

**DEPARTMENT OF NATURAL RESOURCES  
AND  
ENVIRONMENTAL CONTROL**

**Delaware Water Pollution Control Revolving Loan Fund**

**Workshop**

July 2011

OFFICE OF THE SECRETARY  
FINANCIAL ASSISTANCE BRANCH

# Delaware Water Pollution Control Revolving Loan Fund Workshop

- Welcome
- Introductions
  - Terry Deputy, FAB Administrator
  - Greg Pope, Engineer VI
  - Frank Paquette, Fiscal Management Analyst
  - Davison Mwale, Engineer IV
  - Terence Martin, Engineer IV
  - Reza Moqtaderi, Engineer III
  - Kathy Weldon, Fiscal Analyst
  - James Sullivan, Planner
  - Jessica Velazquez, Administrative Specialist II
- Workshop Purpose
  - To provide municipal government representatives, private wastewater utilities, consultant engineers, and other interested individuals with a detailed overview of the Delaware Water Pollution Control Revolving Loan Fund, and related financial assistance programs
  - To ensure that potential loan applicants understand project assistance eligibilities, program process, and the timing for submitting project assistance requests
  - To be a resource for applicants seeking financial assistance for wastewater, stormwater and other water quality improvement projects

- Clean Water SRF

- 1990 - Delaware Water Pollution Control Revolving Loan Fund program was created; federal capitalization grants seed the program along with required twenty percent state matching funds
- Since its inception, 18 federal capitalization grants and state matching funds have been awarded. The program has provided 104 loans for municipal wastewater projects totaling more than \$309 million and 1,211 loans for non-point source pollution control projects totaling more than \$13 million
- CWSRF Program Updates
  - Interim Interest Rate Policy Adjustment: 62.5% of Municipal Bond Yield, minimum interest rate 3%
  - Interest Rate for Green Projects: 1.0% for ranked projects up to \$1.44 million, and 2% over \$1.44 million
  - Private Wastewater Utilities CWSRF Eligibility – Delaware National Estuary Watershed
  - Source Water Protection Loans for Drinking Water Supplies
  - Land Conservation Loan Sponsorship Program

