

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Natalia Ponebshek, Project Manager
Water Rights Permitting Team

DATE: March 4, 2022

SUBJECT: Jefferson Railport Terminal 1 (Texas) LLC
ADJ 4436
CN604653774, RN103181699
Application No. 06-4436C to Amend Certificate of Adjudication No. 06-4436
Texas Water Code § 11.122, Not Requiring Notice
Neches River, Neches River Basin
Orange County

The application was received on February 8, 2022. Additional information and fees were received on February 10, February 22, and February 25, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk March 4, 2022. No notice required pursuant to House Bill 1964 and Texas Administrative Code § 295.158 (c)(2)(C).

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

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

OCC Mailed Notice Required YES NO

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 4, 2022

Mr. Mark Fuller, P.E., Senior Engineer
DiSorbo Consulting, LLC
9737 Great Hills Trail, Ste. 340
Austin, TX 78759

VIA E-MAIL

RE: Jefferson Railport Terminal 1 (Texas) LLC
ADJ 4436
CN604653774, RN103181699
Application No. 06-4436C to Amend Certificate of Adjudication No. 06-4436
Texas Water Code § 11.122, Not Requiring Notice
Neches River, Neches River Basin
Orange County

Dear Mr. Fuller:

This acknowledges receipt on February 8, 2022 of the application. Additional information and fees in the amount of \$112.00 (Receipt No. M212513, copy attached) were received on February 10, February 22, and February 25, 2022.

The application was declared administratively complete and filed with the Office of the Chief Clerk on March 4, 2022. Staff will continue processing the application for consideration by the Executive Director.

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

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

Sincerely,

Natalia Ponebshek

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

Attachment

Natalia Ponebshek

From: Arielle Zolayvar <[REDACTED]>
Sent: Friday, February 25, 2022 10:17 AM
To: Phillip Trew; Francis Lapid; Natalia Ponebshek; [REDACTED]
Cc: Lily Cochran; David Helm
Subject: FW: TCEQ ePay Receipt for 582EA000479583

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

Per company policy, we are required to independently confirm bank details received before processing wire payments. Unfortunately, this step was unsuccessful this morning. However, we were able to submit payment online via CC. Please see below for payment confirmation.



**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**
EPAY • ONLINE PAYMENT APPLICATION

[Questions or Comments >>](#)

[Shopping Cart](#)

[Select Fee](#)

[Search Transactions](#)

[Sign Out](#)

Your transaction is complete. Thank you for using TCEQ ePay.

Note: It may take up to 3 working days for this electronic payment to be processed and be reflected in the TCEQ ePay system. Print this receipt and the vouchers for your records. An email receipt has also been sent.

Transaction Information

Trace Number: 582EA000479583
Date: 02/25/2022 09:46 AM
Payment Method: CC - Authorization 0000007086
ePay Actor: ARIELLE ZOLAYVAR
Actor Email: [REDACTED]
IP: 12.239.131.90
TCEQ Amount: \$10.00
Texas.gov Price: \$10.48*

* This service is provided by Texas.gov, the official website of Texas. The price of this service includes funds that support the ongoing operations and enhancements of Texas.gov, which is provided by a third party in partnership with the State.

Payment Contact Information

Name: ARIELLE ZOLAYVAR
Company: JEFFERSON RAILPORT TERMINAL I
Address: 811 LOUISIANA, HOUSTON, TX 77002
Phone: 346-272-6961

Cart Items

Click on the voucher number to see the voucher details.

Voucher	Fee Description	AR Number	Amount
564278	GENERAL PERMIT STORMWATER	20045992	\$10.00
TCEQ Amount:			\$10.00

[ePay Again](#)

[Exit ePay](#)

Thank you,

Arielle Zolayvar
Staff Accountant
Jefferson Energy Co.
811 Louisiana Street, Ste. 2300
Houston, TX 77002
Office: 346-272-6984



From: steers@tceq.texas.gov [REDACTED]
Sent: Friday, February 25, 2022 9:47 AM
To: Arielle Zolayvar [REDACTED] >
Subject: TCEQ ePay Receipt for 582EA000479583

[***EXTERNAL EMAIL*** SENDER IS LOCATED OUTSIDE OF THE ORGANIZATION]

This is an automated message from the TCEQ ePay system. Please do not reply.
Trace Number: 582EA000479583
Date: 02/25/2022 09:46 AM
Payment Method: CC - Authorization 0000007086
TCEQ Amount: \$10.00
Texas.gov Price: \$10.48*

* This service is provided by Texas.gov, the official website of Texas. The price of this service includes funds that support the ongoing operations and enhancements of Texas.gov, which is provided by a third party in partnership with the State.

Actor: ARIELLE ZOLAYVAR
Email [REDACTED]

Payment Contact: ARIELLE ZOLAYVAR
Phone: 346-272-6961
Company: JEFFERSON RAILPORT TERMINAL I
Address: 811 LOUISIANA, HOUSTON, TX 77002

Fees Paid:
Fee Description AR Number Amount
General Permit Stormwater 20045992 \$10.00

TCEQ Amount: \$10.00

=====
Voucher: 564278
Trace Number: 582EA000479583
Date: 02/25/2022 09:46 AM
Payment Method: CC - Authorization 0000007086
Voucher Amount: \$10.00
Fee Paid: General Permit Stormwater
Billing Name: JEFFERSON RAILPORT TERMINAL I
Billing Address: 350 PINE ST, BEAUMONT, TX 77701 2437

=====

To print out a copy of the receipt and vouchers for this transaction
either click on or copy and paste the following url into your browser:

https://www3.tceq.texas.gov/epay/index.cfm?fuseaction=cor.search&trace_num_txt=582EA000479583.

This e-mail transmission and any attachments are believed to have been sent free of any virus or other defect that might affect any computer system into which it is received and opened. It is, however, the recipient's responsibility to ensure that the e-mail transmission and any attachments are virus free, and the sender accepts no responsibility for any damage that may in any way arise from their use.



25-FEB-22 01:53 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M212513	648		BS00092794	22-FEB-22	-\$112.00
	WUP	ADJ064436	021722	RCUM	J2801983		
	WATER USE PERMITS	FULLER, MARK E	JARIVERA	CK			
					Total (Fee Code):		-\$112.00
					Grand Total:		-\$112.00

Natalia Ponebshek

From: Brooke McGregor
Sent: Thursday, February 10, 2022 9:25 AM
To: Natalia Ponebshek
Cc: Chris Kozlowski; Kathy Alexander
Subject: Fwd: Submittal of Additional Information to Water Rights Amendment Application for a New Diversion Point - COA 06-4436B
Attachments: Jefferson Railport Terminal I - water right amendment application COA 06-4436B.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Begin forwarded message:

From: Mark Fuller [REDACTED]
Date: February 10, 2022 at 8:08:33 AM CST
To: Brooke McGregor <brooke.mcgregor@tceq.texas.gov>
Cc: Phillip Trew [REDACTED]
Subject: **Submittal of Additional Information to Water Rights Amendment Application for a New Diversion Point - COA 06-4436B**

Ms. McGregor,
Please supplement the application to amend COA 06-4436B filed Tuesday, February 8, 2022, with the following additional information for Technical Information Report Section 4(a):

* The state and regional water plans generally do not address every possible change in individual water rights. The application is consistent with the 2021 Region I Water Plan and the 2022 State Water Plan because there is nothing in the plans that conflict with the application.

Please contact me if you have any questions. Again thank you for the expeditious review of this application.

Thanks,
Mark

Mark Fuller, P.E.
Senior Engineer

[cid:image001.png@01D81E55.2082DC10]
9737 Great Hills Trail, Suite 340 | Austin, Texas 78759

Direct: 512.961.7497 | Mobile: 512.294.3571

Email: [REDACTED]
www.disorboconsult.com<<https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.>

disorboconsult.com%2F&data=04%7C01%7Cbrooke.mcgregor%40tceq.texas.gov%7Cfe0cf8406ecc4950
eea308d9ec9eacef%7C871a83a4a1ce4b7a81563bcd93a08fba%7C0%7C0%7C637800989123319828%7C
Unknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCI6Mn0
%3D%7C3000&sdata=1Ug1IU0um7b0A52vBDD4UiGBAu0qCXKlye6yv%2F00S5Q%3D&reserved=0>

February 8, 2022

Kim Nygren, Deputy Director
Water Availability Division
Texas Commission on Environmental Quality

Sent via email: brooke.mcgregor@tceq.texas.gov and WRPT@tceq.texas.gov

**RE: Water Rights Amendment Application for New Diversion Reach – COA 06-4436B
Jefferson Railport Terminal I, Beaumont, Texas**

Dear Ms. Nygren:

On behalf of Jefferson Railport Terminal I (Facility), DiSorbo Consulting (DiSorbo) is pleased to submit the referenced water rights amendment application (Attachment 1) and signatory authorization letter (Attachment 2) for a water rights permit amendment. The applicant seeks authorization to amend existing Certification of Adjudication (COA) 06-4436B (Attachment 3) to add a diversion reach for industrial uses. In particular, there is an imminent need for hydrostatic testing of equipment at the Facility. Jefferson Railport Terminal I is currently leasing the property from the Port of Beaumont (Attachment 4). A copy of the deed describing the overall tract with the recording information from the county records is included as Attachment 8.

Scope

The amendment application is for a new approximately 700 ft. long diversion reach to be located between an upstream location (existing DP-2) and downstream location (existing DP-1) as a water source for industrial use. The upstream and downstream boundary locations are identified in the application and figures as proposed DR-U and DR-D, respectively. The imminent need is for hydrostatic testing water for an accelerated construction schedule for new Facility tanks and pipelines. Photographs of the proposed diversion reach location (Attachment 5) is provided in the application. The Facility intends to utilize a mobile pump with an intake hose that will pull water from within the boundaries of the reach and pump the water to pipelines and tanks needing to be hydrostatic tested. The intake hose will have a 0.25-inch screen on it to prevent the impingement and entrainment of fish and other aquatic organisms. After testing of equipment, the hydrostatic test water will be released into the secondary containment structures around the bulk storage tanks and will be allowed to discharge under TCEQ TXG670000 General Permit to Dispose of Hydrostatic Test Water.

Diversion Locations

The Facility proposes to have one additional diversion reach with the upstream boundary to be located at existing DP-2 (30.085975N; -94.084022W) and downstream boundary to be located at existing DP-1 (30.078062; -94.079400) as shown on Figures 1 and 2 in the application. Return flows will return to the Neches River under authorization of TXG670000 General Permit to Dispose of Hydrostatic Test Water (Attachment 6). The affected stream information is included in Attachment 7.

