

**TCEQ DOCKET NO. 2011-2134-WR**

|                                |          |                                    |
|--------------------------------|----------|------------------------------------|
| <b>APPLICATION BY THE GOLF</b> | <b>§</b> |                                    |
| <b>CLUB AT CIRCLE C, L.P.</b>  | <b>§</b> | <b>BEFORE THE TEXAS COMMISSION</b> |
| <b>APPLICATION FOR WATER</b>   | <b>§</b> | <b>ON ENVIRONMENTAL QUALITY</b>    |
| <b>RIGHTS PERMIT NO. 5852</b>  | <b>§</b> |                                    |

**APPLICANT'S RESPONSE TO REQUEST  
FOR A CONTESTED CASE HEARING**

Applicant The Golf Club at Circle C, L.P. files this Response to the request for a contested case hearing on its application for Water Rights Permit No. 5852. The only timely request for a contested case hearing was filed by Mr. Ira Jon Yates. Applicant respectfully requests that, if the Commissioners grant Mr. Yates' request for a contested case hearing, they limit the issues at the hearing to the relevant issues raised in Mr. Yates' letter.

**BACKGROUND: MR. YATES IS THE ONLY PERSON WHO HAS  
REQUESTED A CONTESTED CASE HEARING**

**Original application.** On July 1, 2004, Applicant filed an application for a water rights permit. The application sought three things. First, it sought to permit five reservoirs that a prior golf course owner had constructed on Danz Creek and its unnamed tributaries. Second, it sought to permit the existing practice of discharging groundwater into the largest of those ponds, then diverting that water for irrigation purposes. Third, the developers of single-family lots adjacent to the golf course had built a reservoir off Danz Creek to meet City of Austin detention and water quality requirements. The reservoir was designed so that, when the water in Danz Creek reaches a certain level following a rainfall event, the water above that level, which includes runoff from the single-family developments, is diverted into the reservoir. Applicant sought to permit the diversion of water into the off-channel reservoir and its subsequent use for irrigation.

Notice of the application was mailed and published in June 2005. *See Attachment 1*. The Commission received two timely requests for a contested case hearing in response to that notice:

one from the Lower Colorado River Authority (LCRA) and one from Mr. Ira Jon Yates. *See Attachment 2.* A number of other persons requested a public meeting and filed comments on the application. A public meeting was held on November 29, 2005. Many of the comments made in writing or at the public meeting focused on Applicant's existing use of existing groundwater wells to irrigate the golf course. In June 2007 and August 2007, the Executive Director responded to comments and circulated a draft Water Use Permit No. 5852. Applicant, LCRA, and the City of Austin commented on the draft.

**Amended application.** Shortly afterward, Applicant began discussions with LCRA. On October 15, 2008, Applicant entered into a contract with LCRA to purchase the surface water to be used for irrigation. The contract provides that Applicant "shall have the right to impound up to a combined maximum 78.4 acre-feet in the five on-channel and one off-channel reservoirs and to use such reservoirs to divert therefrom a maximum of 262 acre-feet per year for irrigation purposes."

On October 17, 2008, Applicant submitted an amended application to reflect diversions under the contract with LCRA. The amended application was declared administratively complete in May 2009. In January 2011, the Executive Director sent a revised notice, a revised draft permit, and related technical memoranda to all persons and entities that had requested a contested case hearing, requested a public meeting, or made comments on the original application. *See Attachment 3.* To Applicant's knowledge, Applicant was the only party to comment on the revised notice and permit.

In March 2011, notice of the amended application was mailed and published. *See Attachment 4.* Only one person, Mr. Yates, filed a request for a contested case hearing or comments in response to the amended notice. *See Attachment 5.* LCRA filed a letter

withdrawing its prior request for a contested case hearing, but reserving its right to participate in a hearing if any other request for a contested case hearing were granted. *See Attachment 6.*

**HEARING SHOULD BE LIMITED TO THE ISSUES  
RAISED IN MR. YATES' REQUEST**

Mr. Yates' request for a contested case hearing says that he is "the immediate contiguous downstream owner of agricultural land," and that the diversion of water under the application "will further reduce the natural flows of water and therefore reduce the available moisture for the natural rangeland grasses that support my agricultural operation and "that the natural recharged process will be affected which in turn may affect the two wells I have."

Mr. Yates' letter raises several issues regarding the application. First, Mr. Yates asserts that the reservoir constructed off Danz Creek (the South Austin Regional Irrigation Storage Pond or SARISP) is located on a watercourse and is affecting a "critical environmental feature" below the pond on Mr. Yates' property, so that "recharge to the Edwards Aquifer is already being affected." Mr. Yates expresses concerns about the Applicant's ability to adequately measure the groundwater and purchased water that is used to irrigate the golf course or lost to evaporation. Mr. Yates also states that the LCRA contract "does not protect the integrity of the natural water system in Danz Creek and downstream to the confluence of Onion Creek and the Colorado River."

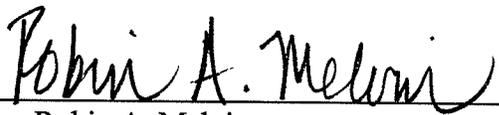
Applicant respectfully requests that, if Mr. Yates' request for a contested case hearing is granted, then the issues at the hearing be limited to the issues raised in his letter, to the extent they are relevant under the Water Code: (1) whether the application impairs Mr. Yates' vested riparian rights; (2) the application's effect on groundwater or groundwater recharge; (3) whether Applicant's accounting plan and the draft permit provisions are adequate to determine whether Applicant has diverted more water than the groundwater discharged into Danz Creek and the

amount of water purchased from LCRA; and (4) and the application's effect on the "natural water system" between Applicant's property and the Colorado River.

Limiting the issues will conserve the resources of the Commission and the parties and provide an efficient process leading to a timely decision on the application.

Respectfully submitted,

Robin A. Melvin  
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By:   
Robin A. Melvin

**ATTORNEYS FOR THE GOLF CLUB  
AT CIRCLE C, L.P.**

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing has been served by facsimile or first class mail on this the 5<sup>th</sup> day of March, 2012, to the persons on the attached mailing list.

  
Robin A. Melvin

**MAILING LIST**  
**THE GOLF CLUB AT CIRCLE C, L.P.**  
**DOCKET NO. 2011-2134-WR; WRPERM 5852**

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**FOR PUBLIC INTEREST COUNSEL:**  
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**FOR ALTERNATIVE DISPUTE  
RESOLUTION**  
via electronic mail:

Mr. Kyle Lucas  
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**FOR THE CHIEF CLERK:**

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**Please see attached list of requesters and  
interested persons.**

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF WATER RIGHTS APPLICATION

### APPLICATION NO. 5852

The Golf Club at Circle C, LP has applied for a water use permit to maintain an existing off-channel reservoir and five (5) existing dams and reservoirs on an unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin for recreational and/or agricultural (irrigation) purposes, convey and store groundwater and stormwater for subsequent diversion, and use the bed and banks of an unnamed tributary of Danz Creek and Danz Creek. They further request to convey and store groundwater, stormwater and state water in the existing off-channel reservoir and subsequently convey stored water back to Reservoir 1 for diversion. All use of state water will be compensated for by the use of groundwater and stormwater. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The Golf Club at Circle C, LP, 7401 Highway 45, Austin, Texas 78739, Applicant, seeks a Water Use Permit pursuant to Texas Water Code (TWC) §§11.121 and 11.042 and Texas Commission on Environmental Quality (TCEQ) Rules 30 Texas Administrative Code (TAC) §§295.1, et seq. Notice is being published and mailed to water rights holders of record in the Colorado River Basin pursuant to 30 TAC §295.151.

The Golf Club at Circle C, LP seeks authorization to maintain three existing dams and reservoirs pursuant to TWC §11.143 and two (2) existing dams and reservoirs created as part of golf course construction, located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin and an existing off-channel reservoir for in-place recreational and/or agricultural purposes.

Applicant also seeks to convey and store for subsequent use approximately 262.5 acre-feet of groundwater and stormwater using the bed and banks of an unnamed tributary of Danz Creek and Danz Creek for agricultural purposes from reservoirs 1, 2, 3, & 4 to irrigate 115 acres of land out of 2 tracts of land totaling 275,6244 acres. In addition, applicant seeks to use the bed and banks of both creeks and the reservoirs to convey stormwater and groundwater into those reservoirs to account for losses due to evaporation, evapotranspiration, infiltration, and diversions for irrigation so there will be no net diversion or consumptive use of state water by the applicant.

Attachment 1

Applicant further seeks to store groundwater and stormwater in Reservoir 1 and transport via underground pipe to the off-channel reservoir (known as Southwest Austin Regional Irrigation Storage Pond (SARISP)). During dry periods, private water stored in the SARISP will be pumped back to Reservoir 1 using the underground pipe for storage and subsequent diversion.

Dam and Reservoir are described as follows:

- Reservoir 1 (Irrigation Pond Dam) is located on Danz Creek, 15.2 miles southwest from the City of Austin. The reservoir has a capacity of 20.1 acre-feet of water with a surface area of 3.1 acres. The dam is located in the Thomas Brite Original Survey No. 65, Abstract No. 98. Station 1+00 on the centerline of the dam is S 7.817° W, 2,070 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182° N, Longitude 97.911° W.
- Reservoir 2 (Holes 7 & 8 Pond) is located on Danz Creek, 14.8 miles southwest from the City of Austin. The reservoir has a capacity of 1.3 acre-feet of water with a surface area 0.7 acres. The dam is located in the Corbet Stevens Original Survey No. 63, Abstract 740. Station 1+00 on the centerline of the dam is N 58.267° W, 1,310 feet from the northwest corner of the Brite Survey, also being at Latitude 30.189° N, Longitude 97.914° W.
- Reservoir 3 (Hole 16, lower pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest from the City of Austin. The reservoir has a capacity 3.0 acre-feet of water with a surface area of 1.1 acres. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is N 40.550° W, 2,830 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181° N, Longitude 97.916° W.
- Reservoir 4 (Hole 13 pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 2.0 acre-feet of water with a surface area 0.5 acres. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 11.050° W, 3,740 feet from the northwest corner of the Brite Survey, also being at Latitude 30.177° N, Longitude 97.912° W.
- Reservoir 5 (Hole 16, upper pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 1.4 acre-feet with a surface area of 0.5 acres. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is N 47.850° W, 2,557 feet from the northwest corner of the Brite Survey, also being at Latitude 30.183° N, Longitude 97.916° W.

The SARISP is 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 50.6 acre-feet of water with a surface area of 7.8 acres. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 35.233° W, 2,981 feet from the northwest corner of the Brite Survey, also being at Latitude 30.180° N, Longitude 97.904° W.

Diversion points and diversion rates are described as follows:

- Diversion point 1 (DIV1A) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,720 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182° N, Longitude 97.909° W. Water will be diverted by 3 pumps at a maximum combined diversion rate of 3.899 cfs (1,750 gpm).
- Diversion point 2 (DIV1B) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing N 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182° N, Longitude 97.909° W. Water will be diverted through a grated inlet into the Southwest Austin Properties Regional Irrigation Storage Pond at a maximum diversion rate of 18.000 cfs (8,080 gpm).
- Diversion point 3 (DIV2) is located on the perimeter of Reservoir 2, 14.8 miles southwest from the City of Austin, bearing N 58.267° W, 1,310 feet from the northwest corner of the Brite Survey, also being at Latitude 30.189° N, Longitude 97.934° W. Water will be diverted at a maximum diversion rate of 0.668 cfs (300 gpm).
- Diversion point 4 (DIV3) is located on the perimeter of Reservoir 3, 15.6 miles southwest from the City of Austin, bearing N 40.550° W, 2,830 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181° N, Longitude 97.916° W. Water will be diverted at a maximum diversion rate of 0.668 cfs (300 gpm).
- Diversion point 5 (DIV4) is located on the perimeter of Reservoir 4, 15.6 miles in a southwest of the City of Austin, bearing S 11.001° W, 3,740 feet from the northwest corner of the Brite Survey, also being at Latitude 30.183° N, Longitude 97.912° W. Water will be diverted at a maximum diversion rate of 0.668 cfs (300 gpm).

