

# TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

FROM: Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team

DATE: August 7, 2024

SUBJECT: The Dow Chemical Company  
ADJ 5328  
CN600356976, RN106494750  
Application No. 12-5328F to Amend Certificate of Adjudication  
No. 12-5328  
Texas Water Code §§ 11.122 and 11.085, No Notice Required  
Oyster Creek, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
Brazoria County

The application and fees were received on May 31, 2024. Additional information was received on July 30, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 7, 2024. No notice is required pursuant to 30 TAC §§ 295.155(d)(3) and 295.158(c)(1).

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

*Hal E. Bailey, Jr.*  
\_\_\_\_\_  
Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

OCC Mailed Notice Required  YES  NO

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 7, 2024

Mr. Ken Ramirez  
Law Offices of Ken Ramirez, PLLC  
3005 S. Lamar Blvd., Suite D-109, No. 361  
Austin, Texas 78704-4785

VIA E-MAIL

RE: The Dow Chemical Company  
ADJ 5328  
CN600356976, RN106494750  
Application No. 12-5328F to Amend Certificate of Adjudication No. 12-5328  
Texas Water Code §§ 11.122 and 11.085, No Notice Required  
Oyster Creek, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
Brazoria County

Dear Mr. Ramirez:

This acknowledges receipt, on May 31, 2024, of the referenced application and fees in the amount of \$137.50 (Receipt No. M417896, copy attached). Additional information was received on July 30, 2024.

The application was declared administratively complete and filed with the Office of the Chief Clerk on August 7, 2024. 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 e-mail at [hal.bailey@tceq.texas.gov](mailto:hal.bailey@tceq.texas.gov) or by telephone at (512) 239-4615.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Bailey, Jr.".

Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachment



03-JUN-24 12:22 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

RECEIVED

JUN 04 2024

Water Availability Division

<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>
WTR USE PERMITS	WUP	M417894	16580		BS00109633	03-JUN-24	-\$100.00
	WUP	ADJ2536	060324	N	D4802979		
WATER USE PERMITS		MILLS	RHDAVIS	CK			
		COUNTY					
		ABSTRACT &					
		TITLE					
		COMPANY					
	WUP	M417896			BS00109633	03-JUN-24	-\$137.50
	WUP	125328E	060324	N	D4802979		
WATER USE PERMITS		LAW OFFICES	RHDAVIS	CK			
		OF KEN					
		RAMIREZ					
		PLLC					
	WUP	M417897	1010247213		BS00109633	03-JUN-24	-\$257.52
	WUP	13953	060324	N	D4802979		
WATER USE PERMITS		VISTRA	RHDAVIS	CK			
		CORPORATE					
		SERVICES					
		COMPANY					

Total (Fee Code): -\$495.02

RECEIVED

JUN 04 2024

Water Availability Division

## Hal Bailey

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**From:** ken kenramirezlaw.com <[REDACTED]>  
**Sent:** Tuesday, July 30, 2024 12:22 PM  
**To:** Kathy Alexander  
**Subject:** Dow B & B Amendment Application  
**Attachments:** Map.pdf

Hi Kathy,

As we discussed last week, the Exhibit E (USGS Map) submitted with Dow's original Bad and Banks amendment application included a mistaken excerpt saying that a "change in permitted bed and banks discharge rate is requested."

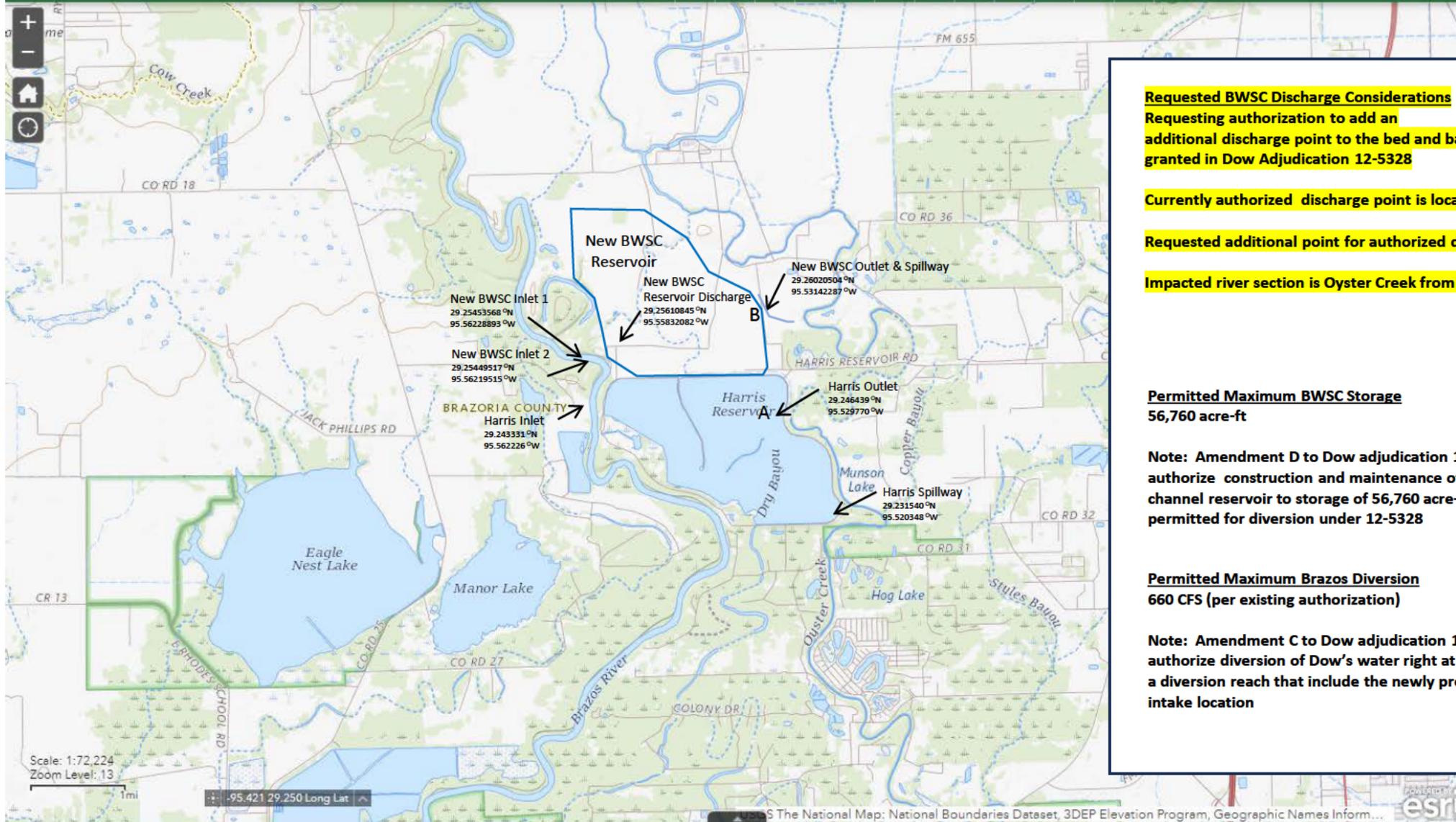
Here is a revised Exhibit E that deletes that mistaken reference. This Exhibit E is otherwise identical to the original one.

