

**NEW MEXICO
CLEAN WATER STATE REVOLVING FUND
INTENDED USE PLAN
STATE FISCAL YEAR 2022**

June 30, 2021

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TABLE OF CONTENTS

<u>PART</u>	<u>PAGE</u>
I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Clean Water Act Sec. 603 (a) & (b)	2
II. FUND GOALS, Clean Water Act Sec. 606 (c) (2)	2
III. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act Sec. 606 (c) (5).....	4
IV. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act Sec. 606 (c) (1)	5
V. SUPPORTED ACTIVITIES, Clean Water Act Sec. 606 (c) (3).....	5
VI. FINANCIAL DATA, Clean Water Act Sec. 603 (d) (1) (a).....	6
VII. STATE MATCH	6
VIII. PROGRAM ADMINISTRATION.....	7
IX. ASSURANCE AND SPECIFIC PROPOSALS	7
X. AUDITS AND REPORTING.....	10
XI. PLAN FOR THE USE OF ALL CWSRF FUNDS	12

ATTACHMENTS:

Table 1 Cash Flow Projections and Graph

Table 2 Project Priority List

Table 3 Subsidy Eligible Projects That Support Sustainability Criteria

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

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

The Fund is administered by the New Mexico Environment Department Construction Programs Bureau (NMED CPB) as agent for the Water Quality Control Commission (WQCC). State money is appropriated to NMED CPB to carry out the provisions of the Loan Act and is used to match Federal funds allocated to New Mexico pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA). Federal capitalization grants, loan principal, and interest repayments as well as interest earnings on the Fund balance are deposited into the Fund. Administrative fee and refinance fee revenues are deposited into a separate dedicated Clean Water Administrative Fund.

The WQCC is New Mexico’s water pollution control agency and has adopted regulations, application procedures, and a project priority ranking system pursuant to the Loan Act, used by NMED CPB in administering the loan program. The New Mexico Water Quality Act §74-6-4 NMSA (1978) identifies the duties and powers of the WQCC related to loans and grants. The provision states:

“The Commission:

- A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;”

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

A. Long-term Goals for State Fiscal Year 2022:

1. Provide local authorities, state agencies, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance for the construction of wastewater facilities or other eligible water quality projects by maintaining a self-sustaining Clean Water State Revolving Fund (CWSRF).
2. Maintain the CWSRF into perpetuity by including repayment and investment interest to the fund (Table 1, Cash Flow Projections)
3. Maintain the fiscal integrity of the CWSRF.
4. Make funding available to potential borrowers who meet the criteria of one of the twelve CWSRF eligibilities found in Section 603(c) of the CWA as amended and as it applies to New Mexico.

5. Encourage green projects by providing funding opportunities for eligible projects that support energy efficiency, water efficiency, green infrastructure, and environmental innovation.
6. Provide available subsidy to eligible entities.
7. Pursue funding scenarios as afforded by state statute to fully maximize lending opportunities.

B. Short-term Goals for State Fiscal Year 2022:

1. Complete the annual audit, intended use plan and annual report in a timely manner. CWA Sec. 606(b)(c)(d).
2. Identify recipients from the SFY 2022 project priority list (PPL) to receive funding, including additional subsidization, from the Federal Fiscal Year (FFY) 2021 Allotment. Draw-down and complete the FFY 2021 Allotment of \$7,779,000.
3. Identify green projects equal to no less than 10% of the FFY 2021 capitalization grant.
4. Apply for the federal allotment in the first year that it is appropriated.
5. Complete the environmental benefits in the Clean Water Benefits Reporting System (CBR) by the end of the quarter that a loan agreement is signed.
6. Work to improve the State’s average of financial indicators that are reported and compiled in the National Information Management System (NIMS): federal return on investment; executed loans as a percentage of funds available; percentage of funds disbursed to executed loans; retained earnings excluding subsidy; change in Net Position. Strive to meet the national averages.
7. Pursue linked deposits, or other financial instruments, to secure loans for private entities.
8. Execute binding commitments equal to 120% of the FFY 2021 capitalization grant within one year after receipt of that grant award. NMED CPB considers a binding commitment to be executed when the loan documents are signed by both parties. This goal will be met during SFY 2022. NMED CPB accepts applications year-round and updates the Priority List quarterly.

