

**NEW MEXICO
CLEAN WATER STATE REVOLVING FUND
INTENDED USE PLAN
STATE FISCAL YEAR 2014**

June 5, 2013

U.S. Environmental Protection Agency-Region 6
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TABLE OF CONTENTS

<u>PART</u>	<u>PAGE</u>
I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Sec. 603(a) & (b).....	1
II. FUND GOALS, Clean Water Act Sec. 606 (c) (2).....	1
III. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act Sec. 606 (c) (5).....	3
IV. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act Sec. 606 (c) (1) and (3).....	6
V. DISCHARGE REQUIREMENTS, Clean Water Act Sec. 606 (c) (3) and (4) AND Sec. 602 (b) (5)	6
VI. FINANCIAL DATA, Clean Water Act Sec. 606 (c)(2) and (3) and 603 (d)(1)(a)	6
VII. STATE MATCH.....	7
VIII. PROGRAM ADMINISTRATION	8
IX. ASSURANCE AND SPECIFIC PROPOSALS, Clean Water Act Sec. 606 (c) (4); Sec. 602 (a) and (b) (3), (4), (6); Sec. 603 (h)	9
X. PLAN FOR THE USE OF ALL CWSRF FUNDS	11
New Mexico CWSRF Cash Flow Projection (2012-2023)	
New Mexico CWSRF Cash Flow Projection (2012-2031)	
XI. ATTACHMENT	
Priority Rating System for Point Source and Non-Point Source Projects, dated 4/10/2013	
XII. TABLES:	
Table 1. Integrated Projects Priority List, State Fiscal Year 2014 (code key and 4 page list)	
Table 2. Projected Disbursements from Cap Grants, State Matches and 2 nd Tier Funding	
Table 3a. FFY 2011 Allotment Administrative Budget Remaining for SFY 2014	
Table 3b. FFY 2012 Allotment Administrative Budget Remaining for SFY 2014	
Table 3c. FFY 2013 Allotment Grant Administrative Budget	
Table 4. Projected Loan Repayments for FY 2014	
Table 5. FFY 2014 SRF Outlays	

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 (“the 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 revolving loan program so as to improve and protect water quality and public health.”

The Fund is administered by the New Mexico Environment Department (NMED) as agent for the Water Quality Control Commission. State money appropriated to NMED to carry out the provisions of the Loan Act may be used to match Federal funds allocated to New Mexico pursuant to the Federal Clean Water Act, 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 (Sec. 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 purpose for which provided.”

On June 14, 1983, the WQCC delegated day-to-day responsibility for administering the Wastewater Facility Construction Program to the Environmental Improvement Division, now known as the New Mexico Environment Department for the purposes of the New Mexico Water Quality Act. The WQCC reiterated that delegation in January 1986. On June 13, 2000 the WQCC adopted amendments to the Regulations and re-codified the regulations pursuant to the Authority provided by Sec. 74-6A-4-F, NMSA 1978.

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

Long-term Goals for State Fiscal Year 2014 include:

- a. 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. (See attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014.)
- b. To maintain the fund in perpetuity. (See attached Cash Flow Projections and Table 2, Projected Disbursements; Tables 3a through 3c, Capitalization Grants Administrative

Budgets; Table 4, Projected Loan Repayments; and Table 5, FFY 2014 SRF Outlays. Also see Figure 1, Sources and Uses in Section X below.)

- c. To maintain fiscal integrity of the Clean Water State Revolving Loan Fund (CWSRF).
- d. To reduce and/or eliminate discharges of pollutants into the State's waters and to improve water quality in all state waters.

Short-term Goals for State Fiscal Year 2014 include:

