

- (i) The State shall supply an annual invoice or statement to Contractor for the applicable Readiness-To-Serve payments as specified in Section 5.A., the Normal Annual OM&R Payments as specified in Section 5.C., and any Major Dam Repair and Construction costs as specified in Section 5.D. Invoices/statements shall be addressed as follows:

WE Soda Wyoming Limited Partnership, Jocelyn Skiles,
Accountant, Jocelyn.Skiles@wesoda.com and
Wesodaap.alkali@wesoda.com

- (ii) The State shall send the annual invoice to Contractor during the period from the first day of January to the first day of March of each year.
- (iii) The State's invoice will include, as an attachment, the United States' notice of estimated Normal Annual OM&R Charges and Major Dam Repair and Construction costs, as well as documentation pertaining to the actual Normal Annual OM&R costs from the previous year and Major Dam Repair and Construction costs, if any.
- (iv) Annual payments from Contractor under this section are due within thirty (30) days of Contractor's receipt of the State's annual invoicing by certified mail.

6. SPECIAL PROVISIONS.

A. Purchase Water Amount.

- (i) After receiving Contractor's written notice pursuant to Sections 5.B.(i) and 6.D., the State shall submit an invoice to Contractor for the Purchase Water Contract between State of Wyoming, Wyoming Water Development Commission and WE Soda Wyoming Limited Partnership (Granger Facility)

Amount using the Base Rate or the Revised Rate, as applicable, as set forth in Section 5.B. The invoice shall be sent to the address identified in Section 5.E.(i).

- (ii) Advanced payment by Contractor for any portion of the Purchase Water Amount that is not released from Fontenelle according to Contractor's request or developed schedule under Section 6.D. shall be refunded by the State to Contractor at the same rate which Contractor paid for the unused water by January 31 of the following calendar year.
- (iii) During each calendar year, any portion of the Contract Water Amount not elected to be purchased by Contractor under Section 5.B. shall remain available under the Readiness-To-Serve service for purchase by Contractor for the balance of such calendar year.
- (iv) Upon receipt of a proper invoice, Contractor shall pay the invoiced amount to the State within thirty (30) days.
- (v) Upon failure of Contractor to make timely payments in accordance with Sections 5 and 6 of this Contract, and upon thirty (30) days written notice to Contractor by the State and failure to cure such non-payment by Contractor, this Contract shall terminate at the option of the State.

B. Relinquishment.

- (i) If at any time during the Term the State receives a bona fide written offer to purchase water from Fontenelle on a temporary basis not to exceed one calendar year, which necessarily involves the use of any portion of the Contract Water Amount, the State shall not accept such offer until it: (i) notifies Contractor of the terms of such offer in writing by certified mail and (ii) allows Contractor the opportunity to purchase, within sixty (60) days of receipt of such notice, the same amount of water up to the Contract Water Amount which is the subject of such bona fide temporary annual purchase offer at the same price as that being offered by the proposed purchaser or at the purchase price set forth in section 5.B., whichever is less. The bona fide temporary annual offer shall be deemed to necessarily involve a portion of the Contract Water Amount if the total Fontenelle water contracted from the State, including the bona fide offer, exceeds the total acre-feet to which the State is entitled under the Federal Contracts. If the State exercises the provision in this section, the State will reimburse Contractor for the Readiness-To-Serve fees for the amount of the water relinquished and restore Contractor's original Contract Water Amount the succeeding calendar year.
- (ii) The Parties recognize that an express purpose of this Contract is to maximize the beneficial use of the waters of the State of Wyoming and the Contract between State of Wyoming, Wyoming Water Development Commission and WE Soda Wyoming Limited Partnership (Granger Facility)

Parties agree that this purpose shall guide the interpretation of this Contract, anything to the contrary contained herein notwithstanding. To this end, negotiations by the State and solicitations of offer(s) to contract with another entity for the purchase and sale of water shall not be deemed a breach of this Contract. The State shall be free to make any disposition it chooses of any portion of the Contract Water Amount in any year in which Contractor has relinquished its Readiness-To-Serve rights or elected not to acquire the Purchase Water Amount.

C. Contract Water Amount Increase. At any time during the Term, Contractor may provide a written notification to the State requesting that the Contract Water Amount be increased. The State agrees to use its best effort to accommodate Contractor's request to increase the Contract Water Amount in which case the Parties shall enter into a mutually acceptable written amendment to this Contract reflecting the terms of any increase to the Contract Water Amount.

D. Delivery.

- (i) Contractor shall provide at least sixty (60) days written notice to the State of Contractor's desired schedule of release date(s) and amounts of the Purchase Water Amount so elected under Sections 5.B. and 6.D.
- (ii) The State shall exercise all rights under the Federal Contracts to arrange for release to Contractor of the Purchase Water Amount at such rates of flow as Contractor shall specify in its desired schedule provided to the State. In the event that Contractor's desired schedule for releases conflicts with the Bureau of Reclamation's Fontenelle operating plans or rules, or creates problems related to the State's other obligations concerning regulation and releases from Fontenelle for which the State cannot overcome by the exercise of reasonable effort and expense and which require a change in the Contractor's desired schedule (e.g. rate of flow, timing of flow requested, etc.), then the State shall notify Contractor at the earliest time reasonable under the circumstances. The Parties will use their best efforts to develop a schedule that will accommodate Contractor's needs and avoid the Fontenelle water release problems.
- (iii) Contractor shall divert the Purchase Water Amount at its existing point of diversion on the Green River, described and located as follows:

NE1/4 NW1/4 of Section 16, Township 20 North, Range 109 West

The Purchase Water Amount may be diverted at a point other than Contractor's existing point of diversion only upon agreement of all Parties. Release by the State of the Purchase Water Amount into the Green River at the Fontenelle Dam shall constitute delivery of the Purchase Water Amount to Contractor. Contractor shall use the Purchase Water Amount for

municipal or industrial purposes, or both, within the State of Wyoming, except as provided in Section 6.D.(iv).

- (iv) Contractor may not transport the Purchase Water Amount for use outside the State of Wyoming without complying with applicable Wyoming Statutes then in effect.
- (v) Contractor shall use the Purchase Water Amount as replacement water should the direct flow source of Contractor's appropriation under Permits 22808.0D and 7032.0E become insufficient, in full or in part, to supply the appropriation. In the event Contractor intends to use the Purchase Water Amount in addition to, rather than replacement of, diversions made under Permits 22808.0D and 7032.0E, Contractor shall notify the State and Bureau of Reclamation in writing of its intent at least one year prior to the Purchase Water Amount being released. The State shall request that the Bureau of Reclamation complete any necessary environmental compliance, including but not limited to compliance with Section 7 of the Endangered Species Act of 1973 and compliance with the National Environmental Policy Act. Once any necessary environmental compliance is complete, the State will notify Contractor and the Purchase Water Amount will be available for release for the additional use under the terms of this Contract. The Purchase Water Amount shall not be released for uses other than to replace Contractor's appropriation under Permits 22808.0D and 7032.0E until the State has been notified by the Bureau of Reclamation that environmental compliance is complete in accordance with Federal Contracts.
- (vi) Contractor shall be responsible for the control, carriage, handling, distribution and use of the Purchase Water Amount released and diverted at its point of diversion, and shall hold the State, its officers, agents and employees harmless from every claim for damage to person or property, direct or indirect, of whatever nature arising out of or in any manner connected with the control, carriage, handling, distribution or use by Contractor of the Purchase Water Amount. Contractor shall have no responsibility or liability for any damages which may result from a break of the Fontenelle Dam, escape of water from Fontenelle, or release of water from Fontenelle other than the Purchase Water Amount, excluding Major Dam Repair and Construction payments identified in Section 5.D..
- (vii) The Parties recognize that a detailed plan of operation is critical to the timely and efficient management of the Purchase Water Amount. Therefore, prior to Contractor making a request for release of the Purchase Water Amount, the Parties agree to cooperatively develop a detailed plan of operation subject to the review of the United States, that will outline the "day-to-day" guidelines of water management under this Contract, including but not limited to Fontenelle storage changes, releases, river

flows, evaporation, communication, reporting or any other detailed information relevant to administration of Contractor's rights hereunder.

E. Measurement.

- (i) The Purchase Water Amount shall be measured and accounted for at the Fontenelle Dam. Contractor shall assume any loss of any nature whatsoever occurring to the Purchase Water Amount between the Fontenelle Dam and Contractor's point of diversion. Conveyance loss shall be assessed by the State Engineer and may be determined by conducting a conveyance loss study on the system or by using an accepted loss value from a comparable system. All losses occurring to the Purchase Water Amount between the Fontenelle Dam and the point of diversion downstream shall be assessed at Contractor's point of diversion.
- (ii) All water diverted by Contractor from the Green River shall be measured at the point or points of diversion by means of recording measuring devices installed and owned by Contractor and approved by the Wyoming State Engineer. Such devices shall be rated as to accuracy upon request by the State at the expense of Contractor. It is recognized by the Parties that such measuring devices may, from time to time, be unable to accurately measure flow (routine maintenance, equipment malfunction, etc.). During such times, Contractor shall estimate the amount of water being diverted based on Contractor Historic Data; plant data or other comparable historic diversion or use data during comparable periods of previous years.

F. Operations.

- (i) It is mutually understood that the United States has reserved, under the Federal Contracts, the right to make rules and regulations to carry out the Federal Contracts and supply necessary details of administration thereunder. To the extent that the operation of Fontenelle may be consistent with Contractor's needs and the State's allocation hereunder, the State agrees to consult with Contractor periodically about its delivery requirements and to include representatives of Contractor in any conferences the State may have regarding specific operation plans for Fontenelle.
- (ii) As of the Effective Date of this Contract, Contractor is not able to predict for each calendar year during the Term how much Purchase Water Amount it may elect to receive or the schedule of deliveries. Accordingly, Contractor agrees to use its best efforts to provide the State, on or before March 1, prior to the time in each calendar year (May 1) when the United States develops its annual operating plan for Fontenelle, a tentative schedule for Fontenelle releases expected by Contractor for the calendar year in which deliveries will be made. Modifications to such schedule will be transmitted to the State by Contractor as far in advance of the actual required releases as possible

so that such schedule modifications can be incorporated into current operating procedures for Fontenelle.

- (iii) If, due to inadequate overall water supply at Fontenelle, the State is unable to provide all State contractors of Fontenelle water with the total amount of water available under the Federal Contracts, then Contractor's right to receive the Contract Water Amount may be temporarily reduced on a proportionate basis so that all shortages in supply are shared proportionately among all State contractors of Fontenelle water. A contract users' pro rata share shall be determined by dividing the contract users' entitlement by the total amount available to the State for use under the Federal Contracts.
- (iv) If the State is unable to provide Contractor the Purchase Water Amount for any reason in any calendar year, then the purchase price per acre-foot of the undelivered water shall be the Readiness-To-Serve fee. Contractor's subsequent Readiness-To-Serve payments due shall be credited as provided in Section 5.A.(iv).

G. Default. No Purchase Water Amount shall be released to Contractor under this Contract if Contractor is in default in making any payment due the State under this Contract.

H. Miscellaneous Provisions.

- (i) The State will comply with all applicable provisions of the Federal Contracts and will make all required payments to the United States when they become due. If the United States withholds from the State scheduled deliveries of the Purchase Water Amount to Contractor, Contractor shall be excused from making future payments in the same manner that the State is excused from future payment under the Federal Contracts, and will be credited for payments made for water not delivered. This section shall not in any manner make the State a surety for any negligent, misfeasant or malfeasant conduct of the United States.
- (ii) The State makes no warranty with respect to the quality of water released to Contractor, it being understood that this is raw, untreated water as it naturally occurs in the Green River at Fontenelle. In the use of the Purchase Water Amount, Contractor shall comply with all applicable State and Federal laws. Contractor shall comply fully with all laws, orders, standards, or regulations under federal, State and local jurisdictions now or hereafter in force as may be applicable to the facilities at which the Purchase Water Amount may be used.
- (iii) Contractor shall not make any sale, gift, delivery, assignment or other disposition of this Contract or the whole or any part of the Contract Water Amount or Purchase Water Amount except to any entity or entities

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associated with or retained by Contractor for purposes and operations advantageous to the continued operation or expansion of the Granger Facility, without first obtaining the express written consent of the State. Nothing contained within this Contract shall be construed to require the State to approve any sale, gift, delivery, assignment or other disposition and the right to disapprove or reject the same is hereby expressly reserved. Notwithstanding the foregoing provisions, the State will not unreasonably withhold approval of the foregoing transfers and assignments:

- (a) To any mortgagee, trustee or secured party, as security for bonds or other indebtedness incurred by Contractor or its assigns, as specified above, for the Granger Facility; and subject to all provisions of this Contract, such mortgagee, trustee or secured party may realize upon such security in foreclosure or other suitable proceedings, and succeed to all rights and responsibilities of Contractor;
- (b) To any corporation or other entity acquiring all the property of Contractor or its assigns, as specified above, or of any subsidiary or affiliate of Contractor or its assigns, as specified above;
- (c) To any corporation or entity which Contractor or its assigns, as specified above, may be merged or consolidated.

