

December 5, 2016

## **STATEMENT OF FINDINGS**

TO ALL INTERESTED AGENCIES AND PUBLIC GROUPS:

As required by the permanent rules of the Texas Water Development Board (TWDB), 31 Texas Administrative Code Chapter 371, Subchapter E, and consistent with the National Environmental Policy Act, 42 U.S. Code § 4321, *et seq.*, TWDB's Executive Administrator issues this Statement of Findings (SOF) for the following project:

Loop Water Supply Corporation, Gaines County, Texas  
Water Treatment Plant Improvement Project  
Drinking Water State Revolving Fund, Project Number 62690  
TWDB Commitment Amount: \$170,000

The Loop Water Supply Corporation (Corporation) supplies drinking water within its service area in Gaines County 55 miles southwest of the city of Lubbock. The population served by this water system is approximately 243 at 102 connections. For its raw-water supply, the Corporation is solely reliant on wells producing from the Ogallala Aquifer. These wells have a combined yield of approximately 120 gallons per minute. The Corporation chlorinates the water at its existing facilities, but testing has shown that the treated water contains concentrations of arsenic and fluoride in excess of permitted maximum contaminant levels. Consequently, the Corporation's water system is operating under three enforcement actions issued by the Environmental Protection Agency and numerous administrative compliance orders issued by the Texas Commission on Environmental Quality.

The Corporation is proposing to address the deficiencies in its existing water treatment system by constructing a new treatment facility utilizing reverse osmosis (RO) technology. The improvements would include installation or construction of: 1) RO treatment equipment; 2) building to house the RO equipment; 3) transmission pipeline for RO reject water; 4) RO break tank; 5) 10,000 gallon head tank; 6) feed pumps and yard piping; 7) electrical and control equipment; 8) evaporation pond; 9) leak detection system for the evaporation pond; and 10) deterrence system to prevent or reduce use of the evaporation pond by wildlife. All construction would occur on property currently owned by the Corporation. The improved level of treatment is intended to eliminate the excess contaminants, thereby enabling the Corporation's water system to operate within permitted water quality limits.

To implement the proposed project, the Corporation sought funding through the TWDB. On December 14, 2015, the Corporation received a commitment for a loan with forgiveness (LF1000482) in the amount of \$170,000 from the Drinking Water State Revolving Fund (DWSRF), which is administered by the TWDB. The Corporation closed the loan on April 29, 2016, and is using these funds for planning, design, and construction. Because the total estimated cost of the proposed project is \$760,000, Gaines County applied for a \$390,000 grant on behalf of the Corporation from the Community Development Block Grant program, administered by the Texas Department of Agriculture (TDA). The grant was awarded on October 31, 2015, and with

these funds, support for the project now equals \$560,000. To fund the balance of the construction costs, the Corporation is currently seeking an additional \$200,000 in principal forgiveness from the DWSRF.

The Corporation utilized part of the planning funds to conduct a full environmental review of the proposed project. On the basis of this review, the TWDB issued a Finding of No Significant Impact (FNSI) on July 11, 2016, and on August 22, 2016, the Executive Administrator determined that the state revolving fund environmental review process was complete. Normally, these actions would conclude the pre-design environmental review for a federally funded project, but on September 19, 2016, the United States Fish and Wildlife Service stated that part of the proposed project's design was in potential conflict with the Migratory Bird Treaty Act of 1918: because the RO reject water would contain toxic concentrations of arsenic and fluoride, use of the evaporation pond and consumption of the water could represent a threat to wildlife. As a result, the Loop Water Supply Corporation proposed design changes, specifically an adaptive management approach to both deter and monitor potential adverse effects. On November 1, 2016, the USFWS acknowledged the Corporation's commitment to eliminate or reduce adverse effects of the proposed project on migratory birds and other wildlife. With these design changes, the proposed project is compliant with the National Environmental Policy Act (NEPA).

To fulfill DWSRF program requirements for environmental review, the TWDB is issuing this SOF to incorporate supplemental conditions intended to ensure compliance with the Migratory Bird Treaty Act. These conditions and those listed in the FNSI issued on July 11, 2016, are listed below. Issuance of this SOF specifically satisfies the NEPA compliance requirements for project elements funded through the DWSRF program. The proposed water treatment plant improvement project is considered to be environmentally sound with the following conditions.

- In order to ensure compliance with the Migratory Bird Treaty Act, the Corporation will implement deterrence measures to prevent or reduce use of the evaporation pond by migratory birds and other wildlife, monitor and annually report use of the pond by wildlife, and assess the viability of the deterrence measures in consultation with the United States Fish and Wildlife Service. If these measures prove ineffective, the Corporation will adapt its approach as needed.
- If migratory bird species are found nesting on or adjacent to the project area, they must be dealt with in a manner consistent with the Migratory Bird Treaty Act. If vegetation clearing activities would occur during the migratory bird nesting season of March through August, the area will be surveyed for nests with eggs or young, prior to clearing. Should eggs or nesting young be discovered in the process, construction in those areas will be curtailed or delayed as necessary until the nests have been vacated. Any vegetation (trees, shrubs, and grasses) where occupied nests are located will not be disturbed until the eggs have hatched and the young have fledged.

- If prairie dog burrows are present in the construction area, the burrows will be surveyed for the presence of burrowing owls. If nesting owls are found, the nests must not be disturbed until the eggs have hatched and the young have fledged.
- In order to avoid impacts to state-listed species and ensure compliance with the Parks and Wildlife Code, all construction personnel will be advised to avoid killing, injuring, or disturbing the Texas horned lizard during construction. Pipeline trenches that remain open overnight and/or for more than two daylight hours will be inspected for the presence of the Texas horned lizard prior to backfilling. Texas horned lizards discovered in open trenches will be reported to the project engineer and the Texas Parks and Wildlife Department, which will be consulted to develop plans to safely relocate the Texas horned lizards.

Comments regarding this determination may be submitted to the Director of Regional Water Project Development, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Sincerely,  
T. Clay Schultz, Ph.D., Director  
Regional Water Project Development

CC/TCS: