



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

Program
Evaluation
Unit

Program Evaluation: State-Funded Water
Projects

June 23, 2021

Report #21-02



LEGISLATIVE FINANCE COMMITTEE

Representative Patricia A. Lundstrom, Chairwoman
Senator George K. Muñoz, Vice-Chair
Representative Gail Armstrong
Senator Pete Campos
Representative Jack Chatfield
Representative Randal S. Crowder
Representative Harry Garcia
Representative Roberto "Bobby" J. Gonzales
Senator Siah Correa Hemphill
Representative Dayan Hochman-Vigil
Senator Gay Kernan
Representative Javier Martinez
Senator Steven P. Neville
Senator Nancy Rodriguez
Representative Nathan P. Small
Representative Candie G. Sweetser
Senator Pat Woods

DIRECTOR

David Abbey

DEPUTY DIRECTOR FOR PROGRAM EVALUATION

Jon Courtney, Ph.D.

PROGRAM EVALUATION TEAM

Cally Carswell
Sarah M. Dinces, Ph.D.
Katie Dry
Nathan Eckberg, Esq.
Jessica Hitzman
Micaela Fischer
Brian Hoffmeister
Mitchel Latimer
Clayton Lobaugh
Jacob Rowberry
Janelle Taylor Garcia, Ph.D.
Ryan Tolman, Ph.D.

Representative Patricia A. Lundstrom
Chairwoman

Representative Gail Armstrong
Representative Jack Chatfield
Representative Randal S. Crowder
Representative Harry Garcia
Representative Dayan Hochman-Vigil
Representative Javier Martinez
Representative Nathan P. Small
Representative Candie G. Sweetser

State of New Mexico
**LEGISLATIVE FINANCE
COMMITTEE**

325 Don Gaspar, Suite 101 • Santa Fe, NM 87501
Phone: (505) 986-4550 • Fax (505) 986-4545

David Abbey
Director



Senator George K. Munoz
Vice Chair

Senator Pete Campos
Senator Roberto "Bobby" J. Gonzales
Senator Siah Correa Hemphill
Senator Gay G. Kernan
Senator Steven P. Neville
Senator Nancy Rodriguez
Senator Pat Woods

June 23, 2021

Mr. James Kenney, Secretary
NM Environment Department
1190 St. Francis Dr., Suite N4050
Santa Fe, NM 87505

Dear Secretary Kenney:

The Legislative Finance Committee (LFC) is pleased to transmit the evaluation, *State-Funded Water Projects*. The program evaluation examined how New Mexico funds water infrastructure and the feasibility of consolidating the distribution of state funding. An exit conference was held with your staff on June 14, 2021 to discuss the contents of the report.

The report will be presented to the LFC on June 23, 2021. LFC would like plans to address the recommendations within this report from New Mexico Environment Department within 30 days of the hearing.

I believe this report addresses issues the LFC asked us to review and hope your department and other state agencies will benefit from our efforts. We very much appreciate the cooperation and assistance we received from you and your staff.

Sincerely,

A handwritten signature in blue ink that reads "David Abbey".

David Abbey, Director

Cc: Representative Patricia A. Lundstrom, Chair, Legislative Finance Committee
Senator George K. Muñoz, Vice-Chair, Legislative Finance Committee
Mr. Matthew Garcia, Chief of Staff, Office of the Governor
Ms. Deborah Romero, Cabinet Secretary, Department of Finance and Administration
Mr. Brian S. Colón, State Auditor, Office of the State Auditor
Ms. Lynn Trujillo, Cabinet Secretary, New Mexico Indian Affairs Department
Mr. John R. D'Antonio Jr., P.E., New Mexico State Engineer
Ms. Marquita Russel, Chief Executive Officer, New Mexico Finance Authority

Table of Contents



State-Funded Water Projects	1
Background	5
Findings and Recommendations	14
State grants for water projects limit use of federal and local dollars	14
The state’s water finance system is fragmented and lacks a cohesive strategy	20
Insufficient project vetting and piecemeal funding create risk for incomplete projects...	27
The Legislature should create an interagency council to vet water projects prior to funding.....	34
Agency Responses	38
Appendices	47
Appendix A: Scope and Methodology.....	47
Appendix B: July 2020 EPA Memo.....	48
Appendix C: Capital Outlay Best Practices, Office of the State Auditor.....	50
Appendix D: Office of the State Engineer Dam Projects.....	54
Appendix E: \$10 Thousand Capital Outlay Appropriations, FY20.....	56
Appendix F: Evaluated Water Projects.....	57





Inconsistent vetting across a fragmented funding system creates risk for incomplete projects

Public investment in water infrastructure has made life as New Mexicans know it possible. Without it, farmers could not grow pecans in the Mesilla Valley, and citizens from Albuquerque to small villages like Maxwell could not drink from their kitchen faucets nor flush their toilets. Twenty years into a punishing drought, strategic investments in water infrastructure are a major reason Santa Fe has not placed moratoriums on new development for lack of water.

Proactive, ongoing investments are needed not only to continue providing basic services but also to allow New Mexico to grow, even as the state confronts a widening gap between water supply and demand. Unfortunately, many New Mexico communities are already behind the curve, with significant, as-yet- unfunded capital needs, looming or immediate threats to water supply or quality, and limited financial, technical, and administrative capacity to address water-related challenges, despite significant state support.

Key Findings

From FY16 to FY20, the state provided roughly \$876 million for water projects, mostly to local and tribal communities in the form of grants or low- or no-interest loans, and over the last decade New Mexico made proportionally more state grant and loan funding available for water projects than any other state.

The wide availability of state grants for water projects disincentivizes communities from seeking low-cost financing, limiting New Mexico's ability to fully leverage federal and local dollars. Communities often seek grants before tapping local revenues or pursuing funding through the state's federally-backed revolving loans, which had \$125 million in uncommitted lending capacity in spring 2021.

The Water Trust Board, Colonias Infrastructure Fund, and Tribal Infrastructure Fund all use standards-based vetting systems to score and prioritize projects for funding, but projects funded with legislative capital outlay do not undergo any formal review process. Lack of planning prior to funding and piecemeal funding create risk that projects will not meet their intended purpose or will become plagued by long delays.

The state's water finance system is fragmented and lacks a consistent strategy or goal, with at least 10 programs across four state agencies plus the Legislature offering grants and loans for water projects. The siloed and uncoordinated system contributes to difficulties in accessing funding and tracking outcomes, leaving it unclear what taxpayers are getting for their money.

Evaluation Objectives:

- 1.) Assess the outcomes of state appropriations for water infrastructure since FY16 and identify barriers to completion;
- 2.) Assess the feasibility of consolidating the distribution of state funding for water projects.

Key Recommendations

The Legislature should pass legislation to

- Create an interagency water project review team to develop and implement a process for vetting water-related capital outlay funding requests using criteria as similar to other state programs as possible, scoring projects, and providing the Legislature with prioritized recommendations for funding on an annual basis;
- Require agencies administering funds for water projects to standardize policies, scoring criteria, and funding prerequisites across state grant programs to the greatest extent possible; and
- Within the review team, task the Environment Department with reporting to the Legislature annually on all water project requests and funding awards and working with LFC and DFA staff to develop reporting that allows the state to track the outcomes of this spending.



Public investment in water infrastructure is critical to New Mexico’s economy, culture, and well-being

Federal, state, and local investments in water infrastructure have made modern life in New Mexico and the United States possible. Advances in water treatment technology nearly eliminated waterborne diseases like typhoid fever from American communities, while aggressive federal investment in sewer infrastructure in the 1960s and 1970s made the nation’s deteriorating waterways fishable and swimmable again. In New Mexico, dams, water pipelines, transmission lines, groundwater wells, storage tanks, and irrigation canals make it possible to deliver reliable drinking and agricultural water despite annual and seasonal variability in precipitation and scarce local supplies, while water treatment systems protect residents from contaminants like harmful bacteria and arsenic.

These systems are aging, however, and require new investment. The American Water Works Association estimates most of the nation’s drinking water pipes will need to be repaired or replaced by 2040 to maintain service delivery, protect public health, and maintain and grow economic productivity, and the cost of replacing aging infrastructure and expanding service to meet demand could reach \$1 trillion nationally over 20 years. If the needed investments are not made, service disruptions could cost American businesses \$111 billion by 2029 and \$250 billion by 2039, according to the association. In New Mexico, projects to update and repair municipal water and wastewater systems were the top infrastructure need identified in the Office of the State Engineer’s 2018 *State Water Plan*, with the total cost of 1,100 municipal projects estimated at \$2.8 billion over three years. The state also faces novel challenges to its water supply and water quality, including increasing risk of supply falling short of demand and little understood contaminants, such as per- and polyfluoroalkyl substances, or PFAS.

Water infrastructure needs in New Mexico are significant, possibly topping \$4 billion in the short term. The estimated cost of projects, programs, and policies needed from 2018 to 2020 to address New Mexico’s water issues exceeded \$4 billion over three years, according to the 2018 *State Water Plan*. The projects, programs, and policies were identified by each of the state’s 16 water planning regions before being incorporated into the statewide plan and included projects to address deficiencies in water and sewer systems, agricultural water infrastructure, and dams, as well as watershed restoration, wastewater reuse, and more. Municipal water and wastewater infrastructure projects represented the largest area of need, with more than 1,100 projects at a cost of at least \$2.8 billion. These projects are the primary focus of this report. The project categories included in regional water plans for which estimated costs exceeded \$10 million are summarized in Table 1.

Leading Challenges for New Mexico Drinking Water Systems:

- ✓ Old and Deteriorating Infrastructure
- ✓ Insufficient Revenue
- ✓ Difficulty Securing Grants and Loans
- ✓ Lack of Board Members or Operators
- ✓ Drought

Source: 2021 UNM Southwest Environmental Finance Center survey

**Table 1. \$10 Million Plus Projects, Programs, and Policies Identified
in Regional Water Plans to Meet Water Needs
(2018 through 2020)**

Category	Total Cost (in thousands)	Number of Projects, Programs, and Policies
Municipal Water Infrastructure	\$1,853,737	849
Wastewater Infrastructure	\$917,005	256
Agricultural Water Infrastructure	\$382,520	531
Stormwater Infrastructure	\$360,459	50
Wastewater Reuse	\$173,461	50
Riparian Restoration	\$151,635	61
Watershed Restoration	\$142,698	233
Drill New Well	\$69,581	55
Dam Safety and Rehabilitation	\$67,915	21
Municipal Water Conservation	\$49,766	58
Transfer Water Rights	\$26,499	27
Desalination	\$17,390	9
Metering	\$13,392	43
Increase Agricultural Storage	\$11,000	3
Regional Water System	\$10,900	2
Regional Wastewater System	\$10,000	1
Other	\$34,570	220
TOTAL	\$4,292,528	2,469

Source: 2018 State Water Plan

At least 10 state programs across four agencies plus the Legislature offer funding for water project planning, design, and construction. The funding programs provide both grants and loans for water and wastewater systems, regional water systems, dam repairs, acequias and ditch associations, flood control districts, and more and have both distinct and overlapping purposes and eligibilities. The New Mexico Finance Authority (NMFA) and Environment Department (NMED) administer and conduct oversight of funded projects for multiple funds, while the Indian Affairs Department administers one fund and conducts oversight for projects from two funds, and the Department of Finance and Administration, the Legislature, and Office of the Governor make awards from one primary fund. In some cases, project oversight is conducted by the same agency that awards funds, while in others it is conducted by a separate agency. NMED provides technical oversight for water projects funded by four funds administered by NMFA (Water Trust Board, Colonias Infrastructure Fund, Local Government Planning Fund, and Drinking Water State Revolving Fund) and for two funds NMED itself administers (Clean Water State Revolving Fund, Rural Infrastructure Program). NMED, the Office of the State Engineer, the Interstate Stream Commission, and the Indian Affairs Department are the primary agencies to oversee water projects funded with legislative capital outlay.

Table 2. 10 Programs Across Four Agencies and the Legislature Fund Water Project Planning, Design, and Construction

Fund	Awarding Agency; Oversight Agency	Revenue Source	Purpose and Eligibility
Capital Outlay	Legislature, Governor; multiple oversight agencies	General Fund, Severance Tax Bonds	Grant funding to build, improve, or equip physical property that will be used by the public.
Public Project Revolving Fund	NMFA	State-Backed Bonds	Low-cost loans for local governments for a variety of infrastructure and building projects, including water and wastewater treatment facilities.
Drinking Water State Revolving Fund	NMFA; NMED	Annual Federal Grants and State Match, Principal and Interest Payment on Loans	Low-cost financial assistance for the construction and improvement of drinking water projects.
Clean Water State Revolving Fund	NMED	Annual Federal Grants and State Match, Principal and Interest Payment on Loans	Low-cost financial assistance for wastewater and stormwater drainage projects that protect surface and groundwater. Funds may be used for planning, design and construction.
Water Trust Board	NMFA; NMED	9% Severance Tax Bond Earmark, Water Trust Fund	Grants and low-cost loans for critical water projects.
Colonias Infrastructure Fund	NMFA; NMED	4.5% Severance Tax Bond Earmark	Funds awarded as 10% loan / 90% grant with projects recommended by the Colonias Infrastructure Board and approved by NMFA. Funds infrastructure planning, design, and construction, land and water rights acquisition, engineering, environmental assessments, and other professional services in localities within 150 miles of the U.S.-Mexico border with designated colonias prior to Nov. 1990.
Tribal Infrastructure Fund	IAD	4.5% Severance Tax Bond Earmark	Grants to ensure adequate financial resources for infrastructure development, including planning, design and construction, in tribal communities.
Community Development Block Grant	DFA	Federal Block Grant	Infrastructure projects, including water, wastewater, and stormwater, to benefit low- and moderate-income populations.
Local Government Planning Fund	NMFA; NMED	State-Backed Bonds	Full and partial grant funding for preliminary engineering reports, asset management plans, water conservation plans, and long-term water plans to local governments, including tribes and mutual domestics.
Rural Infrastructure Program	NMED	Legislative Appropriation, Principal and Interest Payments on Current Loans, Interest Earned on Fund Balance	Publicly-funded loans to local governments for the planning, design, construction or modification of water, wastewater and solid waste projects.

Source: LFC Analysis

From FY16 to FY20, the state provided \$876 million in support for water projects from the 10 funds, primarily to local and tribal governments. More than half of the money from FY16 to FY20 was awarded as grants and the rest as low- or no-interest loans. The largest sources were capital outlay and the Public Project Revolving Fund, followed by the Water Trust Board, Clean Water State Revolving Fund, and Drinking Water State Revolving Fund. The proportion of grant versus loan money provided by the programs varies according to each program's policies, as do the loan terms. Capital outlay and the Tribal Infrastructure Fund are the only programs to provide full grant funding to all awardees without hard local match requirements, while the Public Project Revolving Fund is the only program to exclusively offer loans. The other programs all provide grant-loan packages or have some local match requirement.

Table 3. New Mexico Provided \$876 Million in Grants and Low-Interest Loans for Water Projects from FY16 to FY20

Fund	Water-Related Awards, FY16-FY20 (in thousands)	Percent Expended	Percent Awarded as Grants	Local Match Requirement	Current Interest Rate
Capital Outlay	\$258,072	40%	100%	0%	n/a
Public Project Revolving Fund	\$232,238	n/a	0%	n/a	0-2%
Clean Water State Revolving Fund	\$106,188	37%	14%	n/a	0-1%*
Water Trust Board	\$93,426	46%	84%	0-20%	0.25%
Drinking Water State Revolving Fund	\$65,567	64%	37%	n/a	0-1%*
Colonias Infrastructure Fund	\$42,742	51%	90%	10%	0.25%
Tribal Infrastructure Fund	\$40,930	43%	100%	None required but applicants with matching funds are more competitive	n/a
Community Development Block Grant	\$22,437	49%	100%	5-10%	n/a
Local Government Planning Fund	\$6,546	80%	25-100%	0-75%	n/a
Rural Infrastructure Program	\$7,901	86%	17%	n/a	2.375%
TOTAL	\$876,048	43%	55%		

*Higher rates apply to private borrowers. The CWSRF's current rates are lower than they were from FY16 through FY20.

Source: LFC Analysis

The funding source used for any given project is determined by the community's familiarity with available sources and where they can find the best deal. Communities decide which funding sources to pursue and they are often guided by their own familiarity with funds or by the advice of private engineers they hire to plan and design projects, according to local officials, engineers, and agency staff interviewed by LFC staff. Some engineering firms interviewed by LFC staff had a full-time employee whose job was to apply for or help administer state grants for local communities. Stakeholders interviewed for this report also stated there was a "pecking order" among the state funds, with many communities first attempting to secure the "free money" of capital outlay appropriations before pursuing other sources. If they were unsuccessful or could not secure full funding through the legislative process, they would then seek funding from the Tribal Infrastructure Fund or Colonias Infrastructure Fund, if they qualified, then Water Trust Board, then the revolving funds. For communities able and willing to take on debt, the Public Project Revolving Fund may be attractive because financing can be secured quickly at low rates and for the full amount sought, if the applicant meets financial qualifications, through a process analogous to a homeowner seeking a mortgage through a bank.

The annual capital outlay bill funds both local projects and statewide water priorities. Most water-related legislative capital outlay went to local projects from FY16 through FY20 (\$172 million), while \$86 million was included in the statewide framework. The local appropriations included municipal water and wastewater projects, agricultural water projects, dam improvements, and well drilling. The largest spending category in the statewide appropriations for water went to the state's share of Indian water rights settlements.

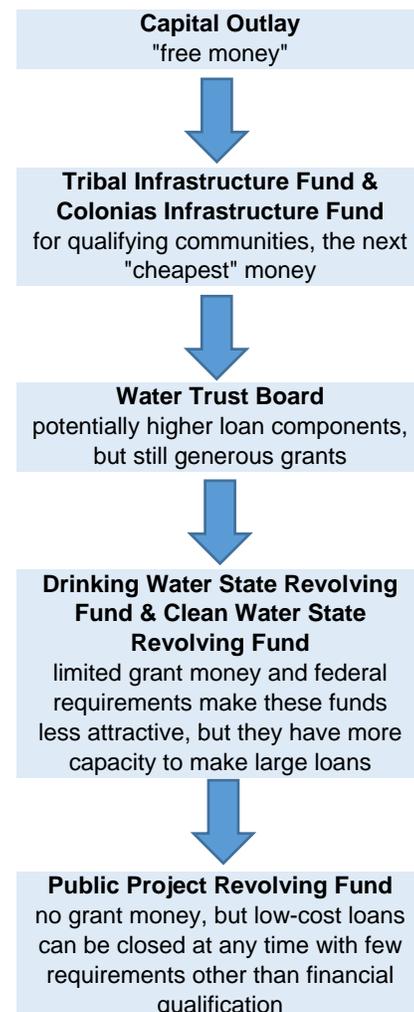
Figure 2. Largest Statewide Legislative Capital Appropriations, FY16 to FY20

\$38 million	\$10.9 million	\$9 million	\$5.3 million	\$4 million
Indian water rights settlements	Water and sewer infrastructure at state facilities	Publicly-owned dam rehab	Watershed restoration and wildfire protection	PFAS contamination in Curry and Otero counties

Source: LFC files

New Mexico shoulders a heavier burden for local water system capital costs than other states, a reflection of policy decisions and limited financial, administrative, and technical capacity at the local level. Providing adequate and safe drinking water and wastewater disposal service is primarily the responsibility of local governments. Ideally, water and wastewater utilities function as enterprise systems, with long-term financial and asset management plans guiding rate adjustments to ensure revenues are sufficient to cover operations and maintenance and to create debt capacity for infrastructure replacement. Utilities must balance the goal of financial self-sufficiency against affordability and opposition among customers to rate increases, however, even when rates could be raised without making services unaffordable. Additionally, small systems may never be able to achieve self-sufficiency while maintaining affordability due to their inability to achieve economies of scale, and even large systems often require assistance for major projects, which can run into the hundreds of millions of dollars.

Figure 1. The "Pecking Order" Among State Grant and Loan Programs for Water Projects



A “small” public water system is defined by the federal Safe Drinking Water Act as any system serving fewer than 10 thousand customers. The act further breaks down small systems into those serving 3,301-10 thousand people, 501-3,300 people, and 500 or fewer people.

Two-thirds of New Mexico drinking water systems fit into this last category – the smallest of the small.

As a result, both state and federal governments play an ongoing role in funding capital improvements to water and wastewater systems. In 1988 and 1996, the federal government created the Clean Water State Revolving Fund and Drinking Water State Revolving Fund, with each state administering its own version of each fund according to federal rules and with annual grants from the U.S. Environmental Protection Agency and state matching dollars. The funds primarily offer low-interest loans to wastewater and drinking water systems, with limited grant dollars, or “subsidy,” available each year and criteria to qualify for subsidy. The revolving funds are intended to be self-perpetuating and most states allocate most of their financial assistance for water and wastewater projects through these funds. New Mexico is the only state, in fact, to provide a majority of its funding for water projects from state-based loan and grant programs separate from the revolving funds.

