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APPLICATION PACKAGE

**AMENDMENT OF CERTIFICATE OF ADJUDICATION
NO. 14-5384**

**Luminant Mining Company, LLC
Applicant**

**OVERVIEW OF APPLICATION
FOR AMENDMENT OF CERTIFICATE OF ADJUDICATION NO. 14-5384**

**Luminant Mining Company LLC
Three Oaks Mine
Colorado River Basin
Bastrop and Lee Counties, Texas**

1. INTRODUCTION

Luminant Mining Company LLC (“Luminant”) is conducting the reclamation associated with a surface coal mining operation under Chapter 134, Natural Resources Code, at the Three Oaks Mine in Bastrop and Lee counties. After reclamation operations are complete, the continued impoundment of water in one sediment control pond, Pond SP-6, will require storage authorization pursuant to the requirements of the Texas Water Code. Pond SP-6 is located on an unnamed tributary of Big Sandy Creek at the southern end of the Three Oaks Mine in Bastrop County near McDade, Texas. Big Sandy Creek is a tributary of the Colorado River.

Luminant is filing this application with the Texas Commission on Environmental Quality (“TCEQ”) to authorize impoundment of inflows in Pond SP-6. Because the availability of unappropriated water in the lower Colorado River Basin is limited, Luminant is proposing to revoke the diversion authority of an existing upstream water right on the Colorado River owned by Luminant to offset the effects of streamflow depletions caused by Pond SP-6. No diversion of water from this pond is being requested.

It should be noted that the property on which Pond SP-6 is located is owned by Sandow Development Company LP (“Sandow”), a sister company of Luminant Mining Company within the corporate framework of Vistra Energy Corporation. Copies of the deed and survey description for this property, as recorded on behalf of Sandow with Bastrop County, are contained in Appendix E of this application. A map showing this property boundary and the Pond SP-6 footprint are also included in Appendix E.

2. PROPOSED AMENDMENT REQUEST

Certificate of Adjudication No. 14-5384 (“COA 5384”) is the existing water right owned by Luminant that is to be used for offsetting the effects of the Pond SP-6 streamflow depletions. It authorizes the diversion of 74.0 acre-feet of water per year (“ac-ft/yr”) from the Colorado River near its confluence with Onion Creek in Travis County for irrigation use. This diversion point is located upstream of the Colorado River’s confluence with Big Sandy Creek. The priority date of

this water right is June 29, 1914. This application is for amendment of COA 5384 to make the following specific changes:

- 1) Revoke authorization to divert 74.0 ac-ft/yr of water from the Colorado River at the existing diversion point in Travis County but retain the diversion point authorization.
- 2) Add authorization to impound streamflows in Pond SP-6 up to a normal storage capacity of 1,002 acre-feet with a June 29, 1914 priority date.

3. ELEMENTS OF PROPOSED AMENDMENT OF COA 5384

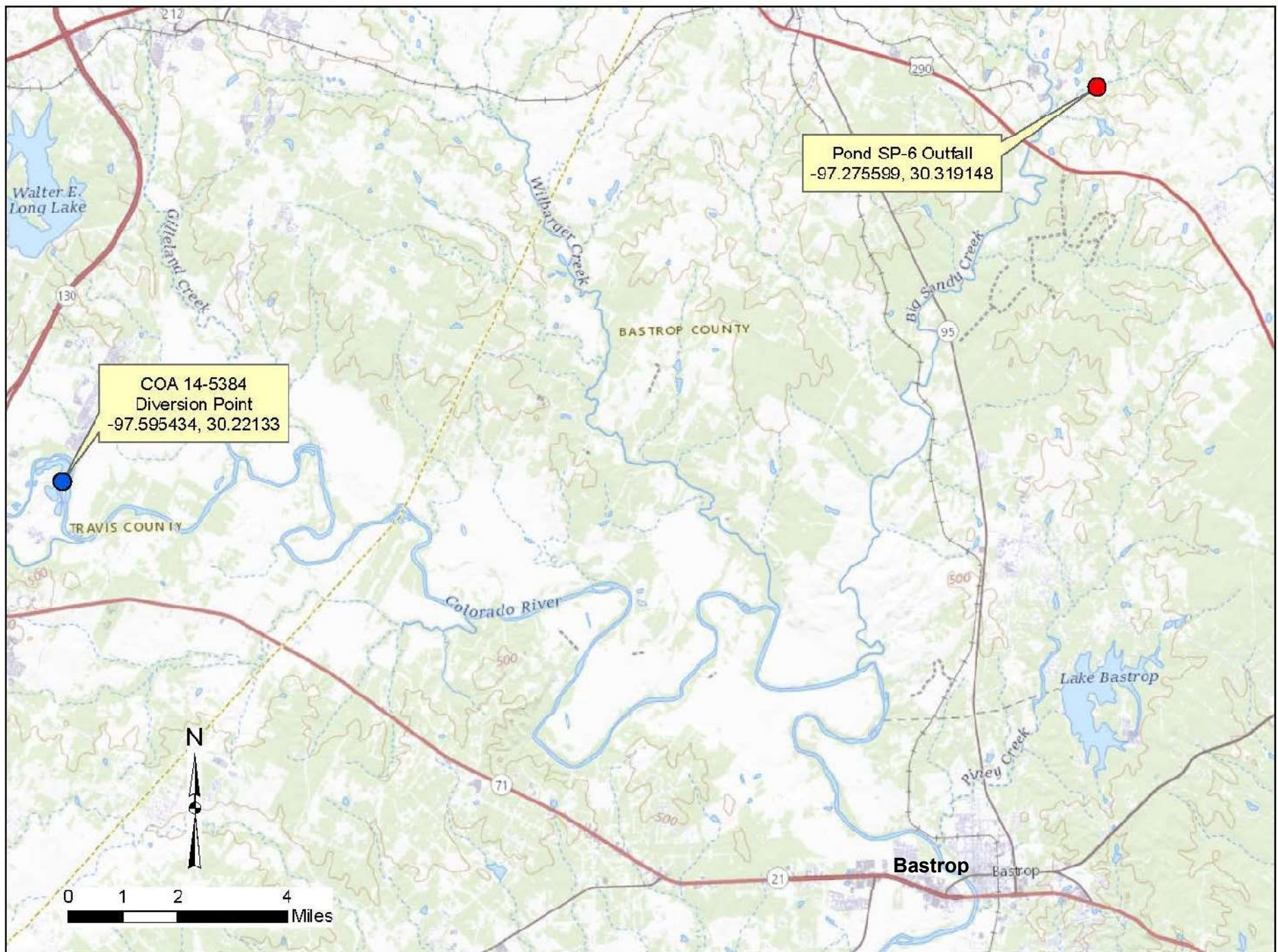
The location of Pond SP-6 on the unnamed tributary of Big Sandy Creek and the existing diversion point on the Colorado River authorized by COA 5384 are identified on the map in Figure 1. As shown, the confluence of Big Sandy Creek with the Colorado River is downstream from the existing diversion point authorized under COA 5384. There are eight intervening existing water rights on the Colorado River within this segment of the river.

Pond SP-6 is an incised, exempt mining pond formed to control water quality in conjunction with mining operations. Luminant has registered the impounding dam for this pond with TCEQ, and its dam inventory number is TX07591. The existing pond is on land currently owned by Luminant. At its normal pool elevation of 458 feet msl, the pond has a surface area of 29 acres and a storage capacity of 1,002 acre-feet. The only inflow of water into the impoundment is runoff from its 4,469-acre watershed. When the level of the pond exceeds its normal pool elevation, water is discharged from the impoundment through an uncontrolled spillway structure; otherwise, the only water losses from the pond are through evaporation and seepage. No diversions have been made from the pond; nor will there be any after reclamation of the mine.

With the proposed amendment of COA 5384, current authorization for diversions from the Colorado River under COA 5384 up to a maximum of 74.0 ac-ft/yr with a priority date of June 29, 1914, will be revoked, and no further diversions will be made. The purpose of eliminating these diversions is to provide an offset for the streamflow depletions caused by storing water in Pond SB-6, thus resulting in minimal change in overall water availability.

Analyses have been performed using the TCEQ's Run 3 version of the water availability model ("WAM") for the Colorado River Basin to evaluate the magnitude and characteristics of the streamflow depletions caused by Pond SP-6. The physical dimensions and location of the pond were coded into the WAM data file with the priority date for impounding inflows to the pond set equal to June 29, 1914, the priority date for diversions from the Colorado River authorized under COA 5384. Diversions from the Colorado River authorized under COA 5384 were deactivated. This modified WAM then was run, and the streamflow depletions for the pond were simulated.

**FIGURE 1 – GENERAL LOCATION MAP SHOWING POND SP-6 OUTFALL ON UNNAMED TRIBUTARY OF BIG SANDY CREEK
AND THE DIVERSION POINT ON THE COLORADO RIVER FOR COA 14-5384**



4. AMENDMENT IMPACT ANALYSIS

Results from WAM simulations have been used to examine the potential impacts of the proposed amendment of COA 5384 on the water availability of other water rights. First, the baseline Run 3 version of TCEQ's Colorado WAM was operated with the currently authorized diversion of 74 ac-ft/yr under COA 5384 represented with a monthly irrigation use pattern at the existing diversion point on the Colorado River with a June 29, 1914, priority date. Results from this baseline simulation then were compared to corresponding results from the modified WAM simulation as above without the COA 5384 diversions from the Colorado River and with Pond SP-6 represented at its location on the unnamed tributary of Big Sandy Creek with an impoundment capacity of 1,002 acre-feet and a priority date of June 29, 1914 (from COA 5384), with no diversions. Consistent with TCEQ practice, the impoundment of inflows in Pond SP-6 was made subject to TCEQ's standard environmental flow requirements as incorporated in the Colorado WAM. For the SP-6 Pond, the first downstream location where these requirements are applied is at the streamflow gage on the Colorado River at Bastrop, which is downstream of the Big Sandy Creek confluence with the Colorado River.

Results from the baseline WAM simulation and from the modified WAM simulation are summarized in Table 1 in columns 2 and 3, respectively. As shown in rows 3-6 of column 2 for the baseline case without the proposed COA 5384 amendment in effect, the annual average diversion from the Colorado River is 37.2 ac-ft/yr, the annual maximum diversion is the full authorized amount of 74.0 ac-ft/yr, and the annual minimum diversion is zero.

Results from the modified WAM with the proposed COA 5384 amendment in effect with Pond SP-6 represented at its location on the unnamed tributary of Big Sandy Creek are listed in column 3 of Table 1. The parameters listed in rows 8-10 are generally comparable to those referenced above for the baseline case in rows 3-6 of column 2 since they both represent essentially streamflow consumption, with the baseline consumption caused by diversions from the Colorado River and with the COA 5384 amendment consumption caused by streamflow depletions associated with Pond SP-6. One point to note is that for the baseline case, the monthly Colorado River diversions are limited by the specified monthly irrigation use pattern (maximum of 22.1 ac-ft/month) specified in the WAM, whereas for the COA 5384 amendment with Pond SP-6 in place the pond streamflow depletions are limited only to the extent of available streamflows and available storage capacity in the pond. Consequently, the annual average depletion for the pond (57.8 ac-ft/yr) is somewhat greater than the baseline annual average diversion from the Colorado River (37.2 ac-ft/yr). As shown in the table, the average simulated storage in Pond SP-6 is 940 acre-feet (row 13 of column 3), which is 93.8% of the maximum storage capacity. Also, as shown in row 15 of column 3, the pond is 100% full 32.9% of the time.

The impacts of the proposed amendment of COA 5384 on other water rights in the Colorado River basin also have been analyzed using results from the baseline WAM simulation and the simulation with the COA 5384 amendment implemented. Impacts are measured in terms of the change in the volume reliability of each water right record as simulated with the WAM. The volume reliability has been calculated for each water right by dividing the simulated annual average diversion by the authorized annual diversion. These results are summarized in the lower portion of Table 1 in rows 21-28 of column 3. As shown, of the 1,266 water right records included in the WAM, 948 were not impacted at all, 285 were positively impacted with an average reliability increase of 0.17% and a maximum reliability increase of 1.50%. A total of 33 water right records were negatively impacted with an average reliability decrease of 0.18% and a maximum reliability reduction of 1.00%. Reductions in the reliability of water rights of this magnitude are considered extremely small and well within the accuracy of the WAM. Of the 33 water rights negatively impacted, 19 had an average annual reliability reduction of less than 0.10%.

5. ATTACHED APPLICATION DOCUMENTS

Documents contained in the following appendices provide information in support of this Application as required by the TCEQ for a water rights permit.