Transfer or assignments shall not relieve Contractor of any obligation hereunder except as may be agreed in writing by the State.

- (iv) All successors and assigns, if any, of Contractor shall be bound by the terms and conditions herein and will be expressly precluded from using any water delivered under this Contract outside of Wyoming, except as provided herein.
- (v) Nothing contained herein relating to the assignability of this Contract shall preclude Contractor from entering into arrangements with others for the installation, construction, operation and maintenance of water diversion, carriage and distribution facilities by which the Purchase Water Amount, separately or together with other permitted water appropriations, may be applied to a beneficial consumptive use in Wyoming.
- (vi) Neither party hereto shall be, or be considered as, the agent, servant, or employee of the other party or be held responsible or liable for damages for the acts or conduct of the others.
- (vii) Wherever in this Contract a time for performance of an obligation is established, then it is agreed that time is of the essence.

7. **GENERAL PROVISIONS.**

- A. Amendments.** Any changes, modifications, revisions or amendments to this Contract which are mutually agreed upon by the Parties to this Contract shall be incorporated by written instrument, executed by all Parties to this Contract. The State will provide any such amendment to the Bureau of Reclamation, who will determine if the amendment requires additional environmental compliance. No amendment will be operative until the Bureau of Reclamation has notified the Parties that environmental compliance is either not required or has been completed.
- B. Federal Contracts.** This Contract is subject to and limited by the terms and conditions of the Federal Contracts, which have been attached hereto and incorporated herein by reference.
- C. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflict of laws principles. The terms "hereof," "herein," and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the Parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- D. Audit and Access to Records.** The State and its representatives shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract.
- E. Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- F. Entirety of Contract.** This Contract consisting of fifteen (15) pages; Attachment A, consisting of one (1) page; Attachment B, consisting of ten (10) pages; and Attachment C, consisting of thirty-five (35) pages, represents the entire and integrated Contract between the Parties and supersede all prior negotiations, representations, and agreements, whether written or oral.
- G. Force Majeure.** Neither Party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming Party. Such causes may include, but are not limited to, acts of God or the public enemy, droughts, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the Party failing to perform immediately notifies the other Party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

- H. Indemnification.** The Contractor shall release, indemnify, and hold harmless the State, the Wyoming Water Development Commission, and their officers, agents, and employees from any and all claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's negligence or other tortious conduct.
- I. Notices.** Notices to be given hereunder shall be deemed fully given and served when received by certified mail, addressed to the State in care of the Director, Wyoming Water Development Commission 6920 Yellowtail Road, Cheyenne, Wyoming 82002 or to WE Soda Wyoming Limited Partnership, Huseyin Kescu, Chief Financial Officer, P.O. Box 872, Green River, WY 82935 or at such other address as either Party shall hereafter designate in writing. Routine communications, including invoices/statements, shall be considered as duly delivered when addressed as follows: WE Soda Wyoming Limited Partnership, Jocelyn.Skiles@wesoda.com and Wesodaap.alkali@wesoda.com or e-mailed to the Director and Fiscal Manager of the Wyoming Water Development Commission.
- J. Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Contractor shall be free from control or direction over the details of the performance of services under this Contract. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Agency or to incur any obligation of any kind on behalf of the State of Wyoming or the Agency. The Contractor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents or employees as a result of this Contract.
- K. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- L. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and the Wyoming Water Development Commission expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereign. The parties
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acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

- M. Termination.** This Contract may be terminated for cause as provided in Section 6.A.(v) of this Contract.
- N. Third Party Beneficiary Rights.** The Parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the Parties to this Contract and shall inure solely to the benefit of the Parties to this Contract. The provisions of this Contract are intended only to assist the Parties in determining and performing their obligations under this Contract.
- O. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- P. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- Q. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by Contractor of an originally signed counterpart of this Contract by PDF shall be followed up immediately by delivery of the originally signed counterpart to the State.

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8. **Signatures.** The Parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract intending to be legally bound.

WE SODA WYOMING LIMITED PARTNERSHIP

Huseyin Kuscü, Chief Financial Officer

Date

WYOMING WATER DEVELOPMENT COMMISSION

Robert R. Choma, Chairman

Date

Todd Hoese, Secretary

Date

WYOMING STATE ENGINEER

Brandon Gebhart, Wyoming State Engineer

Date

GOVERNOR

Mark Gordon, Governor of Wyoming

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

ATTACHMENT A**Computation of Revised Purchase Rate**

- (1) At five year intervals from the Effective Date during the term of this Contract or any extension thereof, the State shall compute the increase, if any, using as a basis of such computation the United States Department of Labor Consumer Price Index (CPI) for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84 =100, hereinafter called the CPI, published by the United States Department of Labor, Bureau of Labor Statistics.
- (2) The Base Index Number (BIN) shall be the Index Number published by the United States Department of Labor for the month and year that this Contract is first entered into. The Current Index Number (CIN) shall be the corresponding CPI number for the month and year on each five year anniversary of this Contract and any extension thereof.
- (3) The increase in the CPI, if any, on each five year anniversary of this Contract shall be determined by dividing the CIN by the BIN and subtracting the integer 1 (one) from the quotient in accordance with the following formula: Increase in CPI = $CIN/BIN - 1$.
- (4) Seventy-five percent (75%) of the increase in CPI multiplied by eighty-eight dollars and no cents (\$88.00) shall be the increase required to be added to the eighty-eight dollars and no cents (\$88.00) as set forth above.
- (5) For example, if the BIN is 200 and the CIN at the first five year anniversary is 400, the price would be:

$$\$88.0 + [.75 \times (400/200 - 1) \times \$88.00] = \$154.00 \text{ per acre-foot per year}$$

At the ten year anniversary of the Contract, if the CIN is 800 the price would be:

$$\$88.00 + [.75 \times (800/200 - 1) \times \$88.00] = \$286.00 \text{ per acre-foot per year.}$$

ATTACHMENT B

DUPLICATE ORIGINAL

Contract No. 14-06-400-2474

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

ROP3060661
Rev. 6/28/61
Rev. W.O. 8/10/61
Rev. W.O. 5/21/62

Colorado River Storage Project
Seedskadee Participating Project

CONTRACT WITH THE STATE OF WYOMING
for
STORAGE CAPACITY IN FONTENELLE RESERVOIR

THIS CONTRACT, made this 14th day of June, 196²7,
between THE UNITED STATES OF AMERICA, hereinafter called the United
States, acting through the Secretary of the Interior, and pursuant to
the Federal Reclamation Laws, and THE STATE OF WYOMING, herein called
the State, acting through the Wyoming Natural Resource Board.

WITNESSETH, That:

WHEREAS, the following statements are made in explanation:

The Act of Congress approved April 11, 1956 (70 Stat. 105),
authorized the construction, operation and maintenance of the Seedskadee
Project, a participating project of the Colorado River Storage Project,
which participating project is hereinafter called the project, and
the United States has investigated, planned, and proposes to construct
said project for the diversion, storage and distribution of water
of the Green River for irrigation, municipal, flood control, fish and
wildlife and recreational purposes.

The Act of Congress of July 3, 1959 (72 Stat. 320), Title III
(Water Supply) provided that storage may be included in any reservoir
project to be surveyed, planned, and constructed by the Bureau of
Reclamation to impound water for anticipated future need for municipal

or industrial water when the State or local interests shall agree to pay for the cost of providing storage for anticipated future demands as provided in said Act.

The State of Wyoming, by Chapter 190, Session Laws of Wyoming, 1959, approved by the Governor, March 2, 1959, authorized its Wyoming Natural Resource Board to contract with the United States for not to exceed 60,000 acre-feet of additional capacity in Fontenelle Reservoir to meet anticipated future demands and for the payment to the United States of not to exceed \$900,000 as the allocated costs thereof pursuant to said Act of Congress of July 3, 1958.

NOW, THEREFORE, in consideration of the mutual and dependent covenants and conditions herein contained, it is agreed between the parties hereto as follows:

GENERAL DEFINITIONS

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the terms:
 - a. "Secretary" or "Contracting Officer" shall mean the Secretary of the Interior or his duly authorized representative.
 - b. "Project" shall mean the Seedskeedee Participating Project as authorized by the Congress by the Act of April 11, 1956 (70 Stat. 105).
 - c. "Reservoir" shall mean the Fontenelle Dam and Reservoir, a feature of the Project.
 - d. "Project Water" shall mean the water made available by the project works for project purposes, including the

water made available to the State hereunder by virtue of increasing the capacity of the reservoir.

PROJECT WORKS

2. The United States will investigate, plan and construct the Project, including the Reservoir, and pursuant to said July 3, 1958 Act (72 Stat. 320), Title III, will provide 60,000 acre-feet of additional active storage capacity in said reservoir or such part thereof as \$900,000 allocated to municipal and industrial purposes shall construct to carry out the purposes of said Act, and this contract.

REPAYMENT OBLIGATION

3. a. The State hereby agrees to pay to the United States in the manner herein provided the sum of \$900,000 or such lesser amount as represents project cost finally allocated by the Secretary to municipal and industrial purposes as provided in the Water Supply Act of July 3, 1958 (72 Stat. 320), including interest accruing during construction of the reservoir at the rate of 2.632 percent per annum, herein designated as the repayment obligation. This sum shall be exclusive of operation, maintenance and replacement costs for the project works which are to be paid as provided in Article 5.

b. The State agrees to pay the repayment obligation in fifty (50) successive, equal annual installments commencing December 31 of the year in which the water supply herein provided is first used by the State, or commencing December 31 of the eleventh year after completion of construction of the dam and reservoir, whichever comes first. The State, at its option, may accelerate payment of any part of its repayment obligation.

c. Beginning with the first installment paid on the repayment obligation as provided in subsection (b) above, or commencing with the eleventh year after completion of construction of the dam and reservoir, whichever comes first, interest shall be charged the State at the rate of 2.632 percent per annum on the unpaid balance of the repayment obligation. Such interest charges shall be paid the United States annually on December 31 each year during the repayment period.

USE AND ALLOTMENT OF PROJECT WATER

4. The United States shall notify the State when the reservoir is completed and water is available for the use of the State. The notice shall specify the amount of storage water not to exceed 60,000 acre-feet that is available for the use of the State, and shall be based on the yield of the additional capacity of the reservoir constructed as provided herein. The State shall have the perpetual right to use such water to the extent that it has contracted for its use for municipal and industrial purposes with others and to call for the release from the reservoir such water so contracted. Such contracts with others shall be subject to the provisions of this contract and shall be submitted to the Secretary of the Interior, before execution, for his review and recommendations. A copy of such contract or contracts is to be filed with the United States. All such water not used by the State for municipal and industrial purposes shall be utilized by the United States for the benefit of the project as a whole.

OPERATION, MAINTENANCE AND REPLACEMENT CHARGES

5. The State shall pay the United States or its designee,

if some organization other than the United States is operating the project, its proper share of the cost of operation and maintenance and replacement of the reservoir. Payment under this article shall be in advance on the basis of annual estimates made by the Secretary. A notice of the estimates shall be furnished to the State on or before August 1 of the year preceding the one for which the notice is issued. The State shall pay the amounts set out in any such notice on or before December 31 of the year in which the notice is given. Payment under this article shall commence with the first year the State receives water under this contract.

REFUSAL OF WATER IN CASE OF DEFAULT

6. No water shall be delivered to the State under this contract if it is in arrears in the advance payment of operation, maintenance and replacement charges due as provided in Article 5, or it is in arrears more than 12 months in the installment payments as provided in Article 3 hereof. The provisions of this article are not exclusive and shall not in any manner prevent the United States from exercising any other remedy given by this contract or by law to enforce the collection of any payments due under the terms of this contract.

RIGHTS RESERVED UNDER SECTION 3737 REVISED STATUTES

7. All rights of action for breach of any of the provisions of this contract are reserved to the United States, as provided in Section 3737 of the Revised Statutes of the United States.

PENALTY FOR DELINQUENT PAYMENTS

8. Every installment or charge required to be paid to the

United States under this contract and which shall remain unpaid after it shall become due and payable, shall be subject to a penalty of one-half of one percent per month from the date of delinquency.

TITLE TO PROJECT WORK TO REMAIN
IN THE UNITED STATES

9. Title to the reservoir shall remain in the United States until otherwise provided by the Congress.

UNITED STATES NOT LIABLE FOR WATER SHORTAGE

10. In the event there is a shortage of project water resulting from drouth, inaccuracy in distribution, hostile diversion, prior or superior claims, or other causes, no liability shall accrue against the United States, or any of its officers, agents or employees for any damage, directly or indirectly arising therefrom, and the payments to the United States provided for herein shall not be reduced because of any such shortage or damage. In the event of such shortage all project uses shall bear such shortages proportionately.

RESPONSIBILITY FOR DISTRIBUTION AND BENEFICIAL USE OF WATER

11. The State shall be responsible for the control, carriage, handling, distribution, and use of all water delivered or taken hereunder and shall hold the United States, its officers, agents, employees, and successors or assigns, harmless from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising out of or in any manner connected with the control, carriage, handling, distribution, or use of such water. The State shall not use any of the project water taken or delivered hereunder for other

than municipal and industrial purposes. Beneficial use shall be the basis, the measure, and the limit of the right to the use of project water.