- a. Completion of an annual audit, intended use plan and an annual report in a timely manner. Clean Water Act Sec. 606 (b, c, d).
- b. Identify additional recipients to receive the remaining subsidy amount from the FFY 2011 Allotment portion of the SFY 2012 Capitalization Grant in the total amount of \$815,777. \$1,145,000 of the subsidy has already been committed to projects.
- c. Completion of the FFY 2011 Allotment portion of the CS-35000212 Capitalization Grant in the amount of \$7,222,000 with the EPA. CWA Sec. 602 (A). The balance remaining as of 5/31/2013 is \$457,070.18 from the construction portion and \$124,767.88 from the 4% administrative portion.
- d. Completion of the FFY 2012 Allotment portion of the CS-35000212 Capitalization Grant in the amount of \$6,908,000 with the EPA. CWA Sec. 602 (A). The balance remaining as of 5/31/2013 is \$6,631,680.00 from the construction portion and \$231,227.00 from the 4% administrative portion.
- e. Execution of at least \$43 million in binding commitments.
- f. Identify recipients to receive the subsidy amount from the FFY 2012 Allotment portion of the SFY 2012 Capitalization Grant in the total amount of \$575,882.
- g. Identify the remaining \$135,200 in green projects for the FFY 2012 Allotment portion of the SFY 2012 Capitalization Grant.
- h. Begin draw-down of FFY 2013 Allotment of \$6,520,000 (yet to be awarded).
- i. Apply for the FFY 2014 Allotment within a timely fashion of being notified of its availability and amount.
- j. Execution of 20-year loan agreements (converting loans from construction phase to post construction/repayment phase) for Sandoval County, the Village of Corrales, and El Valle de Los Ranchos Water and Sanitation District.
- k. The state commits to completing the Environmental Benefits Form and providing these forms with our Annual Report. These forms will help the NMED and the EPA report on the benefits realized by the CWSRF funding activities.
- l. 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.
- m. Refine the process for soliciting and funding non-traditional CWSRF projects to include future capitalization grant green project reserves. The first steps toward this goal were taking in SFY 2013 when the NM CWSRF priority rating system was updated and the application questions were broadened to collect more relevant information. In order to achieve this goal, NMED must review and update New Mexico statutes and administrative code.

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 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. Please see the attachment to this IUP titled Priority Rating System for Point Source and Non-Point Source Projects, dated 4/10/2013, for a detailed description of the new system. The CWSRF and NMED staff evaluates and ranks projects to mitigate point sources and non-point sources of water pollution (see attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014).

The integrated projects priority rating points system is as follows:

NEW MEXICO CWSRF REVISED PRIORITY SETTING SYSTEM
POINTS: **475** Max Possible (not including GPR bonus)

Groundwater Water Quality Improvement Factor*	150 possible	Surface Water Quality Improvement Factor*	150 possible
Project addresses an exceedance of one or more Human Health based ground water quality standards in an aquifer area that is: <ul style="list-style-type: none"> • Currently being used as a public or domestic water supply • Currently being used as an irrigation water supply • Likely to be used as a public, domestic or irrigation water supply in the foreseeable future • Project does not address a ground water quality problem 	75	Project directly implements an approved or draft TMDL.	50
	50	Project directly addresses a water quality impairment identified in the 303(d) list or an NPDES effluent limit for which the facility has been shown to have the potential to exceed water quality standards.	50
Project corrects Individual Sewage Disposal Systems or sewage discharge shown to be polluting either surface or groundwater and addresses a public health emergency and/or a confirmed repeated contamination of a supply source by E. coli, fecal coliform, or nitrate above established standards.	25	Project enhances protection of one or more of the following designated beneficial uses of NM surface waters <ul style="list-style-type: none"> • Aquatic Life • Water Supply • Recreation • Religious and/or Ceremonial Purposes 	25
	0		
Project addresses both the protection of surface water and groundwater resources.	25	Project incorporates one or more of the following: <ul style="list-style-type: none"> • Structural and/or non-structural stormwater BMPs • Water quality monitoring protocols designed to improve stormwater management • Inclusion of a non-point source project sponsorship component and/or addresses both protection of surface water and groundwater resources 	25

*Points will be awarded to either Ground Water OR Surface water, whichever will yield the highest award.

Permit Compliance - Ground Water**	50 maximum	Permit Compliance – Surface Water**	50 maximum
Project addresses on-going violations of a ground water Discharge Permit or the WQCC Regulations for which NMED has issued a: <ul style="list-style-type: none"> Administrative Compliance Order Notice of Violation Notice of Non-compliance Project is undertaken voluntarily by entity, but will result in greater ground water protection Project does not address compliance issue 	50	Project addresses an enforcement action by a regulatory agency and the facility is currently in significant non-compliance.	50
	30	Project addresses a facility's voluntary efforts to resolve a possible violation and will mitigate the issuance of a Consent Order , Notice of Violation, or other enforcement action.	30
	20	Project is designed to maintain permit compliance, meet new permit effluent limits, or provide a degree of treatment beyond permit requirements.	15
	15	Project does not address compliance issue.	0
	0		

**Applicant may only receive points for permit compliance in one category. Points will be awarded to either Ground Water OR Surface water, whichever will yield the highest award.

