

TCEQ Interoffice Memorandum

TO: Office of the Chief Clerk
Texas Commission on Environmental Quality

THRU:  Iliana Delgado, Team Leader
Water Rights Permitting Team

FROM: Chris Kozlowski, Project Manager
Water Rights Permitting Team

DATE: January 28, 2016

SUBJECT: Boasso America Corporation
WRPERM 12949
CN602441727, RN107048837
Application No. 12949 for a Water Use Permit
Texas Water Code §11.121, Requiring Mailed and Published Notice
Carpenters Bayou, San Jacinto River Basin
Harris County

The Executive Director received an application from Boasso America Corporation seeking a Water Use Permit pursuant to Texas Water Code §11.121 and Texas Commission on Environmental Quality Rules 30 TAC §§295.1, *et seq.*

The application was received on December 3, 2012. The application was declared administratively complete and filed with the Office of the Chief Clerk on January 2, 2014. The notice of the application was filed with the Chief Clerk on July 15, 2014, and notice was subsequently mailed to the water right holders in the San Jacinto River Basin. One request for a contested case hearing was received.

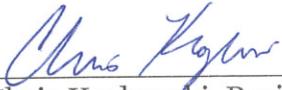
Because this application was declared administratively complete after September 1, 1999, the rules in Chapter 55, Subchapter G, Section 55.250 - 55.256 apply. The Chief Clerk shall mail notice to the applicant, executive director, public interest counsel, and timely hearing requestors not later than 35 days prior to the agenda setting. The Applicant, 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 Boasso America Corporation (Boasso) for Water Use Permit No. 12949 to divert and use not to exceed ten acre-feet of water per year from a point on Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a maximum diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) in Harris County. The Commission will consider

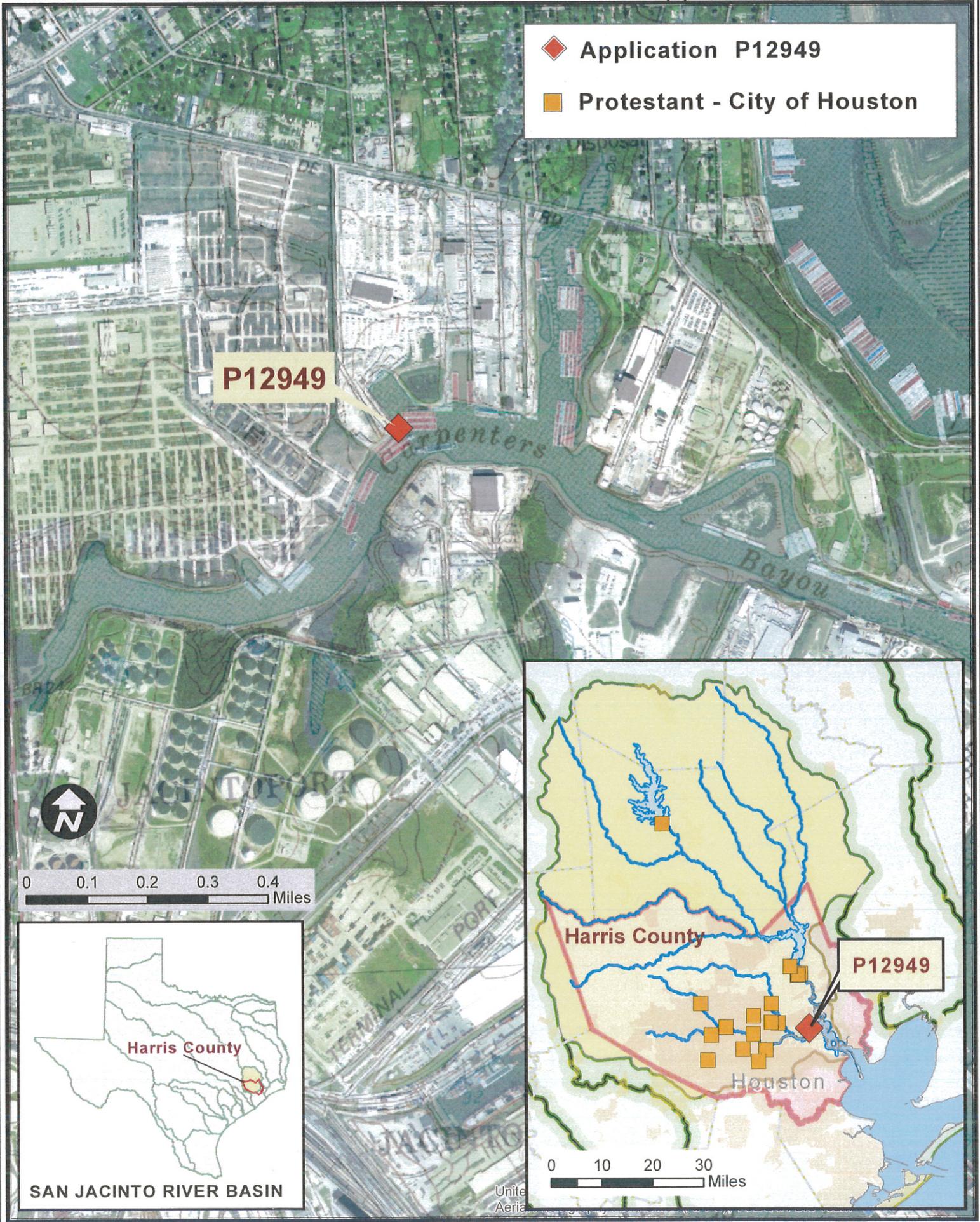
all timely filed hearing requests, responses to the requests, and replies. (Chris Kozlowski, Linda Horng)



