

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Natalia Ponebshek Project Manager
Water Rights Permitting Team

DATE: March 31, 2023

SUBJECT: City of Denton
ADJ 2335
CN600358980, RN103973020
Application No. 08-2335B to Amend Certificate of Adjudication No. 08-2335
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Elm Fork Trinity River, Trinity River Basin
Denton County

The application and partial fees were received on November 30, 2022. Additional information and fees were received on March 20 and March 27, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on March 31, 2023. Mailed notice to the interjacent water right holders of record in the Trinity River Basin is required pursuant to Title 30 Texas Administrative Code § 295.158(c)(3)(C).

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

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

OCC Mailed Notice Required **YES**

NO

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 31, 2023

Ms. Carolyn Ahrens
Of Counsel, Booth & Associates, P.C.
5701 W. Slaughter Lane, Ste. A130
Austin, TX 78749

VIA E-MAIL

RE: City of Denton
ADJ 2335
CN600358980, RN103973020
Application No. 08-2335B to Amend Certificate of Adjudication No. 08-2335
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Elm Fork Trinity River, Trinity River Basin
Denton County

Dear Ms. Ahrens:

This acknowledges receipt on March 20 and March 27, 2023 of additional information and fees in the amount of \$5.88 (Receipt no. M314387, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on March 31, 2023. 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 the application, please contact me via email at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

Attachment



27-MAR-23 12:10 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Paid In By</u>	<u>Check Number</u>	<u>Card Auth.</u>	<u>User Data</u>	<u>CC Type</u>	<u>Tran Code</u>	<u>Rec Code</u>	<u>Slip Key</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
NOTICE FEES-WUP-WATER USE PERM	PTGU			M314386			1134								27-MAR-23	-\$8.82
	PTGU			ADJ082348B			032723									D3802253
			NOTICE FEES WUP WATER USE PERMITS	AHRENS, CAROLYN			VHERNAND									
	PTGU			M314387			1136								27-MAR-23	-\$5.88
	PTGU			ADJ082335B			032723									D3802253
			NOTICE FEES WUP WATER USE PERMITS	AHRENS, CAROLYN			VHERNAND									

Total (Fee Code) :

-\$14.70

RECEIVED
MAR 28 2023
Water Availability Division

RECEIVED
MAR 28 2023
Water Availability Division

Natalia Ponebshek

From: Carolyn Ahrens [REDACTED] >
Sent: Monday, March 20, 2023 4:50 PM
To: Brooke McGregor; Kathy Alexander; Chris Kozlowski; Natalia Ponebshek
Cc: Gay, Stephen; Susan Keller; Tyler A Dawson
Subject: Denton / Water Rights (08-2335B and 08-2348B): Response to Requests for Information on Administrative Review
Attachments: As Submitted Denton Admin RFI Response 08-2335B 032023.pdf; As Submitted Denton Admin RFI Response 08-2348B 032023.pdf

Good afternoon, Brooke.

The City of Denton's separate responses to Requests for Information related to administrative review of Water Rights Amendment Applications 08-2335B (Lake Ray Roberts) and 08-2348B (Lake Lewisville) are attached. I will send payment for mailed notice fees by regular mail to Ms. Ponebshek's attention.

Please let me know if there is any additional information that will facilitate the Executive Director's review to find the applications administratively complete.

And, as always, many thanks.

CA

Carolyn Ahrens, Of Counsel
Booth & Associates, P.C.
512.619.4079 (cell)

March 20, 2023

Brooke McGregor, Acting Manager
Water Rights Permitting and Availability Section
Water Availability Division
Mail Code 160
P.O. Box 13087
Austin, TX 78711-3087

**Re: Response to Request for Information During Administrative Review Regarding
City of Denton's Water Rights Application No. 08-2335 B (Lake Ray Roberts)**

Dear Ms. McGregor,

For the City of Denton, I received correspondence dated January 30, 2023, from Ms. Natalia Ponebscheck, requesting information regarding Denton's Water Rights Application No. 08-2335B. Correspondence dated February 8, 2023, allowed additional time for response.

The Executive Director's requests for information and responses on Denton's behalf follow and are timely submitted.

1. Request: Confirm the application does not request an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate. Staff notes 1.b. of the Technical Information Report is marked "Yes."

Response: Please accept this response as a correction to Technical Information Report 1.b., which should have been marked "No." Denton's application related to Lake Ray Roberts does not request an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate.

2. Provide additional information concerning the submitted water conservation and drought contingency plan for municipal use to comply with Title 30 Texas Administrative Code (TAC) Chapter 288.

- a. Request: Provide a utility profile, as referenced by Appendix C, including information regarding retail and wholesale population and customer data, water use data, water supply system data, and wastewater system data.

Response: Please see the attached Utility Profile referred to as Appendix C to the water conservation plan Denton submitted. It is the same Appendix C that was submitted with Denton's plan and approved on behalf of the Texas Commission on Environmental Quality in 2019.

- b. Request: Provide documentation of coordination with the regional water planning group as referenced by Appendix E.

Response: Please see the attached documentation of coordination with the Region C Regional Planning Group referred to as Appendix E to the water conservation plan Denton submitted. It is the same Appendix E that was submitted with Denton's plan and approved on behalf of the Texas Commission on Environmental Quality in 2019.

3. Request: Provide a completed Water Conservation Plan for agricultural use, developed by Applicant or end-user of the water, that complies with 30 TAC §288.4. If Applicant does not intend to divert water for agricultural purposes or has not identified a contract customer for the water, a special condition will be included in the amendment requiring that a water conservation plan be submitted prior to diversion of water for this use.

Response:

At the present time, Denton has not identified a retail contract customer for supply of water for first application to an agricultural purpose of use. Applying the TCEQ's rules, Denton understands that its supply of water for municipal purposes applies to the use of potable water as well as to the reuse of water from its water reclamation facilities for residential, commercial, industrial, agricultural, institutional, and wholesale uses. Denton also understands that the TCEQ has accepted submission of Denton's water conservation plan as that plan applies to wholesale water customers.

Denton will accept a special condition in its permit substantially as follows: *"Prior to diverting raw water for first application to an agricultural purpose of use under contract to a retail customer, Denton either will amend its water conservation plan relevant to such purpose of use or require, by contract, that the customer for an agricultural purpose of use develop and submit a water conservation plan that complies with the TCEQ's rules."*

4. Request: Provide a completed Water Conservation Plan for industrial use, developed by Applicant or end-user of the water, that complies with 30 TAC §288.3. If Applicant does not intend to divert water for industrial purposes or has not identified a contract customer for the water, a special condition will be included in the amendment requiring that a water conservation plan be submitted prior to diversion of water for this use.

Response:

At the present time, Denton has not identified a retail contract customer for supply of water for first application to an industrial purpose of use. Applying the TCEQ's rules, Denton understands that its supply of water for municipal purposes applies to the use of potable water as well as to the reuse of water from its water reclamation facilities for residential, commercial, industrial, agricultural, institutional, and wholesale uses. Denton also understands that the TCEQ has accepted submission of Denton's water conservation plan as that plan applies to wholesale water customers.

Denton will accept a special condition in its permit substantially as follows: *"Prior to diverting raw water for first application to an industrial purpose of use under contract to a retail customer, Denton either will amend its water conservation plan relevant to such purpose of use or require, by contract, that the customer for an industrial purpose of use develop and submit a water conservation plan that complies with the TCEQ's rules.*

5. Request: Remit fees in the amount of \$5.88 as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Response: My check in the amount of \$5.88, in payment of additional fees for written notice associated with Denton's application, is enclosed with a paper copy of this cover letter mailed to Ms. Ponebscheck's attention.

Thank you for your continuing attention to Denton's application. Please let me know if there is any additional information that will facilitate your team's administrative review.

Personal regards,



Carolyn Ahrens, Of Counsel
Booth & Associates, P.C.
512.619.4079 (cell)
[REDACTED]

cc via email:

Dr. Kathy Alexander, TCEQ
Mr. Chris Kozlowski, TCEQ
Ms. Natalia Ponebschek, TCEQ
Mr. Stephen Gay, City of Denton
Ms. Susan Keller, City of Denton
Mr. Tyler Dawson, City of Denton

APPENDIX C
Water Utility Profile

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

CONTACT INFORMATION

Name of Utility:

Public Water Supply Identification Number (PWS ID):

Certificate of Convenience and Necessity (CCN) Number:

Surface Water Right ID Number:

Wastewater ID Number:

Contact: First Name: Last Name:

Title:

Address: City: State:

Zip Code: Zip+4: Email:

Telephone Number: Date:

Is this person the designated Conservation Coordinator? Yes No

Regional Water Planning Group:

Groundwater Conservation District:

Our records indicate that you:

- Received financial assistance of \$500,000 or more from TWDB
- Have 3,300 or more retail connections
- Have a surface water right with TCEQ

A. Population and Service Area Data

1. Current service area size in square miles:

Attached file(s):

File Name	File Description
07 - Appendix C - Service Area Map.pdf	COD Service Area Map PDF

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. Historical service area population for the previous five years, starting with the most current year.

Year	Historical Population Served By Retail Water Service	Historical Population Served By Wholesale Water Service	Historical Population Served By Wastewater Water Service
2018	130,990	0	130,990
2017	128,160	0	128,160
2016	125,980	0	125,980
2015	122,388	0	122,388
2014	120,820	11,047	120,820

3. Projected service area population for the following decades.

Year	Projected Population Served By Retail Water Service	Projected Population Served By Wholesale Water Service	Projected Population Served By Wastewater Water Service
2020	136,282	0	136,282
2030	166,127	0	166,127
2040	202,508	0	202,508
2050	246,856	0	246,856
2060	300,916	0	300,916

4. Describe source(s)/method(s) for estimating current and projected populations.

Used NCTCOG population estimates. NCTCOG used 2010 Census data and adjusted for new or changed housing units. For each type of housing, population is estimated by [estimated units] * [estimated occupancy rate] * [estimated persons per occupied unit]. Estimated units are supplied by City of Denton. Estimated occupancy rate and persons per household were calculated in 2010 from ACS data adjusted to be consistent with 2010 Census data. Methodology documentation is available from NCTCOG.

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. System Input

System input data for the previous five years.
 Total System Input = Self-supplied + Imported – Exported

Year	Water Produced in Gallons	Purchased/Imported Water in Gallons	Exported Water in Gallons	Total System Input	Total GPCD
2018	6,946,073,000	0	73,080,000	6,872,993,000	144
2017	6,320,692,683	0	91,926,324	6,228,766,359	133
2016	6,370,239,131	0	97,429,860	6,272,809,271	136
2015	6,336,727,178	0	204,764,826	6,131,962,352	137
2014	8,519,210,494	182,511,754	2,634,709,000	6,067,013,248	138
Historic Average	6,898,588,497	36,502,351	620,382,002	6,314,708,846	138

C. Water Supply System

Attached file(s):

File Name	File Description
Water system.pdf	Water Supply System Map

1. Designed daily capacity of system in gallons
2. Storage Capacity
 - 2a. Elevated storage in gallons:
 - 2b. Ground storage in gallons:

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

D. Projected Demands

1. The estimated water supply requirements for the next ten years using population trends, historical water use, economic growth, etc.

Year	Population	Water Demand (gallons)
2020	136,282	7,798,542,082
2021	139,008	7,921,754,845
2022	141,788	8,068,604,610
2023	144,624	8,218,172,447
2024	147,516	8,393,058,898
2025	150,466	8,525,664,745
2026	153,476	8,683,692,774
2027	156,545	8,844,646,046
2028	159,676	9,032,829,067
2029	162,870	9,175,546,254

2. Description of source data and how projected water demands were determined.

Customer demands projected to be consistent with population growth at 2% per year. Total demands reduced by wholesale demand, which is projected to grow at a rate of about 2% per year.

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

E. High Volume Customers

1. The annual water use for the five highest volume **RETAIL** customers.

Customer	Water Use Category	Annual Water Use	Treated or Raw
University of North Texas	Commercial	279,275,130	Treated
Texas Women's University	Commercial	93,853,390	Treated
Denton Independent School District	Commercial	88,853,060	Treated
Denton Parks	Commercial	64,217,350	Treated
Peterburg	Commercial	61,196,000	Treated

2. The annual water use for the five highest volume **WHOLESALE** customers.

Customer	Water Use Category	Annual Water Use	Treated or Raw
Upper Trinity Regional Water District	Agriculture	4,213,633,000	Raw
Sanger (via Upper Trinity)	Municipal	53,510,000	Treated
Krum (via Upper Trinity)	Municipal	22,555,000	Treated

F. Utility Data Comment Section

Additional comments about utility data.

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

Section II: System Data

A. Retail Water Supplier Connections

1. List of active retail connections by major water use category.

Water Use Category Type	Total Retail Connections (Active + Inactive)	Percent of Total Connections
Residentia - Single Family	34,802	86.16 %
Residentia - Multi-Family	0	0.00 %
Industrial	0	0.00 %
Commercial	5,590	13.84 %
Institutional	0	0.00 %
Agricultural	0	0.00 %
Total	40,392	100.00 %

2. Net number of new retail connections by water use category for the previous five years.

Year	Net Number of New Retail Connections						Total
	Residential - Single Family	Residential - Multi-Family	Industrial	Commercial	Institutional	Agricultural	
2018	950			430			1,380
2017	469			42			511
2016	689			88			777
2015	807			251			1,058
2014	429			75			504

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. Accounting Data

The previous five years' gallons of RETAIL water provided in each major water use category.

Year	Residential - Single Family	Residential - Multi-Family	Industrial	Commercial	Institutional	Agricultural	Total
2018	3,070,145,410			3,115,266,660			6,185,412,070
2017	2,606,202,880	0	0	2,813,608,220	0	0	5,419,811,100
2016	2,582,301,919			2,910,077,330			5,492,379,249
2015	2,565,521,779	0	2,779,026,617	0	0	0	5,344,548,396
2014	2,566,819,854	0	2,823,655,030	0	0	0	5,390,474,884

C. Residential Water Use

The previous five years residential GPCD for single family and multi-family units.

Year	Residential - Single Family	Residential - Multi-Family	Total Residential
2018	64		64
2017	56		56
2016	56		56
2015	57		57
2014	58		58
Historic Average	58	0	58

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

D. Annual and Seasonal Water Use

1. The previous five years' gallons of treated water provided to RETAIL customers.

Month	Total Gallons of Treated Water				
	2018	2017	2016	2015	2014
January	353,340,000	341,117,000	306,709,000	298,280,000	337,552,000
February	328,748,000	315,839,000	302,302,000	258,013,000	325,732,000
March	336,245,000	365,018,000	323,535,000	270,073,000	322,797,000
April	405,706,000	389,751,000	306,339,000	313,097,000	371,424,000
May	458,311,000	460,774,000	322,371,000	280,559,000	431,838,000
June	638,556,000	521,985,000	338,203,000	349,567,000	520,445,000
July	735,702,000	525,551,000	317,226,000	527,807,000	539,471,000
August	826,372,000	600,801,000	346,680,000	792,713,000	582,678,000
September	626,351,000	554,946,000	334,973,000	791,933,000	605,361,000
October	444,729,000	577,783,000	518,772,000	340,239,000	567,026,000
November	389,655,000	470,831,000	448,298,000	332,182,000	384,622,000
December	357,806,000	427,468,000	376,959,000	320,903,000	297,354,000
Total	5,901,521,000	5,551,864,000	4,242,367,000	4,875,366,000	5,286,300,000

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. The previous five years' gallons of raw water provided to RETAIL customers.

