

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
INTEROFFICE MEMORANDUM

TO: Chief Clerk

THRU: Iliana Delgado, Team Leader
Water Rights Permitting Team

FROM: Craig Mikes, Project Manager
Water Rights Permitting Team

SUBJECT: HRC Cherokee Tree Farm, LP
Docket # 2008-0495-WR
WRPERM 12047
CN603033523, RN104952544, RN104952551
Application No. 12047 to Appropriate State Water
TWC §11.121, Requiring Mailed and Published Notice
Flat Creek, Neches River Basin
Cherokee County

DATE: July 30, 2008

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 JUL 30 PM 3: 54

CHIEF CLERKS OFFICE

The Executive Director received an application from HRC Cherokee Tree Farm, LP seeking authorization to construct and maintain two reservoirs for in-place recreational purposes in Cherokee County pursuant to Texas Water Code §11.121 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.*

The application was received on May 10, 2006. The application was declared administratively complete and filed with the Office of the Chief Clerk on August 9, 2006. Notice of the application was subsequently published and mailed to the water right holders of record in the Neches River Basin. One timely request for a contested case hearing was received.

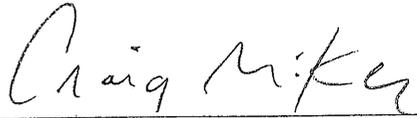
General Counsel sent notice of this matter on July 10, 2008; therefore, no additional notice is required. The application is set on the August 20, 2008 agenda.

The application is technically complete and the staff has recommended that the application be granted based on findings.

Below is the caption for this application:

Docket No. 2008-0495-WR. Consideration of an application by HRC Cherokee Tree Farm LP to maintain two reservoirs with a combined surface area of 384.9 acres and impound therein a combined total of 3,849.5 acre-feet of water on Flat Creek, tributary of the Neches River, Neches River Basin, for in-place recreational purposes in Cherokee County. South Lake will have a surface

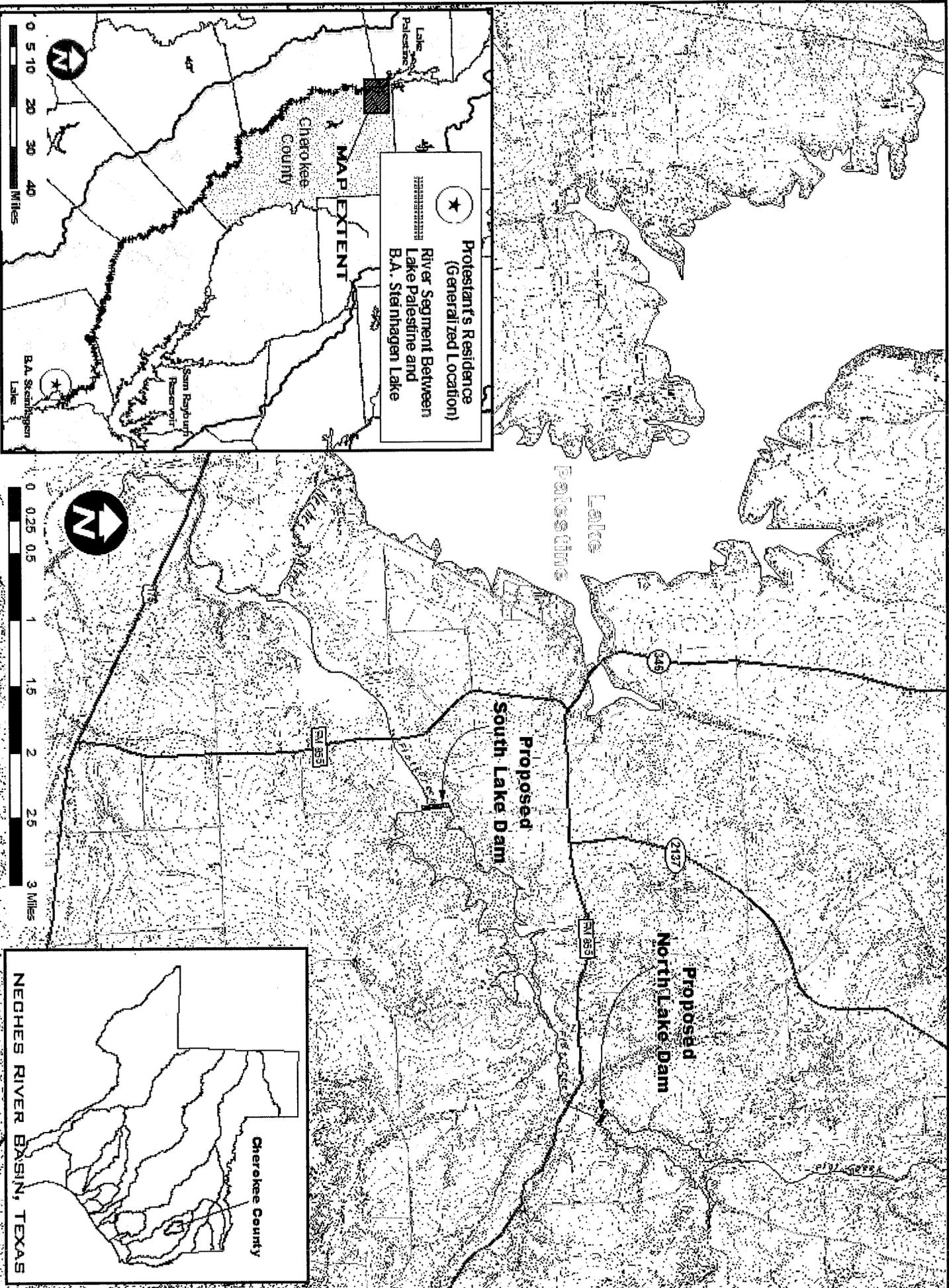
area of 287.8 acres and impound 2,869 acre-feet of water. North Lake will have a surface area of 97.1 acres and impound 980.5 acre-feet of water. The Commission will consider hearing requests, responses to the requests, and replies thereto. (Erin Selvera, Craig Mikes)



Craig Mikes, Project Manager
Water Rights Permitting Team

Enclosure

cc: Kellye Rila, TCEQ
Iliana Delgado, TCEQ
Lann Bookout, TCEQ
Chris Loft, TCEQ
Erin Selvera, TCEQ
Kristin Wang, TCEQ
Shiyan Jiang, TCEQ
Warren Samuelson, TCEQ



★
Protestant's Residence
(Generalized Location)
River Segment Between
Lake Palestine and
B.A. Steinhagen Lake

