



**STATE OF ARKANSAS**

**CLEAN WATER REVOLVING LOAN FUND PROGRAM**

**INTENDED USE PLAN**

**STATE FISCAL YEAR 2010**



**WATER RESOURCES DEVELOPMENT DIVISION**

**of the**

**ARKANSAS NATURAL RESOURCES COMMISSION**

**June 2009**

**STATE OF ARKANSAS**  
**CLEAN WATER REVOLVING LOAN FUND PROGRAM**

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**Prepared by the**  
**Arkansas Natural Resources Commission**  
**Water Resources Development Division**

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## **INTRODUCTION**

The State of Arkansas submits its Clean Water Revolving Loan Fund (CWRLF) Intended Use Plan (IUP) for State Fiscal Year 2010. The CWRLF is administered by the Water Resources Development Division (Division) of the Arkansas Natural Resources Commission (ANRC). This IUP was prepared by the Division. The Arkansas Development Finance Authority (ADFA) assists ANRC by acting as Agent, Financial Advisor and the Purchaser and Seller of Bonds.

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

This IUP contains a list of projects the State anticipates to fund and information on how the State plans to use the funds carried over from State Fiscal Year (SFY) 2009, the funds the State plans to request from the Environmental Protection Agency (EPA) during SFY 2010, the funds the State will provide to match the new EPA funds, and the funds the State receives from the repayment of loans previously made from the CWRLF program after allowance is made for debt service on outstanding bonds issued to fund the Program. We estimate that over \$69 million will be available to provide assistance during SFY 2010. A sources and uses of funds schedule is detailed in Chart 3.

The application for the FFY 2009 appropriated funds will be based on intended uses identified herein and available to the CWRLF as authorized by Title VI of the Clean Water Act (CWA) and in accordance with Arkansas Natural Resources Commission Title XVI.

The CWRLF program expects to disburse approximately \$18 million to projects in SFY 2010. All the projects listed are designed to help those areas ensure public health protection through affordable potable water and compliance with the Clean Water Act (CWA).

### **II. CWRLF GOALS**

Arkansas is committed to support the three major objectives found in Title VI, and has established its short and long term goals accordingly. Those objectives and our goals are set forth below.

#### **Objectives:**

- Hasten wastewater treatment facility construction in order to meet the enforceable requirements of the CWA,
- Emphasis nonpoint source pollution control and the protection of estuaries,
- Facilitate the establishment of permanent institutions in each State that would provide continuing sources of financing needed to maintain water quality.

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

1. Communicate the availability of the CWRLF Program by Division personnel at conferences or conventions during the year. We anticipate presenting program information at three (3) to five (5) conferences or conventions during the year. Also, we expect to mail approximately five (5) to ten (10) letters per month to various entities.
2. The Division anticipates applying for the FFY 2009 Capitalization Grant in SFY2010.
3. The Division anticipates entering into binding commitments with seven (7) Section 212 projects for a total of \$78 million. Out of these seven binding commitments the Division anticipates closing two (2) loans.

### **Long Term Goals:**

1. Achieve statewide compliance with Federal and State water quality standards by providing both traditional, low interest rate loans and innovative assistance to make affordable wastewater treatment projects and other eligible environmental improvements available to Arkansas communities and other qualified recipients.
2. Progress toward achievement of our long-term water quality compliance goal by achieving initiation of operation on projects in a timely manner.
3. Maintain the purchasing power of the CWRLF into perpetuity through sound and effective administration and fiscal management.

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

Loans and refinancing of debt are the only types of financial assistance provided to Section 212 projects. This decision was made because loans provide the most flexible use of the funds in the CWRLF program. Providing assistance for insurance or guarantees ties up the funds and restricts their uses.

The CWRLF provides assistance through linked deposits and direct loans for eligible section 319 non-point projects. Arkansas provides assistance through loans to wastewater projects for secondary treatment (1); advanced treatment (2); infiltration/inflow (3-A); major rehabilitation (3-B); new collectors (4-A); new interceptors (4-B) and other categories eligible for section 212 projects.

