



Clean Water State Revolving Loan Fund - Principal Forgiveness Fact Sheet

The Oregon Water Resources Congress (OWRC) is seeking support for amending Environmental Protection Agency (EPA) rules **regarding entities that are eligible to receive principal forgiveness under the Clean Water State Revolving Loan Fund (CWSRF) program to incentivize environmentally beneficial water projects by irrigation districts and other not for profit water delivering entities.**

As a nonprofit association representing irrigation districts, water control districts, improvement districts, drainage districts and other quasi-municipal local government entities delivering agricultural water supplies, OWRC has a strong interest in the Clean Water Act (CWA) and specifically, CWSRF. The water stewards we represent operate complex water management systems, including water supply reservoirs, canals, and pipelines, delivering water to roughly 1/3 of all irrigated land in Oregon. For over 100 years, OWRC has promoted the protection and use of water rights and the wise stewardship of water resources, which includes water quality.

The recent exclusion of irrigation districts from receiving forgiveness under the CWSRF came as a surprise to OWRC and we are supportive of any remedy that restores eligibility for entities like Irrigation Districts qualify for this important piece of the CWSRF program. OWRC urges Congress to address this terminology issue and again allow irrigation districts and other similar entities to utilize this valuable tool under the CWSRF program so that they are able to execute projects that are beneficial to both the environment and the local economy.

CWSRF Exclusion of Irrigation Districts from Principal Forgiveness

OWRC and our members are highly supportive of the CWSRF, including promoting the program to our members and annually submitting federal appropriations testimony to support increased funding for the CWSRF. We are supportive because it is important funding tool that irrigation districts and other water suppliers are using for innovative piping projects that provide multiple environmental benefits. However, the CWSRF is often an integral part of an overall package of state, federal and local funding that necessitates a stronger level of assurance that loan funds will be available for planned water infrastructure projects. Irrigation districts are often located in rural communities and have a small number of farmers with limited capacity to take on loan debt. Even a small reduction in the principal repayment obligations can make the difference in whether or not a district can move forward with a project. Reductions in eligibility for principal forgiveness in the CWSRF could lead to loss of grant funding and delay or derail beneficial projects that irrigation districts have been developing for years.

Six OWRC member districts have successfully received loans from the CWSRF over the last several years and many more will apply if eligible to receive some principal forgiveness. Numerous irrigation districts and other water suppliers need to pipe currently open canals, which reduces sediment and water temperature and provides other water quality improvements as well as increasing water availability for fish and irrigators by reducing water loss from the delivery system. In 2009, four irrigation districts received over \$11 million funding in Oregon from the American Recovery and Reinvestment Act (ARRA) through the CWSRF for projects which created valuable jobs while improving water quality. These four projects were essential to the Oregon Department of Environmental Quality (OR DEQ) not only meeting but exceeding the minimum requirement that 20% of the total ARRA funding for the CWSRF be used for “green” projects. Without the irrigation district projects, it is likely that Oregon’s CWSRF would not have qualified for ARRA funding.

The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources.

By excluding irrigation districts from principal forgiveness under the CWSRF, the loan funds become another expensive piece to the funding puzzle and will simply cost too much for districts to take on. If OR DEQ eliminates the ability of irrigation districts to fund water quality improvement projects, our state will fall short of what is needed to address critical water infrastructure needs in Oregon and across the nation. It will lead to fewer innovative water infrastructure projects, and therefore a reduction in improvements to water quality. OWRC is hopeful that this terminology issue can be resolved at the federal level.

Origin of Terminology Issue

The Water Resources Reform and Development Act of 2014 (WRRDA) amended 33 USC 1383(i) to allow principal forgiveness to certain entities:

“a municipality or intermunicipal, interstate, or State agency.” 33 USC 1383(i). The Clean Water Act defines “municipality” to mean “a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under [33 USC] 1288[.]” 33 USC 1362(4) (emphasis added). An irrigation district is not a designated and approved management agency under 33 USC 1288.

OWRC does not believe that Congress intended for WRRDA to prevent irrigation districts from being eligible for principal forgiveness under the CWSRF. Prior to the passage of WRRDA in 2014, Oregon irrigation districts have been eligible for such principal forgiveness and have been an active participant in Oregon’s CWSRF program. Additionally, the conference report associated with WRRDA does not provide any evidence that Congress intended to narrow the scope of entities eligible for principal forgiveness. Rather, we believe Congress likely intended “municipality,” as used in the principal forgiveness provision, 33 USC 1383(i), to have a broader meaning than the general definition of “municipality” set for in 33 USC 1362(4).

Possible Solutions

Every state organizes and defines irrigation districts differently; however, removing “...and having jurisdiction over disposal of sewage, industrial wastes, or other wastes...” from the definition of “municipality” would solve the terminology issue. As an example, in Oregon, removing the requirement that the entity have jurisdiction over waste would allow for Irrigation Districts, Drainage Districts, Diking Districts, Water Improvement Districts, Water Control Districts and other similar not for profit water entities all to be considered municipalities under the definition and therefore eligible for principal forgiveness under the CWA.

Restoring principal forgiveness eligibility to irrigation districts and other not for profit water delivery entities would benefit both the environment and local economies. We believe this simple fix is also consistent with the intent of Congress and the continuing success of the CWSRF.

Irrigation District CWSRF Project Examples:

In 2013 Three Sisters Irrigation District requested CWSRF dollars for design and construction of approximately 5.3 miles of HDPE 42-inch pipe to remove irrigation water from open canals which lead to water efficiency consistent with EPA's green project reserve guidance.

In 2015, Rock Creek District Improvement Company requested CWSRF dollars for project design and construction of HDPE piping along 1.76 miles of main canal, and qualified for water efficiency green project reserve funding.