MAP EXTENT

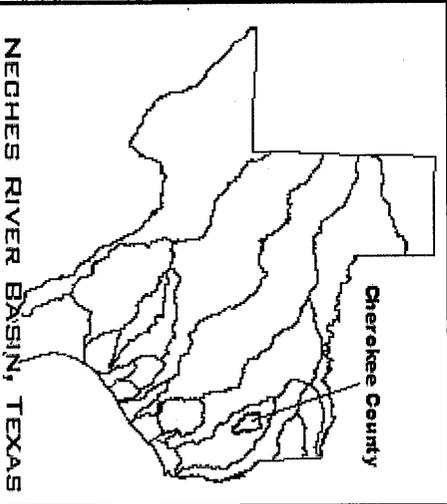
Cherokee
County

0 5 10 20 30 40
Miles



B.A. Steinhagen
Lake

0 0.25 0.5 1 1.5 2 2.5 3 Miles



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. 12047

SUMMARY. HRC Cherokee Tree Farm LP has applied for a Water Use Permit to authorize construction and maintenance of two (2) dams and reservoirs impounding a combined total of 3,849.5 acre-feet of water and having a combined surface area of 385 acres on Flat Creek, Neches River Basin for in-place recreational purposes in Cherokee County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. HRC Cherokee Tree Farm LP, Applicant, 2100 McKinney Avenue, Suite 700, Dallas, Texas 75201, seeks a Water Use Permit pursuant to Texas Water Code §11.121 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to all water right holders of record in the Neches River Basin pursuant to 30 TAC §295.151.

Applicant seeks authorization to construct and maintain two (2) dams and reservoirs impounding a combined total of 3,849.5 acre-feet of water and having a combined surface area of 385 acres on Flat Creek, tributary of the Neches River, Neches River Basin for in-place recreational purposes in Cherokee County.

South Lake, located in the Thomas Timmons Original Survey, Abstract No. 50, will have a surface area of 287.8 acres and impound 2,869 acre-feet of water. Station 10+00 on the centerline of the dam is located at a point bearing S 63°W, 17,100 feet from the northeast corner of the Thomas Timmons Survey, Abstract No. 50, also being at Latitude 32.063°N, Longitude 95.398°W, 23 miles north-northwest of the City of Rusk and 2.6 miles northeast of the town of Cuney, in Cherokee County.

North Lake, located in the John Vaughn Original Survey, Abstract No. 53, will have a surface area of 97.1 acres and impound 980.5 acre-feet of water. Station 9+20 on the centerline of the dam is located at a point bearing S 38°E, 3,400 feet from the northeast corner of the Thomas Timmons Survey, Abstract No. 50, also being at Latitude 32.082°N, Longitude 95.354°W, 23 miles north of the City of Rusk and 5 miles northeast of the town of Cuney, in Cherokee County.

Ownership of the land to be inundated is evidenced by Special Warranty Deeds recorded in Volume 1666, pages 410-438 and Volume 1666, pages 439-524, in the official records of Cherokee County.

The Commission will review the application as submitted by the applicant and may or may not grant the application as requested.

The application and fees were received on May 10, 2006, and additional information received on June 28, 2006. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 9, 2006.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: September 14, 2006

DRAFT 1/7/08

**PERMIT TO
APPROPRIATE STATE WATER**

WATER USE PERMIT NO. 12047

TYPE: §11.121

Permittee: HRC Cherokee Tree Farm, LP

Address: 2100 McKinney Avenue
Suite 700
Dallas, Texas 75201-3411

Filed: August 9, 2006

Granted:

Purpose: In-Place Recreation

County: Cherokee

Watercourses: Flat Creek, Tributary of the
Neches River

Watershed: Neches River Basin

WHEREAS, HRC Cherokee Tree Farm, LP, Applicant, seeks a Water Use Permit to construct and maintain two reservoirs on Flat Creek, tributary of the Neches River, Neches River Basin for recreation purposes in Cherokee County; and

WHEREAS, South Lake, located in the Thomas Timmons Original Survey, Abstract No. 50, will have a surface area of 287.8 acres and impound 2,869 acre-feet of water; Station 10+00 on the centerline of the dam is located at a point bearing S 63°W, 17,100 feet from the northeast corner of the Thomas Timmons Survey, also being at Latitude 32.063°N, Longitude 95.398°W, 23 miles north-northwest of the City of Rusk and 2.6 miles northeast of the Town of Cuney, in Cherokee County, and

WHEREAS, North Lake, located in the John Vaughn Original Survey, Abstract No. 53, will have a surface area of 97.1 acres and impound 980.5 acre-feet of water; Station 9+20 on the centerline of the dam is located at a point bearing S 38°E, 3,400 feet from the northeast corner of the Thomas Timmons Survey, also being at Latitude 32.082°N, Longitude 95.354°W, 23 miles north of the City of Rusk and 5 miles northeast of the Town of Cuney, in Cherokee County; and

WHEREAS, Applicant identified groundwater as the alternate source of water to maintain the operating level of the reservoirs and has installed four groundwater wells in the Queen City Aquifer and the Carrizo Aquifer with a combined output in excess of 3,060 acre-feet of water per year; and

WHEREAS, Ownership of the land to be inundated is evidenced by Special Warranty Deeds recorded in Volume 1666, pages 410-438 and Volume 1666, pages 439-524, in the official records of Cherokee County; and

WHEREAS, the Texas Commission on Environmental Quality finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality Commission in issuing this permit;

NOW, THEREFORE, Water Use Permit No. 12047 is issued to HRC Cherokee Tree Farm, LP, subject to the following terms and conditions:

1. IMPOUNDMENTS

A. Permittee is authorized to construct and maintain two reservoirs on Flat Creek, tributary of the Neches River, Neches River Basin in Cherokee County as follows:

1. South Lake, located in the Thomas Timmons Original Survey, Abstract No. 50, has a surface area of 287.8 acres and impounds 2,869 acre-feet of water. Station 10+00 on the centerline of the dam is located at a point bearing S 63°W, 17,100 feet from the northeast corner of the Thomas Timmons Survey, also being at Latitude 32.063°N, Longitude 95.398°W, 23 miles north-northwest of the City of Rusk and 2.6 miles northeast of the Town of Cuney, in Cherokee County.
2. North Lake, located in the John Vaughn Original Survey, Abstract No. 53, has a surface area of 97.1 acres and impounds 980.5 acre-feet of water. Station 9+20 on the centerline of the dam is located at a point bearing S38°E, 3,400 feet from the northeast corner of the Thomas Timmons Survey, also being at Latitude 32.082°N, Longitude 95.354°W, 23 miles north of the City of Rusk and 5 miles northeast of the Town of Cuney.

B. Ownership of the land inundated is evidenced by Special Warranty Deeds recorded in Volume 1666, pages 410-438 and Volume 1666, pages 439-524, in the official records of Cherokee County.

2. USE

A. Permittee is authorized to use the water impounded in North Lake and South Lake for in-place recreational purposes with no right of diversion.

