

DESIGNATION OF ECONOMIC DISASTER AREA



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Client: Wyoming Sugar Company, LLC
Date: March 21, 2017
Purpose: Designation of Economic Disaster Area and authorizing staff to receive, analyze and approve direct loans with reporting to the WBC Board of Directors

Economic Disaster Loans. The Challenge Loan statute has a provision that allows a business or group of businesses to apply to the Wyoming Business Council for an Economic Disaster declaration and subsequent direct loans to the effected businesses. The net available balance in the Challenge Loan Fund is \$17,649,620.

§ 9-12-301(a)(v) “Economic Disaster” means an event occurring in Wyoming that has an economic impact with total loss revenues to impacted businesses in a 12-calendar month period of at least \$4,000,000 or an economic impact with total lost revenues to impacted businesses in 4 or less counties in a 12-calendar month period of at least \$1,000,000. The business council may use good faith estimates of lost revenues to businesses in determining whether an event qualifies as an economic disaster. Calculation of lost revenues shall only include actual losses incurred and shall not include any future losses;

§ 9-12-304(c). Criteria for loans.

(c)Any business or group of businesses may apply to the council for designation of an area of this state as an area in which an economic disaster as defined is W.S. 9-12-301 (a) (v) has occurred. The council shall prescribe the form and contents of such applications. The council shall review each application and make a determination as soon as practicable as to whether an economic disaster area designation shall be made. The council may make loans to any business located within the designated economic disaster area that has lost revenue as a result of the economic disaster.

Wyoming Sugar Request. The Wyoming Business Council has received a request for an Economic Emergency Declaration from Wyoming Sugar Company, LLC (Wyoming Sugar). Wyoming Sugar is grower-owned and ran as a cooperative. Wyoming Sugar is owned by 38 different grower/grower entities, representing nearly 60 different family units located in Fremont, Big Horn, Park, and Washakie Counties. Wyoming Sugar’s service area includes Park County, however, there were no losses recorded from growers in Park County. Growers are paid under a contractual agreement, based on tonnage delivered, the sugar content of the beets and the efficiency of the factory. The growers share in any loss (or gain) incurred during the processing of sugar beets. This has allowed Wyoming Sugar to operate as a small processor and adding jobs to the local economy and allowing growers to have an additional crop in their rotation. During the fall 2016 beet harvest, approximately five inches of rain fell in the growers’ area for Wyoming Sugar, making the beets muddy. Wyoming Sugar’s processing was difficult with muddy beets but manageable through mid-December. At that time a sudden freeze occurred and continued below normal temperatures for two months freezing the remaining beets in the pile. These two events created a reduction in the ability of the processing plant (Wyoming Sugar) to extract sugar from the beets and created an additional factory expense as explained in a letter from Wyoming Sugar on February 21, 2017 by Mike Greear (Attachment 1).

Wyoming Sugar estimates the total loss to growers this year is \$5,675,650 based on tonnage and prices. Without the proposed Economic Disaster Designation, this loss would be equivalent to a direct and indirect job loss of 26 positions and an economic impact of \$6,660,640 per year based upon the median income of Washakie County at \$36,589 per year. There would also be a loss of local and state tax revenues of \$43,659 (based upon the WBC's economic impact modeling software – RPAS).

The WBC has exhausted a search for other emergency financial aid. The Wyoming Business Council staff first contacted the United State Department of Agriculture (USDA) to explore the possibility of using federal funds to help the growers. USDA directed the WBC to the regional Farm Service Agency (FSA) office in Worland. FSA emergency relief funds are to be used for natural disasters, i.e. floods, fires, tornadoes, etc. Wyoming Sugar's circumstances do not qualify as a natural disaster.

