

**TCEQ DOCKET NO. 2016-0531-WR  
APPLICATION NO. 14-5434E**

<b>APPLICATION OF LOWER COLORADO RIVER AUTHORITY TO AMEND CERTIFICATE OF ADJUDICATION NO. 14-5434</b>	<b>§ § § § §</b>	<b>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
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**COLORADO RIVER MUNICIPAL WATER DISTRICT’S REPLY TO  
RESPONSES TO REQUESTS FOR CONTESTED CASE HEARING**

TO THE HONORABLE COMMISSIONERS:

The Colorado River Municipal Water District (“CRMWD”), having previously requested a hearing in this matter, submits this reply to the Executive Director (“ED”) of the Texas Commission on Environmental Quality (“TCEQ”) and the Office of Public Interest Counsel (“OPIC”) of TCEQ’s Responses to Requests for Contested Case Hearing.<sup>1</sup> In support of its standing as an affected person entitled to hearing, CRMWD respectfully shows the Commissioners the following:

**I. BACKGROUND AND PROCEDURAL HISTORY**

CRMWD is a Municipal Water District formed pursuant to Article 8280-137 Vernon’s Civil Statutes, as amended. CRMWD is responsible for providing water to its member cities and customers. Its members are the Cities of Big Spring, Odessa, and Snyder. The Cities of Midland, Abilene, San Angelo and other entities are customers of CRMWD. CRMWD uses both surface water and groundwater-based sources to supply water to its members and customers.

CRMWD owns three major water supply reservoirs: Lake J. B. Thomas (“Lake Thomas”), E. V. Spence Reservoir (“Spence Reservoir”), and O. H. Ivie Reservoir (“Ivie

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<sup>1</sup> The Applicant, the Lower Colorado River Authority (“LCRA”) did not oppose CRMWD’s hearing request.

Reservoir). Lake Thomas has an authorized storage amount of 204,000 acre-feet, an annual diversion amount of 30,000 acre-feet, and a priority date of August 5, 1946. Spence Reservoir has an authorized storage amount of 488,760 acre-feet, an annual diversion amount of 50,000 acre-feet, and a priority date of August 17, 1964. Ivie Reservoir has a storage capacity of 554,340 acre-feet and an annual diversion amount of 113,000 acre-feet. Although the permit for Ivie Reservoir was granted in 1987, through an agreement with LCRA, CRMWD is authorized to impound water in Ivie Reservoir at a March 7, 1938 priority date (the same priority date that applies to LCRA's impoundments of water into Lake Travis and Lake Buchanan).

Lake Thomas, CRMWD's most upstream reservoir, is located in Scurry and Borden Counties. Spence Reservoir is in Mitchell and Coke County, approximately 61 miles<sup>2</sup> below Lake Thomas. Ivie Reservoir is located in Coleman, Concho, and Runnels counties and is approximately 55 miles downstream of Lake Spence, approximately 90 miles above Lake Buchanan, approximately 131 miles above Lake Travis, and approximately 244 miles above the initial diversion point for the Garwood Irrigation Company water right (Certificate of Adjudication No. 14-5434).

LCRA's existing Garwood Irrigation Company water right (Certificate of Adjudication No. 14-5434, as amended, the "Garwood water right") authorizes the diversion and use of 133,000 acre-feet per year of water at a maximum diversion rate of 600 cubic feet per second (cfs) for irrigation use in the Garwood district and other uses at two additional diversion points. It has a priority date of November, 1, 1900. The current diversion point for the LCRA Garwood water right is approximately 97 miles downstream from the dam at Lady Bird Lake, 244 miles

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<sup>2</sup> All measurements stated in this reply are straight-line approximations of the distances between the stated reservoirs/points. The distance between these reservoirs/points in river miles are longer depending on the path of the watercourse.

downstream from the Ivie Reservoir dam, 298 miles downstream from the Spence Reservoir dam, and 327 miles downstream from the Lake Thomas dam. LCRA has requested additional upstream diversion points and has proposed various maximum annual diversion amounts at the different diversion points.

In 1998, LCRA and CRMWD entered into an agreement that LCRA would not “require CRMWD to pass through any more inflows than would have been required had the 133,000 acre-foot per year Garwood irrigation water remained at its original diversion point and been used for irrigation purposes to the full extent possible.” No further details of how this would be accomplished have been developed by LCRA and CRMWD.

Senate Bill 3 standards for the Colorado River basin were adopted on August 30, 2012 and ascribed a priority date of March 1, 2011; therefore, these standards will be applicable to diversions and impoundments under LCRA’s proposed application for Certificate of Adjudication No. 14-5434E, but not applicable to diversions and impoundments under CRMWD’s water rights.

## **II. CRMWD’S RIGHT TO PARTY STATUS AND HEARING**

Affected persons are authorized to submit hearing requests for water rights applications under Texas Water Code § 11.132(a). CRMWD timely submitted its request for hearing, pursuant to a right to contested case hearing provided by law. CRMWD’s request complied fully with 30 Texas Administrative Code § 55.251(c). No participant has suggested otherwise. When such a request is submitted by an affected person who presents real controversies, as does CRMWD, the Commissioners must grant that person a hearing. Some, but not all, factors to be considered for identifying affected persons are listed in the TCEQ rules at 30 Tex. Admin. Code

§ 55.256(c)(1)-(6). Pursuant to these and other relevant factors, the Commission should determine that CRMWD is affected by LCRA's application and draft permit under consideration in this matter, in ways not common to the general public, for the reasons stated below.

### **III. IMPACT OF THE PROPOSED AMENDMENT AS IT RELATES TO CRMWD'S STANDING**

CRMWD believes that the ED and the OPIC's assertions that CRMWD cannot be adversely affected by the amendment because all of the proposed diversion points are below CRMWD's reservoirs ignores certain nuances of this application. One is that CRMWD's Ivie Reservoir has the exact same priority date as LCRA's Lake Travis and Lake Buchanan. Therefore, the proposed certificate of adjudication should have language that describes how priority calls are allocated between Ivie Reservoir, Lake Travis, and Lake Buchanan. More importantly, after the adoption of Senate Bill 3 standards for the Colorado River, there can be no question that operation of the amended certificate of adjudication could adversely affect CRMWD. LCRA's proposed Certificate of Adjudication No. 14-5434E will be senior to CRMWD's water rights; however, the Senate Bill 3 standards will apply to Certificate of Adjudication No. 14-5434E but not CRMWD's water rights. The special conditions in Certificate of Adjudication No. 14-5434E need to be carefully crafted to prevent LCRA's operations under Certificate of Adjudication No. 14-5434E from impacting CRMWD water rights to a greater extent than they could have prior to the amendment.

Based on these potential impacts, a special condition is needed in the proposed water right to require special accounting. This accounting should reduce the amount of water that LCRA can call for in a year by adding the water LCRA passes to meet Senate Bill 3 requirements to the amount of water LCRA diverts at the proposed upstream diversion points. For example, assume for illustrative purposes that LCRA takes all of its water authorized under Certificate of Adjudication No. 14-5434E at Bastrop. The maximum annual diversion amount is 104,776 acre-feet per year, which is equivalent to 144 cfs. The average base-dry streamflow restriction is 317 cfs, which is equivalent to 229,497 acre-feet per year. To be allowed to divert on a daily basis under the amendment, 431 cfs would be required for LCRA to divert its annual

amount when only 144 cfs was required before the amendment. On an annual basis, before the amendment, 104,776 acre-feet was required for LCRA to obtain its annual amount, while after the amendment 334,273 acre-feet is required for LCRA to obtain its annual amount. If LCRA is allowed to make a priority call to ensure it has sufficient streamflow allowing it to divert, without additional special conditions in the amended water right, CRMWD could be required to pass approximately three times more water than before the amendment on a daily or annual basis than it would have had to pass prior to LCRA's proposed Certificate of Adjudication No. 14-5434E.

A second special condition is needed in Certificate of Adjudication No. 14-5434E restricting LCRA from making a priority call for passage of water to an upstream diversion point authorized under Certificate of Adjudication No. 14-5434E unless the flow at that diversion point already meets the Senate Bill 3 requirements. Otherwise, LCRA's proposed amendment would be inappropriately imposing Senate Bill 3 requirements on water rights that are not subject to Senate Bill 3.

