

Update from the Water Trust Board

Presentation to the
New Mexico Finance Authority
Oversight Committee

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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.



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New Mexico State Engineer

Steve Kopelman

New Mexico Counties

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New Mexico Municipal League

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NM Dept of Game and Fish

Jonathan Nez

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Energy, Minerals & Natural Resources Dept

Greg Alpers

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Dept. of Finance and Administration

Robert Baracker

Acequia Water Users

Marquita Russel

New Mexico Finance Authority

Priscilla Lucero

Environmental Community

Mark Thompson

NM Indian Affairs Department Appointee

James Kenney

NM Environment Department

Jeff Witte

Department of Agriculture



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 provides engineering and construction oversight of most WTB projects for a fee that is paid by the Fund.



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 18th meeting to be implemented beginning with the 2023 application cycle. Changes include:
 - **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);



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 requirements for water projects when:**
 - Applicant serves fewer than 500 connections and has previously secured a WTB loan/grant funding for the same project; or
 - The project is to consolidate with another system
 - Applicant must have implemented an asset management plan for the current and future maintenance, replacement and repair of the system.



2021 and 2022 Award Consideration

- ▶ Despite being accompanied by planning documents with engineer's estimates for project costs, the time between project application and funding have resulted in more cost over-runs, particularly over the last year.
- ▶ To assist small systems unable to absorb increases in construction and material costs, the Water Trust Board at its April 13, 2022, meeting set aside the net Water Trust Fund distribution of \$3.6 million to provide supplemental grants for projects that experience construction funding shortfalls.



2023 Application Cycle

- ▶ 54 Notices of Intent to file an application totaling more than \$145.3 million were received.
- ▶ Applications are submitted on-line and must be accompanied by evidence of additional funding and mandatory planning documents. Application must be submitted by September 23rd
- ▶ Applications will be evaluated using WTB-established criteria. Typically, the seven-agency Project Management Team conducts technical evaluation, however it is unclear of agency capacity
- ▶ The Water Trust Board will consider any policy waiver requests, including preliminary spend down targets, at its meeting on October 20th
- ▶ The Water Trust Board will approve projects recommended for legislative authorization at its meeting on November 8th
 - ▶ NMFA Oversight Committee will receive WTB recommendations on November 11th



Expected Funding for 2023

- ▶ The recommended project list will be sized to the amount of funds expected in 2023, 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 for adjudication

◦ Expected Severance Tax Bonds	\$99,700,000
◦ 2022 Water Trust Fund Distribution	<u>4,000,000</u>
◦ Sub-Total	103,700,000
◦ Less 10% to OSE/AOC for Adjudication	<u>(10,370,000)</u>
◦ Maximum Funding Expected for 2023	\$93,330,000



Next Steps

- ▶ Projects recommended to the Legislature are invited to submit Readiness Applications which are:
 - 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
 - used to analyze debt capacity (most awards have a loan component of 10%-40%)
- ▶ Funding is awarded to projects in the order in which they are prioritized. Awards are sized to an amount that can be expended within two years.
 - Projects will be by-passed if the applicant is not compliant with certain readiness or regulatory requirements
- ▶ WTB recommends a final list of projects to the NMFA in Spring 2023. NMFA expects to approve the awards at its May or June meetings. Awards are subject to terms and conditions established by NMFA.

