

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: August 2, 2023

SUBJECT: Gibbons Tract 1, LP
ADJ 5311
CN605994854, RN109251793
Application No. 12-5311B to Amend Certificate of Adjudication No. 12-5311
Texas Water Code §§ 11.122, 11.085, Not Requiring Notice
Gibbons Creek, Brazos River Basin and San Jacinto-Brazos Coastal Basin
Grimes County

The application was received on January 19, 2023. Fees were received on January 30, 2023, and additional information was received on February 9, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 2, 2023. Notice is not required pursuant to Title 30 Texas Administrative Code (TAC) §§ 295.158(c)(2)(A) and (B), TAC § 295.158(c)(3)(A), and TAC § 295.155 (d)(3).

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*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 2, 2023

Mr. David D. Dunn, Vice President
HDR Engineering, Inc.
4401 West Gate Blvd., Ste 400
Austin, Texas 78745

VIA E-MAIL

RE: Gibbons Tract 1, LP
ADJ 5311
CN605994854, RN109251793
Application No. 12-5311B to Amend Certificate of Adjudication No. 12-5311
Texas Water Code §§ 11.122, 11.085, Not Requiring Notice
Gibbons Creek, Brazos River Basin and San Jacinto - Brazos Coastal
Basin
Grimes County

Dear Mr. Dunn:

This acknowledges receipt, on January 19, 2023, of the referenced application, on January 30, 2023, of fees in the amount of \$112.50 (Receipt No. M310554, copy attached), and on February 9, 2023 of additional information.

The application was declared administratively complete and filed with the Office of the Chief Clerk on August 2, 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

Attachments

TCEQ Interoffice Memorandum

FROM: Natalia Ponebshek, Project Manager
Water Rights Permitting Team

DATE: August 2, 2023

SUBJECT: Gibbons Tract 1, LP
Application No. 12-5311B to Amend Certificate of Adjudication No. 12-5311
Texas Water Code §§ 11.122, 11.085, Not Requiring Notice
Gibbons Creek, Brazos River Basin
Grimes County

On June 9, 2006, the Texas Supreme Court issued an opinion in the case of *Marshall v Uncertain*.¹ The Supreme Court in that opinion considered the Commission's practices regarding notice and hearing for applications to amend a water right under Texas Water Code (TWC) § 11.122(b). The Court held that it could not determine under the record in that case whether notice and a hearing would be required. The Court remanded the case to the Commission.

The court in *Marshall* held that when reviewing the type of notice required for an amendment to a water right, the Commission must determine whether there could be an adverse impact from the application on other water rights or the environment beyond or irrespective of the full use assumption, explained below. The Court also held that the Commission must determine if the application could have an adverse impact on the public interest criteria: beneficial use, public welfare, groundwater effects, consistency with the state and regional water plan, compliance with administrative requirements, and conservation.

The types of amendments that come within the *Marshall* decision are those amendments that do not already have a specific notice requirement in a rule for that type of amendment, and that do not change the amount of water to be taken or the diversion rate.

The purpose of this memo is to discuss the public notice that should be given in the above referenced application by the Gibbons Tract 1, LP in light of agency rules and the Court's decision in the case of *Marshall*.

Current Permit and Application for Amendment

Certificate of Adjudication No. 12-5311 (Certificate) was originally issued to Texas Municipal Power Agency and authorized the maintenance of an existing dam and reservoir (Gibbons Creek Reservoir), impounding not to exceed 26,824 acre-feet of

¹ City of Marshall et. al. v. City of Uncertain et al., No. 03-1111 (Tx. June 9, 2006).

water, on Gibbons Creek and the maintenance of an internal dam on Hogg Creek, Brazos River Basin. The Certificate also authorizes the diversion, circulation, and re-circulation of as much water as necessary, of which not more than 9,740 acre-feet of water per year can be consumptively used, from the perimeter of the reservoir, at a maximum diversion rate of 1,511.11 cfs (680,000 gpm), for industrial purposes (forced evaporative cooling and power plant operations) in Grimes County. Multiple special conditions apply, including:

Paragraph 5.A. which states "Water diverted but not consumed will be returned to the aforesaid reservoir through the cooling circulating canal at a point which bears N 04° W, 3500 feet from the northeast corner of the aforesaid Goodbread Survey."

