

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
INTEROFFICE MEMORANDUM

TO: Commissioners

DATE: July 30, 2008

THRU: Todd Chenoweth, Director *TZ*  
Water Supply Division

Robin Smith, Attorney *RS*  
Environmental Law Division

FROM: Kellye Rila, Section Manager *KR*  
Water Rights Permitting & Availability Section

SUBJECT: Northeast Texas Municipal Water District  
Docket # 2008-0791-WR  
ADJ 4590  
CN601368368  
RN103186771  
Application No. 04-4590B to Amend Certificate of Adjudication No. 04-4590  
TWC §11.085  
Cypress Creek, Cypress Basin and Sabine River Basin  
Marion and Harrison Counties

CHIEF CLERKS OFFICE

2008 AUG - 1 PM 2: 02

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Supplement to Memorandum for Northeast Texas Municipal Water District:

Concerning whether there are impacts to water rights or the environment beyond the full use assumption, the Executive Director believes that there are none. This amendment is for an interbasin transfer which is exempt from the notice requirements of Tex. Water Code § 11.085 under Tex. Water Code § 11.085(v). As discussed in the Memorandum for Northeast Texas Municipal Water District, the Austin court of appeals has already determined that this application does not require notice. This application does not change a diversion point or change a non-consumptive use to a consumptive use. Also, there is no specific pattern of use required in the permit that will be changed.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
INTEROFFICE MEMORANDUM

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

DATE: August 1, 2008

FROM: Ron Ellis, Project Manager *RE*  
Water Rights Permitting Team

SUBJECT: Northeast Texas Municipal Water District  
Docket # 2008-0791-WR  
ADJ 4590  
CN601368368  
RN103186771  
Application No. 04-4590B to Amend Certificate of Adjudication No. 04-4590  
TWC §11.085  
Cypress Creek, Cypress Basin and Sabine River Basin  
Marion and Harrison Counties

Supplemental Backup Documents

Attached is the only comment letter received for this application.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG - 1 PM 4: 21  
CHIEF CLERKS OFFICE

CADDO LAKE INSTITUTE  
Physical Address  
Caddo Lake National Wildlife Refuge  
Karnack, Texas  
Web Address  
www.caddolakeinstitute.us



*WR*  
*59894*

Mailing Address  
44 East Avenue, Suite 100  
Austin, Texas 78701  
Tel (512) 482-9345  
Fax (512) 482-9346

August 29, 2007

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

OPA

AUG 30 2007

BY *ll*

Re: Interbasin Transfer (IBT) application of NETMWD CRB CN 601368368 COA 04-45904 COA 04-4614

Dear Ms. Casteñuela,

On behalf of the Caddo Lake Institute, the Greater Caddo Lake Association, the City of Upperton and the Caddo Lake Area Chamber of Commerce and Tourism, I urge TCEQ to consolidate, either formally or informally (process jointly) this above referenced application with all related matters including:

2008 AUG - 1 PM 4: 21  
CHIEF CLERK'S OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1. The request, unless withdrawn, filed by the City of Marshall, to change its COA to allow return flows to the Sabine Basin rather than the Cypress Basin. The application materials say the water will be taken at the Marshall intake, and may be released through the Marshall discharge. Thus, apparently, the water subject to the IBT application can be commingled with water under the City of Marshall's water right. There are no provisions for distinguishing or accounting for when such water (i.e. return flows) must be returned to the Cypress Basin and when it can be discharged to the Sabine. This matter should be resolved at the same time as the pending IBT so that the problems with the City's current practices are not exacerbated.
2. The request, unless withdrawn, by the City to amend its application to authorize industrial uses. The pending application says the water can be used for industrial use, but Marshall's application for industrial use water is still pending at TCEQ. Again, there could be accounting issues because of commingling water, a problem that could confuse the processing of the City of Marshall's application for industrial water.
3. As has been discussed earlier, those commenting here have significant concerns with water conservation plans and drought contingency plans, especially for IBT, given the proposals for other IBTs from water bodies in East Texas. Commenters have not had an opportunity to review the plans of NETMWD, but have previously commented on deficiencies with those of the City of Marshall. TCEQ should ensure that these plans are sufficient under the strict test for IBTs or determine that approval of the IBT can not set any precedent for other IBTs.

Commenters will provide additional comments after they have an opportunity to review the application and related materials in more detail.

Please let me know if you have any questions regarding these matters.

Sincerely,

Richard Lowerre  
President, Caddo Lake Institute