- Appendix A – TCEQ Administrative Information Report
- Appendix B – TCEQ Technical Information Report
- Appendix C – Signature Authority Verification
- Appendix D – Application Maps
- Appendix E – Proof of Ownership of Pond SP-6 Property
- Appendix F - Water Impoundment Agreement
- Appendix G- Public Involvement Plan

**TABLE 1 - SUMMARY OF WAM RESULTS ANALYZING POND SP-6
WITH AMENDMENT OF COA 14-5384**

	(1)	(2)	(3)
	PARAMETER	BASELINE CASE	COA 5384 AMENDED
(1)	<u>COA 14-5384 WITHOUT AMENDMENT</u>		
(2)	COLORADO RIVER DIVERSION		
(3)	Annual Period-of-Record Average (ac-ft)	37.2	--
(4)	Annual Maximum (ac-ft)	74.0	--
(5)	Annual Minimum (ac-ft)	0.0	--
(6)	<u>LUMINANT SP-6 POND</u>		
(7)	POND INFLOW DEPLETION		
(8)	Annual Period-of-Record Average (ac-ft)	--	57.8
(9)	Annual Maximum (ac-ft)	--	74.1
(10)	Annual Minimum (ac-ft)	--	0.0
(11)	STORAGE IN POND SB-6		
(12)	Maximum Storage Capacity (ac-ft)	--	1,002
(13)	Annual Average Storage (ac-ft)	--	940
(14)	Monthly Minimal Storage (ac-ft)	--	603
(15)	% of Time >= 100 % Full	--	32.9%
(16)	% of Time >= 95 % Full	--	62.8%
(17)	% of Time >= 90 % Full	--	76.8%
(18)	% of Time >= 60 % Full	--	100.0%
(19)	% of Time Empty	--	0.0%
(20)	<u>IMPACTS ON OTHER WATER RIGHTS IN BASIN</u>		
(21)	Total Number of Water Right Records	--	1,266
(22)	Number of Water Rights Not Impacted	--	948
(23)	Number of Water Rights Positively Impacted	--	285
(24)	Average Positive Reliability Impact	--	0.17%
(25)	Maximum Positive Reliability Impact	--	1.50%
(26)	Number of Water Rights Negatively Impacted	--	33
(27)	Average Negative Reliability Impact	--	-0.18%
(28)	Maximum Negative Reliability Impact	--	-1.00%

APPENDIX A
TCEQ Administrative Information Report

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ WATER RIGHTS PERMITTING APPLICATION

ADMINISTRATIVE INFORMATION CHECKLIST

Complete and submit this checklist for each application. See Instructions Page 5.

APPLICANT(S): Luminant Mining Company LLC

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

Y/N	Y/N
<u>Y</u> Administrative Information Report	<u>N</u> Worksheet 3.0
<u>N</u> Additional Co-Applicant Information	<u>N</u> Additional W.S. 3.0 for each Point
<u>N</u> Additional Co-Applicant Signature Pages	<u>N</u> Recorded Deeds for Diversion Points
<u>Y</u> Written Evidence of Signature Authority	<u>N</u> Consent for Diversion Access
<u>Y</u> Technical Information Report	<u>N</u> Worksheet 4.0
<u>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>N</u> Signed Water Supply Contract
<u>Y</u> Worksheet 1.0	<u>N</u> Worksheet 4.1
<u>N</u> Recorded Deeds for Irrigated Land	<u>N</u> Worksheet 5.0
<u>N</u> Consent for Irrigated Land	<u>N</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>N</u> Worksheet 1.2	<u>N</u> Drought Contingency Plan(s)
<u>Y</u> Worksheet 2.0	<u>N</u> Documentation of Adoption
<u>N</u> Additional W.S. 2.0 for Each Reservoir	<u>Y</u> Worksheet 7.0
<u>N</u> Dam Safety Documents	<u>N</u> Accounting Plan
<u>N</u> Notice(s) to Governing Bodies	<u>Y</u> Worksheet 8.0
<u>Y</u> Recorded Deeds for Inundated Land	<u>Y</u> Fees
<u>N</u> Consent for Inundated Land	<u>N</u> Public Involvement Plan

ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

☒ New Appropriation of State Water

☒ Amendment to a Water Right *

☐ Bed and Banks

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

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

Luminant Mining Company LLC ("Luminant") is conducting the reclamation associated with a surface coal mining operation under Chapter 134, Natural Resources Code, at the Three Oaks Mine in Bastrop and Lee counties in the Colorado River Basin. After reclamation operations are complete, one sediment control pond, Pond SP-6, will continue to impound State water requiring authorization under the Texas Water Code. Pond SP-6 is a small impoundment with a maximum storage capacity of 1,002 ac-ft located within the mine area on an unnamed tributary of Big Sandy Creek, a tributary of the Colorado River. Because availability of unappropriated water in the lower Colorado River Basin is limited, Luminant is proposing to dedicate and use the diversion authority under an existing water right (COA 14-5384) owned by Luminant to offset the effects of streamflow depletions caused by Pond SP-6. No diversion of water from this pond is being requested.

COA 14-5384, which was recently purchased by Luminant, authorizes diversions up to 74 ac-ft/yr for irrigation use from the Colorado River near Onion Creek in Travis County with a priority date of June 29, 1914. This application requests amendment of COA 14-5384 to incorporate the following specific changes:

- 1) Revoke authorization to divert 74.0 ac-ft/yr of water from the Colorado River at the existing diversion point in Travis County, but retain authorization for the diversion point.
- 2) Add authorization to impound streamflows in Pond SP-6 up to a normal storage capacity of 1,002 acre-feet with a June 29, 1914 priority date.

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?

Luminant Mining Company LLC

(If the Applicant is an entity, the legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal documents forming the entity.)

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?

You may search for your CN on the TCEQ website at

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : 603263773 (leave blank if you do not yet have a CN).

What is the name and title of the person or persons signing the application? Unless an application is signed by an individual applicant, the person or persons must submit written evidence that they meet the signatory requirements in 30 TAC § 295.14.

First/Last Name: Renee Collins

Title: Senior Director -- Environmental Services

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: Luminant Mining Company LLC

Mailing Address: 6555 Sierra Drive

City: Irving State: TX ZIP Code:

Indicate an X next to the type of Applicant:

☐ Individual ☐ Sole Proprietorship-D.B.A.

☐ Partnership ☒ Corporation

☐ Trust ☐ Estate

☐ Federal Government ☐ State Government

☐ County Government ☐ City Government

☐ Other Government ☐ Other

For Corporations or Limited Partnerships, provide:

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

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

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

First and Last Name: Justin Ewing

Title: Environmental Compliance Manager

Organization Name: Luminant Mining Company LLC

Mailing Address: 6555 Sierra Drive

City: Irving State: TX ZIP Code: 75039

Phone Number: 214-875-9130

Fax Number: na

E-mail Address: 

4. WATER RIGHT CONSOLIDATED CONTACT INFORMATION (Instructions, Page. 9) **NOT APPLICABLE**

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

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

First and Last Name: _____

Title: _____

Organization Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP Code: _____

Phone Number: _____

Fax Number: _____

E-mail Address: _____

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number: _____ Amount past due: _____

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

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

Enforcement order number: _____ Amount past due: _____

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

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

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

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

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

Yes / No Y

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Renee Collins, Senior Director -- Environmental Services

(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.

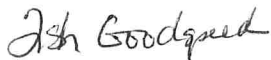
I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature:  Date: 6/11/2024
(Use blue ink)

Subscribed and Sworn to before me by the said

on this 11th day of June, 2024.

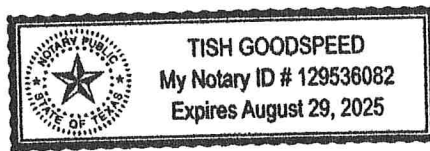
My commission expires on the 29th day of August, 2025.



Notary Public

Dallas

County, Texas



[SEAL]

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

APPENDIX B
TCEQ Technical Information Report

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: April 19, 2024

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

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

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

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

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

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

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

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

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

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

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

Water Right (Certificate or Permit) number you are requesting to amend: COA 14-5384

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

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

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

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

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

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

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

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

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

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

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

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

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

Additionally, all amendments require:

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

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

NOT APPLICABLE

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

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

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

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

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

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

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

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

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

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

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

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

Worksheets and information:

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

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

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

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

This Application is for an amendment to COA 14-5384 to add authorization to impound water in an existing reservoir (Pond SP-6), located on an unnamed tributary of Big Sandy Creek, tributary of Colorado River, Bastrop County, Texas. The capacity of the reservoir is 1,002 acre-feet, and authorization is being requested for recreation use of the impoundment. No diversions from the reservoir are requested. To offset the impacts of streamflow depletions caused by the pond, the existing authority under Luminant's COA 4-5384 for diversions from the Colorado River up to 74 ac-ft/yr is being revoked. This Application is consistent with the 2022 State Water Plan and the 2021 Region K Water Plan because there is nothing in these Plans that conflicts with this Application.

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

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

Files will be emailed to Water Availability Section.

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i>	State Water Source (River Basin) or Alternate Source <i>*each alternate source (and new appropriation based on return flows of others) also requires completion of Worksheet 4.0</i>	Purpose(s) of Use	Place(s) of Use <i>*requests to move state water out of basin also require completion of Worksheet 1.1 Interbasin Transfer</i>
1,002	Colorado River Basin	Recreation	Unnamed Tributary of Big Sandy Creek, tributary of Colorado River

1,002 * Total amount of water (in acre-feet) to be used annually *(include losses for Bed and Banks applications)* *** This is the maximum normal storage capacity of Pond SP-6.**

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

NOT APPLICABLE

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
74.0***	Irrigation	Recreation and Domestic & Livestock uses in Pond SP-6 and to offset Pond SP-6 streamflow depletions	Travis County TX	Bastrop County TX

*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."

*** **This authorized diversion from the Colorado River is being revoked with this Amendment.** Changes to the purpose of use in the Rio Grande Basin may require conversion. 30 TAC § 303.43.

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated: **NOT APPLICABLE**
- i. Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
- ii. Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

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

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

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
NOT APPLICABLE
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
NOT APPLICABLE
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.
NOT APPLICABLE

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

NOT APPLICABLE

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”

NOT APPLICABLE

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

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

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

1. The “Marshall Criteria” (Instructions, Page. 21)

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

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

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

WORKSHEET 2.0

Impoundment/Dam Information

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

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

1. Storage Information (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 1,002.
- c. The impoundment is on-channel x or off-channel _____ (mark one)
- Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? **Y** / **N** N
 - 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** Y
- d. Is the impoundment structure already constructed? **Y** / **N** Y
- For already constructed **on-channel** structures:
 - Date of Construction: Approximately 2014
 - Was it constructed to be an exempt structure under TWC § 11.142? **Y** / **N** N
 - If Yes, is Applicant requesting to proceed under TWC § 11.143? **Y** / **N** N
 - If No, has the structure been issued a notice of violation by TCEQ? **Y** / **N** N
 - Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? **Y** / **N** N
 - If yes, provide the Site No. _____ and watershed project name _____;
 - Authorization to close "ports" in the service spillway requested? **Y** / **N** N
 - For **any** proposed new structures or modifications to structures: **NOT APPLICABLE**
 - 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 _____
 - As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
 - No additional dam safety documents required with the Application. **Y** / **N** _____
 - Plans (with engineer's seal) for the structure required. **Y** / **N** _____
 - Engineer's signed and sealed hazard classification required. **Y** / **N** _____
 - 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:_____ 29.0 _____.
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_____ Y _____
If yes, the drainage area is_____ 6.982 _____sq. miles.
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): _____ Unnamed tributary of Big Sandy Creek, tributary of Colorado River, Colorado Basin
- b. Zip Code: _____ 78621 _____
- c. In the _____ J. Black _____ Original Survey No. _____ n/a _____, Abstract No. _____ A-86 _____,
_____ Bastrop _____ 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. See Appendix E.***

*****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_____ 30.319148 _____°N, Longitude_____ -97.275599 _____°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):_____ Google Earth Pro _____
- ii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. Y / N_____ Y _____
See Appendix D

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

NOT APPLICABLE

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)

- 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

NOT APPLICABLE

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

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

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

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater_____, surface water_____?
 5. If any percentage is surface water, provide the base water right number(s)_____.
- d. Is the source of the water being discharged groundwater? Y / N____ If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped:_____
 2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers_____.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
 4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- di. Is the source of the water being discharged a surface water supply contract? Y / N____
If yes, provide the signed contract(s).
- dii. Identify any other source of the water_____

WORKSHEET 4.1

DISCHARGE POINT INFORMATION

NOT APPLICABLE

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

For water discharged at this location provide:

- a. The amount of water that will be discharged at this point is _____ acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of _____ cfs or _____ gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code _____
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.
- f. Point is at:
Latitude _____ °N, Longitude _____ °W.
****Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): _____

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

WORKSHEET 5.0
ENVIRONMENTAL INFORMATION
NOT APPLICABLE

1. Impingement and Entrainment

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

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

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

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

a. Identify the appropriate description of the water body.

☐ Stream

☐ Reservoir

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

☐ Other, specify: _____

b. Flow characteristics

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

☐ Intermittent - dry for at least one week during most years

☐ Intermittent with Perennial Pools - enduring pools

☐ Perennial - normally flowing

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

☐ USGS flow records

☐ Historical observation by adjacent landowners

☐ Personal observation

☐ Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

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

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

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

a. For all bed and banks applications:

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

b. For all alternate source applications:

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

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

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

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

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

NOT APPLICABLE

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

Accounting Plan will be prepared and submitted if required for amendment.

