NEW MEXICO
CLEAN WATER STATE REVOLVING FUND
INTENDED USE PLAN
STATE FISCAL YEAR 2017

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Clean Water
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I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Sec. 603 (a) & (b)

Through enactment of the Wastewater Facility Construction Loan Act (Loan Act), Chapter 74, Article 6A, NMSA 1978, as amended, the New Mexico Legislature created a revolving loan fund (Fund). The purpose of the Loan Act "is to provide local authorities in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities through the creation of a self-sustaining program so as to improve and protect water quality and public health" §74-6A-2 NMSA (1978).

The Fund is administered by the New Mexico Environment Department (NMED) as agent for the Water Quality Control Commission. State money is appropriated to NMED to carry out the provisions of the Loan Act and may be used to match Federal funds allocated to New Mexico pursuant to the Federal Clean Water Act (CWA), as amended, for the purpose of making loans to eligible local authorities. Federal capitalization grants, loan principal, interest repayments and earnings on balances in the Fund are deposited into the Fund. Administrative fee and refinance fee revenues are deposited into a separate dedicated Clean Water Administrative Fund.

The Water Quality Control Commission (WQCC), which is New Mexico's water pollution control agency, has adopted regulations, application procedures, and an integrated priority ranking system pursuant to the Loan Act, which is used by NMED in administering the loan program. The New Mexico Water Quality Act of 1967 §74-6-4 NMSA (1978) identified the duties and powers of the WQCC. The provision states:

> "The Commission:
>
> A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided."

II. FUND GOALS, Clean Water Act Sec. 606 (c) (2)

A. Long-term Goals for State Fiscal Year 2017:

1. To provide local authorities in New Mexico with low-cost financial assistance in the construction of wastewater facilities by maintaining a self-sustaining Clean Water State Revolving Loan Fund Program thereby improving and protecting water quality and public health. (See attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017.)
2. To maintain the CWSRF into perpetuity by adding repayment and investment interest, and maintaining the principal amounts of capitalization grants and state matching funds within the CWSRF. (See attached Cash Flow Projections; Table 2, Projected Disbursements; Table 3, Projected Loan Repayments; and Table 4, FFY 2017 SRF Outlays. Also see Figure 1, Sources and Uses in Section XI below.)
3. To maintain the fiscal integrity of the CWSRF.
4. To provide funding to reduce and/or eliminate discharges of pollutants into the State's waters and to improve water quality in all state waters.
5. To encourage Green Projects by providing funding opportunities for eligible projects that support energy efficiency, water efficiency, green infrastructure and environmentally innovative works.

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6. To continue to provide subsidy to eligible entities.

B. Short-term Goals for State Fiscal Year 2017:

1. Completion of the annual audit, intended use plan and annual report in a timely manner. CWA Sec. 606 (b, c, d).
2. Identify recipients from the SFY 2017 IPPL to receive the remaining subsidy amount of $711.75 from the FFY 2010 Allotment.
3. Identify recipients from the SFY 2017 IPPL to receive the remaining subsidy amount of $490,000 from the FFY 2014 Allotment.
4. Identify recipients from the SFY 2017 IPPL to receive the remaining subsidy amount of $298,281 from the FFY 2015 Allotment.
5. Identify recipients from the SFY 2017 IPPL to receive subsidy in the amount of $2,610,000 from the FFY 2016 Allotment.
6. Close out the 2014 Cap Grant that was fully expended in SFY 2016.
7. Close out the 2015 Cap Grant that was fully expended in SFY 2016.
8. Begin draw-down and complete the FFY 2016 Allotment in the amount of $6,525,000.
9. Execution of approximately $24 million in binding commitments:

Projected Borrower	Projected Loan Amt.	Projected Grant Amt.
Angel Fire, Village of	$390,275	$192,225
Los Lunas, Village of	$7,718,406	$404,594
Rio Arriba County	$950,000	$460,000
To be determined from attached 2017 IPPL	at least $10,000,000	approx. $3,400,000**
Projected Binding Commitments*	**$19,058,681**	**$4,456,819**

*Note: NMED considers a Binding Commitment as the Borrower's acceptance of NMED's funding offer as evidenced by the Borrower's intent to adopt an Ordinance via an advertisement and agenda.