Paragraph 5.D. which states "Owner shall measure and maintain the following daily records which shall be compiled monthly and reported to the Commission annually or other times as may be required: 1) inflows to the reservoir authorized herein from the watershed upstream of the dam, including rainfall on the reservoir water surface; 2) continuous reservoir stage and contents; 3) total consumptive use of water, including forced evaporation; and 4) blowdown or other controlled releases past the dam."

The Certificate was amended to authorize an increase in the capacity of the reservoir to 32,084 acre-feet of water. The time priority of the original certificate is February 22, 1977, and the time priority for the additional 5,260 acre-foot of storage capacity is March 9, 1989.

Gibbons Tract 1, LP (Owner/Applicant) acquired Certificate of Adjudication No. 12-5311 and seeks to amend the Certificate to add municipal, domestic, agricultural, recreational, and all industrial purposes of use and to change the place of use to include all counties in the Brazos River Basin and Brazos and Galveston counties within the San Jacinto-Brazos Coastal Basin.

Applicant also seeks to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language relating to operation of the Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned.

Rules Related to Notice

The Commission has rules concerning what notice is required for applications to amend a water right in Title 30 Texas Administrative Code (TAC) § 295.158.

Adding Purposes of Use

Under 30 TAC § 295.158(c)(2)(A), no notice is required, except to the record holder, to add a purpose of use that does not substantially alter the nature of the water right from a water right authorizing only non-consumptive use to a water

right authorizing consumptive use; or a pattern of use that is explicitly authorized by or required by the original water right. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Certificate of Adjudication No. 12-5311; therefore, no notice will be provided.

Adding Places of Use

Under 30 TAC § 295.158(c)(2)(B), no notice is required, except to the record holder, to add a place of use if the new place of use is located in the same river basin as the original place of use. The request to add a place of use within the Brazos Basin falls under that rule and does not require notice except to the record holder. The request for an exempt interbasin transfer to add a place of use in the adjoining coastal basin does not require notice under 30 TAC § 295.155(d)(3).

There are no additional owners of Certificate of Adjudication No. 12-5311; therefore, no notice will be provided.

Removing/Revising a Special Condition

30 TAC § 295.158(c)(3)(A) allows the commission to amend water rights provisions that are ambiguous or ineffective without notice. The Executive Director finds that removing Paragraph 5.A. and revising Paragraph 5.D. in the Certificate will have no potential for harming other water rights because removing Paragraph 5.A. and revising Paragraph 5.D. would remove language relating to operation of the Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned.

The notice recommendation for the applicant's request to remove Paragraph 5.A. and to modify Paragraph 5.D. will be discussed below.

Texas Water Code

This application for an amendment to an existing water right is governed by TWC § 11.122. TWC § 11.122(a) requires a water right holder, except as discussed above, to obtain a water right amendment if the holder is going to change the place of use, purpose of use, point of diversion, rate of diversion, or "otherwise alter a water right."

TWC § 11.122(b) sets out the scope of the Commission's authority in reviewing applications to amend a water right. Staff notes that in the application, the Applicant is not asking for either an increase in the amount of water authorized for diversion, or an increase in the rate of diversion. With that understanding of the application, it then becomes a duty of the Commission to approve the application "if the requested change will not cause adverse impact on other water right holders or the environment on the stream of greater magnitude than under circumstances in

which the permit . . . that is sought to be amended was fully exercised according to its terms and conditions as they existed before the requested amendment,” and the application meets, “*all other applicable requirements,”* of Chapter 11 of the Texas Water Code. The clause that requires the Commission to compare the requested amendment to the existing permit as if the existing permit was fully exercised is often referred to as the “full use assumption.”

Adverse Impact on Water Right Holders and the Environment

Under the *City of Marshall* opinion, the Commission must evaluate whether an amendment can adversely impact other water rights or the environment both under and beyond the full use assumption.

Under the full use assumption, removing Paragraph 5.A. and revising Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, can have no greater impact on other water right holders or the environment than the impacts to those interests under the existing Certificate because the application will not increase the amount of water authorized for impoundment and diversion by the Certificate.

The Executive Director has determined that there are no impacts to water rights or the environment beyond the full use assumption. This application does not change a non-consumptive use to a consumptive use. Also, there is no specific pattern of use required in the existing permit that will be changed. Another issue is whether the Executive Director should consider the Applicant’s use of all of the water authorized in the existing water right. The Executive Director has determined that this is not a proper factor to consider because it would discourage conservation and future water planning.

