

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Sarah Henderson, Project Manager
Water Rights Permitting Team

DATE: February 5, 2025

SUBJECT: Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
CN606203362, CN606203347, RN105799803
Application No. 5160B to Amend Water Use Permit No. 5160
Texas Water Code §§ 11.042, 11.122, Requiring Limited Mailed Notice
Shop Branch, unnamed tributary of Steele Creek, and unnamed
tributary of Duck Creek, Brazos River Basin
Robertson County

The application was declared administratively complete on October 24, 2024. The application was amended, and additional information was received on January 9, January 14, and January 29, 2025. The application was again declared administratively complete and accepted for filing with the Office of the Chief Clerk on February 5, 2025. Limited mailed notice to the interjacent water right holders of record in the Brazos River Basin is required pursuant to Title 30 Texas Administrative Code (TAC) § 295.161(b); however, there are no interjacent water right holders of record. Notice to Texas Parks and Wildlife Department and the Public Interest Council is required pursuant to 30 TAC 295.161(c).

All fees have been paid and the application is sufficient for filing.

Sarah Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

OCC Mailed Notice Required X YES ☐ NO

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 5, 2025

Mr. Jeff Crisp
Circle X South Cooley, LLC and Circle X North Cooley, LLC
3131 Briarcrest Drive
Bryan, TX 77802-3004

VIA E-MAIL

RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
CN606203362, CN606203347, RN105799803
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Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek,
Brazos River Basin
Robertson County

Dear Mr. Crisp:

This acknowledges receipt, on January 9, 2025, of the request to amend the referenced application and on January 14 and January 29, 2025, of additional information.

The application was again declared administratively complete and filed with the Office of the Chief Clerk on February 5, 2025. Staff will continue processing the application for consideration by the Executive Director.

Please be advised that additional information may be requested during the technical review phase of the application process.

If you have any questions concerning this matter, please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Sarah Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Sarah Henderson

From: Peter Zamora [REDACTED]
Sent: Wednesday, January 29, 2025 9:54 AM
To: Sarah Henderson; Jeff Crisp
Subject: RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM No. 5160B

Good morning Sarah,

We are a bit confused with the new confirmation request. I think we had addressed these before and responded "YES" to both. The new documents sent were just to correct the location of use from just "Robertson County" to multiple counties. We also qualified in the most recent document that for Domestic, Livestock, and Irrigation, Robertson will be the location of use. Mining, Municipal, and Industrial will be for all the mentioned counties in the document.

To reaffirm:

1. Confirm that the application is requesting authorization to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey groundwater for subsequent diversion and use for domestic and livestock, agricultural, mining, municipal, and industrial purposes.

"Yes"

-Domestic, Livestock, and Irrigation for Robertson County

-Mining, Municipal, and Industrial for Robertson, Falls, Milam, Brazos, and Burleson County which are fully within the Brazos River Basin and Leon, Limestone, Madison, and Freestone which are partly within the Trinity River Basin

2. Confirm the combined maximum diversion rate will not exceed 14.03 cfs (6,300 gpm).

"Yes"

From: Sarah Henderson <sarah.henderson@tceq.texas.gov>
Sent: Tuesday, January 28, 2025 5:23 PM
To: Jeff Crisp [REDACTED]
Cc: Peter Zamora [REDACTED]
Subject: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM No. 5160B

Mr. Crisp,

Please find the attached request for information letter.

A response is requested by February 27, 2025.

Sincerely,

Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
(F) 512.239.4770

Sarah Henderson

From: Sarah Henderson
Sent: Tuesday, January 28, 2025 5:23 PM
To: Jeff Crisp
Cc: Peter Zamora
Subject: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM No. 5160B
Attachments: Circle X South Cooley LLC and Circle X North Cooley LLC_5160B_RFI 2_01.28.2025.pdf

Mr. Crisp,
Please find the attached request for information letter.
A response is requested by February 27, 2025.
Sincerely,
Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 28, 2025

Mr. Jeff Crisp
Circle X South Cooley, LLC and Circle X North Cooley, LLC
3131 Briarcrest Drive
Bryan, TX 77802-3004

VIA E-MAIL

RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
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Brazos River Basin
Robertson County

Dear Mr. Crisp:

The original application was received on June 6, 2024. Information for Item Nos. 1 and 2 below was originally requested in a letter dated September 17, 2024, and a response was received on October 8, 2024. However, additional information submitted by the Applicant on January 14, 2025, is inconsistent with the response provided on October 8, 2024.

Additional information is required before the application can be declared administratively complete.

1. Confirm that the application is requesting authorization to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey groundwater for subsequent diversion and use for domestic and livestock, agricultural, mining, municipal, and industrial purposes.
2. Confirm the combined maximum diversion rate will not exceed 14.03 cfs (6,300 gpm).

Please provide the requested information by February 27, 2025, or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter, please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Sarah Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Sarah Henderson

From: Peter Zamora [REDACTED] >
Sent: Tuesday, January 14, 2025 6:37 AM
To: Sarah Henderson
Subject: RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM 5160
Attachments: circleX_10214c.pdf; circleX_WORKSHEET_1.2_martialcriteria.docx; circleX_coverletter.pdf

Good morning Sarah,

There was an inconsistent statement in the previous submission I sent and an addendum to the affected Regions. Please disregard the prev submission and please use the attached docs.

I apologize for the oversight and thank you for being patient.

Peter

From: Sarah Henderson <sarah.henderson@tceq.texas.gov>
Sent: Monday, January 6, 2025 4:31 PM
To: Peter Zamora <[REDACTED]>
Cc: Jeff Crisp [REDACTED]; Doug Caroom <[REDACTED]>
Subject: RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM 5160

Confirmation of receipt.

Thank you,
Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
(F) 512.239.4770

From: Peter Zamora [REDACTED]
Sent: Monday, January 6, 2025 4:24 PM
To: Sarah Henderson <sarah.henderson@tceq.texas.gov>
Cc: Jeff Crisp [REDACTED] >; Doug Caroom <[REDACTED]>
Subject: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM 5160

RE:
Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
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Brazos River Basin
Robertson County

Dear Ms. Henderson,

Thank you for your assistance in getting the permit amendment close to the finish line.

We have 2 points of clarification that may not have been clear or captured in our past discussions.

1. The draft states that:

Circle X South Cooley, LLC and Circle X North Cooley, LLC seek to amend Water Use Permit No. 5160 to authorize the use of the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek, Brazos River Basin to convey up to 10,098 acre-feet of groundwater per year for subsequent diversion and **use for domestic and livestock, municipal, mining, industrial, and agricultural purposes in Robertson County.**

The highlighted text suggests that the use of water is restricted only for use in Robertson County. It may not have been clear that we intended to leave the use and location (in Robertson County), of the originally allocated surface (state) water as stated in the original water right however, for the newly requested impoundment of groundwater, we intend to use for potential clients in Robertson and surrounding counties according to the rules of the Brazos Valley Groundwater Conservation District. We request that Robertson County be taken out and replaced with “pursuant to the rules of the Brazos Valley Groundwater Conservation District”.

2. Also the draft states:

Applicants will discharge the groundwater, at a maximum rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and **at a point on an unnamed tributary of Duck Creek, located at Latitude 31.159423°N, Longitude 96.377278°W**, within ZIP Code 77856.

Applicants seek to divert the discharged groundwater, at a maximum combined diversion rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and **at a point on an unnamed tributary of Duck Creek located at Latitude 31.159423°N, Longitude 96.377278°W**, within ZIP Code 77856.

We had intended the discharge and diversion points for the unnamed tributary of Duck Creek (Coyote) to be anywhere along the perimeter of the impoundment similar to both Artesian and Wolf Lake.

We request the draft to be modified to reflect these intentions. If there are issues or other requirements to proceed with these requests, please let us know so we can promptly address them.

Thank you!

PETER B. ZAMORA, PhD, PG | Hydrologist

AquaStrategies
Water Planning, Science & Engineering

13341 W US HWY 290, BLDG 2

Austin TX 78737

Cell: 5127673809

January 9, 2025

Sarah Henderson

Project Manager

Water Rights Permitting Team

Water Rights Permitting and Availability Section

RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC

WRPERM 5160

CN606203362, CN606203347, RN105799803

Application No. 5160B to Amend Water Use Permit No. 5160

Texas Water Code §§ 11.042, 11.122, Requiring Limited Mailed Notice

Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek,


Brazos River Basin

Robertson County

Dear Ms. Henderson,

We are sending this letter to request a modification of our water right amendment application. The application currently has Robertson County as the sole place of use in Worksheet 1 (Quantity, Purpose, and Place of Use), we request that this be changed to "Robertson, Leon, Limestone, Brazos, Madison, Falls, Freestone, Milam, and Burleson" for Municipal, Mining, and Industrial use and "Robertson County" for Domestic, Livestock, and Irrigation. We included with this letter modified forms of 10214c (Worksheet 1 and 1.2) that incorporate these changes.

