



# National Association of Wetland Managers

“Dedicated to the Protection and Restoration of the Nation’s Wetlands”

September 29, 2023

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**RE: 2026 National Water Program Guidance**

Dear Ms. Best-Wong,

The Association of State Wetland Managers, Inc. (Dba the National Association of Wetland Managers, hereafter referred to as “NAWM”) appreciates this opportunity to provide input in response to the U.S. Environmental Protection Agency’s (EPA) request for comments on the 2026 National Water Program Guidance (NWPNG). We understand this to be a key planning document used by the EPA program offices to set forth strategies and actions and to describe how EPA works with states, tribes, and territories to protect and improve the quality of the Nation’s waters.

NAWM is a national 501(c)(3) professional organization established in 1983, with a mission to build capacity for state and tribal members and foster collaboration among the wetland community of practice by encouraging the application of sound science to wetland management and policy, promoting the protection and restoration of wetlands and related aquatic resources, and providing training and education for members and the general public.

Given the recent U.S. Supreme Court decision on *Sackett vs EPA* which significantly narrowed the reach of federal protections for wetlands and other aquatic resources across the nation, NAWM’s recommendations are focused on mitigating the negative impacts resulting the loss of these critical protections.

**Give Greater Recognition to the Role for Wetland Protection and Restoration as Infrastructure**

Wetland functions are critically important to sustain our quality of life, as they store and convey floodwater, provide critical habitats for wildlife, improve water quality, capture carbon and nutrients, and recharge groundwater. Wetland losses have resulted in increased flooding, releases of carbon and methane into the atmosphere, degraded drinking-water quality, polluted streams and rivers, and loss of wildlife habitat. These effects are exacerbated by climate change, which impacts every sector of

our lives — from public safety and public health to our economy and the condition of our ecosystems that support all life on earth.

In fact, several experts contend that green infrastructure, such as healthy wetlands, can provide many of the same benefits of traditionally engineered infrastructure, such as water treatment plants, at a much lower investment and maintenance cost. For example, New York City's Staten Island Bluebelt project controls stormwater using existing a combination of natural drainage systems, e.g., streams, ponds, and wetlands, along with new water mains and sanitary sewers. An initial benefit-cost study found that the project would save more than \$30 million over a conventionally engineered approach. The program has now expanded into 75 Bluebelts that manage stormwater, preserve and maintain open space for residents, native plants, and wildlife, and have improved nearby property values, while saving the City hundreds of millions of dollars in costs. In the Sebago Lake Watershed of the Portland Water District in Maine, land acquisition and conservation easements are being used to maintain source water quality from Sebago Lake and to avoid the bigger costs associated with building additional water filtration facilities.

Hazard mitigation, including reducing inland and coast flooding, extreme heat, drought, and wildfires is also a well-documented benefit of healthy wetlands. It is estimated that during Hurricane Sandy, coastal wetlands saved more than \$625 million in flood damages and hundreds of millions of dollars in New Jersey alone.

Despite great potential for wetlands to further contribute to effective and resilient infrastructure, the EPA wetland programs have not benefited from any of the Bipartisan Infrastructure Law (BIL) funding that has been made available to traditional clean water programs designed to build, maintain, and operate water treatment plants.

- NAWM recommends that EPA elevate the important role that wetlands play as a solution for clean water and hazard mitigation, as an equally important partner and solution for our nation's crumbling infrastructure, through increased funding for wetland restoration and protection programs at the state/Tribal/territorial and local government level in its Protecting Waterbodies and Watersheds strategies moving forward.

### **The WPDG Program Should Not Be Competitive for States and Tribes**

The Wetland Program Development Grant (WPDG) program should not be competitive. This a significant burden in time spent for states and Tribes to manage all the paperwork and reporting requirements under a competitive grant program just to keep their program going. It also pits state against state and Tribe against Tribe for critical funds. There is no benefit to the competitive nature of this funding – much more could be accomplished if state and Tribal wetland programs were encouraged to share best practices versus competing for scarce dollars. Most CWA programs provide a baseline level of funding based on a formula; the federal wetland program is the only CWA program that is designed to be competitive. There is no clear reason provided for this discrepancy, which threatens the ability for programs to continue to exist. For example, in Maine, the state's monitoring and assessment program is at risk every two years as it primarily relies on WPDG funding to continue its program.

This is also an environmental justice and equity issue, since disadvantaged communities have greater challenges finding an alternative source of funding to implement the program that they have

developed under a WPDG. For example, the Pyramid Lake Paiute Tribe in Nevada had a successful wetland program until this year when they were not awarded a new WPDG. The Tribe's Wetland Specialist had to leave her position in August of this year because the future of their wetland program was uncertain after the Tribe did not receive funding in the WPDG competition. The combination of staff turnover (and associated loss of institutional knowledge), lack of funding, and the time-consuming process of applying for competitive grants may jeopardize the ability for tribes like the Pyramid Lake Paiute Tribe to restart their wetland program in the future. This necessitates a constant effort to come up with new program ideas instead of successfully implementing and improving on their existing program.

- NAWM recommends eliminating the competitive structure of the WPDG program and increasing funding for state and Tribal wetland programs overall.

