

## Q&A's

### Watershed Program Training Webinar

**Q: Are non-profit organizations eligible to apply for the WFPO program alone without an additional sponsor?**

A: If the non-profit is a state-agency or district organization that is established under state law, which is what we call a subdivision of the state, then that entity would be eligible. If they are part of a state organization or fall under a state law, but just a non-profit in general, no you do not meet the requirements of a local sponsor.

To be a local sponsor you have to be a state agency, a subdivision of the state (which could be a non-profit if it's a part of the state government), a local municipal agency for county/city, or a tribal organization. Those organizations would qualify as sponsors. And, those sponsors have to have some interest and control in the projects they would be administering.

**Q: In the REHAB program, do eligible projects have to involve a dam originally constructed thru a NRCS watershed program and be passed their evaluated life or involve a dam constructed thru a NRCS watershed program or be passed their evaluated life?**

A: To be eligible for REHAB, it must first be a project constructed in one of the four REHAB authorities; the 566, 574, pilot program or RC&D program. One of those authorities had to have been used to install the project. If that's the case, and it is a high hazard structure that has reached its lifespan and you wish to extend its service life then, that's an eligible purpose for doing watershed REHAB. It can be a structure that was originally designed and constructed as significant or low and then now we're going in and upgrading that structure to meet current dam safety requirements because it's now a high hazard structure even though it may not have met its evaluated life, it may only be less than 20/30 years old. As long it was in one of those four REHAB authorities and it is not going to meet the current dam safety requirements (it was low and now it's high – or reached its life) it would be eligible.

**Q: Is the new PL566 being funded for new flood control berm projects now?**

A: So, I think you're talking about a flood control dam. Doing new dams is not as easy as it was when the program first started but if there is a need to install a new watershed structure, such as a dam, we would engage in a project that includes dams or whatever we determine is the purpose and need. If the selected alternative is a dam then, we would include that as part of the project.

**Q: I believe the size of acreage is limited to no more than 25,000 acres funded, is that correct?**

A: There is a limit in the statute for no more than 25,000/acre feet per structure not per project.

**Q: How is a new sponsor defined?**

A: A new sponsor would be an entity that we're not currently working with. We have a lot projects out there now so we're trying to encourage sponsors throughout the landscape of this country to participate – to spread it out thru the breadth and reach of this program to demonstrates its ability to have a stake in other parts of the country. A new sponsor would be someone who is not currently working on one of our projects or programs. So, if you're wanting to do a rehab project and you don't have any rehab projects that you're currently working on then, that would be considered a new project sponsor. Not saying you've never worked with NRCS in the past just saying you are not currently working with us. Now, we're taking all requests too so, even those without new sponsors...just to be clear. We want to expand the program and make sure there's opportunities that work towards getting more folks to the table. That does not mean that we're not going to fund projects with existing sponsors. We want to encourage new sponsors to get involved in the programs.

**Q: What do you do when a dam reaches its evaluated life, needs work beyond O&M and the original sponsor no longer wants to be involved?**

A: That's a tough one because any work that we do in the rehab or WFPO has to be done with a local sponsor. You have to identify a local sponsor so if the original sponsor does not want to be engaged it might be time for us to work with the state – and if it's a dam, then we definitely want to engage the state dam safety officials and that agency to determine if there is a viable sponsor out there. Especially, if it's a high hazard dam that poses a threat to life and property. We want to engage with those individuals to see if we can identify a viable sponsor. There's only one state that does not have a dam safety program but there are other agencies that regulate those structures so we want to work as closely with those dam safety agencies to determine if we can identify a viable sponsor and then work to secure a viable sponsor. And then, when a viable sponsor steps forward we can work towards doing what needs to be done to rehabilitate the structure – if it's rehab eligible OR to do a new project to replace the structure. To do a new plan or project, we have to have a local sponsor to perform any work.

**Q: If the design is already done can we start the review by NRCS and move to construction if approved?**

A: Only if there is an authorized plan – authorized by the Chief of NRCS. If this rehab than you need a supplemental plan before we can move to design. Then, if you have the design signed off by NRCS staff on the project design then we can move forward on requests for construction. The only caveat to any of this is – if any of the work I just mentioned was done more than 5 years ago. At that point, we have to have a reasonable expectation of any major changes within this watershed that was not there 5 years ago. This would facilitate the need for supplementing this plan or modifying the plan or modifying the design. So, we need to perform a re-feasibility of the plan/design to make sure it's still feasible before moving to construction. So, work with your local NRCS office to make sure you have an authorized plan to do the work and an approved design and that they are both still feasible and then we can move forward.

