PROJECT FUNDING REQUEST

BOARD DATE: January 19, 2016 TEAM MANAGER: Caaren Skrobarczyk

APPLICANT	Lee County Fresh Water Supply District No. 1
TYPE OF ASSISTANCE	$635,000 Loan $ 90,000 Loan Forgiveness
LEGAL PLEDGE	Ad valorem taxes and first lien on net system revenues

STAFF RECOMMENDATION
☒ Approve ☐ No Action

ACTION REQUESTED
Approve by resolution, a request from the Lee County Fresh Water Supply District No. 1 (Lee County) for financial assistance for $725,000, consisting of $635,000 loan and $90,000 in loan forgiveness from the Drinking Water State Revolving Fund to finance the construction of new storage tanks and pump station.

PROJECT
New Ground Storage and Pump Station
Project Number 62669

BACKGROUND
The Lee County Fresh Water Supply District No. 1 (District) needs to construct new storage tanks to replace a standpipe that does not meet current Texas Commission on Environmental Quality (TCEQ) criteria. The District also needs to add facilities to address pressure within the system.

The District proposes to construct two new ground storage tanks, a booster pumping station, a pressure tank, piping to connect to the existing system, and site work to address compliance issues within their system.

FINANCIAL
Key Issues
The District serves the community of Dime Box, approximately 50 miles east of Austin, Texas.

The total project cost is currently estimated to be $876,839. In February 2015, the District received $151,839 in loan forgiveness for the planning and design phases of the project from the Texas Water Development Board (TWDB). The District's request is for the remaining costs to complete the project.

COMMITMENT PERIOD: ONE (1) YEAR TO EXPIRE ON JANUARY 31, 2017

Pledge and Repayment
The District is pledging ad valorem taxes and a first lien on net system revenues from the utility system for the repayment of the proposed loan.

In 2014, the District produced $7,039 in annual net revenues available for debt service from system revenues. The District also collects an interest and sinking fund tax rate of $.2438 that produces approximately $20,000 annually with a 99% collection rate. The District will need to increase the tax rate to $.350 in 2017, or increase system rates by $17.42 to pay for the proposed debt service.

Principal Forgiveness
The District currently qualifies for $90,000 in loan forgiveness from the Drinking Water State Revolving Fund Very Small Systems Program.

Cost Savings
Based on a 30-year maturity and current interest rates, the District could save approximately $136,991 over the life of the loan. The District is also saving $90,000 in loan forgiveness.

Internal Risk Score
Staff assigns a 2B to the District, and the proposed project to be funded by the Texas Water Development Board. This means that the District's payment capacity is adequate.

The population of the census tract in Lee County that includes the District's service area has increased at an average annual rate of .12% since 2000, compared to a rate of 1.60% for the population of the State overall. The median household income of the census tract is $53,429, 103% of the median for the State overall. The unadjusted, unemployment rate for Lee County was 3.2% in September 2015, compared to 4.4% in the State overall, and the national rate of 4.8%.

The results of the District's financial indicators are positive. The District currently has no outstanding debt. The per capita debt would increase to $1,628 with the proposed financing. This is considered to be a moderate level of debt. The District maintains approximately 36 months of cash operating expenses in the form of liquid net assets. This is a high level of liquidity. For determination of an appropriate internal risk score, the benchmark is 2 to 3 months of cash operating expenses.

The District's utility system rates are moderate, with a current household cost factor of 1.69%, and a projected 2.19% if all of the needed net revenues for debt service are produced with system rate increases. A projected household cost factor of less than 2% is considered affordable, which includes the cost of rate increases required for a proposed project.

Currently, the District produces most of the revenues required for the payment of debt service with the levy of an interest and sinking fund rate. The District has a concentration in its tax base with the ten largest taxpayers representing 35.56% of the total valuation, and one taxpayer, Union Pacific Railroad Company, represents 11.23% of the total valuation. The value of the

properties owned by Union Pacific in the community was reduced by 40% in 2014 due to the removal of facilities used to deliver sand for hydraulic fracturing. The reduction is considered to be a one-time event, no additional reductions are expected.