Financial/Affordability	100 possible
Choose one in each category:	
Per Capita Income (PCI) of service area	
<ul style="list-style-type: none"> <60% of State PCI PCI <80% but >60% of State PCI PCI >80% but <95% of State PCI PCI >95% of State PCI 	30 15 5 0
User Fees (household sewer rates/area PCI)	
<ul style="list-style-type: none"> Rates are more than 2.82% of the service area's PCI Rates are between 1.82% and 2.82% of the service area's PCI Rates are less than 1.82% of the service area's PCI 	25 15 5
Rate Structure	
<ul style="list-style-type: none"> Block rates that increase over time by an ordinance currently in place Block Rates (FR) Flat Rate – Unlimited Use 	25 15 0
Population Served	
<ul style="list-style-type: none"> <2,000 Between 2,000 and 10,000 Between 10,000 and 50,000 Over 50,000 	20 10 5 0

Sustainability	75 possible
Project incorporates one or several of the following planning methodologies:	
<ul style="list-style-type: none"> Physical Regionalization & Consolidation Utility Management Plan that: (5 pts each) <ul style="list-style-type: none"> Secures a replacement fund for the rehabilitation and replacement of aging and deteriorating infrastructure as needed Provides sufficient revenue to meet O&M and capital needs Demonstrates that the facility has maintained Licensed/Certified Operators and will continue to do so Demonstrates adequate in-house staffing, long-term management contracts, or partnerships with third-party providers are in place to properly operate and maintain the facility Promoting sustainable utilities and/or communities through: (5 pts each) <ul style="list-style-type: none"> Fix-it-First Capital Improvement Plan Full-cost pricing structure that budgets for infrastructure repair and replacement costs Establishment of a watershed service funding structure Water efficiency, reuse and conservation Mechanisms to protect infrastructure investments to ensure longevity and ongoing functionality of nonpoint source BMPs 	20 20 (max this section) 25 (max this section) 10
Readiness to Proceed	
100 max possible	
A Preliminary Engineering Report, Feasibility Study, or Technical Design Memo has been submitted to CPB and the appropriate NMED regulatory Bureau.	20
<ul style="list-style-type: none"> Preliminary Engineering Report, Feasibility Study, or Technical Design Memo has been reviewed by the appropriate regulatory Bureau and approved by CPB. 	45
AND Environmental Information document has been submitted to CPB or Categorical Exclusion paperwork has been submitted to CPB to support a Cat Ex eligible project.	65
AND Technical plans and specifications have been submitted to CPB and the appropriate NMED regulatory Bureau.	80
<ul style="list-style-type: none"> Technical plans and specifications have been reviewed by the appropriate regulatory Bureau and approved by CPB. 	100

Green Project Reserve (bonus points)	25 possible
Project incorporates Green Project Reserve Components:	
<ul style="list-style-type: none"> Green Infrastructure (GI) Water Efficiency (WE) Environmentally Innovative (EI) Energy Efficiency (EE) 	25 for one or more eligible GPR categories

Public notice of the Integrated Projects Priority List (IPPL) process is currently being provided through publication in independent newspapers statewide and the NMED website. NMED will accept public comment regarding the SFY 2014 Intended Use Plan (IUP) and associated IPPL from June 10th – June 28th of 2013 (see Table 1, Integrated Projects Priority List, State Fiscal Year 2014 attached). 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.

A community may be by-passed if they are not willing to accept a loan, financially incapable of servicing the loan and / or NOT ready to proceed with the project.

Method of Cash Draw

All projects with funding agreements signed in SFY 2014 are required to meet all federal cross-cutters because NMED utilizes the All Project Method of Cash Draws, meaning any project may receive federal funds from the SFY 2012, SFY 2013 or SFY 2014 capitalization grants.