Please let me know if you need anything more on this, and, on behalf of Dow, thanks for bringing this mistaken reference to our attention.

Thanks.

Ken Ramirez

Managing Partner  
Law Offices of Ken Ramirez, PLLC  
3005 South Lamar Blvd.  
Suite D-109, No. 361  
Austin, Texas 78704  
Main: [REDACTED]



**Requested BWSC Discharge Considerations**  
 Requesting authorization to add an additional discharge point to the bed and banks authorization granted in Dow Adjudication 12-5328

Currently authorized discharge point is location A

Requested additional point for authorized discharge is location B

Impacted river section is Oyster Creek from point A to point B

**Permitted Maximum BWSC Storage**  
 56,760 acre-ft

Note: Amendment D to Dow adjudication 12-5328 authorize construction and maintenance of a new off-channel reservoir to storage of 56,760 acre-ft water that is permitted for diversion under 12-5328

**Permitted Maximum Brazos Diversion**  
 660 CFS (per existing authorization)

Note: Amendment C to Dow adjudication 12-5328 authorize diversion of Dow's water right at location within a diversion reach that include the newly proposed pump intake location

RECEIVED

MAY 31 2024  
Water Availability Division

# 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): The Dow Chemical Company

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

# ADMINISTRATIVE INFORMATION REPORT

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

**\*\*\* Applicants are REQUIRED 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."

The Dow Chemical Company (Dow) requests a Bed and Banks amendment to Certificate of Adjudication (CA) No. 12-5328-D, issued on August 24, 2015, which authorized Dow to build and maintain a 56,760 acre-foot reservoir known as the Harris Expansion Reservoir. In today's amendment application, Dow seeks authority to divert water from the Harris Expansion Reservoir into Oyster Creek, then to withdraw that same amount for use at facilities at Dow's plant in Freeport, TX. Dow does not seek any increase in the amount of water authorized under CA 12-5328.

Please note that Ownership of the Harris Expansion Reservoir will soon change from Dow to the Brazosport Water Supply Corporation (BWSC), at which time the name will change to the BWSC Reservoir. This ownership change will not alter the permitted functions of the Reservoir. Dow will timely submit the necessary change of ownership documents to the TCEQ at the appropriate time.

## 2. APPLICANT INFORMATION (Instructions, Page. 6 )

### a. Applicant

Indicate the number of Applicants/Co-Applicants \_\_\_\_\_  
(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?

The Dow Chemical Company

*(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 : 600356976 ( 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: Francine Quinlan Falcon

Title: EH&S Regional Leveraged Delivery Director

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

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: The Dow Chemical Company

Mailing Address: 332 SH 332 E, 4A016

City: Lake Jackson

State: TX

ZIP Code: \_\_\_\_\_

Indicate an X next to the type of Applicant:

Individual

Sole Proprietorship-D.B.A.

Partnership

Corporation

Trust

Estate

Federal Government

State Government

County Government

City Government

Other Government

Other \_\_\_\_\_

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 13812851288 SOS Charter (filing) Number: 1216206

### 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: Ken Ramirez

Title: Attorney

Organization Name: Law Offices of Ken Ramirez, PLLC

Mailing Address: 3005 S. Lamar Blvd., Suite D-109, No. 361

City: Austin State: TX ZIP Code: 78704

Phone Number: [REDACTED]

Fax Number: \_\_\_\_\_

E-mail Address: [REDACTED]

# 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](mailto:WRPT@tceq.texas.gov) to schedule a meeting.**

Date of pre-application meeting: 1/25/2024

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

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

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

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

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

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

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

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

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

**6. SIGNATURE PAGE (Instructions, Page. 11)**

Applicant:

I, Fran Quinlan Falcon TX Regional Environmental Director  
(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: FQ Falcon Date: 5-10-24  
(Use blue ink)

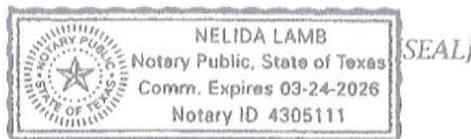
Subscribed and Sworn to before me by the said

on this 10<sup>th</sup> day of May, 2024.