Month	Total Gallons of Raw Water				
	2018	2017	2016	2015	2014
January	505,249,000	0	0	20,000,000	20,000,000
February	451,552,000	0	0	20,275,000	22,166,000
March	355,026,000	0	0	18,446,000	19,660,000
April	431,122,000	0	0	130,469,000	20,000,000
May	461,475,000	0	0	13,177,000	20,000,000
June	316,378,000	333,692,000	0		270,847,000
July	787,382,000	14,983,000	0		232,175,000
August	74,328,000	266,670,000	0		301,445,000
September	51,341,000	316,305,000	0		716,577,000
October	75,380,000	715,118,000	0	63,223,000	627,813,000
November	640,216,000	775,046,000	0		188,138,000
December	859,279,000	575,558,000	0		19,293,000
Total	5,008,728,000	2,997,372,000	0	265,590,000	2,458,114,000

3. Summary of seasonal and annual water use.

	Summer RETAIL (Treated + Raw)	Total RETAIL (Treated + Raw)
2018	3,378,718,000	10,910,249,000
2017	2,263,682,000	8,549,236,000
2016	1,002,109,000	4,242,367,000
2015	1,670,087,000	5,140,956,000
2014	2,447,061,000	7,744,414,000
Average in Gallons	2,152,331,400.00	7,317,444,400.00

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

E. Water Loss

Water Loss data for the previous five years.

Year	Total Water Loss in Gallons	Water Loss in GPCD	Water Loss as a Percentage
2018	630,715,597	13	9.18 %
2017	189,464,696	4	3.04 %
2016	670,114,844	15	10.68 %
2015	670,041,494	15	10.92 %
2014	657,903,944	15	10.84 %
Average	563,648,115	12	8.93 %

F. Peak Day Use

Average Daily Water Use and Peak Day Water Use for the previous five years.

Year	Average Daily Use (gal)	Peak Day Use (gal)	Ratio (peak/avg)
2018	29,891,093	36725195	1.2286
2017	23,422,564	24605239	1.0505
2016	11,622,923	10892489	0.9372
2015	14,084,810	18153119	1.2888
2014	21,217,572	26598489	1.2536

G. Summary of Historic Water Use

Water Use Category	Historic Average	Percent of Connections	Percent of Water Use
Residential - Single Family	2,678,198,368	86.16 %	48.11 %
Residential - Multi-Family	0	0.00 %	0.00 %
Industrial	1,120,536,329	0.00 %	20.13 %
Commercial	1,767,790,442	13.84 %	31.76 %
Institutional	0	0.00 %	0.00 %
Agricultural	0	0.00 %	0.00 %

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

H. System Data Comment Section

Section III: Wastewater System Data

A. Wastewater System Data

Attached file(s):

File Name	File Description
Wastewater system.pdf	Wastewater System Map

1. Design capacity of wastewater treatment plant(s) in gallons per day: 21,000,000

2. List of active wastewater connections by major water use category.

Water Use Category	Metered	Unmetered	Total Connections	Percent of Total Connections
Municipal	30,341		30,341	90.18 %
Industrial			0	0.00 %
Commercial	3,304		3,304	9.82 %
Institutional			0	0.00 %
Agricultural			0	0.00 %
Total	33,645		33,645	100.00 %

3. Percentage of water served by the wastewater system: 97.00 %

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

4. Number of gallons of wastewater that was treated by the utility for the previous five years.

Month	Total Gallons of Treated Water				
	2018	2017	2016	2015	2014
January	356,980,000	494,870,000	480,860,000	411,640,000	402,120,000
February	401,050,000	444,050,000	429,060,000	396,690,000	355,880,000
March	430,720,000	489,830,000	562,230,000	509,390,000	388,610,000
April	374,140,000	521,400,000	517,110,000	571,800,000	398,480,000
May	374,810,000	493,830,000	496,340,000	741,910,000	390,730,000
June	343,040,000	515,260,000	555,550,000	579,000,000	368,820,000
July	340,000,000	431,350,000	435,150,000	447,450,000	407,480,000
August	391,750,000	431,120,000	441,910,000	410,070,000	398,850,000
September	411,310,000	400,860,000	435,400,000	406,360,000	397,480,000
October	563,270,000	350,420,000	533,160,000	458,860,000	411,710,000
November	410,710,000	337,290,000	494,670,000	529,150,000	382,560,000
December	432,650,000	343,750,000	491,000,000	558,390,000	380,060,000
Total	4,830,430,000	5,254,030,000	5,872,440,000	6,020,710,000	4,682,780,000

5. Could treated wastewater be substituted for potable water?

Yes
 No

B. Reuse Data

1. Data by type of recycling and reuse activities implemented during the current reporting period.

Type of Reuse	Total Annual Volume (in gallons)
On-site Irrigation	
Plant wash down	
Chlorination/de-chlorination	
Industrial	
Landscape irrigation (park, golf courses)	43,339,800
Agricultural	
Discharge to surface water	
Evaporation Pond	
Other	
Total	43,339,800

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

C. Wastewater System Data Comment

Additional comments and files to support or explain wastewater system data listed below.

Used D scharge vo ume for treated water

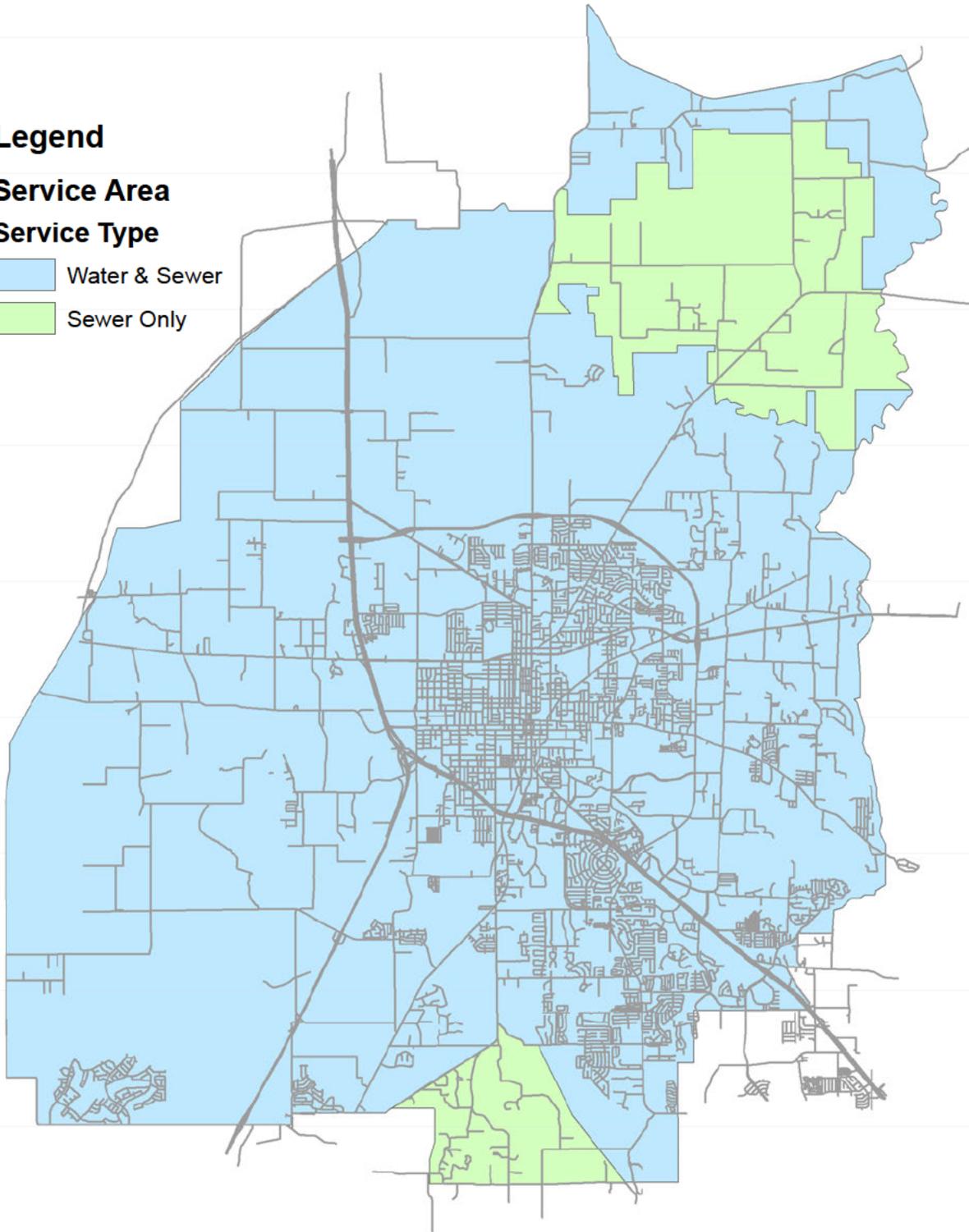
City of Denton Water and Sewer Service Areas

Legend

Service Area

Service Type

-  Water & Sewer
-  Sewer Only



APPENDIX E

Letter to Region C Water Planning Group



WATER UTILITIES

901-A Texas Street Denton, TX 76209

Mr. Kevin Ward
Chair, Region C Water Planning Group
Trinity River Authority of Texas
P.O. Box 60
Arlington, Texas 76004-0060

April 24, 2019

Mr. Ward,
Please find attached the City of Denton's water conservation and drought contingency plan update for 2019. The Denton City Council adopted this plan on April 15, 2014 and approved an ordinance amending the plan April 16, 2019. I am submitting this copy of our plan to the Region C Water Planning Group in accordance with Texas Commission on Environmental Quality rules.

Sincerely,

Tiffany Sherrane
Wastewater Utilities Coordinator
City of Denton Water Utilities

Natalia Ponebshek

From: Carolyn Ahrens <[REDACTED]>
Sent: Wednesday, February 8, 2023 5:24 PM
To: Natalia Ponebshek
Subject: Re: City of Denton App No. 08-2335B RFI Ext Letter

Acknowledged.....thanks.

> On Feb 8, 2023, at 5:05 PM, Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov> wrote:
>
> <City_of_Denton_08-2335B_RFI_1_Extension_Letter_Signed.pdf>

Natalia Ponebshek

From: Natalia Ponebshek
Sent: Wednesday, February 8, 2023 5:05 PM
To: Carolyn Ahrens
Subject: City of Denton App No. 08-2335B RFI Ext Letter
Attachments: City_of_Denton_08-2335B_RFI 1_Extension_Letter_Signed.pdf

Good afternoon,

Please find the attached extension letter for a request for information for the abovementioned application. A response is due by March 31, 2023.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 8, 2023

Ms. Carolyn Ahrens
Of Counsel, Booth & Associates, P.C.
5701 W. Slaughter Lane, Ste. A130
Austin, TX 78749

VIA E-MAIL

RE: City of Denton
ADJ 2335
CN600358980, RN103973020
Application No. 08-2335B to Amend Certificate of Adjudication No. 08-2335
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Elm Fork Trinity River, Trinity River Basin
Denton County

Dear Ms. Ahrens:

This acknowledges receipt, on February 2, 2023, of the applicant's request for an additional extension of time to respond to the Texas Commission on Environmental Quality's request for information, dated January 30, 2023.

An extension is granted until March 31, 2023, and after that date the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter, please contact Ms. Natalia Ponebshek via e-mail at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

A handwritten signature in cursive script that reads "J. Brooke McGregor".

Brooke McGregor, Section Manager
Water Rights Permitting and Availability Section
Water Availability Division

BM/np

Natalia Ponebshek

From: Carolyn Ahrens [REDACTED] >
Sent: Wednesday, February 8, 2023 9:27 AM
To: Brooke McGregor
Cc: Natalia Ponebshek; Kathy Alexander
Subject: Fwd: Denton / Water Rights Application Nos. 08-2348 B and 08-2335 B: Requesting Extension of Time for Responding to RFI's

Good morning Brooke. I hope you're feeling better.

I wanted to make sure you had seen the request for extension of time in the email below.....it went out around the time of the ice storm.

Thanks, CA

Begin forwarded message:

From: Carolyn Ahrens [REDACTED]
Subject: Denton / Water Rights Application Nos. 08-2348 B and 08-2335 B: Requesting Extension of Time for Responding to RFI's
Date: February 2, 2023 at 9:47:02 AM CST
To: Brooke McGregor <brooke.mcgregor@tceq.texas.gov>, Natalia.Ponebshek@tceq.texas.gov

Good morning.

I received requests for additional information regarding City of Denton's pending Water Rights Application Nos. 08-2348 B (Lake Lewisville) and 08-2335 B (Lake Ray Roberts) from Natalie Ponebshek by email on January 30, 2023. A response deadline of March 1, 2023 is designated.

Denton requests a 30-day extension for responding to both requests, with a new due date of March 31, 2023.

Please let me know if the proposed due date is acceptable to the Executive Director, or if a more formal and separate requests are required.

Thanks for your continuing assistance,
Carolyn Ahrens
512.619.4079

Natalia Ponebshek

From: Carolyn Ahrens [REDACTED] >
Sent: Thursday, February 2, 2023 9:47 AM
To: Brooke McGregor; Natalia Ponebshek
Subject: Denton / Water Rights Application Nos. 08-2348 B and 08-2335 B: Requesting Extension of Time for Responding to RFI's

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good morning.

I received requests for additional information regarding City of Denton's pending Water Rights Application Nos. 08-2348 B (Lake Lewisville) and 08-2335 B (Lake Ray Roberts) from Natalie Ponebshek by email on January 30, 2023. A response deadline of March 1, 2023 is designated.

Denton requests a 30-day extension for responding to both requests, with a new due date of March 31, 2023.

Please let me know if the proposed due date is acceptable to the Executive Director, or if a more formal and separate requests are required.

