



Life's better outside.™

Commissioners

Peter M. Holt  
Chairman  
San Antonio

T. Dan Friedkin  
Vice-Chairman  
Houston

Mark E. Bivins  
Amarillo

J. Robert Brown  
El Paso

Ralph H. Duggins  
Fort Worth

Antonio Falcon, M.D.  
Rio Grande City

Karen J. Hixon  
San Antonio

Margaret Martin  
Boerne

John D. Parker  
Lufkin

Lee M. Bass  
Chairman-Emeritus  
Fort Worth

Carter P. Smith  
Executive Director

LDJ  
63771

H

OPA

NOV 24 2008

BY BP

November 24, 2008

CHIEF CLERKS OFFICE

2008 NOV 24 PM 12:39

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Ms. LaDonna Castanuela  
Office of the Chief Clerk  
Texas Natural Resource Conservation Commission  
MC 105  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Application by the City of Dallas to Amend Certificate of Adjudication  
No. 08-2462; Application No. 08-2462I

Dear Ms. Castanuela:

Texas Parks and Wildlife Department (TPWD) respectfully requests a contested case hearing regarding the City of Dallas Application No. 08-2462I. Because the notice period for water right applications comes very early in the TCEQ review process, often there is not enough specific technical information available to fully evaluate a proposed project. To protect TPWD's ability to participate in the development of permit conditions to protect fish and wildlife resources, TPWD files this hearing request.

Pursuant to Texas Parks and Wildlife Code § 12.0011, TPWD is the state agency charged with the primary responsibility for protecting the state's fish and wildlife resources. Under Texas Water Code § 11.147, the Texas Commission on Environmental Quality (TCEQ), in making a final decision on any application to store, take or divert water, shall consider all information, evidence and testimony presented by TPWD. Under the same provision, TPWD has the right to be named a party in hearings on water use permit applications.

The City of Dallas (City) seeks to amend Certificate of Adjudication No. 08-2462 to increase the amount of water appropriated and to increase the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties. Authorization is sought to increase the diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet per year. This additional water includes 49,600 acre-feet of firm water and 70,000 acre-feet of water per year that is available on a less than firm basis. The City states that the additional water is available based upon an adjustment of the naturalized flows in the TCEQ Trinity River Basin Water Availability Model (WAM) to "reflect the increase in runoff that would have occurred over the historical period had today's level of development been there."

The TCEQ must consider the impacts of the City's application on water quality, instream uses, and freshwater inflows, and all water use permits may be conditioned to protect those flows. (Tex. Water Code §§ 11.147, 11.150, 11.152; 30 Tex. Admin. Code §§ 297.54-56.) TPWD's statutory obligation and ability to protect the fish and wildlife resources of the state are affected by the actions proposed in the City's application. The City seeks to alter the manner in which the

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

mw

TCEQ determines water availability. The availability of water is a critical issue in fish and wildlife management, and the state must be in a position to fairly assess the water needs and uses of both people and the environment. Maintaining adequate instream flows and habitat to protect fish and wildlife resources is essential to the duties of TPWD. TPWD is concerned about the use of an applicant-modified WAM to determine water availability in this application and its potential to cause over-allocation of water to the detriment of fish and wildlife and other water right holders.

The TCEQ has implemented a set of basin-specific WAMs for use in each of Texas 23 river basins. A WAM is the fundamental tool used by the TCEQ to determine the water that may be appropriated. A standardized WAM has been and should be used across each basin to fairly and consistently evaluate all water right applications. If the TCEQ uses an applicant-modified WAM, the modified WAM should be made publicly available, and it should be properly vetted prior to use. Technical assumptions and decisions need to be evaluated by multiple parties to ensure validity and credibility of the model. Additionally, use of an applicant modified WAM raises questions of equity concerning other water right applicants. It is unknown whether other applicants or potential applicants relied upon the TCEQ WAM to determine official water availability and inform their decisions regarding applications in the Trinity basin. At a minimum, if a new WAM is employed for this applicant, a full accounting of previously applied for and granted water rights throughout the basin is required to ensure that no water right denials or limitations have been issued by the TCEQ based upon a previous version of the WAM. Finally, there is potential for the City's application to open the door for other applicants to use specialized WAMs to support their applications and introduce technical uncertainty in water rights permitting decisions by leaving the state with a network of competing and perhaps non-compatible WAMs to consider.

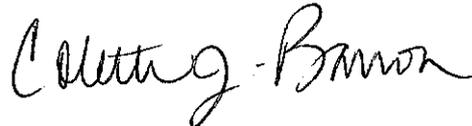
In its modified WAM, the City adjusted the naturalized flows previously presented in the TCEQ WAM. The central tenet of the City's adjustment is that base flows have increased due to changes in land use, meaning that developed areas have allowed for more runoff than undeveloped areas. The City's application seeks to appropriate this "new water" that has been found by its modified WAM in the Lake Ray Hubbard watershed. This analysis of creating state water by developing land is overly simplistic and overlooks a number of complicating factors about changes in hydrology through time, in both surface water and groundwater. It also cannot accurately determine if the "new water" is due solely to increased runoff or if other sources, such as return flows, unused water rights, and other water management operations in the basin have contributed to this "new water." If it is state policy that naturalized flows should be retrofitted to reflect changes in land use, it's conceivable that every TCEQ WAM must be modified from the sub-watershed to the basin scale to reflect such changes. And it is unclear where such an exercise may end as land uses are altered into the future. Additionally, other factors of change such as climate change or the presence of flood control structures may need consideration in adjusting naturalized flows. If TCEQ determines that it is appropriate to alter the naturalized flows in all the TCEQ WAMs, TPWD believes that should be done with broad public input and peer review.

Ms. LaDonna Castanuela  
November 24, 2008  
Page 3 of 3

TPWD may withdraw its hearing request if its concerns can be met by technically acceptable water availability modeling or by the inclusion of special protective conditions in the permit or other appropriate means. TPWD understands that the TCEQ will perform a detailed technical review of the application and may develop draft permit conditions that may alleviate some or all of the stated concerns. TPWD will continue to evaluate the merits of the proposed project as additional technical information becomes available.

Please use the information below to place TPWD on the official mailing list for this application. Should you have any questions, please call me at 512 389 8899. Thank you for your attention to this matter.

Sincerely,



Colette J. Barron, Attorney  
State Bar of Texas No. 00783607  
Texas Parks and Wildlife Department  
Legal Division  
4200 Smith School Road  
Austin, TX 78744  
512 389 8899 Phone  
512 389 4482 Fax

CB:bh

cc: Mr. Carter Smith  
Mr. Phil Durocher  
Ms. Ann Bright  
Mr. Mike Ray

LAW OFFICES OF

# JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.

711 WEST 7TH STREET  
AUSTIN, TEXAS 78701-2785  
(512) 472-7600  
FAX (512) 225-5565

DAVID E. JACKSON\*  
JOHN MATTHEW SJOBERG\*  
EDMOND R. MCCARTHY, JR.  
ROBERT WILSON

SHERIDAN GILKERSON THOMPSON  
LAURA KELLEY

ELIZABETH A. TOWNSEND  
OF COUNSEL

‡LICENSED IN TEXAS AND  
TENNESSEE

October 31, 2008

WR  
63771  
H  
OPA  
NOV 04 2008  
BY NY

2008 NOV - 3 PM 2:45  
CHIEF CLERK'S OFFICE  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*Via Telecopier & Certified Mail,  
Return Receipt Requested*

\*BOARD CERTIFIED IN OIL,  
GAS AND MINERAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

The Honorable La Donna Castañuela  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087 (MC 105)  
Austin, Texas 78711-3087

Re: Application No. 08-2462I, City of Dallas's Application to Amend Certificate of Adjudication No. 08-2462 (As Amended)

Dear Ms. Castañuela:

I am writing on behalf of the City of Houston ("Houston") in response to the notice of the above-referenced Application (the "Application") filed by the City of Dallas ("Dallas") to amend Certificate of Adjudication No. 08-2462 (the "Certificate"). Copies of the notices reviewed by the City dated October 3, 2008 (received October 9, 2008), and October 17, 2008 (Texas Register publication), are attached for reference.

**Please consider this letter as the City of Houston's request for the Commission to conduct a contested case hearing on the Application.**

The City of Houston relies upon the Trinity River Basin, as well as other water resources, for its municipal water supplies to provide water to more than 3 million customers in Houston and its environs, including Harris County, Texas. The City of Houston is the owner of, and/or has contracts for, multiple water rights in the Trinity River Basin, including Certificates of Adjudication Nos. 08-4261 and 08-4277. Additionally, the Trinity River, including the fresh water inflows contributed to the Galveston Bay and its estuaries, contributes to the economic well being of the City of Houston and its citizens.

Accordingly, the City of Houston has direct health and safety, as well as, water rights and pecuniary interests in the well being of the Trinity River Basin and the potential impacts that the above-referenced Application might have on the river system, if granted. The City is located downstream of the discharge and diversion points identified in the Application. For these reasons, in order to protect its rights and afford adequate opportunity to review the Application and any proposed amendments to the Certificate that may be published by Executive Director for consideration by the Commission, the City of Houston requests that the Commission conduct a contested case hearing on the Application.

mw

October 31, 2008

Page 2

Accordingly, on behalf of the City of Houston, I request that the Commission and the Executive Director's staff provide the City with copies of all proposed amendments, technical memoranda, and any other evaluations, and/or any notices proposed, promulgated, or published by the Commission or the Executive Director's staff related to this Application. Please have these documents sent to my attention using the following contact information:

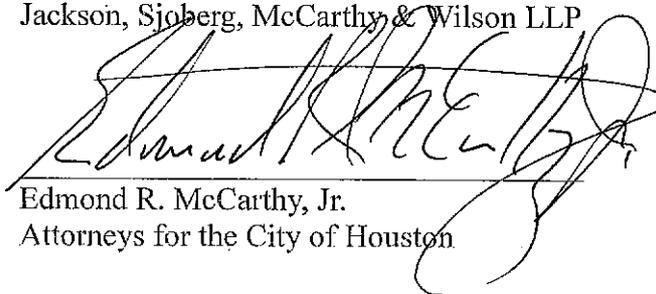
Edmond R. McCarthy, Jr.  
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.  
711 West 7<sup>th</sup> Street  
Austin, Texas 78701  
(512) 225-5606  
(512) 225-5565 Fax  
[emccarthy@jacksonsjoberg.com](mailto:emccarthy@jacksonsjoberg.com)

Please note that this request is conditional. After further review and evaluation of the Application and its potential impacts, Houston hopes to reach an agreement with the Commission and Dallas on the Application that will address Houston's interest in providing for the health and well being of the Trinity River Basin, as well as protecting Houston's downstream water rights and other affected interests. Assuming that effort is successful, the City would be able to withdraw its contested case hearing request.

By copy of this letter, I am advising Ms. Gwendolyn Webb, special counsel for Dallas, and Mr. Ron Ellis of the Executive Director's staff of this request for a contested case hearing and copies of documents.

Thank you for your assistance.

Sincerely,  
Jackson, Sjoberg, McCarthy & Wilson LLP



Edmond R. McCarthy, Jr.  
Attorneys for the City of Houston

ERM/tn

cc: City of Houston  
Attn: Mr. Jun Chang, Interim Deputy Director  
Public Works & Engineering Department  
Mr. Bill Beauchamp, Senior Assistant City Attorney  
City Attorney's Office  
TCEQ  
Attn: Mr. Ron Ellis (MC 160)  
City of Dallas  
Attn: Ms. Gwendolyn Webb, Special Counsel

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



4/3  
OCT - 9 2008

NOTICE OF AN APPLICATION TO AMEND A  
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC §295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008



**SITE SEARCH:**

please enter search phrase [Go](#)

**SUBJECT INDEX**

- › [Air](#) › [Water](#) › [Waste](#)
- › [Search TCEQ Data](#)
- › [Agency Organization Map](#)

▪ [TCEQ Home](#)

[BACK TO:](#) [Search TCEQ Data](#)

›› [Questions or Comments:](#)

[opa@tceq.state.tx.us](mailto:opa@tceq.state.tx.us)

**RELATED LINKS:**

[Central Registry](#)

[Executive  
Director's  
Agenda](#)

[Commission  
Agendas](#)

[Public Meetings  
and Hearings on  
Permit Cases  
Calendar](#)

[State Office of  
Administrative  
Hearings](#) [Exit](#)

[TCEQ Chief  
Clerk's Database](#)

## Public Notice Description Results

[Close Window](#)

### NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code '11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) "295.1, et seq. Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC '295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full

water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

\*\*\*\*\*

[Web Policies](#) | [Disclaimer](#) | [Site Help](#)

\*\*\*\*\*

[Rules, Policy & Legislation](#) | [Permits, Licenses & Registrations](#) | [Compliance, Enforcement & Cleanups](#)  
[Drinking Water & Water Availability](#) | [Reporting](#) | [Environmental Quality](#) | [Assistance, Education & Participation](#)  
[Pollution Prevention & Recycling](#) | [Contracts, Funding & Fees](#)

\*\*\*\*\*

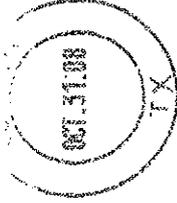
40-829

JACKSON, SJOBERG, MCCARTHY  
711 WEST 7TH STRE  
AUSTIN, TEXAS 78701-4

**CERTIFIED MAIL**



7007 0710 0004 7129 2258

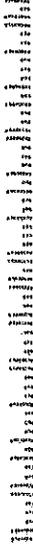


La Donna Castañuela  
Chief Clerk (MC 105)  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

**RECEIVED**

NOV 03 2008  
TCEQ MAIL CENTER  
RB

787113087 8012



*WR*  
*63771*

LAW OFFICES OF

**JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.**

711 WEST 7TH STREET  
AUSTIN, TEXAS 78701-2785

(512) 472-7600  
FAX (512) 225-5565

DAVID E. JACKSON\*  
JOHN MATTHEW SJOBERG\*  
EDMOND R. MCCARTHY, JR.  
ROBERT WILSON

\*BOARD CERTIFIED IN OIL  
GAS AND MINERAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

October 31, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2008 OCT 1 PM 4:37  
SHERIDAN GILKERTON THOMPSON  
LAURA...  
ELIZABETH A. TOWNSEND  
OF COUNSEL  
LICENSED IN TEXAS AND TENNESSEE  
CHIEF CLERK'S OFFICE

The Honorable La Donna Castañuela  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087 (MC 105)  
Austin, Texas 78711-3087

*Via Telecopier & Certified Mail,  
Return Receipt Requested*

Re: Application No. 08-2462I, City of Dallas's Application to Amend Certificate of Adjudication No. 08-2462 (As Amended)

NOV 06 2008

BY         *bl*        

Dear Ms. Castañuela:

I am writing on behalf of the City of Houston ("Houston") in response to the notice of the above-referenced Application (the "Application") filed by the City of Dallas ("Dallas") to amend Certificate of Adjudication No. 08-2462 (the "Certificate"). Copies of the notices reviewed by the City dated October 3, 2008 (received October 9, 2008), and October 17, 2008 (Texas Register publication), are attached for reference.

