

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Jenna Rollins, Project Manager
Water Rights Permitting Team

DATE: April 18, 2023

SUBJECT: North Texas Municipal Water District
WRPERM 12152
CN601365448, RN105153324
Application No. 12152A to Amend Water Use Permit No. 12152
Texas Water Code § 11.122, Not Requiring Notice
Unnamed tributary of the East Fork Trinity River and the East Fork
Trinity River (Lake Lavon), Trinity River Basin
Collin County

The application and fees were received on November 22, 2022. Additional information was received on February 6, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on April 18, 2023. Notice is not required pursuant to Title 30 Texas Administrative Code § 295.158(c)(1).

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

Jenna Rollins

Jenna Rollins, 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*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 18, 2023

Ms. Sara Thornton, Attorney
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave. Suite 1900
Austin, Texas 78701

VIA E-MAIL

RE: North Texas Municipal Water District
WRPERM 12152
CN601365448, RN105153324
Application No. 12152A to amend Water Use Permit No. 12152
Texas Water Code § 11.122, Not Requiring Notice
Unnamed tributary of the East Fork Trinity River and the East Fork Trinity River
(Lake Lavon), Trinity River Basin
Collin County

Dear Ms. Thornton:

This acknowledges receipt, on November 22, 2022, of the referenced application and of fees in the amount of \$112.50 (Receipt No. M304678, copy attached), and on February 6, 2023 of additional information.

The application was declared administratively complete and filed with the Office of the Chief Clerk on April 18, 2023. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning the application, please contact me via email at jenna.rollins@tceq.texas.gov or by phone at 512-239-1845.

Sincerely,

A handwritten signature in cursive script that reads "Jenna Rollins".

Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



23-NOV-22 09:41 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>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	M304678	40332		BS00098979	23-NOV-22	-\$112.50	
	WUP		112322	N	D3800796			
	WATER USE PERMITS	LLOYD GOSSELINK ROCHELLE & TOWNSEND PC	RHDAVIS	CK				
							Total (Fee Code):	-\$112.50
							Grand Total:	-\$11,357.79

RECEIVED
NOV 30 2022
Water Availability Division

TCEQ Interoffice Memorandum

FROM: Jenna Rollins, Project Manager
Water Rights Permitting Team

DATE: April 18, 2023

SUBJECT: North Texas Municipal Water District
WRPERM 12152
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Trinity River (Lake Lavon), Trinity River Basin
Collin County

On June 9, 2006, the Texas Supreme Court issued an opinion in the case of *Marshall v Uncertain*.² The Supreme Court in that opinion considered the Commission's practices regarding notice and hearing for applications to amend a water right under Texas Water Code (TWC) § 11.122(b). The Court held that it could not determine under the record in that case whether notice and a hearing would be required. The Court remanded the case to the Commission.

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

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

The purpose of this memo is to discuss the public notice that should be given in the above referenced application by the North Texas Municipal Water District in light of agency rules and the Court's decision in the case of *Marshall*.

² City of Marshall et. al. v. City of Uncertain et al., No. 03-1111 (Tx. June 9, 2006).

Current Permit and Application for Amendment

Water Use Permit No. 12152 (Permit) authorizes North Texas Municipal Water District (NTMWD/Permittee), pursuant to a water supply contract between the Sabine River Authority (SRA) and NTMWD, to use the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon to convey a maximum of 104,420 acre-feet of contract water per year via pipeline from Lake Tawakoni in the Sabine River Basin, to discharge the same amount into the unnamed tributary of the East Fork Trinity River at a maximum rate of 124 cfs (55,651.20 gpm), and to convey the contract water using the bed and banks of the unnamed tributary and Lake Lavon for subsequent diversion at the perimeter of Lake Lavon, at the rate authorized by Certificate of Adjudication No. 08-2410, as amended, and at a maximum diversion rate of 279 cfs (125,275.20 gpm), for municipal and industrial use within NTMWD's service area. The time priority for use of the bed and banks authorized by this permit is March 26, 2007; however, the contract water transferred by pipeline from Lake Tawakoni in the Sabine River Basin to Lake Lavon in the Trinity River Basin is not subject to priority call by senior and superior water rights owners in the Trinity River Basin.

NTMWD seeks to amend WRPERM No. 12152 to authorize use of contract water from the same source of supply (Lake Tawakoni, Sabine River Basin) as currently authorized under the Permit but provided by a different supplier (City of Dallas rather than or in addition to SRA, as both are authorized to operate Lake Tawakoni). No changes to any diversion or discharge amounts, rates, or points are requested, and the water source remains the same.

Rules Related to Notice

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

Adding a Supplier for Contract Water

30 TAC § 295.158(c)(1) allows the commission to amend an existing permit that does not contemplate an additional consumptive use of state water or an increased rate or period of diversion and has no potential for harming any other water rights without notice, except to the record holder. The Executive Director finds that NTMWD's request to authorize use of Sabine River water from the same source of supply but through a different supplier has no potential to harm existing water rights.

The notice recommendation for the NTMWD's request to use Sabine River water from the same source of supply but through a different supplier will be discussed below.

Texas Water Code

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

TWC § 11.122(b) sets out the scope of the Commission’s authority in reviewing applications to amend a water right. Staff notes that in the application, the Applicant is not asking for either an increase in the amount of water authorized for diversion, or an increase in the rate of diversion. With that understanding of the application, it then becomes a duty of the Commission to approve the application “*if the requested change will not cause adverse impact on other water right holders or the environment on the stream of greater magnitude than under circumstances in which the permit . . . that is sought to be amended was fully exercised according to its terms and conditions as they existed before the requested amendment,*” and the application meets, “*all other applicable requirements,*” of Chapter 11 of the Texas Water Code. The clause that requires the Commission to compare the requested amendment to the existing permit as if the existing permit was fully exercised is often referred to as the “full use assumption.”

Adverse Impact on Water Right Holders and the Environment

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

Under the full use assumption, using Sabine River water from the same source of supply but through a different supplier can have no greater impact on other water right holders or the environment than the impacts to those interests under the existing Permit because the application will not increase the amount of water authorized for conveyance and diversion by the Permit.

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

Other Applicable Requirements

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

Administrative Requirements

Staff has reviewed the application and has found that it meets the administrative requirements of TWC Chapter 11. The application has been declared administratively complete and filed with the Office of the Chief Clerk on April 18, 2023.

Beneficial Use

Proposed appropriations of state water must be for a beneficial use. Beneficial use is defined in TWC § 11.002(4) as “the use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water.” The authorized uses in the Permit are municipal and industrial which are recognized as a beneficial use by TWC § 11.023(a)(1)&(2) and was already found to be a beneficial use when the Commission issued the Permit. The request to use Sabine River water from the same source of supply but through a different supplier does not change the authorized use in the Permit.

The Executive Director is aware of no other facts that would make using Sabine River water from the same source of supply but through a different supplier non-beneficial.

Detriment to Public Welfare

A proposed appropriation of state water must not be detrimental to the public welfare. No definition of “detriment to public welfare” is provided in the law. Therefore, the Commission has wide discretion in determining benefits or detriments to the public welfare. NTMWD seeks to use Sabine River water from the same source of supply but through a different supplier. There are no specific facts known to the Executive Director that would indicate that this is detrimental to the public welfare.

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

Groundwater Effects

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

The Trinity WAM includes the Trinity River (Lake Lavon) where the conveyance and diversion under this Permit occurs. The Trinity WAM does not include channel loss factors at NTMWD's location.³

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

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

Concerning information available from groundwater conservation districts and the Regional Water Plan, the application is located in the North Texas Groundwater

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

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

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

Conservation District⁶, and the Region C Water Planning Area.⁷ The North Texas Groundwater Conservation District Groundwater Management Plan⁸ and the 2021 Region C Water Plan⁹ did contain additional information related to effects on groundwater or groundwater recharge.

The amount of water conveyed and diverted by NTMWD will be the same whether the water is sourced from the authorized supplier or from the proposed supplier. Thus, the conveyance and diversion of the full authorized volume of water from the proposed supplier will have no greater impact on groundwater resources or groundwater recharge. Therefore, the Executive Director concludes that there is no potential groundwater issue involved with this application.

Consistency with Regional and State Plans

Pursuant to TWC § 11.134(b)(3)(E), water right applications are only granted if the application addresses a water supply need in a manner that is consistent with the state water plan and the relevant regional water plan, unless the Commission determines that conditions warrant a waiver of this requirement. The purpose of the state and regional water plans is to assess the likely future use of water and to develop strategies for meeting water supply shortfalls. The state and regional water plans generally do not address every possible change in individual water rights.

Avoidance of Waste and Achievement of Water Conservation

The Commission has adopted rules in Title 30 TAC § 295.9(4) that specify which applications to amend existing water rights require the submittal of water conservation plans. NTMWD is requesting to use contract water from the same source of supply but provided by a different supplier. No changes to diversion or discharge amounts, place of use, or purpose of use are requested. Pursuant to 30 TAC § 295.9, NTMWD is not required to submit a water conservation plan.

Conclusion

NTMWD's request in this application is to use Sabine River water from the same source of supply but through a different supplier. This request does not seek to increase either the amount of water diverted or the rate of diversion. Under the full use assumption, the request to use Sabine River water from the same source of supply but through a different supplier will not have an adverse impact on other water right holders and the environment, and there are no negative impacts to other water rights and the environment beyond the full use assumption. Using

⁶ https://www.twdb.texas.gov/mapping/doc/maps/GCDs_8x11.pdf

⁷ <https://www.twdb.texas.gov/waterplanning/rwp/index.asp>

⁸ North Texas Groundwater Conservation 2022 District Management Plan. Adopted August 9, 2022.

⁹ 2021 Region C Water Plan. Prepared by Region C Water Planning Group. November 2020.

North Texas Municipal Water District
Application No. 12152A
Page 7 of 7
April 18, 2023

Sabine River water from the same source of supply but through a different supplier does not raise any issues of beneficial use, detriment to the public welfare, groundwater effects, consistency with the state and regional water plans, compliance with administrative requirements, or avoidance of waste and achievement of water conservation. As such, Commission rules, statutes, and case law allow the request to use Sabine River water from the same source of supply but through a different supplier to be processed without notice.

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

**Texas Commission on Environmental Quality
TELEPHONE MEMO TO THE FILE**

Call to: Ms. Sara Thornton	Call from: Jenna Rollins
Date: 2/6/23	Project No: 12152A
<i>Information for File follows:</i> This was a phone call to Ms. Thornton to clarify the CN of the applicant for the project.	
Signed: <i>Jenna Rollins</i>	

North Texas Municipal Water District

December 5, 2022

Accounting Plan Version 3.05d with text file available upon request

Contact Mr. Chris Kozlowski at (512) 239-1801

North Texas Municipal Water District

December 5, 2022

Accounting Plan - Version 3.05d Clean with text file available upon request

Contact Mr. Chris Kozlowski at (512) 239-1801

North Texas Municipal Water District

December 5, 2022

Accounting Plan - Version 3.05d Redline with text file available upon request

Contact Mr. Chris Kozlowski at (512) 239-1801

Bill of Lading

CORPORATE COURIERS AUSTIN

RECEIVED

NOV 22 2022

Water Availability Division



089-01170494

Control Number: 1170494

Submitter Information	Shipping Information
<p>Account: 1201 Name: LLOYD GOSSELINK ATTORNEYS AT LAW Requested By: RICOH OFFICE SERVICES Phone: 5123225844 Notes:</p>	<p>Service Type: 1 HOUR Return Service: 1 HOUR Pieces: 1 Weight: 1 lbs Charges: \$0.00 Quote: \$44.08 Reference: SRT/JMS/DXG 446-12 Entered: 11/22/2022 2:37pm</p>
Pick Up From	Deliver To
<p>RICOH/ LLOYD GOSSELINK SYLVIA 816 CONGRESS AVE 1900 AUSTIN, TX 78701 Phone: 512-936-7500</p>	<p>TCEQ- WATER RIGHTS PERMITTING BROOK MCGREGOR 12100 PARK 35 CIRCLE BLDG F 3RD FLOOR AUSTIN, TX 78753 Phone: 512-239-5515 <i>x 7075</i> <u>Please check with security at BLDG F. Water Rights Permitting and Availability Section (MC 160)</u></p>
Pick Up Details	Delivery Details
<p>Requested Date: 11/22/2022 Ready Time: NOW Pickup Instructions: PHONE: 512 322-5844 Please deliver by 3:30pm to the TCEQ and file stamp copy and return to LG by 4:30pm</p>	<p>Requested Date: 11/22/2022 Deliver By: 3:37pm (No Delivery Instructions)</p>
<p>Actual Date: Arrival Time: Departure Time:</p>	<p>Actual Date: Arrival Time: Departure Time:</p>
<p>Driver: Date: Time:</p>	<p>Received By: X Print Name:</p>

Ms. Thornton's Direct Line: (512) 322-5876
[REDACTED]

RECEIVED

NOV 22 2022

Water Availability Division

November 22, 2022

Ms. Brook McGregor, Manager
Water Rights Permitting Team
Water Rights Permitting and Availability
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
WRPT@tceq.texas.gov

**VIA HAND DELIVERY
AND ELECTRONIC TRANSMISSION**

Re: Application for an Amendment to Water Use Permit No. 12152
Pursuant to Texas Water Code § 11.122
North Texas Municipal Water District (446-12)

Dear Ms. McGregor:

Please find enclosed one hard copy of an application for an amendment to Water Use Permit No. 12152 (the "Application") filed on behalf of my client, North Texas Municipal Water District (the "District"). Enclosed herein is a check in the amount of \$112.50 for the Application fees. The District will submit an updated *North Texas Municipal Water District Reservoir Accounting Plan for Lake Lavon* for the Application within thirty (30) days of the above-referenced submittal date of this Application. On behalf of the District, please consider me your contact for processing this Application.

We look forward to working with you and your staff in processing this Application. Should you have any questions, please do not hesitate to contact me or Jessie Spears at (512) 322-5815 or [REDACTED]

Sincerely,



Sara R. Thornton

SRT/dxg
8510459
ENCLOSURES

cc: (via electronic mail only)
Ms. Kathy Alexander
Mr. Billy George
Mr. Galen Roberts
Ms. Jessie Spears



NORTH TEXAS MUNICIPAL WATER DISTRICT

**Application for an Amendment to Water Use
Permit No. 12152 (446-12)**

RECEIVED

NOV 22 2022

Water Availability Division

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Avenue, Suite 1900

Austin, Texas 78701

Phone (512) 322-5800 Fax (512) 472-0532

www.lglawfirm.com

Bill of Lading

CORPORATE COURIERS AUSTIN



Control Number: 1170494

Submitter Information	Shipping Information
<p>Account: 1201 Name: LLOYD GOSSELINK ATTORNEYS AT LAW Requested By: RICOH OFFICE SERVICES Phone: 5123225844 Notes: RECEIVED NOV 22 2022 Water Availability Division</p>	<p>Service Type: 1 HOUR Return Service: 1 HOUR Pieces: 1 Weight: 1 lbs Charges: \$0.00 Quote: \$44.08 Reference: SRT/JMS/DXG 446-12 Entered: 11/22/2022 2:37pm</p>
Pick Up From	Deliver To
<p>RICOH/ LLOYD GOSSELINK SYLVIA 816 CONGRESS AVE 1900 AUSTIN, TX 78701 Phone: 512-936-7500</p>	<p>TCEQ- WATER RIGHTS PERMITTING BROOK MCGREGOR 12100 PARK 35 CIRCLE BLDG F 3RD FLOOR AUSTIN, TX 78753 Phone: 512-239-5515 <i>x 7075</i> Please check with security at BLDG F. Water Rights Permitting and Availability Section (MC 160)</p>
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<p>Driver: <i>90</i> Date: Time:</p>	<p>Received By: X Print Name:</p>

Ms. Thornton's Direct Line: (512) 322-5876
[REDACTED]

RECEIVED

NOV 22 2022

Water Availability Division

November 22, 2022

Ms. Brook McGregor, Manager
Water Rights Permitting Team
Water Rights Permitting and Availability
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
WRPT@tceq.texas.gov

VIA HAND DELIVERY
AND ELECTRONIC TRANSMISSION

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Pursuant to Texas Water Code § 11.122
North Texas Municipal Water District (446-12)

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We look forward to working with you and your staff in processing this Application. Should you have any questions, please do not hesitate to contact me or Jessie Spears at (512) 322-5815 or [REDACTED]

Sincerely,



Sara R. Thornton

SRT/dxg
8510459
ENCLOSURES

cc: (via electronic mail only)
Ms. Kathy Alexander
Mr. Billy George
Mr. Galen Roberts
Ms. Jessie Spears

Texas Commission on Environmental Quality

**Application for an Amendment to Water Use
Permit No. 12152**

North Texas Municipal Water District



**TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY**

RECEIVED

NOV 22 2022

Water Availability Division

November 2022

Texas Commission on Environmental Quality

**Application for an Amendment to Water Use
Permit No. 12152**

North Texas Municipal Water District

Submitted to:

Texas Commission on Environmental Quality
Water Supply Division, Water Rights Permitting (MC-160)
12100 Park 35 Circle
Austin, Texas 78753

Prepared for:

North Texas Municipal Water District
501 East Brown Street
PO Box 2408
Wylie, Texas 75098

RECEIVED
NOV 22 2022
Water Availability Division

Prepared by:

Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701

North Texas Municipal Water District
Application for an Amendment to Water Use Permit No. 12152

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TAB 1

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): North Texas Municipal Water District

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

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

ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

New Appropriation of State Water

Amendment to a Water Right *

Bed and Banks

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

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

See Tab 4.

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?

(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: 601368368 (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: Jennafer P. Covington

Title: Executive Director

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

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

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

Name: North Texas Municipal Water District

Mailing Address: P.O. Box 2408

City: Wylie State: Texas ZIP Code: 75098

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: N/A SOS Charter (filing) Number: N/A

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: Sara Thornton

Title: Attorney

Organization Name: Lloyd Gosselink Rochelle & Townsend, P.C.

Mailing Address: 816 Congress Ave., Suite 1900

City: Austin State: Texas ZIP Code: 78701

Phone Number: (512) 322-5876

Fax Number: (512) 472-0532

E-mail Address: [REDACTED]

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

N/A

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

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

First and Last Name: _____

Title: _____

Organization Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP Code: _____

Phone Number: _____

Fax Number: _____

E-mail Address: _____

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number: N/A Amount past due: N/A

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: N/A Amount past due: N/A

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

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

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

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

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

Yes / No Yes

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Jennafer P. Covington Executive Director
(Typed or printed name) (Title)

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

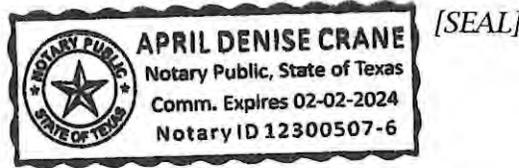
I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature: Jennafer Covington Date: 10/28/2022
(Use blue ink)

Subscribed and Sworn to before me by the said Jennafer P. Covington
on this 28th day of October, 2022.
My commission expires on the 2 day of February, 2024.

[Handwritten Signature]

Notary Public



Dallas County, Texas

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

TAB 2

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

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

Applicants are REQUIRED to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please contact the Water Availability Division at (512) 239-4600 or WRPT@tceq.texas.gov to schedule a meeting.

Date of pre-application meeting: November 17, 2022

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

N/A

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. 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: Water Use Permit No. 12152

See Tab 9.

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

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

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

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

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

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

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

If yes, submit:

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

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

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

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

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

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

Applicant requests amendment to bed and banks authorization to add water supply source. See Tab 4.

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

- e. Applicant requests to convey water from any other source, other than (a)-(d) above, using the bed and banks of a watercourse? TWC § 11.042(c). Y / N Y See Tab 4.

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

Worksheets and information:

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

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

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

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

See Tab 5 Addendum regarding consistency with State and Regional Water Plans.

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

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

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

TAB 3

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

N/A

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

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

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

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

a. Location Information Regarding the Lands to be Irrigated

- i) Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
- ii) Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) or other acceptable instrument describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds.

If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

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

N/A

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

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

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- i. Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
 - ii. Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.

Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.

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

WORKSHEET 1.1
INTERBASIN TRANSFERS, TWC § 11.085

N/A

Submit this worksheet for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N _____

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

- a. Provide the Basin of Origin. _____
- b. Provide the quantity of water to be transferred (acre-feet). _____
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:

2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N__
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N__
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N__
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N__

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

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

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

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

WORKSHEET 1.2

NOTICE. "THE MARSHALL CRITERIA"

See Tab 6.

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

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

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

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

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

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

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

WORKSHEET 2.0 Impoundment/Dam Information

N/A

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

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

1. Storage Information (Instructions, Page. 21)

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

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

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

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

2. Structure Location (Instructions, Page. 23)

N/A

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

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

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

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

Latitude_____°N, Longitude_____°W.

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

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

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

N/A

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

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

1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
1. Diversion Point No.
 2. Upstream Limit of Diversion Reach No.
 3. Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or _____ gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? Y / N _____
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches _____ cfs or _____ gpm*
- d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N _____

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

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

Check one		Write: Existing or Proposed
<input type="checkbox"/>	Directly from stream	
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	Other method (explain fully, use additional sheets if necessary)	

- f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / N _____

If yes, the drainage area is _____ sq. miles.
(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

N/A

- a. On watercourse (USGS name): _____
- b. Zip Code: _____
- c. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.

A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure.

For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.

- d. Point is at:
Latitude _____°N, Longitude _____°W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): _____
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 4.0 DISCHARGE INFORMATION

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

- a. The purpose of use for the water being discharged will be municipal and industrial.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0 (% or amount) and explain the method of calculation: _____
- c. Is the source of the discharged water return flows? Y / N N If yes, provide the following information:
 1. The TPDES Permit Number(s). N/A (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N N/A

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- d. Is the source of the water being discharged groundwater? Y / N N If yes, provide the following information:
 1. Source aquifer(s) from which water will be pumped: _____
 2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/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.
 - dii. Is the source of the water being discharged a surface water supply contract? Y / N Y
If yes, provide the signed contract(s). See Tab 12.
 - dii. Identify any other source of the water N/A

WORKSHEET 4.1 DISCHARGE POINT INFORMATION

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

Instructions, Page 27.

No changes are requested to the discharge point in Permit 12152.

For water discharged at this location provide:

- a. The amount of water that will be discharged at this point is 104,420 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 124 cfs or 55,651.20 gpm.
- c. Name of Watercourse as shown on Official USGS maps: East Fork Trinity
- d. Zip Code 75422
- e. Location of point: In the Southwest Corner of J. Inercurity Survey Original Survey No. _____, Abstract No. 466, Collin County, Texas.
- f. Point is at:
Latitude 33.139592 °N, Longitude 96.412603 °W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): _____

Map submitted must clearly identify each discharge point. See instructions Page. 15.

WORKSHEET 5.0
ENVIRONMENTAL INFORMATION

N/A

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 28.**

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

N/A

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

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

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

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

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

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

a. For all bed and banks applications:

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

See Tab 7.

N/A

b. For all alternate source applications:

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

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L					
Chloride, mg/L					
Total Dissolved Solids, mg/L					
pH, standard units					
Temperature*, degrees Celsius					

* Temperature must be measured onsite at the time the groundwater sample is collected.

- iii. If groundwater will be used, provide the depth of the well _____ and the name of the aquifer from which water is withdrawn _____.

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

N/A

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

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.**

See Tab 13. An electronic version of the accounting plan has been submitted to TCEQ via email.

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.

WORKSHEET 8.0 CALCULATION OF FEES

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

I. NEW APPROPRIATION

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

2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
Filing Fee	Amendment: \$100 OR Sever and Combine: \$100 x _____ of water rights to combine	\$100.00
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$ 112.50

3. BED AND BANKS

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

TAB 4

TAB 4

SUMMARY OF REQUEST

North Texas Municipal Water District (“NTMWD”) submits this application (the “Application”) to amend Water Use Permit No. 12152 (“Permit 12152”) to amend the source of water authorized for the use of the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin Trinity River for diversion and use for municipal and industrial purposes within NTMWD’s service area.

Pursuant to Permit 125152, NTMWD is authorized to use the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin to convey the water supplied under the *Upper Sabine River Basin Interim Water Supply Contract Lake Tawakoni / Lake Fork* between the Sabine River Authority and NTMWD, dated October 13, 2005 (“Contract Water”). NTMWD is authorized to convey the Contract Water at a maximum of 104,420 acre-feet of water per year via pipeline from Lake Tawakoni in the Sabine River Basin and to discharge same into the unnamed tributary of the East Fork Trinity River at a maximum rate of 124 cfs (55,651.20 gpm) and convey the Contract Water using the bed and banks of the unnamed tributary and Lake Lavon to the diversion points on the perimeter of Lake Lavon authorized by Certificate of Adjudication 08-2410 for subsequent diversion, at a maximum rate of 279 cfs (125,275.20 gpm) for municipal and industrial use within NTMWD’s service area.