Additional Subsidization

NMED, under the authority of 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. NMED considers municipalities with less than 20,000 people or counties with less than 200,000 people to be rural communities, which is reflected in the subsidy eligibility column on the attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014. NMED currently has two (2) awards open with construction funds available and anticipates a third award in early SFY 2014:

Allotment FFY	Cap Grant SFY	Amount of Award	Subsidy Amount
2011	2012-0	\$7,222,000.00	\$2,230,777.00
2012	2012-1	\$6,908,000.00	\$575,882.00
2013	2013 (Anticipated in 2014)	\$6,520,000.00	\$460,680.00

Out of the \$2,230,777 subsidy from the FFY 2011 Allotment, \$1,145,000 in subsidy is in the process of being awarded as of June 30, 2013 as grants to communities under pending loan/grant agreements. The remaining \$815,777 in FFY 2011 subsidy will be awarded in SFY 2014. 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 2014.

The FFY 2012 and FFY 2013 Allotment subsidy amounts listed above will be awarded in SFY 2014. 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 2014.

NMED has identified just over \$67 million in projects eligible for subsidy on the attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014.

Green Project Reserve (GPR)

The FFY 2012 and 2013 appropriations acts require that, to the extent there are sufficient eligible project applications, not less than 10% of the funds made available shall be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. For the FFY 2012 Allotment, \$555,600 of the \$690,800 GPR required has been accounted for by an executed agreement. Potentially green projects to account for the FFY 2012 Allotment GPR remaining amount of \$135,200 and the FFY 2013 Allotment GPR amount of \$652,000 are shaded green and the potential green category is identified on the attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014. NMED has identified over \$21 million in projects with green components.

IV. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act Sec. 606 (c) (1) and (3)

The attached Table 1. Integrated Projects Priority List, State Fiscal Year 2014 contains a list of all projects eligible for assistance pursuant to Sec. 212 of the Clean Water Act as amended in March of 1988.

V. DISCHARGE REQUIREMENTS, Clean Water Act Sec. 606 (c) (3) and (4) AND Sec. 602 (b) (5)

Some projects are total retention lagoons or discharge to groundwater, while other projects which discharge to surface water will comply with secondary treatment requirements.

VI. FINANCIAL DATA, Clean Water Act Sec. 606 (c)(2) and (3) and 603 (d)(1)(a)

Pursuant to the Loan Act, a loan shall be made for the period of time not to exceed twenty (20) years with an annual base interest rate of three percent (3%). On June 16, 2000, the Water Quality Control Commission adopted amendments to the regulations and re-codified the regulations. These changes are established in 20.7.5.14 New Mexico Administrative Code (NMAC) Subsection F. The interest rate, including the administrative fee portion (see Section VIII below), cannot exceed the market loan interest rate. The variable interest rate categories are as follows:

“The interest rate for the loan portion of the financial assistance shall be the rate in effect when the original financial assistance agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Section 20.7.5.14 NMAC Subsection I. The interest rate shall be the base rate provided in Section 20.7.5.14 NMAC Subsection G. unless the Local Authority qualifies for a hardship rate provided in Section 20.7.5.14 NMAC Subsection H”.

20.7.5.14 NMAC Subsection G states:

“The base rate for the loan portion of the financial assistance shall be three percent (3%). At the beginning of each State fiscal year, the Commission may determine a base rate for the State fiscal year which is less than or greater than the current base rate.”

20.7.5.14 NMAC Subsection H states:

“The following hardship rates shall be approved by the Department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

- (1) An interest rate which is two percent (2%), when the local authority’s median household income is less than the statewide non-metropolitan median household income based on the most current decennial U.S. Bureau of Census statistics.
- (2) An interest rate of one percent (1%) when the local authority’s median household income is less than three-fourths (3/4) of the statewide non-metropolitan median household income based upon the most current decennial U.S. Bureau of Census statistics.
- (3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural communities.
- (4) An interest rate of zero percent (0%) when:
 - a. the local authority’s average user cost is at least fifteen dollars (\$15.00) per month or a higher amount as determined by the Commission. The calculation of average user cost shall be consistent with a statewide methodology established by the Department; and
 - b. the local authority’s median household income is less than three-fourths (3/4) of the statewide non-metropolitan median household income based upon the most current decennial U.S. Bureau of Census statistics.

20.7.5.14 NMAC Subsection I states:

“A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.”

Loans must be repaid in annual installments. The first annual installment is due no later than one (1) year after completion of the project. At that time, previous cash disbursements to the community, plus accrued interest during construction, may be paid immediately or “rolled” into a final loan.

