



## PROJECT FUNDING REQUEST

**BOARD DATE:** July 23, 2024

**Team Manager:** Tom Barnett

### ACTION REQUESTED

Consider approving by resolution a request from the Bistone Municipal Water Supply District (Limestone County) for \$16,000,000 in multi-year financing from the State Water Implementation Revenue Fund for Texas for planning, acquisition, design, and construction of a water supply project.

### STAFF RECOMMENDATION

☒ Approve ☐ No Action

### BACKGROUND

The Bistone Municipal Water Supply District (District) provides wholesale water supply to the cities of Mexia and Tehuacana, the Mexia State School, and the White Rock Water Special Utility District. The District obtains surface water from Lake Mexia and groundwater from the Carrizo-Wilcox Aquifer. The District provides treated water to approximately 23,555 residents of Limestone County, including its wholesale customers and approximately 283 retail connections.

### PROJECT NEED AND DESCRIPTION

The Texas Commission on Environmental Quality has notified the District that its current water supply and treatment facility is operating at 96 percent of its permitted production capacity and has issued a Notice of Violation for exceeding the 85 percent capacity threshold.

To increase its raw water supply, the District will acquire and develop a new well field in the Carrizo-Wilcox Aquifer by drilling and completing up to ten new wells and associated transmission mains to convey water to its existing groundwater treatment facility.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	November 15, 2024
Engineering Feasibility Report Completion (End of Planning Phase)	January 31, 2025
Design Phase Completion	August 31, 2025
Start of Construction	October 1, 2025
Construction Completion	July 31, 2026

Multi-year Commitment	Expiration
\$5,000,000 Proposed Series 2024	December 31, 2024
\$5,000,000 Proposed Series 2025	December 31, 2025
\$6,000,000 Proposed Series 2026	December 31, 2026

**KEY ISSUES**

The District has already begun pilot testing at the well sites and will cover this cost using local funds, as reflected in the project budget (Attachment 2). All well sites will be purchased and owned by the District, and easements will be purchased for the transmission infrastructure.

The District will need to amend its water supply contract with the City of Mexia, its primary wholesale customer, to extend at least through the duration of the proposed obligations.

**LEGAL/SPECIAL CONDITIONS**

- Water rights determination
- Conversion or conveyance
- Contract amendment with City of Mexia to extend through the life of the obligations

**Attachments:**

1. Financial Review
2. Project Budget
3. Resolution (24- )
4. Water Conservation Review
5. Location Map

# Financial Review

## Bistone Municipal Water Supply District

Risk Score: 2B

Audit Reviewed: FY2023

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: -0.54%	State: 1.49%
Debt Service Coverage Ratio	1.19x	1.00x
Median Household Income as % of State	72%	100%
Days of Cash on Hand (3-year Average)	839 days	30-149 days
Top 10 Customer as % of Total Revenue	92%	10-15%
Cash Balance Ratio	39.22x	0-9.99%
Unemployment Rate (April, 2024)	County: 3.50%	State: 3.50%
Net Fixed Assets/Annual Depreciation	24 years	12-24 years

### Key Risk Score Strengths

- The average days of cash on hand for the District is well above the benchmark, indicating that it has sufficient cash reserves to pay operating expenses or debt service.
- The District has a positive cash balance ratio of 39.22 percent as cash reserves have increased from approximately \$2.0 million in 2018 to \$2.8 million in 2023.
- As a regional provider, the District has the option to increase rates for wholesale and/or retail customers. The District intends to increase wholesale water rates to provide sufficient revenues to meet the debt service coverage requirements, which is estimated to be approximately \$1.03 per 1,000 gallons by 2027.

### Key Risk Score Concerns

- Based on the 2020 Census, the population for Limestone County has decreased by 0.54%. However, the number of connections for the District and wholesale customers has been increasing for the past five years.
- The District has a high concentration of top 10 customers due to being a wholesale provider. Since the City of Mexia accounts for 85 percent of the revenues, a separate analysis was performed on the City, which resulted in an internal risk score of 2B.

### PLEDGE

Legal Pledge Name	First Lien on Net Revenues
Type of Pledge	<input type="checkbox"/> Tax <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input checked="" type="checkbox"/> First <input type="checkbox"/> Second <input type="checkbox"/> Third <input type="checkbox"/> N/A

## **RATES AND CHARGES**

Average Residential Use	Gallons/Month	Current Rates	Projected Rates	Current Household Cost Factor	Projected Household Cost Factor
Water	4,028	\$50.71	\$50.71	2.37	2.37

Wholesale Water Rates	Annual Usage	Average Rates Per 1,000 gallons	Projected Rates (Year 2027)
Volumetric Fee	482,106,200	\$2.82	\$3.85

### Cost Savings

Based on a 30-year maturity schedule and current interest rates, the District could save approximately \$1,343,310 during the first year of the multi-year financing.

