

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
INTEROFFICE MEMORANDUM

TO: Chief Clerk

DATE: March 19, 2012

THRU: Iliana Delgado, Team Leader
Water Rights Permitting Team

FROM: Sonia Crawford, Project Manager
Water Rights Permitting Team

SUBJECT: The Golf Club at Circle C
Docket No. 2011-2134WR
WRPERM 5852
CN602665374, RN105675177, RN104337696, RN105675185, RN104337746,
RN104337753, RN104337779, RN104337803, RN104337837, & RN104337902
Application No. 5852 for a Water Use Permit
TWC §§ 11.121, 11.143, & 11.042, Requiring Mailed and Published Notice
Unnamed Tributary of Danz Creek and Danz Creek, Colorado River Basin
Travis County

The Executive Director received an application from The Golf Club at Circle C seeking a Water Use Permit pursuant to TWC §§ 11.121, 11.042 and 11.085, and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§ 295.1, *et seq.*

The application was received on July 12, 2004, declared administratively complete, and accepted for filing with the Office of Chief Clerk on April 19, 2005. Notice was published and mailed on May 19, 2005, to the water rights holders of record in the Colorado River Basin pursuant to TAC §295.151. A public meeting was held in Austin, Texas on November 29, 2005. Several requests for a contested case hearing were received.

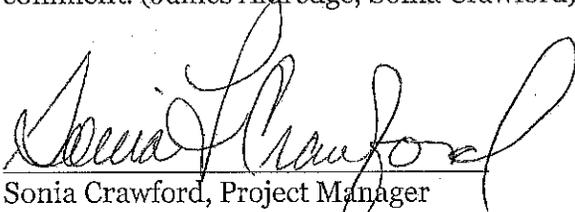
The application was amended by the applicant on October 17, 2008. The amended application was declared administratively complete and accepted for filing with the Office of Chief Clerk on May 28, 2009. A revised notice was published and mailed on March 4, 2011, to the water right holders of record in Colorado River Basin pursuant to TAC §295.151.

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

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

Below is the caption for this application:

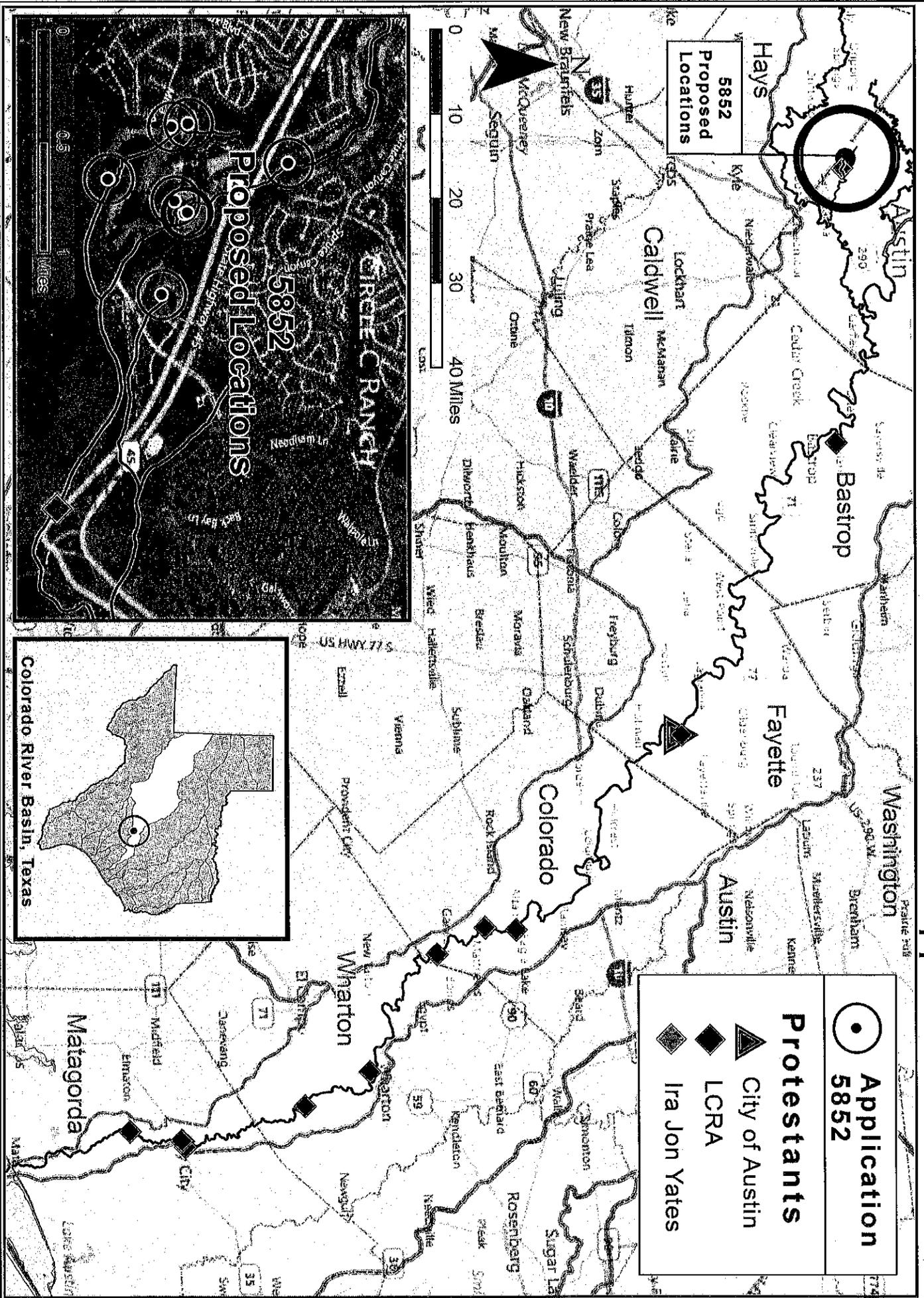
Consideration of the application by **The Golf Club at Circle C, LP** for new Water Use Permit No. 5852 to maintain five reservoirs (Reservoirs 1-5) with a combined storage capacity of 27.8 acre-feet of water on an unnamed tributary of Danz Creek and on Danz Creek within the Colorado River Basin; to maintain an off-channel reservoir (SARISP) with a capacity of 50.6 acre-feet of water within the Colorado River Basin; to divert and use not to exceed 262 acre-feet of state water pursuant to a contract from the Lower Colorado River Authority for agricultural purposes to irrigate 115 acres of land within the Colorado River Basin; to use the bed and banks of an unnamed tributary of Danz Creek, Danz Creek, and the four reservoirs thereon to convey groundwater or maintain the reservoirs with diffused surface water discharged directly to the off-channel reservoir; to use the bed and banks of Reservoir 1 on Danz Creek to convey groundwater and diffused surface water discharged from the off-channel reservoir; and to use each permitted reservoir for in-place recreational use in **Travis County**. The Commission will also consider requests for hearing or reconsideration, related responses and replies, and public comment. (James Aldredge, Sonia Crawford)



Sonia Crawford, Project Manager
Water Rights Permitting Team

Enclosure

cc: Ron Ellis, TCEQ
Chris Loft, TCEQ
Scott Swanson, TCEQ
Gregg Easley, TCEQ
James Aldridge, TCEQ
Kathy Alexander, TCEQ
Iliana Delgado, TCEQ
Steve Densmore, TCEQ





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.

Applicant further seeks to store groundwater and stormwater in Reservoir 1 and transport via underground pipe to the off-channel reservoir (know 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 in 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 S37.150° 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.