Sincerely,


Peter Zamora, PhD, PG
Hydrologist

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

This Report is required for applications for new or amended water rights. Based on the Applicant's responses below, Applicants are directed to submit additional Worksheets (provided herein). A completed Administrative Information Report is also required for each application.

Applicants are REQUIRED to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please contact the Water Availability Division at (512) 239-4600 or WRPT@tceq.texas.gov to schedule a meeting.

Date of pre-application meeting: _____

1. New or Additional Appropriations of State Water. Texas Water Code (TWC) § 11.121 (Instructions, Page. 12)

State Water is: *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.*

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? Y / N N
- b. Applicant requests an amendment to an existing water right requesting an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate? Y / N Y (If yes, indicate the Certificate or Permit number: 5160A)

If Applicant answered yes to (a) or (b) above, does Applicant also wish to be considered for a term permit pursuant to TWC § 11.1381? Y / N N

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N N (If yes, indicate the Term Certificate or Permit number: _____)

If Applicant answered yes to (a), (b) or (c), the following worksheets and documents are required:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir requested in the application)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point and/or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach requested in the application)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees**
- **Fees calculated on Worksheet 8.0 – see instructions Page. 34.**
- **Maps – See instructions Page. 15.**
- **Photographs – See instructions Page. 30.**

Additionally, if Applicant wishes to submit an alternate source of water for the project/authorization, see Section 3, Page 3 for Bed and Banks Authorizations (Alternate sources may include groundwater, imported water, contract water or other sources).

Additional Documents and Worksheets may be required (see within).

2. Amendments to Water Rights. TWC § 11.122 (Instructions, Page. 12)

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. ***If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. 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. See instructions page. 6.***

Water Right (Certificate or Permit) number you are requesting to amend: 5160A

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N N (if yes, complete chart below):

| List of water rights to sever | Combine into this ONE water right |
|-------------------------------|-----------------------------------|
| | |

- a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? Y / N N

If yes, application is a new appropriation for the increased amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.

- b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? Y / N N

If yes, application is a new appropriation for the entire amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.

- c. Applicant requests an amendment to change the purpose or place of use or to add an additional purpose or place of use to an existing Permit or Certificate? Y / N Y
If yes, submit:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 1.2 - Notice: “Marshall Criteria”**

- d. Applicant requests to change: diversion point(s); or reach(es); or diversion rate? Y / N Y
If yes, submit:

- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)
- **Worksheet 5.0 – Environmental Information** (Required for any new diversion points that are not already authorized in a water right)

- e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? Y / N N

If yes, submit: Worksheet 2.0 - Impoundment/Dam Information Worksheet (submit one worksheet for each impoundment or reservoir)

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N N If yes, call the Water Availability Division at (512) 239-4600 to discuss.

Additionally, all amendments require:

- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

3. Bed and Banks. TWC § 11.042 (Instructions, Page 13)

- a. Pursuant to contract, Applicant requests authorization to convey, stored or conserved water to the place of use or diversion point of purchaser(s) using the bed and banks of a watercourse? TWC § 11.042(a). Y/N N

If yes, submit a signed copy of the Water Supply Contract pursuant to 30 TAC §§ 295.101 and 297.101. Further, if the underlying Permit or Authorization upon which the Contract is based does not authorize Purchaser's requested Quantity, Purpose or Place of Use, or Purchaser's diversion point(s), then either:

- 1. Purchaser must submit the worksheets required under Section 1 above with the Contract Water identified as an alternate source; or*
- 2. Seller must amend its underlying water right under Section 2.*

- b. Applicant requests to convey water imported into the state from a source located wholly outside the state using the bed and banks of a watercourse? TWC § 11.042(a-1). Y / N N

If yes, submit worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps and fees from the list below.

- c. Applicant requests to convey Applicant's own return flows derived from privately owned groundwater using the bed and banks of a watercourse? TWC § 11.042(b). Y / N N

If yes, submit worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.

- d. Applicant requests to convey Applicant's own return flows derived from surface water using the bed and banks of a watercourse? TWC § 11.042(c). Y / N N

If yes, submit worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, Maps, and fees from the list below.

****Please note, if Applicant requests the reuse of return flows belonging to others, the Applicant will need to submit the worksheets and documents under Section 1 above, as the application will be treated as a new appropriation subject to termination upon direct or indirect reuse by the return flow discharger/owner.***

- e. Applicant requests to convey water from any other source, other than (a)-(d) above, using the bed and banks of a watercourse? TWC § 11.042(c). Y / N Y

If yes, submit worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)

- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

4. **General Information, Response Required for all Water Right Applications (Instructions, Page 15)**

- a. Provide information describing how this application 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 (*not required for applications to use groundwater-based return flows*). Include citations or page numbers for the State and Regional Water Plans, if applicable. Provide the information in the space below or submit a supplemental sheet entitled “Addendum Regarding the State and Regional Water Plans”:

The proposed amendment will address agricultural, domestic, municipal, mining, and industrial needs in the proposed places of use and do not conflict with the 2022 Region G, C, and H Water Plan, and do not conflict with the 2021 State Water Plan. For example, the projected Region G need for municipal use between 2020 and 2030 is 31K and 65K AFY respectively. The mining demand projection from 2020 to 2030 is from 30K and 32K AFY. The proposed amendment will divert around 10K AFY for domestic, livestock, irrigation, municipal, mining, and industrial use.

- b. Did the Applicant perform its own Water Availability Analysis? Y / N N

If the Applicant performed its own Water Availability Analysis, provide electronic copies of any modeling files and reports.

- c. Does the application include required Maps? (Instructions Page. 15) Y / N Y

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

Submit the following information regarding quantity, purpose and place of use for requests for new or additional appropriations of State Water or Bed and Banks authorizations:

| Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i> | State Water Source (River Basin) or Alternate Source <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> |
|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10098 | Simsboro and Calvert Bluff Aquifer | Domestic, Livestock, and Irrigation | Robertson County |
| | | Municipal, Mining, and Industrial | Robertson, Falls, Milam, Brazos, and Burleson County which are fully within the Brazos River Basin |
| | | | and Leon, Limestone, Madison, and Freestone which are partly within the Trinity River Basin |

10098 Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

If the Purpose of Use is Agricultural/Irrigation for any amount of water, provide:

a. Location Information Regarding the Lands to be Irrigated

- i) Applicant proposes to irrigate a total of 10631 acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
- ii) Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) or other acceptable instrument describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds.

If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

2. Amendments - Purpose or Place of Use (Instructions, Page. 12)

- a. Complete this section for each requested amendment changing, adding, or removing Purpose(s) or Place(s) of Use, complete the following:

| Quantity (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."*

Changes to the purpose of use in the Rio Grande Basin may require conversion. 30 TAC § 303.43.

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
 - Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

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

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet 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. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N_____

1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin._____
- b. Provide the quantity of water to be transferred (acre-feet)._____
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:

2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N__
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N__
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N__
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N__

3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer":

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost);

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following:
 - (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;
 - (ii) the amount and purposes of use in the receiving basin for which water is needed;
 - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;
 - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;
 - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and
 - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;
- f. proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- g. the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought.

WORKSHEET 1.2

NOTICE. “THE MARSHALL CRITERIA”

This worksheet assists the Commission in determining notice 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*. The worksheet provides information that Applicant **is required** to submit for amendments such as certain amendments to special conditions or changes to off-channel storage. These criteria address whether the proposed amendment will impact other water right holders or the on- stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

*This worksheet is **not required** for 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 mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir. See 30 TAC § 303.42.*

*This worksheet is **not required** for amendments which are only changing or adding diversion points, or request only a bed and banks authorization or an IBT authorization. However, Applicants may wish to submit the Marshall Criteria to ensure that the administrative record includes information supporting each of these criteria*

1. The “Marshall Criteria” (Instructions, Page. 21)

Submit responses on a supplemental attachment titled “Marshall Criteria” in a manner that conforms to the paragraphs (a) – (g) below:

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.
- b. Beneficial Use. Discuss how proposed amendment is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. Identify the specific proposed use of the water (e.g., road construction, hydrostatic testing, etc.) for which the amendment is requested.
- c. Public Welfare. Explain how proposed amendment is not detrimental to the public welfare. Consider any public welfare matters that might be relevant to a decision on the application. Examples could include concerns related to the well-being of humans and the environment.
- d. Groundwater Effects. Discuss effects of proposed amendment on groundwater or groundwater recharge.

