

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
INTEROFFICE MEMORANDUM

TO: Chief Clerk

THRU: Iliana Delgado, Team Leader
Water Rights Permitting Team

FROM: Esteban (Steve) Ramos, Project Manager
Water Rights Permitting Team

SUBJECT: Lower Neches Valley Authority
Docket #2009-0168-WR
ADJ 4411
CN600126502, RN102632353, RN102121456, RN104209747, RN104209762,
RN104209754, RN104209770, RN104209804, RN104209820, RN104209846
Application No. 06-4411F to Amend Certificate of Adjudication No. 06-4411
TWC § 11.122, Requiring Mailed and Published Notice
Pine Island Bayou, Neches River, and the Angelina River, Neches River Basin
Jasper, Sabine, San Augustine, Angelina, Nacogdoches, Tyler, Hardin, Jefferson,
Orange, Liberty, and Chambers Counties

DATE: April 2, 2009

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

CHIEF CLERKS OFFICE

2009 APR - 2 PM 4: 38

The Executive Director received an application from Lower Neches Valley Authority seeking to amend Certificate of Adjudication No. 06-4411 pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 TAC §§295.1, *et seq.*

The application was received on December 20, 2007. The application was declared administratively complete and filed with the Office of the Chief Clerk on January 3, 2008. Notice of the application was issued on January 18, 2008, and subsequently published and mailed to the water right holders in the Neches River Basin. Several requests for a public hearing were received.

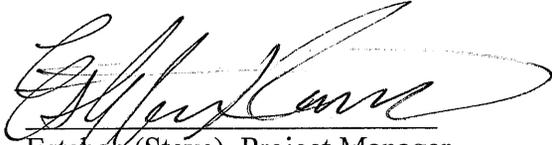
Because this application was declared administratively complete after September 1, 1999, the rules in Chapter 55, Subchapter G, Section 55.250 - 55.256 apply. The Chief Clerk shall mail notice to the applicant, executive director, public interest counsel, and timely hearing requestors not later than 35 days prior to the agenda setting. Applicants, the public interest counsel, and the executive director shall file a response no later than 23 days before agenda, and the hearing requestors shall reply no later than nine days before agenda.

The application is now technically complete and the staff has recommended that the application be granted based on the analysis in the technical review memos.

Below is the caption for this application:

Consideration of the Lower Neches Valley Authority's (LNVA) application for an amendment to Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. in the Certificate to change the subordination of LNVA to other water rights in the Neches River Basin and to set a fixed priority date on all of LNVA's existing water rights. Certificate of Adjudication No. 06-4411 currently authorizes the LNVA, part owner, to impound water in two reservoirs (owned by the USA and operated by the US Corps of Engineers) being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties. The Certificate also authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties. LNVA's amendment request is to change Special Conditions 5.C. and 5.D., which subordinate LNVA's water rights to present or future rights, to subordinate LNVA to only existing (before December 19, 2007) water rights. The Commission shall also consider any hearing requests, responses to hearing requests, or other relevant filings. (Steve Ramos, Robin Smith)

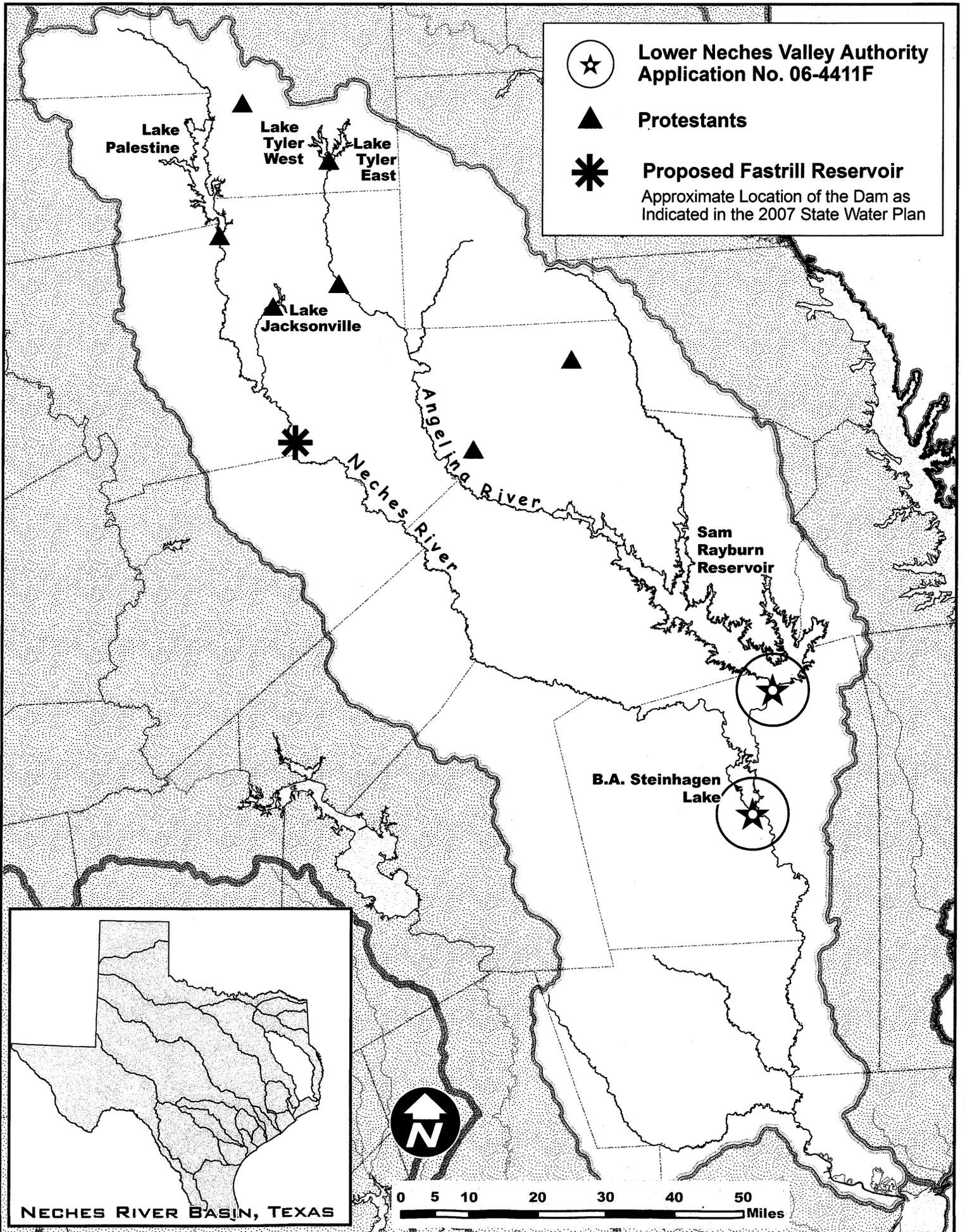
Attached is a draft notice for you to send.



