

New Mexico Finance Authority
207 Shelby St.
Santa Fe, NM 87501
(505) 984-1454
Minutes of Water Trust Board Meeting
April 3, 2024
New Mexico State Capitol, Room 322
490 Old Santa Fe Trail, Santa Fe, New Mexico

Members Present:

Mike Hamman, Chair	NM State Engineer
Richard Garcia (via zoom)	Designee, NM Counties
Mark Thompson	NM Indian Affairs Dept.
Marquita Russel	CEO, NM Finance Authority
Priscilla Lucero (via zoom)	Environmental Community Representative
Timothy McGinn (via zoom)	Irrigation/Conservancy District-Ground Water Rep.
Michael Sloane, Secretary	Director, NM Dept. of Game & Fish
Greg Alpers (via zoom)	Irrigation/Conservancy District Surface Water Rep.
A.J. Forte, Vice Chair	New Mexico Municipal League
Albert Chang (via zoom)	Designee, NM Energy, Minerals and Natural Resources Dept.
Jason John (via zoom)	Designee, Navajo Nation
Tonantzin Roybal	Designee, NM Dept. of Finance & Administration

Absent:

James Kenney	NM Environment Department
Brent Van Dyke, Treasurer	Soil & Water Conservation District Rep.
Jeff Witte	NM Dept. of Agriculture

Finance Authority Staff:

Anthony Maestas	John Brooks (via zoom)
Angela Quintana	Kryshana Madrid
Cherise Martinez	Michael Vonderheide
Dan Opperman	Paul Romero
Fernando Martinez	Sharon Romero

Guests:

Ashley Martinez	Wilson & Company
Charles Thomas	Petroglyph Consulting
Clayton Ten Eyck	Molzen Corbin
David Bailey	Luna County
Jason Casuga	MRGCD
Kathy Elliott	Civility Government Relations
Marc DePauli	DePauli Eng
Shellie Eaton	City of Albuquerque
Tom Menicucel	COA Council

1. **Call to Order and Roll Call.** Chair Hamman called the meeting to order at 10:03 a.m. A quorum was established.
2. **Approval of Agenda.** Member Forte moved, seconded by Member Russel, to approve the agenda. The motion passed unanimously.
3. **Approval of October 24, 2023, Board Minutes.** Member Forte moved, seconded by Member Russel, for approval of the October 24, 2023, minutes. The motion passed unanimously.
4. **Consideration and Approval of Open Meetings Act Resolution.**

4.1 Mr. Opperman presented the NMFA Open Meetings Act Resolution. The Open Meetings Act (“Act”) requires all meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body to be open to the public at all times.

The Water Trust Board (“WTB” or “Board”) is subject to the provisions of the Act. Section 10-15-1(D) of the Act requires the WTB to determine annually what constitutes reasonable notice of its public meetings. The Resolution complies with the requirements of the Act. Staff recommends that the Board approve the Open Meetings Resolution for 2024, as presented.

Member Thompson made a motion, seconded by Member McGinn, to approve agenda item 4.1. The motion passed unanimously.

5. **2024 NM State Legislative Session Overview.**

5.1 Member Russel and Chair Hamman provided an overview of the bills passed in this year’s Legislative Session that affect the WTB, including the authorization of 65 projects from the 2024 WTB cycle and adding wastewater as an eligible project type to the program. In addition, the NMFA will look into hiring contractors to provide technical assistance to underserved communities under the discretion and instruction from the WTB. The WTB’s Policy Committee will be meeting to review/update the WTB policies to reflect the legislative changes in preparation of the upcoming cycle(s).

Informational Only.

6. **Construction Cost Over-run Update.**

6.1 **Construction Cost Over-run Update.** Ms. Angela Quintana provided a construction cost over-run update for the 2021 and 2022 awards. The WTB approved additional funds for the 2023 awards and increased the balance in the 2022 cycle from a returned 2022 award.

Union del Llano MDWCA (the “Association”) was awarded for design and construction to connect infrastructure from two water systems including water storage tank completion. At the time of design completion in October 2022, the Association believed they had sufficient funds to award the project. The project went out to bid in July 2023, and the cost to install pipe and meters increased substantially. The Association requested \$1,200,000 of additional funds to complete the project. NMFA staff, with concurrence of NMED-Construction Programs Bureau, recommended the requested amount of \$1,200,000.

