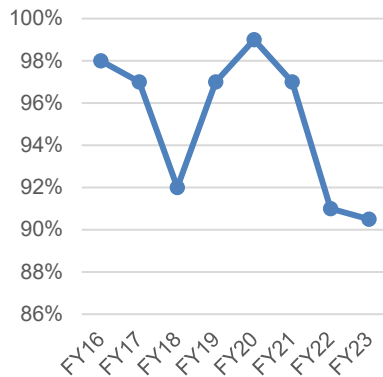


## Performance Challenge: Water and Wastewater System Management

Despite record investments in water and wastewater infrastructure, the number of New Mexicans with access to drinking water that meets health standards continues to decline. Implementation of standards which set limits on the amount of per-and polyfluoroalkyl substances (PFAS) in drinking water by the U.S. Environmental Protection Agency (EPA) is likely to exacerbate this trend. Many public water systems throughout New Mexico struggle to comply with current drinking water requirements due to a significant lack of operational capacity, requiring Environment Department staff to provide significant technical and compliance assistance. Despite the dire state of many water and wastewater systems in municipalities, counties water and sanitation districts, mutual domestics, Indian Tribes, Nations and Pueblos, uptake of the Drinking Water and Clean Water State Revolving Loan Funds remains low, and balances continue to climb year-over-year.

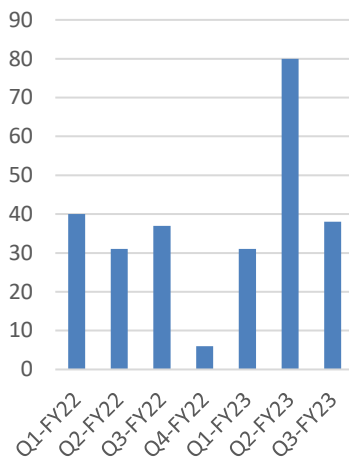
### Key Data

**Percent of New Mexicans Receiving Water that Meets Health Standards**



- Despite improvements from FY18 to FY20, the number of New Mexicans receiving drinking water that meets health standards has been in decline for several years.
- Projected data for FY23 shows that this trend is likely to continue.
- The rollout of new EPA standards for PFAS is likely to drive this metric down even farther

**New Water Infrastructure Projects**

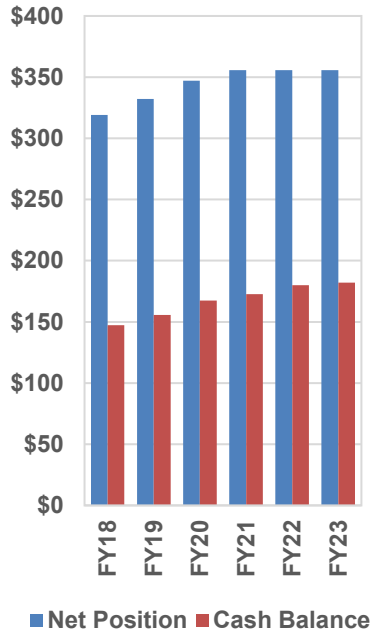


- The Construction Programs Bureau (CPB) directly manages three funding sources, Capital Outlay Appropriations (CO), the Clean Water State Revolving Loan Fund Program (CWSRF), and the Rural Infrastructure Program (RIP).
- CPB engineering staff provide technical oversight for these funding programs as well as for programs funded by the New Mexico Finance Authority for water, wastewater, drainage, watershed restoration, and solid waste projects.
- Over \$40 million was disbursed from the directly managed programs and \$44 million was disbursed from the NMFA programs in the calendar year 2022.

## Performance Challenge: Water and Wastewater System Management

### Clean Water State Revolving Fund Balances, FY17-21

in millions



- The CWSRF offers interest rates from 0% to 0.01%, with terms of up to 30 years for construction loans and a maximum of 5 years for planning and design loans. Funds from this program may be used for many purposes including, but not limited to:
  - Publicly owned centralized wastewater treatment works construction, repair, or replacement.
  - Implementation of a non-point source management plan.
  - Decentralized systems treating municipal or domestic sewage.
  - Measures reducing, treating, or managing stormwater.
  - Measures reducing demand to publicly owned treatment works through conservation.
  - Watershed projects.
  - Reducing energy consumption at publicly owned treatment works.
  - Projects for reusing or recycling wastewater or stormwater.
  - Increasing security at publicly owned treatment works.
- Balances in these funds continues to climb, and uptake by local governments and other entities continues to remain low despite the lowering of interest rates on loans.

### Performance Trends

- Despite continual improvement in both the number of new projects and the amount of money invested in water and wastewater systems, it is likely that the number of New Mexicans accessing water that meets all health standards will continue to decline.
- New Mexico's does not have enough certified operators to effectively manage the workload of all the various water and wastewater systems in the state.
- Efforts to incentivize smaller water systems to regionalize were taken in the 2023 legislative session (Laws 2023, Chapter 4) however, the rulemaking process and rollout will take time.

