

# TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

FROM: Bert Galvan, Work Leader  
Water Rights Permitting Team

DATE: January 4, 2021

SUBJECT: Luminant Mining Company LLC  
WRPERM 5219  
CN603263773, RN105448724  
Application No. 5219B to Amend Water Use Permit No. 5219  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Hogan Creek and Alder Creek, Sabine River Basin  
Panola County

The application was received on October 21, 2020. Additional information and fees were received on November 30, and December 21, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 4, 2021. Limited mailed notice to the interjacent water right holders of record in the Sabine River Basin is required pursuant to Title 30 Texas Administrative Code § 295.158(c).

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

*H Galvan*

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Bert Galvan, Work Leader  
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*

January 4, 2021

Mr. Justin Ewing  
Luminant Mining Company LLC  
6555 Sierra Drive  
Irving, Texas 75039

**VIA-EMAIL**

RE: Luminant Mining Company LLC  
WRPERM 5219  
CN603263773, RN105448724  
Application No. 5219B to Amend Water Use Permit No. 5219  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Hogan Creek and Alder Creek, Sabine River Basin  
Panola County

Dear Mr. Ewing:

This acknowledges receipt, on November 30, and December 21, 2020, of additional information and fees in the amount of \$ 454.96 (Receipt No. M108172, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on January 4, 2021. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning this matter please contact me via email at [humberto.galvan@tceq.texas.gov](mailto:humberto.galvan@tceq.texas.gov) or by telephone at (512) 239-4013.

Sincerely,

*H Galvan*

Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachment



# Basis2 Receipt Report by Endorsement Number

DEC-28-20 03:24 PM

<u>Acct. #:</u>	<u>Account Name:</u>						<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amt.</u>
<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>			
AMEND	M108172	5219B	VISTRA CORPORATE SERVICES COMPANY	CK	1010174272		BS00084774	23-DEC-20	\$454.96



Renee Collins  
Sr. Director  
Environmental Services

Luminant Power  
6555 Sierra Drive  
Irving, TX 75039

T 214.875-8338  
C 214.406.2452  
F 214.875-8699

December 18, 2020

Texas Commission on Environmental Quality  
Water Supply Division  
Water Rights Permitting MC-160  
P.O. Box 13088  
Austin, Texas 78711-3088

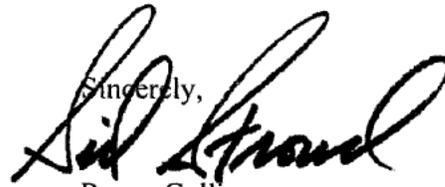
RE: Luminant Mining Company LLC (CN603263773)  
Martin Lake Lignite Mining Area (RN105448724)  
Application No. 5219B to amend WRPERM 5219

Dear Sir or Madam:

Luminant Mining Company LLC (Luminant) hereby submitted an Application for Amendment to Water Use Permit No. 5219 by letter dated October 16, 2020. Luminant received your letter dated November 11, 2020 requesting additional information and additional fees. Your comments are summarized below with Luminant's response in *italics*.

1. Confirm that Regional Water plan referenced in section 4.a. should be Region I Water Plan. *Yes, it should be Region I. The incorrect region was referenced in the application.*
2. Please remit additional fees of \$454.96. *Enclosed is check No. 1010174272 in the amount of \$454.96.*

Thank you for the opportunity to answer your questions. If you have any additional questions, please contact Dr. Justin Ewing of our staff at 214-875-9130 or via e-mail at [REDACTED]

Sincerely,  
  
Renee Collins

RC/JME/tg  
Enclosure

RECEIVED

DEC 21 2020

Water Availability Division

**From:** [Humberto Galvan](#)  
**To:** [Humberto Galvan](#)  
**Subject:** FW: Luminant Mining CO LCC App No. 5219B RFI Sent  
**Date:** Tuesday, December 1, 2020 8:57:51 AM

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**From:** Ewing, Justin [REDACTED]  
**Sent:** Monday, November 30, 2020 10:17 AM  
**To:** Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** RE: Luminant Mining CO LCC App No. 5219B RFI Sent

Mr. Galvan –

In response to question 1; It is confirmed that the reference to Region D in Item 4a on page 4 of the Technical Information Report should be Region I. It should also be noted that on page 9 under Item 1e, the reference to Region D should be Region I.

Is this email response sufficient or should I submit a formal response?

Thanks

Justin

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*

November 30, 2020

Mr. Justin Ewing  
Luminant Mining Company LLC  
6555 Sierra Drive  
Irving, Texas 75039

VIA-EMAIL

RE: Luminant Mining Company LLC  
WRPERM 5219  
CN603263773, RN105448724  
Application No. 5219B to Amend Water Use Permit No. 5219  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Hogan Creek and Alder Creek, Sabine River Basin  
Panola County

Dear Mr. Ewing:

This acknowledges receipt, on October 21, 2020, of the referenced application and partial fees in the amount of \$125.00 (Receipt No. M102012, copy attached).

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

1. Confirm that Regional Water Plan referenced in Section 4.a. of the *Technical Information Report* (page 4) should be the Region I Water Plan).
2. Remit fees in the amount of \$ 454.96 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$ 100.00
Recording Fee	\$ 12.50
<u>Notice Fee (\$ 2.94 x 159 Interjacent Water Rights Holders)</u>	<u>\$ 467.46</u>
TOTAL FEES	\$ 579.96
<u>FEES RECEIVED</u>	<u>\$ 125.00</u>
BALANCE DUE	\$ 454.96

Please provide the requested information and fees by December 30, 2020 or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

Luminant Mining Company  
Application No. 5219B  
November 30, 2020  
Page 2 of 2

If you have any questions concerning this matter, please contact me via email at [humberto.galvan@tceq.texas.gov](mailto:humberto.galvan@tceq.texas.gov) or by telephone at (512) 239-4013.

Sincerely,

*H Galvan*

Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachment







**Luminant**

**Renee Collins**  
Sr. Director  
Environmental Services

**Luminant Power**  
6555 Sierra Drive  
Irving, TX 75039

**T** 214.875-8338  
**C** 214.406.2452  
**F** 214.875-8699

October 16, 2020

Texas Commission on Environmental Quality  
Water Supply Division  
Water Rights Permitting MC-160  
P.O. Box 13088  
Austin, Texas 78711-3088

RE: Luminant Mining Company LLC  
Martin Lake Lignite Mining Area  
Pond AII-99R and CIII-74R Water Use Application  
Water Rights Permit No. 5219 Amendment Application

Dear Sir or Madam:

Luminant Mining Company LLC (Luminant) hereby submits the original and six (6) copies of an Application for a Water Use to authorize the impoundment of inflows for two permanent post-mine ponds greater than 200 acre-feet, ponds AII-99R and CIII-74R, in the Martin Lake Lignite Mining Area (LMA). No diversion of stored water is being requested.

To offset the streamflow depletions caused by the impoundments and evaporation losses, Luminant is proposing to dedicate 50 acre-feet from Water Use Permit No. 5219 as amended. To that end, Luminant hereby submits the original and six (6) copies of an Application for Amendment to Water Use Permit No. 5219 to allow for the use of 50 acre-feet for stream flow depletions and evaporative losses of AII-99R and CIII-74R ponds.

