



MILWAUKEE WATER COMMONS

Allocation of Wisconsin's Drinking Water State Revolving Funds

Presentation to COLE

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Date here

A brief history of water infrastructure funding in the US

- ▶ The story of water infrastructure funding in the US reflects broader patterns of racial and socioeconomic inequity that must be recognized and remedied
- ▶ Federal grants provided the major source of water infrastructure funding during the mid 20th century, but have sharply declined since then (1977 = 63% / 2014 = 9%). The manner of delivery of federal funding has also shifted to the Clean Water and Drinking Water State Revolving Funds (SRFs) which provide loans, rather than grants, to local water utilities.
- ▶ These shifts followed redlining and other racist housing and economic policies that enabled “white flight” to the suburbs and resulted in severe segregation in greater Milwaukee and other metropolitan regions
- ▶ **RESULT:** following segregation, the burden for paying for water infrastructure shifted from federal taxpayers to local ratepayers

SRF system shifts the burden from federal taxpayers to local ratepayers

- ▶ Roughly 90% of SRF funds for drinking water infrastructure (the State Drinking Water Loan Program 'SDWLP' in WI) are issued to water utilities as **loans** which need to be repaid by water bill ratepayers.
- ▶ The degree to which utilities pursue SRF funding will be limited by the degree to which they can raise water rates to repay these funds.
- ▶ Federal law requires SRF grants to be distributed to utilities most in need “on a per household basis” BUT each state defines its prioritization criteria
- ▶ Federal law requires a portion of SRF funds to be provided as grants to “disadvantaged communities” BUT each state defines “disadvantaged communities”
- ▶ **Wisconsin’s criteria for allocating SDWLP funds have limited Milwaukee’s ability to access an equitable share of SDWLP grant funding**

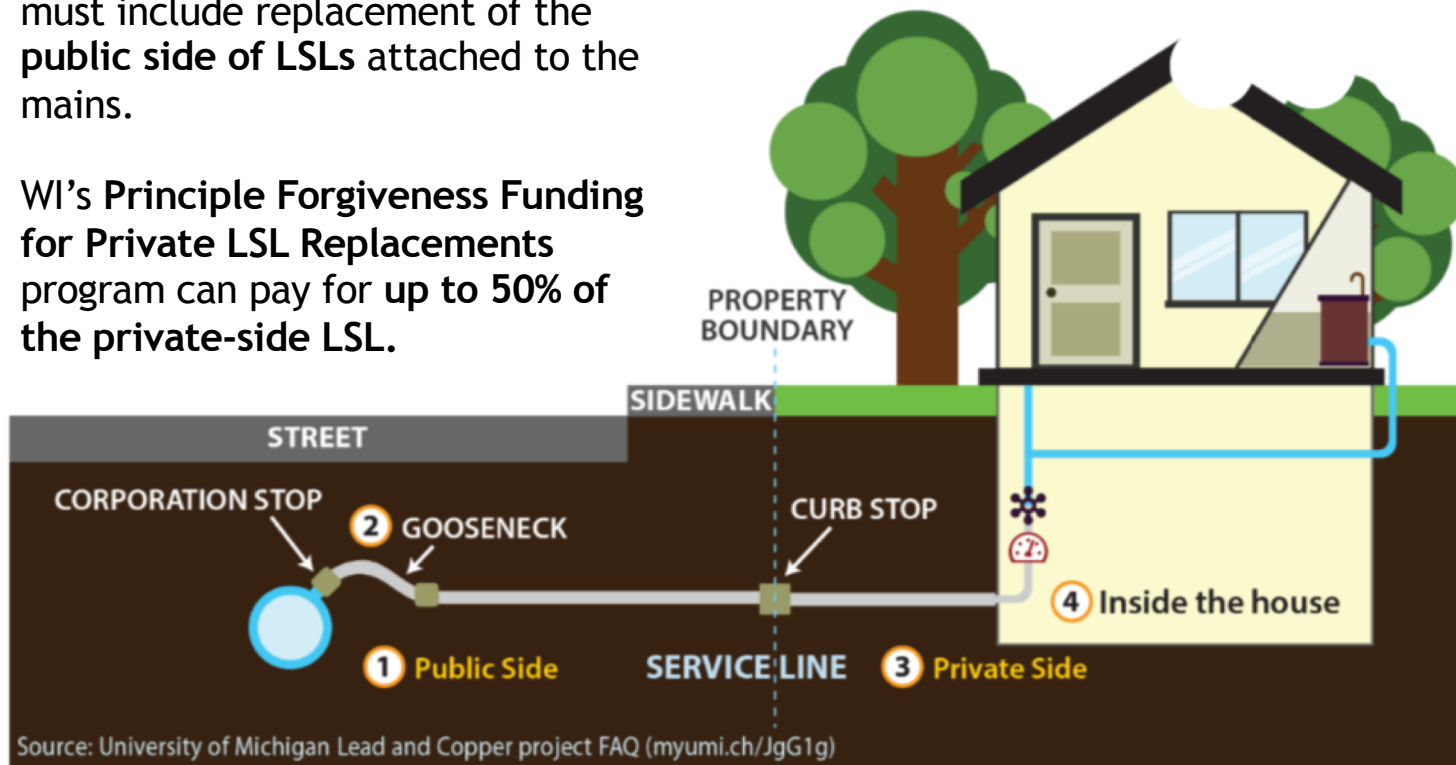
Will the expected increase in federal funds to replace lead service lines (LSLs) and make other needed water infrastructure upgrades mean more grant funding for Milwaukee?

