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NY

A NEW ERA FOR NEW YORK'S WATER

*An Analysis of Clean Water
Infrastructure Act Spending*



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EXECUTIVE SUMMARY



Every New Yorker has a right to clean water. This precious natural resource is a bedrock of healthy and happy families, strong communities and local economies, and vibrant ecosystems. New Yorkers have time and again demonstrated their overwhelming and bipartisan support for protecting this most basic of human necessities: 70% of New York voters approved the Environmental Rights Amendment in November 2021, which added the right to clean water to our state constitution.

Yet every day, the safety of our lakes, rivers, groundwater, and drinking water is put at risk. The threats to water quality and human health across the state are serious and urgent: aging and failing water infrastructure, sewage overflows, and PFAS pollution, just to name a few.¹ This water contamination disproportionately harms low-income communities and communities of color in New York, exacerbating environmental injustices.

New York's Clean Water Infrastructure Act (CWIA) was created in 2017 to fulfill a bold mission: to holistically address the many clean water challenges facing our state. Not only would the CWIA fund traditional drinking water and wastewater infrastructure projects, but it would also provide grants for land acquisition for source water protection, remediation of toxic Superfund sites, reduction of road salt contamination, and more.

Over the last seven years, the Governor and State Legislature have invested a historic \$5 billion into the CWIA, a financial commitment to protecting clean water that no other state has matched. The CWIA is truly nation-leading; if successful, it will provide a roadmap that other states and the federal government can follow to guarantee every American safe water.

¹ Per- and polyfluoroalkyl substances (PFAS) are a class of over 9,000 man-made chemicals. PFAS exposure has been linked to harmful health effects like thyroid disease, testicular cancer, and high cholesterol.

This report represents the first comprehensive evaluation of CWIA spending. It unveils and analyzes data from all 17 CWIA-funded programs, much of which has been previously unreported. In a pioneering effort, this report will assess how successful the CWIA has been, judging whether sufficient funds are being distributed, whether those funds are being used appropriately, and whether the communities facing the greatest threats to water quality are benefitting. New Yorkers deserve to be regularly updated on how the Governor and state agencies are using \$5 billion of their hard-earned tax dollars to protect clean water.

Overall, our research finds that the CWIA has achieved remarkable results and success:

\$3.4 BILLION funds awarded or spent since 2017

2,100 clean water projects funded

53% Majority of CWIA funds benefitting environmental justice communities

At the same time, however, the CWIA is falling short of its full potential:

- Governor Hochul has not spent CWIA appropriations quickly enough to meet the overwhelming demand across the state. Some programs, such as the Water Infrastructure Improvement Act, are oversubscribed every year.
- The Governor has not given a fair share of CWIA resources to some programs, especially lead service line replacement.
- State agencies have not tracked environmental justice impact across all CWIA programs and may not be tracking that impact in a uniform way.

Recommendations on these topics and others can be found at the conclusion of this report.

The future of the CWIA has never been in greater doubt than at the present moment. In January 2024, Governor Hochul proposed cutting annual CWIA funding by 50% in her 2024-2025 State Budget, from \$500 million to \$250 million. If this proposed reduction is adopted, it would constitute a significant retreat from New York's ambitions to be a national leader on clean water.

This report finds no evidence to justify such a cut to this popular and successful program. Now is the time to grow, rather than shrink, our state's investments to safeguard New Yorkers' constitutional right to clean water. By shedding light on the last seven years of CWIA accomplishments, this report aims to inform debate on how to make the next era of clean water funding in New York State even more successful.

The Scale of New York's Clean Water Crisis

The goal of protecting clean water from source to tap becomes more challenging every year. The need to fix our pipes and prevent and eliminate water contamination is enormous and growing, as demonstrated by the following statistics:

- **\$80 billion:** conservative estimate of the need to fix New York's drinking water and wastewater infrastructure²
- **500,000:** estimated number of lead service lines in New York³
- **360,000:** estimated number of aging septic systems on Long Island alone⁴
- **296:** number of water utilities expected to exceed EPA's proposed PFAS drinking water standards⁵
- **207:** number of waterbodies in New York with reported Harmful Algal Blooms in 2023⁶



Photo 1: Corroding and leaking pump valve in Troy.

Nowhere is the need for clean water funding more visible than in the City of Troy. Within the past year alone, the city's aging and failing infrastructure has caused numerous water crises:

February 2023: public outcry ensues over high lead levels in Troy's drinking water. Troy currently exceeds EPA's lead action level due to contamination from an estimated 4,500 lead service lines.

March 2023: a Troy public transit bus becomes stuck in a sinkhole after a major water main burst.

September 2023: another water main break destroys a city street, floods the basements of nearby homes, prompts a boil water order due to bacterial contamination, and shuts after-school programs.

January 2024: the Mayor of Troy declares a state of emergency after discovering that a transmission main at a city pumping station was on the brink of failure, which would have caused severe flooding and water loss in parts of the city.

For decades, the solutions offered by the state and federal government to fix our pipes were insufficient to address the scale of the problem. That began to change in New York with the creation of the Clean Water Infrastructure Act, whose history will be covered in the next section.

2 NYS Department of Health, Drinking Water Infrastructure Needs of New York State, 2008, health.ny.gov/environmental/water/drinking/infrastructure_needs.htm. NYS Department of Environmental Conservation, Wastewater Infrastructure Needs of New York State Report, 2008, dec.ny.gov/chemical/42383.html

3 US EPA, "7th Drinking Water Infrastructure Needs Survey and Assessment," April 2023, https://www.epa.gov/system/files/documents/2023-04/Final_DWINSAs%20Public%20Factsheet%204.4.23.pdf.

4 Long Island Pine Barrens Society, "Protecting Our Water," accessed January 2024, <https://www.pinebarrens.org/clean-water-moonshot/#:~:text=The%20single%20largest%20cause%20of,but%20we%20can%20fix%20this!>

5 NYS DOH, "Comments to EPA on Proposed PFAS Drinking Water Standards," May 2023, <https://eany.org/wp-content/uploads/2024/01/NYS-DOH-PFAS-Comments-1.pdf>.

6 NYS DEC, "2023 Archived HABs Notices," December 2023, <https://dec.ny.gov/sites/default/files/2023-12/habsummary.pdf>.

A History of the Clean Water Infrastructure Act

2014

The roots of the CWIA can be traced back to 2014, when former Governor Cuomo attempted to raid New York's Clean Water State Revolving Fund (CWSRF) to pay for a portion of the Tappan Zee Bridge reconstruction.⁷ Funded with federal dollars, the CWSRF provides loans to jump-start wastewater infrastructure projects. Following a public outcry, the US Environmental Protection Agency (EPA) rejected the Cuomo administration's attempt to divert money from upgrades to wastewater treatment plants and sewer pipes.⁸

This incident raised questions about why the CWSRF held such large amounts of under-utilized funding that was not being effectively deployed. The answer was that for many local governments, loan dollars alone are not enough to make clean water projects affordable because they fear taking on more debt that they would be unable to repay.

2015

In response, the State Legislature spearheaded the creation of the Water Infrastructure Improvement Act (WIIA) in 2015, funded with \$200 million in the state budget. The Legislature designed WIIA to provide grants, not loans, to cover a portion of drinking water and wastewater infrastructure project costs, lowering the total cost borne by the municipality and allowing them to get work crews out on the street. The 2016 state budget provided WIIA an additional \$200 million.