3. PRIORITY

The time priority for the authorization granted herein is August 9, 2006.

4. TIME LIMITATIONS

- A. Construction of the proposed dams and reservoirs shall be in accordance with plans approved by the Executive Director. Construction of the dam without final approval of the construction plans is a violation of this authorization.
- B. Construction shall begin within two years of issuance of this permit and be completed within three years of the issuance of this permit, unless Permittee applies for and is subsequently granted an extension of time before the expiration of these time limitations.
- C. Failure to commence the proposed dams and reservoirs within the period stated above shall subject all rights to this permit to forfeiture, subject to notice and hearing. After beginning construction, failure to timely construct the proposed dams and reservoirs stated above shall subject this permit to cancellation in whole or in part, subject to notice and hearing.

5. SPECIAL CONDITIONS

- A. The permit does not allow Permittee to impound State water. Therefore, Permittee shall provide and maintain suitable outlets in good working condition in the reservoirs to pass all inflows of State water downstream. Upon termination of this permit, Permittee shall activate the outlets such that no State water is impounded in the reservoirs.
- B. Permittee shall maintain and operate an alternate source of water with sufficient production to compensate for net use of State water. Permittee has identified groundwater from the Queen City Aquifer and the Carrizo Aquifer as the alternate source of water for this project.
- C. This permit is issued contingent upon Permittee's maintenance of the alternate source of water identified in Item B above. In the event this source will not be used as the alternative source, Permittee shall immediately cease impoundment of water under this permit and either apply to amend this permit with documentation of the new alternative source of water, or voluntarily forfeit the permit. If Permittee does not amend or forfeit the permit, the Commission may begin proceedings to cancel this permit. The Commission shall be notified immediately by Permittee if the groundwater well(s) will not be used as the alternate source of water for this permit.
- D. Discharge of co-mingled surface water and groundwater from the reservoirs shall be of sufficient quality to meet the Surface Water Quality Standards for Segment No. 0604.
- F. Permittee shall follow and implement the mitigation plan when approved by the U.S. Army Corps of Engineers and TCEQ through Section 404/401 of the Clean Water Act.

This permit is issued subject to all superior and senior water rights in the Neches River Basin.

Permittee agrees to be bound by the terms, conditions, and provisions contained herein and such agreement is a condition precedent to the granting of this permit.

All other matters requested in the application which are not specifically granted by this permit are denied.

This permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right of continuing supervision of State water resources exercised by the Commission.

For the Commission

ISSUED:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm, Application Manager
Water Rights Permitting Team

September 17, 2007

Through:  Lann Bookout, Team Leader
Surface Water Availability & Interstate Compacts Team

From: Shiyang Jiang, Hydrologist
Surface Water Availability & Interstate Compacts Team

Subject: HRC Cherokee Tree Farm, LP
WRPERM 12047
CN603033523
RN104952544, RN104952551
Flat Creek
Neches River Basin
Cherokee County

WATER AVAILABILITY ANALYSIS

Application Summary

The applicant is seeking to construct and maintain two dams and on-channel reservoirs (North Lake and South Lake) with a combined storage capacity of 3,849.5 acre-feet and surface area of 384.9 acres on Flat Creek, tributary of the Neches River, Neches River Basin, for recreation purposes. South Lake will have a capacity of 2,869 acre-feet and a surface area of 287.8 acres; North Lake will have a capacity of 980.5 acre-feet and a surface area of 97.1 acres.

During the application process, the applicant proposed to use a groundwater augmentation system to ensure that downstream flows below the two reservoirs match inflows. The system includes four wells: Well Nos. 1, 2, 3 and 4 with yield of 970, 485, 640 and 970 acre-feet per year, respectively. The wells locate in one of the Texas Groundwater Conservation Districts. Well Registrations have been approved by the Neches & Trinity Valleys Groundwater Conservation District for Well Nos. 1, 2 and 3, while Well Development Authorization for Well No. 4 has been approved by the district.

Water Availability Analysis

An unappropriated water availability analysis is not necessary because the applicant does not request any state water and the applicant intends to maintain the reservoirs full at their respective authorized conservation storage level with discharges of groundwater so that all state water inflows to the reservoirs will pass directly through the impoundments and spill into the downstream channel of Flat Creek.

TCEQ Resource Protection staff recommended some special conditions, including that Permittee shall maintain the reservoirs at an elevation that allows the free passage of all inflows of State water.

Net evaporation data from the Water Availability Model for Neches River Basin (Quadrangle 512), covering the period from 1940 through 1996, indicate for the applicant's location the mean annual net evaporation losses from the reservoirs are 576.5 acre-feet per year (including 145.4 and 431.0 acre-feet per year for North Lake and South Lake, respectively) with a maximum of 1,247.1 acre-feet (including 314.6 and 932.5 acre-feet for North Lake and South Lake, respectively) in 1956.

Staff reviewed the information provided for the alternative source and found that total yield of 3,065 acre-feet per year from groundwater augmentation system would meet up to 1,247.1 acre-feet per year of the net evaporation losses from the reservoirs.

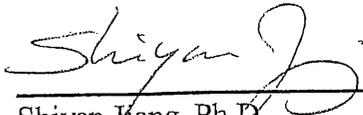
Conclusion

Hydrology staff can support issuance of a permit to authorize the applicant to construct and maintain the two on-channel reservoirs for recreation purposes by using groundwater as alternative sources. The permit should include the following special conditions in addition to special conditions recommended by Resource Protection staff.

1. The permit does not allow Permittee to impound state water. Therefore, Permittee shall provide and maintain suitable outlets in good working condition in the reservoirs to pass all inflows of state water downstream. Upon termination of this permit, permittee shall activate the outlets such that no state water is impounded in the reservoirs.
2. Permittee shall maintain and operate an alternative source of water with sufficient production to compensate for net evaporation losses to keep the reservoirs full at all time so that all inflow of state water are passed downstream of the dam. Permittee has identified groundwater from the Queen City Aquifer and the Carrizo Aquifer as the alternative source of water for this project.
3. This permit is issued contingent upon Permittee's maintenance of the alternative source of water identified in Item 2 above. In the event the source will not be used as the alternative source, Permittee shall immediately cease impoundment of water under this permit and either

Application 12047
Flat Creek, Neches River Basin
Page 3 of 4

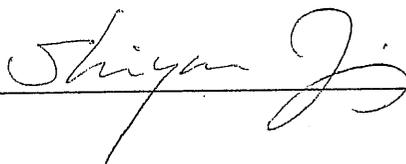
apply to amend this permit with documentation of the new alternative source of water, or voluntarily forfeit the permit. If Permittee does not amend or forfeit the permit, the Commission may begin proceedings to cancel this permit. The commission shall be notified immediately by Permittee if the groundwater well(s) will not be used as the alternative source of water for this permit.


