

Texas Water 
Development Board
PROJECT FUNDING REQUEST

BOARD DATE: December 14, 2015

TEAM MANAGER: Clay Schultz

APPLICANT	Nueces River Authority
TYPE OF ASSISTANCE	\$16,547,000 Grant
LEGAL PLEDGE	N/A

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve, by resolution, a request from the Nueces River Authority (**Real County**) for an \$16,547,000 grant from the Economically Distressed Areas Program, to finance the construction of a wastewater treatment plant, wastewater collection system and associated lift stations to provide first-time wastewater service to the City of Leakey and surrounding subdivisions.

PROJECT

Leakey Wastewater System
Project Number 72045

BACKGROUND

The Nueces River Authority (Authority) is proposing to provide first time wastewater service to residents within the City of Leakey (City) and surrounding subdivisions. Residents in the area currently rely on individual on-site sewer facilities, many of which do not meet current minimum standards. The Texas Department of State Health Services has issued a nuisance determination indicating that conditions dangerous to the public health and safety exist for portions of the project area.

The Authority previously received funding from the Economically Distressed Areas Program (EDAP) and the Clean Water State Revolving Fund (CWSRF) program to finance planning, acquisition, and design costs associated with the proposed project. Based on funding availability, a phasing plan was developed in 2011 which proposed construction in two phases. As a result, the 2011 CWSRF commitment included construction phase funding for Phase 1 of the proposed project. The Authority's current request would provide additional construction phase funding from the EDAP, which should provide sufficient funding to complete construction of both phases of the proposed project.

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

FINANCIALKey Issues

None

Pledge and Repayment

N/A

Financial, Managerial and Technical Assessment

Pursuant to 31 TAC §363.510, the Texas Water Development Board (TWDB) may make a determination on whether an entity has the necessary financial, managerial, and technical (FMT) capabilities to operate the proposed project. The Authority completed the FMT Assessment as of January 20, 2012. On April 9, 2012, TWDB responded requesting an action plan pertaining to the start up of new services relevant to FMT capabilities. The action plan was received on April 10, 2012, and included the need to hire a Utility Director during the design phase, prior to construction. The Authority has met this requirement.

Nuisance Determination

On February 28, 2008, the Texas Department of State Health Services (TDSHS) issued an opinion that a nuisance dangerous to the public health and safety existed in the proposed Phase 1 project areas due to the lack of adequate wastewater service. This qualifies the applicant for a grant greater than 50% of the Phase 1 project costs. TDSHS did not find nuisance conditions in the proposed Phase 2 project areas.

Grant to Loan Calculation

Pursuant to TWDB's rules, the regional benchmark methodology is used to calculate the EDAP loan amount when an applicant has no existing system and related debt. The Authority was compared to three comparable service providers which had a combined average capital component of \$0.63. Based on existing debt from the United States Department of Agriculture, the service area exceeds the regional benchmark and is thus eligible to receive a 100% EDAP grant for construction of Phase 1 of the proposed project. Funding availability is contingent upon a future bond sale.

Cost Savings

Based on a 20-year maturity schedule, current market interest rates, and a loan amount of \$16,547,000, the Authority would save \$25,539,114 over the life of the financing.

LEGALKey Issues

None.

Model Subdivision Rules

Based on the information provided, the TWDB'S legal staff has determined that Real County and the City of Leakey have adopted and are adequately enforcing the provisions of 31 Texas Administrative Code Chapter 364, the Model Subdivision Rules.

CONDITIONS

Standard EDAP grant conditions and further conditioned as follows:

- Executed grant agreement; and,
- Return surplus grant funds.

Attachments: 1. Project Data Summary
2. Grant to Loan Calculation
3. Engineering/Environmental Review
4. Project Budget
5. Resolution (15-)
6. Water Conservation Review
7. Location Map

Project Data Summary

Authority	Nueces River Authority
Program	Economically Distressed Areas Program
Commitment Code	G1000461
Project Number	72045
Intended Use Plan Year	N/A
Fund Number	375
Type of Pledge	100% Grant
Revenue Pledge Level	N/A
Legal Description	100% Grant
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Population	1490
Rural	Yes
Water Connections	423 (served by the City of Leakey)
Wastewater Connections	0 (new wastewater system – 783 total proposed)
Qualifies as Disadvantaged	Yes
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
SWIFT Financing Type	N/A
SWIFT Project Type	N/A
Financial Managerial & Technical Complete	Yes
Funding Phase Code	Construction
Pre-Design	No
Project Consistent with Water Plan	Yes
Water Conservation Plan	Adopted
Water Rights Certification Required	No
Internal Risk Score	N/A
External Ratings (for SRF rates)	
Standard and Poor's	None
Moody's	None
Fitch	None
Special Issues	100% Grant