CRMWD believes Certificate of Adjudication No. 14-5434E also needs a special condition to specify how priority calls affecting water rights with a March 7, 1938 priority date will be allocated between Lake Travis, Lake Buchanan, and Ivie Reservoir, because they have the exact same priority date. Additionally, CRMWD believes that LCRA should be prohibited from making a priority call if flows at the original diversion point for the Garwood water right would be sufficient to meet the demand without making a priority call. Absent this restriction, Certificate of Adjudication No. 14-5434E would impact water rights to a greater degree than the original Garwood water right prior to this application.

Finally, CRMWD asserts that it is an affected person and must be allowed to participate in a hearing on LCRA's application because this hearing could result in changes being made to the Garwood water right that could make it more onerous to CRMWD.

#### **IV. CONCLUSION**

For the foregoing reasons, CRMWD respectfully requests that the Commission find that CRMWD is an affected person and grant CRMWD's request for hearing on this application.

Submitted Respectfully,

*Fred B. Werkenthin, Jr.*

Fred B. Werkenthin, Jr.  
State Bar No. 21182015

BOOTH, AHRENS & WERKENTHIN, P.C.  
206 East 9<sup>th</sup> Street, Suite 1501  
Austin, Texas 78701  
512.472.3263

ATTORNEYS FOR  
COLORADO RIVER MUNICIPAL WATER  
DISTRICT

**CERTIFICATE OF SERVICE**

I hereby certify, by my signature below, that a true and complete copy of the Colorado River Municipal Water District's Reply to Responses to Hearing Requests was filed with the Chief Clerk of the Texas Commission on Environmental Quality and sent to the persons on the attached Mailing List on this the 29th day of August, 2016.

A handwritten signature in blue ink that reads "Fred B. Werkenthin, Jr." The signature is written in a cursive style.

Fred B. Werkenthin, Jr.

**MAILING LIST**  
**DOCKET NO. 2016-0531-WR; CERT. OF ADJ. NO 14-5434E**

<p><b><u>FOR THE APPLICANT:</u></b>  <i>Via E-Mail</i>  Lyn Clancy, Managing Associate General Counsel  Lower Colorado River Authority  P.O. Box 220, H429  Austin, TX 78767-0220  Tel: (512) 473-3378 Fax: (512) 473-4010  lynclancy@lcra.org</p>	<p><b><u>FOR PUBLIC INTEREST COUNSEL:</u></b>  <i>Via E-Mail</i>  Vic McWherter  TCEQ, Office of Public Interest Counsel  MC-103  P.O. Box 13087  Austin, TX 78711-3087  Tel: (512) 239-6363 Fax: (512) 239-6377  vic.mcwherter@tceq.texas.gov</p>
<p>David Wheelock, Manager  Water Supply Planning &amp;  Water Resource Management  Lower Colorado River Authority  P.O. Box 220, RBC316  Austin, TX 78767-0220  Tel: (512) 730-6822  david.wheelock@lcra.org</p>	<p><b><u>FOR ALTERNATIVE DISPUTE RESOLUTION</u></b>  <i>Via E-Mail</i>  Kyle Lucas  TCEQ, Alternative Dispute Resolution  MC-222  P.O. Box 13087  Austin, TX 78711-3087  Tel: (512) 239-4010 Fax: (512) 239-4015  kyle.lucas@tceq.state.tx.us</p>
<p><b><u>FOR THE EXECUTIVE DIRECTOR:</u></b>  <i>Via E-Mail</i>  Todd Galiga, Senior Attorney  TCEQ, Environmental Law Division  MC-173  P.O. Box 13087  Austin, TX 78711-3087  Tel: (512) 239-0600 Fax: (512) 239-0606  todd.galiga@tceq.texas.gov</p>	<p><b><u>FOR THE CHIEF CLERK:</u></b>  <i>Via E-filing</i>  Bridget Bohac  TCEQ, Office of the Chief Clerk  MC-105  P.O. Box 13087  Austin, Texas 78711-3087  Tel: (512) 239-3300 Fax (512) 239-3311</p>
<p><i>Via E-Mail</i>  Sarah Henderson, Technical Staff  TCEQ, Water Availability Division  MC-160  P.O. Box 13087  Austin, TX 78711-3087</p>	

<p>Tel: (512) 239-2535 shenders@tceq.state.tx.us</p>	
<p><i>Via E-Mail</i> Brain Christian, Director TCEQ, Environmental Assistance Division MC-108 P.O. Box 13087 Austin, TX 78711-3087 Tel: (512) 239-4000 Fax: (512) 239-5678 brian.christian@tceq.texas.gov</p>	

**REQUESTER(S)**

**INTERESTED PERSON(S):**

<p><i>Via E-Mail</i> Carolyn Ahrens Booth, Ahrens &amp; Werkenthin, P.C. 206 East 9<sup>th</sup> Street, Suite 1501 Austin, TX 78705 carolyn@baw.com</p>	<p><i>Via E-Mail</i> Lee Munz Texas State Soil &amp; Water Conservation Bd. P.O. Box 658 Temple, TX 76503-0658 lmunz@tsswcb.texas.gov</p>
<p><i>Via E-Mail</i> Gwendolyn Hill Webb Webb &amp; Webb 2028 E. Ben White Boulevard Austin, TX 78741 Tel: (512) 472-9990 Fax: (512) 472-3183 g.hill.webb@webbwebblaw.com</p>	<p><i>Via E-Mail</i> Cynthia Smiley Smiley Law Firm P.C. 6000 Sheperd Mountain Cv., Unit 2107 Austin, TX 78730-4910 cindy@smileylawfirm.com</p>
<p><i>Via E-Mail</i> Reggie James, Director Sierra Club, Lone Star Chapter 1202 San Antonio St. Austin, TX 78701 reggie.james@sierraclub.org</p>	<p><i>Via E-Mail</i> David Frederick Lowerre, Frederick, Perales, Allmon &amp; Rockwell 707 Rio Grande St., Ste 200 Austin, TX 78701-2733 Tel: (512) 469-6000 dof@lf-lawfirm.com</p>
<p><i>Via E-Mail</i> Myron J. Hess, Counsel National Wildlife Federation 44 East Ave, Ste 200 Austin, TX 78752</p>	<p><i>Via E-Mail</i> Patricia Carls Carls McDonald &amp; Dalrymple Llp 901 S Mopac Expy., Bldg. 1, Suite 280 Austin, TX 78746</p>

hess@nwf.org	tcarls@cmcdlaw.com
<p><i>Via E-Mail</i>  Kenneth Ramirez  Law Office of Ken Ramirez, PLLC  901 Mopac Expressway South  Bld.1, Ste 300  Austin, TX 78746  ken@kenramirezlaw.com</p>	<p><i>Via Regular Mail</i>  Coleman Rowland, President  Highland Lakes Group  12501 Longhorn Parkway, Apt A466  Austin, TX 78732-1267</p>
<p><i>Via E-Mail</i>  Ross Richard Crow  City of Austin  301 W. 2<sup>nd</sup> St, Box 1088  Austin, TX 78767-1329  ross.crow@austintexas.gov</p>	

# EXHIBIT 1

PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 3866    PERMIT NO. 3676    TYPE: SEC. 11.121

Permittee: COLORADO RIVER    Address: P.O. Box 869  
MUNICIPAL WATER    Big Spring,  
DISTRICT    Texas 79720

Received: October 11, 1977    Filed: February 21, 1978

Granted: April 25, 1985    Counties: Coleman, Concho  
and Runnels

Watercourse: Colorado River    Watershed: Colorado River  
Basin

WHEREAS, the Texas Water Commission finds that jurisdiction of the application is established; and

WHEREAS, a public hearing has been held and an order entered by the Texas Water Commission;

NOW, THEREFORE, this permit to impound, appropriate and use State water is issued to the Colorado River Municipal Water District (hereinafter CRMWD), subject to the following terms and conditions:

1. IMPOUNDMENT

Permittee is authorized to construct, and before acquiring any right hereunder, shall construct, a dam and reservoir on the Colorado River to be known as Stacy dam and reservoir and impound therein in accordance with the terms and conditions of this permit not to exceed 554,340 acre-feet of State water at a normal maximum operating elevation of 1551.5 feet above mean sea level. The dam shall be located in Fort Bend County School Land Survey No. 224, Abstract No. 192, Coleman County, Texas; H. Schaefer Survey No. 1720, Abstract No. 772, Concho County, Texas; H. C. Kuhfuss Survey No. 1847, Abstract No. 581, Concho County, Texas; H. Luckenbach Survey No. 1840, Abstract No. 591, Concho County, Texas; B.S. & F. Survey No. 1, Abstract No. 87, Concho County, Texas; and F. J. McCarthy Survey No. 2, Abstract No. 1449, Concho County, Texas. Station 10 + 47 on the centerline of the dam bears N 77° 40' E, 5,230 feet from the southwest corner of the H. C. Kuhfuss Survey No. 1847, Abstract No. 581, Concho County, Texas, approximately 24 miles southeast of Ballinger, Texas.

