

**State of New Mexico**  
**CLEAN WATER STATE REVOLVING FUND**  
**ANNUAL REPORT**  
STATE FISCAL YEAR (SFY) 2015  
(July 1, 2014 - June 30, 2015)



City of Portales Aeration Basins



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1. Cash Flow Projections 2015-2024 and 2015-2034
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# ANNUAL REPORT CLEAN WATER STATE REVOLVING FUND PROGRAM



City of Portales Influent Lift Station

## **I. INTRODUCTION**

Federal Legislation produced The Clean Water Act (CWA) of 1972. This legislation was amended many times, resulting in the Clean Water Act of 1987. This amended Clean Water Act created the Clean Water State Revolving Fund (CWSRF). **The State of New Mexico CWSRF Program has provided over \$372 million in construction funding for water quality protection to date** (see Exhibit 1).

The State of New Mexico presents the following Annual Report for state fiscal year (SFY) 2015. This Annual Report is for the State of New Mexico Clean Water State Revolving Fund Program (Program) which assists local authorities in financing the construction of critical wastewater facilities and non-point source projects. The revolving nature of this loan fund provides that the loan repayments be recycled with interest and loaned again to communities perpetually. The Program was established in

1986 pursuant to the New Mexico Wastewater Facility Construction Loan Act, Section 74-6A-1, *et. seq.* New Mexico Statutes Annotated (NMSA) 1978 and the Federal Clean Water Act of 1987, as amended. This report describes how New Mexico has been working toward meeting the goals and objectives of the CWSRF Program for the state fiscal year July 1, 2014 - June 30, 2015, as identified in the SFY 2015 Intended Use Plan (IUP). Also, included in this report are the actual uses of CWSRF funds and the financial position of the Program.

## **II. EXECUTIVE SUMMARY**

The New Mexico Environment Department (NMED) submitted an IUP for the CWSRF SFY 2015 to the U.S. Environmental Protection Agency (EPA), after soliciting public comments from June 9 – June 27, 2014. The IUP laid out the Program goals, activities and intended use of funds for SFY 2015 and was approved on December 1, 2014. This Annual Report details the results of the SFY 2015 plan.

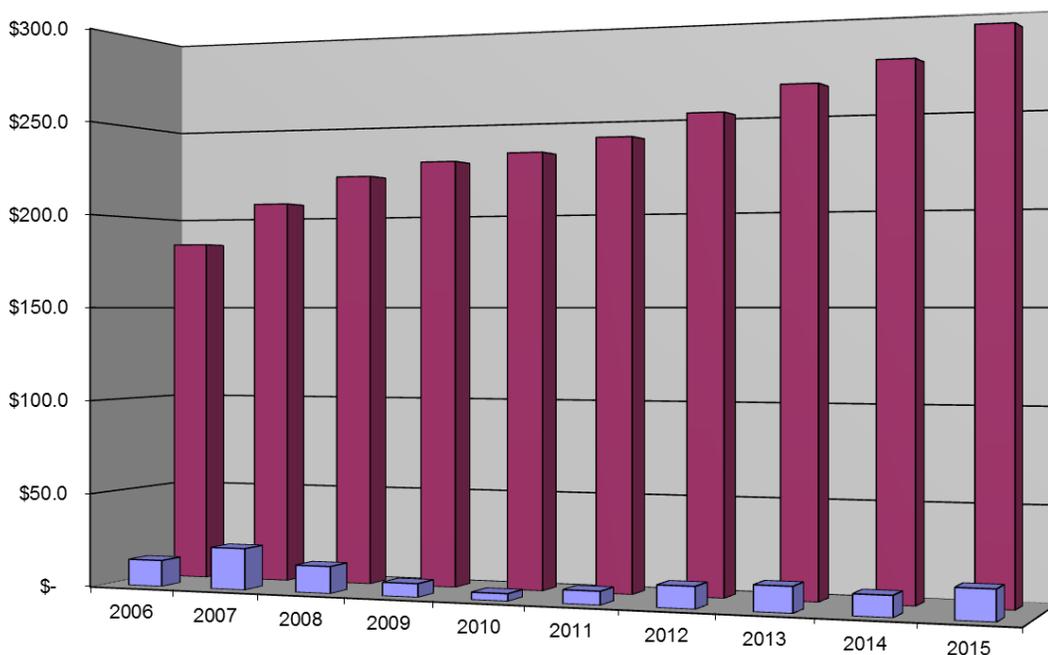
### **A. Financial Highlights for State Fiscal Year 2015**

- As of the close of SFY 2015, NM CWSRF reports a total net position of \$292,566,160, an increase of \$16,046,185, in comparison with the prior year for the CWSRF Fund 121 and CWSRF Admin Fund 327 combined. This 5.8% annual growth demonstrates a growing, healthy fund (see attached draft audit).
- The Program was awarded one cap grant for the Federal Fiscal Year (FFY) 2014 allotment of \$6,853,000. Cumulative grants since inception total \$203,027,548 (see Exhibit 2 and Exhibit 3).
- The Program collected \$14,336,995 in loan repayment principal and \$2,494,342 in loan interest. The Program also collected \$350,530 in administrative fees from 18 projects. The fees were deposited into the CWSRF Admin Fund (Fund 327) outside of the CWSRF Fund (Fund 121). The CWSRF Admin fund supports the administrative functions directly related to the CWSRF. Total principal, interest and administrative fees received were \$17,181,835 (see Exhibit 4).
- The Program earned \$100,691 of interest income on overnight funds deposited at the State Treasurer's Office for the CWSRF Fund 121 and CWSRF Admin Fund 327 combined.
- The Program disbursed \$22,764,691 for construction projects in SFY 2015 (see Exhibit 5).

### **B. Increasing Strength of the CWSRF Fund 121**

The Program's financial position continued to improve in SFY 2015. Over the past ten years Fund 121's net position has been increasing at an average of \$12 million annually as shown in Figure 1. The fund's total net position at fiscal year-end (FYE) 2015 was \$271,071,684, an increase of \$15.9 million from FYE 2014.

**Figure 1**  
**New Mexico CWSRF Increase in Fund 12100 Net Position**  
**(in \$ Millions)**



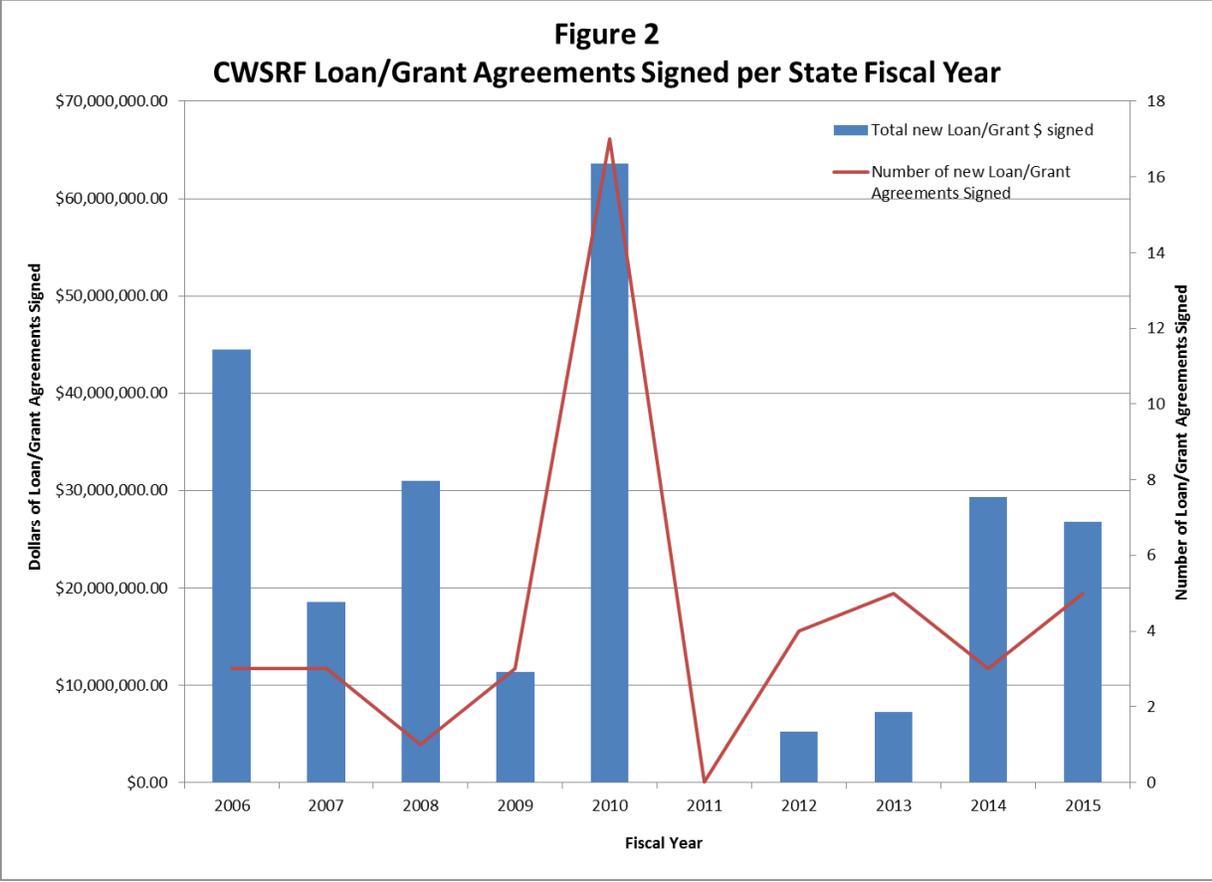
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
■ Incr in Net Position in \$ millions	\$14.0	\$22.0	\$14.3	\$7.1	\$3.9	\$7.1	\$11.5	\$13.4	\$10.9	\$15.9
■ Net Position in \$ millions	185.0	207.0	221.3	228.4	232.3	239.4	250.9	264.2	275.2	291.1

### **C. Political and Economic Factors Effecting the Fund**

Grant funding through oil and gas revenues for wastewater projects was over 10 million in SFY 2015. On the federal side, there have been no new special appropriation earmark grants for wastewater projects since FFY 2010. Although communities would like to fund their projects with grants, the likelihood of receiving enough grant funds to build a complete project seems improbable.

The NM CWSRF has been allowed to offer a small portion of each of the last five annual federal allotments of funds as subsidy in the form of grants. Combining grants when available along with low-interest loans is allowing the NM CWSRF to reach new borrowers each year and is helping NM communities build fully-functional projects that small annual grant amounts do not provide.

The Program signed \$25,175,425 in new loan/grant agreements in SFY 2015 and amended 2 existing agreements to increase the loan or grant amount totaling \$1,640,436 (see Exhibits 1 and 6). Figure 2 shows the amount and number of agreements signed over the last 10 years.

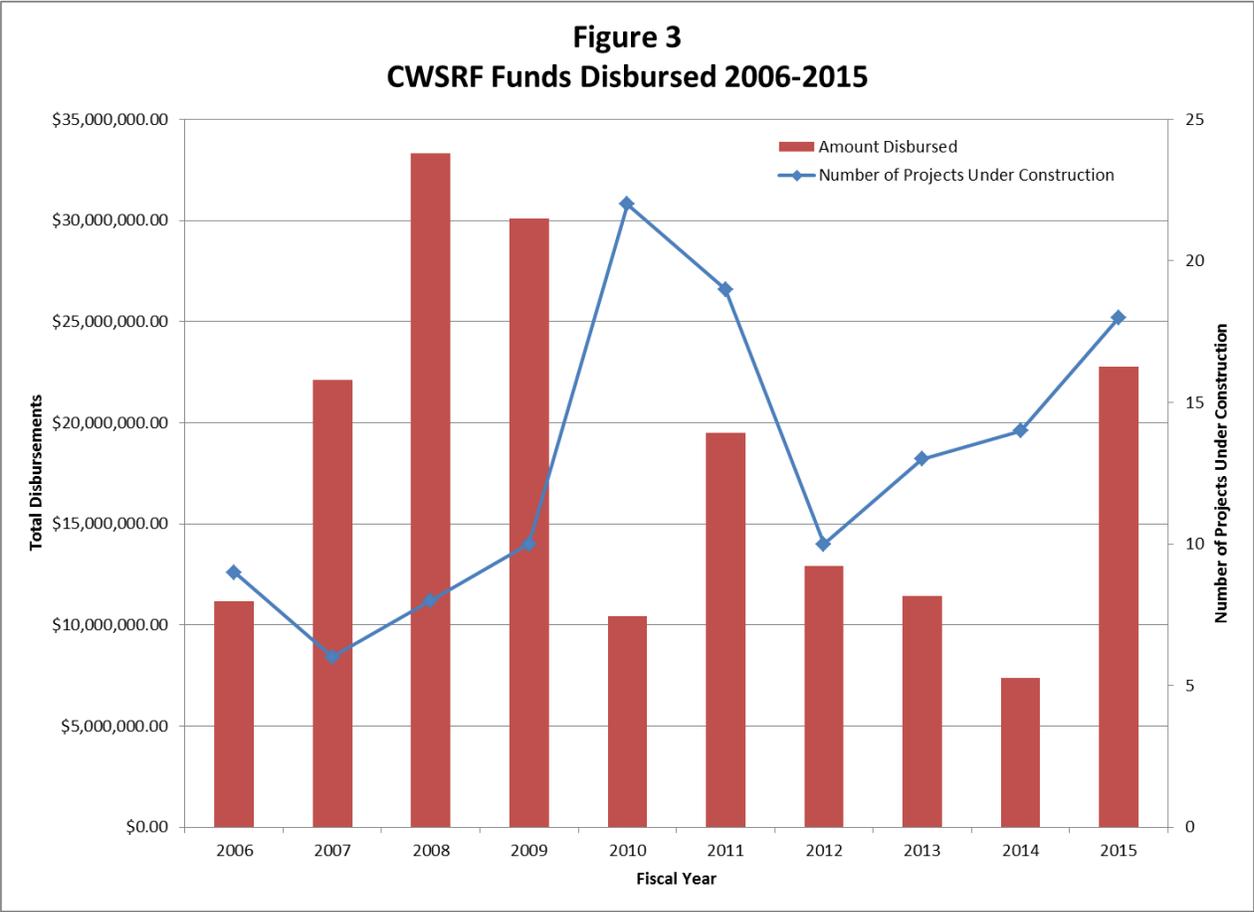


**D. Interest Rate Structure**

On June 16, 2001, the State amended its Water Quality Control Commission Regulations to allow a lower base interest rate and to allow increased eligibility for CWSRF-hardship rates. The regular base rate of 4% was reduced to 3%. The State has three additional hardship rates available. The CWSRF hardship rate of 2% is available for those communities whose per capita income is less than the statewide per capita income, based on the most current decennial U.S. Bureau of Census statistics. A rate of 1% is available for those communities whose per capita income is less than three-fourths of the statewide per capita income. A 0% rate is available for those communities that have a per capita income less than three-fourths of the statewide per capita income and an average user cost of at least fifteen dollars (\$15.00) per month. We believe that these rates continue to enable us to attract borrowers and place more funds into water quality projects statewide.