Chris Kozlowski, Project Manager
Water Rights Permitting Team

Enclosure

cc: Kim Wilson, TCEQ
Kathy Alexander, TCEQ
Lori Hamilton, TCEQ
Leslie Patterson, TCEQ
Linda Horng, TCEQ
Iliana Delgado, TCEQ
Trent Jennings, TCEQ
Shiyan Jiang, TCEQ



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR WATER USE PERMIT NO. 12949

Boasso America Corporation seeks a Water Use Permit to divert and use not to exceed ten acre-feet of water per year from a point on Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) in Harris County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Boasso America Corporation, 16230 DeZavala Road, Channelview, Texas 77530, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code (TWC) §11.121, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §295.1, *et seq.* Published and mailed notice to all water right holders of record in the San Jacinto River Basin is required pursuant to Title 30 TAC §295.151 & §295.152.

Applicant seeks a Water Use Permit to divert and use not to exceed ten acre-feet of water per year from a point on Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) in Harris County.

The proposed diversion point will be located approximately 0.6 miles south of the nearby town of Channelview, Texas at Latitude 29.763242° N, Longitude 95.112925° W, also bearing S 51° E, 4,845 feet from the northwest corner of the William Harris and D Carpenter Survey, Abstract 28 in Harris County. The Applicant indicates the project is within ZIP Code 77530.

The application and partial fees were received on December 3, 2012. Additional information and fees were received on April 15, May 29, November 7, and December 13, 2013. The application was declared administratively complete and filed with the Office of the Chief Clerk on January 2, 2014. Additional information was received May 28, 2014.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would authorize the appropriation of ten acre-feet per year from a point on Carpenters Bayou, San Jacinto River Basin at a maximum diversion rate of 0.1114 cfs (50 gpm) for industrial purposes in Harris County.

The application and Executive Director's draft Permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F., Austin, TX 78753.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be received in 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 of the date of newspaper publication of the notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days of the date of newspaper publication of the 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 to 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 TCEQ 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 or electronically at <http://www.tceq.texas.gov/about/comments.html> by entering WRPERM 12949 in the search field. 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 Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: July 15, 2014

WATER USE PERMIT

PERMIT NO. 12949

TYPE § 11.121

Permittee: Boasso America Corporation Address: 16230 DeZavala Road
Channelview, Texas 77530

Filed: January 2, 2014 Granted:

