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## MEMORANDUM

### Application of Disadvantaged Community and Affordability Standards to the North Central Missouri Regional Water Commission Water Supply Project- East Locust Creek Reservoir

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#### I. Overview

In 2001, at the encouragement of Missouri Department of Natural Resources (“MDNR”), four water districts in Sullivan County, (City of Milan, City of Green City, City of Green Castle and Sullivan County Public Water Supply District #1) banded together to form the North Central Missouri Regional Water Commission (“NCMRWC” or “the Commission”). The purpose of the Commission is to provide for wholesale treated water needs and address the chronic and acute water shortage in the region through the construction of a water supply reservoir, known as the East Locust Creek Water Supply Reservoir. The project is described in greater detail in the Preliminary Engineering Report and Feasibility Analyses for Water System Source Improvements. Given the size, scope, and unique nature of the East Locust Creek Water Supply Reservoir, project funding is being sought from a number of local, State and Federal sources, including loan/grant funding and the refinancing of existing debt through the Drinking Water State Revolving Fund (“DWSRF”). The purpose of this memo is to provide an understanding of the application of the DWSRF disadvantaged community and affordability priority measurement application requirements to a project of this type and to illustrate the project’s compliance with the requirements of the fund, and specifically, the Disadvantaged Community designation.

#### II. Issues and Summary Conclusions

##### A. Disadvantaged Community Measurement

Issue: Does the NCMRWC project meet the “disadvantaged community” standards to qualify for preferential grant rate of 75 percent and loan rate of 25 percent?

Conclusion: Yes, the NCMRWC project and current service area meets the definition of “disadvantaged community” for the purposes of preferential grant/loan funding through the Missouri DWSRF.

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## **B. Affordability Priority Points**

Issue: What is the NCMRWC project's eligibility for refinancing funding priority points assigned through the Missouri Drinking Water State Revolving Fund (DWSRF)?

Conclusion: The NCMRWC is eligible for the maximum priority funding points in the Affordability category as identified by the MNDR.

## **III. Analysis and Discussion**

### **A. Disadvantaged Communities**

#### **1. Additional Subsidies for Disadvantaged Communities - Definition**

In order to qualify for the "Additional Subsidies" category of grant funding that allocates up to 75 percent grant and 25 percent loan<sup>1</sup> the NCMRWC must show that it serves disadvantaged communities<sup>2</sup>. A disadvantaged community is defined as an applicant that:

"A. Has a population of three thousand three hundred (3,300) or less based on the most recent decennial census;

B. Has a median household income at or below seventy-five percent (75%) of the state average median household income as determined by the most recent decennial census; and

C. Has an average water user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the applicant."<sup>3</sup>

As described below, the NCMRWC project communities meet these criteria.

#### **2. Disadvantaged Community – Application**

##### **a. Population of 3,300 or Less**

The NCMRWC project is unique in that it is watershed-based and will consolidate the water supply to four existing water systems and serve the multiple small incorporated areas currently served by those systems. Moreover, the water supply reservoir is designed and targeted by the MDNR and NCMRWC to service a ten county area. The definition for disadvantaged community described above identifies a single community. It appears that neither the state regulations nor the Intended Use Plan specify how to determine whether a multi-jurisdictional project with multiple water systems and communities qualifies for disadvantaged community status. In reviewing the CSR requirements for context to determine whether an application for

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<sup>1</sup>MDNR's *Drinking Water State Revolving Fund Loan Program and Set-Aside Programs Intended Use Plan for State Fiscal Year 2013*, Part 1, Section IV.C (pg. 7) ("Intended Use Plan").

<sup>2</sup>Missouri Code of State Regulation (10 CSR 60-13.020(4)(C).3) and Intended Use Plan at 7.