Table 4. New Mexico is the Only State to Provide a Majority of Drinking Water and Wastewater Funding from its Own Loan and Grant Programs Rather than its Federally-Backed Revolving Funds

Rank	State	Total State Funding for Drinking Water and Wastewater Projects, 1988-2019 (in thousands)	Percent from State-Based Loan and Grant Programs	Percent from Federally-Backed Clean Water and Drinking Water State Revolving Funds
1	New Mexico	\$2,179,818	67%	33%
2	West Virginia	\$2,831,061	46%	54%
3	Maryland	\$5,970,111	46%	54%
4	Texas	\$17,522,755	44%	56%
5	Colorado	\$3,380,531	42%	58%
6	Wisconsin	\$5,783,485	37%	63%
7	Washington	\$4,486,283	36%	64%
8	Kentucky	\$3,052,105	35%	65%
9	Oregon	\$2,726,221	35%	65%
10	Alaska	\$1,378,690	33%	67%

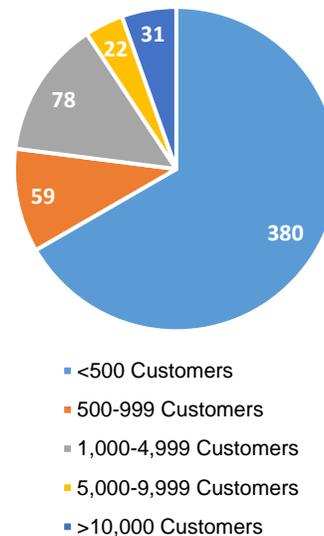
Source: EPA NIMS data

New Mexico’s singular status in this area reflects policy choices by the Legislature and executive branch for the state to provide significant support to public water and wastewater systems in the form of legislative capital outlay and programs funded with earmarked severance tax bonds, including the Water Trust Board, Colonias Infrastructure Fund, and Tribal Infrastructure Fund. These funds provide both generous, zero-interest loan terms, and higher proportions of grant funding than the revolving funds and have historically outcompeted the revolving funds in attracting applicants for funding.

Such policy decisions are driven, in part, by values or needs particular to New Mexico. From FY16 to FY20, for instance, the Legislature appropriated \$11.4 million to 193 acequia projects through capital outlay. The state’s unusually prominent role in funding water projects is also a response to limited capacity at the local level to self-fund utility projects, due in part to hesitancy to raise rates, which the broad availability of state grant money disincentivizes, and in part to the prevalence of small water systems in the state.

Of the 570 community drinking water systems in the state, 66 percent (380) serve fewer than 500 people and only 5 percent (31) meet the Environmental Protection Agency's definition of a large system, serving more than 10 thousand customers. The smallest systems typically have the least financial, technical, and administrative capacity. Small systems may be able to raise water and sewer rates to create debt capacity and take some financial responsibility for capital improvements but are less likely to be able to finance the entire cost of projects without grant support, due to diseconomies of scale. Small systems also encounter difficulty hiring and retaining qualified operators, with 71 New Mexico drinking water systems receiving violations from the Environment Department for having no operator from 2015 to 2021. All the systems lacking operators served fewer than 10 thousand people, and all but two served fewer than 3,300 customers and thus fit EPA's definition of particularly small systems. New Mexico's small water systems include those organized as mutual domestic water consumer associations, political subdivisions authorized by the state Sanitary Projects Act and run by volunteers, and those run by rural villages.

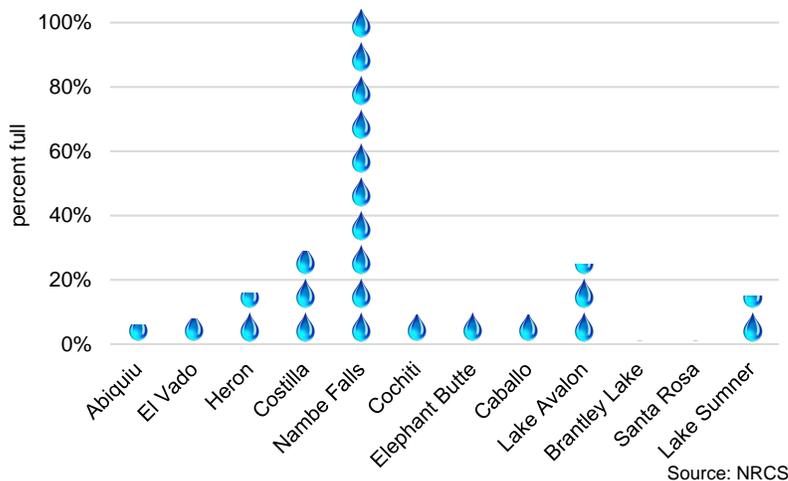
Chart 1. Most of New Mexico's Community Drinking Water Systems Serve Fewer than 500 Customers



Source: NMED

In New Mexico, state support for infrastructure is critical to help communities manage threats to water quality and the risks of a shrinking water supply. Since 2000, the Southwest has been mired in a severe drought that is as bad or worse than any other drought in the last 1,200 years. And though the region's climate system has always swung between wet and dry periods, rising temperatures promise to make drought conditions increasingly common. Native water supplies in the Rio Grande Basin are projected to decrease by about one-third, according to climate risk modeling by the U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, and Sandia National Laboratories. Flows in tributaries that supply the San Juan-Chama Project, which delivers water from the Colorado River Basin to the Rio Grande and is a crucial source of supply for Santa Fe and Albuquerque, are expected to decrease by an average of 25 percent, according to the same risk assessment.

Chart 2. Only One Reservoir in New Mexico's Three Major River Basins Was More than 30 Percent Full as of May 1, 2021

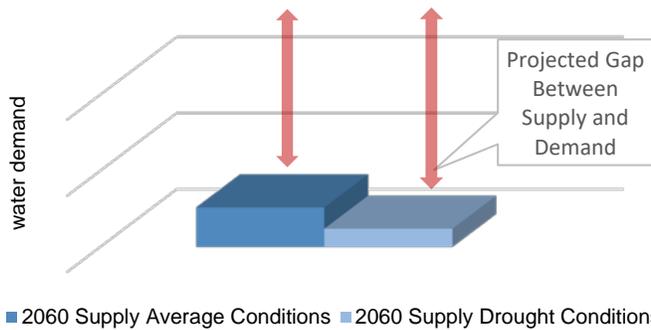


Source: NRCS

Diminished surface waters will make it tempting to pump more water from aquifers, but many of those in New Mexico are also declining. According to the 2018 *State Water Plan*, the water supply during a severe drought is projected to meet only about half of statewide demand by 2060.

Infrastructure investments have already been key to mitigating these risks and will continue to be important going forward. During a severe drought in 2002, the Santa Fe City Council considered putting a moratorium on new construction because water supplies – groundwater wells and Santa Fe River reservoirs – were strained. Instead, it invested in more aggressive water conservation measures in the short term, including requiring developers to offset new water uses with reduced use elsewhere in the system by replacing old, high-flow toilets with low-flow toilets throughout the city. In the long-term, it invested in the Buckman Direct Diversion, a major infrastructure project allowing it to develop its rights to San Juan-Chama Project water by diverting and treating surface water from the Rio Grande. That project, which received \$20.3 million in state support from the Drinking Water State Revolving Fund, came online in 2011 and is now the primary source of drinking water for the city and county, allowing water managers to rest groundwater wells and rebuild the aquifer.

Chart 3. Existing Eastern N.M. Water Supplies Could Meet as Little as 12 Percent of Demand by 2060



In Eastern New Mexico, another major water supply project is currently under construction to deliver an alternative supply to Clovis, Portales, Cannon Air Force Base, Texico, and Elida, which currently depend entirely on the rapidly declining Ogallala Aquifer. The project, which receives state, federal, and local support, is expected to cost \$540 million to \$750 million when complete in the mid-2030s. Through 2020, the state contributed \$36 million to the project, with its final cost share projected at a minimum of \$81 million.

The state also plays a significant role in funding tribal water projects that will deliver potable water to some communities for the first time. The largest of these include a project to supply To'Hajiilee with drinking water from the Albuquerque water system, replacing unreliable and low-quality groundwater, and the Navajo-Gallup regional water project, a federal-state effort to deliver drinking water from the San Juan River to northwestern New Mexico and the Navajo Nation.

Nationwide, federal support for drinking water and wastewater projects has declined since the 1980s while state and local spending have risen.

Over several decades, state and local governments have increased spending on operations, maintenance, and capital improvements of water and wastewater systems while federal spending declined. After federal spending on water infrastructure peaked in the late 1970s and early 1980s, federal support also shifted from grant to loan programs.

Federal coronavirus aid and a new infrastructure package proposed by the White House could provide new federal support for water infrastructure. The March 2021 American Rescue Plan Act (ARPA) included \$350 billion in Covid-19 relief aid to states, tribes, and localities, of which

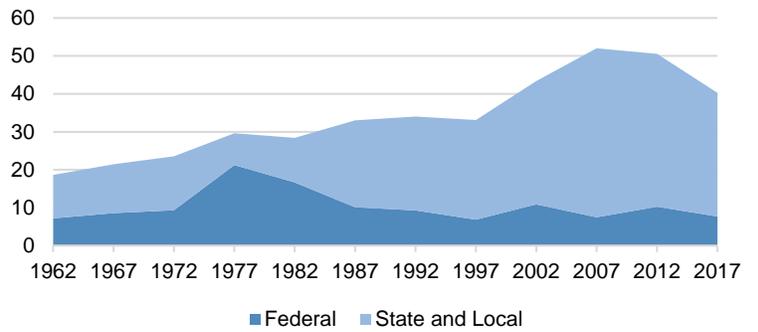
New Mexico will receive \$1.75 billion that can be used through the end of 2024. Necessary investments in water and sewer infrastructure are among the stipulated allowable uses of these funds. Cities and counties will separately receive \$704.7 million in ARPA funds, which can also be used for water and wastewater systems.

Additionally, in late March, the president proposed a \$2 trillion infrastructure plan, including \$111 billion to address aging water systems, pollution, and water-related natural disasters. While the White House did not release details on how the money would be distributed, if approved by Congress, the president’s plan did outline specific water issues it hopes to direct funding to. Many of New Mexico’s most significant water-related challenges fall into the issue areas the plan would address. Specifically, the proposal included:

- \$10 billion to monitor and remediate novel pollutants in drinking water, such as PFAS, and to invest in rural water systems;
- \$56 billion in loans and grants to tribes and disadvantaged communities to modernize aging water, wastewater, and stormwater infrastructure and improve water quality;
- \$16 billion to plug abandoned oil and gas wells that threaten water quality;
- An unspecified amount of money to address the impacts of drought in the western U.S. through water efficiency and recycling, Indian water rights settlements, and dam safety; and
- Unspecified investments in water-related landscape restoration, including forests.

Chart 4. Water Infrastructure Spending, 1962 through 2017

(in billions of 2018 dollars)

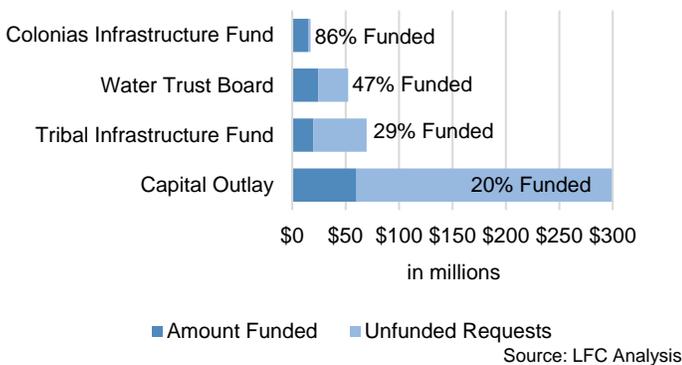


Source: Congressional Budget Office

State grants for water projects limit use of federal and local dollars

Demand for money from the state’s grant-based funding sources for water projects exceeded available funding in recent years, with the gap widest for legislative capital outlay and the Tribal Infrastructure Fund, the only programs with no loan component or hard local match requirement.

Chart 5. Demand Exceeded Available Grant Funding in 2020



In contrast, New Mexico’s loan-based Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) have excess lending capacity, with combined uncommitted cash balances of \$125 million in spring 2021. Of the two funds, the Clean Water State Revolving Fund has the most extra capacity, with \$94.7 million available at the end of March. This cash is available due to the gap between the amount of funds available for lending and the amount committed, which is wider in New Mexico than in other states. Competition from state grant programs limits applications, and if the state’s utilization of the Clean Water State Revolving Fund is not improved, it could jeopardize continued federal

grants to the program. Similarly, the lack of need-based vetting for grant funding through capital outlay is likely limiting the state’s ability to leverage local funds, which could increase overall public spending on water infrastructure and help projects get completed in a timely fashion.

High cash balances in New Mexico’s Clean Water State Revolving Fund violate federal policies requiring “expeditious and timely” use of federal grant funds. In March 2020, U.S. Environmental Protection Agency (EPA) officials met with New Mexico Environment Department staff to discuss the state’s uncommitted funds balance. In a July 2020 EPA memo to NMED (see

Appendix B), the EPA identified several challenges, including that cities did not use the fund due to high interest rates and because they did not qualify as disadvantaged and thus could not receive any subsidy through the fund. With better loan terms available elsewhere, there was little need for New Mexico’s bigger systems in Las Cruces, Santa Fe, and Albuquerque, to seek funding through the Clean Water State Revolving Fund. EPA also concluded legislative capital outlay presented “one of the biggest challenges” for the fund. Though capital outlay “rarely provides enough funding to cover the full costs of a project, communities will delay seeking other sources of funding

Table 5. Cash Balances of Federally-Backed State Revolving Funds
(in thousands)

Fund	Uncommitted Funds Available for Projects	Unexpended Committed Funds	Total Cash Balance
DWSRF*	\$30,414	\$33,708	\$64,122
CWSRF**	\$94,685	\$71,191	\$165,876
TOTAL	\$125,099	\$104,899	\$229,998

*As of June 2021
**As of April 2021

Source: SHARE, NMED, NMFA

based on the hope that they will receive additional grants,” the memo stated. EPA’s conclusion is consistent with what LFC staff observed in reviewing select water projects and interviewing their community sponsors and project engineers.

To address competition from state grant programs, state agencies have expanded eligibilities for the state revolving funds and lowered interest rates. In September 2020, the Environment Department made several changes to the loan terms and eligibilities for its Clean Water State Revolving Fund in hopes of attracting more borrowers and moving more of the money available in the fund. The changes mirrored those the New Mexico Finance Authority made to the Drinking Water State Revolving Fund in 2019.

The Clean Water State Revolving Fund and Drinking Water State Revolving Fund are federally-backed loan programs intended to be self-sustaining sources of funding for wastewater, stormwater, and drinking water projects. Over the past decade, New Mexico’s new annual commitments from the clean water fund averaged 77.2 percent of the funds available, significantly below the national rate of 96.2 percent. To expand the pool of potential borrowers, NMED lowered the base interest rates for FY21 to between 0 percent and 1 percent. New Mexico’s average interest rate on CWSRF loans has exceeded the national average in recent years and higher interest rates are a common feature of undersubscribed state revolving funds. Additionally, before the rates were lowered, the CWSRF was often uncompetitive with other state-funded loan programs, such as the Public Project Revolving Fund.

Table 6. New Mexico Underutilizes its State Revolving Funds Compared With Other States

Cumulative Assistance as Percent of Funds Available, New Mexico CWSRF	83%
National CWSRF Benchmark	97%
Cumulative Assistance as Percent of Funds Available, New Mexico DWSRF	82%
National DWSRF Benchmark	95%

Source: U.S. EPA

Table 7. New Rate Structure for New Mexico’s Clean Water State Revolving Fund, Effective October 2020

Interest Rate	Borrower Type	Rate Criteria
1.00%	Local Authority	Per capita income equal to or above statewide average
0.50%	Local Authority	Hardship rate: per capita income less than statewide average
0%	Local Authority	Hardship rate: per capita income less than 3/4 of the statewide per capita income and average user cost is greater than 1.82% of the local authority’s per capita income
2.375%	All other eligible borrowers	Applies to private borrowers, such as mobile home parks, who are newly eligible for CWSRF loans but have not yet closed any loans with NMED

Source: WQCC

The other significant change NMED made to the CWSRF expanded the types of borrowers eligible for subsidies. The EPA allows states to provide a certain percentage of their CWSRF’s annual federal capitalization grants as subsidy, effectively meaning a portion of awards can be made as grants. Urban communities, such as Santa Fe, Albuquerque, and Las Cruces, are now eligible for subsidized loans from the revolving fund, and Santa Fe has closed such a loan with NMED since the change was made. Similarly, the Albuquerque and Rio Rancho water systems recently sought loans from the DWSRF after extended absences from the program’s roster, according to NMFA staff. While

it may be too early to tell whether the changes to the terms of these programs will significantly improve utilization, a key metric to watch is whether the funds can increase the assistance provided as a percentage of available funds. New Mexico underperforms other states on this key indicator by 13 to 14 percentage points.

Committed funds from the Drinking Water State Revolving Fund were expended more efficiently than those from the Clean Water State Revolving Fund from FY16 to FY20. Sixty-four percent of the funding awarded from the Drinking Water State Revolving Fund from FY16 to FY20 has been expended compared with only 37 percent of the funding committed from the clean water fund. Several differences in how the funds are administered explain the discrepancy. First, the New Mexico Finance Authority (NMFA), which administers the drinking water fund, primarily funds projects that have already been planned. NMFA also administers the Local Government Planning Fund and routes communities to that program to complete planning before coming to the revolving fund for design and construction funding. In contrast, NMED, which administers the clean water fund, often funds projects from planning through construction, which can slow the expenditure of funds because the largest sums are expended during the construction phase. Additionally, according to NMFA staff, the agency has attracted more large systems to the drinking water fund in recent years and those systems are typically able to complete planning and design for drinking water projects prior to closing loans and to begin construction soon after, which translates into more efficient expenditures of committed funds. While both programs include readiness criteria in their scoring system for ranking applications, project readiness does not actually impact funding decisions for the clean water fund because the process is uncompetitive due to the low number of applicants, according to NMED staff.

With the changes to the terms of the revolving funds, all of New Mexico’s major lending programs for water projects now offer interest rates between 0 percent and 1 percent. Below-market interest rates across the state’s lending programs indicate the state continues to make policy decisions to help local communities affordably address their water-related infrastructure needs. Under these terms, most water and wastewater utilities, if managed effectively, should have some debt capacity that can be used for local matching funds for capital improvements or could create capacity through rate increases. Further, it is in the state’s interest to make every effort to maximize the use of its revolving loan programs. Doing so would increase the state’s overall spending power on critical water infrastructure and better position the state to fully fund projects with available federal, state, and local dollars. The revolving funds have greater capacity to fully fund projects. To illustrate, the average awards from the revolving funds were 3.5 times (DWSRF) and 9.5 times (CWSRF) higher than average legislative capital outlay awards for local water projects from FY16 to FY20.

Table 8. Average Award Amounts from the Revolving Funds Were Significantly Higher Than Capital Outlay, FY16 to FY20
(in thousands)

\$256	\$1,192	\$2,469
Local Legislative Capital Outlay	DWSRF	CWSRF

Source: LFC Analysis

State grant programs have inconsistent requirements for local matching funds.

Requiring matching funds to be in place before the award of state funds is a best practice for capital outlay identified by the State Auditor (see Appendix C). It can help ensure state funds contribute to fully funded projects, promote timely expenditure of appropriated funds, and ultimately contribute to project success. According to the State Auditor, “even minimal local contribution is known to improve project completion and success.” Local match dollars are often referred to as “skin in the game.” In a literal and figurative sense, local cost-share makes communities more invested in projects and their outcomes. Additionally, requiring local matching funds is a mechanism the state can use to promote the adoption of more sustainable rate structures and financial practices in water and wastewater utilities and encourage communities to pursue projects which represent their highest needs.

The state revolving funds, the Water Trust Board, and the Colonias Infrastructure Fund have local cost-share requirements while legislative capital outlay and the Tribal Infrastructure Fund do not. The revolving funds, the Water Trust Board, and the Colonias Infrastructure Fund all require communities to assume some financial burden for projects by undertaking loans, and the Water Trust Board and Colonias Infrastructure Fund additionally require hard or soft local match of up to 20 percent. Neither legislative capital outlay nor the Tribal Infrastructure Fund follows this best practice as a rule. However, applicants to the Tribal Infrastructure Fund will receive higher scores if they can demonstrate they have secured other funding sources or match dollars. Suggested criteria for legislators to use in evaluating local projects requesting capital outlay include prioritizing projects with matching funds or a local cost-share. However, this is not a requirement for funding, and the request form for legislative capital outlay does not provide members with any information on local financial contributions or other matching funds.