## Project Data Summary

<b>Responsible Authority</b>	Bistone Municipal Water Supply District
<b>Program</b>	SWIFT
<b>Commitment Number</b>	LM2401812, LM2501812, LM2601812
<b>Project Number</b>	51088
<b>List Year</b>	2024
<b>Type of Pledge</b>	Revenue Pledge
<b>Pledge Level (if applicable)</b>	First Lien
<b>Legal Description</b>	\$5,000,000 Bistone Municipal Water Supply District Water Supply Revenue Bonds, Proposed Series 2024, \$5,000,000 Bistone Municipal Water Supply District Water Supply Revenue Bonds, Proposed Series 2025, \$6,000,000 Bistone Municipal Water Supply District Water Supply Revenue Bonds, Proposed Series 2026
<b>Tax-exempt or Taxable</b>	Tax-Exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	No
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay <> Escrow Release
<b>Qualifies as Disadvantaged</b>	No
<b>SWIFT Financing Type</b>	Low-Interest
<b>Financial Managerial &amp; Technical Complete</b>	N/A
<b>Phases Funded</b>	Planning, Acquisition, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2B

### PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Tom Barnett	Caaren Skrobarczyk	Luther Medina	Chris Caran	Michael Perez

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Bistone Municipal Water Supply District

**\$5,000,000 Bistone Municipal Water Supply District Water Supply Revenue Bonds, Proposed Series 2024A**

<b>Dated Date:</b>	<b>11/15/2024</b>	<b>Source:</b>	<b>SWIFT-LOW-30YR</b>
<b>Delivery Date:</b>	<b>11/15/2024</b>	<b>Rate:</b>	<b>3.38%</b>
<b>First Interest:</b>	<b>6/1/2025</b>	<b>IUP Year:</b>	<b>2024</b>
<b>First Principal:</b>	<b>6/1/2025</b>	<b>Case:</b>	<b>Revenue</b>
<b>Last Principal:</b>	<b>6/1/2054</b>	<b>Admin.Fee:</b>	<b>\$0</b>
<b>Fiscal Year End:</b>	<b>09/30</b>	<b>Admin. Fee Payment Date:</b>	<b>N/A</b>
<b>Required Coverage:</b>	<b>1.0</b>		