Thanks for your continuing assistance,
Carolyn Ahrens
512.619.4079

Natalia Ponebshek

From: Natalia Ponebshek
Sent: Monday, January 30, 2023 4:52 PM
To: [REDACTED]
Subject: City of Denton App No. 08-2335B RFI
Attachments: City_of_Denton_08-2335B_RFI_1_Sent_1.30.2023.pdf

Please find the attached request for information for the abovementioned application. A response is due by March 1, 2023.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 30, 2023

Ms. Carolyn Ahrens
Of Counsel, Booth & Associates, P.C.
5701 W. Slaughter Lane, Ste. A130
Austin, TX 78749

VIA E-MAIL

RE: City of Denton
ADJ 2335
CN600358980, RN103973020
Application No. 08-2335B to Amend Certificate of Adjudication No. 08-2335
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Elm Fork Trinity River, Trinity River Basin
Denton County

Dear Ms. Ahrens:

This acknowledges receipt, on November 30, 2022, of the referenced application, and on December 5, 2022, of fees in the amount of \$112.50 (Receipt No. M305550, copy attached).

Additional information and fees are required before the application can be declared administratively complete.

1. Confirm the application does not request an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate. Staff notes 1.b. of the Technical Information Report is marked "Yes".
2. Provide additional information concerning the submitted water conservation and drought contingency plan for municipal use to comply with Title 30 Texas Administrative Code (TAC) Chapter 288.
 - a. Provide a utility profile, as referenced by Appendix C, including information regarding retail and wholesale population and customer data, water use data, water supply system data, and wastewater system data.
 - b. Provide documentation of coordination with the regional water planning group as referenced by Appendix E.
3. Provide a completed Water Conservation Plan for agricultural use, developed by Applicant or end-user of the water, that complies with 30 TAC §288.4. If Applicant does not intend to divert water for agricultural purposes or has not identified a contract customer for the water, a special condition will be included in the amendment requiring that a water conservation plan be submitted prior to diversion of water for this use.
4. Provide a completed Water Conservation Plan for industrial use, developed by Applicant or end-user of the water, that complies with 30 TAC §288.3. If Applicant does not intend to divert water for industrial purposes or has not identified a contract customer for the water, a special condition will be included in the amendment requiring that a water conservation plan be submitted prior to diversion of water for this use.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey

printed on recycled paper

Ms. Carolyn Ahrens
Application No. 08-2335B
January 30, 2023
Page 2 of 2

5. Remit fees in the amount of **\$5.88** as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Filing Fee (Amendment)	\$ 100.00
Recording Fee	\$ 12.50
<u>Notice Fee (\$2.94 x 2 WR Holders)</u>	<u>\$ 5.88</u>
TOTAL FEES	\$ 118.38
<u>FEES RECEIVED</u>	<u>\$ 112.50</u>
TOTAL FEES DUE	\$ 5.88

Please provide the requested information and fees by March 1, 2023 or the application may be returned pursuant to 30 TACS 281.18.

If you have any questions concerning this matter, please contact me via e-mail at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

Attachment



05-DEC-22 10:39 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Card Number</u>	<u>Card Auth.</u>	<u>CC Type</u>	<u>Tran Code</u>	<u>Rec Code</u>	<u>Slip Key</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP			M305549		412288		N			BS00099277		05-DEC-22	-\$112.50
	WUP			ADJ082348B		120522		N			D3800931			
				DENTON, CITY OF		RHDAVIS		CK						
	WUP			M305550		412289		N			BS00099277		05-DEC-22	-\$112.50
	WUP			ADJ082335B		120522		N			D3800931			
				DENTON, CITY OF		RHDAVIS		CK						

Total (Fee Code): -\$225.00

Grand Total: -\$9,596.00

RECEIVED
DEC 06 2022
 Water Availability Division

Michael J. Booth,
Booth & Associates, P.C.

Carolyn Ahrens,
Of Counsel

November 30, 2022

Electronic Submittal to (WRPT@tceq.texas.gov)

ATTN: Ms. Brooke McGregor
Water Rights Permitting & Availability, MC 160
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: City of Denton / Water Rights Application No. 08-2335 B to Amend Ray Roberts Lake Water Rights

Dear Ms. McGregor:

With this letter, City of Denton submits its application to amend the City's Certificate of Adjudication No. 08-2335 for water rights in Ray Roberts Lake. Please confirm that the application is received.

The City's application with original, authorized signature and the City's check for filing and recording fees is being mailed directly from the City. Denton understands that it will be notified regarding any additional fees owed, including for providing notice of the application.

Please note that Denton also is submitting a separate application on this same date to amend the City's Certificate of Adjudication No. 08-2348 for water rights in Lewisville Lake.

Thank you again for guidance provided by the Executive Director's staff during preparation of the application. As always, we appreciate your assistance. Please let us know if any additional information would facilitate acceptance of the application and technical review.

Sincerely,



Carolyn Ahrens, Of Counsel
4006 Texas Wildlife Trail
Austin, Texas 78735
512.619.4079 (cell)
512.472.3263 (office)

Cc: Dr. Kathy Alexander, TCEQ
Mr. Stephen Gay, Denton Director of Utilities
Ms. Susan Keller, Denton Deputy City Attorney

CITY OF DENTON

APPLICATION NO. 08-2335 B

TO

**UPDATE DENTON'S WATER RIGHTS IN LAKE RAY ROBERTS
(PLACE OF USE, PURPOSE OF USE, AND DIVERSION POINT FROM RESERVOIR)**

City of Denton
Water Rights Application 08-2335 B
Lake Ray Roberts

SUMMARY OF REQUEST

City of Denton's state-issued water rights to store, divert, and use water from Lake Ray Roberts are authorized in Certificate of Adjudication No. 08-2335, as amended ("CA 08-2335"). Lake Ray Roberts is owned by the federal government and operated by the United States Army Corps of Engineers.

By this application to further amend CA 08-2335, City of Denton seeks to modernize those provisions of the certificate related to place of use and diversion point, and to add additional purposes of use, without increasing its appropriated diversion amount. (Water Rights Application No. CA 08-2348 B is submitted separately and concurrently for amendment of City of Denton's water rights related to Lake Lewisville.)

The following documents are included in this application.

1. Administrative Information Checklist (Application)
2. Evidence of City of Denton Authorizing Signature
3. Technical Information Report
4. Maps of Lake Ray Roberts and Reference Point
5. City of Denton's Combined Water Conservation Plan and Drought Contingency Plan, with City Ordinance No. 19-863 (2019)

CA 08-2335 does not have an accounting plan requirement.

Payment of filing and recording fees as calculated in Worksheet 8.0 is submitted to the agency concurrently with a hard copy of this application package. City of Denton requests that the Executive Director calculate the amount of additional notice fees that will be required.

City of Denton reserves the right to supplement this application, including with information that may be requested by the Executive Director during administrative or technical review.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ WATER RIGHTS PERMITTING APPLICATION

ADMINISTRATIVE INFORMATION CHECKLIST

Complete and submit this checklist for each application. See Instructions Page. 5.

APPLICANT(S): CITY OF DENTON, TEXAS

Indicate whether the following items are included in your application by writing either Y (for yes) or N (for no) next to each item (all items are not required for every application).

Y/N		Y/N	
<u>Y</u>	Administrative Information Report	<u>Y</u>	Worksheet 3.0
<u>N</u>	Additional Co-Applicant Information	<u>N</u>	Additional W.S 3.0 for each Point
<u>N</u>	Additional Co-Applicant Signature Pages	<u>N</u>	Recorded Deeds for Diversion Points
<u>Y</u>	Written Evidence of Signature Authority	<u>N</u>	Consent For Diversion Access
<u>Y</u>	Technical Information Report	<u>N</u>	Worksheet 4.0
<u>Y</u>	USGS Map (or equivalent)	<u>N</u>	TPDES Permit(s)
<u>N</u>	Map Showing Project Details	<u>N</u>	WWTP Discharge Data
<u>N</u>	Original Photographs	<u>N</u>	Groundwater Well Permit
<u>N</u>	Water Availability Analysis	<u>N</u>	Signed Water Supply Contract
<u>Y</u>	Worksheet 1.0	<u>N</u>	Worksheet 4.1
<u>N</u>	Recorded Deeds for Irrigated Land	<u>Y</u>	Worksheet 5.0
<u>N</u>	Consent For Irrigation Land	<u>N</u>	Addendum to Worksheet 5.0
<u>N</u>	Worksheet 1.1	<u>Y</u>	Worksheet 6.0
<u>N</u>	Addendum to Worksheet 1.1	<u>Y</u>	Water Conservation Plan(s)
<u>N</u>	Worksheet 1.2	<u>Y</u>	Drought Contingency Plan(s)
<u>N</u>	Additional W.S 2.0 for Each Reservoir	<u>Y</u>	Documentation of Adoption
<u>N</u>	Dam Safety Documents	<u>N</u>	Worksheet 7.0
<u>N</u>	Notice(s) to Governing Bodies	<u>N</u>	Accounting Plan
<u>N</u>	Recorded Deeds for Inundated Land	<u>Y</u>	Worksheet 8.0
<u>N</u>	Consent For Inundation Land	<u>Y</u>	Fees

ADMINISTRATIVE INFORMATION REPORT

The following information is required for all new applications and amendments.

***** Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4600.**

1. TYPE OF APPLICATION (Instructions, Page. 6)

Indicate, by marking X, next to the following authorizations you are seeking.

New Appropriation of State Water

Amendment to a Water Right *

Bed and Banks

****If you are seeking an amendment to an existing water rights authorization, you must be the owner of record of the authorization. If the name of the Applicant in Section 2, does not match the name of the current owner(s) of record for the permit or certificate or if any of the co-owners is not included as an applicant in this amendment request, your application could be returned. If you or a co-applicant are a new owner, but ownership is not reflected in the records of the TCEQ, submit a change of ownership request (Form TCEQ-10204) prior to submitting the application for an amendment. See Instructions page. 6. Please note that an amendment application may be returned, and the Applicant may resubmit once the change of ownership is complete.***

Please summarize the authorizations or amendments you are seeking in the space below or attach a narrative description entitled "Summary of Request."

PLEASE SEE INCLUDED SUMMARY OF REQUEST

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

Indicate the number of Applicants/Co-Applicants 1
(Include a copy of this section for each Co-Applicant, if any)

What is the Full Legal Name of the individual or entity (applicant) applying for this permit?

CITY OF DENTON, TEXAS

(If the Applicant is an entity, the legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal documents forming the entity.)

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?
You may search for your CN on the TCEQ website at

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : CN600358980 (leave blank if you do not yet have a CN).

What is the name and title of the person or persons signing the application? Unless an application is signed by an individual applicant, the person or persons must submit written evidence that they meet the signatory requirements in 30 TAC § 295.14.

First/Last Name: STEPHEN D. GAY

Title: DIRECTOR OF WATER UTILITIES

Have you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application? Y/N YES

What is the applicant’s mailing address as recognized by the US Postal Service (USPS)? You may verify the address on the USPS website at

<https://tools.usps.com/go/ZipLookupAction!input.action>.

Name: STEPHEN D. GAY, DIRECTOR OF WATER UTILITIES

Mailing Address: 901-A TEXAS STREET

City: DENTON State: TEXAS ZIP Code: 76209

Indicate an X next to the type of Applicant:

- | | |
|---|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Sole Proprietorship-D.B.A. |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation |
| <input type="checkbox"/> Trust | <input type="checkbox"/> Estate |
| <input type="checkbox"/> Federal Government | <input type="checkbox"/> State Government |
| <input type="checkbox"/> County Government | <input checked="" type="checkbox"/> City Government |
| <input type="checkbox"/> Other Government | <input type="checkbox"/> Other _____ |

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: _____ SOS Charter (filing) Number: _____

3. APPLICATION CONTACT INFORMATION (Instructions, Page. 9)

If the TCEQ needs additional information during the review of the application, who should be contacted? Applicant may submit their own contact information if Applicant wishes to be the point of contact.

First and Last Name: CAROLYN AHRENS

Title: OUTSIDE LEGAL COUNSEL

Organization Name: OF COUNSEL, BOOTH & ASSOCIATES, P.C.

Mailing Address: 5701 W. SLAUGHTER LANE, A130

City: AUSTIN State: TEXAS ZIP Code: 78749

Phone Number: 512.619.4079 (CELL) 512.472.3263 (OFFICE)

Fax Number: 512.473.2609

E-mail Address: [REDACTED]

**4. WATER RIGHT CONSOLIDATED CONTACT INFORMATION
(Instructions, Page. 9)**

This section applies only if there are multiple Owners of the same authorization. Unless otherwise requested, Co-Owners will each receive future correspondence from the Commission regarding this water right (after a permit has been issued), such as notices and water use reports. Multiple copies will be sent to the same address if Co-Owners share the same address. Complete this section if there will be multiple owners and **all** owners agree to let one owner receive correspondence from the Commission. Leave this section blank if you would like all future notices to be sent to the address of each of the applicants listed in section 2 above.

I/We authorize all future notices be received on my/our behalf at the following:

First and Last Name: _____

Title: _____

Organization Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP Code: _____

Phone Number: _____

Fax Number: _____

E-mail Address: _____

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

a. The application will not be processed unless all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol by all applicants/co-applicants. If you need assistance determining whether you owe delinquent penalties or fees, please call the Water Rights Permitting Team at (512) 239-4600, prior to submitting your application.

1. Does Applicant or Co-Applicant owe any fees to the TCEQ? **Yes / No** NO

If **yes**, provide the following information:

Account number: _____ Amount past due: _____

2. Does Applicant or Co-Applicant owe any penalties to the TCEQ? **Yes / No** NO

If **yes**, please provide the following information:

Enforcement order number: _____ Amount past due: _____

b. If the Applicant is a taxable entity (corporation or limited partnership), the Applicant must be in good standing with the Comptroller or the right of the entity to transact business in the State may be forfeited. See Texas Tax Code, Subchapter F. Applicants may check their status with the Comptroller at <https://mycpa.cpa.state.tx.us/coa/>

Is the Applicant or Co-Applicant in good standing with the Comptroller? **Yes / No** _____

c. The commission will not grant an application for a water right unless the applicant has submitted all Texas Water Development Board (TWDB) surveys of groundwater and surface water use - if required. See TWC §16.012(m) and 30 TAC § 297.41(a)(5). Applicants should check survey status on the TWDB website prior to filing:

https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus_PriorThreeYears

Applicant has submitted all required TWDB surveys of groundwater and surface water?

Yes / No YES

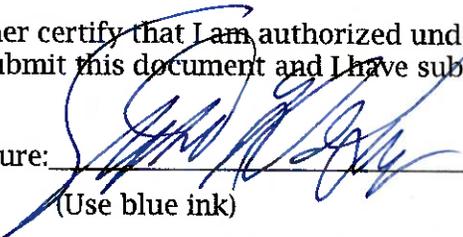
6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, STEPHEN D. GAY, DIRECTOR OF WATER UTILITIES FOR CITY OF DENTON, TEXAS
(Typed or printed name) (Title)

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

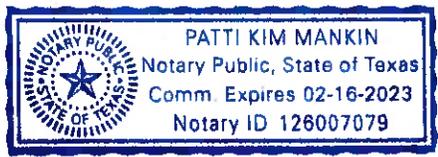
I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature:  Date: 11/02/2022
(Use blue ink)

Subscribed and Sworn to before me by the said Stephen D. Gay
on this 2 day of November, 20 22.
My commission expires on the 16 day of February, 20 23.

Patti Kim Mankin
Notary Public Patti Kim Mankin
Denton County
County, Texas

[SEAL]



If the Application includes Co-Applicants, each Applicant and Co-Applicant must submit an original, separate signature page



CERTIFICATE OF CITY SECRETARY

THE STATE OF TEXAS

COUNTY OF DENTON

CITY OF DENTON

I, the undersigned City Secretary of the City of Denton, Texas, (the "City") **DO HEREBY CERTIFY** that according to the records of the City, of which I am a custodian, the attached is a true and accurate copy of the following duly filed with the City Secretary's Office:

Ordinance 22-1994

as approved by the City of Denton City Council on **October 18, 2022**.

TO CERTIFY WHICH, witness my official signature and the seal of said City, this the 3rd day of November, 2022.





ROSA RIOS
CITY SECRETARY
CITY OF DENTON, TEXAS

OUR CORE VALUES

Inclusion • Collaboration • Quality Service • Strategic Focus • Fiscal Responsibility

ORDINANCE NO. 22-1994

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE FILING OF APPLICATIONS WITH TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") BY THE CITY MANAGER, OR THEIR DESIGNEE, FOR AND PURSUING GENERAL AMENDMENT OF WATER RIGHTS AUTHORIZATIONS, PURSUANT TO CHAPTER 11 OF THE TEXAS WATER CODE, IN LAKE LEWISVILLE AND LAKE RAY ROBERTS, AND ADDITIONAL BED AND BANKS CONVEYANCE, DIVERSION AND USE AUTHORITY RELATED TO DISCHARGED WATER FROM DENTON'S MUNICIPAL WASTEWATER TREATMENT FACILITIES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas (Denton) owns water rights authorizing storage, conveyance, diversion, and use of water in Lake Lewisville, as evidenced by Certificate of Adjudication No. 08-2348, as amended; and

WHEREAS, Amendment A to Certificate of Adjudication No. 08-2348 granted Denton water rights authority to use the bed and banks of named state watercourses including Lake Lewisville to convey, divert, and reuse surface-water based return flows discharged from Denton's municipal wastewater treatment facilities under two water quality permits issued by the Texas Commission on Environmental Quality (TCEQ); and

WHEREAS, Denton owns water rights authorizing storage, diversion, and use of water in Lake Ray Roberts, as evidenced by Certificate of Adjudication No. 08-2335, as amended; and

WHEREAS, Denton uses the authorizations in Certificate of Adjudication Nos. 08-2348, as amended, and 08-2335, as amended, for providing water supply to its retail and wholesale customers; and

WHEREAS, Denton has an opportunity to enhance the city's flexibility and efficiency in meeting the needs of its retail and wholesale customers for water through amendments to the provisions of Certificate of Adjudication Nos. 08-2348 and 08-2335 that do not require increasing the city's maximum authorized annual water use; and

WHEREAS, Denton also has an opportunity to further supplement and diversify its water supply assets through additional water rights permitting of bed and banks water conveyance, diversion, and reuse based on new and increased water quality authorizations for discharge from its municipal wastewater treatment facilities; and

WHEREAS, special conditions included in Denton's existing bed and banks reuse authority in Amendment A to Certificate of Adjudication No. 08-2348 requires such additional water rights permitting prior to diversion of new and increased discharge amounts; and

WHEREAS, amendment of Certificates of Adjudication Nos. 08-2358 and 08-2335 for flexibility and efficiency, and obtaining new bed and banks conveyance, diversion, and reuse authority, require application to, and authorization by, the Texas Commission on Environmental Quality pursuant to Chapter 11 of the Texas Water Code; and

WHEREAS, the City Council finds that it is in the public interest to seek and obtain such amendments and new authority.

NOW, THEREFORE THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

Section 1. The Council hereby authorizes and directs the City Manager or their designee, to take such actions as they find reasonable and appropriate to file applications for and pursue amendment of the City's water rights and to obtain new water reuse rights, consistently with the intents and purposes this ordinance, including but not limited to the following:

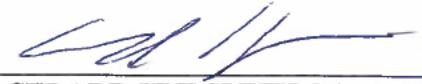
- A. to have prepared, to sign, and to have filed documents before any administrative agency or judicial forum;
- B. to pursue, to negotiate as necessary to obtain, and to enforce the right to implement new and amended City water rights before any administrative agency or judicial forum;
- C. to retain, on behalf of the City, legal counsel and consulting services as he finds reasonable and appropriate associated with the actions authorized herein; and
- D. to provide for payment of all necessary regulatory and notice fees associated with the actions authorized herein.

Section 2: This Ordinance shall be effective immediately upon and after its adoption and approval.

The motion to approve this ordinance was made by Brian Beck and seconded by Jesse Davis, the ordinance was passed and approved by the following vote [7-0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vicki Byrd, District 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Beck, District 2:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jesse Davis, District 3:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alison Maguire, District 4:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brandon Chase McGee, At Large Place 5:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Watts, At Large Place 6:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PASSED AND APPROVED this the 18th day of October, 2022.


GERARD HUDSPETH, MAYOR

ATTEST: DEPUTY
~~ROSA RIOS~~, CITY SECRETARY
JESUS SALAZAR

By: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY


By: _____





November 1, 2022

Rosa Rios, City Secretary
City of Denton
215 E. McKinney Street
Denton, Texas 76201

Re-designation of Signature Authority for Water Rights Authorizations

Dear Ms. Rios:

I am providing this letter as my official delegation of signature authorization for Water Utilities to take such actions as they find reasonable and appropriate to file applications for and pursue amendments of the City's water rights and to obtain new water reuse rights, consistent with the intents and purposes of this ordinance.

Pursuant to the authority granted to me as the City Manager under Ordinance 22-1994, adopted by City Council on October 18, 2022, I delegate to the City Official serving in the Director of Water Utilities capacity for the City of Denton the authority to fulfil the responsibilities of the City included but not limited to the following:

- to have prepared, to sign, and to have filed documents before any administrative agency or judicial forum;
- to pursue, to negotiate as necessary to obtain, and to enforce the right to implement new and amended City water rights before any administrative agency or judicial forum;
- to retain, on behalf of the City, legal counsel, and consulting services as he finds reasonable and appropriate associated with the actions authorized herein; and
- to provide for payment of all necessary regulatory and notice fees associated with the actions authorized herein.
- Certifying all other requirements of Ordinance 22-1994 are met with respect to all requisitions.

Please retain this letter on file for validation of any actions taken by the City Official serving in the Director of Water Utilities capacity for the City of Denton.

Sincerely,
DocuSigned by:
Sara Hensley
523988296270423...
Sara Hensley
City Manager

OUR CORE VALUES

Integrity • Fiscal Responsibility • Inclusion • Transparency • Customer Service

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: August 15, 2022

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 No
- 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 Yes (If yes, indicate the Certificate or Permit number: 08-2335)

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 No

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N No (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: 08-2335

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N No (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 No

*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 No

*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 Yes
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 Yes
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 No

*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** No *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** No

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** No

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** No

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** No

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** No

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”:

This application addresses Denton’s continued use of its existing water rights in Lake Lewisville, and is consistent with Region C and State water supply planning. Volume 1, Table 5E.98, of the 2021 Region C Water Plan, for example, summarizes City of Denton’s increasing projected demands and currently available supplies. (Table 5E.98 is on Page 123).

- b. Did the Applicant perform its own Water Availability Analysis? Y / N ^{No}_____
- 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 ^{Yes}_____

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>

_____ 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 _____ 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**
207,896	municipal and domestic	municipal, domestic, industrial, recreation, agricultural use	Non-specific; plus authority by special condition to serve four towns	Applicant's service area, and the service area of its wholesale customers, in the Trinity River Basin
115,100	hydroelectric	No change		

**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:
- i. 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.
 - ii. 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.

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

WORKSHEET 1.1
INTERBASIN TRANSFERS, TWC § 11.085

N/A

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

N/A

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. 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 _____ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N YES
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 815.18 cfs or 366,832 gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N NO

*** 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 checked="" type="checkbox"/>	From an on-channel reservoir	Existing and Proposed
<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 No

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): Elm Fork Trinity River, Trinity River Basin
- b. Zip Code: 76233 76258. 76266. 76271. 76272 (possibly also 76240 and 76227)
- c. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.

****Please see note below**

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 33.357825 °N, Longitude -97.036883 °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): TCEQ Water Rights Viewer
- 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.

****Applicant seeks authority to divert anywhere along the perimeter of Lake Ray Roberts, and in Lake Ray Roberts, as represented on the attached maps at a point on the centerline of the dam, and including from Applicant's currently authorized diversion point. Applicant has municipal authority of eminent domain to acquire access.**

WORKSHEET 4.0 DISCHARGE INFORMATION

N/A

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 _____.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses _____ (% or amount) and explain the method of calculation: _____
- c. Is the source of the discharged water return flows? Y / 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 _____ If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: _____
 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 _____.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
 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.
- di. Is the source of the water being discharged a surface water supply contract? Y / N _____
If yes, provide the signed contract(s).
- dii. Identify any other source of the water _____

WORKSHEET 4.1 DISCHARGE POINT INFORMATION

N/A

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 _____ 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 _____ gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code _____
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.
- f. Point is at:
Latitude _____ °N, Longitude _____ °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): _____

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.**

Permittee shall implement reasonable measures at any new diversion structure(s) in order 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 at any new diversion structure(s).

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: 25 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 N/A

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: N/A

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					
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 Yes

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____ N/A

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 Yes

WORKSHEET 7.0 N/A

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:

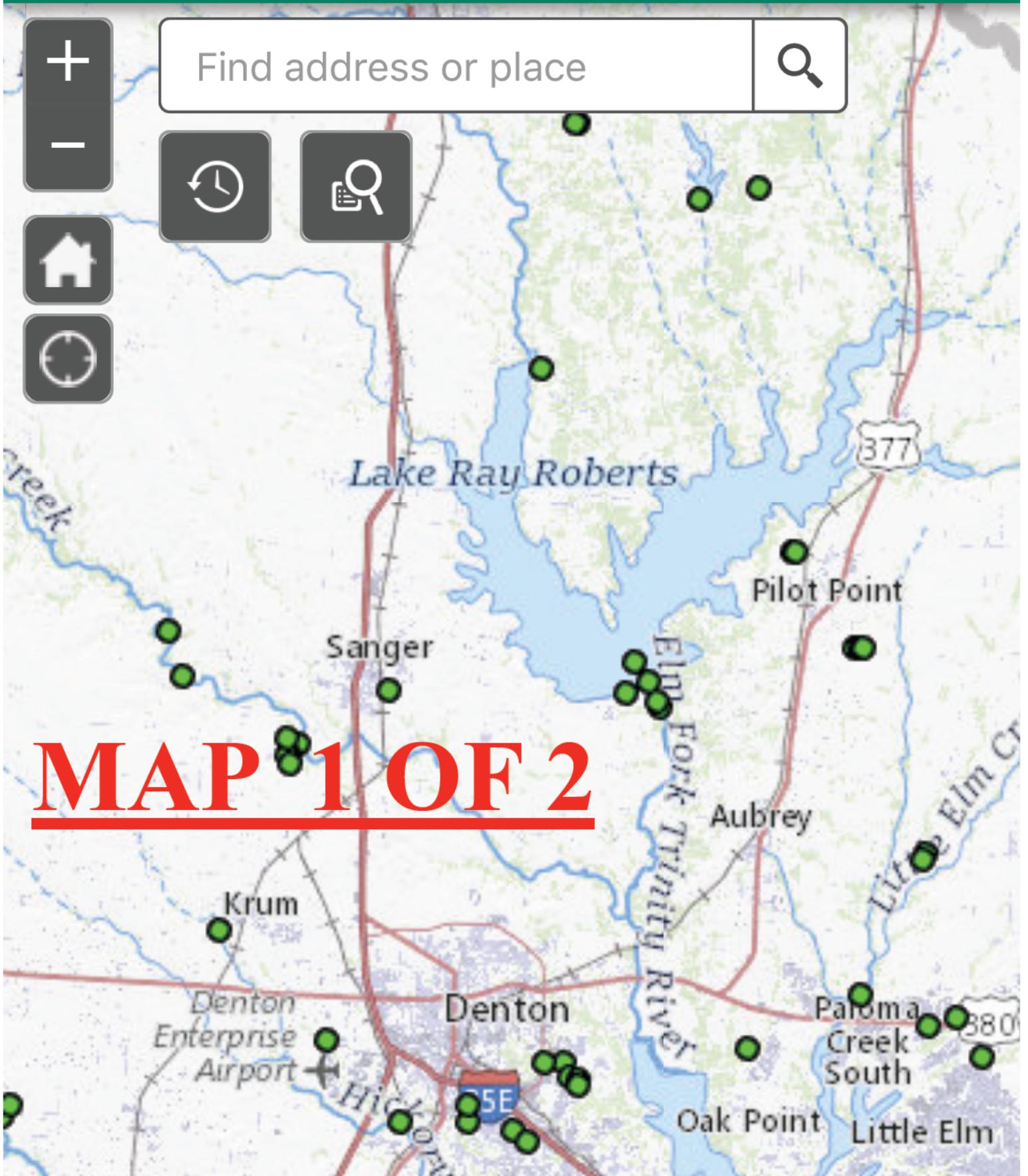
- For applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point;
- For applications for new major water supply reservoirs;
- For applications that amend a water right where 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: **Text file only, as discussed in pre-application meeting.**
 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.