2016

2016 was also the year that several water crises sent shockwaves throughout New York. That year, residents in the Village of Hoosick Falls learned that they were exposed to extremely dangerous levels of PFOA, an unregulated toxic chemical, in their drinking water, and likely had been exposed for decades. The NYS Department of Health and village officials had known about the contamination since August 2014, but chose not to inform the public for months. Residents were only told to stop drinking their water in January 2016 after EPA stepped in. Later that year, the City of Newburgh notified its residents that they had detected alarming levels of PFOS, another unregulated chemical in the PFAS family, in the city's drinking water attributed to contamination from a nearby military base.



Photo 2: Legislative hearing on the Hoosick Falls water crisis.



Photo 3: Tamsin Hollo, a member of the Newburgh Clean Water Project, testifies at a city council meeting on PFOS contamination.

⁷ EANY, "Cuomo Urged to Back Down from Clean Water Raid for Tappan Zee," June 2014, https://eany.org/press_release/cuomo-urged-to-back-down-from-clean-water-raid-for-tappan-zee/.

⁸ EPA Region 2, Letter to Joseph Martens and Matthew Driscoll, September 2014, <https://www.nytimes.com/interactive/2014/09/16/nyregion/TZEE-EPA-letter.html>.

2017

These water crises, and the powerful local organizing that they galvanized, shed light on the sheer scale of water pollution across the state and led directly to the creation of the CWIA in 2017. The state budget that year included \$2.5 billion in appropriations split among 15 clean water programs, with \$350 million of that funding unallocated to any specific program. WIIA was the top recipient of CWIA funds.

2019 TO PRESENT

In 2019, former Governor Cuomo announced a commitment to double the CWIA's funding with an additional \$2.5 billion over the next five years. Thanks to persistent advocacy by the Clean Water Coalition, a collaboration between environmental groups and water and wastewater utilities of which EANY is a member, the Governor and State Legislature included \$500 million for the CWIA in each state budget since 2019.⁹ The doubling of CWIA funds was completed in 2023, bringing the total amount invested to date to \$5 billion.

Importantly, each year since 2019, the state budget has not included line item appropriations for CWIA programs. Each installment of \$500 million has been a lump sum, rather than specifically divided among the CWIA's 15 clean water initiatives. This provides total discretion to the Governor and the Division of Budget to determine how much of the \$2.5 billion in funding appropriated since 2019 each CWIA program receives, or whether that program receives funding at all.



Photo 4: Washington Lake, the drinking water source for the City of Newburgh contaminated by toxic PFOS.

9 New York Clean Water Coalition, "NYS Clean Water Priorities for 2024," November 2023, https://eany.org/wp-content/uploads/2024/01/NYS-Clean-Water-Coalition-Agenda_2024-2.pdf.

An Analysis of Clean Water Infrastructure Act Spending

In 2023, EANY worked with the office of Senator Liz Krueger, Chair of the State Senate Finance Committee, to secure comprehensive data on CWIA spending to date. This work involved requesting data from the Department of Environmental Conservation (DEC), Department of Health (DOH), Department of Agriculture and Markets (Ag and Markets), and Environmental Facilities Corporation (EFC). These agencies were asked to provide five key metrics for each clean water project funded through the CWIA:

1. The year awarded or spent
2. The project location
3. The project description
4. The amount awarded or spent
5. Whether or not the project benefits an EJ community



Photo 5: Water main break in Albany.

Using this data, Figure 1 (next page) provides the first-ever overview of CWIA spending between 2017 and 2024. Along with the 15 programs listed in the CWIA's enacting text, two other programs received CWIA funds during this period: the Lake Ontario Regional Economic Development Initiative and the Non-Specific Category.

The numbers cited in Figure 1 reflect what has been awarded or spent between 2017 and the middle to end of 2023. Some programs reported data up to October 2023 while others reported data up to December 2023. This report will refer simply to “between 2017 and 2024” when discussing spending and award data for ease of readability. For the purposes of this report, “awarded” will mean monies distributed through a competitive grant process and provided to an entity like a local government, and “spent” will mean monies directly utilized by a state agency or its contractor. For CWIA programs that receive monies from multiple funding sources, only awarding and spending of CWIA dollars are included.

The totals in Figure 1 do not include commitments to award or spend CWIA resources in the future as authorized by the Division of Budget. It also does not reflect monies disbursed by the state once awarded projects are completed. This disbursement data will be important to obtain and analyze in the future. Finally, it is important to note that the CWIA does not require a certain percentage of funds to be provided to environmental justice communities, which will be discussed later in the report.

CWIA Program	Primary Agency	Total Amount Awarded or Spent, 2017-2024	EJ Amount Awarded or Spent, 2017-2024	Total Number of Projects/Sites Funded	Number of EJ Projects/Sites Funded
Water Infrastructure Improvement Act / Intermunicipal Grant Program	EFC	\$2.1 billion	\$1.3 billion	873	475
Water Quality Improvement Program	DEC	\$504.4 million	\$250.8 million	240	89
Municipal Water Quality Infrastructure Projects	EFC	\$231.1 million	\$172.4 million	10	4
NYC Watershed Protection Program	DEC	\$200 million	Not Provided	Not Provided	Not Provided
Hazardous Waste Remediation	DEC	\$95 million	\$19 million	163	Not Provided
Land Acquisition for Source Water Protection	DEC	\$63.6 million	\$24.1 million	50	13
Lake Ontario Regional Economic Development Initiative	EFC	\$60.1 million	Not Provided	28	Not Provided
Septic System Replacement Program	EFC	\$60 million	Not Provided	41 counties	Not Provided
Lead Service Line Replacement Program	DOH	\$30 million	\$28.3 million	44	41
Concentrated Animal Feeding Operations	Ag+Markets	\$29.1 million	\$2 million	90	6
Solid Waste Mitigation Program - Inactive Landfill Initiative	DEC	\$26.3 million	\$5.3 million	453	99
Road Salt Storage	DEC	\$24.4 million	\$722,000	82	5
Non-Specific Category	EFC, DEC, and DOH	\$15.7 million	Not Provided	30	Not Provided
Emergency Financial Assistance	EFC	\$8.7 million	Unclear	9	Unclear
Green Innovation Grant Program	EFC	\$8 million	Not Provided	21	Not Provided
IT Systems Related to Water Quality	DEC	\$3.2 million	N/A	5	N/A
Drinking Water Response Program	DEC	\$0	N/A	0	N/A
Totals		\$3.4 billion	\$1.8 billion	2,139	732

Figure 1

OVERVIEW OF CWIA PROGRAMS

1. WATER INFRASTRUCTURE IMPROVEMENT ACT / INTERMUNICIPAL GRANT PROGRAM (WIIA-IMG)

EFC's WIIA-IMG provides grants for drinking water and wastewater infrastructure projects, such as water main replacements, sewage treatment plant upgrades, and PFAS and 1,4-dioxane filtration. The Intermunicipal Grant Program provides funding to municipalities who submit an application for a joint water infrastructure project.