SECURITY FOR PAYMENT OF OBLIGATIONS

12. The State shall, to the extent permitted by law, exercise all powers to meet its obligations to the United States under this contract including, but not limited to, the issuance of bonds authorized by Chapter 190, Session Laws of Wyoming, 1959 and the establishment of the Fontenelle Reservoir Revolving Fund therein provided. The State further grants the United States a first lien on all receipts collected from project water sold by the State and deposited in said fund.

ACCESS TO BOOKS AND RECORDS

13. Each party shall have the right, during office hours, to inspect and to make copies of the other party's books and official records relating to matters covered by this contract.

RULES AND REGULATIONS

14. There is reserved to the Contracting Officer the right, so far as the purport thereof may be consistent with the provisions of this contract, to make rules and regulations and to add to or to modify them as may be deemed proper and necessary to carry out this contract, and to supply necessary details of its administration, and the State agrees to observe such rules and regulations.

PUBLIC USE OF RESERVOIRS

15. Public recreation, including boating, fishing, and

hunting will be allowed on or in project reservoirs. Fishing and hunting on or in said reservoirs will be allowed in accordance with State and Federal laws without payment of any charge or fee except as required by such laws. The Contracting Officer may promulgate or approve such rules and regulations as he may deem necessary and proper for project purposes, for the protection of the works, for public health and safety, and may enter into contracts with the State or State agencies to regulate and administer such facilities for recreation or similar uses; Provided, that such contracts may provide for a fee or fees to be charged for use of such area or facilities, or both. Nothing in this article shall affect the use of project reservoirs for recreation in accordance with Section 8 of the Act of Congress approved April 11, 1956 (70 Stat. 105). Public use of reservoirs as provided herein or as provided in said Section 8 shall be consistent with the primary purposes of the project.

NOTICES

16. a. Any notice authorized or required to be given to the United States shall be delivered or mailed, postage prepaid, to the Regional Director, Region 4, Bureau of Reclamation, Salt Lake City, Utah. Any notice authorized or required to be given to the State shall be delivered or mailed, postage prepaid, to the Wyoming Natural Resource Board, Cheyenne, Wyoming.

b. The designation of the addressee or the address given above may be changed by notice given in the same manner as provided in this article for other notices.

CONTINGENT UPON APPROPRIATIONS OR ALLOTMENT OF FUNDS

17. The expenditure of any money or the performance of any work by the United States herein provided for, which may require appropriations of money by Congress or the allotment of funds, shall be contingent upon such appropriations or allotments being made. The failure of Congress to so appropriate funds or the failure of an allotment of funds shall not relieve the State from any obligations under this contract nor give the State the right to terminate this contract as to any of its executory features. No liability shall accrue against the United States in case of such funds not being appropriated or allotted.

ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED

18. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any part or interest therein shall be valid until approved by the Secretary.

ASSURANCES RELATING TO VALIDITY OF CONTRACT

19. This contract shall not be binding upon the United States; nor shall any water be delivered pursuant to this contract until the Attorney General of the State of Wyoming has furnished his written opinion declaring that the proceedings on the part of the State for authorization of the execution of this contract were valid and proper and that this contract is a legal and binding obligation of the State.

CONTINGENT FEE CLAUSE

20. The State warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the State for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to add to the contract repayment obligation or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

OFFICIALS NOT TO BENEFIT

21. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

THE UNITED STATES OF AMERICA

By F. M. Clinton
Regional Director
Bureau of Reclamation

STATE OF WYOMING
WYOMING NATURAL RESOURCE BOARD

ATTEST:

Charles S. Sargent, Jr.
Secretary
Charles S. Sargent, Jr.
10

By Glenn E. Sorensen
President
Glenn E. Sorensen

ATTACHMENT C

Contract No. 14-06-400-6193
(PA No. 5-01-00033)

Conformed Copy

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Colorado River Storage Project
Sedskadee Participating Project

REPAYMENT CONTRACT WITH THE STATE OF WYOMING
for
RESERVOIR CAPACITY IN FONTENELLE RESERVOIR

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Attachment C

Contract between State of Wyoming, Wyoming Water Development Commission and
WE Soda Wyoming Limited Partnership (Granger Facility)

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Contract No. 14-06-400-6193
(FAST NO. 5-05-01-00033)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Conformed Copy

Colorado River Storage Project
Seedskadee Participating Project

REPAYMENT CONTRACT WITH THE STATE OF WYOMING
for
RESERVOIR CAPACITY IN FONTENELLE RESERVOIR

1 THIS CONTRACT, made this 27th day of December, 1974,
2 between THE UNITED STATES OF AMERICA, hereinafter called the United States,
3 acting through the Secretary of the Interior, and pursuant to the Federal
4 Reclamation Laws, and THE STATE OF WYOMING, hereinafter called the Con-
5 tractor, acting through the WYOMING DEPARTMENT OF ECONOMIC PLANNING AND
6 DEVELOPMENT.

7 WITNESSETH, That:

8 EXPLANATORY RECITALS

9 WHEREAS, the following statements are made in explanation:
10 The Act of Congress approved April 11, 1956 (70 Stat. 105),
11 authorized the construction, operation and maintenance of the Seedskadee
12 Project, a participating project of the Colorado River Storage Project,
13 which participating project is hereinafter called the Project, and the
14 United States has investigated, planned, and is constructing said project
15 for the diversion, storage, and distribution of water of the Green River
16 for irrigation, power, municipal, industrial, flood control, fish and
17 wildlife and recreational purposes.

18 WHEREAS, pursuant to Chapter 190, Session Laws of Wyoming,
19 1959, approved by the Governor March 2, 1959, the State of Wyoming
20 contracted with the United States, Contract No. 14-06-400-2474, dated

Preamble
Explanatory Recitals

1 June 14, 1962, for not to exceed 50,000 acre-feet of storage capacity in
2 Fontenelle Reservoir to meet future anticipated demands and for payment
3 to the United States of not to exceed \$900,000 as the allocated costs
4 thereof pursuant to Title III of said Act of Congress of July 3, 1958
5 (72 Stat. 297).

6 WHEREAS, Fontenelle Dam and Reservoir of the Seedskadee
7 Project has been constructed by the United States and Contractor desires
8 to contract for the perpetual right to use an additional portion of the
9 storage capacity and eventually purchase all unused storage capacity in
10 said reservoir, as hereafter defined for the purpose of beneficially
11 utilizing the waters of the Green River.

12 WHEREAS, the United States has heretofore filed applications
13 for and obtained permits for the appropriation of the waters of the
14 Green River in the State of Wyoming, as follows:

15 (a) Permit No. 6629 Res. filed January 22, 1962, and approved
16 July 21, 1962, for the storage of water in the Fontenelle Reservoir for
17 irrigation, domestic, industrial, municipal, stock watering, fish and
18 wildlife, recreation and power purposes, for a total capacity of 345,397
19 acre-feet, with 190,250 acre-feet of active capacity, 154,584 acre-feet
20 of inactive capacity and 563 acre-feet of dead storage;

21 (b) Secondary Permit No. 22365 (an amendment of which the
22 parties recognize will be required), filed July 9, 1962, and approved
23 March 6, 1963, for the allocation of 90,000 acre-feet from and out of
24 the aforesaid active storage of 190,250 acre-feet of the waters of the

1 Green River, stored in the Fontenelle Reservoir, through the Seedskadee
 2 Project canal system, including the East Side, West Side and river out-
 3 lets, for the irrigation of lands in the Seedskadee Project and Seedskadee
 4 Wildlife Refuge;

5 (c) Permit No. 22364 (the original application for which was
 6 filed April 26, 1955, and a Substitute Application for which was filed
 7 with the State Engineer and approved March 6, 1963), for the appropriation
 8 of the natural flow of the waters of the Green River, for purposes of
 9 irrigation, domestic, stock water, fish and wildlife, municipal and
 10 industrial uses. This permit is a direct flow appropriation and provides
 11 for 1,365 c.f.s. for the purposes listed in the permit.

12 NOW, THEREFORE, in consideration of the mutual and dependent
 13 covenants and conditions herein contained, it is agreed hereto as follows:

14 GENERAL DEFINITION

15 1. When used herein, unless otherwise distinctly expressed or
 16 manifestly incompatible with the intent hereof, the terms:

17 (a) "Secretary" or "Contracting Officer" means the Secretary
 18 of the Department of the Interior or his duly authorized representative.

19 (b) "Contractor" means the State of Wyoming, acting through
 20 its authorized representative, the Wyoming Department of Economic Planning
 21 and Development.

22 (c) "Project" means the Seedskadee Participating Project
 23 as authorized by the Act of Congress of April 11, 1956 (70 Stat. 105),
 24 as amended.

1 (d) "Reservoir" means the Fontenelle Dam and Reservoir,
2 a feature of the Project.

3 (e) "Water year" means that period from April 1 through
4 March 31 of the next calendar year, or such different period as may be
5 established by mutual agreement in writing.

6 (f) "Federal Reclamation Laws" means the Act of June 17,
7 1902 (32 Stat. 388), and all acts amendatory thereof or supplementary
8 thereto.

9 ALLOCATION OF RESERVOIR STORAGE AND DIRECT FLOW RIGHTS

10 2. (a) The parties agree that storage and release of water
11 from the Fontenelle Reservoir shall be accomplished so as to maximize
12 the total water supply. Fontenelle Reservoir is now constructed with a
13 total capacity of 345,397 acre-feet; 563 acre-feet of dead storage;
14 154,584 acre-feet of inactive capacity and 190,250 acre-feet of active
15 capacity. Under the terms of Contract No. 14-06-400-2474, the State of
16 Wyoming acquired 60,000 acre-feet of the active storage capacity in
17 Fontenelle Reservoir. Of the active capacity of Fontenelle Reservoir,
18 only 154,250 acre-feet between elevations 6484.0 feet and 6506.0 feet
19 above mean sea level are useable storage for delivery of water through
20 the irrigation outlet works. However, Permit No. 6629 Res. provides for
21 an active reservoir capacity of 190,250 acre-feet. The capacity differ-
22 ence of 36,000 acre-feet, between elevations 6477.8 feet and 6484.0 feet,
23 is required to furnish sufficient head to supply irrigation water through
24 the outlet works by gravity.

1 (b) The 190,250 acre-feet of storage space in Fontenelle
2 Reservoir is hereby allocated to the functions listed hereinafter, and
3 the parties further agree that the reservoir shall be managed to provide
4 storage water according to the following priorities:

5 First Priority: 5,000 acre-feet reserved to the
6 United States for use on the Seedskadee National
7 Wildlife Refuge and 250 acre-feet reserved to
8 the United States for recreation uses;

9 Common Priority: 60,000 acre-feet shall be avail-
10 able to the Contractor under the terms and condi-
11 tions hereinafter provided in this contract;
12 60,000 acre-feet allocated to the State of Wyoming
13 by Contract No. 14-06-400-2474 and available
14 pursuant to the terms of that contract; and
15 65,000 acre-feet reserved to the United States
16 for other uses. If the irrigation features of
17 the project are built, it is agreed that
18 36,000 acre-feet of the 65,000 acre-feet or
19 such lesser amount as is required to adequately
20 deliver water to the irrigable lands, not to
21 exceed 34,000 acres, must be carried over from
22 year to year in the reservoir without realloca-
23 tion among other uses.

1 (c) The Bureau of Reclamation in acquiring its direct flow
2 water rights under the terms and conditions of Permit No. 22364, specified
3 in its filing dated April 26, 1955, that the uses under the permit were
4 irrigation, stock watering, domestic, municipal and power purposes, but
5 in its substitute application approved March 6, 1963, stated that the
6 uses under the permit were irrigation, domestic, stock watering, fish
7 and wildlife, municipal and industrial, all without specification of the
8 quantity of water allocated to each such use. The Contractor and the
9 United States agree that operation and management of said storage rights
10 in conjunction with the aforesaid direct flow water rights are required
11 in order to produce a maximum firm yield of water. It is agreed that
12 Permit No. 22364 provides for an allocation of uses of 1365 c.f.s. to
13 include 1140 c.f.s. for irrigation, stock or domestic use on the Seedska-
14 dee Project, 115 c.f.s. for the Seedska-dee Wildlife Refuge and 110 c.f.s.
15 for municipal and industrial use. It is further agreed that of the
16 1140 c.f.s. allotted for use by irrigation, 547.2 c.f.s. shall be made
17 available for use by the State and 592.8 c.f.s. shall be retained by
18 the United States. Of the 110 c.f.s. allotted for municipal and indus-
19 trial use, 52.8 c.f.s. shall be available for municipal and industrial
20 use by the State of Wyoming under this contract and 57.2 c.f.s. shall
21 be retained for municipal and industrial use by the United States. If
22 there is a determination by a Court of competent jurisdiction that the
23 allocation of water uses under Permit No. 22364 differs from the above,
24 the parties hereto agree to amend this Contract to be consistent therewith.