### Suggested Questions

- **How can the Legislature and NMED work to improve access to safe and healthy drinking water?**
- **What was the uptake like for testing for private domestic wells across New Mexico in April and May 2023?**
  - **What is the timeline for NMED to provide well owners with their results?**
- **What additional support does the agency need to prepare for stricter EPA standards?**
- **How is the Construction Programs Bureau, and the Water Protection Division as a whole, working to support local governments in building capacity?**
- **How is this impacting CWSRF and DWSRF balances?**
- **How can the Legislature support NMED in accomplishing its goals of increasing local capacity?**

**ACTION PLAN**

Submitted by agency?	Yes
Timeline assigned?	Yes
Responsibility assigned?	Yes

The Environment Department’s (NMED) regulatory programs continued to demonstrate mixed results on compliance levels in the third quarter of FY23. However, NMED is prioritizing compliance enforcement and continues to make progress toward achieving its performance goals despite maintaining a vacancy rate of 19 percent.

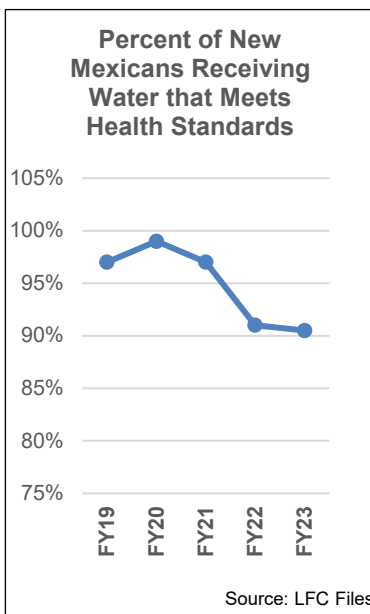
NMED announced a couple of major settlements in the third quarter, including with Rust Movie Productions LLC (“RMP”) regarding two citations following the October 2021 workplace fatality and injury on the set of the film “Rust.” Under the settlement, RMP agreed to withdraw its contest of the citations and pay \$100,000, the largest OSHA penalty in the New Mexico since 2010. NMED also agreed to a \$6.2 million-valued settlement with Matador Production Company, an oil and gas producer, including a civil penalty of \$1.15 million and at least \$1.25 million on a diesel engine replacement project to reduce nitrogen oxide and carbon dioxide emissions. Matador will also spend \$500 thousand to conduct aerial monitoring of its New Mexico facilities and to address leaks of methane and other pollutants identified. Finally, Matador will spend an estimated \$2.5 million in injunctive relief and \$800 thousand in mitigation costs to offset the harm caused by the alleged violations by reducing emissions from its operations.

**Water Protection**

The Water Protection Division continues to assist communities seeking in developing internal capacity to utilize state and federal funding for infrastructure improvement and water resource management. Understaffing in the Drinking Water Bureau continues to cause delays in delivering compliance determinations and violation notices. The bureau is in the final stages of filling several critical positions in its compliance and assistance sections. However, the department reported concerns about the potential of losing several experienced employees to other entities, specifically the national labs.

During the third quarter of FY23, the Construction Programs Bureau processed disbursements for 38 new projects, totaling approximately \$9.7 million. Additionally, the bureau disbursed funding for 34 capital outlay projects totaling approximately \$7 million and four clean water state revolving fund projects totaling roughly \$2.7 million.

The decline in the percentage of New Mexicans receiving water that meets health standards since FY21 was impacted mainly by stricter guidelines rather than more systems falling out of compliance. This trend will likely continue because of a rule proposed by the U.S. Environmental Protection Agency (EPA) limiting per- and polyfluoroalkyl substances (PFAS) in drinking water, which will likely go into effect in late 2023 or early 2024. Many public water systems throughout New Mexico struggle to comply with current drinking water requirements due to a lack of operational capacity, requiring NMED staff to provide more technical and compliance assistance.



	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY23 Q3	Rating
<b>Budget:</b> \$34,875.0 <b>FTE:</b> 191.6							
Percent of population served safe and healthy drinking water	97%	97%	92%	89.4%	90.5%	89.2%	<span style="background-color: yellow; border-radius: 50%; padding: 2px;">Y</span>
Percent of surface water permittees inspected	N/A	N/A	10%	20%	20%	15%	<span style="background-color: green; border-radius: 50%; padding: 2px;">G</span>
Percent of groundwater permittees inspected.	19%	21.1%	65%	3.5%	5.6%	3.6%	<span style="background-color: red; border-radius: 50%; padding: 2px;">R</span>
Number of new water infrastructure projects	N/A	154	75	31	80	38	<span style="background-color: green; border-radius: 50%; padding: 2px;">G</span>
<b>Program Rating</b>	<span style="background-color: green; border-radius: 50%; padding: 2px;">G</span>	<span style="background-color: yellow; border-radius: 50%; padding: 2px;">Y</span>		<span style="background-color: yellow; border-radius: 50%; padding: 2px;">Y</span>	<span style="background-color: yellow; border-radius: 50%; padding: 2px;">Y</span>		<span style="background-color: yellow; border-radius: 50%; padding: 2px;">Y</span>