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

1. Is Accounting Plan Required

Accounting Plans are generally required:

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

2. Accounting Plan Requirements

- a. A **text file** that includes:
 1. an introduction explaining the water rights and what they authorize;
 2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
 3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
 4. Should provide a summary of all sources of water.
- b. A **spreadsheet** that includes:
 1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
 2. Method for accounting for inflows if needed;
 3. Reporting of all water use from all authorizations, both existing and proposed;
 4. An accounting for all sources of water;
 5. An accounting of water by priority date;
 6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
 7. Accounting for conveyance losses;
 8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
 9. An accounting for spills of other water added to the reservoir; and
 10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

WORKSHEET 8.0 CALCULATION OF FEES

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

1. NEW APPROPRIATION

	Description	Amount (\$)
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	\$250.00
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. **	\$0 00
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. **	\$0.00
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x ¹⁰⁰² _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	\$1,002.00
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.	\$0.00
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600.	1128.94
TOTAL		\$ 2405.94

2. AMENDMENT OR SEVER AND COMBINE

		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		\$

3. BED AND BANKS

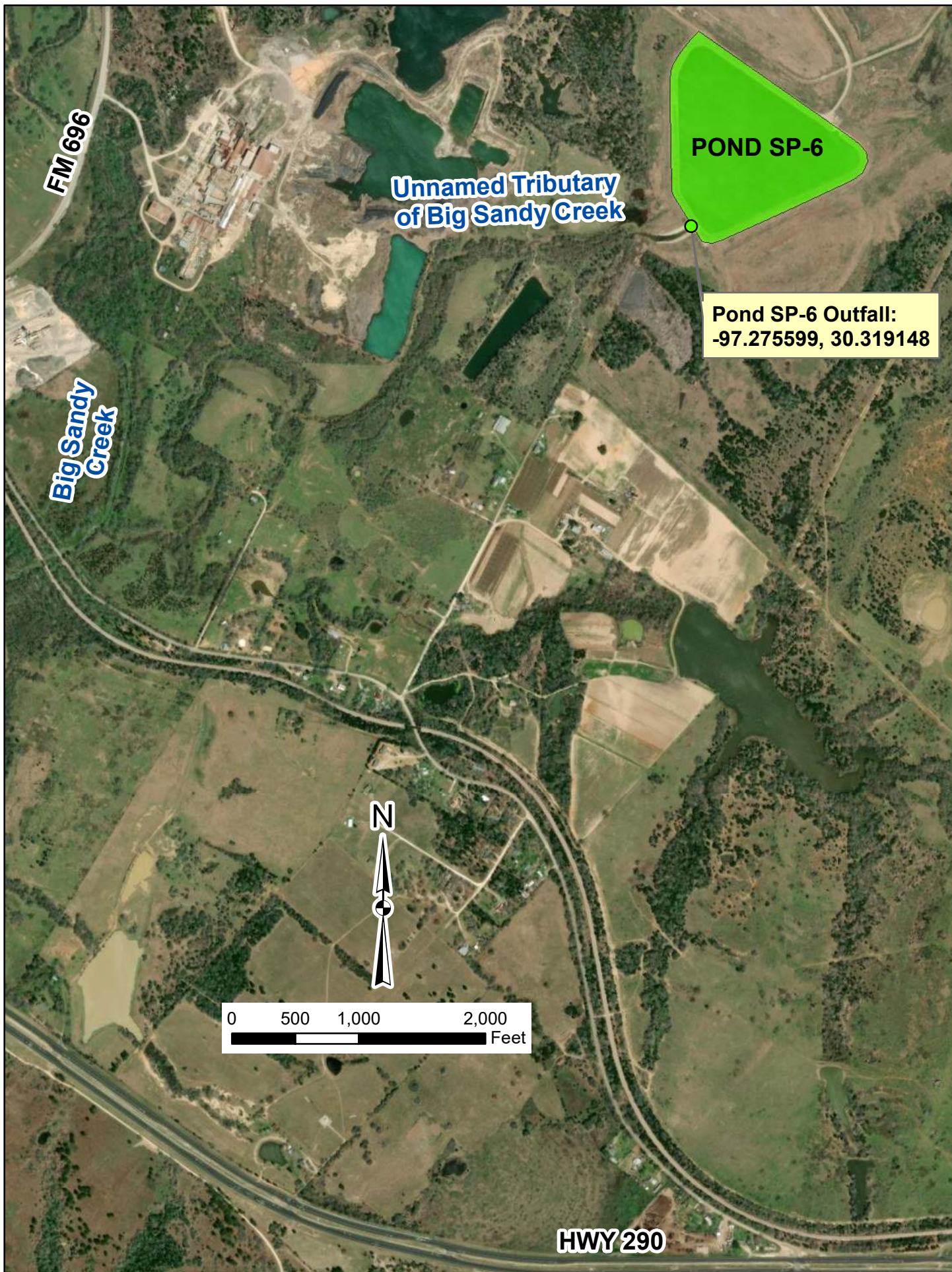
	Description	Amount (\$)
Filing Fee		\$100.00
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$

APPENDIX C
Signature Authority Verification



cc: David Mitchell – Senior Counsel

APPENDIX D
Application Maps



POND SP-6

**Unnamed Tributary
of Big Sandy Creek**

**Pond SP-6 Outfall:
-97.275599, 30.319148**

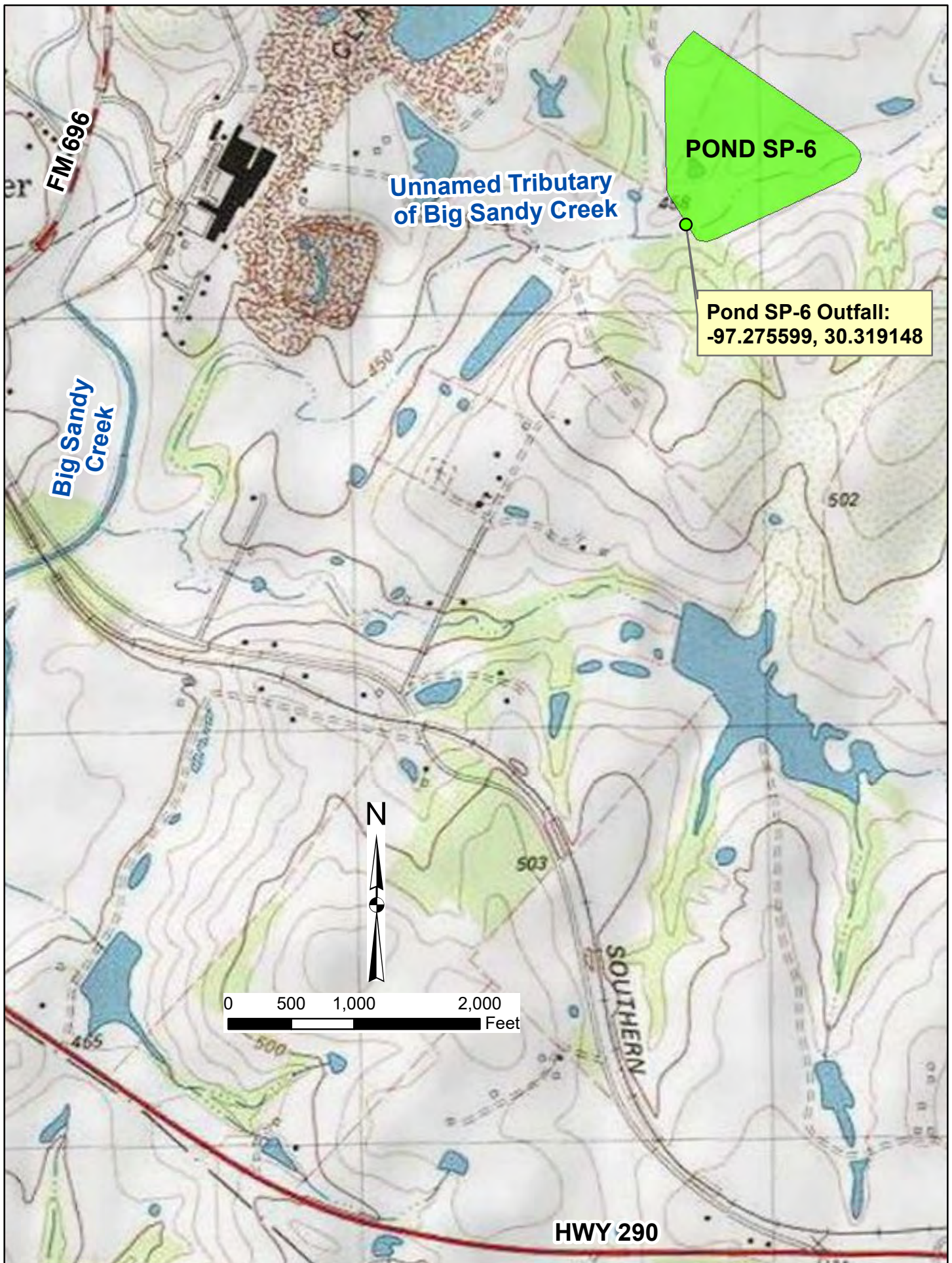
**Big Sandy
Creek**

FM 696

HWY 290



0 500 1,000 2,000
Feet







GRAPHIC SCALE

0 250 500 1000

(IN FEET)

1 Inch = 500 ft.

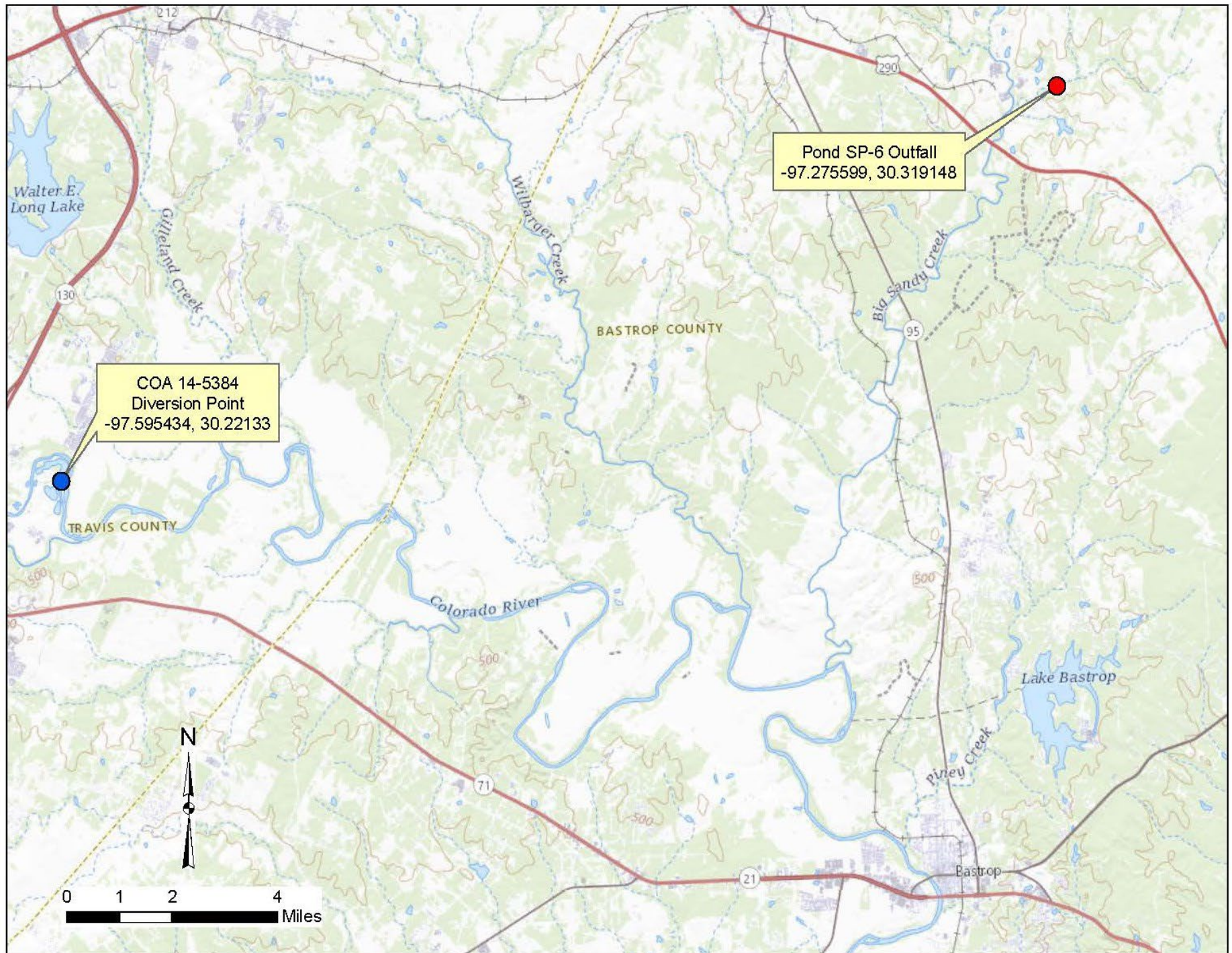
THREE OAKS MINE Elgin, TX			
SP-6 POND LOCATION MAP			
Luminant Asset Closure			
DATE	APPROVED	DATE	DATE
JAS	JAS	7-10-23	SP-6 TCEQ Location Map
			PAGE NO. 1 of 1

Colorado River Watershed

Brazos River Watershed

LIBE COUNTY
BASTROP COUNTY

GENERAL LOCATION MAP SHOWING POND SP-6 OUTFALL AND COA 14-5384 DIVERSION POINT ON COLORADO RIVER




APPENDIX E
Proof of Ownership of Pond SP-6 Property

Property Map Pond SP-6

Pond SP-6 is located entirely in Tract 189 owned by Sandow Power Company, a sister company to Luminant Mining Company.