**Note: This amount includes subsidy in the amount of $2,610,000 from the FFY2016 Allotment which is in the process of being applied for as of the date of this IUP.

10. Identify the $652,500 in green projects for the FFY 2016 Allotment from the binding commitments listed above as "to be determined from attached 2017 IPPL."
11. Apply for the current federal fiscal year's allotment in the first year that it is appropriated.
12. Execution of 20-year loan agreements (converting loans from construction phase to post construction/repayment phase) for the City of Las Vegas; City of Rio Rancho; SSCAFCA; City of Belen; City of Portales; El Valle de Los Ranchos; City of Socorro; and the City of Carlsbad.
13. The state commits to completing the environmental benefits in the CWSRF Benefits Reporting System (CBR) by the end of the quarter in which a loan agreement is signed and providing printouts of the environmental benefits with our Annual Report.
14. Convert the fillable Adobe Acrobat based CWSRF Application Form used by potential borrowers to apply for inclusion on the Integrated Projects Priority List (IPPL) into an online application form.
15. Refine the process for soliciting and funding non-traditional CWSRF projects to include expanded eligibilities as defined in the Water Resources Reform and Development Act (WRRDA). In order to achieve this goal, NMED must review and update New Mexico statutes and administrative code.
16. Exceed the national average in terms of financial indicators.

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III. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act Sec. 606 (c) (5)

Pursuant to the Loan Act, the WQCC adopted regulations concerning eligibility requirements for financial assistance, application procedures, priority ranking system and administration of the loan program and Fund. The current integrated priority ranking system was approved by EPA and adopted by the WQCC on April 9, 2013. The CWSRF and NMED staff evaluate and rank projects to mitigate point sources (§212) and non-point sources (§319) of water pollution (see attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017). All §319 activities implement the state's §319 Nonpoint Source Management Plan. The state will review this plan when determining eligibility.

Currently New Mexico has no §319 projects in process or planned.

Public notice of the Integrated Projects Priority List (IPPL) process was provided through publication in independent newspapers statewide and the NMED website. NMED accepted public comments regarding the SFY 2017 IPPL from May 16th – June 3rd of 2016 (see attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017. One comment was received with questions about the ranking system and the usability of the application. CPB responded and the applicant was satisfied. A project must be on the current New Mexico state fiscal year IPPL in order to receive a loan. It is the policy of NMED to make loans to communities in order of priority on the current fiscal year priority list to the extent reasonable considering the following:

1. willingness of a community to accept a loan;
2. financial capability of the community to service the loan;
3. the ability of the community to operate and maintain the proposed project; and
4. readiness to proceed.

Communities that do not meet the above criteria and all of the funding conditions may be by-passed.

Application to the CWSRF: The applicant must completely fill out a CWSRF Application for each project. Applications may be submitted to the CPB by e-mail, fax or mail on or before the deadline date. Applicants must apply annually.

Method of Cash Draw: The method of cash draw for all capitalization grants is to expend 100% of the required state match first, and then federal funds will be drawn after those funds are exhausted.

Additional Subsidization: NMED, under New Mexico Administrative Code 20.7.5.14.H (3), has the authority to award a combination of loan and grant in those years when grant funding is available for assistance to rural communities. CPB considers communities with less than 20,000 people or counties with less than 200,000 people to be rural communities. NMED has developed affordability criteria to determine additional subsidization per WRRDA for use after September 30, 2015. The Affordability Criteria looks at user rates as a percentage of per capita income, population trends, and unemployment levels. A community may score sufficient points in any one category to warrant additional subsidization or may score cumulative points to do so as well. The

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CWSRF Affordability Criteria System can be viewed at https://www.env.nm.gov/cpb/CWSRFPage.htm.

NMED has subsidy available in the following allotments:

Allotment FFY	Cap Grant SFY	Subsidy Amount	Available Subsidy
2010	2011	$4,993,274.00	$711.75
2014	2014	$559,386.00	$490,000.00
2015	2015	$2,045,100.00	$298,281.00
2016	2016	$2,610,000.00	$2,610,000.00

Note: The 2016 Allotment is in the process of being applied for as of the date of this IUP.

Regarding the $711.75 in subsidy from the FFY 2010 Allotment (2011 CG), the Village of Jemez Springs executed an interim loan agreement on April 5, 2013 in which the Village was awarded $169,274 in subsidy. Subsequently, the Village's project came in under budget; therefore leaving a balance in subsidy. Although NMED exceeded the minimum subsidy required amount of $1,497,982 by $3,494,580.25, NMED is committed to award the remaining $711.75.

Regarding the 2014, 2015 and 2016 Allotments, the available subsidy is subsidy that has not yet been committed as of the date of this Draft IUP; however projects eligible to receive subsidization in the form of grants have been noted on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017. NMED has identified over $35 million in projects eligible for subsidy. Table 6 provides a list of all projects that support sustainability criteria.

Green Project Reserve (GPR): Potentially green projects to count toward the FFY 2016 Allotment GPR amount of $652,500 are shaded green and the potential green category is identified on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017. NMED has identified over $1.8 million in projects with green components. All business cases required to meet the GPR will be posted to NMED's website at https://www.env.nm.gov/cpb/GreenProjectReserve.htm

CWSRF-DWSRF Fund Transfers: The State of New Mexico reserves the authority to transfer up to 33 percent of the CWSRF Capitalization Grant to the DWSRF, or an equivalent from the DWSRF to the CWSRF. New Mexico does not anticipate utilizing this authority in SFY 2017.

IV. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act Sec. 606 (c) (1)

The attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017 contains a list of all projects eligible for assistance pursuant to Sec. 212 of the CWA as amended in 2014.

V. DISCHARGE REQUIREMENTS, Clean Water Act Sec. 606 (c) (3)

Attached Table 1, Integrated Projects Priority List, State Fiscal Year 2017 lists information on activities to be supported, including a description of project categories, discharge permit information, and communities served.

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VI. FINANCIAL DATA, Clean Water Act Sec. 603 (d) (1) (a)

Pursuant to the Loan Act, revised April 9, 2015, a loan shall be made for the period of time not to exceed thirty (30) years.

The NM CWSRF interest rate, including the administrative fee portion (see Section VIII below), cannot exceed the market loan interest rate. The NM CWSRF interest rates are governed by Subsections F through H of 20.7.5.14 New Mexico Administrative Code (NMAC).

Loans are set up to be repaid in annual installments. Borrowers may prepay the loan or any portion of the loan at any time. NMED shall prepare repayment schedules for the borrower. The first annual installment is due no later than one (1) year after completion of the project.

As discussed in Section II A. 2 and shown in the attached Cash Flow Projection, the State maintains the long term health of the Fund by adding the repayment interest and investment interest to the revolving fund.

VII. STATE MATCH

The State of New Mexico has proposed and EPA Region 6 has accepted that NMED will expend all of the required CWSRF state match funds up-front prior to distributing federal funds. Once the total required state match for each CWSRF Capitalization Grant has been expended, the State will draw down one hundred percent (100%) of the Federal funds for each respective CWSRF capitalization grant. This process began in SFY 1995, is confirmed to be followed in SFY 2017 and will continue in the future. This drawing arrangement is for the convenience of the state and does not alter any other provision that would have otherwise been applicable if Federal funds had been drawn proportionately with State funds.

During the 2016 1st Legislative Session held January 19 through February 18, 2016 the New Mexico Legislature appropriated $1,400,000 from the Public Projects Revolving Fund (PPRF) for state match funds for the FFY 2016 Allotment of $6,525,000. This amount will fund the 20% State Match requirement of $1,305,000. These funds will be deposited on July 1, 2016 and will be expended prior to the 2016 allotment capitalization grant funds. The $6,525,000 in federal cap grant funds has not been awarded as of the publication of this document; CPB has requested access to the funds in the 4th Quarter of FFY 2016.