Issued: May 19, 2005

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 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° 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. Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: March 4, 2011

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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. 2003148469 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.

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

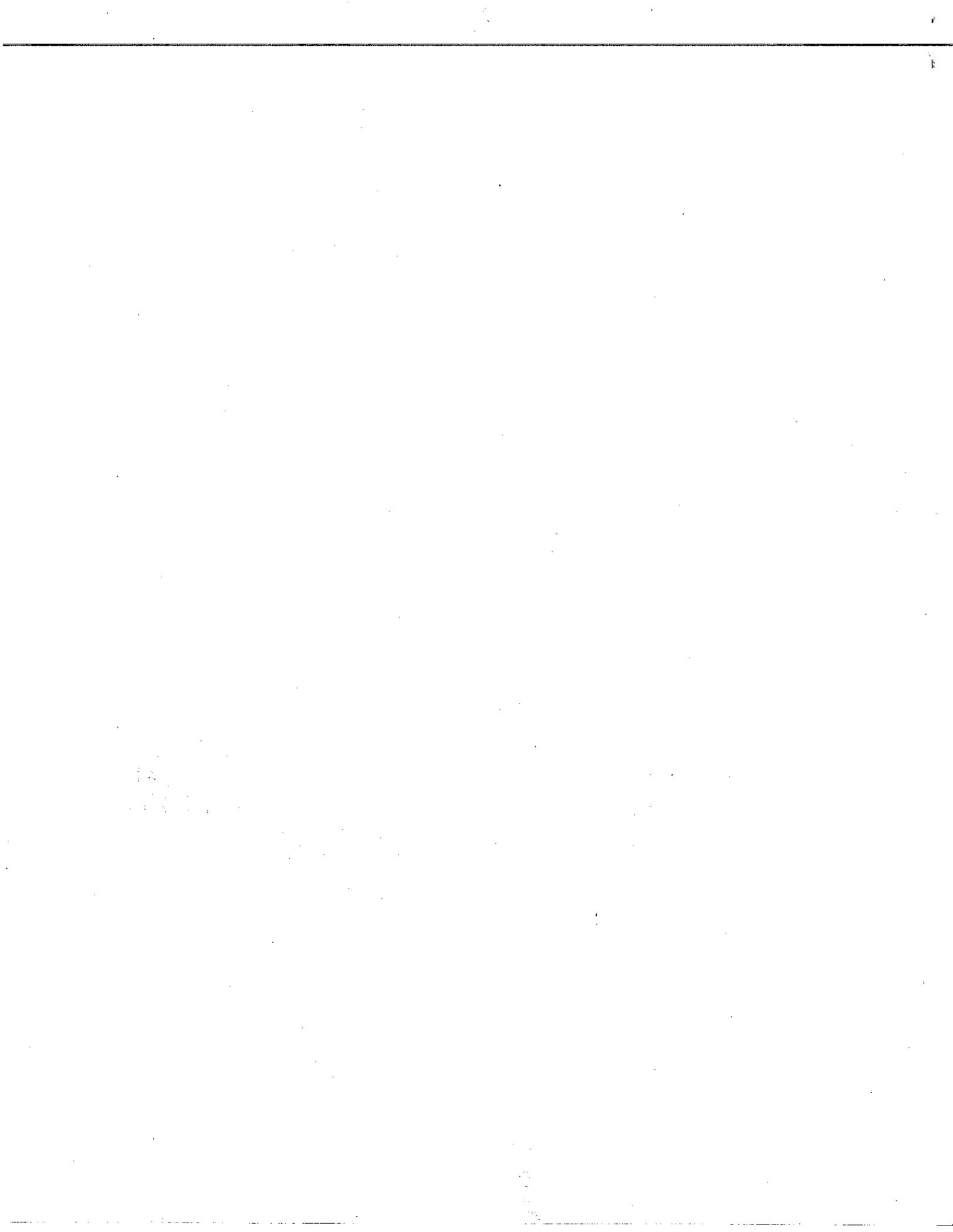
Permittee agrees to be bound by the terms, conditions, and provisions contained herein and such agreement is a condition precedent to the granting of this permit.

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:



Texas Commission on Environmental Quality

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.¹ 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.

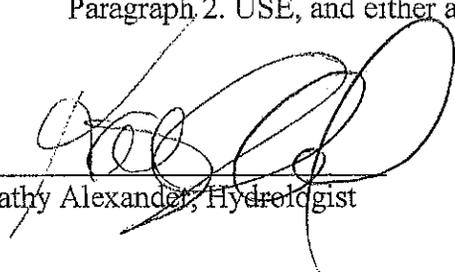
Conclusion

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:

¹ 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.

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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

INTEROFFICE MEMORANDUM

TO: Sonia Crawford
Water Rights Permitting Team

DATE: February 24, 2011

FROM: Warren D. Samuelson, P. E., Manager
Dam Safety Section, MC-174

SUBJECT: The Golf Club at Circle C, Application to store water in five reservoirs, unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin, Travis County.

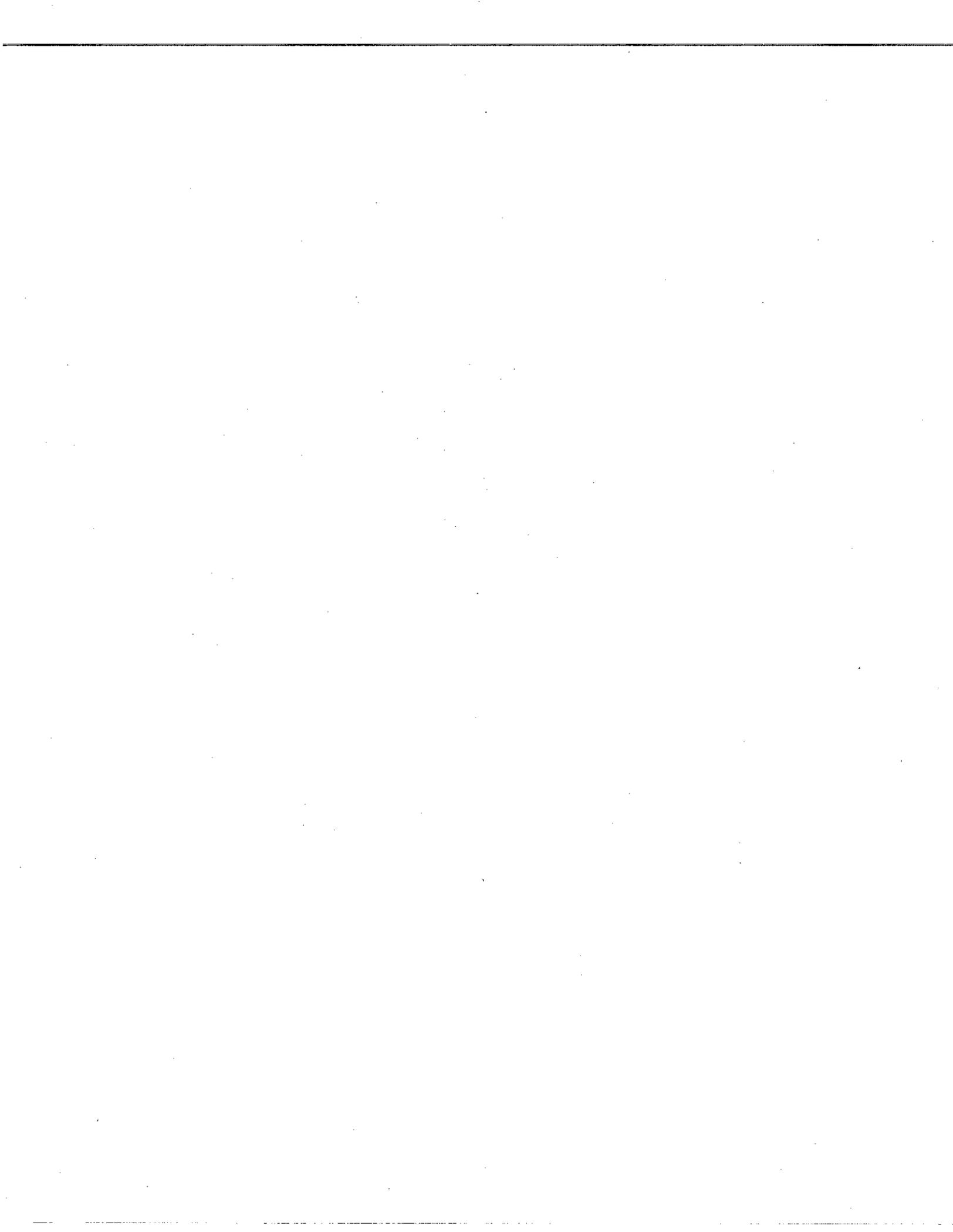
The applicant seeks authorization to maintain five existing reservoirs on unnamed tributaries of Danz Creek and on Danz Creek in Travis County. Reservoir 1 has a surface area of 3.1 acres and impounds 20.1 acre-feet. Reservoir 2 covers an area of 0.7 acres and impounds 1.3 acre-feet. Reservoir 3 covers an area of 1.1 acres and impounds 3.0 acre-feet. Reservoir 4 covers an area of 0.5 acres and impounds 2.0 acre-feet. Reservoir 5 covers an area of 0.5 acres and impounds 1.4 acre-feet. An off-channel reservoir (Southwest Austin Regional Irrigation Storage Pond) covers 7.8 acres and impounds 50.6 acre-feet.