To compensate for state water captured in the reservoirs, diverted for irrigation purposes, diverted into the SARISP, or losses due to evaporation, infiltration, and evapotranspiration; groundwater and stormwater will be discharged into unnamed tributary of Danz Creek and Danz Creek. The discharge points are described as follows:

• Discharge point 1 (DIS1) is on the perimeter of Reservoir 1, 15.2 mile southwest of the City of Austin, bearing S 6.517° W, 1,560 feet from the Northwest corner of the Brite Survey, also being at Latitude 30.183° N, Longitude 97.910° W. Water will be discharged at a maximum rate of 1.0 cfs (450 gpm). Approximately 93 acre-feet of groundwater and 187 acre-feet of stored water from the SARISP will be discharged into Reservoir 1.

• Discharge point 2 (DIS2) is on the perimeter of Reservoir 2, 14.8 miles southwest of the City of Austin, bearing N 54.083° W, 1,370 feet from the northwest corner of the Brite Survey, also being at Latitude 30.190° N, and Longitude 97.913° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm) from the irrigation system and 140.4 cfs (63,016 gpm) from the Somerset Estates Subdivision Stormwater. Approximately 2.9 acre-feet of water from the irrigation system discharges and 29.8 acre-feet from the Somerset Estates Subdivision Stormwater discharges will be discharged into Reservoir 2.

• Discharge point 3 (DIS3) is on the perimeter of Reservoir 3, 15.6 miles southwest of the City of Austin, bearing S 37.150° W, 2,640 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181° N, Longitude 97.914° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm). Approximately 4.3 acre-feet of water will be discharged into the Reservoir 3.

• Discharge point 4 (DIS4) is on the perimeter of Reservoir 4, 15.6 miles southwest of the City of Austin, bearing S 15.950° W, 3,440 feet from the northwest corner of the Brite Survey, also being at Latitude 30.177° N, Longitude 97.913° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm). Approximately 2.1 acre-feet of water will be discharged into Reservoir 4.

• Discharge point 5 (DIV1B) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182° N, Longitude 97.909° W. Water will be discharged at a maximum rate of 4.5 cfs (2,000 gpm). Approximately 187 acre-feet of stored water (same water described in discharge point 1) from SARISP will be discharged into Reservoir 1.

• Discharge point 6 (DISCRK) is the discharge line form Reservoir 1 into Danz Creek, 15.2 miles southwest from the City of Austin, bearing S 4.383° W, 1,960 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181° N, Longitude 97.910° W. Water will be discharged at a maximum rate of 5.6 cfs (2,510 gpm).

Ownership of the land inundated by reservoirs 1, 2, 3, & 4 and the land to be irrigated is evidenced by Special Warranty Deed Doc. No. 203148469 in the Official Records of Travis County.

Reservoir 5 (Hole 16, upper pond) is partially owned by The Golf Club at Circle C, LP and Circle C Land, LP. Both parties have entered into a Pond Maintenance Agreement dated December 27, 2004, which describes the ownership and the maintenance regarding the Reservoir 5.

The SARISP is located on land owned by Phoenix Holdings, LTD. The Golf Club at Circle C, LP, Phoenix Holdings, LTD., Eleven Castle Management Company, Inc, and Newmark Homes, L.P. have entered into a Pond Maintenance and Use Agreement dated October 30, 2003 which describes the ownership, maintenance and the use of the water collected in the pond.

Applicant has two groundwater wells that can produce a combined total of 568,800 gpd or 639 acre-feet of groundwater a year. Applicant has also submitted accounting procedures which will help determine the amount of State water that has been captured and diverted in order for the applicant to compensate with discharges of groundwater and/or stormwater.

The applicant indicates that while Reservoir 5 (Hole 16 Upper Pond) is currently on-channel and receives state water, but installation of proposed channel improvements will limit future inflows into the pond to diffused stormwater.

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

The application was received on July 12, 2004. Additional information was received November 4, November 10, 2004, January 10, 2005, February 24, 2005, and April 6, 2005. The application was declared administratively complete and was accepted for filing with the Office of Chief Clerk on April 19, 2005.

**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](http://www.tceq.state.tx.us).

Issued: May 19, 2005



Ms. LaDonna Castañuela

July 7, 2005

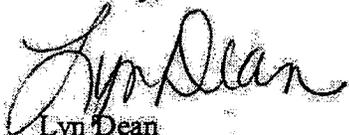
Page 2

tributary of Danz Creek and Danz Creek, which is a tributary of the Colorado River, because it appears that any such permit could adversely affect LCRA's senior water rights, as more specifically described below.

LCRA is still in the process of reviewing the materials provided by the Applicant and has identified at least two concerns that warrant a hearing, although additional issues may be identified before any hearing is held. First, although Applicant's request states that there will be no consumptive use of "state water," the use of stormwaters that have drained into natural watercourses seems to fall squarely within the definition of "state water." See Texas Water Code § 11.021. That the Applicant has estimated the volume of the stormwater entering these watercourses is irrelevant to the character of the water itself as "state water." To the extent that Applicant is seeking to use state water, LCRA is adversely affected because it holds downstream senior water rights entitled to inflows from Danz Creek that would otherwise enter the Colorado River and because diversion of those inflows could also affect LCRA's obligation to maintain certain instream flows in the lower Colorado River basin. Further, even if the stormwater is somehow characterized as something other than "state water," Applicant admits that some state water will be passed through the same system of reservoirs as Applicant intends to use to irrigate its golf course. As a downstream water right holder, LCRA is entitled to a contested case hearing to ensure that appropriate conditions are included in the permit to protect LCRA from potentially adverse impacts of Applicant's management of state water. Specifically, while the notice states that the Applicant has submitted accounting procedures to ensure that no state water will be appropriated, LCRA is entitled to a hearing on the sufficiency of those accounting procedures.

I represent LCRA in this matter, so please forward any notices and correspondence to my attention. If you have any questions, please call me at (512) 473-3378.

Sincerely,



Lyn Dean  
Associate General Counsel  
Lower Colorado River Authority

cc: Ed McHorse (by U.S. Mail)  
Attorney for The Golf Club at Circle C, LP

*Ms. LaDonna Castañuela*

*July 7, 2005*

*Page 3*

bcc: Paul Thornhill  
Suzanne Zarling  
Karen Bondy  
Mark Jordan  
Becky Motal  
Henry Eby

John Grant (CRMWD) (by facsimile)

FROM

FAX NO.

Jul. 11 2005 03:33PM PL

OPA

JUL 12 2005

H

BY rc

Ira Jon Yates  
5711 Hwy 45  
Austin, Texas 78739  
512-282-1370

*WJR  
4/7/05*

July 11, 2005

La Donna Castanuela  
Chief Clerk, MC 105  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

*FAxed 7/11/05  
4:30 PM Austin time*

*ONE CLERK OFFICE  
JUL 11 2005*

Re: Notice of Water Rights Application No. 5852  
Golf Club at Circle C, LP

**Written Comments and Request for a Contested Case Hearing**

Dear Executive Director,

I am Ira Yates of 5711 Hwy 45 Austin Texas, 78739. My phone number and fax is 512-282-1370. The applicants name is The Golf Club at Circle C, LP and the application is Water Rights Application No. 5852. I request a contested case hearing on this matter. I will be affected by a way not common to the general public because I am the immediate contiguous down stream owner of agricultural land. Diversion of water from the associated tributaries will reduce the natural flows of water and therefore reduce the available moisture for the natural rangeland grasses that support my agricultural operation. In addition, I believe that the natural recharge process will be affected which in turn may affect the two wells that I have. These ponds are within a few hundred feet of my property.

**General Comments:**

I have high regard for the owners of the Golf Club. However, this proposal and subsequent approval will indicate that the TCEQ does not have the ability or intention of protecting the States water or the Edwards Aquifer.

In a letter dated July 1, 2005, Mr. James Isensee states "TCEQ staff has determined that the Regional Pond is not located on a watercourse and does not require a Water Use Permit." This Regional Pond is just up stream from my property. The streambed crosses my driveway where I have two 12 inch culverts. On heavier rainfall events, prior to the Pond, the water would exceed the capacity of the two pipes and flow over the driveway. After construction of the Pond and after it was full, the valve at the bottom of the dam was opened to drain the pond. The water flowed over my drive for 7 days. I believe the Pond is on a "watercourse" and that the TCEQ staff erred in their determination.

Recently there has been a development application filed at the City of Austin for the property adjacent to me between the Pond and my property. On that application, the applicant indicates a "critical environmental feature" in the streambed below the Pond and on my property. This leads me to the conclusion that recharge to the Edwards Aquifer is already being affected.

The application and its description of State water and private water and the commingling thereof and proposed metering and management is mind boggling. Who is really going to do this? Is it the watering crew hired to mow and water? Who at TECQ is going to check up on all of this? Will anyone review the data sent in periodically and if they do will they know what they are looking at and understand it? I know water has already been diverted from my land and the aquifer. I know no one at the TCEQ will be paying attention to the management of this integrated system of ponds and the associated metering, pumping and releases of water to equate for the original natural runoff and recharge.

Therefore, I strongly recommend a hearing on this matter so these issues can be properly addressed in a public forum before the full commission. This type of application for water rights immediately above the recharge zone of the Edwards Aquifer may set an important precedent that will be regretted later. This matter is an important policy matter.

In conclusion, although the owners of the Golf Club are nice folks, this application has far reaching implications and deserves a hearing.

Sincerely,



Ira Jon Yates

Cc: City of Austin  
Barton Springs Edwards Conservation Aquifer District

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 24, 2011

Mr. James Isensee, P.E., Project Manager  
JD Consulting, L.P.  
404 Camp Craft Road  
Austin, Texas 78746

RE: The Golf Club at Circle C, L.P.  
WRPERM 5852  
CN602665374, RN105675177, RN104337696, RN105675185, RN104337712,  
RN104337720, RN104337738, RN104337746, RN104337753, RN104337779,  
RN104337803, RN104337837, RN104337902, RN105987093  
Application No. 5852 for a Water Use Permit  
Texas Water Code §§ 11.121, 11.143, & 11.042, Requiring Mailed and Published  
Notice  
Unnamed Tributary of Danz Creek and Danz Creek, Colorado River Basin  
Travis County

Dear Mr. Isensee:

The draft re-notice, subject to revision, for the referenced application is enclosed. In addition, the draft permit, subject to revision, and the related technical memoranda are also enclosed.

Notice of this application was previously given in June, 2005, and a number of comments and contested case hearing request were received. The applicant has since amended its application to include a *Firm Water Contract* with the Lower Colorado River Authority. As such, the application must be re-noticed.

We are recommending that the application be granted in accordance with the enclosed draft permit. Please review the proposed draft notice and draft permit and contact me no later than February 24, 2011, with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

The persons on the attached mailing list either provided comments or requested a contested case hearing during the 2005 comment period and will also receive a copy of these documents.

### Attachment 3

Mr. James Isensee, P.E., Project Manager  
January 21, 2011  
Page 2 of 2

If you have questions concerning this application, please contact **Sonia Crawford** at [Sonia.crawford@tceq.texas.gov](mailto:Sonia.crawford@tceq.texas.gov) or by telephone at (512) 239-0636.

Sincerely,

Handwritten signature of Kellye Rila, appearing as "KR for".