**E. Activities/Pace**

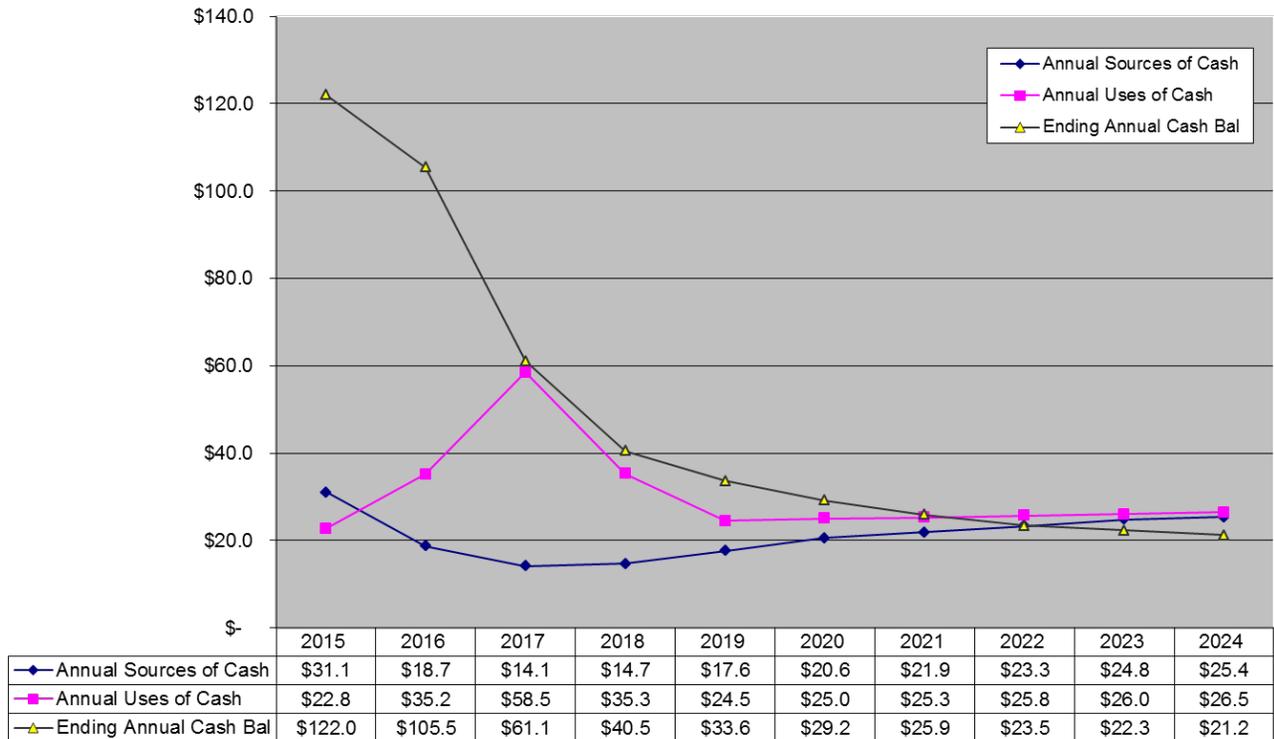
As of the end of SFY 2015, the NM CWSRF had drawn all but \$1,012 of the FFY 2013 Allotment and \$148,703 of the FFY 2014 Allotment. The FFY 2013 Allotment was fully expensed in SFY 2015 and the final draw was done in early SFY 2016. Figure 3 shows that at 06/30/2015, the NM CWSRF had 18 projects in process. The fund disbursed \$22,764,691 to projects during SFY 2015, a sharp increase over the last five years. Please see Section IV below for the discussion of Sources and Uses of Funds that shows how the Programs funds are committed.



Socorro Hope Farms Lift Station

A cash flow model is used as a management tool for the Program. This model is used to plan for future construction projects and to provide the Program the tools to better match supply with demand. A graph of the model (Fund 12100), with the resulting decrease in cash, is shown in Figure 4:

**Figure 4**  
**New Mexico CWSRF Cash Flow Projection (in \$ millions)**  
**Actual data 2015, Projected as of 2016**



This model demonstrates that after 2017 and until 2024, the program projects funding levels, which include fund balance, cash inflows and cash outflows, to support projects averaging \$26 million annually. After 2020, ending cash balance is projected to be less than projected outlays. Full size graphs for 10 and 20 years are attached to this report. The assumptions for the cash flow model are reviewed and updated annually to reflect economic and programmatic changes, and are included in the cash flow workbook itself.

With this level of funding projected, the Program can continue to execute environmentally effective loans, which fund construction projects that increase the quality of life in New Mexico.

### **III. GOALS, OBJECTIVES, AND ACCOMPLISHMENTS**

The Intended Use Plan for the SFY 2015 listed specific goals, objectives and accomplishments; the following is a report on the success of our efforts.

## A. Long-term Goals

1. **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 Clean Water State Revolving Loan Fund Program so as to improve and protect water quality and public health.**

This is an on-going goal for the Program. ***The total cumulative assistance to New Mexico communities to date exceeds \$372 million!*** (See Exhibit 1) The addition of subsidy has allowed the Program to take the low-cost financial assistance portion of this goal one step further through combination loan and grant funding packages. This has allowed communities who otherwise could not afford their projects to receive funding through the CWSRF. Even with utilizing the maximum additional subsidy allowed under each capitalization grant, the Program is progressing towards self-sustainability and is projected to fund approximately an average of \$26 million annually over the next ten years (Attachment 1).

2. **To maintain the fund in perpetuity.**

The State closely tracks fund balances, sources of revenue, repayment and investment activity to promote and maintain the fund into perpetuity. It is evident that, with the large annual increases in net position, the fund is increasing in size each year (see Figure 1). With no loans in default, a growing loan portfolio and relatively low expenses, the fund continues to build upon the federal capitalization grants and state matching funds within the CWSRF.

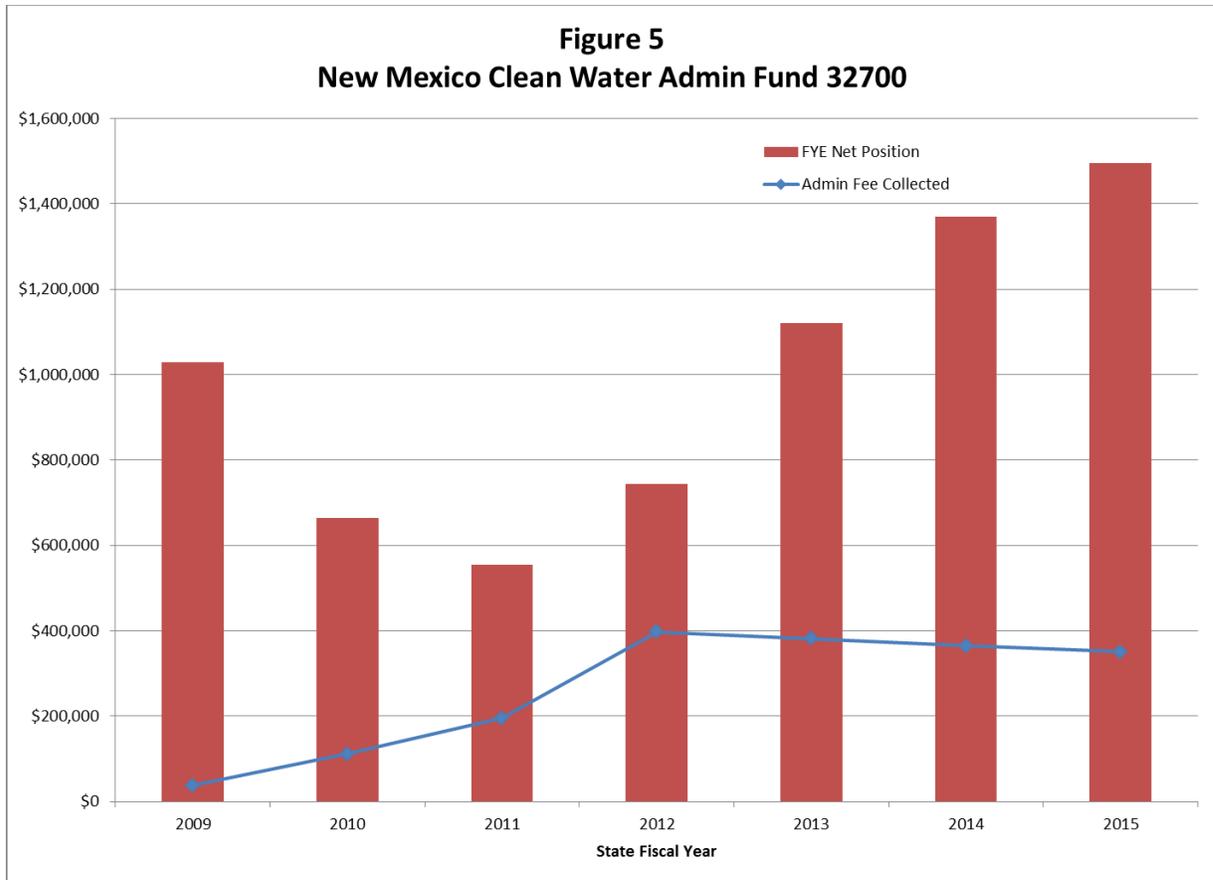
Cash balances are invested by the New Mexico State Treasurer's Office (NM STO). The NM STO investment policy suggests that the CWSRF investments are sound and adequately positioned for the best return at limited risk. A link to the NM STO investment policy is provided here:

<http://www.stonm.org/Investments/PortfolioOverviewsandStrategies>.