### **Policy on Setting Lending Rates and Loan Terms**

The lending rate is composed of two parts: the interest rate and the servicing fee. The lending rate is established at the time the project is approved by ANRC and is based on Arkansas' financial assistance objectives, an analysis of communities' ability to repay loans and the markets taxable or tax-exempt bond rate. The initial objective for ANRC is to establish a lending rate for CWRLF loans ranging from 100 basis points to 200 basis points below current bond market's taxable or tax-exempt rate depending on whether the project qualifies for a taxable or tax-exempt rate.

At this time, ANRC has made no taxable loans. The servicing fee is currently set at 1.0%, and the interest rate at 2.25%, making the lending rate 3.25%. The servicing fee is the same for all projects, so the interest rate changes as the lending rate changes. Arkansas varies the lending rate in this manner to encourage repayment of the loans as quickly as possible in order for the CWRLF program to fund other projects.

The current interest rate of 2.25% applies to loans with a 20 year repayment period. The CWRLF also offers a repayment period up to 10 years at an interest rate of 2.00%.

#### **Administrative Costs of the CWRLF**

The Division intends to use an amount equal to four percent (4%) of the federal grant funds for payment of administrative expenses, and any additional administrative costs will be paid from servicing fees. The servicing fees are deposited into an account outside the CWRLF and not subject to the four percent administration cap applicable to the CWRLF. Approximately \$9 million in service fees are expected to be available in SFY 2010. The projected administrative cost of the CWRLF program during SFY 2010 is \$1.4 million as shown in Chart 4.

#### **IV. ASSURANCES AND SPECIFIC PROPOSALS**

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

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

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

The State of Arkansas will enter into binding commitments for 120% of each quarterly payment within one year of receipt of that payment.

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

The State of Arkansas will expend all funds in the CWRLF in a timely and expeditious manner. Federal EPA payments and the associated State Match shall be expended within 16 quarters from scheduled payment dates. The bond proceeds shall be expended within three years from the bond issue dates.

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

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

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

The State of Arkansas will conduct environmental reviews as specified in the Project Review Procedures of the Operating Agreement. To date, none of the projects that have gone through the CWRLF program have required an Environmental Impact Statement. The projects were either issued a Finding of No Significant Impact or a Categorical Exclusion.

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

The State of Arkansas agrees to deposit into the CWRLF, or make available through a letter of credit or a letter of credit type instrument, monies in an amount equal to 20 percent of each grant payment on or before the date on which the State receives each payment from the grant award. The State of Arkansas will fund the required State Match by using State appropriations, grants from State funding programs, bond proceeds, or servicing fees.

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

The approach used to develop Arkansas' proposed distribution of its SFY 2010 CWRLF funds is as follows:

**Policy on Allocation of Funds**

Allocation of funds among the eligible projects was based on a three-step process.

**1.     Type of Communities Served and Financial Assistance Needed**

Loans and refinancing of debt will be the only types of financial assistance provided to projects eligible under section 212. Because of the sufficiency of loan repayments and ANRC's access to the municipal bond market, financing or refinancing is available for both large and small communities. Arkansas anticipates closing loans to two (2) communities

with populations of less than 5,000 during SFY 2010, for an aggregate total of 69 small communities.

Arkansas has placed \$25 million in linked deposits in commercial banks throughout the state. Rural landowners are able to obtain below market interest rate loans to be used to implement nonpoint source pollution control activities. ANRC has no plans to increase the \$25 million; however we do reserve the right to make modifications. The Agriculture Water Quality Loan Program revolves like the SRF program with new loans processed from loan repayments.

## **2. Sources of Funds**

Arkansas' total funding sources for the CWRLF for SFY 2010 are identified in Chart 3. With the capitalization grants for FFY 2009, the required State Match for those capitalization grants, bond proceeds, interest earnings, fees collected, and loan repayments, Arkansas will have approximately \$69 million available during SFY 2010 for existing projects and future eligible Program purposes. Please note in Chart 3 that the remaining balances on loans to be disbursed exceed resources carried over to following year. Chart 2 summarizes requirement limits for administration fees, and state match for Arkansas.