2. WATER QUALITY IMPROVEMENT PROGRAM (WQIP)

DEC's WQIP provided \$504 million in grants to two types of projects: Wastewater Treatment Improvements and Nonagricultural Nonpoint Source Abatement and Control projects. Wastewater projects received 99% of the \$504 million awarded. Land Acquisition for Source Water Protection and Road Salt Storage projects are also funded through WQIP, but will be discussed as separate CWIA programs. The CWIA is not WQIP's sole source of funding.

3. MUNICIPAL WATER QUALITY INFRASTRUCTURE PROJECTS (MWQIP)

EFC's MWQIP provides grants to existing drinking water or wastewater infrastructure projects that require additional support or projects that might otherwise not have qualified for state support. The vast majority of MWQIP funds have been provided to the City of Mount Vernon, which received \$150 million to address a catastrophically-failing sewer system and increase flood resiliency.

4. NYC WATERSHED PROTECTION PROGRAM

The NYC Department of Environmental Protection (NYC DEP) has entered into a contract with DEC for water quality projects located in the New York City watershed. According to DEC, NYC DEP is making progress on subcontracting elements of the approved project list. It is unclear which projects are on the approved list and where they are located.

5. HAZARDOUS WASTE REMEDIATION

DEC has spent CWIA funds on inactive hazardous waste disposal sites being cleaned up through New York's State Superfund Program, usually sites contaminated by PFOA, PFOS, and 1,4-dioxane. The CWIA is not the sole source of funding for State Superfund remediation.

6. LAND ACQUISITION FOR SOURCE WATER PROTECTION

DEC's Land Acquisition for Source Water Protection grants help municipalities secure natural buffers around drinking water sources to prevent the introduction of contaminants. These grants are distributed through WQIP. It is currently unclear how many acres of land have been protected with CWIA funds.

7. LAKE ONTARIO REGIONAL ECONOMIC DEVELOPMENT INITIATIVE (REDI)

DEC entered into a contract with EFC to provide CWIA funding for projects to secure critical assets in counties impacted by Lake Ontario and St. Lawrence River flooding in 2019. All of the REDI projects funded through the CWIA were wastewater or drinking water infrastructure projects.

8. SEPTIC SYSTEM REPLACEMENT PROGRAM (SSRP)

EFC's SSRP has provided grants to 41 counties to help homeowners replace aging and failing cesspools and septic systems. EFC has provided information on how much SSRP has been provided to each county, but it is currently unclear how many cesspools and septic systems have been replaced with this funding.

9. LEAD SERVICE LINE REPLACEMENT PROGRAM (LSLRP)

DOH's LSLRP provides grants to municipalities to pay for the replacement of lead service lines, which are contaminating drinking water across the state. It is currently unclear how many lead

service lines have been replaced with this funding to date.

10. CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)

Ag and Markets created a Waste Storage and Transfer Program with CWIA funds, which has provided \$28 million in grants to CAFOs to better manage and store nutrients such as manure and reduce runoff into water bodies. The agency is also currently providing a small number of grants for the purchase of conservation easements on agricultural lands to develop riparian buffers. Finally, Ag and Markets is developing a new program titled the Alternative Waste Management Enhancement Program, which will provide about \$21 million in grants to help enhance nutrient management and achieve climate change adaptation and mitigation goals.

11. SOLID WASTE MITIGATION PROGRAM - INACTIVE LANDFILL INITIATIVE (ILI)

DEC's ILI investigates inactive solid waste sites and surrounding groundwater and drinking water sources for the presence of toxic PFOA, PFOS, and 1,4-dioxane. DEC has uncovered and begun remediation of water pollution at these sites, which is detailed in their annual reports on the ILI program.

12. ROAD SALT STORAGE

DEC's Road Salt Storage grants help municipalities prevent runoff of road salt into the environment, which can cause contamination of ambient water and drinking water sources. These grants are distributed through WQIP.

13. NON-SPECIFIC CATEGORY

Projects funded through this category do not fit into one of the programs referenced in the CWIA's enacting text. The projects include a Shinnecock Study by DEC, a Nassau Study by DOH, Asset and Management Planning grants by EFC, and a Wastewater Surveillance Pilot Program and Water Fluoridation Projects by DOH.

14. EMERGENCY FINANCIAL ASSISTANCE

EFC provides Emergency Financial Assistance grants to municipalities for wastewater and drinking water system issues that constitute hazards to public health, public welfare, or the environment.

15. GREEN INNOVATION GRANT PROGRAM (GIGP)

EFC's GIGP provides grants to municipalities that utilize EPA-designated green stormwater infrastructure design and implement energy and water efficiency upgrades. Green infrastructure is a critical natural solution to reduce stormwater runoff and the effects of extreme flooding. The CWIA is not GIGP's sole source of funding.

16. IT SYSTEMS RELATED TO WATER QUALITY

Projects funded through this category include the modernization and integration of DEC's Division of Water data systems, the development of the Know Your NY Water website, modernization of DOH's DOH Safe Drinking Water Information System, a Water Quality Analytics prototype project, and DECinfo Locator mapping tool development and enhancement.

17. DRINKING WATER RESPONSE PROGRAM

The Drinking Water Response Program will help pay for remediation of officially-designated "emerging contaminants" in public water systems and private wells. To date, no spending by this program has occurred. This is likely because DOH has not yet designated any pollutants as emerging contaminants under New York's Emerging Contaminant Monitoring Act, and testing by water utilities for emerging contaminants has not yet begun.

CWIA SUCCESSES

As highlighted in the Executive Summary, the CWIA has achieved remarkable success. \$3.4 billion of CWIA funds have jump-started over 2,100 clean water projects in nearly every county of the state. Importantly, according to state agencies, at least 53% of these funds have benefitted environmental justice communities. This figure could be even higher as some CWIA programs are not yet tracking the proportion of funding that they are allocating to EJ communities.

