

2021 ANNUAL REPORT for the NORTH DAKOTA DRINKING WATER STATE REVOLVING FUND

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prepared by the
Drinking Water State Revolving Fund Program
Division of Municipal Facilities
North Dakota Department of Environmental Quality

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Cover photo: Railroad Bridge at Sunset in Bismarck by Elegant Designs (Chelly Bosch)

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Introduction

On August 6, 1996, President Clinton signed into law the Safe Drinking Water Act (SDWA) Amendments of 1996 (P.L. 104-182). Section 1452 of the SDWA authorizes a Drinking Water State Revolving Fund (DWSRF) Program. It further requires the U.S. Environmental Protection Agency (EPA) to enter into agreements with and make capitalization grants to eligible states to assist public water systems (PWSs) in financing the cost of infrastructure needed to achieve or maintain compliance with the SDWA and to protect public health. To be eligible to receive the grants, states must establish a DWSRF and comply with all applicable requirements set forth under the SDWA. States are also required to contribute an amount equal to 20 percent of the grants.

DWSRF funds may be used for:

- Loans
- Loan guarantees
- A source of reserve and security for leveraged loans (the proceeds of which must be placed in the DWSRF)
- Buying or refinancing existing local debt obligations (publicly owned PWSs only) where the initial debt was incurred and construction started after July 1, 1993
- Earning interest prior to disbursement of assistance

PWSs eligible for DWSRF assistance include community water systems (both publicly and privately owned) and nonprofit noncommunity water systems. Federally owned PWSs are not eligible to receive DWSRF assistance.

Section 1452(b) of the SDWA requires each state that elects to establish and operate a DWSRF program to annually develop an Intended Use Plan (IUP). The IUP must describe how the state intends to use the DWSRF funds to meet the objectives of the SDWA and further the goal of protecting public health. The IUP must be made available to the public for review and comment prior to submitting it to the EPA as part of the capitalization grant application. Specifically, the IUP must include:

- A priority list of projects, including a description of the projects and the present population of the PWSs served
- A fundable list that identifies projects eligible to receive funding in the first year after the capitalization grant is awarded
- A description of the criteria and methods to be used for the distribution of funds
- A description of the financial status of the DWSRF Program, including the use of set-asides along with federal funds reserved, and the amount of funds that will be used to assist disadvantaged communities

- A description of the short- and long-term goals of the DWSRF Program, including how the capitalization grant funds will be used to ensure compliance and protect public health

States must ensure, to the maximum extent practicable, that priority use of funds be given to projects that:

- Address the most serious risks to human health
- Are necessary to ensure compliance under the SDWA
- Assist those systems most in need on a per household basis (i.e., affordability)

North Dakota DWSRF

The North Dakota DWSRF Program is administered through the Division of Municipal Facilities, North Dakota Department of Environmental Quality (NDDEQ). Assistance is provided by the North Dakota Public Finance Authority (PFA) through formal agreement to manage the financial portion of the program. The program was created on January 1, 1998 and is staffed with the equivalent of 6.5 full-time equivalents (FTEs) in the division and 1.18 FTEs at the Public Finance Authority.

Purpose and Structure of Report

States operating a DWSRF are required under 40 CFR 35.3570 to submit a biennial report to the EPA. The report must include a financial report, establish compliance with Section 1452 of the SDWA, and describe how the goals and objectives of the previous two years were met as stated in the IUPs and capitalization grant agreements.

The DWSRF Program has elected in this report to cover the 2021 calendar year on an annual basis. This report covers operation from January 1 through December 31, 2021, during which the FY2021 capitalization grant was awarded. The report is divided into five sections as follows:

- Introduction
- Goals and Accomplishments
- Sources and Uses of Funds
- Financial Summary
- Compliance with Operating Agreement and Grant Conditions

Goals and Accomplishments

The DWSRF program established short- and long-term goals in its IUP. The goals were established to support the overall goals of the DWSRF program of:

- Ensuring public health protection
- Complying with the SDWA
- Ensuring affordable drinking water
- Maintaining the long-term financial health of the fund

Short-Term Goals

The following short-term goals were established in the IUP:

- On December 11, 2020, obtain North Dakota State Water Commission approval of the IUP.
- Continue to implement the DWSRF Program for the state of North Dakota by funding projects for systems that are having problems maintaining compliance with the lead and copper rule, revised total coliform rule, ground water rule, the arsenic rule, the disinfection byproduct rule series, and the surface water treatment rule series.

Each of the above short-term goals were met and support the DWSRF Program's long-term goals. The IUP was developed within the goal dates. Necessary set-aside workplans were developed. The capitalization grant was applied for and received during this period. The NDDEQ developed and continues to implement a fully functional DWSRF Program for the state of North Dakota.

Long-Term Goals

The following long-term goals were established in the IUP:

- Help North Dakota PWSs achieve and maintain compliance with the SDWA. This is accomplished by coordinating with the PWSS (Public Water System Supervision) Program and targeting those rules with which systems in the state are having problems maintaining compliance. These include the lead and copper rule, revised total coliform rule, ground water rule, the arsenic rule, the disinfection byproduct rule series, and the surface water treatment rule series.
- Assist the PWSS Program in meeting its goals. The DWSRF Program assistance includes providing technical support on infrastructure issues, capacity reviews, and small system technical assistance. Through the small system technical assistance set-aside, the DWSRF Program helps operators become certified and systems return to compliance and maintain capacity.
- Administer the DWSRF Program in a manner that will maximize the long-term availability of funds for eligible and needed drinking water infrastructure improvements.

- Assist North Dakota PWSs in improving drinking water quality, quantity, and dependability by providing a reduced interest rate and long-term financial assistance for eligible and needed drinking water infrastructure improvements. This infrastructure assistance helps with compliance of drinking water rules, regionalization/consolidation, and replacement of aging infrastructure.
- To the greatest extent possible, continue to integrate DWSRF funding with other available funding to maximize the benefits to public water systems and needed drinking water projects statewide. Cooperating agencies include the United States Department of Agriculture (USDA), Community Development Block Grant (CDBG) Program, the North Dakota Department of Trust Lands, the Bank of North Dakota, and the North Dakota Department of Water Resources.

The long-term goals are viewed as being both necessary and integral to any DWSRF intended to become self-sustaining and achieve the statutory intent of the SDWA.