(d) It is further agreed that immediately upon execution of this contract and after the request of the State, the United States will petition the State Engineer (1) to withdraw Secondary Permit No. 22365 and (2) to convert 547.2 c.f.s. of irrigation water rights to municipal and industrial use. Upon approval of these petitions by the State Engineer, and if allowed by him, the said municipal and industrial direct flow will be available to the State for municipal and industrial use year round under this contract. The State agrees that the United States may at any time similarly petition the State Engineer to convert any part of its 592.8 c.f.s. of irrigation direct flow to municipal and industrial direct flow.

(e) The 115 c.f.s. reserved for the Refuge shall be used in conjunction with the storage capacity allotted first priority in Article 2(a) hereof to meet the following monthly requirements:

Wildlife Refuge Requirements			
Month	Irrigation requirement ^{1/} (acre-feet)	Pondage requirement (acre-feet)	Total (acre-feet)
May	700	4,300	5,000
June	1,700	4,300	6,000
July	1,800	4,200	6,000
August	1,200	2,800	4,000
September	600	2,400	3,000
Winter		4,000	4,000
Total	6,000	22,000	28,000

^{1/} Requirement estimated at 3 acre-feet per acre at the head of the refuge area.

1 (f) The Contractor agrees not to enter into subcontracts
2 involving the delivery of more than 125,000 acre-feet of water per year
3 under this contract. This provision shall not be construed to limit or
4 define the extent of the direct flow which may eventually be used by the
5 United States or the State for municipal and industrial purposes under
6 future contracts.

7 PURCHASE PROVISIONS

8 3. In consideration of the provisions of this contract made
9 by the Contractor and the United States specified herein, it is agreed
10 that:

11 The Contractor purchases the 60,000 acre-feet of storage
12 capacity in Fontenelle Reservoir allocated in Article 2(b) hereof.
13 The Contracting Officer agrees to assign to the Contractor the right
14 to the use of 52.8 c.f.s. for municipal and industrial purposes, and
15 the right to the use of 547.2 c.f.s. for irrigation purposes under
16 Permit No. 22364. The right to use the water contracted herein shall
17 commence at the time of the Contractor's initial payment provided for
18 in Article 5 hereof.

19 CONDITIONS OF SALE

20 4. It is further agreed:

21 (a) The Contractor at its option may accelerate the
22 payment schedules herein provided and, without penalty of any kind
23 whatsoever, may prepay to the United States in any amount and at any
24 time any of its obligation herein contained.

1 (b) For those contracts which are executed between the
 2 State and a third party and which provide revenues to the State in
 3 excess of that required to be paid to the United States, as specified
 4 herein, the State agrees that 50 percent of such excess revenues will
 5 be returned to the United States and will be applied to the unpaid
 6 balance of the repayment obligation, including interest, given in
 7 Article 5. Any such revenues so applied will accelerate the repayment
 8 of the State's obligation. It is further agreed that any funds so
 9 applied to accelerated repayment may be credited toward any subsequent
 10 regular payments by the State if the revenues available to the State are
 11 less than the State's obligation to the United States.

12 REPAYMENT OBLIGATION

13 5. For the purchase of Fontenelle Reservoir capacity, the
 14 Contractor agrees as follows:

15 (a) To pay the United States in the manner herein pro-
 16 vided the repayment obligation of \$11,410,000 (construction cost
 17 allocation including funded interest through 1977 at the per annum rate
 18 of 2.632%) or such lesser amount if repayment commences at a date
 19 earlier than herein specified by the appropriate reduction in funded interest.
 20 That sum and the annual installments herein stipulated do not include
 21 the annual operation, maintenance, and replacement costs which are to
 22 be paid as provided in Article 5(c). The repayment obligation is to
 23 be paid in not more than 40 successive annual installments, which
 24 scheduled amounts include interest at the rate of 2.632% per annum,

1 commencing December 31, 1977, or December 31 prior to the year that
 2 water is used for municipal and industrial purposes under the rights
 3 specified herein, whichever occurs first. The annual installments to
 4 be paid are as follows:

	<u>Installments</u>	<u>Payment</u>
5		
6	1 - 5	\$301,000
7	6 and thereafter	\$503,000 ✓

8 Provided the last installment will be the amount required to complete
 9 repayment of the Contractor's obligation.

10 (b) The parties further agree that if the Contractor is
 11 unable to make, execute and deliver a completed and final contract,
 12 approved by all required Federal agencies, for scheduled water deliveries
 13 to one or more of its subcontractors, because of the requirement that the
 14 Secretary or other Federal agency comply with the requirements of the
 15 National Environmental Policy Act of 1969 or as it may be amended,
 16 required by Article 17 of this contract, then and in that event the
 17 Contractor shall have the right to reduce its annual installment payment
 18 in the manner hereinafter provided and to continue such annual reduction
 19 thereon until such time as the said statements are filed and a final
 20 determination made thereon by the Secretary or the agency charged by law
 21 with the duty of making a decision thereon. The Secretary agrees that
 22 upon the filing by the Contractor of the Contractor's subcontract and the
 23 data and information with respect to preparation of the environmental
 24 impact statement covering the proposed subcontract as required by Article

1 17 hereof, the Secretary shall promptly and without delay prepare and
 2 file an environmental impact statement. The Secretary agrees to notify
 3 the Contractor in writing of any action he is taking with respect to
 4 the subcontract, and agrees further that in any event notification of
 5 his approval or disapproval of such subcontract shall be given no later
 6 than 9 calendar months following the date of filing said subcontract.
 7 If at the end of 9 calendar months the Secretary shall fail to give
 8 such written notice of his approval or disapproval of said contract to
 9 the Contractor or if the Secretary requests additional time before a
 10 determination can be made by him with respect to the subcontract, then
 11 the Contractor shall have the right and option, at its election, to
 12 reduce its next installment payment then coming due by an amount to be
 13 determined by the following formula:

14	Number of acre-feet of water specified		Install-	Amount of
	<u>in subcontract held in abeyance</u>	times	ment pay-	= payment
15	(125,000 acre-feet)		ment due	suspended

16 Thereafter, future installment payments shall likewise be reduced, by
 17 the similar application of the above formula, until such time as the
 18 Secretary notifies the Contractor of his determination that the subcon-
 19 tract is approved, or notifies the Contractor that the subcontract is
 20 rejected because of substantial adverse environmental impacts. The
 21 Contractor shall be notified, in writing, of such determination at least
 22 30 days in advance of any installment due date. Subsequent to said
 23 determination by the Secretary, the amount of the suspended payment or
 24 payments specified in this article, together with interest accrued

1 thereon at the rate of 2.632 per cent per annum, shall be divided
2 equally among the remaining installment payments to be paid by the
3 Contractor. The parties further agree that in the event the Contractor
4 is unable to make scheduled water deliveries to a subcontractor because
5 of litigation or any Federal administrative action by or
6 against the Contracting Officer, the Contractor, or the Contractor's
7 subcontractors, involving the use of water under this contract, the
8 Contractor shall have the right to reduce its annual installment pay-
9 ments in the manner herein provided by use of the aforesaid formula.
10 If such litigation is instituted 30 days or more prior to the date an
11 installment payment is due, then and in that event, said payment shall,
12 at the option of the Contractor, be so reduced, and any future installment
13 payments also shall at the option of the Contractor, be reduced accord-
14 ingly, until the time of final determination of the litigation or
15 administrative action, including exhaustion of all appellate remedies.
16 The amount of the payment or payments so suspended shall likewise be
17 divided equally among the remaining installment payments to be made
18 by the Contractor after the said final determination, Provided, that
19 the first installment payment to receive its pro rata share of the
20 suspended amount shall be due at least 30 days after the parties hereto
21 have been notified of the said final determination.

22 (c) On or before December 31 following the execution
23 of this contract, the Contractor shall pay the United States or its
24 designee if some organization other than the United States is operating

1 the project, its proportionate share of the annual cost of operation,
2 maintenance and replacement assignable to 60,000 acre-feet of capacity
3 of Fontenelle Dam and Reservoir, which share shall exclude operation,
4 maintenance and replacement of the powerplant and its facilities.
5 Payment under this article shall be made in advance on the basis of
6 annual estimates made by the Secretary. A notice of the annual estimated
7 operation, maintenance, and replacement charges shall be furnished to
8 the Contractor on or before August 1 of the year preceding the one for
9 which the notice is issued, except if this contract is executed subsequent
10 to August 1 of any year, the parties hereby waive the August 1 date for
11 notice issuance for that year. The Contractor shall pay the amounts
12 set out in any such notice on or before December 31 of the year in which
13 the notice is given. If payment made by the Contractor exceeds or is
14 short of the appropriate actual cost for the year for which advanced,
15 the credit or debit amount will be taken into account in preparing the
16 next notice to be issued to the Contractor. It is mutually agreed that
17 the Contracting Officer shall not levy or assess charges upon the
18 Contractor for loss of power revenue occasioned by water withdrawals
19 from the reservoir which by-pass the powerplant. Upon mutual agreement
20 of the parties hereto the Contracting Officer may transfer to the
21 Contractor the care, operation, and maintenance of any project feature
22 or the entire project.

1 RIGHT TO USE OF STORAGE CAPACITY

2 6. The Contractor shall have the sole and perpetual right
3 to use the storage capacity purchased by it under this contract and to
4 subcontract with others for use of said storage capacity. Contracts
5 made by the Contractor with others shall be subject to the provisions of
6 this contract, and a copy of each shall be filed with the Contracting
7 Officer prior to being executed by the Contractor. Two copies of each
8 executed contract shall be filed with the Contracting Officer.

9 CONTRACT SALES BY THE UNITED STATES

10 7. (a) During the first 10 years following execution of
11 this contract or such earlier date that the Contractor has subcontracted
12 substantially all of its water specified in Article 2(f) hereof, the
13 Contracting Officer agrees that it will not offer for sale, contract
14 for the delivery of, promise or otherwise commit in any way any of the
15 Fontenelle storage or direct flows of the Green River retained by the
16 United States to any person, firm, corporation or other governmental
17 entity, except that the waters herein reserved to the United States
18 for irrigation of lands for stock and domestic uses upon the Seedskadee
19 Project may be contracted for, and sold for irrigation, stock and
20 domestic purposes, to bona fide occupants of said project lands.

21 (b) The Contracting Officer agrees to give the Contractor
22 at least one year's notice of the availability of any additional water
23 and the Contractor shall have the first right of refusal to purchase
24 such additional water upon the same terms and conditions as the Con-
25 tracting Officer is willing to offer to any other person, firm,

1 corporation or other governmental entity before such water is sold to
2 others.

3 (c) Contractor agrees that it will diligently and expeditious-
4 ly negotiate for contracts with all bona fide customers seeking municipal
5 and industrial water in Fontenelle Reservoir.

6 TRANSPORTATION LOSSES

7 8. Transportation of water from the reservoir to points of use
8 shall be the sole responsibility of the Contractor, so that conveyance
9 losses from the reservoir to the points of use shall not be borne by the
10 United States.

11 DOWNSTREAM FISHERY RESOURCE

12 9. Operation of the constructed Fontenelle Reservoir has hereto-
13 fore created a substantial stream fishery resource in the reach of the
14 Green River below Fontenelle Dam. The Contracting Officer and the Con-
15 tractor, subject to such water rights as have been heretofore and may here-
16 after be granted or adjudicated upon the Green River or the tributaries
17 thereof, agree to encourage water deliveries and points of diversion
18 that would be compatible with maintaining the stream fishery. In
19 order for the Contractor to contribute to preservation of minimum
20 stream flows for fish and wildlife purposes, the Contractor agrees
21 that not less than 50 percent of the full amount of water purchased
22 under this contract shall be diverted at or downstream from the I-80
23 highway crossing of the Green River near the community of Green River,
24 Wyoming, in Section 7, Township 18 N., Range 107 W., 6th P.M. It is

1 further agreed that the foregoing 50 percent shall be delivered as a
2 continuous, reasonably uniform, daily flow calculated over a one-year
3 period at said diversion point without interruption for diminution
4 of stream flow unless some other flow pattern is mutually acceptable
5 to the Contractor and the Contracting Officer. In order to facilitate
6 maintenance of minimum streamflows for fish and wildlife purposes, it
7 is agreed that the United States shall manage its portion of the water
8 described in Article 2 so that not more than 25% of the total water
9 described in said Article 2, exclusive of that amount of water subject to
10 Contract No. 14-06-400-2474 and that water reserved to the United States
11 for the Seedskadee National Wildlife Refuge, described in said Article,
12 will be diverted above the aforesaid highway crossing. Of the remaining
13 water, the Contracting Officer agrees to reserve from sale that amount of
14 storage water necessary to maintain at least 50 c.f.s. in the river at the
15 U.S.G.S. Green River, Wyoming, gaging station so as to assure water supply
16 for fish and wildlife purposes in the Green River between the gage and
17 Flaming Gorge Reservoir. The Contractor agrees to work closely with the
18 Wyoming Game and Fish Commission in all municipal and industrial water
19 sales and deliveries to protect this fishery resource insofar as practicable.

20 RIGHTS RESERVED UNDER SECTION 3737 REVISED STATUTES

21 10. All rights of action for breach of any of the provisions
22 of this contract are reserved to the United States, as provided in
23 Section 3737 of the Revised Statutes of the United States.

