

Response to Comments
Draft 2016 Water Pollution Control Loan Fund Program Management Plan
Ohio EPA Division of Environmental and Financial Assistance

Ohio EPA issued the Draft 2016 Water Pollution Control Loan Fund (WPCLF) Program Management Plan (PMP) for public comment on October 22, 2015. A public meeting was held on November 23, 2015 to accept public comments. In addition, comments were received via letter and e-mail during the public comment period. This document collects all of the substantive comments that were received, and provides Ohio EPA's responses. Additionally, some comments were received that merely involved a minor change in one of the lists, or a minor correction, and did not require a detailed a response. A list of those commenters is provided at the end of this document.

It should be noted that, prior to the release of the Draft PMP, Ohio EPA issued a draft of the "Affordability Criteria" that will be used to help make determinations for the allocation of principal forgiveness. Comments on the "Affordability Criteria" were received during the WPCLF nomination period (August 1st through August 31st, 2015), and Ohio EPA responded to those comments in a responsiveness summary that was posted concurrent with the Draft WPCLF PMP. Those previous comments and responses will not be included here, but can be reviewed at the following web address http://epa.ohio.gov/Portals/29/documents/ofa/Affordability_Criteria_Responsiveness_Summary.pdf.

1. Comments from Portage County Board of Commissioners

Comment: Our concern about the procedures is located in Table H-1, "WPCLF HSTS Principal Forgiveness Eligible and Non-eligible Costs", Line 4. This Line stipulates that "Connecting a home with a failing HSTS to sewers" is a "Not Eligible for Funding Expense". We think that when NPDES Rules mandate that a person with a failing HSTS connect to a sanitary sewer, rather than repair/replace their off-lot discharging HSTS, their private property costs should be eligible for funding. With this modification we can help eliminate potential public health problems, and mitigate increased costs attributable to the NPDES rules.

Response: For program year 2016, \$13,300,000 is being made available as principal forgiveness for Household Sewage Treatment System (HSTS) repairs and replacement. 57 local government agencies submitted nominations to obtain HSTS principal forgiveness funding. DEFA understands that there are considerable needs for providing assistance for abandonment of HSTS and connection to public sewers, however we have chosen for program year (PY) 2016 to restrict the available funds to just repairs and replacements. DEFA will consider this comment in future program years if principal forgiveness funds are available and directed towards failing HSTS's.

2. Comments from Ohio River Foundation

Comment: Ohio River Foundation is working with the City of Washington Courthouse to develop and administer Project AIMS 5658, Paint Creek Dam Removal and Restoration. From a review of the ranking on page 48 we observe that ODNR has potential estimated funding of approximately 38%. Should ODNR not have sufficient other funds or otherwise not be able to proceed with 38%, we suggest that the funds be offered to other ranked projects. If this were to occur, following down the ranking, we see that AIMS 5644 would be offered approximately \$700,000, leaving a balance of \$1.1 million. If that amount were offered to the next ranked project AIMS 5355, it would only represent 22% of nominated cost. Thus, assuming that 22%

would be insufficient for that implementer to proceed, Washington Courthouse stands ready to proceed with \$1.1 million for its project. While the \$1.1 million represents only approximately 50% of project cost, we have already identified an additional \$400,000 for the project. We look forward to working with DEFA in efforts to position the Washington Courthouse project to receive funding for this important community conservation project.

Response: While potentially plausible, the scenario described in this comment is unlikely to occur, since the projects ranked ahead of Washington Courthouse's proposed project on the 2016-2017 WRRSP Restoration projects list have already indicated their readiness to proceed with their project proposals, based on the amounts of WRRSP money available to them. We would, however, be glad to work with the Ohio River Foundation and Washington Courthouse in the coming year to help further evaluate their project and its possible future WRRSP ranking status.