NMED has overmatched the cumulative Federal Capitalization Grants over the life of the CWSRF program (see attached Table 5, Federal Awards and State Match through SFY 2017).

VIII. PROGRAM ADMINISTRATION

Beginning in fiscal year 1990 reasonable costs for administering the loan program have been paid out of the loan fund in conformance with 40 CFR Part 35.3120, the CWA and 74-6A-4, NMSA 1978, as amended, including WRRDA amendments. In SFY 2017, NMED has chosen to use 1/5 of one percent of the current valuation of the CWSRF fund for the costs of administering the fund. As of June 30, 2015, the audited current valuation (Total Net Position) of the CWSRF (fund12100) was $291,071,684, of which 1/5th of one percent is $582,143.37.

NMED has no remaining amounts for administrative costs from open capitalization grants.

NM CWSRF currently charges a variable administrative fee of 0.2827 to 0.4616%; this is dependent upon the term of the loan and is earned annually on the principal amount. The fee will be applied to loans executed in SFY 2016. The administrative fee is subtracted from the interest rate charged to borrowers and as such, does not add to the financial burden of the borrowers. This administrative fee is deposited into the Clean Water Administrative Fund (32700) which is budgeted and tracked separately from the Clean Water State Revolving Loan Fund. The fee promises to perpetuate the administration of the revolving loan fund with no fiscal impact on the State's general fund or any material impact on the financial strength of the fund itself. In SFY 2017, Fund 32700 is anticipated to have the following activity:

Fund 32700 SFY 2017 Activity	Amount
Balance beginning of SFY 2017 (ending balance as of 5/25/16)	**$1,665,054**
Estimated investment interest from the State Treasurer's Office to be earned in SFY 2017	+3,000
Loan Administrative Fees anticipated to be collected in SFY 2017	+310,000
Program operating expenses budgeted from Fund 32700 in SFY 2017	-489,000
Balance end of SFY 2017	**$1,489,054**

The expenses budgeted for use in SFY 2017 from the Clean Water Administrative Fund will be used for eligible expenses and will be tracked for EPA's review and verification.

IX. ASSURANCE AND SPECIFIC PROPOSALS, Clean Water Act Sec. 606 (c) (4); Sec. 602 (b) (3), (4), (5); Sec. 603 (d), (h)

Environmental Reviews: The State certifies that it will conduct environmental reviews of each project receiving assistance from the Fund in accordance with 40 CFR 35.3140. Environmental review procedures have been adopted following criteria established by the EPA. In FFY 2005, the State modified its environmental review procedures and EPA formally concurred with it in December 2005. In FFY 2016, the SERP was revised again and submitted to EPA Region 6 for review.

Binding Commitments: Sec. 602 (b) (3). The State certifies that it will enter into binding commitments equal to at least 120% of each quarterly grant payment within one year. NMED considers a Binding Commitment as the Borrower's acceptance of NMED's funding offer as evidenced by the Borrower's intent to adopt an Ordinance via an advertisement and agenda.

Timely Expenditures: Sec. 602 (b) (4). The State certifies to expend all funds in an expeditious and timely manner.

Davis-Bacon Wage Rates: As of June 10, 2014, Section 602(b)(6) of the CWA was amended to include the application of Davis Bacon wage rates to all treatment works projects funded in whole or in part by the CWSRF. Davis-Bacon applies to construction contracts over $2,000 and their subcontractors (regardless of the subcontract amount).

To ensure compliance with these requirements, NMED will continue to confirm that the correct wage determinations are being included in the bid specifications and construction contracts. NMED will also continue to provide assistance recipients with the specific EPA Davis-Bacon contract language that is to be included in bid specifications and/or contracts. In addition, NMED will continue to ensure compliance through project inspections and Certifications.