- ▶ It depends on
 - ▶ Whether federal funds are issued to local water utilities as loans or grants
 - ▶ Whether criteria for allocating grant funds favor communities like Milwaukee
- ▶ What we know so far
 - ▶ Federal funding for water infrastructure, included funding proposed in Biden's JOBS Act, is very likely to be distributed through the SRF frameworks.
 - ▶ It is unclear how much of this new funding will be designated as grants vs loans. Folks tracking this in Washington estimate the legislation is likely to mandate that 20 to 30% for the funds be issued as principal forgiveness (i.e., grants). The legislation could also include special allocations of grants especially for LSL replacement.
 - ▶ Notably, the criteria that determine the allocation of grants will almost certainly continue to be defined by states

How does the SDWLP pay for LSL replacement?

The **regular SDWLP** can pay for water main replacements, which must include replacement of the **public side** of LSLs attached to the mains.

WI's Principle Forgiveness Funding for Private LSL Replacements program can pay for up to 50% of the private-side LSL.



Wisconsin's SDWLP - loans vs grants

- ▶ Federal law requires states to provide 20% match for federal funding allocation
- ▶ Federal law requires 14% + 6 - 35% of federal funds to be provided as grants
- ▶ In 2020, Wisconsin opted to allocate 14% + 10% as grants
- ▶ In 2021, Wisconsin opted to allocate 14% + 7.5% as grants

SO in 2021. . . . For every \$1M in federal funding:

\$1M fed + \$200,000 state match = \$1,200,000 available

21.5%% of \$1M is grants = **\$215,000**

\$985,000 is loans (\$785,000 + 200,000 state match)

WI Choice #1
Annual IUP for SDWLP

If Wisconsin allocated the maximum allowable (49%) of federal funding as grants, then for every \$1M of federal funds, \$490,000 = grants ; \$710,000 = loans

Wisconsin's SDWLP - Priority Evaluation and Ranking Formula (PERF)

WI Choice #2

Wis Admin Code NR § 166.23(1)

- ▶ **Section I. Risk to human health up to 1,350 pts**
 - ▶ 500 pts to eliminate microbiological MCL violation
 - ▶ 300 pts to eliminate violation of filtration or disinfection requirements
 - ▶ 300 pts to eliminate of nitrate MCL violation
 - ▶ up to 250 pts to eliminates 'chronic contaminants' including **inorganics**, volatile organic chemicals, synthetic organic chemicals, radionuclides, and disinfection byproducts.
 - ▶ 300 pts to eliminate anticipated microbiological MCL violation
 - ▶ 200 pts to eliminate anticipated violations of filtration or disinfection requirements
 - ▶ 100 points to eliminate anticipated nitrate violation
 - ▶ 20 - 35 points to eliminate anticipated exceedance of **inorganics**, volatile organic chemicals, synthetic organic chemicals, radionuclides, and disinfection byproducts.

NOTE: All of these pertain to "finished water" from treatment plant, after treating contaminants present in source water. Contaminant risks that enter the water distributed after the treatment plant - i.e., from lead service lines - are not included

Wisconsin's SDWLP - Priority Evaluation and Ranking Formula (PERF)

► Section II. Financial Need

► Communities qualify for 'financial need' points only if

(1) The municipality has a population under 10,000 (up to 40 pts)

AND

(2) The municipality's MHI is 80% or less than the state MHI (up to 100 pts)

WI Choice #3

Wis Admin Code NR § 166.23(2)

Per the EPA's EJ Screening Tool, Milwaukee's MHI is 67% of the State MHI. In addition, 51 % of Milwaukee's population has an income < 200% of the federal poverty rate, placing it at the 87 percentile for Wisconsin. **BUT Milwaukee does not qualify as financially needy under the PERF because it is a large city.**

Wisconsin's SDWLP - Priority Evaluation and Ranking Formula (PERF)

WI Choice #4
Wis Admin Code NR § 166.23(3),(4)