3. Comments from Western Reserve Land Conservancy

Comment: Western Reserve Land Conservancy would like to convey its strong support for an increase in the proposed 2016 WPCLF-PMP funding levels for the Water Resource Restoration Sponsor Program (WRRSP), currently proposed as \$5 million for Preservation projects and \$5 million for Restoration projects. We strongly urge Ohio EPA to increase this amount to at least the 2005 through 2015 WPCLF-PMP approved levels of \$7.5 million each for Preservation and Restoration projects. We strongly support the WRRSP program and its staff in their efforts to promote protection of the state's water quality by preserving and restoring wetlands and riparian corridors.

Response: We appreciate the support of Western Reserve Land Conservancy, both as it relates to the overall value of the WRRSP and through the individual projects implemented by the organization. As indicated when we released the draft 2016 PMP/IPL for public comment, the coming year is one in which, among other things, we will be devoting much time and effort to evaluating the WRRSP and seeking ways to make it even better. One trade-off to help enable these efforts was a modest reduction in the amount of WRRSP activity we will be undertaking in the coming year, from \$15 million worth to \$10 million. Once completed, we should have a clearer idea of how much money can – and should – be allocated to this important water quality program. During the evaluation process, we will be seeking input from our key WRRSP stakeholders, such as Western Reserve Land Conservancy.

4. Comments from the Northeast Ohio Regional Sewer District (NEORS, or “the District”)

Comment: The District questions why the IPS Scoring Categories point scores for HH/IR/RP/EA/Econ Need are not shown on the PPL/IPL.

Response: For this year's version of the PMP, we combined the PPL and the IPL into one list, thereby eliminating approximately eight pages of mostly redundant information. In order to combine the lists, and still keep the list readable, it was necessary to eliminate some information. We chose to keep the IPS Total Score, but eliminate the component scores that add up to the total. The component scores are still available, upon request, from Ohio EPA.

Comment: The District submitted 2016 Construction Project Schedules for two 2015 IPL projects: Westerly WWTP Ferric Chloride Tanks and Southerly WWTC Main Substation Replacement. We question why these two projects were not carried over and shown on the 2016 PPL/IPL?

Response: The Draft PPL/IPL list is generated from our database using the “award date” range that we identify (i.e. 01/01/2016 – 12/31/2016). The database keeps the most recent information regarding the anticipated loan award date. Occasionally, the Project Schedule award dates are not entered into the database in time to “refresh” the award date that is already in there, and the project is “missed” when the list is generated. The Westerly WWTP Ferric Chloride Tanks project was approved in December 2015, and therefore will not be placed on the 2016 PPL/IPL. The information on the Southerly WWTC Main Substation Replacement project has been updated in our database, and therefore the project appears on the final 2016 PPL/IPL.

Comment: The NEORSD Westerly Low Level Relief Sewer (WLLRS) CS391430-0129 project shown on the PPL/IPL may be deleted. The District does not intend to pursue WPCLF financing for this project.

Response: The project will be closed in our database.

Comment: There is green and yellow shading shown for only the eight (8) projects at the top of the Principal Forgiveness Appendix. The remainder of this list is unshaded. The District would appreciate an explanation as to what the Green and Yellow shading signifies.

Response: An explanation of the shading should have been provided on the table, but wasn't. Green represent fully fundable projects; yellow represents partially fundable projects. The first two projects on the list represent the fundable (and partially fundable) PF projects in the Western Lake Erie Basin. The next five projects represent the fundable and partially fundable projects in the remainder of the state.

Comment: Re: WPCLF Interest Rates and Terms, the first paragraph of this Appendix states that one of the six types of interest rates is “index”. The District notes there is no “index” rate listed or explained in the appendix. We also note that the Appendix lists seven types of interest rates, not six.

Response: The language regarding the “Index” interest rate was removed from the PMP. Essentially this was a market rate interest rate. We never utilized that concept in the WPCLF, and therefore removed it from the program and the document. The reference that you found is a residual, and has been removed.

