Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: May 06, 2015 PRESENTED BY: Luis Farias

APPLICANT	D Bar B Water Wastewater Supply Corporation
TYPE OF ASSISTANCE	$200,000 Loan Forgiveness
LEGAL PLEDGE	N/A; 100% Loan Forgiveness

STAFF RECOMMENDATION
☒ Approve ☐ No Action

ACTION REQUESTED
Approve by resolution a request from the **D Bar B Water Wastewater Supply Corporation (Dallas County)** for financial assistance in the amount of $200,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance planning and design for a new water source.

PROJECT
Groundwater Well Treatment/Replacement
Project Number 62662

BACKGROUND
The D Bar B Water Wastewater Supply Corporation (Corporation) is located in southern Dallas County, along the Trinity River. The Corporation's service area contains 66 connections and is built out. Residences in the Corporation's service area are almost entirely mobile homes.

The system was originally built as an investor-owned utility, owned and operated by the mobile home park owner. The system was not maintained properly, fell into disrepair, was placed under enforcement order by the Texas Commission on Environmental Quality (TCEQ) and ultimately placed in receivership. At this point, the Corporation converted to a member-owned member controlled corporation. The Corporation has addressed most of the compliance issues, including the installation of a wastewater treatment plant and water supply facilities, a ground storage tank, pressure tank, booster pumps, and disinfection.

The Corporation operates a shallow 30-foot groundwater well which does not meet current TCEQ water supply well standards. The Corporation proposes to use the requested funds to evaluate alternatives and implement a solution that may include: additional filtration at the existing source, a new well within public water systems standards, or a possible interconnection between a new well and the existing one.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE ON NOVEMBER 30, 2015

FINANCIAL

Key Issues

None

Principal Forgiveness

The Corporation is eligible for 100% loan forgiveness not to exceed $200,000 per project through the Very Small Systems funding option of the Drinking Water State Revolving Fund. This eligibility is based on the Corporation's system having no more than 1,000 people served.

Cost Savings

Based on a 30-year maturity schedule and current market interest rates, the Corporation would save $324,727 by receiving Loan Forgiveness when compared to a loan.

Internal Risk Score

The funding being provided by the Texas Water Development Board (TWDB) is in the form of 100% loan forgiveness and therefore is not subject to the risk score. For grants and loan forgiveness, TWDB staff reviews audited financial information and other documentation to assess the entity's ability to manage existing obligations and business practices. Based on this analysis, staff believes the Corporation has adequate capabilities to manage its obligations.

LEGAL

Key Issues

None.

CONDITIONS

Standard Drinking Water State Revolving Fund Loan Forgiveness conditions and further conditioned as follows:

- Conveyance;
- Conversion;
- Water rights certification;
- Executed loan forgiveness agreement; and
- Return surplus funds.

Attachments:
1. Project Data Summary
2. Engineering/Environmental Review
3. Project Budget
4. Resolution (15-)
5. Location Map

Attachment 1

Project Data Summary

Applicant	D Bar B Water Wastewater Supply Corporation
Program	Drinking Water State Revolving Fund
Commitment Number	LF100388
Project Number	62662
Intended Use Plan Year	2015
Fund Number	951
Type of Pledge	N/A (Loan Forgiveness)
Revenue Pledge Level	N/A
Legal Description	$200,000 Loan Forgiveness
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Required	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Population	200
Rural	Yes
Water Connections	66
Wastewater Connections	66
Qualifies as Disadvantaged	N/A (Very Small Systems)
Disadvantaged Level	N/A
Clean Water State Revolving Fund Type	N/A
Financial, Managerial and Technical Review Complete?	No
Phase Committing	Planning and Design
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Exempt
Water Rights Certification Required	Yes
Internal Risk Score	N/A
External Ratings (for SRF rates)	
Standard and Poor's	Non-Rated
Moody's	Non-Rated
Fitch	Non-Rated
Special Issues	None

Project Team

Team Manager	Luis Farias
Financial Analyst	Ben Munguia
Engineering Reviewer	Joel Smith
Environmental Reviewer	Katherine Calnan
Attorney	Annette Mass

Attachment 2

D Bar B Water & WW SC
Engineering and Environmental Review

Engineering:

Key Issues

The D Bar B Water Wastewater Supply Corporation (Corporation) received a Notice of Violation from the Texas Commission on Environmental Quality (TCEQ) on August 23, 2013. Cited items concerning the well include:

1. Failure to furnish well completion data, including the driller's log, 36-hour production test data, microbiological testing, and chemical analysis.
2. Failure to maintain copies of the required start-up data (see above).

To address these findings, the Corporation must either submit all of the data, which they do not have, or obtain TCEQ approval to develop and install a new well.