Esteban (Steve), Project Manager
Water Rights Permitting Team

Enclosure

cc: Lann Bookout, TCEQ
Kellye Rila, TCEQ
Iliana Delgado, TCEQ
Chris Loft, TCEQ
Gregg Easley, TCEQ
Trent Jennings, TCEQ
Robin Smith, TCEQ
Kathy Alexander, TCEQ



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN AMENDMENT TO A CERTIFICATE OF ADJUDICATION APPLICATION NO. 06-4411F

The Lower Neches Valley Authority has applied for an amendment to Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. The certificate authorizes diversions from Pine Island Bayou, the Neches River, Lake Sam Rayburn on the Angelina River, and B.A. Steinhagen Lake on the Neches River, Neches River Basin located in Jasper, Sabine, San Augustine, Angelina, Nacogdoches, Tyler, Hardin, Jefferson, Orange, Liberty, and Chambers Counties. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Lower Neches Valley Authority, applicant or LNVA, P.O. Box 5117, Beaumont, TX 77726-5117, seeks an amendment to Certificate of Adjudication No. 06-4411 pursuant to Texas Water Code §11.122, and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Notice is being published and mailed to the water right holders of record in the Neches River Basin pursuant to 30 TAC §295.158.

Lower Neches Valley Authority owns a portion of Certificate of Adjudication No. 06-4411 which authorizes the impoundment of water in two reservoirs (owned by the USA and operated by the US Army Corps of Engineers) being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties. The Certificate further authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties. The Certificate contains various priority dates and special conditions.

Special Condition 5.C. states, "Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements."

Special Condition 5.D. states, "Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River."

The applicant seeks an amendment to Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. to limit subordination of the right to existing water rights in the Neches River Basin and to read as follows:

Special Condition 5.C. Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any existing municipal water rights granted by the Commission with a priority date between November 13, 1963 and December 19, 2007.

Special Condition 5.D. Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to all existing rights granted by the Commission with a priority date between November 13, 1963 and December 19, 2007 for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

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

The applicant previously filed an application for amendment 06-4411E to remove Special Conditions 5.C and 5.D from its Certificate of Adjudication. (Notice of that application was published on September 29, 2007.) That application has been withdrawn. The new application for amendment 06-4411F and fees were received on December 20, 2007. A correction to the December 20, 2007 amendment application was received on January 2, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 3, 2008.

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 for 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: January 18, 2008

AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 06-4411F

TYPE: 11.122

Owner: Lower Neches Valley Authority Address: P.O. Box 5117
Beaumont, TX 77726-5117

Filed: January 3, 2008 Granted:

Purpose: Agricultural, Industrial, and County: Jasper, Sabine, San Augustine,
Municipal Angelina, Nacogdoches, Tyler,
Hardin, Jefferson, Orange,
Liberty, and Chambers

Watercourse: Angelina River, Watershed: Neches River Basin
tributary of the Neches River

WHEREAS, Certificate of Adjudication No. 06-4411 authorizes the Lower Neches Valley Authority (LNVA), part owner, to impound water in two reservoirs (owned by the United States and operated by the U.S. Army Corps of Engineers) being Lake Sam Rayburn, located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties, and B.A. Steinhagen Lake, located on the Neches River in Tyler and Jasper Counties; and

WHEREAS, the Certificate also authorizes LNVA to divert and use not to exceed 381,876 acre-feet of water per year from Pine Island Bayou and the Neches River and 792,000 acre-feet of water per year from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties; and

WHEREAS, the Certificate contains various priority dates and special conditions; and

WHEREAS, Special Condition 5.C. states: "Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements"; and

WHEREAS, Special Condition 5.D states: "Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River"; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. to limit subordination of this water right to existing water rights in the Neches River Basin and to read as follows:

Special Condition 5.C. Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any existing municipal water rights granted by the Commission with a priority date between November 13, 1963 and December 19, 2007.

Special Condition 5.D. Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to all existing rights granted by the Commission with a priority date between November 13, 1963 and December 19, 2007 for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River; and

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

WHEREAS, nine requests for a contested case hearing were received; and

WHEREAS, the Executive Director recommends modification of the Applicant's proposed Special Conditions to reflect the filing date of the application; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 06-4411, designated as Certificate of Adjudication No. 06-4411F, is issued to the Lower Neches River Authority, subject to the following terms and conditions:

1. CONSERVATION

Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures.

2. SPECIAL CONDITIONS

In lieu of Special Conditions 5.C. and 5.D., Special Condition 5.C. now reads:

5.C. Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any existing municipal water rights granted by the Commission with a priority date between November 13, 1963 and January 3, 2008.