**Please consider this letter as the City of Houston's request for the Commission to conduct a contested case hearing on the Application.**

The City of Houston relies upon the Trinity River Basin, as well as other water resources, for its municipal water supplies to provide water to more than 3 million customers in Houston and its environs, including Harris County, Texas. The City of Houston is the owner of, and/or has contracts for, multiple water rights in the Trinity River Basin, including Certificates of Adjudication Nos. 08-4261 and 08-4277. Additionally, the Trinity River, including the fresh water inflows contributed to the Galveston Bay and its estuaries, contributes to the economic well being of the City of Houston and its citizens.

Accordingly, the City of Houston has direct health and safety, as well as, water rights and pecuniary interests in the well being of the Trinity River Basin and the potential impacts that the above-referenced Application might have on the river system, if granted. The City is located downstream of the discharge and diversion points identified in the Application. For these reasons, in order to protect its rights and afford adequate opportunity to review the Application and any proposed amendments to the Certificate that may be published by Executive Director for consideration by the Commission, the City of Houston requests that the Commission conduct a contested case hearing on the Application.

*WR*

October 31, 2008

Page 2

Accordingly, on behalf of the City of Houston, I request that the Commission and the Executive Director's staff provide the City with copies of all proposed amendments, technical memoranda, and any other evaluations, and/or any notices proposed, promulgated, or published by the Commission or the Executive Director's staff related to this Application. Please have these documents sent to my attention using the following contact information:

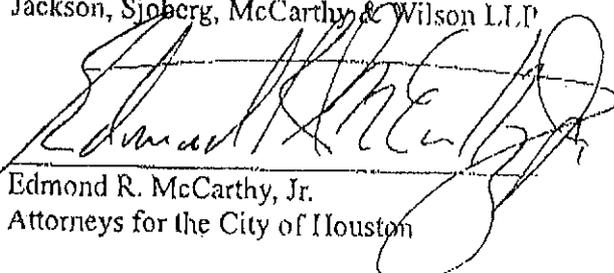
Edmond R. McCarthy, Jr.  
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.  
711 West 7<sup>th</sup> Street  
Austin, Texas 78701  
(512) 225-5606  
(512) 225-5565 Fax  
[emccarthy@jacksonsjoberg.com](mailto:emccarthy@jacksonsjoberg.com)

Please note that this request is conditional. After further review and evaluation of the Application and its potential impacts, Houston hopes to reach an agreement with the Commission and Dallas on the Application that will address Houston's interest in providing for the health and well being of the Trinity River Basin, as well as protecting Houston's downstream water rights and other affected interests. Assuming that effort is successful, the City would be able to withdraw its contested case hearing request.

By copy of this letter, I am advising Ms. Gwendolyn Webb, special counsel for Dallas, and Mr. Ron Ellis of the Executive Director's staff of this request for a contested case hearing and copies of documents.

Thank you for your assistance.

Sincerely,  
Jackson, Sjoberg, McCarthy & Wilson L.L.P.



Edmond R. McCarthy, Jr.  
Attorneys for the City of Houston

ERM/tn

cc: City of Houston  
Attn: Mr. Jun Chang, Interim Deputy Director  
Public Works & Engineering Department  
Mr. Bill Beauchamp, Senior Assistant City Attorney  
City Attorney's Office

TCEQ

Attn: Mr. Ron Ellis (MC 160)  
City of Dallas  
Attn: Ms. Gwendolyn Webb, Special Counsel

4/3

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



OCT - 9 2008

NOTICE OF AN APPLICATION TO AMEND A  
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-24621

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC §295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

Search the TCEQ Chief Clerk's Database - Texas Commission on Environmental Quality ... Page 1 of 3



TCEQ Home  
Search TCEQ Data

STRT SEARCH:  
please enter search phrase Go

SUBJECT INDEX  
Alc Water Waste  
Search TCEQ Data  
Agency Organization Map

Questions or Comments:  
opa@tceq.state.tx.us

RELATED LINKS:

Central Registry

Executive Director's Agenda

Commission Agendas

Public Meetings and Hearings on Permit Cases Calendar

State Office of Administrative Hearings

TCEQ Chief Clerk's Database

## Public Notice Description Results

Close Window

### NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code '11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) '295.1, et seq. Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC '295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full

Search the TCEQ Chief Clerk's Database - Texas Commission on Environmental Quality ... Page 2 of 3

water supply potential based on 2004 and ultimate watershed conditions.\*

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the Information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

\*\*\*\*\*

[Web Policies](#) | [Disclaimer](#) | [Site Help](#)

[Rules, Policy & Legislation](#) | [Permits, Licenses & Registrations](#) | [Compliance, Enforcement & Cleanups](#)  
[Drinking Water & Water Availability](#) | [Reporting](#) | [Environmental Quality](#) | [Assistance, Education & Participation](#)  
[Pollution Prevention & Recycling](#) | [Contracts, Emission & Fees](#)

\*\*\*\*\*

Law Offices Of  
**JACKSON, SJOBERG, McCARTHY & WILSON, L.L.P.**  
711 WEST 7<sup>TH</sup> STREET  
AUSTIN, TEXAS 78701-2785  
(512) 472-7600  
FAX (512) 225-5565

2008 OCT 31 PM 4: 37  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**FACSIMILE TRANSMISSION**

**CONFIDENTIALITY NOTICE:** The documents accompanying this facsimile transmission contain confidential information which is legally privileged and intended only for the use of the recipient named below. We request immediate notification by telephone of misrouted facsimile transmissions so that we may arrange for return of those documents to us. If you receive this facsimile transmission in error, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of the information contained in this facsimile transmission, is strictly prohibited.

**DATE:** October 31, 2008 **NO. PAGES (including cover):** 8

**TO:** The Honorable La Donna Castañuela **FAX NO.:** 239-3311 **CONTACT NO.:** 239-3300

**FROM:** Edmond R. McCarthy, Jr. **C/M NO.:** 40-826/3211

**RE:** Application No. 08-2462I, City of Dallas' Application to Amend Certificate of Adjudication No. 08-2462 (as Amended)

**ATTACHMENT:** See attached.

**ORIGINALS TO FOLLOW:** YES X NO

OPA

NOV 01 2008

LAW OFFICES OF

JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.

711 WEST 7TH STREET AUSTIN, TEXAS 78701-2785

(512) 472-7600 FAX (512) 225-5565

DAVID E. JACKSON\* JOHN MATTHEW SJOBERG\* EDMOND R. MCCARTHY, JR ROBERT WILSON

WR 63771

SHERIDAN GILBERTSON THOMPSON LAURIE KELLER ELIZABETH A. TOWNSEND OF COUNSEL LICENSED IN TEXAS AND TENNESSEE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TELETYPE UNIT 3 PM 4:28

October 31, 2008

\*BOARD CERTIFIED IN OIL GAS AND MINERAL LAW TEXAS BOARD OF LEGAL SPECIALIZATION

The Honorable La Donna Castañuela Chief Clerk Texas Commission on Environmental Quality P.O. Box 13087 (MC 105) Austin, Texas 78711-3087

Via Telecopier & Certified Mail Return Receipt Requested

Re: Application No. 08-24621, City of Dallas's Application to Amend Certificate of Adjudication No. 08-2462 (As Amended)

Dear Ms. Castañuela:

I am writing on behalf of the City of Houston ("Houston") in response to the notice of the above-referenced Application (the "Application") filed by the City of Dallas ("Dallas") to amend Certificate of Adjudication No. 08-2462 (the "Certificate"). Copies of the notices reviewed by the City dated October 3, 2008 (received October 9, 2008), and October 17, 2008 (Texas Register publication), are attached for reference.

Please consider this letter as the City of Houston's request for the Commission to conduct a contested case hearing on the Application.

The City of Houston relies upon the Trinity River Basin, as well as other water resources, for its municipal water supplies to provide water to more than 3 million customers in Houston and its environs, including Harris County, Texas. The City of Houston is the owner of, and/or has contracts for, multiple water rights in the Trinity River Basin, including Certificates of Adjudication Nos. 08-4261 and 08-4277. Additionally, the Trinity River, including the fresh water inflows contributed to the Galveston Bay and its estuaries, contributes to the economic well being of the City of Houston and its citizens.

Accordingly, the City of Houston has direct health and safety, as well as, water rights and pecuniary interests in the well being of the Trinity River Basin and the potential impacts that the above-referenced Application might have on the river system, if granted. The City is located downstream of the discharge and diversion points identified in the Application. For these reasons, in order to protect its rights and afford adequate opportunity to review the Application and any proposed amendments to the Certificate that may be published by Executive Director for consideration by the Commission, the City of Houston requests that the Commission conduct a contested case hearing on the Application.

Handwritten initials 'mw' in the bottom right corner.

October 31, 2008  
Page 2

Accordingly, on behalf of the City of Houston, I request that the Commission and the Executive Director's staff provide the City with copies of all proposed amendments, technical memoranda, and any other evaluations, and/or any notices proposed, promulgated, or published by the Commission or the Executive Director's staff related to this Application. Please have these documents sent to my attention using the following contact information:

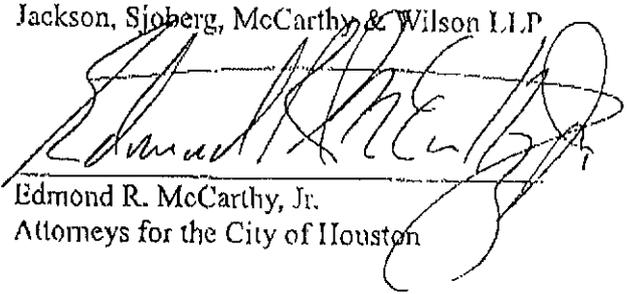
Edmond R. McCarthy, Jr.  
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.  
711 West 7<sup>th</sup> Street  
Austin, Texas 78701  
(512) 225-5606  
(512) 225-5565 Fax  
[emccarthy@jacksonsjoberg.com](mailto:emccarthy@jacksonsjoberg.com)

Please note that this request is conditional. After further review and evaluation of the Application and its potential impacts, Houston hopes to reach an agreement with the Commission and Dallas on the Application that will address Houston's interest in providing for the health and well being of the Trinity River Basin, as well as protecting Houston's downstream water rights and other affected interests. Assuming that effort is successful, the City would be able to withdraw its contested case hearing request.

By copy of this letter, I am advising Ms. Gwendolyn Webb, special counsel for Dallas, and Mr. Ron Ellis of the Executive Director's staff of this request for a contested case hearing and copies of documents.

Thank you for your assistance.

Sincerely,  
Jackson, Sjoberg, McCarthy & Wilson L.L.P.



Edmond R. McCarthy, Jr.  
Attorneys for the City of Houston

ERM/tn

cc: City of Houston  
Attn: Mr. Jun Chang, Interim Deputy Director  
Public Works & Engineering Department  
Mr. Bill Beauchamp, Senior Assistant City Attorney  
City Attorney's Office  
TCEQ  
Attn: Mr. Ron Ellis (MC 160)  
City of Dallas  
Attn: Ms. Gwendolyn Webb, Special Counsel

4/3

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



OCT - 9 2008

NOTICE OF AN APPLICATION TO AMEND A  
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC §295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

Search the TCEQ Chief Clerk's Database - Texas Commission on Environmental Quality ... Page 1 of 3



[TCEQ Home](#)  
[SEARCH TCEQ Data](#)

**SITE SEARCH:**  
please enter search phrase [GO](#)

**SUBJECT INDEX**  
[Air](#) [Water](#) [Waste](#)  
[Search TCEQ Data](#)  
[Agency Organization Map](#)

[Questions or Comments:](#)  
[opa@tceq.state.tx.us](mailto:opa@tceq.state.tx.us)

**RELATED LINKS:**

[Central Registry](#)

[Executive Director's Agenda](#)

[Commission Agendas](#)

[Public Meetings and Hearings on Permit Cases Calendar](#)

[State Office of Administrative Hearings](#)

[TCEQ Chief Clerk's Database](#)

## Public Notice Description Results

[Close Window](#)

### NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code '11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) "295.1, et seq. Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC '295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full

Search the TCEQ Chief Clerk's Database - Texas Commission on Environmental Quality ... Page 2 of 3

water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "(I/we) request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

\*\*\*\*\*

[Web Policies](#) | [Disclaimer](#) | [Site Help](#)

[Rules, Policy & Legislation](#) | [Permits, Licenses & Registrations](#) | [Compliance, Enforcement & Cleanup](#)  
[Drinking Water & Water Availability](#) | [Reporting](#) | [Environmental Quality](#) | [Assistance, Education & Participation](#)  
[Pollution Prevention & Recycling](#) | [Contracts, Funding & Fees](#)

\*\*\*\*\*

Law Offices Of  
**JACKSON, SJOBERG, McCARTHY & WILSON, L.L.P.**  
711 WEST 7<sup>TH</sup> STREET  
AUSTIN, TEXAS 78701-2785  
(512) 472-7600  
FAX (512) 225-5565

2008 OCT 31 PM 4: 28  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**FACSIMILE TRANSMISSION**

**CONFIDENTIALITY NOTICE:** The documents accompanying this facsimile transmission contain confidential information which is legally privileged and intended only for the use of the recipient named below. We request immediate notification by telephone of misrouted facsimile transmissions so that we may arrange for return of those documents to us. If you receive this facsimile transmission in error, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of the information contained in this facsimile transmission, is strictly prohibited.