The dams for Reservoirs 1 - 5 are not considered dams by rule in 30 Texas Administrative Code Chapter 299. The dam for the off-channel reservoir is considered a low hazard.

Therefore, no dam safety requirements need to be met or included in the permit.



Warren D. Samuelson, P. E., Manager
Dam Safety Section



Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Kathy Hopkins, Application Manager
Water Rights Permitting Team
October 4, 2006

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

From: Kathy Alexander, Hydrologist
Surface Water Availability & Interstate Compacts Team

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

APPLICATION REVIEW

Application Summary

The Golf Club at Circle C (applicant) has requested authorization to maintain an existing off-channel reservoir and five (5) existing dams and reservoirs on Danz Creek and an unnamed tributary of Danz Creek, Colorado River Basin for recreational and/or agricultural (irrigation) purposes. Reservoir 1 will impound 20.1 acre-feet of water, reservoir 2 will impound 1.3 acre-feet, reservoir 3 will impound 3 acre-feet, reservoir 4 will impound 2 acre-feet, and reservoir 5 will impound 1.4 acre-feet. The applicant indicates that while Reservoir 5 is currently on-channel and receives state water, installation of proposed channel improvements will limit future inflows into the pond to diffused stormwater.

The applicant also seeks to convey and store approximately 293.5 acre-feet of groundwater and stormwater for subsequent diversion, and to use the bed and banks of Danz Creek and an unnamed tributary of Danz Creek. The applicant estimates that the total amount of water used for irrigation will be 262.5 acre-feet per year and the amount of water needed to account for evaporative and other losses is 31 acre-feet per year. Groundwater and stormwater will be stored in Reservoir 1 and transported through an underground pipe to the off-channel reservoir (Southwest Austin Regional Irrigation Storage Pond or SARISP) which impounds 50.6 acre-feet of water. During dry periods, private water stored in SARISP will be pumped back into reservoir 1 for storage and diversion. The applicant further requests 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. The applicant has two groundwater wells (Wells #3 and 4) that can produce a combined total of

568,800 gpd or 639 acre-feet of groundwater per year. The applicant estimates that carriage losses associated with transport of the stormwater discharges into Danz Creek will be 5% at Reservoir #3, 3% from the Somerset Estates stormwater discharges into Reservoir 2, and 5% along Danz Creek between Reservoir 2 and Reservoir 1.

The applicant has submitted accounting procedures to determine the amount of state water captured and diverted in order for the applicant to compensate with discharges of groundwater and/or stormwater.

Water Availability Review

Resource Protection staff recommend that the permittee maintain outlets that allow the free passage of inflows permittee is not authorized to impound, implement specific best management practices to minimize pollutant loadings, maintain groundwater wells as an alternate source of water and report water quality of that groundwater and ensure that discharge of commingled groundwater/stormwater from the reservoirs into the downstream watershed shall be of sufficient quality to meet the requirements of the *Texas Surface Water Quality Standards (30 TAC 307)* for Segment 1427.

Using evaporation information compiled by the Texas Water Development Board (TWDB) for the period 1954-2004, staff estimates that the average annual evaporation from the reservoirs (excluding reservoir 5 which will not be on a watercourse in the future) will be 23 acre-feet with a maximum of 30 acre-feet in 1956 which is consistent with the applicant's estimates.

Staff reviewed the estimate of losses associated with the use of the bed and banks of Danz Creek to transport groundwater and stormwater and found it adequate. Stormwater that is discharged into a watercourse is considered to be state water. The discharge points for the applicant's stormwater discharges are located on tributaries of the Colorado River and empty into the river below the Highland Lakes (Buchanan and Travis). The Water Management Plan for the Lower Colorado River Basin, as amended and approved by the TCEQ on March 1, 1999, states that all demands for water from the Colorado River downstream of the Highland Lakes be satisfied by run of the river flows of the Colorado River before releases are made from the Highland Lakes. These run-of-the-river flows include inflows from tributaries such as Danz Creek. Because of this, diversion of stormwater discharged directly to streams could impact senior water rights held by the LCRA.

The SARISP is off-channel, therefore, any stormwater directly discharged into this reservoir would be available for use by the applicant to compensate for impoundment or diversion of state water from Reservoirs 1-5. The availability of stormwater from SARISP could be extremely limited during drought sequences and staff believes that during dry times, it is likely that the only alternate source available to the applicant would be groundwater from the Driving Range Well (Well #3) and the No. 7 Tee Well (Well #4). The TWDB assessed future availability of groundwater in the Trinity Aquifer for the Hill Country area using a calibrated groundwater availability model for the aquifer. The

TWDB modeling predicted that, in the future, water levels will decline in response to increased groundwater pumping and to drought-of-record conditions.¹

Staff reviewed the accounting plan and found that the plan adequately determines the amount of state water that has been captured and diverted so that the applicant can compensate with discharges of other water.

Conclusion

Staff can support granting the request to maintain the reservoirs with groundwater, and/or to maintain the reservoirs with stormwater and diffuse surface water discharging directly to SARISP, and to divert groundwater and stormwater and diffuse surface water impounded in SARISP for subsequent irrigation use. Staff can also recommend use of the bed and banks within the irrigation system to convey groundwater and stormwater and diffuse surface water discharged directly to SARISP.