If managed effectively, most water and sewer utilities should have at least some capacity to undertake debt – even small systems. Rate structures that reflect the cost of operations, maintenance, and existing debt and allow utilities to put money into reserve accounts to cover emergencies or future capital costs are a foundational best practice of utility management. Such rate structures can allow even small systems to assume some financial responsibility for capital projects, and grant programs that require local cost-share provide incentive for utilities that have not implemented such rate structures to raise rates and adopt more sustainable financial practices. State programs with required loan components conduct financial analyses that determine applicants’ ability to take on debt, and the programs work with communities that cannot demonstrate historic debt capacity to affordably adjust rates. Seven projects funded by the Water Trust Board in 2021 fell into this category. The projects will still receive funding, but NMFA will verify implementation of rate increases to support debt before final closure of project loans.

Figure 3. Two of Six Main Funding Sources Do Not Require Local Matching Funds



Source: LFC Analysis

A project in Taos County provides a more specific example of how small systems can combine loans and grants to improve their infrastructure. The Lower Des Montes Mutual Domestic Water Users Association, which serves only 319 people, is combining two capital outlay grants and a Drinking Water State Revolving Fund loan-grant package to replace water lines, and previously used additional capital outlay and Drinking Water State Revolving Fund awards to rehabilitate storage tanks and replace its outdated electrical system. The association accepted a \$151 thousand loan and equal grant from the revolving fund and raised its rates 27 percent over three years to service the debt for Phase 2. That equates to an increase of \$7.35 per 6,000 gallons of water per month, from \$27.30 to \$34.65, about 10 percent lower than the state's average rate.

Lower Des Montes' rehabbed and new water storage tanks.

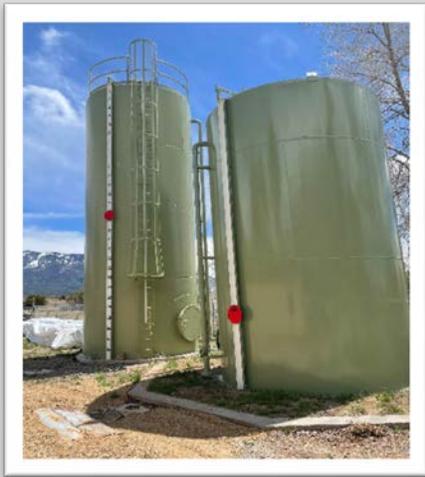


Photo Credit: LFC

Lower Des Montes Water System Improvements

Goal: To replace aging water lines, rehabilitate corroding storage tanks, and replace a functionally-extinct electrical system.

Funding: For Phase two, \$422,000 in capital outlay, 2019, 2020; \$303,000 grant/loan package from DWSRF, 2018

Status: In construction

Outcome: Improvements to an aging tank, a new tank, and a new electrical system have been completed. Construction of Phase two is ongoing, with replacement of one section of water line to be completed this summer. Phase three would complete replacement of all metal water lines but is unfunded.

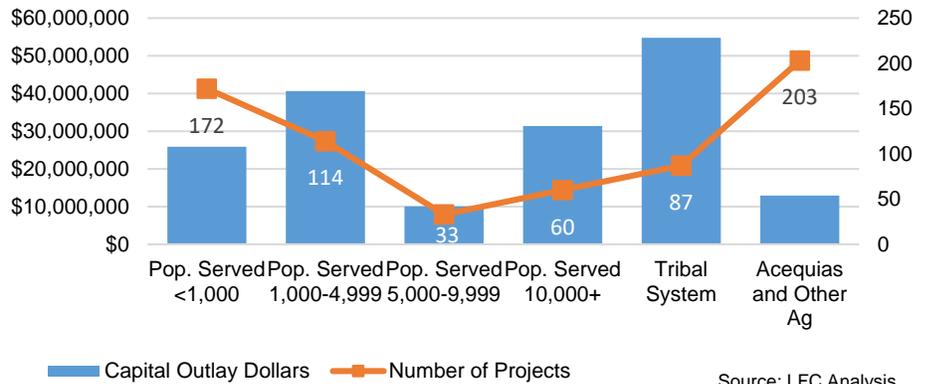
Barriers to Timely Completion:

- The full project was planned in 2011 but has been broken into small phases to fit available funding.
- Limited local financing ability.

Over a third of the grant money awarded to water projects from FY16 to FY20 was appropriated without an assessment of the local entity's ability to take on debt, with \$31 million going to the state's largest water systems. Fifty-six percent of the total assistance the state provided to water projects was awarded as grants and more than half of that was appropriated through legislative capital outlay, which carries no local cost-share requirement. Of the capital outlay funds, \$172 million went to 672 local water projects from FY16 to FY20 without any evaluation of the system's rate structures, recent rate increases, or ability to cost-share the project. The lack of such evaluations means local dollars are likely left on the table, which can contribute to underfunding that delays projects and compromises their ultimate success. About \$31 million went to 60 projects for water and wastewater systems serving more than 10 thousand people. These are the largest systems in the state and are best poised to raise revenue via water and sewer rates. Less overall funding went to more projects among the smallest systems, with 172 projects serving less than 1,000 people receiving \$26 million.

Additionally, analysis of rate surveys conducted annually by the Environment Department show rates vary widely among systems and, on average, rates have increased more slowly in New Mexico than nationwide. The Environment Department's 2020 rate survey found the lowest residential water rate per 6,000 gallons a month to be \$10.02 and the highest to be \$191.22. This indicates some systems have greater capacity to raise rates to cover improvement costs than others.

Chart 6. Local Capital Outlay for Water by System Size and Type, FY16 to FY20



Source: LFC Analysis

Raising rates and undertaking debt can allow communities to efficiently complete major projects. Raising sewer rates and accepting a loan/grant package from the Clean Water State Revolving Fund allowed Bloomfield to put smaller capital outlay and Water Trust Board grants toward a major, \$15 million project that will almost fully replace its aging wastewater treatment plant and allow the community to reuse a portion of its effluent. The project originated with a 2015 capital outlay grant only for the effluent reuse part of the project. The city hired a new public works director soon after who believed upgrading the old wastewater treatment plant was a higher priority and pursued reauthorization for an expanded purpose and additional loans and grants to achieve full funding. The city added a \$2.50 line-item charge plus a metered rate of \$3.25 per thousand gallons to sewer bills to cover its \$9 million, zero-interest loan for the project. The new wastewater treatment plant is in construction and should be complete by January 2022.

10.6%

Average Residential Water Rate Increase in New Mexico, 2016-2020

19.8%

Average National Residential Water Rate Increase, 2016-2020

Source: NMED, Circle of Blue

The city of Bloomfield utilized capital outlay funds in combination with state loan programs to complete a largescale project.



Photo Credit: LFC

Bloomfield Wastewater Treatment and Effluent Reuse Facility Upgrade

Goal: To make improvements to an aging wastewater treatment plant and give the city the ability to reuse some effluent.

Funding: \$1.7 million in capital outlay funds, 2015, 2020; \$807 thousand in Water Trust Board funds, 2020; \$13.6 million in Clean Water State Revolving Fund, 2019

Status: In construction

Outcome: Construction upgrades to existing plant underway, with project completion scheduled for January 2022.

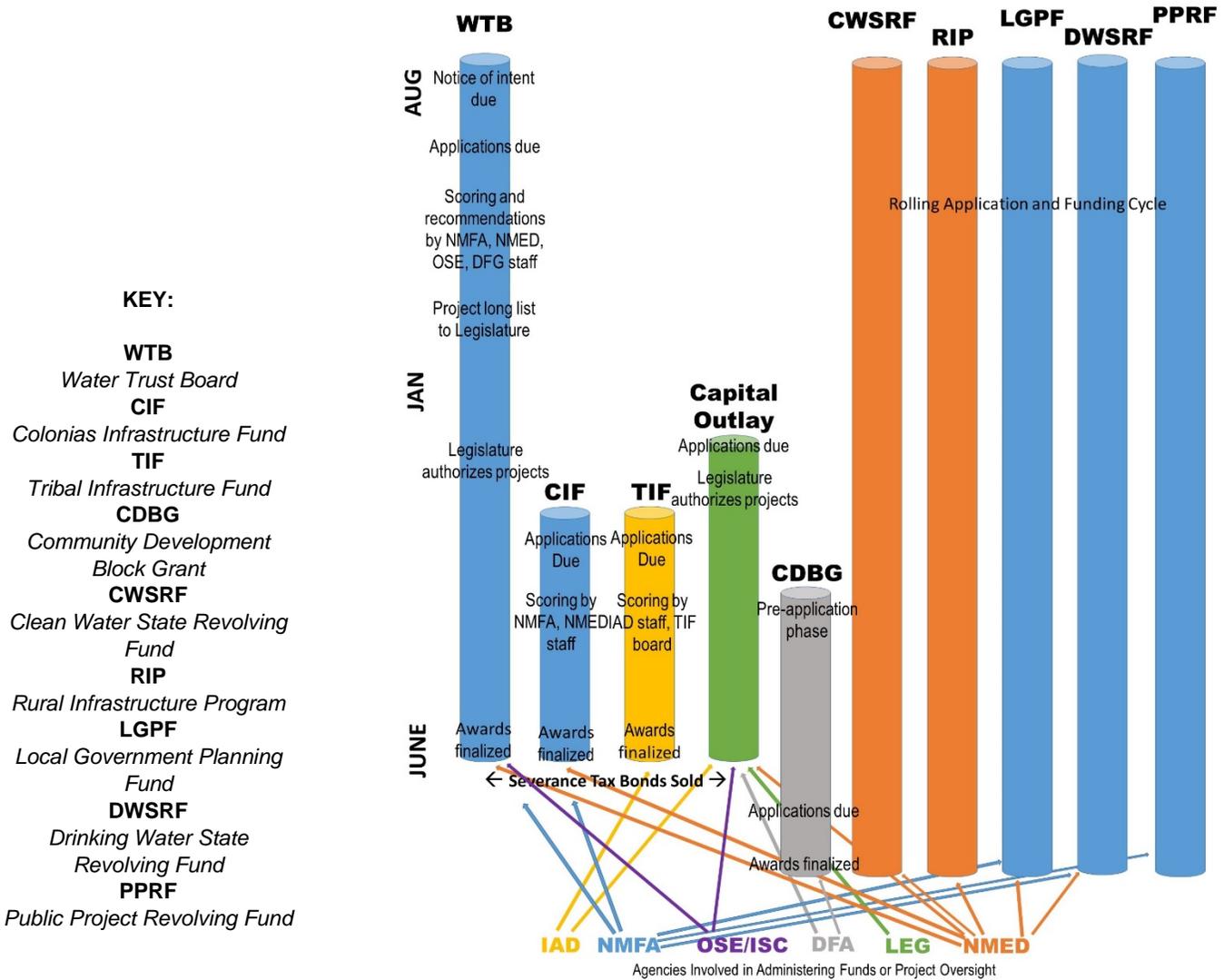
Barriers to Timely Completion:

- Shifting local priorities

The state's water finance system is fragmented and lacks a cohesive strategy

At least 10 state programs across four agencies plus the Legislature offer funding for water project planning, design, and construction. The programs provide grants and loans for water and wastewater systems, regional water systems, dam repairs, acequias and ditch associations, flood control districts, and more, and they have both distinct and overlapping purposes and eligibilities.

Figure 4. New Mexico's Current Water Finance System



For years, reports from LFC and other sources have identified fragmentation and the absence of a central strategy to guide infrastructure investments as a fundamental shortcoming of New Mexico's approach to capital spending and the public benefits that result from it. The state's water finance programs have different application deadlines and requirements; different criteria to assess need and urgency and to prioritize funding; different local cost-share requirements; and varying capacity to conduct oversight of funded projects.

Additionally, the programs are not guided by a statewide assessment of need or a consistent set of priorities, making it difficult to determine how much progress toward the overall need is reflected in the \$876 million in state spending from FY16 through FY20.

The state's water finance system is not guided by a statewide needs assessment and lacks a consistent approach to prioritizing spending.

There have been two recent efforts to assess water infrastructure needs statewide, yielding needs estimates ranging from \$694 million to \$1.4 billion per year. The estimates used different methodologies, have not been updated since 2014 and 2018, respectively, and did not guide spending with one exception. The latter estimate comes from the state's water plan and applications to the Water Trust Board prioritize funding for projects included in regional water plans.

Additionally, while most of the programs offering funding for water projects make awards public and report annually on activities, there is no comprehensive reporting on requests for funding or on awards of funding for water projects. Because many of the programs fund water and other types of infrastructure, LFC staff had to request custom reports or compile and clean existing data from the Legislature, Department of Finance and Administration, Environment Department, Indian Affairs Department, and New Mexico Finance Authority to determine total spending on water projects over this report's study period as well as to determine the gap between awards and requests for individual programs. Without a consistent approach to determining need on a statewide basis and prioritizing spending, it is difficult to know how much progress the state is making and toward what goal, despite nearly a billion dollars appropriated or lent to water projects over the last five years.

The 10 funding programs for water projects have different application deadlines and requirements, different criteria to prioritize funding, and varying capacity to conduct oversight.

Funding programs that are primarily or totally loan-based, including the Public Project Revolving Fund, Clean Water State Revolving Fund, and Drinking Water State Revolving Fund, accept applications throughout the year and are generally able to fund any applicants that qualify for financing. State grant programs, by contrast, accept applications only once a year and receive requests that exceed available funding. With the exception of capital outlay, these programs score applications according to transparent criteria in a competitive process. While the programs generally consider similar factors, the exact scoring criteria and their weighting vary.

“Capital planning for non-transportation infrastructure is uncoordinated and haphazard, and leaves the state unable to cope with some very serious infrastructure deficiencies.”

-Government Performance Project rating of New Mexico's infrastructure process, 2005

124

Average number of water and wastewater projects currently managed by each of three professional engineers and full-time project managers in the Environment Department's Construction Programs Bureau

407

Active capital outlay and Tribal Infrastructure Fund projects currently managed by a single Indian Affairs Department Employee

70

Ideal number of projects managed by one employee, according to NMED

Figure 5. 2021 Funding Timelines and Vetting Criteria for State Grant Programs

	Capital Outlay	Water Trust Board	Colonias Infrastructure Fund	Tribal Infrastructure Fund
Application Deadline				
	February	October '20	March	March
				
Factors Considered in Application Scoring System				
Urgency		✓	✓	✓
Readiness		✓	✓	✓
Regionalization of Small Systems		✓	✓	
Local Capacity Considerations		✓	✓	✓
Local Cost-Share or Leverage of Other Funds		✓	✓	✓
Health and Safety		✓		
Long-Term Community Benefit			✓	
Cost/Benefit			✓	
Other		✓		
				
Awards Finalized				
	April	May	June	June

Source: NMFA, IAD, LFC

The programs also take different approaches to best practices for capital outlay, as identified by the State Auditor and LFC and DFA guidelines for legislators evaluating local capital outlay requests. Those best practices include local match and planning requirements, and fully funding project requests. The Tribal Infrastructure Fund (TIF), for instance, does not have set match requirements but applicants that leverage other funding sources are more competitive. Similarly, while TIF policies do not formally require applicants to complete planning before applying for construction funding, applicants must provide details on planning and other pre-construction

activities, which are evaluated by the board as part of its readiness considerations and account for 30 percent of an applicant’s score. Tribes can also apply to TIF for planning-specific grants.

The Colonias Infrastructure Fund (CIF) requires a 10 percent loan component and 10 percent local match of all grantees, while the Water Trust Board (WTB) analyzes revenue capacity and rate structures to determine the grant and loan proportions of its awards, with grant components ranging from a 60 percent minimum to a 90 percent maximum based on need. The New Mexico Finance Authority evaluates the ability of applicants to take on loans for both CIF and WTB. For water projects, when a community does not have sufficient debt capacity, NMFA works with the applicant to evaluate its rates and determine whether raising rates can enable the community to take on the minimum loan. Hardship exceptions are available when rate increases do not create sufficient debt capacity or compromise service affordability. According to NMFA staff, communities are generally cooperative with this process and understand the need to raise rates. Making grant funding contingent on reasonable rate increases to enable local cost sharing provides incentive to implement increases.

Local match dollars are not required for capital outlay grants and there is no formal or consistent vetting process for urgency, project readiness, local capacity, or financial need.

Figure 6. Legislative Capital Outlay Does Not Follow Key Best Practices Used by Other State Funding Sources

Project Planning Evaluated or Required Prior to Construction Funding	✗	✓	✓	✓	✓	✓
Local Cost-Share Required	✗	—*	✓	✓	✓	✓
Funding Process Designed to Fully Fund Projects or Functional Phases	✗	✓	✓	✓	✓	✓
	Capital Outlay	Tribal Infrastructure Fund	Water Trust Board	Colonias Infrastructure Fund	Clean Water State Revolving Fund	Drinking Water State Revolving Fund

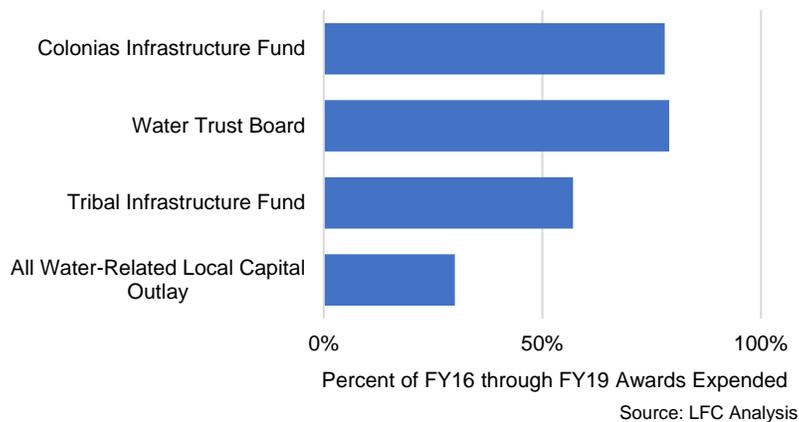
*While local match is not required, projects that leverage other funding sources in excess of the amount requested from TIF receive higher scores.

Source: LFC Analysis

Dollars from state grant programs utilizing these best practices are spent more efficiently. The boards and project review committees of the Tribal Infrastructure Fund, Colonias Infrastructure Fund, and Water Trust Board all prioritize project readiness in awarding funds, but the Colonias Infrastructure Fund and Water Trust Board have the most explicit policies and requirements. The policies of both boards specify the boards will attempt to fully fund project phases to the greatest extent possible and require approved planning documents before awarding construction funding. NMFA, which administers both funds, works with the Construction Projects Bureau of the Environment Department to review and approve planning and design documents for funded projects.

As of March 2021, nearly 80 percent of the water-related funds awarded by the Water Trust Board and Colonias Infrastructure Fund from FY16 to FY19

Chart 7. Local Capital Outlay Funds are Spent Least Efficiently



had been expended, compared with 57 percent of water-related Tribal Infrastructure Fund and 30 percent of local capital outlay awards over the same time period. According to staff at the Indian Affairs Department, delays for TIF projects may occur in the process of finalizing intergovernmental agreements and due to staff turnover within tribal governments. Other issues particular to tribal communities can also contribute to delays, including land ownership patterns that make easement acquisition more time consuming. A project funded by the Tribal Infrastructure Fund, capital outlay, and the Water Trust Board to connect the

Navajo satellite community of To’Hajiilee to Albuquerque’s water system was delayed for two years due to protracted negotiations with a private company located out of state that owns land the pipeline will have to cross and infrastructure it will need to tie into.

That said, though awards from the Tribal Infrastructure Fund move more slowly than from the Water Trust Board or Colonias Infrastructure Fund, they move significantly faster than tribal water projects funded with capital outlay, pointing to the value of TIF’s vetting process. (TIF also has a three-year expenditure period versus four years for capital outlay.) As of March 2021, 57 percent of TIF water project awards from FY16 to FY19 had been expended compared with 32 percent of capital outlay awards for tribal water projects.

Redundancies exist within and between funding streams. At least some overlap exists between each of the main funding streams for water projects in terms of the project types and public entities eligible for funding. While this gives communities options – tribes may seek funding through the Tribal Infrastructure Fund, capital outlay, or the Water Trust Board, for instance – it also makes seeking funding overly complex and time-consuming. In a recent survey of community water systems in New Mexico conducted by UNM’s Southwest Environmental Finance Center, 66 percent of respondents rated applying for funding as extremely difficult or somewhat difficult.

As one example, in the 2021 funding cycle, To’Hajiilee and the Albuquerque Bernalillo County Water Utility Authority on its behalf requested funding from both the Tribal Infrastructure Fund and the Water Trust Board in an effort to secure funding for construction of the pipeline to connect the community to the Albuquerque water system, which is slated to begin spring 2022. Project stakeholders completed two separate application processes through two state agencies on different timelines in order to, in effect, hedge their bets.

To'Hajiilee translated from Navajo to English means "the place where the water is drawn up," but for decades the community has faced a water shortage, infrastructure failure, and severely compromised water quality (pictured).



Photo Credit: LFC

To'Hajiilee Chapter Drinking Water System

Goal: To improve the To'Hajiilee chapter of the Navajo Nation's internal infrastructure and to connect to the Albuquerque Bernalillo County Water Utility Authority water system.

Funding: \$2.6 million total in Tribal Infrastructure Fund awards, 2016, 2018, 2019; \$130 thousand in capital outlay funds, 2019; \$7.7 million in Water Trust Board funds, 2021.