**DATE:** October 31, 2008 **NO. PAGES (including cover):** 8

**TO:** The Honorable La Donna Castañuela **FAX NO.:** 239-3311 **CONTACT NO.:** 239-3300

**FROM:** Edmond R. McCarthy, Jr. **C/M NO.:** 40-829/3010

**RE:** Application No. 08-2410F, NTMWD's Application to Amend Certificate of Adjudication No. 08-2410 (as amended)

**ATTACHMENT:** See attached.

**ORIGINALS TO FOLLOW:** YES X NO

Mr. Rochelle's Direct Line: (512) 322-5810  
mrochelle@lglawfirm.com

WR  
63771

November 10, 2008

HR  
OPA  
NOV 12 2008  
BY [Signature]  
CHIEF CLERKS OFFICE  
2008 NOV 12 AM 9:19  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

VIA FACSIMILE TRANSMISSION  
AND FIRST-CLASS MAIL

Ms. LaDonna Castañuela (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Application No. 08-2462I of the City of Dallas to Amend Certificate of Adjudication No. 08-2462, as amended (446-12)

Dear Ms. Castañuela:

I am writing on behalf of my client, the North Texas Municipal Water District (the "District"), in response to the notice of an application (the "Application") to amend Certificate of Adjudication No. 08-2462, as amended (the "Certificate"), filed by the City of Dallas ("Applicant"). Please consider this letter as the District's formal request for a contested case hearing on the Application.

The North Texas Municipal Water District relies upon water supplies in the Trinity River Basin, as well as other water resources, for its municipal water supplies to meet the needs of its members and customers. The District is the owner of a number of surface water rights in the Trinity River Basin, including Certificate of Adjudication No. 08-2410, as amended, and it has a pending application to amend that right currently on file with the Commission. This water right of the District includes special conditions which limit the District's diversion of water thereunder to times when Lake Ray Hubbard, authorized by the Applicant's Certificate, is spilling; therefore, the Application has the potential to impact the extent to which the District is able to utilize its own water rights. Additionally, the Trinity River provides water that supports the economic health and well being of the District and its members and customers. Accordingly, the District has significant property interests in the waters of the Trinity River Basin. For these reasons, and in order to protect its rights to further review the Application and the proposed water right amendment that may be proposed by the Executive Director and the Commission, the District requests that the Commission conduct a contested case hearing on the Application.

The District expects to reach agreement with the Executive Director and the Applicant regarding the Application, following the Executive Director's completion of its technical review of the Application and its preparation of a draft permit amendment. Thus, the District makes this filing only in order to preserve its ability to further evaluate the Application, the manner in which it is reviewed by the Executive Director and considered by the Commission, and any draft permit

MW

Ms. LaDonna Castañuela  
November 10, 2008  
Page 2

amendment that may be prepared by the Executive Director. The District anticipates that following its further evaluation of such matters it will be able to withdraw this hearing request.

Accordingly, on behalf of the District, I request that the Commission and the Executive Director's staff provide the District with copies of all proposed amendments, technical memoranda, and any other evaluations and/or any notices proposed, promulgated, or published by the Commission or the Executive Director's staff related to this Application. Please have these documents sent to my attention using the following contact information:

Martin C. Rochelle  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Ave., Suite 1900  
Austin, TX 78701  
(512) 322-5810  
(512) 472-0532 Fax  
[mrochelle@lglawfirm.com](mailto:mrochelle@lglawfirm.com)

Thank you for your assistance in this important matter.

Sincerely,



Martin C. Rochelle

MCR/aph  
0446\12\DWUNtr081105aph

cc: Ms. Gwendolyn Webb  
Mr. Robert McCarthy  
Mr. Mike Rickman  
Mr. Tom Gooch

**Lloyd Gosselink**

ATTORNEYS AT LAW

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Avenue Suite 1900 Austin, Texas 78701

RECEIVED  
NOV 12 2008  
AUSTIN  
U.S. POSTAGE  
0.42

TCEQ MAIL CENTER  
WM

Ms. LaDonna Castañuela (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

78711-3087 8012



816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Telephone: (512) 322-5800  
Facsimile: (512) 472-0532

www.lglawfirm.com

Mr. Rochelle's Direct Line: (512) 322-5810  
mrrochelle@lglawfirm.com

WR  
63771

November 10, 2008

HP OPA

NOV 12 2008

BY MT

VIA FACSIMILE TRANSMISSION  
AND FIRST-CLASS MAIL

2008  
10 PM 12:19  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Ms. LaDonna Castañuela (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Application No. 08-2462I of the City of Dallas to Amend Certificate of  
Adjudication No. 08-2462, as amended (446-12)

Dear Ms. Castañuela:

I am writing on behalf of my client, the North Texas Municipal Water District (the "District"), in response to the notice of an application (the "Application") to amend Certificate of Adjudication No. 08-2462, as amended (the "Certificate"), filed by the City of Dallas ("Applicant"). Please consider this letter as the District's formal request for a contested case hearing on the Application.

The North Texas Municipal Water District relies upon water supplies in the Trinity River Basin, as well as other water resources, for its municipal water supplies to meet the needs of its members and customers. The District is the owner of a number of surface water rights in the Trinity River Basin, including Certificate of Adjudication No. 08-2410, as amended, and it has a pending application to amend that right currently on file with the Commission. This water right of the District includes special conditions which limit the District's diversion of water thereunder to times when Lake Ray Hubbard, authorized by the Applicant's Certificate, is spilling; therefore, the Application has the potential to impact the extent to which the District is able to utilize its own water rights. Additionally, the Trinity River provides water that supports the economic health and well being of the District and its members and customers. Accordingly, the District has significant property interests in the waters of the Trinity River Basin. For these reasons, and in order to protect its rights to further review the Application and the proposed water right amendment that may be proposed by the Executive Director and the Commission, the District requests that the Commission conduct a contested case hearing on the Application.

The District expects to reach agreement with the Executive Director and the Applicant regarding the Application, following the Executive Director's completion of its technical review of the Application and its preparation of a draft permit amendment. Thus, the District makes this filing only in order to preserve its ability to further evaluate the Application, the manner in which it is reviewed by the Executive Director and considered by the Commission, and any draft permit

WR

Ms. LaDonna Castañuela  
November 10, 2008  
Page 2

amendment that may be prepared by the Executive Director. The District anticipates that following its further evaluation of such matters it will be able to withdraw this hearing request.

Accordingly, on behalf of the District, I request that the Commission and the Executive Director's staff provide the District with copies of all proposed amendments, technical memoranda, and any other evaluations and/or any notices proposed, promulgated, or published by the Commission or the Executive Director's staff related to this Application. Please have these documents sent to my attention using the following contact information:

Martin C. Rochelle  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Ave., Suite 1900  
Austin, TX 78701  
(512) 322-5810  
(512) 472-0532 Fax  
[mrochelle@lglawfirm.com](mailto:mrochelle@lglawfirm.com)

Thank you for your assistance in this important matter.

Sincerely,



Martin C. Rochelle

MCR/aph  
044612ADWUNtr081105aph

cc: Ms. Gwendolyn Webb  
Mr. Robert McCarthy  
Mr. Mike Rickman  
Mr. Tom Gooch



816 Congress Avenue, Suite 1900  
 Austin, Texas 78701  
 Telephone: (512) 322-5800  
 Facsimile: (512) 472-0532  
 www.lglawfirm.com

TELECOPIER COVER SHEET

November 10, 2008

PLEASE DELIVER THE FOLLOWING PAGES:

To: Ms. LaDonna Castañuela

Firm: TCEQ  
 Telecopy No.: 239-3311  
 Verification No.: 239-3300

Client No.: 446-12  
 From: Martin C. Rochelle

No. of Pages: 2 + cover sheet

Comments:

TEXAS  
 COMMISSION  
 ON ENVIRONMENTAL  
 QUALITY  
 2008 NOV 10 PM 12:19  
 CHIEF CLERK'S OFFICE

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. THE REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION TO ANYONE OTHER THAN THE INTENDED ADDRESSEE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL US AS SOON AS POSSIBLE AT (512) 322-5800.

LAW OFFICES OF  
BOOTH, AHRENS & WERKENTHIN, P.C.  
A PROFESSIONAL CORPORATION  
515 CONGRESS AVENUE, SUITE 1515  
AUSTIN, TEXAS 78701-3503  
512/472-3263 • 512/473-2609

MICHAEL J. BOOTH  
FRED B. WERKENTHIN, JR.  
WIL GALLOWAY  
TREY NESLONEY

WR  
63771

NOV 12 2008  
BY CA  
CAROLYN AHRENS  
OF COUNSEL  
CHIEF CLERKS OFFICE  
2008 NOV 10 AM 11:22

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

November 6, 2008

Ms. LaDonna Castañuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

VIA FACSIMILE & REGULAR MAIL

**RE: Application No. 08-2462I, City of Dallas' Application to Amend  
Certificate of Adjudication No. 08-2462, as amended**

Dear Ms. Castañuela:

The following is Trinity River Authority's ("TRA") request for a contested case hearing in response to the notice of the above-referenced Application (the "Application") recently filed by the City of Dallas ("Dallas") to amend Certificate of Adjudication No. 08-2462 (the "Certificate"). A copy of the notice that was reviewed by TRA, having been issued on October 3, 2008 (received October 9, 2008), is attached for reference.

The Texas Commission on Environmental Quality ("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 notice. **TRA requests for TCEQ to conduct a contested case hearing on the Application.**

One of TRA's major functions is to provide water and wastewater related services within the TRA territory. This is a valuable service to millions of Texans who live and work in the Trinity River Basin. To help to accomplish this function, TRA is the owner of water rights in the Trinity River Basin, some of which are specified in Certificate of Adjudication No. 08-4248, as amended. Copies of Certificate of Adjudication No. 08-4248 and its subsequent amendments are attached for reference.

Accordingly, TRA has water rights that could be affected by the impacts of the above-referenced Application, if granted. TRA's water right is located downstream of the diversion points identified in the Application. For these reasons, in order to protect

MW

Ms. Castañuela  
November 6, 2008  
Page 2

its rights and afford adequate opportunity to review the Application and any proposed amendments to the Certificate that may be published by Executive Director for consideration by TCEQ, TRA requests that TCEQ conduct a contested case hearing on the Application.

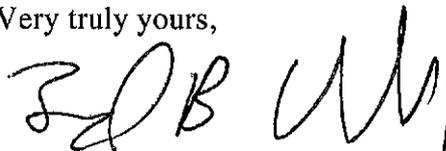
Therefore, TRA requests that TCEQ and the Executive Director's staff provide TRA with copies of all proposed amendments, technical memoranda, and any other evaluations, and/or any notices proposed, promulgated, or published by TCEQ or the Executive Director's staff related to this Application. Please send these documents using the following contact information:

Fred B. Werkenthin, Jr.  
Booth, Ahrens & Werkenthin, P.C.  
515 Congress  
Suite 1515  
Austin, Texas 78701-3503  
(512) 472-3263 Phone  
(512) 473-2609 Facsimile  
fbw@baw.com

Please note that this request is conditional. After further review and evaluation of the Application and its potential impacts, TRA hopes to reach an agreement with TCEQ and Dallas on the Application that will address TRA's interest by protecting TRA's downstream water rights and other affected interests. Assuming that effort is successful, TRA would be able to withdraw its contested case hearing request.

Thank you for your assistance.

Very truly yours,



Fred B. Werkenthin, Jr.  
Attorney for the Trinity River Authority

FBW/THN/cms  
Enclosures

cc: Mr. Howard Slobodin

VIA E-MAIL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



4/3  
OCT - 9 2008

NOTICE OF AN APPLICATION TO AMEND A  
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC §295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008



Certificate of Adjudication: 08-

- (1) Trinity River . . . . . 47,500 acre-feet
- (2) Lake Livingston . . . . . 104,450 acre-feet
- (3) Lake Wallisville  
(when constructed) . . . . . 30,000 acre-feet

D. Owner is authorized to divert and use not to exceed 40,000 acre-feet of water per annum from Lake Livingston and 10,000 acre-feet of water per annum from Lake Wallisville (when constructed) for domestic and municipal purposes.

C. Owner is authorized to divert and use not to exceed 222,750 acre-feet of water per annum for industrial purposes. The water authorized herein shall be diverted from the following sources:

- (1) Trinity River . . . . . 4,000 acre-feet
- (2) Lake Livingston . . . . . 207,150 acre-feet
- (3) Lake Wallisville  
(when constructed) . . . . . 11,600 acre-feet

D. Owner is authorized to temporarily convert the use of the 4000 acre-feet of water authorized under Paragraph 2 C(1) above from industrial to mining purposes in Chambers, Liberty and Jefferson Counties, Texas.

E. Owner is authorized to temporarily convert the use of 7000 of the 207,150 acre-feet of water authorized under Paragraph 2 C(2) above from industrial to mining purposes in Liberty and Chambers Counties, Texas.

F. Owner is authorized to divert and use not to exceed 7000 acre-feet of water per annum from the Trinity River for mining purposes.

G. Owner is further authorized to use the water impounded in the aforesaid on-channel reservoirs for recreation purposes.