Other Applicable Requirements

Under TWC § 11.122(b) the proposed amendment must also satisfy all other applicable requirements of TWC Chapter 11. The Supreme Court in the *Marshall* case itemized those other requirements, which are discussed below.

Administrative Requirements

Staff has reviewed the application and has found that it meets the administrative requirements of TWC Chapter 11. The application has been declared administratively complete and filed with the Office of the Chief Clerk on August 2, 2023.

Beneficial Use

Proposed appropriations of state water must be for a beneficial use. Beneficial use is defined in TWC § 11.002(4) as “the use of the amount of water which is

economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water.” The authorized use in the Certificate is industrial which is recognized as a beneficial use by TWC § 11.023(a)(6) and was already found to be a beneficial use when the Commission issued the Certificate. The request to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language referencing Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, does not change the authorized use in the Certificate.

The Executive Director is aware of no other facts that would make the removal of Paragraph 5.A. and revision of Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, non-beneficial.

Detriment to Public Welfare

A proposed appropriation of state water must not be detrimental to the public welfare. No definition of “detriment to public welfare” is provided in the law. Therefore, the Commission has wide discretion in determining benefits or detriments to the public welfare. The Applicant to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned. There are no specific facts known to the Executive Director that would indicate that this is detrimental to the public welfare.

The Executive Director’s opinion is that nothing in the application raises an issue on detriment to the public welfare by granting this application.

Groundwater Effects

A proposed appropriation of state water must consider effects of the proposed permit on groundwater or groundwater recharge. The Commission’s Water Availability Model (WAM) is used to evaluate the availability of unappropriated water for new appropriations and takes into account both contribution to river flow caused by groundwater coming to the surface in the river (springs) and decreases in river flow caused by the river flowing over recharge features and losing surface water to groundwater recharge. The WAM contains channel loss factors that account for the gain or loss of river flow. These channel loss factors were developed by the expert engineering contractors hired by the Commission to develop the WAMs.

The Brazos WAM includes Gibbons Creek at which the diversions and impoundment under this Certificate occur. The Water Availability Reports for the Brazos River

Basin does not include channel loss factors for Gibbons Creek at the Applicant's location.²

Concerning use of the Texas Water Development Board Groundwater Availability Models (GAMs) and information from the University of Texas, Bureau of Economic Geology (BEG) to assess groundwater impact from the proposed amendment, predictive simulations using the GAMs do not account for streamflow changes associated with permitted surface water withdrawals or return flows. GAMs were not originally designed to address groundwater-surface water interaction and there are issues with using these models for that purpose.³ The GAMs are regional in nature and are not able to simulate groundwater-surface water interaction in detail.⁴ The BEG provides information about aquifer recharge rates.⁵

Both the WAMs and the GAMs have issues related to quantifying groundwater-surface water interaction; however, the WAMs were developed as a tool for surface water permitting. In general, recharge rates, where quantified, are applicable to aquifers or portions of aquifers. As such they do not provide sufficient detail to determine interaction between surface and groundwater at discrete points. Therefore, the ED concludes that neither the GAMs nor aquifer recharge rates should be used to assess groundwater-surface water interaction for water right applications.

Concerning information available from groundwater conservation districts and the Regional Water Plan, the application is located in the Bluebonnet Groundwater Conservation District⁶, and the Region G Regional Water Planning Area.⁷ The Bluebonnet Groundwater Conservation District Management Plan⁸ and the 2021 Regional Water Plan for Region G⁹ did contain additional information related to effects on groundwater or groundwater recharge in the area of the application.

Removing Paragraph 5.A. and revising Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, does not change the amounts authorized for impoundment and diversion under the certificate. Therefore, the Executive Director concludes that there is no potential groundwater issue involved with this application.

² Water Availability Modeling for the Brazos/San-Jacinto Coastal Basin. Prepared by HDR Engineering Inc. for the Texas Natural Resource Conservation Commission. December 2001. and Final Report Water Availability Model Update Brazos River Basin. Prepared by Freese and Nichols, Inc. for the Texas Commission on Environmental Quality. August 2021.

³ Bureau of Economic Geology. 2005. Groundwater-Surface Water Interactions in Texas. August 2005.

⁴ Mace, R., Austin, B. Angle, E. and R. Batchelder. 2007. Surface Water and Ground Water Together Again. Paper presented at State Bar of Texas 8th Annual Changing Face of Water Rights in Texas. San Antonio, Texas.

