



Texas Commission on Environmental Quality

PO Box 13087, MC-160, Austin, Texas 78711-3087
Telephone (512) 239-4691, FAX (512) 239-4770

APPLICATION FOR AMENDMENT TO A WATER RIGHT

Notice: This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.

Customer Reference Number (if issued): CN 600241392

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

1. Name: City of Cleburne
Address: 10 N. Robinson P.O. Box 677
Cleburne, Texas 76033-0677
Phone Number: (512) 322-5856 Fax Number: (512) 472-0532
Email Address: bcastleberry@lqlawfirm.com

2. Applicant owes fees or penalties?
[] Yes [x] No
If yes, provide the amount and the nature of the fee or penalty as well as any identifying number.

3. [] Permit No. [x] Certificate of Adjudication No. 12-4106
Stream: Nolan River Watershed: Brazos River Basin
Reservoir (present condition, if one exists) Lake Pat Cleburne, good condition
County Johnson

4. Proposed Changes To Water Right Authorizations:
Award the Certificate to divert, use and convey via the bed and banks of Lake Pat Cleburne all existing and future return flows associated with Discharge Point 003 in TPDES Permit No. W00010006001 for municipal, industrial, recreation, mining and agricultural purposes of use, the maximum volume of which is 6,739 acre-feet per year. See attached Sections 2 and 3.
(Attach additional page as necessary, attach map/plot depicting project location, diversion point, place of use, and other pertinent data.)

5. I understand the Agency may require additional information in regard to the requested amendment before considering this application.

[Signature]
Name (sign)

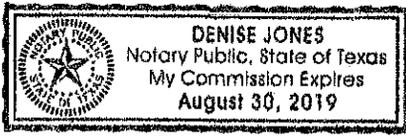
Name (sign)

COURTNEY COATES
Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this 17th day of November, 2015.

[Signature: Denise Jones]
Notary Public, State of Texas



SECTION 2:
30 Tex Admin. Code § 295.113 Requirements

SUPPLEMENT 2

A person wishing to place water into a stream or watercourse, convey the water in the watercourse or stream, and subsequently divert such water shall file an application with the commission containing the following information:

(1) the name, mailing address, and telephone number of the applicant;

City of Cleburne, Texas
10 N Robinson
P.O. Box 677
Cleburne, Texas 76033-0677

Mr. Brad Castleberry
816 Congress, Ste. 1900
Austin, Texas 78701
(512) 322-5856

(2) the name of the stream and the locations of the point of discharge and diversion as identified on a USGS 7.5 minute topographical map(s);

See, Supplement No. 3 and Exhibit Nos. 2, 5 and 6.

(3) the source, amount, and rates of discharge and diversion;

See, Supplement No. 3 and Exhibit Nos. 2, 4, and 8.

(4) a description of the water quality of the water discharged and, if applicable, the permit number and name of any related discharge permit;

See, Supplement No. 3 and Exhibit No. 4.

(5) if the water to be placed into the stream is from an existing, authorized interwatershed or interbasin transfer, a certified copy of the related water right;

See, Supplement No. 3 and Exhibit No. 2 -

(6) if the water placed into the stream is from a proposed interwatershed or interbasin transfer, the information required by this subsection shall be provided in the application for the interwatershed or interbasin transfer and the bed and banks authorization shall be combined with the authorization for the interbasin transfer;

Not applicable.

(7) the estimated amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses from the point of discharge to the point of diversion;

At this time the applicant intends to divert the amount of return flows discharged within a matter of days post-discharge, so there will be no losses between the point of discharge and the point of diversion. The applicant is in the process of amending the applicant's accounting plan to track discharges and diversions under the various authorizations of 12-4106, as amended, and will submit the revised accounting plan during the technical review phase of processing this application. The accounting plan will track discharges of return flows and subsequent diversion of those return flows in order to verify compliance with this permit amendment. Diversions under this amendment will be limited to the quantity of return flows actually discharged into Lake Pat Cleburne.

(8) an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow needs;

Because there have been no historical discharges of return flows to the proposed discharge point, there will be no impact to instream uses. Moreover, the discharge and diversion points are not within proximity to any bay and estuary system. All historical discharges have been made pursuant to the permit provided as Exhibit No. 4, and associated flow data are provided as Exhibit No. 10.