Projected Borrowers	Projected Funding Amount
Village of Maxwell	\$1,848,000
East Pecos Mutual Domestic Water Consumers Association	\$3,000,000
Mahmood’s Enterprise	\$150,000
El Valle de Los Ranchos	\$2,000,000
Potential Commitments from 2022 Priority List	\$6,998,000
Binding Commitments Goal- 120% of Grant	\$9,334,800

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 describing eligibility requirements for financial assistance, application procedures, the priority ranking system and administration of the loan program and Fund. The current priority ranking system was adopted by the WQCC on September 8, 2020. NMED CPB staff, NMED Ground Water Quality Bureau, and Surface Water Quality Bureau evaluate and rank eligible projects. (See Table 2, Project Priority List). All CWA §319 activities must implement the state's §319 Nonpoint Source Management Plan. Public notice of the Project Priority List (PPL) process is provided through publication in independent newspapers statewide, by email to the CWSRF distribution list, and on the NMED CPB website. NMED CPB accepted public comments regarding the SFY 2021 PPL from June 6, 2021, through June 18, 2021, no comments were received.

Projects must be on the current New Mexico state fiscal year PPL to be eligible for funding. It is the policy of NMED CPB to make loans in order of priority considering the following:

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

Applicants that do not meet the above criteria may be by-passed; those that can demonstrate that they are actively working to meet the criteria may stay on the list to receive funding from the current fiscal year allocation. Applicants that are not offered funding for the current fiscal year will need to re-apply for the next year's allocation. Applicants are encouraged to discuss projects and financials with the NMED CPB team members prior to application. The NMED CPB team will provide guidance regarding eligibility, program requirements and project and financial readiness.

Application to the CWSRF: The applicant must fill out a CWSRF Application for each project. Applications may be submitted to the CPB electronically, by e-mail, fax, or by mail.

Method of Cash Draw: The method of cash draw for all capitalization grants is to expend 100% of the required state match first and then expend the federal funds. Once the federal funds are fully expended, repayment from EPA will be requested.

Additional Subsidization: NMED CPB has the authority to award a combination of loan and grant in years when grant funding is available. NMED CPB's goal is to provide the maximum amount of subsidy allowed by each capitalization grant. Additional subsidization is awarded to disadvantaged communities that meet the Affordability Criteria or for sustainability factors. The factors used to determine additional subsidization are defined in the CWSRF Affordability Criteria System. NMED CPB developed affordability criteria to determine additional subsidization per the Water Resources Reform and Development Act (WRRDA). The Affordability Criteria looks at user

rates as a percentage of per capita income, population trends, and unemployment levels. Any community receiving a score of 50 points or higher is eligible to receive additional subsidy. The CWSRF Affordability Criteria System can be viewed at <https://www.env.nm.gov/cpb/CWSRFPage.htm>

As set forth in WRRDA, NMED CPB may also award additional subsidization for projects that address sustainability issues including water and/or energy efficiency goals, the mitigation of stormwater runoff, or to encourage sustainable project planning, design and construction. The impact of additional subsidization on the future of the fund is evaluated annually.

Green Project Reserve (GPR): Potentially green projects will count toward the initial FFY 2021 GPR Allotment. NMED CPB has identified and noted potential Green Project Reserve (GPR) projects on the Project Priority List along with the GPR category. Actual project expenditures are used to account for final green amounts spent as projects are completed.

CWSRF-DWSRF Fund Transfers: The State of New Mexico reserves the authority to transfer up to 33 percent of the CWSRF Capitalization Grant to the DWSRF, or an equivalent from the DWSRF to the CWSRF. New Mexico does not anticipate utilizing this authority in SFY 2021.

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

Table 2, Project Priority List contains a list of projects eligible for assistance pursuant to the CWA.

In accordance with §35.3555 CFR Intended Use Plan:

New Mexico CWSRF reserves to the right to provide for the funding of projects that require immediate attention to protect public health on an emergency basis as declared by the Cabinet Secretary of the New Mexico Environment Department or by the Office of the Governor.