- e. State Water Plan. Describe how proposed amendment 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. The state and regional water plans are available for download at:
<http://www.twdb.texas.gov/waterplanning/swp/index.asp>.
- f. Waste Avoidance. Provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined in TWC § 11.002. Examples of evidence could include, but are not limited to, a water conservation plan or, if required, a drought contingency plan, meeting the requirements of 30 TAC Chapter 288.
- g. Impacts on Water Rights or On-stream Environment. Explain how the proposed amendment will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

WORKSHEET 2.0

Impoundment/Dam Information

This worksheet **is required** for any impoundment, reservoir and/or dam. Submit an additional Worksheet 2.0 for each impoundment or reservoir requested in this 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 (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable:_____
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level:_____.
- c. The impoundment is on-channel_____or off-channel_____(mark one)
 - i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? **Y / N**_____
 - ii. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? **Y / N**_____
- d. Is the impoundment structure already constructed? **Y / N**_____
 - i. For already constructed **on-channel** structures:
 1. Date of Construction:_____
 2. Was it constructed to be an exempt structure under TWC § 11.142? **Y / N**_____
 - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? **Y / N**_____
 - b. If No, has the structure been issued a notice of violation by TCEQ? **Y / N**_____
 3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? **Y / N**_____
 - a. If yes, provide the Site No._____and watershed project name_____;
 - b. Authorization to close "ports" in the service spillway requested? **Y / N**_____
 - ii. For **any** proposed new structures or modifications to structures:
 1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? **Y / N**_____
Provide the date and the name of the Staff Person_____
 2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
 - a. No additional dam safety documents required with the Application. **Y / N**_____
 - b. Plans (with engineer's seal) for the structure required. **Y / N**_____
 - c. Engineer's signed and sealed hazard classification required. **Y / N**_____
 - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. **Y / N**_____

3. Applicants **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 to be constructed, will be located. (30 TAC § 295.42). Applicant must submit a copy of all the notices and certified mailing cards with this Application. Notices and cards are included? Y / N_____

iii. Additional information required for **on-channel** storage:

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level:_____.
 2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option.
Applicant has calculated the drainage area. Y/N_____
- If yes, the drainage area is_____sq. miles.
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name):_____
- b. Zip Code: _____
- c. In the_____Original Survey No._____, Abstract No._____,
_____County, Texas.

**** 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 other documentation supporting Applicant's right to use the land described.***

- d. A point on the centerline of the dam (on-channel) or anywhere within the impoundment (off-channel) is:

Latitude_____°N, Longitude_____°W.

****Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***

- i. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program):_____
- ii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. Y / N_____

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g., maps).

1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1. 1 Diversion Point No.
2. _____ Upstream Limit of Diversion Reach No.
3. _____ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or 6300 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N N
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* _____ cfs or _____ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N N

*** An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed):

| Check one | | Write: Existing or Proposed |
|--------------------------|------------------------------------------------------------------|-----------------------------|
| <input type="checkbox"/> | Directly from stream | |
| <input type="checkbox"/> | From an on-channel reservoir | <u>Existing</u> |
| <input type="checkbox"/> | From a stream to an on-channel reservoir | |
| <input type="checkbox"/> | Other method (explain fully, use additional sheets if necessary) | |

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / N N

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Artesian Lake
- b. Zip Code: 77856
- c. Location of point: In the see deed Original Survey No. _____, Abstract No. _____, _____ County, Texas.

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, or 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.

- d. Point is at:
Latitude 31.205024 °N, Longitude -96.315224 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g., maps).

1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1. 2 Diversion Point No.
2. _____ Upstream Limit of Diversion Reach No.
3. _____ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or 6300 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N N
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* _____ cfs or _____ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N N

*** An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

| Check one | | Write: Existing or Proposed |
|--------------------------|------------------------------------------------------------------|-----------------------------|
| <input type="checkbox"/> | Directly from stream | |
| <input type="checkbox"/> | From an on-channel reservoir | <u>Existing</u> |
| <input type="checkbox"/> | From a stream to an on-channel reservoir | |
| <input type="checkbox"/> | Other method (explain fully, use additional sheets if necessary) | |

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / N N

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Wolf Lake
- b. Zip Code: 77856
- c. Location of point: In the see deed Original Survey No. _____, Abstract No. _____, _____ County, Texas.

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, or 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.

- d. Point is at:
Latitude 31.215623 °N, Longitude -96.336267 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g., maps).

1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1. 3 Diversion Point No.
2. _____ Upstream Limit of Diversion Reach No.
3. _____ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or 6300 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N N
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* _____ cfs or _____ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N N

*** An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

| Check one | | Write: Existing or Proposed |
|--------------------------|------------------------------------------------------------------|-----------------------------|
| <input type="checkbox"/> | Directly from stream | |
| <input type="checkbox"/> | From an on-channel reservoir | <u>Existing</u> |
| <input type="checkbox"/> | From a stream to an on-channel reservoir | |
| <input type="checkbox"/> | Other method (explain fully, use additional sheets if necessary) | |

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / N N

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): unnamed tributary of Duck Creek
- b. Zip Code: 77856
- c. Location of point: In the see deed Original Survey No. _____, Abstract No. _____, _____ County, Texas.

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, or 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.

- d. Point is at: Latitude 31.159423 °N, Longitude -96.377278 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 4.0

DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be Livestock, Irrigation, Domestic, Municipal, Mining, and Industrial.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 10% (% or amount) and explain the method of calculation: Evaporation losses from Artesian lake's surface were assumed to account for majority of the the losses. Volume loss was estimate as lake surface area multiplied by 4.36 ft maximum annual evaporation.
- c. Is the source of the discharged water return flows? Y / N N If yes, provide the following information:
1. The TPDES Permit Number(s). _____ (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N _____

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- d. Is the source of the water being discharged groundwater? Y / N Y If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: Simsboro and Calvert Bluff Aquifer
 2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers BVDO-0250, BVDO-0248, BVDO-0249, and BVOP-0001.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
Pipes
 4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- dii. Is the source of the water being discharged a surface water supply contract? Y / N N If yes, provide the signed contract(s).
- dii. Identify any other source of the water _____

WORKSHEET 4.1

DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 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).
Instructions, Page 27.

For water discharged at this location provide:

- a. The amount of water that will be discharged at this point is 10098 acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of _____ cfs or 6300 gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code 77856
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. see attached deed County, Texas.
- f. Point is at:
Latitude 31.205024 °N, Longitude -96.315224 °W.
****Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

Map submitted must clearly identify each discharge point. See instructions Page. 15.

WORKSHEET 4.0

DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be Livestock, Irrigation, Municipal, Domestic, Mining, and Industrial.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 2.5% (% or amount) and explain the method of calculation: Evaporation losses from Wolf lake's surface were assumed to account for majority of the the losses. Volume loss was estimate as lake surface area multiplied by 4.36 ft maximum annual evaporation.
- c. Is the source of the discharged water return flows? Y / N N If yes, provide the following information:
1. The TPDES Permit Number(s). _____ (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N _____

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- d. Is the source of the water being discharged groundwater? Y / N Y If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: Simsboro and Calvert Bluff Aquifer
 2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers BVDO-0250, BVDO-0248, BVDO-0249, and BVOP-0001.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
Pipes
 4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- dii. Is the source of the water being discharged a surface water supply contract? Y / N N If yes, provide the signed contract(s).
- dii. Identify any other source of the water _____

WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 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).
Instructions, Page 27.

For water discharged at this location provide:

- a. The amount of water that will be discharged at this point is 10098 acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of _____ cfs or 6300 gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code 77856
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. see attached deed _____ County, Texas.
- f. Point is at:
Latitude 31.215623 °N, Longitude -96.336267 °W.
****Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

Map submitted must clearly identify each discharge point. See instructions Page. 15.

WORKSHEET 4.0

DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be Irrigation, Livestock, Municipal, Domestic, Mining, and Industrial.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 40% (% or amount) and explain the method of calculation: Evaporation from Coyote lake's surface were assumed to account for majority of the the losses. Volume loss was estimate as lake surface area multiplied by 4.36 ft maximum annual evaporation.
- c. Is the source of the discharged water return flows? Y / N N If yes, provide the following information:
1. The TPDES Permit Number(s). _____ (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N _____

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- d. Is the source of the water being discharged groundwater? Y / N Y If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: Simsboro and Calvert Bluff Aquifer
 2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers BVDO-0250, BVDO-0248, BVDO-0249, and BVOP-0001.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
Pipes
 4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- dii. Is the source of the water being discharged a surface water supply contract? Y / N N If yes, provide the signed contract(s).
- dii. Identify any other source of the water _____

WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 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).