Status: Internal project partially complete, pipeline design in progress.

Outcome: Repairs to water tanks and water lines and installation of booster pumps has been ongoing. Installation of water pressure valves and construction of water pipeline from Albuquerque to begin summer 2021.

Barriers to Timely Completion:

- Easement negotiations
- Insufficient funds
- Suspension of TIF funds due to delay in spending

Additionally, redundancies exist *within* single funding streams. For example, the statewide framework of the annual capital outlay bill includes appropriations to the Office of the State Engineer for rehabilitation of publicly-owned dams. These dams are not owned by the state and the projects are not substantively different than local dam projects funded through the same capital outlay bill. The only difference is that the State Engineer assumes discretion over where to direct the money from the statewide appropriation. (See Appendix D for additional information on how the State Engineer prioritizes projects and where the money has been spent.) Appropriations for acequia projects are similarly made in both the statewide framework and local portions of the bill, and a new fund for acequia projects was recently created to be administered by the Interstate Stream Commission with distributions from the Irrigation Works Construction Fund.

The state does not have an effective way of tracking outcomes of water-related spending. LFC and Department of Finance and Administration provide regular monitoring and reporting on the progress of capital outlay projects, including quarterly updates to the Legislature. LFC staff track the progress of projects through expenditures and status updates entered into the state's Capital Projects Monitoring System (CPMS) by state agencies and local fiscal agents. While the data collected in CPMS provides information on timely expenditures and can identify stalled projects, no process currently exists to determine if local capital outlay appropriations result in complete functional phases, such as planning, design, or construction, or operational systems.

Moreover, both capital outlay and the Tribal Infrastructure Fund lack guardrails that exist in the other state grant programs to ensure projects or functional phases are complete when funds are expended and projects are closed by administrative agencies. On behalf of the Water Trust Board, for instance, the New Mexico Finance Authority requires final approval from the New Mexico Environment Department of planning and design documents funded by the board before releasing final disbursements. This policy ensures those phases are complete when awards are closed and readies projects for construction funding. For construction phases, communities must certify projects are complete as a part of the closeout process and the Environment Department confirms completion before approving final payment, usually through on-site inspection. The drinking water and Clean Water State Revolving Funds require on-site inspections and certification the project has been put into operation before the final funds are released.

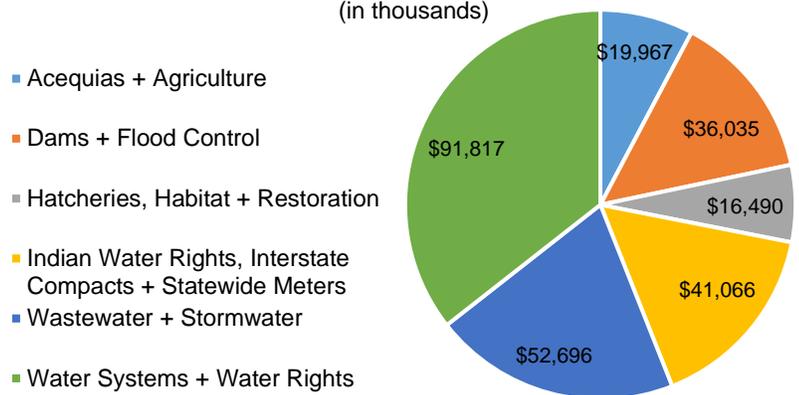
Capital outlay and Tribal Infrastructure Fund projects, by contrast, may be closed when funds are expended, whether or not projects are complete. (The Tribal Infrastructure Fund does review planning documents, project budgets, contingencies, and community's past track-record of efficiently using grants before awarding funding, however, to reduce the risk of incomplete projects.) An LFC review of 10 local state-funded water projects for this report included two capital outlay projects that were officially closed when funds were expended even though construction of the projects was only partially complete and the projects had not met their intended purpose. Both projects currently lack funding for completion. Such projects demonstrate that expenditures are an imperfect proxy for successful outcomes. The details of the incomplete projects are discussed further in the next section of the report.

Insufficient project vetting and piecemeal funding create risk for incomplete projects

Water-related capital outlay appropriations address a wide array of needs, from maintenance and improvements of acequias and other irrigation systems to dam repairs, watershed restoration, Indian water rights settlements, and water meters to improve the state’s ability to enforce water rights administration when water supplies fall short of demand. The largest shares of capital outlay spending on water, however, go to community water and wastewater systems.

The money is used to replace water and sewer lines, repair and replace treatment systems and storage tanks, and purchase equipment and build other infrastructure for the public entities that operate the systems. Total water-related spending through capital outlay from FY16 to FY20 reached \$258 million, with 67 percent of the money (\$172 million) going to local projects. Capital outlay money is appropriated at the discretion of the Legislature and the governor, without the systematic or transparent process of vetting projects for need, quality, and readiness utilized by the state’s other grant programs.

Chart 8. The Largest Shares of Water-Related Legislative Capital Outlay Went to Water and Wastewater Systems, FY16 to FY20
(in thousands)



Source: LFC Analysis

Three of 10 state-funded local water projects reviewed by LFC staff had not met their intended purpose seven to nine years after the initial appropriations. LFC staff selected and reviewed 10 local water projects to better understand how sources of state funding interact, why communities utilize one funding source over another, and the factors that contribute to or inhibit project success. The projects selected for review were all drinking water or wastewater projects. Three of the reviewed projects received initial appropriations in 2012 and 2014 but were reauthorized during the study period of this report. All three have been partially constructed but are incomplete.

- In Lovington, the original project to drill new wells to increase the city’s water supply has been abandoned due to insufficient funding, with the money redirected to replacing water lines.
- In Maxwell, a new well has been drilled, completed, and equipped, but there was not enough money left in the final stages of construction to connect the well to electricity, without which it cannot function. The \$1 million project is incomplete due to a shortfall of \$30 thousand, according to local officials.
- In Pecos, a project to connect an additional well to the village water system and 40 residents to the village sewer system was partially completed, with the water well connected and a lift station constructed for the eventual sewer connections. No money or plan is in place to lay a new sewer main and connect the homes to it, however. In the meantime, village staff still have to perform regular maintenance on the lift station.

Lack of planning prior to funding contributes to delays and uncertainties that drive up costs and create risk that projects will not meet their intended purpose. During the planning phase of a water project, consulting engineers analyze alternative approaches to address a community’s need to identify the most cost-effective and practical solution. Once that solution is identified, engineers then complete the design and specifications, secure easements, and complete other legal or regulatory work, after which the project can go out to bid and into construction.

Before planning and design are complete, accurate project budgets are difficult to develop. Nevertheless, the standard appropriation language for capital outlay water projects covers planning, design, and construction, and projects are frequently funded before planning or design are complete and without a rigorous, consistent, or transparent assessment of the project stage or budget at the time of funding. Without such assessments, it is almost impossible to know how realistic the requests to Legislators are or what the public should expect to be accomplished for the appropriated amounts.

In Maxwell, for instance, the planning document for the project, completed three years after the initial appropriation, estimated the project would cost 60 percent more than the community’s budget, which consisted only of a \$1 million capital outlay grant. The project’s budget shortfall was foreseeable, in other words, as soon as planning was complete.

Maxwell needs roughly \$30 thousand to electrify its new well. Due to the shortfall, nearly \$1 million in public expenditures have yet to yield public benefits.



Photo Credit: LFC

Maxwell Alternative Water Supply Project

Goal: To develop an alternative water supply to prevent municipal water shortages during drought.

Funding: \$1 million capital outlay grant, 2014

Status: Funds expended and project closed, 2020

Outcome: Two new water wells. A well into a deep aquifer, which would provide a new source, is plugged for future development. A shallow well tapping the town’s existing source is complete but must be electrified to be put to use.

Barriers to Timely Completion:

- Delays due to local staffing issues
- No planning completed prior to funding
- Poor water quality prevented the deep well from being equipped for immediate use
- Construction costs exceeded capital outlay grant
- Community has not yet pursued loans to complete project

The Water Trust Board, Colonias Infrastructure Fund, and Tribal Infrastructure Fund, by contrast, assess planning and design documents and associated project budgets as part of their vetting process, allowing the boards to fully fund project phases when they are ready to move and giving projects better odds of success.

The Lovington project similarly was not planned prior to funding and suffered from failed bidding processes and bad market timing. In 2012, Lovington received a \$400 thousand capital outlay grant to drill three new municipal water wells but was only able to complete planning and design within the first four years. The city went through two rounds of bidding, but both were unsuccessful. According to city managers, Lovington’s proximity to the oil fields during a boom made it difficult to find well drillers within the city’s budget. As a result, when the funds were due to revert only \$47 thousand had been spent. In 2016, the project was reauthorized for \$355 thousand and an additional appropriation was granted for \$100 thousand, then it was reauthorized again in 2018. City managers met with a drilling company to proceed to construction but were quoted \$1.2 million to complete the project, well outside the budget. Lovington chose not to proceed and has since repurposed the funds.

A gravel road and gravel pad were constructed where a well was supposed to be installed.



Photo Credit: LFC

Lovington Municipal Water Wells Project

Goal: To develop three new wells to increase the city’s water supply in anticipation of population growth.

Funding: \$500 thousand in capital outlay grants, 2012 and 2016

Status: Original project abandoned, new project in progress

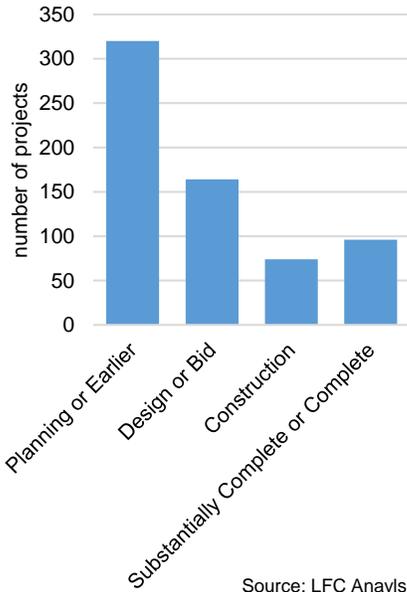
Outcome: Well project abandoned in 2019 due to construction bid of \$1.2 million, more than double the project budget. The project was reauthorized in 2020 for change of purpose, with the money now being put toward replacing water lines in the city.

Barriers to Timely Completion:

- Lack of planning prior to funding
- Failed bidding processes
- Unfavorable market timing
- Insufficient funds

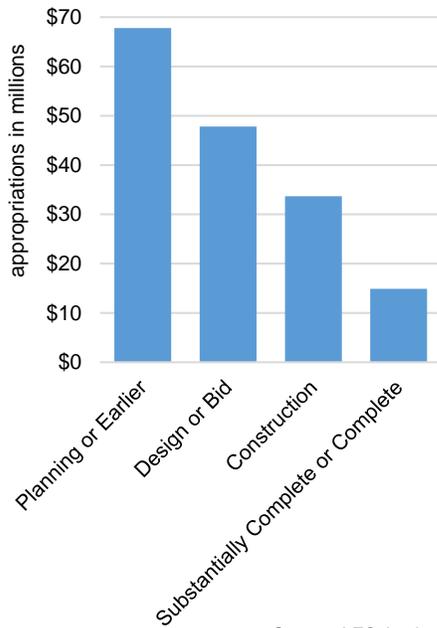
Local entities’ reliance on grant funding and hesitancy to raise rates and take on debt can limit timely completion of projects and increase the risk that state investments will not result in public benefits. While it is ultimately up to communities to pursue – or not – financing and rate increases to complete projects, in both Maxwell and Lovington, local matching funds may have changed the trajectory of the projects, had they been required. The planning document for Maxwell provided cost estimates for necessary rate increases if the community undertook debt to finance the balance of the project not covered by the \$1 million capital outlay grant. According to that analysis, financing the ultimate shortfall may have required only a \$1 to \$3 monthly rate increase per connection. Maxwell’s current water rates are 35 percent below the state average, at \$25 per 6,000 gallons per month. Instead of going this route, the community requested additional capital outlay funding in 2018, but a \$25 thousand appropriation that year was vetoed by the governor. The community is only now considering a rate increase to finance improvements to its water storage tanks and connect the new well to electricity.

Chart 9. Forty-Eight Percent of Local Water Projects Remain in the Planning Phase, FY16 to FY20



Source: LFC Analysis

Chart 10. Dollar Value of Local Water Projects by Phase, FY16 to FY20



Source: LFC Analysis

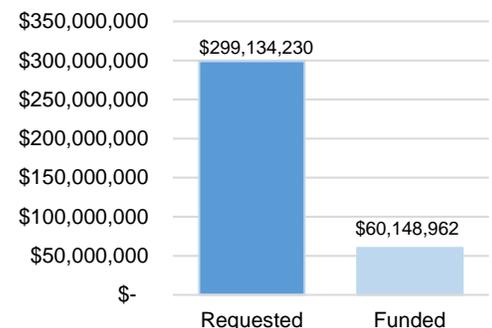
The abandonment of the Lovington project and repurposing of the funds raises questions about whether the project was truly needed. One reason requiring some local matching funds can improve outcomes is it encourages communities to pursue projects that are “needs” not “wants.”

Fully funding projects to match cost estimates produced through planning and design is a best practice recommended by the State Auditor and LFC but rarely employed in capital outlay. The practice can help prevent appropriated funds from going unspent for years while communities accumulate full funding from multiple sources and can best match construction funds to realistic cost estimates, helping to ensure timely completion. However, of 672 local water projects to receive \$172 million in capital outlay funding from FY16 to FY20, 320 were in a planning phase or earlier at the end of 2020. (“Earlier” references stages of the capital outlay process, meaning the community had not progressed beyond signing its grant agreement to begin substantive work on the project.) Nearly \$68 million was appropriated to these projects, only 7 percent of which was expended by the end of the year. The planning process determines the most cost-effective, appropriate option for addressing the community’s need, as well as the cost of pursuing that option. Before planning is complete it is, thus, difficult to know how much money is required to fully fund a project. Additionally, because construction costs rise over time, the longer it takes a project to progress through planning and design to construction, the more likely it is to experience budget shortfalls.

Only 34 percent of water projects funded through capital outlay in FY20 were fully funded, with appropriations equal or more than the legislative requests, compared with 100 percent of projects funded through the Water Trust Board. Piecemeal funding occurs when requests underestimate project costs, due to lack of planning or other factors, or appropriations underfund requests. According to an analysis of all requests and appropriations from a sample year, most legislative water project requests are underfunded. Twenty percent, or \$60 million, was funded out of a total of \$299 million in legislative requests for water-related capital outlay projects in FY20 (excluding reauthorizations). Requested projects varied from pipelines, dams, leach fields, pumps, meters, holding ponds, drains, acequias, rights of ways and easements, wastewater plants, and others.

Of the roughly 452 legislative requests, 238 were funded to some extent, and 82, or 34 percent of funded projects, received 100 percent or more of the requested funding. All of the projects funded through the Water Trust Board in 2020, in contrast, received at least 100 percent of the requested amount, with two major state-sponsored projects receiving slightly more than requested. A total of 54 FY20 local capital outlay projects were funded at 25 percent or less than the requested amount, a total of \$4.3 million. It is unlikely these allocations were enough to make any substantial progress towards

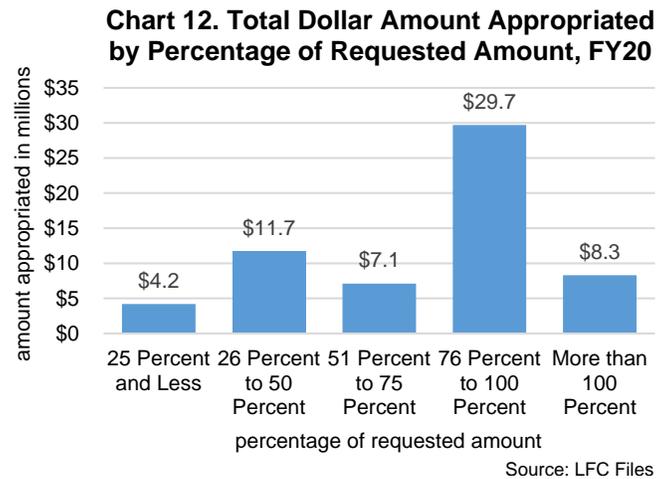
Chart 11. Legislator Capital Outlay Requests FY20 Versus Actually Funded



Source: LFC Files

completing a phase of the project and the \$4.3 million could have gone toward fully funding projects where the money would make more of an impact. An additional \$11.7 million funded 26 percent to 50 percent of another 51 projects, \$7.1 million funded 51 percent to 75 percent of another 28 projects, and \$29.7 million funded 76 percent to 100 percent of 87 projects.

LFC also identified 18 water projects in FY20 that received appropriations of only \$10 thousand, which in most cases represented less than 10 percent of the requested amount. LFC guidelines on local capital projects say a \$50 thousand minimum level should be set for projects funded with severance tax bonds, unless a lesser amount is needed to complete a project. (See Appendix E.)



Both large and small projects are tailored to funding, resulting in increased costs and longer timelines to completion than might otherwise be necessary. LFC’s review identified both large and small projects whose timelines, phased approach, and overall cost were driven by the need to accumulate funds over multiple cycles. The Eastern New Mexico Rural Water Supply System is one of the largest water projects currently underway in the state, with high-end final cost estimates of \$750 million. The state has committed to funding 15 percent of the cost, local entities 10 percent, and the federal government 75 percent. The project’s timeline for final completion stretches into the mid-2030s and is driven by the limited availability of state and federal funds at any given time. The project is carefully planned and receives annual funding from the Water Trust Board at the maximum level any one project may receive. However, it still must accumulate awards over multiple cycles to fund construction. The project has been broken into smaller phases than might be necessary if more funding were available at once – a logical approach given the funding constraints but one that also results in higher costs due to additional planning and design phases and rising construction costs over time.

Similarly, the project to replace aging drinking water infrastructure for the Lower Des Montes mutual domestic association has been broken into three phases due to limited funding and has been underway since 2011. The first phase is complete, the second phase is fully funded, but the third phase has no funding.

Even large capital outlay appropriations equal to the local request carry risk for failure, while other programs are better able to adjust funding awards to meet unexpected costs and ensure project completion. The water projects reviewed in Maxwell, Lovington, and Pecos all received significant capital outlay awards equal to the communities’ requests, with Maxwell and Pecos receiving \$1 million and \$2 million, respectively. Yet all three still failed to meet their intended purpose and did not have sufficient funds to complete construction. The one common factor among all three projects was significant passage of time between original funding and reaching the construction phase. Additionally, both the Maxwell and Lovington projects were not planned at the time of funding.

Pecos provides a different window into risks particular to the capital outlay process. Here, a fully funded project was reauthorized one year later to expand its purpose to include an additional project but without the provision of any additional funding. After the reauthorization, the new dual-purpose project was only 59 percent funded. Pecos received a \$2 million appropriation in 2014, fully funding its request to complete design and construction to connect 40 residents on Rincon Road to the village sewer system. In 2015, the project was reauthorized for a change in purpose to include a drinking water project for which Pecos had requested, but not received, \$1.4 million. The project was reauthorized again in 2018 for a time extension and did not progress to construction until 2020 owing to an easement acquisition and design process that took years due to the complexities of land grant ownership and landowner preferences for pipeline routing. At that point, construction bids for the sewer project were outside the project budget and could not be completed before the funds reverted.

Pecos constructed and must maintain a lift station for the sewer project but has no funds or firm plans to complete it.



Photo Credit: LFC

Pecos Water and Sewer Project

Goal: To connect a community well to the Pecos water system and residents to the village sewer.

Funding: \$2 million in capital outlay, 2014

Status: Project partially complete and indefinitely stalled

Outcome: The well was connected to the water system and a lift station was built for the eventual sewer connections. However, new planning and design must be completed to finish the sewer project and the village has no current plan or funding to do so. In 2020, the project closed and \$486 thousand reverted. The community believes it requested reauthorization in 2020 to complete more of the project but LFC staff could not locate a record for the request.

Barriers to Timely Completion:

- Easement acquisition and design negotiations with landowners
- Increased construction costs due to project delays
- Insufficient funds
- Fund reversion deadline

Due to piecemeal funding and lack of coordination among funding programs, communities must package multiple awards, often over several funding cycles, to fully fund their projects. LFC’s review of select water projects indicated local capacity to secure full funding from multiple sources varied with the experience, savvy, and time constraints of city or utility administrators. No staff among the state agencies responsible for administering funds for water projects or overseeing funded projects is responsible for ensuring investments made in communities like Maxwell and Pecos are ultimately completed and put into operation in service of the public.

LFC also identified counter-examples, where experienced administrators were able to package multiple awards into full funding, though not without significant time and effort. Bayard is one such case study. Only in operation 13 years, Bayard’s wastewater treatment plant is experiencing rapid

deterioration and is in need of over \$3 million in repairs and upgrades. Plant operators began noticing corrosion in 2018 and immediately began procuring funding for repairs. When LFC staff toured the plant, operators explained corrosion is normal in wastewater treatment plants but is worse than expected for a plant its age due to a number of technical factors. They plan to replace damaged equipment with stainless steel which is more resistant to the elements but more expensive than current fittings. Bayard's experienced city manager, who has been in the job for 25 years, has sought out and received funding from the Colonias Infrastructure Fund, capital outlay, and local cash reserves for a wastewater de-watering project, and funding from the Board of Finance, community development block grant, and capital outlay for repairs and replacement of influent infrastructure. The community has additional, as-yet-unfunded needs at the wastewater treatment plan totaling an estimated \$885 thousand, according to the city manager.