Schedule

Due to an accelerated construction schedule for Facility new tanks and piping, Jefferson respectfully requests an expeditious review of the Water Rights Amendment Application. To help with the expeditious review, Jefferson provides comments for the following items in 30 TAC 295.158(c):

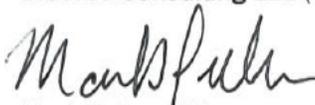
- (i) *The authorization rate of diversion is not increased.* 06-4436B authorizes the diversion of up to 2,700 acre-feet of water per year (afy) at a maximum rate of 6,500 gpm from the Neches River. Jefferson is not seeking an increase in either the maximum annual diversion rate or the maximum pumping rate.
- (ii) *The original point of diversion and the new point of diversion are located on the same contiguous tract of land.* The new diversion reach is proposed to be located between existing diversion points DP-1 and DP-2 as shown on Figure 1. The diversion reach is located on the same contiguous tract of land.
- (iii) *There are no other water right holders with points of diversion located on the same watercourse between the original point of diversion and the new point of diversion.* The GIS data for locations of water rights resources at https://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/wam.html/#wrapinput was reviewed to make the determination that no other water right holders with points of diversion were located on the same watercourse between the original upstream and downstream points of diversion (existing DP-2 and DP-1).
- (iv) *There are no streamflow gages located on the watercourse between the original point of diversion and the new point of diversion that are referenced in the original water right or in other water right authorizing a diversion from the same watercourse.* Data from the TCEQ Surface Water Quality Viewer (<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=b0ab6bac411a49189106064b7Obbe778>) was reviewed to verify that there are no streamflow gages located on the watercourse between the original points of diversion (existing DP-1 and DP-2).
- (v) *There are no tributary watercourses that enter the watercourse that is the source of supply located between the original point of diversion and the new point of diversion.* Data from the TCEQ Surface Water Quality Viewer (<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=b0ab6bac411a49189106064b7Obbe778>) was reviewed to verify that there are no tributary watercourses that enter the watercourse that is the source of supply located between the original points of diversion (existing DP-1 and DP-2).

Application Fee

As shown on Worksheet 8.0 of the application, the fee for amending a water right is \$112.50. This fee will be paid through the TCEQ Cashier's Office.

Thank you for your consideration of this amendment application. Please call me at 512-961-7497 (office), 512-294-3571 (cell), or email me at [REDACTED] if you require additional information.

Sincerely,
DiSorbo Consulting LLC (TBPE #15665)



Mark Fuller, P.E.
Senior Engineer

Attachment

cc: Philip Trew, Jefferson Railport Terminal I
Paulina Williams, Baker Botts LLP

Attachment 1

Application for Amendment to a Water Right

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): Jefferson Railport Terminal I Texas LLC

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

- Administrative Information Report**
- Additional Co-Applicant Information
- Additional Co-Applicant Signature Pages
- Written Evidence of Signature Authority
- Technical Information Report**
- USGS Map (or equivalent)
- Map Showing Project Details
- Original Photographs
- Water Availability Analysis
- Worksheet 1.0**
- Recorded Deeds for Irrigated Land
- Consent For Irrigation Land
- Worksheet 1.1**
- Addendum to Worksheet 1.1
- Worksheet 1.2**
- Addendum to Worksheet 1.2
- Worksheet 2.0**
- Additional W.S 2.0 for Each Reservoir
- Dam Safety Documents
- Notice(s) to Governing Bodies
- Recorded Deeds for Inundated Land
- Consent For Inundation Land

Y/N

- Worksheet 3.0**
- Additional W.S 3.0 for each Point
- Recorded Deeds for Diversion Points
- Consent For Diversion Access
- Worksheet 4.0**
- TPDES Permit(s)
- WWTP Discharge Data
- 24-hour Pump Test
- Groundwater Well Permit
- Signed Water Supply Contract
- Worksheet 4.1**
- Worksheet 5.0**
- Addendum to Worksheet 5.0
- Worksheet 6.0**
- Water Conservation Plan(s)
- Drought Contingency Plan(s)
- Documentation of Adoption
- Worksheet 7.0**
- Accounting Plan
- Worksheet 8.0**
- Fees

For Commission Use Only:

Proposed/Current Water Right Number: _____

Basin: _____ Watermaster area Y/N: _____

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."

The applicant seeks authorization to amend existing water rights permit COA 06-4436B to

add a diversion reach (with an upstream boundary to be located at existing DP-2 and a

downstream boundary to be located at existing DP-1) for industrial use, including hydrostatic

testing, for the Facility.

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

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

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

Jefferson Railport Terminal I Texas LLC

(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 : 604653774 (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: **Kevin Krieger**

Title: **Secretary**

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

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

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

Name: **Jefferson Railport Terminal**

Mailing Address: **350 Pine Street, Suite 1725**

City: **Beaumont**

State: **Texas**

ZIP Code: **77701**

Indicate an X next to the type of Applicant:

Individual

Sole Proprietorship-D.B.A.

Partnership

Corporation

Trust

Estate

Federal Government

State Government

County Government

City Government

Other Government

Other **LLC**

For Corporations or Limited Partnerships, provide:

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

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

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

First and Last Name: Philip Trew

Title: Director EHS

Organization Name: Jefferson Railport Terminal

Mailing Address: 350 Pine Steet, Suite 1725

City: Beaumont

State: Texas

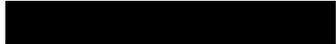
ZIP Code: 77701

Phone No.: 409-241-2660

Extension:

Fax No.:

E-mail Address:



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 No.:

Extension:

Fax No.:

E-mail Address:

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number:

Amount past due:

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

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

Enforcement order number:

Amount past due:

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

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

Applicant has submitted all required TWDB surveys of groundwater and surface water? **Yes / No Yes**

6. SIGNATURE PAGE (Instructions, Page 11)

Applicant:
I, Kevin Krieger, Secretary Secretary
(Typed or printed name) (Title)

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

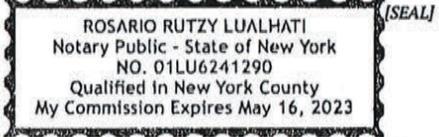
I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature: [Handwritten Signature] Date: February 1, 2022
(Use blue ink)

Subscribed and Sworn to before me by the said
on this 1st day of February, 20 22
My commission expires on the 16th day of May, 20 23

Rosario Rutzy Lualhati

Notary Public
County, Texas



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

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, Applicant are directed to submit additional Worksheets (provided herein). A completed Administrative Information Report is also required for each application.

Applicants are strongly encouraged 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 call Water Availability Division at (512) 239-4600 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N YES (If yes, date : 2/7/2022).

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

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

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? Y / N NO
- b. Applicant requests an amendment to an existing water right requesting an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate? Y / N NO (If yes, indicate the Certificate or Permit number: _____)

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

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N NO (If yes, indicate the Term Certificate or Permit number: _____)

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

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

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

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

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

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. ***If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. If the application does not contain consent from the current owner to make the requested amendment, TCEQ will not begin processing the amendment application until the Change of Ownership has been completed and will consider the Received Date for the application to be the date the Change of Ownership is completed. See instructions page. 6.***

Water Right (Certificate or Permit) number you are requesting to amend: COA 06-4436B

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? **Y / N^{NO}** (if yes, complete chart below):

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

- a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? **Y / N^{NO}**

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

- b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? **Y / N^{NO}**

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

- c. Applicant requests an amendment to change the purpose or place of use or to add an additional purpose or place of use to an existing Permit or Certificate? **Y / N^{NO}**

If yes, submit:

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

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

If yes, submit:

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

- e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? **Y / N^{NO}**

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

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? **Y / N** NO _____ *If yes, call the Water Availability Division at (512) 239-4600 to discuss.*

Additionally, all amendments require:

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

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

- a. Pursuant to contract, Applicant requests authorization to convey, stored or conserved water to the place of use or diversion point of purchaser(s) using the bed and banks of a watercourse? TWC § 11.042(a). **Y/N** NO _____

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

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

- b. Applicant requests to convey water imported into the state from a source located wholly outside the state using the bed and banks of a watercourse? TWC § 11.042(a-1). **Y / N** NO _____

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

- c. Applicant requests to convey Applicant's own return flows derived from privately owned groundwater using the bed and banks of a watercourse? TWC § 11.042(b). **Y / N** NO _____

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

- d. Applicant requests to convey Applicant's own return flows derived from surface water using the bed and banks of a watercourse? TWC § 11.042(c). **Y / N** NO _____

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

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

- e. Applicant requests to convey water from any other source, other than (a)-(d) above, using the bed and banks of a watercourse? TWC § 11.042(c). **Y / N** NO _____

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)

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

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

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

The applicant seeks authorization to amend existing water rights permit COA 06-4436B to add a diversion reach (with an upstream boundary to be located at existing DP-2 and a downstream boundary to be located at existing DP-1) for industrial use, including hydrostatic testing water, for the Facility.

- b. Did the Applicant perform its own Water Availability Analysis? Y / N NO

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

Quantity (acre-foot) <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>
NA			

_____ 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-foot)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
NA				

**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 NA

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 **NA** 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 such amendments which include changes in use, changes in place of use, or other non-substantive changes in a water right (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 proposed amendment will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

WORKSHEET 2.0 NA

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***

- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program):_____
- dii. 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 Reach Upstream (DR-U)** 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. ^{DR-U}Upstream Limit of Diversion Reach No.
3. Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** 14.482 cfs (cubic feet per second)
or 6,500 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / N** YES
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 14.482 cfs or 6,500 gpm

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

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

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

Check one		Write: Existing or Proposed
X	Directly from stream	Proposed
	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** NO

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

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

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Neches River
- b. Zip Code: 77701
- c. Location of point: In the WM Stephensen Original Survey No. NA, Abstract No. 23, Orange 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 30.078889 °N, Longitude -94.081389 °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): Engineering Survey, GPS Device
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 3.0 **Diversion Reach Downstream (DR-D)** 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. ^{DR-D}Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** 14.482 cfs (cubic feet per second)
or 6,500 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N YES
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 14.482 cfs or 6,500 gpm

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

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

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

Check one		Write: Existing or Proposed
X	Directly from stream	Proposed
	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 NO

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

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

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Neches River
- b. Zip Code: 77701
- c. Location of point: In the WM Stephensen Original Survey No. NA, Abstract No. 23, Orange 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 30.078062 °N, Longitude -94.079400 °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): Engineering Survey, GPS Device
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- 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 NA 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 _____% and explain the method of calculation: _____

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, 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, 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"). NA
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- c. 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. Any 24 hour pump test for the well if one has been conducted. 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.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N _____ If yes, provide the signed contract(s).
- cii. Identify any other source of the water _____

WORKSHEET 4.1 NA 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 _____
- f. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.
- g. Point is at:
Latitude _____ °N, Longitude _____ °W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- h. 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 29.**

The applicant will take reasonable measures to avoid impingement and entrainment of aquatic organisms by providing a screen with a maximum 0.25-inch opening.