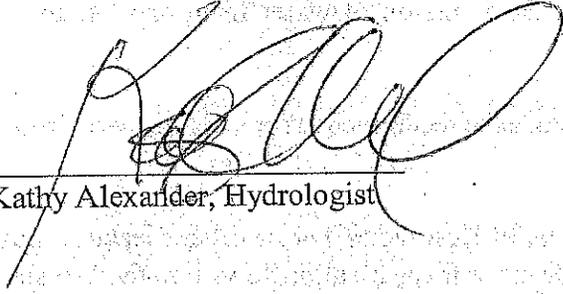
Because there is little to no water available in the Colorado River Basin and a potential for impacts on downstream senior water rights, staff finds that there is insufficient water available for the applicant's request to use stormwater that discharges directly into Danz Creek. Therefore, staff recommends that the applicant's request to use stormwater discharged directly into Danz Creek or its tributaries be denied. Because the accounting plan assumes the use of stormwater discharged into tributaries of Danz Creek and Danz Creek to compensate for evaporative losses, the accounting plan must be adjusted before any conveyance, storage or diversion of water from or to state waters pursuant to this permit occurs.

Additionally, staff recommends that the permit include the recommendations of Resource Protection staff and the following Special Conditions:

1. Permittee shall provide and maintain outlets in Reservoirs 1-4 or other means to pass all inflows of state water downstream and a means to measure all inflows into these reservoirs and the flow in the stream downstream of Reservoirs 1 and 4. Measurements of inflows and outflows shall be recorded in the accounting plan.
2. Permittee shall also provide and maintain an outlet in Reservoir 5, measure inflows into Reservoir 5 and include losses from Reservoir 5 in all accounting. Permittee shall compensate for those losses until such time as installation of proposed channel improvements limit inflows to this reservoir to diffuse water.
3. Permittee shall use groundwater or diffuse water captured in and stormwater discharged directly to SARISP to maintain Reservoirs 1-4 and Reservoir 5 pursuant to Special Condition 2 at all times to allow the free passage of water the owner is not entitled to impound. Should

the permittee fail to maintain these alternate supplies, this permit shall expire and become null and void. Upon the expiration of this permit, permittee shall activate the outlets such that no state water is impounded in the reservoirs.

4. Permittee shall operate and maintain a means to detect a drop in reservoir elevations which will activate the use of groundwater or water discharged into Reservoir 1 from SARISP.
5. Permittee shall monitor the depth to water level for each well on a monthly basis and include this information in the accounting plan.
6. Permittee shall compensate for all diversions of state water into 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 SARISP.
7. Prior to any diversions from the reservoirs, permittee shall submit to, and have approved by the Executive Director, a daily accounting plan. The plan shall include the amount of groundwater pumped into the system, the amount of water lost from the reservoirs through evaporation, the pool elevation, irrigation usage, water levels for the groundwater wells, inflows of state water to the reservoirs and downstream compensatory releases. Permittee shall maintain the accounting plan in electronic form and make it available to the Executive Director upon request.



Kathy Alexander, Hydrologist

¹ Texas Water Development Board. 2000. *Groundwater Availability of the Trinity Aquifer, Hill Country Area, Texas: Numerical Simulations through 2050*. Report 353 by R. Mace, A. Chowdhury, R. Anaya, and S.C. Way.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Kathy Hopkins, Project Manager
Water Rights Permitting Team

Date: October 2, 2006

Thru: Bill Billingsley, Team Leader
Resource Protection Team *SP 10/5/06*

WJG 10/4/06 Wendy Gordon, Ph.D., Aquatic Scientist
Resource Protection Team

From: John Botros, Aquatic Scientist
Resource Protection Team *10-2-06*

Subject: Golf Club at Circle C, Application 5852
WRPERM 5852
Danz Creek, Colorado River Basin
Travis County

Environmental reviews of water right applications are conducted in accordance with §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.

Application Summary: The Golf Club at Circle C, LP seeks authorization to maintain five existing dams and reservoirs 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 in Travis County. 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. Applicant further seeks to store developed water in Reservoir 1 and transport via underground pipe to the reservoir known as the Southwest Austin Regional Irrigation Storage Pond (Regional Pond). During dry periods, developed water stored in the Regional Pond will be pumped back to Reservoir 1 using the underground pipe for storage and subsequent diversion.

INSTREAM USES

Aquatic and Riparian Habitats: Based on USGS topographical maps (Signal Hill, TX quadrangle), Danz Creek and its unnamed tributary are intermittent streams. From the project location, Danz Creek travels for approximately 4.0 stream miles to the confluence with Slaughter Creek. Although the USGS topographic map depicts Slaughter Creek as a perennial stream, an examination of the USGS streamflow gage 08158840 (Slaughter Creek at FM 1826 near Austin, TX) for the period of record, 1978-2006, reflects a more intermittent flow regime. The terrain in the area is low-rolling to flat, with local steep slopes and benches; clay and sandy loam surfaces support juniper, oak, pecans, scrub brush, and grasses.

The streams immediately subject to impact by this application are intermittent. Although staff recognizes that ephemeral, intermittent and small headwater streams are an integral part of a river network, the applicant has submitted accounting procedures to determine the amount of state water captured and diverted and proposes to compensate with discharges of groundwater and/or private stormwater. Therefore, instream flow restrictions are not recommended in this case.

Water Quality: The applicant's project on Danz Creek is located approximately 11.8 river miles upstream of Onion Creek, which is classified Segment 1427 in the *State of Texas Water Quality Inventory, 305(b)/303(d) Report*. According to the *2002 303(b)/303(d) Report*, Segment 1427 only partially supports its high aquatic life use due to depressed dissolved oxygen, and it remains on the *2004 303(d) List of Threatened or Impaired Water Bodies* for this parameter. Because an insufficient number of 24-hour dissolved oxygen values were available in 2002 to determine if the criterion is supported, this segment is identified as not meeting the standard for dissolved oxygen until sufficient 24-hour measurements are available to demonstrate the support of the criterion. Furthermore, Slaughter Creek is designated as unclassified Segment 1427A. Segment 1427A is listed on the *2002 303(d) List* as not supporting its designated aquatic life use (impaired macrobenthos community) due to non-point source pollution. These segments were not updated in 2004 *305(b)/303(d) Inventory* from the 2002 version.

The project presents potential causes for water quality degradation due to the development and operation of the golf course primarily related to the transport of pollutants with stormwater runoff and the discharge of these pollutants into water bodies. According to information dated November 3, 2004 submitted in support of the application, the Regional Pond (located off the golf course property) receives first flush stormwater from the surrounding developments, some of which drains into Reservoir 1. Water stored in the Regional Pond will be used to irrigate the golf course, thus meeting City of Austin requirements to address potential water quality impacts.

In addition to the Regional Pond, staff recommends the use of best management practices (BMPs) to be implemented on the golf course to minimize potential pollutant loadings through the control of sediment and nutrients. BMPs to control erosion should include: (1) the installation and placement of rip-rap or other erosion resistant materials in areas subject to high velocity flows; (2) the use of silt fencing or sediment control barriers, (3) temporary and permanent ground cover (both natural and artificial types); (4) aeration of soils to promote infiltration and runoff reduction; and (5)

October 2, 2006

temporary storage of stormwater runoff in catch basins to allow sediments to settle prior to the discharge into downstream areas. Also, nutrients loadings from the golf course should be minimized through proper management and control of fertilizer applications.

The applicant proposes to use groundwater as an alternate source of water for the golf course irrigation operations. According to information from the applicant, two groundwater wells on site can produce up to 637 acre-feet per year of groundwater from the Trinity aquifer. Applicant provided water quality data from an October 15, 2004 sample taken from the wells, and the following is a summary of the data that was provided.