Shiyang Jiang, Ph.D.
Hydrologist

HYDROLOGY UNIT ANALYSIS FACT SHEET

Applicants: HRC Cherokee Tree Farm, LP
Water Right: A12047
Stream: Flat Creek, tributary of the Neches River
Basin: Neches River County: Cherokee
Requested Amount: 0 AF/Y (for recreation uses)
Reservoir: Two On-Channel Reservoirs: North Lake with 287.8AF (capacity) and 97.1 acres (surface area) and South Lake with 2,869 AF (capacity) and 980.5 acres (surface area)
Drainage Area: 18.24 sq. miles (North Lake) and 39.7 sq. miles (South Lake)

Remarks: Environmental staff recommended some special conditions, including that Permittee shall maintain the reservoirs at an elevation that allows the free passage of all inflows of State water.

Signature:  Date: 9/12/07

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm, Application Manager **Date:** November 9, 2007
Water Rights Team
Water Rights Permitting & Availability Section

Through: Bill Billingsley, Team Leader §6 11/12/07
Resource Protection Team
Water Rights Permitting & Availability Section

WJG
11-12-07 Wendy Gordon, Ph.D., Aquatic Scientist
Resource Protection Team
Water Rights Permitting & Availability Section

From: Chris Loft, Aquatic Scientist
Resource Protection Team
Water Rights Permitting & Availability Section

Subject: HRC Cherokee Tree Farm
WRPERM 12047
CN 603033523
Water Right Application No. 12047
Flat Creek, Neches River Basin
Cherokee County

Environmental reviews of water right applications are conducted in accordance with §11.042, §11.147, §11.1491, §11.150, and §11.152 of the Texas Water Code and with TCEQ administrative rules which include 30 TAC §297.53 through §297.56. These statutes and rules require the TCEQ to consider the possible impacts of the granting of a water right on fish and wildlife habitat, water quality, and instream uses associated with the affected body of water. Possible impacts to bays and estuaries are also addressed.

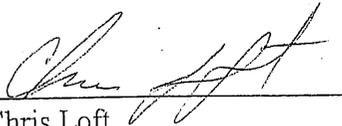
ENVIRONMENTAL ANALYSIS ADDENDUM

The applicant seeks authorization to construct and maintain two dams and reservoirs on Flat Creek, tributary of the Neches River, Neches River Basin for in-place recreational purposes in Cherokee County. The North Lake will have a surface area of 97.1 acres and a capacity of 980.5 acre-feet of water while the South Lake will have a surface area of 287.7 acres and a capacity of 2,869 acre-feet.

In the August 20, 2007 environmental analysis memo, Resource Protection staff recommended as part of Special Condition No.4, the maintenance of a riparian buffer zone with a slope of no greater than 5% around the perimeter of the reservoirs. However, after subsequent discussions with the applicant, Resource Protection staff have agreed to delete Special Condition No. 4 and modify Special Condition No. 2 as follows:

Permittee shall follow and implement the management/mitigation plan as approved by the U.S. Army Corps of Engineers and TCEQ through Section 404/401 of the Clean Water Act. In addition, the permittee shall submit a copy of the current approved management/mitigation plan to the Executive Director.

All other analyses and recommendations in the August 20, 2007 environmental memorandum remain unchanged unless specifically addressed in this addendum.


Chris Loft
Resource Protection Team

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm, Application Manager **Date:** August 20, 2007
Water Rights Team
Water Rights Permitting & Availability Section

Through: Bill Billingsley, Team Leader *BB 8/24/07*
Resource Protection Team
Water Rights Permitting & Availability Section

*WGG
8/20/07* Wendy Gordon, Ph.D., Aquatic Scientist
Resource Protection Team
Water Rights Permitting & Availability Section

From: Chris Loft, Aquatic Scientist
Resource Protection Team
Water Rights Permitting & Availability Section

Subject: HRC Cherokee Tree Farm
WRPERM 12047
CN 603033523
Water Right Application No. 12047
Flat Creek, Neches River Basin
Cherokee County

Environmental reviews of water right applications are conducted in accordance with §11.042, §11.147, §11.1491, §11.150, and §11.152 of the Texas Water Code and with TCEQ administrative rules which include 30 TAC §297.53 through §297.56. These statutes and rules require the TCEQ to consider the possible impacts of the granting of a water right on fish and wildlife habitat, water quality, and instream uses associated with the affected body of water. Possible impacts to bays and estuaries are also addressed.

ENVIRONMENTAL ANALYSIS

The applicant seeks authorization to construct and maintain two dams and reservoirs on Flat Creek, tributary of the Neches River, Neches River Basin for in-place recreational purposes in Cherokee County. The North Lake will have a surface area of 97.1 acres and a capacity of 980.5 acre-feet of water while the South Lake will have a surface area of 287.7 acres and a capacity of 2,869 acre-feet.

INSTREAM USES

Recreational Uses:

There are no known recreational uses of Flat Creek in the project vicinity.

Aquatic and Riparian Habitats:

According to the *Handbook of Texas Online*, Flat Creek traverses flat to rolling terrain surfaced by sandy and clay loams that support water-tolerant hardwoods, conifers and grasses. Land use in the Neches River Basin is approximately 65% forest, 15% grassland, 15% agriculture and 5% urban. A forest of shortleaf and loblolly pine with mixed hardwoods covers 57.6 percent of the land in Cherokee County. There are 96 species of freshwater fish in the Neches River, of which 15 are nonnative. The Neches River from Lake Palestine to B.A. Steinhagen Lake is listed on the Nationwide Rivers Inventory (National Park Service) because it possesses Outstandingly Remarkable Values (ORVs) of more than local or regional significance. According to the National Park Service, this segment of the river is listed in the inventory as containing the significant values of scenery, recreation, fish and wildlife.

The two proposed lakes will be maintained full with groundwater from four wells, so that all inflows to the reservoirs will pass through the impoundments. The applicant indicates that the groundwater will be delivered to the lakes through underground pipes. According to photographs and information provided by the applicant, Flat Creek in the project vicinity is a perennial stream averaging 20 feet in width, with steep banks and a densely vegetated riparian corridor. However, aerial imagery shows the area for the proposed South Lake to have been recently harvested for timber with the exception of a riparian corridor along Flat Creek. The area of the proposed North Lake remains heavily wooded. Flat Creek flows into the Neches River approximately 2.0 miles downstream from the South Lake dam.

According to information submitted with the application, approximately 44.2 acres of streams and wetlands will be impacted by the proposed reservoirs. The applicant has proposed to mitigate for these impacts by enhancing and preserving previously logged riparian areas located along Flat Creek, Rome Creek, Wolf Hollow Creek and Killough Creek and several other intermittent creeks as well as creating forested and emergent wetlands on the upper ends of the two reservoirs. The applicant has proposed a total of 118.3 acres of compensatory mitigation for project impacts. The mitigation plan will be finalized during the 404 permitting process required by the U.S. Army Corps of Engineers (USACE).

