

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): Harlingen Waterworks System

RECEIVED

By Eddie Valencia at 11:07 am, Jan 18, 2024

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

Y/N

Y **Administrative Information Report**

N Additional Co-Applicant Information

N Additional Co-Applicant Signature Pages

Y Written Evidence of Signature Authority

Y **Technical Information Report**

N USGS Map (or equivalent)

N Map Showing Project Details

N Original Photographs

N Water Availability Analysis

N **Worksheet 1.0**

N Recorded Deeds for Irrigated Land

N Consent for Irrigated Land

N **Worksheet 1.1**

N Addendum to Worksheet 1.1

N **Worksheet 1.2**

N **Worksheet 2.0**

N Additional W.S. 2.0 for Each Reservoir

N Dam Safety Documents

N Notice(s) to Governing Bodies

N Recorded Deeds for Inundated Land

N Consent for Inundated Land

Y/N

N **Worksheet 3.0**

N Additional W.S. 3.0 for each Point

N Recorded Deeds for Diversion Points

Y Consent for Diversion Access

N **Worksheet 4.0**

N TPDES Permit(s)

N WWTP Discharge Data

N Groundwater Well Permit

N Signed Water Supply Contract

N **Worksheet 4.1**

N **Worksheet 5.0**

N Addendum to Worksheet 5.0

Y **Worksheet 6.0**

Y Water Conservation Plan(s)

Y Drought Contingency Plan(s)

Y Documentation of Adoption

N **Worksheet 7.0**

N Accounting Plan

Y **Worksheet 8.0**

Y Fees

N 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."

This is in regards for Harlingen Waterworks System's water right purchase from Cameron County Irrigation District #2. The purchase is in response to the requirements of Section 49.501 through 49.512 Texas Water Code. The purchased water right is to be severed from 841 and merged with 831 with all the authorised uses associated with that right and change of place use, change of diversion point and change of purpose of that portion to go with the authorization as currently authorized under 831.

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

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

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

Harlingen Waterworks System

(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: 601422512 (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: Timothy Skoglund

Title: General Manager

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: Timothy Skoglund

Mailing Address: P.O. Box 1950

City: Harlingen State: Texas ZIP Code: 78551

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

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

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

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

First and Last Name: Wayne Halbert

Title: Consultant

Organization Name: _____

Mailing Address: 3226 Garden Field Lane

City: Katy State: Texas ZIP Code: 77450

Phone Number: 956 873 2816

Fax Number: _____

E-mail Address: [REDACTED]

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

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

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

First and Last Name: _____

Title: _____

Organization Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP Code: _____

Phone Number: _____

Fax Number: _____

E-mail Address: _____

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number: _____ Amount past due: _____

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

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

Enforcement order number: _____ Amount past due: _____

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

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

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Timothy E. Skoglund, P.E.

General Manager

(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:

Timothy E. Skoglund

Date:

10-27-2023

(Use blue ink)

Subscribed and Sworn to before me by the said

on this *27th* day of *October*, 20*23*.

My commission expires on the *31st* day of *May*, 20*27*.

Notary Public

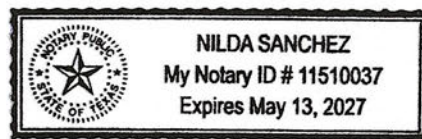
NILDA SANCHEZ

County, Texas

CAMERON

Nilda Sanchez

[SEAL]



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

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

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

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

Date of pre-application meeting: 10/25/23

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

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

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

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: 23-831

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

List of water rights to sever	Combine into this ONE water right
23-841	23-831

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

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

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

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

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

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

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

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

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

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

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N^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)

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

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

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

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

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 is an amendment for City of Harlingen Waterworks System's water rights purchase from Cameron County Irrigation District #2. The purchase was in response to the requirements of Section 49.501 through 49.512 Texas Water Code. The request is to sever the water right purchased from 841 and merge with the HWWS water right 831 with the authorized current uses of the 831 account and change of place of use, point of diversion and purpose of that portion to go with the authorization as currently authorized under 831. The application is consistent with the Regional and State Water Plans because there is nothing in the plans that conflict with the application.

