

Trout Canyon Land & Water Users Association Loan Commitment

Board for Financing Water Projects Summary Drinking Water State Revolving Fund September 2014

Applicant: Trout Canyon Land & Water Users Association
Project: Preliminary Engineering Report & Environmental Assessment
Estimated Project Cost: \$74,300
Loan Amount: \$44,300

GENERAL

The 1996 Amendments to the Safe Drinking Water Act (SDWA) authorized the Drinking Water State Revolving Fund (DWSRF). The DWSRF is a national program to assist public water systems in financing the cost of drinking water infrastructure projects needed to achieve or maintain compliance with the SDWA requirements and to further the public health objectives of the Act. The SDWA authorizes EPA to award capitalization grants to States that have established DWSRF programs. The Nevada Legislature passed legislation which authorizes the Nevada Division of Environmental Protection (Division) to administer the DWSRF under the Nevada Revised Statutes (NRS) 445A.200 to 445A.295, inclusive. In addition to the authorizing statute, Nevada has adopted Nevada Administrative Code (NAC) 445A.6751 to 445A.67644, inclusive, which describes the program requirements. Federal regulations for implementation of the DWSRF are found in 40 CFR Part 35. In addition to state and federal regulations, the conditions of the grant award, Operating Agreement with EPA and an assortment of policy directives and guidance from EPA govern the DWSRF program.

One of the requirements of the NRS pertaining to the DWSRF is that the Division shall not “commit any money in the account for the revolving fund for expenditure...without obtaining the prior approval of the board for financing water projects” (NRS 445A.265, subsection 3).

Trout Canyon is located approximately 16 miles from Pahrump on the southwest side of the Spring Mountains. The residential community is 6.4 miles from State Route 160 on a, now, well-graded gravel road and is actually located in Clark County. Trout Canyon does not currently have a reliable source of supply, transmission line, water storage, treatment, or a distribution system that meets the requirements of the NAC.

CURRENT SYSTEM

Over the past 50 years or so, the collection of about two dozen vacation homes and full-time residences drew water through a privately-owned, gravity-fed, transmission system connected to a mountain spring about three miles up the canyon in a cave. Perennial spring flows are estimated to be approximately 10 cfs (4,500 gpm). The metal transmission line that conveyed water via gravity from Trout Canyon Spring to the community was mostly made from World War II-era munitions canisters and was supported by boulders and laid in washes, leaving it vulnerable.

In early July 2013, a lightning strike that hit Mount Charleston sparked a forest fire that eventually blackened nearly 30,000 acres of the mountain. The ‘Carpenter 1’ fire burned much of the vegetation

in the drainage basin above the Trout Canyon community and seriously damaged the transmission line in many places.

As a temporary fix, a repair crew from the Las Vegas Valley Water District spent about two weeks patching the old pipe using donated materials. Two months after the fire and within days of reinstating spring flow to the community, a series of high-intensity summer storms produced flash flooding. With the trees and underbrush burned away, there was nothing to stop stormwater from scouring away the soil as it rushed down Trout Canyon, obliterating the transmission line. The floods also washed out the dirt road leading up the canyon and sent enough water, mud, and debris across nearby State Route 160 to close the highway between Las Vegas and Pahrump. The flood waters, which reportedly reached depths of 17 feet in some places, erased any real hope of reconnecting the old transmission line to the community.

Residents in Trout Canyon are currently filling jugs and hauling their own water to their residences from a shared water spigot from a private well in the community. This well is reported to be more than 800 feet deep and flow at about 8 gpm. Two other residents have also drilled their own private wells.

Customers, Population and Growth

Trout Canyon currently has 11 fulltime water users hauling water from the central community source. There are a total 22 service connections existing in the community today. There are an estimated 40 – 60 future service connections based on parcel sized and current ownership.

PROPOSED PROJECT

Trout Canyon is currently working toward solutions for replacing the water system, beginning with a Preliminary Engineering Report (PER) and an Environmental Assessment (EA). At least three alternatives that will be considered in the PER include: 1) repairing the spring collection source and replacing the transmission line to town, constructing adequate storage, and replacing the distribution system in the community; 2) drilling a new well as the source of supply, constructing adequate storage and treatment at sufficient elevation to pressurize the distribution system, and replacing the distribution system in the community; 3) drilling a new well as the source of supply, constructing adequate storage and treatment, constructing a booster pump system to pressurize the distribution system and replacing the distribution system in the community; and 4) drilling private wells for the residents.