Arkansas' EPA payment schedule is based on the State's projection of binding commitments for selected projects included in Chart 1 of this IUP. Chart 4 shows Arkansas' expected disbursements. Chart 4 also shows the projected letter of credit draws proposed so that the federal share of disbursements for the selected projects will not exceed a cumulative average of 83.33%.

Arkansas anticipates implementing a new system for leveraging bonds in SFY 2010 and part of that new system will be cross-collateralization. We will contact EPA Region 6 regarding our leveraging prior to any activities. Our cash flow chart may be subject to change.

## **3. Allocation of Funds among Projects**

### **Priority List and System**

The available funds will be allocated in accordance with the current priority system by priority ranking, ability of the community to enter into a binding commitment and ability to proceed. The priority list is found in Appendix B, and the allocated funds amounts are summarized by quarter in Chart 1. Please note that Arkansas may use any projects found in the priority list that is included in Appendix B.

All projects scheduled for funding with Arkansas' CWRLF have been reviewed for consistency with appropriate plans developed and approved under Sections 205(j), 208, 303(e), 319 and 320 of the Clean Water Act, as amended. Evidence of this review and finding of consistency is documented in each CWRLF project file.

Cross-cutter equivalency standards are applied to each Section 212 project. Each project will be subject to a technical review sufficient to determine compliance with equivalency requirements.

The status of the National Municipal Policy (NMP) projects in this Intended Use Plan will not be affected by the work contemplated. All of the Section 212 projects listed on the NMP List have been:

- (a) Previously funded, or
- (b) In compliance, or
- (c) On an enforcement schedule, or
- (d) Have an enforcement action filed

The Division works with the NPDES Enforcement Section of the Water Division of the Arkansas Department of Environmental Quality to implement long-term goals (see Long-Term Goals No. 1 and 2). None of the binding commitments listed in Chart 1 are with cities that are out of compliance.

The current Priority System and List quantifies relative water quality and/or public health importance of individual projects and adds an extra 5,000 points for those cities with executed Memoranda of Agreement (MOA). Communities that have met with the Division and have indicated they will enter the program but have not executed an MOA will have 2,500 points added to their score.

### **Bypass Procedures**

If a project's readiness to precede status changes after it was placed on the Fundable List, the Division reserves the right to put the project on hold and take another project from the Priority List that is ready to proceed in its place. If a project is not ready to proceed, the Water Division will substitute the next project on the priority list that is ready to proceed. Arkansas' intention is to fund every project on the Priority List as it becomes ready to proceed.

### **Disbursement Schedule**

The disbursement schedule shown in Chart 4 is based on the anticipated dates for binding commitments, project start-up/beginning of disbursements, and initiation of operation.

Generally, project invoices are primarily for construction and are scheduled to be submitted for payment by the communities or agencies beginning approximately three months after entering into binding commitments.

Chart 4 displays the disbursement schedules for the selected projects and projected Federal EPA payment draw downs, summarized by quarter, to pay invoices submitted for CWRLF assisted projects.

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

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

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

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

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

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

## **VIII. ENVIRONMENTAL BENEFIT REPORTING**

Arkansas has volunteered to fill out the environmental benefits one page worksheet recently developed with EPA and ASWIPCA to satisfy the mandatory output/outcome requirements of EPA order 5700-7. We will send the completed worksheets for all loans closed in SFY10 with the SFY10 Annual Report.

