

New Mexico Finance Authority
207 Shelby St.
Santa Fe, NM 87501
(505) 984-1454

Minutes of Water Trust Board Meeting
August 18, 2022
Teleconference/Via Zoom

Members Present:

Mike Hamman, Chairman	NM State Engineer
A.J. Forte, Vice Chairman	Executive Director, NMML
Michael Sloane, Secretary	New Mexico Department of Game & Fish
Brent Van Dyke, Treasurer	Soil & Water Conservation District Representative
Greg Alpers	Irrigation or Conservancy District Surface Water Rep.
Jason John	Designee, Navajo Nation
Joy Esparsen	Designee, New Mexico Counties
Judi Kahl	Designee, New Mexico Environment Dept.
Julie Maitland	Designee, Department of Agriculture
Mark Thompson	New Mexico Indian Affairs Department
Marquita Russel	CEO, New Mexico Finance Authority
Priscilla Lucero	Environmental Community Representative
Tim McGinn	Irrigation or Conservancy District Surface Water Rep.
Todd Leahy	Designee, New Mexico Energy and Minerals Department
Wesley Billingsley	Designee, NM Department of Finance Administration

Absent:

Robert Baracker	Acequias Water Users Representative
-----------------	-------------------------------------

Finance Authority Staff:

Angela Quintana	Senior Program Administrator
Alysia Sanchez	Program Administrator
Joe Maldonado	Senior Administrative Assistant
Cherise Martinez	Board Administrator
Michael Vonderheide	Managing Director, Program Administration
Bryan Otero	Legal and Compliance Counsel
Connie Marquez	Executive Assistant

Guests:

Chita Gillis	Cally Carswell
Amanda Davis	Andrea Telmo
David Bailey	Jay Fuentes
Ramon Lucero	Tod Phinney

1. **Call to Order and Roll Call.** Chairman Hamman, called the Water Trust Board (“WTB”) meeting to order at 9:01 a.m. Roll call was taken, and a quorum was established.
2. **Approval of Agenda.** Member Forte made a motion for approval of the agenda, seconded by Member Russel. The motion passed unanimously by a voice vote.
3. **Approval of the May 5, 2022, Board Minutes.** Member Russel made a motion, seconded by Member Forte, to approve the minutes of the May 5, 2022, meeting. The motion passed unanimously by a voice vote.
4. **Water Trust Board Project Management Policies Recommendation.** Ms. Angela Quintana, Senior Program Administrator

Recommendations for revisions to the Water Trust Board Project Management Policies (“Policies”).

The Water Project Finance Act (the “Act”) creates a 16-member board comprised of a diverse set of water users, advocates, and regulators whose duties include annually recommending to the legislature a list of projects to be funded from the Water Project Fund. Currently, estimates for WTB funding over the next several years approximate \$100 million per year. This increased funding comes at a time when federal funding for water and other infrastructure projects has also increased dramatically. This increase in funding means that shovel-worthy and shovel-ready projects have more options for funding, some of which may take less time to secure.

The Act mandates that NMFA provide staff support to the WTB, develop application forms and procedures, and make grants and loans recommended by the WTB. Importantly, the Act directs the WTB to rely on member agencies in carrying out the responsibilities of the WTB including 72-4A-5.1c which provides that “the board shall utilize the resources of its member agencies and entities whenever possible in implementing the state water plan” and 72-4A-7(B) which provides that “Plans and specifications for a water project shall be approved by the authority, after review and upon the recommendation of the State Engineer and the Department of Environment, before grant or loan disbursements to pay for construction costs are made to the qualifying entity.” Member agencies, including those identified in the Act, are facing an increase in federal and state funding for programs they administer which will reduce the resources available to assist the WTB in carrying out its responsibilities.

At recent WTB meetings, Board members asked the Policy Committee to review the following areas of the policies prior to the next funding cycle (2023):

- A. Project Management Team current oversight/application requirements.
- B. Regulatory Compliance timelines.
- C. Match requirements for small/underserved entities.
- D. Rate paying constituents vs. rate paying systems.
- E. Financial capacity/loan determination.

The Policy Committee met on July 13, 2022, and July 27, 2022, to discuss and provide recommendations for revisions to the WTB Policies. Due to the estimated funding increase over the next several years, the recommendations for the revised Policies provide a wider net for applicant eligibility and flexibility for technical oversight.

