



Leveraging the Clean Water State Revolving Fund to Protect Vulnerable Wetlands and Their Functions

Background

The recent Supreme Court decision in *Sackett v. EPA* to severely limit the definition of “Waters of the United States” has left many important wetlands vulnerable to development without even the benefit of compensatory mitigation that happens when permits are required for dredge and fill projects within wetlands. It has been shown that conserving and protecting wetlands as part of natural areas, watersheds, and forests provides multiple environmental and social benefits, including improving local water quality and quantity, enhancing fish and wildlife habitat, protecting groundwater sources, reducing wildfire threats, improving reforestation, and increasing public access to natural places and outdoor recreation opportunities.

After *Sackett*, many important wetland areas are now vulnerable to pollution and destruction. This is especially true of wetland areas that are not directly connected to other protected waters, including bottomland hardwood forests and “isolated” wetlands that are most likely to be developed based on their landscape position. Finding funding for conservation and preservation of these areas is challenging in the absence of a permitting program that requires compensation. Therefore, searching for reliable funding sources is of utmost importance. While many conservation organizations do fund land preservation, having state funded programs geared to help preserve important wetlands within their boundaries can also be an important tool, by itself or in combination with private land trusts and conservation.

Policy Proposal

We propose that states in the Mississippi River Basin consider leveraging existing tools and funding resources like the Clean Water State Revolving Fund to increase wetland preservation, conservation, and enhancement. The purpose of these public or public-private partnerships would be to protect vulnerable wetlands that are also part of important conservation corridors to protect habitat and water quality and quantity from degradation and loss.

State Revolving Loan Funds (SRFs), both the Clean Water SRF and the Drinking Water SRF, have long been used as a source of low-cost financing for water infrastructure projects. These programs represent a powerful partnership between the EPA and the states, in that the base funds are provided by the federal government, then reinvested by the states. The SRFs function as environmental infrastructure banks that provide low-interest loans and grants to eligible recipients including nonprofits, municipalities, private entities, and citizen groups using federal funds to help communities address drinking water and water quality infrastructure needs. [1]

The EPA provides states with annual capitalization grants for a Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF), which are then matched by 20% of additional state funds. As the loans are paid back, states make new loans to other recipients, creating a revolving source of funding for eligible projects. Recently, the Bipartisan Infrastructure Law provided a new infusion of funds with more uses and focus on environmental justice and underserved communities. The law states that 49% of the CWSRF funding must be provided as additional subsidization/principal loan forgiveness, which can provide more flexibility for states to structure affordable assistance for these types of projects.

States have broad discretion in how they manage and use SRF funds for a wide range of watershed protection and restoration efforts. Despite this flexibility, the majority of funding has historically gone towards traditional hard infrastructure projects. States could better leverage these programs as a funding source for projects that restore, conserve, or protect natural lands that provide multiple benefits for communities. For example, the CWSRF can be used to help public, private, or nonprofit entities finance nontraditional projects such as green infrastructure practices, wetlands restoration, and land acquisition to control nonpoint source pollution and protect source waters, including conservation easements, land leasing, and fee simple land acquisition. [2] The entity receiving the loan has to have a public component, though that can be satisfied by a partnership with private and nonprofit entities.

The following activities could help to facilitate the use of SRF funding to preserve wetlands and to develop other natural infrastructure projects:

- The development of educational materials for states, describing the process and language for state Intended Use Plans (IUPs) that would provide for and encourage land conservation projects that have water quality benefits
- Distributing information to eligible recipients on how to tap into CWSRF and DWSRF funds for these types of projects, including how to approach state and local government entities to sponsor conservation projects
- Helping to identify key wetland complexes under threat within the Mississippi River Basin that could be part of larger conservation corridors that improve water quality and wildlife habitat
- Advocating that EPA work to encourage states to add eligibility for conservation projects into their guidance and to prioritize this use of funds



Landscape scale practices funded through the CWSRF - like wetland restoration, floodplain protection, and land conservation - help address nonpoint source pollution and improve water quality. These projects have a multitude of benefits that go beyond improving water quality and include enhancing outdoor recreation opportunities, safeguarding fish and wildlife habitat, reducing downstream flood risks, and improving climate resilience. In the Mississippi River Basin, which struggles with nonpoint pollution challenges, this strategy could help improve water quality while also enhancing the way of life throughout the basin states.

Potential Hurdles and Political Considerations

- Variability of eligibility: Though EPA provides guidance, states have great discretion in how they manage and use SRF funds through state Intended Use Plans (IUPs), which means that funding of eligible projects may vary depending on the priorities of each state. For projects to be eligible for funding in a given year, the activity must be included in the state's IUP for that year. Project eligibility can be found by contacting each state's CWSRF program representatives. [3]
- Demand for green project loans: The establishment of the Green Project Reserve, which requires states to use a certain percentage of their annual CWSRF capitalization grant to fund green projects, resulted in the financing of hundreds of green projects across the country. However, green projects have historically received less funding, and though there is a strong potential project base, some states have found it difficult to identify eligible projects.
- Revenue Source for Loan Repayment: a challenge to the revolving loan funds for nonpoint source or watershed protection projects is identifying repayment mechanisms. Some potential repayment sources include recreational fees, dedicated portions of local, county, or state taxes/fees, stormwater utility fees, nutrient credits, or sponsorships or partnerships with nonprofits or businesses.
- Some legal limitations may exist: Only some states have the ability to provide direct loans to private entities for CWSRF projects, though some states have broadened the definition of eligible borrowers to include private entities. States could expand the use of funds to include private entities.
- Built-in flexibility of the SRF Program: SRF program managers generally have the authority to employ SRF allocations in ways that increase access to SRF funds, leverage those funds with additional non-federal investments, effectively use SRF funds in combination with federal grant programs, and expand the value of state and federal SRF contributions. More state SRF programs should utilize these creative applications of SRF resources. Alternatively, EPA could encourage the states to include such eligibility.



Messaging

Messaging around this solution would be effective if it focuses on the multiple, localized benefits of these types of wetland restoration and floodplain protection infrastructure projects which can be tailored specifically to a geographical region and that go beyond their core, water quality functions. This includes reducing flooding, safeguarding groundwater supplies, enhancing fish and wildlife habitat, improving air quality, reducing heat island effects, storing carbon, and improving access to green space and outdoor recreation opportunities. Messaging should also highlight the economic benefits of these projects, including that these natural infrastructure approaches are frequently more cost-effective than gray infrastructure, can reduce the costs of water quality compliance, water treatment upgrades and costs, and flood control for communities and taxpayers, and support local jobs that boost regional economies. [4] These types of projects can be integrated with traditional hard infrastructure approaches.

Existing Tools

- [Information about the process and a couple of examples of the SRF in action for natural infrastructure](#)
- [SRF Advocacy Toolkit from River Network](#)
- [NWF Funding Nature Based Solutions Database CWSRF page](#)
- [EPA CWSRF Best Practices Guide for Financing Nonpoint Source Solutions](#)

[1] <https://www.epa.gov/cwsrf/about-clean-water-state-revolving-fund-cwsrf>

[2] https://www.epa.gov/sites/default/files/2018-10/documents/cwsrf_land_conservation.pdf

[3] <https://www.epa.gov/cwsrf/forms/contact-us-about-clean-water-state-revolving-fund-cwsrf#state>

[4] <https://www.epa.gov/green-infrastructure/green-infrastructure-cost-benefit-resources>