# Delaware Water Pollution Control Revolving Loan Fund Workshop

- CWSRF Available Funds

\$7,222,000 Delaware's FY 2011 CWSRF Federal Capitalization Grant

\$1,444,400 Required 20% State Match

\$8,666,400

\$ 288,880 Program Administration

\$ 669,233 Principal Loan Forgiveness to help make loan affordable

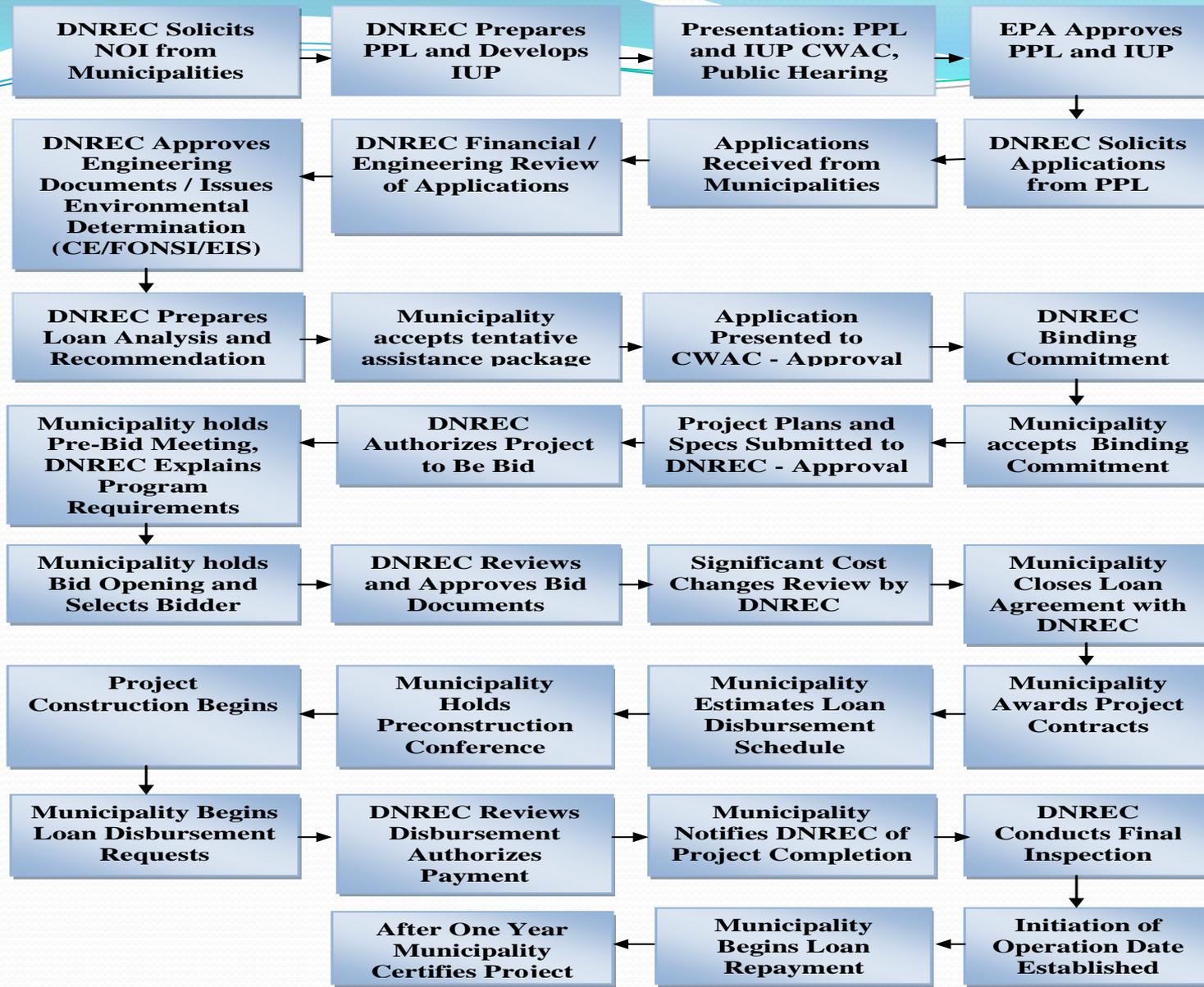
\$1,444,400 Green Projects

\$6,263,887 Program Loans

\$8,666,400

On a cash flow basis the CWSRF program may have approximately \$25 million to \$30 million for new loans

- Clean Water Advisory Council (CWAC), is charged with evaluating, establishing, and recommending strategies, plans, and procedures to help ensure the long-term provision of adequate wastewater facilities in Delaware



NOI – Notice-Of-Intent  
 PPL – Project Priority List  
 IUP – Intended Use Plan  
 CE – Categorical Exclusion  
 FONSI – Finding of No Significant Impact  
 EIS – Environmental Impact Statement

# Project Priority List Process

- Each Fiscal Year the CWSRF program is required to submit to EPA a Project Priority List (PPL)
- The process consists of:
  - Solicitation of projects
  - Ranking of projects
  - Public Hearing and Approval of List by CWAC
  - Approval by EPA
- Only ranked projects will be eligible to apply for CWSRF funding

# Notice of Intent – Project Solicitation

- Each January and August, municipalities are requested to submit a Notice of Intent (NOI) for each project
- Projects intended to begin in the next 6 years are requested to provide visibility to future funding needs
- NOI is a two page document providing statistical, environmental and financial information about each project
- NOI is in an electronic version (excel) for more accurate ranking

# Project Priority List Ranking Criteria

- The criteria are defined by the Standard Operating Procedures for the Project Priority List established by the DNREC and the CWAC
- The criteria were last amended 10/20/2010
- Projects are ranked by year of inception and then by number of priority points
- Generally, the highest ranking project should deliver the greatest environmental benefit to the State