24 SECURITY FOR PAYMENT OF OBLIGATIONS

25 11. The Contractor shall, to the extent permitted by law,
26 exercise all power to meet its obligations to the United States under

1 this contract including, but not limited to, the issuance of bonds
2 authorized by the laws of the State of Wyoming, and the establishment
3 of a Fontenelle Reservoir Revolving Fund. The Contractor further grants
4 the United States a first lien on all receipts collected from purchasers
5 of water sold pursuant to terms of this contract.

6 PUBLIC USE OF RESERVOIR

7 12. Public recreation, including boating, fishing, and hunting
8 will be allowed on or in Fontenelle Reservoir. Fishing and hunting on
9 or in said reservoir will be allowed in accordance with State and Federal
10 laws without payment of any charge or fee except as required by such
11 laws. The Contracting Officer and the Contractor through its appropri-
12 ate agency, may promulgate or approve such rules and regulations as may
13 be deemed necessary and proper for project purposes, for the protection
14 of the works, for public health and safety, and the parties may enter
15 into contracts with State agencies to regulate and administer such
16 facilities for recreation or similar uses; Provided, that such contracts
17 may provide for a fee or fees to be charged for use of such area or
18 facilities, or both; and Provided further, that in the event of unresolved
19 conflict between the Contracting Officer and the Contractor on said
20 proposed rules and regulations, the conflict shall be submitted to
21 arbitration as set forth in Article 33 hereof. Nothing in this contract
22 shall affect the use of Fontenelle Reservoir for recreation in
23 accordance with Section 8 of the Act of Congress approved April 11, 1956
24 (70 Stat. 105).

1 TITLE TO SEEDSKADEE PROJECT TO REMAIN IN THE
2 UNITED STATES

3 13. Title to the Seedskadee Project shall remain in the
4 United States until otherwise provided by the Congress.

5 UNITED STATES NOT LIABLE FOR WATER SHORTAGE

6 14. In the event that there is a shortage of Project water
7 resulting from drouth, inaccuracy in distribution, hostile diversion,
8 prior or superior claims, or other causes, no liability shall accrue
9 against the United States, or any of its officers, agents, or employees
10 for any damage, directly or indirectly arising therefrom, and the pay-
11 ments to the United States provided for herein shall not be reduced
12 because of such shortage. In the event of such shortages, uses of
13 reservoir capacity, and water uses will be in accordance with priorities
14 established in Article 2 hereof.

15 RESPONSIBILITY FOR DISTRIBUTION AND BENEFICIAL USE OF WATER

16 15. The Contractor shall be responsible for the control,
17 carriage, handling, distribution, measurement, accounting for and use
18 of all water stored in the contracted storage capacity or used under
19 direct flow rights as hereinbefore provided and shall hold the United
20 States, its officers, agents, employees, and successors or assigns,
21 harmless from every claim for damages to persons or property, direct
22 or indirect, and of whatever nature, arising out of or in any manner
23 connected with the control, except initial impoundment thereof, carriage,
24 handling, distribution or use of such water. The Contractor shall not
use any of the water taken or delivered hereunder for other than

1 beneficial uses. Beneficial use shall be the basis, the measure and the
2 limit of the right to the use of the water.

3 WATER DELIVERY SUBJECT TO COMPACTS, ACTS, AND TREATY

4 16. This contract and all water delivery pursuant thereto
5 shall be subject to and controlled by the applicable provisions of
6 the Colorado River Compact, dated November 24, 1922, and proclaimed by
7 the President of the United States, June 25, 1929, the Boulder Canyon
8 Project Act approved December 21, 1928, the Boulder Canyon Project
9 Adjustment Act of July 19, 1940; the Upper Colorado River Basin Compact
10 dated October 11, 1948; the Mexican Water Treaty of February 3, 1944,
11 and the Colorado River Basin Project Act of September 30, 1968, P.L.
12 90-537.

13 ENVIRONMENTAL IMPACT STATEMENT

14 17. The Contractor agrees that it will furnish the United
15 States data and information as may be required for preparation of
16 environmental impact statements pertaining to this contract pursuant
17 to the National Environmental Policy Act of 1969 (P.L. 91-190), or
18 as it may be amended. The Contractor agrees that no water will be
19 used under this contract or any subcontract until the United States
20 has complied with the National Environmental Policy Act of 1969 (P.L.
21 91-190) as it may hereafter be amended, and if an environmental impact
22 statement is prepared, no water will be used under this contract or any
23 subcontract until the statement is completed by the assigned agency of
24 the United States and filed with the Council on Environmental Quality

1 and the use of such water is thereafter approved by the Secretary of
2 Interior, it being the intent of the parties hereto that such approval
3 is to be based on environmental considerations only.

4 AIR AND WATER POLLUTION CONTROL

5 18. The Contractor agrees that it will comply fully with air
6 and water pollution control laws, orders, standards, or regulations
7 under Federal, State and local jurisdictions now or hereafter in force.
8 From time to time, but not less often than once in every five years,
9 the designated representatives of the Secretary, the Contractor, and the
10 State's contractor shall, at the request of any of the three parties
11 cited herein meet to review such technological advances in air pollution
12 and water pollution control equipment as have taken place and determine
13 the feasibility of installing new or additional equipment or modifying
14 existing equipment in the plant facilities for the purpose of improving
15 performance, taking into account costs and economic feasibility as well
16 as benefits. In the event of any disagreement as to whether or when
17 the State's contractor should install new or additional air pollution
18 control equipment or facilities or modify existing equipment of facilities,
19 the decision by any two of the three parties cited herein shall
20 be final and conclusive. Also, the Contractor agrees that any contract
21 it may enter into for the furnishing of water pursuant to this contract
22 will contain similar air and water pollution control provisions. The
23 Contractor further agrees that any such contract it may enter into will
24 require that its designs and plans for air and water pollution control
25 facilities or equipment which are necessary parts of any design, facility,

1 plant, or process which utilizes project water will be submitted to the
2 Secretary for his review and written comments prior to contracting for
3 said facilities, their installation or major modification thereof.

4 ACCOUNTS AND RECORDS

5 19. The Contractor shall establish and maintain accounts and
6 other books and records pertaining to water uses and other matters
7 pertaining to this contract as the Contracting Officer may require.
8 Reports thereon shall be furnished to the Contracting Officer in such
9 form and on such date or dates as he may require. Subject to applicable
10 State and Federal laws and regulations, each party shall have the right
11 during office hours to examine and make copies of each others' books
12 and records relating to matters covered by this contract.

13 RULES, REGULATIONS, AND DETERMINATIONS

14 20. (a) The United States shall operate and maintain
15 the Fontenelle Dam, Reservoir, and facilities appurtenant thereto until
16 otherwise provided by the United States. These facilities will be
17 operated for multiple benefits of the project in accordance with project
18 authorization and contracts, including this agreement entered into pur-
19 suant thereto. As soon as Contractor commences payment under Article
20 5(a) hereof, the Contracting Officer shall operate and manage said
21 reservoir in accordance with a plan of annual operation which shall
22 have been jointly developed and agreed upon by the Contracting Officer
23 and the Contractor. The Contracting Officer, after consultation and
24 joint agreement with the Contractor, shall have the right to make rules

1 and regulations consistent with the provisions of this contract, the laws
 2 of the United States and the State of Wyoming, to add to or to modify
 3 them as may be deemed proper and necessary to carry out this contract,
 4 and to supply necessary details of its administration which are not
 5 covered by express provisions of this contract; Provided that in the
 6 event of unresolved conflict between the Contracting Officer and the
 7 Contractor on said proposed rules and regulations, the conflict shall
 8 be submitted to arbitration as set forth in Article 33 hereof.

9 (b) Where the terms of this contract provide for action
 10 to be based upon the opinion or determination of either party to this
 11 contract, whether or not stated to be conclusive, said terms shall not
 12 be construed as permitting such action to be predicated upon arbitrary,
 13 capricious, or unreasonable opinions or determinations.

14 (c) It is understood and agreed that the hydro-powerplant
 15 of the Fontenelle Reservoir shall be operated secondarily to the other
 16 purposes and uses of the Fontenelle Reservoir and subordinate thereto.

17 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

18 21. (a) The obligation of the Contractor to pay the United
 19 States as provided in this contract is a general obligation of the
 20 Contractor notwithstanding the manner in which the obligation may be
 21 distributed among the Contractor's water users and notwithstanding the
 22 default of individual water users in their obligations to the Contractor.

23 (b) The payment of charges becoming due hereunder is a
 24 condition precedent to receiving benefits under this contract. No

1 reservoir capacity or right to the use of any direct flows of the
2 United States will be made available to the Contractor through project
3 facilities during any period in which the Contractor may be in arrears in
4 the advance payment of any operation, maintenance, and replacement
5 charges due the United States or in arrears for more than 12 months in the
6 payment of any construction and interest installments due the United States
7 unless such payment or any portion thereof has been suspended pursuant to
8 Article 5(a) hereof. The Contractor shall not furnish water made avail-
9 able pursuant to this contract to parties in arrears more than 12 months
10 in the payment of charges as levied or established by the Contractor.

11 INTEREST FOR DELINQUENT PAYMENTS

12 22. The Contractor shall pay an interest charge on installments
13 which become delinquent computed at the rate of 1% per month of the amount
14 of such delinquent installments or charges for each day from such delin-
15 quency until paid; Provided, that no interest shall be charged to the
16 Contractor unless such delinquency continues for more than 30 days in which
17 event the interest shall accrue from the initial date of delinquency.

18 QUALITY OF WATER

19 23. The operation and maintenance of Fontenelle Dam and
20 Reservoir shall be performed in such manner as is practicable to maintain
21 the quality of raw water made available through such facilities at the
22 highest level reasonably attainable as determined by the Contracting
23 Officer. The United States does not warrant the quality of water and

1 is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

3 EQUAL OPPORTUNITY

4 24. During the performance of this contract, the Contractor
5 agrees as follows:

6 (a) The Contractor will not discriminate against any
7 employee or applicant for employment because of race, color, religion,
8 sex or national origin. The Contractor will take affirmative action to
9 ensure that applicants are employed, and that employees are treated
10 during employment, without regard to their race, color, religion, sex,
11 or national origin. Such action shall include, but not be limited to,
12 the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or
13 other forms of compensation; and selection for training, including
14 apprenticeship. The Contractor agrees to post in conspicuous places,
15 available to employees and applicants for employment, notices to be
16 provided by the Contracting Officer setting forth the provisions of this
17 Equal Opportunity clause.
18

19 (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state
20 that all qualified applicants will receive consideration for employment
21 without regard to race, color, religion, sex, or national origin.
22

23 (c) The Contractor will send to each labor union or
24 representative of workers with which it has a collective bargaining

1 agreement or other contract or understanding, a notice, to be provided
2 by the Contracting Officer, advising the labor union or workers' repre-
3 sentative of the Contractor's commitments under this Equal Opportunity
4 clause, and shall post copies of the notice in conspicuous places avail-
5 able to employees and applicants for employment.

6 (d) The Contractor will comply with all provisions of
7 Executive Order No. 11246 of September 24, 1965, as amended, and of
8 the rules, regulations, and relevant orders of the Secretary of Labor.

9 (e) The Contractor will furnish all information and
10 reports required by said amended Executive Order and by the rules,
11 regulations, and orders of the Secretary of Labor, or pursuant thereto,
12 and will permit access to its books, records, and accounts by the
13 Contracting Officer and the Secretary of Labor for purposes of investi-
14 gation to ascertain compliance with such rules, regulations, and orders.

15 (f) In the event of Contractor's noncompliance with the
16 Equal Opportunity clause of this contract or with any of the said rules,
17 regulations, or orders, this contract may be canceled, terminated, or
18 suspended, in whole or in part, and the Contractor may be declared
19 ineligible for further Government contracts in accordance with procedures
20 authorized in said amended Executive Order, and such other sanctions may
21 be imposed and remedies invoked as provided in said Executive Order, or
22 by rule, regulation, or order of the Secretary of Labor, or as otherwise
23 provided by law.

24 (g) The Contractor will include the provisions of
25 paragraphs (a) through (g) in every subcontract or purchase order unless

1 exempted by rules, regulations, or orders of the Secretary of Labor
2 issued pursuant to Section 204 of said amended Executive Order, so that
3 such provisions will be binding upon each subcontractor or vendor. The
4 Contractor will take such action with respect to any subcontract or pur-
5 chase order as the Contracting Officer may direct as a means of enforcing
6 such provisions, including sanctions for noncompliance; provided, however,
7 that in the event the Contractor becomes involved in, or is threatened
8 with, litigation with a subcontractor or vendor as a result of such
9 direction by the Contracting Officer, the Contractor may request the
10 United States to enter into such litigation to protect the interests of
11 the United States.

