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Form TCEQ-10214A-inst



**INSTRUCTIONS FOR COMPLETING
THE WATER RIGHTS
PERMITTING APPLICATION**

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INTRODUCTION

PURPOSE

The use of surface water in Texas is regulated through a system of water rights, administered by the Texas Commission on Environmental Quality. This water rights permit application is used to apply for: 1) a new or additional appropriation of state water; 2) an amendment to an existing water right; or 3) an authorization for conveyance of water down bed and banks.

This application form is only for the purposes mentioned above. Additional applications (e.g. temporary permits, changes of ownership, extension of time, and abandonment of a water right) are available from the TCEQ website at:

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr_applications.html/#applications.

OBJECTIVES

These instructions will explain the following:

- Who must apply for a water rights permit?
- Which permit application forms are required?
- How to complete the application.
- How the application is submitted.
- How applications are processed.
- How to obtain additional information.

STATUTORY CITATIONS

Texas Water Code (TWC) Chapters 5, 11 and 12.

PRIMARY REGULATORY CITATIONS

Rules of the Texas Commission on Environmental Quality (TCEQ) are found in Title 30 of the Texas Administrative Code (TAC). The TAC can be viewed through the Texas Secretary of State website at <http://www.sos.state.tx.us> and the TCEQ website at <https://www.tceq.texas.gov/rules/current.html>

In addition, printed copies of TCEQ rules are available through TCEQ Publications. The mailing address is TCEQ Publications, MC-118, P.O. Box 13087, Austin, Texas 78711-3087. The telephone number is (512) 239-0028. The fax number is (512) 239-4488. The initial copy is free.

The rules that are relevant to water rights permitting are:

Chapter 50 - Action on Applications and Other Authorizations

Chapter 281 - Application Processing

Chapter 288 - Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements

Chapter 295 - Water Rights, Procedural

Chapter 297 - Water Rights, Substantive

Chapter 298 - Environmental Flow Standards for Surface Water

Chapter 299 - Dams and Reservoirs

WHO MUST APPLY FOR A WATER RIGHT PERMIT?

Surface Water in Texas is owned by the state and held in trust for the citizens of the state. The state grants the right to use this water for beneficial uses. See TWC § 11.235.

Anyone who wants to use surface water in Texas must first obtain a permit, unless they are using the water for one of several “exempt uses” in the Texas Water Code. Some exemptions include: domestic and livestock use, wildlife management, emergencies like wildfires, and other specified uses. See TWC § 11.142.

HOW IS THE APPLICATION PROCESSED?

When an application for a water right is received by the Texas Commission on Environmental Quality the agency will assign a project manager to process the application. The project manager is the contact for any questions regarding the applications status as it moves between the various legal and technical review teams. After an application is submitted, Applicants or their consultants may contact the Water Availability Division at (512) 239-4600 to learn which Project Manager is assigned their application.

It is strongly recommended that you schedule a pre-application meeting. A project manager can coordinate and schedule this meeting for you. Staff can help the Applicant determine what Application is appropriate for your project, which documents will be required, and to explain potential issues that might arise during the application process. Therefore, meeting with permitting and technical staff beforehand can reduce the amount of time it takes to process an application. You may contact the Water Availability Division to schedule a meeting at (512) 239-4600.

Applications are processed by the Water Availability Division of the TCEQ pursuant to the rules in 30 TAC §§ 50, 281, 288, 295, 297 and 299. The application goes through two stages of review:

- The application is checked for administrative completeness, in accordance with 30, TAC, Chapters 281, 288, 295, and 299, to confirm that all of the information needed to evaluate it is provided.
- The application goes through a technical review to ensure that technical requirements are met, such as water availability, conservation, and environmental aspects (30 TAC, Chapters 281, 288, 297, and 298).

Applications are given a priority date which is the date the Application is determined by the Division to be Administratively Complete. The priority date of a water right establishes the place in line of junior and senior water rights. Applications for new appropriations of state water and certain amendments must be processed according to the prior appropriation system whereby applications with an earlier priority date (administratively complete date) must be completed prior to newer applications. This is to ensure that a determination whether water is available for the request is accurate. Depending upon the request, an application may require one or more of the following during the Technical Review phase:

- Hydrology Review
- Environmental Review
- Conservation Review
- Dam Safety Review

An uncontested application is typically processed in 300 days. If a contested hearing is requested or public notice is required, the process could be lengthened.

WHAT PERMIT APPLICATION FORMS ARE REQUIRED?

The water rights permit application has two parts: 1) the Administrative Report and 2) the Technical Report. Both reports must be completed. Both reports and the instructions are available in Adobe Acrobat PDF format on the TCEQ website at:

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr_applications.html

You need to download all of the following forms:

- TCEQ-10214A-inst: INSTRUCTIONS-
- TCEQ-10214B: ADMINISTRATIVE INFORMATION CHECKLIST-
- TCEQ-10214C: TECHNICAL INFORMATION REPORT-

Notes:

- Older versions of the application forms **will not be accepted after six months** from the date of the updated or revised forms.
- The TCEQ Central Registry Core Data Form has been incorporated into the Administrative Report. **Do not send a separate core data form to the TCEQ.**

HOW DO I COMPLETE THE APPLICATION?

Follow the instructions while completing the application, as the information being submitted will not be clear unless the instructions are followed. Each item in the application is cross-referenced to a page number in the instructions to assist you in finding the information you need. Please ensure that the forms submitted are legible. Use a computer, typewriter or print in ink to complete the form (do not write longhand).

The application should not be altered in any way. Questions should not be deleted or rearranged.

The Administrative Information Report and Technical Information Report forms must be submitted by **all** applicants. However, only those sections and worksheets that are relevant should be completed and submitted depending on the type of authorization being sought by the applicant. Some sections may require multiple copies of the same page (e.g., Co-Applicant information, multiple diversion points, and multiple reservoirs). If you are unsure whether a section must be submitted, check the instructions for more information or call the Water Rights Permitting Team (512) 239-4600.

When submitting the application, arrange the sections of the application in the order listed in the Submission Checklist on page 1 of the Administrative Report. Indicate on the Submission Checklist which sections of the application have been submitted by writing either “Y” or “N” in the column for each section of the application.

If the answer to a question requires more space than is provided, submit a separate attachment to answer the question. The separate attachments must be clearly cross-referenced back to the original question. In the space provided, write the attachment number or label. Failure to clearly cross-reference attachments may result in delays in processing the application.

All items must be addressed. If an item does not seem to be applicable, write “N/A” as your response. If an item is relevant and not addressed, a Request for Information letter will be sent to the applicant’s representative and the Applicant will have 30 days to respond. Failure to follow the instructions while completing the application may result in significant delays in processing the application.

HOW IS THE APPLICATION SUBMITTED?

Applications should be submitted in two parts: **an electronic copy** should be submitted directly to WRPT@tceq.texas.gov **and one hard copy** should be submitted with the required payment to the address's below. If the electronic files are too large to be submitted via e-mail, TCEQ's FTP may be utilized. Please visit the FTP help site for more information on how to transfer. If you need to submit a Water Right application via FTP, please send an email to WRPT@tceq.texas.gov for further direction on how to transfer these files to staff. Retain a copy of the application and instructions for your records.

Regular US mailing address:

TCEQ
Water Availability Division, MC-160
P.O. Box 13087
Austin, Texas 78711-3087

Express/Overnight mailing address:

TCEQ
Water Availability Division, MC-160
12100 Park 35 Circle
Austin, Texas 78753

Hand delivery address:

TCEQ
Water Availability Division, MC-160
Building F, Ste. 3101
12100 Park 35 Circle
Austin, Texas 78753

HOW DO I OBTAIN MORE INFORMATION?

For additional information on water rights permitting and the water rights permit application visit the TCEQ website:

https://www.tceq.texas.gov/permitting/water_rights/wawr_permits.html

Questions may also be directed to any of the following specific areas within the Water Availability Division: (512) 239-4600

- **Water Rights Permitting**
- **Resource Protection**
- **Surface Water Availability (Hydrology)**

Information from the following areas of the TCEQ may also be helpful:

- Cashier's Office (fee payment): (512) 239-0357
- Central Records (copies of records and permits on file): (512) 239-2900
- Environmental Law Division (legal questions): (512) 239-0600
- Publications (agency publications): (512) 239-0028
- Revenue Operations Section (account balance information): (512) 239-0354

Information from the following state agencies may also be useful:

- Texas Secretary of State (information on Charter Numbers): (512) 463-5555
- State Comptroller of Texas (Tax Identification): (800) 252-1386
- Texas Water Development Board (Water Use Reports, River Basins, State Water Plan): (512) 463-7847
- Texas General Land Office (Navigability Determinations): (512) 463-5001

INSTRUCTIONS FOR ADMINISTRATIVE INFORMATION CHECKLIST

The Administrative Checklist must be submitted for each application. The checklist is included as the first document in the Application Forms. It is used by the Commission during the Administrative Review process, but it is also useful to applicants in ensuring that the application submitted includes all required information. The Administrative Information Checklist should be submitted as the coversheet of the application, however, applicants may find it helpful to complete the checklist *after* completion of the entire application.

The Administrative Information Checklist requires the name of the Applicant(s).

The Checklist is a list of the typical documents that may be required for each application. Some of the documents will be required for **all** applications (e.g. Administrative Report, Technical Report, Fees) while others will be required only for certain requests. Applicants may need to submit additional information that is not listed in the checklist depending upon their request.

As the applicant proceeds through the Administrative Report and Technical Report, the forms and instructions will guide the applicant as to what submittals are required for their specific request. Applicants will complete the forms and use this checklist to indicate to commission staff which submittals are required and have been submitted for their request. For each of the documents listed in the checklist, Applicants will write “Y” for yes, or “N” for no in the space provided to indicate whether the Applicant has submitted the particular document.