# Project Priority List Ranking Criteria

I. Water Quality Protection	45 points (10 bonus)
II. Targeted Waterbodies	20 points
III. Clean Water Priorities	20 points (10 bonus)
IV. State Strategies	10 points
V. Green Project Reserve	10 points
VI. Sustainability	15 points
VII. Land Conservation	<u>0 points (10 bonus)</u>
Total	120 pts      30 bonus

# Project Priority List Ranking Criteria

## *Water Quality Protection*

Total pounds of nitrogen plus the total pounds of phosphorus that will be removed from the discharge as result of the project times constant - max 45 points

$$\text{Ex: } \frac{(11,400 \text{ \#N} + 1,600 \text{ \#P})/\text{yr}}{365\text{d/yr}} \times 0.30 \text{ d/\#} = 10.7 \text{ pts}$$

Bonus pts for ENR: additional point for each 10% of allowable pollution load eliminated by project (up to 10 pts)

Non-point source projects: receive points based on the efficiencies of the BMP's. Percent efficiency of the project's BMP times 45.

# Project Priority List Ranking Criteria

*Targeted Waterbodies* - if the project:

- implements TMDL/PCS 20 points
- addresses TMDL 15 points
- addresses anticipated TMDL 10 points
- addresses watershed mgmt plan 5 points
- addresses none of the above 0 points

Or

- NPS project addresses a watershed mgmt pln 10 points

# Project Priority List Ranking Criteria

## *Clean Water Priorities*

- Septic System Elimination Projects 15 points
- WW Treatment Facilities and CSO's 20 points
- Other Wastewater Projects 10 points
  - Bonus points: I&I correction 5 points
- Surface Water Mgt Projects 15 points
  - Bonus points: SWM under MS4 permit 5 points
- Other Water Quality projects (NPS) 10 points

# Project Priority List Ranking Criteria

## *Strategies for State Policies and Spending*

### 212 projects

- Level 1 10 points
- Level 2 10 points
- Level 3 5 points
- Level 4 0 points
- Environmentally Sensitive 10 points
- Out of Play 0 points
  
- Non-point source projects (319) 10 points

# Project Priority List Ranking Criteria

## *Green Project Reserve*

- Green Infrastructure 10 points
- Water Efficiency 10 points
- Energy Efficiency 10 points
- Environmentally Innovative 10 points

## *Sustainability*

- Asset Management 5 points
- Full Cost Pricing 10 points

*Land Conservation Sponsorship* 10 points

# CWAC Review/Approval and Public Hearing

- Every Project Priority List is presented in a Public Hearing
- Municipalities are requested to comment in writing or in person
- After the public hearing, the CWAC will review and approve the Project Priority List
- Approved PPL will be sent to EPA for approval

# Application Review

- Technical Review
  - Planning Documents –Applicants are required to submit a Preliminary Engineering report (PER) or Facility Plan. The applicant also must provide an Environmental Information Document (EID)
  - Environmental Review - The CWSRF program is required to have a State Environmental Review Program (SERP). Based on the information provided in the EID, DNREC makes an environmental determination of the project
- Financial Review

# Environmental Review Process

- Environmental review determinations and their frequency:
  - Categorical Exclusion (CE) - occasionally
  - Finding of No Significant Impact (FONSI) – most common determination
  - Environmental Impact Statement (EIS) - rare

# Environmental Review Process

- Categorical Exclusion (CE)
  - i.e. rehabilitation & replacements of existing facilities, minor upgrades or expansion of existing facilities, minor extensions within previous disturbed right-of-ways
  - Issue a CE and legal notice with 30 day comment
  - If no issues, CE stands as issued

# Environmental Review Process

- Finding of No Significant Impact (FONSI)
  - i.e. facilities to create new discharges to surface or ground waters, facility capacity to serve greater than 30% of existing population, action expected to have impacts
  - Issue a draft FONSI to stakeholders and issue a legal notice.
  - Allow a 30 day comment period
  - Mitigation of any environmental issues
  - Issue FONSI