Instructions, Page 27.

For water discharged at this location provide:

- a. The amount of water that will be discharged at this point is 10098 acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of _____ cfs or 6300 gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code 77856
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. see attached deed, _____ County, Texas.
- f. Point is at:
Latitude 31.159423 °N, Longitude -96.377278 °W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

Map submitted must clearly identify each discharge point. See instructions Page. 15.

WORKSHEET 5.0

ENVIRONMENTAL INFORMATION

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 28.**

[see attached worksheet 5 statement](#)

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

This section is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins and in all basins for requests to change a diversion point. **Instructions, Page 30.**

Description of the Water Body at each Diversion Point or Dam Location. (Provide an Environmental Information Sheet for each location),

a. Identify the appropriate description of the water body.

☐ Stream

☐ Reservoir

Average depth of the entire water body, in feet: _____

☐ Other, specify: _____

b. Flow characteristics

If a stream, was checked above, provide the following. For new diversion locations, check one of the following that best characterize the area downstream of the diversion (check one).

☐ Intermittent - dry for at least one week during most years

☐ Intermittent with Perennial Pools - enduring pools

☐ Perennial - normally flowing

Check the method used to characterize the area downstream of the new diversion location.

☐ USGS flow records

☐ Historical observation by adjacent landowners

☐ Personal observation

☐ Other, specify: _____

c. Waterbody aesthetics

Check one of the following that best describes the aesthetics of the stream segments affected by the application and the area surrounding those stream segments.

- ☐ Wilderness: outstanding natural beauty; usually wooded or unpastured area; water clarity exceptional
- ☐ Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); water clarity discolored
- ☐ Common Setting: not offensive; developed but uncluttered; water may be colored or turbid
- ☐ Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

d. Waterbody Recreational Uses

Are there any known recreational uses of the stream segments affected by the application?

- ☐ Primary contact recreation (swimming or direct contact with water)
- ☐ Secondary contact recreation (fishing, canoeing, or limited contact with water)
- ☐ Non-contact recreation

e. Submit the following information in a Supplemental Attachment, labeled Addendum to Worksheet 5.0:

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the maps submitted with the application indicating the location of the photograph and the direction of the shot.
2. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
 - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

3. Alternate Sources of Water and/or Bed and Banks Applications

This section is required for applications using an alternate source of water and bed and banks applications in any basins. **Instructions, page 31.**

a. For all bed and banks applications:

- i. Submit 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 requirements.

b. For all alternate source applications:

- i. If the alternate source is treated return flows, provide the TPDES permit number _____
- ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

| Parameter | Average Conc. | Max Conc. | No. of Samples | Sample Type | Sample Date/Time |
|-------------------------------|------------------------------------|-----------|----------------|-------------|------------------|
| Sulfate, mg/L | | | | | |
| Chloride, mg/L | | | | | |
| Total Dissolved Solids, mg/L | see attached worksheet 5 statement | | | | |
| pH, standard units | | | | | |
| Temperature*, degrees Celsius | | | | | |

* Temperature must be measured onsite at the time the groundwater sample is collected.

- iii. If groundwater will be used, provide the depth of the well _____ and the name of the aquifer from which water is withdrawn _____.

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

This form is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plans is required and to specify the requirements for plans.

Instructions, Page 31.

*The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plan with pertinent information filled in. For assistance submitting a plan call the Resource Protection Team (Water Conservation staff) at 512-239-4600, or e-mail wras@tceq.texas.gov. The model plans can also be downloaded from the TCEQ webpage. **Please use the most up-to-date plan documents available on the webpage.***

1. Water Conservation Plans

a. The following applications must include a completed Water Conservation Plan (30 TAC § 295.9) for each use specified in 30 TAC, Chapter 288 (municipal, industrial or mining, agriculture – including irrigation, wholesale):

1. Request for a new appropriation or use of State Water.
2. Request to amend water right to increase appropriation of State Water.
3. Request to amend water right to extend a term.
4. Request to amend water right to change a place of use.
**does not apply to a request to expand irrigation acreage to adjacent tracts.*
5. Request to amend water right to change the purpose of use.
**applicant need only address new uses.*
6. Request for bed and banks under TWC § 11.042(c), when the source water is State Water.
**including return flows, contract water, or other State Water.*

b. If Applicant is requesting any authorization in section (1)(a) above, indicate each use for which Applicant is submitting a Water Conservation Plan as an attachment:

1. ____Municipal Use. See 30 TAC § 288.2. **
2. ____Industrial or Mining Use. See 30 TAC § 288.3.
3. ____Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. ____Wholesale Water Suppliers. See 30 TAC § 288.5. **

****If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N____**

c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed

appropriation; and evaluates any other feasible alternative to new water development.
See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? Y / N____

2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
 1. ____Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. ____Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. ____Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc. See 30 TAC § 288.30*) Y / N____

WORKSHEET 7.0

ACCOUNTING PLAN INFORMATION WORKSHEET

The following information 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. **Instructions, Page 34.**

1. Is Accounting Plan Required

Accounting Plans are generally required:

- For applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point;
- For applications for new major water supply reservoirs;
- For applications that amend a water right where an accounting plan is already required, if the amendment would require changes to the accounting plan;
- For applications with complex environmental flow requirements;
- For applications with an alternate source of water where the water is conveyed and diverted; and
- For reuse applications.

2. Accounting Plan Requirements

- a. A **text file** that includes:
 1. an introduction explaining the water rights and what they authorize;
 2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
 3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
 4. Should provide a summary of all sources of water.
- b. A **spreadsheet** that includes:
 1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
 2. Method for accounting for inflows if needed;
 3. Reporting of all water use from all authorizations, both existing and proposed;
 4. An accounting for all sources of water;
 5. An accounting of water by priority date;
 6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
 7. Accounting for conveyance losses;
 8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
 9. An accounting for spills of other water added to the reservoir; and
 10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

WORKSHEET 8.0 CALCULATION OF FEES

This worksheet is for calculating required application fees. Applications are not Administratively Complete until all required fees are received. **Instructions, Page. 34**

1. NEW APPROPRIATION

| | Description | Amount (\$) |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Filing Fee | Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u> a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00 | |
| Recording Fee | | \$25.00 |
| Agriculture Use Fee | <i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. ** | |
| Use Fee | <i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. ** | |
| Recreational Storage Fee | <i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level. | |
| Storage Fee | <i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level. | |
| Mailed Notice | Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600. | |
| TOTAL | | \$ |

2. AMENDMENT OR SEVER AND COMBINE

| | Description | Amount (\$) |
|-----------------------|-----------------------------------------------------------------------|--------------------|
| Filing Fee | Amendment: \$100 | \$100 |
| | OR Sever and Combine: \$100 x _____ of water rights to combine | |
| Recording Fee | | \$12.50 |
| Mailed Notice | Additional notice fee to be determined once application is submitted. | |
| TOTAL INCLUDED | | \$ \$112.50 |

3. BED AND BANKS

| | Description | Amount (\$) |
|-----------------------|-----------------------------------------------------------------------|-------------|
| Filing Fee | | \$100.00 |
| Recording Fee | | \$12.50 |
| Mailed Notice | Additional notice fee to be determined once application is submitted. | |
| TOTAL INCLUDED | | \$ |

SUPPLEMENTAL ATTACHMENT TO WORKSHEET 1.2

MARSHALL CRITERIA

- a) Administrative Requirements and Fees. This application meets the administrative requirements for an amendment to a water use permit. This application includes the required items in the TCEQ Water Rights Permitting Application Administrative Information Checklist.
- b) Beneficial Use. The proposed uses conform to beneficial use defined in Texas Water Code (TWC) 11.002(4) and purposes for use defined in TWC 11.023. The proposed amendment is anticipated to be used for domestic, irrigation, livestock, municipal, mining, and industrial purposes through one or more Water Supply Contracts, if applicable.
- c) Public Welfare. No effects of the proposed amendment on public welfare, including no impact on the well-being of humans and the environment, are expected as this water will be put to beneficial use for livestock, irrigation, domestic, municipal, mining, and industrial purposes.
- d) Groundwater Effects. The proposed amendment is consistent with the BVGCD management plan pumping rate of less than 3000 GPM per well from groundwater.
- e) State Water Plan. The proposed amendment will address agricultural, domestic, municipal, mining, and industrial needs in the proposed places of use and will not conflict with the 2021 State Water Plan.
- f) Waste Avoidance. WCP for municipal use and the WCP for industrial use will be developed and submitted to TCEQ for approval before initiating these types of water use
- g) Impacts on Water Rights or On-stream Environment. The proposed amendment only requests the use of “bed and banks” for the storage of groundwater. The location of use is stated as Robertson, Leon, Limestone, Brazos, Madison, Falls, Freestone, Milam, and Burleson County. No detrimental impacts to water rights holders downstream or the on-stream environment are expected.