⁵ Scanlon, B., Dutton, A. and M. Sophocleous. 2002. Groundwater Recharge in Texas. Water Research Fund Grant Contract No. 2000-483-340.

⁶ <https://www.tceq.texas.gov/downloads/groundwater/maps/gcd-map.pdf>

⁷ <http://www.twdb.texas.gov/waterplanning/rwp/regions/g/index.asp>

⁸ https://www.twdb.texas.gov/groundwater/docs/GCD/bbgcd/bbgcd_mgmt_plan2018.pdf

⁹ 2021 Brazos G Regional Water Plan. Prepared by Region G Water Planning Group and others for the Texas Water Development Board. October 2020.

Consistency with Regional and State Plans

Pursuant to TWC § 11.134(b)(3)(E), water right applications are only granted if the application addresses a water supply need in a manner that is consistent with the state water plan and the relevant regional water plan, unless the Commission determines that conditions warrant a waiver of this requirement. The purpose of the state and regional water plans is to assess the likely future use of water and to develop strategies for meeting water supply shortfalls. The state and regional water plans generally do not address every possible change in individual water rights. The Executive Director concludes that the requested amendment is consistent with the relevant regional water plan and the state water plan because there is nothing in the state and regional water plans that conflict with issuing this amendment.

Avoidance of Waste and Achievement of Water Conservation

The Commission has adopted rules in 30 TAC § 295.9(4) that specify which applications to amend existing water rights require the submittal of water conservation plans. The requests to remove Paragraph 5.A. and revise Paragraph 5.D. do not require submittal of a water conservation plan.

Conclusion

Applicant's requests in this application are to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned. These requests do not seek to increase either the amount of water diverted, the rate of diversion or the impoundment capacity. Under the full use assumption, the requests to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, will not have an adverse impact on other water right holders and the environment, and there are no negative impacts to other water rights and the environment beyond the full use assumption. Removing Paragraph 5.A. and revising Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned, does not raise any issues of beneficial use, detriment to the public welfare, groundwater effects, consistency with the state and regional water plans, compliance with administrative requirements, or avoidance of waste and achievement of water conservation. As such, Commission rules, statutes, and case law allow the requests to remove Paragraph 5.A. and revise Paragraph 5.D. to remove language relating to operation of Gibbons Creek Reservoir Steam Electric Station, which has been decommissioned to be processed with no notice.

Therefore, the Executive Director recommends no notice for this application.

From: Dunn, David [REDACTED] >
Sent: Thursday, February 9, 2023 11:01 PM
To: Chris Kozlowski <chris.kozlowski@tceq.texas.gov>
Cc: Brooke McGregor <brooke.mcgregor@tceq.texas.gov>; Kathy Alexander <kathy.alexander@tceq.texas.gov>
Subject: Supplement to applications to amend CA 12-5307 and CA 12-5311

Chris,

Attached, please find revised Worksheet 1.1 for Certificate of Adjudication (CA) 12-5307 and CA 12-5311.

This revision clarifies the intent to use the water under the amended types of use in the adjacent San Jacinto-Brazos Coastal Basin in Brazoria and Galveston Counties. This is an exempt interbasin transfer.

Please replace the existing Worksheet 1.1 with the attached in both applications.

Thank you.

David

David D. Dunn, PE (Texas)
Vice President

HDR
120 Brentwood Commons Way, Suite 525
Brentwood, TN 37027
D 512.912.5136 M 512.791.3671
O 629.228.7500 (office main)

4401 West Gate Blvd., Suite 400
Austin, Texas 78745
D 512.912.5136 M 512.791.3671
[REDACTED]

Texas TBPE Firm No. F-754

hdrinc.com/follow-us

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
- b. Provide the quantity of water to be transferred (acre-feet). 9,740 acre-feet/year
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:
San Jacinto-Brazos Coastal Basin and Brazoria and Galveston Counties

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 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
- 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.



