



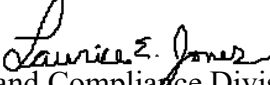
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
MISSION SUPPORT

January 14, 2020

**MEMORANDUM**

**SUBJECT:** Exception from 40 CFR 35.3520(e)(1) for Beaver Creek Dam Rehabilitation Project for the City of Martinsville, Virginia

**FROM:** Laurice Jones, Director   
National Policy, Training and Compliance Division

**TO:** Jennifer L. McLain, Director  
Office of Ground Water and Drinking Water

I am responding to your request for an exception from the prohibition of dams or rehabilitation of dams as eligible projects at 40 CFR 35.3520(e)(1) in implementing the Drinking Water State Revolving Funds (DWSRF) under the Safe Drinking Water Act (SDWA). This exception would allow the state of Virginia to use DWSRF for the Beaver Creek Dam Rehabilitation Project to meet the current unique drinking water and public health needs of the City of Martinsville, VA. In addition to the exception request dated December 18, 2019, the Office of Groundwater and Drinking Water (OGWDW) also provided substantial rationale for this exception in the *Policy and Technical Evaluation in Response to Virginia's Request for a Deviation for the Beaver Creek Dam Rehabilitation Project for the City of Martinsville* (December 2019).

**BACKGROUND**

OGWDW received a request from the state of Virginia for an exception from the prohibition of DWSRF financing dam rehabilitation in regulations implementing the DWSRF under the SDWA. Virginia is seeking this exception to use DWSRF funds for the Beaver Creek Dam Rehabilitation Project, which would allow the City of Martinsville to repair and extend their dam spillway to meet current state regulations. If the city-owned dam fails, the entire drinking water supply will be lost, and flooding could result in devastating life and property loss. If the spillway is not brought into compliance, the city must lower the water level behind the dam by ten feet, which would reduce available storage by an estimated 40-45% and create a water supply crisis for the city. The situation deprives the city's residents of reliable access to safe drinking water, thereby impacting human health.

OGWDW supports Virginia's exception request based on the unique issues leading to a public health threat to the residents of the City Martinsville. The city is currently struggling to meet state regulations, putting their water supply and property at risk. This unique situation has placed the city in an extremely vulnerable position, resulting in a significant public health threat. The most cost-effective option for the city is to rehabilitate and extend the dam spillway. SDWA states that DWSRF funding should focus on "projects that address the most serious risk to human health." The dam spillway rehabilitation project

meets this criterion because it is needed for the city to provide adequate drinking water supply. Consistent with SDWA, the principal purpose of this project is to maintain public health protection through adequate water supply for the existing population, not for growth from new development. The new dam spillway will allow the city to reliably provide safe drinking water, decreasing public health risks to existing residents.

**ACTION**

I have reviewed this request for an exception from 40 CFR 35.3520(e)(1) for the Beaver Creek Dam Rehabilitation Project. The new dam spillway will allow the City of Martinsville, VA to reliably provide safe drinking water, thus decreasing public health risks to its existing residents. The project is consistent with the SDWA and the exception is in the best interest of the Agency and the public. I, therefore, approve the exception to allow the state of Virginia to use DWSRF to finance the Beaver Creek Dam Rehabilitation Project.

cc: Denise Polk, Office of Grants and Debarment  
Myranda Laursen, Office of Grants and Debarment  
Kiri Anderer, Office of Ground Water and Drinking Water  
Dallas Shattuck, Office of Ground Water and Drinking Water  
Nicholas Chamberlain, Office of Ground Water and Drinking Water  
Yu-Ting Guilaran, Office of Ground Water and Drinking Water  
Tracey Miller, Office of Water  
Joanne Hogan, Office of General Counsel  
Jaqueline Guerry, Region 3 Grants Management Office