Project Need / Description

Need: The Corporation has a well as the sole potable water source for its 66 connections. This water supply well was hand dug, and has been determined to be under the influence of surface water (the Trinity River). The Corporation has received notice from the TCEQ that the well is for temporary use only and a new water source must be found.

Project: The Corporation is applying for Very Small Systems funding to accomplish planning and design of a new water source. There are two alternatives for providing water to corporation customers: a new water well near the existing ground storage tank and pump station, or a wholesale connection to the City of Dallas water line, approximately 1.25 miles away. The Corporation will determine the most feasible alternative during the planning phase.

Project Schedule

Project Task	Schedule Date
Closing	7/30/15
Engineering Feasibility Report Completion (End of Planning Phase)	11/30/2015
Design Phase Complete	1/31/2016

Environmental:

Key Issues

None known at this time.

Environmental Summary

The level of environmental review (categorical exclusion or full review) will depend on the option selected during planning. Pursuant to the requirements of 31 Texas Administrative Code §371.41, all financial assistance shall be conditioned to read that funding for acquisition and design costs for specific project elements will not be released until the environmental review has been completed and a favorable environmental determination has been issued by the Executive Administrator. A subsequent affirmation of commitment will be necessary for this loan in order to comply with the National Environmental Policy Act.

Attachment 3

D Bar B Water WW SC
62662 - Groundwater Well Treatment/Replacement

Budget Items	TWDB Funds	Local & Other Funds	Total Cost
Basic Engineering Services			
Design	$75,000	$0	$75,000
Planning	$25,000	$0	$25,000
Basic Engineering Services Total	**$100,000**	**$0**	**$100,000**
Special Services			
Environmental	$25,000	$0	$25,000
Pilot Testing	$35,000	$0	$35,000
Special Services Total	**$60,000**	**$0**	**$60,000**
Contingency			
Contingency	$40,000	$0	$40,000
Contingency Total	**$40,000**	**$0**	**$40,000**
Grand Total	**$200,000**	**$0**	**$200,000**

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO D BAR B WATER WASTEWATER SUPPLY CORPORATION FROM THE DRINKING WATER STATE REVOLVING FUND THROUGH A LOAN IN THE AMOUNT OF $200,000 WITH 100% LOAN FORGIVENESS

(15-)

WHEREAS, the D Bar B Water Wastewater Supply Corporation (D Bar B), located in Dallas County has filed an application for financial assistance in the amount of $200,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition and design of certain water system improvements identified as Project No. 62662; and

WHEREAS, D Bar B seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of $200,000 with 100% to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the TWDB hereby finds:

1. that no debt obligations are to be assumed by D Bar B for the loan and no taxes or revenues are required to be pledged by D Bar B;

2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;

3. that D Bar B is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be $500,000 or less;

4. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by D Bar B and filed with the TWDB in accordance with Texas Water Code § 16.053(j); and

5. that D Bar B meets the definition of a small water system in accordance with 31 TAC § 371.1(60) and the current Intended Use Plan, and is therefore eligible for subsidy through the DWSRF.

NOW, THEREFORE, based on these findings, the TWDB resolves as follows:

A commitment is made by the TWDB to the D Bar B Water Wastewater Supply Corporation for financial assistance in the amount of $200,000 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on November 30, 2015.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;

2. this commitment is contingent upon D Bar B's compliance with all applicable requirements contained in 31 TAC Chapter 371;

3. the Loan Forgiveness Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Loan Forgiveness Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;

4. loan proceeds are public funds and, as such, the Loan Forgiveness Agreement must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

5. loan proceeds shall not be used by D Bar B when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Loan Forgiveness Agreement shall include an environmental indemnification provision wherein D Bar B agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by D Bar B, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

6. prior to closing, and if not previously provided with the application, D Bar B shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;

7. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, D Bar B shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

8. the Executive Administrator may require that D Bar B execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

State Revolving Fund Conditions

9. D Bar B shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;

10. the Loan Forgiveness Agreement must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. D Bar B, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of $2,000 the contracts clauses as provided by the TWDB;

11. the Loan Forgiveness Agreement must include a provision stating that D Bar B shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. D Bar B shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during the term of the Loan Forgiveness Agreement;

12. the Loan Forgiveness Agreement shall provide that all loan proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that D Bar B will adhere to the approved project schedule;

13. the Loan Forgiveness Agreement must contain a covenant that D Bar B will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions

14. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that D Bar B has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Loan Forgiveness Agreement;

15. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, D Bar B must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;

PROVIDED, however, the commitment is subject to the following special conditions:

Special Conditions:

1. prior to the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs for that portion of a project that proposes surface water or groundwater development, the Executive Administrator must either issue a written finding that D Bar B has the right to use the water that the project financed by the TWDB will provide or a written determination that a reasonable expectation exists that such a finding will be made before the release of funds for construction;

2. D Bar B must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility;

3. the Loan Forgiveness Agreement must include a provision requiring that, prior to any action by D Bar B to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;

4. prior to closing, D Bar B shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and

5. the Loan Forgiveness Agreement must include a provision stating that D Bar B shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 6th day of May, 2015.