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: Tidally influenced major river

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

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 map 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 NA

Water Conservation/Drought Contingency Plans

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

Instructions, Page 31.

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

1. Water Conservation Plans

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

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

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

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

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

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

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

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

2. Drought Contingency Plans

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

WORKSHEET 7.0 NA

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.

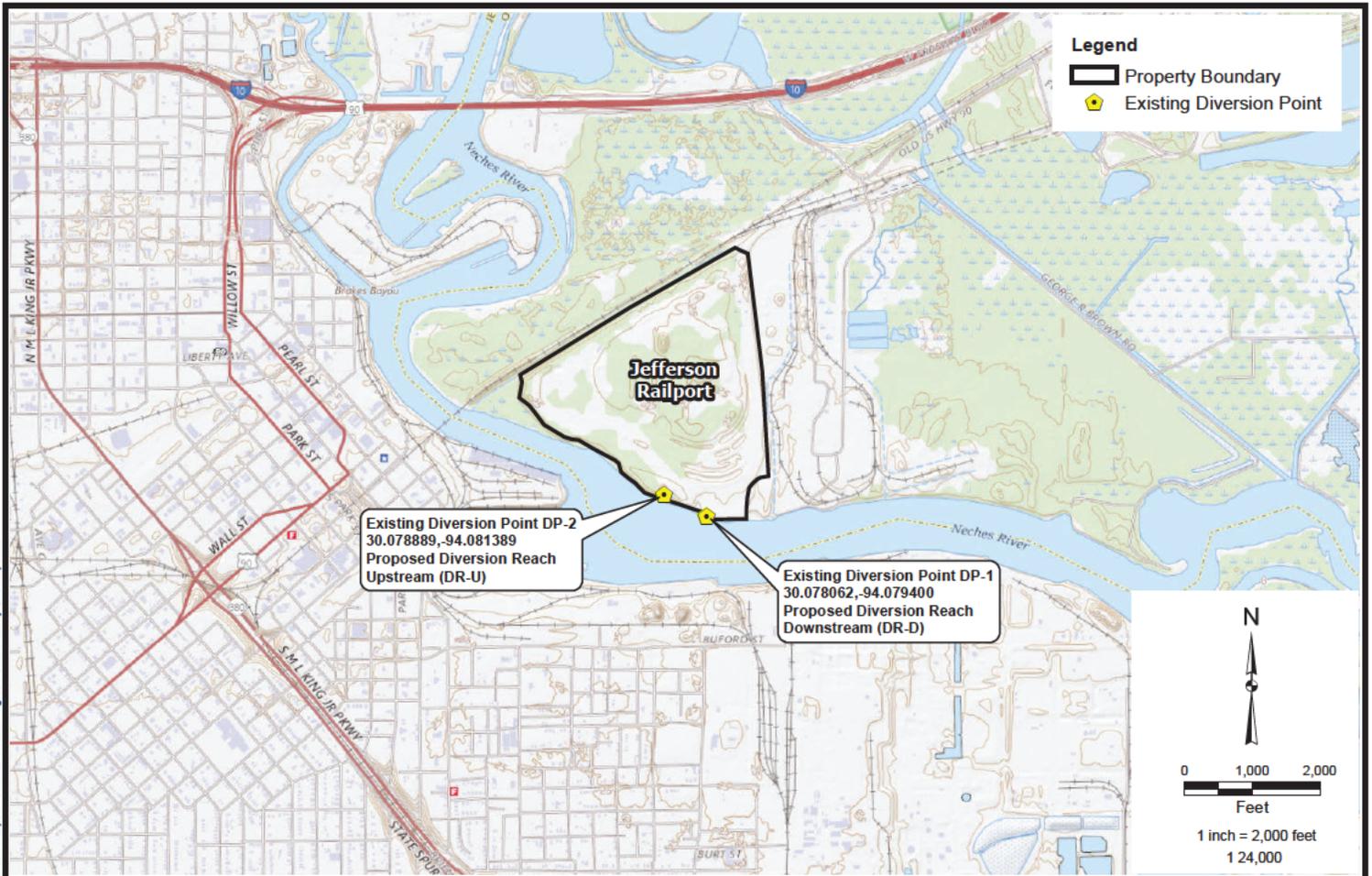
2. Accounting Plan Requirements

- 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.

Figures

Figure 1 – Facility Site Map

Figure 2 - Proposed Diversion Reach



Existing Diversion Point DP-2
 30.078889, -94.081389
 Proposed Diversion Reach
 Upstream (DR-U)

Existing Diversion Point DP-1
 30.078062, -94.079400
 Proposed Diversion Reach
 Downstream (DR-D)

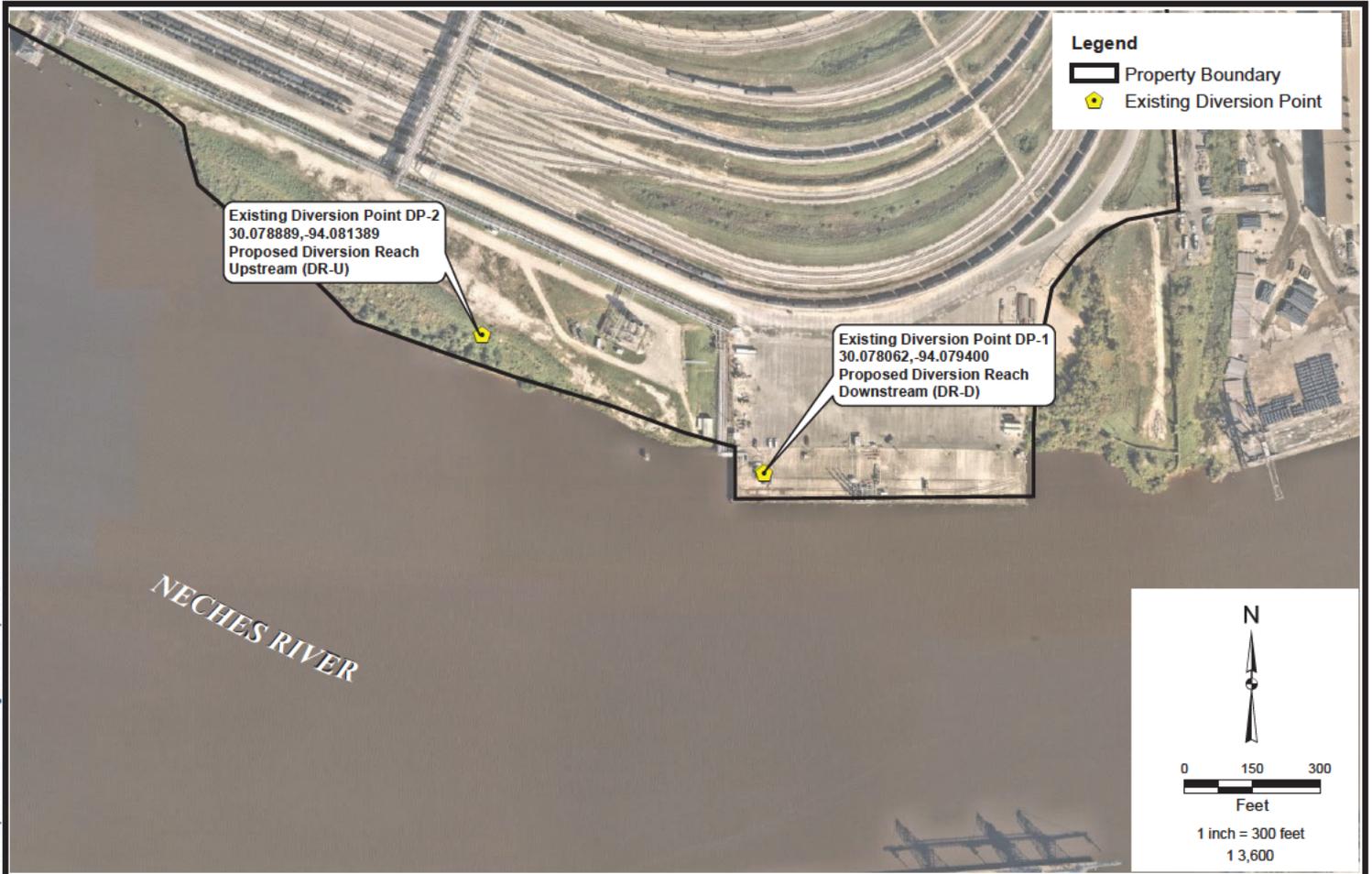


JEFFERSON RAILPORT TERMINAL I (TEXAS) LLC

FIGURE 1
 FACILITY SITE MAP

DRAWN BY:	L WILSON
APPROVED BY:	M FULLER
PROJECT NO:	WATER RIGHTS PERMIT
FILE NO:	Facility Site Map.mxd
DATE:	FEBRUARY 2022

J:\PJ\Jefferson Refinery\Jefferson Railport Terminal 1\Water Rights Permit\Proposed Diversion Point.mxd



JEFFERSON RAILPORT TERMINAL I (TEXAS) LLC

FIGURE 2
PROPOSED DIVERSION REACH

DRAWN BY:	L WILSON
APPROVED BY:	M FULLER
PROJECT NO:	WATER RIGHTS PERMIT
FILE NO:	Proposed Diversion PointL.mxd
DATE:	FEBRUARY 2022

Attachment 3

Water Rights Permit COA 06-4436B

491513

 COPY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

JUN 29 2020

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON

Bridget C. Bohan
BRIDGET C. BOHAN, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 06-4436B

TYPE § 11.122

Owner: Jefferson Railport
Terminal I (Texas) LLC

Address: 350 Pine Street, Suite 1725
Beaumont, TX 77701

Filed: April 10, 2020

Granted: June 23, 2020

Purposes: Industrial

County: Orange

Watercourse: Neches River

Watershed: Neches River Basin

WHEREAS, Certificate of Adjudication No. 06-4436 authorizes Jefferson Railport Terminal I (Texas) LLC (Applicants/Owners) to divert and use not to exceed 2,700 acre-feet of water per year from a point on the Neches River, Neches River Basin at a maximum diversion rate of 14.48 CFS (6,500 GPM), of which not more than 11 acre-feet of water per year may be consumptively used for industrial purposes in Orange County. Multiple priority dates apply; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 06-4436 to add a diversion point on the Neches River in Orange County; and

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

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 06-4436, designated Certificate of Adjudication No. 06-4336B, is issued to Jefferson Railport Terminal I (Texas) LLC, subject to the following terms and conditions:

1. DIVERSION

- A. In addition to the previous authorization, Owner is authorized to divert water from a point on the Neches River, located at Latitude 30.078889° N Longitude 94.081388° W in Orange County.