ADMINISTRATIVELY COMPLETE

An application may be declared administratively complete once Staff has verified that the submittal meets the requirements of 30 TAC § 281.4, which states:

Applications for the use of state water must include:

- (1) complete application form(s), signed and notarized;*
- (2) the payment of fees in accordance with §§295.131-295.139 of this title (relating to Water Use Permit Fees);*
- (3) the verified legal status of the applicant;*
- (4) appropriate ownership documents (including easements and consents);*
- (5) an adequate map or plat;*
- (6) the required engineering plans or studies; and*
- (7) any other information as the executive director or the commission may reasonably require.*

In more general terms, Staff must verify:

1. what the applicant is requesting including the amount and the location of the request for all components (storage, diversions, discharges, place of use, etc.). The purpose of which is so that staff can determine whether all pertinent forms have been submitted and to determine the proper notice;
2. the Applicant’s identity and authority to sign the application and to use the location(s) for all components;
3. the Applicant is not barred from applying per statute or rule for failure to submit annual reports or for delinquent fees or penalties; and
4. receipt of the appropriate fees.

Please note: substantive modifications to an Application by an Applicant after an Application is declared Administratively Complete which make the Application a substantively different request may require the Applicant to withdraw and re-submit a new application.

INSTRUCTIONS FOR ADMINISTRATIVE INFORMATION REPORT

The Administrative Information Report is **required** to be submitted for **all** water rights Applications.

1. TYPE OF APPLICATION

The purpose of this section is to give the TCEQ permit reviewer an overview of what the application is for. Applicants may choose to complete this section of the Report after completing the Technical Information Report and all associated Worksheets. The Information requested in this section is basic information about the application.

- The application type (indicate by marking an “X” next to the authorizations sought).
- A narrative summary of the authorizations or amendments sought. Provide the information in space provided on application or attach a narrative description entitled “Summary of Request” and submit it with the Application.

2. APPLICANT INFORMATION

This section requests information about the Applicant(s). Complete the Report as directed. Print and submit additional copies of Section 2 of the Administrative Information Report for **each** co-applicant.

Coapplicants and Coowners

Co-applicants will be co-owners of any authorization issued. All co-applicant names will appear on the permit issued.

Requests for an amendment to an existing water rights authorization, must be made by the owner(s) of record of the authorization. If the name of the Applicant in Section 2, does not match the name of the current owner(s) of record for the permit or certificate or if any of the co-owners is not included as an applicant in this amendment request, your application could be returned. If you or a co-applicant are a new owner, but ownership is not reflected in the records of the TCEQ, submit a change of ownership request prior to submitting the application for an amendment unless the application includes consent from the current owner to make the requested amendment. A **Change of Ownership Form** (TCEQ-10204) may be obtained on the TCEQ website at:

https://www.tceq.texas.gov/permitting/water_rights/wrpermitting/wr_applications.html/#applications

If the application does not contain consent from the current owner to make the requested amendment, TCEQ will not begin processing the amendment application until the Change of Ownership has been completed and will consider the Received Date for the application to be the date the Change of Ownership is completed. Please note that an application may be returned, and the Applicant may resubmit once the change of ownership is complete.

a. Applicant

Legal name

For entities (governmental bodies, corporations, partnerships, etc.), provide the current legal name of the applicant, as authorized to do business in Texas. The name must be provided

exactly as filed with the Texas Secretary of State (TX SOS) or on other legal documents forming the entity. You may contact the TX SOS at (512) 463-5555 for more information related to filing in Texas. If filed in the county where doing business, provide a copy of the legal documents showing the legal name.

For individuals, provide the legal name of the person(s) as you would like it to appear on the permit, if granted. (e.g. John Samuel Smith, John S. Smith, John Smith Jr.). However, as noted above, if the Applicant is seeking an amendment, the Applicant's name must be the same as what is currently on the permit. Further, the name of the Applicant must also match all of the deeds that are required to be submitted.

Example

Applicant, *John Samuel Smith Jr.* purchased a tract of land with an appurtenant water right from Farmer Brown. Applicant is married to *Jane Smith*. The deeds conveying the property list the Grantees as *John S. Smith Jr.* and *Jane A. Smith*. Applicant now desires to change the purpose and place of use to mining in Travis County. Applicant will need to apply for a change of ownership (form TCEQ-10204) prior to submitting this application. Form (TCEQ-10204) may be obtained on the TCEQ website at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr_applications.html/#applications

If Mr. Smith submits a change of ownership application, the water right will be transferred to *John S. Smith Jr.* and *Jane A. Smith* as their names appear on the deed. Further, if Mr. Smith subsequently submits his amendment application under the name *John Samuel Smith* alone, Mr. Smith will receive clarifying requests for information asking him to resubmit the application under the names of *John S. Smith Jr.* and *Jane A. Smith* and signed by both, or to complete another change of ownership application to make the conveyance documents for the water right match the permit amendment application. Such a request will delay the processing and issuance of the permit amendment and could potentially result in a return of the application.

Customer Reference Number (CN)

TCEQ's Central Registry assigns each applicant a customer a number that begins with "CN" followed by nine digits. **This is not a permit number.**

- If the applicant has not been assigned a CN, leave the space for the CN blank.
- If the applicant has already been assigned this number, enter the applicant's CN.

If you do not know the CN, locate it using the [Customer Search](http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch) page on the TCEQ website at <http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>.

Call the Water Availability Division (512) 239-4600, if you need assistance verifying your CN.

Name and Title of the Person Signing the Application

If the Application is submitted by an individual or individuals, the person signing the application must be the individual or individuals unless a document giving the signatory agency to act on the individuals' behalf is also submitted.

If the Application is submitted by an entity, the person or persons must submit written evidence that they meet the signatory requirements in *30 TAC § 295.14*. The application requests that the Applicant verify that the written evidence has been submitted. This is discussed in more detail in Section 6 of these instructions below.

Mailing Address (Owner Contact)

Provide a complete mailing address for receiving mail from the TCEQ. The address must be

verifiable with the US Postal Service (USPS) for regular mail delivery (not overnight express mail). You may verify the address on the USPS website at <https://tools.usps.com/go/ZipLookupAction!input.action>.

If you find that the address is not verifiable using the USPS web search, please submit the address used by the USPS for regular mail delivery.

Type of Applicant

This section requires the Applicant to identify the type of Applicant they are. Only one Applicant type should be selected on the form. Use the descriptions to identify the appropriate entity type.

Note that the selected Applicant type also indicates the name that must be provided as an applicant for a permit. It also identifies when a co-applicant on an application for a permit is required.

- ***Individual***

An individual is an applicant who has not established a business, but conducts an activity that needs to be regulated by the TCEQ.

- ***Sole Proprietorship***

D.B.A.: an applicant that is a business owned by only one person and has not been incorporated. This business may:

- Be under a person's name;
- Have its own name ("doing business as" or d.b.a.); and
- Have any number of employees

The legal name of the individual business owner must be provided. The d.b.a. name is not recognized as the legal name of the entity. The d.b.a. may be used as the site name.

- ***Limited Partnership***

An applicant that is established as a partnership as defined by the TX SOS.

If the customer is a general partnership or joint venture (not filed with TX SOS), the partnership must be filed in the county where the facility is located, and the applicant must provide a copy of the agreement that lists the legal name of each partner forming the general partnership or joint venture.

- ***Corporation***

An applicant meets all of the following conditions:

- Is a legally incorporated entity under the laws of any state or country;
- Is recognized as a corporation by the TX SOS; and
- Has proper operating authority to operate in Texas.

The corporation's legal name as filed with the TX SOS must be provided as applicant. An assumed name of a corporation is not recognized as the legal name of the entity.

- ***Trust or Estate***

A trust and an estate are not legal entities, but rather are entities that have a fiduciary relationships with the trustee/executor with respect to the trust/estate property. A Trustee and an Executor are considered the legal representatives of the trust/estate. Therefore, the Trust and Trustee or Estate and Executor must be identified as co-applicants/co-permittees. If there is more than one trustee or executor, each trustee or executor must be identified as co-applicant/co-permittee with the Trust or Estate.

- ***Government-federal, state, county, or city government (as appropriate)***

The applicant is either an agency of one of these levels of government or the governmental body itself. The government agency's legal name must be provided as the applicant. A department name or other description of the organization should not be included as a part of the legal name as applicant.

- ***Other***

The applicant does not fit any of the above descriptions. Enter a short description of the type of applicant in the blank provided.

Applicant Business Tax and Filing Numbers

- ***State Franchise Tax ID Number***

Corporations and limited liability companies that operate in Texas are issued a franchise tax identification number. If this applicant is a corporation or a limited liability company, enter this number here. You may search for your Franchise Tax ID number at the Texas Comptroller of Public Accounts: <https://mycpa.cpa.state.tx.us/coa/>

- ***TX SOS Charter (filing) Number***

Corporations and Limited Partnerships required to register with the TX SOS are issued a charter or filing number. You may obtain further information by calling the TX SOS at (512) 463-5555.

3. APPLICANT CONTACT INFORMATION

Provide the name, title and communication information of the person or persons that the TCEQ can contact for additional information regarding this application. Applicant should complete this section with their own contact information if the Applicant wishes to be the point of contact for their application or may include the contact information for Applicant's authorized representative.

4. WATER RIGHT CONSOLIDATED CONTACT INFORMATION

After a permit is issued, the TCEQ will need a point of contact to provide notices and water use reports to the permit owner(s). This section is applicable **only if the permit will have multiple owners and the owners agree to have one point of contact from the TCEQ. If this section is used**, the other owners are agreeing to allow one person receive notices about the permit on their behalf. Provide the name of an individual that can be contacted by the agency as needed during the duration of the permit. Include their phone numbers and mailing addresses if different than the permanent address used for the permit. The individual should be of the level of Vice President or higher of a corporation, an Elected Official of a City or a County, or a General Partner of a Partnership.

5. MISCELLANEOUS INFORMATION

a. Fee Penalty Information

The Water Availability Division will conduct a review to determine if the Applicant or Co-Applicants are delinquent on any penalty or fee owed to the TCEQ. Pursuant to the Delinquent Fee and Penalty Protocol, the TCEQ will not issue, amend, or renew permits, registrations, certifications, or licenses to an entity or person who is delinquent on a penalty or fee of \$25 or greater owed to the TCEQ. Visit the TCEQ website at <https://www.tceq.texas.gov/agency/fees/delin/index.html> for further information on the Delinquent Fee & Penalty Protocol.

- The TCEQ will not declare any application administratively complete that is submitted by a person or entity who is delinquent on a fee or penalty until the fee or penalty is paid, or if on an approved installment plan, that payments under the plan are current.
- The TCEQ will withhold final action on an application until the fee or penalty is paid and the account is current, if after the application is considered administratively complete, it is discovered that the owner or entity who submitted the application is delinquent on a fee or penalty.