### **A Need for Implementation Funding**

For over three decades, NAWM has consistently received and shared feedback from states and Tribes that implementation funding is critical to run sustainable and effective wetland programs. After 33 years of investment in the Wetland Program Development Grant (WPDG) program, it just makes sense to provide funding to also help with implementation in order to generate the benefits and outcomes from program development. Without implementation funds, once a program is developed and at the implementation phase, otherwise well-developed proposed programs just “die on the vine.” This is a waste of federal dollars and time and money spent on development by EPA and their state and Tribal government partners.

Twenty four states rely primarily on Section 401 of the CWA to protect their freshwater wetlands. After *Sackett*, those states and Tribes who relied on Section 401 now find themselves in a position of creating and implementing a program from scratch since many waters will no longer receive federal protections under the Clean Water Act and will therefore not trigger a state or Tribal 401 review. Developing a permitting program is expensive and takes time and political will. Implementation funding from EPA would significantly ease the burden on states and Tribes who are now in the position of having to hire many new full-time staff to efficiently run a permitting program. Early estimates from Washington State indicate it will take around \$970,000 to get a permit program up and running and around \$2.2m per year to implement the program until they can establish a fee program to defray costs. While this sounds expensive, protecting source waters and freshwater wetlands for public drinking water systems is less expensive than monitoring and treating contaminated source water. Approximately 117 million people get their drinking water from public systems that rely at least in part on headwater aquatic resources which now have uncertain protections after *Rapanos* and even less so now under *Sackett*.

The CWA doesn't explicitly limit the use of wetland program funds to development, and appropriations in recent years have not included the limitation. The earliest articulation of development-only funding that NAWM has found so far is a 1996 GAO report, “Water Quality: A Catalog of Related Programs,” that indicates “Wetlands Protection – State Development Grants ... Funds must be used for development or refinement of wetland programs. Funds cannot be used to support the operation of a state/tribal wetland program.” The report does not provide a citation for its conclusions, citing only the CWA generally.

In summary, if states and Tribes are expected to “fill the gap” in federal protections, then they will need the financial support to do so. The best way to continue to protect wetlands that are now outside of federal jurisdiction is to support the implementation and expansion of state and tribal programs.

The push for state and Tribal assumption of the CWA Section 404 dredge or fill program also highlights the need for wetland program implementation funding. States and Tribes interested in program assumption under 404(g) need implementation funding similar to that provided to implement other CWA programs such as 402 NPDES. Several states (MN, AK, VA, etc.) have indicated their interest in state assumption is tied directly to funding.

Some states have programmatic general permits (PGPs) from the U.S. Army Corps of Engineers (Corps), under which state authorization will result in a comparable federal authorization. While this is not a form of assumption, the jurisdictions with PGPs are doing uncompensated work on behalf of federal agencies. The jurisdiction with the PGPs may also assume responsibility for receiving and distributing joint permit applications to the Corps and other federal agencies for review as needed and agreed upon. Jurisdictions with PGPs also assume oversight over permittee responsible mitigation projects in order to meet the goal of no net loss of wetlands.

- NAWM recommends that EPA look to create a new funding mechanism and work with Congress to increase financial support for implementation program funds similar to CWA §106 or §319 to support wetland program implementation and for administering the dredge or fill permitting program if approved under 404(g). This could potentially be accomplished through a formula based block grant that allows all states and Tribes to support their wetland programs based on their current and evolving needs.
- NAWM also recommends that EPA include wetland restoration as an approved activity in other CWA programs. Some CWA programs include wetland restoration as an approved activity, but not all. This should be reviewed, and changes suggested.

### **Include a Priority Focus on Cooperative Federalism and Engagement with Co-Regulators**

NAWM encourages early and continued engagement with states and tribes throughout the process of updating rules and guidance. States and tribes desire to work together with EPA as *co-regulators*, through a process that goes beyond responding to requests for public comment, especially when comprehensive comments are not possible due to short time periods in which to respond.

Cooperative federalism between states/tribes and EPA includes shared authority and accountability and requires collaboration, partnership, and trust to manage positive environmental results. We encourage as much communication and transparency as possible, understanding the confidentiality constraints of rule drafts.

This is especially important when significant changes exist from current or recent practice. While we appreciate the urgency with which EPA is working to update rules to restore protections to our nation’s waters, include sufficient time for EPA and/or Corps to develop supporting tools, technical guidance and training to support implementation. States and tribes have limited resources and capacity to learn and adjust to rule and policy implementation changes. This capacity has been

stressed by the highly dynamic regulatory environment over the past several years and into the present.

- As an overarching principle, NAWM encourages transparency and early collaboration with states and Tribes as co-regulators. This is especially important while EPA and partner federal agencies update rules, orders, guidance documents, policies, and similar agency actions impacting water protection programs.

NAWM appreciates the opportunity to provide comments on the development of the 2026 National Water Program Guidance, and we additionally support EPA's early and continued engagement with states, Tribes, and territories throughout the process. While these comments have been prepared with input from the NAWM Board of Directors, we encourage your full consideration of the comments of individual states, Tribes, and territories. Please contact me should you wish to further discuss these comments.

Sincerely,



Marla J. Stelk  
Executive Director

Cc: NAWM Board of Directors  
Kristie Moore, U.S. EPA  
Jared Martin, U.S. EPA