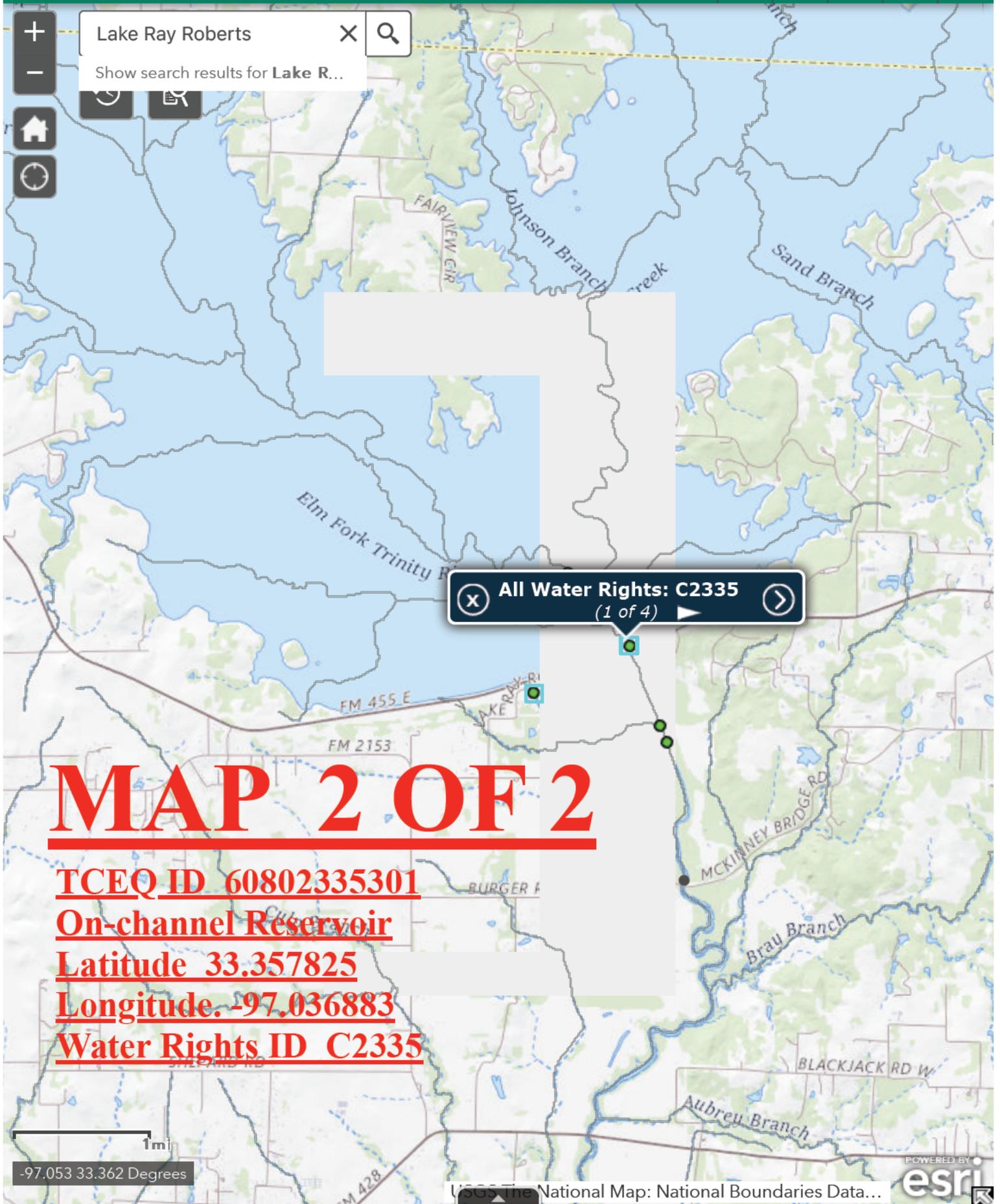
Texas Water Rights Viewer



MAP 1 OF 2



Lake Ray Roberts X Q
Show search results for Lake R...



All Water Rights: C2335
(1 of 4)

MAP 2 OF 2

TCEQ ID 60802335301

On-channel Reservoir

Latitude 33.357825

Longitude. -97.036883

Water Rights ID C2335

1mi
-97.053 33.362 Degrees



RESOURCE TABLE

Water Rights As Single

Water Rights As Single Points: 60802335301

TCEQ ID	60802335301
Type	On-channel Reservoir
Verified	1
Latitude	33.357825
Longitude	-97.036883
Location Method	DOQ
Location Accuracy	5
Location Reference	OTHER
Location Date	9/29/2009
Location Organization	TCEQ
Datum	NAD83
Water Right ID	C2335
Water Right Type and Number	ADJ2335

Related tables:

All Water Rights

ORDINANCE NO. 19-863

AN ORDINANCE AMENDING THE WATER CONSERVATION PLAN AND THE DROUGHT CONTINGENCY PLAN OF THE CITY OF DENTON, TEXAS PREVIOUSLY ADOPTED BY THE CITY COUNCIL IN ORDINANCE NO. 2014-109 ENACTED ON THE 15TH DAY OF APRIL, 2014 AMENDING THE DROUGHT AND EMERGENCY RESPONSE STAGES OF THE WATER CONSERVATION PLAN AND THE DROUGHT CONTINGENCY PLAN; AMENDING THE ENFORCEMENT PROVISIONS OF MANDATORY RESTRICTIONS OF THE WATER CONSERVATION PLAN AND THE DROUGHT CONTINGENCY PLAN; PROVIDING FOR THE STAGES OF ENFORCEMENT FOR VIOLATORS OF THE WATER CONSERVATION PLAN AND THE DROUGHT CONTINGENCY PLAN; PROVIDING FOR RATES TO BE CHARGED FOR WATER USAGE IN THE WATER CONSERVATION PLAN AND THE DROUGHT CONTINGENCY PLAN IN THE EVENT OF HIGH USAGE; PROVIDING FOR ADMINISTRATIVE FEES TO BE CHARGED TO VIOLATORS FOR CERTAIN VIOLATIONS OF THE DROUGHT CONTINGENCY PLAN; PROVIDING A CRIMINAL PENALTY NOT TO EXCEED \$2,000 PER VIOLATION OF THE DROUGHT CONTINGENCY PLAN; PROVIDING A CIVIL PENALTY NOT TO EXCEED \$1,000 PER DAY PER VIOLATION OF THE DROUGHT CONTINGENCY PLAN; PROVIDING CIVIL LEGAL REMEDIES FOR THE CITY OF DENTON, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council is cognizant of the persistent drought and near-drought conditions that can occur in this geographic area and is also aware that water supply in area lakes and reservoirs can become severely depleted; it further coming to the attention of the City Council that the City of Dallas, Texas enacted an ordinance that limits certain uses and the timing of such uses of water, and provides for violations of that ordinance; and

WHEREAS, §11.1271 and 11.1272 of the Texas Water Code and the applicable rules of the Texas Commission on Environmental Quality require the City to include specific, quantified five-year and ten-year targets for water savings and specific quantified targets for water use reductions during periods of water shortages and drought in the Water Conservation and Drought Contingency Plan; and

WHEREAS, on April 19, 2005, the City Council adopted the ordinance providing for the Water Conservation and Drought Contingency Plan for the City, by enacting Ordinance No. 2005-121; and

WHEREAS, on May 2, 2006, the City Council adopted the ordinance providing for the Amended Water Conservation and Drought Contingency Plan for the City, by enacting Ordinance No. 2006-127, by adding Appendix “G” to said plan, which was the “Lawn and Landscape Irrigation and Water Waste Ordinance”; and

WHEREAS, on June 2, 2009, the City Council adopted the ordinance providing for the further Amended Water Conservation and Drought Contingency Plan, by enacting Ordinance No. 2009-134, by including two additional Texas Water Development Board Best Management

Practices recommended by the Task Force's *Water Conservation Best Management Practices Guide* that relate to park and athletic field conservation; and

WHEREAS, on March 6, 2012 the City Council recognized that the amount of water available to the City and its water utility customers is limited, is subject to depletion and should be used efficiently; and the City Council desired to further amend the said Water Conservation and Drought Contingency Plan to include amendments to Sections 6.6 and 6.7 thereof; as evidenced by Ordinance No. 2012-064; and

WHEREAS, on April 15, 2014 the City Council adopted the ordinance providing for the further Amended Water Conservation and Drought Contingency Plan, by enacting Ordinance No. 2014-109, by adjusting the four-stage drought contingency plan to a three-stage plan; and

WHEREAS, the Public Utilities Board of the City of Denton, Texas after considering the proposed changes to the Water Conservation Plan and the Drought Contingency Plan, as contained in Exhibit "A" attached hereto and incorporated by reference herein, unanimously approved the proposed changes at its public meeting on April 8, 2019; and

WHEREAS, the City Council received a presentation of this item at its public work session on April 9, 2019 and supported the proposed changes to the Water Conservation Plan and the Drought Contingency Plan; and

WHEREAS, on March 14, 2019, at 6:00p.m. at a public information meeting held at the Denton Civic Center, Staff provided an opportunity for the public to comment on the proposed changes to the Water Conservation Plan and the Drought Contingency Plan; and

WHEREAS, the City Council accordingly finds that this ordinance is necessary to protect the public health of the residents of the City of Denton, Texas, in accordance with §54.001 and §54.004 of the Texas Local Government Code; and

WHEREAS, the City Council deems it in the public interest to adopt the following amendments to the Amended Water Conservation Plan and the Drought Contingency Plan adopted on April 15, 2014, by adopting the provisions attached in the "2019 Water Conservation and Drought Contingency Plan" that is attached hereto as Exhibit "A", said Plans are incorporated by reference herewith; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Preamble to this ordinance is incorporated by reference herewith, and made a part of this ordinance for all purposes.

SECTION 2. City of Denton Ordinance No. 2005-121, pertaining to the "Water Conservation and Drought Contingency Plan," and codified in Chapter 26 of the Code of Ordinances of the City of Denton, Texas, at §§26-233 and 26-234, amended, by City of Denton Ordinance No. 2006-127, by adding to it Appendix "G", which is the "Land and Landscape Irrigation and Water Waste Ordinance"; and as further amended by the "Water Conservation and

Drought Contingency Plan – April 2009” by City of Denton Ordinance No. 2009-134; and as further amended by the “April 2009 – Water Conservation and Drought Contingency Plan (updated February 2012)” by City of Denton Ordinance No. 2012-064; and as amended by the “April 2014 Water Conservation and Drought Contingency Plan (updated April 2014)” by City of Denton Ordinance No. 2014-109; and as now amended by this ordinance:

“Sec. 26-233. Water conservation and drought contingency plan.

(a) *Adoption of plans.* The Water Conservation and Drought Contingency Plan of the City adopted dated April 19, 2005, and the previous amendment thereto adopted by ordinance dated May 2, 2006, and the "City of Denton - Water Conservation and Drought Contingency Plan - April 2009" are hereby adopted by reference herein; and the attached "City of Denton - Water Conservation and Drought Contingency Plan (updated February 2012); and the attached Water Conservation Plan and the Drought Contingency Plan (updated to April 2014); and “2019 Water Conservation and Drought Contingency Plan” is hereby added to, and incorporated by reference herewith, being attached as Exhibit “A” hereto, and made a part of this Code of Ordinances for all purposes, as if fully set forth herein (hereafter collectively referred to as the “Plan”).

Sec. 26-234. Criminal and Civil Penalties.

(a) A person commits an offense if he or she knowingly makes, causes, or permits a use of water contrary to the measures implemented in the Water Conservation Plan or the Drought Contingency Plan, as amended. For purposes of this section, it is presumed that a person has knowingly made, caused, or permitted a use of water contrary to the measures implemented if the mandatory measures have been implemented according to the Plan and any one of the following conditions apply:

(1) The Plan prohibits the manner of use; or

(2) The amount of water used exceeds the amount allowed by the Plan;

or

(3) The amount of use or the amount used violates the terms and conditions of a compliance agreement following a variance granted by the Assistant City Manager for Utilities; or

(4) The violation of any provision of the “Land and Landscape Irrigation and Water Waste Ordinance”.

(b) The following penalty shall apply during Stage 3 of the Water Conservation Plan and the Drought Contingency Plan, as amended. Any person who knowingly violates any provision of this article shall, upon conviction, be punished by a fine not to exceed two thousand dollars (\$2,000.00). Each day that one or more provisions in this Plan is violated shall be considered to be a separate offense.

(c) The City Attorney is authorized to commence an action for appropriate legal or equitable relief in a court of competent jurisdiction in addition to the penalty mentioned in the above Subsection (b). Such additional relief may include:

- (1) An injunction to prevent a violation of this chapter, or of the Water Conservation and the Drought Contingency Plan, as amended;
- (2) Recovery for expenses incurred by the City in responding to a violation of this Chapter, or of the Water Conservation or the Drought Contingency Plan, as amended;
- (3) A civil fine of up to one thousand dollars (\$1,000.00) per day for violations of §26-233 or for violations of the Water Conservation Plan or the Drought Contingency Plan, as amended;
- (4) All other damages, costs, remedies and legal processes to which the City may be entitled.

SECTION 3. This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Denton, Texas, as amended, except when provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code. All conflicting provisions of such ordinances and such Code are hereby repealed to the extent of that conflict only.

SECTION 4. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5. This ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten days of the date of its passage.

The motion to approve this ordinance was made by John Ryan and seconded by Keely Briggs, the ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Gerard Hudspeth, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Keely G. Briggs, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

Don Duff, District 3: ✓ _____
John Ryan, District 4: ✓ _____
Deb Armintor, At Large Place 5: ✓ _____
Paul Meltzer, At Large Place 6: ✓ _____

PASSED AND APPROVED this the 16th day of April, 2019.

Christopher Watts
CHRISTOPHER WATTS, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

By: Rosa Rios



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By: Aaron Leal

EXHIBIT "A"

CITY OF DENTON

Water Conservation Plan

April 2019

1. INTRODUCTION AND OBJECTIVES |

Water supply has always been a key issue in the development of Texas. In recent years, the increasing population and economic development in Region C have led to growing demands for water. Additional supplies to meet higher demands will be expensive and difficult to develop. Therefore, it is important that we make efficient use of existing supplies and make them last as long as possible. This will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation and drought contingency plans for public water suppliers.¹ The TCEQ guidelines and requirements for water suppliers are included in Appendix B. The City of Denton has adopted this water conservation and drought contingency plan pursuant to TCEQ guidelines and requirements.

The objectives of the water conservation plan are:

- To reduce water consumption.
- To reduce the loss and waste of water.
- To identify the level of water reuse.
- To improve efficiency in the use of water.
- To extend the life of current water supplies by reducing the rate of growth in demand.

The objectives of the drought contingency plan are:

- To conserve the available water supply in times of drought and emergency.
- To maintain supplies for domestic water use, sanitation, and fire protection.
- To protect and preserve public health, welfare, and safety.
- To minimize the adverse impacts of water supply shortages.
- To minimize the adverse impacts of emergency water supply conditions.

2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES

2.1 Conservation Plans

The TCEQ rules governing development of water conservation plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code, which is included in Appendix B. For the purpose of these rules, a water conservation plan is defined as:

“A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).”¹

According to TCEQ rules, water conservation plans for public water suppliers must have a certain minimum content (Section 3), must have additional content for public water suppliers that are projected to supply 5,000 or more people in the next ten years (Section 4), and may have additional optional content (Section 5).

2.2 Drought Contingency Plans

The TCEQ rules governing development of drought contingency plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code, which is included in Appendix B. The rules for wholesale water suppliers are contained in Rule 288.22, included in Appendix B. For the purpose of these rules, a drought contingency plan is defined as:

“A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).”¹

The drought contingency plan for the City of Denton is contained in Section 6 of this water conservation and drought contingency plan.