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

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

81.4775 _____ Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

Quantity (acre- feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
81.4775	Municipal	Municipal and Domestic	CCID#2 SERVICE AREA	HWWS SERVICE AREA

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- 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.
 - 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.

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

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

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

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

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

- a. Provide the Basin of Origin. RIO GRANDE
- b. Provide the quantity of water to be transferred (acre-feet). 81.4775
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:
NUECES-RIO GRANDE COASTAL BASIN - CAMERON COUNTY

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

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

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

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

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

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

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

WORKSHEET 1.2

NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

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

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

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

WORKSHEET 2.0

Impoundment/Dam Information

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

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

1. Storage Information (Instructions, Page. 21)

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

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

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

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

2. Structure Location (Instructions, Page. 23)

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

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

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

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

Latitude _____°N, Longitude _____°W.

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

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

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1. ☐ Diversion Point No.
2. ☐ Upstream Limit of Diversion Reach No.
3. ☐ Downstream Limit of Diversion Reach No.

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

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

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N _____

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

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

Check one		Write: Existing or Proposed
<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

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

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

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

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

WORKSHEET 4.1

DISCHARGE POINT INFORMATION

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

For water discharged at this location provide:

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

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

WORKSHEET 5.0

ENVIRONMENTAL INFORMATION

1. Impingement and Entrainment

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

N/A

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

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

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

a. Identify the appropriate description of the water body.

☐ Stream

☐ Reservoir

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

☐ Other, specify: _____

b. Flow characteristics

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

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

☐ Intermittent with Perennial Pools - enduring pools

☐ Perennial - normally flowing

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

☐ USGS flow records

☐ Historical observation by adjacent landowners

☐ Personal observation

☐ Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

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

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

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

a. For all bed and banks applications:

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

b. For all alternate source applications:

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

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

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

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

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

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

Instructions, Page 31.

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

1. Water Conservation Plans

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

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

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

1. ☒ 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^Y___

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. X Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. ___ Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. ___ Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc.* See 30 TAC § 288.30) Y / N___

WORKSHEET 7.0

ACCOUNTING PLAN INFORMATION WORKSHEET

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

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	
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
Filing Fee	Amendment: \$100	
	OR Sever and Combine: \$100 x <u>2</u> of water rights to combine	\$200.00
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$212.50

3. BED AND BANKS

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

RESOLUTION NO. R2324-07

**AUTHORIZING THE GENERAL MANAGER TO EXECUTE DOCUMENTS
RELATED TO THE MANAGEMENT OF WATER RIGHTS**

WHEREAS, Harlingen Waterworks System depends on water rights from the Rio Grande River as its only raw water source for providing water service to its customers; and

WHEREAS, the Waterworks currently maintains a portfolio of water rights of varying priority and classification under several account numbers as summarized in the accompanying table; and

WHEREAS, from time to time, the Waterworks purchases water rights acting on the statutes in Sections 49.501 through 49.512 of the Texas Water Code, requiring various amendments be filed with the Texas Commission on Environmental Quality (TCEQ), or it has need to request changes to existing water rights to enhance the administration of its water rights portfolio; and

WHEREAS, the Texas Commission on Environmental Quality regulates and maintains records of water rights held in the State of Texas and requires that the executor of water rights transactions be authorized by the governing body of the water rights owner; now, therefore:

BE IT RESOLVED, that the Harlingen Waterworks System Utility Board of Trustees does hereby authorize Timothy E. Skoglund, General Manager of the Harlingen Waterworks System, to execute all documents related to the management of the System's existing water rights and all water rights it may acquire in the future, as may be required to be executed and filed with the Texas Commission on Environmental Quality.

Board Member **Murphy** moved, seconded by Board Member **De La Paz**, that the above Resolution be adopted.