With the successful legislative changes introduced in SFY 2007, the State provided the Program the ability to earn administrative fees from borrowers. This administrative fee is set at 0.004356 (0.4356%) and is earned annually on principal amount owed. 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 promises to perpetuate the administration of the fund with no fiscal impact on the State's general fund or any material impact on the financial strength of the fund.

As of FYE 2015, there are 18 loans in repayment that include the administrative fee (see Exhibit 7). These loan repayments are beginning to build the funds needed to run the program into perpetuity. This is especially important as the State faces budget shortfalls and is cutting other sources of funding NMED currently relies on.

Figure 5 shows the FYE fund balance and the annual amount of fee collected and deposited in Fund 32700 since SFY 2009, when the first loan that included the fee went into repayment.



**3. To maintain the fiscal integrity of the CWSRF.**

The Program contracts with an independent Certified Public Accounting (CPA) firm each year. The CPA firm provides a formal opinion on the financial statements presented in the CWSRF's annual audit, as well as the conformity to generally accepted accounting principles. Recommendations for improvement are requested and welcomed from the auditing firm. The SFY 2015 draft audit for the CWSRF has been completed with a favorable, unmodified opinion. A copy is attached. The final audit will be issued when the New Mexico Environment Department audit is completed in late 2015 and will be forwarded to our EPA partners upon completion.

**4. To reduce and/or eliminate discharges of pollutants into the State's waters and to improve water quality in all state waters.**

The CWSRF Program financial, technical and community services staff continue to assist communities in the prevention of pollutant discharge. To the degree possible, the Program provides technical, managerial and financial assistance to as many communities as possible in the pursuit of reducing and eliminating pollutants from reaching water resources. The assistance provided by the Construction Programs Bureau (Bureau) and the Community Services Section of the Drinking Water Bureau to reduce pollution and improve water quality is not limited to individual programs or state agencies. This continues to be a goal of the Bureau and the New Mexico Environment Department.

The continued inclusion of subsidies in appropriations after ARRA is allowing the Program to reach additional projects that have become of increasing concern to the regulatory programs of NMED. Many of these projects are in areas of New Mexico that without loan subsidies could not otherwise afford to make the required improvements.



Odor Control at San Juan County Wastewater Lift Station

## **B. Short-term Goals**

- 1. Completion of an annual audit, intended use plan, and an annual report in a timely manner. CWA Sec. 606 (b, c, d).**

The SFY 2015 IUP was submitted July 3, 2014, amended October 27, 2014 and finalized December 1, 2014.

**This goal will be met with the submission of this report and the audit.**

- 2. Identify additional recipients to receive the remaining subsidy amount from the FFY 2011 Allotment in the total amount of \$465,777.**

The remaining amount changed from \$465,777 to \$572,333 during the fiscal year due to a decrease in subsidy given to El Valle de Los Ranchos because of a decrease in project costs, however, additional recipients were identified in SFY 2015 for the remaining amount of \$572,333.

**This goal has been met. (See Exhibit 9)**

- 3. Identify recipients to receive the subsidy amount from the FFY 2012 Allotment in the total amount of \$575,882.**

**This goal has been met. (See Exhibit 10)**

- 4. Identify recipients to receive the subsidy amount from the FFY 2013 Allotment in the total amount of \$460,680.**

\$270,066 has been identified as of 06/30/2015. NMED will continue to identify additional recipients in SFY 2016.

**This goal has been partially met. (See Exhibit 11)**

- 5. Identify recipients to receive the subsidy amount from the FFY 2014 Allotment in the total amount of \$559,386.**

NMED will identify recipients in SFY 2016.

**This goal has not been met.**

- 6. Begin draw-down and complete the FFY 2013 Allotment in the amount of \$6,520,000 with the EPA. CWA Sec. 502 (A)**

As of 06/30/2015 all but \$1,011.75 had been drawn. The remaining balance was drawn at the beginning of SFY 2016 for SFY 2015 accrued expenses.

**This goal has been met. (See Exhibit 12)**

- 7. Begin draw-down and complete the FFY 2014 Allotment in the amount of \$6,853,000 awarded 08/05/2014 with the EPA.**

As of 06/30/2015 all but \$148,702.80 had been drawn. In early SFY 2016, another \$55,093.59 was drawn for SFY 2015 accrued expenses. The remaining balance of \$93,609.21 will be expensed and drawn in SFY 2016.

**This goal has been partially met. (See Exhibit 13)**

- 8. Execution of at least \$38 million in binding commitments.**

The Program signed \$25,175,425 in new loan/grant agreements for El Valle de Los Ranchos W&SD, the City of Socorro, the City of Farmington, San Juan County and the City of Grants. The Program also amended existing agreements to increase the loan or grant amount for the City of Las Vegas and the City of Aztec in the aggregate amount of \$1,640,436. Rio Rancho is anticipated to be executed in SFY 2016.

**This goal has been partially met. (See Exhibit 6)**

- 9. Identify the \$685,300 in green projects for the FFY 2014 Allotment from the SFY 2015 IPPL.**

NMED has identified a qualifying green component of the City of Farmington

wastewater treatment plant upgrade project as Environmentally Innovative. The project will replace the current chemical disinfection process with an ultraviolet disinfection process. A business case was prepared, approved by CPB and posted on CPB's website on 08/24/2015. The GPR component has a total estimated cost of \$1,382,990. This has been entered into the CWSRF Benefits Reporting System (CBR) and will be updated as the project is bid and built.

**This goal has been met. (See Exhibit 14)**

**10. Apply for the current federal fiscal year's allotment in the first year that it is appropriated.**

The FFY 2015 final allotment amount was provided to the Program on March 9, 2015, the application was submitted on May 11, 2015 and the FFY 2015 Allotment was awarded August 10, 2015.

**This goal has been met.**

**11. 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; Village of Chama; Village of Corrales; Village of Jemez Springs; City of Carlsbad; and SSCAFCA.**

The Village of Corrales was actually put into repayment in SFY 2014. The Program executed a 20-year loan repayment agreement in SFY 2015 with the Village of Jemez Springs. Chama has been put into repayment in SFY 2016. The Las Vegas, Rio Rancho, Carlsbad and SSCAFCA projects have been extended through SFY 2017.

**This goal has been partially met.**

**12. The state commits to completing the environmental benefits in the 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. Entering the data in the CBR in a timely fashion will help the NMED and the EPA report on the benefits realized by the CWSRF funding activities.**

Five (5) new CWSRF loans were executed with the El Valle de Los Ranchos W&SD, City of Socorro, City of Farmington, San Juan County and the City of Grants in SFY 2015. The Environmental Benefits were entered into the CBR by the end of the quarter in which each loan agreement was signed. The forms for each project can be found in Attachment 4.

**This goal has been met.**

**13. Convert the Excel based Priority List Attachment Form used by potential borrowers to apply for inclusion on the Integrated Projects Priority List (IPPL) into an online application form.**

NMED's Information Technology group has committed to completing this by March 2017.

**This goal is in process.**

**14. Update the CWSRF Program to incorporate the changes implemented in the Clean Water Act in late SFY 2014.**

The State implemented the sections of the Water Resources Reform and Development Act (WRRDA) that were effective as of the signing of the act. Specific provisions that went into effect in SFY 2016 have been implemented since June 30, 2015 and will be reported on beginning in SFY 2016.