North Dakota's priority ranking system was designed to direct DWSRF funds toward the state's most significant public health concerns, SDWA compliance, and infrastructure problems. The DWSRF Program has assisted and remains available to assist eligible PWSs to this end. Funded projects addressed such issues as distribution pressure problems, aged and deteriorated water treatment plants (or treatment plant components), aged and deteriorating finished water reservoirs, and aged and deteriorated watermains.

Environmental Results

The following environmental goals were established in the IUP:

Loan Fund

- The fund utilization rate goal (Fund Use Rate), as measured by the percentage of loans executed to funds available, was to maintain the utilization rate above 90 percent. The fund utilization rate was 103.0 percent as of December 31, 2021.
- The percentage of assistance goal (Pace of Construction), as measured by disbursements as a percentage of assistance provided, was to maintain the construction pace above 80 percent. The rate at which projects progressed was 90.7 percent as of December 31, 2021.
- The goal of the DWSRF Program was to obtain binding commitments on 12 new loans, totaling \$15 million and serving a population of 20,000. The DWSRF Program obtained binding commitments on 19 new loans totaling \$30.0 million and serving a population of 103,222.

Set-asides, Small System Technical Assistance

- The goal was for 120 operators to receive training. In 2021, 175 operators received training.

- The goal was for 50 systems to receive on-site technical assistance. In 2021, 63 systems received on-site technical assistance.

Sources and Uses of Funds

Sources of DWSRF Funds

The new funding that became available for the North Dakota DWSRF from January 1 to December 31, 2021 totaled \$27,467,011, all of which is available for loans as shown below:

Capitalization grant (FY21)	\$	11,001,000
State match	\$	0
Leveraged bond proceeds	\$	0
CWSRF transfer to DWSRF	\$	1,545,525
DWSRF transfer to CWSRF	\$	0
Repayments	\$	14,614,237
Investment earnings	\$	306,249
Non-project set-asides	\$	0
Total available for loans	\$	27,467,011

Only a portion of the loan principal and interest payments (\$14,614,237 of \$30,642,032) and investment earnings (\$306,249) received during the period were considered available for loans and were included in the calculation above. Both were utilized to satisfy debt service, coverage, and reserve requirements for the state match and leveraged bonds and federal rebate-arbitrage requirements as set forth under the initial financial structure for the DWSRF Program. Loan repayment and investment earnings in excess of that required to satisfy these requirements, if any, are credited to the loan fund.

Funding for the DWSRF Program since inception through the end of December 2021 is \$917,680,511. The actual amount available for loans is \$701,189,922, while \$721,998,946 has been committed to closed loans. See Appendix C for all sources and uses of funds since program inception.

Capitalization Grants

The EPA awarded the FY2021 capitalization grant to North Dakota on August 7, 2021. The final capitalization grant was for \$11,001,000.

State Match

The required state match for the capitalization grant was \$2,200,200. No state match bonds were issued in 2021. State match was generated through the issuance of \$5,000,000 in state bonds in 2018. All these state match funds were disbursed in 2018 and the DWSRF Program is currently over-matched.

Leveraged Bond Proceeds

Leveraged bonds were not sold during the year.

Other Bond Proceeds

There were no other sales of bonds in the DWSRF Program during the year.

Transfers with the CWSRF

Through the years, funds have been transferred between the DWSRF and the Clean Water State Revolving Loan Fund (CWSRF) programs. In the past, this was necessary so the DWSRF could make loans to projects that required nonfederal funds or because of high demand in one program or the other. Currently, there is a net transfer from the CWSRF to the DWSRF of \$25,529,972. Transfers are as follows:

2002	DWSRF to CWSRF	\$ (10,000,000)
2002	CWSRF to DWSRF	\$ 2,991,675
2003	CWSRF to DWSRF	\$ 5,903,282
2004	CWSRF to DWSRF	\$ 2,644,543
2005	CWSRF to DWSRF	\$ 89,700
2006	CWSRF to DWSRF	\$ 1,548,629
2007	CWSRF to DWSRF	\$ 4,876,305
2008	CWSRF to DWSRF	\$ 3,046,856
2009	CWSRF to DWSRF	\$ 681,451
ARRA	CWSRF to DWSRF	\$ 2,600,000
2010	CWSRF to DWSRF	\$ 795,231
2011	CWSRF to DWSRF	\$ 0
2012	CWSRF to DWSRF	\$ 0
2013	CWSRF to DWSRF	\$ 0
2014	CWSRF to DWSRF	\$ 0
2015	DWSRF to CWSRF	\$ (19,061,000)
2016	DWSRF to CWSRF	\$ 0
2017	CWSRF to DWSRF	\$ 14,182,687
2018	CWSRF to DWSRF	\$ 12,156,132
2019	CWSRF to DWSRF	\$ 0
2020	CWSRF to DWSRF	\$ 1,528,956
2021	CWSRF to DWSRF	\$ 1,545,525
	Net transfer to DWSRF	\$ 25,529,972

Repayments

Loan repayments of \$30,642,032 were received; \$23,553,856 was for principal, and \$7,088,176 was for interest.

Investment Earnings

Investments earned \$306,249.

Uses of DWSRF Funds

For the year reviewed, the DWSRF Program closed loans and loan increases totaling \$34,468,720. No capitalization grant funds were committed towards set-aside activities.

Loans

Nineteen loans totaling \$29,917,220 were closed. This exceeds the required binding commitments of \$13,201,200 (capitalization grant and state match) for the capitalization grant. Five loan increases totaling \$4,551,500 were closed. There were two loans totaling \$898,000 approved by the North Dakota Industrial Commission that did not have a binding commitment.

The closed loans range in size from \$42,000 to \$7,255,000 (see Appendix A). The systems receiving loans ranged in size from 55 to 22,752 persons. The total population receiving DWSRF assistance is 125,288.

Three hundred three loans totaling \$721,998,946 have been closed since program inception.

Small Systems

States must annually use at least 15 percent of all funds credited to the DWSRF loan fund to provide loan assistance to PWSs that serve fewer than 10,000 persons. This assistance is provided to the extent that there are a sufficient number of eligible projects to fund. Credited funds include the federal allotment (less funds reserved for non-project set-aside activities), the required state match, and other funds including bond proceeds available for loans.