Comment: Re: Appendix K – Principal Forgiveness, item A.7. Twice refers to a loan needing to occur “by the September deadline” which is not previously stated in this Appendix. However, “...no later than September of the program year” is stated in the last item, Item C.8. of this Appendix. To eliminate the confusion, the District believes that Item A.7. should cross-reference to Item C.8.

Response: The suggested cross-reference has been included for clarity.

Additional Comments: First, NEORSD would like to convey its strong support for an increase in the proposed 2016 WPCLF-PMP funding levels for the Water Resource Restoration Sponsor Program (WRRSP), currently proposed as \$5 million for preservation projects and \$5 million for restoration projects. We urge Ohio EPA to increase the funding to at least the 2005 through 2015 WPCLF-PMP approved levels of \$7.5 million each for preservation and restoration projects; and if possible increase the 2005-2015 levels.

Second, the WRRSP is nationally innovative and has protected and restored essential open space and riparian areas in northeast Ohio. WRRSP and Clean Ohio are the only available

funding sources for this type of land protection and restoration. Further, WRRSP is an ideal complement to NEORSD's wastewater treatment practices and Project Clean Lake CSO Control Program because it is a low cost way to permanently protect and restore wetlands and watercourses within and beyond NEORSD's service area. These protected and restored natural areas provide valuable ecosystem services (e.g. air purification, storm water capture and treatment, wildlife habitat, recreational opportunities, food, and increased property values) which can only be partially replicated with constructed green infrastructure, CSO control tunnels, and our wastewater treatment facilities.

Finally, we direct your attention to the following provision found in Item #7 in the Summary List attached to your cover letter and again at the top of Page 8 of the Draft PMP:

“During PY 2016, the WRRSP program will undergo a process review to measure its effectiveness at achieving the program's objectives and appropriate levels of future funding. The goal of the process review will be to improve the program, and map its direction for the upcoming years.”

We would appreciate clarification on {this} provision, and ultimately hope that it means that the consideration is to increase the proposed funding for this program from the 2016 proposed amounts to at least levels approved in the WPCL{F}-PMPs of the previous ten years, if not an increase. We look forward to the responses to comments and offer our assistance in any way needed to continue implementation of this worthwhile Program.

Response: Thank you for the follow-up comments related to the Water Resource Restoration Sponsor Program, particularly the strong support that NEORSD has shown for the program over the years, both as an advocate and a sponsor. We agree with your assessment of the program as both nationally innovative and a primary source of water resource protection and restoration funding in Northeast Ohio. We are also pleased to see how you've outlined some of the ways the WRRSP can complement NEORSD's other, ongoing water quality improvement efforts.

As noted elsewhere in our response to Western Reserve Land Conservancy's comments, we will be devoting much time and effort in 2016 to evaluating the WRRSP and seeking ways to make it even better. One trade-off to help enable these efforts was a modest reduction in the amount of WRRSP activity we will be undertaking in the coming year, from \$15 million worth to \$10 million. Once completed, we should have a clearer idea of how much money can – and should – be allocated to this important water quality program. During the evaluation process, we will be seeking input from our key WRRSP stakeholders, such as NEORSD.

5. Comments from the City of Akron

Comment: Re: Providing a 30 year payback on construction loans. We understand that this provision is allowed, but the state legislators need to authorize this. We are requesting your assistance in moving this item forward with our legislators. The current bond provision is extremely cumbersome for local communities.

Response: We have been attempting to make amendments to Ohio Revised Code 6111.036 which will allow us to make direct loans up to 30-years in duration. We will continue to work with the Ohio Legislature to make these changes. Until that occurs, we will continue to offer the “extended-term financing” as an alternative.

Comment: Re: Allowing WPCLF funding to be used on private property for roof and/or foundation drain disconnects. We understand that this funding cannot currently be used on

private property, however, our integrated plan is looking at green infrastructure and sewer separation as an alternative to gray storage, and reducing storm water connections to the combined sewer system will provide long term environmental benefits.