3. DIVERSION

A. Location and Rate:

- (1) At a point on the Trinity river in the Manuel Klonda Grant, Abstract 25, Freestone County, Texas at a maximum rate of not to exceed 56.67 cfs (30,000 gpm), located in the Middle Trinity River Segment of the Trinity River Basin.
- (2) At the outlet works on Lake Livingston dam in the William Pace Survey, Abstract 60, Fulk County, Texas, at an unspecified diversion rate.
- (3) At a point on the Trinity River in the Samuel Neathery Survey, Abstract 325, Liberty County, Texas, to a relief station located in the Jacob E. Self Survey, Abstract 104, Liberty County, Texas at a maximum rate of not to exceed 813.00 cfs (365,920 gpm).
- (4) At various points on the perimeter of the aforesaid Lake Livingston at a maximum combined diversion rate of 71.79 cfs (32,305 gpm).

B. Maximum combined diversion rate: 951.49 cfs (428,171 gpm) exclusive of release through Lake Livingston Dam.

4. PRIORITY

A. The time priority of owner's right is February 26, 1917 for the diversion and use of the first 7500 acre-feet of water per annum for irrigation purposes.

- B. The time priority of owner's right is September 8, 1926 for the diversion and use of the next 20,000 acre-feet of water per annum for irrigation purposes.
- C. The time priority of owner's right is December 12, 1929 for the diversion and use of the next 20,000 acre-feet of water per annum for irrigation purposes.
- D. The time priority of owner's right is September 24, 1936 for the diversion and use of 4000 acre-feet of water per annum for industrial purpose and 7000 acre-feet of water per annum for mining purposes..
- E. The time priority of owner's right is September 23, 1959, for the impoundment of 1,750,000 acre-feet of water in Lake Livingston; to divert and use 500 acre-feet of water per annum for domestic purposes; 39,500 acre-feet of water per annum for municipal purposes; 207,150 acre-feet of water per annum for industrial purposes and 104,450 acre-feet of water per annum for irrigation purposes at a maximum combined diversion rate of 951.49 cfs (428.171 gpm).
- F. Upon completion of Lake Wallisville Dam and Reservoir, the time priority of owner's right is September 23, 1959 for the diversion of the additional 10,000 acre-feet of water per annum for domestic and municipal purposes; 10,000 acre-feet of water per annum for irrigation purposes and 11,600 acre-feet of water per annum for industrial purposes.

**SPECIAL CONDITIONS**

- A. Owner shall maintain a sluiceway in the aforesaid Lake Livingston dam at a bottom elevation of not more than seventy (70) feet above mean sea level, having an opening of not less than ninety-six (96) inches in diameter and equipped with a regulating gate for the purpose of allowing the free passage through the dam at all times of those waters to which lower users are lawfully entitled. Whenever the Commission finds that owners are storing any waters to which downstream appropriators or lawful diverters are entitled, the owners shall release same to said appropriators or lawful diverters on the order of the Texas Water Commission.
- B. Owners are authorized and required to operate the Lake Livingston dam and reservoir described in this certificate of adjudication in conjunction with the Lake Wallisville dam and reservoir which are required to be constructed on the Trinity River in Chambers County, Texas. The total water available from both projects shall be divided between the owners so that the City shall receive seventy per cent (70%) and the Authority shall receive thirty per cent (30%) thereof and that the specific quantities for each shall, if necessary, be adjusted so as to divide the total available water between the owners in such proportions.
- C. Owner shall install a metering instrument at each diversion point which will automatically record the total amount of water diverted. Owner shall make determinations of water surface elevations in Lake Livingston reservoir by means of recording gauges set to U. S. Coast and Geodetic Survey datum, each of which shall be protected by a wall house designed for such purposes and the Commission shall be furnished complete records of such determinations. Owner shall relocate, or cause to be relocated, all existing stream flow stations which may be inundated or impaired by the reservoir and establish, or cause to be established, such other record in stream flow stations as this Commission may deem necessary to record inflows into the reservoir. Owner shall maintain daily records of waters released through the reservoir authorized herein for downstream use. All stream flow stations shall be

Waste of Adjudication: On

set to the same datum described above and the Commission shall be furnished complete records of the data herein required to be kept. The metering instruments, the gauges with well houses and the stream flow stations and the installation, design and operation thereof shall be subject to approval of the Commission.

- D. Owner is authorized to use the bed and banks of the Trinity River, below the aforesaid dams (Lake Livingston and Lake Wallisville) to convey and deliver water to be appropriated hereunder to downstream diversion points.
- E. Owners shall make no diversions of water from the diversion points downstream of the Lake Livingston dam under priority date of September 23, 1959, except to the extent that water for such diversions is released from the aforesaid reservoir.
- F. Owner's right is subordinate to any claim on waters of the Trinity River Basin imported into and/or originating in and above Lake Lewisville Reservoir, Grapewind Reservoir, Lake Worth Reservoir and Lake Ray Hubbard Reservoir, and shall not constitute any limitation upon the granting of permits by the Commission for the impoundment and use of waters above the said four named reservoirs.
- G. This certificate is further subordinate to any claim on waters imported and/or originating in the Trinity River Basin above Lake Livingston Reservoir authorized herein, that could be impounded by: 1) existing reservoirs; 2) by reservoirs for which permits have been granted or certificates of adjudication issued and the construction of such reservoirs is incomplete; 3) by reservoirs for which applications are pending before the Commission; 4) by the following proposed reservoirs as shown in the Master Plan Report of the Trinity River Authority of Texas dated April 18, 1958, but only to the extent necessary to insure a dependable yield from each such proposed reservoir as shown opposite the respective names, to-wit:

<u>Reservoir Name</u>	<u>Dependable Yield (MGD)*</u>
Big Fossil	0.5
Tehuacana	61.0
Tennessee Colony	362.0
Upper Ketchi	13.6
Lower Ketchi	20.5
Big Elkhart	11.0*
Little Elkhart	6.2
Hurricane Bayou	15.6
Badias	95.3
Nelson	14.6
Harmon	7.4
Gall	16.6*
Mustang	13.2
Caney	13.5
Long King	18.5

\*Million Gallons per Day

It is the intent herein that this certificate of adjudication shall not constitute a prior claim against upstream flows necessary to produce dependable yields in the aggregate amount from future reservoirs hereinabove listed. Except for the Tennessee Colony Reservoir, nothing herein shall prohibit the construction of future reservoirs at different locations, of different dimensions, or the combination of reservoirs as substitutes for the above-listed future reservoirs; provided, however, that such modifications in dimensions, locations or the combination of reservoirs shall not diminish the dependable yield of the reservoir authorized herein in excess of the

diminution which would be occasioned by the construction of such reservoirs with the respective dependable yields as hereinabove listed. Tennessee Colony Reservoir may be modified as to location and dimension provided that any such modification shall likewise not further diminish the dependable yield of the reservoir authorized herein.

- II. This certificate of adjudication is specifically subordinated to the present and future use and reuse and consumptive use of any return flows from works impounded in each of the existing and above described proposed reservoirs and the return flows from water imported into the river basin, for municipal and industrial purposes within the Trinity River Basin above Lake Livingston authorized herein and notwithstanding the re-entry of such return flows into a public stream they may nevertheless be used again, diverted and treated through such treatment facilities as may be considered necessary for their purification, under authority of permits heretofore or hereafter issued by the Texas Water Commission for such purposes in the upstream watershed. And this certificate of adjudication is subordinate to the present and future use and reuse for navigation purposes of the return flows from the Metropolitan areas of Dallas and Fort Worth in their natural flowing state and by impoundment in pools created by locks and appurtenances within the river and navigation channels; and further, such return flows shall be allowed to pass through the reservoir authorized herein to the extent necessary to provide navigation below said reservoir and the rights hereby acquired shall be subordinate to such uses.
- I. The amount of water which owner is authorized to divert and use in any one year under priority date of February 26, 1917, for irrigation, shall not exceed 1.5 acre-feet on any acre of land actually irrigated.
- J. The amount of water which owner is authorized to divert and use in any one year, under priority dates of September 8, 1926 and December 12, 1929, for irrigation, shall not exceed 2.0 acre-feet on any acre of land actually irrigated.
- K. The authority to divert and use water authorized under Paragraphs 2D and 2E for mining purposes will expire and become null and void on September 1, 1986, after which date the use of water will revert to industrial purposes.
- L. Owner shall maintain suitable outlets in the aforesaid dams authorized herein to allow the free passage of water that owner is not entitled to divert or impound.
- M. Construction of the Wallisville dam, reservoir and related facilities authorized or required by this certificate of adjudication shall be in accordance with plans approved by the Texas Water Commission and shall be started and completed within the time limits established by the Commission.
- N. Owner may not exercise the right to divert and use that portion of the water authorized herein which is to be diverted from Lake Wallisville for any purposes until construction of the aforesaid reservoir is complete and owner applies for and is granted a diversion point or points and a rate of diversion.
- O. Owner may divert all or any portion of the water authorized herein from the Trinity River Basin and use same on the Coastal Watersheds of Eastern Liberty County, Eastern and Southwestern Chambers County and Bolivar Peninsula in Galveston County. The waters authorized to be appropriated hereunder shall be made available for beneficial uses without discrimination and owner's right to supply water to the aforesaid areas shall not be exclusive.

Certificate of Adjudication:

The locations of pertinent features related to this certificate are shown on Pages 16, 18, 19, 21 and 25 of the Lower Trinity River Segment Certificates of Adjudication Maps, copies of which are located in the offices of the Texas Water Commission, Austin, Texas and the Polk, Liberty, Chambers, Trinity, San Jacinto, Jefferson and Galveston County Clerks.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 344th Judicial District Court of Chambers County, Texas, in Cause No. 344-10865, In Re: The Adjudication of Water Rights in the Lower Trinity River Segment of the Trinity River Basin and the western portion of the Neches-Trinity Coastal Basin dated October 30, 1985 and supersedes all rights of the owner asserted in that case.

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

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

TEXAS WATER COMMISSION

Paul Hopkins  
Paul Hopkins, Chairman

BE ISSUED:

10/11/85  
TEST:

Max Linn  
Max Linn, Chief Clerk

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



## AMENDMENT TO CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-4248A

TYPE: AMENDMENT

Name: Trinity River Authority  
of Texas

Address: P.O. Box 60  
Arlington, TX, 76004 76004

Filed:

Granted: **JUL 27 1998**

Purposes: Domestic, Municipal,  
Industrial and Irrigation

Counties: Trinity, Polk, San Jacinto,  
Liberty, Chambers,  
Jefferson, Leon, Houston,  
Walker, Galveston, Grimes,  
Freestone and Madison

Watercourse: Trinity River

Watersheds: Trinity River Basin, San  
Jacinto River Basin, Neches  
River Basin and the Neches-  
Trinity Coastal Basin

WHEREAS, Certificate of Adjudication No. 08-4248 includes authorization, with a time priority of September 23, 1959, for impoundment of water in Livingston Reservoir and use of water from the reservoir for domestic, municipal, industrial and irrigation purposes; and

WHEREAS, the Certificate specifically indicates that the water may be used within owner's service area in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson and Galveston Counties; and

WHEREAS, the Certificate indicates the water included in the Certificate may be used in the Trinity River Basin and the Coastal Watersheds of Eastern Liberty County, Eastern and Southeastern Chambers County and Bolivar Peninsula in Galveston County; and

WHEREAS, the actual and historical statutory service area of the Trinity River Authority and places of use of the water authorized in the Certificate include Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties; and

WHEREAS, pursuant to Texas Water Codes Sections 11.122 and 11.085(v) an application was received from the Trinity River Authority of Texas on June 26, 1998 requesting an amendment to Certificate No. 08-4248 to authorize and reflect the actual and historical use of the water included in the Certificate as being in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties in the Trinity, San Jacinto and Neches River Basins and in the Trinity-Neches Coastal Basin; and

WHEREAS, Leon, Houston, Walker, Grimes, Freestone and Madison counties are located partially in the Trinity River Basin and partially in the San Jacinto River Basin, the Neches River Basin or the Trinity-Neches Coastal Basin; and

WHEREAS, the City of Houston, the only other water right owner for Lake Livingston, and the Chambers-Liberty Counties Navigation District have submitted letters to the Commission indicating that they do not object to the granting of this application; and

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

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

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

NOW, THEREFORE, this amendment to Certificate No. 08-4248 is issued to the Trinity River Authority of Texas, subject to the following provisions:

1. PLACE OF USE

Owner is authorized to use the water included in the Certificate for diversion and use from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Trinity-Neches Coastal Basin.

2. CONSERVATION

- A. Certificate owner shall maintain 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. Such a plan shall include a requirement in every wholesale water supply contract entered into on or after the effective date of this amendment and including any contract extension or renewal, that each successive wholesale customer develop and implement water conservation measures. If the customer intends to resell the water, the contract for the resale of the water must

measures. If the customer intends to resell the water, the contract for the resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.

- B. Within 1 (one) year of the date of issuance of this amendment, Certificate owner shall submit a written report to the Executive Director of the Texas Natural Resource Conservation Commission responding to the TNRCC technical memos dated July 29, 1994, September 8, 1994 and July 16, 1998 regarding the River Authority's conservation plans and providing a progress report on the River Authority's effort to update its water conservation plans to cover the River Authority's entire service area and to officially adopt its conservation plan(s) in accordance with agency rule 30 Texas Administrative Code §288.5 (1) (I).

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248 except as specifically amended herein.

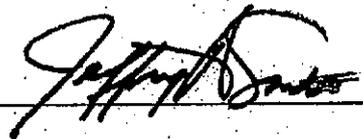
This amendment is issued subject to all superior and senior water rights in the Trinity River Basin.