CHART 1

INTENDED USE PLAN PROJECTS

<u>PAGE:</u>	<u>ITEMS</u>
1	Total Binding Commitments for SFY 2009
2	Total Binding Commitments for SFY 2010

CHART 2

STATUTORY LIMITS ON RLF FUNDS

CHART 3

SOURCES & USES OF FUNDS

Projected Sources and Uses of Funds for SFY 2009 and 2010

CHART 4

TOTAL CWRLF DISBURSEMENTS SCHEDULE

<u>PART</u>	<u>ITEM</u>
1	Total CWRLF Projects and Administration for SFY 2009
2	Total CWRLF Projects and Administration for SFY 2010

CHART 5 RLF LOAN PROJECTS

Disbursements, Interest, Principal Outstanding & Repayments

**APPENDIX A**

**PUBLIC NOTICE**

**STATE OF ARKANSAS**

**ARKANSAS NATURAL RESOURCES COMMISSION**

**PUBLIC HEARING & NOTICE REPORTS**

On June 7, 2009, the State of Arkansas published the required public notice advertisement for the Intended Use Plan in the Arkansas Democrat-Gazette, a statewide paper. A public meeting was scheduled for June 22, 2009 and a deadline for submittal of written comments was set for June 22, 2009. Copies of the IUP were available for public inspection at the Water Resources Development Division of the Arkansas Natural Resources Commission. A meeting was held on June 22, 2009 at ANRC offices in Little Rock, to accept comments on the Intended Use Plan. Representatives of ANRC were available to answer questions about the Clean Water IUP.

The comments received in our public hearing were in support of the Intended Use Plan.

**APPENDIX B**

**PROJECT PRIORITY LIST**

**REFERENCE**

**STATE OF ARKANSAS  
CLEAN WATER REVOLVING LOAN FUND  
PRIORITY SYSTEM AND LIST**

**STATE OF ARKANSAS  
ARKANSAS NATURAL RESOURCES COMMISSION**

# **CLEAN WATER REVOLVING LOAN FUND**

## **PRIORITY SYSTEM AND LIST**

**(Effective July 1, 2009)**

### **INTRODUCTION**

The Arkansas Natural Resources Commission (ARNC) has prepared a list ranking all known entities eligible for funding under the Clean Water Revolving Loan Fund (CWRLF) program as authorized by Title VI of Public Law 100-4 and administered by the Water Resources Development Division of ARNC, and Arkansas Development Finance Authority (ADFA).

The Priority System is based on protecting the natural ecosystems. It looks at the surface and subsurface conditions surrounding an entity and compares those conditions with those found surrounding other entities. The priority is to protect sensitive ecological areas of the State, protect small watersheds, protect unsuitable soils from use by septic tanks and aid entities in meeting the requirements of the Clean Water Act.

Funding for projects will be established in the Intended Use Plan. Both the Priority System and List and the Intended Use Plan will be developed under the public participation requirements of 40 CFR 25 and 35.

The CWRLF Priority System and List presented in this document will be effective July 1, 2009.

This document is divided into two (2) sections:

Part One: CWRLF Priority List

Part Two: CWRLF Priority System

## **PART ONE**

## **PRIORITY LIST**

## PROJECT PRIORITY LIST

The following list is of projects submitted to ANRC for possible funding from the Clean Water RLF program. The projects are listed in order of the ranking in the Priority System of each entity that submitted the project and will fund the project. The list will be updated from time to time as provided for in Title XVI of the ANRC. Projects will be removed from the list when they receive funding commitment(s) for their project from any source(s) or when they request their project be removed. Funding commitment for the Clean Water RLF program will mean an executed Bond Purchase Agreement (Binding Commitment).

Entity	NPDES Permit # AR00	Points	Eligible Project Cost	Type of Assistance	Project Description
Batesville	20702	2,514	44,000,000	Loan (212)	Expansion of the treatment plant
Flippin	21717	2,508	6,000,000	Loan (212)	Expansion of the treatment plant
Gravette	23833	2,511	9,000,000	Loan (212)	Expansion of the treatment plant
Green Forest	21741	2,516	12,000,000	Loan (212)	Expansion of the treatment plant
Haskell #2	44547	2,516	1,450,000	Loan (212)	New Collection & treatment system
Prairie Grove	22098	2,515	2,450,000	Loan (212)	Rehab the existing treatment plant
Vilonia	41721	2,513	3,500,000	Loan (212)	Expansion of the treatment plant
TOTAL			78,400,000		