**This goal has been met.**

**15. Refine the process for soliciting and funding non-traditional CWSRF projects to include future capitalization grant green project reserves. In order to achieve this goal, NMED must review and update New Mexico statutes and administrative code.**

The Program updated the Priority List Application Form and the prioritization system during SFY 2013 and refined the scoring process during SFY 2014. This was a significant achievement for the Program as the priority list development process had not been changed for many years. The new system includes specific questions about non-traditional CWSRF projects and awards points accordingly. The related statute and administrative code updates were not part of the administration's legislative initiatives in SFY 2015, but may be pursued in the future.

**This goal has not been met.**

**16. Exceed the national average in terms of financial indicators.**

NM CWSRF did not exceed national averages in terms of financial indicators. According to 2014 national averages (the most recent available) of states that did not leverage, New Mexico had a federal return of 161% versus a national average of 187%. This average is up 7% over the previous year. The percent of executed loans to funds available was 89% for New Mexico against a national average of 101%. This percentage has been increasing for the last four years. New Mexico achieved 82% of funds disbursed to loans executed compared to a national average of 84%. New Mexico will continue to work on increasing our averages comparative to the national averages.

**This goal has not been met.**

#### IV. FUND ADMINISTRATION AND OPERATIONS:

##### A. Sources and Uses of Funds

The actual sources and uses of CWSRF Fund 121 for SFY 2015 are as follows:

**Table 1 Sources and Uses  
Actuals for State Fiscal Year 2015**

**Beginning balance as of 7/1/2014:**

Ending cash balance as of 06/30/2014	\$113,682,948.46
Unused admin portion of FFY 2012 Allotment (2012-1 CG) as of 06/30/2014	\$1,843.20
Unused construction portion of FFY 2013 Allotment (2013-0 CG) as of 06/30/2014	\$6,259,200.00
Unused admin portion of FFY 2013 Allotment (2013-0 CG) as of 06/30/2014	\$260,800.00

**Sources during SFY 2015:**

FFY 2014 Allotment (2014-0 CG) (incl 4% Admin)	\$6,853,000.00
SFY 2015 Repayment Principal (see Exhibit 4 attached)	\$14,336,994.52
SFY 2015 Repayment Interest (see Exhibit 4 attached)	\$2,494,310.87
SFY 2015 Repayment Construction Interest (see Exhibit 4 attached)	\$31.07
SFY 2015 Overnight Interest (Fund 121 only)*	\$99,449.01

<b>Total Sources</b>	<b>\$143,988,577.13</b>
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**Uses during SFY 2015:**

Admin Expense (see Exhibit 8 attached)	\$387,048.65
Cash Disbursements (see Exhibit 5 attached)	\$22,764,691.09
Remaining balance to be disbursed from loans & grants in construction as of 06/30/15 (see Exhibit 6 attached)	\$56,163,913.20
Balance available for use on future projects**	\$64,672,924.19

<b>Total Uses</b>	<b>\$143,988,577.13</b>
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\*The amount reported for SFY 2015 Overnight Interest is the cash amount received for interest in SFY 2015. In other words, this amount represents the interest on the CWSRF Fund 121 for June 2014 through May 2015. This is also true for the interest for the Clean Water Admin Fund 327 reported below in Section C. The amount of overnight interest reported in the Executive Summary under Financial Highlights is the accrual amount for July 2014 through June 2015.

\*\* 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. NMED plans to make approximately \$36 million in binding commitments in SFY 2016 out of the \$65 million in available resources.

##### B. Administrative Portion of Capitalization Grants

Amounts drawn from the EPA-ACH for the 4% admin portion of the capitalization grants in SFY 2015 were \$1,843.20 from the FFY 2012 Allotment cap grant, \$259,788.25 from the FFY 2013 Allotment cap grant and \$125,417.20 from the FFY 2014 Allotment cap grant for a total of \$387,048.65 (see Exhibit 8). The difference between admin expenses incurred and admin expenses drawn is due to the accrual of admin expenses

at the end of one fiscal year that aren't drawn until the following fiscal year. For SFY 2015 the difference included \$1,843.20 in expenses incurred in SFY 2014 that weren't drawn until SFY 2015 and \$56,105.34 in expenses incurred in SFY 2015 that weren't drawn until SFY 2016.

Cumulative administration expenses drawn down in the ACH from July 1, 1991 through June 30, 2015 total \$7,724,294.37 (Exhibit 8); this does not exceed the 4% allotment. In the attached Exhibit 8 adding the allotted four percent (4%) down through the ARRA capitalization grant at the bottom totals \$7,874,008.92. The available cap grant administration balance is \$149,714.55 at the end of the SFY 2015 reporting period.

### C. CWSRF Admin Fund Activity

As discussed in section III.A.2, the Program was authorized by EPA and the New Mexico Water Quality Control Commission in SFY 2007 to establish the CWSRF Admin Fund (Fund 327) outside of CWSRF (Fund 121). Fund 327 was created in SFY 2008. The purpose of Fund 327 is solely to administer the Program into perpetuity and is used solely for the NM CWSRF program. The balance of Fund 327 at the beginning of SFY 2015 was \$1,345,000. In SFY 2015, Fund 327 had the following activity:

Description	Amount
<b>Balance beginning of SFY 2015 (ending balance as of 06/30/14)</b>	<b>\$1,345,000</b>
Investment interest from the State Treasurer's Office earned in SFY 2015	+1,205
Loan Administrative Fees collected SFY 2015	+350,530
Program operating expenses charged to Fund 327 in SFY 2015	-220,417
<b>Balance end of SFY 2015</b>	<b>\$1,476,318</b>

The operating expenses charged to Fund 327 include payroll, travel, computers and other office expenses.

### D. Assistance Activity

No disbursements were made from CWSRF second-tier funds in SFY 2015 to match a Special Appropriation Act Project (SAAP/STAG). No capitalization grant funds were or will be used to match SAAP/STAG funds on this or any project.

### E. Criteria and Method Established for the Distribution of Funds (Title VI)

Pursuant to the Loan Act, the WQCC adopted regulations concerning eligibility requirements for financial assistance, application procedures, priority rating system and administration of the loan program and fund. The current integrated priority rating system was approved by EPA and adopted by the WQCC on April 9, 2013 and can be found at <https://www.env.nm.gov/cpb/CWSRFPPage.htm> under CWSRF Priority Rating System Guidance. The CWSRF and NMED staff evaluates and ranks projects to mitigate point sources and non-point sources of water pollution. All §319 activities must implement the state's §319 Nonpoint Source Management Plan. The state will review this plan when determining eligibility. NM CWSRF evaluated all projects in SFY 2015 and there were no §319 or §320 activities.

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 2015 Intended Use Plan (IUP)

and associated IPPL from June 9<sup>th</sup> – June 27<sup>th</sup> of 2014 and no comments were received. 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, to perform operation and to maintain a replacement reserve fund; and
3. Readiness to proceed.

There were several communities that were by-passed on the SFY 2015 IPPL because they were not willing to accept a loan, were financially incapable of servicing the loan and / or were not ready to proceed with the project.



Signage for Lower Montoyas Water Quality Feature

## F. Environmental Reviews

The Program conducted environmental reviews for all of the projects with executed loan/grant agreements in SFY 2015, in compliance with CWSRF requirements, and will continue to do so in the future.

## G. American Iron and Steel (AIS)

In accordance with Section 608 of the Federal Water Pollution Control Act (FWPCA), effective June 10, 2014, construction, alteration, maintenance and/or repair of a public water system or treatment works requires the use of American-made iron and steel products. The following five projects requiring compliance with AIS have agreed to the AIS requirements via the execution of their Interim Loan Agreements. These projects have also been provided guidance through technical documents. None of these projects have reached the construction phase; current projects and status is as follows:

- City of Farmington CWSRF 012 —Design and Planning
- City of Socorro CWSRF 025 —Ad/Bid

- El Valle de Los Ranchos W&SD CWSRF 026—Design
- San Juan County CWSRF 028—Planning
- City of Grants CWSRF 029—Planning

## H. Davis-Bacon Wage Rates

To ensure compliance with these requirements, NMED provided Borrowers with the specific EPA Davis-Bacon contract language that is to be included in bid specifications and/or contracts and confirmed that the correct wage determinations were included in the bid specifications and/or construction contracts. In addition, NMED collected Certifications of Davis-Bacon compliance from Borrowers with disbursement requests via Form XP-214.