Particular challenges to the project include: 1) topography, 2) siting improvements on Forest Service lands, 3) water rights, 4) availability of power sources, and 5) funding. Based on the results of the PER, Trout Canyon intends to proceed with the preferred alternative with the goal of providing a reliable water source to the community that meets the requirements of the NRS and the NAC.

Environmental Review

An environmental assessment will be prepared along with the PER. Should Trout Canyon pursue funding from the DWSRF for a drinking water project, NDEP will use the EA in its review pursuant to NAC 445A.6758 to 445A.67612, inclusive.

Cost Estimate

Budget Item	DWSRF Funding	USDA Grant	Totals by Use
Planning	\$44,300	\$30,000	\$74,300
Design & Engineering			
Land Acquisition			
Equipment/Materials			
Construction/Improvements			
Administrative			
Financing Costs			
Totals by Source	\$44,300	\$30,000	\$74,300

Financial Evaluation

In order to receive the DWSRF grant award from United States Environmental Protection Agency, the State of Nevada must agree to use at least 20% - 30% of its grant to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of these. Nevada will specify in the Intended Use Plan that additional subsidy will be offered to communities that meet the definition of disadvantaged community. The Nevada Administrative Code defines a disadvantaged community as an area served by a public water system in which the median household income (MHI) is less than 80% of the MHI of the state. Based on the 2008-2012 Community Survey, 80% of Nevada’s MHI is \$43,266. According to an income survey conducted by the USDA – RD, the MHI for Trout Canyon is \$42,800. Therefore, Trout Canyon meets the requirements for additional subsidy, making a principal forgiveness loan appropriate.

There are currently no meters on the residences in Trout Canyon. With the recent formation of the association, members are assessed water use fees based on their status as voting or non-voting members:

Full membership per parcel using water share: this is the monthly fee required per parcel using water shares at any point during the year, the association does not offer seasonal water shares at this time. It is forbidden to use a water share across multiple parcels; each parcel using water is required to purchase its own water share. Full voting rights are granted with this payment. Fee = \$50 per month

Membership per parcel not using water share: this is the monthly fee required per parcel not using water at any point during the year in order to remain a member in good standing and not incur the new construction hookup fee at a later date when a water share is desired. This is a non-voting membership level. Fee = \$15 per month

The Office of Financial Assistance believes it is important to further ensure sustainability of smaller water systems by requiring a minimum water user rate equal to 1.5% of the MHI for 15,000 gallons used in a month. For the Trout Canyon Land & Water Users Association, a rate equal to 1.5% of the MHI is \$53.50. Trout Canyon currently does not have a way to measure usage by residential connection due to the lack of water meters and the lack of water service that resulted from the fire and subsequent flood that recently destroyed the transmission system from the spring. Due to the small size of the community and current infrastructure condition, a higher rate may be needed to sustain a new water system. The PER will provide the association with much needed information on the future cost obligations based on the alternatives presented. Reasonable rates to cover the costs of O&M,

debt service, and savings (e.g., capital replacement, emergency reserves) for the chosen alternative will need to be presented as a part of the final PER and will need to have an implementation schedule if future funding is requested from the DWSRF program.

Technical, Managerial and Financial Capacity

NAC 445A.67563 states: “The Division shall not provide financial assistance from the Account for the Revolving Fund for the following costs associated with a water project: 7. A water project for a public water system that lacks adequate capability, unless the financial assistance will ensure that the system acquires adequate capability.” The Trout Canyon Land & Water Users Association was formed as a non-profit entity after the natural disasters destroyed the private water system that had existed for 50 years. The community hired a certified, contract operator to complete necessary testing and on-going system operation, monitoring, and testing in order to assure that the residents had a safe, central source of drinking water to use in the interim. They also requested and evaluated statements of qualification and hired an engineering firm to get the PER and EA underway. A condition of this loan will include Board training and financial planning in order to assure that this Association understands its responsibilities in operating a sustainable drinking water system that will be able to provide consistently safe drinking water for years to come.