For emergency projects NMED CPB will accept applications and expeditiously rank and score the projects and evaluate available funding. If funding is available an offer will be made.

Underserved/Disadvantaged Communities:

NMED CPB defines underserved/disadvantaged communities as those that with a per capita income that is less than the statewide average.

V. SUPPORTED ACTIVITIES, Clean Water Act Sec. 606 (c) (3)

Table 2, Project Priority List contains information on activities to be supported, including a description of the project, discharge permit information, and communities or borrower served.

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

Pursuant to the Loan Act a loan shall be made for a period not to exceed thirty (30) years. The 30-year term cannot exceed the useful life of the project. Documentation from the borrower must be provided to demonstrate the useful life of all construction projects.

The base interest rate for the CWSRF may be determined annually by the WQCC or the rate can be left unchanged. The base rate is the rate applied to eligible borrowers other than local authorities and state agencies. Local authorities encompass municipalities, counties, mutual domestic water consumers associations, water, and sanitation districts, and recognized Indian tribes, among others. Interest rates and interest rate conditions are set NMED in policy. Current policy set interest rates at 0%, 0.50%, and 1%. Local authorities are eligible for a 0% rate when their per capita income (PCI) is less than 75% of the statewide average PCI and their wastewater system user rates are greater than 1.82% of the PCI; local authorities with a PCI that is equal to or less than the statewide PCI are eligible for 0.50%; and local authorities with a PCI greater than the statewide PCI qualify for 1%.

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

Cash flow modeling allows the CWSRF to continue to effectively execute loans for environmentally important construction projects needed in New Mexico. As discussed in Section II A. 2 and shown in the attached Cash Flow Projection, the State maintains the long-term health of the Fund by adding the repayment interest and investment interest to the revolving fund.

VII. STATE MATCH

The State of New Mexico has proposed, and EPA Region 6 has accepted, that NMED CPB will expend all the required CWSRF state match funds prior to using the federal funds. Once the total required state match for each CWSRF capitalization grant has been expended, the State will draw down the federal funds for each respective CWSRF capitalization grant. This drawing arrangement is for the convenience of the state and does not alter any other provision that would have otherwise been applicable if federal funds had been drawn proportionately with State funds.

During the 2021 Legislative Session held January 19, 2021, through March 20, 2021 the New Mexico Legislature appropriated \$1,800,000 from the Public Projects Revolving Fund (PPRF) for state match funds for the FFY 2021 Allotment. This amount exceeds the required state match of \$1,555,800. The 2021 federal capitalization grant application for \$7,779,000 was submitted on March 17, 2021.

VIII. PROGRAM ADMINISTRATION

Reasonable costs for administering the loan program are paid out of the loan fund in conformance with 40 CFR Part 35.3120, the CWA and 74-6A-4, NMSA 1978, as amended, including WRRDA amendments. NMED CPB uses 1/5th percent of the current valuation of the CWSRF fund for the costs of administering the fund. As of June 30, 2020, the audited valuation (Total Net Position) of the CWSRF fund was \$347,038,585 allowing for \$694,077 to be used for administration of the program in SFY22. NMED CPB has no remaining amounts for administrative costs from open capitalization grants.

Pursuant to Subsection C (1) and (2) of 20.7.5.14 NMAC the NMED CPB may assess an administrative fee not to exceed five percent of the total loan amount. The fee is variable, dependent upon the term and interest rate of the loan and is earned annually on the principal amount. The administrative fee is included in the interest rate charged to borrowers and does not add to the financial burden of the borrowers. This administrative fee is deposited into the Clean Water Administrative Fund (Admin Fund) and is budgeted and tracked separately from the Loan Fund. The fee serves 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 2022, the Admin Fund has the following activity projected:

Admin Fund SFY 2022 Activity	Amount
Projected Cash Balance beginning of as of July 1, 2021	\$4,619,013
Estimated investment interest earned	\$20,000
Loan Administrative Fees anticipated to be collected in SFY 2021	\$435,643
Program operating expenses budgeted from Fund 32700 in SFY 2021	\$604,200
Projected Balance end of SFY 2022	\$4,470,456

The expenses budgeted for use in SFY 2022 from the Admin Fund will be used for eligible expenses and will be tracked for EPA's review and verification.