Motion carried **3** Yeas, **0** Nays

I hereby certify the foregoing Resolution was adopted by the Utility Board of Trustees for the Harlingen Waterworks System at a Board meeting held on the 29th day of November 2023.



Nilda Sanchez – Board Secretary

HWWS WATER RIGHTS PORTFOLIO AND PENDING MANAGEMENT ACTION

as of 11/27/2023

Certificate No.	Account No.	Priority	Purpose	Transporting District	Granted	Acre-feet	REQUESTED ACTION
23-834B	0834-001	Class A	Agricultural	Adam's Gardens	4-Apr-17	1,625.0000	Reactivate and combine/merge of these Class A
	0840-002	Class A	Agricultural	Adam's Gardens	22-May-18	116.3250	rights into one single Class A Agricultural account
23-19A	0019-000	Class B	Agricultural	HID	20-Apr-17	98.7500	Convert into municipal right under 831 account
	0831-011	Class A	Agricultural	HID	20-Jul-18	747.8000	Convert to municipal right under 831 muni account
		Class A	Agricultural	HID		339.6000	Convert to municipal right under 831 muni account
23-831L	0831-002	Municipal	Municipal & Domestic	HID	20-Apr-17	22,488.1725	- none-
N/A	Class A	Agricultural	HID			625.0375	Convert to municipal right under 831 muni account
N/A	Municipal	Municipal & Domestic	HID (pending transfer)			81.4775	Transfer to HID under 831 muni account
Proposed as Municipal Rights						23,465.37	
Proposed as Class A Agricultural Rights						1,741.33	

RESOLUTION NO. R1819-48

**ADOPTING A DROUGHT CONTINGENCY & EMERGENCY WATER
MANAGEMENT PLAN AND A DRAFT WATER CONSERVATION PLAN**

WHEREAS, conservation of water and drought preparedness are critical objectives for health and safety of the customers of Harlingen Waterworks System; and

WHEREAS, in an ongoing effort to encourage water conservation and ensure readiness for drought conditions, State law requires water utilities to adopt updated water conservation and drought contingency plans every five years; and

WHEREAS, recent legislation has expanded the requirements for water use reporting and adoption of drought contingency plans, and it is in the Waterworks' best interests to develop the required updates and adopt its Plans; and

WHEREAS, the Waterworks' Water Conservation Plan and the Drought Contingency and Emergency Water Management Plan have been updated and expanded to include additional water use information, proposed 5-year and 10-year water savings goals, proposed drought stage triggers with corresponding water use restrictions, and proposed enforcement fines and surcharges for non-compliance, all in accordance with State regulation; and

WHEREAS, State law requires the Drought Contingency & Emergency Water Management Plan to be adopted by ordinance of the City of Harlingen; and

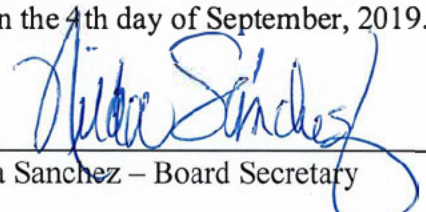
WHEREAS, additional data collection, analysis, and development of the provisions of the Water Conservation Plan will be needed for finalization and adoption by resolution of the Harlingen Waterworks Board of Trustees at a later date; now, therefore:

BE IT RESOLVED, that the Harlingen Waterworks System Utility Board of Trustees does hereby adopt the updated Drought Contingency & Emergency Water Management Plan and refer the same to the Harlingen City Commission for adoption as a city ordinance; and adopt a Draft Water Conservation Plan for regulatory review purposes.

Board Member Fields moved, seconded by Board Member Campbell that the above Resolution be adopted.

Motion carried 4 Yeas, 0 Nays

I hereby certify the foregoing Resolution was adopted by the Utility Board of Trustees for the Harlingen Waterworks System at a Board meeting held on the 4th day of September, 2019.