**Q: It was stated that priority dam funding would be given to dam safety, is this for dam safety permits requirements or the old height and acre feet standards?**

A: We don't have a specific priority for dam safety dams – Our priorities are for projects that are ready for construction, projects that are out in the western region of the U.S. where they are addressing drought issues and then those in LRA's, projects that benefit HU communities, and projects with benefits to tribal communities and organizations – those are the primary priorities when it comes to implementation funding. As far as dam safety, we do prioritize the work for rehabilitation for high hazard dams but perhaps I'm not understanding the full question there and perhaps they can send me an email to clarify.

**Q: Is there a resource GIS layer that is available to watershed planners?**

A: What we've been doing at this point is asking people to visit the [National Inventory of Dams website](#) that captures an inventory of all the dam structures in the U.S. We may do additional work thru some of our apps and info to provide guidance but for now we send people to the National Inventory of Dams.

**Q: Can funds for WFPO be used to upgrade township/county street crossings to reduce flood damage?**

A: Addressing flood damage, flood damage reductions are eligible purposes for the watershed program. As Ralph mentioned, you first need to go thru the planning process and identify the need and then identify the measures that will be able to address the purpose and need. If, thru the planning effort, we determine that there

is a need to make improvements to the hydraulics of the road and road crossings they may be incorporated into the plan that addresses flood crossings for flood prevention. It may be a component. It may be a measure that facilitates one of the purposes and could be included.

**Q: Is there a quick way to determine whether or not there is an existing plan for a watershed? Are there existing watershed plans online? Or does each project sponsor require their very own watershed plan?**

A: You do need to work with your local NRCS offices and ultimately there will need to be a conversation with the state office to determine what watershed plans already exist in your community. We do have an archive of plans – there are over 2,000 watershed plans out there and 1200 have dams in them . There may be one in your watershed so just reach out to your local NRCS office and when you fill out your PIFR it will also help determine if there is a watershed plan in existence.

**Q: In the past, non-profit organizations have been able to request flood plain easements thru the EWP is this still the case?**

A: You will still have to be an eligible sponsor to request assistance. For FPE easements – local landowners can request assistance for flood plain easements. There is an ability for assistance to be provided to local landowners if there is a need for a FPE. As far as non-profits there isn't any specific eligibility – unless the non-profit is the landowner – to provide assistance for a flood plain easement or unless they are a subdivision of the state as I explained earlier.

**Q: We have a WFPO project in play at the moment at \$18M but due to construction costs and inflation, the current construction estimate is now over 25M in construction. The EA document is ready to submit for review – can we submit a project for over 25M in construction with an EA or what options do we have? Is changing to an EIS or phasing the project an option?**

A: If the project is going to be in excess of \$25M, you will need to conduct an EIS statement for that project.

**Q: Is there any resolution between the FEMA and EWP conflict regarding statutory authority of funding disaster repairs? Specifically, FEMA defers to NRCS but NRCS does not always have EWP funding. Then FEMA says “no duplication of benefits – this is NRCS’s responsibility and the local agencies are left to fund disaster repairs on their own.**

A: Last year we established an interagency plan – a Memorandum of Understanding (MOU) that was signed in 2018. As part of that plan, we agreed we would do more ‘on the ground’ coordination between FEMA and NRCS as it relates to these federal projects. As we coordinate with them, the decision has been that if another agency has the authority to do the work then it would not be eligible for assistance from FEMA for the recovery work. So, if it is eligible for EWP assistance, then it would not be eligible for FEMA assistance. We work with local communities on those specific projects that are eligible for EWP projects – and communicate with FEMA. If there is an absence of funding, then we would put it on our waitlist in the event that funding is secured. We do have a waitlist that we expect to be remedied here shortly given that there has been funding provided for the program. So, please work with your local NRCS office and if there is a need for EWP funding– you can get that need on our waitlist and if FEMA and NRCS have agreed that this is an EWP eligible project then you definitely want to make sure you have a DSR for it. We are working on our improvements with FEMA to make sure that we coordinate better and we’re out there on the ground more frequently to reduce any confusion you may be seeing. It sounds like there is room for improvement there in our coordination to make sure both agencies are on the same page and that we are communicating with you on how best to get assistance on your recovery.

**Q: Can the EWP be used to protect agricultural fields?**

A: EWP cannot be used for cropland. You most likely want to be involved with ECP which is a program offered by our sister agency - the Farm Service Agency (FSA).

**Q: Can EWP funds be used for a chronic flooding problem caused by historic logging? It’s not an emergency but due to stormflow it’s a serious problem impacting local landowners and salmon habitat.**

A: EWP has to be tied to a specific disaster – so you have to have a specific natural disaster that occurred that caused the sudden impairment. If you have a long-standing issue in the watershed that is creating flooding related issues because of deforestation and other practices in the landscape – that would be better serviced by the WFPO program to determine the best course of action to take to address the concern.

**Q: Does the disaster need to be ‘federally’ declared a disaster to be eligible for EWP?**

A: No, for EWP it can be a ‘federally’ declared or locally-declared disaster. One that is local needs to be declared by the State Conservationist or Governor of the state. Once the disaster has been declared, we’ll determine what funding is then available

for aide. But note, you can simply have a disaster declared by the Governor or NRCS State Conservationist.

**Q: Can EWP assist with removal of contaminated sediment on my own land which was caused by the excessive sand runoff by a recent fire?**

A: If there is sediment caused by a recent disaster, it would be eligible for EWP assistance. Regarding the contamination, if the organization that was operating the mine has some responsibility and liable under federal jurisdiction – we would need to determine those things first to determine if it is something that another federal agency has jurisdiction over; or, the organization that was managing the mine might be in violation of a federal/state law – and the contamination resulted in something that they did or didn't do – there's a few things we'll need to identify there. Contamination, in itself, does not fall under an EWP impairment but can be used for sediment /soil sediment removal if it is determined unrelated to those referenced above. Work closely with the regulatory agencies in the state and those who are involved to determine if it is eligible for EWP or if someone else is responsible

**Q: Is there a minimum or maximum amount request for EWP assistance?**

A: No there isn't a threshold request amount it just has to be economically defensible. We ask that the benefits exceed the cost. There is no maximum or minimum request amount. It just needs to be economically defensible.

**Q: How does this NRCS watershed plan relate to other regional, sub-basin, or other watershed assessments and strategic action plans developed by local groups?**

A: Any local work done would inform any work that NRCS is doing. These are collaborative efforts with us and the local planning communities. All basin plans and local studies would definitely be used to inform the PIFR and then during the planning stage – if the project is feasible – some of that information may be useful to develop a document in guiding our conservationist in the decision we make and ultimately one that would be authorized. That information can guide and help to inform our process and the feasibility report, but we don't simply adopt those documents and go forth and 'do' - we have to do our own federal required investigations.

**Q: Do any of the programs support land acquisitions?**

A: Thru an easement there is opportunity to do a land acquisition for the purposes of restoration – that’s one opportunity.

**Q: Is there a map of EWP projects? In particular,...California?**

A: We do not have a map today of EWP project s- there are story maps we are working on but we do not have one that identifies all of the projects out there.

**Q: Can this program be a benefit to a municipal water authority that has no agricultural land?**

A: If that municipal water authority is rural then it could be of benefit – it has to be 20% ag to be eligible but that also includes rural – so if it does not have an ag benefit but has a rural community than there is an opportunity there.

**Q: With all the unknowns associated with Covid – has Covid impacted processing current backlogged projects or reviews/approval?**

A: I don’t anticipate any delays due to COVID or for it to have an impact on performance. We’ve been dealing with it for two years now and have been able to move things along and actually some things have ramped up. So, as far as it having an impact – I don’t see that it will.

**Q: Do academic institutions require a sponsor?**

A: Yes, if they are not a subdivision of the state or a state agency, then they would require a sponsor because they may not meet the requirements of being a sponsor.

**Q: To qualify for NRCS flood prevention funding, does the area have to fall within the FEMA 100-year flood plain/flood hazard area to qualify?**

A: No, not necessarily. It doesn’t have to fall within the FEMA designated area to qualify for assistance. That is not one of the requirements for eligibility with any of the programs.

**Q: Is it better to have one eligible purpose?**

A: That depends on the project – get as flexible as you want to get. It’s best to get all purposes addressed and do the most comprehensive planning effort that you can.

