

**NEW MEXICO  
CLEAN WATER STATE REVOLVING FUND (CWSRF)  
SUPPLEMENTAL INTENDED USE PLAN  
STATE FISCAL YEAR 2009  
CAPITALIZATION GRANT UNDER THE  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

**Originally submitted March 31, 2009**

**Updated August 14, 2009  
and December 23, 2009**

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## **I. Introduction**

This Intended Use Plan (IUP) accompanied the State of New Mexico Environment Department's (NMED) application for a \$19,239,100 capitalization grant for the Clean Water State Revolving Fund (CWSRF) program under the American Recovery and Reinvestment Act (ARRA) of 2009. This IUP is a Supplement to the previously approved FY 2009 IUP.

This IUP has been updated as of December 23, 2009 to include potential capitalization grant transfer authority from the Drinking Water State Revolving Fund (DWSRF) to the CWSRF. The potential transfer authority discussion can be found in the newly added Section IV and the potential transfer specifics can be found in both Section III. Sources and Uses of Funds and Section V. Criteria and Methods for Distribution of Funds.

## **II. CWSRF Program Goals**

The State of New Mexico is committed to using the capitalization grant for which it is applying to provide assistance to wastewater and nonpoint source projects which will proceed quickly to construction, creating jobs and furthering the water quality objectives of the Clean Water Act. NMED's goal is to enter into binding commitments for projects, which will proceed to construction or award of construction contracts by February 17, 2010.

The State of New Mexico recognizes that the goal of the ARRA is to expeditiously fund eligible projects that simultaneously will create jobs, promote economic recovery, and generate long-term benefits from infrastructure investment. In this grant, NMED is being called upon to accomplish goals that may not previously have been priorities in its base CWSRF program. Some priorities and activities in NMED's base program that may not practicably be attainable within the timeframes associated with the ARRA will be pursued using funds made available through the base CWSRF program or through its Uniform Funding Application partner funding agencies: USDA-RUS, NMFA and DFA.

## **III. Sources and Uses of Funds**

The State of New Mexico has been awarded a capitalization grant in the amount of \$19,239,100. This represented the amount that NMED is eligible to receive under New Mexico's CWSRF

allocation from the supplemental appropriation enacted under the ARRA. Table 1 summarizes the sources and uses of the capitalization grant for which NMED has been awarded:

**Table 1. Sources and Uses of Capitalization Grant**

	<u>Amount</u>
<b>Sources:</b>	
Capitalization Grant	\$ 19,239,100
<b>Uses:</b>	
Project Assistance Subsidization	\$ 11,100,848
Green Project Reserve Subsidization	\$ 7,368,688
Administration	\$ 769,564
Total Uses	\$ 19,239,100

A potential transfer of funds from the New Mexico DWSRF to the New Mexico CWSRF could result in additional ARRA capitalization grant funds up to \$6,435,000. An application for the additional funds will accompany this IUP update. Table 1a below summarizes the sources and uses of the potential additional capitalization grant funds:

**Table 1a. Sources and Uses of Potential Capitalization Grant Transfer Funds**

	<u>Amount</u>
<b>Sources:</b>	
Potential Capitalization Grant Transfer Funds	up to \$ 6,435,000
<b>Uses:</b>	
Project Assistance Subsidization	up to \$ 6,435,000
* Green Project Reserve Subsidization	<i>\$ to be determined</i>
Total Uses	up to \$ 6,435,000

*\* Amount of Green Project Reserve Subsidization will be determined based on satisfying the 20% Green Project Reserve for both the DWSRF and CWSRF ARRA capitalization grants as a whole. Please see discussion in Section V.C. below.*

NMED is eligible to use up to four percent of the cumulative capitalization grants as administrative funds to provide for costs incurred for the management of the CWSRF program and for the management of the projects receiving financial assistance from the CWSRF. The administrative budget approved by the New Mexico Office of Recovery and Reinvestment equals 4% of the ARRA capitalization grant and includes \$657,903 for salaries, benefits and

indirect costs; \$56,000 for contract services including NMED CWSRF's federal single audit, LGTS updates by Northbridge and pending ARRA assistance services; and \$55,660 for operating costs including rent, travel and supplies.

#### **IV. Transfer Authority Between the CWSRF and DWSRF**

In accordance with the Safe Drinking Water Act (SDWA) State Revolving Funds (SRF) transfer provisions (Section 302), the state hereby reserves the authority "to transfer an amount up to 33 percent of the ARRA Drinking Water SRF program capitalization grant[s] to the CWSRF program or an equivalent amount from the CWSRF program to the Drinking Water SRF program." New Mexico may request to transfer ARRA funds in order to assure adequate capacity to meet funding demands for both programs.