3. MINIMUM REQUIRED WATER CONSERVATION PLAN CONTENT

The minimum requirements in the Texas Administrative Code for water conservation plans for public drinking water suppliers covered in this report are as follows:

- 288.2(a)(1)(A) – Utility Profile – Section 3.1 and Appendix C
- 288.2(a)(1)(B) – Specification of Goals Before May 1, 2005 – Section 3.2
- 288.2(a)(1)(C) – Specification of Goals After May 1, 2005 – Section 3.2
- 288.2(a)(1)(D) – Accurate Metering – Sections 3.3 and 3.4
- 288.2(a)(1)(E) – Universal Metering – Section 3.4
- 288.2(a)(1)(F) – Determination and Control of Unaccounted Water – Section 3.5
- 288.2(a)(1)(G) – Public Education and Information Program – Section 3.6
- 288.2(a)(1)(H) – Non-Promotional Water Rate Structure – Section 3.7
- 288.2(a)(1)(I) – Reservoir System Operation Plan – Section 3.8
- 288.2(a)(1)(J) – Means of Implementation and Enforcement – Section 3.9, Appendix D
- 288.2(a)(1)(K) – Coordination with Regional Water Planning Group – Section 3.10 and Appendix E

TCEQ places additional requirements on wholesale water suppliers in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.5 of the Texas Administrative Code. This Rule is included in Appendix B.

TCEQ's minimum requirements for water conservation plans are addressed in the following subsections of this report:

- 288.5(1)(C) – Maximum Acceptable Unaccounted-For Water Goal – Section 3.5

3.1 Utility Profile

Appendix C to this water conservation plan is a water utility profile for the City of Denton, based on the format recommended by the TCEQ.²

3.2 Specification of Water Conservation Goal

Specific elements of the Water Conservation Plan are discussed in the subsequent sections of this document. The development of this plan involved the identification and examination of numerous conservation strategies. The conservation strategies chosen for the plan were derived from numerous sources including state agency recommendations, the Region C planning group, water conservation literature, and the City's existing Water Conservation Plan.

Prior to 2019, Denton's water conservation goal was a 15 percent reduction in per capita water use by 2050. This goal was established in Denton's Water Conservation and Drought Contingency Plan adopted December 7, 1999.

The City's water conservation goals after May 1, 2005 include the following:

- Achieve 2024 per capita water use of 152 gpcd or less, as shown in Table 3-2 (five-year target). This represents a reduction of 37 gpcd from year 2000 per capita water use.
- Achieve 2029 per capita water use of 152 gpcd or less, as shown in Table 3-2 (ten-year target). This represents a reduction of 37 gpcd from year 2000 per capita water use.

The City's conservation goal was articulated in 2005 as a one percent reduction yearly in per-capita usage for ten years. This goal was based on: 1) per-capita reduction goals recommended by the Texas Water Development Board's Task Force on Water Conservation; and 2) an indication in recent data that per capita water demand had started to decline. However, weather patterns over the same period of time were such that declining per capita consumption may have been weather related.

Denton's specific goal was mildly exceeded, with a per-capita savings by 2008 of 10 gpcd. This savings is a reflection of the effects of conservation programs referenced above as well as weather variability during years pasted.

Unit	Unit	2009	2014	2019	2024	2029
City of Denton Population		111,814	120,820	133,610	147,516	162,870
Gallons PerCapita per Day	gpcd	160	158	140	152	152
Residential Gallons Per-Capita per Day	gpcd	70	70.3	58.3	69	69
Savings from Low-Flow Fixtures and Federal Clothes Washer Standard	gpcd				5	5
Savings from Conservation Measures	gpcd				2.5	2.5
Savings from Reuse	gpcd				.5	.5
Projected Per-Capita Savings	gpcd				8	8
Projected Per-Capita Reduction	percent				5%	5%
Actual Per-Capita Savings	gpcd	9	2	18		
Actual Per-Capita Reduction	percent	15.4%	1.25%	11.4%		

3.3 Accurate Metering of Raw Water Supplies and Treated Water Deliveries

The City of Denton meters all raw water diversions from Lake Lewisville and Lake Ray Roberts to each of the Water Treatment Plants. The City of Denton also meters all treated water deliveries to the distribution system from each water treatment plant. Each meter has an accuracy of plus or minus one percent. The meters are calibrated on a semiannual basis by City of Denton personnel to maintain the required accuracy and are repaired or replaced as needed. Replaced two of 4 in that last few years and two more are coming. Raw meters were replaced in 2018 Raw RR replaced on 5-22 and finished on 12-10. Lewisville plans to replace their soon.

3.4 Metering of Customer and Public Uses and Meter Testing, Repair, and Replacement

Water usage for all customers of the City of Denton, including public and governmental use, is metered. As part of the water conservation plan, the City of Denton will continue to implement a meter replacement program. Denton Water Utility (DWU) staff conducted an extensive study in 2004 in which over 2,000 water meters were bench tested for accuracy. Throughout the years since this study was conducted, it has been updated and to date holds validity in results. In addition a cost-benefit analysis was conducted in order to maximize the efficiency of the meters versus the costs of the replacement program. Based on the study, $\frac{3}{4}$ to 2-inch meters are replaced on a twelve- to fourteen-year cycle. The program focused on replacing the oldest meters in the system first. From 2009 to 2013 DWU has replaced meters to meet the twelve- to fourteen-year cycle. Meters that are 3-inch or larger are tested every year and repaired or replaced as necessary.

In addition, meters registering any unusual or questionable readings are automatically flagged in the billing process and be tested and repaired to restore full functionality.

3.5 Determination and Control of Water Loss

The amended 2003, Texas Water Code (Chapter 16.0121) requires that DWU (a retail public utility that provides potable water) to file an annual audit of system water loss. DWU continues to follow annually in compliance with the TWC.

DWU staff performs a yearly water audit, using the International Water Association/ American Water Works Association (IWA/AWWA) method required by the TWDB. DWU staff has been conducting water audits since the early 1990s. Historically, the City of Denton's non-revenue water, has always been below the AWWA goal. The City of Denton unaccounted-for water is also below the national average and the 2017

Texas average. The City of Denton's system has always met the suggested targets of the newer IWA/AWWA methodology as specified by the TWDB Task Force on water conservation.

The City of Denton will continue to conduct annual water audits using the IWA/AWWA methodologies.

Non-revenue water for the City of Denton has varied from 3.3 percent to 7.5 percent in the last five years, with the highest value still under review regarding accuracy of a source meter. Previous audits led to the discovery and correction of a systematic source metering error at the Ray Roberts Water Treatment Plant. Staff will continue to conduct comprehensive water audits annually and take appropriate measure to minimize system water loss.

3.6 Public Education and Information; Partnerships with Non-profits

The City of Denton continues to have an active role in the education of water conservation with several methods of outreach and public information. Along with their Partnerships with Non-Profits, they execute campaigns throughout the year(s) to spread information on conservation. The continuing public education and information campaign and the partnerships with Non-Profit organizations on water conservation includes the following elements:

- Promote the City's water conservation measures (presented in Sections 3, 4, and 5).
- Encourage voluntary twice-a-week watering schedule for landscape.
- Include inserts on water conservation with water bills at least twice per year. Inserts will include material developed by City of Denton staff and material obtained from the TWDB, the TCEQ, and other sources that pertain to water conservation, irrigation conservation, and protecting pipes from freezing.
- Encourage local media coverage of water conservation issues and the importance of water conservation.
- Make the Texas Smartscape materials, water conservation brochures, and other water conservation materials available to the public at the City of Denton Utility Department, other City facilities, and at special events.
- Make information pertaining to water conservation and irrigation conservation available online at www.sustainabledenton.com and include links to the Texas Smartscape website and to information relating to water conservation on the TWDB and TCEQ web sites.
- Provide a Xeriscape class once a year to promote conservation landscaping and conservation irrigation practices.

- Encourage attendance at Texas A&M Water University water classes. Offered options include Rain barrel and Drip irrigation classes.
- Promote and educate with non-profit conservation partners such as Master Naturalist, Master Gardeners, and Natural Plant Society, organizations that actively hold informational and educational meetings and volunteer opportunities regularly within our community.
- Offer presentations to local organizations, schools, and civic groups on the importance of water conservation and ways to save water.

3.7 Non-Promotional Water Rate Structure

With the intent of encouraging water conservation and discouraging waste and excessive use of water, the City of Denton adopted an increasing block (inverted-block) rate in 1998. In an inverted-block structure the unit price of water increases with increasing water use.

The City of Denton employs an inverted-block rate from May through October. The structure consists of four blocks (Table 5-2). The first block provides enough water to cover a typical household’s water usage, which includes a moderate amount for irrigation. The second, third, and fourth blocks are designed to curb discretionary and seasonal outdoor water use. The inverted-block structure only applies to residential customers. DWU bills commercial customers on a flat rate, but has implemented seasonal pricing on commercial irrigation meters to curb summer peak demand.

TABLE 2	
DWU Residential Block Rate Structure per thousand gallons	
Less than 15,000 gals	\$4.15
15,001 – 30,000 gals	\$5.90
30,000-50,000 gals	\$8.15
More than 50,000 gals	\$10.90

TABLE 3	
DWU Seasonal Commercial Irrigation Rates	
Winter (November-April)	Summer (May-October)
\$4.45 per thousand gallons	\$6.15 per thousand gallons

3.8 Reservoir System Operation Plan

The City of Denton has the right to divert water from Lake Lewisville and Lake Ray Roberts, which we limit to firm yield calculations as follows:

- 19.76 MGD from Lake Ray Roberts
- 4.34 MGD from Lake Lewisville

The City of Denton is the minority water right holder in both reservoirs. The current agreement with the City of Dallas (majority water right holder) delegates comprehensive coordination of reservoir management to the City of Dallas.

3.9 Implementation and Enforcement of the Water Conservation Plan

Appendix D contains a copy of the resolution of the City of Denton City Council adopting this water conservation and drought contingency plan. The resolution designates responsible officials to implement and enforce the water conservation and drought contingency plan.

3.10 Coordination with Regional Water Planning Group

The City of Denton will provide a copy of this water conservation and drought contingency plan to the Region C Water Planning Group, which is currently developing the Regional Water Plan. Appendix E includes a copy of a letter sent to the Chair of the Region C Water Planning Group.

4. ADDITIONAL REQUIRED WATER CONSERVATION PLAN CONTENT

The Texas Administrative Code also includes additional requirements for water conservation plans for public drinking water suppliers that serve a population of 5,000 people or more and/or a projected population of 5,000 people or more within the next 10 years:

- §288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting – Sections 3.5, 4.1, and 5.5
- §288.2(a)(1)(B) – Record Management System – Section 4.2
- §288.2(a)(2)(C) – Requirement for Water Conservation Plans by Wholesale Customers – Section 4.3

4.1 Leak Detection and Repair; Pressure Control

Measures to control unaccounted-for water are part of the routine operations of the City of Denton. Meter readers, water and wastewater utility personnel, and the public report leaks in the system. Maintenance crews are on-call 24-hours a day and respond quickly to repair reported leaks. DWU has invested in leak detection and correlator equipment that helps in identifying more leaks and locating leaks more accurately for repair.

The City of Denton also proactively decreases water loss through the waterline replacement program. The City of Denton spends approximately 2 million per year to replace water distribution lines with two construction and maintenance crews. Areas of the water distribution system in which numerous leaks and line breaks occur are targeted for replacement.

DWU will continue analysis on the life cycle of transmission lines. These pipes have an assumed lifespan of 75 years, however the role of these lines within the distribution system makes them critical. The DWU will assess the current condition of existing transmission lines, research pipe maintenance history, and review published research. As a result, DWU will revise the replacement schedule for all existing transmission lines. This is expected to reduce water loss from main breaks by better estimating end of useful life.

To reduce real water losses, the City of Denton will maintain a proactive water loss program. As part of this program, the City will implement the following actions:

- Continue to implement the waterline replacement program.
- Conduct an analysis to revise the replacement schedule of transmission lines.
- Conduct regular inspections of all water main fittings and connections during periods of maintenance and repair.

4.2 Record Management System

As required by TAC Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(1)(B), the record management system for the City of Denton records water pumped, water delivered, and water sold. However, the City of Denton's record management system does not allow for the separation of water sales and uses into residential, commercial, public/institutional, and industrial categories as required.

The current billing system separates sales and uses into residential, commercial, and wholesale user classes. At such time that the City of Denton procures a new record management system, such system will have the capabilities required in section 288.2(a)(1)(B).

4.3 Requirement for Water Conservation Plans by Wholesale Customers

Each contract for the wholesale sale of water by the City of Denton will include a requirement that the wholesale customer develop and implement a water conservation plan meeting the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(2)(c) of the Texas Administrative Code. If the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provisions of Chapter 288.

5. OPTIONAL WATER CONSERVATION PLAN CONTENT

TCEQ rules also list optional (not required) conservation strategies, which may be adopted by suppliers to achieve the stated goals of the plan. The following optional strategies are listed in the rules; some are not included in this plan:

- §288.2(a)(3)(A) – Conservation Oriented Water Rates – Section 3.7
- §288.2(a)(3)(B) – Ordinances, Plumbing Codes or Rules on Water-Conserving Fixtures – Section 5.1
- §288.2(a)(3)(C) – Programs for the Replacement or Retrofit of Water-Conserving Plumbing Fixtures in Existing Structures – (Not included in plan)
- §288.2(a)(3)(D) – Reuse and Recycling of Wastewater – Section 5.2
- §288.2(a)(3)(E) – Pressure Control and/or Reduction – (Not included in plan)
- §288.2(a)(3)(F) – Landscape Water Management Ordinance – Section 5.3
- §288.2(a)(3)(G) – Monitoring Method – Section 5.4
- §288.2(a)(3)(H) – Other Conservation Methods – Section 5.5 and 5.6

5.1 Ordinances, Plumbing Codes, or Rules on Water-Conserving Fixtures

The State of Texas has required 2.5 gpm faucets, 3.0 gpm showerheads, and 1.6 gpf toilets for new construction since 1992. Similar standards are also required under federal law. Denton's Plumbing Code complies with the State of Texas requirements. The implementation of the federal rules requiring energy-conserving clothes washers in 2007 improved the water-efficiency of residential clothes washers.

5.2 Reuse and Recycling of Wastewater

The City of Denton's current reuse program delivers approximately 0.5 MGD of reclaimed wastewater effluent. The current distribution system has a maximum capacity of 4 MGD.

5.3 Landscape Management Ordinance

As part of the development of this water conservation plan, the City of Denton has implemented a lawn and landscape irrigation and water waste ordinance. This ordinance is intended to minimize waste in landscape irrigation and other uses. The ordinance was implemented in 2006, during a drought period when public awareness of the drought was high. The ordinance includes the following elements:

- Prohibition of outdoor watering, except by hand and for watering foundations, from 10:00 a.m. to 6:00 p.m. every day from June 1 through September 30.
- Requirement that all new irrigation systems include rain and freeze sensors.
- Prohibition of designs and installations that spray directly onto impervious surfaces such as sidewalks and roads or onto other non-irrigated areas.
- Prohibition of use of poorly maintained sprinkler systems that waste water.
- Requirement that any outside faucet or service line leak be repaired.
- Enforcement of the ordinance by a system of warnings followed by fines for continued or repeat violations.