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

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

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

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION



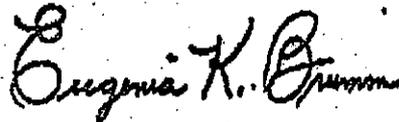
---

For the Commission

DATE ISSUED:

JUL 27 1998

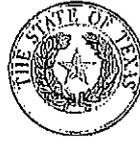
ATTEST:



Eugenia K. Brumm, Ph.D., Chief Clerk

ADJ/08-4248B/KO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO  
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-4248B      APPLICATION 08-4248B      TYPE §§ 11.121, 11.122,  
11.042 & 11.046

Owner:	Trinity River Authority of Texas	Address:	P. O. Box 60 Arlington, Texas 76004
Filed:	September 7, 2000	Granted:	<b>OCT 12 2006</b>
Purpose:	Domestic, Municipal, Mining, Industrial, and Agriculture	Counties:	Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Leon, Houston, Walker, Galveston, Grimes, Freestone, Madison
Watercourse:	Trinity River	Watershed:	Trinity River Basin, San Jacinto River Basin, Neches River Basin, and the Neches-Trinity Coastal Basin

WHEREAS Certificate of Adjudication No. 08-4248 authorizes the Trinity River Authority (TRA or Applicant), in conjunction with the City of Houston, owner of Certificate of Adjudication No. 08-4261, to maintain an existing dam and reservoir (Lake Livingston) on the Trinity River, Trinity River Basin, and impound therein not to exceed 1,750,000 acre-feet of water, and to construct and maintain a dam and reservoir (Lake Wallisville) on the Trinity River and impound therein not to exceed 51,600 acre-feet of water; and

WHEREAS, Certificate of Adjudication No. 08-4248 also authorizes Applicant to divert and use not to exceed 351,600 acre-feet of water per annum from Lake Livingston and 51,600 acre-feet of water per annum from Lake Wallisville for domestic, municipal, industrial and agriculture (irrigation) purposes within Applicant's service area; and

WHEREAS, by Texas Water Commission, now Texas Commission on Environmental Quality, Order issued September 24, 1990, a portion of the water right authorized by Certificate of Adjudication No. 08-4248 was severed from the Certificate and re-authorized as Water Use Permit No. 5271 with a priority date of February 23, 1917, which includes the maintenance of two off-channel reservoirs and the diversion and use of 58,500 acre-feet of water per year at a combined diversion rate of 813 cfs (365,850 gpm) for agricultural (irrigation), mining and industrial purposes from a diversion point on the Trinity River in the Samuel Neathery Survey, Abstract No. 325, Liberty County, Texas, to a relief station located in the Jacob E. Self Survey, Abstract No. 104, Liberty County; and

WHEREAS, the Certificate authorizes recreation use of the water impounded in Lakes Livingston and Wallisville; and

WHEREAS, Applicant is authorized to divert a portion of the water at a point on the Trinity River in the Manuel Rionda Grant, Abstract 25, at a maximum rate of 66.67 cfs (30,000 gpm), a portion at the outlet works on Lake Livingston in the William Pace Survey, Abstract No. 60 at an unspecified diversion rate, and a portion at various points on the perimeter of Lake Livingston at a combined maximum rate of 71.79 cfs (32,305 gpm); and

WHEREAS, the priority date for the diversion and use of the water is September 23, 1959, and for the impoundment of water in Lake Livingston is September 23, 1959; and

WHEREAS, the Certificate authorizes the Trinity River Authority to use the water authorized for diversion and use from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone, and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Neches-Trinity Coastal Basins; and

WHEREAS, special conditions in the certificate include authorization to use the bed and banks of the Trinity River downstream of the dams and reservoirs to convey water, and to subordinate the authorization of the certificate to present and future use and reuse, and consumptive use of certain return flows within the Trinity River Basin upstream of Lake Livingston, as well as other conditions; and

WHEREAS, Applicant seeks authorization to impound, in its share of the storage capacity of Lake Livingston (30%), the return flows from TRA's wastewater treatment plants (WWTPs) located upstream from the lake, except return flows from TRA's Denton Creek Regional Wastewater Treatment Plant, under any theory recognized in Texas Law, including those of developed water, unappropriated return flows from whatever source, release of stored water, use of bed and banks, and unappropriated state water that will not cause adverse impact on other water right holders of a greater magnitude than under circumstances in which the certificate to be amended was fully exercised according to its terms and conditions that existed prior to the amendment; and

WHEREAS, the wastewater treatment plants are identified as TRA's Central Regional, Red Oak Creek, and Ten Mile Creek Wastewater Treatment Plants in Dallas, and Ellis Counties; and

WHEREAS, whenever the natural flow of the Trinity River is insufficient to fill and refill TRA's storage space in Lake Livingston, Applicant will impound its return flows, however characterized, in its Lake Livingston storage space and will divert and use this water as authorized in Certificate of Adjudication No. 08-4248, as amended; and

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

WHEREAS, six (6) requests for a contested case hearing were received, but all were subsequently withdrawn; and

WHEREAS, Applicant requested that all references to the Denton Creek Regional Wastewater Treatment Plant and the effluent related thereto be removed from the application; and

WHEREAS, the Executive Director has determined that, in order to protect existing water rights and aquatic habitat in the Trinity River Basin, a special condition limiting Applicant's diversions and reuse of water to actual discharges from the WWTPs, less carriage losses, be included in the permit; and

WHEREAS, the Executive Director has determined that existing water rights will not be impacted by the discharge, conveyance, storage and redirection of TRA's historic and future return flows if appropriate accounting is made pursuant to an accounting plan that measures discharges and adjusts available amounts by losses to prohibit TRA from diverting return flows that physically and legally would have been available for impoundment, diversion, and use by water rights issued prior to the filing of this application; and

WHEREAS, the Texas Commission on Environmental Quality finds that granting this amendment will benefit the public welfare; and

WHEREAS, the Texas Commission on Environmental Quality's current rules provide that a water right may be granted upon the availability of return flows or discharges, however a water right granted based on return flows or discharges will be granted with the express provision that the water available to the water right is dependent upon potentially interruptible return flows and discharges; and

WHEREAS, TRA's application for this amendment was declared administratively complete by the Executive Director on September 7, 2000, and therefore the time priority for the appropriation of additional state water under this amendment is September 7, 2000; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 08-4248, designated Certificate of Adjudication No. 08-4248B, is issued to Trinity River Authority of Texas, subject to the following terms and conditions:

1. IMPOUNDMENT

TRA is authorized to impound, in its share of the storage capacity of Lake Livingston (30% of total capacity), the return flows, less carriage loss, that are discharged by TRA's Central Regional, Red Oak Creek Regional, and Ten Mile Creek Regional Wastewater Treatment Plants in Dallas, and Ellis Counties.

2. USE

In addition to the current diversion authorization, the Trinity River Authority is also authorized to divert the amount of documented return flows, less carriage and evaporative losses, discharged by the TRA's Central Regional, Red Oak Creek Regional, and Ten Mile Creek Regional Wastewater Treatment Plants and conveyed to Lake Livingston from the Lake for use within its service area for the purposes authorized by Certificate of Adjudication No. 08-4248. The maximum amount of effluent currently authorized for discharge from each identified WWTP (as of 7/22/2004) is as follows:

Wastewater Treatment Plant	Permit Amount	Per Annum
Central Regional WWTP	193 MGD	215,774 Acre-feet
Red Oak Creek WWTP	3.5 MGD	3,913 Acre-feet
Ten Mile Creek WWTP	24.0 MGD	26,832 Acre-feet
Total	220.5 MGD	246,219 Acre-feet

3. RELEASE POINTS

- A. Central Regional WWTP - approximately Latitude 32.776° N, Longitude 96.939° W on the right bank of the West Fork Trinity River approximately 0.55 river miles upstream of the confluence with Mountain Creek.

- B. Red Oak Creek Regional WWTP - approximately Latitude 32.483° N, Longitude 96.800° W on the left bank of Red Oak Creek approximately 0.7 stream miles upstream of the confluence with Sanger Branch.
- C. Ten Mile Creek Regional WWTP - approximately Latitude 32.563° N, Longitude 96.623° W on the left bank of Ten Mile Creek approximately 3 stream miles upstream of the confluence with the Trinity River.

4. TIME PRIORITY

The time priority for the use of the water authorized by this amendment is September 7, 2000.

5. CONSERVATION

- A. Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.
- B. Every wholesale water supply contract entered into or renewed after official adoption of the water conservation plan, including any contract extension, must ensure that each successive wholesale customer develop and implement a water conservation plan or water conservation measures that incorporate elements of Title 30, Texas Administrative Code Chapter 288.

6. SPECIAL CONDITIONS

- A. TRA is authorized to use the bed and banks of the West Fork Trinity River, Red Oak Creek, Ten Mile Creek, and the Trinity River to convey treated effluent from the three identified WWTPs downstream to Lake Livingston.
- B. Prior to diversion of the water authorized herein, TRA shall install and maintain a measuring devices at the discharge point of each WWTP, capable of measuring within plus or minus 5% accuracy, to record the amount of water discharged into the Trinity River for conveyance downstream to Lake Livingston.
- C. Prior to the diversion of the water authorized herein, TRA shall prepare, implement, and follow an accounting plan, approved by the Commission, designed to determine

the combined total amount of divertible return flows present each month, based on measured discharges less calculated carriage losses resulting from the conveyance of the treated effluent from the WWTPs to Lake Livingston.

- D. TRA shall maintain electronic records (in spreadsheet or database format) of the records of discharges of each of the specified WWTPs used in the return flow accounting, the calculations of carriage and evaporative losses, and diversions of the return flows from Lake Livingston and make them available to the public during normal business hours and shall submit them to the Executive Director upon request.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248 except as specifically amended herein.

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

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

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

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



---

Executive Director, Texas Commission on Environmental Quality

DATE ISSUED: **OCT 12 2006**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



08-4248C/W

RECEIVED

DEC 19 2006

TCEQ  
CENTRAL FILE ROOM

AMENDMENT TO  
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-4248C

APPLICATION 08-4248C

TYPE § 11.122

Owner:	Trinity River Authority of Texas	Address:	P. O. Box 60 Arlington, Texas 76004
Filed:	September 23, 2005	Granted:	<b>DEC 12 2005</b>
Purpose:	Multiple Use (Domestic, Municipal, Industrial, Mining, and Agriculture)	Counties:	Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Leon, Houston, Walker, Galveston, Grimes, Freestone, Madison
Watercourse:	Trinity River	Watershed:	Trinity River Basin, San Jacinto River Basin, Neches River Basin, and Neches-Trinity Coastal Basin

WHEREAS, Certificate of Adjudication No. 08-4248 authorizes the Trinity River Authority (TRA, Applicant), in conjunction with the City of Houston (owner of Certificate of Adjudication No. 08-4261) to maintain an existing dam and reservoir (Lake Livingston) on the Trinity River, Trinity River Basin, and impound therein not to exceed 1,750,000 acre-feet of water, and to construct and maintain a dam and reservoir (Lake Wallisville) on the Trinity River and impound therein not to exceed 51,600 acre-feet of water; and

WHEREAS, Certificate of Adjudication No. 08-4248 also authorizes the TRA to divert and use 461,700 acre-feet of water per year from three separate locations (a point on the Trinity River and from Lake Livingston and Lake Wallisville) at a maximum combined diversion rate of not to exceed 951.49 cfs (428,171 gpm) for domestic, agricultural (irrigation), municipal, and mining purposes within the Owner's service area in the Trinity River Basin; and

WHEREAS, of the total amount of water authorized for diversion, Certificate of Adjudication No. 4248 authorizes TRA to divert and use not to exceed 104,450 acre-feet of water per year from Lake Livingston for agriculture (irrigation) purposes, 40,000 acre-feet of water per year

for domestic and municipal purposes, and 207,150 acre-feet of water per year for industrial purposes within the applicant's service area; and

WHEREAS, TRA is authorized to divert water from Lake Livingston at the outlet works of the dam at an unspecified diversion rate and at various points on the perimeter of Lake Livingston at a combined maximum rate of not to exceed 71.79 cfs (32,305 gpm); and

WHEREAS, TRA is authorized to use the water from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone, and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Neches-Trinity Coastal Basin; and

WHEREAS, the priority date for the impoundment, diversion, and use of the water from Lake Livingston is September 23, 1959; and

WHEREAS, Applicant seeks authorization to add multiple use [domestic, municipal, industrial, and agricultural (irrigation)] purposes to the water authorized for diversion from Lake Livingston, and to increase the diversion rate authorized from Lake Livingston from 71.79 cfs (32,305 gpm) to 152.79 cfs (68,572.152 gpm); and

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

WHEREAS, the City of Houston provided a letter of consent to the application and, therefore notice was not mailed; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 08-4248, designated Certificate of Adjudication No. 08-4248C, is issued to the Trinity River Authority of Texas, subject to the following terms and conditions:

1. USE

In lieu of the previous purposes of use for the water authorized for diversion from Lake Livingston, the Trinity River Authority is now authorized to divert and use not to exceed 351,600 acre-feet of water per year for multiple use [domestic, municipal, agricultural (irrigation), and industrial] purposes.

2. DIVERSION

- A. In lieu of the previous diversion rate from various points on the perimeter of Lake Livingston of 71.79 cfs (32,305 gpm), Owner is now authorized to divert the water from various points on the perimeter of Lake Livingston at a maximum rate of not to exceed 152.79 cfs (68,572.152 gpm).

- B. In lieu of the previous maximum combined diversion rate authorized by Certificate of Adjudication No. 08-4248 of not exceed 951.49 cfs (428,171 gpm), exclusive of release through Lake Livingston Dam, the maximum combined diversion rate authorized by the Certificate, exclusive of release through Lake Livingston Dam, shall not exceed 1,032.49 cfs (463,381.512 gpm).

3. CONSERVATION

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

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248, as amended, except as specifically amended herein.