On the Administrative Information Report, please identify whether you owe any fees or penalties to the TCEQ. If fees or penalties are owed, please identify the type of fee or penalty owed, the amount past due, and the TCEQ identifying number. For penalties, please provide the TCEQ docket number.

b. Franchise Tax - Good Standing with Comptroller

The Water Availability Division will conduct a review to determine if the Applicant or Co-Applicants are in good standing with the Texas Comptroller. If the Applicant is a taxable entity (corporation or limited partnership), the Applicant must be in good standing with the Comptroller or the right of the entity to transact business in the State may be forfeited. See Texas Tax Code §§ 16.251 and 2515. Applicants may check their status with the Comptroller at <https://mycpa.cpa.state.tx.us/coa/>

c. TWDB Water Use Surveys

Under TWC §16.012(m) the TWDB may conduct surveys of entities using groundwater and surface water for municipal, industrial, power generation, or mining purposes. An applicant who fails to timely complete and return the survey is not eligible to obtain permits, permit amendments, or permit renewals from the commission under Chapter 11. The Water Availability Division will conduct a review to determine if the Applicant or Co-Applicants have submitted required TWDB surveys of groundwater and surface water use. See 30 TAC § 297.41(a)(5). Applicants should check survey status on the TWDB website prior to filing: http://www2.twdb.texas.gov/ReportServerExt/Pages/ReportViewer.aspx?%2fWU%2fSurveyStatus_PriorThreeYears&rs:Command=Render

6. SIGNATURE PAGE

ALL APPLICATIONS MUST BE SIGNED AND NOTARIZED. This will be your sworn statement of the facts contained in the application. *All individuals and entities listed as applicants must print and sign a copy of this page of the application and have the signature notarized.* All persons signing the application should meet the signatory requirements specified under 30 TAC § 295.14.

Unless an application is signed by an individual applicant, the person or persons must submit valid written evidence that they meet the signatory requirements in 30 TAC § 295.14.

30 TAC § 295.14 Signature of Applicant

The application shall be signed as follows:

- *If the applicant is an individual*, the application shall be signed by the applicant or the applicant's duly appointed agent. An agent shall provide written evidence of his or her authority to represent the applicant. If the applicant is an individual doing business under an assumed name, the applicant shall attach to the application an assumed name certificate from the county clerk of the county in which the principle place of business is located.
- *A joint application* shall be signed by each applicant or each applicant's duly authorized agent, with written evidence of such agency to be submitted with the application. If land is owned by both husband and wife, each shall sign the application. Joint applicants shall select one among them to act for and represent the others in pursuing the application with the commission, with written evidence of such representation to be submitted with the application.
- *If the application is by a partnership*, the application shall be signed by the general partner or one of the general partners. If the applicant is a partnership doing business under an assumed name, it shall attach to the application an assumed name certificate from the county clerk of the county in which the principal place of business is located.
- *If the applicant is an estate or guardianship*, the application shall be signed by the duly appointed guardian or representative of the estate, and a current copy of the letters issued by the court shall be attached to the application.
- *If the applicant is a corporation, public district, county, municipality or other corporate entity*, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.
- *If the applicant is acting as trustee for another*, the applicant shall sign as trustee, and in the application shall disclose the nature of the trust agreement and give the name and current address of each trust beneficiary. Proper and complete trust documents must be submitted.

INSTRUCTIONS FOR TECHNICAL INFORMATION REPORT

This Report is used to identify which authorization(s) Applicant is seeking and to identify what additional documents and worksheets are required.

1. NEW OR ADDITIONAL APPROPRIATION OF STATE WATER, TWC § 11.121

Section 1 requests responses to a series of questions designed to determine whether the Applicant is seeking a new appropriation of State Water. State Water is defined by Texas Water Code (TWC) § 11.021 as: *The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is property of the state.*

Examples of new or additional appropriations of State Water include:

- a) A new diversion or impoundment of State Water.
- b) An amendment to an existing water right in which the appropriation of State Water is increased.
- c) Extending a Term authorization or making a Term authorization permanent.
- d) An amendment which results in an increase to the maximum combined diversion rate of a water right.

If the Applicant determines that any of the above apply (by answering yes) to the questions. Applicant should proceed to complete each of the Worksheets listed in Section 1 of the Technical Information Report. When completing the Worksheets, Applicants may be directed to submit additional information or additional Worksheets depending upon responses to questions on the Worksheets.

2. AMENDMENTS TO WATER RIGHTS, TWC § 11.122

Section 2 is for Amendments to existing water rights that do not seek new or additional appropriations of state water.

Amendments to Water Rights are subject to TWC § 11.122, which states:

- (a) All holders of permits, certified filings, and certificates of adjudication issued under Section 11.323 of this code shall obtain from the commission authority to change the place of use, purpose of use, point of diversion, rate of diversion, acreage to be irrigated, or otherwise alter a water right.*
- (b) Subject to meeting all other applicable requirements of this chapter for the approval of an application, an amendment, except an amendment that increases the amount of water authorized to be diverted or the authorized rate of diversion, shall be authorized if the requested change will not cause adverse impact on other water right holders or the environment on the stream of greater magnitude than under circumstances in which the permit, certified filing, or certificate of adjudication that is sought to be amended was fully exercised according to its terms and conditions as they existed before the requested amendment.*

At the beginning of Section 2, provide the Water Right (Certificate or Permit) number(s) you are requesting to amend. Applications to amend an existing water right should be submitted by the Owner of Record.

If you are unsure who the Owner of Record is, you can search the Active Water Rights file at:

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr_databases.html

Or contact the Water Availability Division by phone at (512) 239-4600.

Occasionally, Applicants who own a water right, purchase additional water rights and wish to amend one of the water rights to sever rights from one or more authorizations and combine them into one permit or certificate. Applicant is asked to circle “Y” for yes or “N” for no indicating whether or not this amendment seeks to sever and combine.

Example:

Applicant owns Certificate of Adjudication (ADJ) No. 123. Applicant inherits ADJ No. 124 and wishes to combine 124 into 123. Applicant would submit the following information in the chart provided:

List of water rights to sever	Combine into this ONE water right
ADJ 124	ADJ 123

Section 2, subsections (a) and (b) ask Applicants to verify that the amendment is not considered a new or additional appropriation of water requiring Section 1 in the Technical Information Report to be completed. Subsections (c) through (f) ask a series of questions regarding the amendment request. Amendments may include:

- requests to change the purpose or place of use or to add an additional purpose or place of use.
- requests to add or change diversion point(s) or reach(es) or to change the diversion rate (an increase to the diversion rate may be considered a new appropriation and receive a new priority date for the increased diversion rate if it results in an increase to the overall maximum combined diversion rate of a water right).
- requests to add or modify an impoundment, reservoir, or dam that does not increase the amount of water impounded in the reservoir.
- any other requests that are not considered new or additional appropriations of State Water.

Your responses to the Y/N questions (Circle “y” for yes or “n” for no) will determine which Additional Documents and Worksheets are required. Follow the instructions on this section.

Note: All Amendments additionally require:

- **Worksheet 8.0 – Calculation of Fees**
- **Fees calculated on Worksheet 8.0 – see instructions Page. 34**

3. BED AND BANKS, TWC § 11.042

Section 3 relates to requests to use the Beds and Banks of a stream (which are owned by the State) to transport water. This section should be completed only if Applicant has an ownership interest in water that the Applicant wishes to transport (e.g. groundwater, contract water, return flows) using a state watercourse. A watercourse is defined as a definite channel or stream in which water flows within a defined bed and banks, originating from a definite source or sources. The water may flow continuously or intermittently, and if the latter with some degree of regularity, depending on the characteristics of the sources. If you are not sure whether your

project is located on a watercourse, please contact the Surface Water Availability Team at (512) 239-4600.

Bed and Banks Water Rights are governed by TWC § 11.042 and 30 TAC §§ 295.11 to 114.

TWC § 11.042 states:

- (a) Under rules prescribed by the commission a person, association of persons, corporation, water control and improvement district, or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use or to the diversion point of the appropriator.*
 - (a-1) With prior authorization granted under rules prescribed by the commission, a person, association of persons, corporation, water control and improvement district, water improvement district, or irrigation district supplying water imported from a source located wholly outside the boundaries of this state, except water imported from a source located in the United Mexican States, may use the bed and banks of any flowing natural stream in the state to convey water for use in this state. The authorization must:
 - (1) allow for the diversion of only the amount of water put into a watercourse or stream, less carriage losses; and*
 - (2) include special conditions adequate to prevent a significant impact to the quality of water in this state.**
- (b) A person who wishes to discharge and then subsequently divert and reuse the person's existing return flows derived from privately owned groundwater must obtain prior authorization from the commission for the diversion and the reuse of these return flows. The authorization may allow for the diversion and reuse by the discharger or existing return flows, less carriage losses, and shall be subject to special conditions if necessary to protect an existing water right that was granted based on the use or availability of these return flows. Special conditions may also be provided to help maintain instream uses and fresh water inflows to bays and estuaries. A person wishing to divert and reuse future increases of return flows derived from privately owned groundwater must obtain authorization to reuse increases in return flows before the increase.*
 - (c) Except as otherwise provided in Subsection (a) of this section, a person who wishes to convey and subsequently divert water in a watercourse or stream must obtain the prior approval of the commission through a bed and banks authorization. The authorization shall allow to be diverted only the amount of water put into a watercourse or stream must obtain the prior approval of the commission through a bed and banks authorization. The authorization shall allow to be diverted only the amount of water put into a watercourse or stream, less carriage losses and subject to any special conditions that may address the impact of the discharge, conveyance, and diversion on existing permits, certified filings or certificates of adjudication, instream uses and freshwater inflows to bays and estuaries. Water discharged into a watercourse or stream under this chapter shall not cause a degradation of water quality to the extent that the stream under this chapter shall not cause a degradation of water quality to the extent that the stream segment's classification would be lowered.*

This section requests information that conforms to the authorizations in TWC § 11.042, and directs the Applicant to complete the required Worksheets.

4. GENERAL INFORMATION

- a) For all proposed appropriations (except applications to use groundwater-based return flows) the Applicant should describe how the application is consistent with state and regional water plans in accordance with Texas Administrative Code (TAC) §295.16., which states:

An application shall contain information describing how it addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement.

