



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

September 23, 2021

OFFICE OF MISSION SUPPORT

MEMORANDUM

SUBJECT: Exception from 40 CFR 35.3520(e)(1) for the Water Intake Dam Replacement Project for the City of Richwood, West 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 September 3, 2021 request for an exception from the prohibition 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 West Virginia to use DWSRF funds for the City of Richwood's Water Intake Dam Replacement Project, which would allow the city to replace their existing low head water intake dam damaged by a severe flood event in 2016. In addition to your exception request dated September 3, 2021, 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 West Virginia's Request for a Deviation for the Water Intake Dam Replacement Project for the City of Richwood* (July 2021). For the reasons discussed below, I have approved the exception.

BACKGROUND

OGWDW received a request from the state of West Virginia for an exception from the prohibition of DWSRF financing dam replacement in regulations implementing the DWSRF under the SDWA. West Virginia is seeking this exception to use DWSRF funds for the Water Intake Dam Replacement Project, which would allow the City of Richwood to replace their existing low head water intake dam damaged by a severe flood event in 2016. The flood water and large debris crashed into the low head water intake dam and intake screens, resulting in a severely damaged water intake system. The dam and the intake screens have continued to age and degrade and are now reaching the end of their useful life. The low head water intake dam is vital to the overall population of the City of Richwood's water treatment plan (WTP). The sole purpose of the low head intake dam is to pool water in the Cherry River. The raw water can then be gravity fed to the WTP, where it is treated and distributed to the City of Richwood's customers. The low head water intake dam's sole purpose is to pool water in the Cherry River for treatment and is considered an essential piece of the water intake system. Without the replacement of the dam and screening system, the City of Richwood will be unable to obtain water from the Cherry River, leaving customers without safe drinking water.

OGWDW supports West Virginia's exception request based on their technical analysis and the public health threat to the existing population in the City of Richwood. The most cost-effective option for the City of Richwood is to replace the low head water intake dam and screening system. The proposed dam will be located within ten feet of the existing dam location. SDWA § 1452(b)(3)(A) states that DWSRF funding should prioritize "projects that address the most serious risk to human health." The Water Intake Dam Replacement Project meets this criterion because it is needed for the City of Richwood to provide an adequate drinking water supply to its existing customers. 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 proposed low head water intake dam will allow the City of Richwood to reliably provide safe drinking water, thus decreasing public health risks to existing residents.

DISCUSSION

At the request of OGWDW, the Office of Grants and Debarment approved a class exception to 40 CFR 35.3520(e)(1) and (3) on June 21, 2021. Dam replacement was not an eligible DWSRF project under this class exception; therefore, an individual exception from 40 CFR 35.3520(e)(1) is required for the City of Richwood's Water Intake Dam Replacement Project.

ACTION

I have reviewed this request for an exception from 40 CFR 35.3520(e)(1) for the Water Intake Dam Replacement Project. The project will allow the City of Richwood 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 from 40 CFR 35.3520(e)(1) to allow the state of West Virginia to use DWSRF funds to finance the City of Richwood's Water Intake Dam Replacement Project.

cc: Michael Osinski, Office of Grants and Debarment
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