Authority for the NMED to administer a credit enhancement program was provided by the 1989 amendments to the Loan Act. Authority to refinance a local authority’s wastewater debt and to leverage state appropriations and federal capitalization grants was provided by the 1991 amendments to the Loan Act in conformance with the Clean Water Act. The Commission adopted and re-codified changes to the Wastewater Facility Construction Loan Act Regulations on June 16, 2000.

VII. STATE MATCH

The State of New Mexico has proposed and the EPA Region 6 has accepted that NMED will expend all of the required CWSRF state match funds up-front (first) in distributions/loans to communities toward addressing the wastewater needs in New Mexico. 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 2014 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.

In SFY 2012, the New Mexico Legislature appropriated \$1,444,400 in state match funds for the FFY 2011 Allotment of \$7,222,000. The \$1,444,400 was funded through a Severance Tax Bond (STB) sale in December 2011. The New Mexico State Board of Finance conducted the bond sale and the bonds are repaid with taxes on oil, gas and other natural resource extractions on state land. The CWSRF is not the source of reserve maintained for the bonds. The CWSRF interest earnings are not the source of repayment for the bonds. The state match was deposited in the CWSRF fund incrementally based on each disbursement of funds paid from the STB funds. The entire \$1,444,400 was fully expended on August 23, 2012 before drawing of the \$7,222,000 in federal cap grant funds began September 4, 2012.

In SFY 2012, the New Mexico Legislature appropriated \$1,400,000 in state match funds for the FFY 2012 Allotment of \$6,908,000. In SFY 2013, the Legislature appropriated \$1,400,000 in state match funds for the FFY 2013 Allotment of \$6,520,000. The source of funding for these matches is the Public Project Revolving Fund (PPRF) which is administered by the New Mexico Finance Authority (NMFA). The PPRF (and this match) is funded by NMFA's share of New Mexico Government Gross Receipts Tax (GGRT). GGRT is collected by the New Mexico Taxation and Revenue Department and is imposed on the receipts of New Mexico state and local governments (except public schools and hospitals) from:

- The sale of water by a utility owned and operated by a county, municipality or other political subdivision of the state
- Sewage services
- Refuse collection, refuse disposal, or both
- The sale of tangible personal property, other than water, from facilities open to the general public
- The performance of or admission to recreational, athletic or entertainment services or events in facilities open to the general public
- The renting of parking, docking or tie-down spaces or the granting of permission to park vehicles, tie-down aircraft or dock boats.

The FFY 2012 Allotment state match was deposited in the CWSRF fund on July 2, 2012. The match requirement of \$1,381,600 was fully expended on December 17, 2012. The FFY 2012 Allotment will begin being drawn in early SFY 2014. The FFY 2013 state match will be deposited in the CWSRF fund on July 2, 2013 via a wire transfer from the PPRF. The match requirement of \$1,304,000 will be expended out of these funds before drawing the \$6,520,000 in federal cap grant funds. The remaining \$96,000 will be banked for future state match use.

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 of the Federal Clean Water Act and 74-6a-4, NMSA 1978, as amended. Up to 4% of all grant awards may be used for

reasonable administrative costs. NMED has the following amounts available for administrative costs from open/pending capitalization grants:

FFY Allotment	Allotment Amount	4% Admin Amount	Amount Remaining as of 6/28/2013
2011	\$ 7,222,000	\$ 288,880	\$ 124,768
2012	\$ 6,908,000	\$ 276,320	\$ 231,227*
2013	\$ 6,520,000	\$ 260,800	\$ 260,800
Total Available Admin			\$ 616,795

*Note – The FFY 2012 Allotment included \$45,093 in In-Kind funds for a work assignment performed through EPA. This work assignment was completed in SFY 2013, and the amount remaining has been reduced by this amount.

NM CWSRF currently charges an administrative fee of 0.004356 (0.4356%) that is earned annually on principal amount owed during repayment. The fee began to apply to loans that finished construction and went into repayment in SFY 2008. 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 2014, Fund 32700 is anticipated to have the following activity:

Fund 32700 SFY 2014 Activity	Amount
Balance beginning of SFY 2014 (ending balance as of 5/31/13)	\$801,591
Estimated investment interest from the State Treasurer’s Office to be earned in SFY 2014	+1,800
Loan Administrative Fees anticipated to be collected in SFY 2014	+364,438
Program operating expenses budgeted from Fund 32700 in SFY 2014	-351,814
Balance end of SFY 2014	\$816,015