My commission expires on the 24<sup>th</sup> day of March, 2026.

Nelida Lamb  
Notary Public

Brazoria  
County, Texas



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

## 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: CA 12-5328 D

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

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

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

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

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

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

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

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

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

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

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

***Additionally, all amendments require:***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Worksheets and information:*

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

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

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

- a. Provide information describing how this application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement (*not required for applications to use groundwater-based return flows*). Include citations or page numbers for the State and Regional Water Plans, if applicable. Provide the information in the space below or submit a supplemental sheet entitled “Addendum Regarding the State and Regional Water Plans”:

See Attached Addendum
-----------------------

- b. Did the Applicant perform its own Water Availability Analysis? Y / N<sup>N</sup>\_\_\_\_\_

*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<sup>Y</sup>\_\_\_\_\_

# 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.***

#### 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** N

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** N

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. Applicant's 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** Y

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

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

**Yes / No** Y

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- 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

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 Y

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

- a. Provide the Basin of Origin. Brazos (This is an exempt IBT as per 30 TAC 297.18 (k) (3)).
- 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:  
San Jacinto-Brazos Coastal Basin, Brazoria County, Texas.

### 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 N
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N Y
- 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 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 N

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

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

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

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

## WORKSHEET 1.2 NOTICE. "THE MARSHALL CRITERIA"

This worksheet assists the Commission in determining notice required for certain **amendments** that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. The worksheet provides information that Applicant **is required** to submit for amendments such as certain amendments to special conditions or changes to off-channel storage. These criteria address whether the proposed amendment will impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

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

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

### 1. The "Marshall Criteria" (Instructions, Page. 21)

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

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

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

## WORKSHEET 2.0 Impoundment/Dam Information

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

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

### 1. Storage Information (Instructions, Page. 21)

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

3. Applicants **shall** give notice by certified mail to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir to be constructed, will be located. (30 TAC § 295.42). Applicant must submit a copy of all the notices and certified mailing cards with this Application. Notices and cards are included? Y / N\_\_\_\_\_

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

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

## 2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name):\_\_\_\_\_
- b. Zip Code: \_\_\_\_\_
- c. In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.

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

***\*\*If the Applicant is not currently the sole owner of the land on which the structure is or will be built and sole owner of all lands to be inundated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.***

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

Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.

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

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

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

### 1. Diversion Information (Instructions, Page. 24)

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

1. \_\_\_ 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** N \_\_\_\_\_  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches \_\_\_\_\_ cfs or \_\_\_\_\_ gpm*

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

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

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

Check one		Write: Existing or Proposed
<input type="checkbox"/>	Directly from stream	
<input type="checkbox"/>	From an on-channel reservoir	
<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** \_\_\_\_\_

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): \_\_\_\_\_
- b. Zip Code: \_\_\_\_\_
- c. Location of point: 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 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 \_\_\_\_\_°N, Longitude \_\_\_\_\_°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): \_\_\_\_\_
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

## WORKSHEET 4.0 DISCHARGE INFORMATION

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

- a. The purpose of use for the water being discharged will be Industrial.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses Negligible (% or amount) and explain the method of calculation: Distance from Harris Reservoir to Dow Lake Jackson Pump Station is minimal.
- c. Is the source of the discharged water return flows? **Y / N** N If yes, provide the following information:
1. The TPDES Permit Number(s). N/A (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** 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/gwdbrrpt.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** N  
If yes, provide the signed contract(s).

dii. Identify any other source of the water Water stored in Harris Expansion Reservoir, authorized by CA 12-5328 D

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g., maps). **Instructions, Page 27.**

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is same as CA \_\_\_\_\_ 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 See CA 5328 C cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: Oyster Creek
- d. Zip Code 77583
- e. Location of point: In the Willm Harris League Original Survey No. \_\_\_\_\_, Abstract No. 71, Brazoria County, Texas.
- f. Point is at:  
Latitude 29.26020504 °N, Longitude 95.53142287 °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.**

N/A
-----

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

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

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

a. Identify the appropriate description of the water body.

- Stream
- Reservoir

Average depth of the entire water body, in feet: \_\_\_\_\_

Other, specify: 1216206

b. Flow characteristics

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

- Intermittent - dry for at least one week during most years
- Intermittent with Perennial Pools - enduring pools
- Perennial - normally flowing

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

- USGS flow records
- Historical observation by adjacent landowners

- Personal observation
- Other, specify: \_\_\_\_\_

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

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

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

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

a. For all bed and banks applications:

- i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

b. For all alternate source applications:

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

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L					
Chloride, mg/L					
Total Dissolved Solids, mg/L					
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](mailto:wras@tceq.texas.gov). The model plans can also be downloaded from the TCEQ webpage. Please use the most up-to-date plan documents available on the webpage.*

#### 1. Water Conservation Plans

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

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

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

1. \_\_\_ Municipal Use. See 30 TAC § 288.2. \*\*
2.  Industrial or Mining Use. See 30 TAC § 288.3.
3. \_\_\_ Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. \_\_\_ Wholesale Water Suppliers. See 30 TAC § 288.5. \*\*

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

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

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

Applicant has included this information in each applicable plan? Y / N\_\_\_\_

## 2. Drought Contingency Plans

a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:

1. \_\_\_\_Municipal Uses by public water suppliers. See 30 TAC § 288.20.

2. \_\_\_\_Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.