12 TITLE VI, CIVIL RIGHTS ACT OF 1964

13 25. The Contractor agrees that it will comply with Title VI
14 of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all require-
15 ments imposed by or pursuant to the Department of the Interior Regula-
16 tion (43 CFR 17) issued pursuant to that title, to the end that, in
17 accordance with Title VI of that Act and the Regulation, no person in the
18 United States shall, on the ground of race, color, or national origin be
19 excluded from participation in, be denied the benefits of, or be other-
20 wise subjected to discrimination under any program or activity for which
21 the Contractor receives financial assistance from the United States and
22 hereby gives assurance that it will immediately take any measure to
23 effectuate this agreement.

24 If any real property or structure thereon is provided or
25 improved with the aid of Federal financial assistance extended to the

1 Contractor, by the United States, this assurance obligates the Con-
2 tractor, or in the case of any transfer of such property, any transferee
3 for the period during which the real property or structure is used for
4 a purpose involving the provision of similar services or benefits. If
5 any personal property is so provided, this assurance obligates the
6 Contractor for the period during which it retains ownership or posses-
7 sion of the property. In all other cases, this assurance obligates the
8 Contractor for the period during which the Federal financial assistance
9 is extended to it by the United States.

10 THIS ASSURANCE is given in consideration of and for the
11 purpose of obtaining any and all Federal grants, loans, contracts, property,
12 discounts, or other Federal financial assistance extended after the date
13 hereof to the Contractor by the United States, including installment
14 payments after such date on account of arrangements for Federal financial
15 assistance which were approved before such date. The Contractor recog-
16 nizes and agrees that such Federal financial assistance will be extended
17 in reliance on the representations and agreements made in this assurance,
18 and that the United States shall reserve the right to seek judicial
19 enforcement of this assurance. This assurance is binding on the Contrac-
20 tor, its successors, transferees, and assignees.

21 CERTIFICATION OF NONSEGREGATED FACILITIES

22 26. The Contractor hereby certifies that it does not maintain
23 or provide for its employees any segregated facilities at any of its
24 establishments, and that it does not permit its employees to perform

1 their services at any location, under its control, where segregated
2 facilities are maintained. It certifies further that it will not main-
3 tain or provide for its employees any segregated facilities at any of
4 its establishments, and that it will not permit its employees to
5 perform their services at any location, under its control, where seg-
6 regated facilities are maintained. The Contractor agrees that a breach
7 of this certification is a violation of the Equal Opportunity clause in
8 this contract. As used in this certification, the term "segregated
9 facilities" means any waiting rooms, work areas, rest rooms and wash
10 rooms, restaurants, and other eating areas, time clocks, locker rooms
11 and other storage or dressing areas, parking lots, drinking fountains,
12 recreation or entertainment areas, transportation, and housing facilities
13 provided for employees which are segregated by explicit directive or are
14 in fact segregated on the basis of race, creed, color or national origin,
15 because of habit, local custom, or otherwise. The Contractor further
16 agrees that (except where it has obtained identical certifications from
17 proposed subcontractors for specific time periods) it will obtain
18 identical certifications from proposed subcontractors prior to the
19 award of subcontracts exceeding \$10,000 which are not exempt from the
20 provisions of the Equal Opportunity clause; that it will retain such
21 certifications in its files; and that it will forward the following
22 notice to such proposed subcontractors (except where the proposed sub-
23 contractors have submitted identical certifications for specific time
24 periods):

1 "NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
 CERTIFICATIONS OF NONSEGREGATED FACILITIES

2 A Certification of Nonsegregated Facilities
 3 must be submitted prior to the award of a subcontract
 4 exceeding \$10,000 which is not exempt from the pro-
 5 visions of the Equal Opportunity clause. The
 6 certification may be submitted either for each sub-
 7 contract or for all subcontracts during a period
 8 (i.e., quarterly, semiannually or annually). Note:
 9 The penalty for making false statements in offers
 10 is prescribed in 18 U.S.C. 1001."

11 CONTINGENT UPON APPROPRIATIONS OR ALLOTMENT OF FUNDS

12 27. The expenditure of any money or the performance of any work
 13 by the United States herein provided for, which may require appropria-
 14 tions of money by Congress or the allotment of funds, shall be contingent
 15 upon such appropriations or allotments being made. The failure of Con-
 16 gress to so appropriate funds or the failure of an allotment of funds
 17 shall not relieve the Contractor from any obligations under this contract
 18 nor give the Contractor the right to terminate this contract as to any of
 19 its executory features. No liability shall accrue against the United
 20 States in case of such funds not being appropriated or allotted.

21 ASSIGNMENT LIMITED SUCCESSORS AND ASSIGNS OBLIGATED

22 28. The provisions of this contract shall apply to and bind
 23 the successors and assigns of the parties hereto, but no assignment or
 24 transfer of this contract or any part of interest thereon shall be valid
 25 until approved by the Secretary.

1 ASSURANCES RELATING TO VALIDITY OF CONTRACT

2 29. This contract shall not be binding upon the United States, 2.
3 nor shall any water be delivered pursuant to this contract until the
4 Attorney General of the State of Wyoming has furnished his written
5 opinion declaring that the proceedings on the part of the Contractor
6 for authorization and execution of this contract were valid and proper
7 and that this contract is a legal and binding obligation of the Contractor.

8 OFFICIALS NOT TO BENEFIT

9 30. (a) No Member of or Delegate to Congress or Resident
10 Commissioner shall be admitted to any share or part of this contract
11 or to any benefit that may arise herefrom. This restriction shall not
12 be construed to extend to this contract if made with a corporation or
13 company for its general benefit.

14 (b) No official of the Contractor shall receive any
15 benefit that may arise by reason of this contract other than as a
16 water user in the same manner as other users of project water.

17 NOTICES

18 31. Any notice, demand, or request authorized or required
19 by this contract shall be deemed to have been given when mailed,
20 postage prepaid, or delivered to the Regional Director, Bureau of
21 Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City,
22 Utah 84111, on behalf of the United States and to the Wyoming
23 Department of Economic Planning and Development, 720 West 18th Street,
24 Cheyenne, Wyoming 82001, on behalf of the Contractor. The designation

1 of the addressee or the address may be changed by notice given in the
2 same manner as provided in this article for other notices.

3 UNCONTROLLABLE FORCES

4 32. Neither party shall be considered to be in default in
5 respect to any obligation hereunder, if prevented from fulfilling
6 such obligation by reason of uncontrollable forces, the term "uncon-
7 trollable forces" being deemed for the purposes of this contract, to
8 mean any cause beyond the control of the party affected, including, but
9 not limited to, drouth, failure of facilities, flood, earthquake, storm,
10 lightning, fire, epidemic, war, riot, civil disturbance, labor disturb-
11 ance, sabotage, and restraint by court or public authority, which by
12 exercise of due diligence and foresight, such party could not reasonably
13 have been expected to avoid. Either party rendered unable to fulfill
14 any obligation by reason of uncontrollable forces shall exercise due
15 diligence to remove such inability with all reasonable dispatch.

16 ARBITRATION

17 33. Whenever a controversy arises as to which arbitration is
18 provided for and such controversy cannot be resolved by the Contracting
19 Officer and the Contractor, either of said parties by written notice to
20 the other may require such controversy to be submitted to arbitration.
21 Within 30 days from the date of the notice the Contracting Officer and
22 the Contractor shall each name one arbitrator and the two arbitrators
23 so selected shall within 60 days from the date of said notice select
24 a third arbitrator. In the event that either party has not appointed

1 its arbitrator within the specified 30-day period, then the other party
2 may make application to the appropriate United States District Court for
3 Wyoming for the appointment of an arbitrator for the party failing to act.
4 In the event of the failure of the two arbitrators to select the third
5 arbitrator either the Contracting Officer or the Contractor may make
6 application to the appropriate United States District Court for Wyoming
7 for the appointment of the third arbitrator substantially in accord
8 with the procedure provided in the Federal Arbitration Act (9 U.S.C.A. 1).
9 It is understood and agreed that the Contracting Officer and the Contractor
10 shall each bear the costs and expenses of its respective arbitrator, and
11 the cost and expense of the third arbitrator together with all other costs
12 and expenses incident to said arbitration shall be shared equally by the
13 parties. The decision of any two of the three arbitrators shall be a
14 valid and binding award of the arbitration. The arbitrators shall render
15 a decision within 180 days of the time of submission of the controversy
16 to arbitration. In event of a determination that arbitration is not
17 binding on the United States, any matter referred to arbitration shall
18 be referred to a court of competent jurisdiction.

19 REMEDIES - WAIVERS

20 34. Nothing contained in this contract shall be construed as
21 in any manner abridging, limiting, or depriving either party to this
22 contract of its rights with respect to any default, or any other matter

1 arising in connection with this contract shall not be deemed to be a
2 waiver with respect to any subsequent default or matter.
3 IN WITNESS WHEREOF, the parties hereto have signed their names,
4 the day and year first above written.

THE UNITED STATES OF AMERICA

By /s/ Jack O. Horton
Assistant Secretary of the Interior

STATE OF WYOMING

By /s/ Stanley K. Hathaway
Governor of Wyoming

**CONTRACT BETWEEN
STATE OF WYOMING,
WYOMING WATER DEVELOPMENT COMMISSION
AND
WE SODA ALKALI LLC (WESTVACO FACILITY)**

1. **PARTIES.** The Parties to this Contract are THE STATE OF WYOMING, acting through the Wyoming Water Development Commission (“State”), whose address is 6920 Yellowtail Road, Cheyenne, Wyoming 82002, and, WE Soda Alkali LLC, whose address is P.O. Box 872, Green River, Wyoming 82935 (“Contractor”). The State and Contractor are sometimes referred to herein individually as a “Party” and jointly as the “Parties.”

2. **RECITALS.**
 - A. The United States of America, acting through the Secretary of the Interior, has constructed Fontenelle Reservoir (“Fontenelle”) on the Green River, a tributary of the Colorado River in the State of Wyoming, as a feature of the Seedskaadee Project, a participating project of the Colorado River Storage Project authorized under the Act of Congress approved April 11, 1956 (43 U.S.C 620, 70 Stat. 105).

 - B. Waters storable in Fontenelle are within the portion of the waters of the Colorado River apportioned to the State of Wyoming under the Colorado River Compact (Wyoming Session Laws 1923, Ch. 3, Sec. 1) as approved by the United States Congress, December 21, 1928, (45 Stat. 1064) and the Upper Colorado River Basin Compact (Wyoming Session Laws 1949, Ch. 6, Sec. 1) as approved by the United States Congress, April 6, 1949, (63 Stat. 31).

 - C. The rights to store water in Fontenelle and to divert the waters of the Green River are evidenced by Wyoming Permit No. 6629-Res., with a priority date of January 22, 1962, and Permit No. 22364 with a priority date of April 26, 1955.

 - D. Pursuant to the authority granted by Chapter 190, Session Laws of Wyoming 1959 and Chapter 128, Session Laws of Wyoming 1973, the State of Wyoming has contracted with the United States of America, by Contract Number 14-06-400-2474 dated June 14, 1962, and by Contract Number 14-06-400-6193 dated December 27, 1974 (“Federal Contracts”), by which the State has the right to use 120,000 acre-feet of Fontenelle Reservoir storage water under Permit Nos. 6629 Res. and 22364 for municipal and industrial (“M & I”) use and other uses.

 - E. The Wyoming Attorney General has furnished his written opinion declaring that the proceedings on the part of the State for authorization and execution of the Federal Contracts were valid and proper and that said contracts are legal and binding obligations of the State.

- F. This Contract is entered into pursuant to and subject to the compacts, laws, permits and Federal Contracts hereinabove described, which Federal Contracts are attached hereto and incorporated herein as Attachment B and Attachment C.
- G. All water contracted for by Contractor under the provisions of this Contract shall be deemed, for the purposes of said Federal Contracts, to have been used by the State.

NOW THEREFORE, for good and valuable consideration, and intending to be legally bound, each of the Parties to this Contract hereby agrees to the following:

- 3. **PURPOSE OF CONTRACT.** The Parties wish to enter into this Contract for the purpose of the State providing Readiness-To-Serve services to Contractor for eight thousand one hundred forty (8,140) acre-feet of water per calendar year from Fontenelle and the right to purchase all or a portion of this amount for use at Township 19 North, Range 110 West, Sections 14, 15, 22, and 23 located in Sweetwater County, Wyoming (Westvaco Facility). The State has a right to water from Fontenelle under the Federal Contracts.

4. **TERM OF CONTRACT.**

- A. **Effective Date.** This Contract is effective on the date of the signature last affixed to the signature page.
- B. **Term.** The initial period of this Contract shall commence on the Effective Date and end on December 31, 2060. In addition, Contractor shall have the option to extend the initial period up to three additional, successive ten year periods (the initial period plus any successive periods referred to collectively as the "Term"). Written notice of Contractor's election to extend the initial period or any successive period in this manner shall be delivered to the State at least six (6) months prior to the expiration of the period sought to be extended.

5. **SERVICES & PAYMENT.**

A. **Readiness-To-Serve Annual Payments.**

- (i) The State shall make available to Contractor each calendar year during the Term, on a Readiness-To-Serve basis, eight thousand one hundred forty (8,140) acre-feet of water ("Contract Water Amount") from Fontenelle for use at the Westvaco Facility. Readiness-To-Serve shall mean that the State assures sufficient water, as provided by the Federal Contracts, is available to Contractor in Fontenelle during the Term so that any portion of the Contract Water Amount can be purchased and used by Contractor under the terms and conditions of this Contract.
- (ii) In the event of drought or other acts of nature (force majeure) that would interrupt or limit releases of the Contract Water Amount, the State agrees to

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meet with representatives of the United States and Contractor to identify and seek administrative and operational remedies that would maximize releases prescribed by the referenced Federal Contracts.

