

## PROJECT FUNDING REQUEST

**APPLICANT** Windthorst Water Supply Corporation  
Application Submitted 1/09/2015

### PROJECT SUMMARY

**Name** Urgent Need – Emergency Interconnect (62675)

**Need** Windthorst Water Supply Corporation (Corporation) is in urgent need of additional water supplies due to the extreme drought.

**Project Description** The Corporation is proposing to complete an approximate 6.5 mile transmission pipeline to the nearby City of Scotland, allowing the Corporation to receive treated potable water supplies from the City of Wichita Falls through Scotland's water distribution system.

**Funding Elements** Construction

**Service Population** 1,300

### FINANCIAL SUMMARY

**Funding Source** DWSRF

**Type of Assistance** \$500,000 Urgent Need – Loan Forgiveness

**Risk Score** N/A

**Pledge for Repayment** N/A

**Proposed Repayment Method** N/A

**Operating Trends** Positive

### PREVIOUS TWDB ASSISTANCE

Proj. No.	Program	Commitment Date	Commitment Amount
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First time Applicant

### OTHER

**Key Issues** The Executive Administrator recommends to the Board that the proposed project be declared an Emergency Relief Project. This designation allows environmental review of the project to be expedited when the preparation of documentation and issuance of an environmental finding to comply with the National Environmental Policy Act would potentially increase the risk to public health, safety, environment, or welfare.

**Benefits** The proposed project will provide a reliable water supply to the Corporation when they are no longer able to access their current reservoir supply. Additionally this interconnection will provide added resiliency to drought for the Corporation in the future.

**Senator:** District 30: Craig Estes  
**Representative:** District 69: James B. Frank

# Texas Water Development Board

## PROJECT FUNDING REQUEST

BOARD DATE: March 26, 2015

PRESENTED BY: Brenner Brown

<b>APPLICANT</b>	Windthorst Water Supply Corporation
<b>TYPE OF ASSISTANCE</b>	\$500,000 Loan Forgiveness
<b>LEGAL PLEDGE</b>	N/A; 100% Loan Forgiveness

### STAFF RECOMMENDATION

Approve       No Action

### ACTION REQUESTED

Approve by resolution, a request from the **Windthorst Water Supply Corporation (Archer and Clay Counties)** for \$500,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance the construction phase of an emergency interconnect to address an urgent need related to drought.

### PROJECT

Urgent Need Emergency Interconnect  
Project Number 62675

### FINANCIAL SUMMARY

Risk Score:	N/A
Pledge for Repayment:	N/A
Proposed Repayment Method:	N/A
Operating Trends:	Positive

**COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON MARCH 31, 2016**

## **FINANCIAL**

### Key Issues

The Windthorst Water Supply Corporation (Corporation) qualifies for \$500,000 in Loan Forgiveness from the Drinking Water State Revolving Fund Urgent Need Funding. Texas Water Development Board (TWDB) staff have issued a determination of Urgent Need for this project due to drought related reductions in water supply resulting in the loss of water within 180 days.

### Cost Savings

Based on a 100% Loan Forgiveness amount of \$500,000 the Corporation could save approximately \$950,657 over the life of the commitment when compared to market interest rates and a 30-year term.

### Internal Risk Score

The funding being provided by the 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:

- Executed loan forgiveness agreement;
- Notification of conversion;
- Conveyance;
- Consultations required by Endangered Species Act and National Historical Preservation Act; and
- Return surplus loan forgiveness funds.

### Attachments:

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

**Project Data Summary**

<b>Authority</b>	Windthorst Water Supply Corporation
<b>Program</b>	Drinking Water State Revolving Fund
<b>Commitment Code</b>	LF1000421
<b>Project Number</b>	62675
<b>Intended Use Plan Year</b>	2015
<b>Fund Number</b>	951
<b>Type of Pledge</b>	N/A
<b>Revenue Pledge Level</b>	N/A
<b>Legal Description</b>	\$500,000 Loan Forgiveness
<b>Tax-exempt or Taxable</b>	N/A
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow
<b>Population</b>	1,300
<b>Rural</b>	Yes
<b>Water Connections</b>	520
<b>Wastewater Connections</b>	520
<b>Qualifies as Disadvantaged</b>	N/A
<b>Disadvantaged Level</b>	9
<b>Clean Water State Revolving Fund Type</b>	N/A
<b>Financial Managerial &amp; Technical Complete</b>	No
<b>Phase Committing</b>	Construction
<b>Pre-Design</b>	No
<b>Project Consistent with Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Exempt (\$500,000 or less)
<b>Water Rights Certification Required</b>	N/A
<b>Internal Risk Score</b>	N/A
<b>External Ratings (for SRF rates)</b>	
<b>Standard and Poor's</b>	Non-Rated
<b>Moody's</b>	Non-Rated
<b>Fitch</b>	Non-Rated
<b>Special Issues</b>	None.

**Project Team**

Team Manager	Brenner Brown
Financial Analyst	Dain Larsen
Engineering Reviewer	Joanne Duncan
Environmental Reviewer	Kathy Calnan
Attorney	Joe Reynolds

**Windthorst WSC**  
**Engineering and Environmental Review**

**Engineering:**Key Issues

The Corporation is proposing to use the Urgent Needs funding for construction costs only. The Corporation will fund all other costs with local funds.

Project Need / Description

Need: Windthorst Water Supply Corporation (Corporation) is in urgent need of additional water supply sources due to the extreme drought in west Texas.

Project Description: The Corporation is proposing to complete an approximate 6.5 mile transmission pipeline to the nearby City of Scotland, allowing the Corporation to receive treated potable water supplies from the City of Wichita Falls through Scotland's water distribution system.