The District's socioeconomic indicators are mixed, with slow population growth, but a median household income that is above that of the State overall. The District's current system rates are affordable. The District's system operates near the break-even point in terms of net revenues, but liquidity is high and the debt level is moderate. The District not only collects system charges for usage, but also ad valorem tax revenues that are pledged for repayment and that provide additional security for the proposed loan. The District is assigned a risk score of 2B.

LEGAL

Key Issues

None.

Conditions

Standard Drinking Water State Revolving Fund tax-exempt, and tax and net revenues conditions and further conditioned as follows:

- Executed loan forgiveness agreement;
- Conversion;
- Conveyance;
- Standard emergency discovery; and
- Return surplus loan forgiveness funds.

Attachments:
1. Project Data Summary
2. Debt Service Schedule
3. Engineering/Environmental
4. Project Budget
5. Resolution (16-)
6. Water Conservation Review
7. Location Map

Project Data Summary

Authority	Lee County Fresh Water Supply District No. 1
Program	Drinking Water State Revolving Fund
Commitment Code	L1000472, LF1000476
Project Number	62669
Intended Use Plan Year	2016
Fund Number	951
Type of Pledge	3- Combo Tax and Rev
Revenue Pledge Level	First
Legal Description	$635,000 Combination Tax and Revenue Bonds, Proposed Series 2016; $90,000 Loan Forgiveness
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	390
Rural	Yes
Water Connections	124
Wastewater Connections	124
Qualifies as Disadvantaged	No
Disadvantaged Level	6
Clean Water State Revolving Fund Type	N/A
Financial Managerial & Technical Complete	Yes
SWIFT Financing Type	N/A
SWIFT Characteristic	N/A
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	2B
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	Caaren Skrobarczyk
Financial Analyst	Dain Larsen
Engineering Reviewer	Joanne Duncan
Environmental Reviewer	Jean Devlin
Attorney	Joe Reynolds

ATTACHMENT 2

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
Lee County Fresh Water Supply District No.1
$635,000 Combination Tax and Revenues Bonds, proposed Series 2016

Dated Date:	**4/1/2016**	**Source:**	**DWSRF**
Delivery Date:	**4/1/2016**	**Rate:**	**2.69%**
First Interest:	**7/1/2016**	**Insurance:**	**No**
First Principal	**1/1/2017**	**Case:**	**Tax and Revenue**
Last Principal:	**1/1/2046**	**Admin.Fee:**	**$ 13,973**
Fiscal Year End:	**12/31**	**Admin. Fee Payment Date:**	**4/1/2016**
Required Coverage:	**1.1**	**Total Assessed Valuation:**	**$ 8,232,053**