## I. Water Resources Reform and Development Act (WRRDA)

In SFY 2015 certain requirements of WRRDA became effective. NMED complied with the following WRRDA requirements in the manner(s) listed below:

- **Davis Bacon §602(b)(6)** — NMED ensured compliance with this requirement by requiring all Borrower's, via execution of an Interim Loan Agreement, to follow Davis Bacon regardless of the source of funding, and by providing project consultants with Davis Bacon requirement information. NMED's Borrowers agreed to follow Davis Bacon by: 1. executing an Interim Loan Agreement, 2. executing a Certification of Compliance (Form XP-315), and 3. executing a Certification by Contractor Statement of Compliance with Labor Standards (Form XP-214) with each applicable disbursement request.
- **NEPA §602(b)(6)** – NMED followed the State Environmental Review Process (SERP) as approved by EPA and applied NEPA to all CWSRF projects.
- **Generally Accepted Accounting Principles (GAAP) §602(b)(9)** — NMED required Borrowers, via the Interim Loan Agreement, to maintain project accounts according to GAAP as issued by the Government Accounting Standards Board (GASB). This requirement also requires Borrowers to use standards relating to the reporting of infrastructure assets.
- **Use of Fees §602(b)(11)** — This provision requires States to manage CWSRFs in such a way that the funds will be available in perpetuity for activities under the FWPCA. NMED has achieved compliance with this provision through investing CWSRF funds with the New Mexico State Treasurer's Office (STO) General Fund (Fund). STO's primary objectives are: 1. safety of the fund, 2. maximizing return on the fund, and 3. maintaining liquidity of the fund.
- **Expanded Eligibilities §603(c)** — NMED reviewed each application to ensure compliance with the new WRRDA requirement. NMED did not fund any projects during SFY 2015 that fell under the new expanded eligibilities criteria.
- **Loan Terms Up to 30 Years §603(d)(1)(A)&(B)** —NMED worked with the State Legislature, and through the rule-making process, to update New Mexico Statute and Administrative Rules so extended loan terms may be implemented effective January 2016. The updated law is in New Mexico Wastewater Facility Construction Loan Act, Section 74-6A-8(C) NMSA 1978.
- **Fiscal Sustainability Plans §603(d)(1)(E)** – None of our Borrowers were required to provide certification of an FSP as of June 30, 2015. Provisions are being put in place to ensure future compliance.

- **Administrative Costs §603(d)(7)** — NMED intends to implement the maximum annual amount of CWSRF money that may be used to cover the reasonable costs of administering the fund by budgeting for 1/5 percent of the current valuation of the fund, based on the CWSRFs most recent audited financial statements, which reflects the Total Net Position. This provision will begin with the FFY 2016 Allotment (SFY 2017).
- **American Iron and Steel §608** – NMED revised the Interim Loan Agreement to incorporate the new American Iron and Steel requirements. The Borrower certifies compliance with the AIS requirements via the execution of the Interim Loan Agreement and through the Supplemental Conditions Form AIS CWSRF 314 unless they can provide a waiver from EPA, or NMED determines that the AIS requirement is not applicable to the project.
- **Definition of 212 Projects §212(2)(A)** – The expanded definition of “treatment works” is now recognized by NMED to include land needed for construction. To date, no projects have required this expanded definition.

The following table identifies which projects are being used to meet the WWRDA requirements.

PROGRAMMATIC APPLICATION DATES & WRRDA REQUIREMENTS								
Borrower	Loan Number	Binding Commitment Date	AIS	FSP (Y/N)	NEPA	Davis Bacon	GAAP	Loan Terms up to 30 years***
Rio Rancho, City of*	CWSRF 008	9/4/2009	N/A	N/A	X	X	X	N/A
Carlsbad, City of*	CWSRF 010	4/29/2010	N/A	N/A	X	X	X	N/A
Chama, Village of*	CWSRF 013	12/12/2011	N/A	N/A	X	X	X	N/A
Sandoval County/Cuba*	CWSRF 006	1/18/2012	N/A	N/A	X	X	X	N/A
Corrales, Village of*	CWSRF 011	1/20/2012	N/A	N/A	X	X	X	N/A
San Juan County/Lower Valley*	CWSRF 015	10/17/2012	N/A	N/A	X	X	X	N/A
Las Vegas, City of (original agreement)*	CWSRF 016	10/17/2012	N/A	N/A	X	X	X	N/A
Jemez Springs, Village of*	CWSRF 019	4/5/2013	N/A	N/A	X	X	X	N/A
SSCAFCA*	CWSRF 018	5/2/2013	N/A	N/A	X	X	X	N/A
Aztec, City of (original agreement)*	CWSRF 021	6/24/2013	N/A	N/A	X	X	X	N/A
Belen, City of*	CWSRF 020	8/12/2013	N/A	N/A	X	X	X	N/A
Portales, City of*	CWSRF 023	8/27/2013	N/A	N/A	X	X	X	N/A
Socorro, City of*	CWSRF 022	10/10/2013	N/A	N/A	X	X	X	N/A
Las Vegas, City of (amendment to increase grant amount)	CWSRF 016	11/21/2014	N/A	N/A	X	X	X	N/A
El Valle De Los Ranchos W&SD**	CWSRF 026	11/21/2014	X	Y	X	X	X	N/A
Socorro, City of**	CWSRF 025	12/1/2014	X	Y	X	X	X	N/A
Farmington, City of **	CWSRF 012	2/3/2015	X	Y	X	X	X	N/A
Aztec, City of (amendment to increase loan amount)	CWSRF 021	2/19/2015	N/A	N/A	X	X	X	N/A
San Juan County/Harper Valley**	CWSRF 028	6/3/2015	X	Y	X	X	X	N/A
Grants, City of**	CWSRF 029	6/19/2015	X	Y	X	X	X	N/A

\*Funded prior to WRRDA. All federal requirements applicable at the time of loan execution were applied.

\*\*None of these Borrowers were required to provide certification of an FSP as of June, 30, 2015. This provision will be implemented for these Borrowers in SFY 2016

\*\*\*Although this WRRDA requirement was effective 06/10/14, NMED was required to work with the State Legislature and through the rule-making process to update New Mexico Statute and Administrative Rules to allow for this provision. This provision will be implemented in January 2016.

## J. Provisions of the Operating Agreement/Condition of Grant Agreement

**Accept Payments: Sec. 602(b)(1).** The State certifies that it will accept grant payments in accordance with the negotiated payment schedule and use those payments for the activities of its established CWSRF.



Southern Sandoval County Arroyo Flood Control

In SFY 2015 one (1) federal payment (deposit) was made to the Program's EPA-ACH for the FFY 2014 Allotment Capitalization Grant (\$6,853,000). The State is in compliance with the operating agreement.

**Provide a State Match: Sec. 602(b)(2).** The State certifies that it will deposit into the CWSRF an amount equaling at least 20 percent above the amount of each capitalization grant payment. The State match shall be deposited on or before the date on which the State received each payment from the grant award.

The Program received an appropriation from the state legislature for \$1,300,000 from the Public Projects Revolving Fund administered by the New Mexico Finance Authority to match the FFY 2014 Allotment capitalization grant of \$6,853,000. Since the 20% match requirement is \$1,370,600, the Program provided the \$70,600 out of overmatch funds. The \$1,300,000 was transferred to the CWSRF Fund 12100 on July 11, 2014. The \$6,853,000 in federal cap grant funds was awarded on August 5, 2014.