Eleven closed loans represent PWSs that serve fewer than 10,000 persons. This represents 43.6 percent of available funds going to these projects. This significantly exceeds the 15 percent requirement. Since program inception, 43.0 percent (\$310,216,989 of the \$721,998,946) of funds available for loans went to systems under 10,000, which far exceeds the requirement.

Disadvantaged Communities

Beginning with the FY2019 capitalization grant, at least 6 percent and up to 30 percent of the funds available for construction may be used to provide subsidized loans to disadvantaged communities as defined by the state. North Dakota intends to commit at least 20 percent but not more than 21 percent of the amount of the capitalization grant to projects meeting the disadvantaged community criteria. Funds from the FY2019 and FY2020 grants have been fully expended. Funds from the FY2021 grant have been committed to projects, but only 2.4% have been expended.

	Committed	Expended
FY 2021	\$2,200,200	\$2,200,200
Wing	\$1,752,750	\$0
Coleharbor	\$480,000	\$53,550
Balance	(\$32,550)	\$2,146,650
FY 2020	\$660,660	\$660,660
Beach	\$660,660	\$660,660
Balance	\$0	\$0
FY 2019	\$660,240	\$660,240
Cavalier	\$660,240	\$660,240
Balance	\$0	\$0

Additional Subsidization

The FY2021 capitalization grant included the requirement to use 14 percent of the funds as additional subsidization on loans. The DWSRF Program has elected to use the required additional subsidization and up to an additional \$100,000 for each grant. This decision was made to keep as much money as possible revolving in the fund. The additional subsidization was awarded in the form of loan forgiveness. Binding commitments have been made for the FY2019 and earlier capitalization grants and the FY2021 capitalization grant. The FY2020 capitalization grant is 98% committed. Funds from the FY2019 grant are 51.5% expended. The All Seasons Water Users District's project has been delayed due to easement acquisition issues. Funds from the FY2020 grant are 96.1% expended and funds from the FY2021 grant are 42.6% expended.

	Committed	Expended
FY 2021	\$1,540,140	\$1,540,140
Flaxton	\$894,000	\$66,150
Bismarck (-02)	\$647,000	\$590,457
Balance	(\$860)	\$883,533
FY 2020	\$1,541,540	\$1,541,540
North Prairie (-07)	\$287,250	\$262,935
Beach	\$483,340	\$483,340
Bismarck (-02)	\$735,000	\$735,000
Balance	\$35,950	\$60,265

	Committed	Expended
FY 2019	\$2,200,800	\$2,200,800
Riverdale	\$468,407	\$468,407
Cavalier	\$790,961	\$664,718
All Seasons	\$941,432	\$0
Balance	\$0	\$1,067,675

Green Project Reserve

The Green Project Reserve provides funding to projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. This is voluntary, and no project contributed to this reserve in 2020.

Reserved Funds

Reserved from the FY2021 capitalization grant for future use was \$1,100,100 from the State Program Assistance Set-aside for PWSS. This is added to reserved funds from previous grants to bring a total to date of reserved funds to \$3,856,250. from the State Program Assistance Set-aside for PWSS and \$155,860 for the Small System Technical Assistance Set-aside. Reserved from the FY2021 capitalization grant for future use was \$220,020 from the Small System Technical Assistance Set-aside. This is added to reserved funds from previous grants to bring a total to date of reserved funds to \$375,880.

Set-asides

North Dakota took no set-aside funds from the 2021 capitalization grant during the review period.

The following is a summary of activity in the set-aside funds during the review period:

	Administration	Technical Assistance	PWSS Admin
Beginning Balance (1/1/21)	\$139,570	\$392,155	\$2,152,680
2021 Cap Grant	\$0	\$0	\$0
Expenditures	(\$139,570)	(\$66,450)	(\$247,320)
Transfer to Loan Fund	\$0	\$0	\$0
Ending Balance (12/31/21)	\$0	\$325,705	\$1,905,360

Administration

The majority of funds set aside for administration were used to support activities necessary to directly administer the DWSRF, including financial support services by the PFA. DWSRF Program staff also provides technical support to the department's Drinking Water Program. Technical

support activities include plans and specifications reviews (of all new or modified PWS facilities) and implementation of the new and existing system capacity strategies.

DWSRF Programs are allowed to set aside the greater of \$400,000, 4 percent of the capitalization grant, or 0.2 percent of the valuation of the loan fund to administer the program. None of the 2021 capitalization grant was set aside for administration. Administration costs for the year were \$491,897. A total of \$139,570 was disbursed from the administrative set-aside, leaving a balance of \$0. A total of \$352,327 was disbursed from the 0.5 percent administrative loan fee account to cover the remaining administration expenses of the DWSRF Program.

The NDDEQ believes it is prudent to reserve all administrative set-aside and accumulated loan fees for future use by the program. Funding for the DWSRF Program could be lowered significantly in the future, as has already been experienced by the CWSRF Program. Full depletion of the reserved administrative set-aside and accumulated loan fees will occur should Congress choose not to reauthorize the DWSRF.

Small System Technical Assistance

There are EPA-approved work plans and amendments for all small system technical assistance funds. Under the approved work plans, the NDDEQ negotiated technical assistance agreements with the Midwest Assistance Program (MAP) and the North Dakota Rural Water Systems Association (NDRWSA). Through these agreements, MAP and NDRWSA provided capacity development, financial/rate setting, emergency response plan/vulnerability assessment development assistance, an O&M manual for new operators, and operator certification assistance to PWSs targeted by the PWSS Program.

State Program Management

The State Program Management set-aside was utilized to fund personnel within the state PWSS program. DWSRF Programs are allowed to set aside 10 percent of the capitalization grant for this purpose. None of the funds from the FY2021 capitalization grant were set aside for State Program Management. A total of \$247,320 was disbursed from the set-aside in 2021. This leaves a balance of \$0. A total of \$166,247 was disbursed from the 0.5 percent administrative loan fee account to cover the remaining expenses.

Local Assistance and Other State Programs

The NDDEQ did not utilize this set-aside.

Financial Summary

Financial Structure

The financial structure within the existing master trust indenture is used to better satisfy the continuing high demand for DWSRF financial assistance and still maintain the below-market interest rates. Under the modified structure, DWSRF allotments and state match bond proceeds will be used first to make loans. Leveraged bonds will be issued only if loan demand exceeds the amount of DWSRF allotments and state match. State match and leveraged bonds will be sized, together with the DWSRF allotments, to satisfy current cash flow needs as represented by the annual construction costs of eligible projects. This approach, coupled with approving loan assistance only for projects truly ready to proceed under a pre-established construction disbursement schedule, will avoid premature or unnecessary bond issuances. This approach also ensures a more reliable loan repayment stream to satisfy both bond debt service and future loan demand.