Prior to any transfer of funds, the capitalization grant agreement will be amended and a copy of an Attorney General's opinion certifying that state law permits the state to transfer funds will be submitted; and transfers will be made by direction of the Governor, in accordance with SDWA Section 302.

The State of New Mexico deems it to be in the best interest of the State to fully meet the ARRA funding demands of both the CWSRF and the DWSRF loan programs. Therefore, a transfer of funds from the DWSRF to the CWSRF, if necessary, represents the best use of CWSRF and DWSRF program funds. If the entire unused reserved amount of transfer authority under ARRA is transferred from the DWSRF to the CWSRF, NMED anticipates that there will be no impact on its ability to fund all projects on the Supplemental FY 2009 CWSRF Project Priority List. No long-term impact on the CWSRF is anticipated as the entire amount of the transfer will be provided as additional grant funds to one or more of the projects identified in Exhibit 1.

#### **V. Criteria and Methods for Distribution of Funds**

##### **A. Project List**

NMED conducted a comprehensive outreach campaign to alert potential borrowers of federal plans to provide economic recovery stimulus funding. In February 2009, notices were sent to the CWSRF mailing list (500 local contacts), emails were distributed, and information was added to NMED's web site that covered the economic recovery loan application process. In July 2009, a

second notice was sent to the CWSRF mailing list and to additional contacts identified by the NMED Surface Water Quality Bureau and the New Mexico Energy, Minerals & Natural Resources Department Energy Conservation Management Division. Information was updated as details of the stimulus funding changed and became finalized at the federal level. NMED has focused on reaching out to communities with ready to go projects and those that may be eligible for grant subsidy assistance. As a result of this effort, the New Mexico CWSRF program identified almost \$154 million in eligible projects that could be ready to proceed to construction within the time deadlines established by the ARRA. The attached project list (Exhibit 1) includes projects that have been assessed through the CWSRF prioritization process and meet the stimulus criteria.

## **B. Additional Subsidization**

The ARRA requires that not less than 50% of assistance provided is in the form of additional subsidies. 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, therefore no changes were made to NM rules or regulations. As shown in Table 1, Sources and Uses of Capitalization Grant, after administrative costs are accounted for 100% of the stimulus funds will be distributed in the form of grants, which exceeds ARRA's subsidization requirement. The CWSRF loan portion will come out of NMED's non-ARRA CWSRF funds. NMED has established the following factors for determining the amount of additional subsidy on a project specific basis; the factors were presented to the New Mexico Water Quality Control Commission on April 14, 2009:

1. The project must be ranked and listed on New Mexico's current 2009-2013 CWSRF Integrated Projects Priority List.
2. The project must be under contract and in construction by February 2010.
3. The project must be in a rural community (CPB considers municipalities with less than 20,000 people or counties with less than 200,000 people to be rural communities).
4. To maximize the number of projects completed with ARRA funding and to address the hardship conditions statewide, small projects requiring loan/grant combinations of \$1 million or less will be given first consideration.
5. Consideration also will be given to distressed communities with high unemployment rates as identified by the Economic Development Department.
6. Green projects will be identified and at least 20 percent of ARRA funds will be reserved for these projects.

7. The remaining ARRA funding will be distributed to projects on the Priority List in order of rank.
8. The loan/grant combination given to each community will be based on the community's ability to take on debt by factoring in its population, Median Household Income (MHI), and current sewer fees.
9. Any unfunded ARRA eligible projects will remain on the Priority List. If a project selected for ARRA funding is unable to proceed, then that funding will become available for other ARRA eligible projects on the Priority List.

The attached project list (Exhibit 1) identifies 29 projects based on the factors above that are eligible for subsidization via grants. Using the selection criteria identified above, 17 projects have been selected for funding, prior to any capitalization grant funds transfer, with a CWSRF grant subsidization total of \$18,548,756.

### **C. Green Infrastructure**

The ARRA requires that, to the extent there are sufficient eligible project applications, not less than 20% of the funds provided for projects must be used for water or energy efficiency, green infrastructure, or other environmentally innovative activities. Green reserve projects have been identified on the attached Exhibit 1. NMED has selected 5 projects with green reserve components totaling \$7,368,688. This amount is 38% of the ARRA funds, therefore meeting the requirements of the green reserve.

In an effort to ensure that all avenues were exhausted toward meeting this green reserve requirement, NMED's solicitation efforts to meet the green reserve included:

- targeted meetings with other programs in the New Mexico Environment Department to identify associations, watershed organizations and environmental groups involved with activities identified in the Green Project Reserve
- targeted meetings with the New Mexico Energy, Minerals and Natural Resources Department Energy, Conservation and Management Division to identify opportunities and contacts for the Green Project Reserve
- targeted solicitations to aforementioned associations and other groups involved in green infrastructure, water or energy efficiency improvements and other environmentally innovative activities

Any additional funds transferred from the DWSRF to the CWSRF will meet the total Green Reserve requirement for the State of New Mexico.