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

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

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

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

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

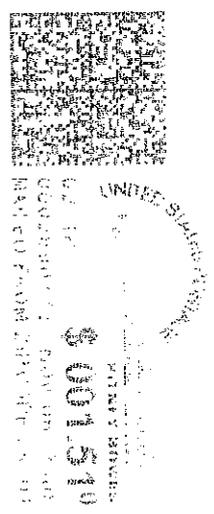
  
For the Commission

DATE ISSUED: DEC 12 2005

000  
001  
002  
003  
004  
005  
006  
007  
008  
009  
010  
011  
012  
013  
014  
015  
016  
017  
018  
019  
020  
021  
022  
023  
024  
025  
026  
027  
028  
029  
030  
031  
032  
033  
034  
035  
036  
037  
038  
039  
040  
041  
042  
043  
044  
045  
046  
047  
048  
049  
050  
051  
052  
053  
054  
055  
056  
057  
058  
059  
060  
061  
062  
063  
064  
065  
066  
067  
068  
069  
070  
071  
072  
073  
074  
075  
076  
077  
078  
079  
080  
081  
082  
083  
084  
085  
086  
087  
088  
089  
090  
091  
092  
093  
094  
095  
096  
097  
098  
099  
100

RECEIVED  
NOV 10 2008  
TCEQ MAIL CENTER

<p>LAW OFFICES OF <b>BOOTH, AHRENS &amp; WERKENTHIN, P.C.</b> A PROFESSIONAL CORPORATION 515 CONGRESS AVENUE, SUITE 1515 AUSTIN, TEXAS 78701-3503</p>	<p>To:  Ms. LADONNA Castañuela TCEQ - Office of Chief Clerk MC 105 P.O. Box 13087 Austin, Texas 78711-3087</p>
---	--



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008-NOV 10 AM 11: 22  
CHIEF CLERKS OFFICE

WR  
63771

LAW OFFICES OF  
BOOTH, AHRENS & WERKENTHIN, P.C.

A PROFESSIONAL CORPORATION

515 CONGRESS AVENUE, SUITE 1515  
AUSTIN, TEXAS 78701-3503  
512/472-3263 • 512/473-2000

MICHAEL J. BOOTH  
FRED B. WERKENTHIN, JR.  
WIL GALLOWAY  
TREY NESLDNEY

OPA

H

NOV 07 2008

BY BC

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
CHIEF CLERK'S OFFICE  
CAROLYN AHRENS  
OF COUNSEL  
NOV 07 7 AM 11:07

November 6, 2008

Ms. LaDonna Castañuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

VIA FACSIMILE & REGULAR MAIL

RE: Application No. 08-2462I, City of Dallas' Application to Amend  
Certificate of Adjudication No. 08-2462, as amended

Dear Ms. Castañuela:

The following is Trinity River Authority's ("TRA") request for a contested case hearing in response to the notice of the above-referenced Application (the "Application") recently filed by the City of Dallas ("Dallas") to amend Certificate of Adjudication No. 08-2462 (the "Certificate"). A copy of the notice that was reviewed by TRA, having been issued on October 3, 2008 (received October 9, 2008), is attached for reference.

The Texas Commission on Environmental Quality ("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 notice. **TRA requests for TCEQ to conduct a contested case hearing on the Application.**

One of TRA's major functions is to provide water and wastewater related services within the TRA territory. This is a valuable service to millions of Texans who live and work in the Trinity River Basin. To help to accomplish this function, TRA is the owner of water rights in the Trinity River Basin, some of which are specified in Certificate of Adjudication No. 08-4248, as amended. Copies of Certificate of Adjudication No. 08-4248 and its subsequent amendments are attached for reference.

Accordingly, TRA has water rights that could be affected by the impacts of the above-referenced Application, if granted. TRA's water right is located downstream of the diversion points identified in the Application. For these reasons, in order to protect

mw

Ms. Castañuela  
November 6, 2008  
Page 2

its rights and afford adequate opportunity to review the Application and any proposed amendments to the Certificate that may be published by Executive Director for consideration by TCEQ, TRA requests that TCEQ conduct a contested case hearing on the Application.

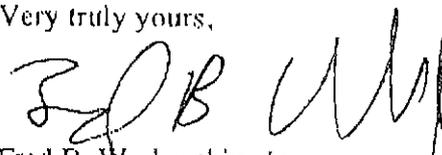
Therefore, TRA requests that TCEQ and the Executive Director's staff provide TRA with copies of all proposed amendments, technical memoranda, and any other evaluations, and/or any notices proposed, promulgated, or published by TCEQ or the Executive Director's staff related to this Application. Please send these documents using the following contact information:

Fred B. Werkenthin, Jr.  
Booth, Ahrens & Werkenthin, P.C.  
515 Congress  
Suite 1515  
Austin, Texas 78701-3503  
(512) 472-3263 Phone  
(512) 473-2609 Facsimile  
fbw@baw.com

Please note that this request is conditional. After further review and evaluation of the Application and its potential impacts, TRA hopes to reach an agreement with TCEQ and Dallas on the Application that will address TRA's interest by protecting TRA's downstream water rights and other affected interests. Assuming that effort is successful, TRA would be able to withdraw its contested case hearing request.

Thank you for your assistance.

Very truly yours,



Fred B. Werkenthin, Jr.  
Attorney for the Trinity River Authority

FBW/THN/cms  
Enclosures

cc: Mr. Howard Slobodin

VIA E-MAIL

H/S

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



OCT - 9 2008

NOTICE OF AN APPLICATION TO AMEND A  
CERTIFICATE OF ADJUDICATION

APPLICATION NO. 08-2462I

The City of Dallas has applied to amend Certificate of Adjudication No. 08-2462 to increase the diversion amount and the maximum combined diversion rate from the perimeter of Lake Ray Hubbard on the East Fork Trinity River, Trinity River Basin in Dallas, Kaufman, Rockwall, and Collin Counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** The City of Dallas, Applicant, 1500 Marilla Street, Room 4AN, Dallas, Texas 75201, seeks an amendment pursuant to Texas Water Code §11.122 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Published and mailed notice of the application is being given to the water right holders of record in the Trinity River Basin pursuant to 30 TAC §295.158.

Certificate of Adjudication No. 08-2462 authorizes the City of Dallas to maintain an existing dam and reservoir (Lake Ray Hubbard) on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas, Kaufman, Rockwall, and Collin Counties, and to impound therein 490,000 acre-feet of water. Owner is also authorized to divert and use not to exceed 89,700 acre-feet of water per year at a maximum combined diversion rate of 619 cfs (277,807 gpm) from the perimeter of Lake Ray Hubbard and other points for municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation purposes.

Owner is further authorized to use the bed and banks of Lake Ray Hubbard to store, divert and use not to exceed 150,000 acre-feet of return-flows per year for the purposes authorized by the Certificate. Multiple special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 08-2462 to increase diversion and use of water from Lake Ray Hubbard by 119,600 acre-feet of water per year, from 89,700 acre-feet of water per year to 209,300 acre-feet of water per year, from the perimeter of Lake Ray Hubbard and other points authorized for diversion for the authorized multiple purposes, being municipal, industrial, agricultural (irrigation), mining, domestic, recreation, instream, livestock, and hydroelectric power generation.

The request for the additional diversion of 119,600 acre-feet of water per year includes 49,600 acre-feet of additional firm water and 70,000 acre-feet of water per year that is available on a less than firm basis.

The application states that the request for an additional appropriation of water is based on adjustment of the naturalized flows in the Trinity WAM to reflect "the increase in runoff that would have occurred over the historical period had today's level of development been there." The application further indicates that since "the initial water rights permit for Lake Ray Hubbard was based on pre-development conditions, the reservoir is currently permitted for significantly less than its full water supply potential based on 2004 and ultimate watershed conditions."

Applicant also seeks to increase the authorized maximum combined diversion rate from Lake Ray Hubbard by 836 cfs (375,197 gpm), from 619 cfs (277,807 gpm) to 1,455 cfs (653,004 gpm). No increase in storage is requested.

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

The application and partial fees were received on July 11, 2007, and additional information and fees were received on April 11, and April 30, 2008. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 6, 2008.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions in the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

Issued: October 3, 2008

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 08-4240      OWNER: Trinity River Authority  
of Texas  
P. O. Box 60  
Arlington, Texas 76010

COUNTIES: Polk, Liberty, Chambers      PRIORITY DATES:  
San Jacinto, Jefferson and      February 26, 1917,  
Colverton      September 8, 1926,  
December 12, 1929,  
September 24, 1936,  
and September 23, 1959.

WATERCOURSE: Lake Livingston and      BASIN: Trinity River  
the Trinity River

WHEREAS, by final decree of the 304th Judicial District Court of Chambers County, in Cause No. 344-10863, In Re: The Adjudication of Waters Rights in the Lower Trinity River Segment of the Trinity River Basin and the Western portion of the Neches-Trinity Coastal Basin dated October 30, 1983 a right was recognized under Permit 173, Permit 992, Permit 1132, Permit 1243A, Permit 1970ABDEFG and Permit 1974A authorizing the Trinity River Authority of Texas to appropriate waters of the State of Texas as set forth below;

WHEREAS, by an amendment to Permit 1970ABDEFG issued on August 18, 1982, the Texas Water Commission authorized a change in the use of 7000 acre-foot of water from industrial to mining purposes within Liberty and Chambers Counties, Texas, with an expiration date of September 1, 1986;

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

1. IMPOUNDMENT

- A. Owner, in conjunction with the City of Houston under Certificate of Adjudication 08-4261, is authorized to maintain an existing dam and reservoir (Lake Livingston) on the Trinity River and impound therein not to exceed 1,750,000 acre-feet of water. The west end of the dam is located in the Thomas Bradley Survey, Abstract 98, Polk County, Texas.
- B. Owner, in conjunction with the City of Houston under Certificate of Adjudication 08-4261, is authorized to complete construction of a dam and reservoir (Lake Mallidavilla) on the Trinity River and impound not to exceed 31,600 acre-feet of water. Section 0 + 00 on the centerline of the dam bears S 32°29'54"W, 11,986.14 feet from the northwest corner of the G. Hurley Grant, Abstract 7, Chambers County, Texas.
- C. Owner is authorized to maintain an existing 1000 acre-foot capacity off-channel reservoir. The levee creating said reservoir is located in the Washington County RR Company Survey 11, Abstract 613, Liberty County, Texas.
- D. Owner is authorized to maintain an existing 193 acre-foot capacity off-channel reservoir. The levee creating said reservoir is located in the U. A. Noize Survey, Abstract 607, Chambers County, Texas.

2. USE

- A. Owner is authorized to divert and use not to exceed 181,950 acre-feet of water per annum for the irrigation of 79,000 acres of land within the service area of the Trinity River Authority of Texas in Trinity, Polk, San Jacinto, Liberty, Chambers and Jefferson Counties. The water authorized herein shall be diverted from the following sources:

Coefficients of Apportionment: 88.

- (1) Trinity River . . . . . 47,300 acre-feet
- (2) Lake Livingston . . . . . 106,450 acre-feet
- (3) Lake Wallisville  
(when constructed) . . . . . 30,000 acre-feet

D. Owner is authorized to divert and use not to exceed 40,000 acre-feet of water per annum from Lake Livingston and 10,000 acre-feet of water per annum from Lake Wallisville (when constructed) for domestic and municipal purposes.

C. Owner is authorized to divert and use not to exceed 222,730 acre-feet of water per annum for industrial purposes. The water authorized herein shall be diverted from the following sources:

- (1) Trinity River . . . . . 4,000 acre-feet
- (2) Lake Livingston . . . . . 207,130 acre-feet
- (3) Lake Wallisville  
(when constructed) . . . . . 11,600 acre-feet

D. Owner is authorized to temporarily convert the use of the 4000 acre-feet of water authorized under Paragraph 2 C(1) above from industrial to mining purposes in Chambers, Liberty and Jefferson Counties, Texas.

E. Owner is authorized to temporarily convert the use of 7000 of the 207,130 acre-feet of water authorized under Paragraph 2 C(2) above from industrial to mining purposes in Liberty and Chambers Counties, Texas.

F. Owner is authorized to divert and use not to exceed 7000 acre-feet of water per annum from the Trinity River for mining purposes.

G. Owner is further authorized to use the water impounded in the aforesaid on-channel reservoirs for recreation purposes.

3. DIVERSION

A. Location and Rate:

- (1) At a point on the Trinity River in the Manuel Riponda Grant, Abstract 25, Freestake County, Texas at a maximum rate of not to exceed 66.87 cfs (30,000 gpm), located in the Middle Trinity River Segment of the Trinity River Basin.
- (2) At the outlet works on Lake Livingston Dam in the William Pace Survey, Abstract 60, Fulk County, Texas, at an unspecified diversion rate.
- (3) At a point on the Trinity River in the Samuel Manthey Survey, Abstract 323, Liberty County, Texas, to a relief station located in the Jacob E. Galk Survey, Abstract 104, Liberty County, Texas at a maximum rate of not to exceed 613.08 cfs (365,830 gpm).
- (4) At various points on the perimeter of the aforesaid Lake Livingston at a maximum combined diversion rate of 71.79 cfs (32,308 gpm).

B. Maximum combined diversion rate: 931.49 cfs (428,171 gpm) exclusive of release through Lake Livingston Dam.

4. PRIORITY

A. The time priority of owner's right is February 26, 1917 for the diversion and use of the first 7500 acre-feet of water per annum for irrigation purposes.

date of adjudication: 08-

- B. The time priority of owner's right is September 8, 1926 for the diversion and use of the next 20,000 acre-feet of water per annum for irrigation purposes.
- C. The time priority of owner's right is December 12, 1929 for the diversion and use of the next 20,000 acre-feet of water per annum for irrigation purposes.
- D. The time priority of owner's right is September 24, 1936 for the diversion and use of 4000 acre-feet of water per annum for industrial purposes and 7000 acre-feet of water per annum for mining purposes.
- E. The time priority of owner's right is September 23, 1939, for the impoundment of 1,750,000 acre-feet of water in Lake Livingston; to divert and use 500 acre-feet of water per annum for domestic purposes; 39,500 acre-feet of water per annum for municipal purposes; 207,150 acre-feet of water per annum for industrial purposes and 108,430 acre-feet of water per annum for irrigation purposes at a maximum combined diversion rate of 251.49 cfs (628,171 gpm).
- F. Upon completion of Lake Wallisville Dam and Reservoir, the time priority of owner's right is September 23, 1939 for the diversion of the additional 10,000 acre-feet of water per annum for domestic and municipal purposes; 30,000 acre-feet of water per annum for irrigation purposes and 11,600 acre-feet of water per annum for industrial purposes.

