
Date: March 28, 2022

To: Environmental Quality Commission

From: Richard Whitman, Director
Jennifer Wigal, Water Quality Division Administrator

Subject: Item H: Water-related Infrastructure Funding (Informational)
April 6-7, 2022, EQC meeting

Why this is important Recent Congressional appropriations represent a monumental, once-in-a-generation, investment in American infrastructure. These include water-related investments and funding opportunities that range from traditional “gray infrastructure” projects to broadscale ecosystem restoration initiatives – all of which will support water quality improvements across the country. DEQ will provide commissioners with an overview of various water-related funding investments that are forthcoming and that are expected to provide benefits to both public health and environmental restoration efforts in Oregon over the next five years.

Prior EQC involvement In July 2021, DEQ provided the EQC with an overview of federal funding allocations through the American Rescue Plan Act (ARPA) funds supporting water-related investments in Oregon generally.

Background Two Congressional actions in 2021 present significant opportunities for increased water-related investments in Oregon. First, the American Rescue Plan Act, established in response to COVID recovery and economic circumstances, provided Oregon with approximately \$2.6 billion in discretionary federal recovery funds. A significant portion of these funds were allocated by the 2021 Oregon Legislature, and include approximately \$500 million for water-related projects. Second, the Bipartisan Infrastructure Law, also known as the Infrastructure Investment and Jobs Act (IIJA), was signed into law in November 2021 and goes into effect in May 2022. Nationally, this law provides nearly \$1.2 trillion in funding for infrastructure and includes over \$57 billion in water infrastructure related funding and billions more supporting other watershed health and aquatic habitat restoration programs. Details about state allocations and competitive funding opportunities are still under development.

The \$500 million in ARPA funding that the 2021 Oregon Legislature appropriated for water-related activities includes a substantial investment in drinking water, wastewater, and groundwater infrastructure projects across the state. The package also provides one-time funding to increase access to water data, provide additional water planning support for communities, and develop a system to identify and address local and regional water use needs. Specific to DEQ, the Legislature directed \$15 million in ARPA funds DEQ to provide financial assistance to repair or replace failing onsite septic systems. During the 2022 Legislative Session, House Bill 4068 specified that DEQ is to prioritize this funding for areas affected by the 2020 wildfires to the extent needed. DEQ is awaiting transfer of the ARPA funds from DAS, but has solicited information from potential partners that would receive grants from DEQ for pass-through funding to (grants and/or loans) in specific regions of the state. DEQ anticipates issuing a formal request for proposals for distributing these funds in spring 2022.

In total, the Oregon Legislature allocated approximately \$316.2 million for water and sewer infrastructure investments from ARPA. This category included 58 individual projects to improve the water and sewer systems of local jurisdictions across the state. Much of the funding was allocated directly to local jurisdictions, to Business Oregon for infrastructure funding, and to the Oregon Water Resources Department.

The Bipartisan Infrastructure Law, signed into law by President Biden on Nov. 15, 2021, represents a transformational scale of water funding. It includes \$50 billion to the Environmental Protection Agency to strengthen the nation's drinking water and wastewater systems. This is the single largest investment in clean water that the federal government has ever made. A significant portion of these water infrastructure dollars will flow through the state's existing Clean Water and Drinking Water State Revolving Funds. Oregon's Clean Water State Revolving Fund is administered by DEQ, while the Drinking Water State Revolving Fund is administered by Oregon Health Authority and Business Oregon.

The Oregon Clean Water State Revolving Fund program receives federal funds through U.S. Environmental Protection Agency, which have averaged approximately \$17 million annually for the past several years. These funds are used to finance planning, design and construction of wastewater, stormwater infrastructure, irrigation modernization, septic tank repair and replacement,

riparian, wetland and watershed improvement projects. The federal Bipartisan Infrastructure Law of 2021 will provide a significant increase to Oregon CWSRF annual funding for the next five years, allowing the program to support more water quality and infrastructure improvement projects throughout Oregon. Precise allotments to each state are still being determined, but current estimates indicate the Oregon CWSRF program may receive \$20 million in supplemental capitalization grant funds for each of the next several years. Comparable increases are also anticipated for the Oregon Drinking Water State Revolving Fund.

As a result of these additional funds, Oregon's CWSRF will be able to provide millions of dollars more for planning, design and construction of wastewater and stormwater facilities, nonpoint source pollution management; construction, repair and replacement of decentralized wastewater treatment systems; construction of nature-based infrastructure solutions; and watershed protection and restoration projects.

A significant element of the enhanced funding is a requirement that state CWSRF programs offer 49 percent of the supplemental funds as principal forgiveness for disadvantaged communities. Two percent of these funds are also specifically set aside for the program to provide technical assistance for planning, development and management of projects and meeting loan requirements.

This recent federal legislation will also provide over \$10 million per year to the state to address emerging contaminant issues in drinking water and wastewater systems, provide increased funding to support the National Estuary Program (including Tillamook NEP in Oregon) and authorized expansion of the Sewer Overflow and Stormwater Reuse Municipal Grants Program.

In addition to the EPA funding programs described above, the Bipartisan Infrastructure Law also provides significant investments for various other funding agencies and program categories that improve the health of our waterways and aquatic habitats. These include: increased funding for EPA Geographical Programs, including \$79 million for the Columbia River Basin Restoration Grant Program; U.S. Army Corps of Engineers' funding for aquatic ecosystem projects including habitat restoration and fish passage improvements; Department of Agriculture funding for watershed protection and rehabilitation programs; \$172 million in NOAA funding in support of Pacific

Salmon Recovery, coastal resilience and habitat restoration programs; U.S. Fish and Wildlife Services' funding for various ecosystem recovery programs and including \$162 million to support Klamath Basin restoration efforts. Within Oregon, inter-agency coordination is underway to identify the available sources of funding that may assist in furthering water-related infrastructure improvements for the state.

Key issues The Bipartisan Infrastructure Law requires CWSRF programs to offer 49 percent of the supplemental federal capitalization grant as principal forgiveness in the aggregate for the program. EPA has also directed states to evaluate their programs to ensure these monies are prioritizing disadvantaged communities. DEQ is evaluating its rules to assure that current program rules support these outcomes. DEQ intends to propose revisions to the CWSRF regulations for EQC adoption to, at a minimum, eliminate the limit of principal forgiveness per loan in the existing rule. DEQ may bring temporary rules to the EQC to remove limits on principal forgiveness requirements so that current rules do not present a barrier to meeting EPA requirements. These changes will allow the program more flexibility to offer more principal forgiveness per loan and meet federal requirements.

The Bipartisan Infrastructure Law also includes Build America Buy America provisions, which will apply to projects in addition to American Iron and Steel requirements. There may be challenges for borrowers to meet these requirements given supply chain issues. Office of Management and Budget is developing guidance on Build America Buy America, which will determine specifics about requirements.

EQC involvement DEQ is providing this overview for EQC informational purposes only. DEQ may present recommendations to EQC for temporary or permanent rule revisions to comply with the requirements of the Bipartisan Infrastructure Law for funding to the Oregon Clean Water State Revolving Fund Program.