



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ADMINISTRATION
AND RESOURCE
MANAGEMENT

August 18, 2014

MEMORANDUM

SUBJECT: Deviation from 40 CFR 35.3520(e)(1) and (3) for Bradner Reservoir Enlargement Project for Las Vegas, New Mexico

FROM: *for* Denise A. Polk, Director *Laurice E. Jones*
National Policy, Training and Compliance Division

TO: Peter Grevatt, Director
Office of Ground Water and Drinking Water

I am responding to your request for a deviation from 40 CFR 35.3520(e)(1) and (3), which prohibits State Revolving Fund (SRF) financing of dams and reservoirs. This deviation would allow the state of New Mexico to use SRF financing for the Bradner Reservoir Enlargement Project to meet the current unique drinking water and public health needs of the City of Las Vegas, NM.

BACKGROUND

The Office of Ground Water and Drinking Water (OGWD) received a request from the State of New Mexico for a deviation from the prohibition of SRF financing of dams and reservoirs in regulations implementing the Drinking Water State Revolving Fund (DWSRF) under the Safe Drinking Water Act (SDWA).

OGWD supports New Mexico's deviation request based on the unique combination of issues leading to a public health threat to the City of Las Vegas. The City does not currently have adequate surface water storage to meet existing water demands and ground water availability is limited and of low quality. The unique water supply situation has posed a significant public health threat. There is no other viable water source than the Bradner Reservoir for which the City has adequate water rights. SDWA states that DWSRF funding should focus "on projects needed to address the most serious risk to human health" and "assist those systems with the greatest economic need" (SDWA 1452(b)(3)(A)). OGWD believes that Las Vegas, NM, meets both of those criteria.

The Office of Grants and Debarment agrees that this deviation should not be construed to support population growth, in accordance with the SDWA provision to avoid financing such expansions (SDWA 1452(g)(3)(C)). According to OGWD, the principal purpose of this raw water storage project is for sustaining public health through adequate supply for the existing population, not for growth from new development. The enlarged reservoir will allow the City to reliably provide sufficient water, enabling the community to be resilient in the face of continued drought.

In addition, the City, which has been designated as severely disadvantaged by the state under SDWA 1452(d), has exhausted other sources of adequate and affordable funding and is relying on the DWSRF loan for the low interest rate, additional subsidization and extended finance terms.

ACTION

I have reviewed this request for a deviation from 40 CFR 35.3520(e)(1) and (3). Based on the representations of the State of New Mexico, the analysis provided, and with the support of the Office of Water, the deviation is needed to continue support meeting the public health purposes of the SDWA. I, therefore, approve this deviation request.

cc: Howard Corcoran, Office of Grants and Debarment
Laurice Jones, Office of Grants and Debarment
Alexandra Raver, Office of Grants and Debarment
Becki Clark, Office of Ground Water and Drinking Water
Ronald Bergman, Office of Ground Water and Drinking Water
Elizabeth Corr, Office of Ground Water and Drinking Water
Charles Job, Office of Ground Water and Drinking Water
Kirsten Anderer, Office of Ground Water and Drinking Water