Generally Accepted Accounting Principles: As of June 10, 2014, Section 602(b)(9) of the CWA was amended requiring States to have sub-recipients maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB). This provision requires assistance recipients to use standards relating to the reporting of infrastructure assets. NM CWSRF includes this information in the Interim Loan Agreements and reviews compliance annually during Single Audit reviews.

Cost and Effectiveness: Section 602(b)(13) of the CWA (amended effective June 10, 2014) requires that recipient of assistance for CWSRF applications submitted on or after October 1, 2015 must certify that they, the award recipient:

(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—

- (i) the cost of constructing the project or activity;
- (ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and
- (iii) the cost of replacing the project or activity

The State of New Mexico utilizes the USDA RUS Bulletin 1780-2 as the required format for a Preliminary Engineering Reports (PER). A PER is the vehicle for determining a project's "cost and effectiveness." This Bulletin includes in the alternatives section, sustainability considerations including water and energy efficiency, and the cost effectiveness of the selected alternative. The cost of operating and maintaining the project over the life of the project is included in the cost analysis of the PER. The NMED Construction Programs Bureau (CPB) technical staff review and approve the PER as part of the project review. The technical staff utilize a checklist when reviewing the PER to ensure that all the required elements are included in the report. The reports are required to be signed and sealed by a licensed professional engineer.

Architectural and Engineering Contracts Procurement: NMED CWSRF will satisfy Section 602(b)(14) of the CWA as amended by WRRDA by compliance with federal procurement 40 U.S.C. 1101 *et seq.*

Financial Sustainability Plan: As of June 10, 2014, the CWA was amended to include Section 603(d) (1) (E) which states that a recipient of a loan for a project that involves the repair, replacement, or expansion of a publicly owned treatment works is required to develop and implement a fiscal sustainability plan (FSP) or certify that it has developed and implemented such a plan.

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The statute requires that FSPs include, at a minimum:

- an inventory of critical assets that are a part of the treatment works;
- an evaluation of the condition and performance of inventoried assets or asset groupings;
- a certification that the recipient has evaluated and has or will be implementing water and energy conservation efforts as part of the plan; and
- a plan for maintaining, repairing, and as necessary, replacing the treatment works and a plan for funding such activities.

This requirement applies to all loans for which the borrower submitted an application on or after October 1, 2014. The first loans this will apply to will be signed in SFY 2016. NM CWSRF has incorporated the FSP requirement in its Interim Loan Agreement and will ensure that:

- for recipients that self-certify, the recipient will provide certification that an FSP has been developed and is being implemented and the certification will be due at the time of loan closing.
- for recipients that are developing an FSP, they must submit an FSP certification to NMED before the final disbursement is approved.
- the borrowers meet at least the minimum requirements listed above.

Procurement Assurances: The State certifies that it shall comply with 40 CFR Part 31 and that the Federal regulations governing procurement in 40 CFR Part 31 and State procurement regulations shall be complied with for the use of capitalization grant funds for procurement activities in the State's administration of the Fund.
The State assures that the disadvantaged business enterprises (DBE) requirements including the six affirmative steps described in 40 CFR Part 31 Sec. 31.36 (e) shall be complied with.

The State has negotiated a "fair share" objective for the following goals:

	MBE (%)	WBE (%)
Construction	34.39	11.02
Equipment	18.87	15.40
Services	33.88	21.72
Supplies	19.46	21.15

These goals were negotiated by NMED with EPA in SFY 2016 and will be in effect for the next three (3) federal fiscal years.

Assistance for the Non-Federal Share: Sec. 603 (h). The State certifies it will not provide loans from the Fund to a community for the non-federal share of a project receiving construction grant assistance from the EPA unless allowed by Federal law.

The state will be utilizing the class deviation from the provisions of 40 CFR 35.3125. This class deviation will allow the non-Federal; non-State match CWSRF Second Tier Funds to be used to provide loans that can be used as the match for all EPA Grant Funded treatment works projects, except construction grant projects authorized by section 201 of the CWA. The State proposes to use its fiscal year of July 1 through June 30 as the accounting period for the Fund.

