

New Mexico Finance Authority Oversight Committee July 12, 2019



Presenters

Ramon Lucero, PM - Souder Miller & Associates

Robert Apodaca, CEO- Motiva Corporation

Sanitary Projects Act

- Many of New Mexico's water systems are formed as **Mutual Domestic Water Consumers Associations (MDWCAs)**, a unique organization authorized by the Sanitary Projects Act;
- MDWCAs were first authorized by the State Legislature in 1947 as a solution to public health concerns from the harmful practices of use of water from ditches, rivers, and shallow wells;
- The Act was successful in bringing safe drinking water to rural New Mexico, however much of the language became outdated, irrelevant or inapplicable;
- Substantial revision of the Sanitary Projects Act was passed by the New Mexico Legislature in 2006.
- These revisions unequivocally made MDWCAs into public bodies and political subdivisions of the state

According to the American Council of Engineering Companies (ACEC) 2017 Report, New Mexico's Water and Wastewater Needs Total:

\$1,336,000,000 Billion

To provide some perspective on this massive funding need, the State of New Mexico's Recurring Rev. in FY20 are projected at:

\$7.5 Billion

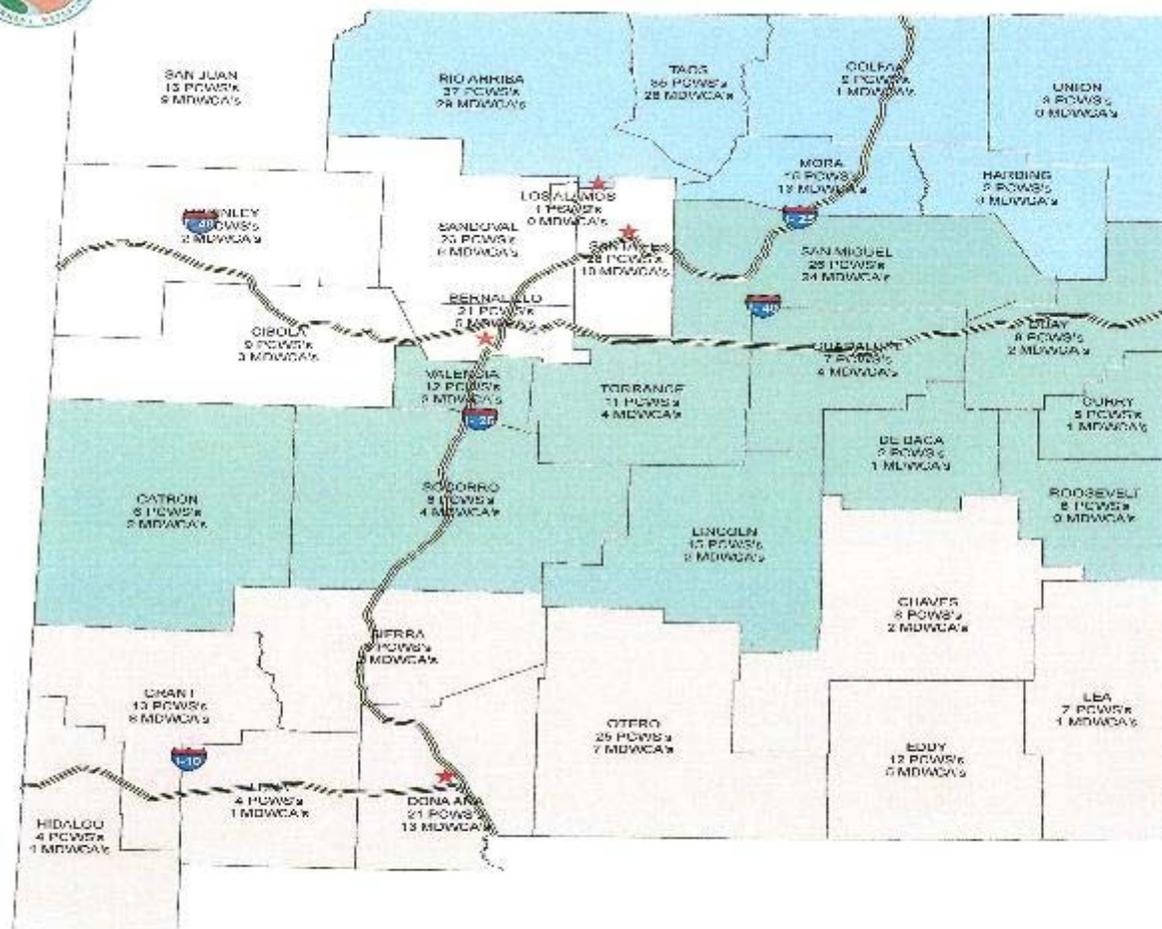
2017 New Mexico Infrastructure Report Card