Also enclosed are two checks for the various fees associated with the costs of processing these two applications. Check No. 1010169589 for \$1,253.00 is for the new water use application and Check No. 1010169590 for \$125.00 is for the amendment application.

Your attention to this application is appreciated. If you have any questions, please contact Dr. Justin Ewing of our staff at 214-875-9130 or via e-mail at [REDACTED]

Sincerely,

Renee Collins

RC/JME/tg  
Enclosure

**APPLICATION FOR  
AMENDMENT OF PERMIT NO. 5219, AS AMENDED**

**Luminant Mining Company LLC  
Sabine River Basin  
Panola County, Texas**

**1. INTRODUCTION**

Luminant Mining Company LLC, referred to herein as “Luminant Mining”, is the owner of Permit No. 5219, as amended, which authorizes diversions and impoundments on Hogan Creek and Alder Creek, both tributaries of Martin Creek, a tributary of the Sabine River in Panola County, Texas (see Appendix A). Luminant Mining plans to use a portion of these authorizations under Permit No. 5219 to offset the streamflow depletions caused by two existing ponds (referred to as “Pond AII-99R” and “Pond CIII-74R”) at Luminant Mining’s Martin Lake Lignite Mining Area (“MLLMA”) in Panola County so that these ponds can be permitted. As a consequence of such impoundment in these two ponds, Luminant Mining would correspondingly limit its authorized diversions and impoundments under Permit No. 5219.

With this application, Luminant Mining requests the Texas Commission on Environmental Quality (“TCEQ”) to authorize the following revisions to the terms and conditions of Permit No. 5219, as amended:

- 1) Allow 50 acre-feet per year out of the 129 acre-feet per year of the currently authorized annual diversion amount from Hogan Creek with a priority date of March 20, 1989, to be used to offset the effects of streamflow depletions due to the impoundment of water in Luminant Mining’s Ponds AII-99R and CIII-74R;
- 2) Conditionally limit the 129 acre-feet per year of currently authorized annual diversion amount from Hogan Creek with a priority date of March 20, 1989, to 79 acre-feet per year;
- 3) Allow 85 acre-feet of the 100 acre-feet of currently authorized storage capacity in Pond B-81 on Hogan Creek with a priority date of March 20, 1989, to be used to offset the effects of streamflow depletions caused by impoundment of water in Luminant Mining’s Ponds AII-99R and CIII-74R;
- 4) Conditionally limit the 100 acre-feet of currently authorized storage capacity in Pond B-81 on Hogan Creek with a priority date of March 20, 1989, to 15 acre-feet;
- 5) Allow the diversion offset and storage conditional limits with a priority date of March 20, 1989, to be adjusted automatically if Luminant Mining submits a professional engineer’s report and certified pond surveys to TCEQ that demonstrate the total surface area of Ponds

AII-99R and CIII-74R has been reduced and thus the median annual evaporative loss from the ponds has been reduced as demonstrated in the engineer's report.

- 6) Forfeit the currently authorized annual diversion and use of 125 acre-feet per year for industrial purposes from Alder Creek with a priority date of February 7, 2008, pursuant to Special Condition 6.A of Amendment No. 1 of Permit No. 5219.

Authorization for impoundment in and operation of Luminant Mining's Ponds AII-99R and CIII-74R that are to remain after cessation of mining and reclamation operations at Luminant's MLLMA is being requested concurrently in a separate water rights application that has been filed with the TCEQ by Luminant Mining.

## **2. DESCRIPTION OF PERMIT NO. 5219, AS AMENDED**

Permit No. 5219 was issued to Texas Utilities Mining Company (Luminant Mining Company LLC's predecessor) on June 5, 1989, authorizing a 100 acre-foot impoundment (referred to as "Pond B-81") on Hogan Creek, a tributary of Martin Creek, a tributary of the Sabine River in Panola County, and diversions of up to 129 acre-feet per year from Pond B-81 on Hogan Creek for industrial use in the MLLMA. The priority date for these water right authorizations is March 20, 1989.

Subsequently, Permit No. 5219 was amended ("Amendment A") with the following modifications:

- 1) Enlargement of the storage capacity of Pond B-81 by an additional 180 acre-feet to a total of 280 acre-feet, with a priority date of February 7, 2008, for the additional 180 acre-feet of storage capacity,
- 2) Designation of a diversion segment on Hogan Creek, including Pond B-81, for the original 129 acre-feet per year of diversion authority, referred to as "Diversion Segment No. 1",
- 3) Addition of a second impoundment (referred to as Pond CII-20) on Alder Creek (a tributary of Martin Creek) in Panola County with a maximum storage capacity of 449 acre-feet with a priority date of February 7, 2008,
- 4) Addition of a new diversion authority of up to 125 acre-feet per year associated with Pond CII-20 on Alder Creek for industrial (mining) purposes with a priority date of February 7, 2008, and
- 5) Designation of a diversion segment on Alder Creek, including Pond CII-20, for the additional 125 acre-feet per year of new diversion authority, referred to as "Diversion Segment No. 2".

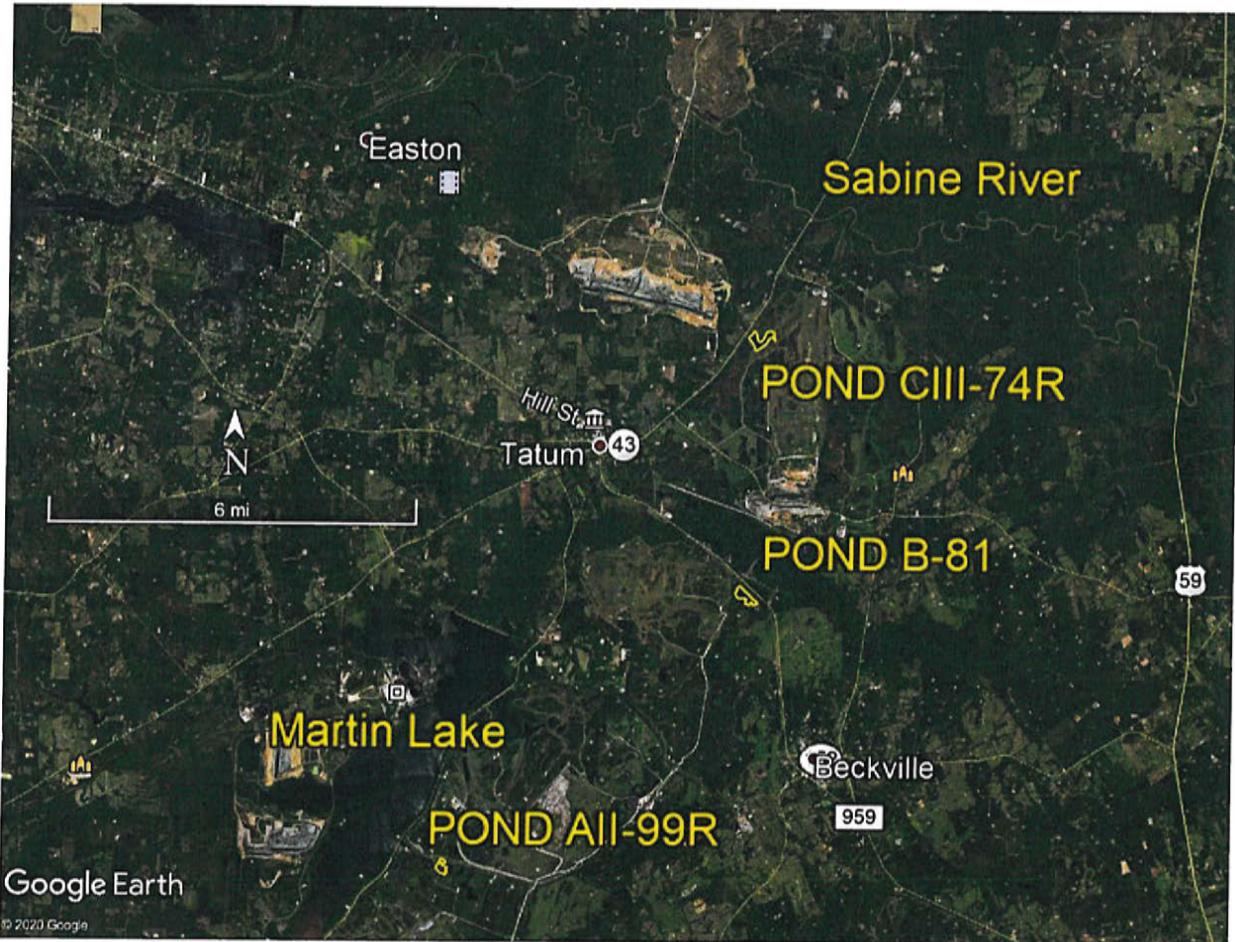
Also, included in the previous Amendment A of Permit No. 5219 is Special Condition 6.A that requires the diversion of the additional 125 acre-feet per year from Alder Creek to cease upon the cessation of mining activities at the MLLMA, with either the permit amended to authorize an