NTMWD seeks an amendment to allow an additional source of supply to be conveyed using the bed and banks and discharge and diversion points authorized under Permit 12152. This additional source of supply is City of Dallas (“Dallas”) contract water in Lake Tawakoni. Dallas is supplying NTMWD Tawakoni water as an alternative source of supply because it is unable to provide releases of water from Lake Ray Hubbard in accordance with that certain *Contract Between City of Dallas and North Texas Municipal Water District* entered into between NTMWD and Dallas on December 19, 2008 (the “2008 Dallas Contract”). The 2008 Dallas Contract allows Dallas to supply alternative sources of water to NTMWD. A copy of the 2008 Dallas Contract is included in Tab 12.

By this Application, NTMWD does not request to change the amount, rate, or place of diversion. In addition, NTMWD does not request to change the place or purpose of use or the discharge or diversion points. There are no channel losses associated with this requested bed and banks authorization.

TAB 5

TAB 5

ADDENDUM REGARDING CONSISTENCY WITH STATE AND REGIONAL WATER PLANS

North Texas Municipal Water District (“NTMWD”) submits this application (the “Application”) to amend Water Use Permit No. 12152 to amend the source of water authorized for the use of the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin Trinity River for diversion and use for municipal and industrial purposes within NTMWD’s service area. The Application is consistent with the approved 2021 Regions C Water Plan and the 2022 State Water Plan.

Under Texas Water Code § 11.134, an appropriation of water must address a water supply need in a manner that is “consistent” with the “state water plan and the relevant approved regional plan.”¹ Lake Lavon and the area for which NTMWD will divert water pursuant to this Application for use, are both located within the Region C Planning Area (“Region C”). According to the State Water Plan, Water for Texas 2022, the population in Region C is expected to increase by ninety-two percent (92%) from 2020 to 2070.² This population growth is predicted to increase demands for water by sixty-seven percent (67%) between 2020 and 2070, from 1,734,000 acre-feet to 2,899,000 acre-feet.³

This Application will allow NTMWD to convey an additional source of supply using the bed and banks and discharge and diversion points authorized under Permit 12152. This additional source of supply is City of Dallas (“Dallas”) contract water in Lake Tawakoni. Dallas is supplying NTMWD Tawakoni water as an alternative source of supply because it is unable to provide releases of water from Lake Ray Hubbard in accordance with that certain *Contract Between City of Dallas and North Texas Municipal Water District* entered into between NTMWD and Dallas on December 19, 2008 (the “2008 Dallas Contract”). The 2008 Dallas Contract allows Dallas to supply alternative sources of water to NTMWD.

The Dallas Tawakoni water conveyed pursuant to the amended bed and banks authorization will replace Lake Ray Hubbard water Dallas is not currently providing that is used to meet a portion of NTMWD’s municipal and industrial water demands as identified in the 2021 Region C Water Plan and the 2022 State Water Plan.⁴ As such, the Application is consistent with both the approved 2021 Region C Water Plan and the 2022 State Water Plan.

¹ Texas Water Code § 11.134(b)(3)(E).

² Texas Water Development Board (“TWDB”), *2022 State Water Plan – Water for Texas* at A-49 (2021).

³ TWDB, *2022 State Water Plan – Water for Texas* at A-55 (2021).

⁴ Region C WPG, *2021 Region C Water Plan* at 5D.19–20 (2021).

TAB 6

WORKSHEET 1.2: MARSHALL CRITERIA

APPLICATION TO AMEND WATER USE PERMIT NO. 12152

North Texas Municipal Water District (the “Applicant”) provides this Addendum to Worksheet 1.2 addressing each Marshall Criteria to assist TCEQ in determining that no notice is required for the Application to amend Water Use Permit No. 12152 (the “Application”). *See* Tab 9 for a copy of Water Use Permit No. 12152 (“Permit 12152”). The Application seeks to amend Permit 12152 to authorize an additional source of supply to convey via the bed and banks authorized in Permit 12152 and does not request to change or add diversion or discharge points, alter the place or purpose of use, or increase the amount of water diverted or the rate of the diversion. *See* Summary of the Request, Tab 4.

A. Administrative Requirements and Fees

The Application provides the relevant information to meet the administrative requirements for an amendment to a water use permit, pursuant to Texas Water Code (“TWC”) Chapter 11 and Title 30 of the Texas Administrative Code (“30 TAC”) Chapters 295 and 297. In accordance with 30 TAC §§ 295.131-295.132 and other TCEQ rules relating to fees, the Applicant is submitting payment with the Application under Tab 15.

B. Beneficial Use

A water right application must show that the use of the water is for a beneficial use. TWC § 11.134(b)(3)(A). “Beneficial use” is defined as the use of water “which is economically necessary for a purpose authorized by [Chapter 11 of the TWC].” TWC § 11.002(4); 30 TAC § 297.1(8). In addition, “municipal” and “industrial” purposes of use are identified in TWC § 11.023(a)(1)-(2) as purposes for which water may be appropriated and beneficially used. Applicant intends to use the water for municipal and industrial purposes and in a manner authorized for such purposes pursuant to Permit 12152. Applicant does not request a change in purpose of use; thus, TCEQ’s prior determination that the water is being appropriated for a beneficial use is applicable to the Application.

C. Public Welfare

The proposed amendment sought by the Application will not negatively impact the public welfare. TCEQ determined the appropriation was not detrimental to the public welfare when Permit 12152 was originally issued, and the proposed amendment does not seek any changes that would negatively impact the public welfare. 30 TAC § 297.46. Moreover, the additional source of supply that is sought to be conveyed via the bed and banks authorized by Permit 12152 is City of Dallas (“Dallas”) contract water in Lake Tawakoni that is already authorized for diversion and use, and therefore, will not negatively impact the public welfare. In fact, the Application will be beneficial to the public welfare because it allows NTMWD access to an alternative supply of water for water Dallas is currently unable to provide through Lake Ray Hubbard releases, helping to ensure that NTMWD meets the demands of its customers.

D. Groundwater Effects

The proposed amendment will have no impact groundwater resources or groundwater recharge, as the Application simply seeks to convey via bed and banks surface water that is already authorized for diversion and use by Dallas. Applicant does not seek to add or change the diversion or discharge points, the diversion amount, or the diversion rate, and consequently, will not impact groundwater.

E. State and Regional Water Plans

Lake Lavon and the area for which NTMWD will divert water pursuant to this Application for use, are both located within the Region C Planning Area (“Region C”). According to the State Water Plan, Water for Texas 2022, the population in Region C is expected to increase by ninety-two percent (92%) from 2020 to 2070.¹ This population growth is predicted to increase demands for water by sixty-seven percent (67%) between 2020 and 2070, from 1,734,000 acre-feet to 2,899,000 acre-feet.²

This Application will allow NTMWD to convey an additional source of supply using the bed and banks and discharge and diversion points authorized under Permit 12152. This additional source of supply is City of Dallas (“Dallas”) contract water in Lake Tawakoni. Dallas is supplying NTMWD Tawakoni water as an alternative source of supply because it is unable to provide releases of water from Lake Ray Hubbard in accordance with that certain *Contract Between City of Dallas and North Texas Municipal Water District* entered into between NTMWD and Dallas on December 19, 2008 (the “2008 Dallas Contract”). The 2008 Dallas Contract allows Dallas to supply alternative sources of water to NTMWD.

The Dallas Tawakoni water conveyed pursuant to the amended bed and banks authorization will replace Lake Ray Hubbard water Dallas is not currently providing that is used to meet a portion of NTMWD’s municipal and industrial water demands as identified in the 2021 Region C Water Plan and the 2022 State Water Plan.³ As such, the Application is consistent with both the approved 2021 Region C Water Plan and the 2022 State Water Plan. *See* 30 TAC § 295.16.

F. Waste Avoidance

Applicant will continue to use reasonable diligence to avoid waste and achieve water conservation. TCEQ rules define “conservation” as practices that will “reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.” 30 TAC § 295.9; TWC § 11.002(8). Applicant maintains and updates its water conservation and drought contingency plans in compliance with TCEQ rules to avoid waste and asks its customers to comply with such waste avoidance policies, rules, and regulations. A copy of NTMWD’s water conservation and drought contingency plans are included in Tab 7.

¹ Texas Water Development Board (“TWDB”), *2022 State Water Plan – Water for Texas* at A-49 (2021).

² TWDB, *2022 State Water Plan – Water for Texas* at A-55 (2021).

³ Region C WPG, *2021 Region C Water Plan* at 5D.19–20 (2021).

G. Impacts on Water Rights or On-stream Environment

The Application will not impact other water right holders or the aquatic environment beyond and irrespective of the fact that the permit can be used to its full authorized amount. The Application will not impact other water right holders because it only seeks to include an additional source of water to be transported using the bed and banks authorized by Permit 12152, and this source of water, Dallas Tawakoni water, is already authorized for diversion and use. The Application does not alter the conditions regarding quantity, rate of diversion of the water, does not seek to change the place or purpose of use, nor seek to change the diversion or discharge points. Further, the Application does not request additional dams, impoundments, or storage. The Application will not adversely impact the environment or other water rights holders because the amendment would not increase the amount appropriated, the amount conveyed via bed and banks, or the rate of diversion. TWC § 11.122(b).

H. Conclusion

Based on the information above, the Application does not require notice pursuant to 30 TAC § 295.158(c)(1). The Applicant seeks to amend Permit 12152 to utilize its existing bed and banks authorization to convey Dallas Tawakoni water that is already authorized for diversion and use. The proposed amendment, if granted, will have no impact on other water rights holders or the environment. The Application does not seek to change the nature or pattern of use of the existing Permit 12152—just adds an additional source of water to convey via the existing bed and banks authorization; therefore, notice is not required. TWC § 11.122(b); 30 TAC § 295.158(c)(1).

TAB 7

TAB 7

ADDENDUM REGARDING WORKSHEET 5.0 ADEQUACY OF THE QUANTITY AND QUALITY OF FLOWS FOR BED AND BANKS AUTHORIZATION

The additional water supply source that NTMWD seeks to convey through this amendment application to Permit 12152 (the "Application") is Dallas contract water in Lake Tawakoni that is already authorized for diversion. As such, this Application will have no effect on the quantity of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

Regarding the quality of flows, Lake Tawakoni, located in the upper Sabine River Basin, has good water quality for the purpose of water supply. The total dissolved solids concentrations average 120.97 mg/l, chloride concentration average of 5.06 mg/l, and sulfate concentration average of 8.89 mg/l. See 2022 Texas Integrated Report, <https://www.tceq.texas.gov/downloads/water-quality/assessment/integrated-report-2022/2022-basin05.pdf>. Lake Tawakoni is not currently listed on the 303(d) list. See Texas Integrated Report, <https://www.tceq.texas.gov/downloads/water-quality/assessment/integrated-report-2022/2022-303d.pdf>.

TAB 8

RECEIVED

NOV 22 2022

Water Availability Division NORTH TEXAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 22-46

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION TO AMEND WATER USE PERMIT NO. 12152

WHEREAS, the North Texas Municipal Water District (the "District") provides wholesale treated water to member cities and customers in its service area covering all or parts of Collin, Dallas, Denton, Fannin, Grayson, Hopkins, Hunt, Kaufman, Rains, Rockwall and Van Zandt Counties in North Central Texas; and

WHEREAS, the District is also a regional wholesale wastewater provider that owns and operates a regional wastewater system throughout portions of Collin, Dallas, Kaufman, and Rockwall Counties; and

WHEREAS, the District has a statutory obligation to plan and secure adequate water supplies for existing and future member cities and customers; and

WHEREAS, the District is authorized to use and divert return flows from certain wastewater treatment facilities in the Lake Ray Hubbard watershed ("District Return Flows") pursuant to Certificate of Adjudication No. 08-2410F ("2410F"); and

WHEREAS, the District entered into that certain "Contract Between City of Dallas and North Texas Municipal Water District" on December 19, 2008 (the "Contract"), which facilitates the release of District Return Flows downstream of Lake Ray Hubbard by the City of Dallas ("Dallas") for subsequent diversion and use by the District on an interim basis consistent with 2410F; and

WHEREAS, Dallas has limitations at the Lake Ray Hubbard Dam that prevent the release of the full volume of District Return Flows; and

WHEREAS, the Contract allows the provision of water from an alternate source; and

WHEREAS, the District and Dallas agree that District Returns Flows may be offset by Dallas's provision of water from Lake Tawakoni; and

WHEREAS, in order for the District to use Lake Tawakoni water as an alternate source, the District requires a bed and banks authorization pursuant to Texas Water Code § 11.042; and

WHEREAS, the District has an existing bed and banks authorization, Water Use Permit No. 12152, to transport Lake Tawakoni water purchased from the Sabine River Authority to Lake Lavon

WHEREAS, the District can obtain a bed and bank authorization to transport Dallas Lake Tawakoni water by amending Water Use Permit No. 12152 to add Dallas Lake Tawakoni water as an additional water supply source for conveyance to Lake Lavon; and

WHEREAS, the District proposes to file an amendment to Water Use Permit No. 12152 with the Texas Commission on Environmental Quality (the "Commission") to seek authorization to add Dallas Lake Tawakoni water as an additional source of water conveyed by the bed and

banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin (the "Application"); and

WHEREAS, District funding for services utilized for filing this application in the amount of [REDACTED] is to be made available in the 2022-23 Annual Operating Budget; and

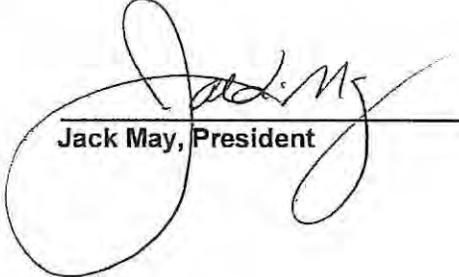
WHEREAS, 30 Texas Administrative Code § 295.14 requires that an application for a water right be executed by a duly authorized official of the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTH TEXAS MUNICIPAL WATER DISTRICT, THAT:

1. The Executive Director of the District is hereby authorized on behalf of the Board of Directors to execute the Application and any other documents as are necessary to secure authorization for the use of the bed and banks to afford additional water supplies for the District's use in addressing the needs of its current and future member cities and customers; and
2. The Executive Director of the District is hereby authorized and directed on behalf of the Board of Directors to file the Application and to appear and arrange for the appearances of persons representing the District at the hearings and other proceedings on the Application before the Commission, and otherwise direct the prosecution, settlement, and compromise of the Application on behalf of the Board of Directors, as appropriate.

THIS RESOLUTION ADOPTED BY THE NTMWD BOARD OF DIRECTORS IN A REGULAR MEETING ON OCTOBER 27, 2022, IN THE ADMINISTRATIVE OFFICES OF THE DISTRICT, WYLIE, TEXAS.


George Crump, Secretary


Jack May, President



TAB 9

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 SEP 20 2007

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

WATER USE PERMIT

WATER USE PERMIT NO. 12152

TYPE \$11.042

Permittee: North Texas Municipal
Water District

Address: P. O. 2408
Wylie, Texas 75098

Filed: March 26, 2007

Granted: **AUG 16 2007**

Purpose: Municipal and Industrial

County: Collin

Watercourse: Unnamed Tributary of the
East Fork Trinity River, and
the East Fork Trinity River (Lake
Lavon), Tributary of the Trinity River

Watershed: Trinity River Basin

WHEREAS, pursuant to the *Upper Sabine River Basin Interim Water Supply Contract Lake Tawakoni / Lake Fork* between the Sabine River Authority and the North Texas Municipal Water District dated October 13, 2005, the North Texas Municipal Water District (District or Applicant) has applied for authorization to use the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin to convey the water supplied under the contract (contract water); and

WHEREAS, Applicant has requested authorization to convey a maximum of 104,420 acre-feet of water per year of contract water authorized by Sabine River Authority's Certificates of Adjudication Nos. 05-4670 (Lake Tawakoni) and 05-4669 (Lake Fork), via pipeline from Lake Tawakoni in the Sabine River Basin and to discharge same into the unnamed tributary of the East Fork Trinity River at a maximum rate of 124 cfs (55,651.20 gpm); and

WHEREAS, Applicant has requested authorization to convey the contract water using the bed and banks of the unnamed tributary and Lake Lavon to the diversion points on the perimeter of Lake Lavon authorized by Certificate of Adjudication 08-2410 for subsequent diversion, at a maximum rate of 279 cfs (125,215.20 gpm) for municipal and industrial use within the service area of the Applicant; and

WHEREAS, Applicant estimates no transportation losses associated with the conveyance of this water; and

WHEREAS, Applicant has provided, and the Executive Director has approved, an accounting plan that accounts for, by priority date and source, all water discharged into and diverted from Lake Lavon and the East Fork Trinity River pursuant to all of the District's authorizations; and

WHEREAS, no one protested the granting of this permit; and

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

WHEREAS, the Executive Director recommends that in order to protect senior and superior water right owners, special conditions should be included in the permit; 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 permit;

NOW, THEREFORE, Water Use Permit No. 12152 is issued to the North Texas Municipal Water District, subject to the following terms and conditions:

1. USE

Permittee is authorized to use the bed and banks of an unnamed tributary of the East Fork Trinity River and Lake Lavon to convey a maximum of 104,420 acre-feet of contract water per year to and through Lake Lavon for subsequent diversion and use for municipal and industrial purposes within Permittee's service area.

2. DISCHARGE

A. Permittee is authorized to discharge contract water at a point on an unnamed tributary of the East Fork Trinity River bearing N35.067°E, 4,071.89 feet from the southwest corner of the J. Inercurity Survey, Abstract No. 466, also located at Latitude 33.139°N, Longitude 96.413°W in Collin County.

B. At a maximum rate of 124 cfs (55,651.20 gpm).

3. DIVERSION

A. Permittee is authorized to divert the water authorized herein from the perimeter of Lake Lavon as authorized by Certificate of Adjudication No. 08-2410.

B. In addition to the diversion rate authorized pursuant to Certificate of Adjudication No. 08-2410, Permittee is authorized to divert the water authorized herein at a maximum rate of 279 cfs (125,215.20 gpm) for municipal and industrial use with in the Permittee's service area.

4. PRIORITY

The time priority for use of the bed and banks authorized by this permit is March 26, 2007 however, the contract water transferred by pipeline from Lake Tawakoni in the Sabine River Basin to Lake Lavon in the Trinity River Basin is not subject to priority call by senior and superior water rights owners in the Trinity River Basin.

5. CONSERVATION

Permittee shall implement water conservation plans that provide for the utilization of those 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. Such plans shall include a requirement that in every wholesale water supply contract entered into on or after the date of this permit, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures.

6. SPECIAL CONDITION

A. The authorization granted herein is subject to the continued maintenance of the Upper Sabine River Basin Interim Water Supply Contract Lake Tawakoni / Lake Fork dated October 13, 2005, or extensions thereof with the Sabine River Authority. Upon expiration of said contract, Permittee shall immediately cease conveyance and diversion pursuant to this permit and either apply to amend the permit or voluntarily forfeit the permit. If Permittee does not amend or forfeit the permit, the Commission may begin proceedings to cancel this permit. The Commission shall be notified immediately by Permittee upon amendment or expiration of the water supply contract and provided with copies of appropriate documents effecting such changes.

B. Permittee shall comply with the provisions of the accounting plan approved by the Executive Director, *North Texas Municipal Water District Accounting Plan for Lake Lavon (CA 08-2410, As Amended (Amendment A-G) with Sabine Transfer)*. Any changes to the accounting plan must be approved by the Executive Director. Permittee shall maintain the Accounting Plan in electronic format (spreadsheet or database) and make it available to the public during normal business hours and shall submit it to the Executive Director upon request.

C. Permittee may only transport, divert, and use the amount and source of water currently authorized for exempt interbasin diversion and use from Lake Fork and Lake Tawakoni pursuant to Certificate of Adjudication

Nos. 05-4670 and 05-4669. If the source of water should change, or the amount of water authorized for transport, diversion, and use herein should be increased, Permittee shall amend this permit to identify and authorize the modified sources and amounts of water.

This permit is issued subject to all superior and senior water rights in the Trinity 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 Commission on Environmental Quality and to the right of continuing supervision of State water resources exercised by the Commission.



For the Commission

ISSUED: **AUG 16 2007**

TAB 10

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 08-2410 OWNER: North Texas Municipal
Water District
P. O. Drawer C
Wylie, TX 75098

COUNTY: Collin PRIORITY DATES: September 8, 1953
and August 2, 1965

WATERCOURSE: East Fork Trinity River, BASIN: Trinity River
tributary of the Trinity
River

WHEREAS, by final decree of the 160th Judicial District Court of Dallas County, in Cause No. 81-6589-H, In Re: The Adjudication of Water Rights in the Upper Trinity River Segment of the Trinity River Basin, dated October 29, 1981, a right was recognized under Permit 1720D authorizing the North Texas Municipal Water District to appropriate waters of the State of Texas as set forth below;

WHEREAS, the North Texas Municipal Water District on March 16, 1954, entered into a contractual arrangement with the United States of America for conservation storage in Lavon Reservoir;

NOW, THEREFORE, this certificate of adjudication to appropriate waters of the State of Texas in the Trinity River Basin is issued to the North Texas Municipal Water District, subject to the following terms and conditions:

1. IMPOUNDMENT

Owner is authorized to store 380,000 acre-feet of water in an existing dam and reservoir on the East Fork Trinity River, known as Lavon Dam and Reservoir which is owned by the United States of America and operated by the U.S. Corps of Engineers, between elevation 453 feet and elevation 492 feet above mean sea level. The dam is located in the W. A. S. Bohannon Survey, Abstract 121; William H. Moore Survey, Abstract 638; and the William C. Twitty Survey, Abstract 918, Collin County, Texas.

2. USE

Owner is authorized to divert and use not to exceed 104,000 acre-feet of water per annum from the aforesaid reservoir as follows: 94,000 acre-feet of water for municipal purposes; 8000 acre-feet of water for industrial purposes and 2000 acre-feet of water for domestic purposes.

3. DIVERSION

A. Location:

At three points on Lavon Reservoir in the John C. Campbell Survey, Abstract 239; W. W. Twitty Survey, Abstract 918; and the Mario Ignacio Giminez Survey, Abstract 338, Collin County, Texas

B. Maximum Combined Rate: 400.00 cfs (180,000 gpm) from diversion points 1 and 2 for municipal and domestic purposes; 523 cfs (240,000 gpm) from diversion point 3 for industrial purposes.

4. PRIORITY

The time priority of owner's right to store 100,000 acre-feet of water and to divert and use 60,000 acre-feet of water for municipal, industrial and domestic purposes is September 8, 1953, and for the storage of the additional 280,000 acre-feet and the diversion of the additional 44,000 acre-feet of water for municipal purposes is August 2, 1965.

5. SPECIAL CONDITION

Pumping plant and diversion facilities located in the Mario Ignacio Giménez Survey, Abstract 338, are to be operated by the City of Garland pursuant to a contract between the District and the City.

The locations of pertinent features related to this certificate are shown on Page 11 of the Upper Trinity River Segment Certificates of Adjudication Maps, copies of which are located in the offices of the Texas Department of Water Resources and the office of the County Clerk.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 160th Judicial District Court of Dallas County, Texas, in Cause No. 81-6589-R, In Re: The Adjudication of Water Rights in the Upper Trinity River Segment of the Trinity River Basin, dated October 29, 1981, and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to senior and superior water rights in the Trinity River Basin.

This certificate of adjudication is issued subject to the Rules of the Texas Department of Water Resources and its continuing right of supervision of State water resources consistent with the public policy of the State as set forth in the Texas Water Code.

TEXAS WATER COMMISSION

/s/ Felix McDonald
Felix McDonald, Chairman

DATE ISSUED:

JUL 22 1983

ATTEST:

/s/ Mary Ann Hefner
Mary Ann Hefner, Chief Clerk

(b) With a priority date of September 10, 1985, certificate holder is authorized to divert and use not to exceed an additional 77,300 acre-feet of water per annum for municipal purposes by overdrafting the firm yield of Lake Lavon whenever Lake Ray Hubbard, authorized by Certificate of Adjudication No. 08-2462, as amended, is at maximum conservation level (435.5 feet msl) and spilling or whenever the additional water is supplied from Lake Texoma as authorized by Permit No. 5003.