Special Condition 5.D now reads:

5.D. Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to all existing rights granted by the Commission with a priority date between November 13, 1963 and January 3, 2008 for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 06-4411, as amended, except as specifically amended herein.

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

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

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

This amendment 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

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Iliana Delgado, Application Manager
Water Rights Team
Water Rights Permitting & Availability Section

Date: July 21, 2008

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

From: Kathy Alexander, Hydrologist
Water Availability Team

Subject: Lower Neches Valley Authority
ADJ4411
CN 600126502
Neches and Angelina Rivers
Neches River Basin

Water Availability Review

Application Summary

Certificate of Adjudication No. 06-4411 authorizes the Lower Neches Valley Authority (LNVA), part owner, to impound water in two reservoirs (owned by the United States of America and operated by the United States Army Corps of Engineers) being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties. The Certificate also authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties. The Certificate contains various priority dates and special conditions.

Special Condition 5.C. states: Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements.

Special Condition 5.D. states: Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

LNVA seeks an amendment to Certificate of Adjudication No. 06-4411 revising Special Conditions 5.C. and 5.D. to limit subordination of LNVA's rights to existing rights granted between November 12, 1963 and December 20, 2007.

No Injury Analysis

Resource Protection staff did not recommend environmental flow requirements for this application. The application does not request a new appropriation of water; therefore, a water availability analysis is not required. However, the application must be reviewed to determine whether there are any impacts on senior water rights. The application requests that the subordination be limited to those water rights granted prior to December 20, 2007. The application was declared administratively complete on January 3, 2008.

Modification of Special Conditions 5.C. and 5.D. to limit subordination of LNVA's 1963 rights cannot affect existing basin water rights because the application does not seek to alter Special Conditions 5.C. and 5.D. with respect to those rights. Applications that may be filed in the future are not considered when staff performs the hydrology technical review of an application.

Conclusion

The application does not alter whether and to what extent LNVA can exercise a priority call on water rights senior to the filing date of the application. Therefore, since no water rights can be affected, staff can recommend granting the application so long as the amendment includes a modification of Special Conditions 5.C. and 5.D. limiting subordination of LNVA's rights to existing rights granted between November 12, 1963 and January 3, 2008, the filing date of this application.



Kathy Alexander, Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Steve Ramos, Application Manager **Date:** July 10, 2008
Water Rights Team
Water Rights Permitting & Availability Section

Through: *CL*
7/10/08 Chris Loft, Team Leader
Resource Protection Team
Water Rights Permitting & Availability Section

WGG
7/10/08 Wendy Gordon, Ph.D., Aquatic Scientist
Resource Protection Team
Water Rights Permitting & Availability Section

From: Katrina Cohen, Aquatic Scientist *KC 7/10/08*
Resource Protection Team
Water Rights Permitting & Availability Section

Subject: Lower Neches Valley Authority
ADJ 4411
CN600126502, RN102632353, RN102121456, RN104209747,
RN104209762, RN104209754, RN104209804, RN104209820,
RN104209846
Water Right Application No. 06-4411
Pine Island Bayou, Neches River, and the Angelina River, Neches River
Basin Jasper, Sabine, San Augustine, Angelina, Nacogdoches, Tyler,
Hardin, Jefferson, Orange, Liberty, and Chambers Counties

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

Certificate of Adjudication No. 06-4411 authorizes the Lower Neches Valley Authority (LNVA), part owner, to impound water in two reservoirs (operated by the US Corps of Engineers). The

two reservoirs are Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties. The certificate also authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties. The Certificate contains various priority dates and special conditions.

Special Condition 5.C. states: Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements. Special Condition 5.D. states: Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

The applicant seeks an amendment to Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. to set a fixed priority date on all of LNVA's existing water rights without affecting any other existing rights within the Neches River Basin.

SUMMARY

In staff's opinion, the proposed amendment will not result in a greater net adverse impact to the environment than under the existing Certificate. No special conditions are recommended for the requested amendment.

This instream use assessment was conducted using current TCEQ operation procedures and policies and available data and information. 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.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Iliana M. Delgado, Project Manager
Water Rights Permitting Team
Water Supply Division

Date: January 3, 2008

Thru: Bill Billingsley, Team Leader
Resource Protection Team
Water Supply Division

bb 1/3/08

E. Scott Swanson, Senior Water Conservation Specialist
Resource Protection Team
Water Supply Division

ESS 1/3/08

From: Trent Jennings, Water Conservation Specialist
Resource Protection Team
Water Supply Division

JJ 1/3/08

Subject: Lower Neches Valley Authority
ADJ 4411
CN600126502
Review of Water Conservation and Drought Contingency Plans for
Administrative Sufficiency

Certificate of Adjudication No. 06-4411 authorizes the Lower Neches Valley Authority (LNVA), part owner, to impound water in two reservoirs (owned by the USA and operated by the US Corps of Engineers) being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties. The Certificate also authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake at various rates for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties. The Certificate contains various priority dates and special conditions.

Special Condition 5.C. states: Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements.

Special Condition 5.D. states: Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

The applicant seeks an amendment to Certificate of Adjudication No. 06-4411 to modify Special Conditions 5.C. and 5.D. to set a fixed priority date on all of LNVA's existing water rights without affecting any other existing rights within the Neches River Basin.

The 2005 Water Conservation and Drought Contingency plans were reviewed for administrative sufficiency for wholesale and irrigation uses. The submitted plans meet the minimum requirements as defined in the TCEQ Rules, Title 30 TAC § 288.4, 288.5, and 288.22.

The request is not inconsistent with the approved 2006 Region "I" Water Plan and the 2007 State Water Plan.