# Environmental Review Process

- Environmental Impact Statement (EIS)
  - Required when project is determined to have significant impacts or is highly controversial
  - i.e. New Point Discharge
  - Extremely rigorous process required to issue an EIS

# Financial Review

- Municipal Government Overview
- Project Overview
- Municipality's Annual Reports and Financial Statements
- Municipality's Wastewater User Charge System
- Existing System and Proposed Project Costs
- Residential vs. Industrial and Commercial Users
- Municipality's Ability to Repay Loan
- User Charge Affordability – 1.5% of MHI
- Financial Assistance Recommendation

# CWAC Application Review/Approval

- Overall Project Costs (Existing System and Proposed)
  - Debt Service
  - O & M Costs
  - Other (Impact Fees)
- Ability to Repay Loan
- User Charge Affordability
- Recommended Financial Assistance

# CWSRF Binding Commitment

- Commitment of Fund's financial resources for a proposed water quality improvement project
- Binding Commitment will state the project description, loan amount, loan terms, and estimated timing (120 days) for the municipality to close the loan with DNREC
- Timing for loan closure can be extended for good reason

# CWSRF Program Requirements

- Delaware Prevailing Wage Regulations and Davis Bacon Wage Requirements
- EO 11246 Equal Employment Opportunity – non-discrimination based on race, color, religion, sex, or national origin
- Requirement for Certification of Non-segregated Facilities
- DBE (formerly MBE/WBE)
- Civil Rights Act of 1964

# CWSRF Programs Requirements

- Section 13 of PL 92-500; Under the Federal Water Pollution Control Act; Rehabilitation Act of 1973; PL 93-112; and Age Discrimination Act of 1975
- Compliance with Section 306 of the Clean Air Act and Section 508 of the Clean Water Act
- Suspension and Debarment and other responsibility matters
- Project Sign
- Access to Project Site

# Project Bid Process

- All plans and specifications must be reviewed and approved by program staff prior to advertisement
- Mandatory Pre-Bid meeting must be held to explain program requirements to potential bidders must be held at least 15 days prior to bid opening
- Project is bid for a minimum of 30 days
- Sealed bids are received and shall be opened publicly and be read aloud at the time and place designated

# Loan Agreement/Closing Process

- G.O. vs. Revenue Pledge
- Project Description and Budget
- Interest Policy
- Interest During Construction
- Administrative Fee
- Loan Closing
- Loan Reimbursement Process
- Loan Repayment Process

# Loan Closing

- Financing Agreement
- Municipal Bond
- Bond Counsel Opinion
- County Administrator Resolution to Issue Debt
- Closing Costs

# Loan Reimbursement Process

- The Borrower must request reimbursement of project expenditures through a Draw Requisition form included in the Financing Agreement
- Copies of each expenditure claimed for reimbursement must be included with the Draw Request

# Loan Repayment Process

- Interest only is due every six months during construction and for up to one year after construction is completed, depending on the loan agreement
- Amortized repayments of principal and interest are due beginning with the payment between six and twelve months after the construction is completed, depending on the loan agreement

# Contract Award Process

- Bids are tabulated and the contract is awarded to the responsive low bidder
- Bid Package submitted for approval must contain:
  - Bid tabulation
  - Certification of all Bonds
  - Certification that all easements have been obtained
  - Submission of required DBE documents
  - Other document as required by CWSRF
- Schedule and conduct a Pre-construction conference

# Construction and Inspection

- Monthly progress meetings must to be held.
- Interim inspections will be conducted by the CWSRF project engineer to ensure compliance with the program requirements
- Any significant project delays or issues must be disclosed to the project engineer

# Final Disbursement and Initiation of Operations

- Upon substantial completion and release of any retainage, recipients submit for final disbursement
- Project engineer will ensure that the program requirements are met and that all specifications have been followed
- Depending on the terms of the loan, the project may go into repayment immediately or after one year from initiation of operations