additional purpose of use or the diversion authority voluntarily forfeited. None of the other authorizations for impoundments or diversions under Permit No. 5219, as amended, are subject to this termination requirement; hence, they are authorized in perpetuity.

### 3. PROPOSED AMENDMENT OF PERMIT NO. 5219

As described above, the proposed amendment of Permit No. 5219 relates to using part of the authorized annual diversion amount (50 acre-feet per year) and part of the authorized storage capacity (85 acre-feet) to offset the effects of streamflow depletions caused by the impoundment of water in two existing Luminant Mining ponds that are proposed to remain after cessation of mining and reclamation operations at the MLLMA in Panola County. These ponds, referred to as Ponds AII-99R and CIII-74R, are identified on the aerial map in Figure 1.

**FIGURE 1 – LOCATION OF NEW PONDS AII-99R AND CIII-74R AND POND B-81 AUTHORIZED UNDER PERMIT NO. 5219**



Also shown on the aerial map in Figure 1 is the location of Pond B-81, which is authorized under Permit No. 5219 and is the source of the diversion and impoundment authority that is to be used to offset the streamflow depletions associated with Ponds AII-99R and CIII-74R.

Ponds AII-99R and CIII-74R are incised, exempt mining ponds formed in conjunction with final mining pit reclamation pursuant to Texas Railroad Commission Martin Lake Mining Permit No. 4L. Pond AII-99R is located on Weir Creek just upstream from where this watercourse flows into Martin Lake on Martin Creek. CIII-74R is located on Watson Branch approximately 2.5 miles upstream from the Sabine River. The normal pool operating levels for Ponds AII-99R and CIII-74R, expressed as elevations, are presented in Table 1 along with the corresponding surface area and storage capacity. These normal pool operating levels are maintained with an uncontrolled spillway at each pond.

**TABLE 1 - CHARACTERISTICS OF LUMINANT PONDS AII-99R AND CIII-74R**

<b>POND</b>	<b>NORMAL POOL OPERATING LEVEL (feet msl)</b>	<b>SURFACE AREA AT NORMAL POOL OPERATING LEVEL (acres)</b>	<b>STORAGE CAPACITY AT NORMAL POOL OPERATING ELEVATION (acre-feet)</b>
AII-99R	317.42	19.8	238
CIII-74R	315.54	31.8	750
Totals	--	51.6	988

After the reclamation operations are completed, Ponds AII-99R and CIII-74R will continue to impound inflows, with outflows from the ponds discharged through uncontrolled spillways. The proposed plan is for the depletions of streamflows by these ponds, due to both their impoundment of inflows and their evaporation losses, to be accounted for and offset through an amendment of Permit No. 5219 that limits both the maximum annual diversion from Hogan Creek and the maximum storage capacity of Pond B-81. In other words, instead of diverting from Hogan Creek up to the currently-authorized annual diversion amount of 129 acre-feet per year (with a priority date of March 20, 1989), the maximum annual diversion will be limited and reduced to 79 acre-feet per year by a special condition in the proposed Amendment. As discussed below, this reduction in diversion authority of 50 acre-feet per year is equal to the median annual combined streamflow depletion of Ponds AII-99R and CIII-74R. Similarly, the authorized storage capacity in Pond B-81 with a priority date of March 20, 1989, will be reduced from 100 acre-feet to 15 acre-feet (leaving the total authorized storage capacity for Pond B-81 equal to 195 acre-feet). The 50 acre-feet per year of diversion reduction and the 85 acre-feet of storage reduction both will be used to offset the streamflow depletions of Ponds AII-99R and CIII-74R.

Analyses have been performed using the TCEQ's Water Availability Model ("WAM") for the Sabine River Basin to evaluate and quantify the annual magnitude of the streamflow depletions due to Luminant Mining's Ponds AII-99R and CIII-74R. The physical dimensions and locations of the ponds were coded into the WAM data files with the priority date for impounding flows in the ponds set equal to March 20, 1989, the same priority date as that for the diversion of 129 acre-feet per year from Hogan Creek and the impoundment of the 100 acre-feet in Pond B-81 as authorized under Permit No. 5219. Also, the impoundment of inflows in these two ponds in the model was subject to environmental flow restrictions associated with the next downstream gage location where TCEQ has adopted environmental flow standards. This is at the gage on the Sabine River at Beckville<sup>1</sup>. It should also be noted that both of these ponds are located upstream of the point on the Sabine River where the Stateline flow is referenced for purposes of the Sabine River Compact between the states of Texas and Louisiana, and in the WAM, the impoundment of inflows in both of these ponds is subject to the minimum bypass flow requirement at the Stateline location. This modified WAM then was run and the monthly streamflow depletions for Ponds AII-99R and CIII-74R were simulated for the 1940-1998 WAM simulation period. Analysis of the annual sums of the streamflow depletions for Ponds AII-99R and CIII-74R for the 59-year period indicated the median annual value to be 50 acre-feet per year, and this is the value that has been adopted for purposes of this amendment of Permit No. 5219. With this adjustment of diversion authority under Permit No. 5219, the maximum annual amount for diversions from Hogan Creek with a priority date of March 20, 1989, is 79 acre-feet per year ( $129 - 50 = 79$ ), with the remaining 50 acre-feet per year dedicated to offsetting the streamflow depletions of Ponds AII-99R and CIII-74R.