2. USE

(a) Pursuant to the terms and conditions of Permit No. 1259B of the Lower Colorado River Authority (hereinafter LCRA), permittee is authorized to divert and use from Stacy reservoir not to exceed 88,000 acre-feet of water per annum for municipal and domestic purposes, and not to exceed 25,000 acre-feet of water per annum for industrial purposes.

(b) Permittee is authorized to use impounded water for nonconsumptive recreational purposes.

(c) Permittee is authorized to divert and use not to exceed 200 acre-feet of water per annum from the Colorado River for construction purposes during construction of the reservoir.

3. DIVERSION

(a) Point of Diversion: By means of stationary pumps to be located at a point on the reservoir, N 80° 54' W, 4,920 feet from the northeast corner of M. Sander Survey No. 200, Abstract No. 749, Concho County, Texas.

(b) Maximum Diversion Rate: 160.4 cfs (72,000 gpm) for municipal use and 40 cfs (17,953 gpm) for industrial use.

4. POINTS OF RETURN

Return Water: Water diverted hereunder but not consumed as a result of use shall be returned at the wastewater treatment plants of the customers of CRMWD.

5. TIME LIMITATIONS

Construction or installation of all works herein authorized or required shall be in accordance with plans approved by the Department and shall be commenced within two years and completed within five years from date of issuance of this permit. Failure to commence or complete construction of the dam and related facilities within the time stated in the time limitations shall cause this permit to expire and become null and void, unless permittee applies for an extension of time to commence and/or complete construction prior to the respective deadlines for commencement and completion, and the application is subsequently granted.

6. SPECIAL CONDITIONS

(a) Releases from Stacy reservoir.

1. In order to protect LCRA's water rights, including the right to store water in the Highland Lakes, to the maximum extent possible consistent with the construction and operation of Stacy dam, CRMWD shall release water from Stacy reservoir upon the call of LCRA in accordance with the following terms.

a. Release Provision No. 1. When the surface elevation of Stacy reservoir stands between 1530.5 and 1543 feet above mean sea level and Buchanan and Travis reservoirs shall have reached sixty-five percent (65%) (1,400,000 acre-feet) or less, as calculated by LCRA from its existing official area-capacity curves for said reservoirs, LCRA shall be entitled to call for a release of water equal to 50% of the net volume of water impounded in Stacy subsequent to the last LCRA spill or release whichever is the later to occur; but the right of release under Release Provision No. 1 shall not require the release of water so as to reduce the level of Stacy reservoir below the higher of (i) the level of storage necessary to meet the demonstrated demand on Stacy or (ii) 1530.5 feet elevation.

b. Release Provision No. 2. In addition to LCRA's rights under Release Provision No. 1, LCRA shall be entitled to call for a release of all water impounded in Stacy reservoir above 1543 feet above mean sea level when LCRA has combined empty storage

space in Buchanan reservoir below elevation 1018 mean sea level and in Travis reservoir below elevation 678 mean sea level, to impound the amount of water to be released. Provided, however, that the triggering elevation of this Release Provision No. 2 (1543 feet) should be adjusted upward when a greater level of storage is necessary to meet the demonstrated municipal demand on Stacy.

2. LCRA may exercise its right to call for releases under Release Provisions Nos. 1 and 2 whenever the conditions are met, without regard to the length of time elapsed since the last LCRA spill or release whichever is the later to occur or the number of times LCRA has exercised its right to call for releases since the last LCRA spill or release whichever is the later to occur.
3. The following definitions and rules of calculation apply to special condition (a).
  - a. An LCRA spill occurs whenever (i) the water level of Lake Buchanan reaches 1020 feet above mean sea level or the water level of Lake Travis reaches 681 feet above mean sea level, and (ii) LCRA has begun releasing water at that dam, either through the hydroelectric turbines or through the flood gates.
  - b. The demonstrated demand is one-third (1/3) rounded to the nearest 1,000 of the diversions of water in acre-feet from Stacy reservoir for CRMWD's water-supply customers during the preceding three (3) calendar years, as stated in the annual report sworn and filed with the Texas Department of Water Resources or its successors on or before January 31 of each year. To this end, (i) CRMWD will operate its system so as to take as much of its water requirements from the J. B. Thomas reservoir (constructed pursuant to Permit No. 1394) and the Spence reservoir (constructed pursuant to Permit No. 2179) as is feasible and consistent with reasonable operating requirements and shall take not less than 20,000 acre-feet of the water required to supply its uses during each year from the J. B. Thomas reservoir, provided that the total storage in such reservoir is not less than 100,000 acre-feet at anytime during such year; and (ii) CRMWD will route through the Stacy reservoir without detention all water which reaches Stacy reservoir which is required to be released from the Spence reservoir pursuant to Permit No. 2179.
  - c. The level of storage necessary to meet the demonstrated demand on Stacy reservoir shall be determined by reference to the table comparing storage level to "Adopted Yield," for this purpose only, which is attached to the Settlement Agreement as Exhibit "A" and which shall be contained

in the operations manual required by this permit.

- d. Net water impounded is defined as the amount of impounded water, including return flows, less inadvertent losses such as evaporation, seepage and transpiration, but excluding (i) diversions by pumpage from Stacy reservoir above elevation 1530.5 mean sea level and below elevation 1543.0 mean sea level subsequent to the last spill or release whichever is the later to occur and (ii) releases from Stacy reservoir which may be required for environmental purposes which exceed both 5,000 acre-feet per annum and 5,000 acre-feet since the last LCRA spill.

4. Unless otherwise agreed by LCRA and CRMWD, all releases under special condition (a) shall be made at the rate of 5,000 cubic feet per second.

(b) Permittee shall provide the facilities necessary to pass inflows through the dam authorized hereunder at all times, including the period of construction and initial filling of the reservoir.

(c) To provide for and protect domestic, livestock and other existing water rights between Stacy dam and Lake Buchanan, to the extent there is flow into Stacy reservoir, permittee shall maintain a flow in the Colorado River below Stacy dam of not less than 8.0 cfs during the months April through September and 2.5 cfs during other months, or, to the extent there is flow into Stacy reservoir, in such greater quantities as the Commission may from time to time determine and order.

(d) Whenever CRMWD is impounding any water that the holders of water rights in the Colorado River above Lake Buchanan which are junior to Permit No. 1259 but were issued prior to March 11, 1985 could have lawfully diverted and beneficially used except for the fact that this permit authorizes water to be diverted from Stacy Reservoir rather than Lake Buchanan, CRMWD shall release such water.

(e) Permittee shall install measuring devices approved by the Department and shall measure and keep the following daily records which shall be compiled monthly and reported annually, or more frequently as the Department may from time to time order, to the Department in such form and manner as the Department may from time to time prescribe:

- (1) Inflows to the reservoir herein authorized from the watershed upstream of the dam, including rainfall on the reservoir water surface;

- (2) Continuous reservoir stage and contents;

- (3) Total consumptive use of water;

- (4) Blowdown or other controller releases past the dam.

(f) This permit is issued subject to all superior and senior water rights in the Colorado River Basin, and any impoundment hereunder is subject to all such rights. Whenever the Commission finds that permittee is im-

pounding any water to which holders of superior and senior water rights in the Colorado River below Stacy Dam are entitled, the permittee shall release such water when required to do so by the Commission.

(g) Permittee shall operate its system so as to take as much of its water requirements from the reservoirs constructed under Permit No. 1394 (Lake J. B. Thomas) and Permit No. 2179 (Lake Spence) as is feasible and consistent with reasonable operating requirements. To this end permittee shall take not less than 20,000 acre-feet of the water required to supply its users during each calendar year from Lake J. B. Thomas; provided that the total storage in such reservoir is not less than 100,000 acre-feet at any time during such year.