The attached proposed Policies address the following subjects:

- Clarifying language, particularly as it relates to financial capacity
- Minimum application requirements
- Changes to loan requirements
- Changes to match requirements
- Applicant opportunities

Financial Capacity

Pursuant to the Act, loans or grants may be made only to qualifying entities that meet the requirements of financial capability to ensure sufficient revenues to operate and maintain a water project for its useful life and to repay the loan. As part of the financial analysis performed by the NMFA, applicants are required to submit information in determining financial capacity with regards to the repayment of a loan. Staff is recommending clarifying language to provide an overview of the financial analysis process as well as the financial responsibility of an applicant seeking funds from the WTB. The recommendations require applicants to be in good standing with the NMFA on its grants or loans to be deemed financially capable to receive WTB financial assistance and maintain a debt service coverage ratio of at least 1.0x during the life of the loan.

Minimum application requirements

The Project Management Team (“PMT”) is an informal group of technical experts from the following agencies:

- NMED-Construction Programs Bureau (“CPB”)
- Office of the State Engineer
- NM Department of Game and Fish
- NM Department of Agriculture
- NM Energy, Minerals and Natural Resources Department
- NM Department of Finance and Administration
- NM Finance Authority

The PMT voluntarily reviews applications and makes recommendations to the WTB Project Review Committee throughout the application process. In addition to reviewing the applications, NMED-CPB also provides technical project oversight on certain awarded projects through a Memorandum of Agreement with NMFA. Given the increase of funding it administers and difficulty in securing engineering staff, NMED-CPB has begun to scale back on the number of projects it will oversee from the recent 2022 awards. Because

of the increased funding and diminished capacity for technical oversight, staff recommends adjustments to several sections of the policies.

Appropriate planning is a vital part of the WTB process and planning will remain as part of the minimum application requirements. However, staff recommends considering a technical memorandum prepared by licensed engineer with cost estimates not older than one year may be accepted in lieu of a preliminary engineering report. The applicants' consulting engineer will also need to certify design completion (construction only projects) as part of the readiness application and provide updated construction cost estimates. In addition, to allow applicants additional time to meet regulatory compliance requirements, regulatory agencies will certify applicants' compliance with all relevant regulations as part of the project application. This will allow applicants to work directly with regulatory agencies much earlier in the process to meet the Readiness application deadline.

Loan requirement changes

As part of the financial responsibility of the applicant, loans or grants are made to qualifying entities that meet the requirements of financial capability to ensure sufficient revenues to operate and maintain a water project. The loan serves as evidence of commitment to the project and as a mechanism for NMFA to pay its administrative costs. The WTB allows an additional match in lieu of the loan component for water projects implemented by tribal applicants and for qualified *entities* that are not supported by rate-paying constituents. For those entities that have a rate paying constituency but whose projects may not have a specific rate-paying revenue source, staff recommends that the additional match in lieu of the loan be classified as: *water projects implemented by tribal applicants and for qualified projects that are not supported by rate-paying constituents.*

In addition, to assist smaller systems that may not have the financial capability to take on a loan, the NMFA may waive loan requirements for water projects when:

- i. The applicant serves fewer than 500 connections and has previously secured WTB funding for the same project: or
- ii. The project is to consolidate with another system.
- iii. To qualify for the loan waiver, the applicant must have implemented an asset management plan for the current and future maintenance, replacements, and repair of the system.

Match requirement changes

The WTB requires applicants to demonstrate project commitment in the form of minimum local matches based upon project type, size, and Median Household Income ("MHI"). In the instance where an applicant does not have the local match, they may take on an additional loan in lieu of the required match. For small water systems that may have difficulty in providing the required match, the Board may waive the match requirement when:

- i. The applicant serves fewer than 250 connections and has previously secured WTB funding for the proposed project as defined by planning documents: or
- ii. System upgrade is to consolidate with another system; or

- iii. System upgrade/expansion is to incorporate previously unserved customers (not for future development); and
- iv. Applicant has implemented an asset management plan for the current and future maintenance, replacement, and repair of the system.