Legend

 Tract 189

696

Elgin Butler Company

Seventh-Day Adventist School

Google Earth

Image © 2024 Airbus



2000 ft



DEED
200712943
16 PGS

AFTER RECORDING RETURN TO:

TXU Sandow Development Company LP
Energy Plaza
1601 Bryan Street
Dallas, Texas 75201
Attn: Chief Legal Officer

Special Warranty Deed

Effective Date: August 24, 2007

Grantor: City of San Antonio, as part of its electric and gas system, acting by and through the City Public Service Board

Grantor's Mailing Address: 145 Navarro
San Antonio, Texas 78296

Grantee: TXU Sandow Development Company LP, a Texas limited partnership

Grantee's Mailing Address: Energy Plaza
1601 Bryan Street
Dallas, Texas 75201

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

Property:

All of Seller's right, title and interest in and to the property described on Attachment A attached hereto and incorporated fully by reference, including all of Seller's right, title and interest to all improvements thereon and rights and appurtenances thereto (including all of Seller's right and title and interest to all coal and lignite interests thereto) (the "Property").

Reservations from and Exceptions to Conveyance and Warranty:

(1) Seller reserves all of following: (i) the rights of the City of San Antonio, acting by and through its San Antonio Water System ("SAWS") and its ratepayers, under that certain Water Rights Acquisition and Assignment Contract by and between Seller and the SAWS effective December 31, 1998, as amended, the rights and obligations of which shall remain with City of San Antonio for the benefit of SAWS; and (ii) all of the rights and obligations of the City Public Service Board of San Antonio ("CPS Energy") under such Water Rights Acquisition and Assignment Contract, which shall remain with CPS Energy (collectively the "Reserved Water Rights"), a memorandum of which Contract is recorded in vol. 994, pg. 899 of the Real Property Records of Lee County, Texas and in vol. 1705, pg. 510 of the Real Property Records of Bastrop

RECORDER'S MEMORANDUM

All or part of the text in this
document was not clearly legible
for satisfactory reproduction.

County, Texas.

(2) The items described on Attachment B attached hereto and incorporated fully by reference.

Acceptance of Condition of Property "AS IS"

AS A MATERIAL PART OF THE CONSIDERATION HEREIN, THE CONVEYANCE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS," "WHERE-IS" AND "WITH ALL FAULTS" BASIS AS DESCRIBED IN SECTION 7 OF THE PURCHASE AND SALE CONTRACT GRANTOR AND GRANTEE EXECUTED EFFECTIVE APRIL 13, 2007.

Grantor, for the consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty and subject to the Acceptance of Condition of Property "AS IS" by Grantee as set forth above, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's successors, or assigns forever. Grantor binds Grantor and Grantor's successors and assigns against every person whosoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from and Exceptions to Conveyance and Warranty, when the claim is by, through or under Grantor, but not otherwise.

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

Signatures on following pages

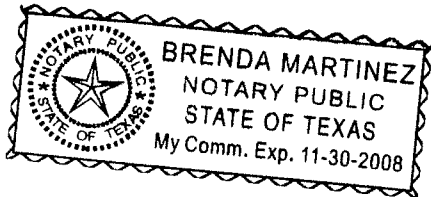
GRANTOR

**CITY OF SAN ANTONIO, AS PART OF ITS
ELECTRIC AND GAS SYSTEM, ACTING BY
AND THROUGH THE CITY PUBLIC
SERVICE BOARD**

By: Michael Kotara ^{Ksy}
Printed Name: Michael Kotara
Title: Executive Vice President of Energy Development

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 24th day of August, by Michael Kotara, Executive Vice President of Energy Development of the City Public Service Board, on behalf of same.



Brenda Martinez
NOTARY PUBLIC FOR THE STATE OF TEXAS

ACCEPTED BY GRANTEE

TXU SANDOW DEVELOPMENT COMPANY

LP, a Texas limited partnership

By: TXU Sandow Management Company
LLC, a Delaware limited liability company,
its general partner.

By: 

Printed Name: Michael P. Childers

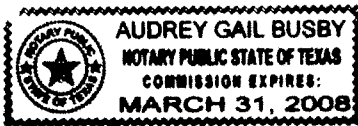
Title: President and Chief Executive of Granatieri Development

STATE OF TEXAS §

§

COUNTY OF DALLAS §

This instrument was acknowledged before me on the 24th day of August 2007 by Michael P. Childers, President and Chief Executive of Granatieri Development of TXU Sandow Management Company LLC, a Delaware limited liability company, as general partner of TXU Sandow Development Company LP, a Texas limited partnership, on behalf of said Texas limited partnership.




NOTARY PUBLIC FOR THE STATE OF TEXAS

Attachment A

Description of Property

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
101	Altenhof	Altenhof	Bastrop	12.859	Deed	370	76	
102	Behrend, JK	Behrend etux	Bastrop	330.887	Deed	356	64	
103	Behrend, JK	Behrend etal	Bastrop	149.306	Deed	357	762	
104	Behrend, WD	Behrend etux	Bastrop	15.160	Deed	311	701	
105	Behrend, WD	Behrend etux	Bastrop	62.383	Deed	353	766	
106	Bostic	Bostic etux	Bastrop	12.866	Deed	328	840	
107	Brown/Eva ns	Evans etal	Bastrop	57.940	Deed	680	258	
108	Carrell / Threadgill	Cifers (Trustee)	Bastrop	137.575	Deed	582	748	
109	Coffield	Ellett and Avery, Joint Independent Executors	Bastrop	561.454	Deed	361	630	
110	Cronin	Cronin	Bastrop	12.856	Deed	370	79	
111	Driskell	Driskell etux	Bastrop	99.726	Deed	533	50	Undivided 1/2 interest
	Driskell	Driskell etux	Bastrop		Deed	517	633	
112	Elgin Butler Brick	Elgin Butler Brick Company	Bastrop	519.194	Deed	529	640	Save and except 21.8 acres deeded to Alcoa Inc., V1468, P460, Official Records of Bastrop County, TX.
113	Grelle, Lillie	Grelle	Bastrop	209.984	Deed	447	376	
114	Hackworth,	Puterbaugh	Bastrop	310.000	None	142	117	

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
	J.							
115	Jensen, M.O.	Jensen etux	Bastrop	9.519	Deed	323	773	
116	Johnson, A.	Johnson etux	Bastrop	0.883	Deed	381	385	
117	Kastner, A.	Peschka etal	Bastrop	285.527	Deed	853	811	
118	Kastner, M.	Kastner etal	Bastrop	75.429	Deed	552	337	
119	Kastner, M.	McAlester Fuel Company	Bastrop	249.420	Deed	298	356	
120	Klemm, C.	Klemm etux	Bastrop	12.853	Deed	370	72	
121	Lahue, M.	Lahue etux	Bastrop	10.024	Deed	375	9	
122	Loden, W.	Mountaineer Coal Development Company	Bastrop	394.559	Deed	779	274	
123	Long, E.	Mountaineer Coal Development Company	Bastrop	129.548	Deed	779	274	
175	Manley	Alcoa Inc.	Bastrop	57.498	Deed	1468	391	
124	McWilliams Estate	Danelly etal	Bastrop	1.813	Deed	432	639	
125	Means, W.	Puterbaugh	Bastrop	137.120	Deed	142	117	
126	Monson, H.	Monson etux	Bastrop	359.090	Deed	363	775	
173	Nesslbeck, C.	Alcoa Inc.	Bastrop	123.802	Deed	1334	587	
173	Nesslbeck, C.	Alcoa Inc.	Bastrop	26.516	Deed	1468	453	
127	Nesslbeck, H.	Nesslbeck etux	Bastrop	81.934	Deed	402	739	
172	Nesslbeck,	Nesslbeck etux	Bastrop	82.066	Deed	397	93	

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
	O.							
128	Owens, R.	Owens etux	Bastrop	52.067	Deed	329	26	
129	Prewitt, J.	Prewitt etux	Bastrop	461.201	Deed	311	12	Save and Except 95.798 acres, V1468, P404 deeded to Alcoa, Inc., and 123.802 acres, V1334, P596 deeded to ACME Brick Company, Official Records of Bastrop County, TX.
130	Romberg	Mountaineer Coal Development Company	Bastrop	234.920	Deed	779	274	
131	Talbott, E.	Talbott etux	Bastrop	50.057	Deed	290	178	
132	Taylor-Brown	Brown etux	Bastrop	109.413	Deed	313	557	
132	Taylor-Brown	Wade etux	Bastrop	93.588	Deed	313	546	
133	Thames Estate	Harz etux	Bastrop	43.398	Deed	309	566	
134	Townsend-Phillips	Puterbaugh	Bastrop	200.000	Deed	142	117	Save and except 3.7 acres as a cemetery and 4.0007 acres for State of Texas right-of-way.; 207.429 acres as re-surveyed 2-17-1984, Save and Except a 0.562 acre tract and a 2.495 acre tract, total 3.057 acres as the original cemetery (see Ref No. 136);

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
135	Turner, H.	Puterbaugh	Bastrop	100.000	Deed	142	117	Save and Except 2 acres for adjacent road
136	United Meth. Church	United Methodist Church	Bastrop	3.057	Deed	510	17	
137	Weisner, H.	Weisner etux	Bastrop	77.620	Deed	311	696	
138	Wilhite, E.	Wilhite etux	Bastrop	114.707	Deed	326	218	
139	Wolf, E.	Gruber etux	Bastrop	103.121	Deed	329	408	
140	Wolf, J.	Mountaineer Coal Development Company	Bastrop	101.285	Deed	779	274	
141	Wolf, M.G.	Behrend etal	Bastrop	1.360	Deed	320	795	
142	Youngblood, J.	Youngblood etux	Bastrop	101.294	Deed	403	724	
143	Black etal	Black etal	Lee	1,665.595	Deed	479	712	Save and except 141.0 acres deeded to Alcoa Inc., V 3356, P 557, Real Property Records of Lee County, TX.
144	Bonnet, N.	Burnett etal	Lee	120.860	Deed	437	910	
145	Branum, B.	Branum etux	Lee	118.764	Deed	462	38	
146	Brooks, B.	Brooks etal	Lee	20.938	Deed	505	577	
147	Brooks, H.	Brooks	Lee	241.560	Deed	423	584	
148	Brooks, H.	Brooks	Lee	20.000	Deed	433	383	
149	Browning, A.	Browning etal	Lee	142.896	Deed	401	933	
149	Browning, A.	Puterbaugh	Lee	134.350	Deed	120	364	
150	Bryant, A.C.	Builders Service Corporation	Lee	387.349	Deed	545	771	

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
151	Clark, W.D.	Clark etal	Lee	135.716	Deed	822	461	
152	Coffield, H.	Ellett and Avery, Joint Independent Executors	Lee	310.109	Deed	484	168	
153	Doss, C.	Doss etux	Lee	147.722	Deed	476	288	
154	Edwards, G.	Mountaineer Coal Development Company	Lee	57.936	Deed	766	786	
155	Ferguson, D.	Ferguson etux	Lee	50.000	Deed	630	421	
156	Greutzner, A.	Greutzner etux	Lee	129.775	Deed	497	754	
157	Greutzner, O.	Greutzner etux	Lee	32.777	Deed	497	747	
158	Greutzner, R.	Greutzner etal	Lee	134.346	Deed	497	739	
159	Harding, E.	Harding etux	Lee	45.137	Deed	443	265	Undivided 1/2 interest
	Harding, E.	Harding etux	Lee		Deed	493	876	
160	Hobbs, L.	Hobbs etux	Lee	65.691	Deed	449	435	
174	Ischy	Alcoa, Inc.	Lee	161.615	Deed	949	506	
161	Jackson, A.	Jackson	Lee	59.963	Deed	521	118	
162	Lawrence- Phillips	Mountaineer Coal Development Company	Lee	78.274	Deed	766	786	
163	Lewis, E.	Lewis etal	Lee	90.666	Deed	519	648	Undivided 1/2 interest
	Lewis, E.	Lewis etal	Lee		Deed	506	408	
164	McDonald, J.	McDonald etux	Lee	52.903	Deed	463	17	
165	Mundine,	Mundine etux	Lee	105.483	Deed	426	643	Undivided 1/2 interest

CPS Energy Ref No.	CPS Energy Ref Name	Grantor	County	Acres	Deed	Vol	Pg	Comment
	M.							
	Mundine, M.	Mundine etux	Lee		Deed	426	649	
166	Neal, E.	Neal etux	Lee	40.201	Deed	463	683	
167	Rocco, V.	Rocco etal	Lee	72.438	Deed	586	504	
168	Smith, E.C.	Smith	Lee	51.067	Deed	424	677	
169	Teinert	Teinert etux	Lee	139.148	Deed	497	761	
170	Turnipseed , E.	Mountaineer Coal Development Company	Lee	57.662	Deed	766	786	
171	Turnipseed , H.	Turnipseed etux	Lee	4.571	Deed	416	904	Save and except a 5 acre square out of the Northwest corner thereof; 79.301 acres as re- surveyed 12-3-1982, in tracts of 4.571 acres, 74.301 acres, and 0.429 as State of Texas right- of-way, V118/P398, Real Property Records of Lee County, Texas.
171	Turnipseed , H.	Puterbaugh	Lee	80.000	Deed	120	364	
NA	FM 619 release	State of Texas	Lee	11.070	Release	969	289	
176	Additional Property (FM 696, FM 619)	State of Texas	Lee and Bastrop	55.658	Deed	*	*	*38.960 acres in Bastrop County under County Clerk's File #2007-01696; 16.698 acres in Lee County under County Clerk's File #200708209

Save and except a 7.408 acre strip of land granted by Right of Way Special Warranty Deed by the City of San Antonio, Texas, acting by and through the City Public Service Board of San Antonio ("CPS Energy") to the County of Bastrop, a political subdivision of the State of Texas, as recorded in Volume 1636, Page 490 of the Official Records of Bastrop County, Texas.