Project Team

Team Manager	Clay Schultz
Financial Analyst	James Horan
Engineering Reviewer	John Muras/Augustine Tambe
Environmental Reviewer	William Alfaro
Attorney	Joe Reynolds

**NUECES WATER AUTHORITY - CITY OF LEAKEY
ESTIMATED WATER or WASTEWATER LOAN AMOUNT
CAPITAL COMPONENT WITH ADDITIONAL DEBT
TO BE USED FOR ILLUSTRATIVE PURPOSES ONLY**

REGIONAL BENCHMARK METHODOLOGY

CAPITAL COMPONENTS OF COMPARABLE SERVICE PROVIDERS

Comparable #1 (Camp Wood)	\$	-
Comparable #2 (Rocksprings)	\$	-
Comparable #3 (Bracketville)	\$	1.89

AVERAGE CAPITAL COMPONENT		\$0.630
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LESS OTHER DEBT TO BE INCURRED AS A RESULT OF THIS PROJECT

Additional USDA Loan		\$380,000.00
Assuming a 40-Year Maturity Schedule and a 4% interest rate over 40 years		
Produces an Estimated Annual Debt Service		\$19,198.93

Divided by the Total Number of Connections (LUEs) in the Project at the end of Construction		783
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Divided by 12 Months Produces

CAPITAL COMPONENT OF ADDITIONAL LOAN		\$2.043
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Average Capital Component of the Comparable Service Providers		\$0.630
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Minus Capital Component of Additional Loan		\$2.043
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PRODUCES AN OVERALL CAPITAL COMPONENT		(\$1.413)
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A negative capital component entitles the Authority to a 100% grant

Nueces River Authority
Engineering and Environmental Review

Engineering:Key Issues

The total estimated project cost is \$32,539,418. The Texas Water Development Board (TWDB) has thus far provided \$13,666,439 for the proposed project, of which \$8,258,987 is for construction phase funding. If approved, the current request of \$16,547,000, which includes an additional \$14,127,445 in construction phase funding, will bring the total TWDB funding to \$30,214,418.

Project Need / Description

Need: The City of Leakey (City) is located on the Frio River in south central Real County. The City and surrounding areas rely on individual on-site sewer facilities, many of which do not meet current minimum standards. The Texas Department of State Health Services has issued a nuisance determination indicating that conditions dangerous to the public health and safety exist for portions of the project area.

Project Description: Due to previous funding limitations, a phasing plan for the proposed project was developed in 2011. Phase 1 includes a 250,000 gallon per day wastewater treatment facility and collection system needed to serve areas within the City and surrounding subdivisions that received a nuisance determination. Phase 2 involves the expansion of the treatment facility and extension of the wastewater collection system to serve areas generally east of the Frio River. The entire project area is considered eligible for Economically Distressed Areas Program (EDAP) funding, however, only the Phase 1 project areas received a nuisance determination.

Project planning, environmental, land acquisition and design activities have been mostly completed utilizing previous EDAP and Clean Water State Revolving Fund (CWSRF) funding. The Authority is currently requesting construction phase funding from the EDAP to finance construction of Phase 1 (areas eligible for 100% EDAP grant). The 2011 CWSRF commitment included construction phase funding, which will be used to finance construction of Phase 2 (areas that did not receive a nuisance determination). Construction of Phases 1 and 2 will run concurrent.

Project Schedule

Project Task	Schedule Date
Closing	3/1/2016
Design Phase Complete	1/31/2016
Start of Construction	10/15/2015
Construction Completion	5/1/2017

Environmental:Key Issues

None.

Environmental Summary

A Finding of No Significant Impact (FNSI) was issued on August 29, 2014, for both phases of the proposed project utilizing funding from the Clean Water State Revolving Fund (CWSRF) commitment. The Board affirmed the CWSRF commitment on November 6, 2014, in Board Resolution 14-104. The terms and conditions of TWDB Resolution No. 14-104 shall remain in full force and effect for the proposed project.

Project Budget Summary
Nueces River Authority
72045 - Leakey Wastewater System

Budget Items	Description	Previous Commitments	This Commitment	TWDB Funds	Local and Other Funds	Total
Construction						
Construction		\$8,258,987.00	\$14,127,445.00	\$22,386,432.00		\$22,386,432.00
Construction-Hook-Ups	USDA funding	\$0.00	\$0.00	\$0.00	\$2,325,000.00	\$2,325,000.00
Subtotal for Construction		\$8,258,987.00	\$14,127,445.00	\$22,386,432.00	\$2,325,000.00	\$24,711,432.00
Basic Engineering Services						
Construction Engineering		\$137,799.00	\$172,000.00	\$309,799.00	\$0.00	\$309,799.00
Design		\$663,396.00	\$0.00	\$663,396.00	\$0.00	\$663,396.00
Planning		\$265,000.00	\$0.00	\$265,000.00	\$0.00	\$265,000.00
Subtotal for Basic Engineering Services		\$1,066,195.00	\$172,000.00	\$1,238,195.00	\$0.00	\$1,238,195.00
Special Services						
Environmental		\$157,335.64	\$0.00	\$157,335.64	\$0.00	\$157,335.64
Geotechnical		\$55,000.00	\$0.00	\$55,000.00	\$0.00	\$55,000.00
Inspection		\$57,250.00	\$161,000.00	\$218,250.00	\$0.00	\$218,250.00
O&M Manual		\$15,000.00	\$60,000.00	\$75,000.00	\$0.00	\$75,000.00
Permits		\$253,983.14	\$0.00	\$253,983.14	\$0.00	\$253,983.14
Project Management (by engineer)		\$160,300.00	\$0.00	\$160,300.00	\$0.00	\$160,300.00
Special Service Other (Describe)		\$70,000.00	\$0.00	\$70,000.00	\$0.00	\$70,000.00
Surveying		\$166,720.00	\$0.00	\$166,720.00	\$0.00	\$166,720.00
Testing		\$33,000.00	\$100,000.00	\$133,000.00	\$0.00	\$133,000.00
Subtotal for Special Services		\$968,588.78	\$321,000.00	\$1,289,588.78	\$0.00	\$1,289,588.78
Fiscal Services						
Financial Advisor		\$40,671.00	\$0.00	\$40,671.00	\$0.00	\$40,671.00
Fiscal/Legal		\$2,957.29	\$0.00	\$2,957.29	\$0.00	\$2,957.29
Subtotal for Fiscal Services		\$43,628.29	\$0.00	\$43,628.29	\$0.00	\$43,628.29
Other						
Administration		\$43,608.05	\$30,555.00	\$74,163.05	\$0.00	\$74,163.05
Land/Easements Acquisition	Land Acquisition WWTP Site; Closing Cost for Land Acquisition;	\$2,402,231.44	\$0.00	\$2,402,231.44	\$0.00	\$2,402,231.44
Other (Describe)	Land Acquisition WWTP Site; Closing Cost for Land Acquisition;	\$54,319.44	\$0.00	\$54,319.44	\$0.00	\$54,319.44
Project Legal Expenses		\$65,400.00	\$0.00	\$65,400.00	\$0.00	\$65,400.00
Subtotal for Other		\$2,565,558.93	\$30,555.00	\$2,596,113.93	\$0.00	\$2,596,113.93
Contingency						
Contingency		\$763,481.20	\$1,896,000.00	\$2,659,481.20	\$0.00	\$2,659,481.20
Subtotal for Contingency		\$763,481.20	\$1,896,000.00	\$2,659,481.20	\$0.00	\$2,659,481.20
Total		\$13,666,439.20	\$16,547,000.00	\$30,213,439.20	\$2,325,000.00	\$32,538,439.20

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF \$16,547,000 TO THE NUECES RIVER AUTHORITY FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF THE TEXAS WATER DEVELOPMENT FUND II THROUGH THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$16,547,000

(15-)

WHEREAS, the Nueces River Authority (Authority), has filed an application seeking financial assistance in the amount of \$16,547,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, to finance construction of first-time wastewater service in the City of Leakey, identified as Project No. 72045; and

WHEREAS, the Authority seeks financial assistance from the Texas Water Development Board (the TWDB) through a grant of \$16,547,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, all as is more specifically set forth in the application and in recommendations of TWDB's staff; and

WHEREAS, the Texas Department of State Health Services' (DSHS) determination of a nuisance dangerous to the public health and safety in the project area, which qualifies the construction of Project No. 72045 for a 100 percent grant of financial assistance from the TWDB in accordance with Section 17.933(b) of the Texas Water Code, was issued in February 28, 2008; and

WHEREAS, the TWDB has carefully considered all matters required by law and in particular the following:

1. the feasibility of creating a conservation and reclamation district to provide and finance the water supply or sewer services, in accordance with Texas Water Code § 16.346;
2. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications, in accordance with Texas Water Code § 17.929(a)(1);
3. the availability to the political subdivision of revenue from alternative sources for the payment of the cost of the proposed project, in accordance with Texas Water Code § 17.929 (a)(2);
4. financing of the proposed water supply or sewer project, in accordance with Texas Water Code § 17.929(a)(3);
5. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance, in accordance with Texas Water Code § 17.929(a)(5);

6. DSHS has issued a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project, in accordance with Texas Water Code § 17.933(b);
7. the rates, fees and charges that the average customer to be served by the project will be able to pay, sources of funding available to the Authority, and any local funds of the Authority, in accordance with Texas Water Code § 17.933(d)(1);
8. sources of funding available to the Authority from federal and private funds and from other state funds, in accordance with Texas Water Code § 17.933(d)(2);
9. any local funds of the Authority to be served by the project if the economically distressed area to be served is within the boundary of the Authority, in accordance with Texas Water Code § 17.933(d)(3);
10. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code, in accordance with Texas Water Code § 17.933(d)(4); and

WHEREAS, the TWDB hereby finds:

1. that the City of Leakey has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;
2. that the area to be served by the proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, in accordance with Texas Water Code § 17.929(b);
3. that the County and City have adopted model subdivision rules as promulgated by the TWDB pursuant to Texas Water Code § 16.343 and the manner of enforcement, in accordance with Texas Water Code § 17.929(a) (4);
4. that the Authority has considered cost-effective innovative, nonconventional methods of treatment and will evaluate alternatives in greater detail through the planning phase of the project, in accordance with Texas Water Code § 17.189(b); and
5. that the public interest will benefit from state assistance in the financing of the treatment works, in accordance with Texas Water Code § 17.277.

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

A commitment is made by the TWDB to the Nueces River Authority for financial assistance in the amount of \$16,547,000 from the Economically Distressed Areas Account of the Texas Water Development Fund II through a grant of \$16,547,000. This commitment will expire on December 31, 2016.

This 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 Authority's compliance with all applicable requirements contained in 31 TAC Chapter 363;
3. the Grant Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Grant Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
4. grant funds are public funds and, as such, the Grant 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. grant funds shall not be used by the Authority when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Grant Agreement shall include an environmental indemnification provision wherein the Authority 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 authority, 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 Authority 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, under 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 Authority shall execute an escrow agreement 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 Authority execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

EDAP Conditions

9. The Grant Agreement must include a provision that requires compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the

water/wastewater system to be constructed through this commitment shall be used for any purposes other than utility purposes and that the annual financial statement prepared by the Authority under Water Code § 49.191 shall include a specific report on compliance with this condition;

10. prior to the release of funds provided for construction, the Authority must provide the TWDB with evidence satisfactory to the Executive Administrator that the Authority has received and will maintain a designation as an authorized agent of the Texas Commission on Environmental Quality, in compliance with Texas Health and Safety Code § 366.035; and
11. the Grant Agreement must include a provision that requires the Authority adequately enforce the authority granted to the Authority by Texas Water Code § 17.934(a)(2) to require and ensure that all property owners capable of receiving service from the system constructed with the funds provided by this resolution are actually connected to the sewer system constructed by these funds within a reasonable period of time not to exceed 90 days from the date the Authority notifies the property owner that service is available; provided, however, that the Executive Administrator may extend this time upon written request for good cause shown.

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

Special Conditions:

1. prior to closing, the Authority and the Executive Administrator shall execute an Agreement that sets forth the terms and uses of the grant funds; and
2. the Grant Agreement must include a provision stating that the Authority shall return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 14th day of December, 2015.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, 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
Baseline				
5-year Goal				
10-year Goal				

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:

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

Does the applicant meet Water Loss Threshold requirements? Yes No NA

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.

Nueces River Authority - City of Leakey, Real County