Nilda Sanchez – Board Secretary

EXHIBIT A

INSTRUCTIONS FOR CODIFICATION: AMEND THE UTILITIES ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, CHAPTER 48 UTILITIES, ARTICLE III, WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN

Sec. 48 – 137 Declaration of Policy, Purpose, and Intent

This Drought Contingency and Emergency Water Management Plan (the “Plan”) has been adopted by Resolution No. R1819-48 of the Harlingen Waterworks System (HWWS) Board of Trustees and by Ordinance 2019-32 of the Harlingen City Commission in accordance with the requirements of Title 30 of the Texas Administrative Code Chapter 288.

The purpose of this Plan is to conserve the available water supply and protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

Unless otherwise indicated, all Sections of this plan shall apply to both retail and wholesale customers of HWWS.

Retail customer water uses regulated or prohibited under this Plan are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in the *Enforcement* section herein.

Sec. 48 -138 Public Involvement

Opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019.

Sec. 48 - 139 Public Education/Wholesale Customer Education

HWWS will periodically provide the public and wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought and emergency response measures to be implemented in each stage. When drought and emergency stages are triggered and water use restrictions are implemented, educational information will be provided by means of any one or a combination of public notices, website postings, press releases, and mailings.

HWWS maintains a station at two of its public buildings for distribution of printed educational information on conservation and drought contingency geared for children and adults. Information is available in English and Spanish. Information promoting drought contingency awareness will be included in the Water Quality Report made available to the public on the HWWS website.

HWWS will continue to participate in various community events on an annual basis and will distribute printed information and promotional items on water conservation and drought contingency awareness. Ad hoc educational tours of the water plants will include discussion of the importance and recommended practices for water conservation.

Sec. 48 – 140 Coordination with Regional Water Planning Groups

The service areas of HWWS and its wholesale customers are located within the Rio Grande Region M Planning Group area. HWWS has provided a copy of this adopted Plan to Region M, and a copy of the transmittal letter is presented in Appendix 1.

Sec. 48 – 141 Authorization

The General Manager of HWWS, or his/her appointed designee, (collectively the “General Manager” hereinafter, but only to the extent the designee has express authorization by the General Manager to take the action so delegated), is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The General Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Sec. 48 – 142 Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing potable water provided by HWWS. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

The Plan shall apply to Wholesale customers to the extent allowed and enforceable under the terms of current wholesale contracts and State regulation.

Sec. 48 – 143 Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic Water Use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and Institutional Water Use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels, and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by HWWS.

Domestic Water Use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even Number Address: street address, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, 8 and locations without addresses.

Industrial Water Use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape Irrigation Use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-Essential Water Use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- a. Irrigation of landscape areas, including parks, athletic fields, and golf course, except otherwise provided under this Plan;
- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;
- c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
- f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- h. Loss of water because of failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

- i. Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Sec, 48 – 144 Criteria for Initiation and Termination of Drought and Emergency Response Stages

Drought and Emergency Response Criteria. The General Manager shall monitor water supply and/or demand conditions on a weekly basis and, with input from the HWWS Board of Trustees, shall determine when conditions warrant initiation or termination of each stage of the Plan.

The triggering criteria to be considered in the declaration and implementation of each Stage of the Plan are based on the following set of parameters:

- Percentage of US Capacity remaining in the Amistad and Falcon Reservoirs
- Percentage of actual days remaining in the year vs. projected days of water rights remaining
- Percentage of sustained demand vs. total functional treatment capacity
- Failure of critical water conveyance, treatment, or storage infrastructure
- Contamination of raw source water

Initiation. The General Manager is authorized to order the implementation of a drought and emergency response stage when one or more of the triggering criteria for the stage are met, and shall have discretion not to order such implementation even though one or more of the triggering criteria are met. Factors that could influence such a decision may include, without limitation, the time of year, weather conditions, and the anticipation of replenished water supplies.

For each stage, customers shall be required to comply with the applicable requirements and restrictions on water use when the General Manager determines the drought and emergency response for a given stage should be implemented based on consideration of triggering criteria.