B. Owner is authorized to divert at a maximum combined diversion rate of 14.48 CFS (6,500 GPM).

2. SPECIAL CONDITIONS

A. In order to minimize entrainment and impingement of aquatic organisms, Owner shall install intake screens with a screen opening of 0.25 inches or less on any new diversion structures.

B. Owner shall install and maintain a measuring device which accounts for, within 5% accuracy, the quantity of water diverted from the point(s) authorized above in Paragraph 1. DIVERSION and maintain measurement records.

C. Owner shall allow representatives of the Texas Commission on Environmental Quality reasonable access to the property to inspect the measuring device and records

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 06-4436, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Neches River Basin.

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

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

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


For the Commission

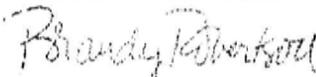
DATE ISSUED: **June 23, 2020**

② FB + RT
Philip S. Trew
12 Cottage Grove Ct.
Beaumont, TX 77713
9⁰² + 21⁰²

FILED FOR RECORD
ORANGE COUNTY CLERK

20 AUG 12 P12:01

BRANDY ROBERTSON



Attachment 4

Port of Beaumont Lease Agreement

THIRD AMENDMENT TO AGREEMENT AND LEASE

STATE OF TEXAS

COUNTY OF ORANGE

This THIRD AMENDMENT TO AGREEMENT AND LEASE (this "Amendment") is made and entered into by and between the PORT OF BEAUMONT NAVIGATION DISTRICT OF JEFFERSON COUNTY, TEXAS, ("Lessor"), a political subdivision of the State of Texas, and JEFFERSON RAILPORT TERMINAL I (TEXAS) LLC, a limited liability company organized under the laws of the State of Texas ("Lessee"), each party herein acting by and through its duly authorized officers.

Recitals

A. The Lessor owns approximately 243 acres of property located in Orange County, Texas together with easements across adjacent property of Gerdau Ameristeel for rail and road access ("Rail Access") to Old Highway 90 and to class 1 railroads (collectively the "Lessor's Property" or the "Orange County Terminal Property") and generally referred to as the Port of Beaumont's Orange County Terminal Property.

B. At its meeting of June 18, 2012, the Port Commission of the Lessor authorized the execution of an Agreement and Lease ("POB I Lease") with Port of Beaumont Petroleum Transload Terminal, LLC ("POB I") for the leasing of approximately ten (10) acres of Lessor's Property.

C. At its meeting of March 25, 2013, the Port Commission of the Lessor authorized the execution of an amendment to the POB I Lease for the purpose of modifying the lease area to approximately twenty-five (25) acres or real property within the Lessor's Property.

D. On December 30, 2013, the Lessor and POB I executed a Second Amendment to Agreement and Lease for the purpose of removing approximately one and six-tenth (1.6) acres of property subject to the POB I Lease, the property subject to the POB I Lease being more specifically described in Exhibit A attached hereto (the "Leased Premises").

E. The Port Commission of the Lessor has approved the assignment of the POB I Lease, as amended, and all of the rights and obligations of POB I contained therein to Lessee.

F. Lessor and Lessee are desirous of amending the term of the POB I Lease as herein set forth.

G. All acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and

delivery of this Amendment do exist, have happened and have been performed in due time, form and manner as required by law and the parties hereto are duly authorized to execute and deliver this Amendment.

IN CONSIDERATION of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows (capitalized terms used but not otherwise defined herein shall have the meaning provided in the POB I Lease):

1. Lease Term. Section 3 of the POB I Lease is amended in its entirety as follows:

3. Term of Lease. The term of this Lease shall commence on June 29, 2012 (the "Commencement Date"). This Lease shall terminate on the fiftieth anniversary of the Commencement Date (the "Term"). Upon expiration of the Term, Lessee agrees to vacate the Leased Premises within thirty (30) days' after written notice from Lessor.

2. Effective Date of Amendment. The provisions contained in this Amendment shall be effective upon the execution hereof.

3. Interpretation. Both Lessor and Lessee and their respective legal counsel have reviewed and have participated in the preparation of this Amendment.

4. Consent. Lessor hereby consents to an amendment to any leasehold mortgage, deed of trust or similar instrument delivered with respect to the Leased Premises and the addition thereto of any interests of the Lessee in the Lessor's Property as the result hereof.

5. Multiple Counterparts. This Lease Amendment may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

6. Recitals. The recitals are explicitly incorporated as though fully set forth within the terms of this Amendment.

EXECUTED this 27th day of OCTOBER, 2015.

PORT OF BEAUMONT NAVIGATION
DISTRICT OF JEFFERSON COUNTY
TEXAS

By: 

David C. Fisher

Port Director, CEO

EXECUTED this 6 day of October, 2015.

JEFFERSON RAILPORT
TERMINAL (TEXAS) LLC

By: 
Alfred Salazar
General Manager

AMEGY BANK NATIONAL ASSOCIATION, a national banking association, as trustee under the Trust Indenture, dated as of August 1, 2012, by and between Jefferson County Industrial Development Corporation and Amegy Bank National Association, hereby consents to the foregoing Amendment to Agreement and Lease..

AMEGY BANK
NATIONAL ASSOCIATION

By: 
Print Name: **Deirdre Ward**
Title: **Vice President**

ACKNOWLEDGMENTS

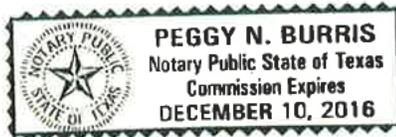
STATE OF TEXAS)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 29th day of October 2015, by David C Fisher, as Port Director/CEO of PORT OF BEAUMONT NAVIGATION DISTRICT OF JEFFERSON COUNTY TEXAS.

WITNESS my hand and official seal.

[SEAL]

Peggy N Burris



NOTARY PUBLIC

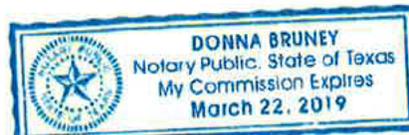
STATE OF TEXAS)
) ss.
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this 6 day of October 2015, by Alfred Salazar, as Manager of JEFFERSON RAILPORT TERMINAL (TEXAS) LLC.

WITNESS my hand and official seal.

[SEAL]

Donna Bruney



NOTARY PUBLIC

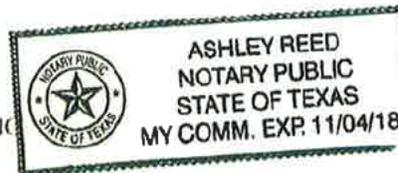
STATE OF TEXAS)
) ss.
COUNTY OF Harris)

The foregoing instrument was acknowledged before me this 4 day of November 2015, by Deirdre Ward, Vice President of AMEGY BANK NATIONAL ASSOCIATION, as Trustee.

WITNESS my hand and official seal.

[SEAL]

Ashley Reed



NOTARY PUBLIC

Attachment 5

Photographs



Photo: 001

Date: January 2022

Description: Proposed diversion reach location facing upstream (north).



Photo: 002

Date: January 2022

Description: Proposed diversion reach location facing downstream (south).

Attachment 6

TXG670000 General Permit to Dispose of Hydrostatic Test Water

Texas Commission on Environmental Quality

P.O. Box 13087 Austin, Texas 78711-3087



GENERAL PERMIT TO DISPOSE OF HYDROSTATIC TEST WATER
under provisions of Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supersedes
TPDES General Permit No. TXG670000 effective on April 5, 2020.

Hydrostatic test water from industrial and other facilities, located in the State of Texas,

may be discharged into or adjacent to water in the state, including exceptional, high, intermediate, limited or minimal aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards,

only according to effluent limitations, monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ or Commission), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this general permit does not grant the permittee the right to use private or public property for the conveyance of hydrostatic test water along the discharge route. This includes, but is not limited to, property belonging to any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight on April 5, 2025.

EFFECTIVE DATE: October 21, 2020
ISSUED DATE: October 27, 2020

Signed by Jon Niermann
For the Commission

TPDES GENERAL PERMIT NUMBER TXG670000 RELATING TO
DISCHARGES OF HYDROSTATIC TEST WATER

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Part I. Definitions

The following words and terms, for the purposes of this general permit, shall have the following meanings.

Daily average limitations - The arithmetic average of results of analyses for a parameter from a minimum of four samples of the discharges that occur in a single calendar month. When results of analyses of four samples are not available in a single calendar month, the arithmetic average of the most recent results, not to exceed four, must be reported as the daily average concentration.

Daily maximum limitations - The maximum concentration measured on a single day within a single calendar month.

Discharge - Deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Existing vessel - A vessel that has been used to store; transport; or otherwise contain a liquid, gaseous material, petroleum substance, or natural gas substance as identified in Part II, Section A.

Facility - Any National Pollutant Discharge Elimination System (NPDES) "point source" (as defined in 40 Code of Federal Regulations (CFR) § 122.2) or any other facility or activity that is subject to regulation under the Texas Pollutant Discharge Elimination System (TPDES) program or Texas Land Application Permit (TLAP) program.

Free product - A petroleum substance in its free-flowing non-aqueous liquid phase at standard conditions of temperature and pressure (i.e., that portion of the product not dissolved in water or adhering to soil).

Gas Plant Effluent - Any wastewater (other than hydrostatic test water) or stormwater that is generated at a gasoline plant, natural gas or natural gas liquids processing plant, pressure maintenance plant, or re-pressurizing plant.

General permit - A permit issued under the provisions of Title 30 Texas Administrative Code (TAC) Chapter 205, authorizing the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC), § 26.040.

Grab sample - An individual sample collected in less than 15 minutes.

Hydrostatic test - A method of determining the hydraulic and structural integrity of a vessel by either introducing water into the vessel or submerging the empty vessel in water.

Hyperchlorinated - The treatment of potable water lines or other vessels with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or vessel, and subsequently flushing the contents.

Land application - The spraying or spreading of hydrostatic test water onto the land surface or the incorporation of hydrostatic test water into the soil in a way that causes no nuisance conditions and that uses the hydrostatic test water to either condition the soil or fertilize crops or vegetation grown in the soil.