**Binding Commitments Within One Year: Sec. 602(b)(3).** The State agrees to enter into binding commitments with recipients to provide financial assistance from the CWSRF. The binding commitments shall be in an amount equal to 120 percent of each quarterly grant payment.

The State is required to have binding commitments (defined by the state as executed loan agreements) totaling \$238,875,238 for the life of the Program through June 30, 2015. The total binding commitments as of FYE 2015 were \$379,949,395 or 187% exceeding the required 120% by \$141,074,157 (see Exhibit 3).

**Expeditious and Timely Expenditures: Sec. 602(b)(4).** The State agrees to expend all funds in the CWSRF in an expeditious and timely manner. At the end of the third quarter of each federal fiscal year after the first capitalization grant award, the State will provide EPA with a schedule of estimated disbursements for the upcoming federal fiscal year.

The State is aggressively addressing the issue of expeditious and timely expenditures for the CWSRF funds. The State's goal is to have less than 2 years' worth of capitalization grants and to draw down on the grant within two years of receiving the award. The Cash Flow Model (Figure 4) shows how cash will be reduced over the next several years.

**First Use of Funds for Enforceable Requirements: Sec. 602(b) (5).** The State agrees that all funds in the fund as a result of capitalization grants will first be used to assure maintenance of progress, as determined by the Governor, toward compliance with enforceable deadlines, goals, and requirements of the Act, including the municipal compliance deadline.

The State had previously succeeded in bringing its NMP projects into compliance through the 205g-grant program and previous years CWSRF Loans.

### **Subsidized Projects Sustainable Criteria**

NM CWSRF tracks projects that support sustainability including projects that focus on system upgrade and replacement in existing communities; projects that involve investigations; studies or plans that improve technical, managerial or financial capacity; and projects that focus on preliminary planning, alternative assessment and eligible capital projects that reflect the full life cycle cost of infrastructure assets, conserve natural resources or use alternative approaches to integrate natural systems into the built environment. See Exhibit 15 for a full list.

### **FFATA Projects Reported in FSRs.**

The Program executed loan agreements for El Valle de Los Ranchos W&SD, the City of Socorro, the City of Farmington, San Juan County and the City of Grants in SFY 2015. In addition, an amendment was made to the City of Las Vegas to increase the loan subsidy amount and to the City of Aztec to increase the loan amount. NM CWSRF applies all federal crosscutting requirements across all projects funded by the Program

so the first \$6,853,000 in signed loan agreements were reported in the FSRS system. El Valle de Los Ranchos W&SD, the City of Socorro and the City of Farmington are identified as FFATA projects reported in FSRS from the 2014 Allotment (2014-0 CG).

**Compliance with Federal Cross Cutting authorities.**

The State affirms that all federal cross cutters have been complied with by the State and its communities. NM CWSRF applies all federal crosscutter requirements across all projects funded by the Program.

**In accordance with 40 CFR Part 35.3145(d), compliance with the negotiated Disadvantaged Business Enterprise (DBE) "Fair Share" objectives for the State is presented in the table below.**

In January 2014, the Program received a letter from the Environmental Protection Agency (EPA) stating that effective immediately, DBE reporting is limited to annual reports.

The chart below shows NMED’s negotiated DBE objectives for all EPA grant funds that NMED received in SFY 2015 and the actual percentages achieved by the CWSRF Program:

Total MBE	MBE Negotiated objectives	Actual Percentages	Total WBE	WBE Negotiated objectives	Actual Percentages
Construction	5.14%	6.83%	Construction	10.18%	0.00%
Equipment	23.22%	0.00%	Equipment	29.32%	0.00%
Services	10.81%	2.67%	Services	38.25%	0.06%
Supplies	8.56%	0.00%	Supplies	35.77%	0.04%

Technical staff members do verify that DBE requirements are followed for all bids and have been working with funding recipients to encourage more effort during the bidding process to get more participation by DBE firms. There is no statewide resource to help identify DBEs. While not all the negotiated objectives were met in SFY 2015, the State affirms that all six affirmative action steps were followed.

**State Laws and Procedures: Sec. 601(b)(7). The State agrees to commit or expend each quarterly capitalization grant payment in accordance with state laws and procedures regarding the commitment or expenditure of revenues.**

The State confirms compliance with this requirement. The loan fund was examined as a major federal program within the Environment Department's single audit for state fiscal years 1990 through 2015. The draft SFY 2015 Independent Auditor’s Report for the CWSRF Program is attached to this report. The final Auditor’s Report is expected in late 2015 along with the NMED audit.

**State Accounting and Auditing Procedures: Sec. 606(a).** The State agrees to establish fiscal controls and accounting procedures that are sufficient to assure proper accounting for: (1) payments received by the CWSRF; (2) disbursements made by the CWSRF; and (3) CWSRF balances at the beginning and end of the accounting period. In carrying out these requirements, the State agrees to use accounting, audit, and fiscal procedures conforming to "generally accepted government accounting standards." These standards are usually defined as, but not limited to, those contained in the U.S. General Accounting Office (GAO) publication Standards for Audit for Governmental Organizations, Programs, Activities, and Functions, (2/27/81).

The State confirms compliance with this requirement. The Program is being managed in compliance with all applicable regulations, and the State is cooperating with EPA oversight efforts. The State has contracted with an Independent Auditor for an Independent Financial Audit on the CWSRF in addition to the single audit requirement. Copies of the completed Single Audit have been forwarded to EPA.



Belen-Camino Del Llano Drainage Ponds

**Recipient Accounting and Audit Procedures: Sec. 602(b)(9) as amended.** The State agrees that as a condition to making a loan or other form of assistance, it will require recipients of SRF assistance to maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets and as defined in the section above.

The State confirms that generally accepted government accounting standards are required of all CWSRF recipients through our loan documents. Compliance is confirmed annually in a desk audit conducted on borrowers' annual audits. Shortly after closing SFY 2015 (in July 2015), an independent audit began for the CWSRF. A draft

copy of the independent audit is attached to this Annual Report. The final audit will be submitted upon completion.

**Annual Report: Sec. 602(b)(10). The State agrees to make annual reports to the administrator on the actual use of the funds in accordance with Sections 606(d) of the Act and negotiated State/EPA guidance.**

The Annual Report for SFY 2014 was submitted on September 30, 2014, updated August 3, 2015 and finalized August 20, 2015. The State is submitting the SFY 2015 Annual Report on September 30, 2015 to satisfy this requirement.

**Compliance with the Environmental Review Requirements: Sec. 602(b)(6) as amended. The State agrees that it will conduct an environmental review of each project receiving assistance from the CWSRF following procedures which comply with criteria established by EPA in the Initial Guidance - State Revolving Fund, Appendix D.**

The State confirms compliance with this requirement. Environmental review procedures for projects funded through the Wastewater Facility Construction Loan Program were adopted on September 8, 1988 and are implemented through the Internal Procedures Manual, Attachment V (New Mexico State Environmental Review Process (SERP)). EPA concurred with these procedures in August 1991. The current EPA approved SERP is dated December 2005 and an updated SERP was submitted to EPA in December 2014 to reflect the changes to the Environmental Justice Index. An environmental review has been conducted on each new CWSRF loan. All reviews comply with EPA implementation regulations contained in 40 CFR Part 6.

**Legal, Managerial, Technical, and Operational Capabilities. The State certifies that it has the legal, managerial, technical, and operational capabilities to administer the Program competently.**

The Program is fully staffed which enables NMED to administer current loans in construction and repayment as well as to make several new loans in the coming year. The Program is in the process of several ongoing initiatives such as making regulation changes, putting the priority list application form online, conducting community outreach and providing technical assistance. The Department has held training seminars for Bureau staff development. NMED has sent Program employees to various conferences such as the American Water Works Association Rocky Mountain Annual Conference; the American Water Works Association Sustainable Water Management Conference; the CIFA Conference; and the New Mexico State Infrastructure Finance Conference. The State certifies that it has the legal, managerial, technical and operational capabilities to administer the Program competently.