In the event there are insufficient amounts available to make scheduled principal and interest payments on outstanding DWSRF bonds, the master trust indenture provides that the trustee may transfer available excess revenues from the CWSRF to the DWSRF to meet the deficiency. Following such a transfer, the DWSRF has an obligation to reimburse the CWSRF with future available DWSRF excess revenues. No such transfers have been made to date.

The NDDEQ continues to work with its financial advisors on the financial structure of the DWSRF program. The demand for DWSRF assistance in North Dakota significantly exceeds federal DWSRF allotments and the required state match for those allotments.

Match Requirement

Under the SDWA, states are required to match their DWSRF allotment with an amount at least equal to 20 percent. This amount must be deposited on the date of, or before receiving payments under, the capitalization grant agreements. State match for the capitalization grant is generated through the sale of state bonds and deposited into the DWSRF loan fund.

Funding Process

A draft IUP was developed in the fall for public review and comment. Following finalization, loan applications were solicited from systems with projects identified within the IUP. Projects were funded based on their ranking and availability of funds, taking into account bypass considerations identified within the IUP.

The NDDEQ reserves the right to fund lower-ranked projects ahead of higher-ranked projects based on the considerations below:

- Readiness to proceed

- Willingness to proceed (e.g., applicant withdraws project from consideration, obtains other funding sources, or is non-responsive)
- Emergency conditions (i.e., an unanticipated failure occurs requiring immediate attention to protect public health)
- Financial (includes inability to pay and loan repayment issues), technical, or managerial capability
- Meet the 15 percent requirement (i.e., funding lower-ranked projects would satisfy the requirement that at least 15 percent of the funds available for construction be annually used to provide loan assistance to PWSs that serve fewer than 10,000 persons)
- Initial ranking score cannot be verified

Language was also included stating that the NDDEQ, to the maximum extent possible, would work with bypassed projects to ensure that they will be eligible for funding in the following fiscal year. Primary factors for projects to be bypassed are readiness and willingness to proceed. All projects that were initially bypassed and that subsequently became ready to proceed have received funding assistance.

During the review period, a number of ranked projects listed in the IUP were bypassed. Such systems were bypassed as they chose not to submit a loan application and, hence, were deemed not ready to proceed. The DWSRF Program has been and remains willing to work with bypassed systems to provide loan assistance to the maximum extent possible when they are ready to proceed. Bypassed projects and the reasons for the projects being bypassed are listed in Appendix B.

The following language is included in the IUPs: "The NDDEQ, without going through a public review process, reserves the right to fund unanticipated, non-ranked emergency projects determined to require immediate attention to protect public health. Such assistance will be limited to eligible PWS types and project features, and to situations involving acute contaminants, loss, or potential loss of a water supply in the near future, or that otherwise represent an unreasonable risk to health."

Loan Assistance Terms

The maximum repayment period for DWSRF loans is 30 years or the useful life of the project following project completion. The NDDEQ may utilize shorter repayment periods on a project-by-project basis. The loan interest rate has been set at 1.5 percent. An annual loan fee of 0.5 percent (of the outstanding loan balance) is assessed on all loans to support DWSRF administration costs. The fees are held under the master trust indenture and are available to pay DWSRF Program administration costs allowable under the SDWA. If necessary to meet bond repayment schedules, those projects that force the DWSRF Program to sell bonds to leverage the program will be charged an interest rate of 75 percent (includes the 0.5 percent

administrative fee) of the market interest rate at the time of the loan. This interest rate will not be less than the standard 1.5 percent interest rate plus 0.5 percent administrative fee. This provision wasn't used in 2021.

Principal payments will begin no later than September 1 following construction completion (principal payments may commence earlier). Interest payments begin with the first loan draw and are payable during construction on each March 1 and September 1.

The SDWA requires that the interest rate for loans be less than or equal to the market interest rate. The PFA monitors compliance with this requirement by establishing as the market interest rate the average interest rate received by North Dakota political subdivisions on bond issues with a 20-year maturity sold on a competitive or negotiated basis during the past quarter. This rate is calculated and updated quarterly based upon the prior quarter bond sales. If there are no qualified bond sales, the market rate for that quarter is calculated using comparable regional bond issues. As an illustration, based upon fourth quarter 2021 North Dakota 20-year competitive bond sales, the market interest rate was calculated to be 2.2 percent.

Loan Status

Appendix A identifies the following information about the loans closed during 2021:

- Recipient
- Project number
- Loan amount
- Loan closure date
- Loan increase closure date
- Loan increase amount
- Population
- Loan interest rate
- Administrative fee amount
- Length of loan payback
- Loan forgiveness amount

The PFA prepares a debt service schedule for each loan following loan closure. A copy of the schedule is provided to each loan recipient and maintained by the PFA.

Cash Draw Proportionality

Basic ratios are set forth in the *Guide to Using EPA's Automated Clearing House for the Drinking Water State Revolving Fund Program* (EPA-832-B98-003) for determining federal and state cash draw proportionality. Funds are disbursed at the rate of 100 percent capitalization grant, 100 percent state match, 100 percent leveraged funds, and finally 100 percent FCLA funds. The program was in an over-matched condition for the entire year. It is estimated that enough state match has been disbursed to cover the state's match at least through 2023.

Disbursements

The DWSRF Program disbursed a total of \$30,332,285, with \$28,931,471 of that being loan funds during the year.

Included in that amount is \$11,865,600 of federal funds. Of those federal funds, \$11,405,360 were loan funds and \$460,240 were set-aside funds. The set-aside funds disbursed were \$73,350 for the small systems technical assistance set-aside, \$247,320 for the PWSS administration set-aside, and \$139,570 for the administrative set-aside.

Loan Repayments

The North Dakota DWSRF received scheduled loan repayments (principal and interest) of \$30,642,032. This represents 224 projects.