<b>\$11,000,000 SERIES 2025 &amp; 2026</b>									
<b>*PROJECTED FISCAL YEAR</b>	<b>NET SYSTEM REVENUES</b>	<b>CURRENT DEBT SERVICE</b>	<b>\$5,000,000 ISSUE</b>				<b>TOTAL PAYMENT</b>	<b>TOTAL PAYMENT</b>	<b>TOTAL DEBT SERVICE COVERAGE</b>
			<b>PRINCIPAL PAYMENT</b>	<b>INTEREST RATE</b>	<b>INTEREST PAYMENT</b>				
2025	\$766,112	\$383,381	\$175,000	2.78%	\$87,326.44	\$262,326.44		\$645,706.94	1.19
2026	993,700	386,841	105,000	2.75%	\$155,530.50	\$260,530.50	\$346,329.29	\$993,700.29	1.00
2027	1,261,539	384,804	110,000	2.67%	\$152,643.00	\$262,643.00	\$614,092.13	\$1,261,538.63	1.00
2028	1,261,539	382,433	115,000	2.67%	\$149,706.00	\$264,706.00	\$561,410.00	\$1,208,548.50	1.04
2029	1,261,539	384,721	115,000	2.67%	\$146,635.50	\$261,635.50	\$565,402.50	\$1,211,758.50	1.04
2030	1,261,539	386,570	120,000	2.67%	\$143,565.00	\$263,565.00	\$564,194.75	\$1,214,329.25	1.04
2031	1,261,539	383,002	120,000	2.67%	\$140,361.00	\$260,361.00	\$567,786.75	\$1,211,149.25	1.04
2032	1,261,539	384,135	125,000	2.69%	\$137,157.00	\$262,157.00	\$566,178.50	\$1,212,470.50	1.04
2033	1,261,539	384,834	130,000	2.70%	\$133,794.50	\$263,794.50	\$569,344.00	\$1,217,972.50	1.04
2034	1,261,539	385,125	130,000	2.72%	\$130,284.50	\$260,284.50	\$572,202.00	\$1,217,611.50	1.04
2035	1,261,539	-	135,000	2.79%	\$126,748.50	\$261,748.50	\$569,817.00	\$831,565.50	1.52
2036	1,261,539	-	140,000	2.87%	\$122,982.00	\$262,982.00	\$572,101.25	\$835,083.25	1.51
2037	1,261,539	-	145,000	2.96%	\$118,964.00	\$263,964.00	\$573,892.25	\$837,856.25	1.51
2038	1,261,539	-	150,000	3.08%	\$114,672.00	\$264,672.00	\$580,071.00	\$844,743.00	1.49
2039	1,261,539	-	155,000	3.13%	\$110,052.00	\$265,052.00	\$580,555.00	\$845,607.00	1.49
2040	1,261,539	-	160,000	3.17%	\$105,200.50	\$265,200.50	\$580,462.50	\$845,663.00	1.49
2041	1,261,539	-	165,000	3.24%	\$100,128.50	\$265,128.50	\$584,829.75	\$849,958.25	1.48
2042	1,261,539	-	170,000	3.28%	\$94,782.50	\$264,782.50	\$583,610.50	\$848,393.00	1.49
2043	1,261,539	-	175,000	3.32%	\$89,206.50	\$264,206.50	\$586,791.50	\$850,998.00	1.48
2044	1,261,539	-	180,000	3.35%	\$83,396.50	\$263,396.50	\$584,415.50	\$847,812.00	1.49
2045	1,261,539	-	185,000	3.50%	\$77,366.50	\$262,366.50	\$586,491.25	\$848,857.75	1.49
2046	1,261,539	-	190,000	3.50%	\$70,891.50	\$260,891.50	\$587,700.00	\$848,591.50	1.49
2047	1,261,539	-	200,000	3.50%	\$64,241.50	\$264,241.50	\$588,087.50	\$852,329.00	1.48
2048	1,261,539	-	205,000	3.50%	\$57,241.50	\$262,241.50	\$587,950.00	\$850,191.50	1.48
2049	1,261,539	-	215,000	3.50%	\$50,066.50	\$265,066.50	\$587,287.50	\$852,354.00	1.48
2050	1,261,539	-	220,000	3.59%	\$42,541.50	\$262,541.50	\$591,012.50	\$853,554.00	1.48
2051	1,261,539	-	230,000	3.59%	\$34,643.50	\$264,643.50	\$593,814.75	\$858,458.25	1.47
2052	1,261,539	-	235,000	3.59%	\$26,386.50	\$261,386.50	\$595,685.25	\$857,071.75	1.47
2053	1,261,539	-	245,000	3.59%	\$17,950.00	\$262,950.00	\$591,927.50	\$854,877.50	1.48
2054	1,261,539	-	255,000	3.59%	\$9,154.50	\$264,154.50	\$592,541.50	\$856,696.00	1.47
		\$3,845,843	\$5,000,000			\$2,893,619.94	\$7,893,619.94	\$29,650,834.36	

\*Includes projected wholesale rate increase

<b>AVERAGE (MATURITY) LIFE</b>	<b>17.11 YEARS</b>
<b>NET INTEREST RATE</b>	<b>3.382%</b>
<b>COST SAVINGS</b>	<b>\$1,343,310</b>
<b>AVERAGE ANNUAL REQUIREMENT</b>	<b>\$263,121</b>