3. \_\_\_\_Wholesale Water Suppliers. See 30 TAC § 288.22.

b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc. See 30 TAC § 288.30*) Y / N\_\_\_\_

## WORKSHEET 8.0 CALCULATION OF FEES

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

### 1. NEW APPROPRIATION

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

### 2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
<b>Filing Fee</b>	Amendment: \$100	\$100.00
	<b>OR</b> Sever and Combine: \$100 x _____ of water rights to combine	
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$</b>

### 3. BED AND BANKS

	Description	Amount (\$)
<b>Filing Fee</b>		\$100.00
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$ 137.50</b>

## **WORKSHEET 7.0**

### **ACCOUNTING PLAN INFORMATION WORKSHEET**

The following information provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4600 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

#### **1. Is Accounting Plan Required**

Accounting Plans are generally required:

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

#### **2. Accounting Plan Requirements**

a. A **text file** that includes:

1. an introduction explaining the water rights and what they authorize;
2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
4. Should provide a summary of all sources of water.

b. A **spreadsheet** that includes:

1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
2. Method for accounting for inflows if needed;
3. Reporting of all water use from all authorizations, both existing and proposed;
4. An accounting for all sources of water;
5. An accounting of water by priority date;
6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
7. Accounting for conveyance losses;
8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
9. An accounting for spills of other water added to the reservoir; and
10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.



Signature Page

**GRANTOR:**

The **STATE OF TEXAS**  
by and through Jerry E. Patterson,  
Commissioner, Texas General Land Office  
on behalf of the Texas Department of Criminal Justice,  
as authorized by the Texas Board of Criminal Justice



By: Jerry E. Patterson  
Jerry E. Patterson, Commissioner  
Texas General Land Office

Approved: \_\_\_\_\_  
Contents: as  
Legal: HKA  
Deputy: HKA  
Gen Counsel: WKM  
Executive: \_\_\_\_\_

APPROVED:  
TEXAS BOARD OF CRIMINAL JUSTICE  
By: Oliver J. Bell  
Oliver J. Bell, Chairman

Date: 12/9/11

APPROVED AS TO FORM:

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

By: Michael W. McManus  
Michael W. McManus, Deputy General Counsel

Date: 12/9/11

NOTE TO COUNTY CLERK: PROPERTY CODE §12.006, COMBINED WITH GOVERNMENT CODE §2051.001, AUTHORIZES THE RECORDATION OF THIS INSTRUMENT WITHOUT ACKNOWLEDGMENT OR FURTHER PROOF OF THE SIGNATURE OF THE COMMISSIONER OF THE TEXAS GENERAL LAND OFFICE.

e-Recording  
Doc# 2011051639  
# Pages 6  
12/16/2011 15:03:45 PM  
Official Public Records of  
BRAZORIA COUNTY  
JOYCE HUDMAN  
COUNTY CLERK  
Fees 32.00

*Joyce Hudman*

THENCE North 31°45'21" East, along and coincident with said centerline, a distance of 832.44 feet to a point

THENCE North 31°42'51" East, along and coincident with said centerline, a distance of 432.36 feet to a point

THENCE North 07°51'30" East, along and coincident with said centerline, a distance of 210.36 feet to a point

THENCE North 22°51'30" East, along and coincident with said centerline, a distance of 220.39 feet to a point

THENCE North 04°19'53" East, along and coincident with said centerline, a distance of 226.79 feet to a point

THENCE North 14°42'23" West, along and coincident with said centerline, a distance of 274.92 feet to a point

THENCE North 4°28'08" West, along and coincident with said centerline, a distance of 307.78 feet to a point

THENCE North 4°02'10" West, along and coincident with said centerline, a distance of 852 feet plus or minus the width of said Williams Leasing and the south line of said Stephen Richardson Leasing, is as a distance of 309.83 feet to a point

THENCE North 57°37'47" West, along and coincident with said centerline, a distance of 356.00 feet to a point

THENCE North 67°20'20" West, along and coincident with said centerline, a distance of 864.60 feet to a point

THENCE North 7°24'07" East, at 250.05 feet plus or minus a concrete post with aluminum cap stamped "T12 10 R125 2017" as for reference on the top bench, at approximately 430 feet plus or minus the width line of said Stephen Richardson Leasing, and the south line of said Williams Leasing, is as a distance of 283.32 feet to a concrete post with aluminum cap stamped "T12 11 R125 2017" set for the northern corner of the herein described land, said post being such 70 feet from the centerline of a gravel road.

THENCE North 87°49'00" East, 70.00 feet south of and parallel with the said centerline of a gravel road, a distance of 230.30 feet to a concrete post with aluminum cap stamped "T12 1 R125 1987" set for a corner of the herein described land.

THENCE North 21°28'20" East, measuring 70.00 feet south of and parallel with the said centerline of a gravel road, a distance of 146.60 feet to a concrete post with aluminum cap stamped "T12 1 R125 1987", and for a corner of the herein described land.

THENCE North 85°47'59" East, measuring 70.00 feet south of and parallel with the said centerline of a gravel road, at a distance of 64.10 feet plus or minus a concrete post with aluminum cap stamped "T12 1 R125 2007" set for reference on the west top (right) bench of Oyster Creek, measuring the centerline of Oyster Creek, measuring 70.00 feet south of and parallel with the said centerline of a gravel road, a distance of 221.50 feet to a point in the centerline of Oyster Creek, for a corner of the herein described land.