Save and except 9.2840 acres of land granted by Right of Way Special Warranty Deed by CPS Energy to the County of Lee, a political subdivision of the State of Texas, as recorded in Volume 982, Page 174 of the Real Property Records of Lee County, Texas.

Save and except 12.1240 acres of land granted by Right of Way Special Warranty Deed by CPS Energy to the County of Lee, a political subdivision of the State of Texas, as recorded in Volume 982, Page 180 of the Real Property Records of Lee County, Texas.

Save and except 8.386 acres of land granted by Right of Way Special Warranty Deed by CPS Energy to the County of Lee, a political subdivision of the State of Texas, as recorded in Volume 982, Page 196 of the Real Property Records of Lee County, Texas.

Save and except 4.295 acres of land granted by CPS Energy to the County of Lee, a political subdivision of the State of Texas, as recorded in Volume 982, Page 217 of the Real Property Records of Lee County, Texas.

Save and except 3.942 acres of land granted by CPS Energy to the State of Texas, by Special Warranty Deed, as recorded in Volume 969, Page 257 of the Real Property Records of Lee County, Texas.

Save and except 12.012 acres of land granted by CPS Energy to the State of Texas, by Special Warranty Deed, as recorded in Volume 1568, Page 045 of the Real Property Records of Lee County, Texas.

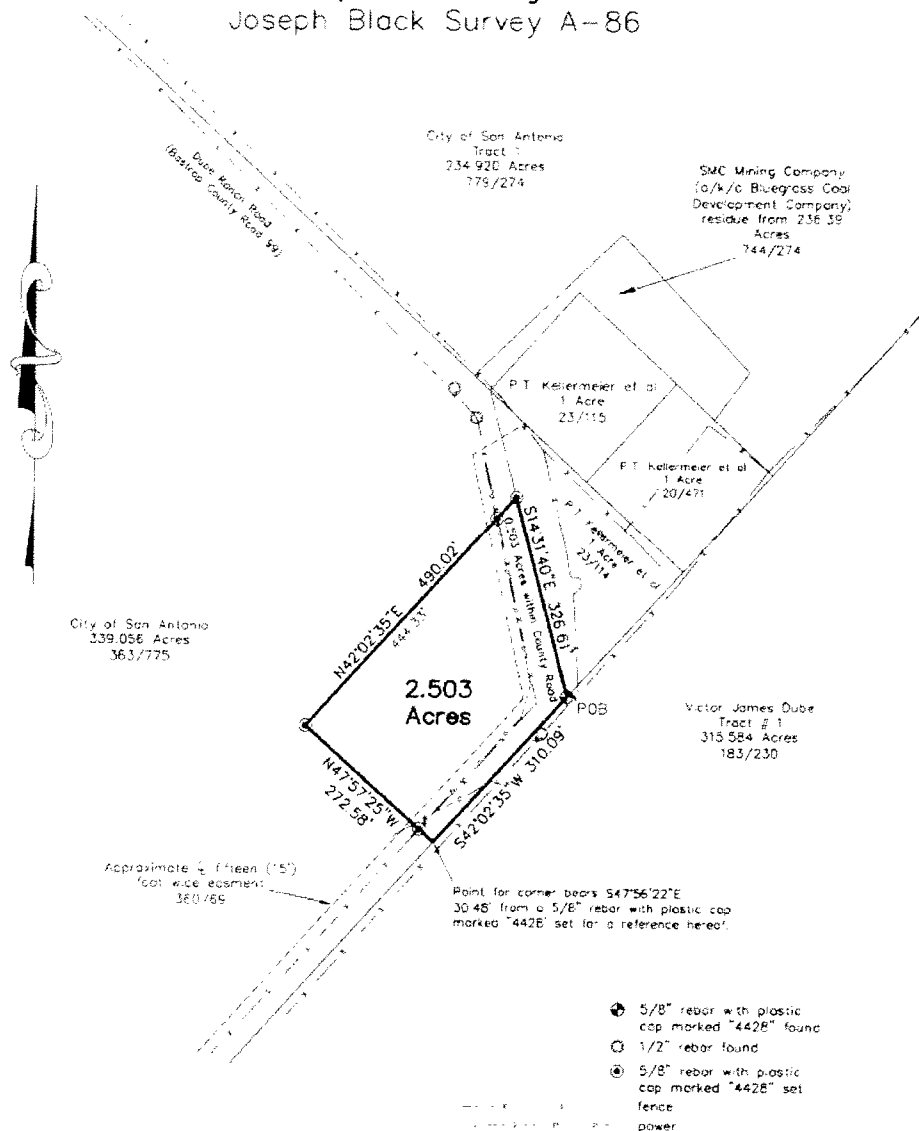
Save and except 0.442 acres of land granted by CPS Energy to the State of Texas, by Special Warranty Deed, as recorded in Volume 969, Page 263 of the Real Property Records of Lee County, Texas.

Save and except a 2.503 acre tract, a part of the Joseph Black Survey, abstract 86, Bastrop County, Texas, which is depicted on the attached survey on the following two pages, and being a part of a 339.056 acre tract conveyed to the City of San Antonio by deed recorded in volume 363, page 775 of the Official records of Bastrop County, Texas.

Bastrop County, Texas

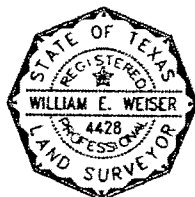
Joseph Black Survey A-86

Exhibit B



Survey plat showing a 2.503 acre tract, a part of the Joseph Black Survey, Abstract 86, Bastrop County, Texas, being a part of 339.056 acre tract conveyed to the City of San Antonio by deed recorded in volume 363, page 775 of the Deed Records of Bastrop County, Texas.

Survey Notes:
 1) Bearings are Grid NAD 83, Texas Coordinate System, Central Zone, ALCOA Adjustment.
 2) Reference is hereby made to a description attached hereto and made a part hereof.



I hereby certify that this plat is an accurate representation of an on the ground survey completed under my supervision in December 2006 and that this Survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.

William E. Weiser
 William E. Weiser
 Professional Land Surveyor
 Number 4428

Prepared By: Weiser Becker Surveyors, P.C.
 P. O. Box 706 Giddings, Texas 78942 979-542-4444

By: JC	Date: 01-05-07	Scale: 1" = 200'	Book: 337
Rev:	File # 4658	WO # 4658	

STATE OF TEXAS

COUNTY OF BASTROP

LAND DESCRIPTION

BEING a **2.503 acre** tract, a part of the Joseph Black Survey, Abstract 86, Bastrop County, Texas, being a part of 339.056 acre tract conveyed to the City of San Antonio by deed recorded in volume 363, page 775 of the Deed Records of Bastrop County, Texas. Said **2.503 acre** tract being more particularly described as follows:

BEGINNING at a 5/8 inch rebar with plastic cap marked "4428" found within the margins of Dube Ranch Road (Bastrop County Road 99), in the Northwest line of a 315.584 acre Tract # 1 conveyed to Victor James Dube by deed recorded in volume 183, page 230, for the South corner of a 1 acre tract conveyed to P.T. Kellermeier et al by deed recorded in volume 23, page 114, for an angle corner of said 339.056 acre City of San Antonio tract and the East corner hereof;

THENCE within the margins of Dube Ranch Road, with the Northwest line of said 315.584 acre Dube tract, the Southeast line of said 339.056 acre City of San Antonio tract, **South 42 deg. 02 min. 35 sec. West 310.09 feet** to a point for the South corner hereof, said point bears South 47 deg. 56 min. 22 sec. East 30.48 feet from a 5/8 inch rebar with plastic cap marked "4428" set for a reference hereof;

THENCE across said 339.056 acre City of San Antonio tract as follows:
North 47 deg. 57 min. 25 sec. West 272.58 feet to a 5/8 inch rebar with plastic cap marked "4428" set for the West corner hereof;
North 42 deg. 02 min. 35 sec. East at 444.33 feet pass a 5/8 inch rebar with plastic cap marked "4428" set for a reference and continuing for a total distance of **490.02 feet** to a 5/8 inch rebar with plastic cap marked "4428" set within the margins of Dube Ranch Road, in the Southwest line of said 1 acre Kellermeier tract, a Northeast line of said 339.056 acre City of San Antonio tract, for the North corner hereof;

THENCE within the margins of Dube Ranch Road, with the Southwest line of said 1 acre Kellermeier tract, a Northeast line of said 339.056 acre City of San Antonio tract, **South 14 deg. 31 min. 40 sec. East 326.61 feet** to the **PLACE OF BEGINNING** and containing **2.503 acres** of land of which 0.503 of an acre lies within Dube Ranch Road.

Bearings are Grid NAD 27, Texas Coordinate System, Central Zone, ALCOA Adjustment. Reference is hereby made to a plat attached hereto and made a part hereof.

I hereby certify that this description is an accurate representation of an on the ground survey completed under my supervision in December 2006 and that this survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.



William E. Weiser
 William E. Weiser
 Professional Land Surveyor
 Number 4428
 Date of signature: 01-05-07

Attachment B

The following are the "Permitted Encumbrances":

1.1 (i) the Lignite Mining Lease and Assignment Agreement dated December 28, 1998, as amended ("Lignite Lease") by and between Grantor as lessor therein and Alcoa as lessee; (ii) all agricultural, residential and other leases in effect on any portion of the Property and all contracts and agreements relating to the Property (collectively, the "Leases and Agreements"), along with any amendments thereto, including those listed on below in section 1.2 of this Attachment B; (iii) easements of record (including those created by or appearing on any recorded plat) affecting the Property, including, but not limited to easements granted to (a) TXU Fuel Company described in an instrument recorded in vol. 932, pg. 915 of the Real Property Records of Lee County, Texas; (b) TXU Fuel Company described in an instrument recorded in vol. 1394, pg. 855 of the Real Property Records of Bastrop County, Texas and (c) Seminole Pipeline described in an instrument recorded in vol. 686, pg. 439 of the Real Property Records of Lee County, Texas.; (iv) oil, gas and mineral leases and reservations of record; (v) unrecorded easements and other documents granting similar property rights, if such unrecorded easements and other documents provide that Grantor has the right to relocate the easement or facilities located in such easement, in which case Grantee will assume the expense of such relocations; (vi) any and all conditions, restrictions, reservations and other matters of record that do not materially interfere with Grantee's use of the Property for its intended use for lignite mining; (vii) the rights of any state or local government entity in and to roads or road easements located on the Property, including any areas presently used as public roads pursuant to any road relocation conducted by Grantor; and (viii) the disputed ad valorem taxes, interest and penalties on the Property relating to the Tax Disputes as described in Section 12.1 of Purchase and Sale Contract entered into between Grantor and Grantee dated April 13, 2007.

1.2 The following Leases and Agreements

Lessee	Property	Reference Number	Total Acres	Lease Period	Lease Term	Termination Notice
Agricultural Leases:						
Rother, Scott & Danna	Ischy	174	161.615	Annual	12/20/06	60 Days
Lloyd Monson	Romberg	130	234.920	Annual	01/01/07	60 Days
Scott & Bernadette Guidry	Owens, Thames, Wilhite	128, 133, 138	209.172	Annual	01/01/07	60 Days
James Behrend	J.K. Behrend, J.K. Behrend, Lillie Grelle	102, 103, 113	555.279	Annual	03/01/07	60 Days

Roger Mogonye	Elgin Butler Brick, Prewitt 2	112, 129	461.245	Annual	03/01/07	60 Days
Frank Schindler Jr. #1	Butler/Brick, Jensen, Talbott, Shell/Wolf, Jordan/Black, C. Nesslbeck	112, 115, 131, 140, 143, 173	1,211.533	Annual	04/15/07	60 Days
Alcoa	Kastner, Monson	118, 126	411.985	Annual	05/01/07	60 Days
Weldon & Diane Clark	Monson	126	20.034	Annual	06/01/07	60 Days
George E. Moore	Prewitt 1	129	115.700	Annual	07/01/07	60 Days
Jesse Skinner	Kastner, Youngblood, Bryant, Jackson	117, 142,150,161	833.889	Annual	07/01/07	60 Days
Arthur Behrend	Altenhof, Bostic, Cronin, Klemm, H. Nesslbeck, O. Nesslbeck	101, 106, 110, 120, 127, 172	126.305	Annual	08/01/07	60 Days
Frank Schindler Jr. #2	L. Grelle, LaHue, H. Nesslbeck, O. Nesslbeck	113, 121, 127, 172	231.648	Annual	08/01/07	60 Days
Dale Turnipseed	Brown/Evans, Prewitt 5, A. Gruetzner, R. Gruetzner, Teinert, Manley	107, 129, 156, 158, 169, 175	485.382	Annual	08/03/07	60 Days
Travis & Allen Hobbs	Ferguson, Lewis	155, 163	140.666	Annual	10/11/07	60 Days
Residential Lease:						
Scott & Bernadette Guidry	Owens House	128	1.000	Month	Mo. to Mo.	90 Days
Water Well Site Lease:						
City of Elgin	Monson	126	2.500	30 Yrs.	08/11/28	
Wildlife Management Area Letter Agreement:						
Letter Agreement effective July 11, 2006 between CPS Energy and Alcoa describing cost-sharing between the two companies related to the approximately 1,300-acre Wildlife Management Area, applied for by CPS Energy in April 2006, established under the Texas Tax Code, Chapter 23, Subchapter D and Article 8, Section 1-d-1 of the Texas Constitution.						