More information about state and regional water plans can be found at:

<https://www.twdb.texas.gov/waterplanning/>

Applicants should provide the name of the regional water planning group where the project is located and, if possible, identify any projected needs, supported uses and/or water management strategies that demonstrate consistency of the proposed project with the plans or that demonstrate the project is not inconsistent with the plan. Provide the page numbers in the plan where the information can be found.

Examples:

Applicant X is located within the Region X Planning Group. The Application is consistent with the 2017 State Water Plan, which supports indirect reuse in a broad sense, identifying reuse as “as valuable and competitive water supply option in Texas.” In addition, the project described in the application has also been specifically included in the 2016 Region X Water Plan as a water management strategy on page(s) XX - XX.

The state and regional water plans generally do not address every possible change in individual water rights. The application is consistent with the 2016 Region X Water Plan and the 2017 State Water Plan because there is nothing in the plans that conflict with the application.

- b) If the Applicant has performed a Water Availability Analysis submit electronic copies of any modeling files and reports. The model files should be in their active text file format and not in a pdf or word document.

5. ADDITIONAL INSTRUCTIONS RELATING TO MAP REQUIREMENTS

General Application Maps

Acceptable maps include USGS topographic maps, Google Earth imagery, aerial photographs, and similar. Staff can accept maps in a digital format. Staff will not consider county maps.

In addition, acceptable maps can be created using TCEQ’s website located at <https://www.tceq.texas.gov/gis/sqmaview.html>. There is a link on this page to “GPS Coordinates with Google Maps”. You can turn on or enable the satellite image. Once you have navigated to the location of your feature, click on the point and a Latitude and Longitude will be calculated to 6 decimal degrees.

The map submitted with the application should clearly indicate all application features. Maps are required for applications for any application that requests a new diversion point or reservoir. This includes applications for new appropriations of water, temporary permits, amendment applications to add or change diversion points, applications for a new reservoir supported by an alternate source, and bed and banks applications. The latitude and longitude of the application feature should be indicated on the map and should be consistent with the latitude and longitude indicated on the relevant worksheets.

The map must include all diversion points, upstream and downstream limits of a diversion segment(s), discharge points, and reservoirs. The map should be at a scale sufficient to allow staff to confirm that the latitude and longitude for these features is consistent with the information indicated on the relevant worksheets. In addition, the features should be numbered on the map consistent with how the features are numbered on the relevant worksheets.

Maps of lands to be irrigated or inundated

The map showing lands to be irrigated or lands to be inundated by a reservoir should be in the form of a plat map which corresponds to the deeds evidencing ownership of these lands which are submitted with the application.

INSTRUCTIONS FOR WORKSHEET 1.0: QUANTITY, PURPOSE, AND PLACE OF USE

Worksheet 1.0 is **required** for requests for new or additional appropriations of State Water, Bed and Banks authorizations and any amendment application which requests to change (or add) the purpose(s) or place(s) of use.

Water rights applications must include the total amount of water to be used in definite terms and the purpose or purposes of each use as well as the amount to be used for each purpose. *See 30 TAC § 295.5.*

1. NEW AUTHORIZATIONS

Complete this section for all requests for a new authorization (new appropriation of State Water, new reservoirs, or new Bed and Banks Authorizations).

a. Provide the following information in the table provided:

- **Quantity in acre-feet** (include losses for Bed and Banks applications);
- **Source of water:**
 - If the source is State Water, provide the River Basin. If you do not know the River Basin, it can be found at the Texas Water Development Board Webpage. https://www.twdb.texas.gov/mapping/doc/maps/Major_River_Basins_8x11.pdf (any new appropriation based on a TPDES Permit owned by someone other than Applicant also requires completion of Worksheet 4.0)
 - If the Applicant requests to use an alternate source identify each alternate source (e.g., groundwater, contract water, re-use). Alternate Source applications also require completion of Worksheet 4.0.
- **Purpose(s) of use:** Identify each purpose of use requested and the amount for each purpose of use (e.g., domestic, municipal, agricultural, industrial, recreation, mining, hydroelectric); TWC § 11.023

- **Place(s) of use:** Identify the place(s) where the water will be used. Typically, the county or counties unless the Applicant is a water supply entity (in which case the Applicant may identify its service area). For Agriculture/Irrigation or service areas - a clearly marked map identifying the land to be irrigated or service area should be included. *See Map Instructions Page. 15.* If the place of use indicates Applicant is requesting to move state water out of the basin of origin, Applicant must complete Worksheet 1.1 - Interbasin Transfer.

Example 1:

Applicant is requesting a Bed and Banks authorization to convey and use up to 100 acre-feet of groundwater and 100 acre-feet of Contract water in Travis County for Agriculture and Mining (assuming 10 acre-feet of carriage losses for each source). Applicant would complete section 1 as follows.

Quantity in acre-feet. (Include losses for Bed and Banks)	State Water Source (River Basin) or Alternate Source for Bed and Banks <i>*each alternate source (and new appropriation based on return flows of others) also requires completion of Worksheet 4.0</i>	Purpose(s) of Use	Place(s) of Use <i>*requests to move state water out of basin also require completion of Worksheet 1.1 Interbasin Transfer</i>
110	Groundwater	Agriculture, Mining	Travis
110	Contract with River Authority	Agriculture, Mining	Travis

220 : Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

After completing the table, enter the **total** amount of water (in acre-feet) to be used annually in the space provided. For bed and banks applications, state the total amount needed including any carriage losses. *See Worksheet 4.0.*

1. If Agriculture/Irrigation is identified as a Purpose of Use, Applicant must additionally provide location information in the spaces provided. Include:
 - i. total acres to be irrigated in any one year, total acres of land if part of a larger tract (for example, Applicant may own 100 acres, but only plans to irrigate 10 acres) and the county where acres are located; and
 - ii. name of survey(s); Original Survey number(s); Abstract number(s);

Additionally, for Agriculture/Irrigation, the Applicant is required to submit a copy of the deed(s) describing the overall tract(s) with the recording information from county records. The deed(s) must be recorded, include all pages, and Applicant's name should match the deed(s). (30 TAC § 295.32)

If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent, or other documents supporting the

Applicant’s legal right to use the land described. (30 TAC 295.32). Other documents may include, but are not limited to: a recorded easement, a land lease, or a contract.

It is important to note that Water Rights for irrigation may become appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. This means a purchaser of irrigated land may acquire the water right unless the conveyance specifically reserves the water right. (30 TAC § 297.81)

2. AMENDMENTS – PURPOSE OR PLACE OF USE

Complete this section for any amendment requesting to change or add a purpose or place of use:

- a. In this section, provide the following information for each requested amendment for changing, adding, or removing Purpose(s) or Place(s) of Use in the table provided:
- quantity of requested appropriation in acre-feet;
 - existing Purpose(s) of Use;
 - proposed Purpose(s) of Use;
 - existing Place(s) of Use;
 - proposed Place(s) of Use;

If the request is to add additional purpose(s) of use, include the existing and new purposes of use under “Proposed Purpose(s) of Use.”

If the request is to add additional place(s) of use, include the existing and new places of use under “Proposed Place(s) of Use.”

Example 2:

Applicant has a permit authorizing 100 acre-feet of water for agricultural use in Travis County. If Applicant wishes to add municipal use to 10 acre-feet of the water, Applicant would complete the Table as follows:

Quantity	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
90	Agriculture	Agriculture	Travis	Travis
10	Agriculture	Agriculture, Municipal	Travis	Travis

**If the request is to add additional purpose(s) of use, include the existing and new purposes of use under “Proposed Purpose(s) of Use.”*

***If the request is to add additional place(s) of use, include the existing and new places of use under “Proposed Place(s) of Use.”*

Example 3:

Applicant has purchased a permit authorizing 100 acre-feet of water for Municipal or Agriculture use in Travis County. Applicant wishes to change the purpose of use to Mining for the entire 100 acre-feet and to change the place of use to Bastrop County. Applicant would complete the Table as follows:

Quantity	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
100	Agriculture, Municipal	Mining	Travis	Bastrop

**If the request is to add additional purpose(s) of use, include the existing and new purposes of use under "Proposed Purpose(s) of Use."*

***If the request is to add additional place(s) of use, include the existing and new places of use under "Proposed Place(s) of Use."*

For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, include:

- i. total acres to be irrigated in any one year, total acres of land if part of a larger tract (for example, Applicant may own 100 acres, but only plans to irrigate 10 acres) and the county where acres are located; and
- ii. name of survey(s); Original Survey number(s); Abstract number(s);

Additionally, for Agriculture/Irrigation, the Applicant is required to submit a copy of the deed(s) describing the overall tract(s) with the recording information from county records. The deed(s) must be recorded, include all pages, and Applicant's name should match the deed(s). (30 TAC § 295.32)

If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documents supporting Applicant's right to use the land described. (30 TAC § 295.32). Other documents may include, but are not limited to: a recorded easement, a land lease, or a contract.

It is important to note that Water Rights for irrigation may become appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. This means a purchaser of irrigated land may acquire the water right unless the conveyance specifically reserves the water right. (30 TAC § 297.81)

Please note that changes to the Purpose of Use in the Rio Grande Basin may require conversion of the water rights pursuant to 30 TAC § 303.43. Some changes in purpose of use may result in less water authorized to the Applicant.

- c. Complete Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

INSTRUCTIONS FOR WORKSHEET 1.1: INTERBASIN TRANSFERS

Worksheet 1.1 **is required** for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. Interbasin transfers are governed by TWC § 11.085, TAC § 295.18 and 297.18.

No person may take or divert any state water from a river basin in this state and transfer such water to any other river basin without first applying for and receiving a water right or an amendment to a permit, certified filing, or certificate of adjudication from the commission authorizing the transfer (TWC § 11.085(a)).

Follow this link provided by the Texas Water Development Board to see a map of major river basins https://www.twdb.texas.gov/mapping/doc/maps/Major_River_Basins_8x11.pdf:

If this is a request to transfer State Water from one river basin to a different basin within the State, **circle “y” for yes or “n” for no.**

1. INTERBASIN TRANSFER REQUEST

In this section, provide the following information regarding Interbasin Transfers

- basin of origin;
- quantity of water to be transferred in acre-feet;
- basin(s) and counties where the transferred water will be used;

2. EXEMPTIONS, TWC § 11.085(v)

Certain Interbasin transfers are exempt from further requirements. An Interbasin Transfer is determined to be exempt according to the criteria in TWC § 11.085 (v). State whether one or more exemptions exists by answering the questions in Section 2.