The following standard water conservation language should be included in the permit:

"Owners shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures."

No further review is required by the Water Conservation Staff of the Resource Protection Team.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 06-4411D CERTIFICATE NO. 06-4411D TYPE §11.122

Permittee: Lower Neches Valley Authority Address: P.O. Box 5117
Beaumont, TX 77726-5117

Filed: March 19, 2004 Granted: **JUN 18 2004**

Purpose: Agriculture, Industrial, and Municipal Counties: Jasper, Sabine, San
Augustine, Angelina, and
Nacogdoches

Watercourse: Angelina River, tributary
of the Neches River Watershed: Neches River Basin

WHEREAS, Certificate of Adjudication 06-4411 authorizes the Lower Neches Valley Authority (LNVA), part owner, to impound water in two reservoirs (owned by the USA and operated by the US Corps of Engineers) being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake located on the Neches River in Tyler and Jasper Counties; and

WHEREAS, the Certificate also authorizes LNVA to divert and use 381,876 acre-feet of water from Pine Island Bayou and the Neches River and 792,000 acre-feet of water from Lake Sam Rayburn and B.A. Steinhagen Lake for agricultural (irrigation), municipal, and industrial purposes within LNVA's service area in Jefferson, Orange, Hardin, Tyler, Liberty, Chambers, and Jasper Counties; and

WHEREAS, the Certificate authorizes LNVA to divert from the following points:

- A. a point on Lake Sam Rayburn at an unspecified rate,
- B. a point on B.A. Steinhagen Lake at a maximum rate of not to exceed 2,000 cfs (900,000 gpm),

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WATER RIGHTS PERMITTING

- C. a point on the Neches River in Jasper County at a maximum rate of not to exceed 86 cfs (38,700 gpm),
- D. a point on the Neches River in Hardin County at an unspecified rate,
- E. a point on Pine Island Bayou in the Wesley Dyches Grant at a maximum rate of not to exceed 980 cfs (440,000 gpm), and
- F. a point on Pine Island Bayou in the Thomas Spear Grant at a maximum rate of not to exceed 936 cfs (420,000 gpm); and

WHEREAS, the Certificate contains various priority dates and special conditions; and

WHEREAS, the applicant seeks an amendment to Certificate of Adjudication No. 06-4411 to add authorization to divert anywhere along the perimeter of Lake Sam Rayburn; and

WHEREAS, the City of Lufkin, part owner of this certificate, and has agreed in writing to this application; and

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

WHEREAS, no one protested the granting of this application; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 06-4411, designated as Certificate of Adjudication No. 06-4411D, is issued to the Lower Neches Valley Authority subject to the following terms and conditions:

1. DIVERSION

In addition to the previous authorizations, LNVA is authorized to divert the authorized 792,000 acre-feet of water from any point on the perimeter of Lake Sam Rayburn.

2. CONSERVATION

Owner shall implement a conservation plan that provides for the utilization of water conservation practices, techniques and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water,

or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into, on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 06-4411 except as specifically amended herein.

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

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

This amendment 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.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission

Date issued: JUN 18 2004

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



AMENDMENT TO CERTIFICATE OF ADJUDICATION

CERTIFICATE NO.	06-4411C	Type:	Section 11.122
Owner:	Lower Neches Valley Authority	Address	P.O. Box 5117 Beaumont, TX 77726
Filed:	April 26, 2001	Granted:	JUL 23 2001
Purpose:	Irrigation, Municipal Industrial	Counties:	Jefferson, Orange, Hardin Tyler, Liberty, Chambers, and Jasper
Watercourse:	Neches River and Pine Island Bayou, tributary of the Neches River	Watershed:	Neches River Basin

WHEREAS, Certificate of Adjudication No. 06-4411 was issued to Lower Neches Valley Authority on August 8, 1986 and authorizes owner to store water in two existing reservoirs which are owned by the United States and operated by the U.S. Corps of Engineers, being Lake Sam Rayburn located on the Angelina River in Jasper, Sabine, San Augustine, Angelina, and Nacogdoches Counties and B.A. Steinhagen Lake (Dam "B") located on the Neches River in Tyler and Jasper Counties; and

WHEREAS, the amount of water stored in the aforesaid reservoirs is equivalent to a release from B.A. Steinhagen Lake, and the total amount of water released must not exceed 820,000 acre-feet per annum at a rate not to exceed 2,000 cfs (897,000 gpm) for owner's authorized uses; and

WHEREAS, Certificate of Adjudication No. 06-4411 further authorizes owner to divert and use not to exceed 381,876 acre-feet of water from Pine Island Bayou and the Neches River for municipal, industrial, and irrigation purposes, and 820,000 acre-feet per annum from Sam Rayburn and B.A. Steinhagen Lakes for municipal, industrial, and irrigation purposes; and

WHEREAS, Certification of Adjudication No. 06-4411 authorizes owner to divert water at the following location and rates:

- a. Lake Sam Rayburn - unspecified rate,
- b. B.A. Steinhagen Lake - maximum rate of 2,000 cfs (900,000 gpm),
- c. A point on the Neches River in Jasper County - maximum rate of 86 cfs (38,700 gpm),

- d. A point on the Neches River in Hardin County - unspecified rate, and
- e. Two authorized points on Pine Island Bayou in Jefferson County - maximum rate of 633 cfs (284,850 gpm) in the Wesley Dyches Grant and a maximum rate of 633 cfs (284,850 gpm) in the Thomas Spear Grant; and

WHEREAS, an amendment to the Certificate of Adjudication, No. 06-4411A, was issued on June 10, 1987 and authorizes an increase in the maximum diversion rates at two points on Pine Island Bayou to 980 cfs (440,000 gpm) in the Dyches Grant and 936 cfs (420,000 gpm) in the Spear Grant, to change 60,000 acre-feet of water per annum authorized for industrial use to municipal use, and to reword certain provisions of the certificate; and