#### **D. Preference for Expeditious Activities**

The ARRA requires priority be given to projects that will be ready to proceed to actual construction within 12 months of the date of enactment. In anticipation of compliance with this requirement, NMED consulted with all potential assistance recipients with projects on the project priority list and made a determination as to which of these projects could be started and completed expeditiously. New Mexico is giving funding preference to projects related to the factors identified in section IV.B. above and based on readiness to proceed as CWSRF projects are not required to be funded in priority order. .

#### **E. Avoidance of Reallotment/Relationship to Base Program**

In order to meet the requirements and deadlines of the ARRA for the expeditious and timely commitment and expenditure of funds, NMED will regularly review the data reported to EPA on the progress of assistance recipients under the statutory deadlines specified in this IUP to identify any issues with the timeliness of this progress. If such issues are identified, NMED intends to work with EPA to resolve such issues. NMED is including conditions in its loan/grant agreements to ensure that recipients make timely progress with respect to entering into contracts and/or construction. If a recipient fails to maintain progress with these conditions, they may receive funding from other CWSRF monies so that ARRA funding can be provided for a project that is ready to proceed.

NMED understands that the U.S. Environmental Protection Agency may deobligate grant funds from States that fail to meet requirements on use of ARRA funds. However, if New Mexico is eligible for additional funds made available by a reallotment of ARRA funds, NMED will provide EPA with a list of projects from its project priority list that are immediately prepared to proceed to construction.

NMED will provide a certification through an amendment to the IUP that all funds received for the additional projects will be under contract for construction within 120 days of reallotment if the state is eligible for the reallotted ARRA funds.

## **F. Loan/Grant Terms and Fees**

NMED's CWSRF Program will offer the following loan/grant terms:

- A combination of loan and grant funds because grant funding is available for assistance to rural communities.
- Standard Base Interest Rate for loan component of 3%. This rate includes an administrative fee calculated annually during repayment as 0.4356% of the outstanding principal due.
- Conditional Interest Rate for loan component of 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. This rate includes an administrative fee calculated annually during repayment as 0.4356% of the outstanding principal due.
- Conditional Interest Rate for loan component of 1% when the local authority's median household income is less than three-fourths of the statewide non-metropolitan median household income based on the most current decennial U.S. Bureau of Census statistics. This rate includes an administrative fee calculated annually during repayment as 0.4356% of the outstanding principal due.
- Conditional Interest Rate for loan component of 0% when the local authority's median household income is less than three-fourths of the statewide non-metropolitan median household income based on the most current decennial U.S. Bureau of Census statistics and the local authority's average user cost is at least fifteen (\$15.00) per month.
- Repayment Term: Up to 20 Years
- Loan Origination Fee: None
- Administrative Fee: Described above as part of the repayment interest. The administrative fee helps meet program operating expenses.

## **VI. Reporting**

The NMED agrees to follow the reporting and tracking guidance as stated on Page 7 of the ARRA Guidance issued March 2, 2009. The NMED agrees to track and account for the ARRA funds so that they can be clearly identified separately and will be in compliance with the requirements to track data as stated in Section 1512 of the ARRA.

## **VII. Public Review and Comment**

In compliance with the requirement in CWA Sec. 606 (c) to provide for public review and comment, NMED posted the Supplemental Intended Use Plan for the \$19,239,100 CWSRF ARRA capitalization grant at [www.nmenv.state.nm.us/cpb/cpbtop.html](http://www.nmenv.state.nm.us/cpb/cpbtop.html) from August 17 to August 28, 2009. Public Notices were published August 16 and August 17, 2009 in newspapers spread geographically around New Mexico covering the majority of the population, requesting all comments be submitted by August 28, 2009.

This updated Supplemental IUP with the addition of potential transfer authority was posted at [www.nmenv.state.nm.us/cpb/cpbtop.html](http://www.nmenv.state.nm.us/cpb/cpbtop.html) beginning December 28, 2009. Public Notices were published December 27 and December 28, 2009 in newspapers spread geographically around New Mexico covering the majority of the population, requesting all comments be submitted by January 7, 2010.

## **VIII. Assurances**

The Department agrees to comply with the Federal program requirements as outlined in the Operating Agreement between EPA and the State of New Mexico dated July 17, 1991.

NMED respectfully submits this Intended Use Plan (IUP). 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/cpbtop.html>