(h) Permittee shall on or before January 31st of each year file a sworn report with the Department stating the amount of water that has been diverted under Permit No. 1394 and under Permit No. 2179, as amended, and supplied to users during the preceding 3 calendar years, and 1/3 of such amount (rounded off to the nearest 1,000) shall be the "Annual Use for Current Year" for the purposes of the impounding schedule set forth in Permit No. 2179, as amended. To provide such "Annual Use for Current Calendar Year" there is a "Maximum Storage Authorized in Permit No. 2179, as amended." When at any time during such calendar year the amount of water in Spence reservoir exceeds the maximum storage authorized for that year, permittee shall, upon receiving written request from the operator at that time of Lake Buchanan and Lake Travis, release water from time to time during such year as specified in such written request at a rate not less than 1,000 cfs and not more than 5,000 cfs until the level of Spence reservoir has been reduced to the maximum storage authorized for the year; provided, however, the then operator of Lakes Buchanan and Travis will request releases of water only to the extent it has sufficient combined empty storage space in Lake Buchanan below 1,018 feet elevation and in Lake Travis below 678 feet elevation, to receive and capture the amount of water requested to be released when and as it reaches such reservoirs. All water released from Spence reservoir under this provision (g), reaching Stacy reservoir, shall be routed through Stacy reservoir without detention, and included in the above described report.

(i) As an aid to the Department in administering the public waters of the Colorado River and the provisions of this permit, permittee shall, prior to the date of deliberate impoundment of water in Stacy reservoir, prepare in cooperation with and with the approval of the LCRA, and submit to the Department an operations manual describing the methods and procedures to be used to accomplish the provisions of the Settlement Agreement, the conditions of this permit, and the operation of the reservoir in conjunction with other sources of water developed by permittee. The manual shall include, but not be limited to: (1) diversions from Stacy reservoir and other sources; (2) incremental initial filling of Stacy reservoir with consideration of the Settlement Agreement as well as downstream water rights; (3) criteria for timing and rates of releases from Stacy reservoir to satisfy obligations under the Settlement Agreement, downstream water rights, and to minimize channel losses; (4) operation of Stacy, Spence and J. B. Thomas reservoirs during flood periods to maximize the amount of water to be stored in the reservoirs of permittee and downstream interests; provided, however,

the manual shall neither increase nor decrease the provisions, terms and conditions of this permit, nor change or alter same in any way. The above described manual shall not limit the jurisdiction of the Department in any manner.

Permittee agrees to be bound by the terms, conditions and provisions contained herein and in Permit No. 1259B issued to LCRA, and such agreement is a condition precedent to the granting of this permit and Permit No. 1259B.

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

This permit is issued subject to the Rules of the Texas Department of Water Resources and to the right of continual supervision of State water resources exercised by the Department.

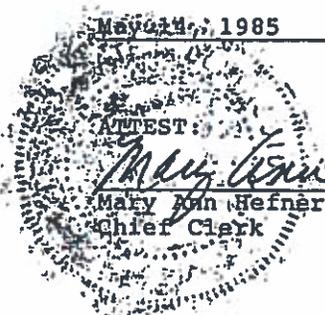
TEXAS WATER COMMISSION

*Paul Hopkins*  
Paul Hopkins, Chairman

DATE ISSUED:

May 24, 1985

*Lee B. M. Biggart*  
Lee B. M. Biggart,  
Commissioner



ATTEST:  
*Mary Ann Hefner*  
Mary Ann Hefner,  
Chief Clerk

*Ralph Roming*  
Ralph Roming, Commissioner

COUNTY OF COLEMAN ]  
THE STATE OF TEXAS ]

ss I, Glenn Thomas, County Clerk of said

County hereby certify that the foregoing instrument with its certificate of authentication was filed in my office for record on the 22nd day of May, 1985 and was duly recorded the 23rd day of May, 1985 in Volume 577 on page 53 of the Deed records of Coleman County, Texas.

WITNESS MY HAND AND OFFICIAL SEAL, the date last above written.

GLENN THOMAS  
County Clerk, Coleman County, Texas

By *Doris Williams* Deputy  
Doris Williams

COUNTY OF COLEMAN ]  
THE STATE OF TEXAS ]

ss I, Glenn Thomas, County Clerk of said

County hereby certify that the foregoing instrument with its certificate of authentication was filed in my office for record on the 22nd day of May, 1985 and was duly recorded the 24th day of May, 1985 in Volume 1 on page 149 of the Irrigation & Water Rights records of Coleman County, Texas.

WITNESS MY HAND AND OFFICIAL SEAL, the date last above written.

GLENN THOMAS  
County Clerk, Coleman County, Texas

*Doris Williams*



(a) Point of Diversion: At a point on the reservoir in Coleman County, N 84° E, 1750 feet from the southeast corner of the Brazoria County School Land Survey, Abstract No. 13, Coleman County, Texas.

(b) Maximum Diversion Rate for Municipal Use: 30.94 cfs (13,889 gpm).

3. INTERWATERSHED DIVERSION

Permittee is authorized to divert not to exceed 15,000 acre-feet per annum out of the 103,000 acre-feet authorized to be diverted for municipal purposes from the Colorado River Basin to the Brazos River Basin.

4. POINT OF RETURN

Water diverted from the Colorado River Basin to the Brazos River Basin and not consumed shall be returned to the Brazos River Basin at the wastewater treatment plants of the City of Abilene and/or the plants of the City's customers.

This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 3676, except as herein amended.

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

Permittee agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this 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 Water Commission and to the right of continual supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

*Paul Hopkins*  
Paul Hopkins, Chairman

*Ralph Roming*  
Ralph Roming, Commissioner

Date Issued:

September 4, 1985

Attest:

*Mary Ann Hefner*  
Mary Ann Hefner, Chief Clerk

STATE OF TEXAS  
COUNTY OF TRAVIS  
I, Mary Ann Hefner, Chief Clerk of the Texas Water Commission, do hereby certify that *the foregoing* is a true and correct copy of an instrument on file in permanent records of said Commission of the Department of Water Resources.  
Given under my hand and the seal of the Texas Water Commission this 12 day of September, A. D. 1985.  
*Mary Ann Hefner*  
Mary Ann Hefner, Chief Clerk

THE STATE OF TEXAS  
COUNTY OF TRAVIS.

I hereby certify that this is a true and correct copy of a Texas Water Commission document, the original of which is filed in the permanent records of the Commission.

Given under my hand and seal of office on JUL 12 1988

*Karen A. Phillips*

Karen A. Phillips, Chief Clerk  
Texas Water Commission

AMENDMENT TO  
PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 38669

PERMIT NO. 3676B

TYPE: Amendment

Permittee: Colorado River  
Municipal Water  
District

Address: P.O. Box 869  
Big Spring, Texas 79721

Filed: June 15, 1988

Granted: July 5, 1988

Purposes: Municipal & Industrial County: Concho

Watercourse: Colorado River

Watershed: Colorado River Basin

WHEREAS, Permit No. 3676, as amended, authorizes permittee to construct and maintain a dam and reservoir (Stacy Dam and Reservoir) on the Colorado River for recreational purposes and to divert water from separate specific points on the perimeter of the reservoir in Concho and Coleman Counties for municipal and industrial purposes; and

WHEREAS, applicant has requested an amendment to Permit No. 3676, as amended, to relocate the authorized diversion point in Concho County; and

WHEREAS, the Texas Water 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 Water Commission in issuing this amendment.

NOW, THEREFORE, this amendment to Permit No. 3676, as amended, is issued to Colorado River Municipal Water District, subject to the following terms and conditions:

In lieu of the authorization to divert water from the perimeter of Stacy Reservoir in Concho County at a point N 80°54' W, 4920 feet from the northeast corner of M. Sander Survey No. 200, Abstract No. 749, permittee is authorized to divert water from the perimeter of Stacy Reservoir in Concho County approximately 12 miles east of Paint Rock, Texas, at a point N 52°48' W, 4631 feet from the southeast corner of John Minor Survey No. 46, Abstract No. 658.

This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 3676, as amended, except as herein amended.