(c) Certificate holder is authorized to divert and use for municipal purposes from Lake Lavon the amount of water discharged annually into Lake Lavon from the certificate holder's Wilson Creek wastewater treatment plant but in no event to exceed 8986 acre-feet per annum. The time priority for this authorization is September 10, 1985.

2. DIVERSION

In lieu of the authorization contained in paragraph 3(B) of Certificate of Adjudication No. 08-2410, certificate holder is authorized the following maximum combined rate: 896 cfs (402,000 gpm) from diversion points 1 and 2 for municipal and domestic purposes and 523 cfs (240,000 gpm) from diversion point 3 for industrial purposes.

3. SPECIAL CONDITION

The authorization to divert and use the additional 77,300 acre-feet in paragraph 1(b) is contingent on the certificate holder completing the water supply project authorized by Permit No. 5003.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 08-2410, except as specifically amended herein.

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

Certificate holder 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 Water Commission and to the right of continual supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

DATE ISSUED:

January 15, 1986

ATTEST:

/s/ Mary Ann Hefner
Mary Ann Hefner, Chief Clerk

/s/ Paul Hopkins
Paul Hopkins, Chairman

/s/ Ralph Roming
Ralph Roming, Commissioner

/s/ John O. Houchins
John O. Houchins, Commissioner

AMENDMENT TO
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410B

Name:	North Texas Municipal Water District	Address:	P.O. Drawer C Wylie, Texas 75098
Filed:	November 2, 1989	Granted:	November 28, 1989
Purpose:	Municipal	County:	Collin
Watercourse:	East Fork Trinity River, tributary of the Trinity River	Watershed:	Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410, issued to the North Texas Municipal Water District, authorized the storage of 380,000 acre-feet of water in the U.S. Army Corps of Engineers' Lake Lavon about 13 miles SE of McKinney, Texas, on the East Fork Trinity River and the diversion and use therefrom of not to exceed 94,000 acre-feet of water per annum for municipal purposes, 8000 acre-feet of water per annum for industrial purposes and 2000 acre-feet of water per annum for domestic purposes; and

WHEREAS, an amendment to Certificate No. 08-2410, issued January 15, 1986, authorized a reallocation of the water whereby the certificate holder could divert and use not to exceed 100,000 acre-feet of water per annum for municipal purposes and 4000 acre-feet of water per annum for industrial purposes; and

WHEREAS, the time priority for authorization of 100,000 acre-feet of the storage in Lake Lavon, use of water for industrial purposes and 56,000 acre-feet of the municipal water authorized for diversion per annum from the lake is September 8, 1953 and the time priority for the remaining 280,000 acre-feet of storage and diversion and use of the remaining 44,000 acre-feet of municipal water is August 2, 1965; and

WHEREAS, under the amendment and with a priority date of September 10, 1985, the certificate holder is also authorized to divert and use not to exceed an additional 77,300 acre-feet of water per annum for municipal purposes by overdrafting Lake Lavon whenever Lake Ray Hubbard, authorized by the City of Dallas' Certificate No. 08-2462, as amended, is at maximum conservation level (435.5 feet msl) and spilling or whenever the additional water is supplied as authorized by certificate holder's Water Use Permit No. 5003 (which authorizes diversion of not to exceed 84,000 acre-feet of water per annum from Lake Texoma into the Lake Lavon watershed); and

WHEREAS, the certificate holder is further authorized to divert and to use for municipal purposes from Lake Lavon the amount of water discharged annually into Lake Lavon from the certificate holder's Wilson Creek wastewater treatment plant, but in no event to exceed 8986 acre-feet per annum, with a time priority of September 10, 1985; and

WHEREAS, applicant has requested an amendment to Certificate No. 08-2410, as amended, to increase the reuse authorization by 17,971 acre-feet per annum (for a total combined reuse authorization with Certificate No. 08-2410A of not to exceed 26,957 acre-feet per annum) of the water discharged into Lake Lavon at its Wilson Creek wastewater treatment plant, or as much thereof each year as may actually be discharged into Lake Lavon, for municipal purposes and to indicate that the total consumptive use of municipal water (including the reuse of wastewater from the Wilson Creek Plant) authorized by Certificate Nos. 08-2410, 08-2410A, 08-2410B and Permit No. 5003 shall not exceed 177,300 acre-feet per annum; and

WHEREAS, the reuse authorization (not an additional appropriation of water) in Certificate No. 08-2410A was inadvertently given a priority date; and

WHEREAS, the Texas Water Commission finds that jurisdiction of this application is established in accordance with the Texas Water Code and the Rules of the Commission.

NOW, THEREFORE, this amendment to Certificate No. 08-2410, as amended, is issued to North Texas Municipal Water District, subject to the following provisions:

USE

- a. In lieu of the authorizations included in Paragraph 1(c) of Certificate No. 08-2410A, certificate holder is authorized to divert and reuse from Lake Lavon the amount of water discharged annually into Lake Lavon from the certificate holder's Wilson Creek wastewater treatment plant (as authorized by Water Quality Permit No. 12446-01), but in no event to exceed 26,957 acre-feet per annum.

- b. The total consumptive use of water authorized by Certificate Nos. 08-2410, 08-2410A, 08-2410B and Permit No. 5003 for municipal purposes shall not exceed 177,300 acre-feet of water per annum.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specially amended herein.

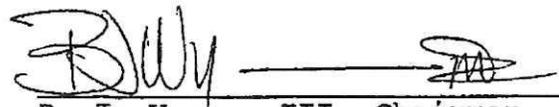
This amendment is issued subject to all superior and senior water rights in the Trinity River Basin.

Certificate holder 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 Water Commission and to the right of continual supervision of State water resources exercised by the Commission.

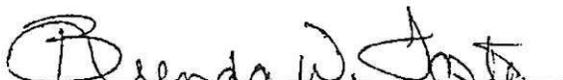
TEXAS WATER COMMISSION



B. J. Wynne, III, Chairman

DATE ISSUED January 4, 1990

ATTEST:



Brenda W. Foster, Chief Clerk

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



AMENDMENT TO
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410C

TYPE: AMENDMENT

Name:	North Texas Municipal Water District	Address:	P.O. Drawer C Wylie, Texas 75098
Filed:	March 24, 1994	Granted:	APR 18 1994
Purposes:	Municipal and Industrial	County:	Collin
Watercourse:	East Fork Trinity River, tributary of Trinity River	Watershed:	Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410, as amended, includes authorization for North Texas Municipal Water District to divert water for municipal and industrial purposes from Lake Lavon on the East Fork Trinity River in Collin County, approximately 13 miles southeast of McKinney, Texas; and

WHEREAS, the certificate, as amended, includes authorization for North Texas Municipal Water District to divert water for municipal purposes from two specific points on the lake at a maximum rate of 896 cubic feet per second and to divert water for industrial purposes from a specific point on the lake at a maximum rate of 523 cubic feet per second; and

WHEREAS, North Texas Municipal Water District has requested an amendment to Certificate No. 08-2410, as amended, to authorize use of an additional diversion point (pump station) on the lake and to increase the maximum diversion rate from the lake for municipal purposes by 432 cubic feet per second; and

WHEREAS, the Texas Natural Resource Conservation 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 Natural Resource Conservation Commission in issuing this amendment.

NOW, THEREFORE, this amendment to Certificate No. 08-2410, as amended, is issued to North Texas Municipal Water District, subject to the following provisions:

USE AND DIVERSION RATE

In addition to owner's authorization to divert water for municipal purposes from two points on Lake Lavon at a maximum rate of 896 cubic feet per second and to divert water for industrial purposes from a point on the lake at a maximum rate of 523 cubic feet per second, owner is authorized to divert water at a maximum rate of 432 cubic feet per second for municipal purposes via an intake/wetwell which will be approximately two miles northeast of Wylie, Texas and approximately 150 feet from the shore of Lake Lavon on a peninsula west of East Fork Park. This point is also at Latitude 33.037° North and Longitude 96.525° West.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specifically amended herein.

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

Certificate 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 Natural Resource Conservation Commission and to the right of continuing supervision of State water resources exercised by the Commission.

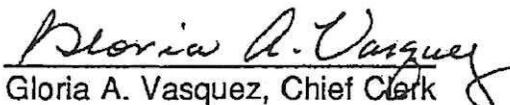
TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION



For the Commission

DATE ISSUED: **APR 18 1994**

ATTEST:



Gloria A. Vasquez, Chief Clerk

(A:\RENEE2\PERMITS\NTWD.PMT)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



AMENDMENT TO CERTIFICATE OF ADJUDICATION

Application No. 08-2410D Certificate of Adjudication No. 08-2410D Type: §11.122

Owner:	North Texas Municipal Water District	Address:	P. O. Box 2408 Wylie, Texas 75098-2408
Filed:	April 11, 2000	Granted:	MAY 09 2000
Purposes:	Municipal and Industrial	County:	Collin
Watercourse:	East Fork Trinity River, tributary of the Trinity River	Basin:	Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 authorized the storage of 380,000 acre-feet of water in the U. S. Army Corps of Engineers' Lake Lavon about 13 miles SE of McKinney, Texas on the East Fork Trinity River and the diversion and use therefrom not to exceed 94,000 acre-feet of water per annum for municipal purposes, 8000 acre-feet of water per annum for industrial purposes and 2000 acre feet of water per annum for domestic purposes; and

WHEREAS, the certificate included a maximum diversion rate of 400 cfs from the two points on the reservoir authorized for diversion for municipal and domestic purposes and 523 cfs from the point on the reservoir authorized for diversion for industrial use; and

WHEREAS, Certificate No. 08-2410, as amended on January 15, 1986, authorized a reallocation of the water whereby the certificate holder could divert and use not to exceed 100,000 acre-feet of water per annum for municipal purposes and 4000 acre-feet of water per annum for industrial purposes and increased the maximum diversion rate from the two points authorized for municipal and domestic purposes to 896 cfs; and

WHEREAS, the time priority for authorization to store 100,000 acre-feet of the water in Lake Lavon, use of water for industrial purposes and use of up to 56,000 acre-feet of the municipal water authorized for diversion per annum from the lake is September 8, 1953 and the time priority for the remaining 280,000 acre-feet of storage and diversion and use of the remaining 44,000 acre-feet of municipal water is August 2, 1965; and

WHEREAS, under the amendment and with a time priority of September 10, 1985, the certificate holder is also entitled to divert and use not to exceed an additional 77,300 acre-feet of water per annum for municipal purposes by overdrafting Lake Lavon whenever Lake Ray Hubbard, authorized under the City of Dallas' Certificate No. 08-2462, as amended, is at maximum conservation level (435.5 msl) and spilling or whenever the additional water is supplied as authorized by certificate holder's Water Use Permit No. 5003 (which authorizes diversion of not to exceed 84,000 acre-feet of water per annum from Lake Texoma in the Red River Basin into the Lake Lavon watershed); and

WHEREAS, the certificate holder was further authorized to divert and use for municipal purposes from Lake Lavon the amount of water discharged annually into Lake Lavon from the certificate holder's Wilson Creek Wastewater Treatment Plant, but in no event not to exceed 8986 acre-feet per annum; and

WHEREAS, Certificate of Adjudication No. 08-2410B increased the reuse authorization related to the Wilson Creek Treatment Plant to not to exceed 26,957 acre-feet per annum included a special condition indicating a total consumptive use of water authorized by Certificate Nos. 08-2410, 08-2410A, 08-2410B and Permit No. 5003 for municipal purposes of not to exceed 177,300 acre-feet of water per annum; and

WHEREAS, Certificate of Adjudication No. 08-2410C authorized the certificate holder to add an additional diversion point on the lake and to divert water for municipal purposes from said point at a maximum diversion rate of 432 cfs; and

WHEREAS, pursuant to an amendment to applicant's Wastewater Discharge Permit No. 12446-001, which increased the volume of wastewater discharge into Lake Lavon, applicant has requested an amendment to Certificate No. 08-2410, as amended, to increase the reuse authorization by 8986 acre-feet of water per annum (for a total combined reuse authorization with Certificate Nos. 08-2410A and 08-2410B of not to exceed 35,941 acre-feet of water per annum) of the water discharged into Lake Lavon, for municipal purposes with the condition that the total consumptive use of municipal water (including the reuse of wastewater from the Wilson Creek plant) authorized by Certificate Nos. 08-2410, 08-2410A, 08-2410B, Permit No. 5003 and the requested amendment would not exceed 177,300 acre-feet of water per annum; and

WHEREAS, the Texas Natural Resource Conservation 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 the Rules of the Texas Natural Resource Conservation Commission in issuing this amendment;

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 08-2410, as amended, is issued to North Texas Municipal Water District, subject to the following terms and conditions:

USE

1. In lieu of the authorizations included in Certificate Nos. 08-2410A and 2410B, certificate holder is authorized to divert and reuse from Lake Lavon the amount of water discharged annually to Lake Lavon from the certificate holder's Wilson Creek wastewater treatment plant (as authorized by Water Quality Permit No. 12446-01), but under no circumstances to exceed 35,941 acre-feet of water per annum.
2. The total consumptive use of water authorized by Certificate Nos. 08-2410, 08-2410A, 08-2410B, 08-2410D and Water Use Permit No. 5003 for municipal purposes shall not exceed 177,300 acre-feet of water per annum.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specifically amended herein.

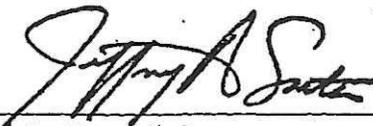
This amendment is subject to all senior and superior water rights in the Trinity River Basin.

Certificate holder agrees to be bound by all the terms conditions and provisions contained herein and such an 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 Natural Resource Conservation Commission and to the right of continual supervision of state water resources exercised by the Commission.

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION



For the Commission

Date Issued: **MAY 09 2000**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410E APPLICATION 08-2410E TYPE §§11.122, 11.046

Owner:	North Texas Municipal Water District	Address:	P. O. 2408 Wylie, Texas 75098
Filed:	November 10, 2002	Granted:	SEP 08 2005
Purpose:	Municipal and Industrial	Counties:	Collin, Hopkins, Dallas, Denton, Rockwall, Hunt, and Kaufman.
Watercourse:	East Fork Trinity River, tributary of the Trinity River	Watershed:	Trinity River Basin and Sulphur River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 currently authorizes the North Texas Municipal Water District (District) to impound 380,000 acre-feet of water in Lake Lavon, which is owned by the United States Army Corps of Engineers, and to divert and use not to exceed:

- 100,000 acre-feet of water per year for municipal purposes,
- 4,000 acre-feet of water per year for consumptive industrial purposes,
- An additional 77,300 acre-feet of water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level, 435.5 feet above mean sea level (msl), and spilling, or whenever additional water (up to 77,300 acre-feet per year) is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003, and
- 35,941 acre-feet of effluent per year discharged into Lake Lavon from the District's Wilson Creek Wastewater Treatment Plant (WWTP) for municipal purposes; and

WHEREAS, Water Use Permit No. 5003 authorizes the District to divert, with a time priority of September 10, 1985, not to exceed 84,000 acre-feet of water per year from Lake Texoma in the Red River Basin, to convey that water via pipeline to West Prong Sister Grove Creek in the Lake

Lavon watershed in the Trinity River Basin, to use the bed and banks of West Prong Sister Grove Creek and Sister Grove Creek to transport that water to Lake Lavon, and to divert and use not to exceed 77,300 acre-feet (84,000 acre-feet minus conveyance losses) of the Lake Texoma water per year from Lake Lavon for municipal purposes in the District's service area; and

WHEREAS, diversions are authorized from the perimeter of Lake Lavon at a point located in the John C. Campbell Survey, Abstract 239; the W. W. Twitty Survey, Abstract 918; and the Mario Ignacio Giminez Survey, Abstract 338, and one point at the intake/wetwell approximately 150 feet from the shore of Lake Lavon on a peninsula west of East Fork Park in Collin County; and

WHEREAS, the diversion point in the Giminez Survey is operated by the City of Garland pursuant to a contract between the District and the City; and

WHEREAS, the combined diversion rate from diversion points 1 and 2 is 896 cfs (402,000 gpm) for municipal purposes, 523 cfs (240,000 gpm) from diversion point 3 for industrial purposes, and 432 cfs (189,842 gpm) from diversion point 4 for municipal purposes; and

WHEREAS, a special condition in Certificate of Adjudication No. 08-2410 provides that the total consumptive use of water for municipal purposes authorized by the Certificate and Water Use Permit No. 5003 shall not exceed 177,300 acre-feet of water per year; and

WHEREAS, Certificate of Adjudication No. 08-2410 contains multiple priority dates as follows:

- September 8, 1953 - for the right to store 100,000 acre-feet of water for municipal and industrial purposes,
- August 2, 1965 - for the right to store 280,000 acre-feet of water for municipal purposes,
- September 8, 1953 - for diversion and use of 56,000 acre-feet of water per year for municipal purposes,
- September 8, 1953 - for diversion and use of 4,000 acre-feet of water per year for industrial purposes;
- August 2, 1965 - for diversion and use of 44,000 acre-feet of water per year for municipal purposes, and
- September 10, 1985 - diversion and use of 77,300 acre-feet of water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level and spilling or when water is supplied from Lake Texoma; and

WHEREAS, Certificate of Adjudication No. 08-2410 does not place a specific priority date on the following authorizations:

- The diversion and use of 8,986 acre-feet of water per year for municipal purposes of water discharged from the District's Wilson Creek WWTP filed on September 10, 1985,
- The diversion and use of an additional 17,791 acre-feet of water per year for municipal purposes of water discharged from the District's Wilson Creek WWTP (total of 26,957 acre-feet) filed on November 2, 1989, and
- The diversion and use of an additional 8,984 acre-feet of water per year for municipal purposes of water discharged from the District's Wilson Creek WWTP (total of 35,941 acre-feet) filed on April 11, 2000; and

WHEREAS, Certificate of Adjudication No. 03-4798, authorizes the District to impound not to exceed 100,625 acre-feet of water in Lake Chapman (formerly Cooper Reservoir) between elevations 415.5 and 440.0 feet msl and not to exceed 13,640 acre-feet of water below elevation 415.5 feet msl (cumulative total of 114,265 acre-feet), and to divert and use, with a time priority of November 19, 1965, not to exceed 54,000 acre-feet of water per year for municipal purposes within the District's service area; and

WHEREAS, subject to the maintenance of a contract for the purchase of water between the District and the City of Cooper, the District is authorized to use 6,000 acre-feet of storage in Lake Chapman of the 8,000 acre-feet currently used by the City of Cooper authorized by Certificate of Adjudication No. 03-4797 owned by the Sulphur River Municipal Water District, and to divert and use, with a time priority of November 19, 1965, not to exceed 3,214 acre-feet of water per year for municipal purposes within the District's service area in Dallas, Denton, Kaufman, Collin, Rockwall, and Hunt Counties; and

WHEREAS, Certificate of Adjudication No. 03-4797 authorizes the District to divert water through the District's existing diversion facilities on the perimeter of Lake Chapman at a maximum rate of 340.36 cfs (152,754 gpm) via pipeline to Lake Lavon for subsequent use; and

WHEREAS, the District seeks to amend Certificate of Adjudication No. 08-2410 as follows:

- To increase the District's reuse authorization from Lake Lavon by 35,941 acre-feet of water per year to a maximum total of 71,882 acre-feet of water per year of effluent discharged from the Wilson Creek WWTP to Lake Lavon, or as much thereof per year as may actually be discharged into Lake Lavon from the Wilson Creek WWTP,
- to increase the total consumptive use of water authorized for municipal purposes by Certificate of Adjudication No. 08-2410 from 177,300 acre-feet per year to 234,514 acre-feet per year, recognizing the District's authority to divert, pursuant to

Certificates of Adjudication Nos. 03-4797 and 03-4798, an additional 3,214 and 54,000 acre-feet of water per year (total of 57,214 acre-feet), respectively, from Lake Chapman in the Sulphur River Basin for municipal purposes within the District's service area,

To authorize the District to divert an additional 57,214 acre-feet of water per year from Lake Lavon for municipal purposes by either over-drafting Trinity River Basin water in excess of the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet msl) and spilling or when water is supplied from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797, as amended, and 03-4798, and

To authorize the use of up to 4,000 acre-feet of water per year previously authorized for industrial purposes by Certificate of Adjudication No. 08-2410 for industrial and municipal purposes; and

WHEREAS, the District has provided to the Executive Director an accounting plan that accounts for, by priority date and source, all water discharged into and diverted from Lake Lavon pursuant to all of the District's authorizations, including reuse; and

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

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

WHEREAS, the Executive Director has determined that 44,900 acre-feet of the 57,214 acre-feet of water from the Trinity River Basin requested by the District by over-drafting in excess of the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation capacity (435.5 feet msl) and spilling is available for appropriation; and

WHEREAS, the Executive Director has determined that, to mitigate adverse impacts to Lake Lavon, Lake Ray Hubbard, and the East Fork Trinity River, specific stream flow restrictions should be included in the amendment; and

WHEREAS, the Executive Director recommends that in order to protect senior and superior water rights owners, special conditions should be included in the amendment; and

WHEREAS, the Commission finds that granting this amendment is not detrimental to the public welfare; 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. 08-2410, designated Certificate of Adjudication No. 08-2410E, is issued to the North Texas Municipal Water District, subject to the following terms and conditions:

1. IMPOUNDMENT

North Texas Municipal Water District is authorized to store 380,000 acre-feet of water in an existing dam and reservoir on the East Fork Trinity River, known as Lavon Dam and Reservoir, which is owned by the United States of America and operated by the U.S. Corps of Engineers, between elevation 453 and elevation 492 feet above mean sea level. The dam is located in the W. A. S. Bohannon Survey, Abstract 121; William H. Moore Survey, Abstract 638; and the William C. Twitty Survey, Abstract 918, Collin County, Texas.

2. USE

A. In lieu of the diversions previously authorized from Lake Lavon, the District may now divert and use within its service area not to exceed:

- 1) 100,000 acre-feet of water per year for municipal purposes;
- 2) 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet msl) and spilling, or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003. To clarify, the 77,300 acre-feet of water per year diversion is the result of up to 84,000 acre-feet of water per year transferred from Lake Texoma adjusted for conveyance loss;
- 3) 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting in excess of the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level and spilling as authorized by this amendment;
- 4) 57,214 acre-feet of water per year from Lake Lavon for municipal purposes consisting of a combination of over-drafting a maximum of 44,900 acre-feet of Trinity River Basin water (in 2.A.3 above) and water supplied from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797 and 03-4798; and
- 5) 71,882 acre-feet of water per year discharged into Lake Lavon from the District's Wilson Creek WWTP;

- B. The total consumptive use of water authorized by Certificates of Adjudication Nos. 08-2410, 03-4797, 03-4798, and Water Use Permit No. 5003 for municipal purposes within the District's service area shall not exceed 234,514 acre-feet per year. If water is not transferred from Lake Chapman to Lake Lavon, the total consumptive use of water authorized by Certificate of Adjudication No. 08-2410 shall not exceed 222,200 acre-feet of water per year as authorized by this amendment.
- C. In lieu of the previous authorization to divert and consumptively use not to exceed 4,000 acre-feet of water per year from Lake Lavon for industrial purposes, District may now divert and use not to exceed 4,000 acre-feet of water per year from Lake Lavon for multiple use purposes (municipal and industrial).

3. TIME PRIORITY

The time priority for the storage, diversion, and use of the water authorized herein is as follows:

- A. September 8, 1953 - for the right to store 100,000 acre-feet of water for municipal and industrial purposes.
- B. August 2, 1965 - for the right to store 280,000 acre-feet of water for municipal purposes.
- C. September 8, 1953 - for diversion and use of 56,000 acre-feet of water per year from Lake Lavon for municipal purposes.
- D. September 8, 1953 - for diversion and use of 4,000 acre-feet of water per year from Lake Lavon for industrial and municipal purposes.
- E. August 2, 1965 - for diversion and use of 44,000 acre-feet of water per year from Lake Lavon for municipal purposes.
- F. September 10, 1985 - for diversion and use of 77,300 acre-feet of water per year as a result of the over-drafting of Lake Lavon when Lake Ray Hubbard is above maximum conservation level (435.5 feet msl) and spilling or whenever water is supplied from Lake Texoma pursuant to Water Use Permit No. 5003 for municipal purposes.
- G. November 10, 2002 - for diversion and use of an additional 35,941 acre-feet of water per year of water discharged from the District's Wilson Creek WWTP to Lake Lavon) for municipal purposes.
- H. November 10, 2002 - for diversion and use of an additional 44,900 acre-feet of Trinity River Basin water per year as a result of over-drafting in excess of the firm

yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet msl) and spilling.