Because of the increasing costs of construction, staff recommends the “Scale of Request” in determining the match requirement be adjusted in the Water Storage and Water Conservation categories to effectively lessen local match requirements. Staff also recommends the removal of the “soft match” as part of the local match category due to the arduous tasks associated with applicants providing adequate supporting documentation and staff reviewing those same documents.

Applicant Opportunities

To assist applicants in search of funding opportunities for construction-ready projects, staff recommends the following addition to the project selection recommendations:

The Board may consider awarding 100% grant to “design only” projects with the following conditions:

- i. The project serves or will serve fewer than 500 connections
- ii. Scope is limited to design only – “design” is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid for construction
- iii. Costs for design must be substantiated with a coordinating approved planning document
- iv. Grants for design may not exceed \$500,000.

The intent of the Policies and the above recommendations is to select projects that are fiscally sustainable, encourage a long-range approach to water management and regional participation, set standards for funding based on sound business practices, and support public health and economic vitality through comprehensive planning and investment in infrastructure, create systems that are hydrologically and fiscally sustainable that meet state and federal regulatory requirements and protect the state’s investment in water by requiring accountability and stability.

The Policy Committee has reviewed these revisions and concurs with staff’s recommendations. Staff recommends approval of the revised Policies as presented.

(Member Sloane joined the meeting at 9:30 a.m.)

- 5. Member Lucero made a motion, seconded by Member Van Dyke, to approve the Water Trust Board Project Management Policy changes as presented. The motion passed unanimously by a roll call vote.**

(Chairman Hamman left the meeting at 9:33 a.m. due to a prior commitment and Vice Chairman Forte assumed the Chairman role).

6. WTB 2023 Application Funding Cycle Overview. Ms. Angela Quintana, Senior Program Administrator

The 2023 WTB application cycle began with the Notice of Intent (“NOI”) Period, August 1-15, 2022. The NOI form notifies entities of the anticipated funding available for the current cycle and provides staff with the current needs. Applicants may continue to submit NOI’s up until the closing of the application on September 23, 2022.

The estimated available funding for the 2023 cycle is approximately \$93.3 million with a 15% cap of \$13.9 million. Per WTB policy, applicants may not receive more than 15% of the available funds in any year. NMFA staff will provide an application training (via virtual) on September 19, 2022, which will include policy changes.

The online project application will be open from August 25 - September 23, 2022. Applications will be reviewed for entity and project eligibility and evaluated by the Project Management Team: NM Environment Department, NM Department of Energy, Minerals and Natural Resources, NM Department of Agriculture, NM Department of Game and Fish, Office of the State Engineer, and NM Finance Authority. The applications will be evaluated on the WTB established criteria:

- Health & Safety
- Plan & Design
- Regional Water Plan
- Local Contribution
- Readiness
- Regionalization
- Other (Emergency, Economic Protection, Water Quality Improvement, Habitat Recovery, etc.)
- Preliminary Spenddown*

**Entities were notified via email on preliminary spenddown timelines in July 2022.*

The WTB will give applicants an opportunity to present their proposed projects. Project presentations are scheduled for October 20, 2022 (Virtually). The Board will also consider any waiver requests at this meeting.

Since 2016, the amended WTB rules provide those applications submitted by qualified entities for qualified projects will be evaluated prior to the WTB recommending projects to the Legislature. Based on the evaluations, the Project Management Team along with the NM Department of Finance and Administration and staff from the Legislative Finance Committee will make recommendations for potential funding to the Project Review Committee for the Board’s consideration on November 8, 2022. *(NMFA Legislative Oversight meeting scheduled for November 10, 2022)* Those applicants that are recommended to the Legislature for authorization will be invited to complete a readiness application that gauges regulatory and policy compliance. Staff will provide a WTB Readiness Application Training in December prior to the Readiness Application opening on December 12, 2022 – January 27, 2023.