SPECIAL CONDITIONS

- A. Owner shall maintain a sluiceway in the Stamford Lake Livingston dam at a bottom elevation of not more than seventy (70) feet above mean sea level, having an opening of not less than ninety-six (96) inches in diameter and equipped with a regulating gate for the purpose of allowing the free passage through the dam at all times of those waters to which lower users are lawfully entitled. Whenever the Commission finds that owners are working any works to which downstream appropriators or lawful diverters are entitled, the owners shall release same to said appropriators or lawful diverters on the order of the Texas Water Commission.
- B. Owners are authorized and required to operate the Lake Livingston dam and reservoir described in this certificate of adjudication in conjunction with the Lake Wallisville dam and reservoir which are required to be constructed on the Trinity River in Chambers County, Texas. The total water available from both projects shall be divided between the owners so that the City shall receive seventy per cent (70%) thereof and the authority shall receive thirty per cent (30%) thereof and that the specific quantities for each shall, if necessary, be adjusted so as to divide the total available water between the owners in such proportions.
- C. Owner shall install a metering instrument at each diversion point which will automatically record the total amount of water diverted. Owner shall make determinations of water surface elevations in Lake Livingston reservoir by means of recording gauges set to U. S. Coast and Geodetic Survey datum, each of which shall be protected by a well house designed for such purposes and the Commission shall be furnished complete records of such determinations. Owner shall relocate, or cause to be relocated, all existing stream flow stations which may be inundated or impaired by the reservoir and establish, or cause to be established, such other record in stream flow stations as this Commission may deem necessary to record inflows into the reservoir. Owner shall maintain daily records of waters released through the reservoir authorized herein for downstream use. All stream flow stations shall be

Order of Adjudication: 01

and to the same extent described above and the Commission shall be furnished complete records of the data herein required to be kept. The measuring instruments, the gauges with well houses and the stream flow stations and the installation, design and operation thereof shall be subject to approval of the Commission.

- D. Owner is authorized to use the bed and banks of the Trinity River, below the aforesaid dams (Lake Livingston and Lake Wallingville) to convey and deliver water to be appropriated hereunder to downstream diversion points.
- E. Owners shall make no diversions of water from the diversion points downstream of the Lake Livingston dam under priority date of September 23, 1939, except to the extent that water for such diversions is released from the aforesaid reservoir.
- F. Owner's right is subordinate to any claim on waters of the Trinity River Basin imported into and/or originating in and above Lake Lewisville Reservoir, Grayvina Reservoir, Lake Worth Reservoir and Lake Ray Hubbard Reservoir, and shall not constitute any limitation upon the granting of permits by the Commission for the impoundment and use of waters above the said four named reservoirs.
- G. This certificate is hereby subordinate to any claim on waters imported and/or originating in the Trinity River Basin above Lake Livingston Reservoir authorized hereto, that could be supported by: 1) existing reservoirs; 2) by reservoirs for which permits have been granted or certificates of adjudication issued and the construction of such reservoirs is incomplete; 3) by reservoirs for which applications are pending before the Commission; 4) by the following proposed reservoirs as shown in the Master Plan Report of the Trinity River Authority of Texas dated April 18, 1958, but only to the extent necessary to insure a dependable yield from each such proposed reservoir as shown opposite the respective names, to-wit:

Reservoir Name	Dependable Yield (MGD)*
Big Tawell	0.5
Tehuacana	61.0
Tennessee Colony	162.0
Upper Kauschi	13.6
Lower Kauschi	20.5
Big Elkhart	11.0
Little Elkhart	6.2
Hickman Bayou	15.6
Hedlow	53.3
Nelson	14.6
Hansen	7.4
Gail	16.6
Kiwcang	13.2
Cooney	13.3
Long King	18.5

\*Million Gallons per Day

It is the intent herein that this certificate of adjudication shall not constitute a prior claim against upstream flows necessary to produce dependable yields in the aggregate amount from future reservoirs heretofore listed. Except for the Tennessee Colony Reservoir, nothing herein shall prohibit the construction of future reservoirs at different locations, of different dimensions, or the combination of reservoirs or substitutes for the above-listed future reservoirs; provided, however, that such modifications in dimensions, locations or the combination of reservoirs shall not diminish the dependable yield of the reservoir authorized herein in excess of the

Certificate of Adjudication: 08-6204

disturbance which would be occasioned by the construction of such reservoirs with the respective dependable yields as hereinabove listed. Tennessee Colony Reservoir may be modified as to location and dimension provided that any such modification shall likewise not further diminish the dependable yield of the reservoir authorized herein.

11. This certificate of adjudication is specifically subordinated to the present and future use and cause and consumptive use of any return flows from waters impounded in each of the existing and above described proposed reservoirs and the return flows from water impounded into the river basin, for municipal and industrial purposes within the Trinity River Basin above Lake Livingston authorized herein and notwithstanding the re-entry of such return flows into a public stream they may nevertheless be used again, diverted and routed through such treatment facilities as may be considered necessary for their purification, under authority of permits heretofore, or hereafter issued by the Texas Water Commission for such purposes in the upstream watershed. And this certificate of adjudication is subordinate to the present and future use and cause for navigation purposes of the return flows from the metropolitan areas of Dallas and Fort Worth in their natural flowing process and by impoundment in pools created by locks and appurtenances within the river and navigation channels; and further, such return flows shall be allowed to pass through the reservoir authorized herein to the extent necessary to provide navigation below said reservoir and the rights hereby acquired shall be subordinate to such uses.
- I. The amount of water which owner is authorized to divert and use in any one year under priority date of February 26, 1917, for irrigation, shall not exceed 1.5 acre-foot on any acre of land actually irrigated.
- J. The amount of water which owner is authorized to divert and use in any one year, under priority dates of September 8, 1926 and December 12, 1929, for irrigation, shall not exceed 2.0 acre-foot on any acre of land actually irrigated.
- K. The authority to divert and use water authorized under Paragraphs 10 and 11 for mining purposes will expire and become null and void on September 1, 1986, after which date the use of water will revert to industrial purposes.
- L. Owner shall maintain suitable outlets in the aforesaid dams authorized herein to allow the free passage of water when owner is not entitled to divert or impound.
- M. Construction of the Wallisville dam, reservoir and related facilities authorized or required by this certificate of adjudication shall be in accordance with plans approved by the Texas Water Commission and shall be started and completed within the time limits established by the Commission.
- N. Owner may not exercise the right to divert and use that portion of the water authorized herein which is to be diverted from Lake Wallisville for any purpose until construction of the aforesaid reservoir is complete and owner applies for and is granted a diversion point or points and a rate of diversion.
- O. Owner may divert all or any portion of the water authorized herein from the Trinity River Basin and use same on the Coastal Watersheds of Eastern Liberty County, Eastern and Southeastern Chambers County and Bolivar Peninsula in Galveston County. The waters authorized to be appropriated hereunder shall be made available for beneficial use without discrimination and owner's right to supply water to the aforesaid areas shall not be exclusive.

Certificate of Adjudication:

The locations of pertinent features related to this certificate are shown on Pages 16, 18, 19, 21 and 23 of the Lower Trinity River Segment Certificate of Adjudication Maps, copies of which are located in the offices of the Texas Water Commission, Austin, Texas and the Polk, Liberty, Chambers, Tarrant, San Jacinto, Jefferson and Galveston County Clerks.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 384th Judicial District Court of Chambers County, Texas, in Cause No. 344-10265. In Re: The Adjudication of Water Rights in the Lower Trinity River Segment of the Trinity River Basin and the western portion of the Redman-Trinity Coastal Basin dated Labor 30, 1983 and superseded all rights of the owner associated in cause.

This certificate of adjudication is issued subject to senior and super-prior rights in the Trinity River Basin.

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

TEXAS WATER COMMISSION

Paul Hopkins  
Paul Hopkins, Chairman

BY ISSUED:

\_\_\_\_\_  
EST:

Max Lewis  
Max Lewis, Chief Clerk

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



## AMENDMENT TO CERTIFICATE OF ADJUDICATION

<b>CERTIFICATE NO.</b> 08-4248A	<b>TYPE:</b>	AMENDMENT
<b>Name:</b> Trinity River Authority of Texas	<b>Address:</b>	P.O. Box 60 Arlington, TX, 76004 76004
<b>Filed:</b>	<b>Granted:</b>	<b>JUL 27 1998</b>
<b>Purposes:</b> Domestic, Municipal, Industrial and Irrigation	<b>Counties:</b>	Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Leon, Houston, Walker, Galveston, Grimes, Freestone and Madison
<b>Watercourse:</b> Trinity River	<b>Watersheds:</b>	Trinity River Basin, San Jacinto River Basin, Neches River Basin and the Neches-Trinity Coastal Basin

WHEREAS, Certificate of Adjudication No. 08-4248 includes authorization, with a time priority of September 23, 1959, for impoundment of water in Livingston Reservoir and use of water from the reservoir for domestic, municipal, industrial and irrigation purposes; and

WHEREAS, the Certificate specifically indicates that the water may be used within owner's service area in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson and Galveston Counties; and

WHEREAS, the Certificate indicates the water included in the Certificate may be used in the Trinity River Basin and the Coastal Watersheds of Eastern Liberty County, Eastern and Southeastern Chambers County and Bolivar Peninsula in Galveston County; and

WHEREAS, the actual and historical statutory service area of the Trinity River Authority and places of use of the water authorized in the Certificate include Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties; and

WHEREAS, pursuant to Texas Water Codes Sections 11.122 and 11.085(v) an application was received from the Trinity River Authority of Texas on June 26, 1998 requesting an amendment to Certificate No. 08-4248 to authorize and reflect the actual and historical use of the water included in the Certificate as being in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties in the Trinity, San Jacinto and Neches River Basins and in the Trinity-Neches Coastal Basin; and

WHEREAS, Leon, Houston, Walker, Grimes, Freestone and Madison counties are located partially in the Trinity River Basin and partially in the San Jacinto River Basin, the Neches River Basin or the Trinity-Neches Coastal Basin; and

WHEREAS, the City of Houston, the only other water right owner for Lake Livingston, and the Chambers-Liberty Counties Navigation District have submitted letters to the Commission indicating that they do not object to the granting of this application; and

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

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

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

NOW, THEREFORE, this amendment to Certificate No. 08-4248 is issued to the Trinity River Authority of Texas, subject to the following provisions:

1. PLACE OF USE

Owner is authorized to use the water included in the Certificate for diversion and use from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Trinity-Neches Coastal Basin.

2. CONSERVATION

A. Certificate owner shall maintain 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. Such a plan shall include a requirement in every wholesale water supply contract entered into on or after the effective date of this amendment and including any contract extension or renewal, that each successive wholesale customer develop and implement water conservation measures. If the customer intends to resell the water, the contract for the resale of the water must

measures. If the customer intends to resell the water, the contract for the resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.

- B. Within 1 (one) year of the date of issuance of this amendment, Certificate owner shall submit a written report to the Executive Director of the Texas Natural Resource Conservation Commission responding to the TNRCC technical memos dated July 29, 1994, September 8, 1994 and July 16, 1998 regarding the River Authority's conservation plans and providing a progress report on the River Authority's effort to update its water conservation plans to cover the River Authority's entire service area and to officially adopt its conservation plan(s) in accordance with agency rule 30 Texas Administrative Code §288.5 (1) (D).

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248 except as specifically amended herein.

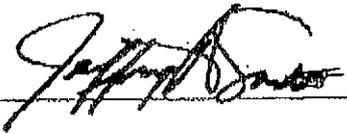
This amendment is issued subject to all superior and senior water rights in the Trinity River Basin.