A letter from TPWD staff, dated June 21, 2007 identified several rare fish and mollusk species known to occur in Cherokee County. The fish species include the creek chubsucker, orangebelly darter and the harlequin darter. The mussel species include the creeper, fawnsfoot, little spectaclease, Louisiana pigtoe, pistolgrip, rock pocketbook, sandback pocketbook, Southern hickorynut, Texas

heelsplitter, Texas pigtoe, Wabash pigtoe and wartyback. TPWD staff recommended that the applicant be required to survey Flat Creek and its tributaries for the presence of the above-mentioned species. The recommended assessment was performed in August, 2007 and a report of the findings was submitted by Horizon Environmental Services. According to the report none of the rare fish or mussel species were found in Flat Creek or its tributaries, so impacts to these species are unlikely.

Riparian zones are an integral part of aquatic ecosystems and a landscape component that has to function well if rivers are to maintain their ecological vitality in the long term (Nilsson and Svedmark 2002). Riparian areas are transitional zones between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (NRC 2002). Riparian areas provide many important functions including streamflow maintenance, nutrient cycling, chemical and other pollutant filtering, sediment trapping and redistribution, floodwater absorption and detention, fish and wildlife habitat and food provision for a wide range of biota (Naiman and Decamps 1997, Fischenich and Allen 2000, NRC 2002). Riparian buffer zones function most effectively when the following conditions are met:

- Minimum width of fifty (50) feet (Walsh et al. 1997, Fischenich and Allen 2000, EPA 2005)
- Gentle slope (5 %; maximum slope 15%) to allow sheet flow (Walsh et al. 1997, NRC 2002, EPA 2005)
- Dense vegetation (Nilsson and Svedmark 2002, NRC 2002)
- Vegetation composed of native species (EPA 2005)

Resource Protection staff recommend the applicant establish a riparian buffer zone around the perimeter of the reservoirs using the guidelines listed above.

Water Quality:

Flat Creek flows into the Neches River below Lake Palestine, designated as Segment No. 0604 in the *State of Texas Water Quality Inventory*. Designated uses of Segment No. 0604 include contact recreation, high aquatic life use, fish consumption and public water supply. Available data indicate the contact recreation, public water supply and fish consumption uses are fully supported. The aquatic life use is not supported due to elevated levels of lead. Segment No. 0604 is on the 2004 303(d) list due to the elevated levels of lead in the water. However, the construction and maintenance of two dams and reservoirs are not expected to adversely impact the water quality in Segment No. 0604.

According to information from the applicant, four groundwater wells will be used to maintain the reservoirs full. Three of the wells will produce approximately 2,580 acre-feet of water per year from the Queen City aquifer while a fourth well will produce 485 acre-feet per year from the Carrizo Sands aquifer. Based on limited data, the groundwater from the Queen City formation (Wells No. 1, 3 and 4) contains average concentrations of chlorides, sulfates and total dissolved solids that are compliant with the allowable water quality standards for Segment 0604. However, groundwater from the Carrizo Sands formation (Well No. 2) contains concentrations of sulfates and total dissolved solids greater than the allowable criteria for the segment. Discharge of groundwater from this well without adequate dilution by other sources may have adverse impacts to the water quality of Segment No. 0604.

Bay and Estuary Freshwater Inflows:

Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The proposed project is located more than 200 river miles from the Gulf of Mexico. As an individual event, the impoundments and use of groundwater will minimally impact the Neches River Basin.

SUMMARY

The applicant seeks authorization to construct and maintain two dams and reservoirs on Flat Creek, tributary of the Neches River, Neches River Basin for in-place recreational purposes in Cherokee County. The North Lake will have a surface area of 97.1 acres and a capacity of 980.5 acre-feet of water while the South Lake will have a surface area of 287.7 acres and a capacity of 2,869 acre-feet.

Resource Protection staff support issuance of the permit if the following special condition is adopted in the permit if granted:

1. Permittee shall maintain the reservoirs at an elevation that allows the free passage of all inflows of State water.
2. Permittee shall follow and implement the mitigation plan when approved by the U.S. Army Corps of Engineers and TCEQ through Section 404/401 of the Clean Water Act.
3. Discharge of co-mingled groundwater from the reservoirs should be of sufficient quality to meet the Surface Water Quality Standards for Segment No. 0604.
4. In order to protect the water quality of the reservoirs and the ecosystems of the water bodies downstream of the reservoir, the permittee shall maintain a riparian buffer zone of permanent vegetation around the perimeter of the reservoirs averaging 50 feet in width with the exception of reasonable access areas. The buffer zone shall be graded to have a

slope no greater than 5% and planted with native vegetation at a density to ensure complete coverage at maturity.

This instream use assessment was conducted using current TCEQ operation procedures and policies and available data and information. The recommendations in this environmental analysis are intended for the protection of instream uses and do not necessarily provide protection to downstream water rights; that analysis is addressed in the hydrology memo and further restrictions may be applicable as necessary. Authorizations granted to the permittee by the water rights permit shall comply with all rules of the Texas Commission on Environmental Quality, and other applicable State and Federal authorizations.


Chris Loft
Resource Protection Team

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- Benke, A.C. and C. E. Cushing. 2005. Rivers of North America. Elsevier Academic Press, MA.
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HRC Cherokee Tree Farm, WRPERM 12047
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TCEQ. 2004. Texas Water Quality Inventory and 303(d) List. Texas Commission on Environmental Quality.

Walsh P. M. et al. 1997. Use of Vegetative Controls for Treatment of Highway Runoff. Center for Research in Water Resources, Austin, Texas.

cc: Todd Chenoweth, Manager, Water Rights Permitting & Availability Section, TCEQ
Shiyan Jiang, Surface Water Availability and Interstate Compacts Team, TCEQ

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm, Application Manager Date: June 29, 2006
Water Rights Permitting Team
Water Supply Division

Thru: Bill Billingsley, Team Leader *BB 6/29/06*
Resource Protection Team
Water Supply Division

From: Kristin Wang, Senior Water Conservation Specialist *KW 6/29/06*
Resource Protection Team
Water Supply Division

Subject: HRC Cherokee Tree Farm
WR No. 12047
CN 603033523
Administrative Completeness Review

HRC Cherokee Tree Farm, LP, Applicant, seeks authorization to construct and maintain 2 dams and reservoirs with a combined storage capacity of 3,849.5 acre-feet and surface area of 385 acres on Flat Creek, tributary of the Neches River, Neches River Basin for in-place recreational purposes in Cherokee County. South Lake will cover an area of 287.7 acres and impound 2,869 acre-feet of water; North Lake will cover an area of 97.1 acres and impound 980.5 acre-feet of water.

