



June 20, 2023

Audrie Washington
White House Environmental Justice Advisory Council (WHEJAC) Designated Federal Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Re: Docket number EPA-HQ-OEJECR-2023-0099-0009

Submitted electronically

Dear White House Environmental Justice Advisory Council:

The Association of Metropolitan Water Agencies (AMWA) is pleased to have the opportunity to provide comments to the White House Environmental Justice Advisory Council (WHEJAC). AMWA is an organization of the largest publicly owned drinking water systems in the United States. Members serve over 100,000 customers and collectively provide clean drinking water to over 160 million people. As large public water agencies, AMWA utilities are focused on ensuring the long-term sustainability of their utilities by serving their diverse customer bases with clean, affordable drinking water. The Association supports the U.S. Environmental Protection Agency's (EPA) and other federal agencies' continuing emphasis on establishing environmental justice (EJ) priorities based on science and data and is pleased to provide the following feedback related to the WHEJAC's charge.

AMWA Comments on Environmental Justice Activities and What resources or tools would you find beneficial related to environmental justice from federal agencies?

The WHEJAC, EPA, and other federal entities must consider the greater concerns about water affordability in the United States. Despite the much appreciated \$50 billion of federal investment in the water sector from recent legislation, American water infrastructure still requires billions more to maintain adequate infrastructure, prepare for climate change resilience, and protect public health. The American Society of Civil Engineers' (ASCE) Failure to Act

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study¹ found that the US water sector in 2021 needed over \$400 billion to meet engineering standards, and these costs will only increase with additional treatment, climate change, and inflation. The existing water system financing model assumes that most of the money for addressing local water supply issues, whether that issue is aging infrastructure, water quality, lead pipes, cybersecurity, or water supply reliability, can be dealt with largely with local resources (i.e., customer water rates). Given the large funding gap needed without considering upcoming regulations to address unregulated contaminants and infrastructure investments needed to prepare for climate change, it is essential that the EPA adequately assess costs in all proposed rules and regulations.

Specifically, EPA should recognize a proposed rule's impacts on water affordability, including how a proposed regulation will increase household water rates across the country and develop any rule proposals with the impact to households at front of mind. Nationally, many customers can already not afford their drinking water bills. A 2020 analysis by Circle of Blue² examined the amount of residential debt in 12 large U.S. cities. The analysis found that in some cities, the average resident with water debt owed on average over \$600, and that in four cities over 30% of residents had water debt². This report reflects that households across the US are struggling to pay their water bills already, so EPA should greatly consider how to prepare for any rate increases from any future proposed rulemakings

EPA's recent proposal to regulate six PFAS serves as an example of EPA's failure to examine the geographic distribution and environmental justice implications of a proposed regulation. For example, that proposal would increase rates at an unsustainable level for households served by smaller, rural water systems. To examine how this proposed rulemaking would increase household rates across the country, Black & Veatch researchers examined estimated costs by PWS size. The researchers found that customers in small systems, which are overwhelmingly in rural areas, may face significantly larger household costs of PFAS treatment than what households served by large utilities will see³. Another analysis by Policy Navigation Group (PNG) estimates that on an annualized basis, household costs will increase \$110 to \$10,000 depending on system size, which equates to a large percent of annual household incomes, particularly in rural areas (see Attachment 1). According to the latest annual Bankrate annual emergency savings survey, over 50% of Americans do not have the funds on hand to cover a \$1000 emergency expense⁴. An increase of over \$1,000 for water treatment, therefore, is

¹ ASCE. (2021). Failure to Act: Economic Impacts of Status Quo Investment Across Infrastructure Systems. https://infrastructurereportcard.org/wp-content/uploads/2021/03/FTA_Econ_Impacts_Status_Quo.pdf

² Circle of Blue. (2020, October). *Customer Water Debt Data and 12 US Cities*.

<https://www.circleofblue.org/2020/world/chart-customer-water-debt-data-in-12-u-s-cities/>

³ AWWA. (2023 March 7). WITAF 56 Technical Memorandum. PFAS National Cost Model Report.

<https://www.awwa.org/Portals/0/AWWA/Government/2023030756BVFinalTechnicalMemoradum.pdf?ver=2023-03-14-102450-257>

⁴ Bankrate. (2023, February 23). Bankrate's annual emergency savings report.

<https://www.bankrate.com/banking/savings/emergency-savings-report/>

unimaginable for many households. Without substantial and recurring federal government subsidies and EPA's honest examination and preparation, these geographic and PWS system size inequities in costs of PFAS treatment will perpetuate. AMWA urges WHEJAC and EPA to consider and put in place partnerships to prepare for these potential inequitable impacts.

To advance environmental equity, the federal government should provide more comprehensive support to ensure polluters – not the public – pay for the cost of treating and destroying contaminants out of the environment. AMWA supports the Agency's goal of fairly treating all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. However, in the PFAS NPDWR proposal, EPA failed to examine or plan for whether communities are treated fairly with regard to the costs required to implement the proposed regulation. A recent study by Liddie, Schaider, and Sunderland analyzed over 7,000 community water systems and found that CWSs "serving higher proportions of Hispanic/Latino and non-Hispanic Black residents had significantly increased odds of detecting several PFAS."⁵ This finding indicates that communities of color may be more likely to be in an area with industrial or other sources of PFAS contamination; therefore, their community will likely have to treat more PFAS out of their local water supply, increasing the needs for additional capital and treatment, and increasing costs. In developing drinking water regulations and implementing them, AMWA encourages the WHEJAC, EPA, and all other federal agencies to consider how to partner with community water systems to ensure that communities are both equally protected from contaminants in drinking water and not disproportionately required to pay for contamination their communities did not create.