Purpose: Industrial County: Harris

Watercourse: Carpenter's Bayou, tributary Watershed: San Jacinto River Basin
of the San Jacinto River

WHEREAS, Boasso America Corporation (Applicant) seeks a water use permit to divert and use not to exceed ten acre-feet of water per year from a point on Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a maximum diversion rate of 0.014 cfs (50 gpm) for industrial purposes (dust suppression) in Harris County; and

WHEREAS, The proposed diversion point will be located at Latitude 29.763242° N, Longitude 95.112925° W, also bearing S 51° E, 4,845 feet from the northwest corner of the William Harris and D Carpenter Survey, Abstract 28, 15.5 miles east of Houston, and 0.6 miles south of Channelview in Harris County; and

WHEREAS, this application is subject to the Texas Coastal Management Program (CMP) and must be consistent with the CMP goals and policies; and

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

WHEREAS, the Executive Director recommends that no special conditions be included in this permit; and

WHEREAS, no requests for a contested case hearing were received for this application; and

WHEREAS, the Texas Commission on Environmental Quality finds that the issuance of the permit is consistent with the goals and policies of the Texas CMP; 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, this permit, designated as Water Use Permit No. 12949, is issued to Boasso America Corporation subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed ten acre-feet of water per year for industrial purposes within Harris County in the San Jacinto River Basin.

2. DIVERSION

A. Permittee is authorized to divert the authorized water from Carpenter's Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin, at Latitude 29.763242° N, Longitude 95.112925° W, also bearing S 51° E, 4,845 feet from the northwest corner of the William Harris and D Carpenter Survey, Abstract 28, located 15.5 miles east of Houston, 0.6 miles south of Channelview in Harris County.

B. Maximum Diversion Rate of 0.1114 cfs (50 gpm).

3. PRIORITY DATE

The time priority of this right is January 2, 2014.

4. CONSERVATION

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

This permit is issued subject to all superior and senior water rights in the San Jacinto 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

DATE ISSUED:

DRAFT

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Joe Nicosia, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Date: June 13, 2014

Thru: *CL* Chris Loft, Team Leader
6/13/14 Resource Protection Team
Water Rights Permitting and Availability Section

JA
6/13/14 Jennifer Allis, Senior Water Conservation Specialist
Resource Protection Team
Water Rights Permitting and Availability Section

From: Trent Jennings, Water Conservation Specialist
TJ 6/13/14 Resource Protection Team
Water Rights Permitting and Availability Section

Subject: Boasso America Corporation
WRPERM 12949
CN602441727
Application No. 12949 for a Water Use Permit
Water Conservation Review

BOASSO America Corporation seeks a water use permit to divert and use not to exceed 10 acre-feet of water per year from Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a diversion rate of 0.1114 cfs (50 gpm) for industrial purposes at their plant facilities in Harris County.

Pursuant to 30 Texas Administrative Code (TAC) Section 295.9, an application requesting to appropriate or use water for industrial purposes requires the submittal of a water conservation plan.

The water conservation plan for industrial use was reviewed by staff and found to be administratively complete pursuant to 30 TAC Section 288.3.

Applicant stated the requested water will be used for dust suppression. Based on information provided in the application and industrial water conservation plan, the applicant's request is considered to be reasonable.

The application is consistent with the approved 2011 Region H Water Plan and the approved 2012 State Water Plan because there is nothing in the water plans that conflicts with issuing this permit.

The following water conservation language 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. Such plans shall include a requirement that in every water supply contract entered into, on or after the effective date of this permit, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Joe Nicosia, Application Manager
Water Rights Permitting Team

Date: June 13, 2014

Through: Kathy Alexander, Ph.D.
Technical Specialist
Water Availability Division 

Stephen Densmore, Team Leader
Surface Water Availability Team

From: Shiyan Jiang, Hydrologist 
Surface Water Availability Team

Subject: Boasso America Corporation
WRPERM 12949
CN 602441727
Carpenters Bayou
San Jacinto River Basin
Harris County

HYDROLOGY REVIEW

Application Summary

The applicant seeks a water use permit to divert and use 10 acre-feet of water per year from Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a maximum diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) at their facilities in Harris County.