<sup>3</sup>Id. As a note, the Intended Use Plan appears to modify criteria C, above, by stating that, "[p]er 10 CSR 60-13.020, a disadvantaged community is any community with a population of less than 3,300, whose user rates will be at or above 2 percent of the state median household income and the recipient median household income is at or below 75 percent of the state average" (emphasis added). The requirement stated in 10 CSR 60-13.020(4)(C)3.C, above, does not specify state MHI but looks at median household income of the applicant, which would be local MHI. We have based our analysis on local MHI, but the project would also meet the requirements if measured against state MHI.

multiple communities is feasible, it appears that the program is specifically designed to be applicable to “projects to consolidate water supplies;”<sup>4</sup> by definition this would include more than one community. This conclusion is supported by the Additional Priority Point Categories section of the Intended Use Plan,<sup>5</sup> where priority points, and therefore project ranking on the state funding list, are provided for consolidation of two or more public water systems. Where consolidation is encouraged as a goal and priority of the DWSRF program, it is necessary to be able to submit an application that may include multiple disadvantaged communities.

Building on the conclusion that an application may involve multiple communities, the next step is to determine whether those communities should be measured either individually or considered as a group<sup>6</sup> to ascertain compliance with the definition of disadvantaged. The Missouri CSR leaves open the specific definition of “community” for the purposes of determining disadvantaged community status; however, community is defined by the U.S. EPA as: “the lowest level of local government within which the water system provides service (for example, cities, counties, and districts).” According to the EPA, there is a distinction between a community and a water system: “[a]lthough some communities own and operate systems, the distinction between communities and water systems is important.” Following that definition and distinction, we have determined that the communities within the project area must be measured individually or the definition would have specified that the measurement be made based on the water system, not the community. Accordingly, the NCMRWC analysis is based on the individual statistics from the multiple existing incorporated areas or communities within the existing project water system service areas. As identified in the Preliminary Engineering Report and Feasibility Analyses for Water System Source Improvements, each of the incorporated areas that are currently served by the NCMRWC has a total population of less than 3,300 and therefore qualifies for the first criteria of the disadvantaged community definition.

#### **b. Median Household Income at or Below 75% of State Average**

The NCMRWC’s service area is one of the poorest regions of the state. According to the U.S. Census Bureau’s American Community Survey (2006-2010), and as identified in the Preliminary Engineering Report and Feasibility Analyses for Water System Source Improvements, the median household incomes range from 73.3 percent to 33.3 percent, meaning that every community within the service area has a median household income at or below 75 percent of the state average. Multiple communities within the Commission’s service area have a median household income of less than 50 percent of the state average. This means that many local households have a household income that is at or below one-half of that of the state average of \$46,262, which translates to an average household income in the range of \$23,131 or lower for the service area. This is significantly below the disadvantage community requirement of median household income at or below 75 percent of the state average. The communities within the

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<sup>4</sup>10 C.S.R. 13.020(1)(C)5.

<sup>5</sup> Appendix D, Missouri Drinking Water State Revolving Fund Priority Points Criteria, Water Protection Program Fact Sheet, pg. 5 (6/2011, PUB2362) (“Priority Points Criteria Fact Sheet”).

<sup>6</sup> Based on our analysis, we believe that it is important to look at each community individually to determine disadvantaged status. If MDNR reaches the conclusion that the communities should be grouped for the purposes of disadvantaged analysis, we believe that the calculation should accurately weight and reflect the different community sizes and household incomes and not be based upon a simple average.

NCMRWC project area therefore also qualify for the second criteria of the disadvantaged community definition.

**c. Current Regional User Rate Analysis In Comparison To State Average User Rates**

A comparison of statewide user rates, as reported in the Missouri Rural Water Association's 2012 User Rate Survey, to median household income in the NCMRWC project area shows that the proposed service area is clearly in need of a reduction in short term and long term water rates. According to the definition of disadvantaged community, the “average water user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the applicant.” This means local water users should be required to spend no more than two percent of their average income on water. Local user rates in the incorporated areas of NCMRWC service area currently range from 3.62 percent to 6.55 percent, much higher than the two percent limit established by the disadvantaged community definition. Local residents pay a higher, sometimes much higher, percentage of their income for water service than should be necessary. Even when compared to the state MHI, the local percentage of user rates is still 2.18% based on the NCMRWC rates that are currently \$84.17 per 5,000 gallons average. Accordingly, the communities within the NCMRWC project area also qualify for the third criteria of the disadvantaged community definition.