WHEREAS, an amendment to the Certificate of Adjudication, No. 06-4411B, was issued August 9, 1991 and authorizes the owner to install two temporary saltwater barriers and impound, from time to time, not to exceed 1,115 acre-feet of water between elevations 0.0 feet mean sea level and 5.0 feet mean sea level in barrier No. 1, and not to exceed 529 acre-feet of water between elevations 0.0 feet mean sea level and 3.0 feet mean sea level in barrier No. 2; and

WHEREAS, Certificate of Adjudication No. 06-4411 also included multiple special conditions; and

WHEREAS, owner applied to amend Certificate of Adjudication No. 06-4411, as amended, to authorize use of the total amount of water authorized, 1,201,876 acre-feet per annum, for any of the uses authorized within any areas that are served by the Lower Neches Valley Authority in both the Neches River and Neches-Trinity Coastal Basins, and to return the water diverted but not consumed to a stream in the vicinity of where the water was used within the service area; and

WHEREAS, the Texas Natural Resource Conservation Commission finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director has determined that the water used but not consumed shall be returned to the Neches River Basin or the Neches-Trinity Coastal Basin; and

WHEREAS, in order to facilitate the maintenance of the Commission's water availability models for the Neches-Trinity Coastal Basin, staff recommends that the permit contain a special condition requiring owner to notify the Commission of any new return flow discharge resulting from the use of water authorized by this certificate greater than 1,000,000 gallons per day; and

WHEREAS, no person protested the granting of the proposed amendment to Certificate of Adjudication No. 06-4411, as amended.

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Natural Resource Conservation Commission in issuing this amendment; and

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 06-4411, as amended, designated as Certificate of Adjudication 06-4411C, is issued to the Lower Neches Valley Authority, subject to the following terms and conditions:

2. USE

In lieu of the previously authorized uses, Lower Neches Valley Authority may use the total amount of water authorized, 1,201,876 acre-feet per annum, for any of the uses authorized within any areas that are or may be served by the LNVA in the Neches River Basin and Neches-Trinity Coastal Basin. The water authorized herein shall be diverted as follows:

- a. From Pine Island Bayou and the Neches River - 381,876 acre-feet of water per annum, and
- b. From Lakes Sam Rayburn and B.A. Steinhagen - 820,000 acre-feet of water per annum.

5. SPECIAL CONDITION

- R. In lieu of Special Condition 5 F. of the original certificate issued August 8, 1986, Lower Neches Valley Authority shall return all water diverted but not consumed to the Neches River Basin or to the Neches-Trinity Coastal Basin.
- S. Lower Neches Valley Authority shall notify the Commission of any new continuous municipal or industrial return flow discharges over 1,000,000 (one million) gallons of water per day, resulting from water authorized for use by this certificate, upstream of the tidal zone where said discharge began subsequent to the granting of this amendment.

6. CONSERVATION

Owners shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 06-4411, as amended, including the priority dates established therein, except as specifically amended herein.

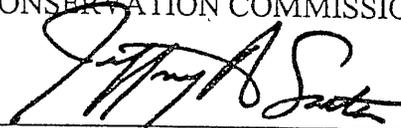
This amendment is issued subject to all superior and senior water rights in the Neches River Basin.

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

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

This amendment is issued subject to the Rules of the Texas Natural Resource Conservation Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION



For the Commission

Date Issued: JUL 23 2001

AMENDMENT TO
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 06-4411B

TYPE: AMENDMENT

Name:	Lower Neches Valley Authority	Address:	PO DRAWER 3464 BEAUMONT TX 77704
Filed:	February 6, 1991	Granted:	June 24, 1991
Purposes:	Municipal, Industrial and Irrigation	Counties:	Jefferson, Orange and Hardin
Watercourse:	Neches River and Pine Island Bayou tributary of Neches River	Watershed:	Neches River Basin

WHEREAS, Certificate No. 06-4411 was issued to Lower Neches Valley Authority on August 8, 1986 and authorizes the diversion and use of water from Pine Island Bayou and the Neches River and, in accordance with a 1956 contract with the United States of America, to use water from Lake Sam Rayburn located in Jasper, Sabine, San Augustine, Angelina and Nacogdoches Counties on the Angelina River and B. A. Steinhagen Lake (Dam "B") located in Tyler and Jasper Counties on the Neches River; and

WHEREAS, Certificate No. 06-4411A was issued on June 10, 1987 and authorizes an increase in the maximum diversion rates at two points on Pine Island Bayou, to change 60,000 acre-feet of water per annum authorized for industrial use to municipal use and to reword certain provisions of the certificate; and

WHEREAS, applicant has requested an amendment to Certificate No. 06-4411, as amended, to install from time to time, two temporary saltwater barriers, i.e., one on the Neches River and one on Pine Island Bayou, tributary of the Neches River to protect freshwater intake facilities from saltwater moving upstream to authorized diversion points during periods of low flow; and

WHEREAS, the Texas Water Commission finds that jurisdiction over the application is established; and

WHEREAS, no person protested the granting of this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Water Commission in issuing this amendment; and

NOW, THEREFORE, this amendment to Certificate No. 06-4411, as amended, is issued to Lower Neches Valley Authority, subject to the following terms and conditions:

1. IMPOUNDMENTS

C. Certificate owner is authorized to construct a saltwater barrier (No. 1) on the Neches River and may impound from time to time not to exceed 1115 acre-feet of water between elevations 0.0 feet mean sea level and 5.0 feet mean sea level. The barrier area will be adjacent to the Martin Palmer Survey, Abstract No. 19, Orange County, Texas. The barrier will be in the vicinity of Latitude 29.860° N, Longitude 94.998° W and also being N 74° W, 6205 feet from the southeast corner of the Amasa Rand Survey, Abstract No. 498, Orange County, approximately 8.5 miles north of Beaumont, Jefferson County, Texas.