RECOMMENDATION

The water system is not eligible for assistance from the Federal Emergency Management Agency or other sources of emergency funding. The USDA-RD is providing the maximum grant they have available for planning for a disadvantaged community. This amount must be matched with sufficient funds to complete a PER and ER for Trout Canyon in order for the USDA-RD funds to be obligated to this task. The Division recommends that the Board for Financing Water Projects approve a loan commitment from the loan fund of the DWSRF in the amount of \$44,300 to the Trout Canyon Land & Water Users Association for a Preliminary Engineering Report and Environmental Assessment. Since the project is eligible for additional subsidy as will be specified in Nevada’s Intended Use Plan, 100% of the principal will be forgiven. The Division and Trout Canyon will negotiate the terms and conditions of a loan agreement.

RESOLUTION

A RESOLUTION DESIGNATED THE "9-2014 TROUT CANYON PER & ER LOAN COMMITMENT RESOLUTION" TO APPROVE A LOAN COMMITMENT FOR THE PURPOSE OF FINANCING CERTAIN PROJECTS.

WHEREAS, the Board for Financing Water Projects (the "Board") of the State of Nevada (the "State") is authorized by Nevada Revised Statutes ("NRS") Chapter 445A.265 to approve the Division of Environmental Protection ("Division") prioritized lists of water projects and to approve the commitment of funds from the account for the revolving fund for loans to community water systems and non-transient water systems for costs of capital improvements required and made necessary pursuant to NRS 445A.800 to 445A.955, inclusive, by the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.*) and by the regulations adopted pursuant thereto; and

WHEREAS, the Division has the responsibility of administering the Drinking Water State Revolving Fund program; and

WHEREAS, on September 9, 2014, the Board, pursuant to NRS 445A.265, approved the 2015 Priority List of water projects eligible for loans from the account for the revolving fund under the Drinking Water State Revolving Fund; and

WHEREAS, the Trout Canyon Land & Water Users Association submitted a pre-application to the Division for funding a project to make improvements to the water system, which is hereinafter referred to as the "Project"; and

WHEREAS, the Project is included on the 2015 Priority List of water projects, which was approved by the Board on September 9, 2014; and

WHEREAS, the Trout Canyon Land & Water Users Association submitted to the Division a Letter of Intent to proceed with the Project; and

WHEREAS, the Trout Canyon Land & Water Users Association Project is ready to proceed; and

WHEREAS, in connection with seeking a loan, the Trout Canyon Land & Water Users Association has submitted a written application (“Application”) pursuant to NAC 445A.67613 to the Division; and

WHEREAS, the Trout Canyon Land & Water Users Association meets the definition of a disadvantaged community and is eligible to receive additional subsidy as spelled out in Nevada's Intended Use Plan; and

WHEREAS, the Division has taken all necessary and proper actions with respect to the Application as required pursuant to the regulations adopted by the State Environmental Commission (NAC 445A.6751 to 445A.67644, inclusive) pertaining to loan applications; and

WHEREAS, the Board must give prior approval before the Division may commit any money in the account for the revolving fund for expenditure for the purposes set forth in NRS 445A.275;

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD FOR FINANCING WATER PROJECTS OF THE STATE OF NEVADA:

Section 1. This Resolution shall be known as the “9-2014 Trout Canyon PER & ER Loan Commitment Resolution.”

Section 2. The terms and conditions for providing a loan to the Trout Canyon Land & Water Users Association shall be negotiated between the Trout Canyon Land & Water Users Association and the Division. These terms will include 100% Principal Forgiveness.

Section 3. Based on the review of the Application by the Division and based on the recommendation submitted by the Division to the Board concerning the Project, and subject to the provisions of Section 2 and 4 of this Resolution, the Board hereby approves a commitment of funds in the amount not to exceed \$44,300 from the account for the revolving fund in accordance with NRS 445A.265.

Section 4. The Board further recommends that the Division take all other necessary and appropriate actions to effectuate the provisions of this Resolution in accordance with NRS 445A.200 to 445A.295, inclusive, and the Regulations adopted pursuant thereto.

Section 5. This resolution shall be effective on its passage and approval.

PASSED, ADOPTED AND SIGNED September 9, 2014

Chairman
Board for Financing Water Projects

Attest:

Advisor
Board for Financing Water Projects