Sarah Henderson

From: Peter Zamora <[REDACTED]>
Sent: Thursday, January 9, 2025 5:39 PM
To: Sarah Henderson
Cc: Jeff Crisp; Kathy Alexander; Doug Caroom; Humberto Galvan
Subject: request to amend the application to change the requested place of use for WRPERM5160
Attachments: circleX_coverletter.pdf; circleX_Worksheet 1 of TCEQ form 10214c.pdf; circleX_WORKSHEET_1.2_martialcriteria.docx

Dear Ms. Henderson,

Please find attached our request letter to change the requested place of use in our water right amendment application. Revised worksheet 1 and 1.2 forms are also included in this email.

Kind regards,

PETER B. ZAMORA, PhD, PG | Hydrologist

AquaStrategies

Water Planning, Science & Engineering

13341 W US HWY 290, BLDG 2

Austin TX 78737

Cell: 5127673809

January 9, 2025


Sarah Henderson
Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
CN606203362, CN606203347, RN105799803
Application No. 5160B to Amend Water Use Permit No. 5160
Texas Water Code §§ 11.042, 11.122, Requiring Limited Mailed Notice
Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek,
Brazos River Basin
Robertson County

Dear Ms. Henderson,

We are sending this letter to request a modification of our water right amendment application. The application currently has Robertson County as the sole place of use in Worksheet 1 (Quantity, Purpose, and Place of Use), we request that this be changed to "Robertson, Leon, Limestone, Brazos, Madison, Falls, Freestone, Milam, and Burleson" for Municipal, Mining, and Industrial use and "Robertson County" for Domestic, Livestock, and Irrigation. We included with this letter modified forms of Worksheet 1 and 1.2 (Marshall Criteria) that incorporate these changes.

Sincerely,


Peter Zamora, PhD, PG
Hydrologist

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

Submit the following information regarding quantity, purpose and place of use for requests for new or additional appropriations of State Water or Bed and Banks authorizations:

| Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i> | State Water Source (River Basin) or Alternate Source <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> |
|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10098 | Simsboro and Calvert Bluff Aquifer | Domestic, Livestock, and Irrigation | Robertson County |
| | | Municipal, Mining, and Industrial | Robertson, Falls, Milam, Brazos, and Burleson County which are fully within the Brazos River Basin |
| | | | and Leon, Limestone, Madison, and Freestone which are partly within the Trinity River Basin |

10098 Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

If the Purpose of Use is Agricultural/Irrigation for any amount of water, provide:

a. Location Information Regarding the Lands to be Irrigated

- i) Applicant proposes to irrigate a total of 10631 acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
- ii) Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) or other acceptable instrument describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds.

If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

2. Amendments - Purpose or Place of Use (Instructions, Page. 12)

- a. Complete this section for each requested amendment changing, adding, or removing Purpose(s) or Place(s) of Use, complete the following:

| Quantity (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."*

Changes to the purpose of use in the Rio Grande Basin may require conversion. 30 TAC § 303.43.

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
 - Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

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

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet 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. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N_____

1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin._____
- b. Provide the quantity of water to be transferred (acre-feet)._____
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:

2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N__
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N__
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N__
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N__

3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer":

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost);

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following:
 - (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;
 - (ii) the amount and purposes of use in the receiving basin for which water is needed;
 - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;
 - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;
 - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and
 - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;
- f. proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- g. the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought.

SUPPLEMENTAL ATTACHMENT TO WORKSHEET 1.2

MARSHALL CRITERIA

- a) Administrative Requirements and Fees. This application meets the administrative requirements for an amendment to a water use permit. This application includes the required items in the TCEQ Water Rights Permitting Application Administrative Information Checklist.
- b) Beneficial Use. The proposed uses conform to beneficial use defined in Texas Water Code (TWC) 11.002(4) and purposes for use defined in TWC 11.023. The proposed amendment is anticipated to be used for domestic, irrigation, livestock, municipal, mining, and industrial purposes through one or more Water Supply Contracts, if applicable.
- c) Public Welfare. No effects of the proposed amendment on public welfare, including no impact on the well-being of humans and the environment, are expected as this water will be put to beneficial use for livestock, irrigation, domestic, municipal, mining, and industrial purposes.
- d) Groundwater Effects. The proposed amendment is consistent with the BVGCD management plan pumping rate of less than 3000 GPM per well from groundwater.
- e) State Water Plan. The proposed amendment will address agricultural, domestic, municipal, mining, and industrial needs in the proposed places of use and will not conflict with the 2022 Region G, H, and C Water Plan. For example, the projected Region G need for municipal use between 2020 and 2030 is 31K and 65K AFY respectively. The mining demand projection from 2020 to 2030 is from 30K and 32K AFY. The proposed amendment will divert around 10K AFY for domestic, livestock, irrigation, municipal, mining, and industrial use.
- f) Waste Avoidance. WCP for municipal use and the WCP for industrial use will be developed and submitted to TCEQ for approval before initiating these types of water use
- g) Impacts on Water Rights or On-stream Environment. The proposed amendment only requests the use of "bed and banks" for the storage of groundwater. The location of use is stated as Robertson, Leon, Limestone, Brazos, Madison, Falls, Freestone, Milam, and Burleson County. No detrimental impacts to water rights holders downstream or the on-stream environment are expected.

Sarah Henderson

From: Peter Zamora <[REDACTED]>
Sent: Monday, January 6, 2025 4:24 PM
To: Sarah Henderson
Cc: Jeff Crisp; Doug Caroom
Subject: Circle X South Cooley, LLC and Circle X North Cooley, LLC WRPERM 5160

RE:
Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
CN606203362, CN606203347, RN105799803
Application No. 5160B to Amend Water Use Permit No. 5160
Texas Water Code §§ 11.042, 11.122, Requiring Limited Mailed Notice
Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek,
Brazos River Basin
Robertson County

Dear Ms. Henderson,

Thank you for your assistance in getting the permit amendment close to the finish line.

We have 2 points of clarification that may not have been clear or captured in our past discussions.

1. The draft states that:
Circle X South Cooley, LLC and Circle X North Cooley, LLC seek to amend Water Use Permit No. 5160 to authorize the use of the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek, Brazos River Basin to convey up to 10,098 acre-feet of groundwater per year for subsequent diversion and **use for domestic and livestock, municipal, mining, industrial, and agricultural purposes in Robertson County.**

The highlighted text suggests that the use of water is restricted only for use in Robertson County. It may not have been clear that we intended to leave the use and location (in Robertson County), of the originally allocated surface (state) water as stated in the original water right however, for the newly requested impoundment of groundwater, we intend to use for potential clients in Robertson and surrounding counties according to the rules of the Brazos Valley Groundwater Conservation District. We request that Robertson County be taken out and replaced with “pursuant to the rules of the Brazos Valley Groundwater Conservation District”.

2. Also the draft states:
Applicants will discharge the groundwater, at a maximum rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and **at a point on an unnamed tributary of Duck Creek, located at Latitude 31.159423°N, Longitude 96.377278°W**, within ZIP Code 77856.
Applicants seek to divert the discharged groundwater, at a maximum combined diversion rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and **at a point on an unnamed tributary of Duck Creek located at Latitude 31.159423°N, Longitude 96.377278°W**, within ZIP Code 77856.

We had intended the discharge and diversion points for the unnamed tributary of Duck Creek (Coyote) to be anywhere along the perimeter of the impoundment similar to both Artesian and Wolf Lake.

We request the draft to be modified to reflect these intentions. If there are issues or other requirements to proceed with these requests, please let us know so we can promptly address them.

Thank you!