#### 4. AMENDMENT IMPACT ANALYSIS

The WAM for the Sabine River Basin also has been employed to examine the potential impacts on other water rights of the proposed amendment of Permit No. 5219 and the proposed water use permit for Ponds AII-99R and CIII-74R. First, results from a "baseline" WAM simulation were developed using the TCEQ's version of the Sabine WAM with Permit No. 5219 represented as it is currently authorized and without Ponds AII-99R and CIII-74R included in the model. These results then were compared against corresponding results from a modified "with-project" WAM simulation that included the following modifications to represent the proposed amendment of Permit No. 5219 and the proposed water use permit for Ponds AII-99R and CIII-74R:

- For Permit No. 5219, the maximum storage capacity of Pond B-81 on Hogan Creek with a March 20, 1989, priority date was set equal to 15 acre-feet,
- For Permit No. 5219, the maximum annual diversion from Hogan Creek with a March 20, 1989, priority date was limited to 79 acre-feet per year,

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<sup>1</sup> It should be noted that Pond AII-99R actually is located hydrologically downstream of the Beckville gage; however, special coding in the WAM made the impoundment of inflows in this pond subject to the Beckville environmental flow standards.

- For Permit No. 5219, the diversion of a maximum of 125 acre-feet per year from Alder Creek with a February 7, 2008, priority date was eliminated (forfeited) to represent post-mining conditions in accordance with Special Condition 6.A of Amendment No. 1 of Permit No. 5219,
- Pond AII-99R was represented at its location on Weir Creek with its physical properties and with a March 20, 1989, priority date for impounding inflows, subject to environmental flow standards at the gage on the Sabine River at Beckville and subject to the Sabine River Compact Stateline minimum bypass flow requirement, and
- Pond CIII-74R was represented at its location on Watson Branch with its physical properties and with a March 20, 1989, priority date for impounding inflows, subject to environmental flow standards at the gage on the Sabine River at Beckville and subject to the Sabine River Compact Stateline minimum bypass flow requirement.

Results from the baseline WAM simulation and from the modified with-project WAM simulation are summarized in Table 2. On the first page (Columns 2 and 3, Rows 3-8), maximum authorized diversion amounts and storage capacities for Permit No. 5219 as represented in the two WAM simulations are summarized. The reduced quantities shown in Rows 4-6 of Column 3 for the with-project simulation reflect the proposed amendment of Permit No. 5219. As indicated, the maximum diversion amount for the Alder Creek diversion in Row 6 is set equal to zero, which is consistent with post-mining conditions. The behavior of Ponds AII-99R and CIII-74R in terms of their simulated storage conditions is indicated in Column 3, Rows 12-26. As shown, Pond AII-99R is 100% full 37% of the time, and Pond CIII-74R is 100% full 59% of the time. Neither of the ponds goes completely dry during the entire 1940-1998 simulation period of the WAM (Column 3, Rows 25-26). Also shown at the bottom of the table on the first page are average and maximum annual values for the diversions and ponds authorized under Permit No. 5219 for existing conditions (Column 2, Rows 27-39) and for with-project conditions with the proposed permit amendment and with the proposed water use permit for Ponds AII-99R and CIII-74R (Column 3, Rows 27-39). Changes from the existing baseline conditions are clearly evident with regard to the Hogan Creek diversion, the Pond B-81 storage, and the Alder Creek diversion.

On the second page of the table, the magnitude of the simulated streamflow depletions for each of the ponds and for both ponds combined are shown in Column 3, Rows 40-52, expressed as average annual, maximum annual, and median annual values. The median value of 50 acre-feet per year for streamflow depletions by both ponds is shown in Row 52 of Column 3. The effects of the proposed amendment of Permit No. 5219 and the pond streamflow depletions on storage conditions and the critical drought for Toledo Bend Reservoir are illustrated by the quantities in Columns 2 and 3, Rows 53-62. As shown, the effects are actually positive, with slightly more average storage and minimum storage in the reservoir with the proposed amendment of Permit No. 5219 and with Ponds AII-99R and CIII-74R compared to the existing baseline conditions. The

critical drought period for the reservoir is unchanged (Columns 2 and 3, Rows 61-62); however, with slightly greater minimum storage in the reservoir during the critical drought period for the with-project case (Columns 2 and 3, Row 57), the firm yield of Toledo Bend Reservoir would also likely be slightly greater than under existing conditions.

Finally, the effects of the proposed amendment of Permit No. 5219 and Ponds AII-99R and CIII-74R on the volume reliabilities of other water rights in the Sabine River Basin are summarized in Columns 2 and 3, Rows 63-69. As shown, the reliabilities of only two water rights are impacted, with both of these being negatively affected. However, the negative changes in reliability are considered de minimis, with the average reduction in reliability only -0.31% and the maximum reduction equal to -0.60%. These changes in reliability are insignificant and are considerably smaller than the degree of accuracy normally associated with WAM results. More importantly, however, is the fact that both of these negatively-affected reliabilities are for water rights owned by Luminant Mining; therefore, they should not be an issue with regard to this application. It should also be noted that the proposed amendment of Permit No. 5219 and the impoundment of inflows in Ponds AII-99R and CIII-74R as represented in the Sabine WAM do not cause any violations of the Sabine River Compact.

## **5. OFFSET ADJUSTMENT**

It is anticipated that the surface area of Ponds AII-99R and CIII-74R and their capacity to impound water will reduce over time due to sedimentation. Accordingly, Luminant Mining requests that the offset amount for the ponds under the special condition that reduces the maximum amount that Luminant Mining will divert from Hogan Creek be adjusted automatically if Luminant Mining submits a professional engineer's report and certified survey of the ponds to TCEQ that demonstrates the total surface area and capacity of the ponds have been reduced, and thus the average annual evaporative loss from the ponds and the median streamflow depletions also have been reduced.

## **6. ATTACHED APPLICATION DOCUMENTS**

- Appendix A Permit No. 5219, as Amended
- Appendix B Administrative Information Report, TCEQ Form 10214b
- Appendix C Technical Information Report, TCEQ Form 10214c
- Appendix D Signature Authority Verification
- Appendix E Application Maps

## **7. ADDENDUM - TEXAS UTILITIES-LUMINANT NAME CHANGE DOCUMENTATION**

Provided as separate document accompanying application package.

**TABLE 2  
SUMMARY OF RESULTS FROM WAM SIMULATIONS**

(1)	(1) PARAMETER	(2) BASELINE RUN WITH AUTHORIZED PERMIT 5219 WITHOUT NEW PONDS	(3) WITH-PROJECT RUN WITH PERMIT 5219 AMENDMENT WITH NEW PONDS
(2)	Instream Flow Requirements on Ponds AII-99R and CIII-74R	--	Sabine River at Beckville
(3)	Permit 5219 Maximum Authorized Amounts		
(4)	Hogan Creek March 20, 1989 Industrial Diversion	129	79
(5)	Hogan Creek March 20, 1989 Pond B-81 Capacity	100	15
(6)	Alder Creek February 7, 2008 Industrial Diversion	125	0
(7)	Hogan Creek February 7, 2008 Pond B-81 Capacity	180	180
(8)	Alder Creek February 7, 2008 Pond CII-20 Capacity	449	449
(9)	Maximum Pond Capacities		
(10)	AII-99R	--	238
(11)	CIII-74R	--	750
(12)	Simulated Average Pond Storage		
(13)	AII-99R	--	215
(14)	CIII-74R	--	742
(15)	Percent of Time Ponds 100% Full		
(16)	AII-99R	--	37%
(17)	CIII-74R	--	59%
(18)	Percent of Time Ponds >= 90% Full		
(19)	AII-99R	--	63%
(20)	CIII-74R	--	100%
(21)	Percent of Time Ponds >= 75% Full		
(22)	AII-99R	--	86%
(23)	CIII-74R	--	100%
(24)	Simulated Minimum Storage in Ponds		
(25)	AII-99R	--	112
(26)	CIII-74R	--	693
(27)	Permit 5219 Simulated Operation		
(28)	Hogan Creek Industrial Diversion		
(29)	Average Annual	129	78
(30)	Maximum Annual	129	79
(31)	Hogan Creek Pond B-81 Storage		
(32)	Average Annual	219	143
(33)	Maximum Annual	280	195
(34)	Alder Creek Industrial Diversion		
(35)	Average Annual	105	0
(36)	Maximum Annual	125	0
(37)	Alder Creek Pond CII-20 Storage		
(38)	Average Annual	272	345
(39)	Maximum Annual	449	449