D. Certificate owner is authorized to construct a saltwater barrier (No. 2) on Pine Island Bayou, Jefferson and Hardin Counties, and may impound from time to time not to exceed 529 acre-feet of water between elevations 0.0 feet mean sea level and 3.0 feet mean sea level. The barrier area is adjacent to the Thomas Spear Survey, Abstract No. 50, Jefferson County, Texas. The barrier will be in the vicinity of an area N 35° E, 4691 feet from the northwest corner of the Harvey P. Savery Survey, Abstract No. 47, Jefferson County, approximately 6.5 miles north-northwest of Beaumont, Jefferson County, Texas.

5. SPECIAL CONDITIONS

- M. *Certificate owner shall document downstream salinity conditions prior to installation of the saltwater barriers and may install the barriers when the encroaching saltwater wedge is at a point one mile downstream of the confluence of the Neches River and Pine Island Bayou.*
- N. *Certificate owner shall notify the Texas Water Commission and Texas Parks and Wildlife Department prior to the installation and/or after the breaching of the saltwater barriers.*
- O. *Certificate owner shall provide reports to the Texas Water Commission and Texas Parks and Wildlife Department for the seven-day period prior to the installation of the structures. These reports should include salinity surveys and reservoir stage and outflow conditions for Steinhagen Reservoir and Sam Rayburn Reservoir.*
- P. *Certificate owner shall consult with Texas Parks and Wildlife Department concerning the installation of fish passes in the saltwater barriers and will implement such installation as deemed necessary.*
- Q. *This amendment shall expire and become null and void on December 31, 2001 unless prior to such date certificate owner applies for an extension hereof and such application is subsequently granted for an additional term or in perpetuity. The priority date of this amendment and any extensions hereof shall be February 6, 1991.*

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 06-4411, as amended, except as specifically amended herein.

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

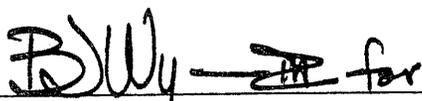
Certificate owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

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

Certificate owner shall use those practices, techniques and technologies that will reduce the loss or waste of water and improve the efficiency and use of water so that only so much water as can be beneficially used will be diverted.

This amendment is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

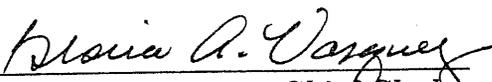
TEXAS WATER COMMISSION



John Hall, Chairman

DATE ISSUED: AUG 09 1991

ATTEST:



Gloria A. Vasquez, Chief Clerk

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Water Commission in issuing this amendment.

NOW, THEREFORE, this amendment to Certificate No. 06-4411 is issued to Lower Neches Valley Authority, subject to the following provisions:

1. IMPOUNDMENT

Paragraph 1.B. of the certificate is amended to read as follows:

Owner is authorized to store water in an existing dam and reservoir (B.A. Steinhagen Lake or Dam B) on the Neches River which is owned by the United States of America and operated by the U.S. Corps of Engineers. The amount of water to be stored is equivalent to a release of not to exceed 2000 cfs for owner's authorized uses and the total amount of water released for owner's use must not exceed 820,000 acre-feet. The dam is located in the Peter B. Pry Grant, Abstract 31, Jasper County and the James Perkins Grant, Abstract 29, Tyler County, Texas.

2. USE

Paragraph 2 of the certificate is amended to read as follows:

A. Certificate owner is authorized to divert and use not to exceed 114,202 acre-feet of water per annum for municipal purposes. The water authorized herein shall be diverted from the following sources and in the amounts indicated:

- (1) Pine Island Bayou & the Neches River 4202 acre-feet
- (2) Lake Sam Rayburn & B.A. Steinhagen Lake 110,000 acre-feet

B. Certificate owner is authorized to divert and use not to exceed 651,314 acre-feet of water per annum for industrial purposes. The water authorized herein shall be diverted from the following sources and in the amounts indicated:

- (1) Pine Island Bayou & the Neches River 51,314 acre-feet
- (2) Lake Sam Rayburn & B.A. Steinhagen Lake 600,000 acre-feet

C. Certificate owner is authorized to divert and use not to exceed 436,360 acre-feet of water per annum for the irrigation of 85,000 acres of land. The water authorized herein shall be diverted from the following sources and in the amounts indicated:

- (1) Pine Island Bayou & the Neches River 326,360 acre-feet
- (2) Lake Sam Rayburn & B.A. Steinhagen Lake 110,000 acre-feet

D. Certificate owner is authorized to store, divert and use water pursuant to Certificate of Adjudication No. 06-4411, as amended, in that portion of the Neches-Trinity Coastal Basin within the owner's boundaries and in the Neches River Basin within or without the boundaries of such owner as provided in Article 8280-103 Vernon's Annotated Texas Statutes.

3. DIVERSION

In lieu of the diversion rate of 633 cfs (284,850 gpm) included in Paragraph 3.E. of the certificate, owner is authorized to divert water at a maximum rate of 980 cfs (440,000 gpm) at the described diversion point on Pine Island Bayou.

In lieu of the diversion rate of 633 cfs (284,850 gpm) included in Paragraph 3.F. of the certificate, owner is authorized to divert water at a maximum rate of 936 cfs (420,000 gpm) at the described diversion point on Pine Island Bayou.