- ▶ **Section III. Secondary Contaminant Violation and System Compliance**
 - ▶ Up to 168 points can be awarded for various factors.
 - ▶ Within this, 4 points can be awarded "if the project includes replacement of lead service lines or lead joints in water mains"
- ▶ **Section IV. System and Consolidated Systems Capacity Points**
 - ▶ Up to 90 points can be awarded, none specific to lead

Of the potential 1,748 points that can be awarded to prioritize drinking water infrastructure projects financed by the SDWLP, only 4 points prioritize replacement of lead service lines or other lead joints in the utility's water distribution system

Milwaukee's self score under the 2022 PERF, for water main replacements including replacement of 1,000 public-side LSLs, was 37. The highest score in the state was 647. Milwaukee ranked 244th out of 275 projects proposed throughout the state.

Wisconsin's SDWLP - Allocation of “additional subsidization”

- ▶ Wisconsin allocates “additional subsidization” to ‘disadvantaged communities’ in two ways:

(1) discounted interest rates

Most SDWLP loans are repayable at 55% of the state ‘market rate’

Communities that meet the following criteria pay 33% of state market rate:

- ▶ local governmental unit’s population is less than 10,000

AND

- ▶ local governmental unit’s MHI is 80% or less of the state’s MHI

WI Choice #5

Wis. Admin. Code NR § 166.13

Milwaukee does not qualify for a discounted (33%) rate due to its large size.

Pending revision of Wis. Admin. Code NR § 166.23

- ▶ In July 2019, WDNR proposed revising Ch NR 166 of the Wisconsin Administrative Code, which governs the state's Safe Drinking Water Loan Program.
 - ▶ See the [Statement of Scope](#) for the proposed rulemaking.
- ▶ Among other things, this would entail revision of the Project Evaluation and Ranking Formula (PERF).
- ▶ One of the reasons stated for the proposed revision is "to lay the groundwork for implementing more innovative funding mechanisms to assist municipalities in financing non-traditional projects and some of the DNR's high priorities, such as lead service line replacement"
- ▶ As of June 2021, WDNR expects to publish a draft revised rule in autumn 2021, and for a public hearing on the proposed rule revision to take place during the winter of 2021 - 2022.
- ▶ The revision to Ch. NR 166 proposed by the WDNR will need to be approved by the state legislature before they can take effect.

Wisconsin's SDWLP - Allocation of “additional subsidization” -PF scores

(2) Municipalities can receive principle forgiveness for up to 60% of their SDWLP loan, in accordance with their population size and MHI compared to the state MHI:

Points	Population
0	10,000+
5	8,500–9,999
10	5,000–8,499
15	3,000–4,999
20	2,000–2,999
25	1,500–1,999
30	1,000–1,499
35	500–999
40	250–499



Points	MHI Percent
0	126%+
5	116% to <126%
10	106% to <116%
15	101% to <106%
20	96% to <101%
25	91% to <96%
30	86% to <91%
40	81% to <86%
50	76% to <81%
60	71% to <76%
70	66% to <71%
85	61% to <66%
100	<61%



Total Score	PF Percent
0-49	No PF
50-79	30%
80-99	45%
100-165	60%



WI Choice #6
Annual IUP for SDWLP

Milwaukee MHI is
67% of state MHI

Wisconsin's SDWLP - Allocation of “additional subsidization”

- ▶ Milwaukee applied for \$23,215,000 from the 2021 SDWLP to replace water mains during the 2020 construction season, including replacement of the public side of 1,000 lead service lines.
- ▶ According to the qualitative criteria for determining eligibility for principal forgiveness, Milwaukee should have been eligible to receive 30% of this as principle forgiveness (grant) = \$6,964,500
 - ▶ Note that this would be in excess of the total amount of PF available (\$5,906,265 for the whole state).
- ▶ BUT Wisconsin also imposes a cap of \$500,000 on the amount of principal forgiveness that can be awarded per municipality each year.
- ▶ Milwaukee received \$0 in PF from the 2021 SDWLP, however, because its PERF score ranked below 14 other municipalities that used up all available PF funds.
 - ▶ This is true even though Milwaukee's PF score was higher than 5 municipalities who received between \$70,424 and \$500,000 PF each. Wisconsin could instead choose, in the annual IUP, to allocate PF solely on the basis of PF, rather than PERF, scores.

WI Choice #7
Annual IUP for SDWLP

WI Choice #8
Annual IUP for SDWLP

Principal Forgiveness (PF) for Private LSL Replacements

- ▶ The federal Water Infrastructure Financing Transfer Act (WIFTA) allowed each state to transfer funds from its Clean Water SRF to its Drinking Water SRF to address the threat of lead in drinking water. Wisconsin transferred the maximum amount allowed: \$63,809,549.
- ▶ \$40M is expected to be allocated for the 2021 Private LSL Replacement Program, leaving roughly \$24M for 2022. Milwaukee expects to receive \$6.2M to pay for 50% of 1,000 private-side LSL replaced in 2021, and to apply for similar project for 2022.
- ▶ Gov. Evers proposed \$40M in his State Budget package for LSL replacement, to replenish this fund, but this proposal was rejected by the legislature's Joint Finance Committee.
- ▶ It is hoped that the federal funding for LSL replacement advocated by President Biden would replicate the terms applied to WIFTA funding - i.e., that 100% of this funding must be issued as grants for the replacement of LSLs.
- ▶ Bipartisan infrastructure packages may include funding for water infrastructure, including LSLs replacement, but are more likely to issue these funds as loans through the 'regular' SRF frameworks

Principal Forgiveness (PF) for Private LSL Replacements

WI Choice #9 Annual IUP for SDWLP

- ▶ Wisconsin has opted to use 100% of its WIFTA funds to pay for up to 50% of the cost of replacing private-side LSLs. This aligns with Wis. Stats. § 196.372, which allows utilities to use utility ratepayer funds to pay for up to 50% of private-side LSL replacement.
 - ▶ Unlike for the 2017-2018 private LSL replacement program, the 2021-2022 funding is not restricted to municipalities meeting “disadvantaged community” criteria.
 - ▶ However, new prioritization criteria for Private LSL Replacement Program in the draft 2022 IUP is an improvement over WI’s “disadvantaged community” criteria, because it places more emphasis on poverty indicators, rather than municipality size.
- ▶ Because the whole LSL must be replaced at the same time, other funds are needed to replace the public-side LSLs. These will most likely come from the regular SDWLP.
 - ▶ Thus, under the current framework, the pace of LSL replacement is still dictated by the amount Milwaukee can afford to borrow from and repay to the SDWLP without raising water rates to unaffordable levels, regardless of how much funding is made available through the Principle Forgiveness for Private LSL Replacements.

Principal Forgiveness (PF) for Private LSL Replacements - Prioritization Factors

- ▶ **Poverty Percentage:** percent of a municipality's population below 200% of federal poverty level - points equal the percentage.
 - ▶ Milwaukee: 51% below 200% federal poverty level (87 percentile for WI) = 51 points
- ▶ **Percent of population under age 5** (up to 2.5% = 5pts; up to 5% = 10 pts; up to 7.5% = 15pts; up to 10% = 20 pts; > 10% = 25 pts)
 - ▶ Milwaukee: 8% under age 5 (75 percentile for WI) = 20 pts
- ▶ **Mandatory Replacement Ordinance** = 10pts.
 - ▶ Milwaukee Ordinances Sec. 225-22-1-f, effective Jan 2017 = 10 pts

WI Choice #10
Annual IUP for SDWLP

Per data available through the EPA's EJ Screening Tool, Milwaukee should receive a total of 81 points for factors that favor Milwaukee. However, Milwaukee's reported a self score under these criteria of 70 points (the City could be relying on different poverty indices than those on which the EJ Screening Tool is based).

Principal Forgiveness (PF) for Private LSL Replacements - Prioritization Factors

- ▶ **Exceedance of NR 809 Lead Action Levels: 30 pts.**
 - ▶ With is current corrosion control measures, Milwaukee is deemed in compliance with NR 809 (Lead & Copper Rule)
 - ▶ Awarding 30 points for being out of compliance with NR 809 seems to go against a stated goal of the program, which is to “incentivize pubic water systems to implement corrosion control study recommendations.” These points should instead be limited to municipalities that have first implemented corrosion control measures, but still exceed NR 809 lead action levels.
- ▶ **Whether all remaining LSLs can be removed in the upcoming season: 20 points**
 - ▶ This disfavors cities with large number of lead laterals, especially Milwaukee
- ▶ **Municipal population** - used as tiebreaker only, favoring smaller community

WI Choice #11
Annual IUP for SDWLP

Up to 50 potential points, plus tie-breaker rule, that disfavor Milwaukee.

Next steps:

(1) Written Comments on the Draft IUP for 2022 SDWLP submitted to WDNR on June 18.

Substantive Issues

- ▶ Critique aimed the “decision points” identified in this presentation that are determine by the Annual IUP for the SDWLP.

Procedural Issues

- ▶ Current process allows for written comments due 21 days following publication of draft IUP
- ▶ The draft IUP should be publicized more widely and its on-line publication should be followed by a publicly accessible webinar to explain the IUP
- ▶ In addition to written comments, a public hearing should be help on the draft IUP
- ▶ A wider window for written feedback should be allowed, following learning, analysis, and organizing developed during the webinar and public hearing

(2) Monitor pending revision of Wis. Admin. Code NR § 166.23.

Thank you for your interest in this work.

Please stay in touch:



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