Municipal separate storm sewer system (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (a) owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act (CWA);
- (b) designed or used for collecting or conveying stormwater;
- (c) which is not a combined sewer;
- (d) which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2; and
- (e) which does not include very discrete systems such as those serving individual buildings. *See also 40 CFR § 122.26(b)(4), (7), and (16).*

Natural gas substance - Raw natural gas and all forms of processed natural gas; including but not limited to; pipeline quality dry natural gas, natural gas liquids, liquified petroleum gas, liquified natural gas, and compressed natural gas.

New vessel - A vessel that has not been previously used to store; transport; or otherwise contain a liquid, gaseous material, petroleum substance, natural gas substance, or waste materials.

Notice of change (NOC) - A written submission to the Executive Director from a permittee authorized under a general permit, providing information on changes to information previously provided to the Commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

Notice of intent (NOI) - A written submission to the Executive Director from an applicant requesting authorization under the terms of a general permit.

Notice of termination (NOT) - A written submission to the Executive Director from a permittee authorized under a general permit requesting termination of authorization.

Operator - The person responsible for the overall operation of a facility.

Owner - The person who owns a facility or part of a facility.

Permittee - Any person issued an individual permit, order, or is authorized by a general permit.

Petroleum substance - Crude oil or any refined or unrefined fraction or derivative of crude oil, which is liquid at standard conditions of temperature and pressure. Petroleum substance is limited to one, or a combination of, the substances or mixtures in the following list (except for any substance regulated as a hazardous waste under 30 TAC § 335.1, *Definitions*).

- (a) Basic petroleum substances - Crude oils, crude oil fractions, petroleum feedstocks, and petroleum fractions.
- (b) Motor fuels - A petroleum substance that is typically used to operate internal combustion engines (including stationary engines and engines used in motor vehicles, aircraft, and marine vessels), and is one of the following types of fuels: motor gasoline, aviation gasoline, No. 1 diesel fuel, No. 2 diesel fuel, biodiesel blended with No. 1 or No. 2 diesel, gasohol or other alcohol blended fuels.
- (c) Aviation gasolines - Grade 80, Grade 100, and Grade 100-LL.
- (d) Aviation jet fuels - Jet A, Jet A-1, Jet B, JP-4, JP-5, and JP-8.
- (e) Distillate fuel oils - No. 1-D, No. 1, No. 2-D, and No. 2.
- (f) Residual fuel oils - No. 4-D, No. 4-light, No. 4, No. 5-light, No. 5-heavy, and No. 6.

- (g) Gas-turbine fuel oils - Grade O-GT, Grade 1-GT, Grade 2-GT, Grade 3-GT, and Grade 4-GT.
- (h) Illuminating oils - Kerosene, mineral seal oil, long-time burning oils, 300 oil, and mineral colza oil.
- (i) Solvents - Stoddard solvent, petroleum spirits, mineral spirits, petroleum ether, varnish makers' and painters' naphthas, petroleum extender oils, and commercial hexane.
- (j) Lubricants - Automotive and industrial lubricants.
- (k) Building materials - Liquid asphalt and dust-laying oils.
- (l) Insulating and waterproofing materials - Transformer oils and cable oils.
- (m) Used oils - Any oil or similar petroleum substance that has been refined from crude oil, used for its designed or intended purposes, and contaminated by physical or chemical impurities; including spent motor vehicle and aircraft lubricating oils (e.g., car and truck engine oil, transmission fluid, and brake fluid), spent industrial oils (e.g., compressor, turbine, bearing, hydraulic, metalworking, gear, electrical, and refrigerator oils), and spent industrial process oils.
- (n) Any other petroleum-based material that has physical and chemical properties similar to the above materials and receives approval by the Executive Director for designation as a petroleum substance.
- (o) Examples of materials that are not petroleum substances include: aldehydes and ketones (e.g., acetone, methyl ethyl ketone); halogenated solvents (e.g., carbon tetrachloride, trichloroethylene), alcohols (e.g., methanol), phenols, nitrogen-containing compounds and oils containing polychlorinated biphenyl compounds.

Produced Water - As defined in 30 TAC § 305.541(b) - all wastewater associated with oil and gas exploration, development, and production activities, except hydrostatic test water and gas plant effluent, that is discharged into water in the state, including waste streams regulated by 40 CFR Part 435.

Site - The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Texas Land Application Permit (TLAP) - A permit issued by the TCEQ for the land application and disposal of hydrostatic test water that does not result in a discharge to surface water in the state. This general permit does not apply to hydrostatic test water discharges applied to land from crude oil and natural gas operations regulated by the Railroad Commission of Texas.

Texas Pollutant Discharge Elimination System (TPDES) Permit - The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under the CWA §§ 307, 402, 318, and 405, the Texas Water Code, and Title 30 of the Texas Administrative Code regulations.

Vessel - Pipelines, tanks, and other similar containers used to store; transport; or otherwise contain a liquid, gaseous material, petroleum substance, or natural gas substance as identified in Part II, Section A.

Water in the State - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Part II. Permit Applicability and Authorization

Section A. Discharges Authorized

This general permit authorizes the discharge of water resulting from a hydrostatic test of a vessel into or adjacent¹ to water in the state from:

1. new vessels;²
2. existing vessels that contain or previously contained or transferred raw or potable water;
3. existing vessels that previously contained only elemental gases (hydrogen, oxygen, nitrogen, etc.); and
4. existing vessels that previously contained petroleum substances² or natural gas substances², or waste³ related to petroleum substances or natural gas substances.

¹ Discharges of hydrostatic test water adjacent to water in the state (i.e. land application) from new vessels and existing vessels associated with crude oil and natural gas exploration, development, and production operations remains under the jurisdiction of the Railroad Commission of Texas.

² Discharges of hydrostatic test water into water in the state from crude oil and natural gas exploration, development, and production operations are eligible for authorization under this general permit upon the TCEQ receiving approval from the U.S. Environmental Protection Agency (EPA) to regulate these activities in the state of Texas under the TPDES. Until such time, these entities will continue to be required to obtain authorization to discharge from both EPA and the Railroad Commission of Texas (RRC).

³ Waste related to petroleum substances or natural gas substances does not include the discharge of waste subject to 40 CFR Part 419 (Petroleum Refining Point Source Category), 40 CFR Part 435 (Oil and Gas Extraction Point Source Category), or 40 CFR Part 437 (The Centralized Waste Treatment Point Source Category).

Section B. Limitations on Authorization

1. Additional authorization may be required for discharges into or adjacent to water in the state, located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30

TAC Chapter 213, *Edwards Aquifer*. Also, see Part II.C.3 for discharges regulated under 30 TAC Chapter 213.

2. Discharges shall not be authorized by this general permit where prohibited by:
 - a. 30 TAC Chapter 311, *Watershed Protection*;
 - b. 30 TAC Chapter 213, *Edwards Aquifer*; or
 - c. Any other applicable rules or laws.
3. This general permit does not authorize discharges adjacent to water in the state (e.g. land application or evaporation) from activities that are regulated by the RRC, including crude oil and natural gas facilities. Discharges from these facilities into water in the state are authorized under this general permit.
4. This general permit does not authorize the use of domestic wastewater, reclaimed water, or wastewater generated by other industrial operations (including produced water and gas plant effluent generated from crude oil and natural gas exploration, development, and production operations) for hydrostatic testing and discharge under this general permit.
5. The Executive Director will deny an application for authorization under this general permit and may require that the applicant apply for an individual permit, if the Executive Director determines that discharge activities will not maintain existing uses of receiving waters. Additionally, the Executive Director may cancel, revoke, or suspend authorization for discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. The Executive Director shall deny or suspend a facility's authorization for discharge under this general permit based on a rating of "unsatisfactory performer" according to Commission rules in 30 TAC §60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the Commission prior to having its authorization denied or suspended, in accordance with TWC § 26.040(h). Denial of authorization for discharge under this general permit will be done according to Commission rules in 30 TAC Chapter 205, *General Permits for Waste Discharges*.
6. This general permit does not limit the authority of a home-rule municipality provided by Texas Local Government Code Chapter 401.

7. New sources or new discharges (as defined in 40 CFR §122.2) of the constituent(s) of concern to impaired waters are not authorized by this general permit, unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed as category 4 or 5 in the current version of the *Texas Integrated Report of Surface Water Quality*, and waterbodies listed on the CWA § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.
8. Discharges of the constituent(s) of concern to impaired water bodies where there is a total maximum daily load (TMDL) implementation plan are not eligible for authorization under this general permit, unless they are consistent with the approved TMDL and the implementation plan. The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for authorization under this general permit, the discharger must apply for and receive an individual permit or be authorized under another applicable general TPDES permit prior to discharging.
9. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this general permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.
10. This general permit does not authorize the discharge of polychlorinated biphenyls compounds (PCBs). Documentation that PCBs are not present in pipelines shall be made available to the executive director upon request for all pipelines which have been in use for transmission of natural gas. Such documentation shall consist of a certification that either the pipeline has been tested for, and found to be free of PCBs, or that compressors or other equipment that contained PCBs were never used on the pipeline. Applicants seeking to discharge hydrostatic test waters from natural gas pipelines must certify in the NOI that the pipeline has been tested and certified free of PCBs, or compressors and other equipment that contained PCBs were never used on the pipeline.
11. Discharge of cleaning/rinsing wastewater generated prior to filling a vessel with water for hydrostatic testing; and any materials generated from pigging, utilizing compressed air, pressure washing, or other cleaning techniques are not authorized for discharge under this general permit.

Section C. Application for Authorization

1. Unless specifically exempted from the notification requirements under Part II, Section C.4., applicants seeking authorization to discharge under this general permit must submit a Notice of Intent (NOI) using the online e-permitting system available through the TCEQ website or request and obtain an electronic reporting waiver. Electronic reporting waivers are not transferrable and expire on the same date as the authorization to discharge. The NOI shall, at a minimum, include: the legal name and address of the owner and operator, the facility name and address, specific description of its location, type of facility or discharges (including materials contained in the vessel being hydrostatically tested), and the receiving waters.

Permittees authorized under the previous general permit effective April 5, 2020 are not required to submit a new NOI. Permittees authorized under the previous general permit effective April 5, 2020 may continue to operate and discharge under the terms and conditions of the previous general permit and shall maintain a copy of the previous general permit and authorization issued (if applicable) under the previous general permit at the facility.

2. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit.
 - a. For electronic submittal of NOIs, provisional authorization to discharge under the terms and conditions of this general permit begins immediately after the TCEQ confirms receipt of the electronic NOI.
 - b. For paper NOIs, provisional authorization begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. The NOI shall be submitted to the address indicated on the NOI form. Following review of the NOI, the Executive Director will:
 - i. determine that the NOI is complete and confirm authorization by providing a written notification and an authorization number;
 - ii. determine that the NOI is incomplete and request additional information needed to complete the NOI; or
 - iii. deny authorization in writing. Denial of authorization will be made in accordance with 30 TAC § 205.4, Authorizations and Notices of Intent.