4. PRIORITY

Paragraph 4.D. of the certificate is amended to read as follows:

The time priority of owner's right is November 12, 1963 for the diversion and use of the remaining 110,000 acre-feet of water per annum for municipal purposes; the remaining 600,000 acre-feet of water per annum for industrial purposes; the remaining 110,000 acre-feet of water for irrigation purposes and all of the 86 cfs (38,700 gpm) of the diversion rate at the diversion point in the Benjamin Richardson Survey.

Paragraph 4.E. is hereby added to the certificate as follows:

The time priority of owner's right is February 10, 1987 for the additional 347 cfs (155,150 gpm) of the diversion rate at the point described in Paragraph 3.E. of the certificate and for the additional 303 cfs (135,150 gpm) of the diversion rate at the point described in Paragraph 3.F. of the certificate.

5. SPECIAL CONDITIONS

Paragraph 5.E. of the certificate is amended to read as follows:

Certificate owner shall secure, on a monthly basis, data as to the water released from B.A. Steinhagen Reservoir (Dam B). Such data may be obtained from the U.S. Army Corps of Engineers or other approved means. Owner shall measure within 5% accuracy the amount of water diverted and used at the other authorized points of diversion.

Paragraph 5.G. of the certificate is amended to read as follows:

Certificate owner shall secure, on a monthly basis, a report of the amount of water released for each authorized purpose from B.A. Steinhagen Reservoir (Dam B) for owner's use. Said report may be obtained from the United States Army Corps of Engineers or other approved means. Owner shall also measure the amount of water diverted from Pine Island Bayou and the Neches River for each authorized purpose and shall report annually on forms provided by the Commission.

Paragraph 5.H. of the certificate is amended to read as follows:

Certificate owner shall, upon request from the Commission, obtain for B.A. Steinhagen Reservoir from the Corps of Engineers, or by other approved means, and provide to the Commission, daily reports of reservoir levels, daily releases of water through the dam, and daily inflows into the reservoir. Owner shall also, upon Commission's request, obtain from the U.S. Geological Survey, or by other approved means, and provide sedimentation data within the reservoir and chemical quality data of the stored water.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 06-4411, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Neches River Basin and the Neches-Trinity Coastal Basin.

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

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

This amendment is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

DATE ISSUED:

/s/ Paul Hopkins
Paul Hopkins, Chairman

June 10, 1987

AT ST:

/s/ Ralph Roming
Ralph Roming, Commissioner

/s/ Mary Ann Hefner
Mary Ann Hefner, Chief Clerk

/s/ John O. Houchins
John O. Houchins, Commissioner

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 06-4411 OWNER: Lower Neches Valley Authority
P.O. Drawer 3464
Beaumont, Texas 77704

COUNTIES: Jefferson, Hardin, Jasper, Tyler, Liberty and Chambers PRIORITY DATES: August 12, 1913,
November 8, 1913,
December 31, 1924,
and November 12,
1963

WATERCOURSE: Angelina River and Pine Island Bayou tributaries to the Neches River and the Neches River BASIN: Neches River

WHEREAS, by final decree of the 344th Judicial District Court of Chambers County, in Cause No. 344-10864, In Re: The Adjudication of Water Rights in the Lower Neches and Angelina Rivers Segment of the Neches River Basin and the Eastern Portion of the Neches-Trinity Coastal Basin, dated October 30, 1985, a right was recognized under Certified Filing 4, Certified Filing 134, Permit 823, Permit 826 and Permit 2124 authorizing the Lower Neches Valley Authority to appropriate waters of the State of Texas set forth below;

WHEREAS, the Lower Neches Valley Authority on August 24, 1956, entered into a contract with the United States of America for conservation storage in Sam Rayburn Reservoir and B. A. Steinhagen Reservoir;

NOW, THEREFORE, this certificate of adjudication to appropriate waters of the State of Texas in the Neches-Trinity Coastal Basin is issued to the Lower Neches Valley Authority, subject to the following terms and conditions:

1. IMPOUNDMENT

- A. Owner is authorized to store water in an existing dam and reservoir (Lake Sam Rayburn) on the Angelina River which is owned by the United States of America and operated by the U.S. Corps of Engineers. The minimum amount of water to be stored above elevation 149 feet mean sea level is at least sufficient to generate power equivalent to 42,200 kilowatts for a minimum period of 75 hours per month for each of the six monthly periods from mid-April through mid-October of each year. The dam is located in the Thomas McGalin Grant, Abstract 26 and the Marion Smith Survey 38, Abstract 939, Jasper County, Texas.
- B. Owner is authorized to store water in an existing dam and reservoir (B.A. Steinhagen Lake or Dam B) on the Neches River which is owned by the United States of America and operated by the U.S. Corps of Engineers. The amount of water to be stored is equivalent to a release of not to exceed 2000 cfs for owner's authorized uses and the total amount of water released must not exceed 820,000 acre-feet. The dam is located in the Peter B. Pry Grant, Abstract 31, Jasper County and the James Perkins Grant, Abstract 29, Tyler County, Texas.

2. USE

- A. Owner is authorized to divert and use not to exceed 54,202 acre-feet of water per annum for municipal purposes within the service area of the Lower Neches Valley Authority. The water authorized herein shall be diverted from the following sources and in the amounts indicated:
 - (1) Pine Island Bayou & the Neches River....4,202 acre-feet
 - (2) Lake Sam Rayburn & B.A. Steinhagen Lake.....50,000 acre-feet

- B. Owner is authorized to divert and use not to exceed 711,314 acre-feet of water per annum for industrial purposes within the service area of the Lower Neches Valley Authority. The water authorized herein shall be diverted from the following sources and in the amounts indicated:

- (1) Pine Island Bayou & the Neches River....51,314 acre-feet
- (2) Lake Sam Rayburn &
B.A. Steinhagen Lake.....660,000 acre-feet