Response: The Clean Water Act language pertaining to the State Revolving Funds was amended in 2014, and those amendments expanded the eligibilities of SRF funds to include the activities that you mention. We have had discussions with other Ohio communities about this same question, and the questions are not so much about eligibility as they are about legal authority, such as: Does the borrower have the legal authority to contract for work on private property? Does the borrower have the mechanisms in place to limit their liability if they do work on private property? Does the borrower have the authority to borrow money (and repay it through their user charge system) for work that will be done on private property? We look forward to working with the City to answer these questions, as we continue to partner on your important infrastructure needs.

6. Lorain County's Consultant (Phil Lewis)

Comment: The Pheasant Run Sewer Rehabilitation Project was inserted into the database after the initial clerical error and scored for the first time. However, the project scored a zero (0) based on no points for human health risk because a direct connection between the collection system and the WWTP violations could not be made. When discussing this determination with Kevin Hinkle, the reasoning for this was that since the violations were nutrient based, they could not be attributed to high levels of I/I. However, we would like to point out that many of the violations were not nutrient based as the following illustrates:

- a. There are significant violations in the area of E-Coli, which is not Nutrient based and a function of not only the plant not functioning correctly but being inundated with excess flows which are created by the severe I/I issues in the collection system.
- b. There are many significant violations due to Total Suspended Solids. This again is a direct correlation to the severe I/I issues related to the sanitary system inundating the treatment plant and washing out the solids within the plant.

The very high I/I levels are directly effecting the treatment plant's ability to function properly thus overflowing and causing the above listed non-nutrient related violations. Please refer to attached "Ohio EPA Echo Detailed Facility Report Enforcement and Compliance" for the Pheasant Run WWTP, which shows the plants quarterly compliance over the past three years.

Response: We have also noted that the county's two projects (pump station and force main, and sewer rehab) are integrated and that the human health benefits are tied most closely to the WWTP elimination project, not the sewer rehab project. While we agree that the sewer rehab project is important, it will not provide direct human health benefits and as a result we cannot conclude that the sewer rehab project is on an equal standing to the WWTP project. In addition, it appears that an upgrade to LaGrange WWTP will be needed to handle the wastewater flows coming from the Pheasant Run project area. Also, absent an explanation of how the sewer rehab project itself will reduce bacteria levels to meet water quality standards, we cannot come to your same conclusion. On this basis, we have determined that the score for the sewer rehab project is appropriate.

Comment: The Pheasant Run Rehabilitation Project received the standard interest rate. However, in discussions with Kevin Hinkle it should be reviewed to receive the Small Community Interest Rate as the Pheasant Run community meets the qualifications listed in Appendix E, pg. 64, section 2 stating that the community has a project service area population

less than 5,000 and the charges for the entire debt for the project are being solely paid for by the project service population as defined in Paragraph 11 of the attached service agreement between Lorain County and Pheasant Run.

Response: We have reviewed the comments from Lorain County's consultant and agree that the small community interest rate is the correct one to be assigned to the county's two Pheasant Run projects. The final PY 2016 Program Management Plan reflects this assignment.

7. Noble County's Lashley Addition Engineer (Mark J. Eicher, P.E., P.S.) and RCAP Consultant (Pam Ewing)

Comment: I was noticing on the new WPCLF draft intended project list that Noble County has a "Standard" rate. Last year was the "Hardship" rate. Do you know why that would have changed?

Response: The standard interest rate assigned to this project in the draft Program Management Plan was incorrect. The correct interest rate should be 0% hardship. This has been corrected in the final PY 2016 Program Management Plan.

Additional comments received that do not require a detailed response

In addition to the comments received above, we received specific comments which did not require a detailed response. These included comments from the following:

1. Village of Butler
2. Columbiana County Health Department
3. City of Euclid
4. Hamilton County Public Health
5. Licking County Health Department
6. Lorain County
7. Lucas County
8. City of Parma
9. Rural Community Assistance Program (RCAP)