PETER B. ZAMORA, PhD, PG | Hydrologist

AquaStrategies
Water Planning, Science & Engineering

13341 W US HWY 290, BLDG 2

Austin TX 78737

Cell: 5127673809

Sarah Henderson

From: Chris Kozlowski
Sent: Thursday, January 2, 2025 4:39 PM
To: [REDACTED]
Cc: Humberto Galvan; Kim Nygren; Sarah Henderson
Subject: Circle X South Cooley LLC and Circle X North Cooley LLC Application No. 5160B Draft Amendment & Notice
Attachments: Circle X South Cooley, LLC and Circle X North Cooley, LLC 5160B_Draft_Amendment_1.2.25.pdf

Good afternoon Mr. Crisp,

Drafts, subject to revision, of the public notice, proposed amendment to Water Use Permit No. 5160, and the related technical memoranda are attached. Please review the revised drafts and provide comments by January 16, 2025.

Chris Kozlowski, Team Leader
Water Rights Permitting Team
Water Rights Permitting & Availability Section
Texas Commission on Environmental Quality
(512)239-1801
Chris.Kozlowski@tceq.texas.gov

Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 2, 2025

Mr. Jeff Crisp
Circle X South Cooley, LLC and Circle X North Cooley, LLC
3131 Briarcrest Drive
Bryan, TX 77802-3004

VIA E-MAIL

RE: Circle X South Cooley, LLC and Circle X North Cooley, LLC
WRPERM 5160
CN606203362, CN606203347, RN105799803
Application No. 5160B to Amend Water Use Permit No. 5160
Texas Water Code §§ 11.042, 11.122, Requiring Limited Mailed Notice
Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek,
Brazos River Basin
Robertson County

Dear Mr. Crisp:

Drafts, subject to revision, of the public notice, proposed amendment to Water Use Permit No. 5160, and the related technical memoranda are attached.

Staff are recommending that the referenced application be granted in accordance with the enclosed drafts. Please review the drafts and contact me no later than January 16, 2025, with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a 30-day comment period and once the comment period has closed, the proposed amendment to Water Use Permit No. 5160 may be issued as drafted given no hearing requests are received.

If you have any questions concerning this matter, please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Chris Kozlowski for

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A WATER USE PERMIT

APPLICATION NO. 5160B

Circle X South Cooley, LLC and Circle X North Cooley, LLC seek to amend Water Use Permit No. 5160 to authorize the use of the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek, Brazos River Basin to convey up to 10,098 acre-feet of groundwater per year for subsequent diversion and use for domestic and livestock, municipal, mining, industrial, and agricultural purposes in Robertson County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Circle X South Cooley, LLC and Circle X North Cooley, LLC, 3131 Briarcrest Drive, Bryan, TX 77802-3004, Applicants, have applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Water Use Permit pursuant to Texas Water Code (TWC) §§ 11.122, 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice to Texas Parks and Wildlife Department and the Public Interest Council is required pursuant to Title 30 TAC § 295.161(c).

A portion of Water Use Permit No. 5160 (Permit), as amended, authorizes Circle X South Cooley, LLC to maintain a dam and reservoir (Artesian Lake Dam) located on an unnamed tributary of Steele Creek, Brazos River Basin and impound not to exceed 609 acre-feet of water for domestic and livestock purposes in Robertson County.

A portion of Water Use Permit No. 5160, as amended, authorizes Circle X North Cooley, LLC to maintain a dam and reservoir (Wolf Lake Dam) located on Shop Branch, Brazos River Basin and impound not to exceed 314.2 acre-feet of water for domestic and livestock purposes in Robertson County.

The Permit also authorizes the use of the bed and banks of an unnamed tributary of Steele Creek (Artesian Lake) to convey 480 acre-feet of groundwater per year for subsequent diversion of not to exceed 456.6 acre-feet of groundwater per year from the perimeter of Artesian Lake, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for agricultural purposes in Robertson County. .

The Permit further authorizes the use of 53 acre-feet of surface water per year, and 24 acre feet of the conveyed groundwater, to and offset evaporation from Artesian Lake.

Multiple Special Conditions relating to storage and diversion of the 480 acre-feet of groundwater apply.

The time priority to maintain the reservoirs is October 2, 1987 and the time priority for authorization to use 53 acre-feet of water per year to offset evaporation in Artesian Lake is July 27, 1999.

Circle X South Cooley, LLC and Circle X North Cooley, LLC seek to amend Water Use Permit No. 5160 to authorize the use of the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey up to an additional 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion and use for domestic and livestock, municipal, mining, industrial and agricultural purposes in Robertson County.

Applicants will discharge the groundwater, at a maximum rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and at a point on an unnamed tributary of Duck Creek, located at Latitude 31.159423 °N, Longitude 96.377278 °W, within ZIP Code 77856.

Applicants seek to divert the discharged groundwater, at a maximum combined diversion rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and at a point on an unnamed tributary of Duck Creek located at Latitude 31.159423 °N, Longitude 96.377278 °W, within ZIP Code 77856.

Applicants also seek to add a place of use for agricultural purposes to irrigate a 10,631-acre tract of land in Robertson County.

Ownership, by Circle X South Cooley, LLC, of 5,478 acres of land to be irrigated is evidenced by a *Special Warranty Deed with Limited General Warranty*, recorded as Volume 1521, Page 487 in the official records of Robertson County.

Ownership, by Circle X North Cooley, LLC, of 5,153 acres of land to be irrigated is evidenced by a *Special Warranty Deed with Limited General Warranty*, recorded as Volume 1521, Page 503 in the official records of Robertson County.

The application was received on June 6, 2024 and fees were received on September 23, 2024. Additional information was received on October 8, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 24, 2024.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions, including, but not limited to, maintaining a measuring device and accounting for the discharge and diversion of groundwater. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at:

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps.

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

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

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by _____. The Executive Director may approve the application unless a written request for a contested case hearing is filed by _____.

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

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

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 5160 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A WATER USE PERMIT

PERMIT NO. 5160B

TYPE §§ 11.122, 11.042

| | | | |
|---------------|-------------------------------------------------------------------------------------------|------------|-----------------------------------------------|
| Permittees: | Circle X South Cooley, LLC and Circle X North Cooley, LLC | Address: | 3131 Briarcrest Drive Bryan, TX 77802-3004 |
| Filed: | October 24, 2024 | Granted: | |
| Purposes: | Domestic and Livestock, Municipal, Mining, Industrial, and Agricultural | County: | Robertson |
| Watercourses: | Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek | Watershed: | Brazos River Basin |

WHEREAS, a portion of Water Use Permit No. 5160 (Permit), as amended, authorizes Circle X South Cooley, LLC to maintain a dam and reservoir (Artesian Lake Dam) located on an unnamed tributary of Steele Creek, Brazos River Basin and impound not to exceed 609 acre-feet of water for domestic and livestock purposes in Robertson County; and

WHEREAS, a portion of Water Use Permit. No. 5160, as amended, authorizes Circle X North Cooley, LLC to maintain a dam and reservoir (Wolf Lake Dam) located on Shop Branch, Brazos River Basin and impound not to exceed 314.2 acre-feet of water for domestic and livestock purposes in Robertson County; and

WHEREAS, the Permit also authorizes the use of the bed and banks of an unnamed tributary of Steele Creek (Artesian Lake) to convey 480 acre-feet of groundwater per year for subsequent diversion of not to exceed 456.6 acre-feet of groundwater per year, from the perimeter of Artesian Lake, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for agricultural purposes in Robertson County; and

WHEREAS, the Permit further authorizes the use of 53 acre-feet of surface water per year and 24 acre-feet of the conveyed groundwater to offset evaporation from Artesian Lake; and

WHEREAS, multiple Special Conditions relating to storage and diversion of the 480 acre-feet per year of groundwater apply; and

WHEREAS, the time priority to maintain the reservoirs is October 2, 1987 and the time priority for authorization to use 53 acre-feet of water per year to offset evaporation in Artesian Lake is July 27, 1999; and

WHEREAS, Circle X South Cooley, LLC and Circle X North Cooley, LLC (Applicants/Permittees) seek to amend Water Use Permit No. 5160 to authorize the use of the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey up to an additional 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion and use for domestic and livestock, municipal, mining, industrial and agricultural purposes in Robertson County; and

WHEREAS, Applicants will discharge the groundwater, at a maximum rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and at a point on an unnamed tributary of Duck Creek, located at Latitude 31.159423° N, Longitude 96.377278° W; and

WHEREAS, Applicants seek to divert the discharged groundwater at a maximum combined diversion rate of 14.03 cfs (6,300 gpm), anywhere along the perimeters of Artesian Lake and Wolf Lake and at a point on an unnamed tributary of Duck Creek located at Latitude 31.159423° N, Longitude 96.377278° W; and

WHEREAS, Applicants also seek to add a place of use for agricultural purposes to irrigate a 10,631-acre tract of land in Robertson County; and

WHEREAS, Ownership, by Circle X South Cooley, LLC, of 5,478 acres of land to be irrigated is evidenced by a *Special Warranty Deed with Limited General Warranty*, recorded as Volume 1521, Page 487 in the official records of Robertson County; and

WHEREAS, Ownership, by Circle X North Cooley, LLC, of 5,153 acres of land to be irrigated is evidenced by a *Special Warranty Deed with Limited General Warranty*, recorded as Volume 1521, Page 503 in the official records of Robertson County; and

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

WHEREAS, this amendment, if granted, is subject to the requirements and orders of the Brazos Watermaster; and

WHEREAS, the Executive Director recommends that special conditions be included in this amendment; and

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

NOW, THEREFORE, this amendment to Water Use Permit No. 5160, designated as Water Use Permit No. 5160B, is issued Circle X South Cooley, LLC and Circle X North Cooley, LLC subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Permittees are authorized to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey up to an additional 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for domestic and livestock, municipal, mining, industrial and agricultural purposes in Robertson County.