- C. Owner is authorized to divert and use not to exceed 436,360 acre-feet of water per annum for the irrigation of 85,000 acres of land within the service area of the Lower Neches Valley Authority in Chambers, Liberty and Jefferson Counties, Texas. The water authorized herein shall be diverted from the following sources and in the amounts indicated:

- (1) Pine Island Bayou & the Neches River...326,360 acre-feet
- (2) Lake Sam Rayburn &
B.A. Steinhagen Lake.....110,000 acre-feet

3. DIVERSION

Locations and rates:

- A. At the outlet works of the hydro-electric generating facilities at Sam Rayburn Dam located in the Thomas McGalin Grant, Abstract 26, Jasper County, Texas, at an unspecified maximum rate of diversion.
- B. At the outlet structure of B.A. Steinhagen Dam (Dam B) located in the James Perkins Grant, Abstract 29, Tyler County, Texas, at a maximum rate of not to exceed 2000 cfs (900,000 gpm).
- C. At a point on the Neches River in the Benjamin Richardson Survey, Abstract 413, Jasper County, Texas at a maximum rate of not to exceed 86.00 cfs (38,700 gpm).
- D. At a point on the Neches River in the A.W. Smith Grant, Abstract 47, Hardin County, Texas at an unspecified maximum rate of diversion.
- E. At a point on Pine Island Bayou in the Wesley Dyches Grant, Abstract 17, Jefferson County, Texas at a maximum rate of not to exceed 633.00 cfs (284,850 gpm).
- F. At a point on Pine Island Bayou in the Thomas Spear Grant, Abstract 50, Jefferson County, Texas at a maximum rate of not to exceed 633.00 cfs (284,850 gpm).

4. PRIORITY

- A. The time priority of owner's right is August 12, 1913, for the diversion and use of 107,108 acre-feet of water for irrigation purposes at a maximum rate of 450 cfs (202,500 gpm) at the diversion point located in the said Wesley Dyches Grant.
- B. The time priority of owner's right is November 8, 1913, for the diversion and use of an additional 219,252 acre-feet of water for irrigation purposes at a maximum rate of 588 cfs (264,600 gpm) at the diversion point located in the said Thomas Spear Grant.
- C. The time priority of owner's right is December 31, 1924, for the diversion and use of 4,202 acre-feet of water per annum for municipal purposes; 51,314 acre-feet of water per annum for industrial purposes; an additional 30 cfs (13,500 gpm) at the diversion point in the Wesley Dyches Grant and an additional 45 cfs (20,250 gpm) at the diversion point in the Thomas Spear Grant.

- D. The time priority of owner's right is November 12, 1963, for the diversion and use of the remaining 50,000 acre-feet of water per annum for municipal purposes; the remaining 660,000 acre-feet of water per annum for industrial purposes; the remaining 110,000 acre-feet of water for irrigation purposes and all of the 86.00 cfs (38,700 gpm) of the diversion rate at the diversion point in the Benjamin Richardson Survey.

5. SPECIAL CONDITIONS

- A. Owner's right to request release of, transport, divert, and use the water authorized for irrigation of the lands described herein shall not be construed as an exclusive license or right of the owner to supply water to said lands for irrigation or other beneficial uses.
- B. Owner must not claim any water imported into either the Angelina or Neches Rivers Basin by virtue of any rights authorized by this certificate of adjudication.
- C. Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements.
- D. Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.
- E. Owner shall install and maintain automatic water metering instruments at the point of releases at Dam "B" and at the points of diversion authorized herein, which will record within five percent (5%) of accuracy, the water released, diverted and used.
- F. Owner shall return all water diverted but not consumed to the Neches River or to Taylor Bayou in Jefferson County, Texas.
- G. Owner shall keep a record, on a monthly basis, of the amount of water released from B. A. Steinhagen Reservoir (Dam "B") and diverted from the Neches River and Pine Island Bayou for each purpose authorized herein and shall report annually on forms provided by the Commission.
- H. Owner shall, upon request from the Commission, provide daily reservoir levels, daily releases of water through the dam, and daily inflows into the reservoir. Owner shall also provide sedimentation data within the reservoir and chemical quality data of the stored water.
- I. Owner shall file copies of all water supply contracts entered into with persons who receive water from any authorized diversion point.
- J. Owners shall make no diversions of water from the diversion points, downstream of the dam, under the priority date of November 12, 1963, except to the extent that water for such diversions is released from B. A. Steinhagen Reservoir (Dam "B").
- K. Owner is authorized to use the bed and banks of the Neches River, the Lakeview Canal and Pine Island Bayou below B. A. Steinhagen Dam (Dam "B"), to convey and deliver water to be appropriated here under to downstream diversion points.
- L. Owner shall order releases to be made by the Corps of Engineers from B. A. Steinhagen reservoir at any time so long as

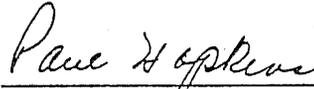
such releases when combined with local runoff below Dam B will not cause flooding.

The locations of pertinent features related to this certificate are shown on Pages 8, 19, 22, and 24 of the Lower Neches and Angelina Rivers Segments Certificates of Adjudication Maps, copies of which are located in the office of the Texas Water Commission, Austin, Texas and the offices of the County Clerk of Jefferson, Hardin, Jasper, Tyler, Liberty and Chambers Counties.

This certificate of adjudication is issued subject to senior and superior water rights in the Neches River Basin.

This certificate of adjudication is issued subject to the Rules of the Texas Water Commission and its continuing right of supervision of State water resources consistent with the public policy of the State as set forth in the Texas Water Code.

TEXAS WATER COMMISSION



Paul Hopkins, Chairman

DATE ISSUED:

AUG 8 1986

ATTEST:



Mary Ann Heiner, Chief Clerk