- (iii) In consideration for the State providing the Readiness-To-Serve services, Contractor shall pay the State annually a fee equal to ten dollars (\$10.00) per acre-foot of the annual Contract Water Amount. The Readiness-To-Serve fee shall be credited to Contractor up to the amount of the Base Rate or the Revised Rate as applicable in the event Contractor elects to purchase water under Section 5.B. Contractor shall pay the Readiness-To-Serve fee in accordance with Section 5.E.
- (iv) The Readiness-To-Serve annual fee shall be reduced or credited to the Contractor, as applicable, proportionately to the extent the State is unable to make available the full Contract Water Amount in that year. If any portion of the Readiness-To-Serve annual fee is credited to the Contractor, that credit amount shall be applied towards Contractor's subsequent Readiness-To-Serve annual fees until the credit is exhausted, or refunded to the Contractor in the event this Contract is terminated pursuant to Section 7.L.

B. Purchase Water Amount.

- (i) In addition to the Readiness-To-Serve services under Section 5.A., the State shall release to Contractor, at Contractor's option and upon written notice as set forth in Section 6.D., an amount of stored water from Fontenelle ("Purchase Water Amount") not to exceed the Contract Water Amount during each calendar year of the Term.
- (ii) Contractor may exercise its option to purchase the Purchase Water Amount from the State at any time and from time to time throughout the calendar year upon written notice as set forth in Section 6.D. Contractor's purchase of the Purchase Water Amount in any calendar year does not obligate Contractor to purchase the Purchase Water Amount in any subsequent years.
- (iii) In consideration of the State delivering the Purchase Water Amount, Contractor shall pay the State, in advance of any such water delivery in a given calendar year, the rate of eighty-eight dollars and no cents (\$88.00) per acre-foot per year ("Base Rate") for each acre foot that Contractor elects to purchase. This Base Rate shall be in effect during the initial five-year period of the Term.
- (iv) At the end of each successive five year period of the Term following the initial five-year period, the Base Rate shall be automatically revised (the "Revised Rate") as set forth in Attachment A, which is attached to and

incorporated into this Contract by this reference. In no event shall the Revised Rate be less than the Base Rate.

- C. Normal Annual OM&R Payments.** In addition to payments under Sections 5.A. and 5.B., Contractor shall pay to the State a proportionate share of the Normal Annual Operation Maintenance & Replacement (“OM&R”) Charges for Fontenelle as allocated to the State by the United States Department of the Interior (“United States”) and determined in accordance with the following formula:

The Contract Water Amount available to Contractor on a Readiness-To-Serve basis (8,140 acre-feet) divided by the total amount of water for which the State contracts with the United States to receive from Fontenelle (currently, 120,000 acre-feet), times the total Normal Annual OM&R Charges allocated to the State by the United States.

The use of the word “normal” in this subsection is intended to indicate the customary OM&R charges incurred at Fontenelle, other than the cost of Major Dam Repair and Construction which shall not be included in the Normal Annual OM&R Charges allocated to Contractor by the State. OM&R payments shall not be reduced in the event drought or other acts of nature (force majeure) interrupt or limit releases of the Contract Water Amount. The cost of Normal Annual OM&R Charges allocated to Contractor by the State shall not include the initial construction costs of any future Fontenelle Reservoir or dam projects designed to increase the useable active capacity of Fontenelle, including without limitation the riprap project under consideration by the State as of the Effective Date of this Contract, which is designed to increase the useable active capacity of Fontenelle Reservoir by approximately eighty thousand (80,000) acre-feet. However, should the State increase the useable active capacity of Fontenelle Reservoir after the Effective Date of this Contract, and the State has a right to water made available due to the increase, the expanded active capacity of Fontenelle Reservoir, to the extent the State has a right to that water, shall be included in the total amount of water for which the State contracts with the United States to receive from Fontenelle in the denominator of the formula set forth in this Section 5.C. of the Contract, which is used to determine Contractor’s Normal Annual OM&R Charges.

- D. Major Dam Repair and Construction Payments.** In addition to payments under Section 5.A., 5.B. and 5.C., Contractor shall pay to the State a proportionate share of the actual cost of any Major Dam Repair and Construction at Fontenelle which is allocated to the State by the United States and computed in the same manner as the Normal Annual OM&R Payment in Section 5.C. of this Contract. Major Dam Repair and Construction payments shall not be reduced in the event drought or other acts of nature (force majeure) interrupt or limit releases of the Contract Water Amount. However, costs incurred by the State to further expand the useable active capacity of Fontenelle, including without limitation the riprap project under consideration by the State as of the date of this Contract, which is designed to

increase the useable active capacity of Fontenelle by approximately eighty thousand (80,000) acre-feet, shall not be included in the Major Dam Repair and Construction Costs allocated to Contractor by the State. To the extent that such Major Dam Repair and Construction charges exceed five dollars (\$5.00) per acre-foot, Contractor may elect to pay that portion of such charges which exceed five dollars (\$5.00) per acre-foot over a period not to exceed twenty (20) years after such charges are first invoiced to Contractor. Contractor's right to make such an election is conditioned upon executing a separate written agreement with the State which contains all payment terms as mutually agreed upon by the Parties. If Contractor's obligation under this section will not be paid in full by the twentieth year, that portion of Contractor's obligation which remains due at the end of the twentieth year shall be paid by Contractor at that time.

E. Annual Payments. Contractor shall make the annual payments specified in Sections 5.A., 5.C. and 5.D. in the following manner (payments for the Purchase Water Amount, as specified in Section 5.B. are addressed in Section 6.A.):

- (i) The State shall supply an annual invoice or statement to Contractor for the applicable Readiness-To-Serve payments as specified in Section 5.A., the Normal Annual OM&R Payments as specified in Section 5.C., and any Major Dam Repair and Construction costs as specified in Section 5.D. Invoices/statements shall be addressed as follows:

WE Soda Alkali LLC, Jocelyn Skiles, Accountant,
Jocelyn.Skiles@wesoda.com and Wesodaap.alkali@wesoda.com

- (ii) The State shall send the annual invoice to Contractor during the period from the first day of January to the first day of March of each year.
- (iii) The State's invoice will include, as an attachment, the United States' notice of estimated Normal Annual OM&R Charges and Major Dam Repair and Construction costs, as well as documentation pertaining to the actual Normal Annual OM&R costs from the previous year and Major Dam Repair and Construction costs, if any.
- (iv) Annual payments from Contractor under this section are due within thirty (30) days of Contractor's receipt of the State's annual invoicing by certified mail.

6. SPECIAL PROVISIONS.

A. Purchase Water Amount.

- (i) After receiving Contractor's written notice pursuant to Sections 5.B.(i) and 6.D., the State shall submit an invoice to Contractor for the Purchase Water Amount using the Base Rate or the Revised Rate, as applicable, as set forth

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in Section 5.B. The invoice shall be sent to the address identified in Section 5.E.(i).

- (ii) Advanced payment by Contractor for any portion of the Purchase Water Amount that is not released from Fontenelle according to Contractor's request or developed schedule under Section 6.D. shall be refunded by the State to Contractor at the same rate which Contractor paid for the unused water by January 31 of the following calendar year.
- (iii) During each calendar year, any portion of the Contract Water Amount not elected to be purchased by Contractor under Section 5.B. shall remain available under the Readiness-To-Serve service for purchase by Contractor for the balance of such calendar year.
- (iv) Upon receipt of a proper invoice, Contractor shall pay the invoiced amount to the State within thirty (30) days.
- (v) Upon failure of Contractor to make timely payments in accordance with Sections 5 and 6 of this Contract, and upon thirty (30) days written notice to Contractor by the State and failure to cure such non-payment by Contractor, this Contract shall terminate at the option of the State.

B. Relinquishment.

- (i) If at any time during the Term the State receives a bona fide written offer to purchase water from Fontenelle on a temporary basis not to exceed one calendar year, which necessarily involves the use of any portion of the Contract Water Amount, the State shall not accept such offer until it: (i) notifies Contractor of the terms of such offer in writing by certified mail and (ii) allows Contractor the opportunity to purchase, within sixty (60) days of receipt of such notice, the same amount of water up to the Contract Water Amount which is the subject of such bona fide temporary annual purchase offer at the same price as that being offered by the proposed purchaser or at the purchase price set forth in section 5.B., whichever is less. The bona fide temporary annual offer shall be deemed to necessarily involve a portion of the Contract Water Amount if the total Fontenelle water contracted from the State, including the bona fide offer, exceeds the total acre-feet to which the State is entitled under the Federal Contracts. If the State exercises the provision in this section, the State will reimburse Contractor for the Readiness-To-Serve fees for the amount of the water relinquished and restore Contractor's original Contract Water Amount the succeeding calendar year.
- (ii) The Parties recognize that an express purpose of this Contract is to maximize the beneficial use of the waters of the State of Wyoming and the Parties agree that this purpose shall guide the interpretation of this Contract,

anything to the contrary contained herein notwithstanding. To this end, negotiations by the State and solicitations of offer(s) to contract with another entity for the purchase and sale of water shall not be deemed a breach of this Contract. The State shall be free to make any disposition it chooses of any portion of the Contract Water Amount in any year in which Contractor has relinquished its Readiness-To-Serve rights or elected not to acquire the Purchase Water Amount.

C. Contract Water Amount Increase. At any time during the Term, Contractor may provide a written notification to the State requesting that the Contract Water Amount be increased. The State agrees to use its best effort to accommodate Contractor's request to increase the Contract Water Amount in which case the Parties shall enter into a mutually acceptable written amendment to this Contract reflecting the terms of any increase to the Contract Water Amount.

D. Delivery.

- (i) Contractor shall provide at least sixty (60) days written notice to the State of Contractor's desired schedule of release date(s) and amounts of the Purchase Water Amount so elected under Sections 5.B. and 6.D.
- (ii) The State shall exercise all rights under the Federal Contracts to arrange for release to Contractor of the Purchase Water Amount at such rates of flow as Contractor shall specify in its desired schedule provided to the State. In the event that Contractor's desired schedule for releases conflicts with the Bureau of Reclamation's Fontenelle operating plans or rules, or creates problems related to the State's other obligations concerning regulation and releases from Fontenelle for which the State cannot overcome by the exercise of reasonable effort and expense and which require a change in the Contractor's desired schedule (e.g. rate of flow, timing of flow requested, etc.), then the State shall notify Contractor at the earliest time reasonable under the circumstances. The Parties will use their best efforts to develop a schedule that will accommodate Contractor's needs and avoid the Fontenelle water release problems.
- (iii) Contractor shall divert the Purchase Water Amount at its existing point of diversion on the Green River, described and located as follows:

SE1/4 SE1/4 of Section 16, Township 20 North, Range 109 West

The Purchase Water Amount may be diverted at a point other than Contractor's existing point of diversion only upon agreement of all Parties. Release by the State of the Purchase Water Amount into the Green River at the Fontenelle Dam shall constitute delivery of the Purchase Water Amount to Contractor. Contractor shall use the Purchase Water Amount for

municipal or industrial purposes, or both, within the State of Wyoming, except as provided in Section 6.D.(iv).

- (iv) Contractor may not transport the Purchase Water Amount for use outside the State of Wyoming without complying with applicable Wyoming Statutes then in effect.
- (v) Contractor shall use the Purchase Water Amount as replacement water should the direct flow source of Contractor's appropriation under Permit 20077.0D become insufficient, in full or in part, to supply the appropriation. In the event Contractor intends to use the Purchase Water Amount in addition to, rather than replacement of, diversions made under Permit 20077.0D, Contractor shall notify the State and Bureau of Reclamation in writing of its intent at least one year prior to the Purchase Water Amount being released. The State shall request that the Bureau of Reclamation complete any necessary environmental compliance, including but not limited to compliance with Section 7 of the Endangered Species Act of 1973 and compliance with the National Environmental Policy Act. Once any necessary environmental compliance is complete, the State will notify Contractor and the Purchase Water Amount will be available for release for the additional use under the terms of this Contract. The Purchase Water Amount shall not be released for uses other than to replace Contractor's appropriation under Permit 20077.0D until the State has been notified by the Bureau of Reclamation that environmental compliance is complete in accordance with Federal Contracts.
- (vi) Contractor shall be responsible for the control, carriage, handling, distribution and use of the Purchase Water Amount released and diverted at its point of diversion, and shall hold the State, its officers, agents and employees harmless from every claim for damage to person or property, direct or indirect, of whatever nature arising out of or in any manner connected with the control, carriage, handling, distribution or use by Contractor of the Purchase Water Amount. Contractor shall have no responsibility or liability for any damages which may result from a break of the Fontenelle Dam, escape of water from Fontenelle, or release of water from Fontenelle other than the Purchase Water Amount, excluding Major Dam Repair and Construction payments identified in Section 5.D..
- (vii) The Parties recognize that a detailed plan of operation is critical to the timely and efficient management of the Purchase Water Amount. Therefore, prior to Contractor making a request for release of the Purchase Water Amount, the Parties agree to cooperatively develop a detailed plan of operation subject to the review of the United States, that will outline the "day-to-day" guidelines of water management under this Contract, including but not limited to Fontenelle storage changes, releases, river

flows, evaporation, communication, reporting or any other detailed information relevant to administration of Contractor's rights hereunder.