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



## Project Budget Summary

Bistone Municipal Water Supply District

51088 - Carrizo Aquifer Development

Budget Items	TWDB Funds	Local Funds	Total
<b>Construction</b>			
Construction	\$10,818,100.00	\$0.00	\$10,818,100.00
<b>Subtotal for Construction</b>	<b>\$10,818,100.00</b>	<b>\$0.00</b>	<b>\$10,818,100.00</b>
<b>Basic Engineering Services</b>			
Planning	\$100,000.00	\$0.00	\$100,000.00
Design	\$460,000.00	\$0.00	\$460,000.00
Construction Engineering	\$180,000.00	\$0.00	\$180,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$740,000.00</b>	<b>\$0.00</b>	<b>\$740,000.00</b>
<b>Special Services</b>			
Application	\$10,500.00	\$0.00	\$10,500.00
Environmental	\$40,000.00	\$0.00	\$40,000.00
Water Conservation Plan	\$2,000.00	\$0.00	\$2,000.00
Surveying	\$20,000.00	\$0.00	\$20,000.00
Geotechnical	\$12,000.00	\$0.00	\$12,000.00
Testing	\$3,000.00	\$0.00	\$3,000.00
Permits	\$91,500.00	\$0.00	\$91,500.00
Inspection	\$280,000.00	\$0.00	\$280,000.00
O&M Manual	\$2,000.00	\$0.00	\$2,000.00
Project Management (by engineer)	\$15,000.00	\$0.00	\$15,000.00
Pilot Testing	\$0.00	\$600,000.00	\$600,000.00
<b>Subtotal for Special Services</b>	<b>\$476,000.00</b>	<b>\$600,000.00</b>	<b>\$1,076,000.00</b>
<b>Other</b>			
Land/Easement Acquisition	\$1,200,000.00	\$0.00	\$1,200,000.00
<b>Subtotal for Other</b>	<b>\$1,200,000.00</b>	<b>\$0.00</b>	<b>\$1,200,000.00</b>
<b>Fiscal Services</b>			
Financial Advisor	\$187,000.00	\$0.00	\$187,000.00
Bond Counsel	\$131,000.00	\$0.00	\$131,000.00
Issuance Costs	\$15,000.00	\$0.00	\$15,000.00
Fiscal/Legal	\$16,000.00	\$0.00	\$16,000.00
Bond Reserve Fund	\$916,900.00	\$0.00	\$916,900.00
<b>Subtotal for Fiscal Services</b>	<b>\$1,265,900.00</b>	<b>\$0.00</b>	<b>\$1,265,900.00</b>
<b>Contingency</b>			
Contingency	\$1,500,000.00	\$0.00	\$1,500,000.00
<b>Subtotal for Contingency</b>	<b>\$1,500,000.00</b>	<b>\$0.00</b>	<b>\$1,500,000.00</b>
<b>Total</b>	<b>\$16,000,000.00</b>	<b>\$600,000.00</b>	<b>\$16,600,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE TO BISTONE  
MUNICIPAL WATER SUPPLY DISTRICT  
IN THE FORM OF A MULTI-YEAR COMMITMENT  
FROM THE STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS  
THROUGH THE PROPOSED PURCHASE OF \$16,000,000 BISTONE MUNICIPAL  
WATER SUPPLY DISTRICT WATER SUPPLY REVENUE BONDS,  
PROPOSED SERIES 2024, PROPOSED SERIES 2025, AND PROPOSED SERIES  
2026

(24- )

Recitals:

The Bistone Municipal Water Supply District (District), located in Limestone County, has filed an application for financial assistance in the amount of \$16,000,000 from the State Water Implementation Revenue Fund for Texas (SWIRFT) to finance the planning, acquisition, design, and construction of a water supply project identified as Project No. 51088 (Project).

The District seeks financial assistance from the Texas Water Development Board (TWDB) in the form of a multi-year commitment through the TWDB's proposed purchase of \$16,000,000 Bistone Municipal Water Supply District Water Supply Revenue Bonds, Proposed Series 2024, Proposed Series 2025, and Proposed Series 2026 (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff.

The District has offered a pledge of system revenues as sufficient security for the repayment of the Obligations.

The commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 363.1307.

Subject to the District's use of an approved debt service structure, interest rate subsidies are available to the District for State Fiscal Year 2024 at up to the following levels: 25% for financial assistance for a term of 20 years, 18% for financial assistance for a term of 21 to 25 years, and 14% for financial assistance for a term of 26 to 30 years. The interest rate subsidy applicable to each subsequent proposed series may be different than the interest rate subsidy available for State Fiscal Year 2024 and will be set through each financing agreement executed between the TWDB and the District.

The interest rate subsidies provided above are based on assumptions necessary to generate an optimum debt service structure for the anticipated TWDB SWIRFT bond issuance and are subject to modification as necessary to preserve and maintain the integrity of the SWIRFT Program.

Findings:

1. The application and assistance applied for meet the requirements of Texas Water Code, Chapter 15, Subchapters G and H and 31 TAC Chapter 363, Subchapters A and M.
2. The Project is a recommended water management strategy project in the State Water Plan adopted pursuant to Texas Water Code § 16.051, in accordance with Texas Water Code § 15.474(a).
3. The District has submitted and implemented a water conservation plan in accordance with Texas Water Code § 16.4021 and 31 TAC § 363.1309(b)(1).
4. The District has completed its current water audit and filed it with the TWDB in accordance with Texas Water Code § 16.0121 and 31 TAC § 358.6.
5. The District acknowledges its legal obligation to comply with any applicable requirements of federal law related to contracting with disadvantaged business enterprises and any applicable state law related to contracting with historically underutilized businesses, in accordance with Texas Water Code § 15.435(h) and 31 TAC § 363.1309(b)(3).