Project Schedule

<b>Project Task</b>	<b>Schedule Date</b>
Closing	6/1/2015
Engineering Feasibility Report Completion (End of Planning Phase)	6/5/2015
Design Phase Complete	6/15/2015
Start of Construction	8/3/2015
Construction Completion	10/30/2015

**Environmental:**Key Issues

The Executive Administrator recommends to the Board that the proposed project be declared an Emergency Relief Project. This designation allows environmental review of the project to be expedited when the preparation of documentation and issuance of an environmental finding to comply with the National Environmental Policy Act would potentially increase the risk to public health, safety, environment, or welfare. In making this designation, the Board recognizes the imminent peril imposed by project delays.

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code (TAC) §371.41, all financial assistance shall be conditioned to read that funding for design and construction costs for the raw water transmission line project will not be released until consultation required by the National Historic Preservation Act and Endangered Species Act have been completed. In accordance with Emergency Relief Project procedures, a subsequent Affirmation of Commitment may be required for this project.

**Windthorst WSC**  
**62675 - Urgent Need - Emergency Interconnect**

<b>Budget Items</b>	<b>TWDB Funds</b>	<b>TWDB Funding %</b>	<b>Local &amp; Other Funds</b>	<b>Total Cost</b>
<b>Construction</b>				
Construction	\$500,000		\$10,000	\$510,000
<b>Construction Total</b>	<b>\$500,000</b>	<b>100.0%</b>	<b>\$10,000</b>	<b>\$510,000</b>
<b>Basic Engineering Services</b>				
Design	\$0		\$45,000	\$45,000
<b>Basic Engineering Services Total</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$45,000</b>	<b>\$45,000</b>
<b>Special Services</b>				
Application	\$0		\$25,000	\$25,000
Environmental	\$0		\$20,000	\$20,000
<b>Special Services Total</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$45,000</b>	<b>\$45,000</b>
<b>Grand Total</b>	<b>\$500,000</b>	<b>100.0%</b>	<b>\$100,000</b>	<b>\$600,000</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
TO WINDTHORST WATER SUPPLY CORPORATION  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH A LOAN IN THE AMOUNT OF \$500,000  
WITH 100% LOAN FORGIVENESS

(15- )

WHEREAS, the Windthorst Water Supply Corporation (Corporation) has filed an application for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the design and construction of certain water system improvements identified as Project No. 62675; and

WHEREAS, the Corporation seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$500,000 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 the Corporation for the loan and no taxes or revenues are required to be pledged by the Corporation;
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 the Corporation is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be \$500,000 or less;
4. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);
5. that the project is an Emergency Relief Project under 31 TAC §§ 371.40(7) and 371.51; and
6. that the project is considered an Urgent Need Project under the current Intended Use Plan, and is therefore eligible for a subsidy through the DWSRF.

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

A commitment is made by the TWDB to the Windthorst Water Supply Corporation for financial assistance in the amount of \$500,000 from the Drinking Water State Revolving Fund with 100% of the loan forgiven. This commitment will expire on March 31, 2016.

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 the Corporation'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 the Corporation 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 the Corporation 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 the Corporation, 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, the Corporation 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, the Corporation 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 the Corporation execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

### State Revolving Fund Conditions

9. the Corporation 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. The Corporation, 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 the Corporation 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. The Corporation 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 the Corporation will adhere to the approved project schedule;
13. the Loan Forgiveness Agreement must contain a covenant that the Corporation 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 the Corporation 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, the Corporation 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. the Corporation 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;
2. the Loan Forgiveness Agreement must include a provision requiring that, prior to any action by the Corporation 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;
3. prior to closing, the Corporation shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
4. the Loan Forgiveness Agreement must include a provision stating that the Corporation shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator; and
5. prior to the release of design and construction funds, the Corporation shall complete the consultations required by the Endangered Species Act and the National Historic Preservation Act.

APPROVED and ordered of record this 26<sup>th</sup> day of March, 2015.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Carlos Rubinstein, Chairman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Kevin Patteson  
Executive Administrator

# WATER CONSERVATION REVIEW

Entity: \_\_\_\_\_

Review date: \_\_\_\_\_

**WATER CONSERVATION PLAN DATE:** **Approvable**      **Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
<b>Baseline</b>				
<b>5-year Goal</b>				
<b>10-year Goal</b>				

**WATER LOSS AUDIT YEAR:**

Total water loss (GPCD): \_\_\_\_\_      Total water loss (percent): \_\_\_\_\_      Wholesale Water  
 Total no. of connections: \_\_\_\_\_      Length of mains (miles): \_\_\_\_\_      Connections per mile: \_\_\_\_\_  
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): \_\_\_\_\_

**WATER LOSS THRESHOLDS:**

If < 32 connections/mile, population < 10K:  
 If < 32 connections/mile, population > 10K:  
 If > 32 connections/mile, population > 10K:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
		NA			NA
	NA			NA	
	NA			NA	

Does the applicant meet Water Loss Threshold requirements?      Yes      No

**ADDITIONAL INFORMATION:**

**STAFF NOTES AND RECOMMENDATIONS:**

## DEFINITIONS

**Adopted** refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

**Apparent loss** refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

**Approvable** refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

**Best Management Practices** are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

**GPCD** means gallons per capita per day.

**Infrastructure Leakage Index (ILI)** is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a benchmarking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

**NA** means not applicable.

**Produced water** is the total amount of water purchased or produced by the utility.

**Real loss** comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

**Residential GPCD** is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

**Total baseline GPCD** is the amount of all water purchased or produced by the utility divided by the service area population and then divided by 365.

**Total water loss** is the sum of the apparent and real water losses.

**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**Water Loss Thresholds** are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

**Windthorst WSC,  
Archer and Clay County**