IX. ASSURANCE AND SPECIFIC PROPOSALS

Environmental Reviews: The State certifies that it will conduct environmental reviews of each project receiving assistance from the Fund in accordance with 40 CFR 35.3140. Environmental review procedures have been adopted following criteria established by the EPA. The State Environmental Review Process was revised and approved by EPA Region 6 on August 15, 2016.

Agreement to Accept Payment: The State certifies that it will accept grant payments in accordance with the negotiated payment schedule.

Binding Commitments: Sec. 602 (b) (3). The State certifies that it will enter binding commitments equal to 120% of each grant awarded within one year. NMED CPB considers a Binding Commitment to be executed when the loan documents are signed by both parties.

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

Davis-Bacon Wage Rates. Davis-Bacon applies to construction contracts over \$2,000 and their subcontractors (regardless of the subcontract amount). To ensure compliance with these requirements, NMED CPB will continue to confirm that the correct wage determinations are being included in the bid specifications and construction contracts. NMED CPB will also continue to aid assistance recipients with the specific EPA Davis-Bacon contract language that is to be included in bid specifications and/or contracts. In addition, NMED CPB will continue to ensure compliance through project inspections and Certifications.

Generally Accepted Accounting Principles: Section 602(b)(9) of the CWA requires States to have sub-recipients maintain project accounts per Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB). This provision requires assistance recipients to use standards relating to the reporting of infrastructure assets. NMED CPB includes this information in the Loan Agreements and reviews compliance annually during Single Audit reviews.

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

- (A) have studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for assistance sought under this title; and
- (B) have selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, considering:
 - (i) the cost of constructing the project or activity;
 - (ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and
 - (iii) the cost of replacing the project or activity.

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

For projects that do not require a PER, the funding recipient will be required to provide a certification signed by a professional engineer stating that a cost and effectiveness analysis has been completed.

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

Financial Sustainability Plan: Section 603(d) (1) (E) of the CWA requires that a recipient of a loan for a project that involves the repair, replacement, or expansion of a publicly owned treatment works develop and implement a fiscal sustainability plan (FSP) or certify that it has developed and implemented such a plan.

The statute requires that FSPs include, at a minimum:

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

NMED CPB incorporates the FSP requirement in the Interim Loan Agreement and ensures that:

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

Procurement Assurances: The State certifies that it shall comply with regulations contained in the Uniform Administrative Requirements, Cost Principles and Audit Requirements, 2 CFR Parts 200 and 1500 and the Davis Bacon Act requirements.

Fair Share objectives were waived on October 1, 2019 through the DBE exception.

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

The state utilizes the class deviation from the provisions of 40 CFR 35.3125. This class deviation will allow the non-Federal; non-State match CWSRF Second Tier Funds to be used to provide loans that can be used as the match for all EPA Grant Funded treatment works projects, except

construction grant projects authorized by section 201 of the CWA. The State proposes to use its fiscal year of July 1 through June 30 as the accounting period for the Fund.

American Iron and Steel (AIS) Requirements: Section 608 of the CWA, as amended by WRRDA, requires the use of American iron and steel products in projects for the construction, alteration, maintenance, or repair of a public water system or treatment works. The Borrower shall comply with all applicable provisions of Section 608 of the CWA and related SRF Policy Guidelines found at <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement> that includes the requirement that all the iron and steel products used in the Project are to be produced in the United States unless:

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

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

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

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

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

X. AUDITS AND REPORTING

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

Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirement: NMED CPB files a FFATA sub-award report by the end of the month following the month that a loan agreement greater than \$25,000 is signed. NMED CPB does not apply equivalency for federal cross cutters, single audit, or architectural and engineering procurement. Therefore, the first signed loan agreements that total the amount of the allotment will be reported in the FFATA sub award reporting system.