**Q: Does a local sponsor need to be able to levy taxes and if so, when was that requirement implemented?**

A: A sponsor needs to be able to carry out the maintenance, the O&M work – so that may include levying taxes to pay for that type of work to be carried out. The purpose of levying taxes is to ensure you are able to finance the work needed. Obviously, if it is a state agency – states have taxes. If it is a municipality – then they have the ability to levy taxes as does a tribal organization. The bottom line is that you have to have the ability to generate revenue to operate and maintain the structure based on the life agreed to of the project.

**Q: If an NRCS sponsored dam is declared unsafe but an emergency has not been declared, is that dam eligible for the EWP program?**

A: You need to have a disaster to have occurred to become eligible for the EWP program. If there hasn't been a disaster you would not be eligible for EWP if, it wasn't a disaster that caused the damage. If it's one of our structures, we can evaluate it to see if is eligible for remedial repairs and then, you would want to work with your local NRCS office to see if there is a need for remedial repairs and if there is an issue with the structure that needs to be addressed.

**Q: Can EWP funding be used for an event that occurred two years ago?**

A: The requirement is that it is within 60 days of when an event occurs, or from when the site is accessible, for it to be eligible for EWP funding.

**Q: Is there a minimum watershed size? If we have a specific concern do we have to look at a larger area – what determines the size?**

A: Scope is determined in the planning process – when you go out to identify the problem you will want to ensure that it is not solely on one person's land (the requirement is that it cannot benefit only one individual), it has to be a public benefit. You will need to determine its scope and where best to address the resource concern fully and not just in an isolated area. It's best to target an area that is benefiting the watershed overall not a sole landowner nor a specific site.

**Q: Are project phases treated as one or funded separately?**

A: A project, in our terms, is what is authorized in the plan. So, a watershed project as a whole may have many elements and many watersheds or sub-watersheds in it and it may be completed in phases. What we consider a 'project' is what has been authorized in the watershed plan as a 'whole'. It would not be a phased plan but a total plan that's authorized and within that plan there may be different measures to install or implement at a given time than you work with NRCS to make your



requests for funding design and construction. If you're going to fund the design for all the work that's in the plan, that's authorized, as is phases of that work. Whatever you decide to do, it has to be a project that will stand alone as complete. It can't be doing a phase of something that does not lead to a completed endeavor/project – it has to be a completed work that can function independently once it is done.

**Q: If flood plain acquisition is the preferred alternative to flood damage reduction, is public access required for the flood plain easement?**

A. Public access is not required but there may be some access easements that are owned depending on what's needed. In the event that the sponsor takes the land, and they hold the easement, they may allow public access. But there isn't a requirement for public access from NRCS.

**Q: Can a waiver be sought for the 60-day rule from a disaster deadline for sponsors to request assistance?**

A: Yes, a waiver may be sought – you would write your State Conservationist for a waiver to the rule of 60 days and then once that waiver is received, they would forward that request to us at NHQ, and we would waive that policy for that project.

**Q: Mutual canal companies – they are typically private stock companies not a non-profit - they can assess assessments for O&M for an installed infrastructure however they cannot assess taxes, can they also then be a sponsor?**

A: The ability to do O&M is not the sole requirement for being a sponsor. You want to ensure the sponsor is a legal subdivision of the state or a local municipal organization or tribal organization. If the organization is a private not-for-profit and doesn't have anything to do with a state or local government agency or municipality or is authorized to do this work under the state, the organization would not be an eligible sponsor. In addition to that, we ask that the organizations have the ability to operate and maintain the structures.

**Q: For purpose of watershed protection, the manual states that federal funding assistance must not exceed the rate of assistance or funding limits to program participants for similar programs. If more than one program covers a certain practice, how is the cost-share determined?**

A: It's not the practice itself, it's the work that you are trying to do that makes it eligible for certain projects. So, if the work you are trying to do is eligible for (as an example) an EQIP, we would match the NRCS cost-share or cost structure that we



would provide under that program. The other authority you use to do the work within NRCS dictates the cost structure and we would not exceed those authorities to do that work. If this work can be done by an authority who offers a 90% cost share than that's the authority we can match. We wouldn't be able to do 100% if that authority dictates a 90% cost-share – that's for the watershed protection purpose – not for any of the other purposes. All the others have their own structures in relationship to cost-share but watershed protection does specifically spell out that it cannot exceed any other conservation program.

That wraps us up for today. Thank you everyone -