Below are the summary and current balances for the construction cost-overrun set-aside to date:

2021 Set-Aside \$2,280,398	Cost Overrun Awards	Amount
	La Cueva MDWCA	\$105,500
	Rodarte MDWCA	\$540,000
	Rio Lucio DWCA	\$250,686
	Union del Llano MDWCA	\$1,200,000
	Balance	\$184,212
2022 Set-Aside WTF distribution & 2022 Returned Funds (City of Santa Fe)		\$5,100,000
2023 Set-Aside (Carlsbad & Fambrough MDWCA returned funds)		\$6,066,277

Informational Only.

7. Consideration of a Scope Change for Town of Bernalillo Project No. WPF-5665.

7.1 Consideration of a Scope Change for Town of Bernalillo (the “Town”) Project No. WPF-5665. Ms. Quintana presented the scope change for WPF-5665. The Town secured funding in 2022, for a Water Storage, Conveyance and Delivery project in an amount of \$1,913,000 (60% grant/ 40% loan). The approved scope of work is to design, construct and replace waterlines. The full balance remains.

In 2023, the Town identified the Well 3 site and Tank 3A replacement improvement projects that required significant improvements (\$1,765,859). A recent tank inspection of Tank 3A determined it was no longer safe for water storage due to foundation damage and differential settlement. A dive inspection of Tank 3 also identified needed repairs that may require the reservoir to be offline for up to 3 months. At the same location, site improvements were identified to control water discharges from Well 3 including the arsenic treatment building and overflows and drains from Tank 3, Tank 3A and the backwash holding tank.

In addition, the Town identified the most concentrated area of water piping and service line leaks/breaks in the Town’s water distribution system is in the Del Webb Alegria Subdivision area. The subdivision was built in early 2000’s and the water system materials are still relatively new and within their projected service life. The Town has received several service calls in the area due to high operating pressure. The Town has determined that the installation of a new 21 pressure reducing valve (PRV) station in the Santiago Way Road would allow the Town to control the pressure and minimize future repairs. (\$518,602)

All proposed projects seeking WTB funding go through an established application and vetting process in determining the feasibility of the proposed project which includes required planning documents. NMFA

staff, with the assistance of the NMED-Construction Programs Bureau staff, reviewed the requests and determined that these are different projects than the awarded project and its initial intent, the proposed scope changes were not included in the initial application, and were not vetted through the established processes.

Staff did not recommend approval of the scope changes due to the concerns noted above. However, after much deliberation and discussion between the Board and representatives from the Town, and due to the emergency situation, the Board concluded that the proposed scope change was the best use of the awarded funds.

- *The meeting was suspended at approximately 10:55am due to global Zoom connectivity issues.*
- *The meeting reconvened at approximately 11:10am.*

Member Forte made a motion, seconded by Member Roybal, to approve Bernalillo’s request to change the scope. The motion passed unanimously.

8. Consideration of a Scope Change for City of Gallup Project No. WPF-5424.

8.1 Consideration of a Scope Change for City of Gallup (the “City”) Project No. WPF-5424. Ms. Quintana presented the scope change for WPF-5424. The City secured funding in 2022, for a Water Storage, Conveyance and Delivery project in an amount of \$7,708,271. The approved scope of work is for the construction of Reach 27.7B which consists of constructing a 16” water transmission line and a meter station to connect Reach 27.6 to Reach 27.7A.

In addition, a portion of the funds is for the design, permitting, drilling and construction of a water well identified as G-80/SJ-1491 on the existing Gallup Regional Water system (“GRWS”) well site. The City is approximately 80% complete with the Reach 27.7B project and is currently working on the design and permitting with OSE for G-80/SJ-1491. The current balance is \$3,120,039.

At the time of the application, the City provided documentation for only the G-80 wells. It was the intent of the City to include the G-22 wells which are closer to the City and produce water from the San Andreas Limestone and Glorietta Sandstone formations. The design and construction of the supplemental groundwater wells located in both well fields (G80/SJ-1491 and G22) are to offset the delay in surface water from the San Juan River.

The City is requesting an expansion of the current scope to include the design of the G-22 wells. Although the G-22 wells are situated in a different part of the City, they are integral to the same project aimed at increasing water supply for Gallup residents and those connected to the various Reaches.

