

Water Trust Board Update and Overview of the Water Project Fund

Presentation to the
New Mexico Finance Authority
Oversight Committee

Mike Hamman, State Engineer; Chair, Water Trust Board
Marquita Russel, CEO, NMFA; Member, Water Trust Board

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The Water Project Finance Act

The 2001 Legislature enacted the Water Project Finance Act (the "Act") which created the Water Trust Board ("WTB"), a 16-member board representing a diverse set of water interests.

The statutory purpose of the Act is to provide for water use efficiency, resource conservation and protection and fair distribution and allocation of New Mexico's scarce water resources for beneficial purposes of use within the state.

The Act created the **Water Trust Fund** and the **Water Project Fund** to provide the necessary financial support for the five categories of water projects authorized under the Act.

Pursuant to the Act, NMFA may make grants or loans to projects recommended by the WTB and authorized by the legislature.



Water Trust Board Members

Mike Hamman, *Chair*

New Mexico State Engineer

Timothy McGinn

Irrigation or Conservancy District-Ground Water

A.J. Forte, *Vice-Chair*

New Mexico Municipal League

Dr. Buu Nygren

President, Navajo Nation

Michael Sloane, *Secretary*

NM Dept of Game and Fish

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Energy, Minerals & Natural Resources Dept

Mark Thompson, *Treasurer*

NM Indian Affairs Department Appointee

Wayne Propst

Dept. of Finance and Administration

Greg Alpers

Irrigation or Conservancy District – Surface Water

Marquita Russel

New Mexico Finance Authority

Joy Esparsen

New Mexico Counties

Brent Van Dyke

Soil and Water Conservation Districts

James Kenney

NM Environment Department

Jeff Witte

Department of Agriculture

Priscilla Lucero

Environmental Community

VACANT

Acequia Water Users



Water Trust Board Duties

Authorize **qualifying water projects** to the authority that are for:

- (1) storage, conveyance or delivery of water to end users;
- (2) implementation of federal Endangered Species Act of 1973 collaborative programs;
- (3) restoration and management of watersheds;
- (4) flood prevention; or
- (5) water conservation or recycling, treatment or reuse of water as provided by law;

As part of the 2021 Legislative Session, HB200 added another WTB duty: "Evaluate projects, including their environmental impacts, and recommend projects to the interstate stream commission pursuant to the provisions of Section 72-14-45"



NMFA Duties

NMFA provides staff support to the WTB and develops application procedures and forms for qualifying entities to apply for grants and loans from the Water Project Fund (the "Fund")

The NMFA heads up a seven-agency review team that evaluates project applications and makes recommendations to the Water Trust Board and its committee.

NMFA is the administrator of the Fund, which is held at the NMFA, and makes grants and loans to authorized projects. Pursuant to a Memorandum of Agreement, the Construction Programs Bureau of the NM Environment Department limited engineering oversight of most WTB projects for a fee that is paid by the Fund. NMFA has also entered into a professional services agreement with Eastern Research Group to provide additional project oversight.



WTB Evaluation Criteria

- ▶ Pursuant to the Act, the WTB adopted rules that give priority to projects that have:
 - been identified as being urgent to meet the needs of a regional water planning area that has a completed regional water plan that has been accepted by the interstate stream commission;
 - matching contributions from federal or local funding sources;
 - obtained all requisite state and federal permits and authorizations necessary to initiate the project
- ▶ Additionally, the WTB established policies and evaluation criteria that give priority to projects that:
 - cure health and safety issues
 - address existing or imminent emergency conditions
 - that have been properly planned



Policy Changes

- ▶ The Water Trust Board updated the WTB Project Management Policies at its August 18, 2022, meeting to be implemented beginning with the 2023 application cycle. Changes included:
 - **Increased ability to use Technical Memoranda in place of Preliminary Engineering Reports**
 - **“Design only” projects, up to \$500,000 in grant may be considered if:**
 - The Applicant serves fewer than 500 connections;
 - Scope is limited to design only
 - “design” is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid;
 - Costs for the design must be substantiated with the coordinating planning document(s);
 - NMFA received 10 applications for “design only” grants as part of the 2023 application cycle.