Parameter	Driving Range well	Tee Box #7 well
pH	7.01	6.87
Total dissolved solids (mg/L)	1260	2180
Chloride (mg/L)	26.6	42.8
Sulfate (mg/L)	677	1270

According to the Texas Water Quality Standards, Segment 1427 has the designated use of aquifer protection. Aquifer protection applies to the contributing recharge, and transition zones of the Edwards Aquifer. Based on these limited data, groundwater from the Trinity formation in this area contains average concentrations of sulfate and total dissolved solids (TDS) constituents that are not compliant with the allowable water quality standard for the recharge portions of the segment (50 and 400 mg/L, respectively) as well as the non-recharge portions (100 and 500 mg/L, respectively) of the segment. Discharges of groundwater from this source for extended periods without adequate dilution by other sources may have adverse impacts to the water quality of Danz Creek or Segment 1427 due to concentrations of sulfates and TDS.

Furthermore, the information from the applicant indicates that groundwater pumped from the golf course wells in the October 15, 2004 sample had average temperatures of around 75°C (168°F). The surface water quality standard for temperature is 90°F. Staff presumes the field notes the applicant submitted inaccurately reports the temperature units, and the temperature of the groundwater was actually around 75°F and within the acceptable standard for temperature.

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

Summary and Recommendations: The applicant seeks authorization to maintain five existing dams and reservoirs located on an unnamed tributary of Danz Creek and Danz Creek, in the 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 the unnamed tributary of Danz Creek and Danz Creek for irrigation uses of golf course property.

In order to maintain the instream uses and water quality of Danz Creek and Segment 1427, staff

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recommends the following special conditions be adopted into Water Use Permit 5852, if granted:

1. Permittee shall maintain suitable outlets in good working condition in the aforesaid dams and reservoirs to allow the free passage of surface flows in Danz Creek and its unnamed tributary that the permittee is not authorized to impound.
2. 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 nutrients. BMPs shall include but are not limited to:
 - a. installation and placement of erosion resistant materials in areas subject to high velocity flows;
 - b. the use of sediment control barriers;
 - c. temporary and permanent ground cover (both natural and artificial types);
 - d. aerification of soils to promote infiltration and runoff reduction; and
 - e. proper management and control of fertilizer, herbicide, and pesticide applications.
3. Permittee shall maintain and operate, as part of this project, a minimum of two groundwater wells (Driving Range and Tee #7 wells) as an alternate source for State water. Permittee shall monitor and maintain records of groundwater quality to include in its accounting plan no less than once every three months subject to TCEQ review.
4. Discharge of commingled groundwater/stormwater from the reservoirs into the downstream watershed 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. The recommendations in this environmental analysis are intended for the protection of instream uses and do not necessarily provide protection to downstream water rights; that analysis is addressed in the hydrology memo and further restrictions may be applicable as necessary. Authorizations granted to the permittee by the water rights permit shall comply with all rules of the Texas Commission on Environmental Quality, and other applicable State and Federal authorizations.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Kathy Hopkins, Project Manager
Water Rights Permitting Team
Water Supply Division

Date: July 27, 2004

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

KW 7/27/04

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

ESS 7/27/04

Subject: The Golf Club at Circle C, LP
CN602665374
Review of Water Conservation Plan for Administrative Completeness

Applicant seeks authorization to maintain three existing dams and reservoir pursuant to 11.143 and 2 existing dams and reservoirs created as part of golf course construction, impounding a total of 34.7 acre-feet of water 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 in-place recreational purposes in Travis County. Applicant also seeks to convey and store for subsequent use approximately +/- 115 acre-feet of groundwater and stormwater (also known as private water) using the bed and banks of unnamed tributary of Danz Creek and Danz Creek for agricultural purpose from reservoirs 1, 2, 3, & 5 to irrigate 70 acres of land out of 2 tracts of land totaling 275.6244 acres at a maximum combined diversion rate of 7.24 cfs (3,250 gpm) in Travis County.

Applicant further seeks to store private water in Reservoir 1 and transport via underground pipe to Southwest Austin Regional Irrigation Storage Pond (off-channel). During dry period, private water stored in the Southwest Austin Regional Irrigation Storage Pond will be pumped back to Reservoir 1 using the underground pipe for storage and subsequent diversion. The Southwest Austin Regional Irrigation Storage Pond has a capacity of approximately 50.6 acre-feet of water.

The water conservation plan for The Golf Club at Circle C, LP was reviewed and found to meet the minimum requirements for individually-operated irrigation systems as defined in Title 30, Texas Administrative Code Chapter 288.4.

The applicant's request and the applicant's water conservation plan are not inconsistent with the approved 2002 State Water Plan and the January 2001 Region "K" Water Plan.

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

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

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

cc: Bill Billingsley, Resource Protection Team



Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Kathy Hopkins
Water Rights Permitting Team

DATE: March 9, 2005

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

SUBJECT: The Golf Club at Circle C, Application to store water in five reservoirs, unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin, Travis County.

The applicant has resubmitted information from that previously submitted. See Dam Safety memos of July 16, 2004, and November 8, 2004.

The applicant now seeks authorization to maintain five existing reservoirs an unnamed tributaries of Danz Creek and on Danz Creek in Travis County. Lake 1 has a surface area of 3.1 acres and impounds 20.1 acre-feet. Lake 2 covers an area of 0.7 acres and impounds 1.3 acre-feet. Lake 3 covers an area of 1.1 acres and impounds 3.0 acre-feet. Lake 4 covers an area of 0.5 acres and impounds 2.0 acre-feet. Lake No. 6 (Regional Pond) covers 7.8 acres and impounds 50.6 acre-feet. The reservoirs will be used for irrigation purposes.

The applicant's engineer, JD Consulting, L.P. indicated in the application package that the dams for Lakes 2 - 4 are less than 6 feet high and are not considered dams by rule. The dam for Lake 1 will be modified. The engineer indicates that the dam will meet the Dam Safety rules. The plans submitted with the application are not considered construction plans. Final construction plans will be required before construction can start on Dam No. 1. The dam for Lake No. 6 will not be modified and is considered a low hazard.

No additional information is required.

It is recommended that the permit include the following language:

TIME LIMITATIONS

- (a) Modification of the dam for Lake 1 must be in accordance with plans approved by the Executive Director and must begin within two years of issuance of this permit and be completed within three years of issuance of permit.
- (b) Failure to commence and/or complete modification of the dam 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 Owners apply for an extension of time to commence

Kathy Hopkins
March 9, 2005
Page 2

and/or complete modification prior to the deadline for commence and completion, and the application is subsequently granted.

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

PROPOSED WATER RIGHT PERMIT NO. 5852

JUN 12 PM 4:12

APPLICATION OF THE GOLF § BEFORE THE CHIEF CLERKS OFFICE
CLUB AT CIRCLE C § TEXAS COMMISSION
FOR PERMIT NO. 5852 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS

The Executive Director files this Response to Comments for the oral and verbal comments made at the November 29, 2005, public meeting on The Golf Club at Circle C's (GCCC) application for Permit No. 5852 (the application"), and the written comments received before that meeting.

BACKGROUND

GCCC filed this application with the TCEQ on July 12, 2004. The application was declared administratively complete on April 19, 2005 and mailed notice was issued on May 19, 2005. Published notice was provided in the *Austin American Statesman* on June 9, 2005. At the time this Response to Comments was filed, the technical review had been completed on this application.

GCCC's application requests to maintain an existing off-channel reservoir and five 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.