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

Permittee agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this 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 Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

*Paul Hopkins*

Paul Hopkins, Chairman

DATE ISSUED: July 11, 1988

ATTEST:

*Karen A. Phillips*  
Karen A. Phillips, Chief Clerk

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct  
Conservation Commission document, which is filed in the  
permanent records of the Commission.  
Given under my hand and the seal of office



*[Signature]*  
MAR 04 1998  
Secretary

AMENDMENT TO  
PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 3866C      PERMIT NO. 3676C      TYPE: Amendment

Permittee: Colorado River Municipal Water District      Address: P.O. Box 869 Big Spring, TX 78762

Filed: February 17, 1998      Granted: FEB 27 1998

Purpose: Municipal & Industrial      Counties: Concho, Coleman & Runnels

Watercourse: Colorado River      Watershed: Colorado River Basin

WHEREAS, Permit No. 3676, as amended, includes authorization for Colorado River Municipal Water District to maintain a dam and reservoir (Ivie Reservoir) on the Colorado River for recreational purposes and to divert water from separate specific points on the perimeter of the reservoir in Concho and Coleman Counties for municipal and industrial purposes; and

WHEREAS, the applicant has requested an amendment to Permit No. 3676, as amended, to authorize diversion from any point on the perimeter of the reservoir; 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 Permit No. 3676, as amended, is issued to Colorado River Municipal Water District as follows:

In lieu of the authorizations to divert water from specific points on Ivie Reservoir, permittee is authorized to divert water from any point on the perimeter of the reservoir.

This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 3676, as amended, except as herein amended.

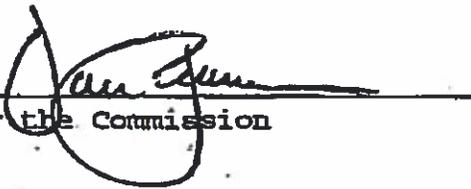
This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

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

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

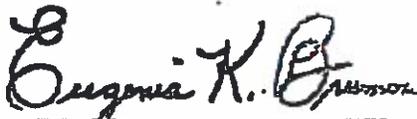
This amendment is issued subject to the Rules of the Texas Natural Resource Conservation Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION

  
For the Commission

DATE ISSUED: FEB 27 1998

ATTEST:



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

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



AMENDMENT TO  
WATER USE PERMIT

APPLICATION NO. 3866D PERMIT NO. 3676D TYPE : 11.122

Owner : Colorado River Municipal Water District Address : P.O. Box 869  
Big Spring, Texas  
79721-0869

Filed : November 3, 1998 Granted : **NOV 13 1998**

Counties : Coleman & Concho

Watercourse: Colorado River Watershed : Colorado River Basin

WHEREAS, Permit No. 3676 (Application No. 3866) issued on May 14, 1985 includes a Special Condition 6.(a). requiring releases of water from Stacy (now O.H. Ivie) Reservoir (Colorado River, Colorado River Basin, Coleman and Concho Counties) to Lake Buchanan and Lake Travis per a 1985 agreement with the Lower Colorado River Authority (LCRA); and

WHEREAS, pursuant to an amendment to this agreement, LCRA has recently agreed to the removal of Special Condition 6.(a). which will result in applicant not having to release water from storage; and

WHEREAS, an application was received from the Colorado River Municipal Water District seeking removal of Special Condition 6.(a). from Permit No. 3676 (Application No. 3866), as amended; and

WHEREAS, as no entity other than the LCRA will be affected by this amendment and they have agreed to the amendment, no notice was required for this application; and

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

NOW, THEREFORE, this amendment to Permit No. 3676 (Application No. 3866), as amended, is issued to the Colorado River Municipal Water District subject to the following terms and conditions:

Special Condition 6.(a). contained in Permit No. 3676 (Application No. 3866), as amended, is hereby deleted.

This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 3676 (Application No. 3866), as amended, except as specifically amended herein.

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

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: NOV 13 1998

ATTEST:

  
\_\_\_\_\_  
LaDonna Castañuela, Acting Chief Clerk  
Texas Natural Resource Conservation Commission



e. However, at any given time, no diversion shall be made by the owner from all the aforesaid points of diversion at a combined diversion rate in excess of 156 cfs (70,300 gpm).

4. PRIORITY

The time priority of owner's right is August 17, 1964.

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5. SPECIAL CONDITIONS

(a) The maximum combined diversion and use under Certificate of Adjudication Nos. 14-1008 and 14-1002 shall not exceed 73,000 acre-feet of water per annum of which not more than 20,000 acre-feet per annum shall be used for mining and industrial purposes.

(b) Diversion from the Colorado River to the off-channel reservoir can only take place when the chloride content equals or exceeds 500 PPM.

(c) The owner shall store only public waters of the Colorado River, subject to all rights of holders of superior and senior water rights. Whenever the Commission finds that the owner is storing any water to which holders of superior and senior water rights are entitled, the owner shall release the same to said holders on order of the Commission.

(d) Owner shall at all times operate its system so as to take as much of its water requirements from the reservoir under Certificate No. 14-1002 (Lake J. B. Thomas) as is feasible and consistent with reasonable operating requirements. To this end owner shall take not less than 24,000 acre-feet of water required to supply its users during each calendar year from Lake J. B. Thomas; provided that the total storage in such reservoir is not less than 100,000 acre-feet at any time during such year.

(e) Owner shall on or before January 31st of each year file a sworn report with the Commission stating the amount of water that has been diverted under Certificate No. 14-1002 and under this certificate and supplied to users during the preceding 3 calendar years, and 1/3 of such amount (rounded off to the nearest 1,000) shall be the "Annual Use for Current Year" for the purposes of the impounding schedule set forth below. To provide such "Annual Use for Current Calendar Year" there is a "Maximum Storage Authorized in E. V. Spence Reservoir" set out below. When at any time during such calendar year the amount of water in E. V. Spence Reservoir exceeds the Maximum Storage Authorized for that year, then owner shall, upon receiving written request from the operator at that time of Lake Buchanan and Lake Travis, release water from time to time during such year as specified in such written request at a rate not less than 1,000 cfs and not more than 5,000 cfs until the level of E. V. Spence Reservoir has been reduced to the Maximum Storage Authorized for such year; provided however, the then operator of Lakes Buchanan and Travis will request releases of water, only to the extent it has sufficient combined empty storage space in Lake Buchanan below 1,018 feet elevation and in Lake Travis below 678 feet elevation, to receive and capture the amount of water requested to be released when and as it reaches such reservoirs.

Annual Use for Current Calendar Year Acre-Feet	Maximum Storage Authorized in E. V. Spence Reservoir Acre-Feet
Up to 35,000	249,000
36,000	265,000
37,000	281,000
38,000	207,000
39,000	313,000
40,000	329,000
41,000	345,000
42,000	361,000
43,000	377,000
44,000	393,000
45,000	409,000
46,000	425,000
47,000	441,000
48,000	457,000
49,000	473,000
50,000	488,760

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CERTIFICATE OF ADJUDICATION NO: 14-1008

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(f) The owner shall maintain a sluiceway in said dam with a sufficient capacity to make the releases of impounded water required by the certificate in such quantity as to minimize channel losses and equipped with a regulating gate for the purpose of permitting the free passage of the normal flow through the dam at all times and the passage of those waters to which the Commission may determine holders of superior and senior water rights are entitled and the passage of those waters as specified in the paragraph immediately above.

(g) The owner shall maintain and keep a record on a monthly basis of the amount of water diverted from the reservoir and the pollution control works, and shall report same on an annual basis to the Texas Water Rights Commission in such form and manner as it may prescribe.

(h) The owner shall maintain or provide for the following: (1) Establishment of an inflow gaging station, (2) establishment of an outflow gaging station, (3) establishment of a continuous recording reservoir water level gaging station, (4) establishment of monumentation, and the running of cross sections along an appropriate number of sediment ranges prior to impoundment of water; the re-running of sediment ranges every 10 years or as advisable.

(i) Water diverted under this certificate for municipal and industrial use but not consumed as a result thereof shall be returned to the Colorado River and its tributaries.

The locations of pertinent features related to this certificate are shown on Page Nos. 10 and 15 of the Upper Colorado River Certificates of Adjudication Maps, copies of which are located in the offices of the Texas Water Rights Commission and the office of the County Clerk.

This certificate of adjudication is issued subject to all terms, conditions and provisions provided for in the final decree of the 51st District Court of Tom Green County, Texas, dated September 10, 1976, in Cause No. 44-031-A, In Re: The Adjudication of Water Rights in the Upper Colorado River Segment of the Colorado River Basin and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to the Rules of the Texas Water Rights Commission and its continuing right of supervision of State water resources consistent with the public policy of the State set forth in Water Code §1.003.