- While the nation's infrastructure earned a D+ in 2017, New Mexico faces infrastructures challenges of its own;
- In 2012, ACEC gave New Mexico a C- with respect to water and a C with respect to wastewater infrastructure;
- Criteria used to determine the grade included capacity, condition, funding, operation and maintenance, planning, public safety, resilience and future needs.

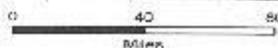
Small Rural Communities Water Project Needs and Challenges

- NM Public Water Systems
 - Approximately 650 Public Water Systems in NM
 - Approximately 300 are Mutual Domestic Water Systems
 - Majority of water systems have fewer than 500 connections



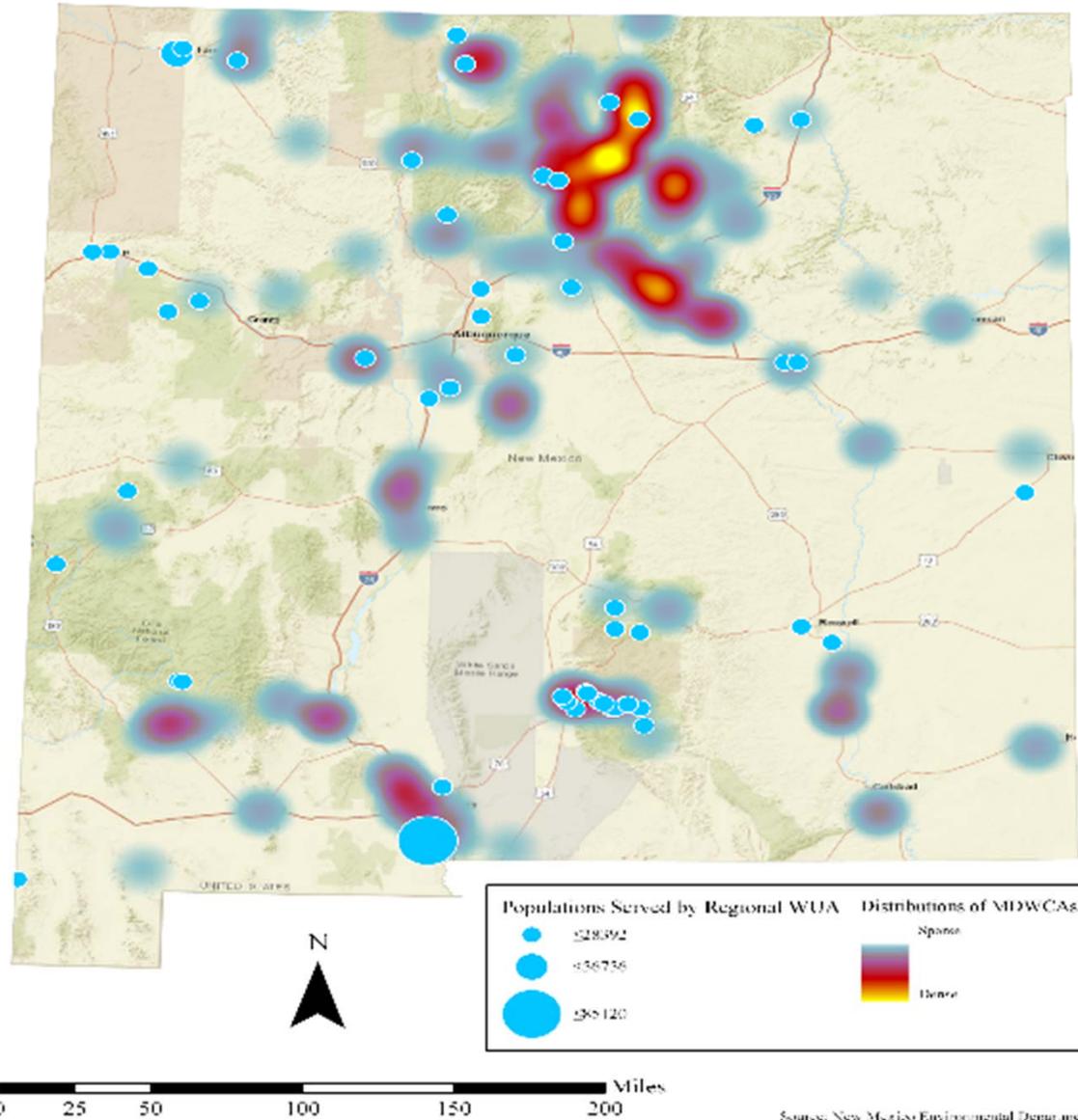


| Area Name | CE Coordinator | Total Community Water Resources | Min | MDWCA | Coop | Water Users Assoc. | W.R.R.D. | Water Authority | Private Utility | TGA | Hardness | ADDF | Public Costs \$/yr |
|--------------------|------------------|---------------------------------|------------|------------|-----------|--------------------|-----------|-----------------|-----------------|-----------|-----------|-----------|--------------------|
| North / North-east | Alvarez Ortega | 117 | 23 | 71 | 3 | 5 | 2 | 6 | 0 | 4 | 5 | 7 | 101 |
| Central | Rafael Schick | 148 | 59 | 46 | 6 | 10 | 5 | 6 | 11 | 8 | 3 | 7 | 104 |
| South | Michael Martinez | 147 | 71 | 40 | 10 | 14 | 3 | 2 | 14 | 10 | 7 | 23 | 99 |
| Southwest | Karen Torrez | 114 | 15 | 43 | 21 | 18 | 0 | 1 | 5 | 10 | 5 | 29 | 112 |
| Grand Total | | 562 | 109 | 200 | 41 | 47 | 16 | 3 | 33 | 32 | 18 | 65 | 416 |



2-20-2018

Distribution of Local MDWCAs and Regional WUAs for the State of New Mexico



Small Rural Communities Water Project Needs and Challenges - Continued

- Volunteer board: difficult for volunteers to meet all state requirements. Board members are either aging or are working and serving on the board. People don't want to volunteer. (younger members don't/can't volunteer – busy at work)
- Limited capacity because of unpaid staff
- Systems are small and have limited funds to keep up with operations and reporting

Small Rural Communities Water Project Needs and Challenges - Continued

- Compliance with state agencies requires electronic reporting and not everyone has access to internet, computer, scanning capabilities (sometimes there is a limited pool of people in a community with this knowledge /experience)
- Funding is difficult to get; cannot afford loans (administrative detail is burdensome for small communities)
- Cannot find certified operator they can afford (there are limited availability of operators in general - this is a common factor to many systems across the state)

Small Rural Communities Water Project Needs and Challenges - Continued

- Our system is getting old (this is a common factor for many systems across the state)

Regulatory Compliance

- Compliance with seven state agencies
- Managerial & Operational Capacity
 - Provide safe drinking water 24/7
 - Technical, Managerial and Financial Capacity
 - Proactive Operation & Maintenance
 - Data Management
 - Debt Capacity & Financial Reserves