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**Land Conservation Loan Program  
A Program Overview for Potential Project Sponsors**

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# Delaware Water Pollution Control Revolving Fund

## Land Conservation Loan Program

### A Program Overview for Potential Project Sponsors

- Land Conservation Loan Program (LCLP)
  - The LCLP is an innovative financing approach to fund land conservation easements and fee simple land purchases with WPCRF municipal loans
    - Five-year pilot program (up to \$5 million per year – subject to availability)
    - Municipal wastewater project must be on the WPCRF Project Priority List (PPL)
    - Municipal LCLP project sponsors must enter into a Sponsorship Agreement with the Delaware Department of Agriculture (DDA) or DNREC 's Division of Park and Recreation, or Division of Fish and Wildlife
    - LCLP project must have demonstrated water quality improvement benefits and be managed in perpetuity
    - Loan debt service payments for both the wastewater and LCLP projects will be equal to wastewater project by itself for the term of the loan
  - The DDA's Delaware Agricultural Land Preservation Foundation is authorized to establish criteria for Forestland and Agricultural Preservation Areas and purchase of forestland and agricultural preservation easement pursuant to 3 Del. C. Ch. 9, §904
  - DNREC's Division of Parks and Recreation and Division of Fish and Wildlife are authorized to acquire open space and conservation easements under the Delaware Land Protection Act, pursuant to 7 Del C. Ch. 75, §7503

# Delaware Water Pollution Control Revolving Fund Land Conservation Loan Program

## A Program Overview for Potential Project Sponsors

- LCLP – How Does It Work?
  - Project Solicitation and Review:
    - Notice-of-Intent solicitation from municipalities including LCLP project interest
    - CWSRF Project Priority List (PPL) and Intended Use Plan (IUP) developed
    - Municipal and LCLP project loan applications solicited from approved PPL
  - DDA or DNREC (Implementers) Review LCLP Project Applications
    - DNREC Criteria for The LCLP Eligibility
    - DDA Criteria for Forestland Conservation Easements
  - Financial Review and Interest Rate Determination:
    - DNREC conducts financial review of loan applications
    - Interest rate for wastewater and LCLP loans are adjusted to ensure annual loan debt service is equal to the municipal wastewater project separately

# Delaware Water Pollution Control Revolving Fund Land Conservation Loan Program Criteria

## DNREC

- Parcel(s) must be at least 10 acres in size and at least 25% forested
- Wastewater spray irrigation is permissible on the parcel(s) utilizing best available treatment technology; however, all wastewater storage and treatment facilities must be located on lands other than the parcel(s).
- There must be a demonstrated water quality benefit associated with the acquisition of the parcel(s) or property rights
- Parcel(s) must be within 1 mile of land already preserved by federal, state, local, or other conservation organizations.
- Parcel(s) must exhibit at least one or more of the following:
  - contains endangered, threatened, or ecologically significant species, or natural communities
  - valuable to the community as open space due to its proximity to developing areas or to its impact on a view corridor
  - valuable to a community because of its historical or cultural resources or its proximity to an historically significant area
  - includes or contributes to important wildlife habitat or migration corridors
  - significant agricultural or forestry resources
  - wetlands, flood plains or other lands necessary for the protection of water resources
  - contains significant or unique ecosystems or natural features