## SUMMARY OF RESULTS FROM WAM SIMULATIONS, cont'd.

(1)	(2)	(3)
PARAMETER	BASELINE RUN WITH AUTHORIZED PERMIT 5219 WITHOUT NEW PONDS	WITH-PROJECT RUN WITH PERMIT 5219 AMENDMENT WITH NEW PONDS
(40) Ponds Simulated Streamflow Depletions:		
(41) Average Annual Streamflow Depletions		
(42) AII-99R	--	20
(43) CIII-74R	--	35
(44) Both Ponds	--	55
(45) Maximum Annual Streamflow Depletions		
(46) AII-99R	--	121
(47) CIII-74R	--	100
(48) Both Ponds	--	188
(49) Median Annual Streamflow Depletions		
(50) AII-99R	--	11
(51) CIII-74R	--	35
(52) Both Ponds	--	50
(53) Simulated Toledo Bend Lake Conditions:		
(54) Average Monthly Storage	3,475,953	3,475,960
(55) Ave. Monthly Storage Change from Baseline	--	7
(56) % Average Monthly Storage Change	--	0.0002%
(57) Minimum Monthly Storage	7	65
(58) Minimum Storage Month	12/1967	12/1967
(59) Min. Monthly Storage Change from Baseline	--	58
(60) % Minimum Monthly Storage Change	--	829%
(61) Critical Drought Period	06/1962 - 04/1969	06/1962 - 04/1969
(62) Critical Drought Duration, months	83	83
(63) Simulated Water Rights Reliabilities		
(64) Total Number of Water Right Diversions	--	157
(65) Water Right Diversions Not Impacted	--	155
(66) Water Right Diversions Negatively Impacted	--	2 [1]
(67) Average % Negative Impact	--	-0.31%
(68) Maximum % Negative Impact	--	-0.60%
(69) Water Right Diversions Positively Impacted	--	0

Note: [1] Both of the negatively-impacted water rights are owned by Luminant Mining Company.

**APPENDIX A**

**PERMIT NO. 5219, AS AMENDED**

FILED FOR RECORD  
IN MY OFFICE

AT 4:00 O'CLOCK, P M.

JUL 5 1989

JOYCE BURGESS  
COUNTY CLERK, PANOLA COUNTY, TEXAS  
BY R. Brown DEPUTY

PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 5219      PERMIT NO. 5219      TYPE: §11.121

Permittee:      Texas Utilities Mining Company      Address:      ATTN: Environmental Service Mgr.  
P.O. Box 800  
Fairfield, Texas 75840

Filed:      March 20, 1989      Granted:      June 5, 1989

Purpose:      Industrial      County:      Panola

Watercourse:      An unnamed tributary of Martin Creek and Hogan Creek, tributary of Martin Creek, tributary of the Sabine River      Watershed:      Sabine River Basin

WHEREAS, in accordance with Railroad Commission of Texas regulations, Texas Utilities Mining Company will operate and maintain at its Martin Lake Mine a proposed on-channel sediment pond (B-81) on Hogan Creek that will impound water and redirect the flows of a section of an unnamed tributary of Martin Creek by using Ditch B-74 that lies within the mining area into Pond B-81; and

WHEREAS, Texas Utilities Mining Company has submitted a water use permit application to authorize an impoundment (Pond B-81) at an elevation below the lowest ungated outlet and to redirect the flows of a section of an unnamed tributary of Martin Creek within the mining area; and

WHEREAS, the Texas Water Commission finds that jurisdiction over the application is established; and

WHEREAS, no person protested the granting of this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Water Commission in issuing this permit.

NOW, THEREFORE, this permit to appropriate, divert and use State water is issued to Texas Utilities Mining Company, subject to the following terms and conditions:

1. IMPOUNDMENT

Permittee is authorized to construct a dam and reservoir on Hogan Creek and impound therein not to exceed 100 acre-feet of water at a sediment pool elevation of 262.4 feet above mean sea level, which is 7.6 feet below the lowest ungated outlet. The dam will be in the William Hamilton Survey, Abstract No. 272, Panola County, Texas. Station 25+00 on the centerline of the dam is N 21°50' E, 6800 feet from the southwest corner of the aforesaid William Hamilton survey, approximately 12.4 miles northwest of Carthage, Texas.

2. USE

(a) Permittee is authorized to divert and use not to exceed 129 acre-feet of water per annum from Pond B-81 for industrial purposes (dust control).

(b) Permittee is authorized to redirect a portion of the flows of an unnamed tributary of Martin Creek by Diversion Ditch B-74 into off-channel Pond B-74 for direct release into Pond B-81 for sediment control purposes.

3. DIVERSION

(a) From the perimeter of the reservoir at a maximum diversion rate of 7.8 cfs (3500 gpm).

(b) Water will be diverted (redirected) from the unnamed tributary of Martin Creek via diversion ditch B-74 by gravity flow at a point on the unnamed tributary N 32°40' E, 6150 feet from the aforesaid survey corner.

4. TIME LIMITATIONS

(a) Construction of the dam and diversion facilities shall be commenced within two years and completed within three years from date of issuance of this permit, and construction of the dam shall be in accordance with plans approved by the Executive Director.

(b) Failure to commence and/or complete construction of the dam and diversion facilities within the period stated above shall cause this permit to expire and become null and void, unless permittee applies for an extension of time to commence and/or complete construction prior to the respective deadlines for commencement and completion, and the application is subsequently granted.

5. SPECIAL CONDITIONS

(a) When ordered to do so by the Commission, permittee shall provide a means to pass inflows past the dam in such quantities as may be necessary to satisfy the rights of downstream domestic and livestock users and the senior and superior rights of other authorized users.

(b) Upon cessation of mining and reclamation operations, the dam creating Pond B-81 will be modified so that the impoundment at the uncontrolled outlet elevation is no longer under Commission jurisdiction.

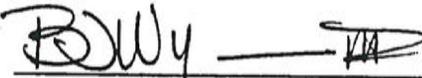
This permit is issued subject to all superior and senior water rights in the Sabine River Basin.