TEXAS WATER RIGHTS COMMISSION

Joe D. Carter, Chairman



Joe D. Carter  
Joe D. Carter, Chairman

STATE OF TEXAS)  
COUNTY OF COKE) as I, Mrs. Winnie Waldrop, Clerk of the County Court in and for said County, do hereby certify that the foregoing instrument with its certificate of authentication, was filed for record in my office the 26th day of August 1977, at 10:00 o'clock A.M., and duly recorded the 31st day of August 1977, at 2:10 o'clock P.M. in the Deed Records of said County, Vol. 180 on Page 524.

Witness my hand and the Seal of the County Court of said County, in office at Robert Lee, Texas, the day and year last above written.

By Ethel Hubbard Deputy

Mrs. Winnie Waldrop  
Clerk County Court, Coke County, Texas

AMENDMENT TO  
CERTIFICATE OF ADJUDICATION

00301

CERTIFICATE NO. 14-1008A

Name : Colorado River Municipal Water District      Address : P.O. Box 869  
Big Spring, Texas  
79720

Filed : March 6, 1984      Granted : April 12, 1984

Counties : Coke, Howard and Mitchell

Watercourse: Red Draw, tributary of Beals Creek,  
tributary of Colorado River, Beals Creek,  
and Colorado River      Watershed: Colorado River Basin

WHEREAS, the Texas Water Commission finds that jurisdiction of the application is established; and

WHEREAS, by final decree of the 51st District Court of Tom Green County, in Cause No. 44-031-A, In Re: The Adjudication of Water Rights in the Upper Colorado River Segment of the Colorado River Basin, dated September 10, 1976, a right was recognized under Permit No. 2179-ACD authorizing the Colorado River Municipal Water District to impound 2500 acre-feet of water diverted from the Colorado River in an off-channel reservoir; to impound 488,760 acre-feet of water in a reservoir on the Colorado River; and to divert 40,000 acre-feet of water per annum for municipal purposes, 2000 acre-feet per annum for industrial purposes, and 8000 acre-feet per annum for mining purposes; and

WHEREAS, applicant has requested an amendment to Certificate of Adjudication No. 14-1008 to authorize construction of a dam and reservoir (pump sump) on Beals Creek and impoundment therein of 3.4 acre-feet of water; diversion from Beals Creek of highly mineralized flows in order to enhance the quality of water downstream; construction of a dam and reservoir on Red Draw and impoundment therein of 8538 acre-feet of water captured from Red Draw and diverted from Beals Creek; use of water stored in the reservoir on Red Draw to fulfill not to exceed 6000 acre-feet per annum of the existing authorization to use 8000 acre-feet of water per annum for mining purposes; use of water stored in either the reservoir on Red Draw or in the existing off-channel reservoir previously authorized by Certificate of Adjudication No. 14-1008 to fulfill the existing authorization to use 2000 acre-feet of water per annum for industrial purposes; use of 50 acre-feet per annum from Beals Creek for construction of the Beals Creek and Red Draw facilities; and use of two additional diversion points; and

WHEREAS, a public hearing has been held and Colorado River Municipal Water District named as a party; and

WHEREAS, by law the Executive Director and the Public Interest Advocate of the Department of Water Resources are parties; and

WHEREAS, no person appeared to protest the granting of this application; and

WHEREAS, issuance of this amendment granting this application is not adverse to any party;

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 14-1008 is issued to Colorado River Municipal Water District, subject to the following terms and conditions:

## 1. IMPOUNDMENT

In lieu of the previous authorizations to impound water contained in Certificate of Adjudication No. 14-1008, the owner is authorized as follows:

(a) To maintain an existing off-channel reservoir, known as Barber Reservoir, and impound therein not to exceed 2500 acre-feet of water to be diverted from the Colorado River. Station 8+70 on the centerline of the dam is S 31° 22' W, 3231 feet from the northeast corner of Survey No. 25, T&P RR Co., Block No. 27, Abstract No. 488, Mitchell County, approximately 4 miles northwest of Colorado City, Texas;

(b) To construct a dam and reservoir on Beals Creek and to impound therein not to exceed 3.4 acre-feet of water. Station 1+00 on the centerline of the dam is S 81° 57' E, 2932 feet from the northeast corner of the O. M. Brack Survey, Abstract No. 1518, Howard County, approximately 5 miles east of Big Spring, Texas;

(c) To construct on Red Draw a dam and reservoir, to be known as Red Draw Reservoir, and to impound therein not to exceed 8538 acre-feet of water captured from Red Draw or diverted from the aforesaid reservoir on Beals Creek. Station 26+01 on the centerline of the dam is S 09° 42' E, 2628 feet from the northeast corner of the T&P RR Co. Survey No. 13, Abstract No. 158, Howard County, approximately 5 miles east of Big Spring, Texas;

(d) To maintain an existing dam and reservoir, known as Lake E. V. Spence, on the Colorado River, and to impound within Lake E. V. Spence, Red Draw Reservoir, and the reservoir on Beals Creek a combined total of not to exceed 488,760 acre-feet of water. The point on the dam at the center of the stream is N 23° 30' E, 5664 feet from the southeast corner of P. Jonas Survey No. 482, Abstract No. 472, Coke County, approximately 7 miles northwest of Robert Lee, Texas.

## 2. USE

In lieu of the previous authorizations to use water contained in Certificate of Adjudication No. 14-1008, owner is authorized to divert and use within the service area of the Colorado River Municipal Water District the following:

(a) Not to exceed 40,000 acre-feet of water per annum from Lake E. V. Spence for municipal purposes;

(b) Not to exceed 2000 acre-feet of water per annum from Lake E. V. Spence for industrial purposes; however, owner may divert annually any portion of this authorized amount into either Barber Reservoir or Red Draw Reservoir and use the same for industrial purposes;

(c) Not to exceed 8000 acre-feet of water per annum from Lake E. V. Spence for mining purposes; however, of this authorized amount, owner may divert annually into either Barber Reservoir or Red Draw Reservoir any portion of a total of not to exceed 6000 acre-feet and use the same for mining purposes, provided that the amount of water diverted annually into Barber Reservoir and used for both industrial and mining purposes shall not exceed 6000 acre-feet;

(d) Not exceed 50 acre-feet of water per annum from Beals Creek for construction of the aforesaid facilities on Beals Creek and Red Draw.

**3. DIVERSION**

In addition to the points of diversion previously authorized by Certificate of Adjudication No. 14-1008, owner is authorized to use the following points of diversion:

(a) On the perimeter of the reservoir on Beals Creek, S 82° 52' E, 2910 feet from the northeast corner of the aforesaid Brack Survey, at a maximum diversion rate of 25 cfs.

(b) On the perimeter of Red Draw Reservoir, S 02° 45' E, 3080 feet from the northeast corner of the aforesaid T&P RR Survey No. 13, at a maximum diversion rate of 25 cfs.

**4. TIME LIMITATIONS**

(a) Construction of the dams and related facilities herein authorized shall be in accordance with plans approved by the Executive Director and shall be commenced within two years and completed within three years from date of issuance of this amendment.

(b) Failure to commence and/or complete construction of the dams and related facilities within the period stated in Time Limitations shall cause this amendment to expire and become null and void, unless permittee applies for an extension of time to commence and/or complete construction prior to the respective deadlines for commencement and completion, and the application is subsequently granted.

**5. SPECIAL CONDITIONS**

(a) In lieu of the existing provision in Paragraph (c) under Special Conditions, owner is made subject to the following provision:

The owner shall store only public waters of the Colorado River and its tributaries, subject to all rights of holders of superior and senior water rights. Whenever the Department finds that owner is storing any water to which holders of superior and senior water rights are entitled, the owner shall release the same to said holders on order of the Department. Upon order of the Department, the owner specifically shall allow the downstream passage of flows entering the reservoir on Beals Creek in such quantities as may be necessary to satisfy existing rights, including but not limited to the rights of downstream domestic and livestock users and those rights represented by Certificate of Adjudication No. 14-1017, issued to John L. Whitmire (40 acre-feet per annum for irrigation purposes); Certificate of Adjudication No. No. 1019A, issued to W. F. Company, Ltd. (800 acre-feet per annum for secondary oil recovery purposes); and Permit No. 3291, issued to Price Construction, Inc. (12 acre-feet per annum for mining purposes).

(b) In lieu of the existing provision in Paragraph (e) under Special Condition, owner is made subject to the following provision:

Owner shall on or before January 31st of each year file a sworn report with the Department stating the amount of water that has been diverted under Certificate of Adjudication No. 14-1002 and under this certificate and supplied to users during the preceding 3 calendar years, and 1/3 of such amount (rounded off to the nearest 1,000) shall be the "Annual Use of Current Year" for the purposes of the impounding schedule set forth below. To provide such "Annual Use for Current Calendar Year" there is a "Maximum

Storage Authorized in E. V. Spence Reservoir, Red Draw Reservoir, and Beals Creek Sump Pump Reservoir" set out below. When at any time during such calendar year the combined amount of water in E. V. Spence Reservoir, Red Draw Reservoir, and the Beals Creek Reservoir exceeds the Maximum Storage Authorized for that year, then owner shall, upon receiving written request from the operator at that time of Lake Buchanan and Lake Travis, release water from E. V. Spence Reservoir from time to time during such year as specified in such written request at a rate not less than 1000 cfs and not more than 5000 cfs until the combined volume of E. V. Spence Reservoir, Red Draw Reservoir, and the Beals Creek Reservoir has been reduced to the Maximum Storage Authorized for such year; provided however, the then operator of Lakes Buchanan and Travis will request releases of water only to the extent it has sufficient combined empty storage space in Lake Buchanan below 1018 feet elevation and in Lake Travis below 678 feet elevation, to receive and capture the amount of water requested to be released when and as it reaches such reservoirs.

Annual Use for Current Calendar Year Acre-Feet	Maximum Storage Authorized in E.V. Spence Reservoir, Red Draw Reservoir, and Beals Creek Reservoir Acre-Feet
Up to 35,000	249,000
36,000	265,000
37,000	281,000
38,000	297,000
39,000	313,000
40,000	329,000
41,000	345,000
42,000	361,000
43,000	377,000
44,000	393,000
45,000	409,000
46,000	425,000
47,000	441,000
48,000	457,000
49,000	473,000
50,000	488,760

(c) In lieu of the existing provision in Paragraph (f) under Special Conditions, owner is made subject to the following provisions:

The owner shall maintain in each dam authorized by this certificate a sluice way with sufficient capacity to make the releases of impounded water required by the certificate in such quantity as to minimize channel losses; each sluice way shall be equipped with a regulating gate for the purpose of permitting the free passage of the normal flow through the dam at all times and the passage of those waters to which the Department may determine holders of superior and senior water rights are entitled, the passage of those waters as specified in the paragraph immediately above.

6. PRIORITY

The time priority of this amendment, insofar as it authorizes new storage facilities, diversion points, and rates of diversion, is March 6, 1984.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 14-1008, except as herein amended.

This amendment is issued subject to all superior and senior water rights in the Colorado 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 Department of Water Resources and to the right of continual supervision of State water resources exercised by the Department.

TEXAS WATER COMMISSION

Paul Hopkins  
Paul Hopkins, Chairman

Lee B. M. Biggart  
Lee B. M. Biggart, Commissioner

Ralph Roming  
Ralph Roming, Commissioner

Date Issued:

April 24, 1984

Attest:

Mary Ann Hefner  
Mary Ann Hefner, Chief Clerk

STATE OF TEXAS  
COUNTY OF TRAVIS

I, Mary Ann Hefner, Chief Clerk of the Texas Water Commission, do hereby certify that ~~the~~ <sup>persons</sup> is a true and correct copy of an instrument on file in permanent records of said Commission of the Department of Water Resources.

Given under my hand and the seal of the Texas Water Commission this the 1st day of May, A.D. 1984.

Mary Ann Hefner  
Mary Ann Hefner, Chief Clerk



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AMENDMENT TO  
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1008B

TYPE: AMENDMENT

Name: Colorado River Municipal Water District  
Address: P.O. Box 869 Big Spring, Texas 79721

Filed: February 14, 1990  
Granted: October 31, 1990

Purposes: Municipal, Industrial, and Mining  
Counties: Mitchell, Coke and Howard

Watercourse: Beals Creek, tributary of the Colorado River; unnamed tributary of Beals Creek; Red Draw, tributary of Beals Creek and the Colorado River  
Watershed: Colorado River Basin

WHEREAS, Certificate of Adjudication No. 14-1008, as amended, includes authorization to maintain:

- a. E. V. Spence Dam and Reservoir on the Colorado River in Coke County and a point on the dam at the center of the stream is at Latitude 31° S 53.7' N, Longitude 100° 31' W;
- b. A dam and reservoir on Beals Creek in Howard County;
- c. Red Draw Reservoir on Red Draw in Howard County;
- d. Barber Reservoir in Mitchell County; and

WHEREAS, the certificate, as amended, authorizes diversion points on Lake E. V. Spence for municipal, mining and industrial use and diversion points upstream of Lake E. V. Spence on the Colorado River, Beals Creek and Red Draw Reservoir for mining and industrial use; and

WHEREAS, Paragraph 2. USE of the certificate, as amended, currently includes the following diversion authorizations:

- a. Not to exceed 40,000 acre-feet of water per annum from Lake E. V. Spence for municipal purposes;
- b. Not to exceed 2000 acre-feet of water per annum from Lake E. V. Spence for industrial purposes; however, owner may divert annually any portion of this authorized amount into either Barber Reservoir or Red Draw Reservoir and use the same for industrial purposes; and
- c. Not to exceed 8000 acre-feet of water per annum from Lake E. V. Spence for mining purposes; however, of this authorized amount, owner may divert annually into either Barber Reservoir or Red Draw Reservoir any portion of a total of not to exceed 6000 acre-feet and use the same for mining purposes, provided that the amount of water diverted annually into Barber Reservoir and used for both industrial and mining purposes shall not exceed 6000 acre-feet; and

WHEREAS, the certificate, as amended, includes several SPECIAL CONDITIONS; and

WHEREAS, the Colorado River Municipal Water District has requested an amendment to Certificate No. 14-1008, as amended, to authorize a water-quality enhancement project which includes: construction and maintenance of a dam and reservoir (Mitchell County Reservoir) on an unnamed tributary of Beals Creek approximately 17.5 miles southwest of Colorado City, Texas; the diversion, on a non-priority basis, of not to exceed an additional 7000 acre-feet of water per annum from existing diversion facilities upstream from Lake E. V. Spence for storage in Red Draw Reservoir, Barber Reservoir and the proposed Mitchell County Reservoir; the diversion of not to exceed 3631 acre-feet of water per annum of the 40,000 acre-foot municipal authorization for water-quality enhancement purposes through existing diversion facilities upstream of Lake E.V. Spence; a change in Paragraph Nos. 2, USE (b) and (c) of the certificate and to authorize diversion of water from the perimeter of Mitchell County Reservoir for mining use at a maximum rate of 20 cfs; and

WHEREAS, the staff reviewed and concurs with an August 23, 1990 operation study from the applicant's engineer where a maximum diversion of 14,692 acre-feet of water per annum from the upstream diversion points on the Colorado River and Beals Creek has an effect of 8427 acre-feet per annum on the yield of Lake E.V. Spence; and

WHEREAS, the staff has determined that water is not available for appropriation upstream of Lake E.V. Spence and the proposed water quality enhancement project's effect on Lake E. V. Spence, i.e., the 8427 acre-feet of water per annum, shall be allocated from the existing authorizations and shall be reported as 7000 acre-feet per annum from the 8000 acre-foot per annum mining use and 1427 acre-feet per annum mining use from the 40,000 acre-foot per annum municipal use; and

WHEREAS, the Texas Water 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 Water Commission in issuing this amendment.

NOW, THEREFORE, this amendment to Certificate No. 14-1008, as amended, is issued to Colorado River Municipal Water District, subject to the following provisions:

1. IMPOUNDMENT

In addition to the impoundment authorizations included in Certificate No. 14-1008, as amended, certificate owner is authorized to construct a dam and reservoir (Mitchell County Reservoir) on an unnamed tributary of Beals Creek and impound therein not to exceed 27,266 acre-feet of water at a normal operating level of 2200.00 feet above mean sea level. The dam will be in I. C. Sheffield Survey No. 34, Abstract No. 1557, Mitchell County, approximately 17.5 miles southwest of Colorado City, Texas and Station 7+47.77 on the centerline of the dam will be N 26°53' W, 1250 feet from the southeast corner of the survey.

2. USE

In lieu of the previous authorization to use water contained in Certificate No. 14-1008, as amended, owner is authorized to use within the service area of the Colorado River Municipal Water District the following:

- a. Not to exceed 38,573 acre-feet of water per annum from Lake E. V. Spence for municipal purposes;

- b. 8427 acre-feet of water per annum for mining purposes resulting from water quality enhancement diversions of not to exceed 14,692 acre-feet of water per annum from authorized upstream diversion facilities on the Colorado River and Beals Creek for storage in and diversion from Barber, Red Draw and Mitchell County Reservoirs;
- c. Not to exceed 2000 acre-feet of water per annum for industrial purposes diverted from Lake E. V. Spence or authorized upstream diversion facilities for storage in and diversion from Barber, Red Draw and Mitchell County Reservoirs; and
- d. Not to exceed 1000 acre-feet of water per annum for mining purposes diverted from Lake E. V. Spence or authorized upstream diversion facilities for storage in and diversion from Barber, Red Draw and Mitchell County Reservoirs.

### 3. DIVERSION

In addition to the points of diversion previously authorized by Certificate No. 14-1008, as amended, owner is authorized to divert water from the perimeter of Mitchell County Reservoir at a maximum rate of 20 cfs.

### 4. TIME LIMITATIONS

- a. Construction of the proposed dam herein authorized shall be in accordance with plans approved by the Executive Director and shall be commenced within two years and completed within three years from date of issuance of this amendment.
- b. Failure to commence and/or complete construction of the proposed dam within the period stated above shall cause this amendment to expire and become null and void, unless certificate owner applies for an extension of time to commence and/or complete construction prior to the respective deadlines for commencement and completion, and the application is subsequently granted.

## 5. SPECIAL CONDITION

Certificate owner shall manage land in the flood pool of the proposed Mitchell County Reservoir between elevations 2200 and 2205 feet above mean sea level (approximately 400 acres) for the benefit of existing wildlife species. A habitat management plan shall be developed by the certificate owner and submitted to the Executive Director prior to deliberate impoundment in Mitchell County Reservoir. Such plan shall provide, at a minimum, for the following: 1. wildlife food plots; 2. diversification of cover adjacent to the proposed reservoir; 3. control of grazing and 4. creation of shallow water habitat which will not impair the stated purpose of the reservoir. Such plan shall be fully implemented by the time of deliberate impoundment in the reservoir and shall continue to be implemented during the existence of the reservoir.

## 6. PRIORITY

The authorization in SECTION 1. IMPOUNDMENT of this amendment has a time priority of February 14, 1990. All other authorizations have the same priorities as included in Certificate Nos. 14-1008 or 14-1008A.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 14-1008, as amended, except as specifically amended herein.

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

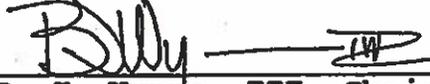
Certificate owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

Certificate owner shall use those practices, techniques and technologies that will reduce the loss or waste of water and improve the efficiency and use of water so that only so much water as can be beneficially used will be diverted.

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 Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman

DATE ISSUED: NOV 06 1990

ATTEST:



Brenda W. Foster, Chief Clerk



# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



## AMENDMENT TO CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1008C	TYPE	:	11.122		
Owner	:	Colorado River Municipal Water District	Address	:	P.O. Box 869 Big Spring, Texas 79721-0869
Filed	:	November 3, 1998	Granted	:	<b>NOV 13 1998</b>
			County	:	Coke
Watercourse:	Colorado River	Watershed	:	Colorado River Basin	

WHEREAS, an amendment to Certificate No. 14-1008 (14-1008A) includes a Special Condition 5.(b). requiring releases of water from E.V. Spence Reservoir (Colorado River, Colorado River Basin, Coke County) to Lake Buchanan and Lake Travis per a 1965 agreement with the Lower Colorado River Authority (LCRA); and

WHEREAS, pursuant to an amendment to this agreement, LCRA has recently agreed to the removal of Special Condition 5.(b). which will result in applicant not having to release water from storage; and

WHEREAS, an application was received from the Colorado River Municipal Water District seeking removal of Special Condition 5.(b). from Certificate No. 14-1008A, as amended; and

WHEREAS, as no entity other than the LCRA will be affected by this amendment and they have agreed to the amendment, no notice was required for this application; and

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

NOW, THEREFORE, this amendment to Certificate No. 14-1008, as amended, is issued to the Colorado River Municipal Water District subject to the following terms and conditions:

Special Condition 5.(b). contained in Certificate No. 14-1008A, as amended, is hereby deleted.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 14-1008, as amended, except as specifically amended herein.

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

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: NOV 13 1998

ATTEST:



\_\_\_\_\_  
LaDonna Castañuela, Acting Chief Clerk  
Texas Natural Resource Conservation Commission

08992

## CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION NO: 14-1002      OWNER: COLORADO RIVER MUNICIPAL  
WATER DISTRICT

COUNTIES: Scurry and Borden      PRIORITY DATE: August 5, 1946

WATERCOURSE: Bull Creek and the      BASIN: Colorado River  
Colorado River

WHEREAS, by final decree of the 51st District Court of Tom Green County, in Cause No. 44-031-A, In Re: The Adjudication of Water Rights in the Upper Colorado River Segment of the Colorado River Basin, dated September 10, 1976, a right was recognized under Permit No. 1394-ABCD authorizing the Colorado River Municipal Water District to appropriate waters of the State of Texas as set forth below;

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

## 1. IMPOUNDMENT

(a) Owner is authorized to maintain an existing diversion dam across Bull Creek and a diversion canal to divert water from Bull Creek to Lake J. B. Thomas on the Colorado River. Point on the dam at the center of the stream is N 62° W, 1696 feet from the SE corner of the A. O. Scarborough Survey No. 120, Abstract No. 1544, Borden County, Texas.

(b) Owner is authorized to maintain an existing dam and reservoir on the Colorado River and impound therein not to exceed 204,000 acre-feet of water. Point on the dam at the center of the stream is N 79° E, 714 feet from the SW corner of B. E. Wagner Survey No. 74, Abstract No. 2452, Scurry County, Texas.

## 2. USE

Owner is authorized to divert and use not to exceed 30,000 acre-feet of water per annum from Lake J. B. Thomas on the Colorado River for municipal, industrial, recreational and mining purposes.

## 3. DIVERSION

(a) Point of Diversion: At a point on the S bank of Lake J. B. Thomas which is N 6° W, 780 feet from the SE corner of H. & T. C. R. Co. Survey No. 69, Abstract No. 549, Borden County, Texas.

(b) Point of Diversion: At a point on the N bank of Lake J. B. Thomas which is S 6° E, 1500 feet from the NW corner of B. E. Wagner Survey No. 74, Abstract No. 2452, Scurry County, Texas.

(c) Maximum Diversion Rate: 63.3 cfs (28,500 gpm). 19.8 MGD

## 4. PRIORITY

The time priority of owner's right is August 5, 1946.

## 5. SPECIAL CONDITIONS

(a) Owner shall maintain and operate a reservoir water surface measuring gage and shall furnish monthly statements of daily records made by this gage.

(b) A sluiceway shall be maintained to permit the release of any water to which lower and prior appropriators may be entitled.

(c) Owner shall maintain and operate measuring devices so as to give continuous records of the amount of water discharged, released or diverted from the reservoir.

The locations of pertinent features related to this certificate are shown on Page Nos. 2 and 3 of the Upper Colorado River Certificates of Adjudication Maps, copies of which are located in the offices of the Texas Water Rights Commission and the office of the County Clerk.

CERTIFICATE OF ADJUDICATION NO: 14-1002

This certificate of adjudication is issued subject to all terms, conditions and provisions provided for in the final decree of the 51st District Court of Tom Green County, Texas, dated September 10, 1976, in Cause No. 44-031-A, In Re: The Adjudication of Water Rights in the Upper Colorado River Segment of the Colorado River Basin and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to the Rules of the Texas Water Rights Commission and its continuing right of supervision of State water resources consistent with the public policy of the State set forth in Water Code §1.003.

TEXAS WATER RIGHTS COMMISSION

*Joe D. Carter*  
Joe D. Carter, Chairman

DATE ISSUED:

AUG 19 1977

ATTEST:

*Mary Ann Hejner*  
Mary Ann Hejner, Secretary