Luminant Mining Co.
Attn: Gene Reynolds
P.O. Box 681
Fairfield, Texas 75840

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Rose Pietsch

August 31, 2007 10:48:50 AM
PAULAB FEE: \$76.00 BOOK:1773 PAGE:196-211
ROSE PIETSCH, County Clerk
Bastrop, Texas
200712943

DEED

STATE OF TEXAS

COUNTY OF BASTROP

LAND DESCRIPTION

Tract #189

Being a **380.851 acre** tract, a part of the Joseph Black Survey, Abstract 86 and the William Goodwin Survey, Abstract 180, Bastrop County, Texas, and being all of a 380.695 acre tract (CPS Energy Ref. No. 112) conveyed by the City of San Antonio to TXU Sandow Development Company LP by deed dated August 27, 2007 and recorded in volume 1773, page 196 and being further described in a deed from Elgin-Butler Brick Co. to the City of San Antonio dated January 24, 1989 and recorded in volume 529, page 640 of the Official Records of Bastrop County, Texas. Said **380.851 acre** tract being more particularly described as follows:

BEGINNING at a point in the Southeast margin of FM 696, for the West corner of a 80.550 acre tract (CPS Energy Ref. No. 129-2) conveyed to TXU Sandow Development Company LP by deed recorded in volume 1773, page 196, the North corner of said 380.695 acre TXU tract and the North corner hereof, said point bears South 59 deg. 54 min. 38 sec. East 0.35 feet from a ½ inch rebar found for reference hereof; said Point of Beginning having coordinates of: Northing: 256,284.25 and Easting: 2,961,934.83

THENCE with the Southwest line of said 80.550 acre TXU tract, the Westerly Northeast line of said 380.695 acre TXU tract, **South 59 deg. 54 min. 38 sec. East 4870.88 feet** to a point in the Southeast line of said Goodwin Survey, the Northwest line of said Black Survey, the Northwest line of the residue from a 183 acre 2nd Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, for the South corner of said 80.550 acre TXU tract, the Northerly East corner of said 380.695 acre TXU tract and the Northerly East corner hereof, said point bears South 59 deg. 54 min. 37 sec. East 7.53 feet from a ½ inch rebar found for reference hereof;

THENCE with the Southeast line of said Goodwin Survey, the Northerly Southeast line of said 380.695 acre TXU tract, the Northwest line of said Black Survey, the Northwest line of said Kastner tract, **South 27 deg. 20 min. 12 sec. West 756.00 feet** to a 5/8 inch rebar with plastic cap marked "4428" set for the West corner of said Kastner tract, an interior corner of said 380.695 TXU tract and an interior corner hereof;

THENCE with the Southwest line of said Kastner tract, the Westerly Southwest line of the residue from a 150 acre 1st Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, the Easterly Northeast line of said 380.695 acre TXU tract, **South 48 deg. 32 min. 21 sec. East 2260.95 feet** to a point for an interior corner of said Kastner 1st Tract, the Southerly East corner of said 380.695 acre TXU tract and the Southerly East hereof, said point bears South 48 deg. 32 min. 21 sec. East 53.20 feet from a cross tie corner post found for reference hereof, said point also bears North 27 deg. 08 min. 38 sec. East 42.64 feet from a cross tie corner post found for reference hereof;

THENCE with the Southerly Northwest line of said Kastner 1st tract, the Northwest line of a 200 acre 3rd Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, the Southerly Southeast line of said 380.695 acre TXU tract, **South 27 deg. 08 min. 38 sec. West 4388.09 feet** to a ½ inch rebar found in the Easterly Northeast line of a 66.633 acre Tract No. 2 conveyed to Harold M. Smith et al by deed recorded in volume 320, page 426, for the West corner of said 200 acre Kastner tract, the South corner of said 380.695 acre TXU

tract and the South corner hereof; said ½ inch rebar having coordinates of:
Northing: 247,768.85 and Easting: 2,965,494.57

THENCE with the Easterly Northeast line of said 66.633 acre Smith tract, the Northeast line of a 30 acre tract conveyed to Harold M. Smith et ux by deed recorded in volume 153, page 166, the Northeast line of a 3-1/2 acre tract conveyed to Wray D. Serl et ux by deed recorded in volume 197, page 905, the Easterly Southwest line of said 380.695 acre TXU tract, **North 47 deg. 13 min. 47 sec. West 2305.59 feet** to a ½ inch rebar found in the Southeast line of the Goodwin Survey, the Southeast line of a 133.78 acre tract conveyed to Elgin Butler Brick and Tile Company by deed recorded in volume 80, page 135, the Northwest line of said Black Survey, for the North corner of said 3-1/2 acre Serl tract, the Southerly West corner of said 380.695 acre TXU tract and the Southerly West corner hereof;

THENCE with the Southeast line of said Goodwin Survey, the Southeast line of said 133.78 acre Elgin Butler Brick and Tile Company tract, a Northwest line of said 380.695 acre TXU tract, **North 27 deg. 07 min. 15 sec. East 1310.68 feet** to a ½ inch rebar found for an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

THENCE across said 133.78 acre Elgin Butler and Tile Company, a 245.68 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 146, page 40, a 54.73 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 146, page 8, a 15-1/2 acre tract conveyed to Elgin Butler Brick Company tract by deed recorded in volume 121, page 94, a 10 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 124, page 270, with the West lines of said 380.695 acre TXU tract as fenced as follows:

North 13 deg. 13 min. 41 sec. West 372.05 feet to a ½ inch rebar found for an angle corner hereof;

North 10 deg. 48 min. 42 sec. East 243.56 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 11 deg. 40 min. 59 sec. West 191.62 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 08 deg. 41 min. 15 sec. East 130.51 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 34 deg. 52 min. 33 sec. West 190.68 feet to a ½ inch rebar found for an angle corner hereof;

North 12 deg. 40 min. 46 sec. West 72.68 feet to a ½ inch rebar found for an angle corner hereof;

North 09 deg. 10 min. 04 sec. East 126.72 feet to a point for an angle corner hereof;

North 18 deg. 58 min. 23 sec. East 194.84 feet to a ½ inch rebar found for an angle corner hereof;

North 33 deg. 20 min. 41 sec. West 48.47 feet to a point for an angle corner hereof;

North 00 deg. 45 min. 49 sec. East 53.94 feet to a ½ inch rebar found for an angle corner hereof;

North 22 deg. 00 min. 07 sec. West 91.25 feet to a point for an angle corner hereof;

North 03 deg. 00 min. 57 sec. West 105.13 feet to a ½ inch rebar found for an angle corner hereof;

North 45 deg. 19 min. 49 sec. West 305.68 feet to a point for an angle corner hereof;

North 19 deg. 53 min. 35 sec. West 70.43 feet to a ½ inch rebar found for an angle corner hereof;

North 04 deg. 14 min. 35 sec. West 96.99 feet to a point for an angle corner hereof;

North 20 deg. 40 min. 15 sec. East 105.39 feet to a point for an angle corner hereof;

North 28 deg. 47 min. 16 sec. West 163.47 feet to a ½ inch rebar found for an angle corner hereof;

North 04 deg. 12 min. 13 sec. East 183.92 feet to a point in the Easterly Southwest line of a 115.70 acre tract conveyed to TXU Sandow Development Company LP by deed recorded in volume 1773, page 196, the Northeast line of said 10 acre Elgin Butler Brick Company tract, a North corner of said 380.695 acre TXU tract and a North corner hereof, said point bears North 04 deg. 12 min. 13 sec. East 0.63 feet from a ½ inch rebar found for reference hereof;

THENCE with the Northeast line of said 10 acre Elgin Butler Brick Company tract, the Easterly Southwest line of said 115.70 acre TXU tract, a Northeast line of said 380.695 acre TXU tract, **South 64 deg. 02 min. 18 sec. East 316.39 feet** to a ½ inch rebar found for the Easterly South corner of said 115.70 acre TXU tract, an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

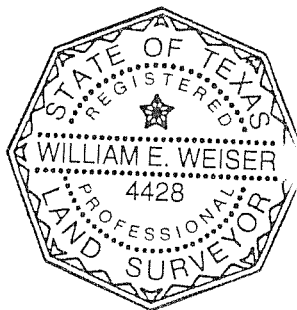
THENCE with the Easterly Southeast line of said 115.70 acre TXU tract, a Northwest line of said 380.695 acre TXU tract, **North 28 deg. 07 min. 55 sec. East 950.53 feet** to a 9 inch creosote corner post found for the East corner of said 115.70 acre TXU tract, an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

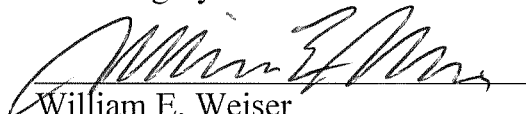
THENCE with the Northeast line of said 115.70 acre TXU tract, a Southwest line of said 380.695 acre TXU tract, **North 62 deg. 17 min. 18 sec. West 3622.12 feet** to a point in the Southeast margin of FM 696, for the North corner of said 115.70 acre TXU tract, the Northerly West corner of said 380.695 acre TXU tract and the Northerly West corner hereof, said point bears North 62 deg. 17 min. 18 sec. West 1.43 feet from a ½ inch rebar found for reference hereof;

THENCE with the Southeast margin of FM 696, the Westerly Northwest line of said 380.695 acre TXU tract, **North 27 deg. 46 min. 33 sec. East 968.79 feet** to the **PLACE OF BEGINNING** and containing **380.851 acres** of land.

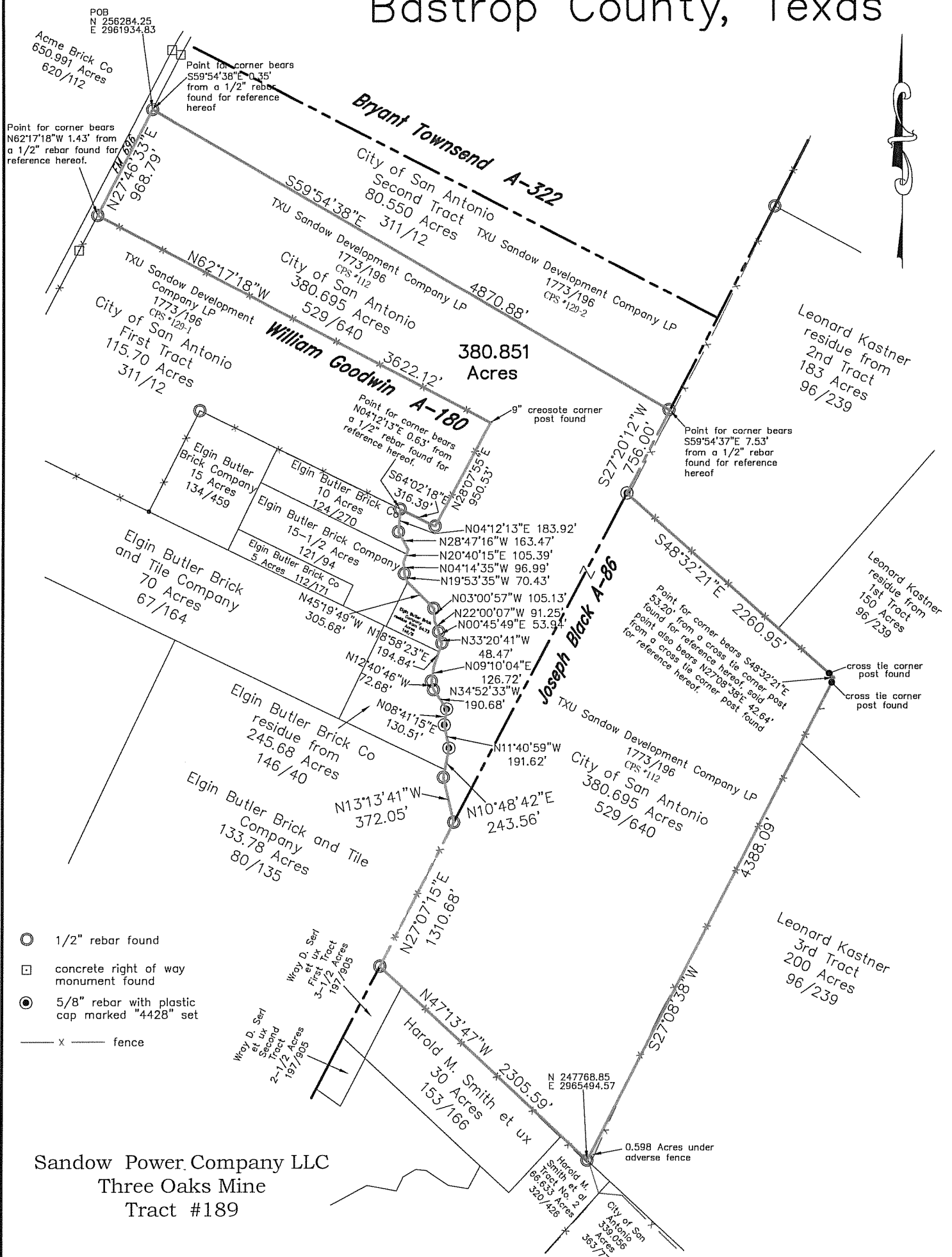
Bearings are Grid, Texas Plane Coordinate System, Central Zone, ALCOA Adjustment. Reference is hereby made to a plat attached hereto and made a part hereof.