Water Trust Board 2023 Water Project Fund Application Cycle Timeline

Date*	Activity	Task
2022		
July 13	WTB Policy Committee	Policy Discussion (Virtually)
July 27	WTB Policy Committee	Policy Recommendations (Virtually)
August 1– 15	Notice of Intent Period	Applicant Notice of Intent to Apply due to WTBAdmin@NMFA.net
August 10	WTB PRC Meeting	TBD
August 18	Water Trust Board Meeting	<ul style="list-style-type: none"> • 2023 Application Timeline • Board Business
August 19	2023 WTB Application Training (Virtual)	<ul style="list-style-type: none"> • Morning training
August 29-30	NMFA Legislative Oversight	Truth or Consequences
August 25 – September 23	2023 Application <u>OPENS</u>	Online Project Application <u>Opens</u> August 25, 2022
September 26-27	NMFA Legislative Oversight	Silver City
September 23	2023 Application <u>CLOSES</u>; Preliminary Spend Down	<ul style="list-style-type: none"> • Online Application <u>Closes</u> September 23, 2022; • <u>Deadline</u> for preliminary spend down, and/or submittal of waiver request (planning docs; preliminary spend down) • <u>Deadline</u> for outreach to Regulatory Agencies for compliance
September 28 – October 28	Application Evaluations	Technical Evaluation of Applications Regulatory Compliance Review/Notifications
September 30	2022 Funding Cycle – RTP Deadline	Deadline to submit RTP items for securing funding in 2022 cycle.
October 13	WTB PRC Meeting	Waiver recommendations
October 20	Water Trust Board Meeting.	<ul style="list-style-type: none"> • Consideration of Waiver Requests • Project Presentations
October 25-26	NMFA Legislative Oversight	Portales
October 28	Application Evaluations	Technical reviewer scores due
November 1	PMT – Recommendations	Legislative authorization recommendations
November 3	WTB PRC Meeting (afternoon)	Legislative authorization recommendations
November 8	Water Trust Board Meeting	<ul style="list-style-type: none"> • Approval of projects recommended for Legislative Authorization. (Notice to applicants of Readiness Application)

Date*	Activity	Task
November 10	NMFA Oversight Committee Meeting	Santa Fe - Legislative Authorization project list presentations
December 8	WTB Readiness App. Training (Virtual)	<ul style="list-style-type: none"> • Morning Training
December 12- Jan. 27, 2023	Readiness Application <u>Opens</u>	Online Readiness Application <u>Opens</u> December 12, 2022
2023		
<i>2023 Legislative Session (January 17 – March 18, 2023)</i>		
January 27	Readiness Application <u>CLOSES</u> ; Project Spend Down	<ul style="list-style-type: none"> • Online Readiness Application <u>CLOSES</u> January 27, 2023 • <u>Deadline</u> for project drawdown and/or submission of project continuation waiver
March 22	Regulatory Compliance Deadline	<u>Deadline</u> to meet regulatory compliance requirements, or to submit requests for waiver of regulatory compliance
March 29	Project Management Team Meeting	<ul style="list-style-type: none"> • Preliminary Funding Recommendations • Regulatory/Policy compliance recommendations
April 6	WTB PRC Meeting	Recommendations for Waiver Requests
April 11	Water Trust Board Meeting	<ul style="list-style-type: none"> • Board Business • Waiver Requests Consideration
<i>April 13</i>	<i>NMFA WTB Credit Committee Meeting</i>	<ul style="list-style-type: none"> • NMFA staff review • Write-up completion • Analysis completion
April 17	Project Management Team Meeting	Final scope and funding recommendations
April 21	WTB PRC Meeting	Funding recommendations
May 3	Water Trust Board Meeting	<ul style="list-style-type: none"> • Final funding recommendations to NMFA Board of Directors • SBOF Certification
<i>May 25, 2023</i>	<i>NMFA Board Meeting</i>	<i>Final Approval of WTB Awards Financial Packages</i>
June 1, 2023	Award/Readiness to Proceed	Send award letters outlining Readiness to Proceed items required to secure funding.
June 6, 2023	WTB Awardee Training	TBD
RTP Deadline September 29, 2023		

6. Next Meetings.

- October 13, 2022, 2:00 p.m., WTB Project Review Committee- Teleconference
- October 20, 2022, 9:00 a.m. Water Trust Board Meeting-Teleconference
- November 3, 2022, 2:00 p.m., WTB Project Review Committee – TBD
- November 8, 2022, 9:00 a.m., Water Trust Board Meeting - TBD

7. Adjournment.

Member Kahl made a motion, seconded by Member Lucero to adjourn the meeting.

The meeting adjourned at 9:48 a.m.



Mike Hamman, Chairman

10/27/22
Date

ATTEST:

Michael Sloane, Secretary

Date