If yes is answered to any of the questions the requested Interbasin transfer is exempt. Any request which does not meet the criteria given in TWC § 11.085 (v) is not exempt. An application for a non-exempt Interbasin Transfer must satisfy all the criteria outlined in, and include all information called for in TWC § 11.085 (b) through (u) and TAC 295.155(b). See Section 3.

3. INTERBASIN TRANSFER REQUIREMENTS

For each Interbasin Transfer request that is not exempt under Section 2, provide the information requested in Section 3 in a supplemental attachment titled “Worksheet 1.1, Interbasin Transfers, TWC 11.085.”

INSTRUCTIONS FOR WORKSHEET 1.2: NOTICE. “THE MARSHALL CRITERIA”

Worksheet 1.2 **is required** for requests for **amendments** to water rights that include changes in use, changes in place of use, or non-substantive changes in a water right. Completion of Worksheet 1.2 assists the Commission in determining whether notice is required for certain amendments that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. Worksheet 1.2 provides information that Applicant is required to submit for such amendments which include changes in use, changes in place of use, or other non-substantive changes in a water right such as certain amendments to special conditions or changes to off-channel storage. These criteria address whether the proposed amendment will impact water right holders or the environment beyond and irrespective of the fact that the water right may be used to its full authorized amount.

Worksheet 1.2 is not required for amendment Applications in the Rio Grande Basin requesting changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the main stems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir. See 30 TAC § 303.42.

Worksheet 1.2 is not required for amendments changing or adding diversion points.

Worksheet 1.2 is not required for requests for Bed and Banks authorizations, requests for new appropriations or Interbasin transfer requests.

If Worksheet 1.2 is applicable to your application, complete and submit a supplemental attachment titled: “Marshall Criteria” outlining how your Application meets the criteria in Section 1 of Worksheet 1.2.

Even if Worksheet 1.2 is not required, applicants may choose to submit it to ensure that the administrative record addresses all the criteria.

INSTRUCTIONS FOR WORKSHEET 2.0: IMPOUNDMENT/DAM INFORMATION

Worksheet 2.0 **is required** for applications requesting authorization for any impoundment, reservoir, and/or dam. Applicant must submit a separate worksheet for each impoundment or reservoir requested in the application.

If there is more than one structure, the numbering/naming of structures should be consistent throughout the application and on any supplemental documents (e.g. maps).

1. STORAGE INFORMATION

This section requests certain information regarding storage:

- official United States Geological Survey (USGS) name of reservoir, if applicable; (reservoir name can be located on a USGS topographic map found at <https://ngmdb.usgs.gov/maps/topoview/viewer/>)
- quantity of water to be impounded at normal operating level in acre-feet;
- indicate whether the impoundment is on-channel or off-channel;

Determining whether an impoundment is on or off channel is not always readily determined.

In general:

On-channel Reservoir refers to a reservoir or a dam that is on a definite stream or watercourse.

Off-channel Reservoir refers to a storage structure that is not directly on a defined stream or watercourse. If an Applicant intends to divert state water into an off-channel reservoir, information about the reservoir may be needed.

If an applicant believes the reservoir is off-channel, they should contact Surface Water Availability Team **prior** to submitting the application. (512) 239-4600.

1. This subsection of the worksheet requests if Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team. **Circle “y” for yes or “n” for no.**
2. This subsection asks, if the impoundment is on-channel, whether the structure will have the ability to pass State Water inflows that Applicant does not have authorization to impound. This may include a low-flow outlet, a pump, or some other means of passing State Water. **Circle “y” for yes or “n” for no.**
- This subsection is for already constructed impoundment structures. If the structure is constructed, **circle “y” for yes or “n” for no.** (30 TAC § 295.42)
 - i. This subsection requests additional information for existing on-channel structures:
 1. date of construction or completed date;
 2. If the structure was constructed to be exempt under TWC § 11.142 (TWC § 11.142 refers to specific exempt reservoirs such as domestic and livestock or wildlife purposes which must meet certain criteria and are not on a navigable stream) if the reservoir previously qualified under TWC § 11.142, then, **circle “y” for yes or “n” for no.**
 - a) If yes to question #2, and Applicant is requesting to proceed under TWC § 11.143, **circle “y” for yes or “n” for no**
 - b) If no to question #2, and the structure has been issued a notice of violation by TCEQ, **circle “y” for yes or “n” for no.**
 3. The subsection ask whether the structure is a U.S. Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service, floodwater-retarding structure (for more information, go to Texas State Soil and Water Conservation Board website including a list of all such structures by County: <http://www.tsswcb.texas.gov/en/floodcontrol>)
If the structure is a NRCS structure, **circle “y” for yes or “n” for no.**
 - a) If yes to question #3, provide the Site Number and watershed project name in the space provided (see link above).
 - b) This subsection asks whether authorization to close “ports” in the service spillway is requested. The NRCS structures are designed to prevent downstream flooding damage, whereas the ports are designed to pass inflows of state water when flood conditions are not present. Closing the ports results in impoundment of state water. If Applicant is requesting to close the ports, **circle “y” for yes or “n” for no.**
 - ii. This subsection requests information for any proposed structures or modifications to existing structures. This subsection requires two actions from the Applicant prior to submission of the Application: 1) Applicant **must** contact TCEQ Dam Safety

Section regarding the submission requirements of 30 TAC, Chapter 299; and 2) Applicant must give notice by certified mail to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located (30 TAC § 295.42).

1. This subsection asks Applicant to indicate whether they have contacted TCEQ Dam Safety Section at (512) 239-0326, prior to submitting an application. If Applicant has contacted TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Chapter 299, **circle “y” for yes or “n” for no**. Provide the date and contact information of the staff person.
 2. As a result of Applicant’s consultation with TCEQ Dam Safety Section, answer the following questions and include the appropriate documentation with your application:
 - a) If no additional dam safety documents are required with the application, **circle “y” for yes or “n” for no**.
 - b) If plans, with engineer’s seal, for the structure are required, **circle “y” for yes or “n” for no**.
 - c) If an engineer’s signed and sealed hazard classification is required, **circle “y” for yes or “n” for no**.
 - d) If an engineer’s statement that structure complies with 30 TAC, Chapter 299 Rules is required, **circle “y” for yes or “n” for no**.
 3. Applicants to construct a reservoir shall give notice by certified mail to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located. This section requests Applicant to submit a copy of the all notices and certified mailing cards with the application, and to indicate whether all the notices are included. (30 TAC § 295.42). If so, **circle “y” for yes or “n” for no**.
- iii. This subsection requests additional information for on-channel storage. Provide the requested information in the spaces provided on the form:
1. surface area, in acres, of on-channel reservoir at normal maximum operating level (the normal maximum operating level is generally at the lowest ungated outlet);

Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir **unless** Applicant wishes to also calculate the drainage area. If so, Applicant may do so in the space provided in this subsection. *(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).*

2. STRUCTURE LOCATION

Section 2 of this worksheet requests information about the location of the structure. The rules require “the location of dam(s) or off-channel storage reservoir(s).” (30 TAC § 295.7). The rules also require the locations to be shown on the application maps.

This subsection requests the following information:

- Watercourse (indicate the watercourse on which dam or structure will be/is located. The staff can assist with the completion of the tributary information if not known);
- Zip code of structure location;
- Location of structure: Survey name; Original Survey number; Abstract number; County name;

A copy of the deed(s) with the recording information from the county records must be submitted describing the tract(s) that include the structure and all lands to be inundated.

If the Applicant is not currently the sole owner of the land on which the structure is or will be built and sole owner of all lands to be inundated, Applicant must submit documentation evidencing consent or a legal right for Applicant to use the land described. Other documents may include, but are not limited to: a recorded easement, a land lease, or a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.

- Centerline of the dam;
 - Latitude and Longitude

Reference a point, station number or end of dam along the centerline of the dam (as may be shown on Applicant's drawings). Provide the latitude and longitude coordinates in decimal degrees, **to at least six decimal places** and indicate the method used to calculate the diversion point location.

Example: latitude 98.016330°N, longitude 32.067122°W.

Attach additional sheet(s) to the application in the form of supplement(s) if more than one impoundment/reservoir is requested.

- In the space provided for this subsection, indicate the method used to calculate the location (e.g., handheld GPS device, GIS, mapping program, etc.);
- A map is required to be submitted that clearly identifies the impoundment, the centerline of the dam, and the lands to be inundated. Additional instructions about mapping requirements can be found at Page. 15 of these instructions. This section asks whether such map has been submitted. **Circle "y" for yes or "n" for no.**

INSTRUCTIONS FOR WORKSHEET 3.0: DIVERSION POINT (OR DIVERSION REACH) INFORMATION

Worksheet 3.0 **is required** for applications requesting a new diversion point or diversion reach. A diversion point is a single point from which Applicant will divert, whereas a diversion reach is a segment of a water course from which an Applicant can choose to divert anywhere within the defined upper and lower limits of the reach. The upper and lower limits of a reach are points. Submit one worksheet 3.0 for each diversion point and two worksheets for each diversion reach (one worksheet for the point defining the upper limit of the reach and one worksheet for the point defining the lower limit of the reach for each diversion segment or reach).

The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps). See Page. 15 for more information relating to map requirements.