⁵ Liddie, Schaider, and Sunderland. (15 May 2023). Sociodemographic Factors Are Associated with the Abundance of PFAS Sources and Detection in U.S. Community Water Systems. *Environmental Science & Technology*. DOI: 10.1021/acs.est.2c07255



AMWA Comments on Environmental Justice 40 Initiative

AMWA appreciates the intent behind the Justice 40 initiative to assist disadvantaged communities with funding for critical infrastructure. AMWA would like to highlight the differences between CEQ Climate and Economic Justice Screening Tool, EPA’s Bipartisan Infrastructure Law implementation memo, and state definitions of disadvantaged community. Below is a summary of the differences between definitions of disadvantaged communities from Justice40 and CEJST accounting, implications for AMWA members, and greater concerns about discrepancies in infrastructure funding for disadvantaged communities.

Background – drinking water and disadvantaged community definitions

Under the Safe Drinking Water Act, states have authority to define a disadvantaged community for purposes of distributing funds through the Drinking Water State Revolving Fund (DWSRF) programs. The Bipartisan Infrastructure Law, its requirements, and the Justice40 initiative prompted many states to evaluate their definitions of disadvantaged community. States vary in how they define disadvantaged communities, and their definitions of disadvantaged communities for DWSRF projects may differ from definitions of disadvantaged under the Clean Water Act State Revolving Fund (CWSRF) and other federal and states grant and loan programs. States define disadvantaged communities under the DWSRF through different regulatory mechanisms, which vary in the ease at which states may change them, and include statutes, regulations, policies, and Intended Use Plans (a state’s plan outlining how it will distribute its SRF funds).

The Association of State Drinking Water Administrators (ASDWA) created a [dashboard](#) that compiles state disadvantaged community definitions under the DWSRF and identifies the definition’s origin. ASDWA has also been conducting interviews with state SRF administrators to understand if they are changing their definitions generally or in response to the BIL or Justice40 initiatives. This tool tracks more recent definitions than a similar report EPA released this summer, “*DWSRF Disadvantaged Community Definitions: A Reference for States*” report.

Concerns over how these definitions will interact with Justice40 and the Climate and Economic Justice Screening Tool 1.0 (CEJST)

Chief among AMWA’s concerns are the potential frustration and confusion from utilities that are applying for funds under the DWSRF as well as other federal funding programs. It is possible that a part of a utility’s service area could be considered disadvantaged under the CEJST, while

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their state's definition does not consider their service area disadvantaged. Utilities could be applying to any of the following programs that are Justice40 programs but have different state definitions of disadvantaged, including:

- Three different water programs that were part of six Justice40 pilot programs: the Drinking Water State Revolving Fund, Clean Water State Revolving Fund, Reducing Lead in Drinking Water.
- Addition EPA programs: Drinking Water State Revolving Fund Emerging Contaminants (including PFAS), Drinking Water State Revolving Fund Lead Service Lines Replacement, Drinking Water Infrastructure Resiliency and Sustainability Grant Program, Drinking Water State Revolving Fund Emerging Contaminants (including PFAS), Drinking Water State Revolving Fund Lead Service Lines Replacement

EPA and state definitions limit the ability of large, metropolitan water agencies access to additional subsidization under the BIL, which AMWA believes conflicts with the intention of Justice40. As approved by Congress last year, 49 percent of states' SRF funds delivered through the BIL must be provided to "eligible recipients" in the form of grants or principal forgiveness loans, with the intention that these dollars support projects in low-income communities. However, the BIL implementation memorandum [released](#) by EPA earlier this year specifies that these additionally subsidized DWSRF funds must be distributed only to state-defined "disadvantaged communities." To maximize considerations of equity and the provision of assistance to a wide range of low-income communities and ratepayers, AMWA believes the EPA should interpret 'eligible recipients' to be any community water system that is eligible to receive SRF aid, and which will use these grants or principal forgiveness loans on projects that will significantly benefit low-income populations in their service area.

Kansas City, Missouri is one example of where state definitions conflict with the CEJST/J40 measures. Many Census tracts in Kansas City (about half of the city's area) are disadvantaged according to CEJST. However, part of Missouri's definition includes a utility serving a population size of 3,300 or less as the first stipulation, meaning that Kansas City could not apply for any additional subsidization funds designated for disadvantaged communities under the DWSRF (i.e., grants or principal loan forgiveness), according to the BIL.

Conclusion

AMWA thanks WHEJAC for the opportunity to provide public comment and appreciates the Council's efforts toward advancing environmental justice. If you have questions, please contact Jessica Evans (evans@amwa.net), AMWA's Manager of Government Affairs and Sustainability Policy.

Sincerely,



Thomas Dobbins
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