- I. November 10, 2002 - for the storage in and diversion from Lake Lavon in the Trinity River Basin, of up to 57,214 acre-feet of water per year transferred from Lake Chapman in the Sulphur River Basin. The maximum of 57,214 acre-feet per year of transferred water and the return flows generated therefrom are not subject to priority call by senior and superior water rights owners in the Trinity River Basin.

4. CONSERVATION

The District shall implement water conservation plans that provide for the utilization of those 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. Such plans shall include a requirement that in every wholesale water supply contract entered into on or after the date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water be required to implement water conservation measures.

5. SPECIAL CONDITIONS

- A. The over-drafting in excess of the firm yield of Lake Lavon by 44,900 acre-feet authorized by this amendment shall be limited to times when Lake Ray Hubbard is at or above maximum conservation capacity (435.5 feet msl) and spilling and the flow in the East Fork Trinity River, as measured at United States Geological Survey Gage 08061750 on the Trinity River at Forney, Texas, is greater than 43 cubic-feet-per-second.
- B. The District is prohibited from exercising a priority call on water rights with priority dates between those of the owner's senior water rights and the priority date of this amendment for the purpose of refilling drawdowns of the reservoir storage in Lake Lavon caused by the diversion of the additional overdraft of 44,900 acre-feet of Trinity River Basin water authorized by this amendment.
- C. The District may only divert the amount of Lake Chapman water discharged upstream of Lake Lavon less any conveyance losses. Additionally, the District shall account for any additional incremental evaporation loss in Lake Lavon resulting from the storage of the Lake Chapman water.

- D. The District may only divert the additional 44,900 acre-feet of Trinity River Basin water per year pursuant to the District's accounting plan that accounts for, by priority date and source, all waters discharged into and diverted from Lake Lavon pursuant to all of the District's authorizations, including reuse. Any future changes to the District's accounting plan must be approved by the Executive Director.
- E. The District shall maintain daily electronic records (in spreadsheet or database format) of discharges into and diversions from Lake Lavon for each source of water used in the accounting, the calculations of conveyance and evaporative losses, and diversions of the return flows from Lake Lavon, and shall submit them to the Executive Director or general public upon request.
- F. The District is authorized to divert and use an additional 35,941 acre-feet of water per year from the Wilson Creek WWTP pursuant to the District's accounting plan.
- G. The District may only divert the amount of water actually discharged less conveyance losses. Electronic records of all effluent discharges, storage, diversions, and conveyance losses must be maintained and made available to the Executive Director or general public upon request.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specifically amended herein.

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

The District 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.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission

DATE ISSUED: SEP 08 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410F

TYPE §§ 11.122, 11.042 & 11.046

Owner: North Texas Municipal
Water District

Address: P. O. 2408
Wylie, Texas 75098

Filed: October 3, 2005

Granted: **JUL 05 2007**

Purpose: Municipal, Industrial
and Agricultural

Counties: Collin, Hopkins,
Dallas, Denton,
Rockwall, Hunt, and
Kaufman

Watercourse: East Fork Trinity River,
Tributary of the Trinity River

Watershed: Trinity River Basin
Red River Basin, and
Sulphur River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 currently authorizes the North Texas Municipal Water District (District) to impound 380,000 acre-feet of water in Lake Lavon, which is owned by the United States Army Corps of Engineers; and to divert and use from Lake Lavon:

- 100,000 acre-feet of water per year for municipal purposes;
- 4,000 acre-feet of water per year for industrial and municipal use;
- 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet msl) and spilling, or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003;
- 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting in excess of the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level and spilling;
- 57,214 acre-feet of water per year from Lake Lavon for municipal purposes consisting of a combination of over-drafting a maximum of 44,900 acre-feet of Trinity

River Basin water and water supplied from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797 and 03-4798; and

- 71,882 acre-feet of water per year discharged into Lake Lavon from the District's Wilson Creek Wastewater Treatment Plant; and

WHEREAS, Certificate of Adjudication No. 08-2410 provides that the total consumptive use of water authorized by Certificates of Adjudication Nos. 08-2410, 03-4797, and 03-4798 and Water Use Permit No. 5003 for municipal purposes within the District's service area shall not exceed 234,514 acre-feet of water per year; and

WHEREAS, if water is not transferred from Lake Chapman to Lake Lavon, the total consumptive use of water authorized by Certificate of Adjudication No. 08-2410 shall not exceed 222,200 acre-feet of water per year; and

WHEREAS, pursuant to Certificate of Adjudication No. 03-4798, District is also authorized to divert and use from Lake Chapman in the Sulphur River Basin not to exceed 54,000 acre-feet per year, and pursuant to Certificate of Adjudication No. 03-4797, not to exceed 3,214 acre-feet per year, for use in the District's service area; and

WHEREAS, Certificate of Adjudication No. 08-2410 contains several priority dates, special conditions and diversion rates; and

WHEREAS, the District seeks to amend Certificate of Adjudication No. 08-2410 to authorize:

- The diversion and use of up to 206,600 acre-feet of water per year of both permitted and projected return flows (District Return Flows) from sixteen (16) identified District- or District customer-owned or operated WWTPs (District WWTPs);
- The diversion and use of 157,393 acre-feet of water per year of permitted District Return Flows, of which the District has historically discharged 88,997 acre-feet of water per annum from the District WWTPs into the East Fork Trinity River or its tributaries. Of the 157,393 acre-feet of water per year permitted for discharge, the District proposes to divert and use up to 138,674 acre-feet of water per year, such that 30% of District Return Flows originating from existing or future permitted water supplies originating in the Trinity River Basin will be left in the East Fork Trinity River to address the needs of downstream water rights and the environment;
- The use of the bed and banks of the East Fork Trinity River and its tributaries within the Trinity River Basin to convey District Return Flows from District WWTPs to the proposed diversion facilities;

- The use of the bed and banks of Lake Lavon and its tributaries to convey Lake Lavon Return Flows to the District's existing authorized points of diversion on Lake Lavon for subsequent diversion at the District's existing authorized diversion rate, and for use by the District;
- The diversion of Lake Ray Hubbard and Lower East Fork Return Flows at a maximum rate of 436 cfs (195,543 gpm) from the proposed diversion facilities to be located at any point within an approximate 1,200 foot reach of Stream Segment 0819 of the East Fork Trinity River between Latitude 32.642°N, Longitude 96.484°W and Latitude 32.639°N, Longitude 96.485°W;
- The storage of not to exceed 4,497 acre-feet of Lake Ray Hubbard and Lower East Fork Return Flows in proposed off-channel storage facilities, including constructed wetlands;
- The collection in and diversion of Lake Ray Hubbard Return Flows and Lower East Fork Return Flows from the constructed wetlands in an amount equal to the amount of same diverted from the East Fork Trinity River, less conveyance losses associated with the temporary storage of such water in the constructed wetlands (estimated to be a maximum of 3,714 acre-feet per year), for conveyance by pipeline to Lake Lavon or a tributary to Lake Lavon; and
- The conveyance of the Lake Ray Hubbard and Lower East Fork Return Flows collected in the constructed wetlands and transported by pipeline to Lake Lavon or a tributary of Lake Lavon through a tributary of Lake Lavon and Lake Lavon for subsequent diversion at the District's authorized points of diversion on the perimeter of Lake Lavon at the District's existing authorized diversion rate, for use by the District; and

WHEREAS, the treated effluent comprising the District Return Flows is generated at the following sixteen (16) District- or District customer-owned or operated Wastewater Treatment Plants located in the Trinity River Basin, and is comprised of the sum of i) Lake Lavon Return Flows; ii) Lake Ray Hubbard Return Flows; and iii) Lower East Fork Return Flows, as follows; and

Watershed Discharge	Treatment Plant Name	Current Discharge (Af/Yr)	Permitted Discharge (Af/Yr)
Lake Lavon Return Flows	Farmersville #1 WWTP	0	252
	Farmersville #2 WWTP	336	594
	Seis Lagos WWTP	112	280
	Rowlett Creek WWTP	20,739	26,904
	Murphy WWTP	224	280
	Wylie WWTP	3,924	2,242

Lake Ray	Muddy Creek WWTP	0	22,420
Hubbard Return Flows	Squabble Creek WWTP	785	1,345
	Rush Creek WWTP	34	45
	Southside WWTP	56	202
	Terry Lane WWTP	11	34
	South Mesquite WWTP	17,039	28,025
Lower East Fork Return Flows	Garland Rowlett WWTP	19,842	26,904
	Garland Duck Creek WWTP	23,205	44,840
	Buffalo Creek WWTP	2,466	2,522
	Shepards Glen WWTP	224	504
	Total Discharges	88,997	157,393

WHEREAS, the District indicates that there will be no losses associated with the conveyance of District Return Flows within the East Fork Trinity River and Lake Lavon to the District's existing or proposed diversion facilities; and

WHEREAS, the District proposes that, until an agreement by and between the District and the City of Dallas pertaining to the Lake Ray Hubbard Return Flows has been executed, the authorization to divert and use District Return Flows be limited to only Lake Lavon Return Flows and Lower East Fork Return Flows; and

WHEREAS, the District has provided, and the Executive Director has approved, an accounting plan (Accounting Plan) that accounts for, by priority date and source, all water discharged into and diverted from Lake Lavon and the East Fork Trinity River pursuant to all of the District's authorizations, including the District's reuse authorizations; and

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

WHEREAS, the Executive Director has determined that 157,393 acre-feet of water per year of the currently permitted (TPDES) return flows requested by the Applicant from the sixteen (16) identified District- or District customer-owned or operated WWTPs is available for subsequent diversion and use, less losses; and

WHEREAS, the Executive Director recommends that specific stream flow restrictions should be included in the amendment to maintain the instream uses and water quality conditions of the East Fork Trinity River and the Trinity River; and

WHEREAS, the Executive Director recommends that in order to protect senior and superior water rights owners, special conditions should be included in the amendment; 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. 08-2410, designated Certificate of Adjudication No. 08-2410F, is issued to the North Texas Municipal Water District, subject to the following terms and conditions:

1. IMPOUNDMENT

In addition to previous authorizations, the District is also authorized to impound not to exceed 4,497 acre-feet of water in off-channel constructed wetlands, located in Kaufman County, ownership of which is evidenced by an Agreement for Easements Permitting Water District Use of the Seagoville Ranch recorded as Document 00017410, Book OR, Volume 2476, Page 327 through 353 of the Deed Records of Kaufman County, Texas.

2. USE

- A. Subject to the requirements of Section 7.K, in addition to the diversions previously authorized from Lake Lavon, the District is also authorized to divert and use, within its service area, not to exceed 157,393 acre-feet per year of the currently permitted District Return Flows from sixteen (16) identified District- or District customer-owned or operated wastewater treatment plants (District WWTPs), less losses.
- B. The District is authorized to divert from the off-channel wetlands not to exceed the actual amount of District Return Flows diverted from the East Fork Trinity River diversion points to the wetlands, less losses.
- C. The District is authorized to use the bed and banks of the East Fork Trinity River and its tributaries within the Trinity River Basin, including but not limited to Lake Ray Hubbard, to convey District Return Flows from the District WWTPs to the diversion facilities on the East Fork Trinity River authorized in Section 3.A1, subject to the requirements of Section 7.D.
- D. The District is authorized to use the bed and banks of Lake Lavon and its tributaries to convey District Return Flows to the District's authorized points of diversion on Lake Lavon for subsequent diversion and use by the District.

3. DIVERSION

The District is authorized to divert the water authorized by this amendment as follows:

A. POINTS

- 1. From an approximate 1,200 foot reach of Stream Segment 0819 of the East Fork Trinity River between Latitude 32.642°N, Longitude 96.484°W and Latitude 32.639°N, Longitude 96.485°W into the off-channel wetlands, and thence from the perimeter of the off-channel constructed

wetlands.

2. From the diversion points authorized pursuant to Certificate of Adjudication No. 08-2410, as amended.

B. RATES

1. From the East Fork Trinity River at a maximum combined rate of 436 cfs (195,543 gpm)
2. At the rate authorized from Lake Lavon by Certificate of Adjudication No. 08-2410, as amended.

4. DISCHARGE POINTS

The points of origin for District Return Flows from the sixteen (16) District- or District customer-owned or operated WWTPs are defined as follows:

- A. Buffalo Creek WWTP - into Buffalo Creek 1.5 miles northwest of the intersection of FM 3097 and FM 549 in Rockwall County at Latitude 32.877°N, Longitude 96.458°W in Trinity River Segment No. 0819; current discharge is 2.2 MGD or 2,466 acre-feet per year, current permitted discharge is 2.25 MGD or 2,522 acre-feet per year.
- B. Farmersville No. 1 WWTP - into an unnamed tributary of Elm Creek 1,600 feet south of the intersection of State Highway 78 and US Highway 380 in Collin County at Latitude 33.153°N, Longitude 96.375°W in Trinity River Segment No. 0821; current discharge is 0.0 MGD or 0.0 acre-feet per year, current permitted discharge is 0.23 MGD or 252 acre-feet per year.
- C. Farmersville No. 2 WWTP - into an unnamed tributary of Elm Creek 1,600 feet south of the intersection of State Highway 78 and US Highway 380 in Collin County at Latitude 33.153°N, Longitude 96.375°W in Trinity River Segment No. 0821; current discharge is 0.30 MGD or 336 acre-feet per year, current permitted discharge is 0.53 MGD or 594 acre-feet per year.
- D. Garland Duck Creek WWTP - into Duck Creek south of Lake Ray Hubbard Dam and north of Interstate Highway 20 in Kaufman County at Latitude 32.796°N, Longitude 96.517°W in Trinity River Segment No. 0819; current discharge is 20.70 MGD or 23,205 acre-feet per year, current permitted discharge is 40.00 MGD or 44,840 acre-feet per year.
- E. Garland Rowlett Creek WWTP - via pipeline into Duck Creek 0.25 miles south of Centerville Road from WWTP located 0.25 miles south of the intersection of State Highway 66 on the southeast corner where the Missouri, Kansas, and Texas

RR crosses Centerville Road in Dallas County at Latitude 32.870°N, Longitude 96.631°W in Trinity River Segment No. 0819; current discharge is 17.70 MGD or 19,842 acre-feet per year, current permitted discharge 24 MGD or 26,904 acre-feet per year.

- F. Muddy Creek WWTP - into Muddy Creek 1,100 feet northeast of the crossing of Muddy Creek by Pleasant Valley Road in Dallas County at Latitude 32.974°N, Longitude 96.548°W in Trinity River Segment No. 0820; current discharge is 0.00 MGD or 0.0 acre-feet per year, current permitted discharge is 20.00 MGD or 22,420 acre-feet per year.
- G. Murphy WWTP - into an unnamed tributary of Maxwell Creek 4,000 feet east and 6,000 feet south of the intersection of FM 544 and FM 2551 in Collin County at Latitude 32.991°N, Longitude 96.602°W in Trinity River Segment No. 0820; current discharge is 0.20 MGD or 224 acre-feet per year, current permitted discharge is 0.25 MGD or 280 acre-feet per year.
- H. Rowlett Creek WWTP - into Rowlett Creek east of Los Rios Blvd., approximately 700 feet north of FM 544 at Latitude 33.017°N, Longitude 96.645°W in Trinity River Segment No. 0820; current discharge is 18.50 MGD or 20,739 acre-feet per year, current permitted discharge is 24.00 MGD or 26,904 acre-feet per year.
- I. Rush Creek WWTP - into Lake Ray Hubbard 1.5 miles southwest of the City of Heath in Rockwall County at Latitude 32.826°N, Longitude 96.497°W in Trinity River Segment No. 0820; current discharge is 0.03 MGD or 34 acre-feet per year, current permitted discharge is 0.04 MGD or 45 acre-feet per year.
- J. Seis Lagos WWTP - into an unnamed tributary of Lake Lavon 0.8 miles southeast of the intersection of Riva Ridge Road and FM 3286 in Collin County at Latitude 33.076°N, Longitude 96.563°W in Trinity River Segment No. 0821; current discharge is 0.10 MGD or 112 acre-feet per year, current permitted discharge is 0.25 MGD or 280 acre-feet per year.
- K. Shepherds Glen WWTP - into an unnamed tributary of Buffalo Creek 0.75 miles east of FM 740 and 0.75 miles northwest of FM 549 in Rockwall County, at Latitude 32.861°N, Longitude 96.461°W in Trinity River Segment No. 0819; current discharge is 0.20 MGD or 224 acre-feet per year, current permitted discharge is 0.45 MGD or 504 acre-feet per year.
- L. South Mesquite WWTP - into South Mesquite Creek 0.5 miles south of the intersection of Lawson and Cartwright Roads in Dallas County at Latitude 32.707°N, Longitude 96.555°W in Trinity River Segment No. 0819; current discharge is 15.20 MGD or 17,039 acre-feet per year, current permitted discharge is 25.00 MGD or 28,025 acre-feet per year.

- M. Southside WWTP - into Rush Creek as it enters Lake Ray Hubbard one mile south-southwest of the intersection of State Highway 740 and State Highway 549 in Rockwall County at Latitude 32.825°N, Longitude 96.481°W in Trinity River Segment No. 0820; current discharge is 0.05 MGD or 56 acre-feet per year, current permitted discharge is 0.18 MGD or 202 acre-feet per year.
- N. Squabble WWTP - into Squabble Creek 1.2 miles south-southwest of the intersection of State Highway 205 and FM 552 in Rockwall County at Latitude 32.951°N, Longitude 96.469°W in Trinity River Segment No. 0819; current discharge is 0.70 MGD or 785 acre-feet per year, current permitted discharge is 1.20 MGD or 1,345 acre-feet per year.
- O. Terry Lane WWTP - into Lake Ray Hubbard at the western end of Terry Lane in the City of Heath in Rockwall County at Latitude 32.841°N, Longitude 96.500°W in Trinity River Segment No. 0820; current discharge is 0.01 MGD or 11 acre-feet per year, current permitted discharge is 0.03 MGD or 34 acre-feet per year.
- P. Wylie WWTP - into an unnamed tributary of Muddy Creek 0.4 mile southeast of State Highway 78, 0.57 miles south of the crossing of Muddy Creek by State Highway 78 and 1.25 miles southwest of the City of Wylie in Collin County at Latitude 32.993°N, Longitude 96.551°W in Trinity River Segment No. 0819; current discharge is 3.50 MGD or 3,924 acre-feet per year, current permitted discharge is 2.00 MGD or 2,242 acre-feet per year.

5. PRIORITY

The time priority for the conveyance and diversion of the 88,997 acre-feet per annum of historically discharged District Return Flows authorized by this amendment, and the impoundment of District Return Flows in the off-channel constructed wetlands authorized by this amendment, is October 3, 2005. The time priority for the conveyance and diversion of 68,396 acre-feet per annum of future District Return Flows is also October 3, 2005. However, the diversion of the 68,396 acre-feet per annum of future District Return Flows authorized by this amendment is not subject to priority call by senior and superior water right holders in the Trinity River Basin.

6. CONSERVATION

The District shall implement water conservation plans that provide for the utilization of those reasonable practices, techniques, and technologies that will reduce on a per unit basis the consumption of water, prevent or reduce the loss or waste of water, improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. The practices, techniques, and technologies used shall be designed to achieve a level of efficiency of use that is equal to or greater than the level provided for in the District's most recent water conservation plan on file with the Commission as of the date of the

issuance of this Amendment. Such plans shall include a requirement that in every wholesale water supply contract entered into on or after the date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures meeting the requirements of this provision. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water is required to implement water conservation measures meeting the requirements of this provision.

7. SPECIAL CONDITIONS

- A. The District shall implement and comply with the Accounting Plan, approved by the Executive Director, which accounts for measured discharges from the WWTPs and appropriate loss factors, and incorporate that plan with the District's existing Accounting Plan for Lake Lavon.
- B. The District shall maintain the Accounting Plan in electronic format (spreadsheet or database) and make it available to the public during normal business hours and shall submit it to the Executive Director upon request.
- C. Prior to the District's diversion of the water authorized herein, there shall be installed and maintained, at the discharge point of each WWTP and the diversion point on the East Fork Trinity River, a measuring device(s), capable of measuring within plus or minus 5% accuracy, to record the amount of water diverted.
- D. The District's authorization to use the bed and banks of Lake Ray Hubbard, including the authorization to divert and use Lake Ray Hubbard Return Flows, shall not be exercised until such time as an agreement between the District and the City of Dallas has been executed.
- E. The District shall limit the maximum diversion from the East Fork Trinity River to the actual discharges from upstream WWTPs, and in accordance with any conditions associated with the agreement with the City of Dallas for the diversion of Lake Ray Hubbard Return Flows, less losses.
- F. Lake Lavon Return Flows will be diverted from Lake Lavon, and are not subject to diversion at the downstream diversion point located on the East Fork Trinity River.
- G. The District shall limit diversions of District Return Flows through the diversion facilities located on the East Fork Trinity River and authorized in Part 3.A.1 of this amendment to times when the remaining streamflow of the East Fork Trinity River equals or exceeds 25.8 cfs as measured at a point immediately downstream of the diversion location. The USGS Gaging Station 08062000 (East Fork Trinity River near Crandall) located at US Highway 175 bridge crossing may be used as a reference point provided the gage remains operational and the diversions occur

upstream of its location.

- H. The District shall perform all the activities described in the site specific monitoring plan dated November 22, 2006, and entitled, "North Texas Municipal Water District, East Fork Water Supply Project, East Fork Monitoring Program." Data collection performed by North Texas Municipal Water District will be included in the Trinity River Authority's Clean Rivers Program Quality Assurance Project Plan for reporting to the State's water quality database. Owner should coordinate with the Trinity River Authority to ensure all quality assurance and data management requirements of the Quality Assurance Project Plan are met.
- I. The streamflow requirement in Special Condition 7.G is subject to adjustment upwards to a maximum level of no greater than 43 cfs as measured at the gage referenced in such Special Condition. Such an adjustment shall occur only pursuant to a Commission order, consideration of which may be initiated by action of the Executive Director or in response to a written request for such an adjustment submitted by a person who may be affected by such adjustment. The Commission may order such an adjustment only upon a determination that the adjustment is needed to adequately protect water quality and/or aquatic resources in the East Fork Trinity River downstream of the diversion point authorized in Section 3.A.1; and following the opportunity for a contested case hearing afforded to persons affected by such adjustment. In determining whether such an adjustment is needed and the extent of any such adjustment, the Commission shall consider, along with other relevant information, all data collected and reports prepared in accordance with and required by the East Fork Monitoring Program identified in Special Condition 7.H of this Permit.
- J. Prior to the diversion and use of future increases of District Return Flows in excess of the 157,393 acre-feet of water per annum authorized by this amendment, the District must apply for and be granted the authority to divert and use those increased return flows.
- K. The District's authorization to divert District Return Flows is conditioned upon the requirement that not less than 30% of District Return Flows originating from the District's existing and future permitted water supplies within the Trinity River Basin, as measured on a monthly basis and adjusted for conveyance losses, will be left in the Trinity River and allowed to flow downstream below all of the District's authorized diversion points to address the needs of downstream water rights and the environment. Compliance with this condition shall be accomplished pursuant to the Accounting Plan, and must be documented in the Accounting Plan.
- L. The District shall implement measures to minimize impacts to aquatic resources due to entrainment or impairment by installing screens at the diversion facilities with a mesh size of no larger than 0.75 inches, and ensuring a maximum flow-

through screen velocity of 0.5 feet per second or less.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Trinity River Basin, except as specifically provided herein.