Past Economic Disaster Loans. The Wyoming Business Council has had three rounds of funding for Economic Disaster loans since 2000:

- In 2000, 78 loans to alfalfa seed growers (\$3,941,758)
- In 2005, eight loans to bean growers (\$346,614)
- In 2007, 37 loans to beet growers (\$1,750,024)

The total for all three designations has been 123 loans for \$6,038,396. Six loans were charged off amounting to \$84,201, with all six growers filing bankruptcy and going out of business. Interest income earned during the history of the program has been \$941,414; the corpus of the fund has not been decreased.

Process and Requirements. If the Board designates a disaster area, each beet producer will need to complete an application by May 15, 2017 and submit required financial information to the Wyoming Business Council. WBC staff will analyze each loan for sufficient collateral, cash flow and personal guarantees (if applicable). When the loan is made to an entity (Partnership, LLC, Corporation), it will require a personal guarantee from the owners/ members of the company. If additional collateral is required, the collateral shall be valued and follow the WBC loan policy (Attachment 2, pgs. 11-12). The maximum loan amount for each producer will not exceed that producer's percentage share of the total loss and the aggregate of all loans shall not exceed the calculated loss by Wyoming Sugar (\$5,675,650). The estimated average loan will be \$158,569; ranging from \$13,325 to \$502,650. Each loan will have a \$100 loan origination fee (third party fees included), be charged 3.5% per annum, have a maximum loan term of 10 years and be closed at the borrowers' local bank. Staff will issue loan proceeds in the form of a check to either the borrower (solely), or the borrower and their respective financial institution. The loans will be serviced by Markee Escrow Services.

Recommendation:

Staff recommends the Board of Directors designate the sugar beet growers in Big Horn, Fremont and Washakie Counties producing and delivering beets to Wyoming Sugar Company, LLC as an "Economic Disaster" area as defined in W.S. 9-12-301(a) (v).

Staff further recommends the Board of Directors to authorize staff to receive, analyze, and close individual loans, with reports to the Board at subsequent meetings.

Joshua S. Keefe
Economic Development Finance Manager

Attachments:

1. *Correspondence letter from Mike Greear, EVP of Wyoming Sugar Company, LLC*
2. *WBC loan policy (Pages 10-12)*



February 21, 2017

Wyoming Business Council
Business Initiatives
Ben Avery Director
214 W. 15th Street
Cheyenne Wyoming 82002

via email: ben.avery@wyo.gov

Re: Economic Disaster Loans – initial qualification request

Mr. Avery,

Thank you Josh and Shawn for taking the time to meet with us last week. The meeting was informative and I was pleased with your willingness to assist our Company's Growers. My understanding was that the first step in the process is to provide you with information about the circumstances that have created the economic disaster that will severely impact our Growers. I understand that you will then determine if the disaster is eligible for a Federal Disaster declaration. If so, then you will help us pursue that option; if not, then you will determine if the Challenge Loan program is an option.

Wyoming Sugar Company, LLC ("WSC") is a Wyoming Limited Liability Company located in Worland, Wyoming with one sugar beet processing facility, which is also located in Worland. While WSC is an LLC it is Grower owned and ran just like a cooperative. WSC is owned by 38 different grower/grower entities, representing nearly 60 different family units located in Fremont, Washakie, Big Horn and Park Counties. Growers have a right to grow sugar beets as an owner and likewise they are obligated to grow sugar beets as an owner. Growers are paid for their crop under a contractual arrangement that is based upon the tonnage delivered, the sugar content of the beets and the efficiency of the factory. At all times Growers are responsible for any losses incurred in the processing of sugar beets. This arrangement has allowed WSC to be owned by its Growers and to survive as a small processor in Worland, Wyoming, thereby contributing to the local economy, providing jobs, and allowing Growers the ability to grow an additional crop in their rotation.

For the 2016 crop, which was harvest in September, October and November of 2016, weather related conditions conspired to make the crop very difficult to process resulting in what we have deemed to be a disaster. Initially, we had estimated a \$45 per ton payment for sugar beets with adjustments for sugar content. However, due to the weather conditions that estimate has been lowered to \$33 per ton, and it may be lowered even more.