Kellye Rila, Manager  
Water Rights Permitting Section  
Water Supply Division

Enclosures

cc: Robin Melvin  
Chip Gist  
Attached mailing list

ANDREW H BACKUS BOARD PRESIDENT  
HAYS TRINITY GROUNDWATER CONS DIST  
PO BOX 1648  
DRIPPING SPRINGS TX 78620-1648

FAY EVANS  
BEAR CREEK OAKS PROP OWNERS ASSOC  
PO BOX 91504  
AUSTIN TX 78709-1504

DAVID B KUMHYR  
8934 APPALOOSA RUN  
AUSTIN TX 78737-4015

SONY & JAMES BOLLMEYER  
13007 S MADRONE TRL  
AUSTIN TX 78737-4429

ERIN FOSTER  
8800 N MADRONE TRL  
AUSTIN TX 78737-4443

TERI & KEITH LAYTON  
8101 N MADRONE TRL  
AUSTIN TX 78737-4413

SONY & JAMES BOLLMEYER  
13007 S MADRONE TRL  
AUSTIN TX 78737-4429

LIZ GIFFORD  
8203 N MADRONE TRL  
AUSTIN TX 78737-4414

TERI & KEITH LAYTON  
8101 N MADRONE TRL  
AUSTIN TX 78737-4413

BILL BUNCH EXECUTIVE DIRECTOR  
SAVE OUR SPRINGS ALLIANCE  
PO BOX 684881  
AUSTIN TX 78768-4881

NICO M HAUWERT HYDROGEOLOGIST  
CITY OF AUSTIN  
PO BOX 1088  
AUSTIN TX 78767-1088

JACQUELINE MAGILL  
9200 MADRONE CIR  
AUSTIN TX 78737-4432

CINDY M BURNS  
8104 BEAR CREEK DR  
AUSTIN TX 78737-4401

DONALD & TURKAN HAYNES  
8300 CEDAR CV  
AUSTIN TX 78737-4435

SUSAN & JOSEPH MANZELLO  
9001 N MADRONE TRL  
AUSTIN TX 78737-4436

DOUGLAS BURNS  
8104 BEAR CREEK DR  
AUSTIN TX 78737-4401

DONALD & TURKAN HAYNES  
8300 CEDAR CV  
AUSTIN TX 78737-4435

SUSAN & JOSEPH MANZELLO  
9001 N MADRONE TRL  
AUSTIN TX 78737-4436

LYN CLANCY ASSOC GEN COUNSEL  
LCRA  
H429  
PO BOX 220  
AUSTIN TX 78767-0220

SHERRY HEIDEN  
8924 APPALOOSA RUN  
AUSTIN TX 78737-4015

HOLLY C NOELKE ASST CITY ATTY  
CITY OF AUSTIN  
PO BOX 1088  
AUSTIN TX 78767-1088

MIKI COOK  
8000 NILES CV  
AUSTIN TX 78737-4433

ROBERT D HEJL  
PO BOX 541  
MANCHACA TX 78652-0541

BRECK NOLEN  
8200 CEDAR CV  
AUSTIN TX 78737-4411

BRENDA JO COX  
13104 S MADRONE TRL  
AUSTIN TX 78737-4448

W F HOLLAND GENERAL MANAGER  
BARTON SPRINGS/ED AQUIFER CONS DIST  
1124 REGAL ROW  
AUSTIN TX 78748-3708

DR. CHARLES O'DELL  
14034 ROBINS RUN  
AUSTIN TX 78737-9227

JOE ELY  
PO BOX 91479  
AUSTIN TX 78709-1479

ROBIN HUDSON  
12801 S MADRONE TRL  
AUSTIN TX 78737-4427

TERRY & SHERILYNE PALMER  
13134 S MADRONE TRL  
AUSTIN TX 78737-4448

TERRY & SHERILYNE PALMER  
13134 S MADRONE TRL  
AUSTIN TX 78737-4448

IRA JON YATES  
5711 STATE HIGHWAY 45  
AUSTIN TX 78739-1902

SWAN & DAVID PERKINS  
8200 BEAR CREEK DR  
AUSTIN TX 78737-4402

ELLEN ZIMMERMANN  
8803 BEAR CREEK DR  
AUSTIN TX 78737-4408

SWAN & DAVID PERKINS  
8200 BEAR CREEK DR  
AUSTIN TX 78737-4402

CAROLYN RIFE  
9010 N MADRONE TRL  
AUSTIN TX 78737-4422

KATHRYN ROSENBLUTH  
6705 W HIGHWAY 290  
AUSTIN TX 78735-8400

BRIAN & TRACEY SHARPLES  
8501 N MADRONE TRL  
AUSTIN TX 78737-4417

BRIAN & TRACEY SHARPLES  
8501 N MADRONE TRL  
AUSTIN TX 78737-4417

BRUCE UPHAM MAYOR  
VILLAGE OF BEAR CREEK  
STE 502-244  
6705 W HIGHWAY 290  
AUSTIN TX 78735-8400

THE HONORABLE BRUCE UPHAM MAYOR  
VILLAGE OF BEAR CREEK  
13012 S MADRONE TRL  
AUSTIN TX 78737-4430

DAVID WENSLEY  
9325 N MADRONE TRL  
AUSTIN TX 78737-4446

**REVISED NOTICE OF A  
WATER RIGHTS APPLICATION**

**APPLICATION NO. 5852**

The Golf Club at Circle C, L.P. has applied for a water use permit, **pursuant to a Firm Water Contract with the Lower Colorado River Authority**, to maintain five existing dams and reservoirs on an unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin, for recreational and agricultural purposes, and an existing off-channel reservoir known as Southwest Austin Regional Irrigation Storage Pond, SARISP), which is adjacent to Danz Creek and connected to Reservoir 1 via pipeline, for agricultural (irrigation) purposes. **They also request a bed and banks authorization for Danz Creek to convey groundwater and diffused surface water captured in the SARISP for storage and subsequent diversion.** More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The Golf Club at Circle C, LP, 7401 Highway 45, Austin, Texas 78739, Applicant, seeks a Water Use Permit pursuant to Texas Water Code (TWC) §§11.121, 11.042 and 11.143, and Texas Commission on Environmental Quality (TCEQ) Rules 30 Texas Administrative Code (TAC) §295.1, et seq. Notice is being published and mailed to water rights holders of record in the Colorado River Basin pursuant to 30 TAC §295.151.

**Notice of the application was issued on May 19, 2005, to the water right holders of record in the Colorado River Basin, and the comment period ended July 11, 2005. On October 17, 2008, the applicant amended the application to include a Firm Water Contract with the Lower Colorado River Authority (LCRA), and to include more accurate bearing and distance coordinates. Pursuant to that request, notice is being republished and mailed to all water right holders of record in the Colorado River Basin.**

The Golf Club at Circle C, L.P. seeks a Water Use Permit to maintain on-channel dams and reservoirs (Reservoirs 1 – 5) located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin for recreational purposes. Applicant also seeks authorization to maintain Reservoir 1 and an existing off-channel reservoir known as the Southwest Austin Regional Irrigation Storage Pond (SARISP) for agricultural purposes.

Applicant continues to seek approval for diversion points DIV1A and DIV1B, and for discharge points DIS1A, DIS2, DIS3, DIS4, DIS1B, DISCRK, and DIS1C.

Applicant requests the right to store and convey not to exceed 262 acre-feet of water for subsequent diversion and use from Reservoir 1 and the SARISP. **Applicant has identified a water supply contract between the LCRA and the Applicant as an additional alternate source.** As originally proposed, the diverted water from Reservoir 1 will be used for agricultural purposes to irrigate 115 acres of land out of two tracts of land totaling 275.6244 acres.

Applicant requests authorization to use the bed and banks of Danz Creek to convey groundwater to account for losses due to evaporation, evapotranspiration, infiltration, and for storage and subsequent diversion for irrigation purposes; and to use the bed and banks of Reservoir 1 to convey diffused surface water captured in the SARISP for storage and subsequent diversion for irrigation.

**Applicant further seeks to maintain Reservoir 1 at its maximum operating level at all times. If sufficient water from Danz Creek or the SARISP is not available to maintain the reservoir at maximum level, the applicant will continue the current practice of discharging groundwater from an existing well into Reservoir 1 via underground pipe to maintain it at maximum level. Applicant indicates the Reservoirs are located in zip code 78739.**

The dams and reservoirs are described as follows:

Reservoir 1 (Irrigation Pond Dam) is located on Danz Creek, 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 20.1 acre-feet of water with a surface area of 3.1 acres. The dam is located in the Thomas Brite Original Survey No. 65, Abstract No. 98. Station 1+00 on the centerline of the dam is S 7.817° W, 2,070 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181357° N, Longitude 97.910578° W.**

Reservoir 2 (Holes 7 & 8 Pond) is located on Danz Creek, 14.8 miles southwest of the City of Austin. The reservoir has a capacity of 1.3 acre-feet of water with a surface area of 0.7 acre. The dam is located in the Corbet Stevens Original Survey No. 63, Abstract 740. Station 1+00 on the centerline of the dam is N 58.267° W, 1,310 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.188902° N, Longitude 97.913141° W.**

Reservoir 3 (Hole 16, lower pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 3.0 acre-feet of water with a surface area of 1.1 acres. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is S 40.550° W, 2,830 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181115° N, Longitude 97.915510° W.**

Reservoir 4 (Hole 13 pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 2.0 acre-feet of water with a surface area of 0.5 acre. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 11.050° W, 3,740 feet from the northwest

corner of the Brite Survey, also being at **Latitude 30.176908° N, Longitude 97.912004° W.**

Reservoir 5 (Hole 16, upper pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 1.4 acre-feet with a surface area of 0.5 acre. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is **S 47.867° W, 2,567 feet** from the northwest corner of the Brite Survey, also being at **Latitude 30.182288° N, Longitude 97.915703° W.**

The SARISP is 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 50.6 acre-feet of water with a surface area of 7.8 acres. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is **S 35.133° E, 2,903 feet** from the northwest corner of the Brite Survey, also being at **Latitude 30.180404° N, Longitude 97.904412° W.**

When water in Danz Creek exceeds the inlet elevation for the diversion structure at DIV1B, water will be diverted from Danz Creek to SARISP at DIV1B. If water is available from SARISP, Applicant will pump that water from SARISP and discharge it into Reservoir 1 at DIS1B. Applicant will then divert that water from Reservoir 1 at DIV1A for irrigation. If water is not available from SARISP, then Applicant will discharge groundwater into Reservoir 1 from the existing groundwater well that currently serves all golf course irrigation demand at DIS1A, then diverted from Reservoir 1 at DIV1A. **Applicant indicates the diversion and discharge points are located in zip code 78739.**

The diversion points and rates are described as follows:

Diversion point 1 (DIV1A) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,720 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182231° N, Longitude 97.909852° W.** Water will be diverted by three pumps at a maximum combined diversion rate of 3,899 cfs (1,750 gpm).

Diversion point 2 (DIV1B) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing N 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182045° N, Longitude 97.909772° W.** Water will be diverted through a grated inlet into the Southwest Austin Properties Regional Irrigation Storage Pond at a maximum diversion rate of 18,000 cfs (8,080 gpm).

LCRA contract water, state water in excess of the firm water contract amount, and diffused surface water captured in the SARISP will be discharged into Danz Creek and LCRA contract water, groundwater, and diffused surface water captured in SARISP will be discharged into Reservoirs 1-4 as follows:

Discharge point 1 (DIS1) is on the perimeter of Reservoir 1, 15.2 mile southwest of the City of Austin, bearing S 6.517° E, 1,560 feet from the Northwest corner of the Brite Survey, also being at **Latitude 30.182809° N, Longitude 97.910253° W**. Water will be discharged at a maximum rate of 1.0 cfs (450 gpm).

Discharge point 2 (DIS2) is on the perimeter of Reservoir 2, 14.8 miles southwest of the City of Austin, bearing N 54.083° E W, 1,370 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.189212° N, and Longitude 97.913114° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm) from the irrigation system and 140.4 cfs (63,016 gpm) from the Somerset Estates Subdivision storm water system.

Discharge point 3 (DIS3) is on the perimeter of Reservoir 3, 15.6 miles southwest of the City of Austin, bearing S 37.150° W, 2,640 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.198036° N, Longitude 97.914935° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).

Discharge point 4 (DIS4) is on the perimeter of Reservoir 4, 15.6 miles southwest of the City of Austin, bearing S 15.950° W, 3,440 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.194364° N, Longitude 97.912479° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).

Discharge point 5 (DIS1B) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182045° N, Longitude 97.909772° W**. Water will be discharged at a maximum rate of 4.5 cfs (2,000 gpm).

Discharge point 6 (DISCRK) is the discharge line from Reservoir 1 into Danz Creek. 15.2 miles southwest of the City of Austin, bearing S 4.383° W, 1,960 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181700° N, Longitude 97.910180° W**. Water will be discharged at a maximum rate of 5.6 cfs (2,510 gpm).

Discharge point 7 (DIS1C) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin bearing S 7.733° W, 1,992 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181700° N, Longitude 97.910180° W**. Groundwater from an existing well will be discharged into Reservoir 1 at this discharge point.

Ownership of the land inundated by Reservoirs 1, 2, 3, and 4 and the land to be irrigated is evidenced by a Warranty Deed with Vendor's Lien, Document No. 2003148469 in the Official Records of Travis County.

Reservoir 5 (Hole 16, upper pond) is partially owned by The Golf Club at Circle C, L.P. and Circle C Land, L.P. Both parties have entered into a Pond Maintenance Agreement dated December 27, 2004, which describes the ownership and the maintenance regarding Reservoir 5.

The SARISP is located on land owned by Phoenix Holdings, LTD. The Golf Club at Circle C, L.P., Phoenix Holdings, LTD., Eleven Castle Management Company, Inc., and Newmark Homes, L.P., have entered into a Pond Maintenance and Use Agreement dated October 30, 2003, which describes the ownership, maintenance and the use of the water collected in the pond.

Applicant has two groundwater wells that can produce a combined total of 568,800 gpm or 639 acre-feet of groundwater a year. Applicant has also submitted accounting procedures which will determine the amount of LCRA contract water, groundwater and diffused surface water that will be used and determine the volume of required discharges into Danz Creek to compensate for any state water lost or diverted in excess of the LCRA contract amount.

The applicant indicates that while Reservoir 5 (Hole 16, upper pond) is currently on-channel and receives state water, proposed channel improvements will make Reservoir 5 an off-channel reservoir and will limit future inflows into the pond to diffused surface water.

The application was received on July 12, 2004. Additional information was received November 4, November 10, 2004, January 10, 2005, February 24, 2005, and April 6, 2005. The application was declared administratively complete and was accepted for filing with the Office of Chief Clerk on April 19, 2005. **Additional information was received on April 10, 2006. An amended application was received on October 17, 2008 and that amended application was declared administratively complete and was accepted for filing with the Office of Chief Clerk on May 28, 2009.**

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including but not limited to maintenance of an alternate source of water and an accounting plan. The application, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F, Austin, Texas, 78753.

**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, at 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](http://www.tceq.state.tx.us). Si desea informacion en Español, puede llamar al 1-800-687-4040.

Issued:

DRAFT

WATER USE PERMIT

PERMIT NO. 5852

TYPE: §§11.121, 11.143, &11.042

Permittee: The Golf Club at Circle C, LP

Address: 7401 Highway 45  
Austin, Texas 78739

Filed: May 28, 2009

Granted:

Purpose: Agricultural (Irrigation) and  
Recreational

County: Travis

Watercourse: Unnamed Tributary of Danz  
Creek and Danz Creek,  
Tributary of Slaughter Creek,  
Tributary of Onion Creek,  
Tributary of the Colorado River

Watershed: Colorado River Basin

WHEREAS, The Golf Club at Circle C, L.P. seeks a Water Use Permit to maintain on-channel dams and reservoirs (Reservoirs 1 - 5) located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin for recreational purposes. Applicant also seeks authorization to maintain Reservoir 1 and an existing off-channel reservoir known as the Southwest Austin Regional Irrigation Storage Pond (SARISP) for agricultural purposes; and

WHEREAS, Applicant requests the right to store and convey not to exceed 262 acre-feet of water for subsequent diversion and use from Reservoir 1 and the SARISP. The diverted water from Reservoir 1 will be used for agricultural purposes to irrigate 115 acres of land out of two tracts of land totaling 275.6244 acres; and

WHEREAS, Applicant requests authorization to use the bed and banks of Danz Creek to convey groundwater to account for losses due to evaporation from the reservoirs, to subsequently store and divert for irrigation purposes; and to use the bed and banks of Reservoir 1 to convey diffused surface water and storm water runoff captured in the SARISP for storage and subsequent diversion for irrigation; and

WHEREAS, Applicant submitted a Firm Water Contract with the Lower Colorado River Authority (LCRA) to account for storage and diversion of 262 acre-feet per year of state water; and

WHEREAS, Applicant further seeks to maintain Reservoir 1 at its maximum operating level at all times. If sufficient water from Danz Creek or the SARISP is not available to maintain the reservoir at maximum level, the applicant will continue the current practice of discharging groundwater from an existing well into Reservoir 1 via underground pipe to maintain it at maximum level; and

WHEREAS, Applicant has two groundwater wells that can produce a combined total of 639 acre-feet of groundwater a year. Applicant has also submitted accounting procedures which will determine the amount of LCRA contract water, groundwater and diffused surface water that will be used and determine the volume of required discharges into Danz Creek to compensate for any state water lost or diverted in excess of the LCRA contract amount; and

WHEREAS, Applicant indicates when water in Danz Creek exceeds the inlet elevation for the diversion structure at DIV1B, water will be diverted from Danz Creek to SARISP at DIV1B; and

WHEREAS, ownership of the land inundated by Reservoirs 1, 2, 3, & 4 and the land to be irrigated is evidenced by Special Warranty Deed Document No. 203148469 in the Official Records of Travis County; and

WHEREAS, Reservoir 5 is partially owned by The Golf Club at Circle C, LP and Circle C Land, LP. Both parties have entered into a Pond Maintenance Agreement dated December 27, 2004, which describes the ownership and the maintenance regarding the Reservoir 5; and

WHEREAS, the SARISP is located on land owned by Phoenix Holdings, LTD. The Golf Club at Circle C, LP, Phoenix Holdings, LTD., Eleven Castle Management Company, Inc, and Newmark Homes, L.P. have entered into a Pond Maintenance and Use Agreement dated October 30, 2003 which describes the ownership, maintenance and use of the water collected in the pond; and

WHEREAS, Applicant indicates that while Reservoir 5 (Hole 16, upper pond) is currently on-channel and receives state water, proposed channel improvements will make Reservoir 5 an off-channel reservoir and will limit future inflows into the pond to diffused surface water; and

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

WHEREAS, Applicants submitted the *Water Accounting Procedures Summary, Golf Club at Circle C, WRPERM 5852*, which was accepted by the Executive Director; and

WHEREAS, the Executive Director recommends special conditions be included in the permit to prevent storage and use of State water; 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 permit;

NOW, THEREFORE, Water Use Permit No. 5852 is issued to The Golf Course at Circle C subject to the following terms and conditions:

1. IMPOUNDMENTS

A. Permittee is authorized to maintain five dams and reservoirs described as follows:

1. Reservoir 1 (Irrigation Pond Dam) is located on Danz Creek, 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 20.1 acre-

feet of water with a surface area of 3.1 acres. The dam is located in the Thomas Brite Original Survey No. 65, Abstract No. 98. Station 1+00 on the centerline of the dam is S 7.817° W, 2,070 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181357° N, Longitude 97.910578° W.

2. Reservoir 2 (Holes 7 & 8 Pond) is located on Danz Creek, 14.8 miles southwest of the City of Austin. The reservoir has a capacity of 1.3 acre-feet of water with a surface area of 0.7 acre. The dam is located in the Corbet Stevens Original Survey No. 63, Abstract 740. Station 1+00 on the centerline of the dam is N 58.267° W, 1,310 feet from the northwest corner of the Brite Survey, also being at Latitude 30.188902° N, Longitude 97.913141° W.
  3. Reservoir 3 (Hole 16, lower pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 3.0 acre-feet of water with a surface area of 1.1 acres. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is S 40.550° W, 2,830 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181115° N, Longitude 97.915510° W.
  4. Reservoir 4 (Hole 13 pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 2.0 acre-feet of water with a surface area of 0.5 acre. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 11.050° W, 3,740 feet from the northwest corner of the Brite Survey, also being at Latitude 30.176908° N, Longitude 97.912004° W.
  5. Reservoir 5 (Hole 16, upper pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 1.4 acre-feet with a surface area of 0.5 acre. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is S 47.867° W, 2,567 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182288° N, Longitude 97.915703° W.
- B. Permittee is authorized to maintain an off-channel reservoir known as Southwest Austin Regional Irrigation Storage Pond (SARISP) which is 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 50.6 acre-feet of water with a surface area of 7.8 acres. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 35.133° E, 2,903 feet from the northwest corner of the Brite Survey, also being at Latitude 30.180404° N, Longitude 97.904412° W.

2. USE

- A. Permittee is authorized to divert and use not to exceed 262 acre-feet of state water accounted against the LCRA contract from Reservoir 1 for agricultural purposes to irrigate 115 acres of land out of two tracts of land totaling 275.6244 acres in Travis County.

- B. Permittee is authorized to use the bed and banks of an unnamed tributary of Danz Creek, Danz Creek, and Reservoirs 1-4 to convey groundwater, and/or to maintain the reservoirs with storm water and diffuse surface water discharged directly to SARISP, and to subsequently divert those waters for agricultural purposes.
- C. Permittee is authorized to use the bed and banks of Reservoir 1 to convey groundwater and storm water and diffused surface water discharged from the SARISP.
- E. Permittee is authorized to use the all of the above described reservoirs for in-place recreational purposes and Reservoir 1 and SARISP for agricultural purposes.

3. DISCHARGE

Permittee is authorized the following discharge points as described:

- A. Discharge point 1 (DIS1) is on the perimeter of Reservoir 1, 15.2 mile southwest of the City of Austin, bearing S 6.517° E, 1,560 feet from the Northwest corner of the Brite Survey, also being at Latitude 30.182809° N, Longitude 97.910253° W. Water will be discharged at a maximum rate of 1.0 cfs (450 gpm).
- B. Discharge point 2 (DIS2) is on the perimeter of Reservoir 2, 14.8 miles southwest of the City of Austin, bearing N 54.083° E W, 1,370 feet from the northwest corner of the Brite Survey, also being at Latitude 30.189212° N, and Longitude 97.913114° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm) from the irrigation system and 140.4 cfs (63,016 gpm) from the Somerset Estates Subdivision storm water system.
- C. Discharge point 3 (DIS3) is on the perimeter of Reservoir 3, 15.6 miles southwest of the City of Austin, bearing S37.150° W, 2,640 feet from the northwest corner of the Brite Survey, also being at Latitude 30.198036° N, Longitude 97.914935° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).
- D. Discharge point 4 (DIS4) is on the perimeter of Reservoir 4, 15.6 miles southwest of the City of Austin, bearing S 15.950° W, 3,440 feet from the northwest corner of the Brite Survey, also being at Latitude 30.194364° N, Longitude 97.912479° W. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).
- E. Discharge point 5 (DIS1B) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182045° N, Longitude 97.909772° W. Water will be discharged at a maximum rate of 4.5 cfs (2,000 gpm).
- F. Discharge point 6 (DISCRK) is the discharge line from Reservoir 1 into Danz Creek. 15.2 miles southwest of the City of Austin, bearing S 4.383° W, 1,960

feet from the northwest corner of the Brite Survey, also being at Latitude 30.181700° N, Longitude 97.910180° W. Water will be discharged at a maximum rate of 5.6 cfs (2,510 gpm).

- G. Discharge point 7 (DIS1C) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin bearing S 7.733° W, 1,992 feet from the northwest corner of the Brite Survey, also being at Latitude 30.181700° N, Longitude 97.910180° W. Groundwater from an existing well will be discharged into Reservoir 1 at this discharge point.

4. DIVERSION

Permittee is authorized to divert the authorized water from the diversion points and rates described as follows:

- A. Diversion point 1 (DIV1A) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,720 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182231° N, Longitude 97.909852° W. Water will be diverted by three pumps at a maximum combined diversion rate of 3.899 cfs (1,750 gpm).
- B. Diversion point 2 (DIV1B) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing N 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at Latitude 30.182045° N, Longitude 97.909772° W. Water will be diverted through a grated inlet into the Southwest Austin Properties Regional Irrigation Storage Pond at a maximum diversion rate of 18.000 cfs (8,080 gpm).

5. TIME PRIORITY

The time priority for this right is May 28, 2009.

6. CONSERVATION

Permittee shall implement a water conservation plan that provides 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.

7. SPECIAL CONDITIONS

- A. Permittee shall implement and maintain appropriate best management practices (BMPs) on the golf course to minimize potential pollutant loadings through the control of sediment and turf management chemicals or substances. BMPs shall include but are not limited to:
1. Installation and maintenance of erosion resistant materials in areas subject to high current velocities;
  2. The use of sediment control barriers;
  3. Temporary and permanent ground cover (natural and artificial);

4. Aeration of soils to promote infiltration and reduce runoff;
  5. Temporary storage of storm water runoff to allow for sediment settling; and
  6. Proper management and control of fertilizer, herbicide, and pesticide applications.
- B. In order to provide water quality benefits to the reservoirs and water bodies downstream, the Permittee shall maintain a buffer zone of permanent vegetation around the perimeter of each reservoir 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 15%.
- C. Any discharge of commingled groundwater from Reservoir 1 shall be of sufficient quality to meet the requirements of the Texas Surface Water Quality Standards (30 TAC §307) for Segment 1427.
- D. Permittee shall provide and maintain a means to account for all inflows into Reservoirs 1 through 4 and the flow in the stream downstream of Reservoir 1. These measurements shall be recorded in the accounting plan.
- E. Permittee shall also provide and maintain an outlet in Reservoir 5, account for inflows into Reservoir 5, and include losses from Reservoir 5 in all accounting. Permittee shall compensate for those losses by accounting for any stored state water inflows until such time as installation of proposed channel improvements limit inflows to this reservoir to diffuse water.
- F. Permittee shall monitor the depth to water level for each well on a monthly basis and include this information in the accounting plan.
- G. Permittee shall compensate for all diversions of state water above 262 acre-feet per year into the SARISP by discharging an equivalent amount of water from an alternate water source into Danz Creek. In order to protect downstream senior water rights, alternate water shall be discharged within 24 hours of any diversion of surface water into the SARISP.
- H. The authorizations described in Paragraphs 1. IMPOUNDMENT, 2. USE and 4. DIVERSION are subject to the continued maintenance of the *Firm Water Contract by and between Lower Colorado River Authority and The Golf Club at Circle C, L.P.*, as such contract may be extended or amended from time to time. Should the contract be amended in such a manner as to change the amount of water or the type or location of use of the water, Permittee shall submit an application to amend this permit to conform to the terms of the amended contract. Upon expiration of the contract, Permittee shall immediately cease diversion and storage of the firm contract water pursuant to Paragraphs 1. IMPOUNDMENT, 2. USE and 4. DIVERSION and either apply to amend the permit with a new contract or voluntarily forfeit the permit. Permittee shall immediately notify the Executive Director upon amendment or expiration of the contract and provide the Commission with copies of appropriate documents effectuating such changes.
- I. Permittee shall maintain and operate a groundwater source with sufficient

production to ensure that no state water is used when either state water, or water from Permittee's other water supply sources, is not available. Permittee identified groundwater from the Trinity Aquifer as an alternate source of water for this project. In the event the groundwater well will not be used as an alternate source, Permittee shall immediately cease impoundment and diversion of water under the permit and either apply to amend this permit with documentation of a new alternate source of water, or voluntarily forfeit the permit. Permittee shall immediately notify the Executive Director if the groundwater well will not be used as an alternate source of water for this permit. If Permittee does not amend or forfeit the permit, the Commission may begin proceedings to cancel this permit.

- J. Permittee shall only impound and divert water authorized by this permit in accordance with the most recently approved *Water Accounting Procedures Summary, Golf Club at Circle C, WRPERM 5852*. Permittee shall maintain said plan in electronic format and make the data available to the Executive Director upon request. Any modifications to the *Water Accounting Procedures Summary, Golf Club at Circle C, WRPERM 5852* shall be approved by the Executive Director. Any modification that changes the permit terms must be in the form of an amendment to the permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease impoundments and diversions authorized in Paragraph 1. IMPOUNDMENT and Paragraph 2. USE, and either apply to amend the permit or voluntarily forfeit the permit.

#### 8. TIME LIMITATIONS

- A. Construction of the proposed dam and reservoir 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. Failure to commence and/or complete modifications of the dams within the period stated above shall cause the authorization for use of the reservoir to expire and become null and void without further Commission consideration unless Owner apply for an extension of time to commence and/or complete modification prior to the deadline for commence and completion, and the application is subsequently granted. Construction shall begin with 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 dam and reservoir 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 dam and reservoir stated above shall subject this permit to cancellation in whole or in part, subject to notice and hearing.

This permit is issued subject to all superior and senior water rights in the Colorado 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:

DRAFT

## Texas Commission on Environmental Quality

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### INTEROFFICE MEMORANDUM

To: Sonia Crawford, Application Manager  
Water Rights Permitting Team

From: Kathy Alexander, Technical Specialist  
Water Rights Permitting and Availability Section

Subject: Golf Club at Circle C, L.P.  
WRPERM 5852  
CN602665374  
Danz Creek and unnamed tributary of Danz Creek  
Colorado River Basin

Sept.22, 2010

### WATER AVAILABILITY REVIEW ADDENDUM

#### Application Summary

The Golf Club at Circle C, L.P. (Applicant) submitted an application for a Water Use Permit on July 12, 2004 which was declared administratively complete on April 19, 2005. Staff conducted a technical review of the application on October 4, 2006. On October 17, 2008, Applicant amended the application to include a Firm Water Contract with the Lower Colorado River Authority (LCRA). The amended application was declared administratively complete on May 28, 2009.

Applicant continues to seek authorization to maintain four on-channel reservoirs (Reservoirs 1 - 4) located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin for recreational purposes. Reservoirs 1 through 4 impound 20.1, 1.3, 3, and 2 acre-feet of water, respectively. Applicant also continues to seek authorization to maintain Reservoir 1 and an existing off-channel reservoir, impounding 50.6 acre-feet of water, known as the Southwest Austin Regional Irrigation Storage Pond (SARISP), for agricultural purposes. Applicant also continues to seek authorization to maintain a fifth on-channel reservoir (Reservoir 5), impounding 1.4 acre-feet of water. Although Reservoir 5 is currently on-channel and receives state water, proposed channel improvements will convert Reservoir 5 to an off-channel reservoir, thereby limiting future inflows to diffused surface water. Applicant continues to seek approval for two diversion points and seven discharge points.

Applicant requests authorization to use the bed and banks of Danz Creek to convey groundwater to account for losses due to evaporation from the reservoirs, to subsequently store and divert the groundwater, and to use the bed and banks of Danz Creek within Reservoir 1 to convey diffused surface water and storm water runoff, captured in SARISP and discharged into Reservoir 1, for storage and subsequent diversion. Applicant submitted a Firm Water Contract with LCRA to account for diversions of 262 acre-feet per year of state water.

Applicant further seeks to maintain Reservoir 1 at its maximum operating level at all times. If sufficient state water from Danz Creek under the contract, or storm water and diffuse surface water from SARISP, is not available to maintain the reservoir at the maximum level, the applicant will discharge groundwater into Reservoir 1 via underground pipe to maintain it at the maximum level. Applicant has two groundwater wells that can produce a combined total of 639 acre-feet of water per year.

When water flowing in Danz Creek exceeds the inlet elevation for the diversion structure, water will be diverted from Danz Creek to SARISP. This could result in diversion of state water in excess of the contract amount. Applicant has submitted accounting procedures which will help determine both the amount of LCRA contract water, groundwater, and diffused surface water that will be used and the volume of required discharges into Danz Creek to compensate for any state water lost or diverted in excess of the LCRA contract amount.

#### **Water Availability Review**

The Water Rights Analysis Package (WRAP) simulates management of the water resources of a river basin. TCEQ uses WRAP in the evaluation of water right permit applications using priority-based water allocation. WRAP is a generalized simulation model for application to any river basin, and input datasets must be developed for the particular river basin of concern. TCEQ developed water availability models (WAMs) for Texas' river basins that include geographical information, water right information, naturalized flows, evaporation rates, and specific management assumptions. Hydrology staff operates WRAP to evaluate water right applications to determine water availability and to ensure that senior water rights are protected.

Resource Protection staff recommends special conditions to protect water quality, but does not recommend instream flow requirements for this application. The application does not request a new appropriation of water; therefore, a water availability analysis is not required. However, pursuant to 30 TAC §297.45, the application must be evaluated to determine whether other water rights are affected. In addition, staff must evaluate whether the water proposed for diversion under the contract is available at the applicant's location. For this application, staff modeled the application using the full authorization simulation of the Colorado WAM, where all water rights use their maximum authorizations and return flows are not included. Diversion and storage of state water was modeled at the priority date for LCRA's use of water from Lakes Travis and Buchanan (March 7, 1938).

Model results indicate that 262 acre-feet of water per year is available at the applicant's location in 37% of the years in the period of record. SARISP is not located on a state watercourse; therefore, any storm water directly discharged into this reservoir would be available for use by the applicant to compensate for impoundment or diversion of state water. The availability of storm water from SARISP could be extremely limited during drought sequences. Staff believes that during dry times, it

is likely that the only alternate source available to the applicant would be groundwater from the two wells. The wells can produce a combined total of 639 acre-feet of groundwater per year. Staff is of the opinion that the multiple sources of water available to the applicant will be sufficient to meet irrigation demands and should be sufficient to compensate for impacts to downstream senior water rights.

Staff also compared the pre- and post-application reliabilities of all basin water rights and found small (<0.5%) impacts on 23 water rights authorizations. Seventeen of the authorizations are located above either LCRA's Lakes Travis or Buchanan. Because of the applicant's location on a tributary downstream of Lakes Travis and Buchanan, the applicant would not be able to exercise a priority call on those rights. To the extent that impacts to these upstream rights result from shortages incurred by water rights on the main stem of the Colorado River below Lakes Travis and Buchanan, and to the extent that any shortages in downstream main stem water rights occur, the contract between LCRA and the applicant provides for releases from LCRA's water rights to mitigate those impacts.

Staff reviewed the estimate of losses associated with the use of the bed and banks of the unnamed tributary of Danz Creek and Danz Creek and found it adequate. With respect to impacts on groundwater recharge, total creek recharge of the Barton Springs segment of the Edwards Aquifer has been estimated to be approximately 51,194 acre-feet per year.<sup>1</sup> The applicant's diversion of 262 acre-feet of water per year represents approximately 0.51% of the total creek recharge. Therefore, if there were any impacts, those impacts would be negligible.

Staff reviewed the accounting plan and found that the plan adequately determines the amount of state water, groundwater, and diffuse surface water and storm water stored in and subsequently discharged from SARISP and found the plan to be adequate on October 14, 2009. Maintenance of the accounting plan would ensure that if the applicant is required to pass water to downstream senior water rights, the amount of water to be passed can be calculated.

## **Conclusion**

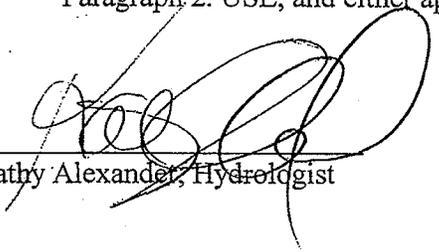
Staff can support granting the request to store and divert state water accounted against the LCRA contract, maintain the reservoirs with groundwater, and/or to maintain the reservoirs with storm water and diffuse surface water discharged directly to SARISP, and to subsequently divert those waters subject to the accounting plan. Staff can also recommend use of the bed and banks within the irrigation system to convey groundwater and storm water and diffuse surface water discharged from SARISP provided the permit include the recommendations of Resource Protection staff and the following special conditions:

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<sup>1</sup> Scanlon, B.R., R.E. Mace, B. Smith, S. Horvorka, A.R. Dutton and R. Reddy. 2001. *Groundwater Availability of the Barton Springs Segment of the Edwards Aquifer, Texas: Numerical Simulations Through 2050*. Austin, Texas. Bureau of Economic Geology. Pp. 32-34.

1. Permittee shall provide and maintain a means to account for all inflows into Reservoirs 1 through 4 and the flow in the stream downstream of Reservoir 1. These measurements shall be recorded in the accounting plan.
2. Permittee shall also provide and maintain an outlet in Reservoir 5, account for inflows into Reservoir 5, and include losses from Reservoir 5 in all accounting. Permittee shall compensate for those losses by accounting for any stored state water inflows until such time as installation of proposed channel improvements limit inflows to this reservoir to diffuse water.
3. Permittee shall monitor the depth to water level for each well on a monthly basis and include this information in the accounting plan.
4. Permittee shall compensate for all diversions of state water above 262 acre-feet per year into the SARISP by discharging an equivalent amount of water from an alternate water source into Danz Creek. In order to protect downstream senior water rights, the alternate water shall be discharged within 24 hours of any diversion of surface water into the SARISP.
5. The authorizations described in Paragraphs 1. IMPOUNDMENT, 2. USE, and 3. DIVERSION are subject to the continued maintenance of the *Firm Water Contract by and between Lower Colorado River Authority and the Golf Club at Circle C, L.P.*, as such contract may be extended or amended from time to time. Should the contract be amended in such a manner as to change the amount of water or the type or location of use of the water, Permittee shall submit an application to amend this permit to conform to the terms of the amended contract. Upon expiration of the contract, Permittee shall immediately cease diversion and storage of the firm contract water pursuant to Paragraphs 1. IMPOUNDMENT, 2. USE, and 3. DIVERSION and either apply to amend the permit with a new contract, or voluntarily forfeit the permit. Permittee shall immediately notify the Executive Director upon amendment or expiration of the contract and provide the Commission with copies of appropriate documents effecting such changes.
6. Permittee shall maintain and operate a groundwater source with sufficient production to ensure that no state water is used when either state water, or water from Permittee's other water supply sources, is not available. Permittee identified groundwater from the Trinity Aquifer as an alternate source of water for this project. In the event the groundwater well will not be used as an alternate source, Permittee shall immediately cease impoundment and diversion of water under this permit and either apply to amend this permit with documentation of a new alternate source of water, or voluntarily forfeit the permit. Permittee shall immediately notify the Executive Director if the groundwater well will not be used as an alternate source of water for this permit. If Permittee does not amend or forfeit the permit, the Commission may begin proceedings to cancel this permit.

7. Permittee shall only impound and divert water authorized by this permit in accordance with the most recently approved *Water Accounting Procedures Summary, Golf Club at Circle C, WRPERM 5852*. Permittee shall maintain said plan in electronic format and make the data available to the Executive Director upon request. Any modifications to the *Water Accounting Procedures Summary, Golf Club at Circle C, WRPERM 5852* shall be approved by the Executive Director. Any modification that changes the permit terms must be in the form of an amendment to the permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease impoundments and diversions authorized in Paragraph 1. IMPOUNDMENT and Paragraph 2. USE, and either apply to amend the permit, or voluntarily forfeit the permit.



Kathy Alexander, Hydrologist

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Sonia Crawford, Project Manager  
Water Rights Permits Team  
Water Rights Permitting & Availability Section

**Date:** June 23, 2009

**Through:** *CL* Chris Loft, Team Leader  
*6/23/09* Resource Protection Team  
Water Rights Permitting & Availability Section

*DG* Dakus Geeslin, Aquatic Scientist  
*6/23/09* Resource Protection Team  
Water Rights Permitting & Availability Section

**From:** *GE* Gregg Easley, Aquatic Scientist  
Resource Protection Team  
Water Rights Permitting & Availability Section

**Subject:** The Golf Club at Circle C, LP  
WRPERM 5852  
CN 602665374  
Water Right Application No. 5852  
Unnamed tributary of Danz Creek, Danz Creek  
Colorado River Basin, Travis 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

**Application Summary:** The original permit application reviewed by Resource Protection Team staff for the October 2, 2006 environmental analysis memorandum has been modified by the applicant, The Golf Club at Circle C, LP. With the amended application, the applicant continues to seek authorization for five existing, on-channel reservoirs located on an unnamed tributary of Danz Creek (Reservoirs 3, 4, and 5) and Danz Creek (Reservoirs 1 and 2), tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin, and for an existing off-channel reservoir (Southwest Austin Regional Irrigation Storage Pond or SARISP), which is adjacent to Danz Creek and connected to Reservoir 1 via pipeline, for agricultural/irrigation

(Reservoir 1 and SARISP) and recreational (Reservoirs 1-5) purposes. The total storage capacity of these six reservoirs is 78.4 acre-feet. The applicant intends to perform drainage modifications to make Reservoir 5 an off-channel reservoir that only receives diffused surface water.

The applicant continues to request the right to divert and use not to exceed 262.5 acre-feet of water per year from Danz Creek for storage in Reservoir 1 and the SARISP and subsequent use from Reservoir 1, however, the water source proposal has been changed from groundwater and diffused surface water to state water as granted through a contract between the Lower Colorado River Authority (LCRA) and the applicant. As originally proposed, the diverted water from Reservoir 1 will be used for agricultural purposes to irrigate 115 acres of golf course property out of two tracts totaling 275.6 acres in Travis County. Previously proposed diversion points from Reservoirs 2, 3, and 4 are no longer being requested by the applicant. The applicant also continues to request authorization to use the bed and banks of Danz Creek and Reservoir 1 to convey groundwater for storage and subsequent diversion for irrigation purposes and the bed and banks of Reservoir 1 to convey diffused surface water captured in the SARISP for storage and subsequent diversion for irrigation.

The applicant intends to maintain Reservoir 1 at its maximum operating level at all times. If sufficient water from Danz Creek or the SARISP is not available to maintain the reservoir at maximum level, then the applicant will continue the current practice of discharging groundwater from an existing well into Reservoir 1 to maintain it at maximum level. Water will be diverted from Reservoir 1 to the SARISP at a maximum diversion rate of 8,080 gallons per minute (gpm) when water from Danz Creek causes Reservoir 1 water levels to exceed the pipeline inlet elevation. The maximum diversion rate of water from Reservoir 1 for golf course irrigation purposes will be 1,750 gpm. The applicant no longer intends to operate Reservoirs 2, 3, 4, and 5 at their maximum operating levels. An accounting plan will be developed by the applicant to determine the volumes of groundwater, state water, and diffused surface water that will be captured, diverted, or lost via evaporation or seepage from the reservoirs, and the required amount of compensatory discharges from Reservoir 1 into Danz Creek to compensate for any losses or diversions of state water in excess of 262.5 acre-feet per year.

## INSTREAM USES

**Aquatic and Riparian Habitats:** The applicant's property is located in southwest Austin, Travis County and lies within the Balcones Canyonlands portion of the Edwards Plateau ecoregion (Griffith et al. 2004). Streams in this area are characterized by predominantly limestone substrates. The property is also fully contained within the recharge zone of the Edwards Aquifer. The *Handbook of Texas Online* describes the terrain as low rolling to flat with local steep slopes and benches; clay and sandy loam surfaces support juniper, oak, pecans, scrub brush, and grasses. Residential development in this area of the city is gradually replacing open ranch lands, though some open-space conservation is taking place.

From the downstream property line, Danz Creek travels approximately four miles before reaching Slaughter Creek, which then travels approximately eight miles to its confluence with Onion Creek. The upstream watershed of the property is approximately two square miles as measured with GIS software. Danz Creek and its unnamed tributary, as well as Slaughter Creek, are depicted on a USGS topographical map (Signal Hill, TX quadrangle) as intermittently flowing streams. Stream flow records for USGS gage 08158840 – Slaughter Creek at FM 1826 (1978-2009 period of record), upstream of the Danz Creek/Slaughter Creek confluence, and gage 08158860 – Slaughter Creek at FM 2304 (2003-2009 period of record), downstream of the same confluence, confirm an intermittent flow regime for Slaughter Creek (USGS 2009). Appendix D of the *Texas Surface Water Quality Standards* (30 TAC §307.10(4)) describes Slaughter Creek, from its headwaters to the confluence with Onion Creek, as an intermittent stream with perennial pools with high aquatic life use.

Resource Protection Team staff participated in a site visit of the applicant's property on March 25, 2009. At the time of the site visit the unnamed tributary of Danz Creek and Danz Creek, both on the golf course property and at a point nearly two miles downstream, exhibited poor to moderate channel definition. Because of this, the small drainage area of the property, the intermittent flow conditions of the streams, and the presence of limited aquatic habitat, instream flow restrictions for the requested water right permit are not recommended.

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). Riparia 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). Riparia 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 maintenance, 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)

As observed during the March 2009 site visit, the buffer zones surrounding the six reservoirs associated with the permit application exhibited varying degrees of vegetative development. Buffer zone areas contiguous with the golf course (i.e., fairways, putting greens) consisted of low-height turf

grasses that provide minimal water quality and habitat functions. However, there are portions of each reservoir buffer zone, especially Reservoir 2 and the SARISP, that consist of native vegetation. It is recommended that the current buffer zones be maintained, at a minimum, in their existing conditions.

**Recreation:** According to information from the applicant, other than the use of Reservoirs 1 through 5 for golf course use, there are no known recreational or public uses of Danz Creek or its tributary within the area of the project.

**Water Quality:** Onion Creek, which is approximately 12 stream miles downstream of the golf course property, is classified as segment 1427 in the state water quality standards (30 TAC §307.10(1) and (3)). The designated uses for this segment as listed in 30 TAC §307.10(1) are contact recreation, high aquatic life use, public water supply, and aquifer protection (for those areas of the creek that lie within the zones of the Edwards Aquifer). There are no water quality concerns or impairments listed for Onion Creek in the 2008 Texas Water Quality Inventory and 303(d) List (TCEQ 2008).

Slaughter Creek is identified in the water quality inventory as unclassified segment 1427A. The inventory lists water quality concerns for the creek for near non-attainment of 24-hour dissolved oxygen average and minimum criteria. Segment 1427A was originally listed in 2002 on the 303(d) List for not supporting its designated aquatic life use (impaired macrobenthic community). This listing has been carried forward to the 2008 list. The appropriateness of the high aquatic life use designation for all reaches of Slaughter Creek is currently under evaluation.

With the proposed permit activities, there are potential concerns for water quality degradation due to the operation of the golf course primarily related to the transport of pollutants originating on the golf course (e.g., fertilizers, pesticides, sediments, etc.) with storm water or irrigation runoff and the discharge of these pollutants into water bodies on and downstream of the applicant's property. In addition, the SARISP receives runoff from upstream residential developments that could contain pollutants which could be transferred to Reservoir 1.

To help protect water quality for surface waters and the Edwards Aquifer, it is recommended that best management practices (BMPs) be implemented on the golf course to minimize pollutant loadings of sediment and turf management chemicals. BMPs to control soil erosion should include: (1) the installation and placement of rip-rap or other erosion resistant materials in areas subject to high current velocity; (2) the use of silt fencing or sediment control barriers in areas where ground cover has been disturbed, (3) temporary and permanent ground cover (both natural and artificial types), (4) soil aeration to promote runoff infiltration, and (5) temporary storage of storm water runoff in catch basins to allow settling of sediments. Also, loadings from residual turf management chemicals or substances should be minimized through proper management and control of fertilizer, herbicide, and pesticide applications.