The District 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

ISSUED: JUL 05 2007

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

2009 JAN 16 10:05 AM
WATER SUPPLY DIVISION

CERTIFICATE NO. 08-2410G - 1

TYPE §§ 11.122 & 11.042

Owner: North Texas Municipal
Water District

Address: P. O. 2408
Wylie, Texas 75098

Filed: January 28, 2005

Granted: **JAN 16 2009**

Purpose: Municipal and Industrial

County: Collin

Watercourse: East Fork Trinity River,
Tributary of the Trinity River

Watershed: Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 currently authorizes the North Texas Municipal Water District (Owner or District) to impound 380,000 acre-feet of water in Lake Lavon, which is owned by the United States Army Corps of Engineers, and to divert and use from Lake Lavon:

- 100,000 acre-feet of water per year for municipal purposes;
- 4,000 acre-feet of water per year for industrial and municipal use;
- 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet above msl) and spilling, or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003;
- 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level and spilling;
- 57,214 acre-feet of water per year from Lake Lavon for municipal purposes consisting of a combination of over-drafting the firm yield of Lake Lavon by a maximum of 44,900 acre-feet of Trinity River Basin water and water supplied from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797 and 03-4798;
- 71,882 acre-feet of water per year discharged into Lake Lavon from the District's Wilson Creek Wastewater Treatment Plant (WWTP);
- 157,394 acre-feet per year, less losses, of the permitted (Texas Pollutant Discharge Elimination System) District Return Flows from sixteen (16) identified WWTPs owned or operated by the District or the District's customers; and

WHEREAS, Owner is authorized to divert water from two points on the perimeter of Lake Lavon at a combined rate of 896 cfs (402,000 gpm) for municipal purposes, from an intake/wetwell approximately two miles northeast of Wiley, Texas at a rate of 432 cfs (193,821 gpm) for municipal purposes, and from one point on the perimeter of Lake Lavon at a rate of 523 cfs (240,000 gpm) for industrial and municipal purposes; and

WHEREAS, Owner is also authorized to impound not to exceed 4,497 acre-feet of water in off-channel constructed wetlands, located at a point bearing S35.9514°E, 6,104 feet from the west corner of the D. Wilkerson Survey, Abstract No. 566, also located at Latitude 32.606°N and Longitude 96.494°W, in Kaufman County; and

WHEREAS, Owner is authorized to divert from the off-channel wetlands not to exceed the actual amount of return flows diverted from the East Fork Trinity River diversion points to the wetlands; and

WHEREAS, Owner is authorized to use the bed and banks of the East Fork Trinity River and its tributaries within the Trinity River Basin to convey District Return Flows from the District WWTPs to diversion facilities downstream on the East Fork Trinity River, excluding the District Return Flows associated with District WWTPs that discharge directly into Lake Lavon or tributaries thereof (District Lake Lavon Return Flows); and

WHEREAS, Owner is authorized to use the bed and banks of Lake Lavon and its tributaries to convey District Lake Lavon Return Flows to the District's existing authorized points of diversion on Lake Lavon for subsequent diversion at the District's existing authorized diversion rate, and for use by the District; and

WHEREAS, Certificate of Adjudication No. 08-2410 provides that the total consumptive use of water authorized by Certificates of Adjudication Nos. 08-2410, 03-4797, and 03-4798 and Water Use Permit No. 5003 for municipal purposes within the District's service area shall not exceed 235,514 acre-feet of water per year; and

WHEREAS, if water is not transferred from Lake Chapman to Lake Lavon, the total consumptive use of water authorized by Certificate of Adjudication No. 08-2410 shall not exceed 222,200 acre-feet of water per year; and

WHEREAS, Certificate of Adjudication No. 08-2410 contains several priority dates and special conditions; and

WHEREAS, the District has two contracts with the United States Army Corps of Engineers which authorize the District to use 100 percent of the conservation storage in Lake Lavon between elevations 492 feet above mean sea level (msl) and 453 feet above msl; and

WHEREAS, pursuant to revised calculations of the storage capacity and firm yield in Lake Lavon between these elevations, District seeks an amendment to Certificate of Adjudication No. 08-2410 to authorize:

- An increase in the District's total authorized storage by 63,800 acre-feet of water, thereby increasing the authorized maximum storage from 380,000 to 443,800 acre-feet of water and to impound the water for subsequent diversion and use;

- An increase in the District's diversion and use authorization by 14,840 acre-feet of firm yield water per year, thereby increasing the maximum authorized diversion and use from 104,000 to 118,840 acre-feet of water per year within its service area in the Trinity River Basin, of which 4,000 acre-feet is for municipal and industrial purposes and the remaining 114,840 acre-feet per year for municipal purposes;
- Diversion of water for municipal purposes from anywhere on the perimeter of Lake Lavon;
- An increase in the maximum combined diversion rate of municipal water from 1,328 cfs (596,007 gpm) to 1,821 cfs (817,265 gpm); and
- Use of the bed and banks of an unnamed tributary of Hickory Creek, Hickory Creek, Indian Creek and Lake Lavon to convey a maximum of 57,214 acre-feet of water per year at a rate of 340.36 cfs (152,753.57 gpm) from Lake Chapman in the Sulphur River Basin to the District's diversion facilities on Lake Lavon in the Trinity River Basin. The water will be released into an unnamed tributary of Hickory Creek at Latitude 33.222° N, Longitude 96.333° W and conveyed down the bed and banks of the unnamed tributary of Hickory Creek, Hickory Creek, Indian Creek, Lake Lavon, and from Lake Lavon to the District's diversion facilities. Applicant indicates that negligible losses will occur during conveyance of the water; and

WHEREAS, the District initially requested an increased diversion amount of 14,840 acre-feet of water per year, however, a revised study by the District, entitled *Supplement No. 3 to Technical Data to Support Application to Amend Certificate of Adjudication 08-2410, as Amended – Firm Yield of Lake Lavon Between Elevation 492.0 and 453.0*, indicated that the additional storage resulted in an increase in the firm yield of 14,670 acre-feet of water per year; and

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

WHEREAS, the Executive Director's technical analysis confirms the availability of 14,670 acre-feet of water per year; and

WHEREAS, the District has provided, and the Executive Director has approved, an accounting plan that accounts for, by priority date and source, all water discharged into and diverted from Lake Lavon and the East Fork Trinity River pursuant to all of the District's authorizations, including reuse; and

WHEREAS, the Executive Director recommends that specific stream flow restrictions be included in the amendment to maintain the instream uses and water quality conditions of the East Fork Trinity River and the Trinity River; and

WHEREAS, the Executive Director recommends that special conditions should be included in the amendment; 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. 08-2410, designated Certificate of Adjudication No. 08-2410G, is issued to the North Texas Municipal Water District, subject to the following terms and conditions:

1. IMPOUNDMENT

In lieu of the previous authorization to impound 380,000 acre-feet of water in Lake Lavon between elevations 492 feet above mean sea level (msl) and 453 feet above msl, Owner is now authorized to impound not to exceed 443,800 acre-feet of water between elevations 492 feet above msl and 453 feet above msl.

2. USE

A. In addition to previous authorizations, Owner is also authorized to divert and use not to exceed 14,670 acre-feet of water per year from Lake Lavon for municipal purposes within its service area in the Trinity River Basin.

B. In addition to previously granted bed and banks authorizations, Owner is also authorized to use the bed and banks of an unnamed tributary of Hickory Creek, Hickory Creek, Indian Creek and Lake Lavon to convey a maximum of 57,214 acre-feet of water per year from Lake Chapman in the Sulphur River Basin to the District's diversion facilities on Lake Lavon in the Trinity River Basin.

3. DISCHARGE

A. POINT

Lake Chapman water shall be released into an unnamed tributary of Hickory Creek at Latitude 33.222° N, Longitude 96.333° W.

B. RATE

Lake Chapman water shall be discharged at a maximum rate of 340.36 cfs (152,753.57 gpm).

4. DIVERSION

A. POINT

In lieu of Owner's authorization to divert water for municipal purposes from two (2) specific points on Lake Lavon, Owner is now authorized to divert water for municipal purposes from anywhere on the perimeter of Lake Lavon.

B. RATE

In lieu of Owner's authorization to divert water for municipal purposes from Lake Lavon at a combined maximum rate of 1,328 cfs (596,007 gpm), Owner is now authorized to divert water for municipal purposes at a combined maximum rate of 1,821 cfs (817,265 gpm).

5. PRIORITY

- A. The time priority for storage of the additional 63,800 acre-feet of water in Lake Lavon is January 28, 2005.
- B. The time priority for diversion and use of the additional 14,670 acre-feet of firm water per year from Lake Lavon is January 28, 2005.

6. CONSERVATION

Owner shall implement water conservation plans that provide for the utilization of those reasonable practices, techniques, and technologies that reduce on a per unit basis the consumption of water, prevent or reduce the loss or waste of water, improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. The practices, techniques, and technologies used shall be designed to achieve a level of efficiency of use that is equal to or greater than the level provided for in Owner's most recent water conservation plan on file with the Commission as of the date of issuance of this amendment. Such plans shall include a requirement that in every wholesale water supply contract entered into on or after the date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures meeting the requirements of this provision. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water is required to implement water conservation measures meeting the requirements of this provision.

7. SPECIAL CONDITIONS

- A. In lieu of Special Condition 7.A. in Certificate of Adjudication No. 08-2410F, the District shall only impound, divert and use water pursuant to Paragraphs 1. IMPOUNDMENT, 2. USE and 4. DIVERSION in accordance with the most recent accounting plan, *North Texas Municipal Water District Accounting Plan for Lake Lavon (CA 08-2410, As Amended (Amendments A-G)) with Sabine Transfers*. The District shall maintain the accounting plan in electronic format and make the data available to the Executive Director and the public upon request. Any modifications to the *North Texas Municipal Water District Accounting Plan for Lake Lavon (CA 08-2410, As Amended (Amendments A-G))* shall be approved by the Executive Director. Any modification of the plan that changes the certificate terms must be in the form of an amendment to the certificate. Should the District fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, the District shall immediately cease impoundment and diversion pursuant to Paragraph 1. IMPOUNDMENT and Paragraph 4. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit this amendment. If the District fails to amend the accounting plan or forfeit this amendment, the TCEQ may begin proceedings to cancel the amendment. The Commission shall be notified immediately by the District upon modification of the accounting plan and provided with copies of the appropriate documents effectuating such changes.
- B. Owner shall limit the additional storage in and diversions of firm yield from Lake Lavon authorized by this amendment to times when the remaining streamflow of the East Fork Trinity River equals or exceeds 25.8 cfs as measured at the USGS Gaging Station 08062000 (East Fork Trinity River near Crandall) located at US Highway 175 bridge

crossing. This special condition is subject to adjustment by the Commission if the Commission determines, through an expedited public review process, that such adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted pursuant to Texas Water Code § 11.1471. Any adjustment shall be made in accordance with the provisions of Texas Water Code § 11.147(e-1).

- C. Owner shall perform all the activities described in the site specific monitoring plan dated November 22, 2006, and entitled, "North Texas Municipal Water District, East Fork Water Supply Project, East Fork Monitoring Program." Data collection performed by North Texas Municipal Water District will be included in the Trinity River Authority's Clean Rivers Program Quality Assurance Project Plan for reporting to the State's water quality database. Owner should coordinate with the Trinity River Authority to ensure all quality assurance and data management requirements of the Quality Assurance Project Plan are met.
- D. The streamflow requirement in Special Condition 7.B. above is subject to adjustment upwards to a maximum level of no greater than 43 cfs as measured at the gage referenced in such Special Condition. Such an adjustment shall occur only pursuant to a Commission Order, consideration of which may be initiated by action of the Executive Director or in response to a written request for such an adjustment submitted by a person who may be affected by such adjustment. The Commission may order such an adjustment only upon a determination that the adjustment is needed to adequately protect water quality and/or aquatic resources in the East Fork Trinity River downstream (Segment 0819), and following the opportunity for a contested case hearing afforded to persons affected by such adjustment. In determining whether such an adjustment is needed and the extent of any such adjustment, the Commission shall consider, along with other relevant information, all data collected and reports prepared in accordance with and required by the East Fork Monitoring Program identified in Special Condition 7.C. above.
- E. The total consumptive use of water authorized by Certificates of Adjudication Nos. 08-2410, 03-4797, and 03-4798 and Water Use Permit No. 5003 for municipal purposes within the District's service area shall not exceed 250,184 acre-feet of water per year.
- F. If water is not transferred from Lake Chapman to Lake Lavon, the total consumptive use of water authorized by Certificate of Adjudication No. 08-2410 shall not exceed 236,870 acre-feet of water per year.
- G. Owner shall develop minimum standards for the content of its customers' water conservation plans. Those minimum standards shall meet the requirements of Paragraph 6. CONSERVATION and require each customer's water conservation plan to identify that customer's technical potential for water conservation savings. These minimum standards shall apply to every contract entered into, extended, or renewed following the date of issuance of this amendment.
- H. Owner shall update its water conservation plan every five years in accordance with 30 TAC 288, beginning in 2009. Conservation goals for five-year and ten-year periods shall include a per-capita water use goal for the Owner's service area, and the plan shall include strategies to achieve the goal. All updates shall meet the requirements of Paragraph 6. CONSERVATION.

- I. As part of its ongoing public education program, every five (5) years Owner shall provide to its customers, local and regional news media and the TCEQ:
1. An implementation report stating the goal(s) of the previous five years and quantitative measurements of conservation achieved, based on five years' water use data.
 2. Owner's conservation goals for the next five years.
- J. In addition to or as a part of the minimum standards adopted in accordance with Special Condition 7.G., Owner shall ensure that member cities and customers implement conservation-oriented water rates such as uniform or increasing-block rates, and/or seasonal rates, but not flat or decreasing-block rates through all contracts entered into or renewed following the approval of this amendment.

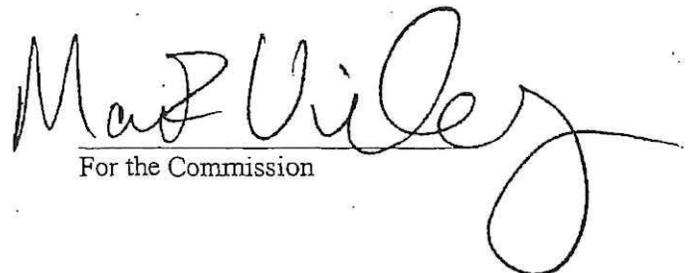
This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 08-2410, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Trinity 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

ISSUED: **JAN 16 2009**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410H	TYPE: §§ 11.122, 11.085
Owner: North Texas Municipal Water District	Address: P.O. Box 2408 Wylie, Texas 75098
Filed: June 24, 2014	Granted: November 18, 2014
Purpose: Industrial, Municipal, Agricultural	Counties: Collin, Fannin, Hunt, Grayson, Kaufman, Rockwall, Van Zandt, Hopkins, Dallas, Denton
Watercourse: East Fork Trinity River, tributary of the Trinity River	Watershed: Trinity, Red, Sabine, and Sulphur River Basins

WHEREAS, Certificate of Adjudication No. 08-2410 authorizes the North Texas Municipal Water District (Owner or NTMWD) to impound 443,800 acre-feet of water in Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, owned by the U.S. Army Corps of Engineers, and to divert and use from Lake Lavon:

- 114,670 acre-feet of water per year for municipal purposes;
- 4,000 acre-feet of water per year for industrial and municipal purposes;
- 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet above msl) and spilling, or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003;
- 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level and spilling;
- 57,214 acre-feet of water per year from Lake Lavon for municipal purposes consisting of a combination of over-drafting the firm yield of Lake Lavon by a maximum of 44,900 acre-feet of Trinity River Basin water and water supplied

from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797 and 03-4798;

- 71,882 acre-feet of water per year discharged into Lake Lavon from the NTMWD's Wilson Creek Waste Water Treatment Plant (WWTP); and
- 157,394 acre-feet per year, less losses, of the permitted (Texas Pollutant Discharge Elimination System) NTMWD Return Flows from sixteen (16) identified WWTPs owned or operated by the NTMWD or the NTMWD's customers; and

WHEREAS, Owner is also authorized to impound not to exceed 4,497 acre-feet of water in off-channel constructed wetlands in Kaufman County; and

WHEREAS, Owner is further authorized to divert from the off-channel wetlands not to exceed the actual amount of return flows diverted from the East Fork Trinity River diversion points to the wetlands; and

WHEREAS, multiple special conditions, bed and bank authorizations, diversion rates, diversion points, and priority dates exist; and

WHEREAS, Owner seeks to authorize exempt interbasin transfers from the Trinity River Basin to those portions of Collin, Fannin, Hopkins, Hunt, Grayson, Kaufman, Rockwall, and Van Zandt Counties located within the NTMWD's Service Area in the Red, Sabine, and Sulphur River Basins; and

WHEREAS, the Texas Commission on Environmental Quality finds that jurisdiction over the application is established; 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 Certificate of Adjudication No. 08-2410, designated as Certificate of Adjudication No. 08-2410H, is issued to the North Texas Municipal Water District subject to the following terms and conditions:

1. USE

In addition to the previous authorization, Owner is also authorized the following interbasin transfers to:

- A. those portions of Collin, Hopkins, Hunt, Rockwall, Kaufman, and Van Zandt Counties located within the NTMWD's Service Area in the Sabine River Basin.
- B. those portions of Hunt and Fannin Counties located within the NTMWD's Service Area in the Sulphur River Basin.

- C. those portions of Fannin and Grayson Counties located within the NTMWD's Service Area in the Red River Basin.
- D. the NTMWD's Service Area within the Sabine River Basin, and additional counties as the NTMWD's Service Area expands within the Sabine River Basin, in a total amount less than 3,000 acre-feet of water per year.
- E. the NTMWD's Service Area within the Sulphur River Basin, and additional counties as the NTMWD's Service Area expands within the Sulphur River Basin, in a total amount less than 3,000 acre-feet of water per year.
- F. the NTMWD's Service Area within the Red River Basin, and additional counties as the NTMWD's Service Area expands within the Red River Basin, in a total amount less than 3,000 acre-feet of water per year.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 08-2410, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Trinity 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: **November 18, 2014**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410I

TYPE § 11.122

Owner: North Texas Municipal
Water District

Address: P.O. Box 2408
Wylie, Texas 75098

Filed: November 18, 2015

Granted: October 20, 2016

Purposes: Municipal and Industrial

Counties: Collin, Grayson, Fannin,
Hunt, Hopkins, Denton,
Dallas, Rockwall, Van
Zandt, Kaufman

Watercourse: unnamed tributary of Lake
Lavon, Lake Lavon, and
Trinity River

Watershed: Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 authorizes North Texas Municipal Water District, Owner or District, to impound 443,800 acre-feet of water in Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, which is owned by the USA and operated by the Army Corps of Engineers, and to divert and use from Lake Lavon: 114,670 acre-feet of water per year for municipal purposes; 4,000 acre-feet of water per year for industrial and municipal purposes; 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting Lake Lavon; 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting Lake Lavon; 57,214 acre-feet of water per year for municipal purposes from Lake Lavon; 71,882 acre-feet of water per year discharged into Lake Lavon from the District's Wilson Creek Wastewater Treatment Plant (WWTP); and 157,393 acre-feet per year of the District's return flows from sixteen WWTPs; and

WHEREAS, Owner is also authorized to impound not to exceed 4,497 acre-feet of water in off-channel constructed wetlands in Kaufman County. Owner is further authorized an exempt interbasin transfer from the Trinity River Basin to those portions of Collin, Fannin, Hopkins, Hunt, Grayson, Kaufman, Rockwall, and Van Zandt Counties in the Red, Sabine, and Sulphur River Basins. Multiple special conditions, bed and banks authorizations, diversion rates, diversion points and priority dates apply; and

WHEREAS, pursuant to the *Option for Raw Water Supply Contract* with the Trinity River Authority (TRA), the District seeks to amend Certificate of Adjudication No. 08-2410 to authorize the conveyance of 56,050 acre-feet of contract water per year for municipal and industrial purposes within the District's service area in the Trinity River Basin. The contract water will be diverted from the Trinity River and conveyed using the District's existing authorization for use of off-channel wetlands and the bed and banks of the unnamed tributary of Lake Lavon; and

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

WHEREAS, the District has provided and the Executive Director has approved the *North Texas Municipal Water District Reservoir Accounting Plan for Lake Lavon*; 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 Certificate of Adjudication No. 08-2410 designated Certificate of Adjudication No. 08-2410I, is issued to North Texas Municipal Water District, subject to the following terms and conditions:

1. USE

In addition to the previous authorizations, Owner is also authorized to use the bed and banks of an unnamed tributary of Lake Lavon and Lake Lavon to convey 56,050 acre-feet of contract water per year, authorized by Certificate of Adjudication No. 08-4248, as amended, for municipal and industrial purposes in the Owner's service area in the Trinity River Basin.

2. SPECIAL CONDITIONS

A. Owner shall only divert and use contract water under this amendment in accordance with the most recently approved accounting plan (*North Texas Municipal Water District Reservoir Accounting Plan for Lake Lavon*). Owner shall maintain the plan in electronic format and make the data available to the public during normal business hours and to the Executive Director upon request. Any modifications to the accounting plan shall be approved by the Executive Director. Any modification to the accounting plan that changes the terms of this amendment to the certificate must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Owner shall immediately cease diversion of the contract water, and either apply to amend the certificate, or voluntarily forfeit this amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director

upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.

- B. The authorization described in Paragraph 1. USE is subject to the continued maintenance of the *Option for Raw Water Supply Contract*, as such option contract may be succeeded or replaced by a *Raw Water Supply Contract*, and as such contract may be extended or amended from time to time. Should any such contract be amended in such a manner as to change the amount of water or the type or location of use of the water, Owner shall submit an application to amend this certificate to conform to the terms of the amended contract. Upon expiration of any such contract, Owner shall immediately cease use pursuant to Paragraph 1. USE and either apply to amend the certificate with a new contract, or voluntarily forfeit the amendment. Owner shall immediately notify the Executive Director upon amendment or expiration of such contract and provide copies of appropriate documents effectuating such changes.

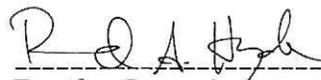
This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 08-2410, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Trinity 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: **October 20, 2016**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 08-2410J

TYPE § 11.122

Owner: North Texas Municipal
Water District

Address: P.O. Box 2408
Wylie, Texas 75098

Filed: October 4, 2016

Granted: August 10, 2017

Purposes: Municipal and Industrial

Counties: Collin, Grayson, Fannin,
Hunt, Hopkins, Denton,
Dallas, Rockwall, Van
Zandt, Kaufman

Watercourse: East Fork Trinity River,
Tributary of the Trinity
River

Watershed: Trinity River Basin

WHEREAS, Certificate of Adjudication No. 08-2410 authorizes the North Texas Municipal Water District (Owner or NTMWD) to impound 443,800 acre-feet of water in Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, owned by the U.S. Army Corps of Engineers, and to divert and use from Lake Lavon:

- 114,670 acre-feet of water per year for municipal purposes;
- 4,000 acre-feet of water per year for industrial and municipal purposes;
- 77,300 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon when Lake Ray Hubbard is at or above maximum conservation level (435.5 feet above msl) and spilling, or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003;
- 44,900 acre-feet of Trinity River Basin water per year for municipal purposes by over-drafting the firm yield of Lake Lavon during times when Lake Ray Hubbard is at or above maximum conservation level and spilling;

- 57,214 acre-feet of water per year from Lake Lavon for municipal purposes consisting of a combination of over-drafting the firm yield of Lake Lavon by a maximum of 44,900 acre-feet of Trinity River Basin water and water supplied from Lake Chapman pursuant to Certificates of Adjudication Nos. 03-4797 and 03-4798;
- 71,882 acre-feet of water per year discharged into Lake Lavon from the NTMWD's Wilson Creek Waste Water Treatment Plant (WWTP);
- 157,393 acre-feet per year, less losses, of the permitted (Texas Pollutant Discharge Elimination System) NTMWD Return Flows from sixteen (16) identified WWTPs owned or operated by the NTMWD or the NTMWD's customers;

WHEREAS, Owner is also authorized to impound not to exceed 4,497 acre-feet of water in off-channel constructed wetlands in Kaufman County. Owner is further authorized an exempt interbasin transfer from the Trinity River Basin to those portions of Collin, Fannin, Hopkins, Hunt, Grayson, Kaufman, Rockwall, and Van Zandt Counties in the Red, Sabine, and Sulphur River Basins. Multiple special conditions, bed and banks authorizations, diversion rates, diversion points and priority dates apply; and

WHEREAS, pursuant to the *Option for Raw Water Supply Contract* with the Trinity River Authority, Owner is also authorized to use the bed and banks of an unnamed tributary of Lake Lavon and Lake Lavon to convey 56,050 acre-feet of contract water per year, authorized by Certificate of Adjudication No. 08-4248 for municipal and industrial purposes in the Owner's service area in the Trinity River Basin; and

WHEREAS, Owner seeks to amend Certificate of Adjudication No. 08-2410 to modify the currently authorized limits on over-drafting the firm yield of Lake Lavon by diverting the currently authorized 77,300 acre-feet of water per year for municipal purposes and 44,900 acre-feet per year for municipal purposes when Lake Lavon is at or above elevation 492 feet msl; and

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

WHEREAS, NTMWD has provided, and the Executive Director has approved the *North Texas Municipal Water District Reservoir Accounting Plan for Lake Lavon*; and

WHEREAS, The Executive Director recommends that in lieu of including the revised storage limitations on over-drafting the firm yield of Lake Lavon for the authorized 77,300 acre-feet of water per year for municipal purposes and 44,900 acre-feet per year for municipal purposes in the USE paragraph, the new storage limitations based on storage in Lake Lavon should be included as special conditions; and

WHEREAS, the Executive Director also recommends that NTMWD conduct its over-drafting operations in accordance with its approved accounting plan; 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. 08-2410, designated Certificate of Adjudication No. 08-2410J, is issued to North Texas Municipal Water District, subject to the following terms and conditions:

1. SPECIAL CONDITIONS

- A. Owner's authorization to overdraft the firm yield of Lake Lavon by 77,300 acre-feet of water per year for municipal purposes as authorized in Certificate of Adjudication No. 08-2410A is limited to times when Lake Lavon is at or above maximum conservation level (492 feet msl) or whenever additional water up to 77,300 acre-feet per year is supplied from Lake Texoma to Lake Lavon pursuant to Water Use Permit No. 5003.
- B. Owner's authorization to overdraft the firm yield of Lake Lavon by 44,900 acre-feet of water per year for municipal purposes as authorized in Certificate of Adjudication No. 08-2410E is limited to times when Lake Lavon is at or above maximum conservation level (492 feet msl) and the flow in the East Fork Trinity River, as measured at United States Geological Survey Gage 08061750 on the East Fork Trinity River at Forney, Texas is greater than 43 cubic feet per second.
- C. Owner shall conduct its over-drafting operations in accordance with the most recently approved accounting plan (*North Texas Municipal Water District Reservoir Accounting Plan for Lake Lavon*). Owner shall maintain the plan in electronic format and make the data available to the public during normal business hours and to the Executive Director upon request. Any modifications to the accounting plan shall be approved by the Executive Director. Any modification to the accounting plan that changes the terms of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Owner shall immediately cease over-drafting operations under this amendment and either apply to amend the certificate, or voluntarily forfeit this amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.