NMFA staff, with the assistance of NMED-Construction Programs Bureau staff, recommended approval of the expansion of scope to include the design of the G-22 wells for Project No. WPF-5424.

Member Thompson made a motion, seconded by Member Russel, to approve agenda item 8.1. The motion passed unanimously.

9. Consideration and Recommendation of 2024 Water Project Fund Waiver Requests.

9.0 Consideration and Recommendation of 2024 Water Project Fund Waiver Requests. Ms. Quintana presented policy and regulatory waiver requests from the 2024 WTB applicants. The Project Review Committee has reviewed these requests and concurs with staff's recommendations on items 9.10 – 9.16. If additional funds become available, staff will be recommending a 2nd iteration in August for those applicants who may not meet the current compliance and award timelines. The following requests were heard by the Board:

9.1 City of Albuquerque (WPF-6264) Flood Prevention Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The city has two 2022 WTB awards (0% expended) that do not meet the 95% expenditure requirement for Project Continuation. The two flood prevention projects (Phil Chacon Park and Netherwood Park) have completed the design portion and are currently moving forward for construction. Both projects are anticipated to be completed by November 10, 2024.

Recommendation: Staff recommended approval

9.2 Albuquerque Bernalillo County WUA (WPF-6261, WPF-6262 & WPF-6263) Water Conservation or Treatment, Recycling and Reuse (2); Water Storage, Conveyance and Delivery Projects (1) (Project Continuation).

Waiver Request: Project Continuation

Justification: The Authority has 2021 and 2022 awards (0% expended) that do not meet the 95% expenditure requirement for Project Continuation. The Authority has partnered with the Navajo Nation on the 2021 project (To'Hajiilee pipeline) and have completed the design. Materials have been ordered with an anticipation of groundbreaking beginning in May 2024. The 2022 project (Arsenic Treatment facility) has completed the design, gone out to bid, and awarded a contractor. Construction will start in March 2024.

Recommendation: Staff recommended approval.

9.3 Cerro Regional MDWA (WPF-6268) Water Storage, Conveyance and Delivery Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The Association has a 2020 award (41% expended) that does not meet the 95% expenditure requirement for Project Continuation. The Association had to re-bid twice due to bids coming in higher than available funds. The 3rd time, the Association broke out the project in four phases to be able to award and construct a standalone/usable project. Construction was awarded in September 2023 but due to winter

weather conditions, it was put on hold until March 18, 2024. The project is anticipated to be completed by August 2024 (weather permitting).

Recommendation: Staff recommends approval.

9.4 Eastern NMWUA (WPF-6275) Water Storage, Conveyance and Delivery Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The Authority has a 2022 Award (0% expended) that does not meet the 50% expenditure requirement for Project Continuation. In October 2023, the WTB approved an expansion of the initial scope to include Raw Water (“RW”) 1-3 because of the additional state and federal funds being used for identified phase Finished Water 1 (“FW1”). To ensure availability and delivery dates of supplies and materials, the Authority implemented a Pre-Mobilization process that confirms supply delivery prior to construction start-up which adds time to the overall construction project. Geotechnical and design work will begin on RW1 and RW2 in March and construction of RW3 will begin in April 2024.

Recommendation: Staff recommended approval.

9.5 Middle Rio Grande CD (WPF-6297) Water Storage, Conveyance and Delivery Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The District has a 2022 Award (51% expended) that does not meet the 95% expenditure requirement for Project Continuation. The project is under construction, and with the irrigation season limitations, the District anticipates 89% expenditures by the end of March 2024 with project completion by December 2024.

Recommendation: Staff recommended approval.

9.6 Rio Lucio MDWCA (WPF-6307) Water Storage, Conveyance and Delivery Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The Association has a 2021 Award (10% expended) that does not meet the 95% expenditure requirement for Project Continuation. Securing utility permits delayed the project from construction bidding. Once the project went out to bid, the lowest bid exceeded available funding. The Association was awarded an additional \$250,686 for construction cost over-runs and was able to award a contract. Construction scheduling and long lead times on materials further delayed the project. The project is now moving forward with an anticipation of project completion by July 2024.

Recommendation: Staff recommended approval.

9.7 Southern Sandoval County AFCA (WPF-6320) Flood Prevention Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The Authority has a 2022 Award (90% expended) that does not meet the 95% expenditure requirements for Project Continuation. The Authority anticipates project completion by April 12, 2024.