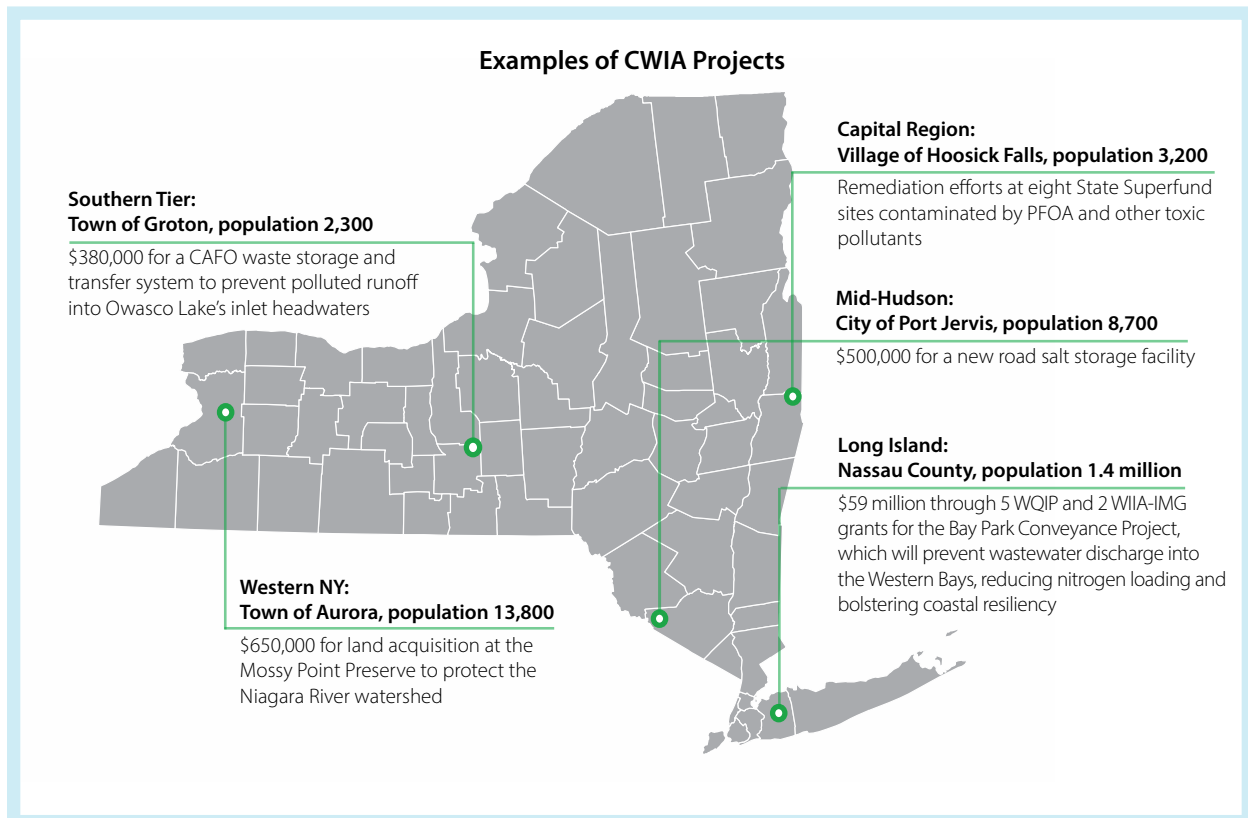


Figure 2.

The CWIA has brought clean water benefits to every corner of the state, from Buffalo to Albany and from New York City to Riverhead (Figure 3). The Long Island and Mid-Hudson regions have received especially high percentages of CWIA funding, given the clean water challenges left behind by those area's industrial legacies.

The totals included in Figure 3 reflect the minimum amount of CWIA funding each region has received. Some programs, like WIA-IMG, reported a total number of EJ projects funded, but did not list which specific projects benefitted EJ communities except in the latest rounds of funding, making it impossible to ascertain regional EJ benefits from these resources. Other programs, like the ILI, did not provide how much was spent at each investigated site, making it impossible to tell how much ILI funding was distributed to each region.

Region	Minimum Amount of Investment, 2017 - 2024	Minimum Amount of EJ Investment, 2017 - 2024	Minimum Number of Projects/Sites Funded	Minimum Number of EJ Projects/Sites Funded
Capital Region	\$248.2 million	\$58.7 million	216	28
Central NY	\$190.6 million	\$31.7 million	180	17
Finger Lakes	\$295.5 million	\$56.5 million	275	36
Long Island	\$778.4 million	\$116.5 million	298	47
Mid-Hudson	\$563.9 million	\$253.8 million	341	84
Mohawk Valley	\$207.6 million	\$27 million	158	20
New York City	\$229.8 million	\$16.8 million	8	3
Southern Tier	\$220.3 million	\$49.1 million	182	28
Western NY	\$317.9 million	\$77.7 million	234	34

Figure 3



CWIA SPOTLIGHT: ADVANCING ENVIRONMENTAL JUSTICE IN MOUNT VERNON

One of the most ambitious and transformative projects undertaken thanks to the CWIA is in the City of Mount Vernon. For decades, residents of this majority-Black suburb of New York City have been forced to endure raw sewage backups into their homes nearly every time it rains due to an aging and failing wastewater system. Homeowners and tenants have been exposed to horrendous smells, property damage, and health hazards like increased risk of asthma as human waste invades their homes.

To address this long standing environmental injustice and decades of disinvestment, Governor Hochul announced a seven-year, \$150 million commitment of MWQIP funds to completely overhaul Mount Vernon's 100-year-old sewer system in April 2022.¹⁰ The commitment included an initial \$7 million from the CWIA to repair sewer pipes for residents dependent on temporary pumps in the street to keep sewage intrusion into their homes at bay. In May 2023, the Governor returned to Mount Vernon to announce the beginning of construction for that sewer project.¹¹

This work simply would not be possible without the CWIA, and demonstrates the enormous benefits that this funding can bring to the communities that need it most.

10 Office of the Governor, "Governor Hochul, Mayor Patterson-Howard, and County Executive Latimer Announce Historic Partnership to Address Longstanding Water Infrastructure Challenges in City of Mount Vernon," April 22, <https://www.governor.ny.gov/news/governor-hochul-mayor-patterson-howard-and-county-executive-latimer-announce-historic>.

11 Office of the Governor, "Governor Hochul Celebrates Year of Progress Addressing Longstanding Water Infrastructure Challenges in Mount Vernon," May 2023, <https://www.governor.ny.gov/news/governor-hochul-celebrates-year-progress-addressing-longstanding-water-infrastructure>.

NEEDED IMPROVEMENTS TO THE CWIA

1. ACCELERATE CWIA SPENDING

There are no statutory requirements for CWIA funding to be awarded or spent by a certain date or over a given time period. But given the enormous clean water challenges facing New York State, it is critical that Governor Hochul deploy CWIA resources as quickly as possible. Communities need help now to address growing threats to water quality.

Disappointingly, the Governor's administration has not fully utilized CWIA appropriations over the last seven years. Approximately \$1.6 billion of the state's \$5 billion appropriation remains unawarded or unspent, 32% of the total CWIA dollars appropriated. Each unspent dollar represents a missed opportunity to protect clean water. It is clear that Governor Hochul must pick up the pace and get more clean water dollars out the door.

State agencies are planning additional CWIA awards or spending which will help shrink that gap. Some of these plans have been publicly announced, while others have been authorized by the Division of Budget and listed in the Statewide Financial System. These plans include, but are likely not limited to, \$616 million out of the unawarded or unspent \$1.6 billion:

- \$325 million for WIIA-IMG. This funding availability has been announced. EFC will begin accepting applications for funding on February 4, 2024.
- \$110 million for Road Salt Storage
- \$100 million for Hazardous Waste Remediation
- \$30 million for the SSRP. This funding availability has been announced. EFC will begin accepting applications for funding shortly.
- \$30 million for the Drinking Water Response Program
- \$21 million for CAFOs

This spending gap is no excuse to cut the CWIA's annual level of investment.

Importantly, the gap is not due to a lack of demand for clean water resources. Governor Hochul could have spent CWIA funds much more quickly over the last seven years, up to the point of eliminating the spending gap entirely. As will be seen later in this report, the WIIA-IMG program has been oversubscribed every year. Hundreds of millions of dollars in eligible, shovel-ready projects are submitted to the program annually, yet do not receive a grant award.

In addition, the Governor could have made investments in a number of CWIA programs facing multi-billion needs, such as lead service line replacement, but which only received a minuscule percentage of CWIA funding over the last seven years. The Governor must provide these programs their fair share of funding moving forward, which will be explored in the next section.

Finally, not only are there massive needs to be met from oversubscribed as well as underutilized CWIA programs, but a number of policy changes at the state or federal level are increasing the need for CWIA grants. The US EPA proposed two new drinking water regulations in 2023, the first requiring more cleanup

of PFAS in drinking water and the second requiring the replacement of 100% of the nation's lead service lines by 2037. In addition, in January 2024, EFC announced that, for certain projects, the agency would increase the percentage of total project cost that would be awarded grant funding through WIIA-IMG. To successfully eliminate toxic PFAS, get the lead out of drinking water, and provide more financial aid to local governments, a greater, not lesser, level of investment in the CWIA is required.

2. PROVIDE PROGRAMS THEIR FAIR SHARE OF FUNDING

The CWIA's mission is to holistically address the multiplying threats to water quality in New York. Pieces of this mission, however, are slipping through the cracks. This section will highlight several programs, especially lead service line replacement, that have not received the support they need to make meaningful progress towards their clean water objective.

The majority of CWIA programs make up just a small fraction of total spending to date. WIIA-IMG and WQIP have been the largest beneficiaries of CWIA funds, together distributing 76% of total spending. In contrast, 13 CWIA programs account for just 12% of total spending, with each of the 13 programs responsible for 2.5% or less (Figure 4).

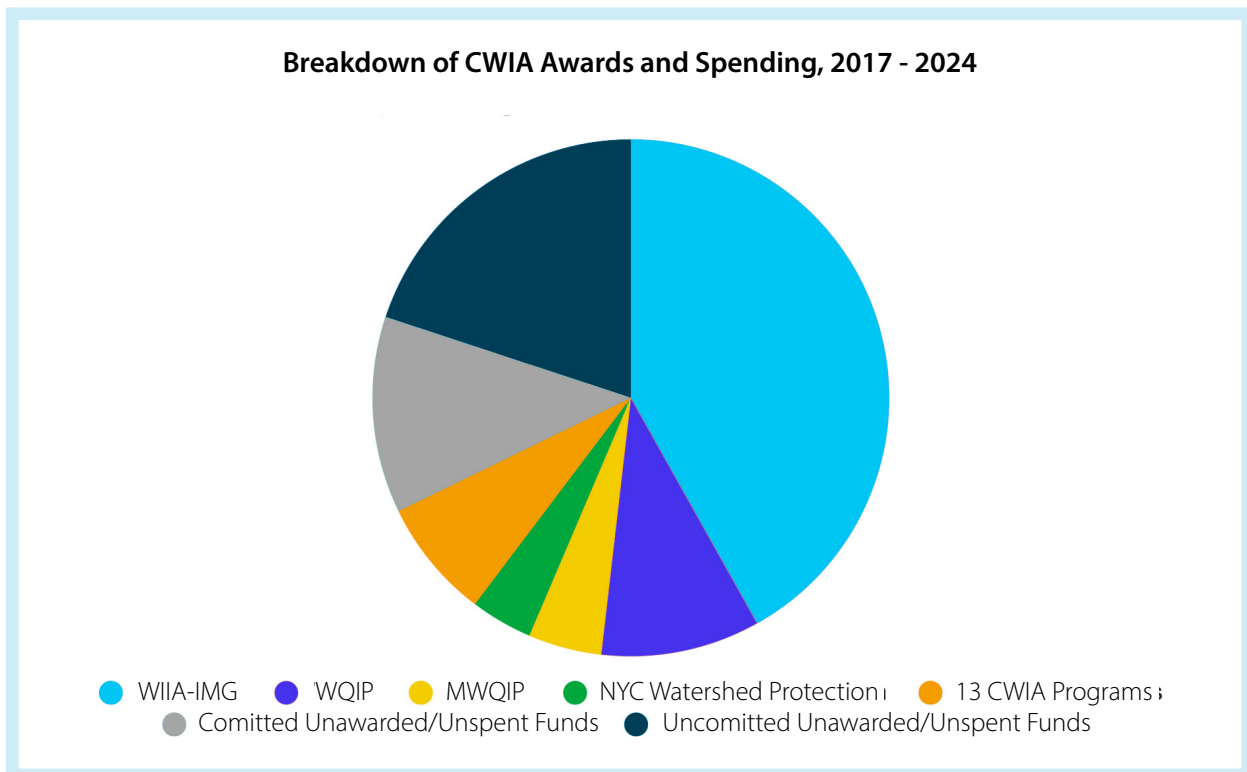


Figure 4

This is not to imply that WIIA-IMG and WQIP have received too much money, or that all CWIA programs should receive an equal amount of money. On the contrary, WIIA-IMG in particular has not kept up with massive demand even with the resources at its disposal. Some programs also necessarily face needs at a greater scale than others. The goal must be to grow the overall funding available for all programs, including accessing currently unawarded and unspent funds, and distribute resources fairly from there.

There is clearly a need to improve the distribution of CWIA resources. The state has only awarded \$8 million in green infrastructure grants, for example, and has not funded new green infrastructure projects since 2018. The

state has also only awarded \$63 million for land acquisition for source water protection, despite a requirement in the 2017 state budget that \$110 million be awarded for this purpose.

LEAD SERVICE LINE REPLACEMENT

This report will highlight one program desperately in need of reinvigoration: DOH's Lead Service Line Replacement Program (LSLRP). The LSLRP provides grants to local governments to dig up lead service lines (LSLs), often at no cost to homeowners or tenants.

New York has the 6th highest total of LSLs in the nation, an estimated 500,000 dangerous pipes that are contaminating drinking water across the state, especially in communities of color and low-income communities.¹² Cities like Troy, Newburgh, and Ilion have all exceeded the EPA's action level for lead in drinking water in recent years.

Yet despite this enormous threat to clean water, Governor Hochul's administration has not adequately funded LSL replacement. Of the \$5 billion appropriated to the CWIA since 2017, only \$30 million has been provided to the LSLRP. Just as concerning, the LSLRP has not distributed any new grants since 2019. DOH data from July 2022 indicates that just 2,300 LSLs had been replaced by that time.



Photo 4: Lead pipe replacement in Albany.

Governor Hochul's administration has not adequately funded LSL replacement.

0.6% CWIA funding awarded for LSL replacement

0.4% Percentage of New York's LSLs replaced

0 LSLRP grants since 2019

The source of this problem is that Governor Hochul has not been required to award a certain amount of CWIA funds for LSL replacement. The 2017 state budget required that at least \$20 million be provided to the LSLRP, but each budget since 2019 has given complete discretion to the Governor on how to distribute resources. The result is a dormant LSLRP.

New York should not shirk its responsibility to help municipalities afford this important work, especially since we cannot rely on federal funding alone to get the lead out of drinking water. The state is currently receiving over \$500 million from President Biden's Bipartisan Infrastructure Law to replace LSLs, but this investment will only address a fraction of New York's need, estimated to be at least \$2.5 billion.

The lack of funding has denied many communities the resources to get work crews out on the street. DOH and EFC distributed the first round of federal funding in 2023, providing \$104 million to 18 municipalities.¹³ But local governments submitted over

12 US EPA, "7th Drinking Water Infrastructure Needs Survey and Assessment," April 2023, https://www.epa.gov/system/files/documents/2023-04/Final_DWINSAs%20Public%20Factsheet%204.23.pdf.

13 NYS DOH, "FFY 2023 IUP List of BIL Awarded Projects," 2023, https://www.health.ny.gov/environmental/water/drinking/iup/2023/docs/summary_bil_cap_grants_award_2022.pdf.

\$300 million worth of project applications, leaving many without any funding at all. The City of Albany, for example, did not receive any assistance. New Yorkers in these communities should not have to continue waiting for a health hazard in their drinking water to be addressed.

There has never been a better moment to make a bold commitment of state resources to protect New Yorkers from lead exposure. In November 2023, EPA announced proposed regulations to require water utilities to replace 100% of the nation's LSLs by 2037.¹⁴ EPA's proposal is the most important action to eliminate lead in drinking water in US history. Yet without new funding to implement these new regulations, significant up-front costs will fall on water utilities, resulting in rising water rates that make New York State more unaffordable.

New York should make a transformative investment in LSL replacement, drawing on hundreds of millions of unspent CWIA funds. The state should also support including a line item appropriation for LSL replacements in state budgets, to ensure a steady and dedicated stream of funding to get the lead out. The LSLRP could even be subsumed by the new program that DOH and EFC have developed to distribute federal funding if that is the most efficient use of resources moving forward.

3. GUARANTEEING AND TRACKING EJ IMPACT

Too often, environmental spending has not been accessible to or benefited environmental justice (EJ) communities, which have been disproportionately harmed by pollution and other racial, social, and economic injustices. Thanks to powerful organizing and advocacy, EJ leaders have pushed this urgent problem to the center of environmental discourse, including in New York.

Over the last several years, New York has enacted new laws to ensure EJ communities receive their fair share of resources. The Climate Leadership and Community Protection Act (CLCPA) and the \$4.2 billion Clean Water, Clean Air, and Green Jobs Bond Act (Bond Act) both require that at least 35% of spending generated through those laws be directed to EJ areas, which they term "disadvantaged communities" (DACs).

There are no EJ requirements attached to the CWIA, however. CWIA programs are not required to direct a certain percentage of the funding that they receive to EJ communities. Such a requirement should be a component of any future CWIA funding.

It is critical that all CWIA programs measure whether funded projects benefit EJ communities. Some programs did not appear to track EJ impact, including the SSRP, REDI, Emergency Financial Assistance, Non-Specific Category, and GIGP programs. In addition, the Hazardous Waste Remediation program reported a total amount of funding that benefitted EJ communities without identifying which remedial sites provided that benefit.

Among programs that did track EJ benefits, our research reveals that these benefits vary dramatically across CWIA programs. Some programs claim to have targeted well over 35% of their awarded or spent funds to EJ communities. WIIA-IMG distributed 64% of funds and WQIP distributed 50% of funds to EJ communities. On the other hand, among programs that distributed funding primarily in rural areas of the state, the percentage of funds provided to EJ communities was much lower. The CAFO program provided just 7% and the Road Salt Storage program provided only 3% of its funding to EJ communities.

It is unclear, however, whether state agencies are coordinating on how EJ benefits are quantified to ensure

¹⁴ US EPA, "Biden-Harris Administration Proposes to Strengthen the Lead and Copper Rule to Protect All Communities in America from Lead in Drinking Water," November 2023, <https://www.epa.gov/newsreleases/biden-harris-administration-proposes-strengthen-lead-and-copper-rule-protect-all>.

consistency across programs. Most programs that provided EJ data did not specify whether they used DEC's Potential Environmental Justice Area (PEJA) map or DAC map, or both, to identify communities that qualify as EJ. Most programs also did not provide what criteria they used to determine EJ benefits (whether a project must be located in a PEJA or DAC, for example). Moving forward, ensuring consistency across programs for how to calculate EJ benefits will be essential.

CWIA Program Case Study: The Water Infrastructure Improvement Act

This section of our report will provide a closer look into the largest and most important CWIA program: the Water Infrastructure Improvement Act and Intermunicipal Grant Program (WIIA-IMG).

Over the last five years, EANY has tracked and evaluated WIIA-IMG awards through its *Untapped Potential* reports.¹⁵ After each year's round of WIIA-IMG grants are announced, we submit a Freedom of Information Law request to EFC to request data on the project applications submitted by local governments for funding. This section will analyze the latest round of data from 2023 to determine whether WIIA-IMG met the demand from municipalities eager to jump-start drinking water and wastewater infrastructure projects.¹⁶

2023: RECORD DEMAND FOR WIIA-IMG

WIIA-IMG saw record-breaking demand from local governments in 2023. Municipalities requested \$1.35 billion in grants for 482 projects, the highest amount requested and the highest number of applications

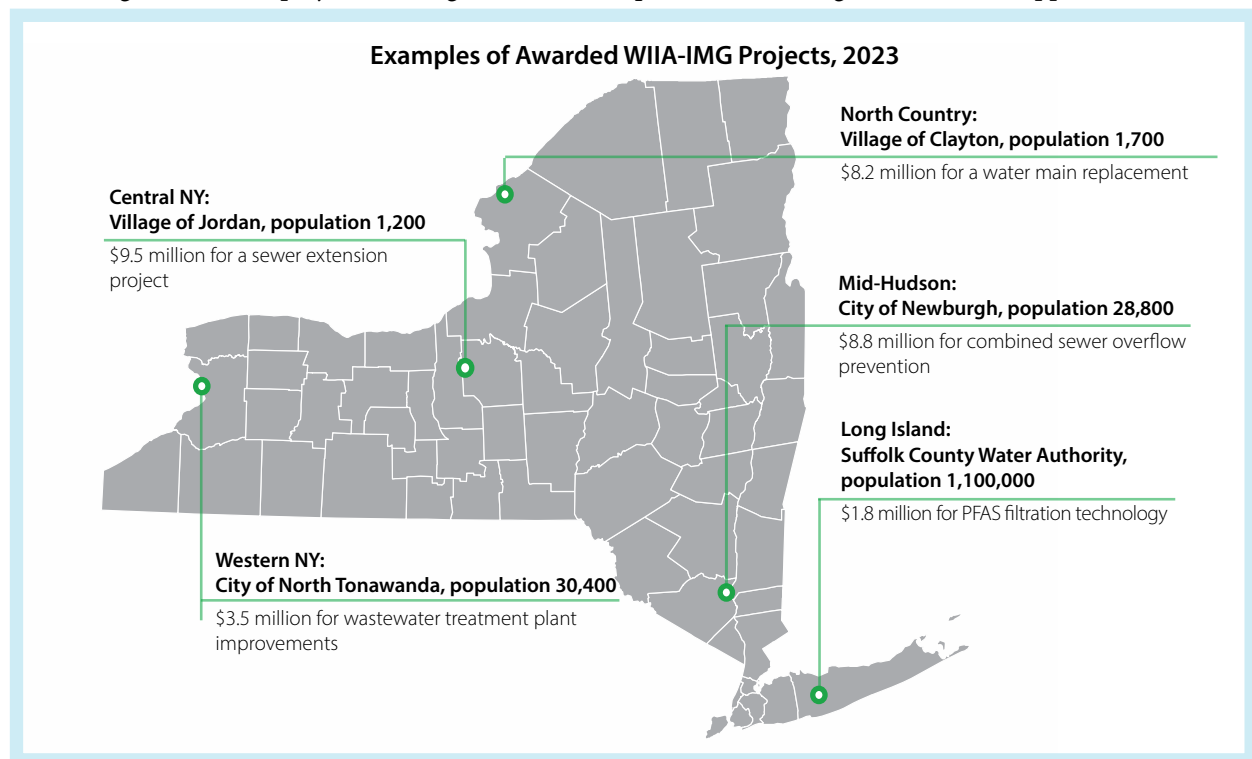


Figure 5

15 EANY, "Untapped Potential: A New Era for New York's Water Infrastructure," February 2023, https://eany.org/wp-content/uploads/2023/02/EANY-Untapped-Potential_FINAL.pdf.

16 Office of the Governor, "Governor Hochul Announces Transformative \$479 Million Investment for 156 Local Water Infrastructure Projects in Every Region of New York," December 2023, <https://www.governor.ny.gov/news/governor-hochul-announces-transformative-479-million-investment-156-local-water-infrastructure>.

submitted in the program's 8-year history. Year over year, the need demonstrated by local governments for WIIA-IMG funding has continued to grow, with no signs of slowing down.

EFC responded by distributing \$449 million to 156 projects, 33% of the total requested by local governments. 61% of this funding was provided to drinking water projects and 39% to wastewater projects. In an important landmark, the first monies from New York's Environmental Bond Act were used to bolster the number of grant awards made, as seen in Figure 6.

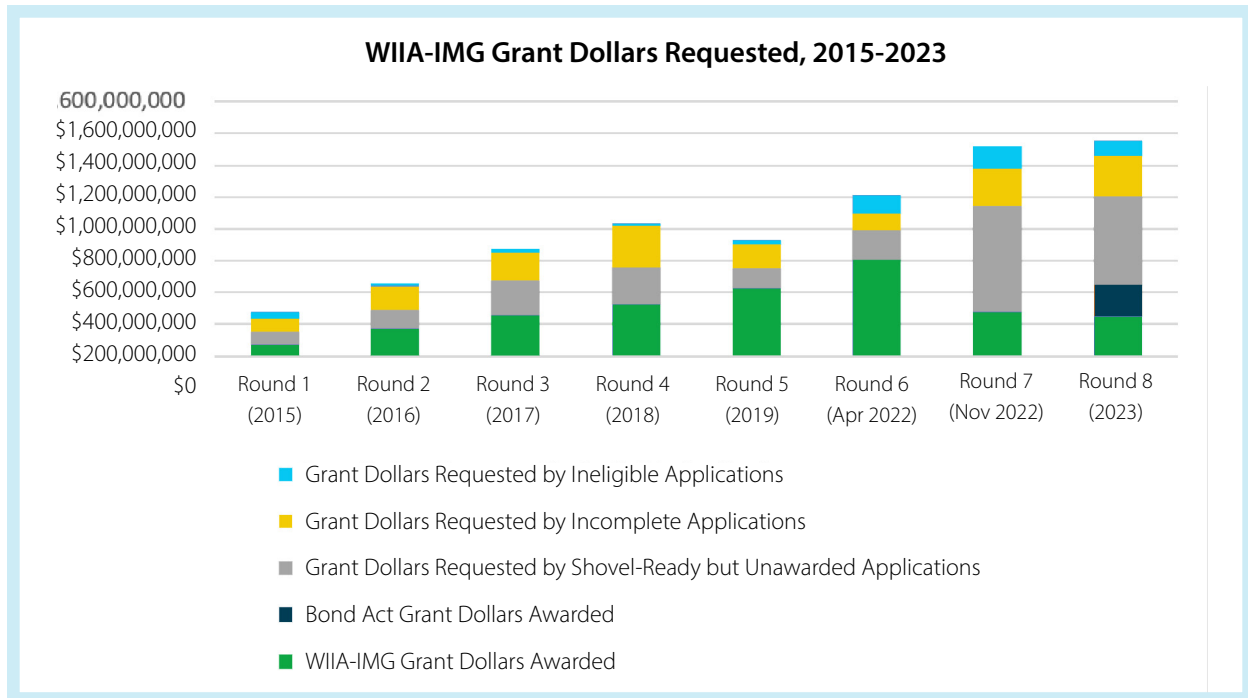


Figure 6.

- **Awarded** applications received grant funding.
- **Shovel-ready but unawarded** applications were fully eligible to receive a WIIA grant, but were not provided one. These applications included all of the necessary paperwork, including information on a project's costs and timeline.
- **Incomplete** applications were good fits for WIIA grants but were missing a full engineering report or other important paperwork. Incomplete applications can be resubmitted for funding in future grant cycles.
- **Ineligible** applications cannot receive a WIIA grant. EFC may deem an application ineligible for a number of reasons, including if another application with the same scope was already awarded a grant, the applicant was already awarded the maximum grant, the proposed project has almost completed or completed construction, or the application is outside of WIIA's scope of funding.

Unlike in past years, only a few grants were provided to communities to address Maximum Contaminant Level exceedances of toxic PFOA, PFOS, or 1,4-dioxane in their drinking water. These emerging contaminant grant awards may ramp up again when US EPA and DOH finalize new and lower MCLs on PFAS chemicals, expected later this year.

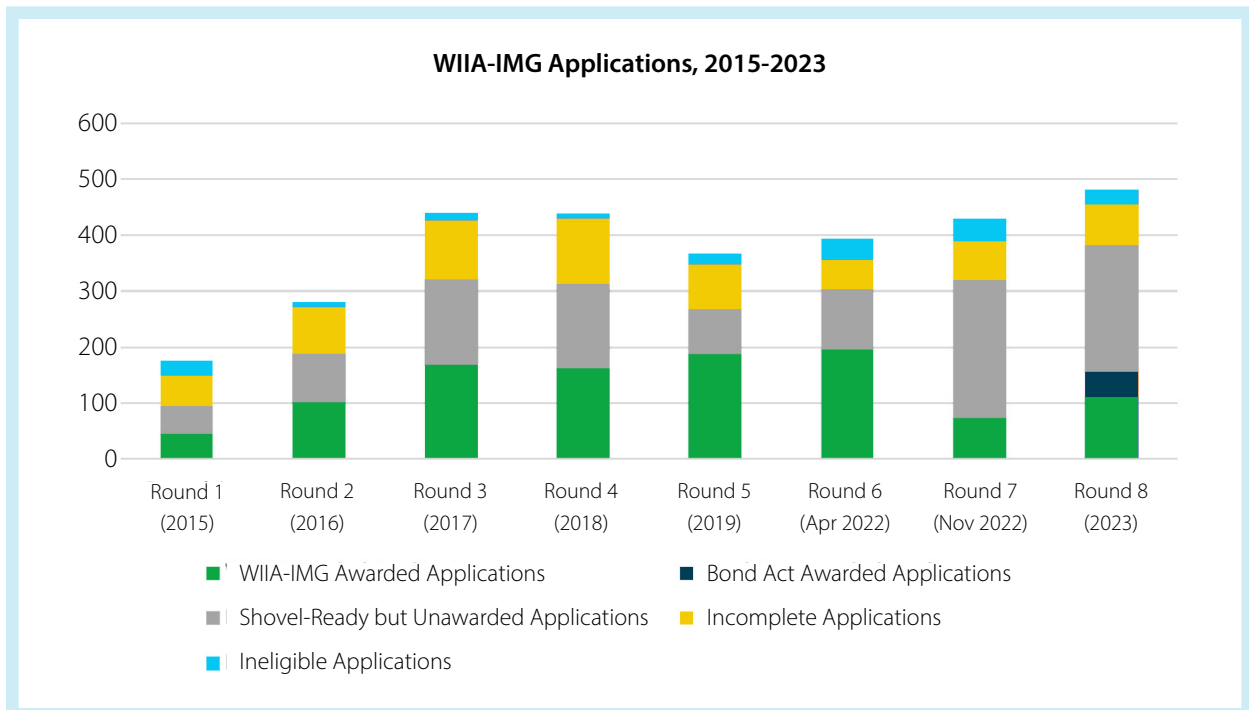


Figure 7.