The weather conditions that have caused this loss are twofold. First, beginning at the end of September when harvest was scheduled to begin the Worland area received nearly two inches of rain, which continued into mid-October with another 2 and ½ inches of rain. The rain amounts were similar for our Fremont County growers and slightly worse for our Big Horn County Growers. The intense rain fall coupled with cloudy days and a cool fall made it very difficult for our Growers to harvest their crop, but nonetheless, the crop was harvested and piled for processing. The down side was that the beets were received in a very muddy condition, with an unusually large amount of small rocks.

When processing began, the slice rate was slower than normal, as frequent knife changes were necessary due to the excess mud and rocks in the beets. In fact, the knife changes were so frequent that the factory used a complete campaign's supply of knives in 47 days. So far, this operating season, the factory has used 3.75 times as many knives it would use in a typical campaign.

This is not the first time that muddy beets have been processed and so initially the factory was processing beets in an efficient manner, albeit slower than normal. The straw that broke the camel's back came December 19th when we experienced temperatures below minus 10 degrees for the second day in a row with no daytime relief. The cold temperatures continued thru January 2017 and into February.

The combination of muddy beets and cold temperatures resulted in conditions that made it nearly impossible to slice beets on a consistent basis. The mud and rocks adhered to the beets due to the frozen conditions, this material added to the slicing difficulties.

The beets froze in the wet hopper from time to time, but most troubling was that they would freeze in the hopper above the slicers on a regular basis. This continual disruption of the slice rate then worked its way through the whole process.

For efficient operations, a consistent supply of sliced beets is necessary as this affects the diffusion, purification, and evaporation processes. For the diffusion process or extraction of sucrose from the sliced beet the equipment requires a consistent flow otherwise inconsistent recovery of sucrose and extraction of other non-sucrose materials occurs.

This follows through the purification process, where excess purification agents are required to allow for the removal of the non-sucrose containing materials. As the addition of the purification agents increase, also the loss of sucrose is increased.

The evaporation process requires a consistent supply as this process utilizes heat which increases the degradation of sucrose. In addition, this allows for increased scaling of the evaporation equipment which reduces factory throughput and increases the amount of fuel required to operate the factory.

In summary the unusual amount of early harvest rain resulting in muddy beets coupled with extreme cold weather in December and January caused the 2016 beet sugar crop for WSC to not be processed in an economic fashion, which in turned placed an economic hardship on its Growers (owners). The factory has process muddy beets in the past and it has processed in

cold weather in the past, but it has not (in memory of the current staff) had to deal with both conditions at once.

The economic loss, as passed down to the Growers, cannot be fully determined at this time, as the crop is still being processed. However, the best estimate as of today is that the loss is in excess of \$3.5 million dollars, all of which will be prorated back to the Growers based on their tonnage and sugar content. Once the crop is fully processed WSC will be able to determine the loss for each Grower in accordance with the requirements of the program.

If you need any further information to make your initial determination, please contact me.

Respectfully,



Michael D. Greear
Executive Vice President

Challenge Loan Policy

2.1 Purpose

To provide loan policies and procedures that are uniform and for quality control to ensure good, consistent service.

2.2 Scope

The Wyoming Business Council Board of Directors and any staff that has oversight of the Challenge loan portfolio or loan administration responsibilities. Please refer to the Wyoming Partnership Challenge Loan Program Rules and Regulations for detailed requirements and procedures.

2.3. Definitions

“Borrower” means the community development organization or a state development organization, which applies for, commits to, and is responsible for repayment of funds provided under this program;

“Business” means any existing enterprise which employs people within the state, provides services within the state, uses resources within the state or otherwise adds economic value to goods, services or resources within the state, and includes farm and ranch operations;

“Cash or cash equivalent” means liquid assets including savings, checking and money market accounts, certificates of deposit, stocks, bonds or cash value life insurance or other similar assets. Equity in real estate holdings and other fixed assets is not to be considered liquid assets;

“Commercial Lender” means commercial institutions that loan money, including banks, credit unions, mutual savings banks, savings and loan associations, stock savings banks, or trust companies.