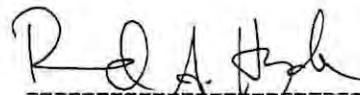
This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 08-2410, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Trinity 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.

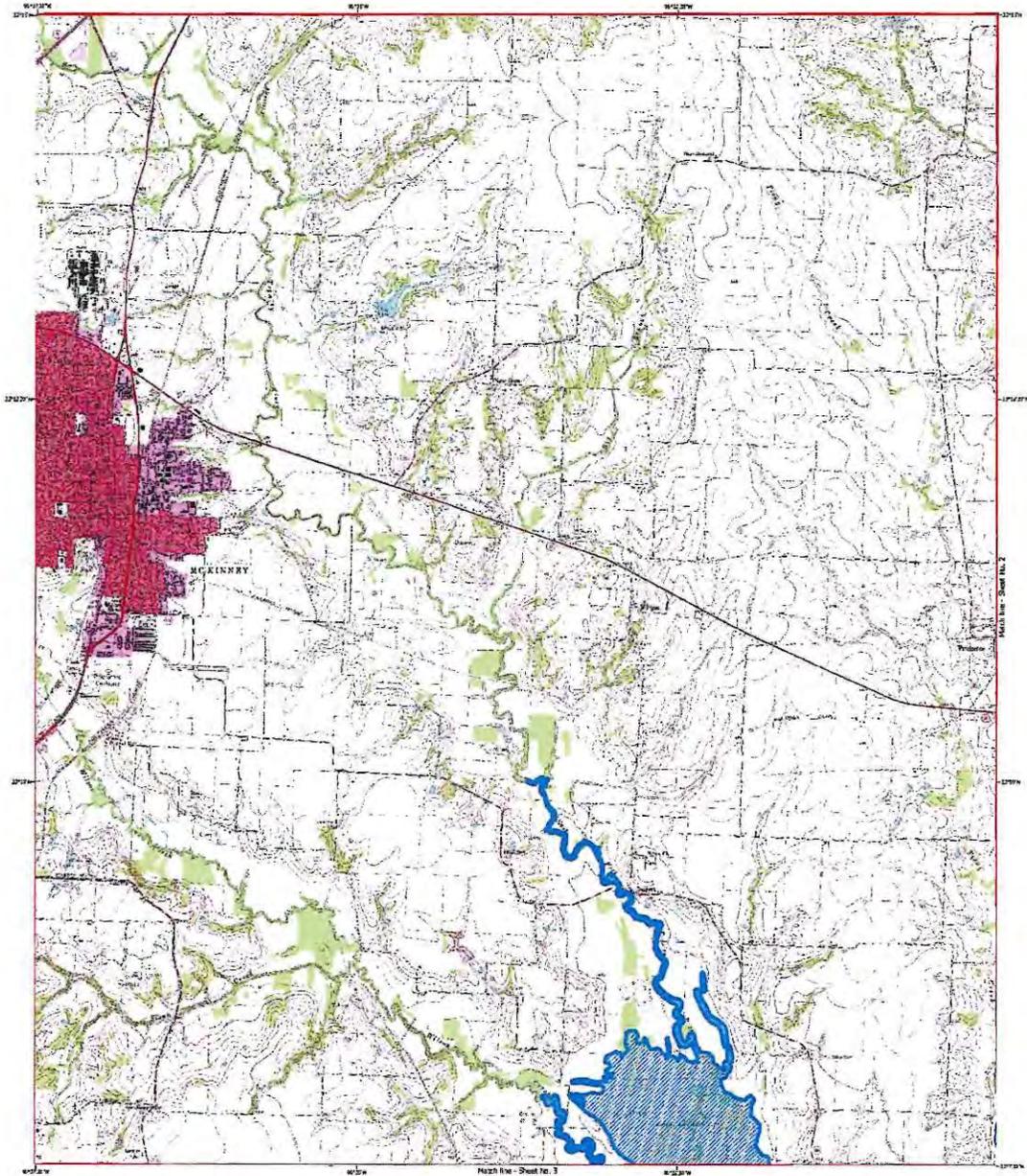
This amendment is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right of continuing supervision of State water resources exercised by the Commission.



For the Commission

Date issued: **August 10, 2017**

TAB 11

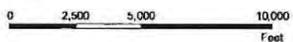


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NOV 22 2022

Water Availability Division

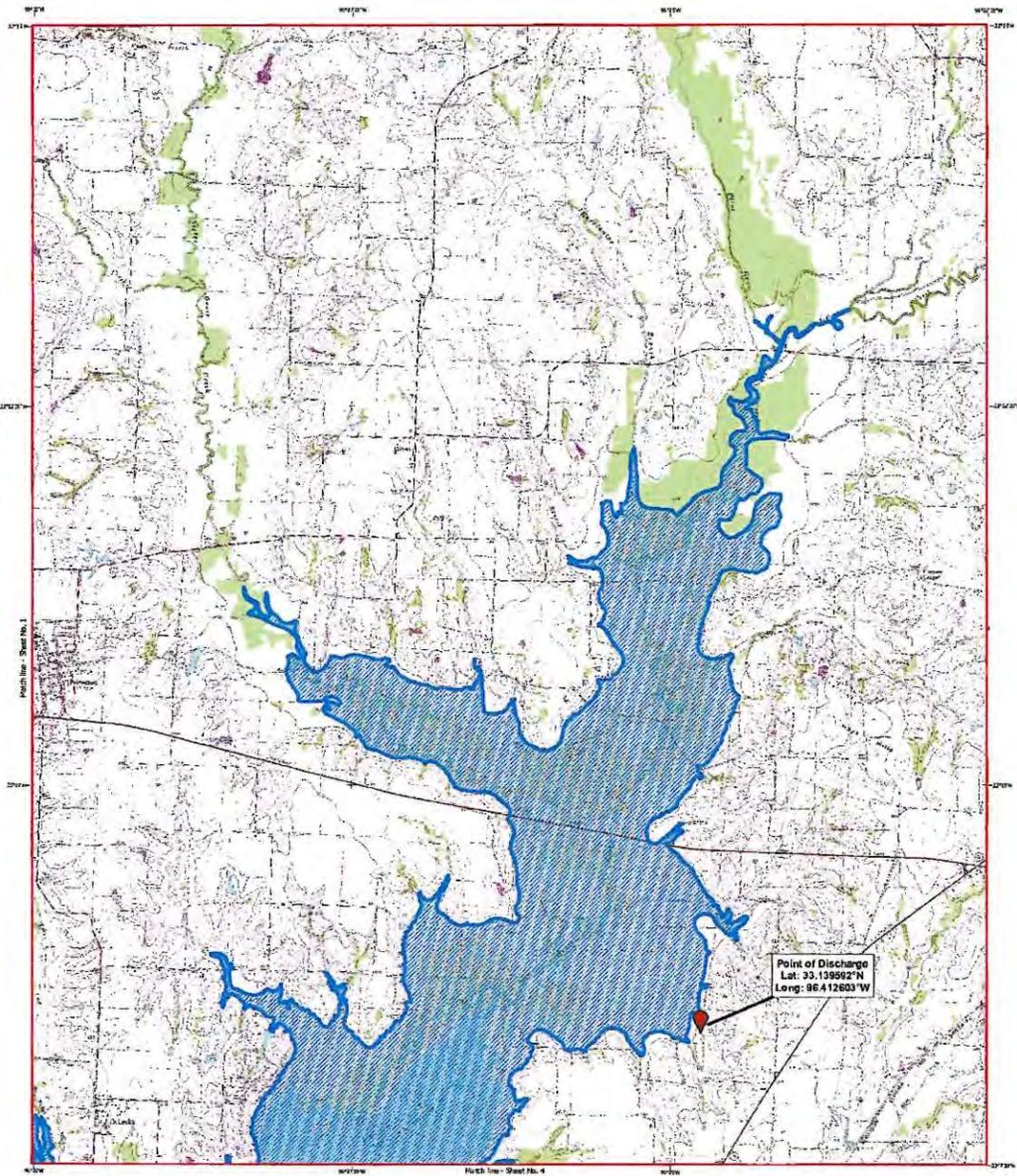
	Lawton Lake (Elevation +92 Feet)
	Match lines with adjacent sheets



North Texas Municipal Water District has the right to divert from anywhere on the perimeter of Lake Lawton.

MAP BASED ON 1:50,000 USGS QUADRANGLE MAP, MCKINNEY EAST, TEXAS

NORTH TEXAS MUNICIPAL WATER DISTRICT 505 E. BROWN ST. WYLIE, TEXAS 75098		
AMENDMENT TO A WATER RIGHT		
BED AND BANKS AUTHORIZATION		
DESIGN: DRAWN: WEC CHECKED:	FREESE AND NICHOLS, INC. CONSULTING ENGINEERS FORT WORTH, TEXAS	DATE: OCT 2022 SHEET 1 OF 4

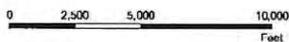
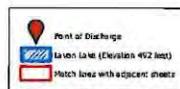


Point of Discharge
 Lat: 33.139502°N
 Long: 96.412603°W

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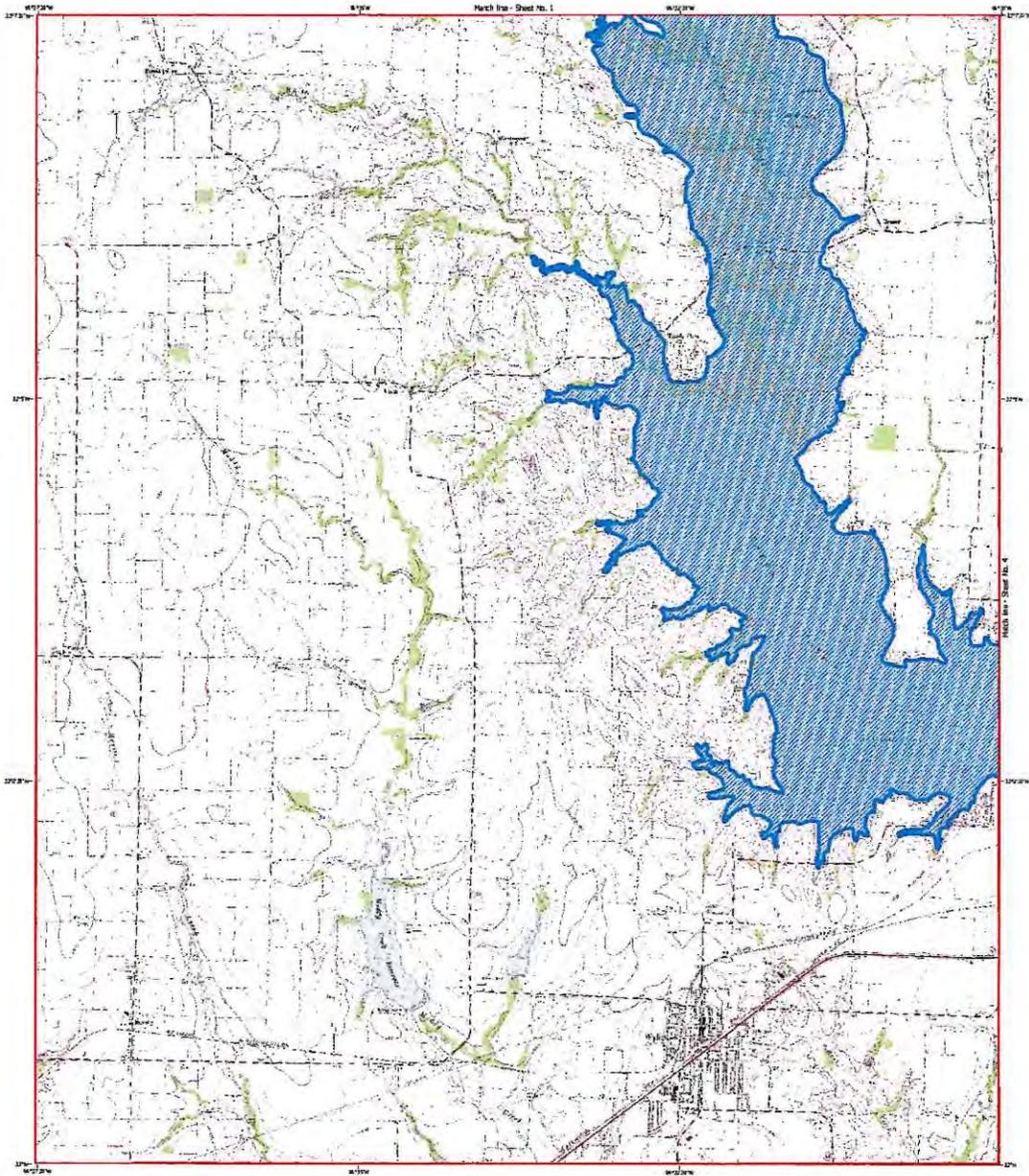
Water Resources Division



North Texas Municipal Water District has the right to divert from anywhere on the perimeter of Lake Lavin.

MAP DATED ON 7.5 MINUTE USGS QUADRANGLE MAP, GALLERIA, TEXAS

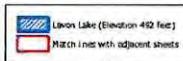
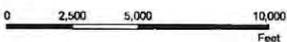
NORTH TEXAS MUNICIPAL WATER DISTRICT 505 E. BROWN ST. WYLLIE, TEXAS 75098	
AMENDMENT TO A WATER RIGHT	
BED AND BANKS AUTHORIZATION	
DESIGN: DRAWN: WEC CHECKED:	FRISSE AND MOVLIS, INC. CONSULTING ENGINEERS FORT WORTH, TEXAS
DATE: OCT 2022 SHEET 2 OF 4	



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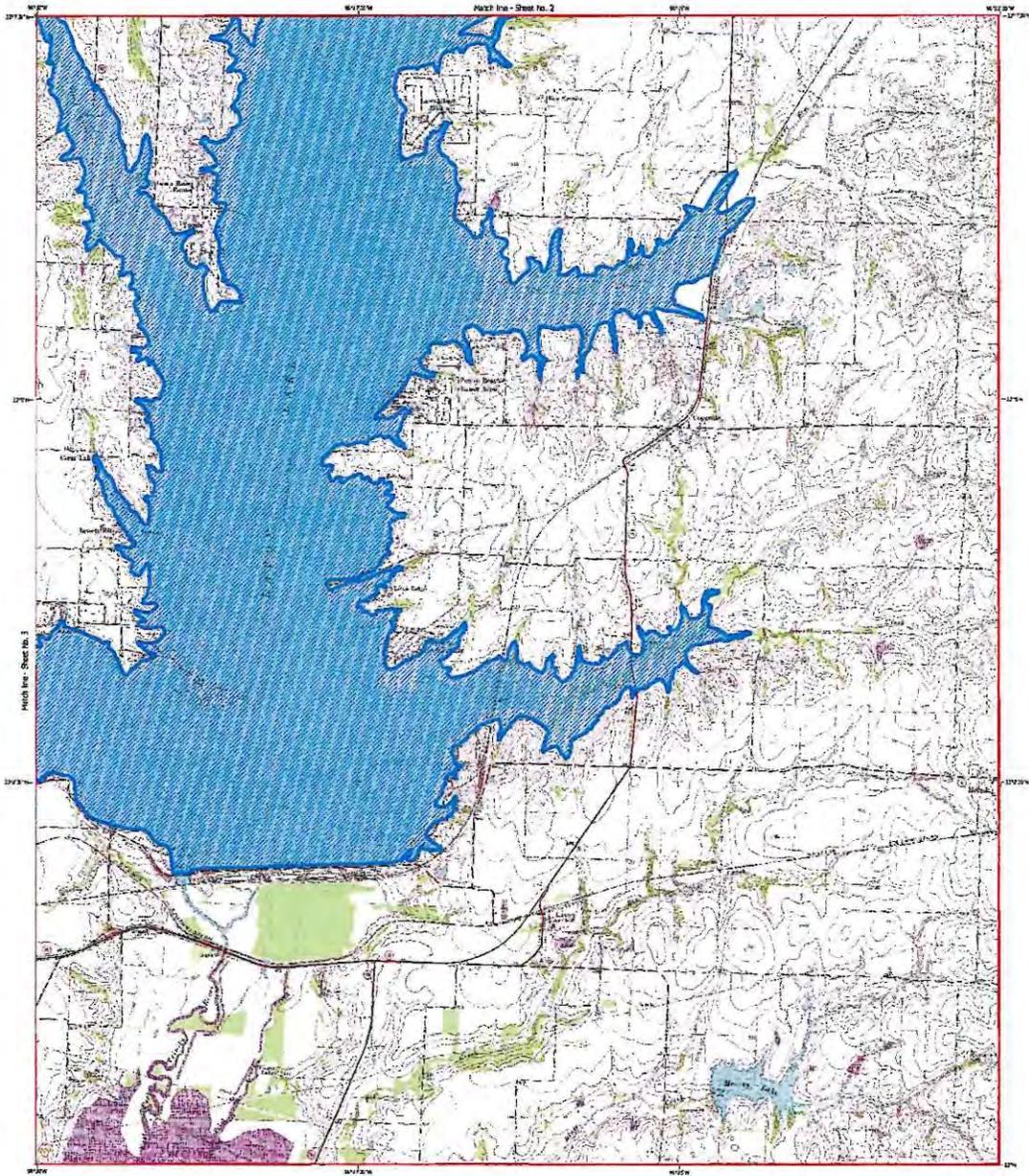
Water Availability Division



North Texas Municipal Water District has the right to divert from anywhere on the perimeter of Lake Lavon.

MAP BASED ON T.S. HUNT/REUSS QUADRANGLE MAP, WYLIE, TEXAS

NORTH TEXAS MUNICIPAL WATER DISTRICT 505 E. BROWN ST. WYLIE, TEXAS 75098		
AMENDMENT TO A WATER RIGHT		
BED AND BANKS AUTHORIZATION		
DESIGN: DRAWN: CHECKED:	FRISSE AND NICHOLS, INC. CONSULTING ENGINEERS FORT WORTH, TEXAS	DATE: OCT 2022 SHEET 3 OF 4



RECEIVED

NOV 22 2022

Water Availability Division



	Lavin Lake (Elevation 462 feet)
	MICH lines with adjacent sheets

North Texas Municipal Water District has the right to draw from anywhats on the perimeter Lake Lavin.

MAP BASED ON 2.5 MINUTE USGS QUADRANGLE MAP: LAVIN, TEXAS

NORTH TEXAS MUNICIPAL WATER DISTRICT 505 E. BROWN ST. WYLLIE, TEXAS 75098		
AMENDMENT TO A WATER RIGHT		
BED AND BANKS AUTHORIZATION		
DESIGN: DRAWN: WEC CHECKED:	FRESSE AND NOBLE, INC. CONSULTING ENGINEERS FORT WORTH, TEXAS	DATE: OCT 2022 SHEET 4 OF 4

TAB 12

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NOV 22 2022

Water Availability Division

**CONTRACT BETWEEN CITY OF DALLAS AND
NORTH TEXAS MUNICIPAL WATER DISTRICT**

This Contract between City of Dallas and North Texas Municipal Water District (the "Contract") is made and entered into as of the date last executed (the "Effective Date"), by and between the City of Dallas, Texas, a municipal corporation and home rule city located in Dallas County, Texas (hereinafter "Dallas"); and the North Texas Municipal Water District, a conservation and reclamation district and political subdivision of the State of Texas (hereinafter "NTMWD," or "District").

RECITALS:

WHEREAS, Dallas is the owner of numerous water rights, including rights in the Trinity River Basin to impound, divert, and use water from Lewisville Lake on the Elm Fork Trinity River and Lake Ray Hubbard on the East Fork Trinity River. Dallas is also authorized to reuse up to a combined total of 247,000 acre-feet per year of its treated wastewater effluent discharges from its Central and Southside Wastewater Treatment Plants pursuant to its Lewisville Lake water rights (Certificate of Adjudication ("CoA") 08-2456, as amended) and Lake Ray Hubbard water rights (CoA 08-2462, as amended).

WHEREAS, NTMWD is the owner of numerous water rights, including rights in the Trinity River Basin to impound, divert and use water from Lake Lavon on the East Fork Trinity River, upstream of Lake Ray Hubbard, pursuant to its water rights (CoA 08-2410, as amended). Pursuant to such rights, NTMWD is authorized to reuse wastewater effluent discharged from certain of its wastewater treatment plants ("WWTPs"), including up to 157,393 acre-feet of water per year of treated wastewater effluent discharges from specified District or District-customer

owned or operated WWTPs, some of which discharges become inflows into Lake Ray Hubbard (defined herein as "Lake Ray Hubbard Return Flows").

WHEREAS, treated wastewater effluent from specified District or District-customer owned or operated WWTPs is discharged into the watershed of the Elm Fork Trinity River upstream of Lewisville Lake (defined herein as "Elm Fork Return Flows").

WHEREAS, pursuant to its CoA 08-2410F water rights, NTMWD's authorization to divert Lake Ray Hubbard Return Flows requires the execution of an agreement with Dallas for the passage of such flows.

WHEREAS, in the course of negotiating the terms and conditions for NTMWD's diversion and use of Lake Ray Hubbard Return Flows, Dallas and NTMWD have determined through this Contract that Dallas will pass NTMWD's documented Lake Ray Hubbard Return Flows through Lake Ray Hubbard in accordance with CoA 08-2410F and its Special Conditions, including but not limited to Special Conditions D and E, on an interim basis. In the long term, however, Dallas has agreed that it will provide an equivalent volume of an "Alternate Source of Supply," as such term is defined herein, such that NTMWD's Lake Ray Hubbard Return Flows as defined and enumerated in this Contract will remain in Lake Ray Hubbard under Dallas' ownership and for Dallas' use during the term of this Contract, contingent upon NTMWD's continuing to discharge Lake Ray Hubbard Return Flows.

WHEREAS, additionally, Dallas and NTMWD have agreed that NTMWD will undertake to appropriate its Future Elm Fork Return Flows, as such term is defined herein, for Dallas' ownership and use during the term of this Contract, in exchange for Dallas' provision to NTMWD of an Alternate Source of Supply in a volume equivalent to the volume of such Future Elm Fork Return Flows, through the diversion and transmission of such return flows through the

Associated Facilities, contingent upon NTMWD continuing to discharge Future Elm Fork Return Flows into the Elm Fork watershed and ultimately Lewisville Lake.

WHEREAS, the purpose of this Contract is to give effect to the Parties' agreements regarding NTMWD's use of its Lake Ray Hubbard Return Flows in accordance with CoA 08-2410F in the near term, Dallas' provision of an Alternate Source of Supply for NTMWD's long term use, and the authorized appropriation, diversion and use of Future Elm Fork Return Flows, among other matters.

NOW THEREFORE, for good and valuable consideration, including the mutual agreements, promises and covenants contained herein, the adequacy and sufficiency of which the Parties acknowledge by their execution of this Contract, Dallas and NTMWD agree as follows so as to meet their respective long-term water supply requirements, and to proceed in a cooperative fashion to pursue the projects established herein, including the reuse of certain return flows, and the design, construction and operation of certain water supply facilities.