30-JAN-23 10:21 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>Check Number</u> | <u>CC Type</u> | <u>Slip Key</u> | <u>Tran Amount</u> | |
|------------------------|-----------------|-----------------|---------------------|----------------------------------|---------------------|------------------|------------------|--------------------|-------------|
| | | | | <u>Ref#2</u> | <u>Card Auth.</u> | <u>Tran Code</u> | <u>Document#</u> | | |
| | | | | <u>Paid In By</u> | <u>User Data</u> | <u>Rec Code</u> | | <u>Tran Date</u> | |
| WTR USE PERMITS | WUP | | | M310553 | 2212 | | BS00100617 | 30-JAN-23 | |
| | WUP | | | 125307 | 013023 | N | D3801675 | | |
| WATER USE PERMITS | | | | LAGERLEF, DAVID/CHRIS TINE | RHDAVIS | CK | | | |
| | WUP | | | M310554 | 2213 | | BS00100617 | 30-JAN-23 | |
| | WUP | | | 125311 | 013023 | N | D3801675 | | |
| WATER USE PERMITS | | | | LAGERLEF, DAVID/CHRIS TINE | RHDAVIS | CK | | | |
| | | | | | | | | Total (Fee Code): | -\$225.00 |
| | | | | | | | | Grand Total: | -\$4,739.58 |

RECEIVED
FEB 06 2023

Water Availability Division



January 19, 2023

Texas Commission on Environmental Quality
Water Supply Division, Water Rights Permitting MC-160
P.O. Box 13087
Austin, Texas 78711-3087

RE: Gibbons Tract 1, LP, Application to Amend Certificate of Adjudication No. 12-5311

Water Rights Permitting Team:

On behalf of the partners of the Gibbons Tract 1, LP, I am pleased to submit the following application package requesting an amendment to Certificate of Adjudication No. 12-5311 to add multiple purposes of use. The application package includes the following:

- Administrative Information Checklist
- Administrative Information Report
- Written Evidence of Signature Authority
- Technical Information Report, Water Rights Permitting (with Worksheets)
- Statement 1, Supplemental Attachment to Administrative Information Report, Summary of Request
- Statement 2, Supplemental Attachment to Technical Information Report, Addendum Regarding the Regional and State Water Plans
- Statement 3, Supplemental Attachment to Worksheet 1.2, Marshall Criteria
- Statement 4, Supplemental Attachment to Worksheet 6.0, Water Conservation/Drought Contingency Plans

Finally, I have included a check for \$112.50 in payment of the water rights application fees.

The partners of the Gibbons Tract 1, LP and I look forward to working with the Commission on this permit application and thank you for your time and cooperation.

Sincerely,

HDR Engineering, Inc.

David D. Dunn, PE
Vice President

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): Gibbons Tract 1, LP

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>N</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>N</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>N</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>N</u> | Water Conservation Plan(s) |
| <u>Y</u> | Worksheet 1.2 | <u>N</u> | Drought Contingency Plan(s) |
| <u>N</u> | Additional W.S 2.0 for Each Reservoir | <u>N</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."

| |
|--|
| See Statement 1 Supplemental Attachment to Administrative Information Report, 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?

Gibbons Tract 1, LP

(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 : CN605994854 (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: Christine Lagerlef

Title: Treasurer

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: Gibbons Tract 1, LP

Mailing Address: 11801 Private Road 4340

City: Normangee State: TX ZIP Code: 77871-3677

Indicate an X next to the type of Applicant:

- | | |
|---|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Sole Proprietorship-D.B.A. |
| <input checked="" 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 type="checkbox"/> City Government |
| <input type="checkbox"/> Other Government | <input type="checkbox"/> Other _____ |

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 32082168884 SOS Charter (filing) Number: 0804335837

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: David Dunn

Title: Vice President

Organization Name: HDR Engineering, Inc.

Mailing Address: 4401 West Gate Blvd., Suite 400, Austin, TX 78741

City: Austin State: TX ZIP Code: 78745

Phone Number: (512) 912-5136

Fax Number: n/a

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** 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. 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** Yes

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 Y

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Christine Lagerlef
(Typed or printed name)

Treasurer
(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: Christine Lagerlef
(Use blue ink)

Date: 1/18/23
1/18/23

Subscribed and Sworn to before me by the said
on this 18 day of January, 20 23.
My commission expires on the 22 day of July, 20 23.

Shawna Walker
Notary Public
Brazos
County, Texas



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

Gibbons Lake and Land, LLC
11801 Private Road 4340
Normangee, Tx 77871
210-900-6702

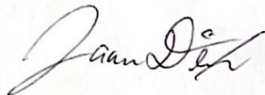
November 28, 2022

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

To Whom It May Concern,

Gibbons Lake and Land, LLC, owner and managing partner of Gibbons Tract 1, LP, authorizes Mrs. Christine Lagerlef, Treasurer of the partnership, to act on behalf of Gibbons Lake and Land, LLC to execute all documents to amend Certificate of Adjudication No. 12-5311 and Certificate of Adjudication No. 12-5307 for Gibbons Tract 1, LP and any other business the partnership needs to conduct with the Texas Commission on Environmental Quality.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Dixon".