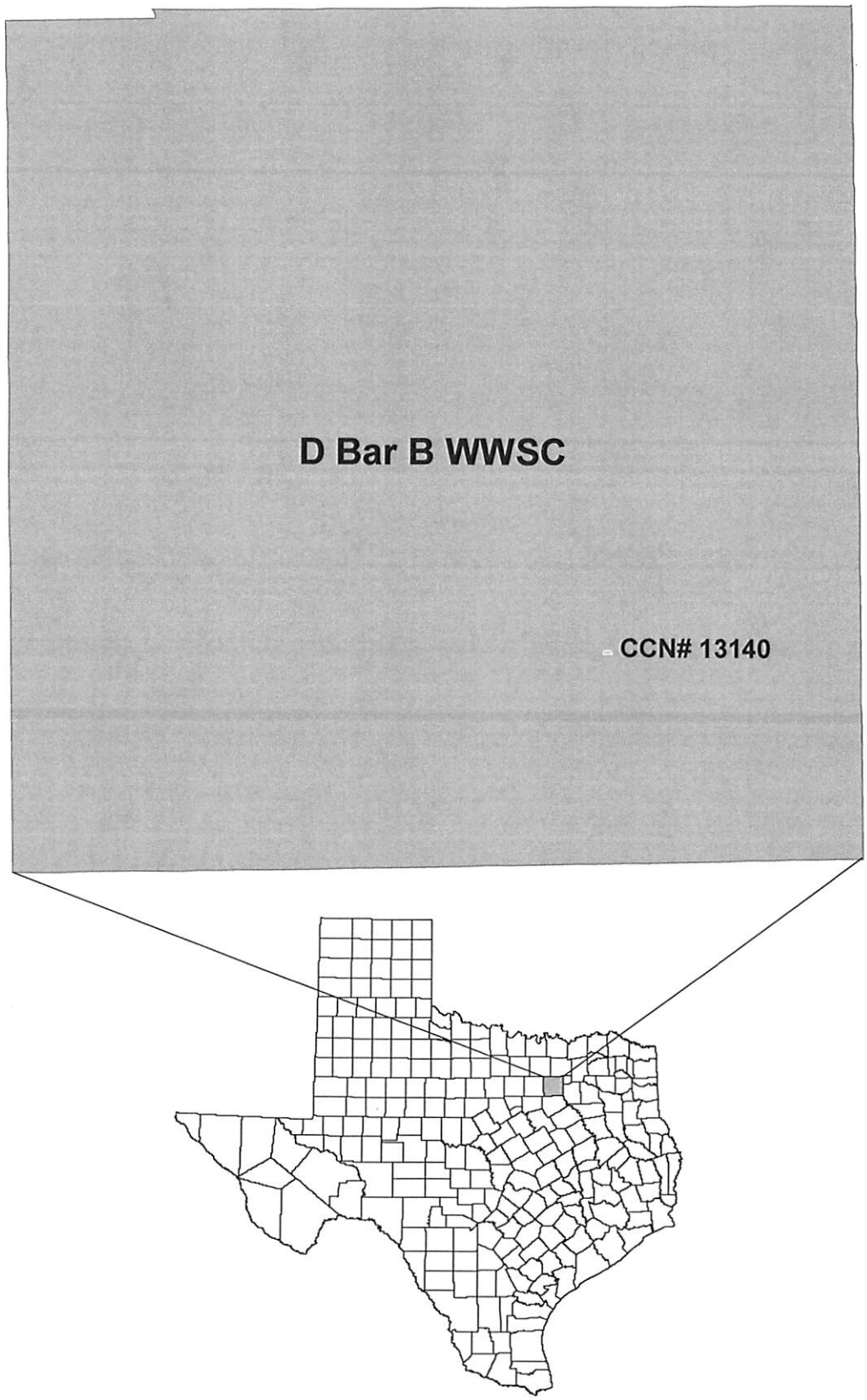
TEXAS WATER DEVELOPMENT BOARD

_____
Carlos Rubinstein, Chairman

DATE SIGNED: _____

ATTEST:

_____
Kevin Patteson
Executive Administrator

ATTACHMENT 5

D Bar B WWSC,
Dallas County