**3. Disadvantaged Community – Conclusion**

The incorporated communities located in the NCMRWC project area qualify as individually as disadvantaged communities pursuant to the standards established in 10 CSR 60-13.020(4)(C).3 and the Intended Use Plan. Following the criteria established in the Intended Use Plan,<sup>7</sup> the NCMRWC project should be eligible for the highest level of priority grant funding that will be committed to projects serving disadvantaged communities.

**B. Debt Refinancing - Affordability**

NCMRWC also seeks to qualify for DWSRF funding to refinance existing debt at a reduced interest rate. The Intended Use Plan states that “many public water systems, particularly small water systems, have difficulty obtaining affordable financing for the current infrastructure improvements needed.”<sup>8</sup> Accordingly, the federal appropriations to the DWSRF “are used primarily to fund low interest loans to public drinking water systems for high priority infrastructure projects.”<sup>9</sup>

To determine the priority ranking of funding requests, MDNR relies on an established set of “Priority Points Criteria”<sup>10</sup> against which all funding requests are measured. The Priority Points Criteria has four categories of potential points: 1. Safe Drinking Water Act Compliance, 2. Public Health, 3. Affordability, and 4. Additional Priority Point Categories. Where, as here, the project involves the refinancing of existing debt the only category that is applicable is

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<sup>7</sup>Intended Use Plan at 7.

<sup>8</sup> Id. 1.

<sup>9</sup> Id.

<sup>10</sup>Priority Points Criteria Fact Sheet at 1.

Affordability.<sup>11</sup> Affordability points are based on the median household income measurements of the Disadvantaged Community definition<sup>12</sup> and are awarded as follows:<sup>13</sup>

“B. Assignment of Points. (Limited to a maximum of 25 points)

1. 10 points will be assigned a project sponsored by a community water system with an annual median household income below the annual median household income for either the metropolitan or nonmetropolitan area, as applicable.
2. From 1 to 25 points will be assigned, determined by the ratio of monthly water bill for 5,000 gallons of water to the monthly median household income for the project area to be served (expressed in percent times 10) and rounded to the nearest whole number.

For example: Monthly water bill = \$20

Annual median household income = \$24,000

Monthly median household income = \$24,000/12 = \$2,000

$(\$20/\$2000) \times 100\% = 1\%$

$1\% \times 10 = 10 \text{ points}^{\text{”}}$

Both of these categories are analyzed in this memo and found to exist in the project area. Section III.A.2.b provides a statistical description of the very low median household income in the project area, and Section III.A.2.c provides an analysis of the regional water rate. Based on the existence of both criteria, it is reasonable to conclude that the project will qualify for a significant percentage of the applicable Affordability points.

#### **IV. Conclusion**

The incorporated areas within the NCMRWC service area meet the three-part definition of “disadvantaged communities” for the purposes of preferential grant funding from the Missouri Drinking Water State Revolving Fund Loan Program. Based on this analysis, the project should also qualify for Affordability priority points.

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<sup>11</sup> Id.

<sup>12</sup> The Intended Use Plan, Part 1, Section IV.C (pg. 7) states that: “2. Refinancing projects are not eligible for grant funding unless the community is disadvantaged.” We have shown disadvantaged status for the project in Section III.A of this memorandum.

<sup>13</sup> Id. at 4-5. Affordability points are available only for community water system projects and measurement is based on “the annual median household income for the appropriate political subdivision or subdivisions encompassing its service area”