James Dixon
President
Gibbons Lake and Land, LLC

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: 10/23/22

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

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

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

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/a

- 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: n/a)

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: CA 12-5311 (as amended)

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

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

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

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

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

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

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

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

d. Applicant requests to change: diversion point(s); or reach(es); or diversion rate? Y / N 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 Y *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 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.

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 Statement 2
 Supplemental Attachment to Technical Information Report
 Addendum Regarding the Regional and State Water Plans

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

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

_____ 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** |
|-----------------------------|--|--|---|---|
| 9,740 | Industrial (forced evaporative cooling and power plant operations) | Industrial (not limited to forced evaporative cooling and power plant operations), Municipal, Agricultural, Domestic, Recreational | Gibbons Creek Steam Electric Station, Grimes County | All counties in the Brazos Basin and adjacent San Jacinto-Brazos Coastal Basin. |
| | | | | |
| | | | | |

**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_____

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.

See Statement 3
Supplemental Attachment to Worksheet 1.2
Marshall Criteria

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 _____
*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 _____

*** 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 |
|--|-----------------------------|
| Directly from stream | |
| From an on-channel reservoir | |
| From a stream to an on-channel reservoir | |
| 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_____.
- 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

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.**

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

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

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

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

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

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

- a. For all bed and banks applications:
 - i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.
- b. For all alternate source applications:
 - i. If the alternate source is treated return flows, provide the TPDES permit number _____
 - ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

| Parameter | Average Conc. | Max Conc. | No. of Samples | Sample Type | Sample Date/Time |
|-------------------------------|---------------|-----------|----------------|-------------|------------------|
| Sulfate, mg/L | | | | | |
| Chloride, mg/L | | | | | |
| Total Dissolved Solids, mg/L | | | | | |
| 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. N Municipal Use. See 30 TAC § 288.2. **
2. N Industrial or Mining Use. See 30 TAC § 288.3.
3. N Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. N 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 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 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. N Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. N Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. N 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 N

| |
|---|
| See Statement 4 Supplemental Attachment to Worksheet 6.0 Water Conservation/Drought Contingency Plans |
|---|

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.

STATEMENT 1

SUPPLEMENTAL ATTACHMENT TO ADMINISTRATIVE INFORMATION REPORT

SUMMARY OF REQUEST

The Gibbons Creek Steam Electric Station has been decommissioned and dismantled. Gibbons Creek Reservoir, the associated Certificate of Adjudication No. 12-5311, as amended, and adjacent property were purchased by Gibbons Tract 1, LP. A Change of Ownership for CA 12-5311 was completed March 25, 2022. The new owners wish to utilize the resource of the reservoir and associated water right to provide much needed water supply in the Brazos Basin. They are considering sales of water to multiple potential municipal, agricultural and industrial users. **This water right amendment application seeks to add multiple uses to the existing water right under its current authorized storage, diversion, and consumptive use authorizations.**

OTHER PROVISIONS REQUESTED TO CHANGE

1. Because the type of use for supply from the reservoir is requested to be amended, applicant requests that section 2. Use be amended as follows:

“2. Use

Owner is authorized to divert and/or consumptively use not to exceed 9,740 acre-feet of water per annum for municipal, domestic, agricultural, and industrial purposes.”

2. Applicant requests removal of Special Condition 5.A, which states:

“Water diverted but not consumed will be returned to the aforesaid reservoir through the cooling circulating canal at a point which bears N 04°W, 3500 feet from the northeast corner of the aforesaid Goodbread Survey.”

Special Condition 5.A is no longer be effective because the Gibbons Creek Steam Electric Station has been decommissioned and dismantled. Return flows from water diverted for the uses contemplated by this amendment will vary according to the type and place of use.

3. Applicant requests modification of Special Condition 5.D, which states:

“Owner shall measure and maintain the following daily records which shall be compiled monthly and reported to the Commission annually or other times as may be required: 1) inflows to the reservoir authorized herein from the watershed upstream of the dam, including rainfall on the reservoir water surface; 2) continuous reservoir stage and contents; 3) total consumptive use of water, including forced evaporation; and 4) blowdown or other controlled releases past the dam.”