**PART TWO**  
**PRIORITY SYSTEM**

## PROJECT RANKING

The purpose of this system is to quantify the relative water quality and/or public health importance of individual entities located throughout the State. The Revolving Loan Fund (RLF) Priority System does not consider the type of project being considered or try to rank one type of project over another type. The RLF Priority System considers the following criteria to evaluate the relative merits of each entity:

- 1) Population
- 2) Segmented or Phased Projects
- 3) Receiving Stream Use Classification
- 4) Receiving Stream Flow
- 5) Enforcement Factor
- 6) NPDES Permit Compliance
- 7) Septic Tank Failure
- 8) Septic Tank Suitability
- 9) Executed Memorandum of Agreement

These factors are multiplied together (or added in the case of executed memorandum of agreement) to determine each entity's priority points.

### 1) Population

The population factor is determined by dividing an entity's 2000 census population by the population total for all entities in the priority system and multiplying by 1,000. If a 2000 census figure does not exist, the current population will be used.

### 2) Segmented or Phased Projects

All segmented or phased projects will be awarded a factor of 10.

### 3) Receiving Stream Use Classification

This factor is based upon the receiving stream classification in the Arkansas Water Quality Standards as contained in Regulation Number 2 (as amended) of October 28, 2002. The factors used are as follows:

Extraordinary Resource Waters	-	8.00
Natural and Scenic Waterways	-	8.00
Ecologically Sensitive Waterbodies	-	8.00
Trout Fishery	-	8.00
Primary Contact Recreation	-	4.00
Secondary Contact Recreation	-	2.00
No Discharge	-	1.00

The factor shall be awarded based upon the highest use classification of a given stream. Entities that discharge into another sewer system will use the classification of that sewer system's stream.

4) Receiving Stream Flow

This factor is used as a quantitative indicator of receiving stream flow at seven day-ten year (7Q10) low flow conditions. The factors used are as follows:

0 cubic feet/second	8
Greater than 0, but less than 10 cubic feet/second	4
Greater than 10, but less than 100 cubic feet/second	2
Greater than 100 cubic feet/second	1

If an entity discharges into receiving waters in two different categories, the factor will be prorated based upon the quantity of each discharge and its receiving stream classification.

For unsewered entities, the largest stream within a one mile radius will be used in determining the stream classification. Entities that discharge into another sewer system will use the classification of that sewer system's stream.

5) Enforcement Factor

Entities which have a sewer connection ban in effect pursuant to an order of the Commission on Pollution Control and Ecology and which require construction of facilities to meet the provisions of said order will be awarded a factor of 2000.

6) NPDES Permit Compliance

Entities with permits that are currently expired or are under an enforceable compliance schedule will have a factor of 10.

7) Septic Tank Failure

This factor is the percentage of septic tank failure as reported to the Department by the Arkansas Department of Health multiplied by 10. This factor applies only to unsewered entities.

8) Septic Tank Suitability

The soil suitability for septic tank use within an entity is determined from soil survey

information obtained from the Soil Conservation Service and uses their classification system for septic tank use. Soils well suited for septic tanks are classified as SLIGHT and given a point value of 1; MODERATE soils are those in which septic systems sometimes fail and are given a point value of 2; and SEVERE soils unsuitable for septic systems have a value of 3. The soils within a one mile radius of the unsewered entity are used in the rating. The classification with the highest percentage in this area will have its point value used in the priority system. This factor applies only to unsewered entities.

9) Executed Memorandum of Agreement

Entities with executed MOA's from the Division will have 5,000 points added to their score. Entities that have met with the Division and have indicated they will enter the program, but have not executed a MOA will have 2,500 points added to their score.

The ranking for all entities is presented in the following two sections, alphabetically and by rank.

**PRIORITY SYSTEM**

## **PROJECT RANKINGS**

### **PRIORITY SYSTEM**

#### **Alphabetical Listing**

**PRIORITY SYSTEM**

**Listing by Rank**

**APPENDIX C**  
**CASH FLOW DIAGRAM**



Clean Water  
Cash Flow Chart