- c. Applicants seeking authorization to discharge to a municipal separate storm sewer system (MS4) must provide a copy of the NOI, or electronic equivalent, to the operator of the system at the same time an NOI is submitted to the TCEQ.
3. For discharges located in areas regulated by 30 TAC Chapter 213, *Edwards Aquifer*, an authorization to discharge under this general permit is separate from the requirements of that chapter. Discharge may not commence for sites regulated under 30 TAC Chapter 213 until all applicable requirements in that chapter are met. For discharges located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional offices shown below. The applicant may not discharge until authorization is received from the regional office.

Counties: Comal, Bexar, Medina, Uvalde, and Kinney
Contact: TCEQ Water Program Manager
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78233-4480
210-490-3096

Counties: Bell, Williamson, Travis, and Hays
Contact: TCEQ Water Program Manager
Austin Regional Office
P.O. Box 13087, MC R11
Austin, TX 78711-3087
512-239-2929

4. An NOI is not required if the discharger complies with all applicable permit conditions and:
 - a. the discharge is from a vessel listed in Part II.A.1 - 3; or
 - b. the discharge is from a vessel listed in Part II.A.4 and is land applied in accordance with the requirements of Part III, Section C of this general permit. Authorization for land application of hydrostatic test waters from crude oil and natural gas exploration, development, and production operations remains under the regulatory jurisdiction of the RRC.
5. Authorization under this general permit is not transferable. If either the owner or operator of the regulated entity changes, then both the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit

an NOI. The NOT and NOI must be submitted no later than 10 days before the change. Permittees discharging to an MS4 must submit a copy of the NOT, or electronic equivalent, to the operator of the system at the same time the NOT is submitted to the TCEQ.

6. If the owner or operator becomes aware that he or she failed to submit any relevant facts, or submitted incorrect information, or if relevant information provided in the NOI changes (for example, phone number, address, outfall information, type of facility or discharges, or the receiving waters), the correct information must be provided to the Executive Director in a Notice of Change (NOC) within 14 days after discovery. Permittees must submit a NOC using the online e-permitting system available through the TCEQ website unless the permittee obtained an electronic reporting waiver. Permittees discharging to an MS4 must submit a copy of any NOC, or electronic equivalent, to the operator of the system at the same time the NOC is submitted to the TCEQ.

Section D. Termination of Authorization

A permittee shall terminate authorization under this general permit through the submittal of an NOT, when the owner or operator of the facility changes; the discharge becomes authorized under an individual permit; the use of the property changes and is no longer subject to regulation under this general permit; or the discharge becomes unnecessary, is delayed, or is completed. Permittees must submit a NOT using the online e-permitting system available through the TCEQ website unless the permittee obtained an electronic reporting waiver. For electronic submission of the NOT, authorization to discharge under this general permit terminates immediately after the TCEQ confirms receipt of the electronic NOT. For paper submission of the NOT, authorization to discharge terminates on the day that a NOT is postmarked for delivery to the TCEQ. Compliance with the conditions and requirements of this general permit is required until a NOT is submitted. Permittees discharging to an MS4 must submit a copy of the NOT, or electronic equivalent, to the operator of the system at the same time the NOT is submitted to the TCEQ.

Section E. Authorization Under a TPDES or TLAP Individual Permit

1. Discharges eligible for authorization under this general permit may alternatively be authorized under an individual permit according to 30 TAC Chapter 305, *Consolidated Permits*.
2. When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall

submit a NOT to the Executive Director. The authorization under this general permit will be terminated when the Executive Director receives the NOT.

3. Discharges from facilities currently authorized under a TPDES individual permit, and discharges from facilities currently authorized under another general permit, may only be authorized under this TPDES general permit if the following conditions are met:
 - a. the discharges meet the applicability and eligibility requirements for authorization under this general permit;
 - b. the current TPDES individual permit does not contain numeric water quality-based effluent limitations for the discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);
 - c. the Executive Director has not determined that continued authorization under a TPDES individual permit is required based on consideration of a total maximum daily load (TMDL) model, anti-backsliding policy, history of substantive noncompliance, or other site-specific considerations;
 - d. a previous application or permit for the discharge has not been denied, terminated, or revoked by the Executive Director as a result of enforcement or water quality-related concerns. The Executive Director may provide a waiver to this provision based on new circumstances at the facility, or if there is a new facility owner or operator; and
 - e. the applicant requests cancellation of the existing individual permit within 30 days after notice that authorization under this general permit is effective.

4. Discharges of hydrostatic test water from new outfalls at facilities authorized under a TPDES individual permit, or under a different general permit, may be authorized under this general permit if the following conditions are met:
 - a. the proposed discharges meet the applicability and eligibility requirements for authorization under this general permit;
 - b. the current TPDES individual permit does not contain numeric water quality-based effluent limitations for discharges that are similar in nature to the proposed

discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);

- c. the Executive Director has not determined that authorization under a TPDES individual permit is required based on consideration of a TMDL model, history of substantive non-compliance, or other site-specific considerations; and
- d. a previous application or permit for the proposed discharge has not been denied, terminated, or revoked by the Executive Director as a result of enforcement or water quality-related concerns. The Executive Director may provide a waiver to this provision based on new circumstances at the facility, or if there is a new facility owner or operator.

Section F. Permit Expiration

1. This general permit is effective until midnight on April 5, 2025. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the general permit. This general permit may be amended, revoked, cancelled, or renewed by the Commission after notice and comment as provided by 30 TAC § 205.3 and § 205.5.
2. If the commission proposes to reissue this general permit before the expiration date, the general permit shall remain in effect after the expiration date for those existing discharges covered by the general permit in accordance with 30 TAC Chapter 205. The general permit shall remain in effect for these discharges until the date on which the commission takes final action on the proposal to reissue this general permit. However, no new authorizations may be issued under the general permit after the expiration date.
3. Upon issuance of a renewed or amended general permit, all facilities, including those covered under the expired general permit, shall submit an NOI (excluding those facilities which are not required to submit an NOI under Part II, Section C.4) according to the requirements of the new general permit, obtain a TPDES individual permit, or obtain a Texas Land Application Permit (TLAP) for those discharges.
4. If the commission does not propose to reissue this general permit within 90 days before the expiration date, permittees must apply for authorization under an individual permit or, if applicable, an alternative general permit. If the application for an individual

permit or alternative general permit is submitted before the general permit expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit or alternative general permit.

Part III. Permit Requirements

Section A. Effluent Limitations

1. Discharges of hydrostatic test water into water in the state from vessels described in Part II.A.1 - 3 are subject to the following effluent limitation if the hydrostatic test water has been hyperchlorinated:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Residual Chlorine	0.10 mg/L	Report mg/L	Grab	Two/Discharge ¹

¹ One sample shall be taken during the first hour of discharge. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent. Samples must be collected at a point immediately following discharge from the vessel (or following treatment) and prior to commingling with stormwater, wastewater, or other flows.

2. Discharges of hydrostatic test water into water in the state from existing vessels that previously contained petroleum substances or natural gas substances, or waste related to petroleum substances or natural gas substances are subject to the following effluent limitations:

Parameter	Daily Maximum Limitations	Daily Average Limitations	Sample Type	Monitoring Frequency
Total Petroleum Hydrocarbons ¹	15 mg/L	Report mg/L	Grab	Two/discharge ²
Benzene	0.05 mg/L	Report mg/L	Grab	Two/discharge ²
Total BTEX ³	0.50 mg/L	Report mg/L	Grab	Two/discharge ²
Total Lead ⁴	0.10 mg/L ⁵	Report mg/L	Grab	Two/discharge ²
Total Lead ⁴	0.02 mg/L ⁵	Report mg/L	Grab	Two/discharge ²
pH	Between a minimum of 6.0 and a maximum of 9.0 Standard Units		Grab	Two/discharge ²

¹Total petroleum hydrocarbons must be analyzed using TCEQ Method 1005.

²One sample shall be taken during the first hour of discharge. For discharges that extend beyond an hour in duration, a second sample shall be taken of the last 10% of the effluent. Samples must be collected at a point immediately following discharge from the vessel (or following treatment) and prior to commingling with stormwater, wastewater, or any other flows.

³Total BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and total xylenes.

⁴If the vessel containing the hydrostatic test water to be discharged has never contained lead or lead additives, there is no requirement to sample and analyze for total lead.

⁵The daily maximum limitation for total lead is 0.02 mg/L for discharges located in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For all other counties in the state, the daily maximum limitation is 0.10 mg/L.

Minimum analytical levels (MALs) are established for the following parameters included in the tables above. By establishing MALs, TCEQ is not requiring use of a specific analytical test method, nor is TCEQ requiring analytical results to be submitted where the laboratory test was run to achieve the MAL. When an analysis of an effluent sample for a pollutant listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero shall be used for that measurement. When an analysis of an effluent sample for a pollutant indicates no detectable levels and the test method detection level is not as sensitive as the specified MAL, the level of detection achieved shall be used for that measurement. A zero may not be used.

<u>Pollutant</u>	<u>MAL</u>
Total Lead	0.0005 mg/L
Benzene	0.010 mg/L
Toluene	0.010 mg/L
Ethylbenzene	0.010 mg/L

<u>Pollutant</u>	<u>MAL</u>
Total Xylenes	0.010 mg/L
Total Residual Chlorine	0.033 mg/L

3. If an authorized vessel fails the hydrostatic test and an additional hydrostatic test is required, no additional analyses are required if:
 - a. the retest is within 30 days of the initial test;
 - b. no exceedances of permit limitations occurred during the initial discharge; and
 - c. no additional pollutants were added to the vessel.