Several aspects of this special condition are no longer effective because the Gibbons Creek Steam Electric Station has been decommissioned and dismantled. Applicant requests replacement of items 3) and 4) with the following:

“3) total consumptive use of water and releases of water for beneficial use; 4) total water returned to the reservoir not consumptively used; and 5) controlled releases past the dam.”

STATEMENT 2

SUPPLEMENTAL ATTACHMENT TO TECHNICAL INFORMATION REPORT

ADDENDUM REGARDING THE REGIONAL AND STATE WATER PLANS

At the time of publication of the 2021 Brazos G Regional Water Plan and the 2022 State Water Plan, the plans for retirement of the Gibbons Creek Steam Electric Station were not finalized and supplies from the Gibbons Creek Reservoir are currently identified as an existing supply for steam-electric power in Grimes County in the Brazos G Water Planning Area. Supply from Gibbons Creek Reservoir is identified as an alternative water supply initiative for the City of Bryan (municipal use) in Table 7-9 on page 7-44 of the 2021 Brazos G Regional Water Plan.

Demands associated with the Gibbons Creek Steam Electric Station are not included in the draft demands for the 2026 Brazos G Regional Water Plan.

https://www.twdb.texas.gov/waterplanning/data/projections/2027/doc/SupportingData_SteamElectric_Jan2022.xlsx

The supply from the reservoir likely will be recommended for use by other water user groups located in the Brazos G Water Planning Area and/or the Region H Water Planning Area. This change of use in the regional water plans is consistent with the treatment of the water supply from the decommissioned facilities at the former Alcoa site, where steam-electric supplies are recommended for other uses in the 2021 Brazos G Regional Water Plan because it was known to the planning group that power generation had ceased. See page 5.25-7 in the 2021 Brazos G Regional Water Plan. The 2021 Brazos G Regional Water Plan shows needs of 477,750 acre-feet per year by 2070 and supplies from Gibbons Creek Reservoir could be used to meet some of those needs.

STATEMENT 3

SUPPLEMENTAL ATTACHMENT TO WORSHEET 1.2

MARSHALL CRITERIA

- a. Administrative Requirements and Fees.

This application meets the administrative requirements for an amendment to a water right. This application includes required items that are listed in the TCEQ Water Rights Permitting Application Administrative Information Checklist.
- b. Beneficial Use.

The proposed amendment will allow beneficial use of the water supply for municipal, agricultural, domestic, and industrial purposes through one or more potential water supply contracts. This amendment will allow continued beneficial use of this resource that is currently restricted to forced evaporative cooling at the decommissioned power plant.
- c. Public Welfare.

No effects of the proposed amendment on the public welfare are expected, including no effects on the well-being of humans and the environment, as this water will be put to beneficial use for municipal, agricultural, domestic, and industrial purposes.
- d. Groundwater Effects.

No effects of the proposed amendment on groundwater or groundwater recharge are expected.
- e. State Water Plan.

The proposed amendment will make additional water available for use by water user groups in the Brazos G and Region H Water Planning Areas that will not be available without the amendment.
- f. Waste Avoidance.

Applicant agrees that the amended water right can include special conditions requiring adoption of water conservation and drought contingency plans by users of the water prior to use of the water. Each water conservation plan will include monitoring and conservation practices that include quantified conservation goals applicable to the beneficial uses permitted by this proposed water right amendment. For uses that require it, a drought contingency plan will be provided upon commencement of that use.
- g. Impacts on Water Rights or On-Stream Environment.

The proposed amendment does not request additional water, storage, or rates of diversion. The proposed amendment requests to use existing permitted water for a different use in a different location. No detrimental impacts to water right holders, Gibbons Creek Reservoir, or to the on-stream environment are expected.

STATEMENT 4

SUPPLEMENTAL ATTACHMENT TO WORSHEET 6.0

WATER CONSERVATION/DROUGHT CONTINGENCY PLANS

Applicant is not currently a water user or water provider and has not completed water conservation or drought contingency plans. Upon execution of any water sale contract and before any use of water under such contract, applicant will complete and file the appropriate water conservation and drought contingency plans pertinent to the water use type contemplated in the sales agreement. Applicant will require that future customers adopt water conservation and drought contingency plans appropriate to their water uses.

Applicant agrees that the amended water right can include special conditions requiring adoption of water conservation and drought contingency plans before beneficial use of the water.