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

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

This permit is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

  
\_\_\_\_\_  
B. J. Wynne, III, Chairman

DATE ISSUED: June 30, 1989

ATTEST:

  
\_\_\_\_\_  
Brenda W. Foster, Chief Clerk

# 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 of the Commission. Given under my hand and the seal of office on

*LaDonna Castanuela* **MAY 05 2009**

LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality

## AMENDMENT TO A WATER USE PERMIT

PERMIT NO. 5219A

TYPE §11.122

Permittee:	Luminant Mining Company LLC	Address:	500 North Akard Street Dallas, Texas 75201
Filed:	February 7, 2008	Granted:	<b>APR 22 2009</b>
Purpose:	Industrial	County:	Panola
Watercourse:	Unnamed tributaries of Martin Creek, Hogan Creek, and Alder Creek, tributaries of Martin Creek, tributary of the Sabine River	Watershed:	Sabine River Basin

WHEREAS, Water Use Permit No. 5219 authorizes Permittee to construct a dam and reservoir (Pond B-81) within the Martin Lake Lignite Mining Area (LMA) on Hogan Creek, tributary of Martin Creek, tributary of the Sabine River, Sabine River Basin, and impound not to exceed 100 acre-feet of water at a sediment pool elevation of 262.4 feet above mean sea level. Permittee is also authorized to divert and use not to exceed 129 acre-feet of water per year from the perimeter of Pond B-81 at a maximum diversion rate of 7.8 cfs (3,500gpm) for industrial purposes and is authorized to redirect a portion of the flows of an unnamed tributary of Martin Creek by diversion Ditch B-74 via gravity flow into off-channel Pond B-74 for subsequent direct release into Pond B-81 for sediment control purposes. Several special conditions apply. The time priority for the authorization is March 20, 1989; and

WHEREAS, Applicant has applied to amend Water Use Permit No. 5219 to increase the storage capacity for Pond B-81 to impound an additional 180 acre-feet of water, making the total proposed capacity 280 acre-feet of water with a total proposed surface area of 65.7 acres; and

WHEREAS, Applicant also seeks to change the diversion point from the perimeter of Pond B-81 to a diversion segment (Diversion Segment No. 1) located within the boundary of Martin Lake LMA on Hogan Creek, which includes the perimeter of Pond B-81. The downstream point of Diversion Segment No. 1 will be located at Latitude 32.2808°N, Longitude 94.4739°W, bearing S 15.6677° E, 6.870 feet from the northwest corner of the William Hamilton Original Survey, Abstract No. 272, approximately 2.7 miles northwest of the Town of Beckville, in Panola County, Texas. The upstream point will be located at Latitude 32.2409°N, Longitude 94.4937°W, bearing S 10.3180° W, 21.635 feet from the northwest corner of the Hamilton Survey, approximately 2.2 miles southwest of the Town of Beckville; and

WHEREAS, Applicant also seeks authorization to maintain an existing reservoir (Pond CII-20) on Alder Creek, tributary of Martin Creek, impounding not to exceed 449 acre-feet of water with a surface area of 20.6 acres of land in Panola County. The reservoir is located in the Adam Lagrone Original Survey, Abstract No. 391, bearing S 32.1522° E, 10,638 feet from the northwest corner of the Hamilton Survey at Latitude 32.3234° N, Longitude 94.4601° W, approximately 5.5 miles northwest of the Town of Beckville; and

WHEREAS, Applicant further seeks authorization to divert and use an additional, not to exceed, 125 acre-feet of water per year from a diversion segment (Diversion Segment No. 2) located within the boundary of Martin Lake LMA for industrial purposes in Panola County, Texas, which includes the perimeter of Pond CII-20. The downstream point of Diversion Segment No. 2 is located on Alder Creek at Latitude 32.2987° N, Longitude 94.4815° W, being S 76.5283° W, 703 feet from the northwest corner of the Hamilton Survey, approximately 4.0 miles in a northwest direction from Town of Beckville. The upstream point is located on an unnamed tributary of Alder Creek at Latitude 32.3234° N, Longitude 94.4601° W, being N 32.1522° E, 10,638 feet from the northwest corner of the Hamilton Survey, approximately 5.5 miles northwest of the Town of Beckville; and

WHEREAS, Applicant finally seeks to increase the combined maximum diversion rate to 15.6 cfs (7,000 gpm); and

WHEREAS, ownership of the mining rights in Luminant Mining Company LLC's Martin Lake LMA is held under multiple mining leases and actual Company ownership as evidenced by warranty deeds and leases in the application filed with the Texas Railroad Commission and in the Deed Records of Panola County, Texas; and

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

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

WHEREAS, Applicant indicates that mining operations will likely continue through the life of the mine, which could be through the Year 2016; and

WHEREAS, no requests for a contested case hearing were received for this application; and

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

NOW, THEREFORE, this amendment to Water Use Permit No. 5219, designated Water Use Permit No. 5219A, is issued to Luminant Mining Company LLC subject to the following terms and conditions:

1. IMPOUNDMENTS

In lieu of the previous Impoundment authorization, Permittee is now authorized to maintain two existing on-channel dams and reservoirs (known as Ponds B-81 and CII-20) within the

Martin Lake LMA for industrial purposes. The two dams and reservoirs are located in Panola County and further described as follows:

- A. **Pond B-81** – The reservoir is located on Hogan Creek, tributary of Martin Creek, tributary of the Sabine River, Sabine River Basin, in the William Hamilton Survey, Abstract No. 272, with Station 25+00 on the centerline of the dam being N 21.833° E, 6.800 feet from the southwest corner of the Hamilton Survey at Latitude 32.2808°N, Longitude 94.4739°W, approximately 12.4 miles northwest of the Town of Carthage, Texas, and impounds not to exceed 280 acre-feet of water with a surface area of 65.7 acres.
- B. **Pond CII-20** - The reservoir is located on Alder Creek, tributary of Martin Creek, in the Adam Lagrone Original Survey, Abstract No. 391, being S 32.1522E E, 10,638 feet from the northwest corner of the Hamilton Survey at Latitude 32.3234° N, Longitude 94.4601° W, approximately 5.5 miles northwest of the Town of Beckville, and impounds not to exceed 449 acre-feet of water with a surface area of 20.6 acres.

2. USE

- A. In lieu of USE Paragraph 2.a., Permittee is now authorized to divert and use not to exceed 129 acre-feet of water per year from Diversion Segment No. 1 for industrial purposes.
- B. Permittee is authorized to divert and use not to exceed 125 acre-feet of water per year from Diversion Segment No. 2 for industrial purposes.

3. DIVERSION

In lieu of DIVERSION Paragraph 3.a., Permittee may now divert water from the following two segments at the following combined maximum diversion rate:

- A. **Diversion Segment No. 1** - located within the boundary of Martin Lake LMA on Hogan Creek, which includes the perimeter of Pond B-81. The downstream point of Diversion Segment No. 1 will be located at Latitude 32.2808°N, Longitude 94.4739°W, being S 15.6677° E, 6,870 feet from the northwest corner of the William Hamilton Original Survey, Abstract No. 272, approximately 2.7 miles northwest of the Town of Beckville, in Panola County, Texas. The upstream point will be located at Latitude 32.2409°N, Longitude 94.4937°W, being S 10.3180° W, 21.635 feet from the northwest corner of the Hamilton Survey, approximately 2.2 miles southwest of the Town of Beckville.
- B. **Diversion Segment No. 2** - located within the boundary of Martin Lake LMA which includes the perimeter of Pond CII-20. The downstream Point of Diversion Segment No. 2 is located on Alder Creek at Latitude 32.2987° N, Longitude 94.4815° W, bearing S 76.5283° W, 703 feet from

the northwest corner of the Hamilton Survey, approximately 4.0 miles in a northwest direction from Town of Beckville. The upstream point is located on an unnamed tributary of Alder Creek at Latitude 32.3234°N. Longitude 94.4601°W, bearing N 32.1522° E, 10,638 feet from the northwest corner of the Hamilton Survey, approximately 5.5 miles northwest of the Town of Beckville.