1. DIVERSION INFORMATION

This section requests the Applicant to provide information regarding diversions:

- This subsection ask Applicant to identify whether the particular Worksheet 3.0 is for a:
 1. Diversion Point (include identifying number);
 2. Beginning Point (upper limit) of diversion reach (include identifying number); or

3. Ending Point (lower limit) of diversion reach (include identifying number)

- This subsection requests the maximum rate of diversion for the point or reach. The Maximum rate of diversion is the maximum rate at which Applicant will be authorized to divert water. Applicants should choose either to provide the information in cubic feet per second **or** gallons per minute. There are spaces for each.
- This subsection reminds Applicants, particularly in amendment applications, that all diversion points and reaches within a permit will have a maximum **combined** diversion rate. Further, some permits may have a maximum combined shared rate between different owners. For amendments requesting to add a diversion point, the actual diversion rate at each point cannot exceed the maximum combined rate of diversion for all points/reaches. If the application requests to increase the maximum combined rate the application would require additional notice to other water right holders if the diversion points are not in a storage reservoir. For that reason, Applicant is asked to specify in this subsection the maximum combined diversion rate for all points/reaches. Applicant may provide the information in cubic feet per second or gallons per minute in the space provided.
- In this subsection for amendments, Applicant can specify whether they request to increase the maximum combined diversion rate. **Circle “y” for yes or “n” for no.**
- Check the appropriate box from the table provided to indicate the diversion location (e.g., directly from stream, from an on-channel reservoir, from stream to an on-channel reservoir, or other method) and whether the diversion is an existing or proposed location. You may select “existing” if the point is authorized in a separate authorization.
- This subsection requests the drainage area above the diversion point (or reach) in square miles or acres. Based on the Application information provided, Staff will calculate the drainage area above the diversion points or reach limits **unless** Applicant wishes to also calculate the drainage area. If so, Applicant may do so in the space provided in this subsection (*if assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600*).

2. DIVERSION LOCATION

All Applications must include all point(s) of diversion which shall also be shown on the application maps. (30 TAC § 295.7). Attach additional sheet(s) to the application in the form of supplement(s) if more than one point of diversion is requested.

Section 2 requests the following diversion location information:

- Watercourse - use the Official USGS name of watercourse where the diversion point or reach is located. USGS maps are available at: <https://nationalmap.gov/ustopo/> Staff can assist with the completion of the tributary information if not known;
- Zip code of diversion location;
- Location of point: Survey name; Original Survey number; Abstract number; County name;

A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure.

For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a

contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.

- Location of point: latitude and longitude;

Provide the latitude and longitude coordinates in decimal degrees, **to at least six decimal places** and indicate the method used to calculate the diversion point location.

Example, latitude 98.016330°N, longitude 32.067122°W.

- In the space provided, indicate the method used to calculate the location of the point (e.g., handheld GPS device, GIS, mapping program, etc.);

The application should also include a map that clearly identifies each diversion point and/or reach. See Page. 15 for more instructions relating to mapping requirements.

If the plan of diversion is complicated and not fully reflected on the map, attach additional sheets that explain the plan of diversion. This may include instances where water is diverted and discharged and then re-diverted or other similar situations.

INSTRUCTIONS FOR WORKSHEET 4.0: DISCHARGE INFORMATION

Worksheet 4.0 **is required** for applications requesting authorization to discharge water into a State watercourse for conveyance and later withdrawal and/or for instream uses. Worksheet 4.1 is also required for each discharge point location requested.

The application reminds Applicants that this Worksheet is for water availability permits related to discharges. This Worksheet does not need to be completed for spills from dams and water returned to the stream which the applicant is not requesting to use. Applicants are responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 and other applicable law. See

<https://www.tceq.texas.gov/permitting/wastewater/water-quality>

DISCHARGE INFORMATION

This Section requests the following information regarding discharge:

- purpose of use for water being discharged (e.g., domestic, municipal, agricultural, industrial, recreation, mining, hydroelectric) see TWC § 11.023;
- amount of water lost to transportation, evaporation, seepage, and channel or other associated carriage losses as an amount or a percentage and explain the method used for calculation;
- whether the source of water is return flows. **Circle “y” for yes or “n” for no.** If yes, the Worksheet requests the following information;
 1. Texas Pollutant Discharge Elimination System (TPDES) permit number(s) and copy of the current permit(s) (Information regarding permits can be found on the TCEQ Query page:
<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=home.welcome>);
 2. Whether the Applicant is the owner/holder of each TPDES permit provided. **Circle “y” for yes or “n” for no.**

Note: If Applicant is not the discharger of the return flows, the application should be submitted under Section 1, as a request for a new appropriation of state water. If Applicant

is the discharger, then the application should be submitted under Section 3, Bed and Banks.

3. monthly wastewater treatment plant (WWTP) discharge data for return flows discharged into the watercourse for the past 5 years in electronic format (spreadsheet) attached and labeled as “Supplement to Worksheet 4.0 - WWTP discharge data”.
 4. percentage of return flows from groundwater, surface water;
 5. base water right numbers, if any original water is surface water;
- Whether the water being discharged is groundwater. **Circle “y” for yes or “n” for no.** If yes, provide the following information:
 1. list the source aquifer(s) from which the water will be pumped;
 2. results from any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. Provide the well number or well identifier. Information regarding groundwater data may be obtained at: <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Any such information provided should be the most recent information available;
 3. Indicate how the groundwater will be conveyed to the stream or reservoir;
 4. Provide a copy of the groundwater well permit if it is located in a groundwater conservation district or evidence that a groundwater well permit is not required (information relating to groundwater conservation districts, including maps, may be found at: https://www.twdb.texas.gov/groundwater/conservation_districts/;
 - Whether the source of the water is a surface water supply contract. **Circle “y” for yes or “n” for no.**
 - To identify any other source of the water (e.g., imported water, developed water).

INSTRUCTIONS FOR WORKSHEET 4.1: DISCHARGE LOCATION INFORMATION

Worksheet 4.1 **is required** for each discharge point. Submit one worksheet for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g. maps). See Page. 15 for more information relating to map requirements.

DISCHARGE LOCATION AND INFORMATION

This section requests the following information regarding water discharged at each discharge location:

- Amount of water, in acre-feet, discharged at this point per year. The discharged amount should include the amount needed for use and to compensate for any losses (make sure the total amount discharged at all points is consistent with the quantities provided on the table for Worksheet 1.0, QUANTITY, PURPOSE, AND PLACE OF USE, Subsection 1(a));
- Rate, in cubic feet per second **or** gallons per minute, at which water will be discharged at this point (choose either gpm or cfs);
- Official USGS name for the watercourse (this information can be found for specific locations on a USGS topographic map at <https://ngmdb.usgs.gov/maps/topoview/viewer/>);

- Zip code of discharge location;
- Location of point: Survey name; Original Survey number; Abstract number; County name;
- Location of point: latitude and longitude

Provide the latitude and longitude coordinates in decimal degrees, **to at least six decimal places** and indicate the method used to calculate the discharge point location.

For example, latitude 98.016330°N, longitude 32.067122°W.

- In the space provided, indicate the method used to calculate the location of the point (e.g., handheld GPS device, GIS, mapping program, etc.);
- The application should also include a map that clearly identifies each discharge point. See p. 15 for more instructions relating to mapping requirements.

INSTRUCTIONS FOR COMPLETING WORKSHEET 5.0: ENVIRONMENTAL INFORMATION

The purpose of this worksheet is to assist Applicants with providing the required environmental information for Water Rights applications, depending on what the Applicant is requesting.

WHICH APPLICATIONS REQUIRE SUPPLEMENTAL ENVIRONMENTAL INFORMATION TO BE SUBMITTED?

Section 1 relating to impingement and entrainment must be completed for all applications requesting a diversion point that is not already authorized under an existing water right. A response to this question could include the mesh size for the screens and the flow through velocity, if known. If specific information is not known at this time, a response affirming that appropriate measures will be taken is required.

Section 2 of the worksheet is required for all new appropriations of water in non-SB3 Basins (Canadian, Red, Sulphur and Cypress Creek Basins). Additionally, this worksheet is required if the application requests to change/move/add a diversion point.

Section 3 of the worksheet is required for applications using an alternate source of water and bed and banks applications in any basin. Note that there may be additional situations not listed above when the worksheet is required.

If the request is for a **new appropriation of water in a Senate Bill 3 (SB3) basin**, only Section 1 of the worksheet is **required**.

WHAT IS AN SB3 BASIN?

The 80th Texas Legislature (2007) established the Senate Bill 3 (SB3) process in order to determine environmental flow standards for river basins and bay systems in Texas. SB3 required TCEQ to adopt rules for environmental flow standards.

Rules for environmental flow standards have been adopted in the following basins and apply to applications for new appropriations of water:

1. Sabine and Neches River Basins and Sabine Lake including the portion of the Neches

- Trinity Coastal Basin draining to Sabine Lake
2. Trinity and San Jacinto River Basins and Galveston Bay including the portions of the Neches-Trinity, Trinity-San Jacinto, and San Jacinto-Brazos Coastal Basins draining to Galveston Bay
 3. Brazos River Basin and its associated estuary system including the Brazos-Colorado Coastal Basin and the portion of the San Jacinto-Brazos Coastal Basin that does not drain to Galveston Bay
 4. Colorado and Lavaca River Basins, and Matagorda and Lavaca bays including the Colorado-Lavaca Coastal Basin and the portion of the Lavaca-Guadalupe Coastal Basin draining to Lavaca Bay
 5. Guadalupe and San Antonio, River Basins and Mission, Copano, Aransas, and San Antonio bays, including the portion of the Lavaca-Guadalupe Coastal Basin draining to San Antonio Bay and the portion of the San-Antonio-Nueces Coastal Basin (Mission and Aransas Rivers) draining to Copano and Aransas Bays
 6. Nueces River Basin and Corpus Christi and Baffin bays, including the Nueces-Rio Grande Coastal Basin and the portion of the San Antonio-Nueces Coastal Basin draining to Corpus Christi Bay
 7. Rio Grande, Rio Grande Estuary, and Lower Laguna Madre.

WHAT LAW GOVERNS ENVIRONMENTAL REVIEWS FOR THE REMAINING APPLICATIONS?

Environmental reviews of water rights applications, when required, are conducted in accordance with Texas Water Code (TWC) §§11.042, 11.147, 11.1471, 11.1491, 11.150, 11.152 and Texas Administrative Code (TAC), Title 30 Chapter 297, Sections 297.53 through 297.56.

HOW SHOULD THIS WORKSHEET BE USED?

Applicants should submit the information listed for the different types of Applications as described on Worksheet 5. The information should be clearly labeled such as: “Required Submittals; Worksheet 5.0 – Environmental Information” and should include labels corresponding to the sections and subsections on the Worksheet and a Worksheet should be submitted for each diversion point, discharge point or reservoir. For example, for a request for a new appropriation in a non-SB3 basin, Applicant could submit a cover page for photographs labeled: “A. Photographs” and attach the required photographs behind the cover page. A cover page or title for section 1.C would read:

“C. Description of any known recreational uses of the stream.” and Applicant would submit a narrative description of the requested information under that heading.