Staff has found that insufficient unappropriated state water is available for this application. Because there is insufficient state water available, applicant must compensate for any loss of state water by an alternate source. Applicant has chosen to use groundwater to keep the reservoirs full to preclude the use of state water.

COMMENTERS

The following persons provided written and/or oral comment at the public meeting:

- James and Sony Bollinger
- Joe Ely
- Sherry Heiden

Robert D. Hejl

Liz Gifford

David B. Kumhyr

Keith and Teri Layton

Jacqueline Magill

Davis and Swan Perkins

Ira Yates

Ellen Zimmermann

Bear Creek Property Owners Association

Village of Bear Creek

Hays-Trinity Groundwater Conservation District

Save Our Springs

David Wensley

Barton Springs/Edwards Aquifer Conservation District

City of Austin

Lower Colorado River Authority

Joseph and Susan Manzello

Brian and Tracy Sharples

Donald and Turkan Hayes

Andrew Backus

Miki Cook

Robin Hudson

Carolyn Rife

Charles O'Dell (Hays Community Action Network)

RESPONSE TO COMMENTS

COMMENT NO. 1: James and Sony Bollinger, Joe Ely, Sherry Heiden, Robert D. Hejl, Liz Gifford, David B. Kumhyr, Keith and Teri Layton, Jacqueline Magill, David and Swan Perkins, Ira Yates, Ellen Zimmermann ask that the permit be denied.

RESPONSE NO. 1: The Executive Director's staff must perform its review of the application under the rules and laws applicable to the application. If the Executive Director's staff finds that the application does not meet the applicable laws and rules of the agency, it will recommend that the application be denied. If it finds that the application does meet the applicable rules and law, it will draft a permit. The Commission will consider the hearing requests on file with the agency, and will decide whether to grant or deny those hearing requests at an open meeting. If it grants one or more hearing requests, the application will be sent to the State Office of Administrative Hearings for a contested case hearing. After the

hearing, the Commission will decide whether to grant or deny the application. If the Commission denies the requests for hearing, it will decide at the open meeting whether to grant or deny the permit.

COMMENT NO. 2: Bear Creek Property Owners Association (BCPOA) and the Village of Bear Creek (VBC) asked why no notice of this application was provided to them. VBC states that they are the nearest community, less than one mile from the proposed site.

RESPONSE NO. 2. Under Tex. Water Code Section 11.132 and Commission rules, notice is given to water right holders in the basin. BCPOA and VBC did not receive mailed notice because they are not water right holders. Notice of this application was also published in the *Austin American Statesman*.

COMMENT NO. 3: VBC comments that the map included in the application showing the area of concern, along Route 45 and FM 1526, is about 15 years out of date and should be updated.

RESPONSE NO. 3: The Executive Director responds that TCEQ rules (295.123-.124) require that an applicant for a water rights permit submit a map showing locations of reservoirs and diversion points requested in the application. The rules require an applicant for a water rights permit to submit a USGS 7.5 Minute Topographic Quadrangle for this purpose. The map included in the application complies with the rules.

COMMENT NO. 4: Hays-Trinity Groundwater Conservation District (HTGCD) questions whether TCEQ should grant a permit that allows unlimited pumping of groundwater to make up for a lack of surface water and comments that the TCEQ should consider groundwater-surface water impacts.

RESPONSE NO. 4: The TCEQ does not regulate groundwater pumping and does not have the authority to limit groundwater pumping by a landowner. Although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water. Also, the TCEQ must ensure that water right holders of state water are not impacted. It is necessary for Circle C to have an alternate source for this project to prevent impairment of water rights downstream.

COMMENT NO. 5: Robert D. Hejl and David Wensley comment that GCCC should use city water rather than groundwater.

RESPONSE NO. 5: The Executive Director responds that because the application submitted by GCCC did not request authorization to use city water, the use of city water was not considered by the Executive Director's staff in the technical review of the application. GCCC is not required by any law to use a specific alternate source of water such as city water for its development.

COMMENT NO. 6: Barton Springs/Edwards Aquifer Conservation District (BS/EACD) comments that the surface water requested by GCCC became surface water at the well head and until that time should be regulated by rules appropriate for a Priority Groundwater Management Area (PGMA)

RESPONSE NO. 6: The Executive Director responds that Chapter 35 of the Texas Water Code does not give the TCEQ regulatory authority over groundwater in a PGMA, including rulemaking.

EFFECTS ON RECHARGE

COMMENT NO. 7: Robert D. Hejl comments that this area should be considered as recharge to the Edwards Aquifer.

RESPONSE NO. 7: The Executive Director acknowledges and agrees with this comment. In accordance with TCEQ mapping for 30 TAC Chapter 213, Edwards Aquifer, all or part of the property subject to the application is within the Edwards Aquifer recharge zone.

COMMENT NO. 8: HTGCS comments that storage in lined detention ponds and irrigation use prevent recharge of the aquifer and that this would affect the Edwards Aquifer and the upper and middle levels of the Trinity Aquifer.

RESPONSE NO. 8: The Executive Director responds that the purpose of a liner is to retain water storage in ponds and to prevent leakage or discharge. The amount of recharge should stay the same, however, because GCCC will be required to pass any inflows of state water through the ponds to the creek. Also, although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water.

COMMENT NO. 9: The City of Austin comments that storing water in the reservoirs will reduce potential downstream recharge to the Barton Springs segment of the Edwards Aquifer through the beds of Danz and Slaughter Creeks because the water will be inefficiently lost through evaporation.

RESPONSE NO. 9: See Response No. 8. Also, the Executive Director responds that GCCC will compensate for the effects of the reservoirs, including evaporation, with other sources of water; therefore, the net volume of inflows passed through the reservoirs, and recharge, is not changed.

COMMENT NO. 10: Ira Yates comments that this application is contrary to TCEQ's policy of not allowing diversion of Edwards Aquifer recharge.

RESPONSE NO. 10: See Response No. 8.

ACCOUNTING/ENFORCEMENT ISSUES

COMMENT NO. 11: The City of Austin comments that TCEQ should enforce any agreement between GCCC and citizens to monitor GCCC's wells.

RESPONSE NO. 11: The Executive Director responds that the TCEQ cannot enforce private agreements between an applicant and other parties. We note that the accounting plan submitted by GCCC requires GCCC to report quantity and quality information about their wells.

COMMENT NO. 12: Save Our Springs (SOS) and Ira Yates comment that TCEQ is not able to enforce current regulations properly and have concerns about monitoring this application and SOS further comments that the application and proposed accounting measures are needlessly complicated and overly ripe for abuse.

RESPONSE NO. 12: The Executive Director responds that TCEQ enforces water rights based on the provisions of Chapter 11 of the Water Code, TCEQ rules, and provisions in permits. An accounting plan is necessary to ensure that senior and superior water rights are not affected by this application. Other water right holders have successfully implemented accounting plans.

COMMENT NO. 13: Ira Yates and Robert Hejl have concerns about the accounting because of the commingling of surface and groundwater and would like to know where citizens can obtain information about the accounting to determine whether enough water has been released to compensate for evaporation.

RESPONSE NO. 13: The Executive Director responds that in order to properly account for the multiple sources of water GCCC proposes to use, GCCC will be required to submit an accounting plan. A special condition in the permit requires that the accounting plan be maintained. The accounting plan is part of the file for the application. Citizens can contact the

TCEQ Austin Regional Office at (512) 339-3795 if they have any concerns related to compliance with any of the permit provisions.