A water conservation and drought contingency plan is required to be submitted with an application for the consumptive use of state water as defined in 30 Tex. Admin. Code Section 295.9(3). However, there is no consumptive use associated with this requested appropriation. The water conservation and drought contingency plan requirement is therefore not applicable with this application. This is consistent with historical reviews for non-consumptive uses of state water.

This applicant's request is not mentioned in the approved 2002 State Water Plan or the January 2001 Region I Water Plan. It is the conservation staff's opinion that the project is not included with the state or approved regional plans due to its insignificant impact. Therefore, it is the staff's position that this project cannot be inconsistent with the approved 2002 State Water Plan or the January 2001 Region I Plan.

No further review is required by the conservation staff of the Resource Protection Team.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: David Koinm
Water Rights Permitting Team

Date: August 10, 2006

Thru:

From: Warren D. Samuelson, P. E.
Dam Safety Program MC-174

Subject: HRC Cherokee Tree Farm, LP, Application (No. 12047) to construct and maintain two dams and reservoirs, Flat Creek, Neches River Basin, Cherokee County

The applicant seeks authorization to construct and maintain two dams and reservoirs on Flat Creek in Cherokee County. The proposed South Lake will have a capacity of 2,869 acre-feet and a surface area of 287.7 acres. The proposed North Lake will have a capacity of 980.5 acre-feet and a surface area of 97.1 acres. The reservoirs will be used for recreational purposes.

The engineer, Velvin and Weeks Consulting Engineers, Inc., has indicated that the proposed dams and spillways will be designed to pass 100% of the probable maximum flood (PMF) as required in Chapter 299 for intermediate size, high hazard dams.

It is recommended that the permit include the following language:

TIME LIMITATIONS

- (a) Construction of the dams must be in accordance with plans and specifications approved by the Executive Director and must begin within two years of issuance of this permit and be completed within three years of issuance of the permit.
- (b) Failure to commence and/or complete construction of the proposed dams within the period stated above shall cause the authorization for use of the reservoirs to expire and become null and void without further Commission consideration unless the Owner applies for an extension of time to commence and/or complete construction prior to the deadline for commencement and completion, and the application is subsequently granted.


Warren D. Samuelson, P. E.
Dam Safety Program

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER

(SECTION 11.121 OR 11.143, TEXAS WATER CODE)
TAC CHAPTERS 30, 50, 281, 287, 288, 295, 297 AND 299

Water Supply Division, Water Rights Permitting MC-160

*P.O. Box 13087

Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-4770

NORTH LAKE

If including a check, mail directly to P.O. Box 13088; ZIP 78711-3088

1. Name: HRC Cherokee Tree Farm, LP c/o Bill McMahan North Lake Dam

Mailing Address: 2100 McKinney Avenue, Suite 700

Dallas, Texas 75201

Email Address: bmcMahon@crowholdings.com

Phone Number: 214-661-8118... Fax Number: 214-661-8044

a. Customer Reference Number (if issued): CN
Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

B. Lienholder Information (provide this information on the holder of any liens on any land to which the water right would be appurtenant): N/A

2. Dam (structure), Reservoir and Watercourse Data:

A. Type of Storage Reservoir (indicate by checking(✓) all applicable)

On-Channel Off-Channel Existing Structure Proposed Structure Exempt Structure*

*(TWC Section 11.143 for uses of water for other than domestic or livestock use from an existing reservoir, with a capacity of 200 acre-feet or less.) *Please complete Paragraph 6 below if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No.

1) Watercourse: Flat Creek a tributary of the Neches River

2) Location from County Seat: 23 miles in a Northerly direction from Rusk, Cherokee County, Texas.

3) Location from nearby town (if other than County Seat): 5 miles in a N.E. direction from Cuney, a nearby town shown on county highway map.

4) The dam will be/is located in the John Vaughn Original Survey No. _____, Abstract No. 53 in Cherokee County, Texas.

5) Station 9 + 20 on the centerline of the dam is S 38° E (bearing), 3,400 feet (distance) from the N.E. corner of Thomas Timmons Original Survey No. _____, Abstract No. 50, in Cherokee County, Texas, also being at Latitude 32°04'55" °N, Longitude 95°21'15" °W.
32.0514 95.3542

C. Reservoir:

- 1) Acre-feet of water impounded by structure at normal maximum operating level: 980.5.
- 2) Surface area in acres of reservoir at normal maximum operating level: 97.1.

D. 1) If this is a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. N/A and watershed project name N/A.

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

Yes No

E. The drainage area above the dam and/or diversion point is 12,038 acres or 18.24 square miles.

3. Appropriation Request (total amount of water needed, including maximum projected uses and accounting for evaporative losses for off-channel storage, if applicable).

A. Appropriated water will be used as follows:

	Purpose *	Place of Use	Acre-feet per year
1)	Recreation	Reservoir	In-place use only
2)			
3)			

*If agricultural use, list crops(s) to be irrigated:

B. Lands to be irrigated (if applicable):

1) Applicant proposes to irrigate a total of N/A acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of N/A acres in N/A County, Texas. A copy of the deed(s) describing the overall tract(s) with the recording information from the county deed records is attached.

2) Location of land to be irrigated:

In the N/A Original Survey No. N/A, Abstract No. N/A.

C. Diversion Point No. N/A.

1) Watercourse: _____

2) Location of point of diversion at Latitude N/A°N, Longitude N/A°W, also, bearing N/A°
N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A,
 Abstract No. N/A, N/A County, Texas.

3) Location from County Seat: N/A miles in a N/A direction from N/A, N/A County, Texas. Location from nearby town (if other than County Seat): N/A miles in a N/A direction from N/A, a nearby town shown on county highway map.

4) The diversion will be (check all appropriate boxes and if applicable, indicate whether existing or proposed):

	Existing	Proposed
Directly from stream		
From an on-channel reservoir	N/A	N/A
From stream to an off-channel reservoir	N/A	N/A
From a stream to an on-channel reservoir	N/A	N/A
From an off-channel reservoir	N/A	N/A
Other method (explain fully, use additional sheets if necessary)	N/A	N/A

5) Rate of Diversion (Check (✓) applicable provision):

1. Diversion Facility:

A. N/A Maximum gpm (gallons per minute)

- 1) N/A Number of pumps
- 2) N/A Type of pump
- 3) N/A gpm, Pump capacity of each pump
- 4) Portable pump N/A Yes or N/A No.

2. If by gravity:

A. N/A Headgate N/A Diversion Dam N/A Maximum gpm

B. N/A Other method (explain fully - use additional sheets if necessary)

D. Return Water or Return Flow (location and quantity information):

Water which is diverted but not consumed as a result of the above stated use, will be returned to N/A, tributary of N/A, tributary of N/A, N/A Basin, at a point which is at Latitude N/A °N, Longitude N/A °W, also, bearing N/A ° (direction), N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A, Abstract No. N/A, in N/A County, Texas. Estimated annual amount of return flow to said stream will be N/A acre-feet.