PROJECTS LEFT WAITING IN THE WINGS

Despite the infusion of Bond Act funding, Governor Hochul’s administration did not award enough money to meet 2023’s enormous demand. 225 shovel-ready applications, requesting \$556 million, did not receive the funding they needed. 13 of these unfunded projects, mostly on Long Island, would have reduced New Yorkers’ exposure to toxic PFAS chemicals in their drinking water.

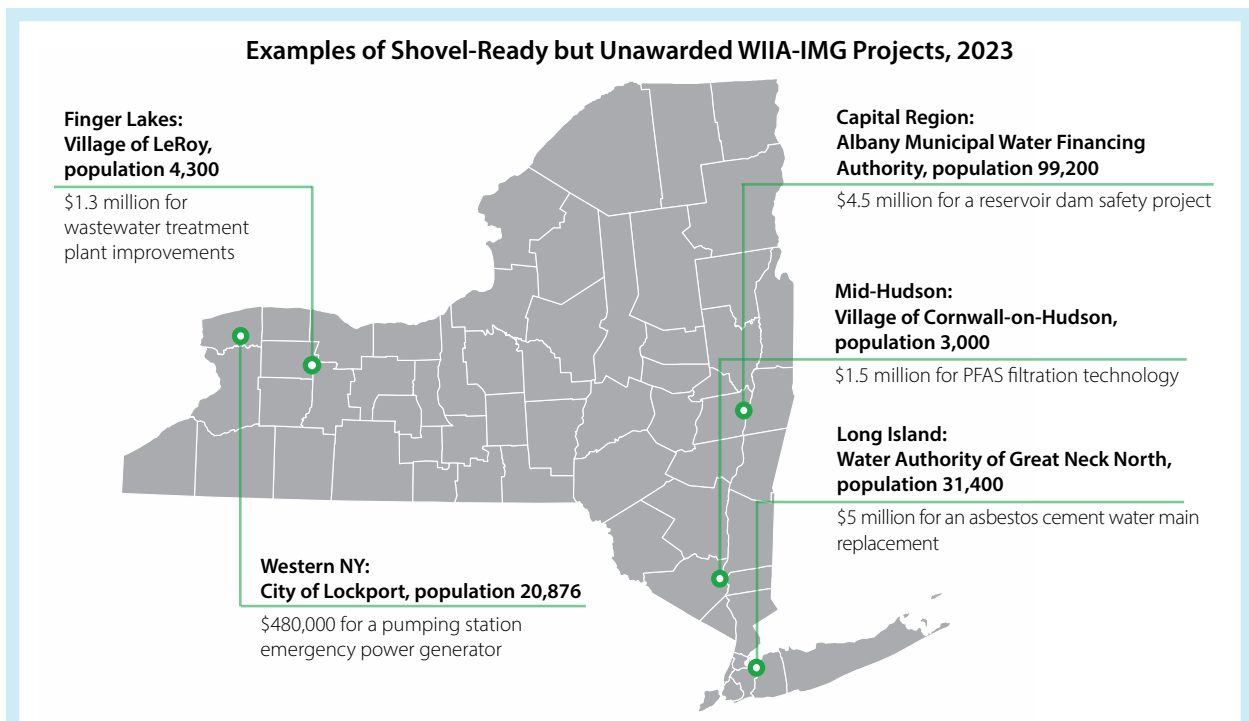


Figure 8.

The lack of sufficient funding in 2023 continued an alarming trend: every year since WIIA-IMG's creation, the Governor has not made enough grant dollars available to meet demand. This forces many local governments to keep drinking water and wastewater upgrades on the shelf for at least another year.

Importantly, in 2023 alone, the Governor's administration could have cut the approximately \$1 billion in uncommitted, unspent CWIA funds by more than half if she had funded 100% of shovel-ready WIIA-IMG projects that year. Previous years, such as 2022, showed that EFC is capable of managing upwards of \$900 million in grant awards per year. The Governor must commit to a higher level of annual WIIA-IMG spending going forward to fully utilize CWIA funds.

This data also makes clear that state leaders should not hesitate to expand appropriations for WIIA-IMG and the CWIA. WIIA-IMG could have awarded \$1 billion to shovel-ready projects in 2023, far exceeding the \$500 million invested in the entire CWIA in the 2023 state budget. Clearly, the CWIA needs an annual appropriation level higher than \$500 million to keep up with growing demand.



Photo 5: Water infrastructure upgradet in Albany.

Recommendations and Conclusion

In reviewing the CWIA's impact over the last seven years, it cannot be forgotten that this initiative is a win-win for our environment and economy. Protecting clean water creates thousands of good-paying union jobs and revitalizes local communities. As New York looks to continue growing its economy, now is the time to grow, not cut, funding to ensure every New Yorker has safe water to drink.

With new monies from the Bond Act and federal infrastructure programs to leverage with CWIA funds, New York has a once-in-a-generation opportunity to chart the future of clean water across the state. To put New York on the path towards clean water for all, we recommend the following:

RECOMMENDATIONS FOR STRENGTHENING THE CWIA

1. Grow, Rather than Cut, CWIA Funding

Include at least \$600 million for the CWIA in the 2024-2025 State Budget, as part of a new five-year, \$4 billion commitment.

2. Accelerate CWIA Spending

Award more grant dollars annually to oversubscribed programs, especially WIA-IMG, to achieve 100% funding of eligible projects and prevent a backlog of funds

3. Provide Programs Their Fair Share of Funding

Augment resources for underutilized programs, including at least \$100 million for lead service line replacement in 2024. Include a line item appropriation for each CWIA program in the 2024-2025 State Budget.

4. Guarantee and Track Environmental Justice Benefits

Require that at least 35% of CWIA funds benefit EJ communities. Implement uniform criteria to assess EJ impact across CWIA programs, ensuring an equitable distribution of benefits.

5. Regulate Emerging Contaminants

Promptly designate at least 23 PFAS chemicals as emerging contaminants, which will spur more drinking water testing and notification by utilities. Without this designation, the Drinking Water Response Program will likely remain dormant.

6. Ensure Financial Transparency

Develop a comprehensive, publicly-accessible database of CWIA spending, enhancing accountability and oversight. Currently, each agency separately tracks spending for its own CWIA programs, and not all programs track or report the same metrics.

7. Identify Additional Clean Water Needs

It is worth examining whether other clean water needs have emerged over the last seven years that could be addressed with CWIA funds, such as needs for private well testing and treatment.



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