STATE REGULATORY REQUIREMENTS

NM Secretary of State

| | |
|---|---------------------------|
| 1 | Articles of Incorporation |
| 2 | By-Laws |
| 3 | Rules and Regulations |
| 4 | Annual Corporate Report |

Attorney General

| | |
|---|--|
| 5 | Open Meetings Act |
| 6 | Public Notice - 10 days Prior to Meeting |
| 7 | Agenda - 72 hours Prior to Meeting |

DFA-LGD

| | |
|----|--------------------------|
| 8 | Annual Budget < \$10,000 |
| 9 | Tier 1 Certification |
| 10 | Annual Budget > \$10,000 |
| 11 | Tier 2 Certification |
| 12 | Annual Budget |
| 13 | Quarterly Reports |
| 14 | ICIP |

State Auditor's Office

| | |
|----|--|
| 15 | Annual Budget < \$10,000 |
| 16 | Tier 1 Certification |
| 17 | Annual Budget between \$10,001 - \$50,000 |
| 18 | Tier 2 Certification |
| 19 | Tier 1 or Tier 2 with Capital Outlay Expenditure |
| 20 | Tier 3 Agreed Upon Procedures |
| 21 | Annual Budget between \$50,001 - \$250,000 |
| 22 | Tier 4 Agreed Upon Procedures |
| 23 | Cash |
| 24 | Bank Capital Accounts |
| 25 | Revenue |
| 26 | Expenditures |
| 27 | Journal Entries |
| 28 | Budgets |
| 29 | Audit Report |
| 30 | Tier 4 with Capital Outlay Expenditure |
| 31 | Tier 5 Agreed Upon Procedures |
| 32 | Cash |
| 33 | Bank Capital Accounts |
| 34 | Revenue |
| 35 | Expenditures |
| 36 | Journal Entries |
| 37 | Budgets |
| 38 | Capital Outlay Appropriations |
| 39 | Audit Report |
| 40 | Annual Budget between \$250,001 - \$500,000 |
| 41 | Tier 6 Agreed Upon Procedures |
| 42 | Cash |
| 43 | Bank Capital Accounts |
| 44 | Debt |
| 45 | Revenue |
| 46 | Expenditures |
| 47 | Journal Entries |
| 48 | Budgets |
| 49 | Capital Outlay Appropriations |
| 50 | Audit Report |
| 51 | Annual Budget > \$500,001 |
| 52 | Full Audit |

NMED-DWB/SPA/SDWA

| | |
|----|--------------------------------|
| 53 | Sanitary Surveys |
| 54 | Emergency Response Plan |
| 55 | Vulnerability Assessment |
| 56 | Operation and Maintenance Plan |
| 57 | Source Water Project Plan |
| 58 | Asset Management Plan |
| 59 | COI |
| 60 | Water Sampling Plan |
| 61 | Water Quality Sampling |
| 62 | Cross Connection Policy |
| 63 | Board Training |
| 64 | PER |
| 65 | EIT |
| 66 | Certified Operator |
| 67 | Water Audits |
| 68 | Reserve Accounts |
| 69 | Disbursement Request |
| 70 | CIMS - Capital Outlay |
| 71 | Budget Management |
| | Project Management |

NM Tax and Rev

| | |
|----|------------------------|
| 72 | Gross Receipts Tax |
| 73 | Water Conservation Fee |

NM OSE

| | |
|----|---|
| 74 | Meter/Meter Readings |
| | Extension of Time |
| 75 | Maintain Permits up to date |
| 76 | Maintain Water Right up to date |
| 77 | Water Audit |
| 78 | Water Conservation Plan > 50000l annually |

Additional Requirements

| | |
|----|--|
| 81 | State Purchasing Division - Chief Purchasing Officer |
| 82 | 5 Year Financial Plan |
| 83 | Long-Term Water Plan |
| 84 | DUNS / EIN Numbers |
| 85 | WTS Match |