2. DISCHARGE

Groundwater will be discharged at the following locations:

- A. The perimeter of Artesian Lake, on an unnamed tributary of Steele Creek, located at Latitude 31.205024 °N, Longitude 96.315224 °W; and
- B. The perimeter of Wolf Lake, on Shop Branch, located at Latitude 31.215623 °N, Longitude 96.336267 °W; and
- C. A point on an unnamed tributary of Duck Creek, located at Latitude 31.159423 °N, Longitude 96.377278 °W.
- D. At a maximum discharge rate of 14.03 cfs (6,300 gpm).

3. DIVERSION

Permittees are authorized to divert discharged groundwater at the following locations:

- A. The perimeter of Artesian Lake, on an unnamed tributary of Steele Creek, located at Latitude 31.205024 °N, Longitude 96.315224 °W; and
- B. The perimeter of Wolf Lake, on Shop Branch, located at Latitude 31.215623 °N, Longitude 96.336267 °W in Robertson County; and
- C. A point on an unnamed tributary of Duck Creek, located at Latitude 31.159423 °N, Longitude 96.377278 °W in Robertson County.
- D. At a maximum combined diversion rate of 14.03 cfs (6,300 gpm).

4. PRIORITY DATE

The groundwater authorized to be conveyed via the bed and banks of a state watercourse in this amendment does not have a priority date and is not subject to priority calls from senior water rights.

5. SPECIAL CONDITIONS

- A. Permittees shall implement reasonable measures to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- B. Permittees are not authorized to divert state water and shall only divert groundwater that has been discharged into the reservoirs.
- C. Prior to the diversion of the additional groundwater authorized herein, if sufficiently accurate measuring devices are not available, Permittees shall install and maintain metering device(s), at any discharge point of the groundwater into the reservoirs and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
- D. For purposes of this amendment, the diversion period for each reservoir is defined as beginning on the date on which groundwater is discharged and ending when all diversions of discharged groundwater cease.

- E. To avoid diversion of any state water inflows, Permittees shall reduce the amount of divertible groundwater in the reservoir(s) during a diversion period by the amount of water lost to evaporation.
- F. For each diversion period, Permittees shall document the water surface elevation of each reservoir prior to discharging groundwater into the reservoir(s) and upon cessation of diversions.
- G. Permittees shall maintain a water balance demonstrating compliance with the terms and conditions of this amendment. The water balance shall include, for each diversion period, records for each reservoir of the amount of groundwater discharged and subsequently diverted from the reservoir and the daily evaporative losses.
- H. Permittees shall provide all diversion records, including the water balance records, to the Brazos Watermaster at a frequency determined by the watermaster.
- I. Permittees shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device(s) and records.
- J. Permittees shall contact the Brazos Watermaster prior to diversion of water authorized by this amendment.

This amendment is issued subject to all terms, conditions and provisions contained in Water Use Permit No. 5160, as amended, except as specifically amended herein.

This amendment is issued subject to all superior water right holders in the Brazos River Basin.

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

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

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

For the Commission

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager
Water Rights Permitting Team

Date: December 19, 2024

Through: *KA* Kathy Alexander, Ph.D., Policy and Technical Analyst
Water Availability Division

TG Trent Gay, Team Leader
Surface Water Availability Team

From: Aya Bangun, Hydrologist
Surface Water Availability Team

Subject: Circle X North Cooley, LLC and Circle X South Cooley, LLC
WRPERM 5160B
CN606203347, CN606203362
Shop Branch, unnamed tributary of Steele Creek, and unnamed
tributary of Duck Creek, Brazos River Basin
Robertson County

HYDROLOGY REVIEW

Application Summary

Water Use Permit No. 5160 (Permit), as amended, authorizes Circle X North Cooley, LLC and Circle X South Cooley, LLC (Applicants) to maintain a reservoir on Shop Branch (Wolf Lake) and a reservoir on an unnamed tributary of Steele Creek (Artesian Lake), Brazos River Basin, impounding a total of 932.2 acre-feet of water for domestic and livestock purposes in Robertson County. The time priority to maintain the reservoirs is October 2, 1987.

The Permit also authorizes the use of the bed and banks of an unnamed tributary of Steele Creek (Artesian Lake) to convey and store 480 acre-feet of groundwater per year for subsequent diversion of up to 456.6 acre-feet of groundwater per year from the perimeter of Artesian Lake, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for agricultural purposes in Robertson County. The Permit authorizes the use of 53 acre-feet of water, with a priority date of July 27, 1999, and 24 acre-feet of groundwater to account for evaporative losses. Multiple special conditions apply.

Applicants request authorization to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion from the perimeters of the reservoirs and a point on an unnamed tributary of Duck Creek, at a maximum combined rate of 14.03 cfs (6,300 gpm), for domestic and livestock, agricultural, municipal, mining, and industrial purposes in Robertson County. Applicants also request to add a place of use for agricultural purposes to a 10,631 acre-tract of land in Robertson County.

The application was declared administratively complete on October 24, 2024.

Hydrology Review

Resource Protection staff did not recommend instream flow requirements for this application; however, they did recommend a special condition. See the Resource Protection memorandum dated December 16, 2024.

The application does not request a new appropriation of water; therefore, a water availability analysis is not necessary. However, the application must be reviewed to ensure that no water rights are affected by the request. Regarding the request to use the bed and banks of Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek to convey groundwater, the application included the information required in 30 Texas Administrative Code (TAC) §295.113.

The application included information on evaporation losses and stated that the Applicants will only divert discharged groundwater, minus losses and maintain streamflow downstream of the reservoirs. Staff notes that the existing permit includes a seasonal limitation for diversion of 480 acre-feet of groundwater. The seasonal limitation continues to apply to the existing authorization but does not apply to the additional groundwater requested in this amendment. Staff reviewed the information provided by the Applicants and found that if the Applicants divert only discharged groundwater, as set out by staff's recommended special conditions, no water rights should be affected by the request.

This application is subject to the requirements and orders of the Brazos Watermaster. The Watermaster actively manages water rights on a daily basis and protects senior water rights in times of shortage.

Conclusion

Hydrology staff can support granting the application as requested provided that the amendment granted includes the following special conditions:

1. Permittee is not authorized to divert state water and shall only divert groundwater that has been discharged into the reservoirs.

2. Prior to the diversion of the additional groundwater authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain metering device(s), at any discharge point of the groundwater into the reservoirs and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
3. For purposes of this amendment, the diversion period for each reservoir is defined as beginning on the date on which groundwater is discharged and ending when all diversions of discharged groundwater cease.
4. To avoid diversion of any state water inflows, Permittee shall reduce the amount of divertible groundwater in the reservoir(s) during a diversion period by the amount of water lost to evaporation.
5. For each diversion period, Permittee shall document the water surface elevation of each reservoir prior to discharging groundwater into the reservoir(s) and upon cessation of diversions.
6. Permittee shall maintain a water balance demonstrating compliance with the terms and conditions of this amendment. The water balance shall include, for each diversion period, records for each reservoir of the amount of groundwater discharged and subsequently diverted from the reservoir and the daily evaporative losses.
7. Permittee shall provide all diversion records, including the water balance records, to the Brazos Watermaster at a frequency determined by the watermaster.

Note that the application is subject to the requirements and orders of the Brazos Watermaster.