FISCAL YEAR	REQUIRED TAX RATE	TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	PRINCIPAL PAYMENT	$635,000 ISSUE INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	TOTAL DEBT SERVICE	COVERAGE
2016	0.000	-	7,039	7,039	-	-	0.00%	3,745	3,745	3,745	1.88
2017	0.350	25,923	7,039	32,962	-	15,000	0.17%	14,966	29,966	29,966	1.10
2018	0.349	25,875	7,039	32,914	-	15,000	0.42%	14,922	29,922	29,922	1.10
2019	0.348	25,784	7,039	32,823	-	15,000	0.68%	14,839	29,839	29,839	1.10
2020	0.346	25,651	7,039	32,690	-	15,000	0.93%	14,718	29,718	29,718	1.10
2021	0.344	25,475	7,039	32,514	-	15,000	1.20%	14,559	29,559	29,559	1.10
2022	0.341	25,260	7,039	32,299	-	15,000	1.41%	14,363	29,363	29,363	1.10
2023	0.338	25,011	7,039	32,050	-	15,000	1.61%	14,136	29,136	29,136	1.10
2024	0.334	24,731	7,039	31,770	-	15,000	1.78%	13,882	28,882	28,882	1.10
2025	0.330	24,427	7,039	31,466	-	15,000	1.91%	13,605	28,605	28,605	1.10
2026	0.399	29,545	7,039	36,584	-	20,000	2.04%	13,258	33,258	33,258	1.10
2027	0.393	29,084	7,039	36,123	-	20,000	2.15%	12,839	32,839	32,839	1.10
2028	0.386	28,601	7,039	35,640	-	20,000	2.24%	12,400	32,400	32,400	1.10
2029	0.379	28,098	7,039	35,137	-	20,000	2.33%	11,943	31,943	31,943	1.10
2030	0.372	27,576	7,039	34,615	-	20,000	2.42%	11,468	31,468	31,468	1.10
2031	0.365	27,036	7,039	34,075	-	20,000	2.49%	10,977	30,977	30,977	1.10
2032	0.357	26,482	7,039	33,521	-	20,000	2.54%	10,474	30,474	30,474	1.10
2033	0.350	25,918	7,039	32,957	-	20,000	2.59%	9,961	29,961	29,961	1.10
2034	0.342	25,343	7,039	32,382	-	20,000	2.64%	9,438	29,438	29,438	1.10
2035	0.334	24,757	7,039	31,796	-	20,000	2.69%	8,905	28,905	28,905	1.10
2036	0.399	29,584	7,039	36,623	-	25,000	2.74%	8,294	33,294	33,294	1.10
2037	0.389	28,823	7,039	35,862	-	25,000	2.79%	7,602	32,602	32,602	1.10
2038	0.379	28,051	7,039	35,090	-	25,000	2.83%	6,900	31,900	31,900	1.10
2039	0.368	27,270	7,039	34,309	-	25,000	2.85%	6,190	31,190	31,190	1.10
2040	0.357	26,483	7,039	33,522	-	25,000	2.87%	5,475	30,475	30,475	1.10
2041	0.347	25,691	7,039	32,730	-	25,000	2.89%	4,755	29,755	29,755	1.10
2042	0.336	24,894	7,039	31,933	-	25,000	2.91%	4,030	29,030	29,030	1.10
2043	0.398	29,512	7,039	36,551	-	30,000	2.92%	3,228	33,228	33,228	1.10
2044	0.385	28,547	7,039	35,586	-	30,000	2.93%	2,351	32,351	32,351	1.10
2045	0.372	27,578	7,039	34,617	-	30,000	2.94%	1,470	31,470	31,470	1.10
2046	0.432	32,027	7,039	39,066	-	35,000	2.94%	515	35,515	35,515	1.10
			$	1,027,245	$ -	$ 635,000		$ 296,204	$ 931,204	$ 931,204	

AVERAGE (MATURITY) LIFE	**17.34 YEARS**
NET INTEREST RATE	**2.690%**
COST SAVINGS	**$ 273,283**
AVERAGE ANNUAL REQUIREMENT	**$30,039**

Texas Water Development Board

Lee Co FWSD # 1
62669 New Ground Storage and Pump Station
Engineering and Environmental Review

Engineering:

Key Issues:

None known at this time.

Project Need/Description

Need: Lee County Fresh Water Supply District No. 1 (District) needs to construct new storage tanks to replace a standpipe that does not meet current Texas Commission on Environmental Quality (TCEQ) criteria. The District also needs to add facilities to address pressure within their system.

Proposed Project: The District is proposing to construct 2 new ground storage tanks; booster pumping station; pressure tank; piping to connect to the existing system; electrical; controls; fencing; and site work to address compliance issues within their system.

Project Schedule:

Project Task	Schedule Date
Closing	4/01/2016
Design Phase Complete	12/30/2015
Start of Construction	6/30/2016
Construction Completion	3/31/2017

Environmental Section:

Key Issues:

None known at this time.

Environmental Summary:

A Categorical Exclusion (CE) for this project was issued on May 6, 2015. As required by 31 Texas Administrative Code (TAC) §371.41, Subchapter E, environmental review of the proposed project has been completed. The proposed project is in compliance with the National Environmental Policy Act.

Texas Water Development Board

Project Budget Summary

Lee Co FWSD # 1

62669 - New Ground Storage and Pump Station

Budget Items	Previous Commitments	This Commitment	TWDB Funds	Total
Construction				
Construction	$0.00	$534,000.00	$534,000.00	$534,000.00
Subtotal for Construction	**$0.00**	**$534,000.00**	**$534,000.00**	**$534,000.00**
Basic Engineering Services				
Construction Engineering	$0.00	$12,500.00	$12,500.00	$12,500.00
Design	$60,250.00	$0.00	$60,250.00	$60,250.00
Planning	$38,089.00	$0.00	$38,089.00	$38,089.00
Subtotal for Basic Engineering Services	**$98,339.00**	**$12,500.00**	**$110,839.00**	**$110,839.00**
Special Services				
Application	$0.00	$8,500.00	$8,500.00	$8,500.00
Environmental	$10,000.00	$0.00	$10,000.00	$10,000.00
Inspection	$0.00	$20,000.00	$20,000.00	$20,000.00
O&M Manual	$0.00	$4,000.00	$4,000.00	$4,000.00
Surveying	$5,000.00	$2,000.00	$7,000.00	$7,000.00
Testing	$0.00	$2,500.00	$2,500.00	$2,500.00
Water Conservation Plan	$0.00	$5,500.00	$5,500.00	$5,500.00
Subtotal for Special Services	**$15,000.00**	**$42,500.00**	**$57,500.00**	**$57,500.00**
Fiscal Services				
Financial Advisor	$10,000.00	$35,000.00	$45,000.00	$45,000.00
Fiscal/Legal	$12,500.00	$25,750.00	$38,250.00	$38,250.00
Issuance Costs	$1,000.00	$5,000.00	$6,000.00	$6,000.00
Loan Origination Fee	$0.00	$13,973.00	$13,973.00	$13,973.00
Subtotal for Fiscal Services	**$23,500.00**	**$79,723.00**	**$103,223.00**	**$103,223.00**
Contingency				
Contingency	$15,000.00	$56,277.00	$71,277.00	$71,277.00
Subtotal for Contingency	**$15,000.00**	**$56,277.00**	**$71,277.00**	**$71,277.00**
Total	$151,839.00	$725,000.00	$876,839.00	$876,839.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF $725,000 TO LEE COUNTY FRESH WATER SUPPLY DISTRICT NO. 1 FROM THE DRINKING WATER STATE REVOLVING FUND THROUGH THE PROPOSED PURCHASE OF $635,000 LEE COUNTY FRESH WATER SUPPLY DISTRICT NO. 1 COMBINATION TAX AND REVENUE BONDS, PROPOSED SERIES 2016 AND $90,000 IN LOAN FORGIVENESS

(16-)

WHEREAS, the Lee County Fresh Water Supply District No. 1 (District) has filed an application for financial assistance in the amount of $725,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62669; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of $635,000 Lee County Fresh Water Supply District No. 1 Combination Tax and Revenue Bonds, Proposed Series 2016 (together with all authorizing documents (Obligations)), and the execution of a Loan Forgiveness Agreement in an amount of $90,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of ad valorem taxes and net revenues of the District's water and sewer system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes pledged by the District will be sufficient to meet all the Obligations assumed by the District, in accordance with Texas Water Code § 15.607;

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 District 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;

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

6. that the District 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; and

7. that the Executive Administrator issued a Categorical Exclusion on May 6, 2015, such findings being subject to the standard emergency discovery conditions for threatened and endangered species and cultural resources in the Project contract documents. The TWDB concurs with the environmental finding issued by the Executive Administrator.

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

A commitment is made by the TWDB to the Lee County Fresh Water Supply District No. 1 for financial assistance in the amount of $725,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of $635,000 Lee County Fresh Water Supply District No. 1 Combination Tax and Revenue Bonds, Proposed Series 2016 and the execution of a Loan Forgiveness Agreement in the amount of $90,000. This commitment will expire on January 31, 2017.

Such commitment is conditioned as follows:

<u>Standard Conditions</u>

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 issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the District;

3. this commitment is contingent upon the District's compliance with all applicable requirements contained in 31 TAC Chapter 371;

4. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;

5. the District, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the District's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for

continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;

6. the Obligations must contain a provision requiring the District to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;

7. the Obligations must include a provision requiring the District to use any loan proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;

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

9. loan proceeds are public funds and, as such, the Obligations 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;

10. loan proceeds shall not be used by the District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the District 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 District, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

11. prior to closing, the District shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an interest and sinking tax rate sufficient for the repayment of all system debt service requirements;