Administrative Loan Fee

The balance in the administrative loan fee account at the beginning of the year was \$10,329,400. The 0.5 percent administrative loan fee collected \$1,869,743. A total of \$352,327 was disbursed from the 0.5 percent administrative loan fee account for administration of the DWSRF Program. The administrative loan fee account was also used to fund \$166,247 in expenses eligible under the State Program Management administration set-aside, \$148,075 in expenses for CWSRF Program administration, and \$125,850 in expenses eligible under the Small System Technical Assistance set-aside. Including gains and losses on investment sales, this leaves a balance of \$12,333,613 of loan fees that has accumulated since the beginning of the program.

Investments

The North Dakota DWSRF had \$45,438,358 in cash and investments at the end of 2021. There is \$35,960,403 invested in commercial paper, certificates of deposit, agency notes, and U.S. Treasuries. The PFA receives management reports and ensures that earned interest is credited to the DWSRF in a timely fashion.

Financial Statements

The North Dakota DWSRF is audited annually and a copy of each audit report is provided directly to EPA. The audit reports have been and will continue to be used to assess DWSRF Program performance. Specifics concerning the present financial condition of the DWSRF Program may be found in the latest audit report.

Compliance with Operating Agreement and Grant Conditions

North Dakota has complied and continues to comply with the below conditions which are set forth and more fully described in the DWSRF Operating Agreement dated July 1998 and amended in March 2015:

- Establish state authority and instrumentality.
- Comply with applicable state law, regulations, orders, and policies.
- Establish separate DWSRF loan and set-aside accounts.
- Establish fiscal controls and accounting procedures for the DWSRF.
- Require project accounting and audits of DWSRF assistance recipients.
- Submit annual IUP which describes the use of all funds including set-asides.
- Annually negotiate a payment schedule with the EPA.
- Deposit 20 percent state match funds as required.
- Consider leveraging if demand for funds and finances warrant.
- Ensure adequate binding commitments within one year of each grant payment.
- Expend funds in an expeditious and timely manner.
- Submit biennial reports.
- Submit annual audits of the DWSRF.
- Comply with applicable federal cross-cutting authorities.
- Comply with the EPA's Minority Business Enterprise and Women's Business Enterprise (MBE/WBE) Programs.
- Obtain EPA approval prior to subcontracting Operating Agreement responsibilities.
- Conduct environmental reviews.
- Comply with the DWSRF ACH Guidelines when making cash draws.
- Review technical, financial, and managerial capability (capacity) of assistance recipients.
- Establish capacity development authority and implement capacity program.
- Implement EPA-approved operator certification program.
- Ensure borrowers have dedicated source of funds for loan repayment.
- Make DWSRF assistance available to privately owned public water systems.
- Implement a disadvantaged community program (optional).
- Identify transferred funds, if any, in the DWSRF and CWSRF IUPs.
- Maintain Administrative Agreement with the PFA.
- Provide extended term financing to the extent that it is allowed.

The below information is presented to describe compliance with key provisions of the Operating Agreement.

- **Grant payments, binding commitments, and use of funds in a timely and expeditious manner.** States are required to make binding commitments equal to the amount of each grant payment (and associated state match) designated for the loan fund within one year after the receipt of each grant payment. Based upon the payment

schedules established in the capitalization grant, required binding commitments for this time period (which include state match) total \$13,201,200. Actual binding commitments (closed loans and increases) for the time period total \$34,468,720.

- **State matching funds.** State match bonds were issued in 2018 (Series 2018A) to satisfy the 20 percent state match requirement. The state match bond proceeds were deposited into the DWSRF loan account and disbursed prior to the receipt of the first grant payment. The amount of state match for the FY2020 capitalization grant was \$2,200,200.
- **Reports and annual audits.** This document constitutes an annual report for the DWSRF Program. This report only covers January 1, 2021 to December 31, 2021.

Brady Martz & Associates, P.C. conducted an annual audit of the North Dakota DWSRF. The audit addresses all funding activity from the DWSRF loan account and each set-aside account. The 2021 audit report has been provided to EPA. In the 2021 audit report, Brady Martz & Associates, P.C. stated that the PFA complied with statutes, laws, rules and regulations under which the Agency was created and is functioning. This audit was conducted in accordance with the following generally accepted auditing standards: (1) the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and (2) OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

- **Environmental reviews.** All projects that received DWSRF loan assistance during the period reviewed were subject to appropriate environmental review and approval procedures. None of the projects were deemed to require an Environmental Impact Statement. The NDDEQ issued a Categorical Exclusion (CE) or an Environmental Assessment and Finding of No Significant Impact (EA/FONSI) or accepted the CE or EA/FONSI of other federal or state agencies for all projects.
- **Dedicated source of revenue for loan repayment.** The PFA, as financial agent for the DWSRF Program, conducts a financial review of all loan applicants. The review includes an assessment of the applicant's ability to repay the loan, taking coverage and reserve requirements into account, as well as associated operation, maintenance, and other necessary expenses.
- **Federal cross-cutting authorities.** North Dakota and North Dakota DWSRF assistance recipients have complied with all applicable federal cross-cutting authorities.

The MBE/WBE goals for the capitalization grant agreements were 2 percent MBE and 3 percent WBE for construction, supplies, services, and equipment.

Contracts totaling \$69,959,446 were awarded between January 1 and December 31, 2021, using DWSRF funds for all categories. DBE (MBE and WBE) participation for this time was 0.24 percent (MBE) and 0.37 percent (WBE). The NDDEQ will continue in its efforts to promote and obtain additional DBE participation in the DWSRF Program.

All projects that received DWSRF loan assistance during the period reviewed were subject to appropriate Davis-Bacon wage requirements and reviews, and American Iron and Steel requirements.

- **Operator certification.** In January 2000, the NDDEQ submitted documentation to the EPA and requested substantially equivalent status for its operator certification and training program. In a letter dated September 27, 2000, Stephen Tuber, EPA Region VIII Water Program Director, stated, "Thank you for recognizing the importance of an effective operator certification program in protecting public health. I commend you and your staff for providing national leadership on this important milestone as the first Substantially Equivalent Operator Certification Program to be approved in the nation."
- **Capacity.** The NDDEQ established an EPA-approved capacity review process for DWSRF loan applicants. This process has been and continues to be used to evaluate the capacity of all DWSRF loan applicants. The PFA assists in the process by evaluating the financial capability of loan applicants and providing recommendations to the DWSRF Program. On September 23, 1999, EPA approved the NDDEQ's new water system capacity assessment strategy. This strategy has been and continues to be used to ensure that new or potentially new community and nontransient-noncommunity PWSs have adequate capacity prior to initiation of operation. On October 10, 2000, EPA approved the NDDEQ's capacity development strategy for existing public water systems. Implementation of the strategy was initiated in August 2000. The strategy identifies the following tools, which may be used singly or in combination, to assist PWSs in acquiring and maintaining capacity:
 - On-site visits by NDDEQ staff
 - Operator certification
 - Training
 - Use of technical assistance providers
 - Use of DWSRF set-asides
 - Public education
 - Dissemination of education materials

The NDDEQ is presently using a number of these tools, including contractual assistance (using DWSRF set-aside funds) by recognized technical assistance providers.