E. Measurement.

- (i) The Purchase Water Amount shall be measured and accounted for at the Fontenelle Dam. Contractor shall assume any loss of any nature whatsoever occurring to the Purchase Water Amount between the Fontenelle Dam and Contractor's point of diversion. Conveyance loss shall be assessed by the State Engineer and may be determined by conducting a conveyance loss study on the system or by using an accepted loss value from a comparable system. All losses occurring to the Purchase Water Amount between the Fontenelle Dam and the point of diversion downstream shall be assessed at Contractor's point of diversion.
- (ii) All water diverted by Contractor from the Green River shall be measured at the point or points of diversion by means of recording measuring devices installed and owned by Contractor and approved by the Wyoming State Engineer. Such devices shall be rated as to accuracy upon request by the State at the expense of Contractor. It is recognized by the Parties that such measuring devices may, from time to time, be unable to accurately measure flow (routine maintenance, equipment malfunction, etc.). During such times, Contractor shall estimate the amount of water being diverted based on Contractor Historic Data; plant data or other comparable historic diversion or use data during comparable periods of previous years.

F. Operations.

- (i) It is mutually understood that the United States has reserved, under the Federal Contracts, the right to make rules and regulations to carry out the Federal Contracts and supply necessary details of administration thereunder. To the extent that the operation of Fontenelle may be consistent with Contractor's needs and the State's allocation hereunder, the State agrees to consult with Contractor periodically about its delivery requirements and to include representatives of Contractor in any conferences the State may have regarding specific operation plans for Fontenelle.
- (ii) As of the Effective Date of this Contract, Contractor is not able to predict for each calendar year during the Term how much Purchase Water Amount it may elect to receive or the schedule of deliveries. Accordingly, Contractor agrees to use its best efforts to provide the State, on or before March 1, prior to the time in each calendar year (May 1) when the United States develops its annual operating plan for Fontenelle, a tentative schedule for Fontenelle releases expected by Contractor for the calendar year in which deliveries will be made. Modifications to such schedule will be transmitted to the State by Contractor as far in advance of the actual required releases as possible

so that such schedule modifications can be incorporated into current operating procedures for Fontenelle.

- (iii) If, due to inadequate overall water supply at Fontenelle, the State is unable to provide all State contractors of Fontenelle water with the total amount of water available under the Federal Contracts, then Contractor's right to receive the Contract Water Amount may be temporarily reduced on a proportionate basis so that all shortages in supply are shared proportionately among all State contractors of Fontenelle water. A contract users' pro rata share shall be determined by dividing the contract users' entitlement by the total amount available to the State for use under the Federal Contracts.
- (iv) If the State is unable to provide Contractor the Purchase Water Amount for any reason in any calendar year, then the purchase price per acre-foot of the undelivered water shall be the Readiness-To-Serve fee. Contractor's subsequent Readiness-To-Serve payments due shall be credited as provided in Section 5.A.(iv).

G. Default. No Purchase Water Amount shall be released to Contractor under this Contract if Contractor is in default in making any payment due the State under this Contract.

H. Miscellaneous Provisions.

- (i) The State will comply with all applicable provisions of the Federal Contracts and will make all required payments to the United States when they become due. If the United States withholds from the State scheduled deliveries of the Purchase Water Amount to Contractor, Contractor shall be excused from making future payments in the same manner that the State is excused from future payment under the Federal Contracts, and will be credited for payments made for water not delivered. This section shall not in any manner make the State a surety for any negligent, misfeasant or malfeasant conduct of the United States.
- (ii) The State makes no warranty with respect to the quality of water released to Contractor, it being understood that this is raw, untreated water as it naturally occurs in the Green River at Fontenelle. In the use of the Purchase Water Amount, Contractor shall comply with all applicable State and Federal laws. Contractor shall comply fully with all laws, orders, standards, or regulations under federal, State and local jurisdictions now or hereafter in force as may be applicable to the facilities at which the Purchase Water Amount may be used.
- (iii) Contractor shall not make any sale, gift, delivery, assignment or other disposition of this Contract or the whole or any part of the Contract Water Amount or Purchase Water Amount except to any entity or entities

associated with or retained by Contractor for purposes and operations advantageous to the continued operation or expansion of the Westvaco Facility, without first obtaining the express written consent of the State. Nothing contained within this Contract shall be construed to require the State to approve any sale, gift, delivery, assignment or other disposition and the right to disapprove or reject the same is hereby expressly reserved. Notwithstanding the foregoing provisions, the State will not unreasonably withhold approval of the foregoing transfers and assignments:

- (a) To any mortgagee, trustee or secured party, as security for bonds or other indebtedness incurred by Contractor or its assigns, as specified above, for the Westvaco Facility; and subject to all provisions of this Contract, such mortgagee, trustee or secured party may realize upon such security in foreclosure or other suitable proceedings, and succeed to all rights and responsibilities of Contractor;
- (b) To any corporation or other entity acquiring all the property of Contractor or its assigns, as specified above, or of any subsidiary or affiliate of Contractor or its assigns, as specified above;
- (c) To any corporation or entity which Contractor or its assigns, as specified above, may be merged or consolidated.

Transfer or assignments shall not relieve Contractor of any obligation hereunder except as may be agreed in writing by the State.

- (iv) All successors and assigns, if any, of Contractor shall be bound by the terms and conditions herein and will be expressly precluded from using any water delivered under this Contract outside of Wyoming, except as provided herein.
- (v) Nothing contained herein relating to the assignability of this Contract shall preclude Contractor from entering into arrangements with others for the installation, construction, operation and maintenance of water diversion, carriage and distribution facilities by which the Purchase Water Amount, separately or together with other permitted water appropriations, may be applied to a beneficial consumptive use in Wyoming.
- (vi) Neither party hereto shall be, or be considered as, the agent, servant, or employee of the other party or be held responsible or liable for damages for the acts or conduct of the others.
- (vii) Wherever in this Contract a time for performance of an obligation is established, then it is agreed that time is of the essence.

7. **GENERAL PROVISIONS.**

- A. Amendments.** Any changes, modifications, revisions or amendments to this Contract which are mutually agreed upon by the Parties to this Contract shall be incorporated by written instrument, executed by all Parties to this Contract. The State will provide any such amendment to the Bureau of Reclamation, who will determine if the amendment requires additional environmental compliance. No amendment will be operative until the Bureau of Reclamation has notified the Parties that environmental compliance is either not required or has been completed.
- B. Federal Contracts.** This Contract is subject to and limited by the terms and conditions of the Federal Contracts, which have been attached hereto and incorporated herein by reference.
- C. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflict of laws principles. The terms “hereof,” “herein,” and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the Parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- D. Audit and Access to Records.** The State and its representatives shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract.
- E. Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- F. Entirety of Contract.** This Contract consisting of fifteen (15) pages; Attachment A, consisting of one (1) page; Attachment B, consisting of ten (10) pages; and Attachment C, consisting of thirty-five (35) pages, represents the entire and integrated Contract between the Parties and supersede all prior negotiations, representations, and agreements, whether written or oral.
- G. Force Majeure.** Neither Party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming Party. Such causes may include, but are not limited to, acts of God or the public enemy, droughts, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the Party failing to perform immediately notifies the other Party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

- H. Indemnification.** The Contractor shall release, indemnify, and hold harmless the State, the Wyoming Water Development Commission, and their officers, agents, and employees from any and all claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's negligence or other tortious conduct.
- I. Notices.** Notices to be given hereunder shall be deemed fully given and served when received by certified mail, addressed to the State in care of the Director, Wyoming Water Development Commission 6920 Yellowtail Road, Cheyenne, Wyoming 82002 or to WE Soda Alkali LLC, Huseyin Kuscus, Chief Financial Officer, P.O. Box 872, Green River, WY 82935 or at such other address as either Party shall hereafter designate in writing. Routine communications, including invoices/statements, shall be considered as duly delivered when addressed as follows: WE Soda Alkali LLC, Jocelyn.Skiles@wesoda.com and Wesodaap.alkali@wesoda.com or e-mailed to the Director and Fiscal Manager of the Wyoming Water Development Commission.
- J. Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Contractor shall be free from control or direction over the details of the performance of services under this Contract. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Agency or to incur any obligation of any kind on behalf of the State of Wyoming or the Agency. The Contractor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents or employees as a result of this Contract.
- K. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- L. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and the Wyoming Water Development Commission expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereign. The parties acknowledge that the State of Wyoming has sovereign immunity and only the

Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

- M. Termination.** This Contract may be terminated for cause as provided in Section 6.A.(v) of this Contract.
- N. Third Party Beneficiary Rights.** The Parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the Parties to this Contract and shall inure solely to the benefit of the Parties to this Contract. The provisions of this Contract are intended only to assist the Parties in determining and performing their obligations under this Contract.
- O. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- P. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- Q. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by Contractor of an originally signed counterpart of this Contract by PDF shall be followed up immediately by delivery of the originally signed counterpart to the State.

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8. **Signatures.** The Parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract intending to be legally bound.

WE SODA ALKALI LLC

Huseyin Kuscü, Chief Financial Officer

Date

WYOMING WATER DEVELOPMENT COMMISSION

Robert R. Choma, Chairman

Date

Todd Hoese, Secretary

Date

WYOMING STATE ENGINEER

Brandon Gebhart, Wyoming State Engineer

Date

GOVERNOR

Mark Gordon, Governor of Wyoming

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Megan Pope, Senior Assistant Attorney General

Date

ATTACHMENT A**Computation of Revised Purchase Rate**

- (1) At five year intervals from the Effective Date during the term of this Contract or any extension thereof, the State shall compute the increase, if any, using as a basis of such computation the United States Department of Labor Consumer Price Index (CPI) for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84 =100, hereinafter called the CPI, published by the United States Department of Labor, Bureau of Labor Statistics.
- (2) The Base Index Number (BIN) shall be the Index Number published by the United States Department of Labor for the month and year that this Contract is first entered into. The Current Index Number (CIN) shall be the corresponding CPI number for the month and year on each five year anniversary of this Contract and any extension thereof.
- (3) The increase in the CPI, if any, on each five year anniversary of this Contract shall be determined by dividing the CIN by the BIN and subtracting the integer 1 (one) from the quotient in accordance with the following formula: Increase in CPI = $CIN/BIN - 1$.
- (4) Seventy-five percent (75%) of the increase in CPI multiplied by eighty-eight dollars and no cents (\$88.00) shall be the increase required to be added to the eighty-eight dollars and no cents (\$88.00) as set forth above.
- (5) For example, if the BIN is 200 and the CIN at the first five year anniversary is 400, the price would be:

$$\$88.0 + [.75 \times (400/200 - 1) \times \$88.00] = \$154.00 \text{ per acre-foot per year}$$

At the ten year anniversary of the Contract, if the CIN is 800 the price would be:

$$\$88.00 + [.75 \times (800/200 - 1) \times \$88.00] = \$286.00 \text{ per acre-foot per year.}$$

FUTURE MEETINGS SCHEDULE

2026 WWDC/SWC MEETING SCHEDULE

<u>Date</u>	<u>Day</u>	<u>Program</u>
<u>DECEMBER</u>		
December 15-16, 2026	Tues-Wed	WWDC Workshop/Meeting – Review draft bills (Cheyenne)
December 17, 2026	Thursday	SWC – Review draft bills (Cheyenne)



2027 WWDC/SWC FUTURE MEETINGS SCHEDULE

Date:	Day:	Program Item:
<u>MARCH</u>		
March TBD, 2027	TBD	SWC Meeting (near legislative session end)
March 16, 2027	Tuesday	WWDC Workshop (Cheyenne)
March 17, 2027	Wednesday	WWDC Meeting (Election of Officers, Level I, II, III, SWPP Contract Approval)

MAY

May 4, 2027	Tuesday	WWDC Orientation (Cheyenne)
May 5, 2027	Wednesday	WWDC/SWC Workshop (Cheyenne)
May 6, 2027	Thursday	WWDC/SWC Joint Meeting, (New Level I & II Apps Review/Approval, SRF-IUP)

AUGUST

August 3-5, 2027	Tues-Thurs	WWDC/SWC Workshop/Summer Tour/ Meeting (TBD)
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SEPTEMBER

September 21-22, 2027	Tues-Wed	Consultant Selection Interviews (Cheyenne)
September 23, 2027	Thurs	WWDC Meeting, Selection Approval

NOVEMBER

November 3, 2027	Wednesday	WWDC/SWC Workshop (Casper)
November 4-5, 2027	Thurs-Fri	WWDC/SWC Joint Meeting (Preliminary Funding Recs prior to Wyo Legislature)