THENCE Northerly along the centerline of Oyster Creek, with following bearings:

THENCE North 24°34'41" East, a distance of 506.11 feet to an angle point

THENCE North 27°22'27" East, a distance of 208.67 feet to an angle point

THENCE South 19°02'21" East, a distance of 252.85 feet to an angle point

THENCE South 23°27'03" East, a distance of 238.43 feet to an angle point

THENCE South 23°23'04" East, a distance of 417.72 feet to an angle point

THENCE South 8°07'03" East, a distance of 247.28 feet to an angle point

THENCE South 57°07'03" East, a distance of 431.18 feet to an angle point

THENCE South 37°07'03" East, a distance of 252.49 feet to an angle point

THENCE South 40°17'03" East, a distance of 110.09 feet to an angle point

THENCE South 23°17'17" East, a distance of 127.46 feet to an angle point

THENCE South 8°23'17" East, a distance of 410.31 feet to an angle point

THENCE North 77°04'17" East, a distance of 311.22 feet to an angle point

THENCE North 64°27'03" East, a distance of 300.84 feet to an angle point

THENCE North 51°17'03" East, a distance of 331.84 feet to an angle point

THENCE North 20°17'03" East, a distance of 81.59 feet to an angle point

THENCE South 57°41'13" East, a distance of 25.28 feet to an angle point in the centerline of Oyster Creek.

THENCE North 87°25'17" East, measuring 70.00 feet south of and parallel with the said centerline of a gravel road, with aluminum cap stamped "T12 1 R125 2017" set for reference on the west top (right) bench of Oyster Creek, is as a distance of 202.63 feet to a concrete post with aluminum cap stamped "T12 1 R125 2017" set for a corner of the herein described land.

THENCE North 24°02'18" East, a distance of 1341.24 feet to a concrete post with aluminum cap stamped "T12 1 R125 2017" set for a corner of the herein described land.

THENCE North 07°46'36" East, a distance of 222.27 feet to a concrete post with aluminum cap stamped "T12 1 R125 2017" set for a corner of the herein described land.

THENCE North 21°41'56" East, a distance of 1010.43 feet to a concrete post with aluminum cap stamped "T12 1 R125 2017" set for a corner of the herein described land, also being the southwest corner of a unit of 189 Acres west and conveyed to the Texas Title Guaranty Trust and David Lee Taylor Fidelity Trust as reported in Grant's Title Number 2010-051523, Harris County Official Records.

THENCE North 19°58'18" East, a distance of 2015.43 feet to the POINT OF BEGINNING and measuring 230.40 acres of land, more or less.

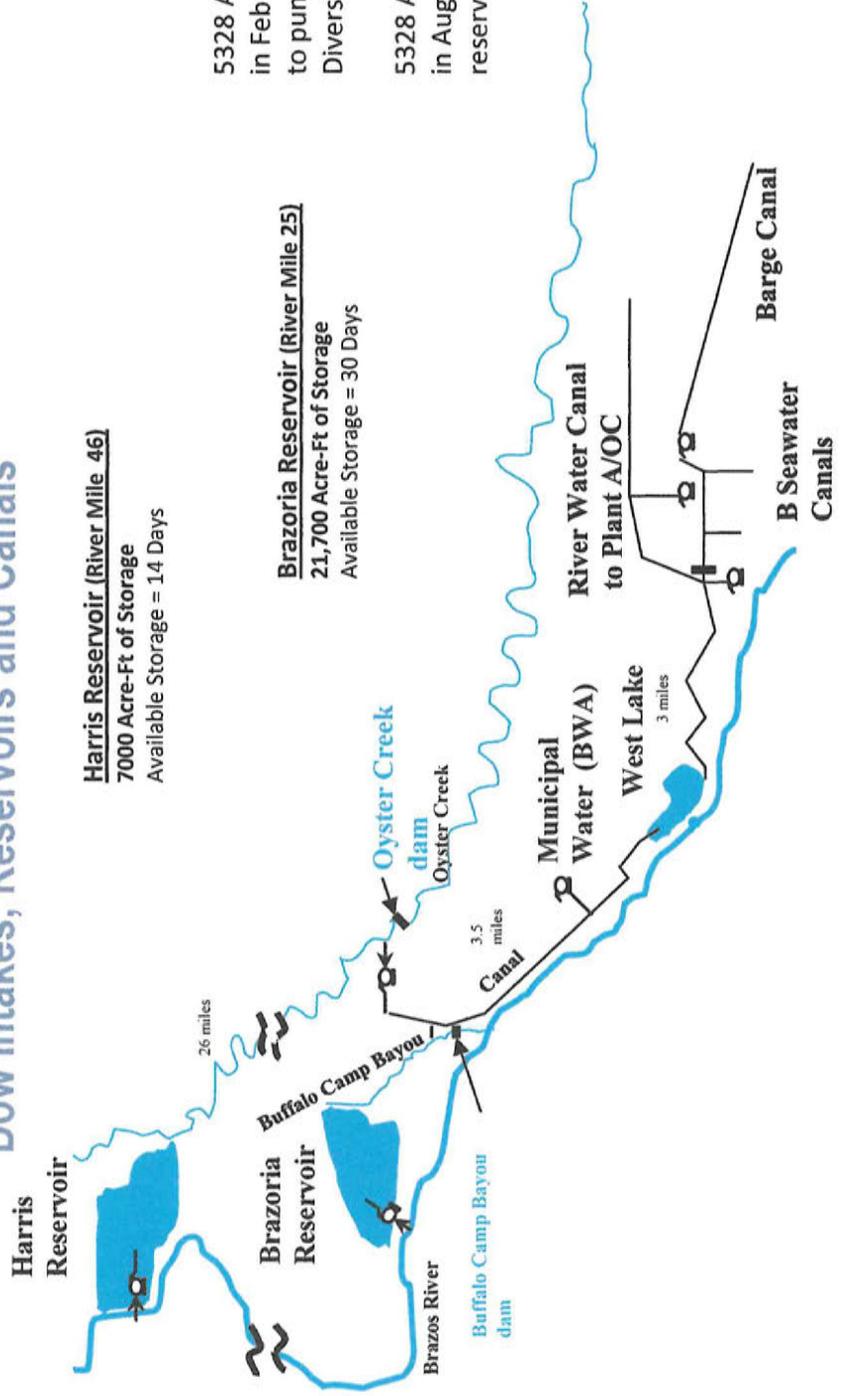
**HOLD FOR:**  
 Old Republic National Title Insurance Company  
 4690 Sweetwater Blvd., #290  
 Sugar Land, TX 77479  
 Attn: Anna Melass GF# 11003103