E. Surplus Water:

Water which is diverted but not used beneficially will be returned to N/A, tributary of N/A Basin at a point which is at Latitude N/A °N, Longitude N/A °W, also, bearing N/A ° (direction), N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A, Abstract No. N/A, in N/A County, Texas.

4. General Information:

A. The proposed dam or existing works will be (are) located on the land of the applicant, whose mailing address is 2100 McKinney Avenue, Suite 700 Dallas, Texas 75201.

- B. If an application for the appropriation is granted, either in whole or in part, construction works will begin within 2 years after such permit is issued. The proposed work will be completed within 3 years from the date the permit is issued.
- C. A Water Conservation Plan is attached? N/A Yes _____ No
- D. N/A Interbasin transfer is not requested.
N/A Applicant requests authorization to transfer N/A acre-feet of water per annum from the N/A Basin to the N/A Basin of which N/A acre-feet will be used for N/A purposes and N/A acre-feet of water will be used for N/A purposes.
- E. Is this project located within 200 river miles of the coast? _____ Yes X No _____ Unknown
5. **Maps, plats, plans, and drawings accompany this application as required by applicable TAC Sections.**
X Yes _____ No. Attach additional sheets for multiple dams and reservoirs, diversion points, etc.
6. N/A The dam(s) and reservoir(s) shown on the attached application was (were) constructed for domestic and livestock purposes and I/we elect to seek a permit under Section 11.143 of the Texas Water Code.
7. Provide information describing how this application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement.

Witness by my hand in _____, Texas, this the _____ day of _____, 2005.

SEE ATTACHED SIGNATURE PAGE

 Name (Printed)

 Name (Printed)

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 2005.

 Notary Public for the State of Texas

Witness by my hand in Dallas, Texas, this 2nd day of May, 2006.

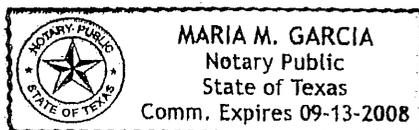
HRC Cherokee Tree Farm, L.P.,
a Texas limited partnership

By: Cherokee Tree Farm, L.L.C.,
a Texas limited liability company, its General Partner

By: Crow Family, Inc.,
a Texas corporation, its Manager

By: 
Name: Gina A. Norris
Title: Vice President

SWORN TO AND SUBSCRIBED before me this 2nd day of May, 2006.




Notary Public for the State of Texas

Supplemental Dam/Reservoir Information Sheet

Dam, Reservoir and Watercourse Data:

A. Type of Storage Reservoir (indicate by checking (%) all applicable)

<input checked="" type="checkbox"/>	On-Channel	<input type="checkbox"/>	Off-Channel	<input type="checkbox"/>	Existing Structure	<input type="checkbox"/>	Proposed Structure	<input type="checkbox"/>	Exempt Structure*
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*(TWC Section 11.143 for uses of water for other than domestic or livestock use from an existing reservoir, with a capacity of 200 acre-feet or less.)*Please complete Paragraph 6 of the application if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No. _____

1) Watercourse: Flat Creek, a tributary of the Neches River

2) Location from County Seat: 23 miles in a Northerly direction from Rusk, Cherokee County, Texas.

3) Location from nearby town (if other than County Seat): 5 miles in a N.E. direction from Cuny, a nearby town shown on county highway map.

4) The dam will be/is located in the John Vaughn Original Survey No. _____ Abstract No. 53 in Cherokee County, Texas.

5) Station 9 + 20 on the centerline of the dam is S. 38 E (bearing), 3,400 feet (distant) from the N.E. corner of Thomas Timmons Original Survey No. _____ Abstract No. 50, in Cherokee County, Texas. Also being, at Latitude 32°04'55" N, Longitude 95°21' 15" W.

C. Reservoir:

1) Acre-feet of water impounded by structure at normal maximum operating level: 980.5

2) Surface area in acres of reservoir at normal maximum operating level: 97.1

D. 1) If this is a U.S. Natural Resources Conservation Service (NRCS) (Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. N/A and watershed project name _____

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

E. The drainage area above the dam is 12,038 acres or 18.24 square miles.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER
(SECTION 11.121 OR 11.143, TEXAS WATER CODE)
TAC CHAPTERS 30, 50, 281, 287, 288, 295, 297 AND 299
Water Supply Division, Water Rights Permitting MC-160
*P.O. Box 13087
Austin, Texas 78711-3087
Telephone (512) 239-4691, FAX (512) 239-4770

SOUTH LAKE

If including a check, mail directly to P.O. Box 13088; ZIP 78711-3088

1. Name: HRC Cherokee Tree Farm, LP c/o Bill McMahan South Lake Dam

Mailing Address: 2100 McKinney Avenue, Suite 700

Dallas, Texas 75201

Email Address: bmcMahon@crowholdings.com

Phone Number: 214-661-8118... .. Fax Number: 214-661-8044

a. Customer Reference Number (if issued): CN
Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

B. Lienholder Information (provide this information on the holder of any liens on any land to which the water right would be appurtenant): N/A

2. Dam (structure), Reservoir and Watercourse Data:

A. Type of Storage Reservoir (indicate by checking(✓) all applicable)

On-Channel Off-Channel Existing Structure Proposed Structure Exempt Structure*

*(TWC Section 11.143 for uses of water for other than domestic or livestock use from an existing reservoir, with a capacity of 200 acre-feet or less.) *Please complete Paragraph 6 below if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No.

1) Watercourse: Flat Creek a tributary of the Neches River

2) Location from County Seat: 23 miles in a NNW direction from Rusk, Cherokee County, Texas.

3) Location from nearby town (if other than County Seat): 2.6 miles in a N.E. direction from Cuney, a nearby town shown on county highway map.

4) The dam will be/is located in the Thomas Timmons Original Survey No. _____
, Abstract No. 50 in Cherokee County, Texas.

5) Station 10 + 00 on the centerline of the dam is S 63° W (bearing), 17,100 feet (distance) from the N.E. corner of Thomas Timmons Original Survey No. _____, Abstract No. 50, in Cherokee County, Texas, also being at Latitude 32°03'48" °N, Longitude 95°23'51" °W.

C. Reservoir:

- 1) Acre-feet of water impounded by structure at normal maximum operating level: 2,869.
- 2) Surface area in acres of reservoir at normal maximum operating level: 287.8.