- **Transfers.** Transfers between the CWSRF and the DWSRF Programs are discussed in the Sources and Uses of Funds chapter.
- **Miscellaneous.** The NDDEQ has not further subcontracted any responsibilities set forth in the Operating Agreement. Privately owned community water systems and nonprofit

noncommunity water systems are eligible for DWSRF assistance. To date, no assistance has been requested by such systems. The NDDEQ has established a disadvantaged community program beginning with the FY19 capitalization gran

APPENDIX A
LOANS WITH BINDING COMMITMENTS IN
2021

Borrower	Project #	Loan Amount	Binding Commitment	Increase Date	Increase Amount	Population	Loan Term [Years]	Project	Principal Forgiveness
Loans									
Barnes RWD	0201058-05	\$806,000	11/05/21			11,050	30	Additional storage at four booster stations	
Coleharbor	2800194-01	\$700,000	08/31/21			82	30	Pump house and reservoir improvements, water meter replacement	\$200,000
Cooperstown	2000203-08	\$800,000	03/12/21			907	30	Water main replacement	
East Central RWD	1801062-04	\$1,372,000	10/06/21			20,951	30	Phase 4 system expansion	
Flaxton	0700344-02	\$993,000	12/14/21			55	20	Lead service line replacement	\$894,000
Hankinson	3900443-03	\$42,000	11/29/21			921	10	Water main extension	
Horace	0900488-02	\$2,740,000	11/04/21			1,600	20	Distribution system improvements & connection to Cass RWD	
Jamestown	4700498-10	\$1,808,000	08/31/21			15,226	20	2020 water main improvements	
Jamestown	4700498-11	\$1,344,000	01/27/21			15,226	20	State Hospital water line replacement	
Jamestown	4700498-12	\$1,808,000	10/29/21			15,226	20	2021 water main improvements	
Lakota	3200536-02	\$295,220	02/10/21	10/29/21	\$161,500	625	30	Transmission line replacement	
Mandan	3000596-09	\$7,255,000	02/03/21			22,752	20	Raw water intake improvements	
New Salem	3000736-01	\$1,042,000	08/27/21			958	30	Refinance of water main replacement	
North Prairie RW	5101189-06	\$3,825,000	03/30/21			11,000	30	Mountrail phase II and III transmission line	
North Prairie RW	5101189-08	\$1,151,000	05/17/21			11,000	30	Logan to Velva US Hwy 52 distribution improvements	
Stanley	3100898-01	\$400,000	06/28/21			2,611	20	Refinance of water system improvements	
Stanley	3100898-02	\$2,253,000	11/02/21			2,677	30	Water main improvements	
Valley City	0200958-04	\$180,000	10/18/21			6,585	20	7th Ave NW water main replacement	
Wahpeton	3900973-06	\$1,103,000	10/28/21			7,899	25	Loy Ave & 12th St N reconstruction & utility replacement	

Increases

Bismarck	0800080-02	\$7,000,000	05/26/20	08/19/21	\$2,000,000	73,112	15	Water main & lead service line replacement	\$1,382,000
Cavalier	3400170-01	\$4,845,000	08/28/19	03/25/21	\$1,750,000	1,203	30	Water tower & ground storage reservoir replacement	
Enderlin	3700314-05	\$1,200,000	10/03/19	09/03/21	\$440,000	868	20	Water main replacement	
Riverdale	2800825-02	\$2,161,000	08/27/19	03/26/21	\$200,000	205	20	Water tower & water main replacement	

Total New Loans = \$34,468,720

All loans had a 1.5% interest rate plus a 0.5% administration fee

APPENDIX B
BYPASSED PROJECT LIST

Ranking	System Name	Project Description	Project Cost (\$1,000)	Reason for Project Bypass
1	Gackle	Well, water meter, pump house, water tower, & water main replacement	1,300	Not willing to proceed
2	Wing	Water tower, water main, hydrant, & gate valve replacement	1,400	Loan application was approved, but loan is not under binding commitment yet
5	All Seasons WUD	Refinance of projects for well, reservoir, SCADA, & pipeline improvements	3,929	Not ready to proceed
6	Ashley	Water tower, well, & transmission line replacement	2,000	Not ready to proceed
8	Glen Ullin	Water main replacement & looping	2,000	Will apply in 2022
9	Wing	Distribution system replacement	1,400	Undertaking a higher ranked project
10	Jud	Distribution system & pump house improvements	300	Not ready to proceed
11	Dazey	Water main replacement & reservoir system upgrades	250	Not ready to proceed
14	Elgin	Water main replacement	2,271	Will apply in 2022
15	Carson	Water main replacement	5,700	Not ready to proceed
16	Streeter	Well & pump house improvements	860	Not ready to proceed
18	Lidgerwood	Water main replacement	510	Not ready to proceed
20	Streeter	Water tower replacement	1,000	Not ready to proceed
21	Streeter	WTP improvements	500	Not ready to proceed
23	Hannaford	Water tower replacement & pump house improvements	1,200	Not ready to proceed
24	Medina	WTP & well house improvements	800	Not ready to proceed
25	Harvey	WTP improvements	750	Not ready to proceed
26	Forman	Well improvements, transmission line replacement	750	Not ready to proceed
27	Verona	Water main & meter replacement	515	Not ready to proceed