Aya Bangun


Aya Bangun, Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager
Water Rights Permitting Team

Date: December 16, 2024

Through: Leslie Patterson, Team Leader 
Resource Protection Team

From: Nathalie Montes, Aquatic Scientist
Resource Protection Team

Subject: Circle X North Cooley, LLC and Circle X South Cooley, LLC
WRPERM 5160
CN606203347, CN606203362
Shop Branch, unnamed tributary of Steele Creek, and unnamed
tributary of Duck Creek, Brazos River Basin
Robertson County

Environmental reviews of water right applications are conducted in accordance with applicable provisions of the Texas Water Code (TWC) and the administrative rules of the Texas Commission on Environmental Quality (TCEQ). The provisions applicable to environmental reviews can vary according to the type and the location of the authorization requested.

APPLICATION SUMMARY

Water Use Permit No. 5160 (Permit), as amended, authorizes Circle X North Cooley, LLC and Circle X South Cooley, LLC (Applicants) to maintain a reservoir on Shop Branch (Wolf Lake) and a reservoir on an unnamed tributary of Steele Creek (Artesian Lake), Brazos River Basin, impounding a total of 932.2 acre-feet of water for domestic and livestock purposes in Robertson County. The time priority to maintain the reservoirs is October 2, 1987.

The Permit also authorizes the use of the bed and banks of an unnamed tributary of Steele Creek (Artesian Lake) to convey and store 480 acre-feet of groundwater per year for subsequent diversion of up to 456.6 acre-feet of groundwater per year from the perimeter of Artesian Lake, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for agricultural purposes in Robertson County. The Permit authorizes the use of 53 acre-feet of water, with a priority date of July 27, 1999, and 24 acre-feet of groundwater to account for evaporative losses. Multiple special conditions apply.

Applicants request authorization to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion from the perimeters of the reservoirs and a point on an unnamed tributary of Duck Creek, at a maximum combined rate of

14.03 cfs (6,300 gpm), for domestic and livestock, agricultural, municipal, mining, and industrial purposes in Robertson County. Applicants also request to add a place of use for agricultural purposes to a 10,631 acre-tract of land in Robertson County.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitats: The Applicants' reservoirs and requested bed and banks are located on Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek, intermittent streams with perennial pools, located in the Southern Post Oak Savanna ecoregion (Griffith et al. 2007).

The checklist for the Brazos River Basin identified 80 species of ichthyofauna occurring within the Navasota hydrologic unit (United States Geologic Survey code 12070103) (Hendrickson and Cohen 2022). The Brazos heelsplitter (*Potamius streckersoni*), a high-interest aquatic species, is known to occur in Robertson County (TPWD 2024). This amendment is not expected to have an effect on any high-interest aquatic species because no additional state water will be taken.

The Applicants have agreed to install screens on any new diversion structures in order to minimize entrainment and impingement of aquatic organisms.

The TCEQ regulates bed and banks authorizations to convey groundwater under the authority of TWC §11.042(c). That provision allows the commission to place special conditions in the authorization to "maintain instream uses and freshwater inflows to bays and estuaries." On February 12, 2014, the TCEQ adopted environmental flow standards for the Brazos River and its associated bay and estuary system (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter G). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC §298.460) The Applicants do not request a new appropriation of water or an amendment that increases the amount of water stored, taken, or diverted; therefore, the environmental flow standards do not apply. The Applicants' propose to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion from the perimeters of the reservoirs and a point on an unnamed tributary of Duck Creek. The Applicants' request is not expected to adversely impact aquatic and riparian habitats in the area.

Recreational Uses: Shop Branch, the unnamed tributary of Steele Creek, and the unnamed tributary of Duck Creek have a presumed primary contact recreation 1 use (TCEQ 2022). The Applicants' request should not adversely impact recreational uses.

Water Quality: Shop Branch, the unnamed tributary of Steele Creek, and the unnamed tributary of Duck Creek have presumed limited aquatic life use (TCEQ 2022).

The Applicants indicate groundwater from four wells in the Simsboro and Calvert aquifers will be conveyed through the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek for subsequent diversion. Resource Protection staff have reviewed the Applicants' groundwater quality information, and the groundwater to be used is of sufficient quality that it should not adversely impact water quality.

Freshwater Inflows: Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The proposed project is located more than 200 river miles from the Gulf of Mexico. The application does not request a new appropriation of water. Therefore, the Applicants' request should not have any impacts to the Brazos River's estuary system.

RECOMMENDATIONS

Resource Protection staff recommend the following Special Condition be included in the proposed amendment, if granted:

Owners shall implement reasonable measures to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).

LITERATURE CITED

Griffith GE, Bryce SA, Omernik JM, Rogers AC. 2007. Ecoregions of Texas - Project Report to Texas Commission on Environmental Quality. Reston (VA): U.S. Geological Survey. Report No.: AS-199. 125p.

Hendrickson, DA, Cohen AE. 2022. Fishes of Texas Project Database [Internet]. [cited 2024 December 10]; Version 3.0. Available from <http://doi.org/10.17603/C3WC70>.

TCEQ. 2022. Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2024. TPWD County Lists of Texas Protected Species and Species of Greatest Conservation Need [Internet]. Austin (TX): Robertson County, revised

*Circle X North Cooley, LLC and Circle X South Cooley, LLC, 12-5160B
Shop Branch, unnamed tributary of Steele Creek, and unnamed tributary of Duck Creek
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August 22, 2024. [cited 2024 December 13]. Available from
<http://tpwd.texas.gov/gis/rtest/>.

Nathalie Montes


Nathalie Montes, Aquatic Scientist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager
Water Rights Permitting Team

Date: December 16, 2024

Through: Leslie Patterson, Team Leader 
Resource Protection Team

From: Kristin Wang, Senior Water Conservation Specialist
Resource Protection Team

Subject: Circle X North Cooley, LLC and Circle X South Cooley, LLC
WRPERM 5160
CN606203347, CN606203362
Shop Branch, unnamed tributary of Steele Creek, and unnamed
tributary of Duck Creek, Brazos River Basin
Robertson County

APPLICATION SUMMARY

Water Use Permit No. 5160 (Permit), as amended, authorizes Circle X North Cooley, LLC and Circle X South Cooley, LLC (Applicants) to maintain a reservoir on Shop Branch (Wolf Lake) and a reservoir on an unnamed tributary of Steele Creek (Artesian Lake), Brazos River Basin, impounding a total of 932.2 acre-feet of water for domestic and livestock purposes in Robertson County. The time priority to maintain the reservoirs is October 2, 1987.

The Permit also authorizes the use of the bed and banks of an unnamed tributary of Steele Creek (Artesian Lake) to convey and store 480 acre-feet of groundwater per year for subsequent diversion of up to 456.6 acre-feet of groundwater per year from the perimeter of Artesian Lake, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for agricultural purposes in Robertson County. The Permit authorizes the use of 53 acre-feet of water, with a priority date of July 27, 1999, and 24 acre-feet of groundwater to account for evaporative losses. Multiple special conditions apply.

Applicants request authorization to use the bed and banks of Shop Branch, an unnamed tributary of Steele Creek, and an unnamed tributary of Duck Creek to convey 10,098 acre-feet of groundwater per year from the Simsboro and Calvert Bluff aquifers for subsequent diversion from the perimeters of the reservoirs and a point on an unnamed tributary of Duck Creek, at a maximum combined rate of 14.03 cfs (6,300 gpm), for domestic and livestock, agricultural, municipal, mining, and industrial purposes in Robertson County. Applicants also request to add a place of use for agricultural purposes to a 10,631 acre-tract of land in Robertson County.

WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code §295.9, a water conservation plan is not required to be submitted for this application.

The application is consistent with the 2021 Region G Water Plan and the 2022 State Water Plan because there is nothing in the water plans that conflicts with issuing this proposed permit.

RECOMMENDATIONS

Resource Protection Staff have no recommendations regarding the proposed permit, if granted.



Kristin Wang, Senior Water Conservation Specialist

Texas Commission on Environmental Quality
TELEPHONE MEMO TO THE FILE

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| Call to: Peter Zamora | Call from: TCEQ Staff Sarah Henderson |
| Date: October 1, 2024 | Project No: WRPERM No. 5160B |
| <p><i>Information for File follows:</i></p> <p>Phone conference to discuss the Request for Information letter dated September 17, 2024.</p> <p>Regarding Item No. 3, TCEQ staff and Applicant clarified what the application is requesting; whether the applicant requests to authorize a reservoir or authorize the use of the bed and banks. Applicant stated Yes, request to use the bed and banks</p> <p>Regarding Item No. 5, Centerline of the dam for points. Requests perimeter of reservoirs for diversion and discharge points</p> | |
| <p>Signed <i>Sarah Henderson</i></p> | |