Funding Requirements Check List

| Item # | Description | WTB | DWSRLF | RIP Loan | USDA RD/RUS | CDBG | NMFA Planning | State Approp. | Colonias Fund | CWSRF | TIF |
|--------|--|-----|--------|----------|-------------|------|---------------|---------------|---------------|-------|---------|
| 1 | Don't fund MDWCA or water cooperatives, | | | | | X | | | | X | X |
| 2 | MHI - Affects Interest Rate and/or loan/grant ratio | | X | | X | X | X | | | X | |
| 3 | Match Requirement | X | | | | X | | | X | | X |
| 4 | Requires the ICP | | | | | X | | X | X | | X |
| 5 | RFP for engineering (USDA always - others follow state procurement) | X | X | X | X | X | X | X | X | X | Depends |
| 6 | Requires PER and ER both (the others require PER only or fund it) | X | X | | X | X | | | | X | X |
| 7 | Requires Public hearings or meetings to determine project need/records of meeting | X | X | X | X | X | X | | X | | |
| 8 | Requires Easements and Right of Ways, property ownership, permits, licences | X | X | X | X | X | | X | X | X | X |
| 9 | Resolution/Ordinance from the Board/Governing Body authorizing the Loan and identifying the source of repayment | X | X | X | X | X | X | | X | X | |
| 10 | OSE Water Rights Questionnaire & Compliance | X | X | | X | X | | | | | |
| 11 | Asset Management Process | X | | | X | X | | | X | | X |
| 12 | Water Conservation Policies | X | X | | | X | | | | | |
| 13 | Current Rate Schedule | X | X | X | X | X | X | | X | X | |
| 14 | List of Current Delinquencies (RIP Requires past dues for 3 years) | | | X | X | | | | | | |
| 15 | Compliance with the Sanitary Projects Act | X | X | | | | | | | | |
| 16 | 3 Yrs of Financials (P&L) or Bank St. audited statements if available | X | X | X | X | X | X | | X | X | |
| 17 | Audit's Rule | X | X | X | X | X | X | X | X | X | |
| 18 | Balance Sheet (3 Years) | X | X | X | X | X | X | | X | X | |
| 19 | Annual Operating Budget | X | X | | X | X | X | X | X | | |
| 20 | List of all Debt including debt holder | X | X | X | X | X | | X | | X | |
| 21 | 5 Year Financial Plan | X | | | | | | | | | |
| 22 | List members (Water Users Agreements) | | | X | X | | | | | | |
| 23 | Articles of Incorporation | X | X | X | X | X | X | X | X | | |
| 24 | Bylaws | X | X | X | X | X | X | X | X | | |
| 25 | Rules and Regulations - Policies | X | X | | X | | X | X | X | | |
| 26 | Open Meetings Act Resolution | X | X | X | X | X | X | X | X | | |
| 27 | SGS Compliance - In Good Standing | X | X | X | X | X | X | X | | | |
| 28 | Certified Operator in Place | X | X | X | X | X | X | X | | X | |
| 29 | Board Training | X | X | | X | | | | | | |
| 30 | Emergency Response Plan (ERP) | X | X | | X | | | | | | |
| 31 | O&M Plan | X | X | | | | | | | X | |
| 32 | System Map | | X | | | X | X | | X | X | |
| 33 | JPA or MOL/MDA | X | X | | X | X | X | | X | | |
| 34 | Fill out a Project Interest Form | X | X | X | X | X | X | X | | X | X |
| 35 | EIN or DUNS number; SAM (formerly CCR) | X | X | X | X | | X | | | X | |
| 36 | Compliance with Tax and Revenue, GRT and Water Conservation Fee | | X | | | | | | | | |
| 37 | Annual Estimated Increase in Operating Cost | | X | X | X | | | | | | |
| 38 | Documentation of any litigation pending | X | X | | X | | | | X | X | |
| 39 | Authorized Signature Resolution | X | X | X | | X | X | X | X | X | |
| 40 | Property, liability and fidelity insurance | | | X | X | X | | | | X | |
| 41 | Drought Contingency Plan | | | | | X | | | | | |
| 42 | Project to be completed within 24 months | X | | | | X | | | | | X |
| 43 | Cost benefit-the higher number of direct beneficiaries compared to the amount of funds requested, the higher the score | X | | | | X | | | X | | |
| 44 | Commitment to O&M of the project | X | | | | | | X | | | |
| 45 | Water System Long Term Water Plan (minimum 10 years) | X | | | | | | | | | |
| 46 | Detailed Project Phase Schedule | X | | | X | | | | X | | |
| 47 | Documentation that each non agency funded project has been funded | X | | | X | | | | | | |
| 48 | Metering of customers. Rates based on meters | X | | | X | | | | | | |
| 49 | Written job descriptions of all staff | X | | | | | | | | | |
| 50 | Gross Connection Control Program | X | | | | | | | | | |
| 51 | Source Water Protection Plan | X | X | | | | | | | | |
| 52 | Water Audit Plan | X | | | | | | | | | |
| 53 | Compliance with the SDWA | X | X | | | | | | | | |
| 54 | Executive Order | X | X | X | | X | | X | X | X | X |
| 55 | Implementation Workshop | | | | | X | | | | | X |