12. prior to closing, and if not previously provided with the application, the District 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;

13. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the District 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;

14. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;

15. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;

<u>Conditions Related To Tax-Exempt Status</u>

16. the District's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the District when rendering this opinion;

17. the District's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the District when rendering this opinion;

18. the Obligations must include a provision prohibiting the District from using the proceeds of this loan in a manner that would cause the Obligations to become "private activity bonds" within the meaning of § 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);

19. the Obligations must provide that no portion of the proceeds of the loan will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of § 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (Source Series Bonds), other than Nonpurpose Investments acquired with:

    a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;

b. amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the Regulations; and

c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;

20. the Obligations must include a provision requiring the District take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of § 148 of the Code. The Obligations must provide that the District will:

a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The District may, however, to the extent permitted by law, commingle Gross Proceeds of its Loan with other money of the District, provided that the District separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;

b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its Loan, not less frequently than each Computation Date, in accordance with rules set forth in § 148(f) of the Code, § 1.148-3 of the Regulations, and the rulings thereunder. The District shall maintain a copy of such calculations for at least six years after the final Computation Date;

c. as additional consideration for the making of the Loan, and in order to induce the making of the Loan by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;

d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;

21. the Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;

22. the Obligations must provide that the District will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of § 149(b) of the Code;

23. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;

24. the transcript must include evidence that the information reporting requirements of § 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of § 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;

25. the Obligations must provide that neither the District nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the District by the TWDB;

State Revolving Fund Conditions

26. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;

27. the Obligations 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 District, 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;

28. the Obligations must include a provision stating that the District 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 District 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 which the Obligations are outstanding;

29. the Obligations 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 District will adhere to the approved project schedule;

30. The Obligations and Loan Forgiveness Agreement must contain a covenant that the District 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

31. prior to or at closing, the District shall pay a 2.25% origination fee to the TWDB calculated pursuant to 31 TAC Chapter 371;

32. 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 District has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;

33. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the District 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:

34. the District 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;

35. the Obligations must include a provision requiring that, prior to any action by the District 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;

36. prior to closing, the District shall execute a Loan Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;

37. the Loan Forgiveness Agreement must include a provision stating that the District shall return any loan forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator; and

38. the District must comply with the standard emergency discovery conditions for threatened and endangered species and cultural resources, as more fully specified in the final environmental finding of the Executive Administrator.

APPROVED and ordered of record this 19th day of January, 2016.

TEXAS WATER DEVELOPMENT BOARD

_____
Bech K. Bruun, Chairman

DATE SIGNED: _____

ATTEST:

_____
Kevin Patteson
Executive Administrator

WATER CONSERVATION REVIEW

Entity: Lee County FWSD # 1 Review date: October 2015

WATER CONSERVATION PLAN DATE: October 2015 ☐ **Approvable** ☑ **Adopted**

	Total GPCD	Residential GPCD	Water Loss GPCD	Water Loss Percent
Baseline	105	68	15	14
5-year Goal	105	68	15	14
10-year Goal	105	68	15	14

WATER LOSS AUDIT YEAR: 2014

Total water loss (GPCD): 12 Total water loss (percent): 17 Wholesale Water ☐
Total no. of connections: 132 Length of mains (miles): 3 Connections per mile: 44

If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (*ILI*): NA

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 :	NA	NA	NA	NA	1600	NA
If population ≤ 10K, connections/mile ≥ 32 :	9	NA	25	10	NA	50
If population > 10K :	NA	NA	NA	NA	NA	NA

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

ADDITIONAL INFORMATION:

According to the District's 2015 Water Conservation Plan, the District plans to conduct a regularly scheduled maintenance program of meter repair, with meter replacement on a case-by-case basis. They plan to test production meters once per-year. They also plan to check zero consumption accounts to see if water is actually being used, and check meters for proper sizing. The District plans to conduct a thorough audit of the water system. Areas of review include calculation of unmetered use, and tracking of water use. Leaks are repaired as soon as they are identified. The District also plans to perform visual inspections of the distribution system on a regular basis to find small water leaks and to evaluate water production from each of the supply wells on a daily basis. They plan to evaluate water loss reports as soon as new information is available to assist in identifying a water leak or abnormal usage. The District aims to provide water conservation literature to all customers annually.

STAFF NOTES AND RECOMMENDATIONS:

None.

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 bench marking 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.

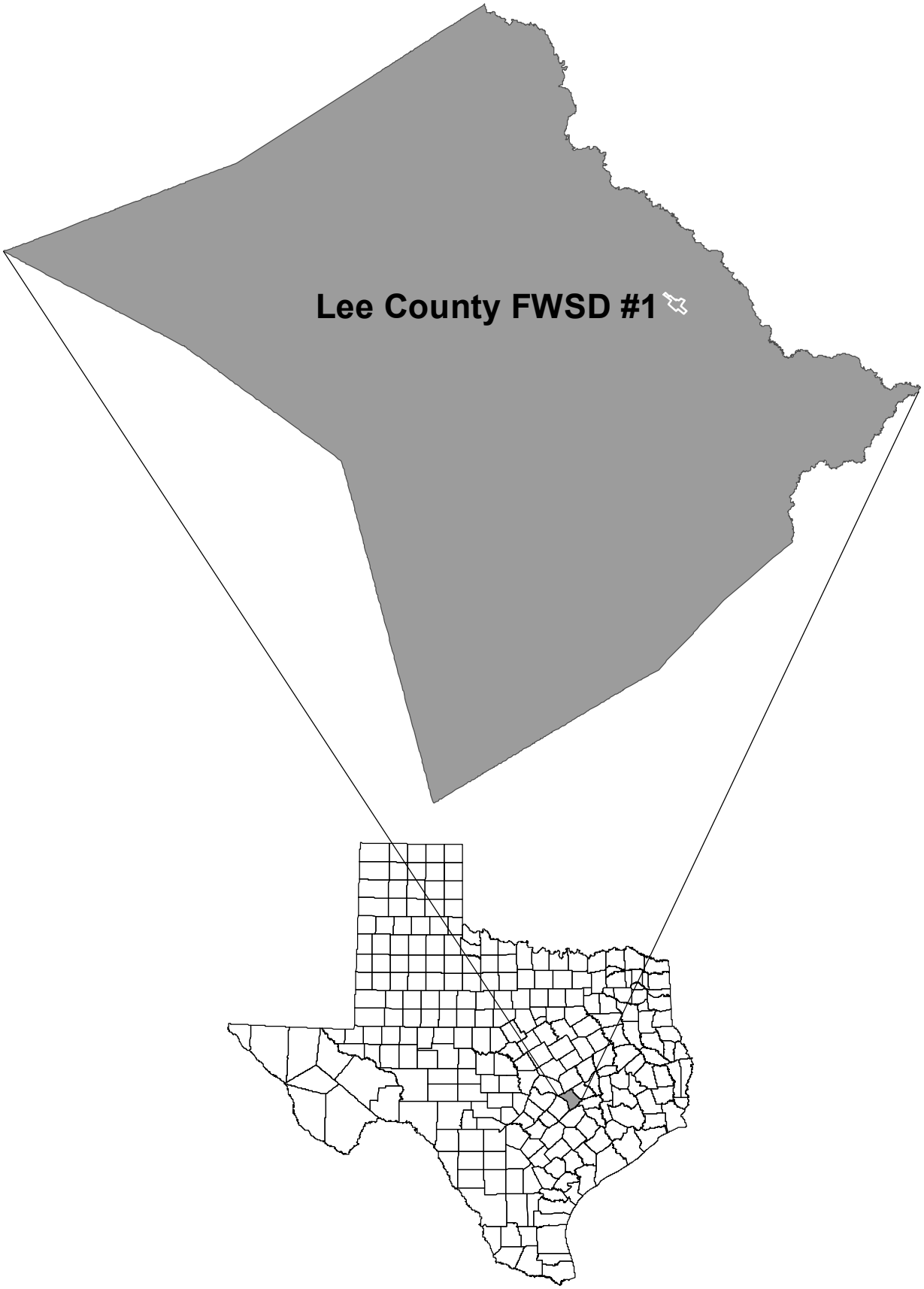
Real loss comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

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.

Lee County FWSD #1,
Lee County