1. Impingement and Entrainment – This section applies to any application for a new appropriation, an application requesting a bed and banks authorization, an application that requests an alternate source where the alternate source water will be diverted and an application to add a new diversion point. If the diversion point is already authorized in a water right, this section is not required.

The response should include at minimum, a statement that the applicant will take reasonable measures to avoid impingement and entrainment of aquatic organisms for any new diversion structure. Reasonable measures include, but are not limited to, screens. If known, provide the mesh size for the screens and the flow through velocity.

2. New Appropriations of Water (Canadian, Red, Sulphur, and Cypress Creek Basins Only) and Changes in Diversion Point(s).

- a. Description of the Water Body - Indicate whether the point is on a stream (river creek, tributary) if the application is for a diversion from a stream. If the application is for a reservoir and/or diversion from a reservoir, check the box for reservoir and indicate the average depth of the reservoir when the reservoir is full. If the application is for diversion from a bay or estuary, check the box for other and indicate the name of the bay or estuary where diversions would occur.
- b. Flow Characteristics - Regarding flow quantities, Applicant must indicate the stream type downstream of the application and describe the source of the information. For example, the flow characteristics could be determined from a nearby USGS gage on the same stream or from personal observation. Below are definitions for the three types of streams:

Intermittent stream- A stream which has a period of zero flow for at least one week during most years. Where flow records are available, a stream with a two-year, seven-day flow of less than 0.1 cubic feet per second is considered intermittent.

Intermittent with Perennial Pools - A stream which maintains persistent pools even when the flow is less than 0.1 cubic feet per second.

Perennial - A stream that flows continuously throughout the year.

- c. Water Body Aesthetics - In this section indicate, by checking a box, which of the four choices best describes the stream and surrounding area.
- d. Waterbody Recreational Uses - indicate which of the three choices best describes the recreational uses of the stream. Below are definitions for the four choices:

Primary contact recreation

Activities that are presumed to involve a significant risk of ingestion of water (e.g., wading by children, swimming, water skiing, diving, tubing, surfing, and the following whitewater activities: kayaking, canoeing, and rafting).

Secondary contact recreation

Activities that commonly occur but have limited body contact incidental to shoreline activity (e.g., wading by adults, fishing, canoeing, kayaking, rafting, and motor boating). These activities are presumed to pose a less significant risk of water ingestion than primary contact recreation

Non-contact recreation

Activities that do not involve a significant risk of water ingestion, such as those with limited body contact incidental to shoreline activity, including birding, hiking, and biking. Noncontact recreation use may also be assigned where primary and secondary contact recreation activities should not occur because of unsafe conditions, such as ship and barge traffic.

- e. Supplemental Attachment: The following information must be included as a supplemental attachment.
 - 1. Photographs - Ensure that the photographs are referenced to the map submitted with the application. For example: Photograph at Diversion Point 2 looking downstream.
 - 2. Reservoirs -

- i. Describe the area inundated by the reservoir. For example: The reservoir would inundate four acres of cultivated land. Be sure that the inundated area is shown on the map submitted with the application. See Map Instructions.
- ii. Provide information on any U.S. Army Corps of Engineers (USACE) 404 permit, if one is required for your project. The minimum required information is the USACE project number and the name of the USACE project manager. Any additional information related to the 404 permit can also be submitted with the application.
- iii. If the reservoir is greater than 5,000 acre-feet, describe how impacts to wetland habitat will be mitigated. The response to this question can be in the form of proposed or final mitigation plans.

3. Alternate Sources of Water and Bed and Banks Applications

a. For bed and banks applications:

- i. Provide a statement indicating that the proposed bed and banks application will not affect the flows remaining in the stream to meet instream uses and freshwater inflow requirements. Example: The application only requests to discharge and subsequently divert groundwater. The amount of water diverted will not exceed the amount of water discharged, less losses, therefore there should be no changes to downstream instream flows or freshwater inflows.

b. For all alternate source applications

- i. Provide the TPDES number if discharged return flows are the alternate source of water for the application.
- ii. Groundwater quality information: All information in this section must be completely filled out for each well, including the depth of the well and the aquifer and the well number or well identifier.

INSTRUCTIONS FOR WORKSHEET 6.0: WATER CONSERVATION/DROUGHT CONTINGENCY PLANS

TCEQ rules under Title 30 TAC §295.9 specify when a Water Conservation Plan (WCP) and/or a Drought Contingency Plan (DCP) is required to be submitted with the application. *See Page. 1 of these instructions for directions on how to access this and other provisions of the commission's rules and regulations.*

WHEN IS A WCP OR DCP REQUIRED?

Worksheet 6.0 will serve as a guide. However, the following generally require a WCP and DCP:

Applications for a new appropriation or new use of state water (including increases of the amount of the appropriation of state water or requests to extend the term of an appropriation) and for amendments changing the place of use (unless the request is to expand the amount of acreage to be irrigated adjacent to the existing, authorized irrigated tract without an increase in the appropriation) or amendments changing the purpose or use of the appropriation (a conservation plan to change the purpose or use of an appropriation need only address the proposed change in purpose or use).

WHAT IS REQUIRED IN A WCP OR DCP?

The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plans with their pertinent information included or submit their own plans with the required information.

The following chart provides more information about which form (model plan) is applicable and the regulatory requirements upon which the forms are based:

Water Conservation Plans	Form	30 TAC Ch. 288
Municipal	TCEQ 10218	§288.2
Industrial and/or Mining	TCEQ 10213	§288.3
Agricultural		
Non-Irrigation	TCEQ 10541	§288.4(a)(1)
Individual Irrigation	TCEQ 10238	§288.4(a)(2)
System Providing Agricultural Water to More than One User	TCEQ 10244	§288.4(a)(3)
Wholesale	TCEQ 20162	§288.5
Drought Contingency Plans		30 TAC Ch. 288
Municipal	TCEQ 20191	§288.20
Irrigation	TCEQ 20192	§288.21
Wholesale	TCEQ 20193	§288.22

HOW DO I OBTAIN THE WCP AND DCP FORMS?

Forms for **Water Conservation Plans** can be found at the following link:

https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/conserve.html

(located at the bottom of the page under the title “Water Conservation Plan Forms.”)

Forms for **Drought Contingency Plans** can be found at the following link:

https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/contingency.html

(located at the bottom of the page under the title “Model Drought Contingency Plan Forms.”)

If you need assistance in locating or completing these forms, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4600, or email us at wras@tceq.texas.gov.

OTHER FREQUENTLY ASKED QUESTIONS ABOUT THE WCP AND DCP REQUIREMENTS

Generally, if you follow the forms provided by the TCEQ, and consult the appropriate rules noted in the chart above, the requirements will be met. However, staff regularly receives the following requests for assistance in submitting the correct information:

How do I develop quantifiable targets for water savings?

A Water Conservation Plan needs to include specific, quantified five-year and ten-year targets for water savings. These savings should be numeric, as a percentage or amount.

For irrigation use, these targets can be represented in acre-feet or in water use efficiency. If you are not planning to change your irrigation system in the next five or ten years, then you may use your existing efficiencies or savings as your five-year and /or ten-year goals.

Retail plans should include targets for water savings and include goals for water loss programs and goals for municipal use in total gallons per capita per day (GPCD) and residential GPCD.

Please ensure the dates for the 5- and 10-year goals are updated for the current application (i.e. the goals are for future, not past years).

Example of quantifiable targets for irrigation use:

Quantified five-year and ten-year targets for water savings:

- a. 5-year goal:
Savings in acre-feet 30 or system efficiency as a percentage 80%
- b. 10-year goal:
Savings in acre-feet 60 or system efficiency as a percentage 90%

(Examples of Typical Efficiencies for Various Types of Irrigation Systems - Surface: 50-80%; Sprinkler: 70-85%; LEPA: 80-90%; Micro-irrigation: 85-95%)

How do I provide documentation of implementation of my plan?

For entities, the means of implementation and enforcement of the plan shall be evidenced by a copy of the ordinance, resolution, or tariff indicating the official adoption of the plan by the governing body.

Some examples of documentation include a copy of an ordinance, city council resolution, or a board resolution.

How do I provide documentation of coordination with the regional water planning group (RWPG)?

Plans must include documentation of coordination with the regional water planning groups for the service area of the Retail or Wholesale water supplier in order to ensure consistency with the appropriate approved regional water plans. As an example, this may be a copy of a cover letter indicating that the plan was provided to the RWPG, or a statement in the plan that a copy of the plan was submitted to the RWPG.

If you need assistance in contacting the appropriate RWPG, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4600, or email us at wras@tceq.texas.gov.

What if a requirement does not apply or if I do not have the information?

If you are not able to provide information for specific requirements, please include an explanation of why the requirement is not applicable.

Note: Please ensure the amount of requested water, the diversion rate, and/or acres irrigated in your Water Conservation Plan and/or Drought Contingency Plan are consistent with the amount of water, diversion rate, and/or acres irrigated requested in other sections of the application.

INSTRUCTIONS FOR WORKSHEET 7.0: ACCOUNTING PLAN INFORMATION

The following Worksheet provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4600 for information about accounting plan requirements, if any, for your application. The information provided in Worksheet 7.0 is instructional, therefore no additional instructions are provided.

INSTRUCTIONS FOR WORKSHEET 8.0: CALCULATION OF FEES

Worksheet 8.0 is required for all permit applications.

WHAT FEES DO I HAVE TO PAY AND WHEN?

Water right permitting fees vary based on the type of permit the applicant is seeking as set forth in 30 TAC, Chapter 295, Subchapter B of the commission's rules. *For information on how to access the commission's rules, see Page. 1 of the instructions.*

To calculate the fees needed for the Application, identify the permit type you are applying for and fill out the corresponding table on Worksheet 8.0. **Please read the instructions carefully and use them to fill out the worksheet.**

- 1) New Appropriation
- 2) Amendment *OR* Sever and Combine
- 3) Bed and Banks

Filing fees are set forth in the rules. The filing fees for new appropriations of State Water vary based on the volume of water sought. The filing fees for Amendments and Bed and Banks Applications are the same for each of those applications except that the filing fee for amendments is \$100 for each water right being amended.