C O N T R A C T

ARTICLE I

DEFINITIONS

The Parties agree that the following words and phrases will have the meanings indicated below throughout this Contract, and for the purposes of this Contract only:

1.1. *Accounting Plan*: Any accounting plan or accounting plans, together with any operational guidelines associated with same, developed, reviewed and approved by the Parties to document various sources of water for their impoundment, diversion and use, including Lake Ray Hubbard Return Flows, pass-throughs of Lake Ray Hubbard Return Flows through Lake Ray Hubbard,, Future Elm Fork Return Flows, the Alternate Source of Supply, and if

appropriate, the Additional Source of Supply under this Contract. The Accounting Plan developed and approved by the Parties, attached hereto as Exhibit A may be adjusted by the mutual agreement of the Parties or as may be necessary to satisfy requirements of the TCEQ. The Accounting Plan is incorporated by reference in this Contract in its entirety.

1.2. Additional Source of Supply ("Additional Source"): Dallas Return Flows diverted by Dallas through the Associated Facilities in accordance with the Accounting Plan for delivery for NTMWD's use for the term of this Contract and which are in excess of the Alternate Source of Supply, as documented in the Accounting Plan and calculated on an average daily basis. The Additional Source of Supply is specifically subject to the negotiation and execution of another agreement between the Parties as specified in Section 4.7 herein, below.

1.3. Alternate Source of Supply ("Alternate Source"): Dallas Return Flows diverted by Dallas through the Associated Facilities in accordance with the Accounting Plan for delivery for NTMWD's use for the term of this Contract. Alternate Source of Supply refers to a volume of return flows equivalent in volume to i) the Lake Ray Hubbard Return Flows and, ii) the Future Elm Fork Return Flows, to be diverted by Dallas for the benefit of NTMWD through the Associated Facilities, all as documented in the Accounting Plan and calculated on an average daily basis.

1.4. Associated Facilities: Facilities that may be designed, constructed, owned, operated, permitted and maintained by Dallas which are sized to accommodate the diversion of at least an average daily volume of 90 Million Gallons per Day ("MGD") of Dallas Return Flows. Dallas will size the Associated Facilities to allow for the delivery of the Alternate Source of Supply, and, if applicable, the Additional Source of Supply, to NTMWD through the Point of Diversion, to an agreed upon Point of Delivery for subsequent use by NTMWD. Dallas will use the capacity of the Associated Facilities for Dallas and/or others to the extent there is capacity

remaining in such facilities in connection with diversion to NTMWD of the Alternate Source, and, if applicable, the Additional Source. The Parties agree that Dallas may oversize the Associated Facilities to accommodate the diversion of additional flows by Dallas and/or for others.

1.5. Contract: This Contract between City of Dallas and North Texas Municipal Water District.

1.6. Dallas Return Flows: Treated wastewater effluent discharges in compliance with all applicable regulatory authorizations from the Dallas Central and Southside WWTPs discharging into the Trinity River watershed, and available for reuse in accordance with express water rights issued by the TCEQ. Dallas Return Flows may also include other sources of water available to Dallas for delivery to NTMWD that the Parties subsequently agree to in writing to be an acceptable substitute for such effluent discharges.

1.7. East Fork Raw Water Supply Project: NTMWD's East Fork Raw Water Supply Project, including an approximate 1850-acre wetland located off-channel of the East Fork Trinity River, and the District's associated pumping and transmission pipeline designed and operated to deliver water to and from the wetland and to Lake Lavon.

1.8. Elm Fork Return Flows: Treated wastewater effluent discharges in compliance with all applicable regulatory authorizations from District or District customer-owned or operated WWTPs in the Elm Fork Trinity River watershed during the term of this Contract and which are documented in the Accounting Plan, including discharges from the Cottonwood Creek WWTP, Stewart Creek West WWTP, Panther Creek WWTP, and any other District or District customer-owned or operated WWTP which discharges into the Elm Fork watershed and ultimately Lewisville Lake, the volume of which flows is calculated on an average daily basis. For purposes of this Contract, Elm Fork Return Flows include only treated wastewater effluent

actually discharged from District or District customer-owned or operated WWTPs into streams of the Elm Fork Trinity River watershed, and do not include discharges from any Dallas WWTPs or the WWTPs of Dallas customers, or other discharges which are authorized to be impounded, diverted and/or used by third parties pursuant to express water right authorizations.

1.9. Future Elm Fork Return Flows: All Elm Fork Return Flows as that term is defined in this Contract discharged during the term of this Contract which exceed the Historical Elm Fork Return Flows, as calculated on an average daily basis, and which are the subject of express water reuse rights secured by NTMWD as provided for herein.

1.10. Historical Elm Fork Return Flows: The highest annual daily average of Elm Fork Return Flows discharged by NTMWD on or before October 3, 2005, which by their execution of this Contract the Parties have agreed is 4.57 MGD, as calculated on an average daily basis.

1.11. Lake Ray Hubbard Return Flows: Treated wastewater effluent discharges in compliance with all applicable regulatory authorizations from WWTPs discharging effluent into the Lake Ray Hubbard watershed and ultimately into Lake Ray Hubbard (but not including discharges into the Lake Lavon watershed) during the term of this Contract, which result from the use of the District's water supplies, which are documented in the Accounting Plan, and to which the District has the right to divert from the East Fork Trinity River pursuant to its express water rights as enumerated in CoA 08-2410F or subsequently issued water rights, the volume of which is calculated on an average daily basis. Lake Ray Hubbard Return Flows do not include discharges from any Dallas WWTPs or the WWTPs of Dallas customers, or other discharges which are authorized to be impounded, diverted and/or used by third parties.

1.12. Parties: The City of Dallas and the North Texas Municipal Water District.

1.13. Point(s) of Delivery: The agreed upon point(s) of delivery for delivery of Lake Ray Hubbard Return Flows, and the Alternate Source of Supply and Additional Source of

Supply, to NTMWD under this Contract. For purposes of this Contract, Dallas agrees to initially deliver Lake Ray Hubbard Return Flows to and through the outlet of the Lake Ray Hubbard Dam, as specified in Exhibit B. The Alternate Source of Supply and Additional Source of Supply, if applicable, will be delivered through the Associated Facilities to a point in the vicinity of the East Fork Raw Water Supply Project wetland, shown on the vicinity map attached to this Contract as Exhibit C. The exact location of the Point of Delivery for the Alternate Source and the Additional Source shall be determined by mutual agreement of the Parties in accordance with sound engineering criteria specified in the design and construction of the Associated Facilities, which agreement shall not be unreasonably delayed or withheld.

1.14. *Point of Diversion:* Dallas' point of diversion of the Alternate Source of Supply and Additional Source of Supply from the main stem of the Trinity River.

1.15. *Texas Commission on Environmental Quality or "TCEQ":* The state agency authorized to administer the water quality and water rights permitting programs in the State of Texas, and its predecessor and successor agencies.

ARTICLE II

NTMWD's INTERIM REUSE OF LAKE RAY HUBBARD RETURN FLOWS

2.1. From the Effective Date of this Contract until such time as a) the Associated Facilities are fully permitted, constructed and operational, and b) NTMWD has secured authorization for the Alternate Source of Supply to be transported through and diverted from Lake Lavon, Dallas agrees to pass all Lake Ray Hubbard Return Flows through Lake Ray Hubbard for subsequent diversion and reuse by NTMWD, in accordance with the Accounting Plan. Such pass-throughs by Dallas will begin upon the latter of the Effective Date of this

Contract or the completion of repairs or installation of facilities needed at Lake Ray Hubbard in order to allow for such pass-throughs.

2.2. Dallas acknowledges that, subject to execution of this Contract, NTMWD is fully authorized to begin use of Lake Ray Hubbard Return Flows through the diversion of such flows by NTMWD into and through the East Fork Raw Water Supply Project.

2.3. The Parties have developed and approved an Accounting Plan, attached hereto as Exhibit "A", which, among other things, ensures that for the period of time that Dallas passes NTMWD's Lake Ray Hubbard Return Flows through Lake Ray Hubbard, pursuant to Section 2.1 herein, such flows will be put to beneficial use. To that end, the Parties agree that a) on any day when Lake Ray Hubbard is full and spilling, operational guidelines included in the Accounting Plan specify that Dallas will credit such spills against the volume of Lake Ray Hubbard Return Flows it is obligated to pass through Lake Ray Hubbard on that day pursuant to this Contract; and, b) when NTMWD is not diverting water into the East Fork Raw Water Supply Project wetland from the East Fork Trinity River for any reason other than the condition in its CA 08-2410F which limits NTMWD diversions as a result of stream flow requirements, such operational guidelines specify that Dallas can store and use for its own benefit the Lake Ray Hubbard Return Flows at no cost to Dallas until NTMWD notifies Dallas to re-institute the release and pass-through of such return flows for NTMWD's diversion to and reuse through the East Fork Raw Water Supply Project. The Parties will review the Accounting Plan at least annually to reconcile inconsistencies or other discrepancies in the plans and guidelines. The Accounting Plan may be adjusted by mutual agreement of the Parties as often as needed.

2.4. Subject to the permitting, construction and operation of the Associated Facilities and the issuance of water rights granting NTMWD authorization for the Alternate Source of Supply to be transported through and diverted from Lake Lavon, and thereafter during the term

of this Contract and until its termination, and for the consideration given and received by the Parties pursuant to this Contract, the adequacy and sufficiency of which is hereby acknowledged, NTMWD hereby grants Dallas the rights to all Lake Ray Hubbard Return Flows at no cost to Dallas, and NTMWD agrees that this Contract allows Dallas to appropriate, divert and use such Lake Ray Hubbard Return Flows, for the period of time specified herein.

2.5. Following the termination of this Contract, the Parties acknowledge that, if Dallas has not constructed the Associated Facilities, or if it has constructed the Associated Facilities but does not continue to operate and maintain the Associated Facilities for the diversion of an Alternate Source of Supply in volumes equivalent to the Lake Ray Hubbard Return Flows for the benefit of NTMWD pursuant to terms and conditions similar to those included in this Contract for such diversion, then as between the Parties, they hereby agree that NTMWD shall have the exclusive rights to Lake Ray Hubbard Return Flows and Dallas agrees that it will either continue to pass such flows, or reinstitute its pass-through of such flows, for the benefit of NTMWD, subject to a subsequent agreement and accounting methodology, and that it will not thereafter seek rights for the appropriation, diversion or use of such flows, subject to any subsequent agreement between the Parties pursuant to which Dallas may obtain the right to purchase, divert and use the Lake Ray Hubbard Return Flows.

2.6. Dallas and NTMWD agree that Dallas' construction, operation and maintenance of the Associated Facilities give Dallas a continuing interest in the use of the Associated Facilities and the Lake Ray Hubbard Return Flows following the termination of this Contract. Therefore, the Parties agree that should Dallas construct, operate and maintain the Associated Facilities during the term of this Contract, Dallas will have a right of first refusal from NTMWD for the use of the Lake Ray Hubbard Return Flows following termination of this Contract at a fair, just, reasonable and nondiscriminatory price, or in exchange for Dallas' provision of an

equivalent volume of an Alternate Source at the Associated Facilities in accordance with Section 2.5 above.

2.7. For the consideration given and received by the Parties pursuant to this Contract, the adequacy and sufficiency of which is hereby acknowledged, Dallas agrees that if and when the Associated Facilities are fully permitted, constructed and operational and NTMWD has secured authorization for the Alternate Source of Supply to be transported through and diverted from Lake Lavon, and thereafter during the term of this Contract and until its termination, Dallas will make available, in accordance with the Accounting Plan for NTMWD's diversion through such facilities an Alternate Source of Supply in average daily volumes equivalent to the Lake Ray Hubbard Return Flows, at no cost to NTMWD, based on the average daily discharges of Lake Ray Hubbard Return Flows as documented in the Accounting Plan. Provided, however, that Dallas' provision of an Alternate Source through the Associated Facilities is contingent upon NTMWD's continued discharge of Lake Ray Hubbard Return Flows in volumes equivalent to that portion of the Alternate Source related to Lake Ray Hubbard Return Flows, but not including other water diverted through the Associated Facilities not based on Lake Ray Hubbard Return Flows.

2.8. The Parties agree that discharges by NTMWD of Lake Ray Hubbard Return Flows, pass-throughs by Dallas of Lake Ray Hubbard Return Flows, and the diversion by Dallas of an Alternate Source of Supply representing equivalent volumes of Lake Ray Hubbard Return Flows will all be documented and subject to the Parties' approved Accounting Plan, reconciled to address any inaccuracies.

2.9. NTMWD agrees to accept Lake Ray Hubbard Return Flows passed through Lake Ray Hubbard by Dallas "As Is." Dallas makes no representations or warranties

regarding the quality of such water or the suitability of the water for the use or uses to which NTMWD may put the water.

2.10. Dallas agrees to accept Lake Ray Hubbard Return Flows discharged by NTMWD "As Is," subject only to meeting the requirements of the applicable TPDES permits. NTMWD makes no representations or warranties regarding the quality of such water or the suitability of the water for the use or uses to which Dallas may put the water.

ARTICLE III

NTMWD'S ELM FORK RETURN FLOWS

3.1. Dallas asserts and NTMWD acknowledges that Dallas has appropriated and relied upon past discharges by NTMWD into the Elm Fork Trinity River watershed, as NTMWD's discharges of Historical Elm Fork Return Flows ultimately became inflows into Lewisville Lake and have therefore served as part of the firm annual yield of said lake and have also served to satisfy Dallas' water rights under its Lewisville Lake CoA No. 08-2456. NTMWD acknowledges Dallas' ownership of Historical Elm Fork Return Flows. NTMWD supports and does not contest Dallas' assertions regarding Dallas' historical impoundment, diversion and beneficial use of Historical Elm Fork Return Flows, and therefore Dallas' claim of entitlement to the Historical Elm Fork Return Flows as a senior appropriator as against all other potential claimants.

3.2. For the consideration given and received by the Parties pursuant to this Contract, the adequacy and sufficiency of which is hereby acknowledged by the Parties, NTMWD asserts ownership and, as between the Parties, Dallas acknowledges the District's ownership, of Future Elm Fork Return Flows discharged into the Elm Fork Trinity River watershed, including all discharges from Cottonwood Creek WWTP (TPDES Permit No. 10172-002), Stewart Creek

West WWTP (TPDES Permit No. 14008-001), and Panther Creek WWTP (TPDES Permit No. 14245-001), and any other District or District customer-owned or operated WWTP that discharges into the Elm Fork Trinity River watershed now or in the future. For the consideration given and received by the Parties pursuant to this Contract, the adequacy and sufficiency of which is hereby acknowledged Dallas agrees that it will support NTMWD in its efforts to appropriate Future Elm Fork Return Flows, and Dallas will grant NTMWD written authority as may be necessary for NTMWD to secure such water rights from TCEQ, subject to the transfer of such water rights to Dallas for its use during the term of this Contract. Following such appropriation by NTMWD, and subject to the completion of the Associated Facilities, the District agrees to support Dallas in its efforts to secure permits and authorizations for bed and banks transport, and storage and diversion rights for such Future Elm Fork Return Flows.

3.3. Subject to the permitting, construction and operation of the Associated Facilities, the issuance of water rights granting NTMWD the right to appropriate the Future Elm Fork Return Flows, and the issuance of permits and authorizations necessary for the Alternate Source of Supply to be transported through and diverted from Lake Lavon, and thereafter during the term of this Contract and until its termination, and for the consideration given and received by the Parties pursuant to this Contract, the adequacy and sufficiency of which is hereby acknowledged, NTMWD hereby grants Dallas the rights to transport, impound, divert and use all Future Elm Fork Return Flows at no cost to Dallas, and NTMWD agrees that it will support Dallas in its efforts to transport, impound, divert and use Future Elm Fork Return Flows, for such period of time as this Contract may remain in effect.

3.4. Following the termination of this Contract, the Parties acknowledge that, if Dallas has not constructed the Associated Facilities, or if it has constructed the Associated Facilities but does not continue to operate and maintain the Associated Facilities for the diversion of an

Alternate Source of Supply in a volume equivalent to Future Elm Fork Return Flows for the benefit of NTMWD pursuant to terms and conditions similar to those included in this Contract for such diversion, then, as between the Parties, NTMWD shall have the exclusive rights to Future Elm Fork Return Flows and Dallas agrees that it will support NTMWD's efforts to appropriate such flows, provided, however, that Dallas does not agree to provide for or allow the use of Lewisville Lake by NTMWD. Subject to the foregoing, Dallas agrees that, following the termination of this Contract, it will not seek rights for the appropriation, transport, diversion or use of such flows, in the absence of a subsequent agreement between the Parties pursuant to which Dallas may obtain the right to purchase, divert and use Future Elm Fork Return Flows.

3.5. Dallas and NTMWD agree that Dallas' construction, operation and maintenance of the Associated Facilities give Dallas a continuing interest in the use of the Associated Facilities and the Future Elm Fork Return Flows following the termination of this Contract. Therefore, the Parties agree that should Dallas construct, operate and maintain the Associated Facilities during the term of this Contract, for the benefit of NTMWD as specified in this Contract, then Dallas will have a right of first refusal from NTMWD for the use of the Future Elm Fork Return Flows following termination of this Contract at a fair, just, reasonable and nondiscriminatory price, or in exchange for Dallas' provision of an equivalent volume of an Alternate Source at the Associated Facilities in accordance with Section 3.2 above.

3.6. If and when the Associated Facilities are fully permitted, constructed and operational, NTMWD has obtained water rights authorizing the appropriation of the Future Elm Fork Return Flows, and NTMWD has secured authorization for the Alternate Source of Supply to be transported through and diverted from Lake Lavon, and thereafter for the term of this Contract, Dallas agrees to make available in accordance with the Accounting Plan for NTMWD's diversion through the Associated Facilities an Alternate Source of Supply in average daily

volumes equivalent to the Future Elm Fork Return Flows, at no cost to NTMWD, based on the average daily discharges of Future Elm Fork Return Flows as documented in the Accounting Plan. Provided, however, that Dallas' provision of an Alternate Source of Supply is contingent upon NTMWD's continued discharge of Future Elm Fork Return Flows into the Lewisville Lake watershed in volumes equivalent to that portion of the Alternate Source of Supply related to Future Elm Fork Return Flows.

3.7. The Parties agree that discharges by NTMWD of Future Elm Fork Return Flows and the diversion by Dallas of an Alternate Source of Supply representing an equivalent volume of Future Elm Fork Return Flows will be subject to the Accounting Plan, reconciled to address any inaccuracies.

3.8. Dallas agrees to accept Future Elm Fork Return Flows discharged by NTMWD "As Is," subject only to meeting the requirements of the applicable TPDES permits. NTMWD makes no representations or warranties regarding the quality of such water or the suitability of the water for the use or uses to which Dallas may put the water.

3.9. The Parties agree that, to the extent third parties have storage or diversion rights in Lewisville Lake and possible claims to Elm Fork Return Flows, Dallas and NTMWD agree to work together to address the claims of such parties to Future Elm Fork Return Flows, provided however, that Dallas will only provide NTMWD the amount at the Alternate Source equivalent to the amount of water provided for Dallas' sole diversion and use.

ARTICLE IV

DALLAS' PROVISION OF AN ALTERNATE SOURCE OF SUPPLY AND ASSOCIATED FACILITIES

4.1. The Parties agree that it is in their mutual best interests, during the term of this Contract, for Dallas to provide NTMWD with an Alternate Source of Supply for reuse, so that

Dallas can cease pass-throughs of Lake Ray Hubbard Return Flows and NTMWD may forego the appropriation, diversion and reuse of its Future Elm Fork Return Flows as permitted by TCEQ in favor of Dallas for the term of this Contract, such that NTMWD will have an equivalent volume of such return flows available for its reuse.

4.2. Dallas may undertake the design, construction, operation and maintenance of the Associated Facilities to divert, at the Point of Diversion developed in connection with the design and construction of the Associated Facilities, certain Dallas Return Flows from its Central and Southside WWTPs, as authorized under CoA 08-2456E and CoA 08-2462G, in order that it may be able to provide an Alternate Source of Supply to NTMWD at the Point of Delivery roughly shown on the vicinity map attached to this Contract as Exhibit __.

4.3. In the design of the Associated Facilities for provision of an Alternate Source of Supply, Dallas will size the facilities as specified in Section 1.4, hereinabove. Dallas agrees to consult with NTMWD during the design process of the Associated Facilities.

4.4. The Parties acknowledge that additional permits from the TCEQ and other agencies are needed to authorize the provision by Dallas of an Alternate Source of Supply to NTMWD, the construction and operation of the Associated Facilities, the District's transport through and impoundment, diversion and use of the Alternate Source of Supply from Lake Lavon, and the District's appropriation and Dallas' transport through and impoundment, diversion and use of Future Elm Fork Return Flows from Lewisville Lake. Accordingly, the Parties agree that Dallas will obtain the permits needed for its diversion of the Alternate Source of Supply at the Point of Diversion, its provision of an Alternate Source of Supply to NTMWD to the agreed-upon Point of Delivery, as depicted in Exhibit C, and for the construction and operation of the Associated Facilities, so that Dallas' Alternate Source of Supply may be diverted and delivered to NTMWD. The Parties also agree that NTMWD will obtain permits for the appropriation of

Future Elm Fork Return Flows, and that Dallas will obtain permits and authorizations required for the transport, storage, diversion and use of Future Elm Fork Return Flows.

4.5. The Parties agree to work cooperatively to secure the required permits and authorizations and to support each other in their respective efforts to secure the rights referenced in this Contract. **To that end, the Parties agree to file applications for the following permits and authorizations referenced in this Contract within one hundred and eighty (180) days of the Effective Date of this Contract, to thereafter diligently prosecute such applications, and to keep each other informed as to the progress in pursuing the following applications:**

- (a) NTMWD will file an application for appropriation of Future Elm Fork Return Flows;
- (b) Dallas will file an application to authorize the diversion point for Dallas Return Flows and the use of the bed and banks of the Trinity River downstream of Dallas' Central and Southside WWTPs to transport water to the NTMWD Point of Delivery as shown on Exhibit C, and in accordance with the terms of this Contract;
- (c) NTMWD will file the application for the use of bed and banks of state streams, as necessary, from the Point of Delivery as shown on Exhibit C to and through Lake Lavon, once Dallas files the application described in Section 4.5 (b) herein above.

4.6. Notwithstanding any provision of this Contract to the contrary, the Parties agree that Dallas' operation of the Associated Facilities and provision of the Alternate Source of Supply is expressly subject to the Accounting Plan, and to NTMWD's continued discharges of Lake Ray Hubbard Return Flows and/or Future Elm Fork Return Flows in equivalent average daily volumes. To the extent that diversions of Dallas Return Flows cannot be made through the Associated Facilities for the benefit of NTMWD for a period of at least seven (7) consecutive

days due to suspension of operations of the Associated Facilities, Dallas will re-institute the release and pass-through of Lake Ray Hubbard Return Flows through the Lake Ray Hubbard Dam for the benefit of NTMWD, or provide an equivalent amount of water in some other manner pursuant to the Accounting Plan that is acceptable to NTMWD, for such period of time while diversions through the Associated Facilities are suspended. The Parties agree that Dallas has no obligation to operate the Associated Facilities and provide an Alternate Source of Supply for any period during which NTMWD ceases discharges of equivalent average daily volumes of the Lake Ray Hubbard Return Flows or the Future Elm Fork Return Flows.

4.7 . The Parties acknowledge that this Contract does not require Dallas to provide an Additional Source of Supply unless the Parties negotiate and execute a subsequent agreement for NTMWD's purchase or the exchange by the Parties of an Additional Source of Supply composed of Dallas Return Flows for delivery to NTMWD through the Associated Facilities. Dallas' provision of an Additional Source of Supply is in Dallas' sole discretion and shall be subject to the specific terms and conditions of any such subsequent agreement.

ARTICLE V

RATES

5.1. During the term of this Contract, and in consideration for NTMWD granting Dallas the right, as between the Parties, to impound, divert and use NTMWD's Lake Ray Hubbard Return Flows and permitted Future Elm Fork Return Flows at no cost to Dallas during the term of this Contract, Dallas agrees to divert the Alternate Source of Supply for the benefit of NTMWD pursuant to the terms and conditions of this Contract, and without cost to NTMWD.

5.2. To the extent Dallas diverts an Additional Source of Supply through the Associated Facilities at the request of and for the benefit of NTMWD, NTMWD agrees to pay a

just, reasonable and nondiscriminatory rate for the diversion and delivery of such Additional Source of Supply water, in accordance with the rate established by the Dallas City Council, which rate shall include compensation for the actual cost of Additional Source of Supply water and the associated proportional cost of capital facilities, and operations and maintenance costs.

5.3. Provided, however, nothing in this Contract precludes the Parties from entering into a subsequent agreement regarding cost sharing relating to the design and construction of the Associated Facilities.