                     /                       
 Buyers Initials      Sellers Initials

Exhibit  
A

# Dow Freeport Current Water Infrastructure

## Dow Intakes, Reservoirs and Canals



**Harris Reservoir (River Mile 46)**  
7000 Acre-Ft of Storage  
Available Storage = 14 Days

**Brazoria Reservoir (River Mile 25)**  
21,700 Acre-Ft of Storage  
Available Storage = 30 Days

5328 Amendment C sought and issued in February 20 2013 to enable flexibility to pump existing water rights over a Diversion reach and into new reservoir

5328 Amendment D sought and issued in August 24 2015 to authorize new reservoir



## **EXHIBITS**

Exhibit A: General Information on Dow's Current Water Infrastructure

Exhibit B: Written Evidence of Signature Authority per 30 TAC 295.14 (5)

Exhibit C: Addendum Regarding State and Regional Water Plans

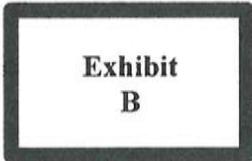
Exhibit D: Recorded Deed for Diversion Point

Exhibit E: USGS Map

Exhibit F: Overall Site Map for Harris Expansion Project

Exhibit G: Key Locations of Intake and Diversion Pipes

Exhibit H: Photo of New Proposed Discharge



August 9, 2021

**RE: DELEGATION OF AUTHORITY**

I delegate to the following individual the authority to sign and execute documents on behalf of The Dow Chemical Company (the "Company") in the areas identified below associated with The Dow Chemical Company – Texas Operations site:

Name: Francine Quinlan Falcon  
Position: EH&S Regional Leveraged Delivery Director  
Facility: The Dow Chemical Company – Texas Operations site  
Address: 2301 N. Brazosport Boulevard, Freeport, Texas 77541

To the fullest extent permitted by law, this delegation includes the authority to sign all reports and permit applications under regulations implementing federal, state, or local environmental, health and safety laws and regulations, and to provide, where appropriate, other relevant information requested by the Administrator of the U.S. EPA or other federal, state or local environmental, health and safety agencies. Any environmental, health and safety documents signed or executed by Francine Quinlan Falcon shall have the same force and effect, and shall bind The Company as if done by me. Without limiting the generality of the foregoing, I am an authorized signatory for the Company as defined in 40 CFR 98.4, 40 CFR 122.22, 40 CFR 144.32, and 40 CFR 270.11, and a Responsible Official as defined in 40 CFR 70.2.

In accordance with the Authorization Policy of the Company, I explicitly stipulate that the individual named above may re-delegate any authority granted by this Delegation provided that any such re-delegation must be executed in writing and approved by the Law Department as meeting requirements of the environmental regulations referenced in the paragraph above.

This Delegation shall remain in effect until rescinded or modified by me or my successor, in writing, and shall expire on August 31, 2024. This Delegation supersedes and replaces any prior delegations.

September 21, 2021  
Date

John M. Sampson  
John Sampson  
Senior Vice President

STATE OF Michigan )  
                                  ) ss.  
COUNTY OF Midland )

The foregoing instrument was acknowledged before me this 21 day of September, 2021, by John Sampson, Senior Vice President of The Dow Chemical Company, a Delaware corporation, on behalf of the corporation.

Casey L Hall  
Notary Public  
Gladwin County, Michigan  
My commission expires: 11/22/2025



Casey L Hall  
Notary Public - State of Michigan  
County of Gladwin  
My Commission Expires 11/22/2025  
Acting in the County of Midland

**Exhibit  
C**

**Addendum Regarding the State and Regional Water Plans**

Applicant The Dow Chemical Company maintains significant operations at its Freeport, Texas facility, located in Brazoria County. That facility, and the water rights associated with it, are located in the Region H Planning Group.

The application addresses Dow's need for conveyance via the bed and banks of Oyster Creek of already-permitted (Certificate of Adjudication No. 12-5328) water supplies for use at Dow's manufacturing facility in Freeport, TX. The bed and banks authorization would allow Dow to convey water from already-permitted Harris Reservoir (Certificate of Adjudication 12-5328-D) via Oyster Creek, and is thus a necessary and practical extension of the Harris Reservoir.

Using the term "Dow Reservoir and Pump Station Expansion," the Harris Reservoir is specifically referenced several times in the Region H Regional Water Plan, including:

- Table ES-1: Region H Potentially Feasible WMS (Water Management Strategies) Projects, page ES-8;
- Table ES-3: Key Project Overview, page ES-12;
- Table 5-4; WMS (Water Management Strategies) and Key Project Relationships, page 5-15; and
- Table 5-A4: Water Management Strategy and Project Relationships, page 5-A-20.

Since the Harris Reservoir is a key Water Management Strategy, the Oyster Creek bed and banks authorization Dow seeks through this amendment application would be directly in line with the Region H Water Plan and the State Water Plan because it would authorize Dow to convey the water from Harris Reservoir to the place of use.