Recommendation: Staff recommended approval.

9.8 City of Truth or Consequences (WPF-6323) Water Storage, Conveyance and Delivery Project (Project Continuation).

Waiver Request: Project Continuation

Justification: The City has a 2020 and a 2021 award (30% expended) that do not meet the 95% expenditure requirement for Project Continuation. The 2020 project is anticipated to be completed by March 31, 2024, and the 2021 project's design will be completed by May 2024 with construction to be completed by January 2025.

Recommendation: Staff recommended approval.

9.9 El Rito Regional W&WWA (WPF-6277) Water Storage, Conveyance and Delivery Project (Project Continuation; OSE Regulations; and State Audit Rule/EO-Compliance).

Waiver Request: Project Continuation

Justification: The Association has a 2021 Award (47% expended) that does not meet the 95% expenditure requirement for Project Continuation. Most of the construction is completed except for two remaining items: (1) the installation of the tri-plex booster system has a 20 week back-order timeframe with an anticipated date for delivery of March 2024, and (2) drilling and connection of a new well which is waiting on pre-final design and approval for the final well permit from Office of the State Engineer ("OSE"). The Association anticipates project completion by May 2024.

Recommendation: Staff recommended approval.

Waiver Request: OSE Regulations

Justification: The Association needs to provide diversion records for the last 3 years, RG-16306 is out of compliance, and OSE lacks proof of ownership. The Applicant has active permits in front of OSE to resolve their over-diversion issue. The funding may assist with the issues on metering and diversion.

Recommendation: OSE staff recommended approval.

Waiver Request: State Audit Rule/EO-Compliance

Justification: The Association is currently working with the Office of State Auditor in performing the FY2023 audit/AUP submission. The estimated time for submission is within 45 days.

Recommendation: Staff recommended approval.

Member Russel made a motion, seconded by Member Forte to approve agenda items 9.1-9.9. The motion passed unanimously.

9.10 Chippeway Park WA (WPF-6271) Water Storage, Conveyance and Delivery Project (NMED Regulations)

Waiver Request: NMED Regulations

Justification: The Association has a Sanitary Survey violation with regards to the inadequate water pressure of the system.

Recommendation: NMED-DWB recommends approval of the waiver. The proposed project if funded would help the system become compliant.

9.11 City of Espanola (WPF-6281; WPF-6282; & WPF-6283) Water Storage, Conveyance and Delivery Projects (State Audit Rule/EO-Compliance).

Waiver Request: State Audit Rule/EO compliance

Justification: The City recently completed their FY2022 audit and is currently working on their FY2023 audit. The City anticipates submission of the FY2023 audit by September 15, 2024.

Recommendations: Staff recommended approval.

9.12 City of Portales (WPF-6302 & WPF-6303) Water Storage, Conveyance and Delivery Project (State Audit Rule/EO-Compliance).

Waiver Request: State Audit Rule/EO-Compliance

Justification: Due to high staff turnover, the City's FY2023 audit was delayed. The City anticipates submission of their audit by March 29, 2024.

Recommendation: Staff recommended approval.

9.13 Ramah WSD (WPF-6305) Water Storage, Conveyance and Delivery Project (State Audit Rule/EO-Compliance).

Waiver Request: State Audit Rule/EO-Compliance

Justification: The District was informed that a tier 6 audit was required. Due to the requirements of a tier 6 audit, more in-depth and timely research was executed. The District anticipates completion of their audit by March with submission by April 1, 2024.

Recommendations: Staff recommended approval.

9.14 Santa Fe-Pojoaque SWCD (WPF-6313) Flood Prevention Project (State Audit Rule/EO-Compliance).

Waiver Request: State Audit Rule/EO-Compliance

Justification: The District's last identified audit was in 2013. The District, per the State Auditor's Office, is required to complete an Agreed Upon Procedure (AUP) for a Tier IV audit to come into compliance. The OSA is assisting the District with a contract for auditing services. It is anticipated that the contract will be executed by April 1, 2024, and the completion of the audit by June 2024.

Recommendations: Staff recommended approval.

9.15 City of Santa Fe (WPF-6314; WPF-6315; & WPF-6316) Water Conservation or Treatment, Recycling and Reuse Projects (2) and Water Storage, Conveyance and Delivery Projects (State Audit Rule/EO-Compliance).

Waiver Request: State Audit Rule/EO compliance

Justification: The City is working to finalize the FY2023 audit by May 15, 2024.

Recommendations: Staff recommended approval.

9.16 Watrous MDWCA (WPF-6306) Water Storage, Conveyance and Delivery Project (NMED Regulations).

Waiver Request: NMED-DWB Regulations

Justification: The Association's system has an inadequate storage tank deficiency. The proposed project will assist in returning the system to compliance.

Recommendations: NMED-DWB staff recommended approval.

Member Forte made a motion, seconded by Member Russel to approve agenda items 9.10-9.16. The motion passed unanimously.

9.17 Capulin MDWCA (WPF-6267) Water Storage, Conveyance and Delivery Project (NMED Regulations).

Waiver Request: NMED Regulations

Justification: The system needs to monitor for asbestos. Since the system does not contain asbestos pipe, the Association is requesting an exemption. The Operator will test the water system to fulfil the current requirements of DWB. The Association anticipates compliance by March 31, 2024.

Recommendation: NMED-DWB did not recommend approval of the waiver, stating that the regulations do not allow for time extensions once the violations are issued.

The Project Review Committee moved this request to the Board without recommendation.

Member Russel made a motion to grant the waiver until the April 23, 2024 Board Meeting and have Capulin provide an update at that time, seconded by Member Thompson. The motion passed unanimously.

9.18 Luna County (WPF-6295) Water Storage, Conveyance and Delivery Project. (NMED Regulations).

Waiver Request: NMED Regulations

Justification: The People's Water Co-op has numerous open violations. They also need a certified water operator. The County took over the previously vacated administration in September 2023. The County has cleared all issues concerning water sampling, testing, and billing. The remaining issues will be completed within six weeks:

- Preparation of an Action Plan with NMED. No inspection of storage facilities found during a Sanitary Survey conducted by NMED in July 2022. Issuance of Public Notice to clear violation expected to be completed by 4/30/2024;
- Prepare (2) Consumer Confidence Rule (CCR) public notices for 2022 and 2023 (prior to Luna County stepping in) expected to be completed by 4/4/2024;
- Prepare (4) public notices for distribution regarding sampling/testing for microbiological organisms and Chlorine residual not completed from June to August 2023 when previous operator left the Co-op in May 2023. In September 2023, Luna County became certified through the UOCA to conduct sampling and testing and has cleared all violations for the testing restart except issuing the Public Notice. Expected completion by 4/4/2024;
- Luna County still needs a contract with a Certified Operator for management of the Co-op and intends to have someone tested and certified internally within the next 6 weeks. Expected completion by 4/30/2024.

Recommendations: NMED-DWB staff did not recommend approval stating that the regulations do not allow for time extensions once the violations are issued.

The Project Review Committee moved this request to the Board without recommendation. Staff provided an update from the County on those issues that have been resolved.

Member Russel made a motion to grant the waiver until the April 23, 2024 Board Meeting, seconded by Member Thompson. The motion passed unanimously.

9.19 City of Santa Rosa (WPF-6317) Water Storage, Conveyance and Delivery Project (State Audit Rule/EO-Compliance and NMED Regulations).

Waiver Request: State Audit Rule/EO compliance

Justification: Due to high staff turnover, the City's FY2023 audit was delayed. The City anticipates submission of their audit by March 30, 2024.

Recommendations: Staff recommended approval.

Waiver Request: NMED Regulations

Justification: The system needs to monitor for asbestos and needs a CCR for 2022 and 2023. The asbestos testing results will be received by the City by March 20 and the completed 2022 and 2023 CCR will be sent to NMED by March 30.

Recommendations: NMED-DWB staff did not recommend approval stating that the regulations do not allow for time extensions once the violations are issued.

The Project Review Committee moved this request to the Board without recommendation. NMFA staff informed the Board that the City has since resolved both issues.

Member Russel made a motion, seconded by Member Thompson to approve the waiver request. The motion passed unanimously.


10. Next Meetings:

10.1 Next Meetings:

- April 23, 2024, 10:00 a.m. WTB Board Meeting
(NM State Capitol-Rm. 322/Teleconference)

August 2024, WTB Board Meeting, TBD

11. Adjournment. The meeting adjourned at 12:06 p.m.


Secretary

4/23/2024
Date