Bayard put together a funding package from several sources to rehabilitate a rapidly deteriorating wastewater system.

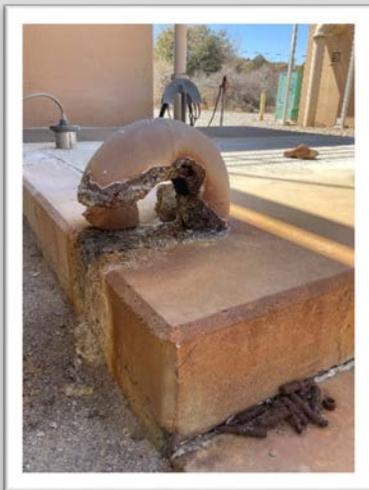


Photo Credit: LFC

Bayard Wastewater Treatment Plant Repairs

Goal: Wastewater system improvements

Funding: \$1.6 million for a de-watering project from CIF, capital outlay, local funds; \$2 million for influent repairs and replacement from Board of Finance emergency grant, CDBG, capital outlay

Status: Project partially complete and moving towards construction phase

Outcome: Plan and design phase is complete for the de-watering project and the project went out to bid three times. The first two times were unsuccessful but a construction award was approved April 2020. Nearing completion of design for influent repairs.

Barriers to Timely Completion:

- Finding contractors within budget
- Getting approval from Environment Department
- Matching funds, loan contributions
- Different regulations and policies across funding agencies

The Legislature should create an interagency council to vet water projects prior to funding

The findings of this report are consistent with past LFC reports on the state's water finance system dating to 2007 and general capital outlay reports dating to 1998. In particular:

- The funding system for water projects remains fragmented;
- State grant programs undercut federally backed loan programs, leaving them with excess lending capacity;
- The state lacks a unified review of capital outlay requests that prioritizes projects based on objective criteria; and
- Lack of planning and piecemeal funding create risk that projects will not meet their intended purpose or will not do so in a timely manner.

The state has not lacked clarity on either the problems with its water finance system nor its solutions. What it has lacked is action to implement those solutions broadly enough to maximize use of available public monies to address the state's water needs and improve the outcomes of that spending. The Legislature has an opportunity to fill this leadership void and increase the benefits of public spending on critical infrastructure for all New Mexicans. This section of the report provides a specific roadmap for how to do so.

Primary goals of water funding reform:

- To increase the likelihood that public spending on water infrastructure will efficiently and effectively solve public problems;
- To require projects to be planned prior to receiving funding for design and construction;
- To reduce or eliminate piecemeal funding by consistently vetting projects for need, quality, and readiness and providing the Legislature with more complete information about projects requesting funding; and
- To better and more consistently quantify statewide water infrastructure needs and progress toward meeting them.

The Legislature can meet those goals by passing legislation to:

- Create an interagency water project review team to develop a process for vetting water-related capital outlay funding requests using criteria as similar to the other grant programs as possible, scoring projects, and providing the Legislature with prioritized funding recommendations on an annual basis;
- Require agencies administering funds for water projects to standardize policies, scoring criteria, and funding prerequisites across state grant programs to the greatest extent possible; and
- Task the Environment Department with working with the other members of the review team to compile annual reports to the Legislature on all water project requests and funding awards, and with working with LFC and DFA staff to develop reporting that allows the state to track the outcomes of this spending.

The interagency water project review team would build on the success of the state’s standards-based models for infrastructure funding. Since 2004, the Public School Capital Outlay Council has awarded funding for capital improvements to public schools based on a formula that considers need, the school district’s ability to raise revenue for local match, and the cost of improving facilities to meet statewide standards. The system has resulted in measureable progress in the condition of school facilities, with a nearly 43 percent reduction in facilities considered inadequate by state standards.

The vetting processes used by the Water Trust Board, Colonias Infrastructure Fund, and Tribal Infrastructure Fund are similarly standards-based. Applications for funding are evaluated according to consistent and transparent criteria and include key best practices. By vetting water projects seeking capital outlay appropriations according to similar criteria, the review team would give the Legislature greater capacity to fund priority projects that are ready to proceed or to tailor funding more appropriately to the project stage.

Currently, legislators only have access to the information the interagency team would provide if they gather it themselves, a time-consuming and unrealistic expectation given the technical complexity of most water projects, the volume of requests, and the short window of time in which members must make funding decisions.

Specifically, the Legislature should direct the team to develop criteria that prioritize projects that:

- Address health or safety issues or remedy water quality violations;
- Correct serious and immediate infrastructure deficiencies;
- Leverage local match dollars;
- Require grant funding to complete the project;
- Have complete and approved planning documents, if design or construction dollars are sought;
- Can be fully funded or fully funded for at least one functional phase; and
- Meet other priorities as determined by the Legislature and described in legislation creating the review team.

Figure 7. LFC's Recommended Reforms Would Ensure Key Factors are Considered in Project Vetting Across State Grant Programs

	Capital Outlay	Water Trust Board	Colonias Infrastructure Fund	Tribal Infrastructure Fund
Urgency	✓	✓	✓	✓
Readiness and Planning	✓	✓	✓	✓
Local Capacity Considerations	✓	✓	✓	✓
Local Cost-Share or Leverage of Other Funds	✓	✓	✓	✓

Source: NMFA, IAD, LFC

If projects have not undergone planning but meet other criteria, the team may recommend those projects receive appropriations for planning. LFC recommends all water projects, including acequias and dams, go through the interagency team. Different types of water projects may need slightly different thresholds to receive priority. The Water Trust Board requires planning documents for acequia projects, for instance, but at a lower technical threshold than for drinking water systems. Including specific dam projects in the overall priority list could reduce redundancy in the current capital outlay bill and give the Legislature additional transparency as to what dam projects it is funding.

LFC recommends the Environment Department be tasked with leading the interagency work and coordinating with other agencies to fulfill new reporting requirements. Additionally, LFC recommends representatives from the following agencies participate in the review team: New Mexico Finance Authority, Indian Affairs Department, Office of the State Engineer/Interstate Stream Commission, and capital outlay staff from LFC and the Department of Finance and Administration.

Legislation creating the team, if passed in the 2022 session, should include a one-year special appropriation to the Environment Department of \$250 thousand to fund staff time to develop the capital outlay vetting criteria and fulfill the bill's other requirements, and a deadline to present the new criteria and process to the Legislature prior to the 2023 session. Participating agencies may need additional staffing to participate in the project review team. They may include requests for those personnel in their FY24 budget requests in order to implement the review prior to the 2024 session.

Finally, the proposed reforms could provide a foundation for future implementation of a true combined funding program or "one-stop shop" for water financing, a more comprehensive solution to the problems identified in this report. Such a program has been proposed numerous times over the years and an attempt at implementation during the Richardson administration ultimately failed. Hurdles included the different requirements, applications, and deadlines across programs, as well as variable commitment to the concept across the involved agencies.



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

June 17, 2021

David Abbey
Director
Legislative Finance Committee
325 Don Gaspar Ave STE 101
Santa Fe, New Mexico 87501

Re: New Mexico Environment Department response to draft Legislative Finance Committee report on "State-Funded Water Projects" program evaluation

Dear Director Abbey:

Thank you for providing the New Mexico Environment Department (NMED) an opportunity to provide formal feedback on the draft 2021 Legislative Finance Committee (LFC) "State-Funded Water Projects" program evaluation report. Water and wastewater infrastructure investments are integral to NMED's public health and environmental protection mission. Communities with aging or failing infrastructure are at greater risk of exposure to contaminants in their drinking water. Ensuring safe and healthy drinking water for New Mexicans remains one of our highest and most critical priorities. Threats to our drinking water supply occur from violations of NMED permits and rules. Further, insufficient treatment of wastewater can also threaten groundwater and surface water supplies, contributing pollution to rivers, streams, wetlands and lakes that our urban and rural economies rely upon. Water and wastewater infrastructure challenges typically relate to a lack of sufficient funding, lack of human capacity at the local level, or a combination of the two.

LFC's careful evaluation of State-Funded Water Projects across 10 programs teases out the sources of many tremendous successes for New Mexico communities, as well as program and policy provisions that deserve scrutiny. NMED also agrees with the report's four stated goals for water funding reform: "To increase the likelihood that public spending on water infrastructure will efficiently and effectively solve public problems; to require projects to be planned prior to receiving funding for design and construction; to reduce or eliminate piecemeal funding...; and to better and more consistently quantify statewide water infrastructure needs and progress toward meeting them."

We also agree with the report's findings surrounding fragmented funding issues for water and wastewater infrastructure and the interplay between capital outlay availability and low demand for federally funded loans administered through NMED and the New Mexico Finance Authority. It is an ongoing priority for NMED to explore policy changes and program innovations to increase the percentage of available federal funds for wastewater and stormwater projects going into New Mexico communities. LFC's recommendation for a new approach to vet prospective capital outlay projects for

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE

1190 Saint Francis Drive, PO Box 5469, Santa Fe, New Mexico 87502-5469 | (505)827-2855 | www.env.nm.gov

need, quality, and readiness could improve outcomes for communities and lead to greater utilization of available federal funds. For example, as a result of a thoughtful vetting process, a community could end up pursuing a capital outlay planning grant, in line with readiness criteria, before seeking a low-interest loan from NMED for design and construction of the project.

As LFC's evaluation report explains, the processes, timelines, criteria and requirements across the 10 studied funding programs vary significantly. These differences illustrate the challenges our communities face when seeking funds for critical infrastructure investments, while also highlighting that LFC's recommendation for standardization is not readily within reach. NMED manages one federal program, the Clean Water State Revolving Fund (CWSRF), and coordinates very closely with the New Mexico Finance Authority on administration of the Drinking Water State Revolving Fund (DWSRF). Any standardization across federal and state funding programs must ensure ongoing compliance with all applicable federal requirements and leverage NMED's expertise from decades of experience supporting communities through creative approaches that adhere to non-discretionary requirements.

As NMED considers the full suite of recommendations, we are concerned about the timeline and resource implications for the Department, even as we appreciate how the recommendations demonstrate the evaluation team's understanding of NMED's incredible expertise and vested interest in the topic of water funding. Without a proportionate resource investment by the legislature, NMED is not positioned to engage meaningfully in an interagency water project review team to develop and implement a process for reviewing water-related capital outlay funding requests, let alone lead it, as suggested. NMED is not positioned to report to the legislature annually on all water project requests and funding awards, including funding programs NMED does not administer. Our staff are stretched beyond current capacity in direct support of communities with active projects, this includes the annual accretion of duties related to hundreds of capital outlay projects with no additional staffing resources. While NMED appreciates the report's recommendation for one-time funding to NMED to support near-term implementation of the recommendations, the Department does not agree with the recommendation for the executive to carry the burden to pursue longer-term investments through budget requests that could disadvantage other executive budget priorities.

Finally, the proposed timeline – presentation of the new capital outlay criteria and vetting process to the legislature prior to the 2023 session – is very ambitious. Assuming dedicated one-time funding is not available until after the 2022 regular session, NMED would have approximately six months to utilize the funds to create the interagency team and bring the process to fruition in time for presentations in late 2022. This timeline will jeopardize other non-discretionary functions of NMED, likely harming the communities that rely on NMED for technical and administrative support, and would leave little time for meaningful community and stakeholder engagement during the process. Moreover, the legislature chronically underfunds the administrative functions of NMED, which includes our Administrative Services Division, so placing additional duties on NMED operations without first building capacity in such operations is setting the Department up to fail. NMED strongly recommends a more flexible timeline with milestones that drive forward progress with appropriate resources to ensure a quality, lasting outcome for the state.

In addition to the formal feedback above, we appreciate the opportunity to review and provide informal feedback on the draft, such as factual corrections, which your staff addressed before finalizing the report. Throughout the program evaluation, LFC staff engaged regularly with NMED staff to ensure the evaluation benefited from our data and expertise on this topic. I appreciate the LFC's interest in water funding and I am encouraged by the focused attention it will bring to the ongoing conversations in New Mexico related to water and wastewater infrastructure.

Sincerely,

 Digitally signed by
James Kenney
Date: 2021.06.17
17:06:33 -06'00'

James C. Kenney
Cabinet Secretary

cc: Rebecca Roose, Deputy Cabinet Secretary of Administration, NMED
John Rhoderick, Acting Water Protection Division Director, NMED
Jon Courtney, Deputy Director for Program Evaluators, LFC
Cally Carswell, Program Evaluator, LFC



June 17, 2021

David Abbey, Director
Legislative Finance Committee
325 Don Gaspar, Suite 101
Santa Fe, New Mexico 87501

Subject: New Mexico Finance Authority Response to LFC State-Funded Water Projects Program Evaluation

Dear Director Abbey,

On behalf of the New Mexico Finance Authority (NMFA), I would like to thank the Legislative Finance Committee for the opportunity to participate in the recent State-Funded Water Projects Program Evaluation. During the course of the review, NMFA staff worked successfully with LFC and fulfilled numerous document requests, attended meetings to discuss five separate infrastructure programs, and provided informal comments on the draft report. We certainly appreciate the professional working relationship established with LFC during this evaluation.

NMFA is in agreement that the financing system for water projects in New Mexico remains fragmented and the availability of state grant funds undermines established federally backed loan programs, while leaving them with excess lending capacity. NMFA also understands the state currently lacks a unified review of capital outlay requests which prioritizes projects based on objective criteria, and that one of the primary recommendations made by LFC in the report is for the Legislature to create an interagency council to vet water projects prior to funding. Therefore, it seems appropriate to task the interagency team with developing a process for vetting capital outlay funding requests related to water projects.

LFC further recommends all water projects go through the interagency project review team presumably through a uniform funding application process, and that the team provides the Legislature with an annual, prioritized list of projects and their funding requirements. If the concept here is not just limited to capital outlay requests, but rather is for all water project applications in the state to go through a uniform funding process, NMFA is concerned about negative impacts to the Public Project Revolving Fund (PPRF) and the Drinking Water and Clean Water State Revolving Funds (SRFs).

NMFA would note that the PPRF is purely a loan program that does not offer subsidy. PPRF projects already go through a formal legislative authorization process and by creating an additional layer of application review and approval by the Legislature, any PPRF funded water

207 Shelby Street
Santa Fe, NM 87501
505.984.1454

1-877-ASK-NMFA * www.nmfinance.com



projects would ultimately experience delays in gaining access to the funding, closing on their loans, and starting construction.

The Drinking Water and Clean Water State Revolving Funds are federally backed loan programs that offer some subsidy but as the report indicates, competition from state grant programs limits the number of applicants the SRFs are able to attract. As a result, the excess lending capacity in both SRFs continues to increase year after year. Subjecting prospective SRF borrowers to an additional layer of application review and approval by the Legislature will create unnecessary delays in accessing funding and could potentially drive eligible entities to the public market and higher interest rates. NMFA does not see the public benefit to that approach.

In summary, NMFA understands the need for the state to develop an objective need-based vetting process for capital outlay funding requests, but has concerns if the recommendations require all water project applications in the state to go through a uniform funding process subject to Legislative approval, particularly if loan programs are included in this strategy.

Thank you again for the opportunity to participate in the Program Evaluation of State-Funded Water Projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Marquita Russel". To the right of the signature is the word "For" in a standard font.

Marquita Russel
Chief Executive Officer



Michelle Lujan Grisham
Governor

Howie Morales
Lieutenant Governor

STATE OF NEW MEXICO
INDIAN AFFAIRS DEPARTMENT

Office of the Secretary
Willie Ortiz Building, Basement
2600 Cerrillos Road
Santa Fe, NM 87505
Phone (505) 476-1600
Fax (505) 476-1601
www.iad.state.nm.us



Lynn Trujillo
Cabinet Secretary

Nadine Padilla
Deputy Cabinet Secretary

June 18, 2021

David Abbey
Director
Legislative Finance Committee
325 Don Gaspar Ave STE 101
Santa Fe, New Mexico 87501

Re: New Mexico Indian Affairs Department response to draft Legislative Finance Committee report on “State-Funded Water Projects” program evaluation

Dear Director Abbey:

Thank you for providing the Indian Affairs Department (IAD) an opportunity to provide formal feedback on the draft 2021 Legislative Finance Committee (LFC) “State-Funded Water Projects” program evaluation report. Water and wastewater infrastructure investments in tribal communities are vital. Historically, there has been substantial under-investment in infrastructure in tribal communities, as evident in the breadth and severity of the existing need. Tribal communities without infrastructure or with aging and failing infrastructure are at a greater risk of poorer public health outcomes which we witnessed during the COVID-19 pandemic. Moreover, insufficient wastewater infrastructure also poses a threat to groundwater and surface water supplies, pollution to rivers, streams, wetlands and lakes that tribal communities rely on for agricultural and cultural purposes. Despite the funding available through the state and the federal government, today, there are tribal communities without access to safe, clean drinking water or connection to wastewater systems.

The LFC’s report highlights the state’s multiple water finance opportunities and concludes that “the state’s water finance system is fragmented and lacks a consistent strategy or goal, with at least ten programs across four state agencies plus the Legislature offering grants and loans for water projects. The siloed and uncoordinated system contributes to difficulties in accessing funding and tracking outcomes, leaving it unclear what taxpayers are getting for their money.” The LFC concludes that the current approach results in 1) incomplete projects and 2) the inability to track outcomes of the state’s investment. To address this problem, LFC recommends an interagency water project review team to develop and implement a process for vetting water-related capital outlay funding requests, like the PSCOC, which will provide the Legislature with prioritized recommendations for capital outlay water projects. The LFC also recommends coordination through standardized reporting mechanisms and vetting criteria.

Service · Respect · Community

The IAD appreciates the LFC's initiative to improve access and efficiency as it relates to water infrastructure. The multiple opportunities for water finance infrastructure available to Tribes, especially capital outlay, are essential to addressing the historical infrastructure gaps. In the spirit of partnership and collaboration with the LFC, the IAD offers feedback concerning the water funding problems LFC has highlighted.

The LFC report attributes the number of incomplete projects to the lack of vetting and uses TIF and capital outlay as an example. IAD has a different perspective concerning this problem. The IAD believes that the number of incomplete projects results from the underfunding of infrastructure programs in relation to the overall water infrastructure needs in New Mexico and the competitive nature of these funding programs. For example, in 2020, IAD received 55 applications totaling \$71,023,669.45. Of this, the IAD funded 14 projects for a total amount of \$19,896,635.25 but was not able to fund the remaining 41 projects totaling \$51,127,034.20. This example illustrates that the overwhelming need for tribal infrastructure projects far outweighs available resources.

The ten infrastructure programs identified in the report, including TIF and capital outlay, support not only water infrastructure but provide funding to support broader infrastructure requests. The LFC reports that tribes access and leverage multiple funding opportunities through the state to complete projects. However, the LFC report underrepresents other funding mechanisms that tribes leverage to complete water infrastructure projects, including federal funding, tribal funds, and private funds. See attachment 1.

Moreover, in relation to LFC's concern of incomplete projects, the IAD offers the perspective that tribes typically phase infrastructure projects to leverage different funding sources and invest money within a timeframe consistent with the appropriation. As the LFC works to address incomplete projects, it is important to consider that phasing projects is a strategy used by tribes to spend down money efficiently and leverage funds and should not be considered "incomplete." We agree that the state should direct more investment to project planning. Such investments will assist with ensuring there is a strong foundation for water and wastewater infrastructure projects.

The LFC's report highlights the diverse processes, timelines, criteria, and requirements across the ten studied funding programs. These differences illustrate the challenges tribal communities face when seeking funds for critical infrastructure investments. Communities seeking funding are encouraged to leverage various funding sources for infrastructure projects, but the lack of standardization adds to the complexity, which often makes leveraging untenable or costly. Any standardization across federal and state funding programs must consider the various, and differing, federal and state requirements.

LFC's recommendation for a new approach to vet prospective capital outlay projects for need, quality, and readiness could improve outcomes for communities. However, we caution against a process that does not account for the unique challenges of tribal communities and their needs. While some uniformity and standard criteria can be beneficial, we must be cognizant that one size does not fit all. If the proposed project review committee comes to fruition, the IAD recommends that representation be proportional to the infrastructure needs in New Mexico.

Finally, the IAD is concerned about the timeline and resource implications for the Department. The IAD is not positioned to engage meaningfully in an interagency water project review team to

Service · Respect · Community

develop and implement a process for reviewing water-related capital outlay funding requests without resource investment by the Legislature. Currently, the Department has one full-time employee who oversees both the Department's capital outlay and TIF portfolios. Our staff is stretched beyond capacity in providing direct support to communities with active projects and we are concerned that this additional burden will negatively impact our services to tribal communities that rely on IAD. While the report notes that participating agencies may include requests for additional personnel to join the project review team, the Department does not agree with the recommendation for the executive to carry the burden. Despite the increase in appropriations directed to the Department by the Legislature, it remains chronically underfunded. LFC's proposal will place additional duties on IAD without first adding capacity. We recommend a more flexible timeline with milestones that drive forward progress with appropriate resources to ensure a quality, lasting outcome for the state.