ARTICLE VI

RESOLUTION OF ADDITIONAL MATTERS

6.1. The Parties agree that there are other pending matters that it is in their best interest to resolve at this time, in order to provide for enhanced water supplies in the North Central Texas Region served by the Parties.

6.2. To the extent it is deemed feasible, in its sole discretion, NTMWD agrees that it will modify the East Fork Raw Water Supply Project wetland as necessary to accommodate the polishing of additional Dallas Return Flows diverted by Dallas through the Associated Facilities, for Dallas' use and at Dallas' request and expense, and the conveyance of such flows to a point of delivery mutually agreed to by the Parties, for Dallas' subsequent reuse. The Parties agree to enter into a separate contract addressing the permitting of such reuse, the construction and operation of such new facilities, and the fair, just, reasonable and nondiscriminatory costs to be incurred by Dallas for such services.

6.3. Dallas and NTMWD acknowledge that each entity is in the process of pursuing and developing future water resources, and that it is in the best interests of both Parties to

cooperate and facilitate the development of such projects, including consideration of potable and raw water supply contracts from existing and/or future water supply sources.

6.4. Dallas and NTMWD agree to develop a protocol to identify key locations for interconnections between their respective public water systems, so as to provide for redundancy of service during times of drought or emergency, and to negotiate and execute a separate agreement which identifies the terms under which such service would be afforded.

6.5. Subject to the provisions of this Contract, Dallas agrees to support and to withdraw its protest of the District's Application CoA 08-2410G within fifteen (15) days of the Effective Date of this Contract, or within fifteen (15) days of the date of circulation by the TCEQ of a final draft permit which the District has agreed to and which is consistent with the terms and conditions of this Contract, whichever event occurs first. To the extent that Dallas has withdrawn its protest, NTMWD agrees that it will not accept any further revision to the draft permit issued in response to the CoA 08-2410G Application without consulting with Dallas in good faith to reconcile any such differences.

6.6. Subject to the provisions of this Contract, NTMWD agrees to support and to withdraw its protest of Dallas' Temporary Application No. 12110 for a temporary overdraft of Lake Ray Hubbard within fifteen (15) days of the Effective Date of this Contract, or within fifteen (15) days of the date of circulation by the TCEQ of a final draft permit which does not limit Dallas' overdraft to times when Lake Ray Hubbard is full and spilling and which Dallas has agreed to and which is consistent with the terms and conditions of this Contract, whichever event occurs first. To the extent that NTMWD has withdrawn its protest, Dallas agrees that it will not accept any further revision to the draft permit issued in response to the Temporary Application No. 12110 without consulting with NTMWD in good faith to reconcile any such differences.

6.7. Dallas has also submitted an application to TCEQ to amend its Lake Ray Hubbard CoA 08-2462, requesting a permanent increase in annual diversions from Lake Ray Hubbard based upon new hydrology for inflows into Lake Ray Hubbard. The Parties acknowledge that it is logical that NTMWD may desire to amend its Lake Lavon water rights in a like fashion. The Parties agree that this is a logical beneficial step to increasing area water supplies, and agree to support each others' applications, to the extent such applications are based upon sound hydrology and sound legal foundations, and as appropriate considering each party's need to protect its senior water right from impairment. If both Parties receive authorizations for increases in annual diversions from their respective water supply reservoirs based on such new hydrology, they hereby agree that they will not seek to exercise any priority they may receive in such authorizations against each other.

6.8. To the extent that applications for the permits and authorizations referenced in Articles II and III herein may be enabled or facilitated by the Parties' mutual execution of one or more documents, including water supply agreements meeting the requirements of TCEQ rules at 30 TAC Chapters 295.101, *et. seq.* or 297.101, *et. seq.*, or to the extent such documents may be necessary to satisfy requirements of TCEQ, the Parties hereby agree to promptly execute such documents, as may be reasonably requested; provided, however that no Party shall be required to enter into any such agreement if the Party deems such agreement inconsistent with, or outside of the concepts, terms and conditions of this Contract.

ARTICLE VII

DISPUTE RESOLUTION

7.1 If a dispute arises out of or related to the interpretation of this Contract, the Parties performance hereunder, or the breach thereof, the parties agree to negotiate prior to prosecuting a

suit for damages. This Section, however, does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either Party may make a written request for a meeting between representatives of each Party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the Parties. Each Party shall include in the requested meeting, at a minimum, one (1) senior level official with the authority to make recommendations regarding the dispute to its governing body. The purpose of the requested meeting and any subsequent meeting is to attempt, in good faith, to negotiate resolution of the dispute. If, within thirty (30) calendar days after such initial meeting, the Parties have not succeeded in negotiating a resolution of the dispute, the Parties will proceed to mediation as described below. Negotiation may be waived by a written agreement signed by both Parties, in which event the parties may proceed directly to mediation as described below.

7.2. If the efforts to resolve the dispute through negotiation, as described in Section 7.1, above, fail, or the Parties waive the negotiation process, the Parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should the Parties choose this option, Dallas and NTMWD agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the Parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Dallas County Dispute Resolution Center.

7.3. The Parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. Dallas and NTMWD will share the costs of the mediator selected to mediate the dispute, equally.

ARTICLE VIII

GENERAL PROVISIONS

8.1. Term. This Contract shall expire on August 11, 2054, an initial term equivalent to the easement secured by NTMWD for the East Fork Raw Water Supply Project wetland site. The Parties also agree that this Contract may be renewed automatically and extended for successive ten (10) year terms after the initial term with the agreement and approval of both Parties, subject to any valid notice of termination. Before the expiration of any term subsequent to the initial term of this Contract, either Party may terminate this Contract upon five (5) years written notice to the other party, in accordance with the notice provisions of this Contract as set out below. Each Party further acknowledges that this Contract does not limit or restrict in any manner the right of either Party to take such steps as it deems necessary for the development and delivery of water supplies for and to its respective customers, except as specifically addressed herein. The Parties also acknowledge a mutual interest in continuing the water supply agreements set forth in this Contract, such that prior to termination of this Contract, each Party shall be afforded the opportunity to purchase and obtain the legal right to continue the water supply strategies set forth in this Contract.

8.2. Action by the Parties. The Parties agree to do all acts and things and to execute and deliver such further written instruments as may be from time to time reasonably required to carry out the purposes, the intent, and the provisions of this Agreement. Any agreement by the Parties required under this Contract, including the development of Accounting Plans including Operational Guidelines, and approvals of any Point(s) of Delivery shall be deemed accomplished upon the signature on the final document of both the Dallas City Manager and the Executive Director of North Texas Municipal Water District.

8.3. No Third Party Beneficiaries. NTMWD and Dallas are entering into this Contract solely for the benefit of themselves and agree that nothing in this Contract shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties.

8.4. Modification and Amendment. This Contract may not be modified or amended except by an instrument in writing signed by authorized representatives of the Parties.

8.5. Successors and Assigns. The terms of this Contract shall be binding upon, and inure to, the benefit of the Parties and their permitted successors and assigns. However, no assignment of the rights and duties of a Party may be made unless approved in writing by the other Party, and no third party may be added to this Contract without the written permission of both Parties.

8.6. Executed in Counterparts. This Contract may be executed by the Parties in any number of separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same contract. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the latter such counterpart called for by the terms of this Contract to be executed.

8.7. Governing Law. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. No presumption will apply in favor of either Party in the interpretation of this Contract or in the resolution of any ambiguity of any provisions thereof.

8.8. Headings. The headings of the Articles of this Contract are included for convenience only and shall not be deemed to constitute a part of this Contract.

8.9. No Partnership. NTMWD and Dallas agree and acknowledge that this Contract does not create a joint venture, partnership, customer relationship, or any joint enterprise, that

each Party is not an agent of the other entity, and that each Party is responsible in accordance with the laws of the State of Texas for its own negligent or wrongful acts or omissions and for those of its officers, agents or employees in conjunction with the performance of services covered under this Contract, without waiving any governmental immunity available to NTMWD or Dallas under Texas law and without waiving any defenses of NTMWD or Dallas under Texas law.

8.10. Venue. Venue for any cause of action for claims arising out of this Contract brought by the District shall be in Dallas County, Texas. Venue for any cause of action for claims arising out of this Contract brought by Dallas shall be in Collin County, Texas.

8.11. Entire Agreement. The terms and provisions of this Contract contain the entire agreement between the Parties with respect to the matters addressed herein.

8.12. Severability. The provisions of this Contract are severable, and if for any reason any one or more of the provisions contained in this Contract shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Contract and this Contract shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Contract. Notwithstanding the foregoing, if any provision of this Contract shall be deemed to be invalid, illegal, or unenforceable, and such provision served as consideration for a Party's agreement to a term, condition, or provision of this Contract that shall remain in effect, the Parties agree to work together in good faith to provide an alternate means for providing consideration, such that their respective interests are protected and made whole.

8.13. No Representations or Warranties; Force Majeure. **The District and Dallas make no representations or warranty, express or implied, as to the character, or quality of the water to be taken hereunder, and they each agree to assume all such risks, including**

flooding, associated with accepting said water, if and when available, in the same state as it is pumped or released from the designated diversion points. The District and Dallas also do not make any representation that the water will be suitable for the purposes for which it is diverted or proposed to be used. Neither the District nor Dallas shall be liable in any event for their inability to perform any obligation under this Contract for reasons beyond their control, including but not limited to acts of god or natural disaster, war, drought, terrorism, fire, public utility power outage, or the rules, regulations, or orders of courts or of governmental agencies.

8.14. Damages. Regarding the matters expressly addressed herein, neither of the Parties shall be liable or have any responsibility to the other for any indirect, special, consequential, punitive, or delay-related or performance-related damages including, without limitation, lost earnings or profits. Such limitation on liability shall apply to any claim or action, whether it is based, in whole or in part, on contract, negligence, strict liability, tort, statute or any other theory of liability.

8.15. Notice. Unless otherwise provided, any notice, communication, request, reply, or advice (herein severally and collectively called "Notice") herein provided or permitted to be given, made, or accepted by any Party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the business day on which it was transmitted or hand-delivered (unless transmitted or hand-delivered after close of business, in which case it shall be deemed received at the close of the next business day). Notice by overnight mail or courier shall be deemed to have been received two (2) business days after it

was sent. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective upon deposit in the United States mail. Notice given in any other manner shall be effective only in and when received by the party to be notified. For the purpose of Notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

If to Dallas, to:

Director of Water Utilities
City of Dallas
1500 Marilla St., Room 4AN
Dallas, TX 75201
Telephone: (214)670-3144
Fax: (214)670-3154

If to NTMWD, to:

Executive Director
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098
Telephone: (972) 442-5405
Fax: (972) 295-6440

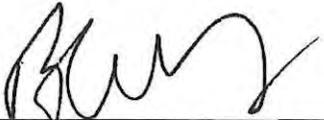
The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least five (5) days written notice to the other Party.

8.16. Authorization to Act. The obligations of the Parties hereto are subject to final approval by the respective governing bodies of each, and upon request of the other Party, Dallas and NTMWD will each provide sufficient documentation that this Contract has been authorized by its respective governing body.

IN WITNESS WHEREOF, Dallas and NTMWD have caused this Contract to be executed on their behalf by their duly authorized representatives.

CITY OF DALLAS

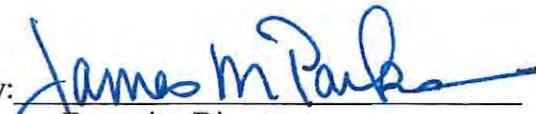
MARY K. SUHM
City Manager

By: 
Assistant City Manager

Date: 12-12-08

NORTH TEXAS MUNICIPAL WATER DISTRICT

JAMES M. PARKS
Executive Director

By: 
Executive Director

Date: 12/19/08

APPROVED AS TO FORM:

THOMAS F. PERKINS, JR.
City Attorney

By: 
Assistant City Attorney
12/16/08 Submitted to City Attorney

Resolution No. 08-3367

APPROVED AS TO FORM:

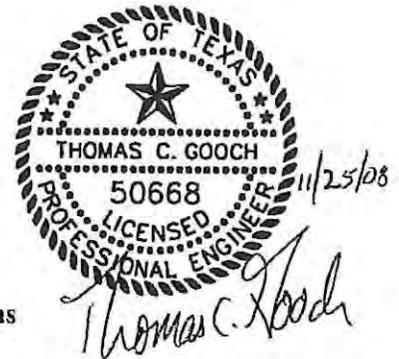
MARTIN C. ROCHELLE
Special Counsel

By: 
Martin C. Rochelle

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Water Availability Division



North Texas Municipal Water District and City of Dallas

Version 2.1

Accounting Plan for Determining Passage of Water through Lake Ray Hubbard

Tom Gooch, Freese and Nichols, November 13, 2008

(File [TGC]:MNTMWD Accounting Plan\Working Versions\M_Dallas Plan for Passage-V2.1-sealed.doc)

The North Texas Municipal Water District (NTMWD) and the City of Dallas (Dallas) are developing an agreement under which Dallas will pass discharges to Lake Ray Hubbard from NTMWD wastewater treatment plants through the lake for downstream diversion by NTMWD. The water passed through Lake Ray Hubbard will be diverted by NTMWD at the East Fork Diversion Pump Station, taken through a wetland for polishing, and pumped to Lake Lavon for eventual use. NTMWD's diversion and use of these pass-throughs is in accordance with its water right under Certificate of Adjudication 08-2410F.

Dallas' passage of water through Lake Ray Hubbard is expected to be a temporary measure. Dallas eventually plans to build a pump station on the main stem of the Trinity River, retain NTMWD discharges flowing into Lake Ray Hubbard, and pump an equivalent volume of Dallas return flows from the Trinity River to NTMWD East Fork Wetlands in return for the NTMWD's discharges to Lake Ray Hubbard. When this main stem pump station is in operation, Dallas will also retain NTMWD discharges flowing into Lake Lewisville in return for additional pumping from the main stem to the East Fork Wetlands.

This accounting plan includes data on wastewater flows and releases through Lake Ray Hubbard and a worksheet to determine how much water should be passed through Lake Ray Hubbard. It is intended that these worksheets would be run early in each month to establish pass-throughs for the month. Pass-throughs in each month will be adjusted to offset any over or under pass-throughs during the previous month. Pass-throughs may also be adjusted during the month as appropriate. This accounting plan will be revised or replaced when the proposed main stem pump station is place in operation.

ELEMENTS OF THE ACCOUNTING PLAN

The accounting plan includes the following tables:

Table 1 – has the basic data for the accounting plan on a daily basis, including actual return flows to Lake Ray Hubbard by wastewater plant and actual pass-throughs from Lake Ray Hubbard.

Table 2 – is a worksheet to determine pass-throughs from Lake Ray Hubbard for the next month.

These tables are discussed individually in the following sections of the memorandum.

TABLE 1 – BASIC DATA

This table gives the basic data used in the accounting plan, including applicable return flows by wastewater plant and pass-throughs from Lake Ray Hubbard. The columns in the table are developed as follows:

- (1.1) Date. This is the date to which the data apply.
- (1.2) Lake Ray Hubbard Return Flows – NTMWD Rowlett Creek. This is the actual discharge data for the District's Rowlett Creek Wastewater Treatment Plant in the Lake Ray Hubbard watershed.
- (1.3) Lake Ray Hubbard Return Flows – Wylie. This is the actual discharge data for the District's Wylie Wastewater Treatment Plant in the Lake Ray Hubbard watershed.
- (1.4) Lake Ray Hubbard Return Flows – Murphy. This is the actual discharge data for the District's Murphy Wastewater Treatment Plant in the Lake Ray Hubbard watershed. (This plant is closed, so these values will be zero.)
- (1.5) Lake Ray Hubbard Return Flows – Muddy Creek. This is the actual discharge data for the District's Muddy Creek Wastewater Treatment Plant in the Lake Ray Hubbard watershed.
- (1.6) Lake Ray Hubbard Return Flows – Squabble Creek. This is the actual discharge data for the District's Squabble Creek Wastewater Treatment Plant in the Lake Ray Hubbard watershed.
- (1.7) Lake Ray Hubbard Return Flows – Rush Creek. This is the actual discharge data for the District's Rush Creek Wastewater Treatment Plant in the Lake Ray Hubbard watershed. (This plant is closed, so these values will be zero.)
- (1.8) Lake Ray Hubbard Return Flows – Terry Lane. This is the actual discharge data for the District's Terry Lane Wastewater Treatment Plant in the Lake Ray Hubbard watershed. (This plant is closed, so these values will be zero.)
- (1.9) Lake Ray Hubbard Return Flows – Southside. This is the actual discharge data for the District's Southside Wastewater Treatment Plant in the Lake Ray Hubbard watershed. (This plant is closed, so these values will be zero.)
- (1.10) Lake Ray Hubbard Return Flows – Ray Hubbard Total. This is the total discharge from NTMWD wastewater plants in the Lake Ray Hubbard watershed. It is equal to the sum of Columns (1.2) through (1.9).

- (1.11) Pass-through from Lake Ray Hubbard. This is the amount actually passed through Lake Ray Hubbard by Dallas. If Lake Ray Hubbard is not spilling, it is the release through the gates during the day. If Lake Ray Hubbard is spilling, the daily pass-through for the day is assumed to be the lesser of:
- The requested pass-through for the day (Column (2.9) in Table 2), or
 - The actual spill for the day plus the actual amount passed through the gates for the day.

TABLE 2 – COMPUTATION OF REQUESTED PASS-THROUGHS FROM LAKE RAY HUBBARD

This table computes the requested pass-throughs from Lake Ray Hubbard for the current month based on return flows for the previous month and an adjustment to correct past over-pass-throughs and under-pass-throughs. It is intended that this procedure will be carried out by NTMWD staff early in the month – as soon as the necessary data are available and preferably by the 7th day of the month. Dallas staff will reply within three working days of receipt of the pass-through request from NTMWD with the planned pass-through for the month. The columns in the table are developed as follows:

- (2.1) Month. This is the month to which the data apply.
- (2.2) Previous Month Ray Hubbard Return Flows. This is the actual total discharge for the previous month from the District's Lake Ray Hubbard watershed plants. It is equal to Column (1.10) in Table 1 for the previous month.
- (2.3) Previous Month Pass-Through from Ray Hubbard. This is the amount actually passed through Lake Ray Hubbard in the previous month. It is taken from Column (1.11) in Table 1 for the previous month.
- (2.4) Requested Previous Month Pass-Through from Lake Ray Hubbard. This is the amount that NTMWD requested as a pass-through for the previous month. It is based on wastewater discharges from the month before the previous month and an adjustment for past over and under pass-throughs. The value for January is taken from the December pass-through request in the accounting plan for the previous year. The value for subsequent months is taken from Column (2.6) for the previous month.
- (2.5) Under (Over) Pass-Through in the Previous Month. This is the amount that the past pass-throughs have been under (positive) or over (negative) the requested pass-through based on past discharges and the adjustment. It is equal to Column (2.4) - Column (2.3).
- (2.6) Requested Pass-Through in Current Month. This is the amount NTMWD would like to have passed through the reservoir in the current month. It is equal to previous month Ray Hubbard return flows plus under (over) pass-through in the previous month, which is Column (2.2) + Column (2.5).
- (2.7) Days in the Current Month. This is the number of days in the current month.

Version 2.1

Accounting Plan for Determining Passage of Water through Lake Ray Hubbard

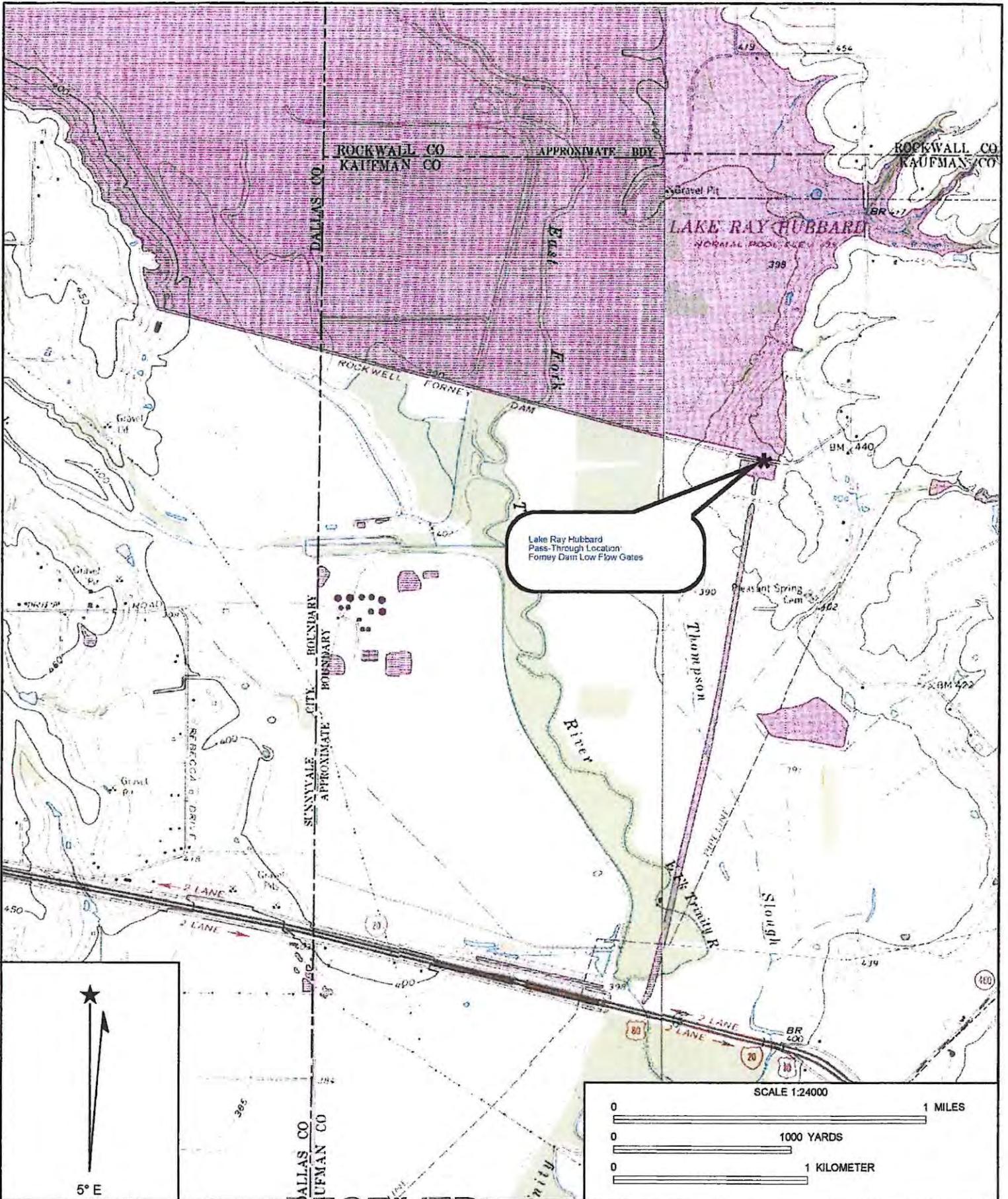
Tom Gooch

November 13, 2008

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- (2.8) Requested Pass-Through in Acre-Feet per Day. This is the requested pass-through from Lake Ray Hubbard for the current month expressed in acre-feet per day. It is equal to Column (2.6) divided by Column (2.7).
- (2.9) Requested Pass-Through in MGD. This is the requested pass-through in million gallons per day. It is equal to Column (2.8) divided by 3.06889.
- (2.10) Planned Pass-Through in MGD. This is the pass-through that Dallas plans to make in the current month in million gallons per day.

The requested pass-through for the current month (Column 2.9) will be relayed to Dallas staff, and Dallas staff will notify NTMWD of their planned pass-through for the month within three working days. It is understood that Dallas staff will set the actual pass-through as near the requested pass-through as practical. NTMWD and Dallas staff may coordinate to adjust pass-throughs during a month. Such adjustments will be made during normal business hours and will not be made more than once in five days except under emergency conditions. As shown in the accounting plan, any under or over pass-throughs will be adjusted in the following month.



Lake Ray Hubbard
Pass-Through Location
Forney Dam Low Flow Gates

Name: FORNEY NORTH
Date: 11/24/2008
Scale: 1 inch equals 2000 feet

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Location: 032.7930010° N 096.5089539° W
Caption: **Exhibit B**
Lake Ray Hubbard Pass-Through Location

Exhibit C
Vicinity Map Indicating Approximate Delivery Point of
Alternative Water Supply to East Fork Raw Water
Supply Project Wetland



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Water Availability Division

TAB 13

**PLACEHOLDER:
Accounting Plan**

TAB 14