



October 10, 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 ID No. EPA-HQ-OEJECR-2023-0099 WHEJAC; Notification of Virtual Public Meeting September 26, 2023

*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.

AMWA was grateful for the opportunity to deliver oral comments at the September 26, 2023, virtual public meeting of the WHEJAC and is happy to expand upon those comments. The Association supports 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 regarding both carbon management and ways that the WHEJAC could recommend advancing environmental justice through a whole-of-government approach.

### **Carbon Management**

AMWA understands the importance of the administration's mission of reducing greenhouse gas emissions to mitigate climate change and its disastrous impacts both globally and in towns and cities across the nation. AMWA appreciates the steps EPA and other federal agencies have taken in pursuit of this mission, including through implementation of Bipartisan Infrastructure Law and

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Inflation Reduction Act programs related to clean energy development, energy efficiency, and more.

AMWA has concerns about one development in the federal government's approach to carbon management: the increase in both permit applications and states applying for primacy to oversee Class VI wells permitting (UIC) programs. Class VI wells are used to inject carbon dioxide into geologic formations thousands of feet underground, and EPA Office of Water (OW) grants permits or state primacy for these wells under SDWA's Underground Injection Control program.<sup>1</sup> While carbon capture, utilization, and sequestration (CCUS), including permanent geologic sequestration utilizing Class VI wells will likely serve as one of many tools to reduce emissions in the decades to come, AMWA has specific concerns about the potential impacts to drinking water associated with the anticipated expansion of permitting Class VI underground injection control wells in states across the country.

While Class VI well injections occur thousands of feet below the surface and below underground water sources, activities at the surface to build and maintain these wells, as well as improper sealing of an injection well, can threaten drinking water sources. If leaks occur in these wells due to improper siting, permitting, maintenance, monitoring, or other circumstances, carbonic acid can leach metals out of subsurface rock formations and potentially contaminate groundwater with arsenic, lead, copper, mercury, cadmium, and others at levels above EPA's maximum contaminant levels (MCLs).<sup>2</sup> These metals can gravely alter groundwater chemistry, introducing contaminants that can cause significant health risks, forcing public water utilities to spend millions or billions of dollars to remediate contamination and find alternative sources of water.

**To ensure the protection of underground sources of drinking water, federal agencies should ensure that the most extensive possible requirements for monitoring, advanced warning mechanisms, and iterative stakeholder feedback are included in permit applications and applications for state primacy.** Robust community and stakeholder engagement is paramount in ensuring that communities are both aware of the potential risks associated with carbon capture and sequestration projects and also are able to provide feedback. Specifically, EPA should ensure that state applications for primacy should include mechanisms to establish relationships with and solicit feedback from water utilities and the communities they serve throughout the lifecycle of all Class VI well projects. **As the federal government continues to explore carbon management possibilities, all federal agencies, including EPA, must ensure that protection of drinking water resources is a top priority in proposed Class VI well permits, as well as in all future Class VI well primacy decisions for states.**

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<sup>1</sup>EPA. (October 2, 2023). Class VI Wells. <https://www.epa.gov/uic/class-vi-wells-used-geologic-sequestration-carbon-dioxide>

<sup>2</sup> Little, M. G., & Jackson, R. B. (2010). Potential impacts of leakage from deep CO<sub>2</sub> geosequestration on overlying freshwater aquifers. *Environmental science & technology*, 44(23), 9225–9232. <https://doi.org/10.1021/es102235w>

**Ways the WHEJAC could recommend advancing environmental justice through a whole-of-government approach: maintaining funding for a low-income household water assistance program and urging the establishment of a long-term program.**

WHEJAC, EPA, and other federal entities must consider concerns about water affordability in the United States and how these disproportionately affect low-income households. 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. EPA's 7<sup>th</sup> Drinking Water Infrastructure Needs Survey and Assessment report to Congress estimated that drinking water systems alone will need \$625 billion to replace pipes, upgrade treatment plants, improve storage tanks, and enhance other critical assets to ensure the public health, safety, and economic well-being of communities.<sup>3</sup> These costs will ultimately be passed on to all ratepayers but will be felt most severely by those at the lower end of the income scale.

The impact of rising rates on the most economically vulnerable is why AMWA strongly supports the creation of a permanent, federal water assistance program to benefit low-income households and urges WHEJAC to consider this as a whole-of-government approach to advancing environmental justice. In April, AMWA was one of five water sector organizations to release a landmark report<sup>4</sup> on policy options to consider when developing a federal low-income water customer assistance program. This report included a first-of-its-kind needs assessment that found that as many as 21.3 million household nationwide may have trouble paying their water and wastewater bills. To fully meet the needs of these water-burdened households, up to \$7.9 billion in water bill assistance would need to be provided, every year. In light of these affordability concerns, AMWA has the following three recommendations regarding ways WHEJAC can recommend a whole-of-government approach to advancing environmental justice.