I hereby certify that this description is an accurate representation of an on the ground survey completed under my supervision in December 2003 and that this Survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.



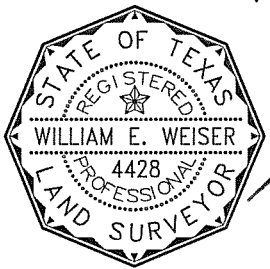

William E. Weiser
Professional Land Surveyor
Number 4428
Date of signature: 7-07-09

Bastrop County, Texas



Survey plat showing a 380.851 acre tract, a part of the Joseph Black Survey, Abstract 86 and the William Goodwin Survey, Abstract 180, Bastrop County, Texas, and being all of a 380.695 acre tract (CPS Energy Ref. No. 112) conveyed by the City of San Antonio to TXU Sandow Development Company LP by deed dated August 27, 2007 and recorded in volume 1773, page 196 and being further described in a deed from Elgin-Butler Brick Co. to the City of San Antonio dated January 24, 1989 and recorded in volume 529, page 640 of the Official Records of Bastrop County, Texas.

Survey notes:
1) Bearings are Grid, Texas Plane Coordinate System, Central Zone, ALCOA Adjustment.
2) Reference is hereby made to a description attached hereto and made a part hereof.
3) No attempt has been made to locate any improvements, easements, or rights of way not shown hereon.



I hereby certify that this plat is an accurate representation of an on the ground survey completed under my supervision in December 2003 and that this Survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.

William E. Weiser
William E. Weiser
Professional Land Surveyor
Number 4428

APPENDIX F
Water Impoundment Agreement

**WATER IMPOUNDMENT AGREEMENT
FOR THE SANDOW POWER COMPANY LLC POND**

WHEREAS, this Water Impoundment Agreement (the “Agreement”) is entered into between Luminant Mining Company LLC (“Luminant”) and Sandow Power Company LLC (“Sandow”) on this 23 day of May, 2024;

WHEREAS, Sandow Power Company LLC, a Texas limited liability company, and Luminant Mining Company LLC, a Texas limited liability company, are both wholly owned subsidiaries of Vistra Corp, a Delaware corporation, which is a publicly traded (NYSE) Fortune 500 integrated retail electricity and power generation company;

WHEREAS, Luminant seeks additional water supply for use in its mining-related operations at the Three Oaks Mine;

WHEREAS, Sandow owns property within the Three Oaks Mine, as described in the attached Exhibit A and located in Lee County, Texas (the “Property”);

WHEREAS, the Property contains a pond on the Property, as shown on Exhibit A (the “Pond”);

WHEREAS, the Pond has the capacity to impound and store approximately 1,000 acre-feet of water on approximately 29 surface acres of land;

WHEREAS, Luminant is seeking from the Texas Commission on Environmental (“TCEQ”) a Water Use Permit for impounding 1002.3 acre-feet of water in the Pond; and

WHEREAS, Luminant desires to impound and store water in the Pond.

NOW, THEREFORE, the parties agree as follows:

1. Water Storage Space. Luminant shall have the right to utilize the water storage space of the Pond to impound and store at least 1002.3 acre-feet of water (the “Water Storage Space”) as authorized by the to-be-issued TCEQ Water Use Permit.
2. State Law. Luminant shall utilize the Water Storage Space in a manner consistent with the laws of the State of Texas and the to-be-issued TCEQ Water Use Permit. This Agreement is subject to all conditions, provisions, and limitations included in the to-be-issued TCEQ Water Use Permit. Further, this Agreement is subject to all applicable Federal, State and local laws, and any applicable ordinances, rules, orders and regulations of any local, State or Federal governmental authority having jurisdiction. However, nothing contained in this Agreement shall be construed as a waiver of any right to question or contest any law, ordinance, order, rule, or regulation of any governmental authority.
3. Consideration. In consideration of Sandow’s provision to Luminant of the rights to the Water Storage Space as outlined in Section 1 and of the rights for Luminant to access and

use the Water Storage Space as set forth herein, it is agreed that Luminant shall make an annual payment to Sandow of \$1.00 per year for such right.

4. Term. This Agreement shall become effective on the date this Agreement is fully executed by both Luminant and Sandow ("Effective Date") and continue until mutually terminated in writing by Sandow and Luminant ("Term").
5. Operation and Maintenance. Luminant shall maintain the Pond in compliance with all applicable laws for the purposes expressed herein, and shall be responsible, at Luminant's sole cost and expense, for all maintenance related to the intake and/or use of the water contained in the Pond and all repairs resulting from Luminant's negligence in operation of the Pond. Sandow shall not alter the Pond in any manner that would prevent water being stored in and flowing into the Pond. Sandow shall not divert water from the Pond or the watersheds serving the Pond for any purpose.
6. Access and Inundation Easement. Sandow hereby grants to Luminant an access and inundation easement as marked on Exhibit A, with the same Term as described in Section 4, to facilitate the use of the Pond for the storage of water and for the construction, operation and maintenance of the facilities necessary for the use of and discharge of water from the Pond into tributaries downstream of the Pond.
7. Release of Claims. Luminant shall hold and save Sandow, including its officers, agents, and employees, harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of releases of water from the Pond by Luminant, or as a result of the construction, operation, or maintenance of the features or appurtenances owned and operated by Luminant.
8. Assignment. Any assignment of Luminant's rights and obligations hereunder will not be effective unless first agreed to in writing by Sandow, whose consent and agreement shall not be unreasonably withheld.
9. Notices. Any notice or payment made under this Agreement shall be deemed received on the actual receipt by mail, Federal Express or other delivery service, fax, email or hand delivery, addressed to Sandow or Luminant, as the case may be, at the addresses provided below:

Luminant:

6555 Sierra Drive
Irving, Texas 75039
Attn: Legal (Real Estate)
Email: [REDACTED]

Sandow:


6555 Sierra Drive
Irving, Texas 75039
Attn: Legal (Real Estate)
Email: [REDACTED]

10. Severability. The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.
11. Force Majeure. Notwithstanding anything herein to the contrary, neither party shall be under any liability or be deemed in default with respect to its obligations under this Agreement for any failure to perform or for delay in performing such party's obligations (except for the obligation to pay money) where such failure or delay is due to force majeure, while and to the extent that such performance is prevented by such cause.

The parties have executed this Agreement on the day and year written below.

Luminant:

Luminant Mining Company LLC, a Texas limited liability company

By: 
Matthew Goering
Senior Vice President
Date: 5-23-24

Sandow:

Sandow Power Company LLC, a Texas limited liability company

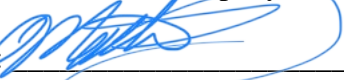
By: 
Matthew Goering
Senior Vice President
Date: 5-23-24

Exhibit A

The Property, the Pond, and the Access and Inundation Easement

(Attach the legal description of Property, mark the Pond on the map, and mark on the map the Access and Inundation Easement described in Section 6)

STATE OF TEXAS

COUNTY OF BASTROP

LAND DESCRIPTION

Tract #189

Being a **380.851 acre** tract, a part of the Joseph Black Survey, Abstract 86 and the William Goodwin Survey, Abstract 180, Bastrop County, Texas, and being all of a 380.695 acre tract (CPS Energy Ref. No. 112) conveyed by the City of San Antonio to TXU Sandow Development Company LP by deed dated August 27, 2007 and recorded in volume 1773, page 196 and being further described in a deed from Elgin-Butler Brick Co. to the City of San Antonio dated January 24, 1989 and recorded in volume 529, page 640 of the Official Records of Bastrop County, Texas. Said **380.851 acre** tract being more particularly described as follows:

BEGINNING at a point in the Southeast margin of FM 696, for the West corner of a 80.550 acre tract (CPS Energy Ref. No. 129-2) conveyed to TXU Sandow Development Company LP by deed recorded in volume 1773, page 196, the North corner of said 380.695 acre TXU tract and the North corner hereof, said point bears South 59 deg. 54 min. 38 sec. East 0.35 feet from a ½ inch rebar found for reference hereof; said Point of Beginning having coordinates of: Northing: 256,284.25 and Easting: 2,961,934.83

THENCE with the Southwest line of said 80.550 acre TXU tract, the Westerly Northeast line of said 380.695 acre TXU tract, **South 59 deg. 54 min. 38 sec. East 4870.88 feet** to a point in the Southeast line of said Goodwin Survey, the Northwest line of said Black Survey, the Northwest line of the residue from a 183 acre 2nd Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, for the South corner of said 80.550 acre TXU tract, the Northerly East corner of said 380.695 acre TXU tract and the Northerly East corner hereof, said point bears South 59 deg. 54 min. 37 sec. East 7.53 feet from a ½ inch rebar found for reference hereof;

THENCE with the Southeast line of said Goodwin Survey, the Northerly Southeast line of said 380.695 acre TXU tract, the Northwest line of said Black Survey, the Northwest line of said Kastner tract, **South 27 deg. 20 min. 12 sec. West 756.00 feet** to a 5/8 inch rebar with plastic cap marked "4428" set for the West corner of said Kastner tract, an interior corner of said 380.695 TXU tract and an interior corner hereof;

THENCE with the Southwest line of said Kastner tract, the Westerly Southwest line of the residue from a 150 acre 1st Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, the Easterly Northeast line of said 380.695 acre TXU tract, **South 48 deg. 32 min. 21 sec. East 2260.95 feet** to a point for an interior corner of said Kastner 1st Tract, the Southerly East corner of said 380.695 acre TXU tract and the Southerly East hereof, said point bears South 48 deg. 32 min. 21 sec. East 53.20 feet from a cross tie corner post found for reference hereof, said point also bears North 27 deg. 08 min. 38 sec. East 42.64 feet from a cross tie corner post found for reference hereof;

THENCE with the Southerly Northwest line of said Kastner 1st tract, the Northwest line of a 200 acre 3rd Tract conveyed to Leonard Kastner by deed recorded in volume 96, page 239, the Southerly Southeast line of said 380.695 acre TXU tract, **South 27 deg. 08 min. 38 sec. West 4388.09 feet** to a ½ inch rebar found in the Easterly Northeast line of a 66.633 acre Tract No. 2 conveyed to Harold M. Smith et al by deed recorded in volume 320, page 426, for the West corner of said 200 acre Kastner tract, the South corner of said 380.695 acre TXU

tract and the South corner hereof; said ½ inch rebar having coordinates of:
Northing: 247,768.85 and Easting: 2,965,494.57

THENCE with the Easterly Northeast line of said 66.633 acre Smith tract, the Northeast line of a 30 acre tract conveyed to Harold M. Smith et ux by deed recorded in volume 153, page 166, the Northeast line of a 3-1/2 acre tract conveyed to Wray D. Serl et ux by deed recorded in volume 197, page 905, the Easterly Southwest line of said 380.695 acre TXU tract, **North 47 deg. 13 min. 47 sec. West 2305.59 feet** to a ½ inch rebar found in the Southeast line of the Goodwin Survey, the Southeast line of a 133.78 acre tract conveyed to Elgin Butler Brick and Tile Company by deed recorded in volume 80, page 135, the Northwest line of said Black Survey, for the North corner of said 3-1/2 acre Serl tract, the Southerly West corner of said 380.695 acre TXU tract and the Southerly West corner hereof;

THENCE with the Southeast line of said Goodwin Survey, the Southeast line of said 133.78 acre Elgin Butler Brick and Tile Company tract, a Northwest line of said 380.695 acre TXU tract, **North 27 deg. 07 min. 15 sec. East 1310.68 feet** to a ½ inch rebar found for an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

THENCE across said 133.78 acre Elgin Butler and Tile Company, a 245.68 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 146, page 40, a 54.73 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 146, page 8, a 15-1/2 acre tract conveyed to Elgin Butler Brick Company tract by deed recorded in volume 121, page 94, a 10 acre tract conveyed to Elgin Butler Brick Company by deed recorded in volume 124, page 270, with the West lines of said 380.695 acre TXU tract as fenced as follows:

North 13 deg. 13 min. 41 sec. West 372.05 feet to a ½ inch rebar found for an angle corner hereof;

North 10 deg. 48 min. 42 sec. East 243.56 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 11 deg. 40 min. 59 sec. West 191.62 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 08 deg. 41 min. 15 sec. East 130.51 feet to a 5/8 inch rebar with plastic cap marked "4428" set for an angle corner hereof;

North 34 deg. 52 min. 33 sec. West 190.68 feet to a ½ inch rebar found for an angle corner hereof;

North 12 deg. 40 min. 46 sec. West 72.68 feet to a ½ inch rebar found for an angle corner hereof;

North 09 deg. 10 min. 04 sec. East 126.72 feet to a point for an angle corner hereof;

North 18 deg. 58 min. 23 sec. East 194.84 feet to a ½ inch rebar found for an angle corner hereof;

North 33 deg. 20 min. 41 sec. West 48.47 feet to a point for an angle corner hereof;

North 00 deg. 45 min. 49 sec. East 53.94 feet to a ½ inch rebar found for an angle corner hereof;

North 22 deg. 00 min. 07 sec. West 91.25 feet to a point for an angle corner hereof;

North 03 deg. 00 min. 57 sec. West 105.13 feet to a ½ inch rebar found for an angle corner hereof;

North 45 deg. 19 min. 49 sec. West 305.68 feet to a point for an angle corner hereof;

North 19 deg. 53 min. 35 sec. West 70.43 feet to a ½ inch rebar found for an angle corner hereof;

North 04 deg. 14 min. 35 sec. West 96.99 feet to a point for an angle corner hereof;