SECTION 3:
Supplement to Water Right Application

**SUPPLEMENT TO APPLICATION TO AMEND
CERTIFICATE OF ADJUDICATION NO. 12-4106
CITY OF CLEBURNE**

**PURSUANT TO
TEXAS WATER CODE §§ 11.122 AND 11.042(C)**

In addition to the TCEQ Application Form (Form 10201) (the "Application"), a narrative description of the amendment sought by this Application is provided below. The following documents are also attached as Exhibits to this Application:

1. Application fee
2. Certificate of Adjudication No. 12-4106, as amended
3. Resolution Authorizing Filing of Application
4. TPDES Permit No. WQ0010006001
5. Location Maps
6. USGS Topographic Map
7. Site photographs
8. Discharge Point Information Sheet
9. Water Conservation & Drought Contingency Plan
10. Historical discharge data
11. Water availability analysis and impact on other water rights
12. Historical groundwater and surface water use

I. Background Information

Overview of Application

Pursuant to Sections 11.122 and 11.042(c) of the Texas Water Code, the City of Cleburne (the "City") seeks to amend Certificate of Adjudication No. 12-4106, as amended, to reuse City of Cleburne Return Flows associated with TPDES Permit No. WQ0010006001 (the "TPDES Permit") Outfall 003 for multiple purposes of use and requests authorization to use the bed and banks of Lake Pat Cleburne to convey the Return Flows from the proposed discharge point to the City's current diversion points. This is a new discharge point and is not covered by previous amendments to the water right.

Sources of City of Cleburne Return Flows

The City owns Certificate of Adjudication (COA) 12-4106, as amended, which authorizes, in part:

- The storage of 25,600 acre-feet of water in a dam and reservoir on the Nolan River (Lake Pat Cleburne) located in Johnson County, Texas
- Diversion and use of up to 240 acre-feet per year for irrigation use
- Diversion and use of up to 5,760 acre-feet per year for municipal purposes
- Amendment A adds industrial use to the 5,760 acre-feet authorized for municipal purposes
- Amendment B authorizes the use of the bed and banks of Lake Pat Cleburne to deliver up to 5,300 acre-feet of water per year of water from Lake Aquilla (COA 12-5158, as amended) contracted from the Brazos River Authority, delivered by pipeline to Lake Pat Cleburne

- Amendment B also authorizes an upstream diversion at Lake Pat Cleburne of up to 4,700 acre-feet per year of water authorized for use at Lake Whitney (COA 12-5157, as amended) contracted from the Brazos River Authority, subject to maintenance flows for existing instream uses
- Amendment C authorizes the use of the bed and banks of West Buffalo Creek, Buffalo Creek and the Nolan River to convey up to 8,400 acre-feet per year of existing and future return flows discharged from two outfall points for subsequent diversion and reuse for agricultural, industrial and municipal purposes.

City of Cleburne Return Flows originate from municipal and industrial uses authorized in the above water rights.

TPDES Permit

The City of Cleburne has recently amended its TPDES Permit to authorize a new outfall, Outfall Number 003. This amendment application seeks authorization to use the bed and banks of Lake Pat Cleburne to move the discharged return flows to the existing intake. The TPDES Permit authorizes the discharge of up to 6 million gallons per day ("MGD") (6,739 acre-feet per year) at Outfall Number 003. A copy of the existing TPDES Permit is provided as Exhibit 4. The appropriation requested herein consists of any return flows associated with the permitted discharges for the TPDES Permit Outfall 003 that the City has yet to historically discharge, as well as any future return flows that the City may be permitted to discharge pursuant to any amendments to the TPDES Permit or any TPDES permit that may be acquired in the future at the discharge points identified herein.

II. Applicant Information

Name of Applicant:	City of Cleburne
Address:	10 N Robinson
Principal Contact:	Mr. Brad Castleberry, Counsel
Telephone:	(512) 322-5856
Fax:	(512) 472-0532

On or about November 10, 2015, the City adopted a resolution authorizing the filing of this Application to amend COA No. 12-4106. A copy of the resolution is provided as Exhibit 3.

III. Source of Supply

The source of water associated with the Application will be the return flows ("City of Cleburne Return Flows") discharged at Outfall 003 pursuant to TPDES Permit included herein as Exhibit 4.

IV. Amount and Purpose of Diversion and Use

The City seeks to amend the Certificate to appropriate City of Cleburne Return Flows for municipal, industrial, recreational, mining and agricultural purposes. A vicinity map of the general area is provided as Exhibit 5 and a USGS map is provided as Exhibit 6. Exhibit 7 contains site photographs. The Discharge Point Information Sheet for the discharge point is provided as Exhibit 8.

V. Diversion Information

The City will divert City of Cleburne Return Flows from the existing diversion points currently authorized by COA No. 12-4106, that being anywhere along the perimeter of Lake Pat Cleburne and at a point below the dam in the Lawrence W. Perry Survey, Abstract 671, Johnson County, Texas.

VI. Return and Surplus Water

All return flows generated by this water will remain within the Brazos River Basin.

VII. Authorization to Use Bed and Banks

By this Application, the City seeks authorization pursuant to Texas Water Code § 11.042(c) to use the bed and banks of Lake Pat Cleburne, to convey City of Cleburne Return Flows from the discharge points to the two diversion points authorized at Lake Pat Cleburne. Given that the discharge points and the diversion points are all on Lake Pat Cleburne, no channel losses are expected.