In addition to the formal feedback above, we appreciate the opportunity to review and provide informal feedback on the draft. I understand the LFC's interest in improving funding processes for water and wastewater projects, and I believe the critical assessment that LFC is undertaking will enhance future dialogue on this critical matter. IAD looks forward to collaborating as we work towards an improved funding process that meets all of New Mexico's water and wastewater needs.

Sincerely,



Lynn Trujillo
Cabinet Secretary

cc: Cally Carswell, Program Evaluator, LFC

Service · Respect · Community

Attachment 1

Project Title	Year	Project Type	Entity	Total Project Cost	ST Approved	Grub Match	In-Kind Payment	Leveraging Total (State's Share)	% Match
Construction of McKinley County Road 19	2012	Construction	Catawba Lake Chapter	3,845,251.00	3,894,822.00	2,180,854.00	96,000.00	2,596,234.00	67%
Pueblo of Ta Wastewater Lagoon Expansion	2012	Design	Ta Pueblo	300,000.00	300,000.00	100,000.00	51,949.20	251,949.20	53%
Jewell Pueblo Water Improvements Project	2012	Construction	Jewell Pueblo	2,480,524.00	1,120,000.00	418,000.00	14,800.00	471,400.00	12%
TuJague Water System Improvements Project	2012	Construction	TuJague Chapter	2,042,543.00	1,120,000.00	705,000.00	37,440.00	792,440.00	19%
Neza Water System Improvements Project	2012	Construction	Neza Chapter	2,411,350.00	800,000.00	1,850,000.00	7,350.00	1,857,350.00	75%
Deer Springs Road Improvement - (County Road 270C)	2012	Construction	Medano Springs Chapter	2,258,690.00	1,054,627.00	2,244,863.00	0.00	1,244,863.00	55%
Wastewater Expansion Project	2012	Construction	Tewaqua Pueblo	2,945,900.00	1,120,000.00	3,150,000.00	85,900.00	1,435,900.00	49%
Village Sewer Line Improvement Project	2012	Construction	Idale Pueblo	4,578,211.87	1,000,000.00	2,289,606.00	50,988.00	2,440,602.00	53%
Water and Wastewater System Improvements - Pungolo Road	2012	Construction	Santa Clara Pueblo	915,230.00	770,000.00	145,230.00	6,000.00	251,230.00	17%
Chichilash-Wanderwagen Community Water System - Design Phase 2	2012	Design	Chichilash Chapter	7,512,760.00	501,114.00	7,020,667.00	411,034.00	7,451,681.00	98%
NM 47 Two-Way Left Turn Lane Project, 3 construction segments between Tribal Rd 2 and NM107	2012	Construction	Idale Pueblo	4,200,177.40	2,000,000.00	2,160,000.00	42,177.40	1,202,822.60	29%
Sanilla Apache Nation - Cutter Lateral Inertile Water Supply Project	2012	Construction	Sanilla Apache Nation	9,456,676.00	1,901,556.00	2,765,856.00	518,296.00	2,894,212.00	31%
Laguna Fire Station 1 Design Request	2012	Design	Laguna Pueblo	295,545.00	206,000.00	190,000.00	0.00	190,000.00	64%
Wastewater System Improvements	2012	Construction	Nambias Pueblo	2,657,215.00	1,511,225.00	1,113,200.00	1,000,000.00	1,113,200.00	42%
Phase 1B Waterline	2012	Construction	Oklaya Chapter	1,511,645.00	1,511,645.00	2,110,000.00	209,040.00	2,110,000.00	100%
To construct Phase 2 Wastewater System for the Pueblo of San Ildefonso	2012	Construction	San Ildefonso Pueblo	6,117,126.30	1,998,000.00	4,179,116.00	2,229,504.00	6,357,712.00	104%
Construct a 350,000 gallon Welded Steel Community Water Storage Tank with appurtenances.	2012	Construction	Santa Ana Pueblo	1,511,208.00	1,511,208.00	168,265.71	12,940.00	168,265.71	11%
Water and Wastewater System Improvements	2012	Construction	Santa Clara Pueblo	2,468,844.00	1,911,700.00	556,544.00	7,000.00	560,544.00	23%
TuYahi? Head Start Facility Construction	2012	Construction	Standing Rock Chapter	4,593,215.00	400,000.00	2,240,000.00	21,200.00	2,251,200.00	49%
TuJague Water System Improvements Project	2012	Construction	TuJague Chapter	3,017,000.00	975,000.00	2,052,000.00	37,440.00	2,089,440.00	69%
Sewer Line Extension	2012	Planning	Alamo Chapter	81,890.00	64,890.00	44,890.00	1,300.00	43,590.00	53%
New Water Wells - Drought Well, North Well #2, New Ritation Plant Connection	2012	Design	Alamo Chapter	1,774,892.80	928,504.00	845,899.00	7,580.00	853,479.00	48%
Chichilash-Wanderwagen Community Water Supply Project	2012	Construction	Chichilash Chapter	10,689,268.00	2,071,679.00	7,902,510.00	294,296.00	8,198,475.00	77%
Wastewater Treatment Facility	2012	Construction	Oklaya Chapter	4,448,280.00	1,448,280.00	2,000,000.00	245,440.00	2,245,440.00	50%
Regional Beason Well #18 Lateral Water Project-Coyote Canyon Connection, aka NWSF Reach 10.1.1	2012	Construction	Coyote Canyon Chapter	4,166,568.00	2,786,781.00	3,479,817.00	6,828.00	1,886,125.00	45%
Jewell Comprehensive Health Center Renovation and Resurfacing Project	2012	Construction	Jewell Pueblo	11,897,276.00	3,480,000.00	8,917,276.00	0.00	8,917,276.00	75%
TuYahi? Waterline Extension	2012	Design	Standing Rock Chapter	4,494,198.00	115,000.00	1,175,000.00	100,210.00	1,275,210.00	27%
Sanilla Apache Nation - Cutter Lateral Inertile Waterline	2012	Construction	Sanilla Apache Nation	9,499,544.00	2,155,894.00	4,265,856.00	26,196.00	4,451,212.00	47%
New Multi-Purpose Building Renovation and Addition	2012	Construction	Medano Lake Chapter	8,212,825.00	2,900,000.00	5,112,484.00	817,254.17	5,929,738.17	72%
Fire Station 1 Construction	2012	Construction	Laguna Pueblo	4,475,000.00	2,200,000.00	2,175,000.00	0.00	2,175,000.00	49%
Regional/San Juan Lateral Water Project - Sandoz Connection	2012	Design	Sandoz Chapter	2,576,362.00	649,420.00	1,908,942.00	40,804.00	1,949,746.00	76%
N-7054 Road Improvement Phase 1	2012	Construction	Pinedale Chapter	4,812,734.00	1,925,000.00	2,900,000.00	256.25	2,900,256.25	60%
Regional/San Juan Lateral Water Project Tohatchi and Medano Springs Connection	2012	Design	Tohatchi Chapter	2,708,818.00	593,245.00	2,115,373.00	48,315.00	2,163,688.00	80%
Regional/San Juan Lateral Water Project - Toadlena (Two Grey Hills) Connection	2012	Design	Two Grey Hills Chapter	959,212.00	289,550.00	669,772.00	17,850.00	687,622.00	72%



Appendix A. Evaluation Scope and Methodology

Evaluation Objectives.

- Assess the outcomes of state appropriations for water infrastructure since FY16 and identify barriers to completion.
- Assess the feasibility of consolidating the distribution of state funding for water projects.

Scope and Methodology.

- Reviewed:
 - Applicable statute and administrative code.
 - Agency policies and procedures, and CPMS and agency data for water projects.
 - National and local best practices.
 - Relevant performance measures, administrative data, and related documents.
- Conducted site visits and interviewed appropriate staff. Reviewed water projects were selecting using the following considerations: multiple appropriations or funding sources; \$500 thousand or greater value; reauthorized; high balances; substantially complete or closed; project history indicates project possibly incomplete when closed or funding insufficient to perform necessary work.

Evaluation Team.

Cally Carswell, Lead Program Evaluator
Nathan Eckberg, Esq., Program Evaluator
Janelle Taylor Garcia, Ph.D., Program Evaluator
Mitchel Latimer, Program Evaluator
Steven Olson, Capital Outlay Analyst

Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws.

Exit Conferences. The contents of this report were discussed with the New Mexico Environment Department (NMED) on June 14, 2021. The report was shared with NMED, Indian Affairs Department, Office of the State Engineer, and New Mexico Finance Authority with the purpose of confirming accuracy. Additionally, portions of the report were shared with representatives of the evaluated water projects to confirm accuracy.

Report Distribution. This report is intended for the information of the Office of the Governor, Department of Finance and Administration, Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Jon Courtney, Ph.D.
Deputy Director for Program Evaluation

Appendix B. July 2020 EPA Memo



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

MEMORANDUM

SUBJECT: New Mexico Clean Water State Revolving Fund High Uncommitted Funds Balance

FROM: Raffael Stein, Director *Raffael Stein* 7/2/2020
Water Infrastructure Division

TO: Rebecca Roose, Director, Water Protection Division
New Mexico Environment Department

I would like to thank you and your staff for the courtesy and cooperation extended to Environmental Protection Agency (EPA) staff during their visit to the New Mexico Environment Department (NMED) for the onsite annual review and discussion of the high uncommitted funds balance in the New Mexico Clean Water State Revolving Fund (CWSRF) program. I want to commend NMED for acknowledging the importance of the situation and its willingness to work with EPA to address it.

According to the EPA's National Information Management System, the New Mexico CWSRF had an uncommitted funds balance of approximately \$90 million as of June 30, 2019. Title VI section 602(b)(4) of the Clean Water Act requires that States receiving a CWSRF capitalization grant agree to expend all CWSRF funds in an "expeditious and timely" manner. EPA policy memos SRF 99-05 and SRF 99-09 clarify that a state must commit all CWSRF funds (including repayments) to projects within one year of receiving those funds or include in the Intended Use Plan a reasonable plan detailing how and when the funds will be used.

Our objective for the discussion was to get a good overall insight into the reasons for the high uncommitted funds balance, learn more about relevant issues and initiatives involving the New Mexico program, and identify ways that EPA can work with NMED to address this issue. We appreciate the open dialogue and the opportunity to work with NMED staff. This memorandum provides our feedback based on the discussions during our visit to the NMED office.

We discussed that many of New Mexico's larger cities do not come to the CWSRF due to the high interest rate for these communities and because they are not eligible to receive additional subsidy. NMED is pursuing several programmatic and legal changes to attract these larger communities, including reducing interest rates and removing rates from the administrative code, which would allow them to be changed more easily in the future. NMED has also talked to Albuquerque and Santa Fe about programmatic financing, which may be an attractive option for those communities. We look forward to hearing how these planned modifications to your program impact future demand.

Following the Water Resources Reform and Development Act of 2014, NMED worked with the state legislature to make changes to their statute which allows the department to fund all project types eligible

[REDACTED]

under 603(c) of the Clean Water Act. NMED indicated that while it has done some outreach to new borrower types, it needs to develop strategies for marketing these new eligibilities. Additionally, NMED has had some applications for these expanded project eligibilities but more work is needed to determine how best to work with these assistance recipients.

The New Mexico Capital Outlay Special Appropriation Program (CO SAP) presents one of the biggest challenges for NMED. CO SAP is a state grant program for which many CWSRF-eligible projects are also eligible. Although CO SAP rarely provides enough funding to cover the full costs of a project, communities will delay seeking other sources of funding based on the hope that they will receive additional grants. We brainstormed options for how the CWSRF could work with CO SAP, but more research is needed in this area.

Finally, we discussed several ways in which EPA can assist NMED in building the project pipeline and addressing the uncommitted funds issue. Several states across the country have conducted surveys and focus groups with support from EPA and found the feedback received to be useful in identifying areas to strengthen their streamlining and marketing efforts. EPA could provide contractor assistance to help NMED conduct a survey and focus group to determine perceptions of the New Mexico CWSRF program and identify potential areas for improvement. We have included with this memorandum a report that provides information on the common feedback states have received from these focus groups and hope that it will be useful to you in considering this approach.

NMED has made an effort to expand the portfolio of project types financed by the New Mexico CWSRF program, but has experienced challenges with bringing in new borrowers. In this regard, EPA could help NMED develop a coordinated marketing plan to better engage existing borrowers and bring in new borrowers. We also could assist with setting up an innovative financing mechanism within the CWSRF such as a linked deposit program, a programmatic financing arrangement or a sponsorship program to help attract new borrowers. In addition, we could work with you to identify options for securing loans with private borrowers. And EPA is prepared to develop an options paper for how CO SAP can work with the SRF. This paper would provide examples of how other states deal with similar challenges.

Once again, we appreciate the opportunity to meet with you last March. We trust that you find the feedback that we offered during the discussion and in this memorandum useful and look forward to working with you to address the issue of uncommitted funds in the New Mexico CWSRF program. My staff will reach out soon to set up an introductory call to begin the marketing work and identify the areas of assistance that would be most useful. If you have any questions about the feedback received regarding uncommitted funds or the marketing assistance being provided by EPA, please contact Kelly Tucker at tucker.kelly@epa.gov or 202-564-0608.

cc: Ruben Camacho, US EPA Region 6
Denise Hamilton, US EPA Region 6
Claudia Hosch, US EPA Region 6
Michael Deane, US EPA Headquarters
Judith Kahl, New Mexico Environment Department
Mark Mylin, US EPA Headquarters
Kelly Tucker, US EPA Headquarters

Appendix C. Capital Outlay Best Practices, New Mexico Office of the State Auditor

FUND BALANCE BASICS CAPITAL OUTLAY BEST PRACTICES

Standard financial operations typically require certain amounts of dollars to be held as fund balances. Typically fund balances are used to offset funding gaps between fund expenditure and fund reimbursement, similar to the way a business would utilize “working capital.” Funds are also commonly used to store dollars for purposes of future spending, contingency spending and future debt repayment. This practice is similar to how a business would use various types of savings and investment accounts. Considering these uses, there is nothing inherently wrong or right about accumulating funds balances.

However, just as with a business, agencies have a responsibility to control fund balances to keep those dollars working toward their intended purpose and into the economy. Put another way, every dollar held in a capital outlay fund is a dollar that is not circulating in the economy. Considering this basic tenet of economics, it is always prudent to consider standard best practices for the management of fund balances.

In New Mexico, capital project funds are most vulnerable to balance accumulation. Capital projects are typically fixed asset investments, including roads, bridges, water projects, schools, buildings, construction, environment projects, long-term technology or other investments designed to last at least 10 years. Capital projects are typically performed by private contractors or through state purchasing of goods and services. Because capital projects may require initial investment in planning, matching funds from other sources and complex procurement issues, agencies often accumulate fund balances while navigating hurdles and delays.

The following recommendations are based on standard best practices of financial management as applied to New Mexico public fund management and capital investment. They include recommendations to address this challenge in the different branches of government and stages of project development.

The Legislature and local legislative bodies should:

- **Fully Fund Projects Up Front**

Historically, infrastructure projects have been funded on a piecemeal basis. The infrastructure funding process involves a negotiation process among the Governor, the Legislature and agency capital requests or appropriation requests. The process often results in funding projects in small, affordable chunks in the hopes that, over the course of several years, projects can be fully funded. However, project costs often escalate over time, and even project needs can change over the course of the years it takes to fund projects in this manner. To ensure funding matches actual cost estimates, legislators should attempt to fully fund projects within a single appropriation once the planning and design phase is complete.

- **Require Matching Funding to Be In Place**

Relatedly, many projects are partially funded as part of a project funding package that includes multiple funding sources such as dollars from federal, state and local governments. While rational, this practice can also lead to suboptimal fund balance accumulation and project underfunding. Although federal and local laws and regulations can be a barrier, securing state funding for projects after matching funds are in place can mitigate this problem to the extent possible.

- **Monitor Projects Centrally**

Today in New Mexico, no single entity or individual has a comprehensive list of all the state-funded infrastructure projects in progress. The information is spread across 500 plus funds and many different state and local agencies. Furthermore, many projects are tied up at the local level, into which the state has low visibility. Accordingly, the public and policy makers cannot effectively monitor the progress of already funded projects. This also makes any kind of accountability extremely difficult.

FUND BALANCE BASICS

CAPITAL OUTLAY BEST PRACTICES (continued)

- **Include Specific Expiration Date or Reversion Dates**

Unspent fund balances contain slices of appropriations from different historical years. Some funds may be decades old, although most funds are from more recent appropriation cycles. Many infrastructure funds typically have a three-year window, but there are no limits on the number of times a project can be reauthorized in order to extend this time period. Furthermore, agency requirements may vary widely. As a result funds can accumulate, unchecked, for years, unless there is direct executive or legislative action to move those funds or revert them back to the general fund for future appropriation.

Best practices recognize that it is very important to establish and enforce any automatic reversion or expiration dates built into appropriations that may prevent the completion of projects. Best practices also acknowledge that at some point, for dollars allocated to a project that are not encumbered, reauthorization must cease and the funds must, at some point, revert and be used for other purposes. Having a firm “drop- dead date” to spend dollars would go a long way toward ensuring that unspent funds are recycled back into the state appropriation process.

- **Follow Existing Legislative Guidelines**

In 2016, the New Mexico Legislative Finance Committee collaborated with the Association of Counties, New Mexico Municipal League, and Department of Finance and Administration to outline guidelines for the prioritization and management of capital projects. Currently these guidelines are located online [here](#). However, these guidelines, while strongly encouraged, are not mandatory. The guidelines applicable to the legislative authorities include:

- Require grantees to justify outstanding projects with no activity or expenditures to determine if the projects need additional funding to complete, or if funds should be reauthorized for a different purpose.
- Leverage state funds with local, federal or other sources when possible to fully fund a complete project or usable phase. Consider that even minimal local contribution is known to improve project completion and success.
- Combining legislator funding to complete large regional projects is encouraged.
- Fund projects listed in Local Infrastructure Capital Improvement Plans (ICIP). All projects should be planned and prioritized to match demand for funds with supply of funds and to best utilize all funding sources available.
- Before a project is funded, the grantee should be consulted to ensure the project is a local priority and the operational and maintenance costs can be adequately addressed.
- Water projects should be funded using criteria established by existing state programs such as: Safe Drinking Water Act of 1974, Clean Water Act of 1977, and Water Project Finance Act.
- Funding for economic development purposes pursuant to the Local Economic Development Act (LEDA) requires special project documentation. The Legislative Council Service requires that the project participation agreement accompany the request for drafting.
- Non-Governmental Funding: If a capital request is from a non-governmental entity (nonprofit or private), require requestor to obtain prior written confirmation from an eligible political subdivision agreeing they will own the capital asset and are willing and able to enter into a lease or operating agreement to comply with the Anti-Donation Clause of the New Mexico Constitution. The State Board of Finance will not issue bonds until the project demonstrates anti-donation compliance.

FUND BALANCE BASICS

CAPITAL OUTLAY BEST PRACTICES

Any executive branch agency administering capital outlay (state capital outlay bureau, agencies like the Environment Department, mayor's offices, NMFA, OSI) should:

- **Ensure Local and State Priorities are Aligned**

Another key best practice for capital funding and expenditure is to ensure that before a project is funded, the required decision makers have priorities aligned. Often state-level appropriations may come to local governments that have differing priorities. When the state and local body have different infrastructure priorities, it greatly increases the likelihood that funds languish unspent.

- **Follow Existing Legislative Guidelines**

As described above, the Legislative Finance Committee guidelines applicable to the executive branch agencies and their partners include:

- Demonstrate project will reduce potential or actual health and safety hazards and liability issues or will provide sustainable infrastructure for community needs.
- Demonstrate all necessary plans, funds, and resources will be in place to complete a project within a reasonable timeframe (12 to 18 months) following enactment of the capital bill.
- Leverage state funds with local, federal or other sources when possible to fully fund a complete project or usable phase. Consider that even minimal local contribution is known to improve project completion and success.
- Entities receiving capital outlay must be compliant with the State Audit Act and Executive Order 2013- 006.
- Before a project is funded, the grantee should ensure the project is a local priority and the operational and maintenance costs can be adequately addressed.
- Establish a \$50,000 minimum level for projects funded from severance tax bonds, unless a lesser amount is needed to complete a project. Larger projects are more likely to realize savings to state and local governments, reduce future year operating expenditures, provide for completion of projects in a timely manner, and streamline state and local administrative efforts.
- Severance tax bond projects, after authorized, must meet expenditure timelines required by the Internal Revenue Service Code of 1986. Confirm that the project will be able to encumber 5% of funds within six months of bond issuance and expend 85% of funds within three years of bond issuance.
- Water projects should be funded using criteria established by existing state programs such as: Safe Drinking Water Act of 1974, Clean Water Act of 1977, and Water Project Finance Act.