Due to the applicant's proposal to use groundwater from onsite wells to keep Reservoir 1 full when surface water supplies are not sufficient, an evaluation of the quality of the well water was performed. The wells draw water from the Trinity Aquifer. The applicant has provided the following water quality data from an existing well. Numeric criteria from the water quality standards for the same parameters are also provided for comparison.

| Parameter                     | Driving Range well | Criterion |
|-------------------------------|--------------------|-----------|
| pH                            | 7.01               | 6.5 – 9.0 |
| Total dissolved solids (mg/L) | 1260               | 500*      |
| Chloride (mg/L)               | 26.6               | 100*      |
| Sulfate (mg/L)                | 677                | 100*      |
| Temperature (deg F)           | 75                 | 90        |

\* - Within the Edwards Aquifer zones, total dissolved solids, chloride, and sulfate criteria are 400/50/50 (all mg/L) respectively.

Discharges of groundwater from this and/or similar sources for extended periods without adequate dilution or commingling with other water sources could have adverse impacts to water quality in Danz Creek and other downstream water bodies due to the elevated concentrations of sulfates and total dissolved solids. It is recommended that the applicant monitor water quality in Reservoir 1 during times when groundwater dominates the overall source water mixture to ensure that discharges from the reservoir do not violate water quality standards.

**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. The diversion of 262.5 acre-feet of water per year from Danz Creek should have minimal impact on Matagorda Bay. However, the cumulative effects of all diversions and impoundments in the Colorado River Basin upon the receiving bay are unknown at this time.

## SUMMARY

The applicant requests authorization for five existing reservoirs located on an unnamed tributary of Danz Creek and Danz Creek and an existing off-channel reservoir adjacent to Danz Creek for in-place recreational and/or agricultural purposes. The applicant also seeks the right to divert up to 262.5 acre-feet per year of water from Danz Creek as provided through a contract with the LCRA and to allow the storage of water (groundwater, state water, and diffused surface water) within the bed and banks of Danz Creek and its unnamed tributary.

**Instream Uses staff recommend issuance of the permit if the following special conditions are adopted in the permit, if granted:**

1. Permittee shall implement and maintain appropriate best management practices (BMPs) on the golf course to minimize potential pollutant loadings through the control

**of sediment and turf management chemicals or substances. BMPs shall include but are not limited to:**

- a. **installation and maintenance of erosion resistant materials in areas subject to high current velocities;**
  - b. **the use of sediment control barriers;**
  - c. **temporary and permanent ground cover (natural and artificial);**
  - d. **aeration of soils to promote infiltration and reduce runoff;**
  - e. **temporary storage of storm water runoff to allow for sediment settling; and**
  - f. **proper management and control of fertilizer, herbicide, and pesticide applications.**
2. **In order to provide water quality benefits to the reservoirs and water bodies downstream, the permittee shall maintain a buffer zone of permanent vegetation around the perimeter of each reservoir 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 15%.**
  3. **Any discharge of commingled groundwater from Reservoir 1 shall be of sufficient quality to meet the requirements of the Texas Surface Water Quality Standards (30 TAC §307) for Segment 1427.**

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.

#### LITERATURE CITED

- Ellis, L.T., W. Pohl and R. Tyler. 1997-2001. Handbook of Texas Online. Texas State Historical Association.
- Environmental Protection Agency. 2005. National Management Measures to Protect and Restore Wetlands and Riparian Areas for the Abatement of Nonpoint Source Pollution. EPA-841-B-05-003.
- Fischenich, J.C. and H. Allen. 2000. Stream Management. U.S. Army Corps of Engineers: Engineer Research and Development Center. ERDC/EL SR-W-00-1.
- Griffith, G.E., Bryce, S.A., Omernik, J.M., Cornstock, J.A., Rogers, A.C., Harrison, B., Hatch, S.L., and Bezanson, D., 2004, Ecoregions of Texas (color poster with map, descriptive text, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1: 2,500,000).

Naiman, R.J. and H. Decamps. 1997. The ecology of interfaces: riparian zones. *Annual Review of Ecology and Systematics* 28:621-58.

National Research Council. 2002. *Riparian Areas: Functions and Strategies for Management*. National Academy Press, Washington D.C.

Nilsson, C. and M. Svedmark. 2002. Basic principles and ecological consequences of changing water regimes: riparian plant communities. *Environmental Management* 30: 468-480.

TCEQ. 2008. 2008 Texas Water Quality Inventory and 303(d) List. Texas Commission on Environmental Quality.

USGS National Water Information System - Surface-Water Daily Data For Texas.  
[http://waterdata.usgs.gov/tx/nwis/dv/?referred\\_module=sw](http://waterdata.usgs.gov/tx/nwis/dv/?referred_module=sw). (Accessed June 5, 2009)

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

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Sonia Crawford, Project Manager  
Water Rights Permitting Team  
Water Supply Division

**Date:** January 27, 2010

**Thru:** *cl*  
*1/27/10* Chris Loft, Team Leader  
Resource Protection Team  
Water Supply Division

Kristin Wang, Senior Water Conservation Specialist  
Resource Protection Team  
Water Supply Division

**From:** Scott Swanson, Water Conservation Specialist  
Resource Protection Team  
Water Supply Division

*KW 1/27/10*

**Subject:** The Golf Club at Circle C, LP  
Application No. 5852  
CN602665374  
Review of Water Conservation Plan for Administrative Completeness

*ESS 1/27/10*

The original permit application reviewed by Water Conservation Staff for the July 27, 2004 water conservation memorandum has been modified by the applicant, The Golf Club at Circle C, LP.

The Golf Club at Circle C, L.P. seeks a Water Use Permit to maintain on-channel dams and reservoirs (Reservoirs 1 - 4) located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin for recreational purposes. Applicant also seeks authorization to maintain Reservoir 1 and an existing off-channel reservoir known as the Southwest Austin Regional Irrigation Storage Pond (SARISP) for agricultural purposes.

Applicant continues to seek approval for diversion points DIV1A and DIV1B, and for discharge points DIS1A, DIS2, DIS3, DIS4, DIS1B, DISCRK, and DIS1C.

Applicant requests the right to convey and store not to exceed 262 acre-feet of water for subsequent diversion and use from Reservoir 1 and the SARISP. Applicant has identified a water supply contract between the LCRA and the Applicant as an additional alternate source. As originally proposed, the diverted water from Reservoir 1 will be used for agricultural purposes to irrigate 115 acres of land out of two tracts of land totaling 275.6244 acres.

Applicant requests authorization to use the bed and banks of Danz Creek to convey groundwater to account for losses due to evaporation, evapotranspiration, infiltration, and for storage and subsequent diversion for irrigation purposes; and to use the bed and banks of Reservoir 1 to

convey diffused surface water captured in the SARISP for storage and subsequent diversion for irrigation.

Applicant further seeks to maintain Reservoir 1 at its maximum operating level at all times. If sufficient water from Danz Creek or the SARISP is not available to maintain the reservoir at maximum level, the applicant will continue the current practice of discharging groundwater from an existing well into Reservoir 1 via underground pipe to maintain it at maximum level.

The Water Conservation Plan for The Golf Club at Circle C, LP has been reviewed for administrative sufficiency for agricultural use. The submitted plan meets the minimum requirements for agricultural uses as defined by TCEQ Rules, Title 30 TAC § 288.4.

The application is consistent with the approved January 2006 Region K Water Plan and the 2007 State Water Plan because there is nothing in the plans that conflicts with issuing this permit.

The following special condition should be included in the permit:

Permittee 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.

A further technical review is not required by the Water Conservation Staff of the Resource Protection Team because no new appropriation of state water or inter-basin transfer was requested.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## REVISED NOTICE OF A WATER RIGHTS APPLICATION

### APPLICATION NO. 5852

The Golf Club at Circle C, L.P. has applied for a water use permit, **pursuant to a Firm Water Contract with the Lower Colorado River Authority**, to maintain five existing dams and reservoirs on an unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin, for recreational and agricultural purposes, and an existing off-channel reservoir known as Southwest Austin Regional Irrigation Storage Pond, SARISP), which is adjacent to Danz Creek and connected to Reservoir 1 via pipeline, for agricultural (irrigation) purposes. **They also request a bed and banks authorization for Danz Creek to convey groundwater and diffused surface water captured in the SARISP for storage and subsequent diversion.** More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The Golf Club at Circle C, LP, 7401 Highway 45, Austin, Texas 78739, Applicant, seeks a Water Use Permit pursuant to Texas Water Code (TWC) §§11.121, 11.042 and 11.143, and Texas Commission on Environmental Quality (TCEQ) Rules 30 Texas Administrative Code (TAC) §295.1, et seq. Notice is being published and mailed to water rights holders of record in the Colorado River Basin pursuant to 30 TAC §295.151.

**Notice of the application was issued on May 19, 2005, to the water right holders of record in the Colorado River Basin, and the comment period ended July 11, 2005. On October 17, 2008, the applicant amended the application to include a Firm Water Contract with the Lower Colorado River Authority (LCRA), and to include more accurate bearing and distance coordinates. Pursuant to that request, notice is being republished and mailed to all water right holders of record in the Colorado River Basin.**

The Golf Club at Circle C, L.P. seeks a Water Use Permit to maintain on-channel dams and reservoirs (Reservoirs 1 – 5) located on an unnamed tributary of Danz Creek and Danz Creek, tributary of Slaughter Creek, tributary of Onion Creek, tributary of the Colorado River, Colorado River Basin for recreational purposes. Applicant also seeks authorization to maintain Reservoir 1 and an existing off-channel reservoir known as the Southwest Austin Regional Irrigation Storage Pond (SARISP) for agricultural purposes.

Applicant continues to seek approval for diversion points DIV1A and DIV1B, and for discharge points DIS1A, DIS2, DIS3, DIS4, DIS1B, DISCRK, and DIS1C.

Applicant requests the right to store and convey not to exceed 262 acre-feet of water for subsequent diversion and use from Reservoir 1 and the SARISP. **Applicant has identified a water supply contract between the LCRA and the Applicant as an additional alternate source.** As originally proposed, the diverted water from Reservoir 1 will be used for agricultural purposes to irrigate 115 acres of land out of two tracts of land totaling 275.6244 acres.

Applicant requests authorization to use the bed and banks of Danz Creek to convey groundwater to account for losses due to evaporation, evapotranspiration, infiltration, and for storage and subsequent diversion for irrigation purposes; and to use the bed and banks of Reservoir 1 to convey diffused surface water captured in the SARISP for storage and subsequent diversion for irrigation.

**Applicant further seeks to maintain Reservoir 1 at its maximum operating level at all times. If sufficient water from Danz Creek or the SARISP is not available to maintain the reservoir at maximum level, the applicant will continue the current practice of discharging groundwater from an existing well into Reservoir 1 via underground pipe to maintain it at maximum level. Applicant indicates the Reservoirs are located in zip code 78739.**

The dams and reservoirs are described as follows:

Reservoir 1 (Irrigation Pond Dam) is located on Danz Creek, 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 20.1 acre-feet of water with a surface area of 3.1 acres. The dam is located in the Thomas Brite Original Survey No. 65, Abstract No. 98. Station 1+00 on the centerline of the dam is S 7.817° W, 2,070 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181357° N, Longitude 97.910578° W.**

Reservoir 2 (Holes 7 & 8 Pond) is located on Danz Creek, 14.8 miles southwest of the City of Austin. The reservoir has a capacity of 1.3 acre-feet of water with a surface area of 0.7 acre. The dam is located in the Corbet Stevens Original Survey No. 63, Abstract 740. Station 1+00 on the centerline of the dam is N 58.267° W, 1,310 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.188902° N, Longitude 97.913141° W.**

Reservoir 3 (Hole 16, lower pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 3.0 acre-feet of water with a surface area of 1.1 acres. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is S 40.550° W, 2,830 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181115° N, Longitude 97.915510° W.**

Reservoir 4 (Hole 13 pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 2.0 acre-feet of water with a surface area of 0.5 acre. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 11.050° W, 3,740 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.176908° N, Longitude 97.912004° W**.