Ranking	System Name	Project Description	Project Cost (\$1,000)	Reason for Project Bypass
28	Lakota	Water main, gate valve, hydrant, & service line replacement	1,100	Not ready to proceed
29	Robinson	Pumping system improvements & water main, gate valve, hydrant, & curb stop replacement	250	Not ready to proceed
30	Streeter	Water main extension & looping	500	Not ready to proceed
32	Leeds	Well & transmission line upgrades	450	Not ready to proceed
33	Mayville	Water main, gate valve, & hydrant replacement	500	Not ready to proceed
37	Verona	Reservoir & pump house replacement	300	Not ready to proceed
38	Wing	Chemical feed building & equipment, decommissioning of well house & well, controls & gate valve for water tower	425	Undertaking a higher ranked project
40	Towner	Connection to rural water or WTP improvements	2,000	Not ready to proceed
41	Northeast RWD	Pipeline to increase capacity to Adams	700	Not ready to proceed
43	McLean Sheridan RWD	WTP & distribution system improvements	11,400	Not ready to proceed
46	Walsh RWD	Service to Drayton	550	Will apply in 2022
47	Columbus	Water main improvements	1,537	Not ready to proceed
48	All Seasons WUD	Parallel & looped pipelines to increase flow in low pressure areas	796	Not ready to proceed
49	All Seasons WUD	Increased supply to area around and north of Rolla	371	Loan application was approved, but loan is not under binding commitment yet
50	New Rockford	Water main replacement & WTP upgrades	5,800	Not ready to proceed
51	Oriska	Reservoir & pump house replacement	550	Not ready to proceed
52	Ashley	Water main replacement & looping	1,000	Not ready to proceed
53	Ashley	WTP upgrade	1,000	Not ready to proceed
54	Turtle Lake	Water main replacement & looping	600	Not ready to proceed

Ranking	System Name	Project Description	Project Cost (\$1,000)	Reason for Project Bypass
56	Sheyenne	Water main replacement	3,100	Not ready to proceed
60	Horace	WTP improvements	5,915	Undertaking an alternative project
61	Napoleon	Service to residents on private wells, water storage, well, meter, & water main replacement	1,000	Not ready to proceed
62	Beach	Water main & lead service line replacement, transmission main for looping	1,575	Not ready to proceed

APPENDIX C
SOURCES AND USES OF FUNDS

SOURCES

Federal Capitalization Grants	248,880,100
State Match	51,432,137
Transfers from CWSRF	54,590,972
Net Leveraged Bonds	193,941,728
Interest Earnings	52,971,004
Interest Payments	76,748,419
Principal Repayments	<u>239,116,151</u>
TOTAL SOURCES OF FUNDS	\$917,680,511

USES

4% Administration	9,603,814
2% SSTA	3,735,612
10% DW Program Set-Aside	5,517,438
15% Local Asst. Set-Aside	435,268
Transfers to CWSRF	29,061,000
Bond Principal Repayments	86,756,157
Bond Interest Expense	80,596,059
Arbitrage Paid	785,241
Reserves	-
Closed Agreements	721,998,946
Approved But Not Closed Agreements	<u>2,095,000</u>
TOTAL USES OF FUNDS	\$940,584,535

APPENDIX D
DWSRF TRANSACTIONS

Recipient	Date of Payment to Recipient	Amount of Draw Request
WAWSA	01/04/21	347,129.00
WAWSA	01/04/21	44,095.00
North Prairie RWD	01/04/21	5,304.00
North Prairie RWD	01/04/21	45,296.00
TA Set Aside	01/04/21	19,800.00
Kindred	01/11/21	12,248.00
Kindred	01/11/21	6,492.00
Wyndmere	01/11/21	6,608.00
Northeast RWD	01/11/21	61,970.00
Dakota Rural Water District	01/11/21	41,342.00
Fargo	01/19/21	423,777.00
Riverdale	01/19/21	7,584.00
McLean Sheridan WD	01/19/21	92,497.00
McLean Sheridan WD	01/19/21	12,782.00
Sykeston	01/19/21	35,836.00
North Prairie RWD	01/25/21	1,448.00
North Prairie RWD	01/25/21	793.00
North Prairie RWD	01/25/21	12,015.00
Casselton	01/25/21	20,202.00
Aneta	01/25/21	114,165.00
Dakota Rural Water District	01/25/21	43,163.00
DEQ Admin Draw	01/25/21	263,230.00
Bismarck	02/01/21	616,361.00
Dunn Center	02/01/21	56,220.00
TA Set Aside	02/08/21	9,000.00
Wyndmere	02/08/21	6,408.00
Lisbon	02/08/21	33,531.00
NE Regional Water District	02/08/21	7,293.00
Carson	02/08/21	17,854.00
Riverdale	02/16/21	19,200.00
Mapleton	02/22/21	20,336.00
Fargo	02/22/21	282,502.00
Enderlin	02/22/21	77,318.00
TA Set Aside	03/01/21	1,500.00
McLean Sheridan WD	03/01/21	0.00
North Prairie RWD	03/02/21	13,651.00
North Prairie RWD	03/02/21	1,927.00
Agassiz WUD	03/02/21	6,845.00

Recipient	Date of Payment to Recipient	Amount of Draw Request
Sykeston	03/15/21	4,800.00
Sykeston	03/15/21	2,376.00
North Prairie RWD	03/29/21	4,676.00
North Prairie RWD	04/05/21	55,990.00
WAWSA	04/05/21	137,879.00
WAWSA	04/05/21	104,447.00
WAWSA	04/05/21	114,756.00
Lincoln	04/05/21	115,909.00
Wyndmere	04/05/21	14,952.00
McLean Sheridan WD	04/05/21	15,405.00
Argusville	04/19/21	2,913.00
Stutsman RWD	04/26/21	73,172.00
Missouri West WS	04/26/21	128,088.00
TA Set Aside	04/26/21	9,750.00
TA Set Aside	05/10/21	10,800.00
DEQ Admin Draw	05/10/21	289,907.00
DEQ Admin Draw - CW	05/10/21	149,153.00
Mandan	05/10/21	569,545.00
Mandan	05/10/21	399,452.00
Lakota	05/10/21	118,203.00
Sykeston	05/10/21	50,691.00
Beach	05/10/21	39,762.00
North Prairie RWD	05/10/21	160,109.00
WAWSA	05/17/21	59,585.00
Riverdale	05/17/21	161,595.00
Center	05/17/21	426.00
Center	05/17/21	1,917.00
Jamestown	05/24/21	422,189.00
Dakota Rural Water District	05/24/21	26,386.00
McLean Sheridan WD	06/01/21	110,272.00
Mohall	06/01/21	19,550.00
Agassiz WUD	06/01/21	48,115.00
NE Regional Water District	06/01/21	27,729.00
Dunn Center	06/07/21	55,781.00
Lakota	06/14/21	179,147.00
North Prairie RWD	06/14/21	238,562.00
Minot	06/14/21	20,280.00
WAWSA	06/14/21	308,801.00

Recipient	Date of Payment to Recipient	Amount of Draw Request
Aneta	06/21/21	31,463.00
North Prairie RWD	06/21/21	73,075.00
Dakota Rural Water District	06/21/21	41,119.00
Beach	06/28/21	798,735.00
Agassiz WUD	06/28/21	46,625.00
Valley City	06/28/21	144,000.00
Sykeston	06/28/21	49,828.00
McLean Sheridan WD	07/06/21	131,465.00
North Prairie RWD	07/06/21	22,345.00
North Prairie RWD	07/06/21	5,247.00
Dunn Center	07/06/21	19,104.00
Mandan	07/06/21	775,863.00
Bismarck	07/12/21	386,758.00
Enderlin	07/12/21	111,338.00
Northeast RWD	07/12/21	43,436.00
Tri-County Water District	07/12/21	333,374.00
Southeast Water Users Dist	07/12/21	88,260.00
WAWSA	07/12/21	496,807.00
McLean Sheridan WD	07/19/21	79,185.00
TA Set Aside	07/19/21	15,600.00
Mandan	07/26/21	144,801.00
Dakota Rural Water District	07/26/21	85,848.00
Aneta	07/26/21	47,639.00
Sykeston	07/26/21	7,200.00
Wyndmere	07/26/21	15,044.00
Bismarck	07/26/21	256,339.00
Mandan	08/02/21	22,426.00
Center	08/02/21	569.00
Center	08/02/21	7,644.00
Dunn Center	08/02/21	160,539.00
Cavalier	08/02/21	119,260.00
Agassiz WUD	08/02/21	23,255.00
Beach	08/02/21	419,733.00
Glenburn	08/02/21	20,215.00
Glenburn	08/02/21	13,200.00
WAWSA	08/09/21	853,524.00
NE Regional Water District	08/09/21	390,196.00
TA Set Aside	08/09/21	6,900.00

Recipient	Date of Payment to Recipient	Amount of Draw Request
North Prairie RWD	08/16/21	56,028.00
North Prairie RWD	08/23/21	54,500.00
North Prairie RWD	08/23/21	4,914.00
Cooperstown	08/23/21	551,973.00
Wyndmere	08/23/21	113,979.00
North Prairie RWD	08/25/21	3,311.00
Dunn Center	08/25/21	136,223.00
PFA Expenses	08/25/21	43,895.00
Center	09/07/21	9,954.00
McLean Sheridan WD	09/07/21	64,102.00
Dakota Rural Water District	09/07/21	36,618.00
Mandan	09/07/21	133,513.00
WAWSA	09/07/21	383,787.00
Mandan	09/13/21	53,913.00
NE Regional Water District	09/13/21	88,963.00
Beach	09/13/21	93,041.00
Riverdale	09/13/21	109,383.00
Jamestown	09/20/21	1,717,600.00
Stanley	09/20/21	400,000.00
Center	09/20/21	12,896.00
TA Set Aside	09/20/21	16,200.00
Bismarck	09/27/21	203,900.00
New Salem	09/27/21	1,042,000.00
Dakota Rural Water District	09/27/21	122,411.00
Bismarck	09/27/21	255,641.00
WAWSA	09/27/21	515,839.00
Wyndmere	10/04/21	144,477.00
Fargo	10/04/21	2,664,802.00
Mandan	10/04/21	378,343.00
Bismarck	10/04/21	635,464.00
Agassiz WUD	10/12/21	16,442.00
McLean Sheridan WD	10/12/21	93,137.00
Dunn Center	10/12/21	348,839.00
NE Regional Water District	10/12/21	20,326.00
DEQ Admin Draw	10/13/21	297,432.00
DEQ Admin Draw - CW	10/13/21	146,997.00
Center	10/18/21	10,693.00
Coleharbor	10/18/21	42,840.00

Recipient	Date of Payment to Recipient	Amount of Draw Request
Aneta	10/18/21	11,315.00
Center	10/25/21	3,034.00
Glenburn	10/25/21	355.00
Dakota Rural Water District	10/25/21	63,909.00
Wyndmere	11/01/21	151,865.00
Enderlin	11/01/21	43,711.00
Sykeston	11/01/21	85,754.00
Sykeston	11/01/21	30,673.00
TA Set Aside	11/01/21	10,500.00
TA Set Aside	11/01/21	36,300.00
TA Set Aside	11/01/21	12,750.00
TA Set Aside	11/08/21	15,000.00
Mandan	11/08/21	258,243.00
Agassiz WUD	11/08/21	7,416.00
North Prairie RWD	11/08/21	9,917.00
Cavalier	11/15/21	509,508.00
WAWSA	11/15/21	522,907.00
Center	11/15/21	17,187.00
North Prairie RWD	11/15/21	5,016.00
Wyndmere	11/15/21	11,167.00
Bismarck	11/22/21	369,634.00
Coleharbor	11/22/21	28,560.00
McLean Sheridan WD	11/22/21	64,067.00
Northeast RWD	11/22/21	49,003.00

Recipient	Date of Payment to Recipient	Amount of Draw Request
Dakota Rural Water District	11/22/21	106,236.00
Bismarck	11/22/21	601,567.00
Lakota	11/29/21	128,155.00
Lakota	11/29/21	31,215.00
Cavalier	11/29/21	58,679.00
Mandan	11/29/21	179,741.00
Sykeston	11/29/21	53,060.00
Horace	11/29/21	578,415.00
Enderlin	11/29/21	9,260.00
North Prairie RWD	11/29/21	6,082.00
Agassiz WUD	12/06/21	6,067.00
Jamestown	12/06/21	90,400.00
WAWSA	12/06/21	525,207.00
McLean Sheridan WD	12/20/21	56,972.00
East Central RWD	12/20/21	746,390.00
Wyndmere	12/20/21	3,115.00
PFA Expenses	12/20/21	11,000.00
TA Set Aside	12/20/21	35,100.00
Mandan	12/27/21	334,344.00
Flaxton	12/27/21	73,500.00
Hankinson	12/27/21	26,862.00
Total		30,332,285.00