Infrastructure Planning

- Improve Capacity
 - Compliance with EO 2013-006;
 - Sufficient Water Rights;
 - Compliance with NMED-DWB;
 - Open Meetings Act;
 - Overall Governance
- Understand Condition;
 - Asset Management Plan (AMP)
- Operation and Maintenance;
 - Deferred maintenance shortens the life cycle of infrastructure by as much as one-third.
 - Studies indicate we pay an additional \$4 in capital costs for every \$1 we defer
- Develop Debt Capacity;
 - Coverage Ratio of 1.30%
- Planning;
 - Preliminary Engineering Reports, Environmental Reports, AMP, Easements



Small Rural Communities Water Project Needs and Challenges

Building Water System – 5 years to 10 years

- Example: Ancones MDWCA – Two communities; El Llanito and Ancones located in Rio Arriba County, north of Ojo Caliente
 - Between 2007 through 2018, after nine funding application cycles, they secured approximately \$2.1M to construct a water supply well, a 40,000-gallon water storage tank, and approximately 27,000 LF (5-miles) of waterline for approximately 60 service connections. Local match, approximately \$242,000, including five funding awards from the WTB.



MDWCA's Funding Needs

- Secure funding for planning
 - Preliminary Engineering & Environmental Reports
- Secure funding for design
- Replace aging infrastructure
- Develop data management tools (Asset Management)
- Sustainability to fund aging infrastructure and operations

MDWCA's Funding Opportunities

- Nine funding opportunities
 - NMFA Local Govt Planning Fund
 - NMFA Water Trust Board
 - Community Dev Block Grant (CDBG)
 - Drinking Water Loan Fund (DWSRLF)
 - Clean Water Revolving Loan Fund (CWSRLF)
 - Rural Infrastructure Program (RIP)
 - USDA
 - Capital Outlay
 - Bonding Capacity – Water & Sanitation Districts

Water Project Finance Act and Water Trust Fund History

- 2001 Legislature enacted the Water Project Finance Act, which created the Water Project Fund
 - Purpose:
 - NM is in a desert where water is scarce
 - The economy depends on reasonable and fair allocation of water for all purposes
 - The public welfare depends on efficient use and conservation of water
 - NM must comply with its delivery obligations under interstate compacts; and
 - Public confidence and support for water use efficiency and conservation is based on a reasonable balance of investments in water infrastructure and management.
 - To provide for water use efficiency, resource conservation and protection and fair distribution and allocation of NM's scarce water resources for beneficial purposes of use within the state.
- Original STB earmark
 - 10% of Severance Tax Bonds
 - Annual WTF allocation of \$4M

Water Project Finance Act and Water Trust Fund History – Continued

- Decline of Severance Tax Bond Funds to Water Project Fund in 2015
- HB 236 – 2015 Session - Changed the formula for STB debt service – Increased amount going into Severance Tax Permanent Fund and decreased amount available for debt service (resulting in less bonds being issued)
 - SB 1 2015 – Special Direct appropriation to EMNRD, NMED and OSE of \$6,420,000
 - Legislature pulls back approx. \$6.5M which results in loan repayments shoring up 2015 awards versus funding new projects in 2016-2018.
 - HB 219 2016 – Session Direct appropriation to EMNRD, NMED, OSE and Homeland Security of \$6,750,000
 - SB 8 Second Special Session – Reduced STB earmark from 10% to 9%.
 - SB 1 2017 Special Session – No 2017 STB Distribution to WTB, instead distributed \$9,360,000 OSE Adjudication
 - HB 306 2018 – Direct appropriation of \$5,825,000 to EMNRD, NMED, and OSE
 - SB 280 2019 – Direct appropriation of \$9,770,000 to EMNRD, OSE, and Indian Water Rights Settlement Fund

Water Project Finance Act and Water Trust Fund History – Continued

- Summary
 - 2013 - 9% net distribution (10% earmark less 10% adjudication)
 - 2014 – 9% net distribution (10% earmark less 10% adjudication)
 - 2015 - 7% net distribution (10% earmark less 10% adjudication, less \$6.42 million in direct appropriations)
 - 2016 - 5.33% net distribution (10% earmark less 10% adjudication, less \$6.75 million in direct appropriations)
 - 2017 –0% net distribution (no funds for water projects)
 - 2018 - 5.14% net distribution (9% earmark less 10% adjudication, less \$5.85 million in direct appropriations)
 - 2019 – 4.97% net distribution (9% earmark less 10% adjudication, less \$9.77 million in direct appropriations)

| | |
|---|-----------------------|
| ❖ 9% earmark: | \$28,100,787.00 |
| ❖ OSE Adjudication | (2,810,780.70) |
| ❖ SB280 Direct Appropriations | <u>(9,770,000.00)</u> |
| ❖ Total STBs available for WTB projects | \$15,520,708.30 |

- In addition, for 2019 the WTB also awarded \$3.6 million in net Water Trust Fund distribution and \$5.4 million in net special General Fund Appropriation (for MDWCAs) for total funding of \$24,520,708.30 awarded to 27 projects, three of which were authorized in prior years.

Impact to Local Communities

– 2015

- Application received 128
- Funding requested \$113,516,939
- Applicants deemed eligible 127
- Funding awarded \$32,401,575 for 30 projects
- Insufficient funds \$81,115,364 for 97 projects

– 2016

- Applications received 77
- Funding requested \$73M
- Applicants deemed eligible 42 in the amount of \$40,870,803
- Funding awarded \$13,486,729 for 20 projects
- Insufficient funds \$14,186,714 for 15 projects

– 2017

- Applications received 62
- Funding requested \$60M
- Applicants deemed eligible 56 in the amount of \$49,750,333
- Funding award recommendations \$29,271,014 for 32 projects
- Insufficient funds Approximately \$13M suspended and transferred to general fund

Impact to Local Communities - Continued

– 2018

- Applications received 61
- Funding requested \$58,314,454
- Applicants deemed eligible 21 in the amount of \$24,201,036
- Funding award recommendations \$17,305,000 for 14 projects
- Insufficient funds \$6,082,794 for 6 projects

– 2019

- Applications received 51
- Funding requested \$58,314,454
- Applicants deemed eligible 30 in the amount of \$27,698,473
- Funding awarded \$24,520,708 for 27 projects
- Insufficient funds \$3,890,459 for 5 projects

**Total Impact to Local Communities -
\$32,245,459**

**Projects not Funded due to Insufficient
Funds –
155 Projects**

**Project Location by County –
Dona Ana, Sandoval, Harding, Rio
Arriba, Colfax, Sierra, Valencia,
Bernalillo, Curry, Mora, Santa Fe, Taos,
Lea, Eddy, Guadalupe, Luna, Quay,
Roosevelt, San Juan, San Miguel,
Torrance, Socorro and Grant**