**1. AMWA urges WHEJAC to recommend that the temporary Low Income Household Water Assistance Program (LIHWAP)<sup>5</sup> provided through Health and Human Services (HHS) continues to be funded in Fiscal Year 2024.** This is unlikely to happen based on proposed appropriations bills in Congress, so we ask WHEJAC to urge the Office of Management and Budget to include LIHWAP funds in their supplemental budget request.

Congress established LIHWAP as a temporary program, and without further action, the program expired at the end of FY23. Notwithstanding, LIHWAP has proven to be a valuable resource over

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<sup>3</sup> EPA. (September 2023). Drinking Water Infrastructure Needs Survey and Assessment 7<sup>th</sup> Report to Congress. [https://www.epa.gov/system/files/documents/2023-09/Seventh%20DWINSA\\_September2023\\_Final.pdf](https://www.epa.gov/system/files/documents/2023-09/Seventh%20DWINSA_September2023_Final.pdf)

<sup>4</sup> Low-Income Water Customer Assistance Program Assessment. (April 20, 2023).

<https://www.amwa.net/publication/low-income-water-customer-assistance-program-assessment>

<sup>5</sup> Low Income Household Water Assistance Program (LIHWAP). (September 2, 2022.) Department of Health and Human Services (HHS): Office of Community Services (OCS). <https://www.acf.hhs.gov/ocs/programs/lihwap>

the past two years. Since its inception in 2021, the program has aided over 1 million households.<sup>6</sup> In the interim, as Congress debates a path forward, AMWA supports providing LIHWAP with an additional \$1 billion, so the program can remain operational through the 2024 fiscal year.

Extending LIHWAP will maintain essential assistance for at-risk households and ensure that drinking water providers continue to receive financial support for their critical functions. Extending the program will also provide Congress with additional data about its potential as a model for a permanent low-income water assistance program and offer an opportunity to refine the program to ensure the federal government, states, and local water systems develop best practices for delivering aid to eligible households in a timely and efficient manner.

**2. AMWA urges WHEJAC to support the establishment of a permanent LIHWAP program that is separate and independent from the Low-Income Household Energy Assistance Program (LIHEAP).**

Continued funding for the HHS LIHWAP program in the interim can serve as a model for any permanent low-income water ratepayer assistance. HHS has provided over one million low-income customers with water assistance to date, demonstrating the agency's ability to quickly stand up and operate a program. AMWA recognizes that a number of states were very successful at quickly standing up LIHWAP, promoting the program to eligible households, and working with water systems to apply the funds to the correct accounts. Just as we believe that LIHWAP's implementation challenges could be managed and overcome if the program is given a chance to mature, we also believe that states and communities can learn from the program's successes and duplicate those best practices across the country if a new permanent program is established in another agency.

Alternatively, EPA has been authorized to run a pilot assistance program, but the agency can only do so after implementing a water affordability needs assessment. The Drinking Water and Wastewater Infrastructure Act (DWWIA) of 2021 established the Rural and Low-Income Water Assistance Pilot Program at EPA. The program authorizes the agency to award up to 40 grants to support municipally operated water and wastewater affordability programs across the country through direct aid to eligible households, lifeline rates, bill discounts, and other hardship provisions. DWWIA requires EPA to conduct a needs assessment on the prevalence of local governments with water service providers that serve a disproportionate number of households with qualifying need and providers that have taken on high levels of debt due to customer nonpayment before the pilot program can be developed. EPA is in the process of conducting this assessment, so we urge the WHEJAC to support EPA in completing this task as soon as possible.

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<sup>6</sup> HHS OCS. (August 25, 2023). LIHWAP DCL-2023-20 WWW 1 Million Served Dashboard FY2023. <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-dcl-2023-20-www-1-million-served-dashboard-fy2023>.

**3. Until a permanent program is established, WHEJAC should urge the President to request funding in his FY25 budget for LIHWAP that is separate and independent from LIHEAP.** Separate funding streams will ensure that households receive necessary funding for various critical services. AMWA supports the establishment of a permanent federal program to help low-income households maintain drinking water and wastewater service, and we believe there are two promising paths forward in the Rural and Low-Income Water Assistance Pilot Program and the Low-Income Household Water Assistance Program. Until either or another permanent program is established, providing funds to continue the LIHWAP program as is will ensure vulnerable households maintain critical drinking and wastewater services.

AMWA thanks EPA for the opportunity to provide comment on these charges before the WHEJAC. If you have any questions about this letter, please contact Jessica Evans, AMWA's manager of government affairs and sustainability policy at [evans@amwa.net](mailto:evans@amwa.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Dobbins". The signature is fluid and cursive, with a large initial "T" and "D".

Thomas Dobbins  
Chief Executive Officer  
Association of Metropolitan Water Agencies