NOW THEREFORE, based on these findings, the TWDB commits to the following:

The TWDB will provide financial assistance to Bistone Municipal Water Supply District in the amount of \$16,000,000 from the State Water Implementation Revenue Fund for Texas to be evidenced by the TWDB's proposed purchase of Bistone Municipal Water Supply District Water Supply Revenue Bonds as follows:

- a. \$5,000,000 Proposed Series 2024, to expire on December 31, 2024;
- b. \$5,000,000 Proposed Series 2025, to expire on December 31, 2025;
- c. \$6,000,000 Proposed Series 2026, to expire on December 31, 2026.

The commitment is subject to the following:

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 issuance of a written approving opinion of the Attorney General of the State of Texas stating that the District has complied with all of the requirements of the laws under which the Obligations were issued, that the Obligations were issued in conformity with the Constitution and laws of

the State of Texas, and that the Obligations are valid and binding obligations of the District.

3. This commitment is contingent upon the District's continued compliance with all applicable laws, rules, policies, and guidance as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement.
4. This commitment is contingent upon the District executing a separate financing agreement, approved as to form and substance by the Executive Administrator, and submitting the executed agreement to the TWDB consistent with the terms and conditions described in it.
5. Interest rate subsidies for non-level debt service structure are subject to adjustment by the Executive Administrator.
6. The District shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2) and shall require the paying agent/registrar to provide a copy of all receipts documenting debt service payments to the TWDB and to the TWDB's designated Trustee.

Required Obligation Conditions:

7. The Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after the first interest payment date that 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.
8. The Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance.
9. The Obligations must provide that the District must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.
10. The Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
11. The Obligations must include a provision wherein 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 the 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 SEC rule 15c2-12, the 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 the Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to the bonds under SEC Rule 15c2-12.

12. The Obligations must contain a provision requiring the District to levy a tax 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.
13. The Obligations must include a provision requiring the District to use any proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project and completion of a final accounting in a manner approved by the Executive Administrator.
14. 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.
15. Financial assistance 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.
16. Financial assistance proceeds shall not be used by the District when sampling, testing, removing, or disposing of contaminated soils or media at the Project site. The Obligations shall include a provision that states the District is solely responsible for liability resulting from acts or omissions of the District, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments 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.
17. The Obligations must include a provision stating that the District shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312.
18. The Obligations must contain a provision that the TWDB will purchase the Obligations, acting through the TWDB's designated Trustee, and the Obligations

shall be registered in the name of Cede & Co. and closed in book-entry-only form in accordance with 31 TAC § 363.42(c)(1).

19. The Obligations must contain a provision stating that the District shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G and Texas Water Code § 17.183.
20. The District must immediately notify TWDB in writing of any suit against it by the Attorney General of Texas under Texas Government Code § 2.103 and Texas Penal Code § 1.10(f), related to federal laws regulating firearms, firearm accessories, and firearm ammunition.
21. The Obligations must provide that the District will submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.
22. The Obligations must include a provision that if the collateral or credit pledged by the District securing the Obligations is rated by a nationally-recognized statistical rating agency, the District, or other obligated person, will not discontinue the rating issued by a nationally-recognized statistical rating agency until the underlying Obligations are retired or no longer held by TWDB.

Tax-Exempt Conditions:

23. The Obligations must include a provision prohibiting the District from using the proceeds of this financial assistance in a manner that would cause the Obligations to become “private activity bonds” within the meaning of section 141 of the Internal Revenue Code as amended (Code) and the Treasury Regulations promulgated under it (Regulations).
24. The Obligations must provide that no portion of the proceeds of the financial assistance will be used, directly or indirectly, in a manner that would cause the Obligations to be “arbitrage bonds” within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds that were used, directly or indirectly, to acquire Nonpurpose Investments, as defined in the Code and Regulations, that produce a yield materially higher than the yield on the TWDB’s bonds issued to provide the financial assistance (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 the proceeds are needed for the facilities to be financed;
  - b. amounts invested in a bona fide debt service fund within the meaning of section 1.148-1(b) of the Regulations; and