Southern Sandoval County Arroyo Flood Control Authority Drain

**Debarment and Suspension. The State agrees that the State and all recipients of CWSRF assistance will comply with 40 CFR, Part 32, Debarment and Suspension.**

The State confirms compliance with this requirement. During the funding process, the Program searches the System for Award Management (SAM) to confirm that the funding recipient's certification that they have not been debarred is accurate. During the State review of engineering agreements and construction contractors' bid tabulations, the SAM system is also searched to insure the engineering firms or contractors are not subject to debarment and suspension from participation on federal contracts.

**Consistency with Planning Requirements: Sec. 603(f). The State certifies that it will provide financial assistance from CWSRF only with respect to a project, which is consistent with plans, if any, developed under Section 205(j), 208, 303(e), 319, and 320 of the Act.**

The State confirms compliance with this requirement. The NMED Surface Water Quality Bureau, Planning Section and Ground Water Quality Bureau, Pollution Prevention Section are offered an opportunity to review the facility plans and environmental information documents in order to assure the project is consistent with applicable requirements.

**Compliance with CWSRF Capitalization Grant, General and Special Conditions.**

The State certifies compliance with General Conditions and Special Conditions of EPA Assistance Agreements within the reporting period and within the achievements described above.

**Delinquencies:**

There were no delays in the repayments of any loans.

## **V. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

CLEAN WATER STATE REVOLVING FUND - This fund is an enterprise fund used to provide low-cost financial assistance to eligible entities to construct or modify wastewater facilities and non-point source projects. The primary initial funding sources are state general fund appropriations, severance tax bond sale proceeds, public project revolving funds and federal capitalization grants.

This fund is expected to eventually become self-sufficient as the volume of loan repayments and interest on outstanding loans increases.

## **VI. ACCRUED INTEREST RECEIVABLE ON CONSTRUCTION LOANS**

Interest receivable on Clean Water State Revolving Fund Loans is accrued during the construction period. At the end of construction, the interest accrued may be capitalized in the final loan execution or the entity may pay off the accrued interest.

## **VII. DISCUSSION OF ADMINISTRATIVE REIMBURSEMENT PROCESS**

The administrative costs for this Program are reimbursed to the state agency as they accrue. Reimbursement is requested at 100% federal cost. Federal Capitalization Grant reimbursement is requested and received into the fund. The fund then reimburses the agency-operating fund. At year-end, all applicable receivables are posted. The state match is obtained through a legislative appropriation.

The State of New Mexico has proposed and the Environmental Protection Agency Region VI has accepted that New Mexico will expend all of the required State Revolving Fund (SRF) State match funds up-front (first) in disbursements/loans to communities toward addressing the wastewater needs in New Mexico. This was done for the convenience of NMED and not meant to alter any relationship, legal or otherwise, that would have existed had the 83/17 ratio been followed.

Once the total required State match for each SRF Capitalization grant has been expended, the State will draw down, at 100 percent, Federal funds for each respective CWSRF capitalization grant. This process commenced with draws on the 1995 CWSRF Capitalization Grant. In accordance with 40 Code of Federal Regulations (CRF) Part 35 Subpart K 35.3120(g), monies in the CWSRF may be used for reasonable costs of administering the CWSRF provided that the amount does not exceed 4 percent of all grant awards received by the CWSRF.

## **VIII. FINANCIAL INDICATORS**

The Table below demonstrates efficient use of funding, as well as the increasing strength of the fund.

## NM CWSRF FINANCIAL INDICATORS COMPARISON

(Sources: the draft National Information Management System 'NIMS' Report 9/9/2015 and Draft SFY 2015 Program Audit dated 9/9/2015)

<i>(see # below also)</i>	2010	2011	2012	2013	2014	2015
1. Federal Return	163%	157%	155%	154%	154%	161%
2. Percentage of Executed Loans to Funds Available	99%	91%	86%	83%	88%	89%
3. Percentage of Funds Disbursed to Executed Loans	76%	83%	86%	87%	82%	82%
5. Sustainability (Retained Earnings)	\$55,483,012	\$58,804,066	\$62,387,624	\$65,627,964	\$68,478,802	\$71,074,151
5. Net Position	\$232,303,468	\$239,400,113	\$250,866,496	\$264,248,074	\$275,150,820	\$291,071,684
5. Net Position change in %	1.7%	3.1%	4.8%	5.3%	4.1%	5.8%

1. Federal Return (ratio of total SRF loan disbursements to federal disbursements.)  
The ratio of total cumulative CWSRF loan disbursements to federal disbursements was 161%. The State of New Mexico has proposed and the Environmental Protection Agency Region 6 has accepted that New Mexico will expend all of the required State Revolving Fund (SRF) State match funds up-front (first) in disbursements/loans to communities toward addressing the wastewater needs in New Mexico.
2. Percentage of executed loans to funds available.  
The cumulative percentage of executed loans as a % of funds available is 89%.
3. Percentage of funds disbursed to executed loans.  
The cumulative disbursements amount as a % of executed loans is 82%. 82% of the funds committed to the executed loans have been drawn down as of the end of SFY 2015.
4. Estimated additional SRF loans made due to leveraging.  
The State of New Mexico is currently not leveraging Clean Water State Revolving Funds.
5. Sustainability:  
Retained earnings increased from \$68 million in SFY 2014 to \$71 million in SFY 2015. In the past five years, net position increased an average of \$10.4 million per year. In SFY 2015, net position increased by \$15.9 million, from \$275.1 million in SFY 2014 to \$291.0 million in SFY 2015. This increase in net assets represents a 5.8% increase in fund balance.
6. Estimated subsidy (narrative only).  
The State of New Mexico has four rates available, each of which is below market interest rates. The Base rate is 3%. A hardship rate of 2% is available for those communities whose per capita income is less than the statewide per capita income based on the most current decennial U.S. Bureau of Census statistics, and 1% for those communities whose per capita income is less than three-fourths of the statewide per capita income. A 0% rate is available for those communities that have a per capita income less than three-fourths of the statewide per capita income and an average user cost of at least fifteen dollars (\$15.00) per month. The weighted average of effective interest rates charged to borrowers is 2.020%. In SFY 2008 the State began charging an administrative fee for loans to communities. That fee is 0.4356% and is calculated on principal owed.

## IX. CONCLUSION

The NM CWSRF funded 5 new projects during SFY 2015. Four of the borrowers benefitted from the additional subsidy. The NM CWSRF worked to implement WRRDA initiatives. On January 6, WRRDA guidance was received. NM CWSRF staff worked to become familiar with the changes and to plan implementation. Additionally, NM legislative changes were passed that allow for CWSRF loans to be made for up to thirty (30) years and to include Mutual Domestic Water Consumers Association (MDWCA) as eligible entities.

The NM CWSRF disbursed \$22,764,691 in SFY 2015, which was more than triple the amount disbursed in SFY 2014 (\$7,379,685). The increase in disbursements was due to construction projects becoming active.

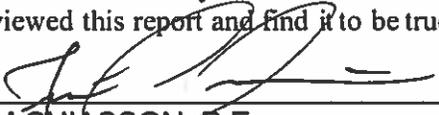
As the Program approaches sustainability, a projected \$26 to \$27 million in clean water infrastructure improvements can be funded each year. The fund can also provide administrative budget, through the collection of administrative fees, without a burden to taxpayers. With an increasing fund balance and improved stability, this fund will continue to play an important role in promoting clean water for the state now and in the years to come.



Belen Manhole Cover

**STATE OF NEW MEXICO  
WASTEWATER FACILITY CONSTRUCTION LOAN  
PROGRAM CERTIFICATION OF ANNUAL REPORT**

I certify that this report has been prepared under my supervision and in accordance with Federal Register EPA Part III 40 CFR Part 35, the Federal Clean Water Act, and provisions of the Wastewater Facility Construction Loan Act 74-6A-7 NMSA 1978. I also certify that I have reviewed this report and find it to be true, and correct to the best of my knowledge.

  
\_\_\_\_\_  
JIM CHIASSON, P.E.  
Chief, Construction Programs Bureau

1/13/2016  
\_\_\_\_\_  
DATE