- **Monitor Projects Centrally and Cut Red Tape**

Today in New Mexico, no single entity or individual has a comprehensive list of all the state-funded infrastructure projects in progress. The information is spread across 500 plus funds and many different state and local agencies. Furthermore, many projects are tied up at the local level, into which the state has low visibility. Accordingly, the public and policy makers cannot effectively monitor the progress of already funded projects. This also makes any kind of accountability extremely difficult.

FUND BALANCE BASICS

CAPITAL OUTLAY BEST PRACTICES (continued)

Many local governments have expressed frustration at the amount of time and paperwork necessary to draw on state capital funds. Likewise, many agencies administering capital projects have expressed frustration at the inaccuracies and slow submission of that paperwork. The bottom line is that wherever it is possible to cut red tape and increase technical assistance without compromising accountability, the executive branch should work to do so.

Based on research conducted at OSA, the fund balance report is the most comprehensive report of infrastructure dollar allocations in the state of New Mexico. However, OSA figures are limited to the level of detail that is provided in the annual audit. Because agencies are not required to share their project listings in their annual audits, there is currently no centralized reporting of pending construction projects. The creation of a task force or czar position to monitor and track these projects and help cut through red tape with respect to permitting and agency coordination would provide needed transparency and accountability to the process.

- ◆ **Conduct Project Audits**

Measuring progress of any given pending capital project in the state varies from agency to agency, and often such responsibility lies with a local government entity or school district. As a result there is no uniform or trackable method to determine overall progress toward completion, or lack thereof, for projects. Embedding progress audits into the appropriation, or requiring capital project audits by administrative agencies, would systematically ensure appropriate accounting and measurement of progress for capital projects.

Appendix D. Office of the State Engineer Dam Projects

Many New Mexico dams are rated as “poor” and an estimated \$300 million is needed for repairs and rehabilitation. The Dam Safety Bureau of the Office of the State Engineer (OSE) maintains a list of publicly owned dams in need of rehabilitation ranked in priority order based on qualitative criteria. The list includes dams that:

- Are publicly-owned;
- Have the potential to cause loss of life in a failure or incident--meaning they are categorized as high hazard potential dams;
- Have auxiliary spillway capacity that is less than 70 percent of the regulatory requirement and/or are deficient based on safety criteria and have an unsatisfactory, poor, or fair condition rating; and
- Are of sufficient size to be regulated by the Office of the State Engineer.

The list is meant to inform policy makers and other agencies on the topic of statewide infrastructure deficiencies. The bureau looks at the potential consequences of dam failure and probability of failure when determining prioritization. The value of the infrastructure is also a consideration, for example, a dam providing drinking water for a community may get priority over a dam used for recreation, though the bureau admits they could have a better rating system.

Previous LFC reports on water projects found OSE is not using best practice risk assessment to govern dam appropriations. OSE indicates they are working on a risk-based prioritization system that will ultimately examine all dams but those efforts have been stalled by lack of resources. It is unclear if dams rated as most at risk are being properly prioritized. Between 2017 and 2020, only four out of 20 dam projects have been moved off the priority needs list and none of the 16 remaining projects have improved in ranking as seen in the table below.

**Dam Rehabilitation Needs List Condition Ratings
(2017 through 2020)**

Name	Purpose	2017	2018	2019	2020
Cabresto Dam	Irrigation and Recreation	Poor	No Longer on List	No Longer on List	No Longer on List
Morphy Lake Dam	Irrigation and Recreation	Poor	Poor	No Longer on List	No Longer on List
Santa Cruz Site 1	Flood Control	Poor	Poor	Poor	Poor
Lake Maloya Dam	Water Supply	Poor	Poor	Poor	Poor
Cimarroncito Dam	Water Supply	Poor	Poor	No Longer on List	No Longer on List
Alto Lake Dam	Water Supply	Poor	Poor	Poor	Poor
Bear Canyon Dam	Irrigation and Recreation	Poor	Poor	Poor	Poor
Fenton Lake Dam	Recreation/Wildlife	Poor	Poor	Poor	Poor
Laguna Del Campo Dam	Recreation	Poor	Poor	Poor	Poor
McGaffey Lake Dam	Recreation	Poor	Poor	Poor	Poor
Lower Vallecito Dam	Irrigation	Poor	Poor	Poor	Poor
Bonito lake	Water Supply	Fair	Fair	Fair	Fair
Bradner Dam	Water Supply	Fair	Fair	No Longer on List	No Longer on List
Peterson Dam	Water Supply	Fair	Fair	Fair	Fair
Eagle Nest Dam	Irrigation	Fair	Fair	Fair	Fair
Bluewater Dam	Irrigation	Fair	Fair	Fair	Fair
San Mateo Dam	Irrigation	Unsatisfactory	Unsatisfactory	Unsatisfactory	Unsatisfactory
Power Lake Dam	Recreation	Unsatisfactory	Unsatisfactory	Unsatisfactory	Unsatisfactory
Gardner Dam	Flood Control	Unsatisfactory	Unsatisfactory	Unsatisfactory	Unsatisfactory

Railroad Dam No. 1	Recreation	Poor	Poor	Poor	Poor
--------------------	------------	------	------	------	------

Source: OSE and LFC Files

The Dam Safety Bureau does not own or operate any dams, and dam rehabilitation and maintenance are the dam owners' responsibility. OSE and the Dam Safety Bureau make clear they do not have a mandate or the resources to promote dam rehabilitation or to perform grant administration tasks. OSE uses capital outlay appropriations on various projects across the state including dam rehabilitation. Capital outlay projects include projects such as flood control measures in metro Albuquerque, creek restoration, diversion channels, irrigation, and dam rehabilitation.

**Office of the State Engineer Capital Outlay Appropriations
(2013 through 2020)**

Year	Total Appropriations	Number of Projects	Number of Dam Rehabilitation Projects	Dam Rehabilitation Appropriations
2013	\$9,840,070	12	5	\$8,613,070
2014	\$12,130,000	8	8	\$12,130,000
2015	\$1,110,000	4	1	\$35,000
2016	\$2,139,000	3	1	\$1,000,000
2017	-	-	-	-
2018	\$2,775,600	3	3	\$2,775,600
2019	\$7,372,000	7	3	\$5,470,000
2020	\$5,660,000	4	2	\$4,500,000

Source: OSE and LFC Files

The capital outlay bill also includes appropriations for local dam projects. The Spring Canyon Dam project in Dona Ana County, for instance, has been receiving capital outlay since 2018, when \$575,600 went towards design. The project received an additional \$1.45 million in 2019 and \$2.5 million in 2020. The \$2.5 million severance tax bond appropriation was reauthorized in 2021. As of 2020 the project status is "in design". In 2020, the \$2 million designated for statewide dam rehabilitation was broken down into two projects: Cimarroncito Dam and Bear Canyon Dam. The Cimarroncito project received \$750 thousand to develop plans for bidding and construction funding has not yet been secured. This dam is listed at number one on OSE's prioritization list. The remaining funds, \$1.25 million for Bear Canyon was used to match federal funding and the project is in the construction phase.

Morphy Lake Dam is a project that has recently been completed. The project received capital outlay funding since at least 2013 with \$100 thousand in that year, \$30 thousand in 2014, \$35 thousand in 2015, and \$2 million in 2018. OSE had previously received \$250 thousand in 2007 to design work for rehabilitation of the dam. The dam was considered a public hazard by the State Engineer in 2015. The project also required a \$1.1 million grant/loan from the Water Trust Board.

Appendix E. \$10 Thousand Capital Outlay Appropriations, FY20

Eighteen FY20 projects received exactly \$10 thousand appropriations, which in most cases represented less than 10 percent of the requested amount. The total request for the 18 projects exceeded \$2.4 million, with only 7 percent, or \$180 thousand, funded. The highest ask was \$270 thousand for an acequia project and the lowest ask was \$25 thousand, still 60 percent higher than what was actually funded. LFC guidelines on local capital projects say a \$50 thousand minimum level should be set for projects funded with severance tax bonds, unless a lesser amount is needed to complete a project. Similarly, \$50 thousand is the amount available for planning grants for water projects from the Local Government Planning Fund. Because planning is typically the least expensive phase of a water project, \$50 thousand could be considered the minimum required to complete a functional phase.

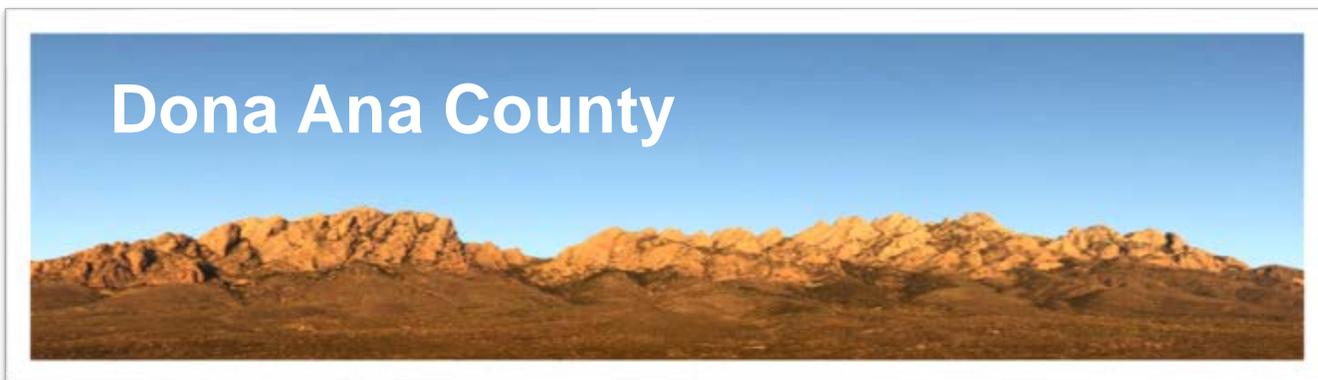
Additionally, larger projects are more likely to realize savings to state and local governments, reduce future year operating expenditures, provide for completion of projects in a timely manner, address significant community needs, and streamline state and local administrative efforts. Legislators should consider avoiding capital allocations of less than \$50 thousand and encourage their communities to seek loans and other grants if a projects falls below that threshold.

2020 Water Projects that Received Only \$10 thousand in Capital Outlay

Project Name	Amount Requested	Amount Received	Percentage of Amount Received Versus Requested
Acequia Del Molino Improve	\$120,000	\$10,000	8%
East Pecos Ditch Improve	\$250,000	\$10,000	4%
Acequia De La Otra Vanda Improve	\$270,000	\$10,000	4%
West Pecos Acequia Assoc Dam & Spillway Ren	\$120,000	\$10,000	8%
Acequia De La Mesa Prieta Infra Improve	\$220,523	\$10,000	5%
Vallecitos East Ditch Assoc Infra Improve	\$180,000	\$10,000	6%
Union Del Llano Mdwca Water Sys Improve	\$121,500	\$10,000	8%
Acequia De Los Ranchos De Chimayo Improve	\$180,000	\$10,000	6%
Acequia Del Cano Improve	\$120,000	\$10,000	8%
Acequia Martinez Medio Improve	\$180,000	\$10,000	6%
Acequia Canoncito De La Cueva Improve Mora Co	\$25,000	\$10,000	40%
Acequia De La Isla Morphy Lake Intake Canal Dam	\$290,000	\$10,000	3%
Acequia De Los Huerros Improve	\$50,000	\$10,000	20%
Acequia Del Alto Al Norte Improve	\$33,000	\$10,000	30%
Acequia De La Posecion Pipeline Improve	\$40,000	\$10,000	25%
Acequia De Los Espinosas Improve	\$130,000	\$10,000	8%
Acequia Larga De Jacona Barrier Construct	\$50,000	\$10,000	20%
El Prado Wsd Cmty Ctr Improve	\$50,000	\$10,000	20%
Total	\$2,430,023	\$180,000	7%

Source: LFC Files

Appendix F. Evaluated Water Projects



County: Dona Ana



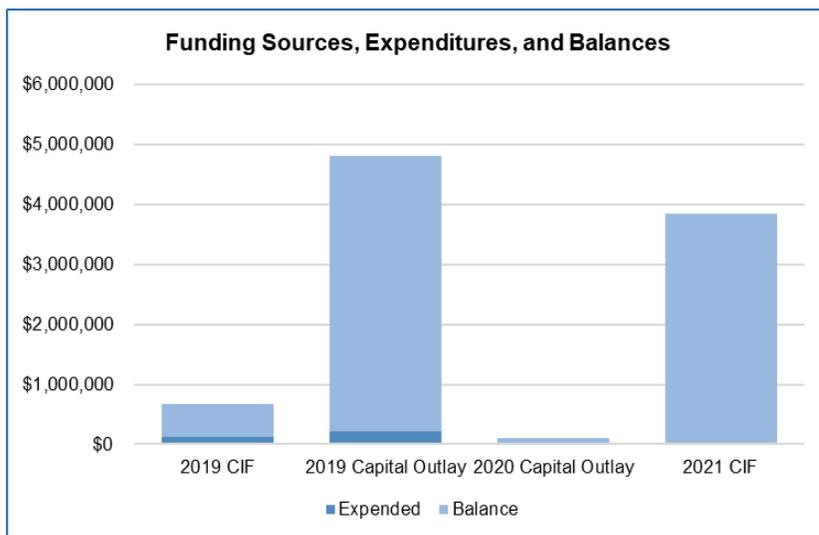
2021 Sewer Rates: \$48.25



Population Served: 8,735

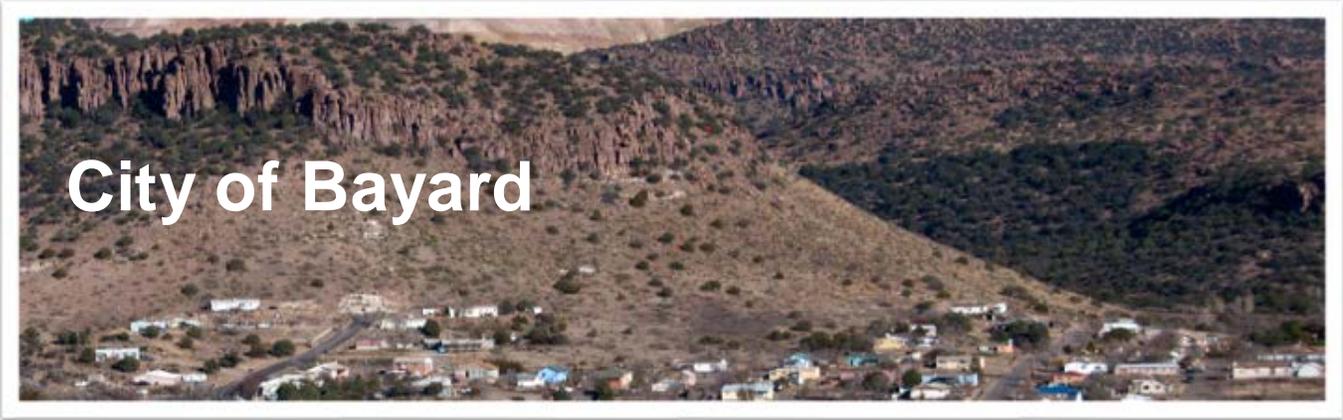
South Central Wastewater Treatment Plant

Aging infrastructure and added stress on the system from accepting septic waste created the need for multi-million dollar repairs to the South Central Wastewater Treatment Facility (SCWWTP) in Dona Ana County. Built roughly 20 years ago, the needed repairs include new headwork structures, flow meters, influent lift station, and repairs to the ventilation system. The plant also needs new septage handling lagoons, a grit removal system, improvements to the aeration system, a canopy to protect equipment from elements, and other upgrades at a total estimated cost of \$5,653,000. At the time of LFC’s visit, the County had been awarded \$5,586,000 in grants and capital outlay, just shy of the existing need. Due to developments after the original cost estimates were developed including equipment deterioration, needed repairs not originally envisioned as necessary, and new EPA permit requirements, additional funds were requested bringing the total cost to over \$9.8 million. The County received two additional CIF grants/loans and the projects is now fully funded. The plant serves an estimated 8,735 people in Mesquite, San Miguel, La Mesa, Del Cerro, Vado, Berino, and Montana Vista.



Intended Purpose Met	No
Functional Phase Fully Funded	Yes
Project Fully Funded	Yes

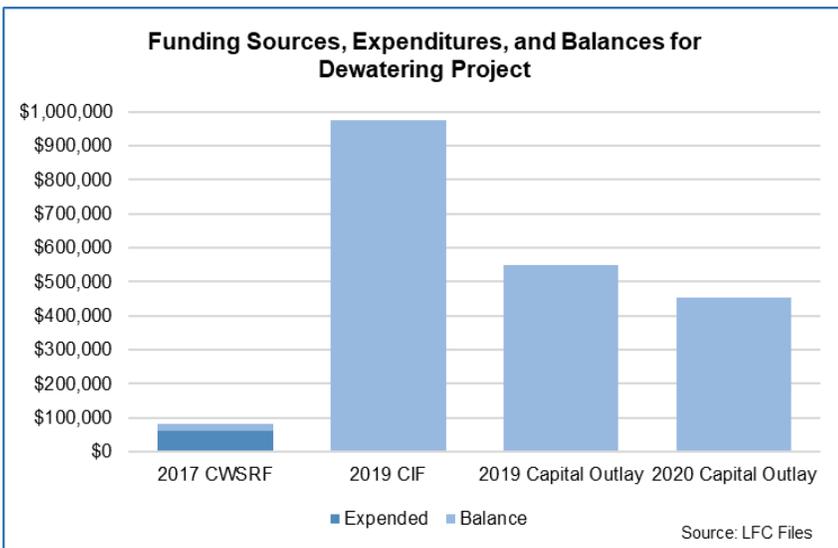
Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	10%	No	Yes	2021



County: Grant 2021 Sewer Rates: \$17.31 Population Served: 5,800

Wastewater System Improvements

Only in operation 13 years, Bayard’s wastewater treatment plant is experiencing rapid deterioration and is in need of over \$3 million in repairs and upgrades. Plant operators began noticing corrosion in 2018 and immediately began procuring funding for repairs. When LFC staff toured the plant, operators explained corrosion is normal in wastewater treatment plants but is worse than expected for a plant its age due to a number of technical factors. They plan to replace damaged equipment with stainless steel which is more resistant to the elements but are more expensive than current fittings. Bayard’s experienced city manager, who has been in the job for 25 years, has sought out and received funding from the Clean Water State Revolving Fund, Colonias Infrastructure Fund, capital outlay, and local cash reserves for a wastewater dewatering project, and funding from the State Board of Finance, Community Development Block Grant, and capital outlay for repairs and replacement of influent infrastructure. The community has additional, as-yet unfunded needs at the wastewater treatment plan totaling an estimated \$885 thousand, according to the city manager.



Intended Purpose Met	No
Functional Phase Fully Funded	Yes
Project Fully Funded	Yes

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	16%	No	Yes	2021

Village of Maxwell

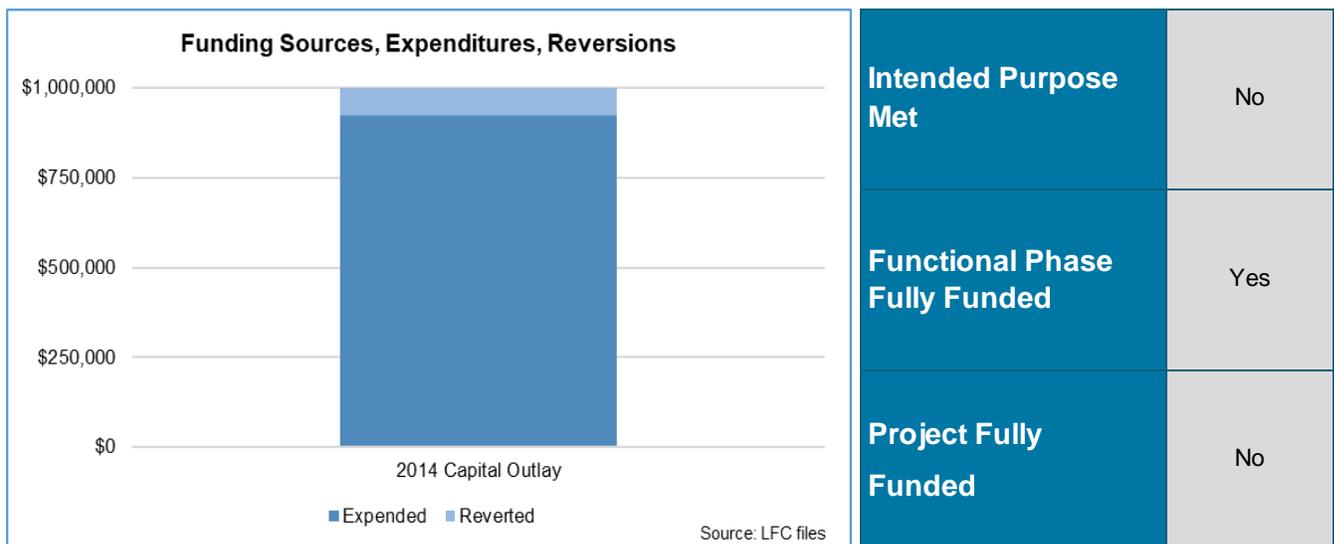
County: Colfax

2021 Water Rates: \$ 25.00

Population Served: 354

Alternative Water Supply

From 2014 to 2020, the Village of Maxwell expended nearly all of a \$1 million capital outlay grant in pursuit of an alternative water source. However, when the project closed in June 2020, neither of two new water wells drilled since 2014 were functional, and as of April 2021, additional funds to bring one of the wells online had not been secured. The 2014 appropriation followed a drought-induced water crisis in the village, when the shallow aquifer that is its sole source of water was so depleted that the village wells delivered a mere trickle of water to residents' taps. The capital outlay grant was intended to allow the village to develop a water supply less vulnerable to drought. Whether the village would be able to find and utilize an alternative water source was uncertain from the outset because little was known about the existence and quality of deeper aquifers in the area. Initial planning for the project was completed in June 2017, with engineers recommending and NMED approving the drilling of an exploratory deep well and an additional shallow well into the village's existing water source. In 2018, the project was reauthorized by the Legislature to allow construction to proceed. The exploratory well did find water in a deep formation but the quality was poor and would require treatment to meet drinking water standards; it has been plugged for potential future use. The new shallow well has not been connected to electricity due to a budget shortfall of roughly \$30 thousand.