5.4 Monitoring Method

Until such time as there is an industry wide method for monitoring per-capita the City of Denton will use the five-year rolling average suggested by the Texas Water Development Board.

5.5 Customer Water Audit

The City of Denton will continue to conduct water audits for single- and multi-family residential customers. The four main purposes are to: educate customers about conservative water use habits and replacement of inefficient toilets, clothes washers, and dishwashers; educate customers about water-efficient showerheads and faucet aerators; identify leaks; and optimize irrigation water usage. The City's auditor will review the water use habits of the customer, inspect the system for leaks and excessive use, and recommend any equipment repairs or changes to increase the efficiency of both the domestic and irrigation water systems. Although overall water savings from residential water audits are minimal, residential water audits are crucial to maintaining good customer relations particularly related to high billing complaints.

The City of Denton has and will explore new organizational options that would allow for expansion of the water audit program. In addition to increasing availability of personnel for residential water audits, DWU will begin to expand its focus and implement a program for commercial customers. As Denton's highest

volume water customers are in the commercial sector, commercial water efficiency is expected to make a significant impact toward overall reductions.

5.6 Park, Athletic Field and Golf Course Conservation

The City of Denton will explore the possibility of additional savings by the proper management of park and athletic field irrigation, landscape, and turf practices. The Texas Water Development Board Water Conservation Best Management Practices Guide includes guidelines for water conservation in parks, athletic fields and golf courses.³ DWU will work with other city departments to determine the potential for water and cost savings by proper management practices and implement them when practical.

6. DROUGHT CONTINGENCY PLAN

6.1 Introduction

The purpose of this drought contingency plan is as follows:

- To conserve the available water supply in times of drought and emergency.
- To maintain supplies for domestic water use, sanitation, and fire protection.
- To protect and preserve public health, welfare, and safety.
- To minimize the adverse impacts of water supply shortages.
- To minimize the adverse impacts of emergency water supply conditions.

6.2 State Requirements for Drought Contingency Plans

This drought contingency plan is consistent with Texas Commission on Environmental Quality (TCEQ) guidelines and requirements for the development of drought contingency plans by public drinking water suppliers, contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code. This rule is included in Appendix B.

TCEQ's minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.20(a)(1)(A) – Provisions to Inform the Public and Provide Opportunity for Public Input – Section 6.3
- 288.20(a)(1)(B) – Provisions for Continuing Public Education and Information – Section 6.4
- 288.20(a)(1)(C) – Coordination with the Regional Water Planning Group – Section 6.9
- 288.20(a)(1)(D) – Criteria for Initiation and Termination of Drought Stages – Section 6.5
- 288.20(a)(1)(E) – Drought and Emergency Response Stages – Section 6.6
- 288.20(a)(1)(F) – Specific, Quantified Targets for Water Use Reductions – Section 6.6
- 288.20(a)(1)(G) – Water Supply and Demand Management Measures for Each Stage – Section 6.6
- 288.20(a)(1)(H) – Procedures for Initiation and Termination of Drought Stages – Section 6.6
- 288.20(a)(1)(I) - Procedures for Granting Variances – Section 6.8
- 288.20(a)(1)(J) - Procedures for Enforcement of Mandatory Restrictions – Section 6.7
- 288.20(a)(3) – Consultation with Wholesale Supplier – Not applicable
- 288.20(b) – Notification of Implementation of Mandatory Measures – Section 6.6

288.20(c) – Review and Update of Plan – Section 6.10 TCEQ places additional requirements on wholesale water suppliers in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.22 of the Texas Administrative Code. This Rule is included in Appendix B.

TCEQ's minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.22(a)(1) – Provisions to Inform Wholesale – Section 6.3
- 288.22(a)(7) – Water Supply and Demand Management Measures Conform to Texas Water Code 11.039 – Section 6.6
- 288.22(a)(8) – Wholesale Contract Supply Provisions Conform to Texas Water Code 11.039 – Section 6.6

6.3 Provisions to Inform the Public and Opportunity for Public Input

The City of Denton provided opportunity for public input in the development of this drought contingency plan in [*date of Council meeting*] by the following means:

- Provided written notice of the proposed plan and the opportunity to comment on the plan by newspaper, posted notice, and notice on City of Denton's web site, www.cityofdenton.com.
- A public hearing was held at the City of Denton Council Meeting on [*date of Council meeting*].
- The public may comment on updates to the plan.
- The plan will be available at the City of Denton's web site www.cityofdenton.com.
- The plan will be provided to anyone requesting a copy.
- The plan will be provided to Upper Trinity Regional Water District in its capacity as a wholesale customer.

The City of Denton shares water rights with the City of Dallas. Denton is the minority water right holder in both water supply reservoirs. Also, Denton is a wholesale customer of the City of Dallas. Due to these factors, it is by design that Denton's Drought Contingency Plan closely resembles Dallas' plan. The need to coordinate Denton's Plan with the Dallas plan is appropriate due to the following reasons:

- The water supply reservoirs (Lake Ray Roberts and Lake Lewisville) are shared by the two cities and Denton is the minority water rights holder in both reservoirs. Denton is an untreated water supply customer of Dallas and will be affected by restrictions that may be initiated by the Dallas plan.

- Consistent communication to customers in a television and media market common to many different water utility entities will provide for a more effective implementation of Drought Contingency Plans.

6.4 Provisions for Continuing Public Education and Information

The City of Denton will inform and educate the public about its drought contingency plan by the following means:

- Making the plan available to the public through the City of Denton web site at www.cityofdenton.com.
- Including information about the drought contingency plan on the City of Denton's web site, www.cityofdenton.com.
- Upon request, make presentations to local organizations, schools, and civic groups on the drought contingency plan (usually in conjunction with presentations on water conservation programs).
- Open public meetings with the Public Utilities Board, Environment Committee, and City Council.

Any time the drought contingency plan is activated or the drought stage changes, the City of Denton will notify local media of the issues, the drought response stage, and the specific actions required of the public. The information will also be publicized on the City of Denton web site, www.cityofdenton.com. Billing inserts will be used as appropriate.

6.5 Initiation and Termination of Drought Response Stages

6.5.1 Initiation of Drought Response Stages

The Director of Water Utilities or designee may order the implementation of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought stage is initiated:

- The public will be notified through local media.
- Wholesale customers will be notified by telephone with a follow-up letter or fax.
- If any mandatory provisions of the drought contingency plan are activated, the City of Denton will notify the Executive Director of the TCEQ within 5 business days.

The Director of Water Utilities or designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met.

Factors that could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs.

Trigger Condition Types: The three types of water management conditions are discussed below:

For a ***Type A situation***, preservation of the total water supply will be critical and corresponding water management measures should stress overall reductions in water use. This condition is measured by a reduction in lake supply and results from extended drought. The best opportunity to respond to a drought is early in the drought cycle. Drought Contingency measures should stress overall reductions in water demand (i.e., average-day water demand).

For a ***Type B situation***, in which the water demand approaches the delivery capacity of the system, the peak water demand will be critical, and corresponding drought contingency measures should stress water-use reductions or shifts to off-peak hours. In this situation, the ultimate goal of Stages 1 and 2 will be to avoid triggering the next stage. A Stage 3 trigger requires immediate and severe water demand reductions. Equipment or system failures that result from increased stresses to the transmission, treatment, or distribution systems can worsen a ***Type B*** situation. This condition is a result of an increase in demand. In the short term, this typically occurs during the summer months when irrigation requires more water. In the long term, it could occur if treatment plant or distribution system expansions do not keep pace with the growth in consumer demand. Drought contingency measures should stress reductions in peak water demand or redistribution of the demand to off-peak hours.

For a ***Type C situation*** where deficiencies limit the supply capacity, both water-use reductions and shifts to off-peak hours may be necessary. Although the area involved may be localized, immediate action requiring water demand reduction is necessary. Depending upon the severity of the triggering conditions, it is feasible that the plan could proceed immediately to implementation of stage 3. This condition is a result of a break in a large transmission main, mechanical failure to one or more large pumps, or production plant breakdown. Contamination of water supplies or other unforeseen occurrences may also instigate this condition. They may arise with little warning and require immediate and/or aggressive actions.

Drought contingency measures should stress reductions in peak water demand and/or redistribution of the demand to off-peak hours.

6.5.2 Termination of Drought Response Stages

The Director of Water Utilities or designee may order the termination of a drought response stage or water emergency when the conditions for termination are met or at his/her discretion. The following actions will be taken when a drought stage is terminated:

- The public will be notified through local media.
- Wholesale customers will be notified by telephone with a follow-up letter or fax.
- When any mandatory provisions of the drought contingency plan that have been activated are terminated, the City of Denton will notify the Executive Director of the TCEQ within 5 business days.

The Director of Water Utilities or designee may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Factors that could influence such a decision include, but are not limited to, the time of the year, weather conditions, or the anticipation of conditions that warrant the continuation of the drought stage.

CITY OF DENTON**Drought Contingency Plan**

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6.6 Drought and Emergency Response Stages**6.6.1 Stage 1, Mild****6.6.1.1 Triggering and Termination Conditions for Stage 1, Mild****6.6.1.1.1 Type A Water Management Condition**

Total raw water supply in (1) Denton and Dallas connected lakes (east and west); or (2) western connected lakes; or (3) eastern connected lakes drops below 65% of the total conservation storage of the lakes

6.6.1.1.2 Type B Water Management Condition

Water demand reaches or exceeds 85% of delivery capacity for 4 consecutive days

6.6.1.1.3 Type C Water Management Condition

- Water demand approaches a reduced delivery capacity for all or part of the system, as determined by DWU
- A major water line breaks, or a pump or system failure occurs, which cause unprecedented loss of capability to provide treated water service
- Natural or man-made contamination of the water supply

Requirements for Termination:

Stage 1 may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination.

6.6.1.2 Goal For Use Reductions And Actions Available Under Stage 1, Mild

The goal for water use reduction under Stage 1, Mild, is a 5 percent reduction of the use that would have occurred in the absence of drought contingency measures. The Director of Water Utilities or a designee can order the implementation of any of the actions listed below, or other actions not listed, as deemed necessary:

All Water Users

- (a) Require that all landscape watering be limited to the day-of-week schedule between the hours of 6:00 PM to 10:00AM. Irrigation of landscaped areas with hose-end sprinklers, or automatic irrigation systems should be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8) and for locations without addresses and limited to Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9). Apartments, office building complexes or other property containing multiple addresses may be identified by the lowest address number.
- (b) Encourage reduction in frequency of watering new and first year landscaping.
- (c) Encourage only initial filling of ornamental fountains.
- (d) Encourage reduction in frequency of washing or rinsing of vehicles. Use of bucket/container, hand-held hose with positive shut-off valve or commercial car wash is required.
- (e) Encourage the elimination of draining and refilling of swimming pools.
- (f) Encourage reduction in frequency of recreational water use including use of faucets, hoses or hydrants.
- (g) Foundations may be watered on any day of the week between the hours of 10 PM and 6 AM. Foundations may be watered with a soaker hose or a hand-held hose equipped with a positive shutoff nozzle only.
- (h) Recommend that customers do not hose off paved areas, buildings, windows or other surfaces.

City Government

- (a) Staff will begin review of the problems initiating Stage 1 actions and will identify possible solutions to address the water shortage.
- (b) Initiate public education campaign teaching and encouraging reduced water use practices.
- (c) Intensify normal leak detection and repair activities on water pipes and mains.
- (d) Restrict water use for the irrigation of parks by 25 percent. Park landscape may be irrigated on any day of the week.
- (e) Only flush newly constructed mains and mains that are essential for water quality maintenance.
- (f) Encourage 25 percent reduction in frequency of wet street sweeping and city vehicle washing and rinsing.

Commercial Customers

- (a) Identify and encourage voluntary reduction measures by high-volume water users through water use audits.

- (b) Restrict water use for the irrigation of parks by 25 percent. Park landscape may be irrigated on any day of the week.
- (c) Reduce water use for landscape nursery stock by 25 percent.
- (d) Require reduction of water use through day-of-week landscape watering schedule for golf courses.
- (e) Encourage area restaurants to serve customers water by request only.
- (f) Encourage hotel/motels to request multiple day patrons to reuse linens instead of changing every day.

Interruptible Customers

- (a) Reduce usage for interruptible customers per contract terms.

Wholesale Customer Cities

- (a) Encourage implementation of like procedures by wholesale customers.

Notifications

City of Denton

- Notify major City departments, by telephone and follow-up memo, of Water Awareness Stage #1 and request voluntary water use reduction.
- Stress voluntary elimination of non-essential uses.

External Customers

- Issue press release, radio and video public service announcement to area media describing Water Awareness Stage #1 and the voluntary restrictions that apply.
- Distribute water conservation materials to Denton Independent School District, UNT, TWU and community groups if appropriate.
- Post Water Awareness notices at public buildings including city buildings, county buildings and the federal post office.
- Encourage reduction of water use through the publication of the voluntary landscape watering schedule and request watering only during off-peak hours.

Wholesale Customers

- Advise wholesale customers by telephone and follow-up memo, of Water Awareness Stage #1 and request voluntary water use reduction consistent with actions taken by the City of Denton.

6.6.2 Stage 2, Moderate

6.6.2.1 Triggering Conditions For Stage 2, Moderate

6.6.2.1.1 **Type A** Water Management Condition

Total raw water supply in (1) Denton and Dallas connected lakes (east and west); or (2) western connected lakes; or (3) eastern connected lakes drops below 50% of the total conservation storage

6.6.2.1.2 **Type B** Water Management Condition

Water demand reaches or exceeds 90% of delivery capacity for 3 consecutive days

6.6.2.1.3 **Type C** Water Management Condition

- Water demand equals a reduced delivery capacity for all or part of the system, as determined by DWU
- A major water line breaks, or a pump or system failure occurs, which cause unprecedented loss of capability to provide treated water service
- Natural or man-made contamination of the water supply

Requirements for Termination:

Stage 2 may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination.

6.6.2.2 Goal For Use Reduction And Actions Available Under Stage 2, Moderate

The goal for water use reduction under Stage 2, Moderate, is a 15 percent reduction of the use that would have occurred in the absence of drought contingency measures. The Director of Water Utilities or a designee can order the implementation of any of the actions listed below, or other actions not listed, as deemed necessary:

All Water Users

- (a) Require that all landscape watering be limited to the day-of-week schedule between the hours of 6:00 PM to 10:00AM. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems should be limited to Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8) and for locations without addresses, and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9). Apartments, office building complexes or other property containing multiple addresses may be identified by the lowest address number.
- (b) Restrict operation of ornamental fountains or ponds to initial only filling except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

- (c) Prohibit recreational water use including use of faucets, hoses or hydrants.
- (d) Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses on the designated watering day. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (e) Restrict water use to replacing losses during normal use and replacing evaporation in order to maintain proper water quality and proper operation of the pool equipment. Request that use of water to fill, refill, or add to any indoor or outdoor swimming, wading, or jacuzzi pools be limited to the day-of-week schedule.
- (f) Prohibit hosing off paved areas, buildings, windows or other surfaces.
- (g) Foundations may be watered for a two-hour period only between the hours of 10 PM and 6 AM on the designated watering day with soaker or hand-held hose equipped with a positive shutoff nozzle on the watering schedule.