- C. In lieu of the previous diversion rate, Permittee may now divert the authorized water at a combined maximum diversion rate of 15.6 cfs (7,000 gpm).

#### 4. PRIORITY DATES

- A. The priority date for the 129 acre-foot portion of water described in USE Paragraph 2.A. is March 20, 1989.
- B. The priority date for the initial 100 acre-feet of water impounded in Pond B-81 as described in IMPOUNDMENT Paragraph 1.A. is March 20, 1989.
- C. The Priority Date for the 125 acre-foot portion of water, authorized by this amendment, and described in USE Paragraph 2.B. is February 7, 2008.
- D. The priority date for the remaining 180 acre-feet of water impounded in Pond B-81, authorized by this amendment, and described in IMPOUNDMENT Paragraph 1.A. is February 7, 2008.
- E. The priority date for the 449 acre-feet of water impounded by Pond CII-20, authorized by this amendment, and described in IMPOUNDMENT Paragraph 1.B. is February 7, 2008.

#### 5. CONSERVATION

Permittee shall implement a conservation plan that provides for the utilization of water conservation practices, techniques and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.

#### 6. SPECIAL CONDITIONS

- A. Upon cessation of mining activities, Permittee shall immediately cease diversion and use of the additional 125 acre-feet of water from Alder Creek under this amendment and either apply to amend the permit with an additional purpose of use, or voluntarily forfeit diversion and use of the additional 125 acre-foot portion of water from Alder Creek. If permittee does not amend or forfeit the diversion and use of the additional 125 acre-foot portion of water from Alder Creek, the TCEQ may begin proceedings to cancel the diversion and use of the additional 125 acre-

feet of water from Alder Creek. The Commission shall be notified immediately by the Permittee upon amendment or expiration of such diversion and use and provided with copies of appropriate documents effecting such changes.

- B. Permittee shall follow and implement the mining operation and reclamation plans for the Martin Lake LMA as approved by the Railroad Commission of Texas and the U.S. Army Corps of Engineers in order to minimize disturbance and adverse impacts on the environment.

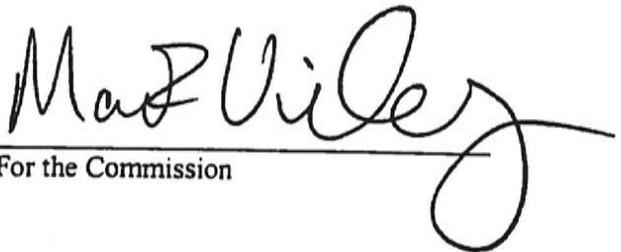
This amendment is issued subject to all terms, conditions, and provisions contained in Water Use Permit No. 5219, except as specifically amended herein.

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

Permittee 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: APR 22 2009

# 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): LUMINANT MINING COMPANY 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

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

Y/N

N Worksheet 3.0  
N Additional W.S 3.0 for each Point  
N Recorded Deeds for Diversion Points  
N Consent For Diversion Access  
N Worksheet 4.0  
N TPDES Permit(s)  
N WWTP Discharge Data  
N 24-hour Pump Test  
N Groundwater Well Permit  
N Signed Water Supply Contract  
N Worksheet 4.1  
N Worksheet 5.0  
N Addendum to Worksheet 5.0  
N Worksheet 6.0  
N Water Conservation Plan(s)  
N Drought Contingency Plan(s)  
N Documentation of Adoption  
Y Worksheet 7.0  
N Accounting Plan  
Y Worksheet 8.0  
Y 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) 239-4691.**

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

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

  N   New Appropriation of State Water

  Y   Amendment to a Water Right \*

  N   Bed and Banks

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

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

See accompanying narrative titled APPLICATION FOR AMENDMENT OF PERMIT NO. 5219,

AS AMENDED.

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

### a. Applicant

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

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

Lumining Mining Company 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 : 603263773 ( 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: Renee Collins

Title: Sr. Director Env. Services

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: Luminant Mining Company

Mailing Address: 6555 Sierra Dr., Env. Services

City: Irving

State: Texas

ZIP Code: 75039

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 Limited Liability Corp

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 752967821 SOS Charter (filing) Number: 800878300

### 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: Justin Ewing

Title: Environmental Coordinator

Organization Name: Lumining Mining Company

Mailing Address: 6555 Sierra Dr., Env. Serv

City: Irving

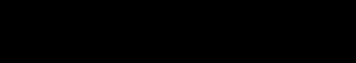
State: Teks

ZIP Code: 75039

Phone No.: 214-875-9130

Extension:

Fax No.: 214-875-8699

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) 239-4691, prior to submitting your application.

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

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

Account number:

Amount past due:

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

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

Enforcement order number:

Amount past due:

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

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

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

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

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

Applicant:

I, Renee Collins  
(Typed or printed name)

Sr. Director  
(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: Renee Collins  
(Use blue ink)

Date: 10/16/2020

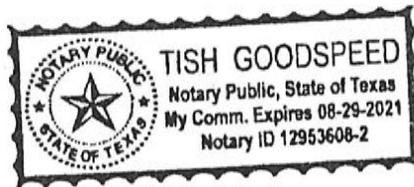
Subscribed and Sworn to before me by the said

on this 16th day of October, 2020.

My commission expires on the 29th day of August, 2021.

Tish Goodspeed

Notary Public



[SEAL]

County, Texas

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

LUMINANT MARTIN LAKE MINE PONDS

POND C111-74R

POND B-81

MARTIN LAKE

POND A11-99R

Tatum

Hill St

Beckville

959

43



**APPENDIX C**

**TECHNICAL INFORMATION REPORT  
TCEQ FORM 10214c**

**Amendment of Luminant Permit No. 5219, as Amended**

## TECHNICAL INFORMATION REPORT WATER RIGHTS PERMITTING

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

*Applicants are 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) 239-4691 to schedule a meeting.* Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N **Y**  
(If yes, date : **09/22/2020**).