Section B. General Requirements

1. The discharge shall be to a splash pad, a paved area, or other alternative surface to prevent erosion. The rate of discharge shall be controlled through best management practices to prevent flooding and erosion.
2. Mixing zones shall not encompass an intake for a domestic drinking water supply, and the discharge may not be located within 300 feet of the intake for a domestic drinking water supply.
3. The discharge must be a minimum distance of 500 feet from any water well and shall be conducted to minimize the potential of contamination to all public and private wells.
4. There shall not be any free product or natural gas substance present in the vessel during a hydrostatic test.
5. The addition of chemicals, except chlorine or tracer dyes, to the vessel being hydrostatically tested is prohibited by this general permit.
6. Prior to conducting a hydrostatic test on steel pipelines, the pipeline shall be free from any kind of welding scrap or other foreign material.
7. There shall be no discharge of floating solids or visible foam other than in trace amounts, and no discharge of visible oil.
8. The discharge shall not contain a concentration of taste or odor producing substances that interfere with the production of potable water by reasonable water treatment methods, impart unpalatable

- flavor to food fish including shellfish, result in offensive odors arising from the receiving waters, or otherwise interfere with reasonable uses of water in the state.
9. Facilities which generate industrial solid wastes, as defined in 30 TAC § 335.1, shall comply with the provisions of 30 TAC Chapter 335, *Industrial Solid Waste and Municipal Hazardous Waste*. If the requirements of 30 TAC Chapter 335 do not apply, the solid wastes shall be disposed of in accordance with the Texas Health and Safety Code, Chapter 361.
 10. The permittee shall take necessary steps to prevent adverse effects to human health, safety, or the environment. The permittee shall immediately cease discharging whenever it is determined that the discharge may endanger human health, safety, or the environment.
 11. Disposal of hydrostatic test water shall be done in such a manner as to prevent nuisance conditions.
 12. The permittee shall provide the following noncompliance notifications:
 - a. Any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally, by facsimile (FAX), or by email to the appropriate TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the appropriate TCEQ regional office and the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment, the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.
 - b. If the analytical results indicate a violation of one or more of the permitted effluent limitations, the permittee shall submit a Discharge Monitoring Report (DMR) by the 20th day of the month following the discharge. Effluent limitation violations shall be reported using the NetDMR reporting system

available through the TCEQ website or an approved DMR form (EPA No. 3320-1) to TCEQ Enforcement Division (MC-224) if the permittee has obtained an electronic reporting waiver.

Any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the appropriate TCEQ regional office and the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance.

- c. Any noncompliance other than those specified in paragraphs (a) and (b) above, or any required information not submitted or submitted incorrectly, shall be reported to the TCEQ Enforcement Division (MC-224) as promptly as possible.
13. The permittee shall notify the appropriate TCEQ regional office in writing at least 48 hours prior to initiating the discharge.
 14. When the discharge originates within the boundaries of an MS4, the permittee shall notify the appropriate MS4 operator in writing at least 48 hours prior to initiating the discharge.

Section C. Land Application

Discharges adjacent to water in the state, such as land application, are authorized under state authority in Texas Water Code Chapter 26. Land application of hydrostatic test water shall comply with the following requirements. This section does not apply to crude oil and natural gas operations regulated under the authority of the RRC.

1. Land application shall not occur when the ground is frozen, the ground has standing water, the ground is saturated, during rainfall events, or within 24 hours of a rainfall event of 0.5 inch or greater during a 24-hour period.
2. Land application shall not result in runoff, ponding of effluent, contamination of ground and surface waters, or occurrence of nuisance conditions in the area.
3. Hydrostatic test water shall not be land applied within 500 feet of any water well and shall be conducted to minimize the potential of contamination to all public and private wells.
4. The permittee shall maintain vegetation in the land application area.

5. There shall be no land application of hydrostatic test water containing floating solids or visible oil sheen. The hydrostatic test water shall not exhibit foaming of a persistent nature as required by 30 TAC § 307.4(b)(6), *Aesthetic Parameters*.
6. Solid wastes shall be disposed of following the requirements of the Texas Health and Safety Code Chapter 361.
7. The permittee shall take all steps necessary to prevent any adverse effect to human health or safety, or to the environment. The permittee shall immediately cease land application whenever it is discovered that land application activities may endanger human health or safety, or the environment. The problem shall be reported following the requirements in Part III, Section B.12 of this general permit.

Part IV. Standard Permit Conditions

1. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any condition is a violation of the general permit and the statutes under which the general permit was issued. Any violation may be grounds for enforcement action, for terminating authorization under this general permit, or for requiring a permittee to apply for and obtain either a TPDES individual permit or a TLAP.
2. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted discharge to maintain compliance with conditions of the general permit.
3. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with conditions of the general permit. Proper operation and maintenance also includes adequate laboratory and process controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with conditions of the general permit.
4. The permittee shall furnish any information, at the request of the Executive Director that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this general permit. The requested information must be provided

- within a reasonable time frame and in no case later than 30 days from the date of the request.
5. The permittee shall give notice to the Executive Director before physical alterations or additions to the permitted facility if such alterations would result in a violation of the general permit requirements.
 6. Inspection and entry shall be allowed under Chapter 26 of the TWC; Texas Health and Safety Code, §§ 361.032 - 361.033 and 361.037; and Title 40 of the Code of Federal Regulations (CFR) § 122.41(i). The statement in TWC, § 26.014 that Commission entry of a regulated entity shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the regulated entity, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.
 7. Standard monitoring and reporting requirements are as follows:
 - a. Samples shall be collected, and measurements shall be taken at times and in a manner so as to be representative of the monitored discharge.
 - b. All samples must be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation), or the EPA's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the EPA's, "Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973).
 - c. Sample containers, holding times, preservation methods, and analytical methods, shall either follow the requirements in 40 CFR Part 136, or the latest edition of "Standard Methods for the Examination of Water and Wastewater".
 - d. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.
 - e. The sampling point must be downstream of any treatment unit or treatment technique that is used to improve or otherwise alter the quality of the discharge, and prior to the

hydrostatic test water commingling with any other wastewater, stormwater, or other flows.

- f. Analytical results for determining compliance with effluent limitations shall be recorded on a DMR form (EPA No. 3320-1). Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit. Analytical results shall be submitted only as required by Part III.B.12 of the general permit. The permittee shall maintain the DMR record as required by Part IV.9 of this general permit.
 - g. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, *Environmental Testing Laboratory Accreditation and Certification*.
 - h. Records of monitoring activities shall include:
 - i. date, time, and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement;
 - iii. date and time of laboratory analysis;
 - iv. identity of the individual and laboratory that performed the analysis;
 - v. the technique or method of analysis;
 - vi. the results of the analysis or measurement; and
 - vii. quality assurance/quality control records.
 - i. If the permittee monitors any pollutant in a discharge more frequently than required by the general permit using approved analytical methods as specified in Part IV.7 of this general permit, all results of such monitoring shall be included in the calculation and recording of the values on the DMR. Increased frequency of sampling shall be indicated on the DMR.
8. All reports, NOIs, NOTs, NOCs, or other information requested by the Executive Director shall meet the requirements of 30 TAC § 305.44, *Signatories to Applications*.

9. The permittee shall retain copies of all records required by this general permit, including monitoring records and records related to the application or any certification requirements, for a period of three years from the date of the record. This period may be extended at the request of the Executive Director. The records shall be retained at the facility or be readily available for review by TCEQ personnel upon request.
10. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4. Notifying the TCEQ of planned changes or an anticipated noncompliance does not stay any general permit condition.
11. This general permit does not convey any property rights of any sort, or any exclusive privilege.
12. If the permittee becomes aware that it failed to submit any relevant facts in an NOI, or submitted incorrect information in an NOI or in any report to the Executive Director, it shall promptly submit such facts or information.
13. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC Chapter 7 for violations including, but not limited to, the following:
 - a. violating CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a general permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA § 402(a)(3) or (b)(8);
 - b. intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required under this general permit; and
 - c. intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, an application, notice, record, report, plan, or other document, including monitoring device data, filed or required to be maintained by this general permit.

Part V. Fees

1. An NOI must include a \$100 application fee. A fee is not required for submission of an NOT or NOC.

2. Annual Water Quality Fee - Facilities with an active authorization on September 1 of each year (i.e., have not submitted an NOT prior to this date) will be billed \$100 for the following fiscal year.

Attachment 7

Affected Stream Information

Affected Stream Information (Diversión Point)

Channel Width / Depth: approximately 850' / 40' at the diversion point.

Flow Characteristics: Perennial

Upstream Land Use: Residential, farm and ranch, industrial, and commercial.

Stream Uses: Primary use of waterway is to convey storm water. Other uses include contact and non-contact recreation and propagation of fish and wildlife.

Attachment 8

Deed History

273775

20041696-ALM

GENERAL WARRANTY DEED

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE.

DATE: SEPTEMBER 2, 2004

GRANTOR: EDWIN ARNAUD, INC.

GRANTOR'S MAILING

ADDRESS: P. O. Box 5074
(including County) Beaumont, Texas 77726-5074
(Jefferson County)

GRANTEE: PORT OF BEAUMONT NAVIGATION DISTRICT
OF JEFFERSON COUNTY

GRANTEE'S MAILING

ADDRESS: P. O. Box 2297
(including county) Beaumont, Texas 77704-2297
(Jefferson County)

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

PROPERTY:

See Exhibit A, attached hereto and incorporated herein for all purposes, as is fully set out herein.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

All those of record, and easements, rights-of-way and prescriptive rights, whether of record or not; all presently recorded instruments that affect the property; taxes not yet due and payable; the payment of which Grantee assumes, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

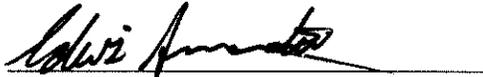
GRANTOR, for the consideration, receipt of which is acknowledged, and subject to the reservations and exceptions set out herein, grants, sells and conveys all of Grantor's interest in and to the property to said GRANTEE, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold unto GRANTEE, Grantee's

GF 18698

heirs, executors, administrators, successors or assigns, forever. Grantor binds Grantor, Grantor's heirs, executors administrators and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

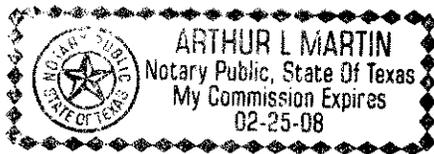
EDWIN ARNAUD, INC., Grantor



BY: EDWIN ARNAUD, III, President

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on this the 2nd day of September, 2004, by EDWIN ARNAUD, III, President of EDWIN ARNAUD, INC., known to me or shown to me to be the said EDWIN ARNAUD, III, who acknowledged to me that the foregoing instrument was executed for the purposes and consideration expressed therein, and in witness thereof, I hereunto set my hand and official seal.