STAGE 1 Triggers – MODERATE Water Shortage Conditions

- Combined volume in Amistad and Falcon Reservoirs is below 15% of US capacity
- Days remaining in the year are more than 80% of projected days of water rights remaining
- 3-day average water demand exceeds 90% of total functional treatment capacity

STAGE 2 Triggers – SEVERE Water Shortage Conditions

- Combined volume in Amistad and Falcon Reservoirs is below 10% of US capacity
- Days remaining in the year are more than 90% of projected days of water rights remaining
- 3-day average water demand exceeds 95% of total functional treatment capacity

STAGE 3 Triggers – EMERGENCY Water Shortage Conditions

- Major water conveyance, pumping, treatment, or storage infrastructure failures occur, which cause unprecedented loss of capability to provide water service
- Natural or man-made contamination of the water supply source
- Combined volume in Amistad and Falcon Reservoirs is below 5% of US capacity
- Days remaining in the year are more than 100% of projected days of water rights remaining
- 1-day water demand exceeds 98% of total functional treatment capacity

Termination. The General Manager, at his discretion, may order or delay the termination of a drought and emergency response stage even though the conditions for termination of the stage are met. Factors which could influence such a decision may include, without limitation, the time of year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought and emergency response stage.

In general, a stage of the Plan may be terminated at the General Manager's direction based on mitigation or cessation of triggering criteria for that stage, and upon termination, the preceding stage or the applicable response stage based on the triggering criteria, shall become operative.

Notification. Customer notification of the initiation or termination of drought and emergency response stages will be made by one or a combination of website postings, email transmissions, automated telephone callouts, or printed notices on customer bills. The news media will also be informed.

Alternative Water Sources. Upon initiation of the various drought and emergency response stages, HWWS will consider use of appropriate, alternative water sources and/or alternative delivery mechanisms including:

- Purchase of water and delivery through existing interconnections with neighboring systems
- Expanded use of reclaimed water for non-potable purposes

As a drought intensifies, other potential alternative sources will be evaluated.

Sec. 48 – 144 Drought and Emergency Water Management Response Stages

Upon reaching a triggering criteria indicative of water shortage condition as defined in the Plan, the General Manager shall implement the following notification procedures:

Notification

Notification of Officials and Agencies:

The General Manager shall notify directly, or cause to be notified directly, the following individuals and entities:

- HWWS Board of Trustees
- City Manager
- Mayor
- TCEQ (to be notified within five business days of the implementation of any mandatory provisions of the Drought Contingency and Emergency Water Management Plan)
- Fire Chief
- Wholesale customers
- Major retail water users
- Critical water users (hospitals, nursing homes, hospice, dialysis centers)

Notification of the Public:

The General Manager shall notify the public by means of one or more of the following:

- HWWS's website
- Publication in a newspaper of general circulation
- Public service announcements through radio or television news stations
- Signs posted in public places
- Take-home fliers at schools

Best Management Practices for Supply Management

Additional measures that may be implemented by HWWS to manage limited water supplies and/or reduce water demand during each stage may include:

1. Minimization of system flushing while maintaining minimum standard disinfection residuals throughout the distribution system.
2. Maximizing and expanding deliveries of reclaimed water for non-potable uses.
3. Engage interconnects with neighboring water systems to maintain regulated minimum system pressure throughout the distribution system.

STAGE 1 Response – MODERATE Water Shortage Conditions

Target: Achieve a 10% reduction in total water use relative to the given month's average for the preceding five years.