COMMENT NO. 14: VBC comments that there should be a modified agreement to use surface water with strict enforcement of replenishing the downstream water during a drought and allow flow when there are heavy rain events and it is inefficient or impractical to capture the runoff.

RESPONSE NO. 14: The Executive Director responds that there is no water available for appropriation at GCCC's location and staff would be unable to recommend granting a permit for use of surface water. Any draft permit will require GCCC to provide compensatory releases of other water, to ensure that any inflows of surface water will be passed downstream.

SURFACE WATER AVAILABILITY AND EFFECTS ON DOWNSTREAM USERS

COMMENT NO. 15: David B. Kumhyr comments that there is insufficient water in Danz Creek to offset evaporation from the GCCC's lake.

RESPONSE NO. 15: The Executive Director responds that the hydrology analysis for this application indicated that there was insufficient surface water available in Danz Creek to meet GCCC's demands for irrigation and maintenance of the reservoirs. Any draft permit will require GCCC to maintain alternate sources of water to compensate for the effects, including evaporation, of their operations on surface water.

COMMENT NO. 16: SOS and Ira Yates believe that TCEQ erred when it determined that the regional irrigation pond is not on a waterway and believe that the pond requires a water rights permit.

RESPONSE NO. 16: The Executive Director responds that, based on topographic maps and photographs, the regional irrigation pond was determined to be off-channel.

COMMENT NO. 17: Lower Colorado River Authority (LCRA) objects to the proposal to use storm water because this is state water and that granting a permit for use of state water will affect their water rights.

RESPONSE NO. 17: The Executive Director agrees that stormwater discharged into a watercourse is state water and diversion of stormwater could affect downstream senior water rights. The Executive Director recommends that GCCC's request to use stormwater discharged into Danz Creek or its tributaries be denied because there is no water available for appropriation.

COMMENT NO. 18: Ira Yates comments that actual streamflow is diverted because of enlargement of existing ponds on GCCC's property and has concerns that approval of this project may set a

dangerous precedent since there will be a significant decrease in recharge if all Hill Country water projects capture and reuse water as this project contemplates.

RESPONSE NO. 18: The Executive Director responds that any draft permit will require GCCC to compensate for any effects on streamflow, either through evaporation or diversion, with an alternate source of water. The Executive Director believes that compliance with the accounting plan will ensure that streamflow below the project will not be affected. Also, the Executive Director recommends that the stormwater which goes into the creek not be appropriated to GCCC.

COMMENT NO. 19: Robert D. Hejl asked whether the proposed dams allow the normal runoff to proceed downstream or will they retain all water that previously flowed downstream. If retained, domestic and livestock users will be deprived of their water rights.

RESPONSE NO. 19: The Executive Director responds that any draft permit will require GCCC to use an alternate source to offset evaporation and operate the reservoirs so that there is no effect on state water. Compliance with the accounting plan should protect streamflow below the project.

GROUNDWATER PROTECTION AND USE

COMMENT NO. 20: Robert D. Hejl asks whether the groundwater GCCC will use will come from the Edwards, Trinity or Glen Rose aquifers.

RESPONSE NO. 20: The Executive Director responds that information provided by the applicant indicates that the applicant's wells are completed in and produce groundwater from the Trinity Aquifer.

COMMENT NO. 21: BCPOA, BS/EACD and HTGCD question whether GCCC performed feasibility studies using the Texas Water Development Board's approved Groundwater Availability Model (GAM) for the Trinity Aquifer.

RESPONSE NO. 21: The Executive Director responds that he does not know whether GCCC performed these feasibility studies; none were submitted with the application. These types of feasibility studies were not required to show the viability of the proposed alternate source of water to keep the reservoirs full. However, the applicant did provide information in the application showing their present ability to produce groundwater sufficient to keep the reservoirs full.

COMMENT NO. 22: The City of Austin comments that no information related to current and future groundwater depletion resulting from GCCC's pumpage was included in the application.

RESPONSE NO. 22: The Executive Director responds that this type of information is not required by Texas Water Code, Chapter 11. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 23: SOS, Liz Gifford, Ellen Zimmerman, BS/EACD, BCPOA, Joe Ely, Sherry Heiden, Joseph and Susan Manzello, David B. Kumhyr, David Wensley, Brian and Tracy Sharples and Donald and Turkan Hayes expressed concern about the potential negative impacts of GCCC's groundwater pumping on other wells in the area.

RESPONSE NO. 23: The Executive Director responds that under present state groundwater policies as established by the Texas courts (i.e., the rule of capture), unless groundwater pumping is regulated by a groundwater conservation district, a landowner is not liable for potential negative impacts to other well owners unless the landowner is removing groundwater to maliciously injure the other well owners, groundwater pumpage causes the other well owners' property to subside, or the landowner is not putting the pumped groundwater to a beneficial use. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 24: Andrew Backus (HTGCD), SOS and VBC comment that TCEQ should require monitoring of pumping and Andrew Backus comments that GCCC should share additional data regarding its wells.

RESPONSE NO. 24: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use. However, in order to protect surface water, the TCEQ can require an alternate source of water. If the applicant proposes groundwater as the alternate source, the TCEQ requires data regarding groundwater pumpage for accounting purposes. The Executive Director recommends that the accounting plan and special conditions in any draft permit include requirements for the GCCC to provide records of the amount of groundwater being placed in the reservoirs.

COMMENT NO. 25: SOS comments that the permit should include special conditions prohibiting pumping in times of drought and/or aquifer drawdown

RESPONSE NO. 25: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use.

COMMENT NO. 26: S/EACD and HTGCD request that the Commission require studies and conditions so that the permit will not affect the Trinity and Edwards Aquifers.

RESPONSE NO. 26: he Executive Director responds that TCEQ is not authorized to regulate groundwater production or use, and is not authorized to require such studies.

COMMENT NO. 27: S/EACD, HTGCD and the City of Austin comment that the application could affect the Barton Springs segment of the Edwards Aquifer.

RESPONSE NO. 27: he Executive Director responds that any draft permit will require GCCC to compensate for the effects of the reservoirs with other sources of water; the net volume of inflows passed through the reservoirs should not change, and therefore the recharge should not change.

COMMENT NO. 28: TGCD and the City of Austin comment that the amount of water GCCC wants to produce exceeds the sustainable production for the aquifer.

RESPONSE NO. 28: he Executive Director responds that state groundwater polices as established by the Texas courts authorize the applicant to produce and use the groundwater under the applicant's property. The TCEQ does not regulate how much groundwater a person can pump from his land.

COMMENT NO. 29: BC requests the Commission restrict GCCC's use of groundwater to 36,000 gallons per day.

RESPONSE NO. 29: As stated above, the Executive Director responds that TCEQ is not authorized to limit groundwater production or use.

COMMENT NO. 30: HTGCD requests that GCCC voluntarily comply with the HTGCD's requirements, which includes a reasonable use doctrine for issuance of a water use permit.

RESPONSE NO. 30: The Executive Director is not opposed to GCCC voluntarily complying with these requirements. The TCEQ is not authorized to limit groundwater production or use, and is not authorized to require the applicant to comply with HTGCD's permit requirements.

COMMENT NO. 31: James and Sony Bollinger, Miki Cook, Joe Ely, Sherry Heiden, Robin Hudson, Jacqueline Magill, David and Swan Perkins, Carolyn Rife, Ellen Zimmermann comment that they depend on their wells for their homes and that this application will affect their ability to use their wells.