Reservoir 5 (Hole 16, upper pond) is located on an unnamed tributary of Danz Creek, 15.6 miles southwest of the City of Austin. The reservoir has a capacity of 1.4 acre-feet with a surface area of 0.5 acre. The dam is located in the Stevens Survey. Station 1+00 on the centerline of the dam is S 47.867° W, 2,567 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182288° N, Longitude 97.915703° W**.

The SARISP is 15.2 miles southwest of the City of Austin. The reservoir has a capacity of 50.6 acre-feet of water with a surface area of 7.8 acres. The dam is located in the Brite Survey. Station 1+00 on the centerline of the dam is S 35.133° E, 2,903 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.180404° N, Longitude 97.904412° W**.

When water in Danz Creek exceeds the inlet elevation for the diversion structure at DIV1B, water will be diverted from Danz Creek to SARISP at DIV1B. If water is available from SARISP, Applicant will pump that water from SARISP and discharge it into Reservoir 1 at DIS1B. Applicant will then divert that water from Reservoir 1 at DIV1A for irrigation. If water is not available from SARISP, then Applicant will discharge groundwater into Reservoir 1 from the existing groundwater well that currently serves all golf course irrigation demand at DIS1A, then diverted from Reservoir 1 at DIV1A. **Applicant indicates the diversion and discharge points are located in zip code 78739.**

The diversion points and rates are described as follows:

Diversion point 1 (DIV1A) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S0.850° E, 1,720 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182231° N, Longitude 97.909852° W**. Water will be diverted by three pumps at a maximum combined diversion rate of 3.899 cfs (1,750gpm).

Diversion point 2 (DIV1B) is located on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing N 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182045° N, Longitude 97.909772° W**. Water will be diverted through a grated inlet into the Southwest Austin Properties Regional Irrigation Storage Pond at a maximum diversion rate of 18.000 cfs (8,080 gpm).

LCRA contract water, state water in excess of the firm water contract amount, and diffused surface water captured in the SARISP will be discharged into Danz Creek and

LCRA contract water, groundwater, and diffused surface water captured in SARISP will be discharged into Reservoirs 1-4 as follows:

Discharge point 1 (DIS1) is on the perimeter of Reservoir 1, 15.2 mile southwest of the City of Austin, bearing S 6.517° E, 1,560 feet from the Northwest corner of the Brite Survey, also being at **Latitude 30.182809° N, Longitude 97.910253° W**. Water will be discharged at a maximum rate of 1.0 cfs (450 gpm).

Discharge point 2 (DIS2) is on the perimeter of Reservoir 2, 14.8 miles southwest of the City of Austin, bearing N 54.083° W, 1,370 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.189212° N, and Longitude 97.913114° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm) from the irrigation system and 140.4 cfs (63,016 gpm) from the Somerset Estates Subdivision storm water system.

Discharge point 3 (DIS3) is on the perimeter of Reservoir 3, 15.6 miles southwest of the City of Austin, bearing S37.150° W, 2,640 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.198036° N, Longitude 97.914935° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).

Discharge point 4 (DIS4) is on the perimeter of Reservoir 4, 15.6 miles southwest of the City of Austin, bearing S 15.950° W, 3,440 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.194364° N, Longitude 97.912479° W**. Water will be discharged at a maximum rate of 1.4 cfs (640 gpm).

Discharge point 5 (DIS1B) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin, bearing S 0.850° E, 1,820 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.182045° N, Longitude 97.909772° W**. Water will be discharged at a maximum rate of 4.5 cfs (2,000 gpm).

Discharge point 6 (DISCRK) is the discharge line from Reservoir 1 into Danz Creek. 15.2 miles southwest of the City of Austin, bearing S 4.383° W, 1,960 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181700° N, Longitude 97.910180° W**. Water will be discharged at a maximum rate of 5.6 cfs (2,510 gpm).

Discharge point 7 (DIS1C) is on the perimeter of Reservoir 1, 15.2 miles southwest of the City of Austin bearing S 7.733° W, 1,992 feet from the northwest corner of the Brite Survey, also being at **Latitude 30.181700° N, Longitude 97.910180° W**. Groundwater from an existing well will be discharged into Reservoir 1 at this discharge point.

Ownership of the land inundated by Reservoirs 1, 2, 3, and 4 and the land to be irrigated is evidenced by a Warranty Deed with Vendor's Lien, Document No. 2003148469 in the Official Records of Travis County.

Reservoir 5 (Hole 16, upper pond) is partially owned by The Golf Club at Circle C, L.P. and Circle C Land, L.P. Both parties have entered into a Pond Maintenance Agreement dated December 27, 2004, which describes the ownership and the maintenance regarding Reservoir 5.

The SARISP is located on land owned by Phoenix Holdings, LTD. The Golf Club at Circle C, L.P., Phoenix Holdings, LTD., Eleven Castle Management Company, Inc., and Newmark Homes, L.P., have entered into a Pond Maintenance and Use Agreement dated October 30, 2003, which describes the ownership, maintenance and the use of the water collected in the pond.

Applicant has two groundwater wells that can produce a combined total of 568,800 gpm or 639 acre-feet of groundwater a year. Applicant has also submitted accounting procedures which will determine the amount of LCRA contract water, groundwater and diffused surface water that will be used and determine the volume of required discharges into Danz Creek to compensate for any state water lost or diverted in excess of the LCRA contract amount.

The applicant indicates that while Reservoir 5 (Hole 16, upper pond) is currently on-channel and receives state water, proposed channel improvements will make Reservoir 5 an off-channel reservoir and will limit future inflows into the pond to diffused surface water.

The application was received on July 12, 2004. Additional information was received November 4, November 10, 2004, January 10, 2005, February 24, 2005, and April 6, 2005. The application was declared administratively complete and was accepted for filing with the Office of Chief Clerk on April 19, 2005. **Additional information was received on April 10, 2006. An amended application was received on October 17, 2008 and that amended application was declared administratively complete and was accepted for filing with the Office of Chief Clerk on May 28, 2009.**

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including but not limited to, maintenance of an alternate source of water and an accounting plan. The application, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F, Austin, Texas, 78753.

**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, at 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](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: March 4, 2011

Ira Jon Yates  
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April 12, 2011

Office of the Chief Clerk  
Chief Clerk, MC 105  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 APR 13 PM 3:05  
CHIEF CLERKS OFFICE

Re: Notice of Water Rights Application No. 5852  
Golf Club at Circle C, LP

**Written Comments and Request for a Contested Case Hearing**

Dear Executive Director,

I am Ira Yates of 5711 Hwy 45 Austin Texas, 78739. My phone number and fax is 512-282-1370. The applicants name is The Golf Club at Circle C, LP and the application is Water Rights Application No. 5852. I request a contested case hearing on this matter. I will be affected by a way not common to the general public because I am the immediate contiguous downstream owner of agricultural land. Diversion of water from the associated tributaries will further reduce the natural flows of water and therefore reduce the available moisture for the natural rangeland grasses that support my agricultural operation. In addition, I believe that the natural recharge process will be affected which in turn may affect the two wells that I have. These ponds are within a few hundred feet of my property. I also question the integrity of the ponds.

**General Comments**

I have had high regard for the owners of the Golf Club. However, this proposal and subsequent approval as presently presented will demonstrate that the TECQ does not have the ability or intention of protecting the States water or the Edwards Aquifer.

Attachment 5

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In a letter dated July 1, 2005, Mr. James Isensee states "TCEQ staff has determined that the Regional Pond is not located on a watercourse and does not require a Water Use Permit." This South Austin Regional Irrigation Storage Pond is just upstream from my property. The streambed crosses my driveway where I have two 12 inch culverts. On heavier rainfall events, prior to the Pond, the water would exceed the capacity of the two pipes and flow over the driveway. After construction of the Pond and after it was full, the valve at the bottom of the dam was opened to drain the pond. The water flowed over my drive for 7 days. I believe the Pond is on a "watercourse" and that the TCEQ staff erred in their determination otherwise.

A development application filed at the City of Austin for the property adjacent to me between the South Austin Regional Irrigation Storage Pond and my property notes a "critical environmental feature" in the streambed below the Pond and on my property. This is the streambed that the TCEQ staff erred on in it's determination that this is not a streambed. This leads me to the conclusion that recharge to the Edwards Aquifer is already being affected.

A representative of the applicant could not explain the operations required of this proposed application. Chip Gist, general manager for the Golf Club could not on Friday April 12<sup>th</sup> 2011 explain to me how the system functions and works. If, after 5 years of working on this permit, the manager of the Golf Club cannot explain it and no one at the TCEQ can explain it to an audience, how can we expect anyone to actually do what is required under this permit? The application and its description of State water and private water and the commingling thereof and proposed metering and management is mind boggling. Who is really going to do this? Is it the watering crew hired to mow and water? Or is it a series of computers and sensors that are vulnerable to fire ants and other mechanical problems. Who at TECQ is going to check up on all of this? Will anyone review the data sent in periodically and if they do will they know what they are looking at and understand it? I know water has already been diverted from my land and the aquifer and I am being harmed. I know no one at the TCEQ will be paying attention to the management of this integrated system of ponds and the associated metering, pumping and releases of water to equate for the original natural runoff and recharge. Now comes the applicant in 2011 with an LCRA water contract that theoretically protects the Colorado River flows but does nothing to mitigate the loss of water recharge or runoff onto my land. The LCRA water contract does not protect the integrity of the natural water system in Danz Creek and downstream to the confluence of Onion Creek and the Colorado River.

Therefore, I strongly recommend a hearing on this matter so these issues can be properly addressed in a public forum before the full commission where a diagram of this elaborate operation can be presented by the applicant or TCEQ staff and show and explain to the affected parties, Ira Yates and the State of Texas, how the system works. This type of application for water rights immediately above the recharge zone of the Edwards Aquifer is setting an important precedent. This is an important State wide policy matter.

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**In conclusion, although the owners of the Golf Club are nice folks, approval of this application will have a negative effect on my land and water resources and far reaching implications and deserves a hearing.**

Sincerely,

Ira Jon Yates

Cc: City of Austin

Barton Springs Edwards Conservation Aquifer District



June 24, 2011

*Via Email and U.S. Mail*

Ms. Kellye Rila, Manager  
Texas Commission on Environmental Quality  
Water Rights Permitting Section  
Water Supply Division  
P.O. Box 13087, MC-160  
Austin, Texas 78711-3087

Re: Application No. 5852 for a Water Use Permit by The Golf Club at Circle C, L.P.

Dear Ms. Rila:

LCRA has reviewed the revised draft permit for the above-referenced application that was enclosed with your letter dated May 25, 2011. As recognized in the revised draft permit, LCRA has entered into a raw water contract with the applicant that addresses impacts of the applicant's use of state water on LCRA's water rights.

LCRA intends to withdraw its request for a contested case hearing if no other hearing requests are granted on this application. However, to the extent that a contested case hearing is granted on this permit due to other requests, LCRA may seek to participate in such hearing to ensure that the rights and obligations it has under the contract are not unreasonably affected. Although LCRA has resolved its differences with this particular applicant, it is important to note that LCRA continues to be concerned with the potential implications of some of the theories underlying the Applicant's original request related to 'private water.' To the extent that diffuse water that becomes concentrated in drainage channels or storm sewer pipes prior to discharge into a storage pond is characterized as "private water" not subject to normal water rights permitting processes, this could have significant impacts on how water availability is estimated. By withdrawing its request, LCRA does not intend to waive any rights it may have to raise these concerns in protests of similar existing or future water rights proceedings.

Thank you for the opportunity to review the proposed draft permit and provide these comments. If you have any questions or require further clarification, please call me at (512) 473-3378.

Sincerely,

  
Lyn Clancy  
Managing Associate General Counsel