The application was declared administratively complete on January 2, 2014.

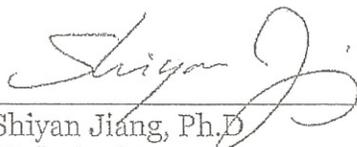
Review and Conclusion

On April 20, 2011, the commission adopted environmental flow standards for the San Jacinto River Basin. Pursuant to 30 TAC 298.225(a), a water right application in the San Jacinto River Basin, for a new appropriation of water, cannot reduce the long-term frequency, on either a seasonal or annual basis, at which specific volumes of freshwater inflows to Galveston Bay occur. The specific frequency and volume requirements are included in the Figure in Subsection 298.225(a).

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 allocations. 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. The 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 utilizes WRAP to evaluate water rights applications to determine water availability and to ensure that senior water rights are protected.

The application is located in the tidally influenced portion of Carpenters Bayou, where water rights are considered saline, therefore, a water availability analysis is not necessary. However, by rule, staff must evaluate the application for compliance with the freshwater inflow standards for Galveston Bay. Staff modeled this application using the Full Authorization simulation of the TCEQ WAM for the San Jacinto Basin, where all water rights use their full authorized amounts and return flows are not included. The period of record for the San Jacinto WAM is 1940 through 1996. The long-term frequency of inflows to Galveston Bay, originating from the San Jacinto River Basin, were compared to the inflow standards in 30 TAC 298.225(a).

Staff's review indicates that the application to divert 10 acre-feet of water per year will not reduce the long-term frequency, on either a seasonal or annual basis, at which the volumes of freshwater inflow specified in the rule occur. Therefore, Staff can recommend granting the applicant's request.



Shiyang Jiang, Ph.D.
Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: R. Joseph Nicosia, Project Manager Date: June 13, 2014
Water Rights Permitting Team
Water Rights Permitting & Availability Section

Through: *CL* Chris Loft, Team Leader
6/13/14 Resource Protection Team
Water Rights Permitting & Availability Section

RLH Robert Hansen, Aquatic Scientist
6/13/14 Resource Protection Team
Water Rights Permitting & Availability Section

From: *LH* Lori Hamilton, Aquatic Scientist
6/13/14 Resource Protection Team
Water Rights Permitting & Availability Section

Subject: BOASSO America Corporation
WRPERM 12949
CN602441727
Application No. 12949 for a Water Use Permit
Carpenters Bayou, San Jacinto River Basin
Harris County

Application Summary: Applicant seeks a water use permit to divert and use not to exceed 10 acre-feet of water per year from Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) at their plant facilities located in Harris County, Texas.

Environmental Analysis: On April 20, 2011, the Texas Commission on Environmental Quality (TCEQ) adopted environmental flow standards for the Trinity and San Jacinto Rivers, their associated tributaries and Galveston Bay. This review is conducted in accordance with §11.1471 of the Texas Water Code and with TCEQ administrative rules which include 30 Texas Administrative Code (TAC) §298 Subchapter B (Trinity and San Jacinto Rivers, and Galveston Bay). The proposed diversion location is in the tidally-influenced portion of Carpenters Bayou approximately 50 miles downstream of the most downstream measurement point in the instream portion of the adopted standards; therefore, this request to increase the diversion rate should not have any adverse impact. However, the application is subject to an evaluation of potential impacts to the freshwater inflow standards for the

Galveston Bay system as described in 30 TAC §298.225(a), which is performed as part of the water availability analysis.

Freshwater Inflows: Freshwater inflows are important for maintaining the historical productivity of bays and estuaries along the Gulf Coast. By rule, impairment of inflow regimes will be considered during the water availability determination for this application.

SUMMARY

The applicant seeks a water use permit to divert and use not to exceed 10 acre-feet of water per year from Carpenters Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin at a diversion rate of 0.1114 cfs (50 gpm) for industrial purposes (dust suppression) at their plant facilities located in Harris County, Texas.

Resource Protection staff have no recommendations regarding this permit application.

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 TCEQ and other applicable State and Federal authorizations.