



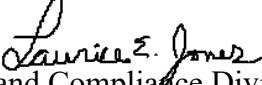
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
MISSION SUPPORT

June 2, 2020

**MEMORANDUM**

**SUBJECT:** Exception from 40 CFR 35.3520(e)(1) for the Bonito Lake Dam Restoration Project for the City of Alamogordo, New Mexico

**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 Fund (DWSRF) under the Safe Drinking Water Act (SDWA). This exception would allow the state of New Mexico to use DWSRF funds for the Bonito Lake Dam Restoration Project to allow the city of Alamogordo (City) to reclaim Bonito Lake as its primary drinking water source. In addition to the exception request dated May 19, 2020, the Office of Ground Water and Drinking Water (OGWDW) also provided substantial rationale for this exception in the *Policy and Technical Evaluation in Response to New Mexico's Request for a Deviation for the Bonito Lake Dam Rehabilitation Project for the City of Alamogordo* (April 2020).

**BACKGROUND**

OGWDW received a request from the state of New Mexico for an exception from the prohibition of DWSRF financing dam rehabilitation in regulations implementing the DWSRF under the SDWA. New Mexico is seeking this exception to use DWSRF funds for the Bonito Lake Dam Restoration Project, which would allow the City to reclaim Bonito Lake as its primary drinking water source. The City lost its primary drinking water source after fire and flooding events in 2012. Since then, the City has been pumping and desalinating brackish water from the Tularosa Basin, over 20 miles away, leading to higher treatment and distribution costs. Tularosa Basin is not a viable long-term source to meet the needs of the existing population. In addition, this situation deprives the City's residents of reliable access to safe drinking water, thereby potentially impacting human health. The requested regulatory exception would allow the City to repair and replace dam infrastructure that was damaged during the 2012 fire and flooding events. The City would like to restore Bonito Lake as its primary drinking water source, as the water quality is much more desirable for human consumption and costs significantly less to produce potable water. The City received funding from the Federal Emergency Management Administration (FEMA) to remove the debris in Bonito Lake to pre-fire levels. Bonito Lake is currently drained, and the debris removal project has started. The City believes this is the optimum time to repair and replace the damaged dam infrastructure.

OGWDW supports New Mexico's exception request based on the unique issues leading to a potential public health threat to the existing population in the City and surrounding communities. The most cost-effective option for the City is to rehabilitate the existing dam infrastructure while it is drained for the ongoing FEMA-funded project. SDWA states that DWSRF funding should focus on "projects that address the most serious risk to human health." The dam rehabilitation project meets this criterion because it is needed for the City to provide an 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 dam rehabilitation 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 Bonito Lake Dam Restoration Project. The project will allow the city of Alamogordo, NM to reliably provide safe drinking water, thus decreasing public health risks to its existing residents and surrounding population. 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 from 40 CFR 35.3520(e)(1) to allow the state of New Mexico to use DWSRF to finance the Bonito Lake Dam Restoration Project.

cc: Michael Osinski, Office of Grants and Debarment  
Myranda Laursen, Office of Grants and Debarment  
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