North 20 deg. 40 min. 15 sec. East 105.39 feet to a point for an angle corner hereof;

North 28 deg. 47 min. 16 sec. West 163.47 feet to a ½ inch rebar found for an angle corner hereof;

North 04 deg. 12 min. 13 sec. East 183.92 feet to a point in the Easterly Southwest line of a 115.70 acre tract conveyed to TXU Sandow Development Company LP by deed recorded in volume 1773, page 196, the Northeast line of said 10 acre Elgin Butler Brick Company tract, a North corner of said 380.695 acre TXU tract and a North corner hereof, said point bears North 04 deg. 12 min. 13 sec. East 0.63 feet from a ½ inch rebar found for reference hereof;

THENCE with the Northeast line of said 10 acre Elgin Butler Brick Company tract, the Easterly Southwest line of said 115.70 acre TXU tract, a Northeast line of said 380.695 acre TXU tract, **South 64 deg. 02 min. 18 sec. East 316.39 feet** to a ½ inch rebar found for the Easterly South corner of said 115.70 acre TXU tract, an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

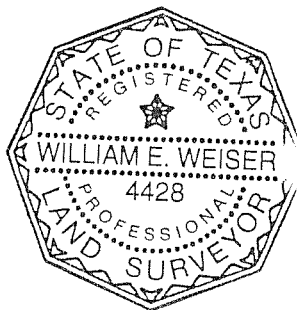
THENCE with the Easterly Southeast line of said 115.70 acre TXU tract, a Northwest line of said 380.695 acre TXU tract, **North 28 deg. 07 min. 55 sec. East 950.53 feet** to a 9 inch creosote corner post found for the East corner of said 115.70 acre TXU tract, an interior corner of said 380.695 acre TXU tract and an interior corner hereof;

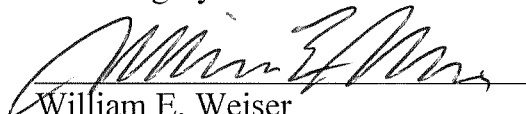
THENCE with the Northeast line of said 115.70 acre TXU tract, a Southwest line of said 380.695 acre TXU tract, **North 62 deg. 17 min. 18 sec. West 3622.12 feet** to a point in the Southeast margin of FM 696, for the North corner of said 115.70 acre TXU tract, the Northerly West corner of said 380.695 acre TXU tract and the Northerly West corner hereof, said point bears North 62 deg. 17 min. 18 sec. West 1.43 feet from a ½ inch rebar found for reference hereof;

THENCE with the Southeast margin of FM 696, the Westerly Northwest line of said 380.695 acre TXU tract, **North 27 deg. 46 min. 33 sec. East 968.79 feet** to the **PLACE OF BEGINNING** and containing **380.851 acres** of land.

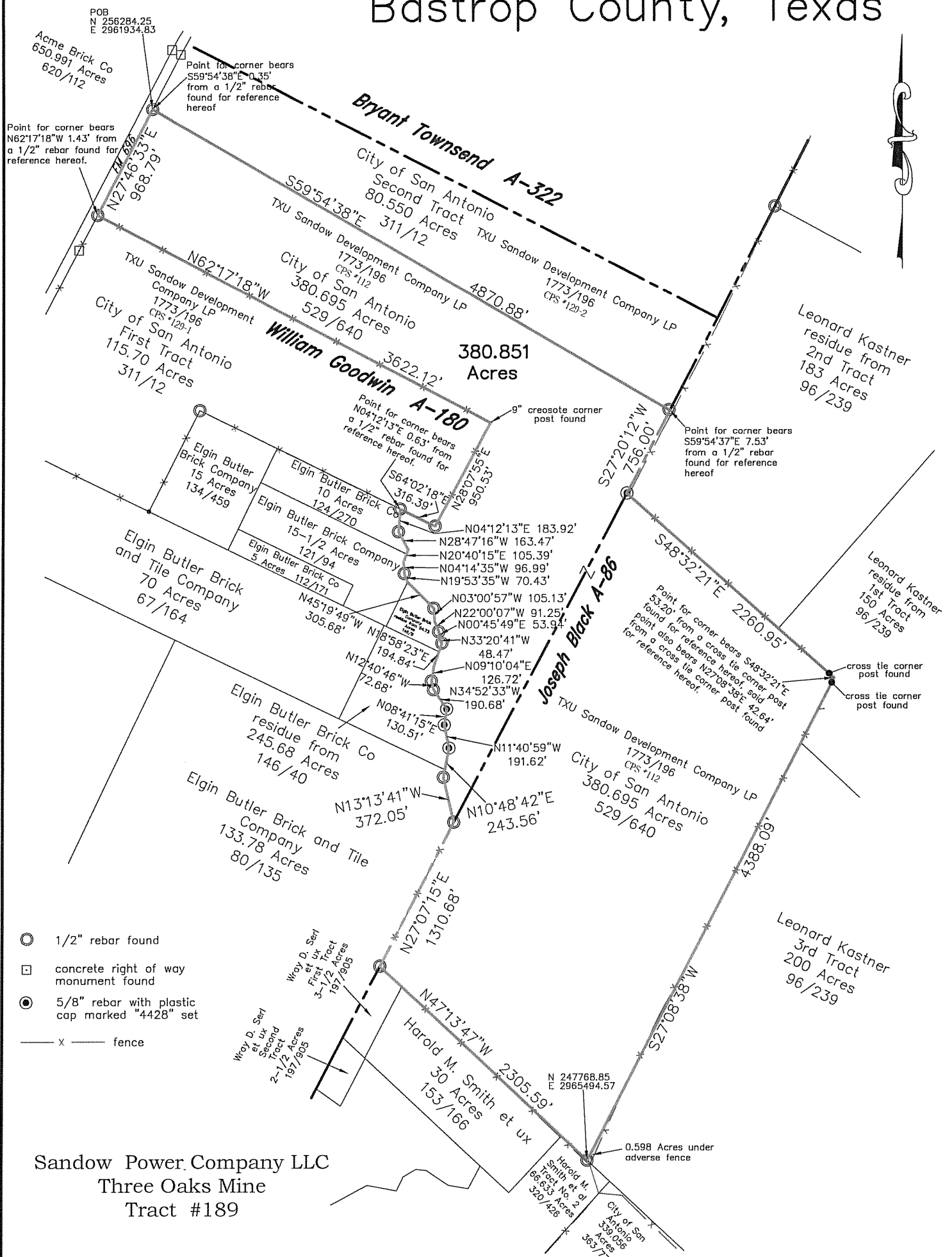
Bearings are Grid, Texas Plane Coordinate System, Central Zone, ALCOA Adjustment. Reference is hereby made to a plat attached hereto and made a part hereof.

I hereby certify that this description is an accurate representation of an on the ground survey completed under my supervision in December 2003 and that this Survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.




William E. Weiser
Professional Land Surveyor
Number 4428
Date of signature: 7-07-09

Bastrop County, Texas

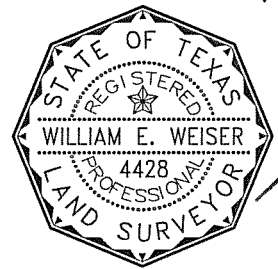


Survey plat showing a 380.851 acre tract, a part of the Joseph Black Survey, Abstract 86 and the William Goodwin Survey, Abstract 180, Bastrop County, Texas, and being all of a 380.695 acre tract (CPS Energy Ref. No. 112) conveyed by the City of San Antonio to TXU Sandow Development Company LP by deed dated August 27, 2007 and recorded in volume 1773, page 196 and being further described in a deed from Elgin-Butler Brick Co. to the City of San Antonio dated January 24, 1989 and recorded in volume 529, page 640 of the Official Records of Bastrop County, Texas.

I hereby certify that this plat is an accurate representation of an on the ground survey completed under my supervision in December 2003 and that this Survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B Condition IV Survey.

William E. Weiser
Professional Land Surveyor
Number 4428



Survey notes:
1) Bearings are Grid, Texas Plane Coordinate System, Central Zone, ALCOA Adjustment.
2) Reference is hereby made to a description attached hereto and made a part hereof.
3) No attempt has been made to locate any improvements, easements, or rights of way not shown hereon.



SP-6 Pond, Access, and Impoundment Easement

Approximate location of SP-6 pond, access, and inundation easment on Tract 189 as described in the Water Impoundment Agreement for the Sandow Power Company LLC Pond.

Legend

-  SP-6 Access
-  Tract 189



Google Earth

Image © 2024 Airbus

3000 ft



APPENDIX G
Public Involvement Plan



Submitted by Luminant Mining Company for amendment of
COA 14-

Texas Commission on Environmental Quality

Public Involvement Plan Form for Permit and Registration Applications

The Public Involvement Plan is intended to provide applicants and the agency with information about how public outreach will be accomplished for certain types of applications in certain geographical areas of the state. It is intended to apply to new activities; major changes at existing plants, facilities, and processes; and to activities which are likely to have significant interest from the public. This preliminary screening is designed to identify applications that will benefit from an initial assessment of the need for enhanced public outreach.

All applicable sections of this form should be completed and submitted with the permit or registration application. For instructions on how to complete this form, see TCEQ-20960-inst.

Section 1. Preliminary Screening

- ☐ New Permit or Registration Application
☒ New Activity - modification, registration, amendment, facility, etc. (see instructions)

If neither of the above boxes are checked, completion of the form is not required and does not need to be submitted.

Section 2. Secondary Screening

- ☒ Requires public notice,
☐ Considered to have significant public interest, **and**
☒ Located within any of the following geographical locations:

- Austin
- Dallas
- Fort Worth
- Houston
- San Antonio
- West Texas
- Texas Panhandle
- Along the Texas/Mexico Border
- Other geographical locations should be decided on a case-by-case basis

**If all the above boxes are not checked, a Public Involvement Plan is not necessary.
Stop after Section 2 and submit the form.**

- ☒ Public Involvement Plan not applicable to this application. Provide **brief** explanation.

The proposed activity is not expected to garner significant public interest due to minimal impacts.

Section 3. Application Information

Type of Application (check all that apply):

Air ☐ Initial ☐ Federal ☐ Amendment ☐ Standard Permit ☐ Title V
Waste ☐ Municipal Solid Waste ☐ Industrial and Hazardous Waste ☐ Scrap Tire
☐ Radioactive Material Licensing ☐ Underground Injection Control

Water Quality

☐ Texas Pollutant Discharge Elimination System (TPDES)
☐ Texas Land Application Permit (TLAP)
☐ State Only Concentrated Animal Feeding Operation (CAFO)
☐ Water Treatment Plant Residuals Disposal Permit
☐ Class B Biosolids Land Application Permit
☐ Domestic Septage Land Application Registration

Water Rights New Permit

☐ New Appropriation of Water
☐ New or existing reservoir

Amendment to an Existing Water Right

☐ Add a New Appropriation of Water
☐ Add a New or Existing Reservoir
☐ Major Amendment that could affect other water rights or the environment

Section 4. Plain Language Summary

Provide a brief description of planned activities.

Section 5. Community and Demographic Information

Community information can be found using EPA's EJ Screen, U.S. Census Bureau information, or generally available demographic tools.

Information gathered in this section can assist with the determination of whether alternative language notice is necessary. Please provide the following information.

(City)

(County)

(Census Tract)

Please indicate which of these three is the level used for gathering the following information.

☐

City

☐

County

☐

Census Tract

(a) Percent of people over 25 years of age who at least graduated from high school

(b) Per capita income for population near the specified location

(c) Percent of minority population and percent of population by race within the specified location

(d) Percent of Linguistically Isolated Households by language within the specified location

(e) Languages commonly spoken in area by percentage

(f) Community and/or Stakeholder Groups

(g) Historic public interest or involvement

Section 6. Planned Public Outreach Activities

(a) Is this application subject to the public participation requirements of Title 30 Texas Administrative Code (30 TAC) Chapter 39?

☐ Yes ☐ No

(b) If yes, do you intend at this time to provide public outreach other than what is required by rule?

☐ Yes ☐ No

If Yes, please describe.

If you answered "yes" that this application is subject to 30 TAC Chapter 39, answering the remaining questions in Section 6 is not required.

(c) Will you provide notice of this application in alternative languages?

☐ Yes ☐ No

Please refer to Section 5. If more than 5% of the population potentially affected by your application is Limited English Proficient, then you are required to provide notice in the alternative language.

If yes, how will you provide notice in alternative languages?

- ☐ Publish in alternative language newspaper
- ☐ Posted on Commissioner's Integrated Database Website
- ☐ Mailed by TCEQ's Office of the Chief Clerk
- ☐ Other (specify)

(d) Is there an opportunity for some type of public meeting, including after notice?

☐ Yes ☐ No

(e) If a public meeting is held, will a translator be provided if requested?

☐ Yes ☐ No

(f) Hard copies of the application will be available at the following (check all that apply):

- ☐ TCEQ Regional Office ☐ TCEQ Central Office
- ☐ Public Place (specify)

Section 7. Voluntary Submittal

For applicants voluntarily providing this Public Involvement Plan, who are not subject to formal public participation requirements.

Will you provide notice of this application, including notice in alternative languages?

☐ Yes ☐ No

What types of notice will be provided?

- ☐ Publish in alternative language newspaper
- ☐ Posted on Commissioner's Integrated Database Website
- ☐ Mailed by TCEQ's Office of the Chief Clerk
- ☐ Other (specify)