Use fees are required for new appropriations depending on the type of use requested and whether storage is requested. Follow the instructions to enter the amount of water for the appropriate use and/or for the storage amounts and multiply the amounts times the associated fees. A Maximum Use Fee may apply. *See 30 TAC § 295.134. (One use of state water under a permit from the commission shall not exceed \$50,000. The fee for each additional use of water under a permit for which the maximum fee is paid shall not exceed \$10,000).*

Recording fees are \$1.25 per page. However, for simplification of recording fee calculation purposes, it is assumed a New Appropriation application consists of 20 pages, an Amendment application consists of 10 pages and a Bed and Banks application consists of 10 pages. This is the average number of pages included in each application by type. You do not have to include extra fees for additional pages.

Mailed notice fees are required to be submitted with the Application. However, for various reasons the notice fees cannot be calculated by the Applicant. New Appropriations require mailed notice to all water right holders in the basin, however, the cost to mail notice may change and the number of water rights in each basin is always changing. Mailed notice fees for Amendments and for Bed and Banks Applications may vary greatly depending on what

the request is and the location of the request. The Commission must determine who may be affected by the request prior to calculating the notice fees for these applications.

The total amount is the "Application Fee". This entire fee is required to be paid at the time the application is submitted. Failure to submit payment at the time the application is filed will cause delays in processing or denial of the permit application.

After an Application is Technically Complete, the applicant is responsible for the cost of publishing the notice (if required) in a newspaper of general circulation. The applicant will be provided the information necessary to publish, including instructions, by the TCEQ Office of Chief Clerk at the appropriate time.

Additionally, once an application has been granted, water right holders in certain areas with a watermaster will be required to pay an annual fee. See TWC §§11.329, 11.404 and 30 TAC §§303.71-303.73, 304.61-304.63. If you have questions about the Watermaster Programs, information is available at: https://www.tceq.texas.gov/permitting/water_rights/wmaster.

Water Use Assessment Fees may also be required on an annual basis for water right holders. See TWC §11.0291 and 30 TAC §21.3. If you have questions about the Water Use Assessment Fee, email wateruse@tceq.texas.gov or call: 512-239-6682.

Finally, once a permit or amendment is issued, the TCEQ Chief Clerk will send the permit or amendment to the Applicant with instructions to file in the County Clerk records at the expense of the Applicant. Contact the County Clerk(s) for costs.

HOW TO PAY THE APPLICATION FEE

Payment of the application fee may be made either by check or money order payable to the TCEQ.

To verify receipt of payment, or for any other questions you may have regarding payment of fees to the TCEQ, please call the Cashier's Office at (512) 239-0357.

Mailed Payments

Payment must be mailed in a separate envelope to one of the addresses below. Include Worksheet 8.0 Calculation of Fees located at the end of the Administrative Report and include the name of the applicant and the water right number (for amendments) on the submittal.

By regular U.S. mail:

Texas Commission on Environmental Quality
Financial Administration Division
Cashier's Office, MC-214
P.O. Box 13088
Austin, TX 78711-3088

By overnight/express mail:

Texas Commission on Environmental Quality
Financial Administration Division
Cashier's Office, MC-214
12100 Park 35 Circle
Austin, TX 78753

APPENDIX A – ABBREVIATIONS AND ACRONYMS

AC/FT - acre feet
CFS - Cubic feet per second
CN - Customer Reference Number
ED - Executive Director of the TCEQ
EPA - Environmental Protection Agency
GLO - Texas General Land Office
GPCD - Total Gallons Per Capita per Day
GPM - gallons per minute
NRCS - Natural Resources Conservation Service
RFI - Request for Information
SCS - Soil Conservation Service
TAC - Texas Administrative Code
TCEQ - Texas Commission on Environmental Quality
TDS - total dissolved solids
TPDES - Texas Pollutant Discharge Elimination System
TX SOS - Texas Secretary of State
TWC - Texas Water Code
TWDB - Texas Water Development Board
UIC - underground injection control
USACE - United States Army Corps of Engineers
USPS - United States Postal Service
WWTP - Wastewater Treatment Plant

APPENDIX B – GENERAL DEFINITIONS

A-B

Administratively Complete – Commission staff has completed Administrative Review and declared the Application Administratively Complete. See also *Priority Date*.

Agriculture – Any of the following activities:

- (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;
- (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (D) raising or keeping equine animals;
- (E) wildlife management;
- (F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure; and
- (G) aquaculture as defined in Texas Agriculture Code, §134.001, which reads “‘aquaculture’ or ‘fish farming’ means the business of producing and selling cultured species raised in private facilities. Aquaculture of fish farming is an agricultural activity.”

Agricultural Use – Any use or activity involving agriculture, including irrigation.

Alternate Source of Water – a source of water other than a new appropriation of State Water.

Amendment – an approved modification to an existing authorization. See *Authorization*.

Authorization – A Permit or Certificate of Adjudication issued by the TCEQ or one of its predecessor agencies.

River basin – a river or coastal basin designated by the board as a river basin under Section 16.051. The term does not include waters originating in the bays or arms of the Gulf of Mexico.

Beneficial use – Means use of the amount of water which is economically necessary for an authorized purpose, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water.

C

Certificate of Adjudication – An instrument evidencing a water right issued to each person adjudicated a water right in conformity with provisions of Texas Water Code, §11.323 or the final judgement and decree in *State of Texas v. Hidalgo County Water Control and Improvement District No. 18*, 443 S.W.2d 728 (Texas Civil Appeals – Corpus Christi 1969, writ ref. n.r.e.).

Corporation – means an entity governed as a corporation under Title 2 or 7 of the Texas Business Organizations Code. The term includes a for-profit corporation, nonprofit corporation, and professional corporation.

Contiguous – tracts of land sharing a common border; touching

Conservation – Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

D

Discharge Point – The point at which water is discharged into a watercourse.

Diversion Point – The point at which water is diverted from a watercourse.

Drought Contingency Plan - A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).

E

Entrainment - occurs when aquatic organisms small enough to pass through intake screens are drawn in through the intake structure by the force of the flowing source water

F-G

Groundwater - Water percolating below the surface of the earth.

Groundwater Conservation District - means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

IL

Impingement - occurs when organisms sufficiently large to avoid going through the intake screens are trapped against the screens by the force of the flowing source water entering the intake structure

Industrial Use - The use of water in process designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric, but does not include agricultural use.

Interbasin Transfer - Moving water from one river basin to another.

Intermittent stream- A stream which has a period of zero flow for at least one week during most years. Where flow records are available, a stream with a two-year, seven-day flow of less than 0.1 cubic feet per second is considered intermittent.

Irrigation - The use of water for the irrigation of crops, trees, and pasture land, including, but not limited to, golf courses and parks which do not receive water through a municipal distribution system.

Irrigation Water Use Efficiency - The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.

Limited Partnership - means a partnership that is governed as a limited partnership under Title 4 of the Texas Business Organizations Code and that has one or more general partners and one or more limited partners. The term includes a limited partnership registered as a limited liability limited partnership.

M

Marshall Criteria - Criteria used to evaluate certain amendment applications that fit within the framework identified in the *City of Marshall v. City of Uncertain* decision (206 S.W.3d 97 (Tex. 2006)) are those amendments that do not already have a specific notice requirement in a rule for that type of amendment, and that do not change the amount of water to be taken or the diversion rate. These amendments include changes in use, changes in place of use, or non-substantive changes in a water right. These changes trigger a Notice Recommendation Memos (NRM's).

Mining Use - The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field re-pressuring.

Municipal Use - The use of potable water, reclaimed water, or return flows authorized pursuant to TWC § 11.042 within a community or municipality and its environs for domestic, recreational, commercial, or industrial purposes or for the watering of golf courses, parks and parkways, other public or recreational spaces.

N

Navigable stream – Per Texas Natural Resources Code §21.001(3), any stream or streambed as long as it maintains from its mouth upstream an average width of 30 feet or more, at which point it becomes statutorily nonnavigable. Also, common law considers whether a stream is navigable in fact, based upon historic uses.

P

Perennial stream - a stream or river that has continuous flow in parts of its stream bed all year round during years of normal rainfall.

Permit – The authorization by the commission to a person whose application for a permit has been granted. A permit also means any water right issued, amended, or otherwise administered by the commission unless the context clearly indicates that the water right being referenced is being limited to a certificate of adjudication, certified filing, or unadjudicated claim.

Prior Appropriation - As between appropriators in the same basin, the first in time is the first in right, Texas Water Code, §11.027. In times of shortage, senior water right holders (with older authorizations) must receive water before junior water right holders with newer authorizations.

Priority Date – Determined by date application is accepted for filing (Administratively Complete Date), Exception: middle/lower Rio Grande, priority is determined by use.

R

Residential Use - The use of water that is billed to single and multi-family residences, which applies to indoor and outdoor uses.

Residential Gallons Per Capita Per Day - The total gallons sold for residential use by a public water supplier divided by the residential population served and then divided by the number of days in the year.

Regional Water Planning Group - A group established by the Texas Water Development Board to prepare a regional water plan under TWC §16.053.

Retail Public Water Supplier - An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

Reservoir – A pond or lake used for the storage, regulation, and use of water.

S

State Water - The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state. TWC § 11.021.

State Water Plan – The most recent state water plan adopted by the TWDB under the TWC §16.051.

T-U

Technical Review – the period of review between the declaration of Administrative Completeness and the issuance of a draft permit by Commission Staff in which the staff may request additional clarifying technical information and in which staff reviews the technical information received to determine whether the Application meets all statutory and regulatory technical requirements.

V-W

Water Availability Analysis - A water availability analysis is performed using TCEQ's water availability models to evaluate water rights applications to help determine if water would be available for a newly requested water right or amendment, or if an amendment might affect other water rights. More information on water availability modeling is available at https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/wam.html

Water Conservation Plan – A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or

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improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).

Water Right - Right or any amendment thereto acquired under the laws of the state to impound, divert, store, convey, take or use state water.

Water Supplier - an entity that furnishes water to retail or wholesale customers.

Water Supply Contract - a contract for the sale of treated or untreated state water that meets the requirements of 30 TAC §§ 295.101 and 297.101.

Wetlands - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wholesale Public Water Supplier - An individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

Wholesale Use - Water sold from one entity or public water supplier to other retail water purveyors for resale to individual customers.