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

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

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

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION



For the Commission

DATE ISSUED: JUL 27 1998

ATTEST: 

Eugenia K. Brumm, Ph.D., Chief Clerk

ADS/08-4248B/KO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO  
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-4248B      APPLICATION 08-4248B      TYPE §§ 11.121, 11.122,  
11.042 & 11.046

Owner:	Trinity River Authority of Texas	Address:	P. O. Box 60 Arlington, Texas 76004
Filed:	September 7, 2000	Granted:	<b>OCT 12 2006</b>
Purpose:	Domestic, Municipal, Mining, Industrial, and Agriculture	Counties:	Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Leon, Houston, Walker, Galveston, Grimes, Freestone, Madison
Watercourse:	Trinity River	Watershed:	Trinity River Basin, San Jacinto River Basin, Neches River Basin, and the Neches-Trinity Coastal Basin

WHEREAS Certificate of Adjudication No. 08-4248 authorizes the Trinity River Authority (TRA or Applicant), in conjunction with the City of Houston, owner of Certificate of Adjudication No. 08-4261, to maintain an existing dam and reservoir (Lake Livingston) on the Trinity River, Trinity River Basin, and impound therein not to exceed 1,750,000 acre-feet of water, and to construct and maintain a dam and reservoir (Lake Wallisville) on the Trinity River and impound therein not to exceed 51,600 acre-feet of water; and

WHEREAS, Certificate of Adjudication No. 08-4248 also authorizes Applicant to divert and use not to exceed 251,600 acre-feet of water per annum from Lake Livingston and 51,600 acre-feet of water per annum from Lake Wallisville for domestic, municipal, industrial and agriculture (irrigation) purposes within Applicant's service area; and

WHEREAS, by Texas Water Commission, now Texas Commission on Environmental Quality, Order issued September 24, 1990, a portion of the water right authorized by Certificate of Adjudication No. 08-4248 was severed from the Certificate and re-authorized as Water Use Permit No. 5271 with a priority date of February 23, 1917, which includes the maintenance of two off-channel reservoirs and the diversion and use of 58,500 acre-feet of water per year at a combined diversion rate of 813 cfs (365,850 gpm) for agricultural (irrigation), mining and industrial purposes from a diversion point on the Trinity River in the Samuel Neathery Survey, Abstract No. 325, Liberty County, Texas, to a relief station located in the Jacob E. Self Survey, Abstract No. 104, Liberty County; and

WHEREAS, the Certificate authorizes recreation use of the water impounded in Lakes Livingston and Wallisville; and

WHEREAS, Applicant is authorized to divert a portion of the water at a point on the Trinity River in the Manuel Rionda Grant, Abstract 25, at a maximum rate of 66.67 cfs (30,000 gpm), a portion at the outlet works on Lake Livingston in the William Pace Survey, Abstract No. 60 at an unspecified diversion rate, and a portion at various points on the perimeter of Lake Livingston at a combined maximum rate of 71.79 cfs (32,305 gpm); and

WHEREAS, the priority date for the diversion and use of the water is September 23, 1959, and for the impoundment of water in Lake Livingston is September 23, 1959; and

WHEREAS, the Certificate authorizes the Trinity River Authority to use the water authorized for diversion and use from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone, and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Neches-Trinity Coastal Basins; and

WHEREAS, special conditions in the certificate include authorization to use the bed and banks of the Trinity River downstream of the dams and reservoirs to convey water, and to subordinate the authorization of the certificate to present and future use and reuse, and consumptive use of certain return flows within the Trinity River Basin upstream of Lake Livingston, as well as other conditions; and

WHEREAS, Applicant seeks authorization to impound, in its share of the storage capacity of Lake Livingston (30%), the return flows from TRA's wastewater treatment plants (WWTPs) located upstream from the lake, except return flows from TRA's Denton Creek Regional Wastewater Treatment Plant, under any theory recognized in Texas Law, including those of developed water, unappropriated return flows from whatever source, release of stored water, use of bed and banks, and unappropriated state water that will not cause adverse impact on other water right holders of a greater magnitude than under circumstances in which the certificate to be amended was fully exercised according to its terms and conditions that existed prior to the amendment; and

WHEREAS, the wastewater treatment plants are identified as TRA's Central Regional, Red Oak Creek, and Ten Mile Creek Wastewater Treatment Plants in Dallas, and Ellis Counties; and

WHEREAS, whenever the natural flow of the Trinity River is insufficient to fill and refill TRA's storage space in Lake Livingston, Applicant will impound its return flows, however characterized, in its Lake Livingston storage space and will divert and use this water as authorized in Certificate of Adjudication No. 08-4248, as amended; and

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

WHEREAS, six (6) requests for a contested case hearing were received, but all were subsequently withdrawn; and

WHEREAS, Applicant requested that all references to the Denton Creek Regional Wastewater Treatment Plant and the effluent related thereto be removed from the application; and

WHEREAS, the Executive Director has determined that, in order to protect existing water rights and aquatic habitat in the Trinity River Basin, a special condition limiting Applicant's diversions and reuse of water to actual discharges from the WWTPs, less carriage losses, be included in the permit; and

WHEREAS, the Executive Director has determined that existing water rights will not be impacted by the discharge, conveyance, storage and redirection of TRA's historic and future return flows if appropriate accounting is made pursuant to an accounting plan that measures discharges and adjusts available amounts by losses to prohibit TRA from diverting return flows that physically and legally would have been available for impoundment, diversion, and use by water rights issued prior to the filing of this application; and

WHEREAS, the Texas Commission on Environmental Quality finds that granting this amendment will benefit the public welfare; and

WHEREAS, the Texas Commission on Environmental Quality's current rules provide that a water right may be granted upon the availability of return flows or discharges, however a water right granted based on return flows or discharges will be granted with the express provision that the water available to the water right is dependent upon potentially interruptible return flows and discharges; and

WHEREAS, TRA's application for this amendment was declared administratively complete by the Executive Director on September 7, 2000, and therefore the time priority for the appropriation of additional state water under this amendment is September 7, 2000; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 08-4248, designated Certificate of Adjudication No. 08-4248B, is issued to Trinity River Authority of Texas, subject to the following terms and conditions:

1. IMPOUNDMENT

TRA is authorized to impound, in its share of the storage capacity of Lake Livingston (30% of total capacity), the return flows, less carriage loss, that are discharged by TRA's Central Regional, Red Oak Creek Regional, and Ten Mile Creek Regional Wastewater Treatment Plants in Dallas, and Ellis Counties.

2. USE

In addition to the current diversion authorization, the Trinity River Authority is also authorized to divert the amount of documented return flows, less carriage and evaporative losses, discharged by the TRA's Central Regional, Red Oak Creek Regional, and Ten Mile Creek Regional Wastewater Treatment Plants and conveyed to Lake Livingston from the Lake for use within its service area for the purposes authorized by Certificate of Adjudication No. 08-4248. The maximum amount of effluent currently authorized for discharge from each identified WWTP (as of 7/22/2004) is as follows:

Wastewater Treatment Plant	Permit Amount	Per Annum
Central Regional WWTP	193 MGD	215,774 Acre-feet
Red Oak Creek WWTP	3.5 MGD	3,913 Acre-feet
Ten Mile Creek WWTP	24.0 MGD	26,832 Acre-feet
Total	220.5 MGD	246,219 Acre-feet

3. RELEASE POINTS

- A. Central Regional WWTP - approximately Latitude 32.776° N, Longitude 96.939° W on the right bank of the West Fork Trinity River approximately 0.55 river miles upstream of the confluence with Mountain Creek.

- B. Red Oak Creek Regional WWTP - approximately Latitude 32.483° N, Longitude 96.800° W on the left bank of Red Oak Creek approximately 0.7 stream miles upstream of the confluence with Sanger Branch.
- C. Ten Mile Creek Regional WWTP - approximately Latitude 32.563° N, Longitude 96.623° W on the left bank of Ten Mile Creek approximately 3 stream miles upstream of the confluence with the Trinity River.

#### 4. TIME PRIORITY

The time priority for the use of the water authorized by this amendment is September 7, 2000.

#### 5. CONSERVATION

- A. Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.
- B. Every wholesale water supply contract entered into or renewed after official adoption of the water conservation plan, including any contract extension, must ensure that each successive wholesale customer develop and implement a water conservation plan or water conservation measures that incorporate elements of Title 30, Texas Administrative Code Chapter 288.

#### 6. SPECIAL CONDITIONS

- A. TRA is authorized to use the bed and banks of the West Fork Trinity River, Red Oak Creek, Ten Mile Creek, and the Trinity River to convey treated effluent from the three identified WWTPs downstream to Lake Livingston.
- B. Prior to diversion of the water authorized herein, TRA shall install and maintain a measuring devices at the discharge point of each WWTP, capable of measuring within plus or minus 5% accuracy, to record the amount of water discharged into the Trinity River for conveyance downstream to Lake Livingston.
- C. Prior to the diversion of the water authorized herein, TRA shall prepare, implement, and follow an accounting plan, approved by the Commission, designed to determine

the combined total amount of divertible return flows present each month, based on measured discharges less calculated carriage losses resulting from the conveyance of the treated effluent from the WWTPs to Lake Livingston.

- D. TRA shall maintain electronic records (in spreadsheet or database format) of the records of discharges of each of the specified WWTPs used in the return flow accounting, the calculations of carriage and evaporative losses, and diversions of the return flows from Lake Livingston and make them available to the public during normal business hours and shall submit them to the Executive Director upon request.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248 except as specifically amended herein.

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

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

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

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



Executive Director, Texas Commission on Environmental Quality

DATE ISSUED: OCT 12 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



08-4248C/W

AMENDMENT TO CERTIFICATE OF ADJUDICATION

RECEIVED DEC 19 2006 TCEQ CENTRAL FILE ROOM

CERTIFICATE NO. 08-4248C	APPLICATION 08-4248C	TYPE § 11.122
Owner: Trinity River Authority of Texas	Address: P. O. Box 60 Arlington, Texas 76004	
Filed: September 23, 2005	Granted: DEC 12 2005	
Purpose: Multiple Use (Domestic, Municipal, Industrial, Mining, and Agriculture)	Counties: Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Leon, Houston, Walker, Galveston, Grimes, Freestone, Madison	
Watercourse: Trinity River	Watershed: Trinity River Basin, San Jacinto River Basin, Neches River Basin, and Neches-Trinity Coastal Basin	

WHEREAS, Certificate of Adjudication No. 08-4248 authorizes the Trinity River Authority (TRA, Applicant), in conjunction with the City of Houston (owner of Certificate of Adjudication No. 08-4261) to maintain an existing dam and reservoir (Lake Livingston) on the Trinity River, Trinity River Basin, and impound therein not to exceed 1,750,000 acre-feet of water, and to construct and maintain a dam and reservoir (Lake Wallisville) on the Trinity River and impound therein not to exceed 51,600 acre-feet of water; and

WHEREAS, Certificate of Adjudication No. 08-4248 also authorizes the TRA to divert and use 461,700 acre-feet of water per year from three separate locations (a point on the Trinity River and from Lake Livingston and Lake Wallisville) at a maximum combined diversion rate of not to exceed 951.49 cfs (428,171 gpm) for domestic, agricultural (irrigation), municipal, and mining purposes within the Owner's service area in the Trinity River Basin; and

WHEREAS, of the total amount of water authorized for diversion, Certificate of Adjudication No. 4248 authorizes TRA to divert and use not to exceed 104,450 acre-feet of water per year from Lake Livingston for agriculture (irrigation) purposes, 40,000 acre-feet of water per year

for domestic and municipal purposes, and 207,150 acre-feet of water per year for industrial purposes within the applicant's service area; and

WHEREAS, TRA is authorized to divert water from Lake Livingston at the outlet works of the dam at an unspecified diversion rate and at various points on the perimeter of Lake Livingston at a combined maximum rate of not to exceed 71.79 cfs (32,305 gpm); and

WHEREAS, TRA is authorized to use the water from Lake Livingston in Trinity, Polk, San Jacinto, Liberty, Chambers, Jefferson, Galveston, Leon, Houston, Walker, Grimes, Freestone, and Madison Counties in the Trinity River Basin, the San Jacinto River Basin, the Neches River Basin and the Neches-Trinity Coastal Basin; and

WHEREAS, the priority date for the impoundment, diversion, and use of the water from Lake Livingston is September 23, 1959; and

WHEREAS, Applicant seeks authorization to add multiple use (domestic, municipal, industrial, and agricultural (irrigation)) purposes to the water authorized for diversion from Lake Livingston, and to increase the diversion rate authorized from Lake Livingston from 71.79 cfs (32,305 gpm) to 152.79 cfs (68,572.152 gpm); and

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

WHEREAS, the City of Houston provided a letter of consent to the application and, therefore notice was not mailed; and

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 08-4248, designated Certificate of Adjudication No. 08-4248C, is issued to the Trinity River Authority of Texas, subject to the following terms and conditions:

1. USE

In lieu of the previous purposes of use for the water authorized for diversion from Lake Livingston, the Trinity River Authority is now authorized to divert and use not to exceed 351,600 acre-feet of water per year for multiple use (domestic, municipal, agricultural (irrigation), and industrial) purposes.

2. DIVERSION

A. In lieu of the previous diversion rate from various points on the perimeter of Lake Livingston of 71.79 cfs (32,305 gpm), Owner is now authorized to divert the water from various points on the perimeter of Lake Livingston at a maximum rate of not to exceed 152.79 cfs (68,572.152 gpm).

B. In lieu of the previous maximum combined diversion rate authorized by Certificate of Adjudication No. 08-4248 of not exceed 951.49 cfs (428,171 gpm), exclusive of release through Lake Livingston Dam, the maximum combined diversion rate authorized by the Certificate, exclusive of release through Lake Livingston Dam, shall not exceed 1,032.49 cfs (463,381.512 gpm).

3. CONSERVATION

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

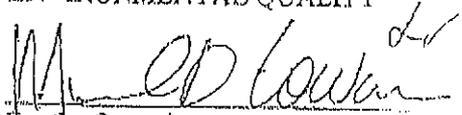
This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-4248, as amended, except as specifically amended herein.

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

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

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
  
For the Commission

DATE ISSUED: DEC 12 2005

LAW OFFICES OF  
BOOTH, AHRENS & WERKENTHIN, P.C.

A PROFESSIONAL CORPORATION  
515 CONGRESS AVENUE, SUITE 1515  
AUSTIN, TEXAS 78701-3503  
512/472-3200 • 512/473-2600

MICHAEL J. BOOTH  
FRED D. WERKENTHIN, JR.  
WIL GALLOWAY  
TREV NESLONEY

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 NOV -7 AM 8:07  
CHIEF CLERKS OFFICE  
CAROLYN AHRENS  
OF COUNSEL

FAX COVER SHEET

**TO:** MS. LADONNA CASTAÑUELA **RE: 0501**

**FAX:** (512) 239-3311

**FROM:** LAW OFFICES OF BOOTH, AHRENS & WERKENTHIN

**RE:** APPLICATION NO. 08-4262I, CITY OF DALLAS' APPLICATION TO AMEND  
CERTIFICATE OF ADJUDICATION NO. 08-2462, AS AMENDED

**DATE:** NOVEMBER 6, 2008

**PAGES:** 24, INCLUDING COVER SHEET

**MESSAGE:**

CONFIDENTIALITY NOTICE

The documents accompanying this telecopy transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone to arrange for return of the original documents to us.