VIII. Water Conservation and Drought Contingency

The City has adopted a Water Conservation and Drought Contingency Plan, which was submitted to TCEQ pursuant to the requirements of 30 TAC Chapter 288, and is provided as Exhibit 9.

IX. Administrative Requirements and Fees

The Application provides relevant information to address the administrative requirements of 30 TAC §295, Subchapter A and the requirements of Texas Water Code Chapter 11. In accordance with 30 TAC §295.131 and other TCEQ rules relating to fees, the City is submitting payment of \$101.25 with this Application attached hereto as Exhibit 1. With the filing of this Application, the City requests a determination of any additional fees that may be required. Upon receipt of such determination, the City will forward such fees to the TCEQ.

X. Beneficial Use

Texas Water Code §11.134(b)(3)(A) requires that proposed appropriations of water be intended for a beneficial use. The "beneficial use" of water is defined in Texas Water Code §11.002(4) and 30 TAC §297.1(8) as the use of water "which is economically necessary for a purpose authorized by [Chapter 11 of the Texas Water Code]." Through this Application, the City seeks to appropriate LPC Return Flows for industrial, municipal, agricultural, mining and recreational purposes, all of which are considered beneficial uses.

An "industrial" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in 30 TAC § 297.1(24) to include "the use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value." A "municipal" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially use and is defined in 30 TAC § 297.1(32) to include "the use of potable water within a community or municipality and its environs for domestic, recreation, commercial, or industrial purposes or for the water of golf courses, parks and parkways, or the use of reclaimed water in lieu of potable water for the preceding purposes." An "agricultural" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in TAC § 297.1(2) as "any use or activity involving agriculture,

including irrigation," with "agriculture" being further defined under 30 TAC § 297.1(1). A "mining" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in TAC § 297.1(30) to include "the use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring." A "recreational" purpose of use is identified in Texas Water Code § 11.023 as a purpose for which water may be diverted and beneficially used and is defined in TAC § 297.1(40) to include "the use of water impounded in or diverted or released from a reservoir or watercourse for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation, including aquatic and wildlife enjoyment, and aesthetic land enhancement of a subdivision, golf course, or similar development."

XI. Public Welfare

The proposed amendment will allow the City to provide water for the beneficial uses identified. Such action is not detrimental to the public welfare. Indeed, the appropriation will benefit the public welfare as it will allow the City to more efficiently utilize its existing water supplies to address future demands for water in this part of the state. As noted below, the Brazos G planning region, and specifically the City, are expected to have an increase in population and a corresponding increase in demand for water. Allowing the City to appropriate its return flows so as to meet the future demands for water will benefit the public welfare.

XII. Consistency with State and Regional Water Plans

The City is located within the Brazos G Water Planning Group¹. One of the recommended water management strategies for the City noted in the Brazos G Regional Water Plan, as adopted by the State Water Plan, is the reuse of treated wastewater effluent at Lake Pat Cleburne, referred to as the "West Loop Reuse Project"². Given that by this Application the City seeks to reuse treated wastewater effluent, the Application is consistent with the State and Brazos G Regional Water Plans.

XIII. Groundwater Assessment

The subcrop of the Trinity aquifer underlies Lake Pat Cleburne. The outcrop of the Woodbine aquifer is located to the east of the project, on the other side of the City of Cleburne from Lake Pat Cleburne. Since the project location is not in the recharge zone of the Trinity aquifer, and the outcrop of the Woodbine is not in the immediate vicinity, impacts on groundwater resources should be minimal.

XIV. Water Conservation, Drought Contingency and Avoidance of Waste

As defined in both 30 TAC §295.9 and Texas Water Code §11.002(8), "conservation" means those practices that will "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." [Emphasis added]. The City has an acute awareness of the need to conserve its water supplies. By amending COA No. 12-4106 to allow the City additional reuse its own treated effluent, the City will have the flexibility to more efficiently utilize its water supplies. Such

¹ Texas Water Development Board, *Water for Texas 2012: Summary of Region G*, pg. 68 (2011), available at http://www.twdb.texas.gov/publications/state_water_plan/2012/2012_SWP.pdf.

² Id. *2011 Region G Regional Water Plan*, pg. 4C.17-6 (2010), available at http://www.twdb.texas.gov/waterplanning/rwp/plans/2011/G/Region_G_2011_RWPV1.pdf.

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waste, maximize its beneficial use of water, and achieve water conservation. A copy of the City's Water Conservation and Drought Contingency Plan is provided herein as Exhibit 9.

XV. Impacts on Other Water Rights Holders or the Environment

By this Application, the City only seeks a bed and banks authorization. The City does not seek to appropriate any water through the Application. Therefore, granting the City's Application will have no impact on other water right holders or the environment.