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

#### NOT APPLICABLE

**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
- 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 (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 (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. See instructions page. 6.*

Water Right (Certificate or Permit) number you are requesting to amend: **PERMIT NO. 5219**

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

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

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

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

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

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

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

*If yes, submit:*

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

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

*If yes, submit: Worksheet 3.0 - Diversion Point Information Worksheet (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)*

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

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

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? **Y / N N** *If yes, call the Water Availability Division at (512) 239-4691 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)

#### NOT APPLICABLE

- 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

*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

*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

*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

*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

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

*Worksheets and information:*

- **Worksheet 1.0 - Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 - Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 - Environmental Information Worksheet**
- **Worksheet 6.0 - Water Conservation Information Worksheet**
- **Worksheet 7.0 - Accounting Plan Information Worksheet**
- **Worksheet 8.0 - Calculation of Fees; and Fees calculated - see instructions Page. 34**
- **Maps - See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

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

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

**This Application is for authorization to amend Permit No. 5219, as amended, to allow a portion of its currently authorized diversion and impoundment amounts with a priority date of March 20, 1989, to be used to offset the streamflow diversions caused by two existing ponds located in Luminant Mining Company's Martin Lake Lignite Mining Area in the Sabine River Basin in Panola County, Texas. Both of these ponds, referred to as Ponds AII-99R and CIII-74R, are incised, exempt mining ponds that were formed in conjunction with final mining pit reclamation pursuant to Texas Railroad Commission Martin Lake Mining Permit No. 4L. Both ponds now require authorizations to be established as permanent post-mining impoundments for recreational use and for domestic and livestock use. No authorization for diversions from Ponds AII-99R and CIII-74R is being requested. This Application is solely to reduce the currently authorized diversion and impoundment amounts with a priority date of March 20, 1989, in Permit No. 5219 to support water use permits for Ponds AII-99R and CIII-74R. This Application is consistent with the 2017 State Water Plan and the 2016 Region D Water Plan because there is nothing in these Plans that conflicts with this Application.**

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

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

**The Narrative accompanying this Application includes a discussion of the Water Availability Analysis. WAM files will be emailed to the Water Availability Section.**

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

# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

**NOTE: No request for appropriation of additional State water is being made with this Application. This Application is only for authorization to allow a portion of the authorized diversion and impoundment amounts with a priority date of March 20, 1989, in Permit No. 5219, as amended, to be used for offsetting the streamflow depletions caused by two existing Luminant ponds in Panola County for which an application is currently pending at TCEQ for a water use permit. This Application to amend Permit No. 5219 also requests to forfeit the existing diversion authority for 125 ac-ft/yr with a priority date of February 7, 2008, pursuant to Special Condition 6.A.**

### 1. New Authorizations (Instructions, Page. 16)

**NOT APPLICABLE**

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

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

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

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

1. 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. \_\_\_\_\_, in the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, and 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 Purposes(s), or Place(s) of Use, complete the following:

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
<b>Reduce Diversion Authority by 50 ac-ft/yr from 129 ac-ft/yr to 79 ac-ft/yr</b>	<b>Industrial</b>	<b>Industrial</b>	<b>Hogan Creek</b>	<b>Hogan Creek</b>
<b>Reassign Diversion Authority of 50 ac-ft/yr to offset new pond depletions</b>	<b>Industrial</b>	<b>Recreation and Domestic &amp; Livestock</b>	<b>Hogan Creek</b>	<b>New Ponds on Weir Creek and Watson Branch</b>
<b>Reduce Impoundment Authority in Pond B-81 by 85 ac-ft from 100 ac-ft to 15 ac-ft</b>	<b>Industrial</b>	<b>Industrial</b>	<b>Hogan Creek</b>	<b>Hogan Creek</b>
<b>Reassign Impoundment Authority of 85 ac-ft in Pond B-81 to offset new pond depletions</b>	<b>Industrial</b>	<b>Recreation and Domestic &amp; Livestock</b>	<b>Hogan Creek</b>	<b>New Ponds on Weir Creek and Watson Branch</b>
<b>Forfeit Diversion Authority for 125 ac-ft/yr</b>	<b>Industrial</b>	<b>None</b>	<b>Alder Creek</b>	<b>None</b>

\* 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: **NOT APPLICABLE**

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. \_\_\_\_\_, in the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, and 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. **NOT APPLICABLE**
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.  
**NOT APPLICABLE**

## WORKSHEET 1.2

### NOTICE. "THE MARSHALL CRITERIA"

This worksheet assists the Commission in determining notice required for certain **amendments** that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. The worksheet provides information that Applicant **is required** to submit for 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.

**This Application meets these necessary administrative requirements for the proposed amendment. Luminant Mining Company is submitting a payment of \$125.00 with this Application. Upon receipt of the TCEQ's determination that additional fees are required, Luminant will forward the additional fees accordingly.**

- 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.

**The reassignments of a portion of the authorized annual diversion amount and a portion of the authorized impoundment amount under Permit No. 5219 will be used to support recreational and domestic and livestock uses of water in two existing Luminant ponds in Panola County for which an application is currently pending at TCEQ for a water use permit. Both of these uses are recognized as beneficial uses under the Texas Water Code.**

- 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.

**The proposed amendment will provide for State water to be used for a legally-authorized beneficial purpose with conditions imposed to avoid waste and to protect the environment.**

- d. Groundwater Effects. Discuss effects of proposed amendment on groundwater or groundwater recharge.

**The reductions in the annual diversion authority and the impoundment authority requested in the proposed amendment of Permit No. 5219 will not noticeably alter surface water flows in the region, and, therefore, will not result in impacts to existing groundwater conditions.**

- 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>.

**This Application is solely to reduce the currently authorized diversion and impoundment amounts in Permit No. 5219 to offset the streamflow depletions caused by two existing Luminant ponds in Panola County for which an application is currently pending at TCEQ for a water use permit. This Application is consistent with the 2017 State Water Plan and the 2016 Region D Water Plan because there is nothing in these Plans that conflicts with this Application.**

- 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.

**This Application is solely to reduce the currently authorized diversion and impoundment amounts in Permit No. 5219 to offset the streamflow depletions caused by two existing Luminant ponds in Panola County for which an application is currently pending at TCEQ for a water use permit, and by its very nature, this Application will not result in waste of water.**

- 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.

**The impacts of this Application on other water rights in the Sabine River Basin has been investigated with the water availability model for the basin. Results from this modeling indicate that the diversion reliabilities of only two water rights in the entire basin would be negatively impacted by an average of -0.31 percent. Both of these water rights are owned by Luminant Mining Company, the Applicant, and these reductions in reliability are acceptable to Luminant.**

## WORKSHEET 8.0 CALCULATION OF FEES

**Fees for Mailed Notice will be paid when final amount is determined and provided by TCEQ.**

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

### 1. NEW APPROPRIATION

	Description	Amount (\$)
<b>Filing Fee</b>	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under <b>Amount (\$)</b> . In Acre-Feet	<b>\$100.00</b>
	a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00	
<b>Recording Fee</b>		\$25.00
<b>Agriculture Use Fee</b>	<i>Only for those with an Irrigation Use.</i> Multiply 50C x Number of acres that will be irrigated with State Water. **	<b>\$0.00</b>
<b>Use Fee</b>	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x Maximum annual diversion of State Water in acre-feet. **	<b>\$0.00</b>
<b>Recreational Storage Fee</b>	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	<b>\$0.00</b>
<b>Storage Fee</b>	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50C x acre-feet of State Water to be stored at normal max operating level.	<b>\$0.00</b>
<b>Mailed Notice</b>	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4691.	-
<b>TOTAL</b>		<b>\$ 125.00</b>

### 2. AMENDMENT OR SEVER AND COMBINE **NOT APPLICABLE**

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

### 3. BED AND BANKS **NOT APPLICABLE**

	Description	Amount (\$)
<b>Filing Fee</b>		\$100.00
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$0.00</b>

**APPENDIX D**

**SIGNATURE AUTHORITY VERIFICATION**



**APPENDIX E**  
**APPLICATION MAPS**