Notary Public, State of Texas

FB: SATC
After Recording, Return to:

**PORT OF BEAUMONT NAVIGATION DISTRICT
OF JEFFERSON COUNTY**

P. O. Box 2297
Beaumont, Texas 77704-2297
11.00 + 5.00 RP + 1.00 SF + 5.00 RA

EXHIBIT A

Field Note Description:

August 28, 2004

BEING a 215.626 acre tract or parcel of land located partly in the Gilbert Stevenson Survey, Abstract 167 and partly in the William Stephenson Survey, Abstract 23 in Orange County, Texas, being that same called 223.446 acre tract described as Tract "B" conveyed to Orange County, L.C. of record in Volume 874 Page 974 of the Deed Records of Orange County, Texas, said Tract "B" being reflected more particularly on that certain "Perimeter Map of Lands Surveyed for Southwest Realty and Development Company, Inc." prepared by Chas. P. Smith Associates, Inc. dated July 19, 1972 and revised as of March 13, 1979, said 215.626 acres being more particularly described by metes and bounds as follows:

Note: All Bearings are referenced to the NAD 83, Texas Coordinate System, Central Zone # 4203, and are grid bearings with a convergence mapping of $03^{\circ}13'15''$. All distances shown are surface measurements.

BEGINNING at a $\frac{1}{2}$ " Iron Rod found in the south right-of-way line of Interstate Highway 10 (R.O.W. varies) for the most northerly northwest corner of the herein described tract and the northeast corner of that called 30.00 acre tract conveyed to Smith Material Company, Inc. of record in Volume 504 Page 76 of the Deed Records of Orange County, Texas;

THENCE N $85^{\circ}12'40''$ E along the north line of the herein described tract and the south right-of-way line of Interstate Highway 10 for a distance of 780.80 feet to a $\frac{1}{2}$ " capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for an angle point;

THENCE S $89^{\circ}15'47''$ E continuing along the said north line of the herein described tract and the south right-of-way line of Interstate Highway 10 for a distance of 804.85 feet to a $\frac{1}{2}$ " capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for an angle point;

THENCE N $65^{\circ}12'00''$ E continuing along the said north line of the herein described tract and the south right-of-way line of Interstate Highway 10 for a distance of 407.29 feet to a $\frac{1}{2}$ " capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for an angle point;

THENCE N $81^{\circ}19'58''$ E continuing along the said north line of the herein described tract and the south right-of-way line of Interstate Highway 10 for a distance of 195.46 feet to a TxDOT Concrete Monument with Brass Disk found for an angle point and the northwest corner of that called 1.4284 acre tract conveyed to the State of Texas of record in Volume 1230 Page 969 of the Deed Records of Orange County, Texas;

THENCE S $44^{\circ}20'18''$ E along the west line of the said 1.4284 acre tract for a distance of 225.08 feet to a TxDOT Concrete Monument with Brass Disk found for an angle point;

THENCE S $83^{\circ}27'09''$ E continuing along the said west line of the 1.4284 acre tract for a distance of 321.05 feet to a TxDOT Concrete Monument with Brass Disk found for an angle point;

THENCE S $64^{\circ}02'47''$ E continuing along the said west line of the 1.4284 acre tract for a distance of 205.38 feet to a TxDOT Concrete Monument with Brass Disk found for an angle point; said to be in the west right-of-way line of Old Highway 90 as shown on plat by Mark W. Whitley, RPLS No. 3636;

THENCE N $39^{\circ}51'08''$ E over and across the said 223.446 acre tract for a distance of 28.03 feet to a $\frac{1}{2}$ " capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set in the record west right-of-way line of Old Highway 90 a 70' wide R.O.W. granted by the East Beaumont Townsite Company to Orange County dated June 26, 1925 of record in Volume 41 Page 337 of the Deed Records of Orange County, Texas and also described in a Perimeter Description based on that certain "Perimeter Map of Lands Surveyed for Southwest Realty and Development Company, Inc." prepared by Chas. P. Smith Associates, Inc. dated July 19, 1972 and revised as of March 13, 1979; said capped $\frac{1}{2}$ " Iron Rod being 35 feet perpendicular and west of the centerline of Old Highway 90;

THENCE S $50^{\circ}08'52''$ E along the said west right-of-way line of Old Highway 90 and the east line of the herein described tract and being 35 feet perpendicular and west of the centerline of

said Old Highway 90 for a distance of 143.33 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the Point of Curvature (PC) of a curve to the left;

THENCE continuing along the east line of the herein described tract and the west right-of-way line of Old Highway 90, with the said curve to the left having a Radius of 837.76 feet, a chord of 311.47 feet, and a chord bearing of S 59°54'15" E, a distance along the arc of 313.29 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the Point of Tangency (PT) of said curve;

THENCE S 70°35'36" E continuing along the east line of the herein described tract and the west right-of-way line of Old Highway 90 for a distance of 146.11 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the PC of a curve to the right;

THENCE continuing along the east line of the herein described tract and the west right-of-way line of Old Highway 90, with the said curve to the right having a Radius of 767.76 feet, a chord of 324.54 feet, and a chord bearing of S 58°41'24" E, a distance along the arc of 327.00 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the Point of Tangency (PT) of said curve, being 150.00 feet northerly and perpendicular to the centerline of the main line of the Kansas City Southern Railroad in the northerly right-of-way line thereof, also being in the northerly right-of-way line of a 150.00 foot wide strip granted to the Texarkana and Fort Smith Railway Company, July 09, 1909 of record in Volume 6 Page 34 of the Deed Records of Orange County, Texas;

THENCE S 55°02'05" W along the said northerly right-of-way line of the Kansas City Southern Railroad and the southerly line of the herein described tract for a distance of 1563.75 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the northwesterly corner of that portion that was to be saved and excepted of the called 200 foot wide Southern Pacific Railroad (aka Texas & New Orleans Railroad) according to clause in said Volume 6 Page 34 of the Deed Records of Orange County, Texas;

THENCE N 68°16'45" E along the extended north right-of-way line of the Southern Pacific Railroad 200 foot wide R.O.W. for a distance of 327.36 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the northeast corner of the said save and except portion, being 75 feet perpendicular to and northwesterly of the centerline of the mainline of the Kansas City Southern Railroad, being in the northwesterly right-of-way line granted to Texarkana and Fort Smith Railway Company June 22, 1896 of record in Volume P Page 16 of the Deed Records of Orange County, Texas granted as 50 foot each side of mainline plus an additional 25 feet each side from Station 0+72 (lies west of Neches River) to Station 90+16;

THENCE S 55°02'05" W along the west right-of-way line described in said Volume P Page 16 DROCT being 75 feet perpendicular to and northwesterly of the centerline of the main line of the Kansas City Southern Railroad for a distance of 872.96 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the southeast corner of the said save and except portion, being 75 feet perpendicular to and northwesterly of the centerline of the mainline of the Kansas City Southern Railroad, being in the extension of the south right-of-way line of the said Southern Pacific Railroad and in the extension of the north right-of-way line of that called 150 foot wide strip conveyed to Orange County of record in Volume 467 Page 632 of the Deed Records of Orange County, Texas;

THENCE S 68°16'45" W along the said extension of the south right-of-way line of the Southern Pacific Railroad for a distance of 327.36 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the southwest corner of the said save and except portion, being 150 feet perpendicular to and northwesterly of the centerline of the mainline of the Kansas City Southern Railroad in the northwesterly right-of-way line described in said Volume 6 Page 34 DROCT;

THENCE S 55°02'05" W continuing along the said northwesterly right-of-way line described in said Volume 6 Page 34 DROCT for a distance of 3544.96 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the PC of a curve to the left, being 150 feet perpendicular to and northwesterly of centerline Station 22+18.3 on the centerline of the mainline of the Kansas City Southern Railroad;

THENCE continuing along the said northwesterly right-of-way line of Kansas City Southern Railroad, with the said curve to the left having a Radius of 3010.00 feet, a chord of 515.08 feet,

and a chord bearing of S 50°07'35" W, a distance along the arc of 515.71 feet to a ½" capped Iron Rod with plastic cap stamped "F & S 409 832 7238" set for the PT of said curve, being 150.00 feet northerly and perpendicular to the centerline of the main line of the Kansas City Southern Railroad at centerline Station 17+27.5;

THENCE S 45°36'40" W continuing along the said northwesterly right-of-way line described in said Volume 6 Page 34 DROCT for a distance of 209.50 feet to a point in the east bank of the Neches River, being the west line of the herein described tract;

THENCE along the west line of the herein described tract and the meanders of the east bank of the said Neches River the following courses and distances (line numbers on plat):

L11 S 81° 12' 04" W	30.65	L12 N 49° 19' 52" W	29.45
L13 N 56° 53' 11" W	121.72	L14 N 53° 03' 32" W	62.17
L15 N 54° 55' 11" W	69.18	L16 N 44° 37' 37" W	82.08
L17 N 45° 05' 02" W	49.16	L18 N 49° 38' 49" W	88.09
L19 N 46° 41' 54" W	65.72	L20 N 44° 09' 27" W	83.39
L21 N 22° 16' 29" W	66.16	L22 N 55° 53' 13" W	76.15
L23 N 33° 37' 16" W	70.24	L24 N 23° 29' 49" W	114.55
L25 N 13° 04' 02" W	70.12	L26 N 01° 24' 52" W	103.71
L27 N 02° 01' 43" E	93.63	L28 N 17° 19' 13" E	74.58
L29 N 22° 28' 13" E	114.22	L30 N 31° 32' 43" E	96.54
L31 N 43° 49' 30" E	75.21	L32 N 62° 38' 43" E	98.27
L33 N 76° 12' 50" E	350.20	L34 N 89° 41' 33" E	205.53
L35 N 82° 53' 03" E	300.72	L36 N 71° 35' 47" E	229.35
L37 N 71° 47' 06" E	465.62	L38 N 82° 16' 34" E	108.59
L39 N 58° 16' 50" E	139.14	L40 N 46° 19' 40" E	146.32
L41 N 26° 15' 52" E	224.56	L42 N 24° 40' 30" E	120.46
L43 N 11° 56' 16" W	169.03	L44 N 06° 49' 25" E	194.99
L45 N 07° 25' 36" W	213.71	L46 N 18° 08' 02" W	389.08
L47 N 29° 45' 58" W	146.25		

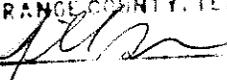
THENCE N 49°49'57" W (L48) continuing along the west line of the herein described tract and the meanders of the east bank of the Neches River for a distance of 334.49 feet to a point in the south line of the said 30.00 acre tract;

THENCE N 85°12'40" E along the south line of the said 30.00 acre tract for a distance of 866.52 feet to an Iron Pipe in a marsh (under water) found for the southeast corner of the said 30.00 acre tract and an interior corner of the herein described tract;

THENCE N 04°48'10" W along the west line of the said 30.00 acre tract and a west line of the herein described tract for a distance of 884.20 feet to the POINT AND PLACE OF BEGINNING and containing 215.626 acres of land, more or less.

FILED FOR RECORD

'04 SEP -9 P3:21

KAREN JO VANCE
COUNTY CLERK
ORANGE COUNTY, TEXAS
BY  DEPUTY