The state and regional water plans generally do not address every possible change in individual water rights, and neither plan specifically addresses the type of amendment requested here. But this amendment application definitely does not conflict with either Plan.



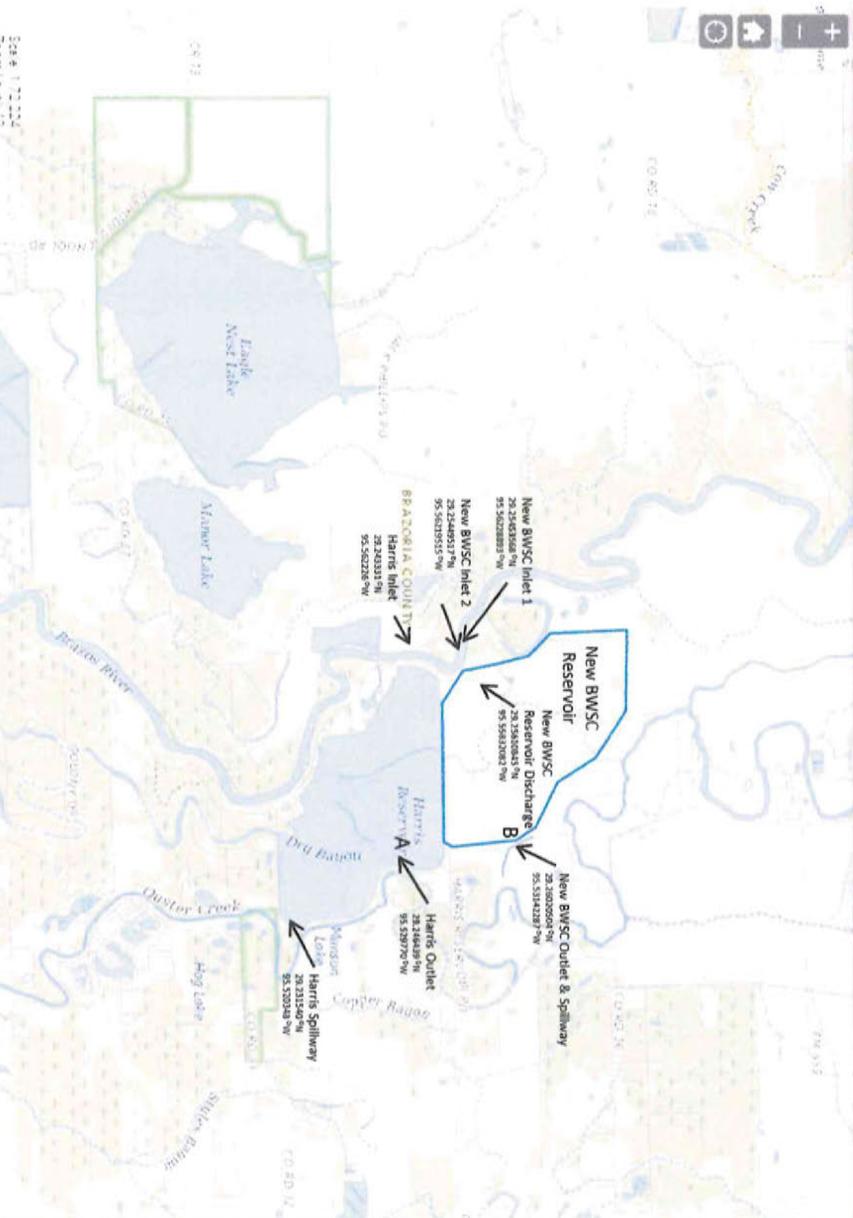
as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

GRANTEE AGREES AND ACKNOWLEDGES THAT GRANTOR IS SELLING THE PROPERTY STRICTLY ON AN "AS IS, WHERE IS" BASIS, WITHOUT WARRANTY, EXPRESS OR IMPLIED, WITH ANY AND ALL LATENT AND PATENT DEFECTS. GRANTEE HAS INSPECTED THE PHYSICAL CONDITION OF THE PROPERTY, INCLUDING ALL IMPROVEMENTS THEREON, AND ACCEPTS TITLE TO THE SAME "AS IS" IN ITS EXISTING PHYSICAL CONDITION AND TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, ACCEPTS ANY LIABILITIES OR COSTS ARISING IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO ANY COSTS OR LIABILITIES PERTAINING TO ANY ENVIRONMENTAL CONDITION ON THE PROPERTY. GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION OF THE STATE OF TEXAS, AS GRANTOR, INCLUDING THE GENERAL LAND OFFICE, THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE, OR ANY OFFICIAL, AGENT, REPRESENTATIVE OR EMPLOYEE OF THE FOREGOING, WITH RESPECT TO THE PROPERTY'S CONDITION. GRANTEE IS RELYING SOLELY AND WHOLLY ON GRANTEE'S OWN EXAMINATION OF THE PROPERTY. THE STATE OF TEXAS AND ITS AGENCIES DISCLAIM ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AND SPECIFICALLY MAKE NO WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER. GRANTEE IS PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCE MAY BE OF RECORD AND GRANTEE IS ADVISED TO EXAMINE ALL PUBLIC RECORDS AVAILABLE REGARDING THE PROPERTY.