XI. PLAN FOR THE USE OF CWSRF FUND 12100

As demonstrated with the available resources in Figure 1 and in the Cash Flow projections in Table 1, NMED CPB has a growing cash balance. It is the goal of NMED CPB to fully utilize available resources. To achieve this goal NMED CPB broadened project and borrower eligibility and lowered interest rates. NMED CPB currently accepts applications year-round and uses a cloud-based communication platform to reach potential borrowers more easily. NMED CPB will continue these efforts and pursue other means to fully utilize and deploy the resources available through the CWSRF.

To ensure the timely and expeditious use of funds NMED CPB evaluates applications and offers loans commensurate with readiness to proceed indicators. During the Priority List scoring, NMED CPB considers several factors that provide a reasonable measurement of how close an eligible applicant may be to starting the project. Projects that are not ready to proceed may be offered planning and design loans. These applicants are then encouraged to re-apply the following fiscal year for project construction funding or offered the opportunity to roll the planning and design loan into a construction loan.

Figure 1 as of May 14, 2021 Sources and Uses SFY 2022	
Projected Beginning Cash Balance July 1, 2021	\$170,014,675
Projected Sources during SFY 2022:	
FFY 2021 Allotment	\$7,779,000
FFY 2021 Allotment State Match	\$1,800,000
2022 Repayment Principal and Interest-Projected	\$13,519,825
2022 Interest on Investments-Projected	\$900,000
Total Sources	\$194,013,500
Projected Uses	
Budgeted Admin Expense from CWSRF Fund	\$646,300
Projected Disbursements for SFY 2022	\$18,168,861
Balance to be disbursed for active projects	\$50,888,354
Offers made but not signed	\$13,865,000
Balance for future projects	\$110,444,985
Total Projected Uses	\$194,013,500

NMED CPB respectfully submits this Intended Use Plan. If readers are viewing this report from the website, the SFY 2022 PPL is also available from the CPB's website: <https://www.env.nm.gov/cpb/cpbtopy.html>

Table 1 Cash Flow Chart

New Mexico CWSRF Cash Flow Projection (in \$ millions)
Ten Year Chart Projected as of 2022