Intended Purpose Met	No
Functional Phase Fully Funded	Yes
Project Fully Funded	No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Incomplete	0%	No	No	2016



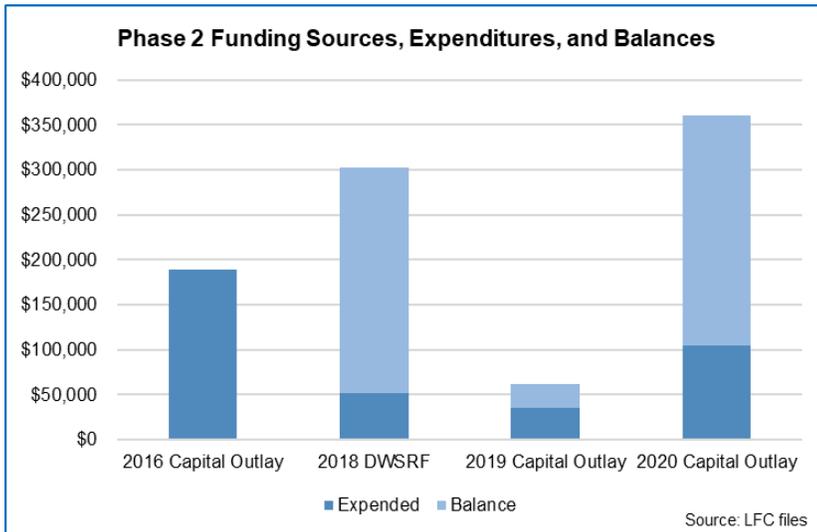
County: Taos 

2021 Water Rates: \$ 34.55

 Population Served: 319

Drinking Water Project

The Lower Des Montes Mutual Domestic Water Association has utilized both capital outlay and loan funds to replace their aging drinking water system. Phase 1 of the project was concluded in 2016, however funding constraints did not allow for completion of all planned system improvements. A preliminary engineering report for Lower Des Montes completed in 2011 was amended in 2018 to include additional system improvements, but due to receiving only a portion of the amount requested for Phase 2 of the project, the association lacks funding to complete all needed improvements. So far, the association has rehabilitated one storage tank, added a new storage tank, and replaced a functionally-extinct electrical system. Construction of Phase 2 is ongoing, with replacement of one section of water line to be completed this summer. Phase 3, which is unfunded, would complete replacement of all metal water lines in the system. The system was built in 1967 with a donation of land to house the pump, water tank, and associated equipment. The system is four miles long, serves 111 households and has a waiting list of 23 households that want to connect to the system. With continued residential construction in the area, the waitlist is expected to increase. Additionally, Lower Des Montes and Valdez Mutual Domestic Water Users Association have an Memorandum of Understanding to work together as a regionalization effort for water improvements in the area as they are a smaller adjacent system with only 47 members.



Intended Purpose Met	Partly
Functional Phase Fully Funded	Yes
Project Fully Funded	No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	21%	Yes	Yes	2016



County: San Miguel



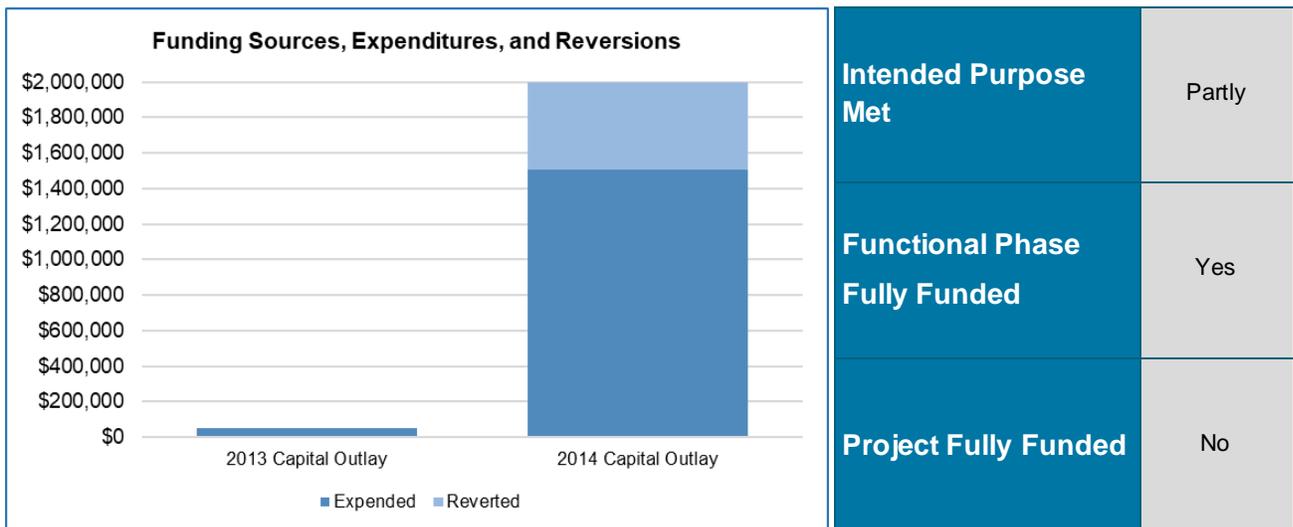
2021 Sewer Rates: \$16.00



Population Served: 2,133

Wastewater System Improvements

In June 2020, nearly \$500 thousand of a \$2 million capital outlay appropriation to the village of Pecos reverted and the grant was closed even though the project remains only partially constructed. The \$2 million award was made in 2014 and was intended to fund design and construction of a project to connect roughly 40 residents on Rincon Road to the Pecos sewer system. In theory, the project was poised for success because a capital outlay grant for \$50,000 in 2013 had funded planning for the project and the community's request the subsequent year for design and construction was fully funded. A separate but related request from Pecos the same year for \$1.4 million to connect a water well in the Rincon Road community to the village water system was not funded, however, and in 2015, the sewer project was reauthorized for a change of purpose, with the language expanded to include the water project. Relative to the original requests, the expanded project was only 59 percent funded. The well project was constructed in 2020 and a lift station was built for the eventual sewer connections. However, no funding or plans currently exist to complete the sewer project.



Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	0%	Yes	No	2019

To'Hajiilee Chapter



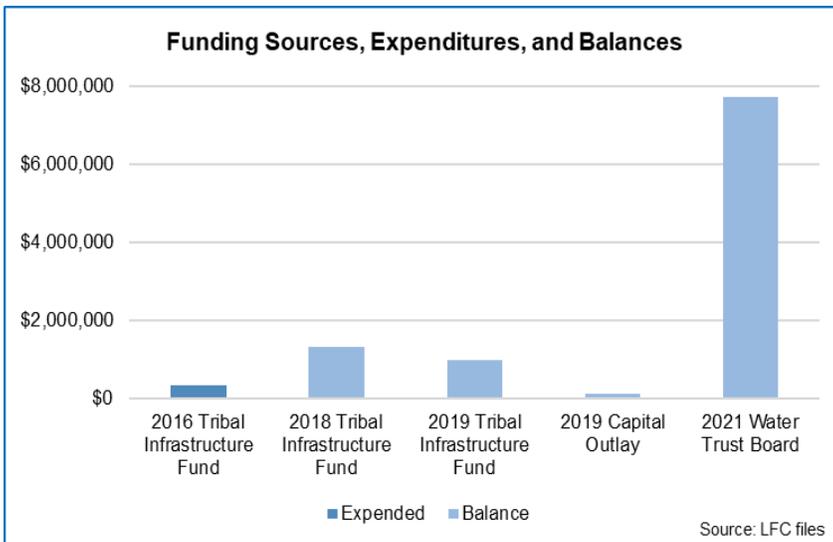
County: Bernalillo

2021 Water Rates: Unknown

Population Served: 1,500

Drinking Water Project

The To'Hajiilee Chapter of the Navajo Nation is one of three satellite communities outside of the greater Navajo Nation, and is located approximately 24 miles west of Albuquerque. Access to reliable and safe drinking water in To'Hajiilee has been an issue for decades. The groundwater that currently supplies the community is of poor quality and has a corrosive effect on existing infrastructure, with water service frequently interrupted and water that is delivered to residents undrinkable. Additionally, some residents do not have running water at all. A 7.3-mile water transmission line would allow the community to connect instead to the Albuquerque Bernalillo County Water Authority's system, but the project has been delayed by protracted negotiations with a private landowner located out of state who owns land the transmission line will have to cross and infrastructure it will have to tie into. Those negotiations were finalized in 2020 and the project is expected to proceed to construction next spring. The project has received \$10.5 million in state support to date.



Intended Purpose Met

No

Functional Phase Fully Funded

Yes

Project Fully Funded

No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	Unknown	No	No	Unknown

City of Bloomfield

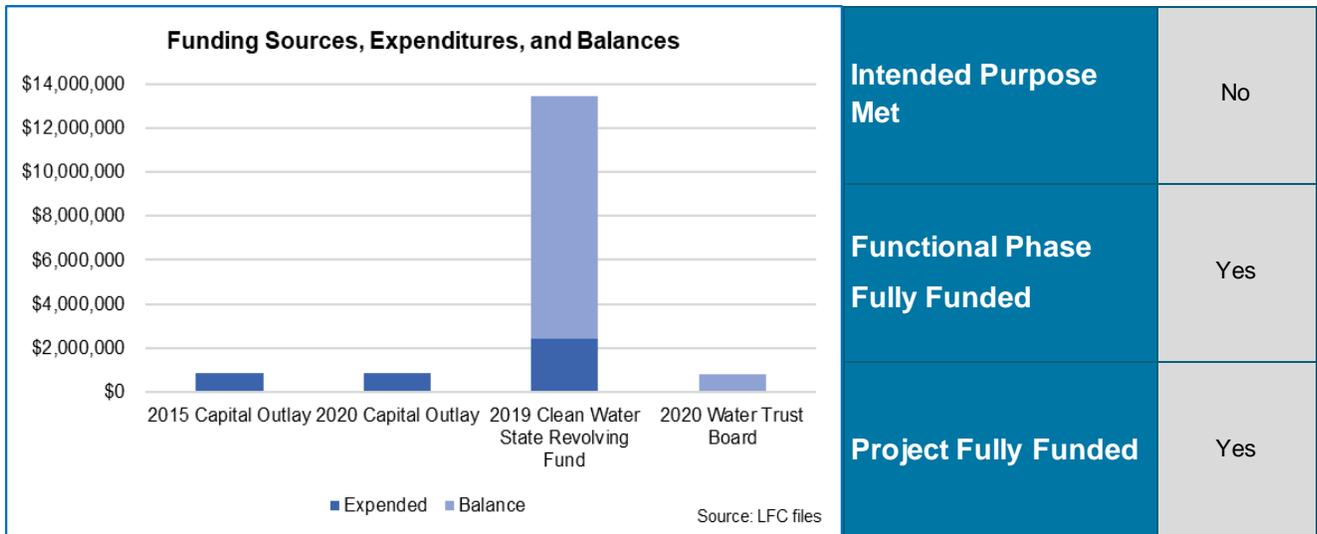
County: San Juan

2021 Sewer Rates: \$27.42

Population Served: 7,090

Wastewater Treatment Plant Renovation

After receiving \$840,000 in 2015 in capital outlay for an effluent reuse project, Bloomfield hired a new public works director and the city shifted its priorities to overhauling its aging wastewater treatment plant, which was needed to comply with an EPA administrative order to address a failing infrastructure and to improve the quality of water being released into the San Juan River. The community sought reauthorization of the funds to expand the purpose of the project to include renovating the wastewater treatment plant. The reauthorization and additional funding allowed Bloomfield to pursue nearly complete replacement of the plant, with the effluent reuse project put on hold until the final phase of construction. Bloomfield sought additional loans and grants and raised sewer rates to take on a \$9 million loan from the Clean Water State Revolving Fund, without which it would have been very difficult to get the largescale project done efficiently and effectively. The project is currently in construction.



Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	55%	No	Yes	2017

Village of Tularosa



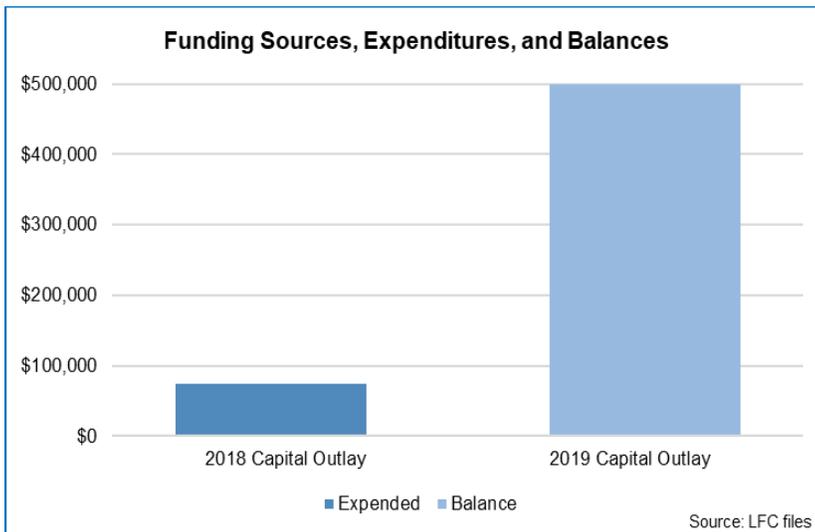
County: Otero

2021 Sewer Rates: \$34.00

Population Served: 3,996

Wastewater Treatment Plant

The Village of Tularosa received a USDA loan in 2005 to construct a wastewater treatment plant to replace the older plant that the village has used since 1980. The new plant was built, but problems with its engineering oversight and construction meant it had to be taken offline in 2013. As a result, the village has been utilizing a blend of the older and newer plants by combining the functioning aspects of each. This solution is unsustainable, and costs the village upwards of \$500 thousand annually. In 2016, the village hired an engineering firm to repair the newer system and then received a capital outlay appropriation for \$500 thousand to explore long-term solutions for the failing plant. Initial efforts to repair the new facility were unsuccessful due to the state of disrepair. A technical memo to investigate the condition of both the old and new treatment plants was then completed. The firm has offered four options ranging in cost from \$3.5 million to repair the troubled plant to \$9 million to construct a completely new treatment facility. The firm's recommended solution would be a hybrid between the new and old plants at a cost of \$5.3 million, and would involve retrofitting functioning parts from the new treatment plant and including them in a renovation of the older plant. The village is likely to need additional grant money to pursue whichever solution it chooses.



Intended Purpose Met	No
Functional Phase Fully Funded	Yes
Project Fully Funded	No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Design	0%	No	No	Unknown

City of Lovington



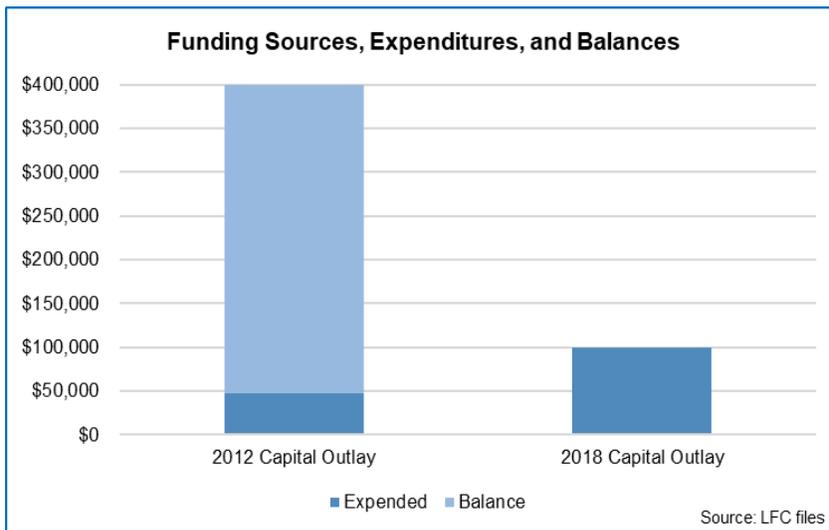
County: Lea

2021 Water Rates: \$ 22.00

Population Served : 11,000

Water Wells

Lovington made a capital outlay request in 2012 to build three new water wells, which were never completed. The appropriated funds were eventually reauthorized in order to allow the city to renovate its sewage and water pipes in the downtown area. Lovington received the initial capital outlay appropriation for \$400 thousand to build the three wells. However, the city was only able to complete planning and design within the first four years. The city went through two rounds of bidding, but both were unsuccessful. The project was reauthorized again in 2016, adding an additional \$100 thousand, but a suitable contractor was never found to complete the project. In 2020, the funds were reauthorized to be used for water and sewage line renovations in the downtown area. Those renovations will be done in conjunction with a Department of Transportation project to redo a section of Main Street in an effort to drive down costs. That project recently wrapped up planning and design and is now in the bidding process, although two bids have already been put out without a cost effective solution being found. The city is preparing to make a third bid.



Intended Purpose Met	No
Functional Phase Fully Funded	Yes
Project Fully Funded	No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Bid	0%	No	No	2015

Eastern New Mexico

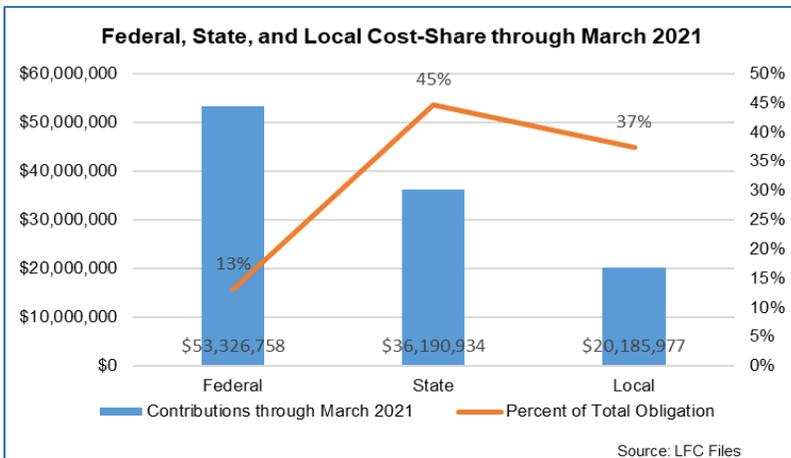


County: Curry, Roosevelt

2021 Water Rates: N/A

Population Served: 69,000

The Eastern New Mexico Rural Water System is one of five federally-authorized rural water projects in the nation currently under construction with U.S. Bureau of Reclamation support. It is eligible for a 75 percent federal cost-share, with the state committing to fund 15 percent of the project and local entities the remaining 10 percent. The project will connect roughly 69,000 people in the region to an alternative water supply from Ute Reservoir, which will replace the region's dependence on the declining Ogalalla Aquifer for drinking water. Such opportunities are both increasingly needed and increasingly rare in New Mexico. For the small town of Texico and some parts of Curry County, however, an interim solution may be required because wells are already struggling to produce enough water and may run dry within a few years. Construction of two of seven phases of the Eastern New Mexico project are complete, with the contract for the third phase awarded in May 2021. According to local stakeholders, the project benefits from an experienced local administrator and engaged board. The authority has a five-year design and construction plan for the remaining phases and a finance plan for capital costs, operations, and maintenance extending to 2044. The five-year design and construction plan aims for the project to be continuously under construction, with design for future phases occurring while other phases are being built. The project is expected to be completed in the mid 2030s and, adjusting for inflation, the final cost could reach \$750 million.



Intended Purpose Met	Partly
Functional Phase Fully Funded	Yes
Project Fully Funded	No

Project Status	Percent Local Cost Share	Serving the Public	Rates Raised to Complete	Last Rate Increase
Construction	10%	No	Yes	Variable by Community