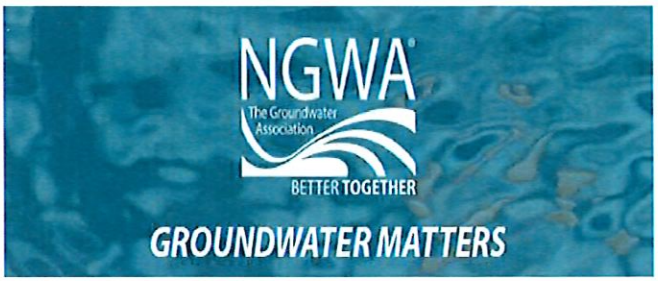

GROUNDWATER PROTECTION COUNCIL

Dedicated to protecting our nation's groundwater

March 6, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

The Honorable Radhika Fox
Assistant Administrator for Water
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

SENT VIA ELECTRONIC MAIL

SUBJECT: Lack of Groundwater-Protective Guidance for Stormwater Grant Implementation of Underserved Communities

Dear Mr. Regan and Ms. Fox:

The National Ground Water Association (www.ngwa.org) and the Ground Water Protection Council (www.gwpc.org) continue to be concerned about the neglect of groundwater-protective steps in the US Environmental Protection Agency Grant Implementation Document on the Sewer Overflow and Stormwater Reuse Municipal Grants Program published at: https://www.epa.gov/sites/default/files/202103/documents/osg_program_implementation_document.pdf.

Previous Communication

We had corresponded on this matter with your predecessor on October 19, 2020 (see attachment). Since then, we have met with EPA staff twice to express our continuing concerns (June 14, 2021, and January 25, 2022) and sent you a letter signed by five water associations regarding the need for best management practice guidance on November 16, 2021. We wanted to make you aware of our ongoing concerns with potential contamination of groundwater resources from stormwater control measures under the National Pollutant Discharge Elimination System (NPDES) Program.

Specific Concerns

We have several concerns about stormwater infiltration as a selected NPDES control measure: (1) the potential for emerging and other contaminants of concern to be transferred to groundwater sources that are currently or may become future or emergency drinking water supplies, (2) the possibility of contamination of water resources for individual private wells in underserved areas, (3) some of the injection/transfer of stormwater to the subsurface may also require an Underground Injection Control (UIC) Program authorization, and (4) the potential for a NPDES (or delegated state authority) permit for the functional equivalent of a surface water discharge that may lead to initial groundwater contamination being discharged to Clean Water Act jurisdictional water.

Lack of Guidance to Underserved Communities

The NGWA and GWPC support funding for communities needing assistance, particularly disadvantaged and underserved communities, in managing their water resources and for stormwater reuse that may be used as a source of recharge for aquifers as well as supporting the environment. Providing financial assistance to these communities is fundamental to their ability to have adequate needed infrastructure. We are concerned that grants to small communities, which typically rely on groundwater as a drinking water source, *are not accompanied with sufficient guidance to ensure groundwater protection* if they choose stormwater infiltration as their means of stormwater control. In small communities, points of stormwater infiltration may be close to and provide source water which can be drawn toward pumping community and private wells.

The grant program implementation document only mentions ground water once as part of a definition of Integrated Water Resource Planning: "An integrated water resource plan facilitates the coordinated management and protection of surface water, ground water, and stormwater resources on a watershed or subwatershed basis to meet the objectives, goals, and policies of the CWA."

EPA has promoted disposal through infiltration of stormwater to the subsurface as a key stormwater pollutant best management practice to protect surface water quality without adequate consideration of groundwater quality degradation. NGWA and GWPC are concerned that adequate groundwater quality/drinking water-protective guidance also be provided to

municipalities that may receive stormwater grants. Our research has found that at least 22 percent of these municipalities are utilizing groundwater and 15 states have from 31 to 100 percent of their MS4 communities supplied by community groundwater systems, many being small systems with limited resources.

Risk and Cost to Small Underserved Communities

Without providing guidance that addresses treatment rather than transfer of pollutants from surface water to groundwater resources, EPA is creating risk for concentrating pollutants in groundwater, potentially encouraging new and uncontrolled point and nonpoint pollution sources, and potentially increasing the cost of additional groundwater treatment methods to communities and nearby private well owners. The current program grant implementation document has no further explanation of appropriate groundwater-protective practices to minimize risk to their groundwater supply or description of the requirement to get permits under the UIC Program. This circumstance creates a potential unassessed long-term risk to their water supply. Shifting the contamination from surface water to groundwater may ultimately impact the quality of the municipalities' water supplies or other down-gradient public or private water supplies thus shifting the financial burden for clean-up to a different program or community by causing them to incur additional treatment costs to meet standards and provide safe water to their customers. The lack of guidance could also lead to the choice of stormwater infiltration to groundwater as their control measure which may require a permit that has to address surface water standards due to the functional equivalent of a direct discharge to a regulated surface water body and may lead to additional costs to address in the future.

Sufficiency of Grants

Stormwater grants to communities should include sufficient funds to address assessment, design and construction of groundwater-protective steps, if needed. Given that 80 percent of community water systems serving 10,000 or fewer people are groundwater-supplied (36,202 systems), it is crucial that stormwater infiltration and reuse methods selected and funded in these communities be protective of groundwater supplies. Additionally, 34 million people live in communities which rely on private wells that may be adjacent to communities (large and small) choosing stormwater infiltration as their control measure. Protection of the quality of groundwater that is used for drinking water may include design and pretreatment features that can affect the cost to communities to manage stormwater.

The NGWA and GWPC are available to discuss this matter with you and your staff and work with you to identify steps for EPA to take to protect public health and the environment for groundwater-supplied communities. For further follow up, please contact Chuck Job, NGWA Regulatory Affairs Manager at cjob@ngwa.org and Mary Musick, GWPC Senior Advisor at musick_ambrose2@msn.com.

Thank you for your consideration and attention to this matter.

Sincerely,

Terry Morse, CAE, CIC
Chief Executive Officer
National Ground Water Association

Dan Yates
Executive Director
Ground Water Protection Council

Attachment: October 19, 2020, Letter to Administrator Wheeler