This conveyance is made subject to any and all existing covenants, conditions, reservations, restrictions, rights of way, easements, and leases, if any, that are valid, in existence, and of record, or visible and apparent upon the ground of the Property. All interests in and right to remove all oil, gas, sulphur and other minerals, mineral rights, royalty interests, and development rights, together with any and all rights of leasing, exploration and development, if any, are hereby reserved by Grantor; provided, however, Grantor waives the right to use the surface of the Property, with the understanding that the development of the any reserved oil, gas, sulphur or other minerals will occur off the Property, including, for example, by directional drilling or pooling. All interests in any crop base and/or agricultural allotments for the Property are hereby reserved by Grantor.

Witness my hand and seal of office effective this the 15<sup>th</sup> day of December 2011.

(Remainder of page intentionally left blank. Signature page follows)



**Requested BWSC Discharge Considerations**  
Requesting authorization to add an additional discharge point to the bed and banks authorization granted in Dow Adjudication 12-5328

Currently authorized discharge point is location A

Requested additional point for authorized discharge is location B

Impacted river section is Oyster Creek from point A to point B

Note change in permitted bed and bank discharge rate is requested.

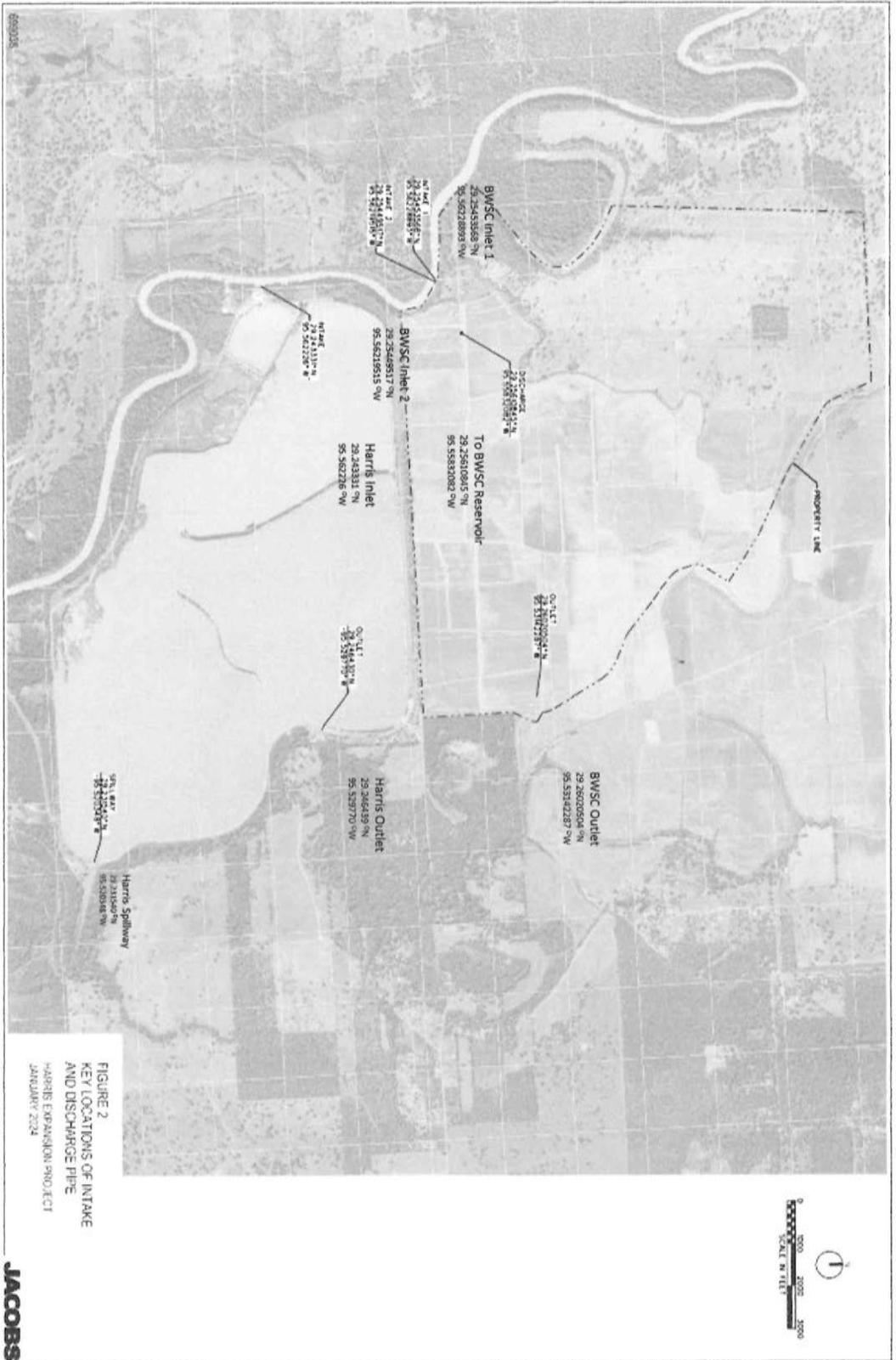
**Permitted Maximum BWSC Storage**  
56,760 acre-ft

**Note:** Amendment D to Dow adjudication 12-5328 authorize construction and maintenance of a new off-channel reservoir for storage of 56,760 acre-ft water that is permitted for diversion under 12-5328

**Permitted Maximum Brazos Diversion**  
660 CFS (per existing authorization)

**Note:** Amendment C to Dow adjudication 12-5328 authorize diversion of Dow's water right at location within a diversion reach that include the newly proposed pump intake location





**FIGURE 2**  
**KEY LOCATIONS OF INTAKE**  
**AND DISCHARGE PIPE**  
**HARRIS EXPANSION PROJECT**  
**JANUARY 2024**

Exhibit  
H

Google Earth  
Picture of Oyster Creek  
Area for Proposed New  
Discharge



General Business