“Community development organization” means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes in Wyoming, and which may take equity positions and shall take security positions in its borrowers’ businesses and appropriate personal guarantees from the owners thereof;

“Economic Disaster Loan(s)” means loans made to eligible businesses in an economic disaster area as defined by W.S. 9-15-301(a)(v), where such loans are funded by the Challenge Loan Program;

“Servicing agent” means the qualified entity contracted by the WBC to service the loans in the portfolio and to provide administrative services for the program;

“State development organization” means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses, and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers’ businesses and appropriate personal guarantees from the owners thereof;

“Main street loan participation” means a provision of financing by the WBC in which the WBC participates with a Commercial Lender that has made a loan to a business for building improvements to maintain the structure’s historical character, and

“Natural gas fueling infrastructure loan” means a loan issued by the WBC for the costs of the engineering, design, real property, equipment and labor necessary to install a functioning natural gas filling station to fuel motor vehicles, which operate on natural gas as a transportation fuel.

2.4 Loan Policy

The basic loan policy of the WBC will be to service the borrowing needs of entities that enhance the economic development of the State of Wyoming on a sound and prudent basis that is beneficial to the people of Wyoming.

The Board, in discharging its duty, will ensure that loans in the WBC’s portfolio are made on a sound and collectable basis promoting economic development within statutory authorization.

2.5 Types of Loans

The types of loans and financing the WBC will provide to entities in promoting economic development are as follows:

(1) Commercial Loans

- a. Loans secured by a security interest in marketable equipment are to be amortized over a period not to exceed 120 months. The loan should not exceed 85% of value.
- b. Working capital loans secured by inventory and/or accounts receivable should be made to a borrower whose financial condition and income clearly indicate an ability to repay without resorting to liquidation of inventory and/or the accounts receivable securing the loan. The terms of these loans should not exceed one year and an aging schedule and inventory listing should be updated at least quarterly. The loan should not exceed 50% of the value of the eligible inventory and 60% of the value of the eligible accounts receivable. Eligible accounts receivable includes only those accounts that are not more than 60 days past due. Eligible inventory would exclude inventory that is not marketable or obsolete.

(2) Real Estate Loans

- a. Permanent real estate loans secured preferably by first mortgages on improved business or commercial properties. Real estate loans including any prior liens shall not exceed 85% of appraised value and loan maturity shall not exceed 240 months.
- b. Main Street Loan Participation: A provision of financing by the WBC in which the WBC participates with a Commercial Lender that has made a loan to a business, preferably located in the downtown area of a municipality, for building improvements to maintain the structure’s historical character.

(3) Economic Disaster Loans

Economic disaster loans will be granted only after an economic disaster has been declared, as defined by law and adopted rules.

- a. The WBC can only approve loans to applicants with a reasonable ability to repay the loan and other obligations from earnings. The terms of each loan are established in accordance with each borrower's ability to repay but shall not exceed 120 months.
- b. As required by law, the interest rate for each loan is based on the WBC's determination of whether each applicant has the ability to repay. Substantial economic injury is the inability of a business to meet its obligations as they mature and to pay its ordinary and necessary operating expenses.

(4) Natural gas fueling infrastructure loans

Natural gas fueling infrastructure loans are direct loans from the challenge loan program for natural gas fueling infrastructure.

- a. Funds must be used for the costs of the engineering, design, real property, equipment and labor necessary to install a functioning natural gas fueling station.
- b. Payment terms consist of no interest or principal payments due for the first two (2) years of the term loan. All deferred interest during the first two (2) years of the term loan shall accrue to the principal balance.
- c. Loans are to be amortized over a period not to exceed 240 months. Loans should not exceed 75% of the total costs of land, building and equipment or one million dollars (\$1,000,000), whichever is less.

(5) Future Investment or Loan Programs

Modifications will be made to the policy in this chapter as necessary to reflect changes made to existing state statute.