The expenses budgeted for use in SFY 2014 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 (a) and (b) (3), (4), (6); Sec. 603 (h)

Environmental Reviews: Sec. 602 (a). 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 USEPA. In FFY 2005, the State modified its environmental review procedures and EPA formally concurred with it in December 2005. In 2009, NMED coordinated a statewide effort to make the environmental review process more streamlined and uniform among all agencies that regulate and perform the reviews. Participating agencies included all identified state and federal entities, some private sector entities, and tribes operating in New Mexico. This project was designed to save time and money for infrastructure projects throughout New Mexico. A draft of the proposed process can be found at <http://www.nmenv.state.nm.us/cpb/InfFinCon/documents/EnvironmentalReviewGroupDraft.pdf>.

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.

Timely Expenditures: Sec. 602 (b) (4). The State certifies to expend all funds in the Fund in an expeditious and timely manner. The NM CWSRF program projects that all funds are committed.

First Use of Funds for Enforceable Requirements: Sec. 602 (b) (5). The State certifies that all major and minor Publicly Owned Treatment Works (POTW) that have previously been identified by the U.S. EPA and the State of New Mexico as part of the National Municipal Policy universe (NMP) projects are:

- (a) in compliance, or
- (b) on an enforceable schedule, or
- (c) have an enforcement action filed, or
- (d) have a funding commitment during or prior to Federal Fiscal Year 1988.

Therefore, pursuant to Sections 602 and 603 of Public Law 100-4, other municipal wastewater facilities without unmet enforceable requirements under Sec. 212 and the programs and projects in Sec. 319 and 320 may be provided assistance from the New Mexico Wastewater Facility Construction Loan Fund.

Procurement Assurances: The State certifies that it shall comply with 40 CFR Part 31 and that 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:

	<u>MBE (%)</u>	<u>WBE (%)</u>
Construction	41.03	6.47
Supplies	25.51	35.30
Services	38.78	40.00
Equipment	36.69	30.65

These goals were negotiated by NMED with EPA in SFY 2012 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 U.S. 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 Clean Water Act. The State proposes to use its fiscal year of July 1 through June 30 as the accounting period for the Fund.

X. PLAN FOR THE USE OF ALL CWSRF FUNDS

Figure 1 Sources and Uses SFY 2013	
Beginning balance as of 6/1/2013:	
Ending cash balance as of 05/31/2013	\$97,426,640.32
Unused admin portion of FFY 2011 Allotment as of 05/31/2013	\$124,767.88
Unused admin portion of FFY 2012 Allotment as of 05/31/2013	\$231,227.00
Unused construction portion of FFY 2011 Allotment as of 05/31/2013	\$457,070.18
Unused construction portion of FFY 2012 Allotment as of 05/31/2013	\$6,631,680.00
State Match from Laws of 2013 Public Project Revolving Fund as of 05/31/2013*	\$1,400,000.00
Projected Sources during SFY 2014:	
FFY 2013 Allotment/Projected 2013 Cap Grant (incl 4% Admin)	\$6,520,000.00
2014 Repayment Principal (see Table 4 attached)	\$9,105,369.57
2014 Repayment Interest (see Table 4 attached)	\$2,785,371.60
2014 Overnight Interest (Estimated from SFY 2013 State Treasurer reports)	\$221,056.66
Total Sources	\$124,903,183.21
Projected Uses	
Projected Admin Expense **	\$616,794.88
Projected Disbursements (see Table 2)	\$36,759,854.86
Total Projected Uses	\$37,376,649.74
Available Resources ***	\$87,526,533.48
* Amount of appropriation. Actual state match required is 20% of FFY 2013 Allotment = \$1,304,000. The remaining \$96,000 will be banked for future state match use.	
** Estimated administrative expenses in FY14 will be paid for with the FFY 2011 Allotment admin balance (\$124,767.88), the FFY 2012 Allotment admin balance (\$231,227.00) and the FFY 2013 Allotment admin (\$260,800.00). See Tables 3a, 3b and 3c for the administrative budgets.	
*** 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 5/31/2013, the balance remaining to be disbursed from the loans/grants in construction is \$26.3 million. NMED plans to make at least \$47 million in binding commitments in SFY 2014. These amounts make up almost 84% of the \$87,526,533.48 in available resources identified.	

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

<http://www.nmenv.state.nm.us/cpb/CWSRFPPage.htm>