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American Iron and Steel (AIS) Requirements: Section 608 of the Federal Water Pollution Control Act (FWPCA), as amended by WRRDA, requires the use of American iron and steel products in projects for the construction, alteration, maintenance, or repair of a public water system or treatment works. The Borrower shall comply with all applicable provisions of Section 608 of the FWPCA and related SRF Policy Guidelines found at http://water.epa.gov/grants_funding/aisrequirement.cfm, which includes the requirement that all of the iron and steel products used in the Project are to be produced in the United States unless:

(a) the Borrower has requested and obtained a waiver from EPA pertaining to the Project; or
(b) NMED has otherwise advised the Borrower in writing that the AIS Requirement is not applicable to the Project.

The Borrower shall comply with all AIS record keeping and reporting requirements under the CWA, including any reports required by a Federal agency or NMED such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that:

(a) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities; and
(b) failure to comply with the CWA may be a default and/or result in other remedial actions.

NMED will continue to ensure that these AIS Requirements are met for all projects.

Enhancing Public Awareness: NMED supports the EPA initiative of enhancing public awareness of the CWSRF program and has implemented this requirement in the Interim Loan Agreement. The Borrower must inform NMED as to the type of signage used and provide documentation of such action.

X. AUDITS AND REPORTING

The NM CWSRF is committed to transparency and accountability. To that end, program information, Intended Use Plans, Annual Reports, and other program materials are posted on the NM CWSRF website: https://www.env.nm.gov/cpb/CWSRFPage.htm. An independent audit is conducted by an outside CPA firm annually. Project milestones and information are reported through EPA's Clean Water Benefits Reporting (CBR) database and the National Information Management System (NIMS). The NM CWSRF commits to entering benefits information on all projects into CBR by the end of the quarter in which the assistance agreements is signed.

FFATA Reporting Requirement:

NM CWSRF files a FFATA sub-award report by the end of the month following the month in which a loan agreement greater than $25,000 is signed. NM CWSRF does not apply equivalency for federal cross cutters, single audit, or A/E procurement. Therefore, the first $6,525, 000 in signed loan agreements (see section II B #9 above) will be reported in the FSRS system.

XI. PLAN FOR THE USE OF ALL CWSRF FUNDS

Figure 1 Sources and Uses SFY 2017	
Beginning balance as of 5/25/2016:	
Ending cash balance as of 5/25/2016	$126,395,941
Projected Sources during SFY 2017:	
FFY 2016 Allotment	$6,525,000
FFY 2016 Allotment State Match (Laws 2016)	$1,400,000
2017 Repayment Principal (see Table 3 attached)	$8,533,084
2017 Repayment Interest (see Table 3 attached)	$2,081,669
2017 Overnight Interest (Estimated from SFY 2016 State Treasurer reports)	$230,000
Total Sources	**$145,165,694**
Projected Uses	
Projected Admin Expense *	$564,600
Projected Disbursements (see Table 2)	$22,563,965
Total Projected Uses	**$23,128,565**
Available Resources **	**$122,037,129**
* Estimated administrative expenses in FY17 will be paid for with the FFY 2016 Allotment. Budgeted is $564,600.	
** NMED plans to use all CWSRF funds not committed to projects in the manner detailed in the Cash Flow Projection charts attached to this report. As of 5/26/2016, the balance remaining to be disbursed from the loans/grants in construction is approximately $45 million of which most is projected to be disbursed during SFY 2017 and 2018. NMED plans to make approximately $24 million in binding commitments in SFY 2017 (please see Section II B. Short-term Goals #9 for projected binding commitments). These amounts make up 57% of the $122,037,129 in available resources identified.	

NMED respectfully submits this Intended Use Plan. If readers are viewing this IUP from the website, the SFY 2017 Integrated Projects Priority List (IPPL) is also available from the Construction Programs Bureau's website:

https://www.env.nm.gov/cpb/cpbtop.html

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