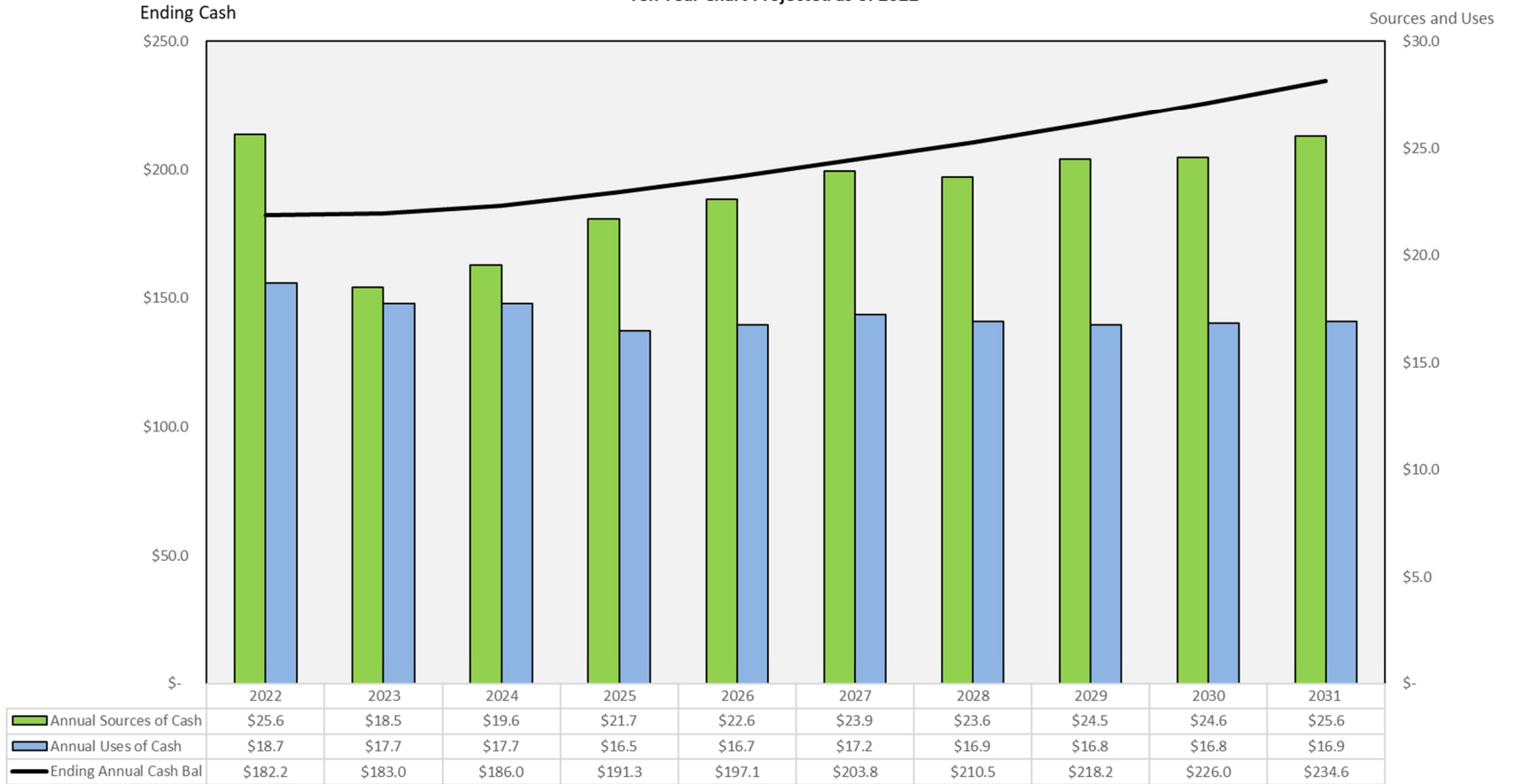


Table 2

NEW MEXICO ENVIRONMENT DEPARTMENT CLEAN WATER STATE REVOLVING FUND PROJECTS PRIORITY LIST FY2022 Q1					
Points	Applicant	NPDES#	DP#	Project	Project Amount Requested
480	East Pecos Mutual Domestic Water Consumers Association			Sewer Collection	\$3,000,000
420	Village of Maxwell	NM0029149	#238	Wastewater Treatment Plant Improvements Phase II	\$1,848,000
410	El Valle de Los Ranchos	NM0024066		Sewer Collection and Conveyance	\$2,000,000
140	Mahmood's Enterprise			Petroleum Storage Tank Removal	\$150,000

Placement on this Priority List does not constitute either a guarantee of a loan offer or a decision that all of the estimated project costs will be deemed eligible for funding under the Federal Clean Water Act or New Mexico Wastewater Facility Construction Loan Act.

TABLE 3

<p>NEW MEXICO ENVIRONMENT DEPARTMENT CLEAN WATER STATE REVOLVING FUND SUBSIDY ELIGIBLE PROJECTS THAT SUPPORT SUSTAINABILITY CRITERIA</p> <p>STATE FISCAL YEAR 2022</p>
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LIST OF SUBSIDY ELIGIBLE PROJECTS THAT SUPPORT THE FOLLOWING SUSTAINABILITY CRITERIA:

- A. Projects that focus on system upgrade & replacement in existing communities specifically.
- B. Projects that involve investigations, studies or plans that improve technical, managerial, and financial capacity of the assistance recipient to operate, maintain, and replace financed infrastructure.
- C. Projects that focus on preliminary planning, alternatives assessment, and eligible capital projects that reflect the full life cycle cost of infrastructure assets, conserve natural resources, or use alternative approaches to integrating natural or 'green' systems into the built environment.

<p>NEW MEXICO ENVIRONMENT DEPARTMENT CLEAN WATER STATE REVOLVING FUND SUBSIDY PROJECTS THAT SUPPORT SUSTAINABILITY CRITERIA</p> <p>STATE FISCAL YEAR 2021</p>						
POINTS	APPLICANT	NPDES #	Discharge Permit#	PROJECT DESCRIPTION	TOTAL PROJECT AMOUNT	SUSTAINABILITY CRITERIA
420	Village of Maxwell	NM0029149	#238	WWTP Improvements	\$1,848,000	A.