D. 1) If this is a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. N/A and watershed project name N/A.

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

Yes	No X
-----	-------------

E. The drainage area above the dam and/or diversion point is 26,202 acres or 39.7 square miles.

3. **Appropriation Request (total amount of water needed, including maximum projected uses and accounting for evaporative losses for off-channel storage, if applicable).**

A. Appropriated water will be used as follows:

	Purpose*	Place of Use	Acre-feet per year
1)	Recreation	Reservoir	In-place use only
2)			
3)			

*If agricultural use, list crops(s) to be irrigated:

B. Lands to be irrigated (if applicable):

1) Applicant proposes to irrigate a total of N/A acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of N/A acres in N/A County, Texas. A copy of the deed(s) describing the overall tract(s) with the recording information from the county deed records is attached.

2) Location of land to be irrigated:

In the N/A Original Survey No. N/A, Abstract No. N/A.

C. Diversion Point No. N/A.

1) Watercourse: _____

2) Location of point of diversion at Latitude N/A° N, Longitude N/A° W, also, bearing N/A° _____

N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A, Abstract No. N/A, N/A County, Texas.

3) Location from County Seat: N/A miles in a N/A direction from N/A, N/A County, Texas. Location from nearby town (if other than County Seat): N/A miles in a N/A direction from N/A, a nearby town shown on county highway map.

4) The diversion will be (check all appropriate boxes and if applicable, indicate whether existing or proposed):

	Existing	Proposed
Directly from stream		
From an on-channel reservoir	N/A	N/A
From stream to an off-channel reservoir	N/A	N/A
From a stream to an on-channel reservoir	N/A	N/A
From an off-channel reservoir	N/A	N/A
Other method (explain fully, use additional sheets if necessary)	N/A	N/A

5) Rate of Diversion (Check (✓) applicable provision):

1. Diversion Facility:

A. N/A Maximum gpm (gallons per minute)

- 1) N/A Number of pumps
- 2) N/A Type of pump
- 3) N/A gpm, Pump capacity of each pump
- 4) Portable pump N/A Yes or N/A No.

2. If by gravity:

- A. N/A Headgate N/A Diversion Dam N/A Maximum gpm
- B. N/A Other method (explain fully - use additional sheets if necessary)

D. Return Water or Return Flow (location and quantity information):

Water which is diverted but not consumed as a result of the above stated use, will be returned to N/A, tributary of N/A, tributary of N/A, N/A Basin, at a point which is at Latitude N/A °N, Longitude N/A °W, also, bearing N/A° (direction), N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A, Abstract No. N/A, in N/A County, Texas. Estimated **annual** amount of return flow to said stream will be N/A acre-feet.

E. Surplus Water:

Water which is diverted but not used beneficially will be returned to N/A, tributary of N/A Basin at a point which is at Latitude N/A °N, Longitude N/A °W, also, bearing N/A° (direction), N/A feet (distance) from the N/A corner of the N/A Original Survey No. N/A, Abstract No. N/A, in N/A County, Texas.

4. General Information:

- A. The proposed dam or existing works will be (are) located on the land of the applicant, whose mailing address is 2100 McKinney Avenue, Suite 700 Dallas, Texas 75201.

B. If an application for the appropriation is granted, either in whole or in part, construction works will begin within 2 years after such permit is issued. The proposed work will be completed within 3 years from the date the permit is issued.

C. A Water Conservation Plan is attached? N/A Yes _____ No

D. N/A Interbasin transfer is not requested.

N/A Applicant requests authorization to transfer N/A acre-feet of water per annum from the N/A Basin to the N/A Basin of which N/A acre-feet will be used for N/A purposes and N/A acre-feet of water will be used for N/A purposes.

E. Is this project located within 200 river miles of the coast? _____ Yes X No _____ Unknown

5. **Maps, plats, plans, and drawings accompany this application as required by applicable TAC Sections.**
X Yes _____ No. Attach additional sheets for multiple dams and reservoirs, diversion points, etc.

6. N/A The dam(s) and reservoir(s) shown on the attached application was (were) constructed for domestic and livestock purposes and I/we elect to seek a permit under Section 11.143 of the Texas Water Code.

7. Provide information describing how this application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement.

Witness by my hand in _____, Texas, this the _____ day of _____, 2005.

SEE ATTACHED SIGNATURE PAGE

Name (Printed)

Name (Printed)

SWORN TO AND SUBSCRIBED before me this ___ day of _____, 2005.

Notary Public for the State of Texas

Witness by my hand in Dallas, Texas, this 2nd day of May, 2006.

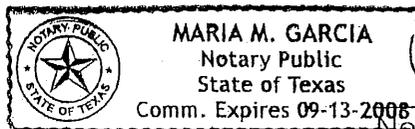
HRC Cherokee Tree Farm, L.P.,
a Texas limited partnership

By: Cherokee Tree Farm, L.L.C.,
a Texas limited liability company, its General Partner

By: Crow Family, Inc.,
a Texas corporation, its Manager

By: Gina A. Norris
Name: Gina A. Norris
Title: Vice President

SWORN TO AND SUBSCRIBED before me this 2nd day of May, 2006.



Maria M. Garcia
Notary Public for the State of Texas

Supplemental Dam/Reservoir Information Sheet

Dam, Reservoir and Watercourse Data:

A. Type of Storage Reservoir (indicate by checking (%) all applicable)

<input checked="" type="checkbox"/>	On-Channel	<input type="checkbox"/>	Off-Channel	<input type="checkbox"/>	Existing Structure	<input type="checkbox"/>	Proposed Structure	<input type="checkbox"/>	Exempt Structure*
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*(TWC Section 11.143 for uses of water for other than domestic or livestock use from an existing reservoir, with a capacity of 200 acre-feet or less.)*Please complete Paragraph 6 of the application if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No. _____

1) Watercourse: Flat Creek, a tributary of the Neches River

2) Location from County Seat: 23 miles in a N.N.W direction from Rusk, Cherokee County, Texas.

3) Location from nearby town (if other than County Seat): 2.6 miles in a N.E. direction from Cuny, a nearby town shown on county highway map.

4) The dam will be/is located in the Thomas Timmons Original Survey No. _____, Abstract No. 50 in Cherokee County, Texas.

5) Station 10 + 00 on the centerline of the dam is S.63 W (bearing), 17,100 feet (distant) from the N.E. corner of Thomas Timmons Original Survey No. _____, Abstract No. 50, in Cherokee County, Texas. Also being, at Latitude 32°03'48" N, Longitude 95°23'51" W.

C. Reservoir:

1) Acre-feet of water impounded by structure at normal maximum operating level: 2,869

2) Surface area in acres of reservoir at normal maximum operating level: 287.8

D. 1) If this is a U.S. Natural Resources Conservation Service (NRCS) (Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. N/A and watershed project name _____

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

E. The drainage area above the dam is 26,202 acres or 39.7 square miles.

Dam, Reservoir and Watercourse Data: