

P.O. Box 1349
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The applicant, W.C.I.D. No. 1 (WCID) proposes, among other things, to amend Certificate of Adjudication No. 11-5170, as amended to add irrigation use, to add diversion points along the perimeters of four authorized reservoirs along Oyster Creek diversion points, and to apply for an exempt interbasin transfer of the authorization water from the San Jacinto-Basin Coastal Basin to the Brazos River Basin and the San Jacinto River Basin.

Effect of Proposed Water Right Amendment on Gulf Coast Water Authority

The Authority convey its Brazos River Certificate of Adjudication 12-5178, Brazos River Water Certificate of Adjudication 12-5171, and Contracted Brazos River Water Authority, water all owned by the Authority, via Jones Creek and Oyster Creek from the Brazos easterly into Jones Creek then easterly into upper Oyster Creek through Dam 1, then easterly through Dam 2 to a point just prior to Dam 3 where it diverts by pumps the conveyed Brazos River water into a manmade canal to customers in Fort Bend, Brazoria, and Galveston Counties.

In 1948 the Authority (formerly Brazos river Authority, formerly American Canal Company) filed an application and received a Water Right 1467 (now COA 11-5169 and COA 11-5170) in 1948 to use seven dams to impound 30 KAFY of rain and storm water and add in the application the amount of 12 KAF of the 30 KAF for Fort Bend WCID No. 1 the applicant.

1) Impounded Water 12 KAF Quantity Error Propagation:

In 1985 the parent Water Right 1467 was amended as 1467D. In the amendment process ownership of the parent Water Right 1467 quantities of impound water were reversed with 18 KAF originally owned by GCWA assigned to the WCID, and the 12 KAF owned by WCID of the 30 KAF assigned to the Authority. Propagation of this error impacts the Authority's right to any water not used for industrial and municipal uses over the WCID original 12 KAF (vs. over the 18 KAF).

2) Irrigation use impact on Authority ownership:

The Authority as joint owner of the impound water with the WCID is authorized to divert any portion of the WCID 18,000 AF under 11-5170 not actually consumed for municipal and industrial purposes. Authorization to add agricultural use takes water that WCID does not currently have authorization to use from water that is owned by the Authority under COA 11-5169 and authorized to be used by the Authority in Water Right 1467 (now both COA 11-5169 and COA 11-5170).

3) Perfected Impoundment Volume and Water Ownership:

A technical review of water elevation variation and current volume will reveal that there is no rain water pooling elevation reservoir for the impoundment of rain and storm water due to a loss of depth (silt) and the inability to allow the elevation to increase during rains (neighboring development, subsidence, flood control strategies). Without the ability to increase elevation during rainfall events the water present in the reservoir is the water conveyed through the reservoir by the Authority from the Brazos under Brazos River Certificate of Adjudication 12-5178, Brazos River Water Certificate of Adjudication 12-5171, and Contracted Brazos River Water Authority and is therefore owned by the Authority. The only impounded COA 11-5170 water available is water the WCID could remove from the reservoir "during" a rain event before the water is allowed to spill out of the reservoir.

4) State Plan Consistency

The State Plan includes the 12 KAFY of impounded water in the Authority's 236 KAFY total surface water supplies to meet municipal and industrial use. Any uses of a questionable volume of water added to this volume and the taking of the Authority's Brazos River and BRA Contract water in Oyster Creek will be a direct conflict with these supplies already assigned in the State Water Plan.

5) Beneficial Use

Texas Water Code § 11.134 (b)(3)(A) requires proposed appropriation of water be intended for a beneficial use. The applicant plans to use the water to water parks and street green belts and maintain lakes. The use

is a lower benefit and in addition takes water away from beneficial municipal and industrial uses that are already designated for the water, assuming it is available.

The Authority is willing to discuss permit conditions that would relieve it from the threatened impacts of the application. The Authority also must reserve the right to raise additional issues as a technical review of the application is not yet available.

Conclusion

The Authority requests that the Commission convene a Contested Case Hearing regarding Fort Bend County W.C.I.D. No.1 Application No. 11-5170A of pursuant to a surface Water Supply Agreement with the City of Sugar Land.

Sincerely,



Robert Istre
General Manager
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