- c. amounts deposited in any reasonably required reserve or replacement fund to the extent the amounts do not exceed the lesser 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.
25. The Obligations must include a provision that the District must take all necessary steps to comply with the requirement that amounts earned on the investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of section 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 the 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 financial assistance with other money of the District, provided that the District separately accounts for each receipt and expenditure of the Gross Proceeds and the obligations acquired with the Gross Proceeds;
  - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financial assistance, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the associated rulings. The District shall maintain a copy of the calculations for at least six years after the final Computation Date;
  - c. pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date as additional consideration for providing financial assistance and in order to induce providing financial assistance by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners of TWDB's Bonds for federal income tax purposes;
  - d. exercise reasonable diligence to ensure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly correct the error within a reasonable amount of time, including payment to the United States of any interest and any penalty required by the Regulations.

26. 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.
27. 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 section 149(b) of the Code.
28. The Obligations must contain a covenant that the District will refrain from using the proceeds of the Obligations to pay debt service on another issue of the borrower’s obligations in contravention of section 149(d) of the Code (related to “advance refundings”).
29. The Obligations must provide that neither the District nor a party related to it 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.

Pledge Conditions:

30. The Obligations shall be on parity with any existing obligations that are secured with the same pledge of security as the proposed Obligations.
31. The Obligations shall be governed by the additional debt test and reserve requirement as provided in the outstanding Bistone Municipal Water Supply District Water Supply Revenue Bonds, Series 2013.

Conditions To Close Or For Release Of Funds:

32. Before 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.
33. Before closing, if not previously provided with the application, the District shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel 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.
34. Before closing, when any portion of financial assistance is to be held in escrow or in trust, the District 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.

35. Before closing, the District shall provide certification that the average weighted maturity of the Obligations purchased by the TWDB does not exceed 120% of the average reasonably expected economic life of the Project.
36. Before closing, 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.
37. Before closing, the District's bond counsel must prepare a written opinion that states that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the District when rendering this opinion.
38. 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.
39. The transcript must include evidence that the information reporting requirements of section 149(e) of the Internal Revenue 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 section 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.

Special Conditions:

40. Before the release of funds for the costs of planning, engineering, architectural, legal, title, fiscal, economic investigation, studies, surveys, or designs for that portion of the Project that proposes surface water or groundwater development, the Executive Administrator must have either issued a written finding that the District 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.
41. Before the release of construction funds for that portion of a Project that proposes surface water or groundwater development, the Executive Administrator must have issued a written finding that the District has the right to use the water that the Project financed by the TWDB will provide.
42. The District must notify the Executive Administrator before 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.
43. The Obligations must include a provision requiring that, before 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.

44. Before closing, the District must amend its water supply contract with the City of Mexia to extend through the life of the Obligations.

APPROVED and ordered of record this, the 23rd day of July 2024.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Brooke T. Paup, Chairwoman

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

ATTEST:

\_\_\_\_\_  
Bryan McMath, Interim Executive Administrator

Water  
Wastewater  
Other

## WATER CONSERVATION REVIEW

Review Date:

Project ID:

Entity:

Other entity:

**WATER CONSERVATION PLAN DATE:**

Approvable

Adopted

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline			
5-year Goal			
10-year Goal			

**WATER LOSS AUDIT YEAR:**

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI:

Real Loss GMD:

**WATER LOSS THRESHOLDS**

Water Loss Project:

Waiver Requested:

Wholesale Adjusted:

Threshold Type:

Apparent Loss GCD		Real Loss GCD	
Reported	Threshold	Reported	Threshold

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 losses** are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

**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.

**GCD** means gallons per connection per day.

**GMD** means gallons per mile 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 3,000 connections and a connection density of more than 16 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.

**Real losses** are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

**Residential GPCD** is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

**Total GPCD** is the amount of total system input volume divided by the retail population divided by 365.

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

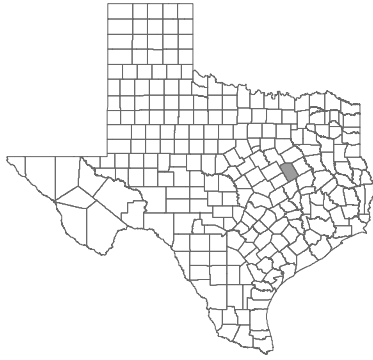
**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**Water Loss GPCD** is the amount of water loss divided by the retail population divided by 365.

**Water Loss per Connection per Day** Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

**Water Loss Thresholds** are levels of real and apparent water loss determined by the 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.

**Wholesale Adjusted** represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.



## Bistone Municipal WSD Limestone County