# Delaware Water Pollution Control Revolving Fund Land Conservation Loan Program Criteria

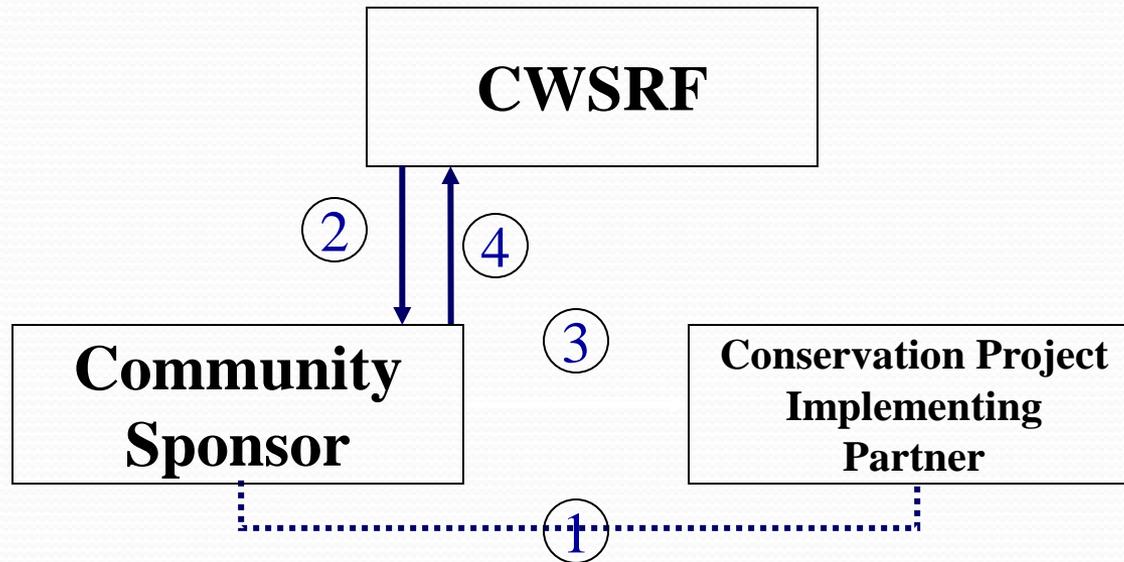
## DDA

- Property must (1) be enrolled in Delaware's Forestland Preservation Program (FPP) or enrolled in the Aglands Preservation Program and meet the requirements of the FPP and (2) have submitted an offer to sell their development rights.
- Requirements of the FPP are:
  - at least 10 (forested) acres in size
  - located outside state-designated growth zone
  - zoned agricultural and no major subdivision recorded for the property
  - have a forest management plan prepared by a professional forester and updated every five years
  - all of the woodland on the property must be included and the land must remain forested (not cleared for cropland, structures, etc.)
- Wastewater spray irrigation is permissible on the FPP parcel(s) utilizing best available treatment technology; however, all wastewater storage and treatment facilities must be located on lands other than the FPP properties.

# Delaware Water Pollution Control Revolving Fund Land Conservation Loan Program Criteria

① Community and implementing partner enter into sponsorship agreement

② CWSRF Provides funding to community for wastewater treatment & conservation projects