City Government

- (a) Staff will begin review of the problems initiating Stage 2 actions and will identify possible solutions to address the water shortage.
- (b) Accelerate public education campaign teaching and encouraging reduced water use practices.
- (c) Restrict flushing of new mains not immediately required to provide service.
- (d) Continue intensified leak detection and repair activities on water pipes and mains.
- (e) Restrict water use for the irrigation of parks by 50 percent. Park landscape may be irrigated on any day of the week.
- (f) Increase enforcement efforts.
- (g) Reduce frequency of wet street sweeping and city vehicle washing by 50 percent.
- (h) Use of water from fire hydrants limited to fire fighting, essential distribution system. All other water use from fire hydrants will be by special permit only.

Commercial Customers

- (a) Require day-of-week watering schedule for golf courses.
- (b) Reduce water use for landscape nursery stock by 50 percent.

- (c) Restrict water use for the irrigation of parks by 50 percent. Park landscape may be irrigated on any day of the week.

Interruptible Customers

- (a) Reduce usage for interruptible customers per contract terms.

Wholesale Customers

- (a) Require water demand reductions in accordance with contract obligations for wholesale customers.
- (b) Wholesale water systems asked to abide by City of Denton policy for both internal operations and all retail customers. Reduction in rate of flow controller settings by 10% -20% are optional.

Notifications

City of Denton

- By telephone and attached follow-up memo, notify all major City department water users of Water Watch Stage #2 and the water use restrictions under this stage. Instruct them to implement restrictions on non-essential uses. Use city department contacts in Appendix F.
- Coordinate distribution of water emergency plan details, posters, and handouts to customer service representatives, utility dispatch personnel and Denton public access buildings.

Retail Customers

- TCEQ notified of Stage 2 restrictions.
- Issue press release, radio and video public service announcement to area media describing Water Watch Stage #2 and the water use restrictions under this stage. Keep media updated on the water situation. Use media contacts listed in Appendix F.
- By telephone and follow-up letter, notify major area water users of Water Watch Stage #2 and the restrictions that apply. Use plant manager contacts listed in Appendix F.
- Accelerate public education campaign to promote and encourage efficient water use.
- If applicable, notify the U.S. Corp of Engineers by telephone and follow-up letter of the Water Watch Stage #2 conservation measures.

Wholesale Customers

Advise wholesale customers by telephone and attached letter of the actions taken by the City of Denton in response to Water Watch Stage #2 and require the implementation of like procedures among their customers. Wholesale customer cities shall either impose water use restrictions equivalent to those imposed on Denton's

retail customers OR where applicable, Denton may reduce rate-of-flow controller settings by 10%-20%. Use wholesale customer contacts in Appendix F.

Penalties

- Initiate a 10% rate increase for residential customers for water usage greater than 15,000 gallons per account per 30 days.
- Impose a 10% surcharge penalty for commercial and industrial customers for monthly water use above 80% of prior billing volumes for a 30-day period.
- Initiate code enforcement fines for any violation of the Drought Contingency Plan.

6.6.3 Stage 3, Severe

6.6.3.1 Triggering Conditions For Stage 3, Severe

6.6.3.1.1 **Type A** Water Management Condition

Total raw water supply in (1) Denton and Dallas connected lakes (east and west); or (2) western connected lakes; or (3) eastern connected lakes drops below 35% of the total conservation storage

6.6.3.1.2 **Type B** Water Management Condition

Water demand reaches or exceeds 95% of delivery capacity for 2 consecutive days

6.6.3.1.3 **Type C** Water Management Condition

- Water demand exceeds a reduced delivery capacity for all or part of the system, as determined by DWU
- A major water line breaks, or a pump or system failure occurs, which cause unprecedented loss of capability to provide treated water service
- Natural or man-made contamination of the water supply

Requirements for Termination:

Stage 3 may be terminated when Stage 3 conditions no longer exist and would be unlikely to recur upon termination.

6.6.3.2 Goal For Use Reduction And Actions Available Under Stage 3, Severe

The goal for water use reduction under Stage 3, Severe, is a reduction of 20 percent of the use that would have occurred in the absence of drought contingency measures. If the circumstances warrant, the Director of Water Utilities or a designee can set a goal for greater water use reduction. The Director of Water Utilities or a

designee can order the implementation of any of the actions listed below, or other actions not listed, as deemed necessary:

All Water Users

- (a) Irrigation of landscape is absolutely prohibited unless otherwise indicated within this section.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6 PM to 10 AM.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi type pools is prohibited. Existing pools may add water to replace losses during normal use and to replace evaporation in order to maintain proper water quality and proper operation of the pool equipment.
- (d) Prohibit operation of ornamental fountains or ponds to initial filling except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Foundations may be watered for a two-hour period only between the hours of 10 PM and 6 AM on the designated watering day from Stage 2 with soaker or hand-held hose equipped with a positive shutoff nozzle on the watering schedule.
- (f) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.
- (g) Permitting of new swimming pools, hot tubs, spas, ornamental ponds and fountain construction is prohibited.
- (h) Request a 25% reduction of indoor water uses.

City Government

- (a) Wet street sweeping and city vehicle washing or rinsing is prohibited, except when in the immediate interest of public health, safety, and welfare.
- (b) Restrict water use for the irrigation of parks by 75 percent. Park landscape may be irrigated on any day of the week.
- (c) Restrict use of water from fire hydrants to fire fighting, essential distribution system maintenance and related activities. All other water use from fire hydrants will be by special permit only.

Commercial Customers

- (a) Restrict watering of golf course greens and tee boxes restricted to the allowed watering hours and the day-of-week watering schedule from Stage 2; watering of other golf course areas and parks is prohibited unless the golf course utilizes a water source other than that provided by the City of Denton.
- (b) Reduce water use for landscape nursery stock by 75 percent.
- (c) Restrict water use for the irrigation of parks by 75 percent. Park landscape may be irrigated on any day of the week.

Interruptible Customers

- (a) Service to interruptible customers is temporarily suspended.

Wholesale Customers

- (a) Same external restrictions apply to wholesale suppliers.

Notifications

City of Denton

- Coordinate dissemination of water conservation plan details, posters, and handouts to customer service representatives, utility dispatch personnel and public access buildings.
- By telephone and attached follow-up memo, notify all major City department users of Water Warning Stage #3 and of the water use restrictions under this stage. Instruct them to eliminate non-essential uses including street and vehicle washing and operation of ornamental fountains, and to implement restrictions on essential uses. Use same contacts as those listed in Appendix F.

Retail Customers

- TCEQ notified of Stage 3 restrictions.
- Issue press release, radio and video public service announcement to area media describing Water Warning Stage #3 and the water use restrictions under this stage. Keep media updated on the water situation. Use same media contacts as those in Appendix F.
- By telephone and follow-up letter, notify major water users of Water Warning #3 and the mandatory water use reduction. Use contacts listed in Appendix F.
- Post Water Warning notices at public buildings including city buildings, county buildings, and the federal post office.

- If applicable, notify U.S. Corps of Engineers by telephone and attached letter of the Water Warning Stage #3 conservation measures.

Wholesale Customers

- Advise wholesale customers by telephone and attached letter of actions being taken by the City in response to Water Warning Stage #3 and mandatory implementation of similar procedures among their customers. Wholesale customer cities shall impose water use restrictions equivalent to those imposed on Denton's retail customers or, where applicable, reduce their rate-of-flow controller settings by a percentage determined by the Director of Water Utilities. Appendix F lists wholesale customers that need to be contacted.

Penalties

- Initiate a 20% rate increase for residential customers for water usage greater than 15,000 gallons per account per 30 days.
- Impose a 20% surcharge penalty for commercial and industrial customers for monthly water use above 70% of prior billing volumes for a 30-day period.
- Initiate code enforcement fines for any violation of the Drought Contingency Plan.

Water Allocation

Retail Customers:

During Stages 2 and 3 of the Drought Contingency Plan, DWU may impose a retail water rate increase to discourage water use. All rates for usage in excess of 15,000 gallons per month (per single-family residential account), or any other usage amount above 15,000 gallons per month, as deemed appropriate by the Director, may be increased by an additional 10 percent or any other percentage deemed appropriate by the Director.

Wholesale Customers

In the event that the triggering criteria specified in Section 6 of the Plan for Stage 3 have been met, the Director is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with the latest revision of Texas Water Code Section 11.039. Texas Water Code Section 1.039, Distribution of Water During Shortage, states:

- (a) If a shortage of water in a water supply not covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.
- (b) If a shortage of water in a water supply covered by a water conservation plan prepared in compliance with Texas Commission on Environmental Quality or Texas Water Development Board rules results from drought, accident, or other cause, the person, association of person, or corporation owning or controlling the water shall divide the water to be distributed among all customers pro rata, according to:
 - 1. the amount of water to which each customer may be entitled; or
 - 2. the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with water conservation plan.
- (c) Nothing in Subsection (a) or (b) precludes the person, association of persons or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

DWU may curtail water deliveries or reduce diversions in accordance with the terms and conditions of its wholesale water supply contracts. If necessary, or if specific contract provisions are not provided for, DWU may curtail water deliveries or reduce diversions in accordance with Texas Water Code Section 11.039. DWU will have authority to restrict flow to its wholesale water customers through the rate-of-flow controllers.

The Director will establish pro rata water allocations, determined as a percentage reduction of the wholesale customer's water usage, at the time of implementation. The total volume reduction for each wholesale customer will be calculated monthly, based on average water usage for the previous three years. The Director will establish the percentage reduction based on an assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries, and the percentage reduction may be adjusted periodically by the Director. Once pro rata allocation is in effect, water diversions by, or deliveries to, each wholesale customer will be limited to the allocation established for each month.

6.7 Procedures for Enforcement of Mandatory Restrictions

Violations

A person commits an offense if he or she knowingly makes, causes, or permits a use of water contrary to the measures implemented in the Drought Contingency Plan. It is presumed that a person has knowingly made, caused, or permitted use of water contrary to the measures implemented if the mandatory measures have been implemented according to the Plan and any one of the following conditions apply:

- The Drought Contingency Plan prohibits the manner of use.
- The amount of water used exceeds that allowed by the Drought Contingency Plan.
- The manner of use or the amount used violates the terms and conditions of a compliance agreement made following a variance granted by the ACM/Utilities.

Any person in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for their minor children and proof that a violation, committed by a child, occurred on the property within control of the parents shall constitute a rebuttable presumption that the parent committed the violation. But, any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

Any Code Enforcement Officer, Police Officer, or other city employee designated by the Assistant City Manager/Utilities, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in municipal court on the date shown on the citation.

Any person who violates this Plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$250 and not more than \$2,000. Each day that one or more provisions in this Plan is violated shall constitute a separate offense. Flow restrictors may be placed in lines after two violations have occurred to limit the amount of water passing through the meter in a 24-hour period. The City of Denton Utilities reserves the right to temporarily cancel water service to the customer until the situation can be resolved. Services

discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at an amount not to exceed \$135.00 (or as adjusted by City ordinance), and any other costs incurred by the DWU in discontinuing service. In addition, suitable assurance must be given to the Director that the same action will not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.

6.8 Procedures for Granting Variances

Granting a Variance

The ACM/Utilities may grant variances from the Drought Contingency Plan in special cases to persons demonstrating extreme hardship and need. In order to obtain a variance, the applicant must sign a compliance agreement on forms provided by the ACM/Utilities and approved by the City Attorney. The applicant must agree to use the water only in the amount and manner permitted by the variance. A variance must meet the following conditions:

- Granting of a variance must not cause an immediate significant reduction in the City's water supply.
- The applicant must demonstrate that the extreme hardship or need is related to the health, safety, or welfare of the person requesting it.
- The variance will not adversely affect the health, safety, or welfare of other persons.
- No variance is retroactive nor can it justify any violation of this Drought Contingency Plan before its issuance.
- The variance will remain in effect during the stage in which it was issued and will expire when the Plan is no longer in effect or a new stage is activated.

Revoking a Variance

The ACM/Utilities may revoke a variance granted when the Director of Water Utilities determines any one of the following:

- Conditions causing initial issuance of the variance are no longer applicable.
- Violation of the terms of the compliance agreement.
- The health, safety, or welfare of other persons requires revocation.

Wholesale Customer Variances

The ACM/Utilities may grant variances from the Drought Contingency Plan to wholesale water customers in special cases. Wholesale water customers may request reduced variance allocations for the following conditions:

- The designated period does not accurately reflect a wholesale customer's normal water usage.
- The customer agrees to transfer part of its allocation to another wholesale customer.
- Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

In order to grant a variance, the applicant must sign a compliance agreement on forms provided by the ACM/Utilities and approved by the City Attorney. No variance shall be retroactive or otherwise justify any violation of this Drought Contingency Plan occurring before the issuance of the variance.

6.9 Coordination with the Regional Water Planning Group

The City of Denton is located within the Region C water planning area. Appendix E includes a copy of a letter sent to the Chair of the Region C Water Planning Group (RCWPG) along with the water conservation and drought contingency plan.

6.10 Review and Update of Drought Contingency Plan

As required by TCEQ rules, the City of Denton will review this drought contingency plan every five years, beginning in 2009. The plan will be updated as appropriate based on new or updated information. As the plan is reviewed and subsequently updated, a copy of the revised Drought Contingency Plan will be submitted to the TCEQ and the RCWPG for their records.

7.0 Severability

The City of Denton Public Utility Board agrees that sections, paragraphs, sentences, clauses, and phrases of this Drought Contingency Plan are severable. If any phrase, clause, sentence, paragraph, or section of this Drought Contingency Plan is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Drought Contingency Plan, since the same would not have been enacted by the

City of Denton Public Utility Board without the incorporation into this Drought Contingency Plan of any such unconstitutional phrase clause, sentence paragraph, or section.

APPENDIX A

List of References

1. Texas Commission on Environmental Quality: "Water Conservation Plans for Municipal Uses by Public Water Suppliers," Texas Administrative Code Title 30 Part I Subchapter A §288.2, effective October 7, 2004
2. Texas Commission on Environmental Quality: "Utility Profile & Water Conservation Plan Requirements for Municipal Water Use by Public Water Suppliers," TCEQ publication 10218 Rev 11-04 and "Utility Profile & Water Conservation Plan Requirements for Wholesale Public Water Suppliers," TCEQ publication 20162 Rev 11-04
3. Texas Water Development Board: "Water Conservation Best Management Practices Guide," Report 362, Water Conservation Implementation Task Force, published November 2004

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