RESPONSE NO.31: The Executive Director responds that he TCEQ is required to protect surface water but does not regulate groundwater pumping amounts. The use of groundwater, as well as any other alternative source CCGG may have to keep the reservoirs full, will accomplish protection of surface water.

GROUNDWATER MANAGEMENT AREA (PGMA) CONCERNS

COMMENT NO. 32: HTGCD comments that TCEQ has not created a groundwater conservation district in this Priority Groundwater Conservation Area and that TCEQ should act as a groundwater conservation district. Or, in the alternative HTGCD and the VBC request TCEQ allow HTGCD and BS/EACD to act in a decision-making role.

RESPONSE NO. 32: A groundwater conservation district has not been created in this area through either local- or state-initiative and the Water Code does not authorize the TCEQ to act as a groundwater conservation district. The Water Code also does not allow HTGCD or BS/EACD to act in a groundwater management decision-making role as suggested.

COMMENT NO. 33: BS/EACD and HTGCD comment that the permit should not be approved until protections are provided for groundwater and groundwater users in Travis County in the PGMA who are not in a groundwater conservation district.

RESPONSE NO. 33: The Executive Director responds that under Chapters 11 and 36 of the Water Code the Commission is not authorized to deny or delay a water right permit application because the area is not in a groundwater conservation district.

WATER QUALITY AND OTHER ENVIRONMENTAL CONCERNS

COMMENT NO. 34: BS/EACD and HTGCD are concerned about the water quality discharged from the existing irrigation ponds on Danz Creek, which recharges the Barton Springs Segment of the Edwards Aquifer, and request information about water quality. These commenters are also concerned about GCCC's ability to ensure that potentially contaminated storm water runoff that is captured in the reservoirs does not infiltrate into the Edward's Aquifer.

RESPONSE NO. 34: The Executive Director responds that any draft permit will require GCCC to implement and maintain appropriate best management practices (BMPs) on the golf course to minimize potential pollutant loadings through the control of sediment and nutrients. Required BMPs include: (1) installation and placement of erosion resistant materials in areas subject to high velocity flows; (2) the use of sediment control barriers; (3) temporary and permanent ground cover (both natural and artificial types); (4) aerification of soils to promote infiltration and runoff reduction; and (5) proper management and control of fertilizer, herbicide, and pesticide applications.

COMMENT NO. 35: BCPOA and HTGCD comment that any golf course irrigation and pond construction will allow discharges to creeks and will directly affect the Trinity and Edwards Aquifers.

RESPONSE NO. 35: See Response to Comment No. 34.

COMMENT NO. 36: Robert Hejl comments that the environment, water quality, recharge and wildlife will be affected by use of pesticides, herbicides, and nitrate fertilizers on the golf course and SOS comments that the permit should not be issued without strict limits on the use and reporting of use of landscape chemicals in the areas to be irrigated.

RESPONSE NO. 36: See Response to Comment No. 34. Any draft permit will include a special condition requiring GCCC to implement BMPs to control or minimize such impacts. The TCEQ must assess the affects of the issuance of a permit on water quality under Tex. Water Code Section 11.150. The TCEQ protects water quality by placing special conditions in permits to minimize runoff of these chemicals into the rivers and the aquifer.

COMMENT NO. 37: The City of Austin comments that the impact of releasing Trinity groundwater and private storm water to compensate any state water captured in Reservoirs 2, 3 and 4 may have potential to impact the already impaired macrobenthos community within the watershed, and this should be determined to prevent further stream degradation.

RESPONSE NO. 37: The TCEQ does consider the impact of the quality of the groundwater on the stream in its review of the application. The groundwater should not cause impairment of the water quality of the stream. Any draft permit will require GCCC to monitor records of groundwater quality in its Accounting Plan no less than every 3 months, subject to TCEQ review, and require that the discharge of groundwater and surface water must be of sufficient quality to meet requirement of the water quality standards.

COMMENT NO. 38: HTGCD comments that there is economic value in maintaining flowing streams in the hill country. GCCC should consider lots near open space without the open space including a golf course, since that can have value with less environmental impact.

RESPONSE NO. 38: The Executive Director responds that it understands the economic benefit of maintaining flowing streams in the hill country and recommends special conditions in the draft permit to protect the flow of streams as much as possible under the law.

BENEFICIAL USES

COMMENT NO. 39: Robert D. Hejl asked what kind of agricultural use is intended by this application.

RESPONSE NO. 39.: The definition of "agricultural use" in the Water Code, at Section 11.002(12), includes irrigation. GCCC is asking to irrigate the golf course with this water.

COMMENT NO. 40: BS/EACD comments that much of the groundwater pumped is lost due to evaporative and transpiration losses at the land surface from ponds for golf course irrigation and that

this waste will be the largest when there are competing demands from higher, more beneficial uses will likely also be at their largest.

RESPONSE NO. 40: The Executive Director agrees that this may be true. However, concerning Amore beneficial uses, the Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

COMMENT NO. 41: Miki Cook, Robin Hudson, Jacqueline Magill, Carolyn Rife, Ellen Zimmermann comment that area residents, farmers and ranchers should be considered priority users of water resources before allowing water rights to be given to a golf course.

RESPONSE NO. 41: The Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

PUBLIC WELFARE/ETHICS/FAIRNESS ISSUES

COMMENT NO. 42: Charles O'Dell (President of Hays Community Action Network) comments that the GCCC is located in a water quality protection plan area, a plan that was developed by consensus of a number of groups. The commission should use good sense in carefully considering the application, and, after applying the law, come down on the side of the public interest.

RESPONSE NO. 42: The Executive Director responds that the TCEQ must consider whether and application is detrimental to the public welfare when considering whether to issue a water right. The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code. Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

COMMENT NO. 43: James and Sony Ballinger comment that nearby residents should not have to invest money in new wells to replace their source of water if GCCC is allowed to pump groundwater. Joe Ely, Sherry Heiden, James and Sony Bollinger and Joseph and Susan Manzell comment that many area residents do not have the resources to connect with LCRA. Donald and Turkan Haynes, David B. Kumhyr, David and Swan Perkins, Brian and Tracey Sharples comment that homeowners should be considered over commercial interests.

RESPONSE NO. 43: The Executive Director responds that under current groundwater law, if not regulated by a groundwater conservation district, a property owner may pump groundwater under his land unless he is causing injury to land or waste. Also, see Response to comment No. 40.

COMMENT NO. 45: VBC comments that groundwater pumping will impact VBC's wells and result in VBC drilling a deeper well, or switching to other sources, resulting in economic impact to VBC.

RESPONSE NO. 45: See response above. Also, to the extent this may bear on public welfare, the Executive Director responds that ~~The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code.~~ Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

OTHER

COMMENT NO. 44: BCPOA questioned whether GCCC is complying with the terms of the Bradley Settlement Agreement with the City of Austin that pertains to groundwater use affecting area wells.

RESPONSE NO. 44: ~~The Executive Director does not know if GCCC is complying with the terms of this agreement with the City of Austin. The TCEQ is not a party to this agreement, and does not have the authority to regulate contracts under any law~~

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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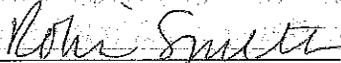
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June, 2007, a true and correct copy of the foregoing document was delivered to the Office of the Chief Clerk of the TCEQ.


Robin Smith, Attorney
Environmental Law Division
Texas Commission on
Environmental Quality
State Bar No. 18645600

CHIEF CLERKS OFFICE

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TEXAS
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ON ENVIRONMENTAL
QUALITY