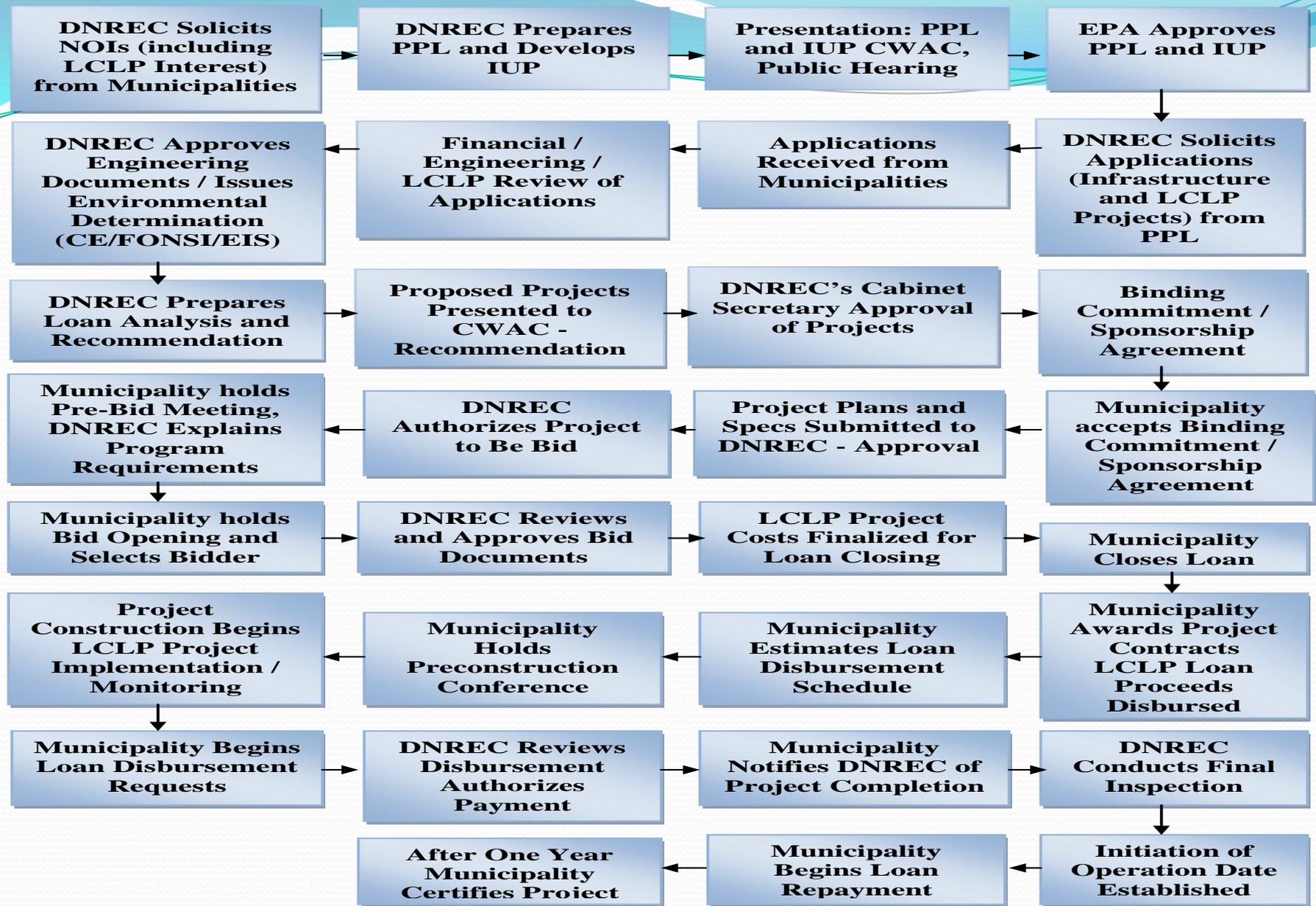
③ Community provides CWSRF funding for sponsored conservation project

④ Community repays low-interest loan to CWSRF

# Delaware Water Pollution Control Revolving Fund

## Land Conservation Loan Program Criteria

Loan Term (years)	CWSRF Interest Rate	Land Conservation Interest Rate	Land Conservation Loan	Municipal Wastewater Loan	Total Annual Debt Service Payment	Life of Loan Debt Service Payment
			\$450,000	\$1,000,000		
20	3.8500%	n/a	n/a	\$72,608	\$72,608	\$1,452,155
20	0.0206%	0.000%	\$22,500	\$50,108	\$72,608	\$1,452,164
			\$1,000,000	\$2,750,000		
20	3.8500%	n/a	n/a	\$199,671	\$199,671	\$3,993,425
20	0.8217%	0.000%	\$50,000	\$149,671	\$199,671	\$3,993,412
				\$3,000,000		
20	3.8500%	n/a	n/a	\$217,823	\$217,823	\$4,356,464
20	1.0940%	0.000%	\$50,000	\$167,823	\$217,823	\$4,356,457
				\$5,000,000		
20	3.8500%	n/a	n/a	\$363,039	\$363,039	\$7,260,773
20	2.2443%	0.000%	\$50,000	\$313,039	\$363,039	\$7,260,775
				\$10,000,000		
20	3.8500%	n/a	n/a	\$726,077	\$726,077	\$14,521,547
20	3.0630%	0.000%	\$50,000	\$676,078	\$726,078	\$14,521,565



NOI – Notice-Of-Intent  
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# QUESTIONS