Policy Changes

- **Waiver of the match requirement for water systems when:**
 - Applicant serves fewer than 250 connections and has previously secured WTB funding for the proposed project as defined by planning document; or
 - System upgrade is to consolidate with another system; or
 - System upgrade/expansion is to incorporate previously unserved customers (not for future development); and
 - Applicant has implemented an asset management plan for the current and future maintenance, replacement and repair of the system.
- **Waiver of the loan requirement for water projects when:**
 - Applicant serves fewer than 500 connections and has previously secured WTB funding for the same project; or
 - The project is to consolidate with another system; and
 - Applicant must have implemented an asset management plan for the current and future maintenance, replacement and repair of the system.



2021, 2022 and 2023 Award Consideration

- ▶ Projects continue to see construction cost overruns due to increased material and labor costs. To assist small systems unable to absorb these increases, the WTB at its April 13, 2022, meeting set aside the net Water Trust Fund (“WTF”) distribution of \$3.6 million to provide supplemental grants for projects that experience construction funding shortfalls in the 2021 and 2022 cycles.
- ▶ Similar to the previous year, the WTB set aside funds in the 2023 cycle on August 10, 2023, for construction cost overruns for the 2023 projects.
- ▶ To date, an additional \$895,786 has been awarded to three Associations: La Cueva MDWCA, Rio Lucio MDWCA and Rodarte MDWCA for construction cost overruns. With several systems going out to bid in the next few months, staff anticipates additional funding requests.



2023 Award Consideration

- ▶ The Water Trust Board awarded 52 projects in the 2023 cycle for a total awarded amount of \$126,707,373.
- ▶ Due to the changes in the WTB policies, ten water associations qualified for 100% grant for their “design” only projects and one association received 100% grant for their construction project due to a continuation on a previous award for the same project.



2024 Application Cycle

- ▶ 94 Notices of Intent to file an application totaling more than \$420 million were received.
- ▶ Applications are submitted on-line and were accompanied by evidence of additional funding and mandatory planning documents.
- ▶ 67 applications totaling \$277 million were submitted. One application was subsequently withdrawn and one other did not meet the application requirement to submit a current planning document.
- ▶ The WTB held a two-day meeting, October 3 & 4, to allow applicants an opportunity to present their projects. 56 projects were presented.
- ▶ The WTB considered requests from 14 applicants that submitted requests to waive the WTB's prior award expenditure requirement. All requests were granted.
- ▶ The Water Trust Board will approve projects recommended for the legislative authorization at its meeting on October 24th in advance of the NMFA Oversight Committee will receive WTB recommendations on November 1-2.



Expected Funding for 2024

- ▶ The recommended project list will be sized to the amount of funds expected in 2024, with some additional projects in case any of the higher rated projects are by-passed for compliance issues (e.g., water rights, state drinking water regulations, etc.)
- ▶ The Water Project Fund annually receives 9% of the Senior Severance Tax Bond proceeds and a distribution from the Water Trust Fund, less funds directed to the Office of the State Engineer (and the Administrative Offices of the Courts) for adjudication:

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| ◦ Expected Severance Tax Bonds | \$143,900,000 |
| ◦ 2024 Water Trust Fund Distribution | <u>4,000,000</u> |
| ◦ Sub-Total | \$147,900,000 |
| ◦ Less 10% to OSE/AOC for Adjudication | <u>(14,790,000)</u> |
| ◦ Maximum Funding Expected for 2024 | \$133,110,000 |



Next Steps

- ▶ Projects recommended to the Legislature will be invited to submit a Readiness Application which is evaluated by the Project Management Team to determine:
 - Readiness and appropriate scopes of award (design, construction, etc). Awards are sized to an amount that can reasonably be expended in two years
 - amount loan (most awards are 10% loan / 90% grant)
 - compliance with relevant regulations and policy (evaluated on a pass/fail basis – those not meeting requirements are provided an opportunity to request a waiver from the WTB, with input from relevant agencies)
- ▶ Funding will be awarded in the spring 2024 to projects in the order in which they are prioritized by the Board in October. Projects will be bypassed if the applicant is not compliant with certain readiness or regulatory requirements
- ▶ NMFA anticipates approving applications at its May 2024 Board Meeting. Awards are subject to terms and conditions established by NMFA