Water Use Restrictions for Demand Reduction

Retail Customers. The following water use restrictions shall apply to all persons within HWWS's retail service area:

1. Irrigation of landscaped areas shall be limited to *twice per week* between the hours of 8:00 pm on the designated watering day to 10:00 am the following morning as outlined below except that watering of landscaped areas is permitted at any time if by means of a hand-held hose, a faucet filled bucket, or watering can of five gallons or less, or drip irrigation.
 - Residential addresses ending in an even number (0,2,4,6,8) may water on **Wednesdays** and **Saturdays**.
 - Residential addresses ending in an odd number (1,3,5,7,9) may water on **Thursdays** and **Sundays**.
 - All non-residential addresses including apartment complexes, hotels & motels, mobile home parks, commercial businesses, institutions, industry and manufacturing, and schools may water on **Tuesdays** and **Fridays**.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to designated watering days. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
3. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi type pools shall be limited to designated watering days.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes shall be limited to designated watering days except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
5. Use of water from fire hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may continue under standard permit from HWWS.
6. Use of potable water for the irrigation of golf course greens, tees, and fairways shall be limited to designated watering days. However, if the golf course utilizes a water source other than potable water provided by HWWS, the facility shall not be subject to these regulations.
7. Water customers are requested to practice water conservation and to minimize or discontinue water use for the following non-essential purposes:
 - a. Wash down of any sidewalks, walkways, driveways parking lots, tennis courts, or other hard-surfaced areas.

- b. Use of water to wash down buildings or structures or purposes other than immediate fire protection.
- c. Use of water for dust control.
- d. Flushing gutters or permitting water to run or accumulate in any gutter or street.
- e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Wholesale Customers. The following actions shall be taken with regard to wholesale customers:

1. The General Manager will request wholesale water customers to initiate measures to reduce non-essential water use in accordance with Stage 1 of the Plan for retail customers except that wholesale customers may use a different watering schedule provided that each service address is limited to a twice per week schedule.
2. The General Manager will initiate monthly contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of curtailment of water deliveries.
3. The General Manager will provide a report as necessary to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

STAGE 2 Response – SEVERE Water Shortage Conditions

Target: Achieve a 20% reduction in total water use relative to the given month's average for the preceding five years.

Water Use Restrictions for Demand Reduction.

Retail Customers. All requirements of Stage 1 shall be in effect during Stage 2 except:

1. All means of irrigation of landscaped areas shall be limited to *once per week* between the hours of 8:00 pm on the designated watering day to 8:00 am the following morning as outlined below.
 - All addresses may water as follows:

Address Ending	Watering Day
1	Sunday
2	Monday
3	Tuesday
4	Wednesday
5, 6	Thursday

7, 8

Friday

9, 0

Saturday

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to ***weekend days*** for personal vehicles and to ***Wednesdays*** for non-personal, business-related vehicles. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station.
3. Use of water to fill, refill, or add to an indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools shall be limited to designated watering days.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except when necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
5. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued except for the amount necessary for the actual construction of structures.
6. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS. Greens and fairways may be watered only on designated watering days between the hours of 8:00 pm on the designated watering day to 8:00 am of the following day.
7. The following uses of water are defined as non-essential and are prohibited:
 - a. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - b. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - c. Use of water for dust control;
 - d. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s)

Wholesale Customers. The following actions shall be taken with regard to wholesale customers:

1. The General Manager will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use in accordance with Stage 2 of the Plan for retail customers except that wholesale

customers may use a different watering schedule provided that each service address is limited to a once per week schedule.

2. The General Manager will further prepare for the implementation of curtailment of water deliveries by preparing a monthly water usage allocation baseline for each wholesale customer.
3. The General Manager will provide a report as necessary to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

STAGE 3 Response – EMERGENCY Water Shortage Conditions

Drought Conditions Target: Achieve a 30% or greater reduction in total water use relative to the given month's average for the preceding five years.

Emergency Conditions Target: Achieve a reduction of water demand sufficient to avoid a drop in system pressure below regulated minimums.

Water Use Restrictions for Reducing Demand

Retail Customers. All requirements of Stage 2 shall be in effect during Stage 3 except:

1. Irrigation of landscaped areas is absolutely prohibited. All outdoor uses of water are prohibited except for the direct need to protect and preserve the health, safety, and welfare of the public.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is absolutely prohibited except that such washing may be done at any time on the immediate premises of a commercial car wash or commercial service station that recycles water to limit makeup water consumption to a minor fraction of total wash water volume.
3. Use of water to fill, refill, or add to indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.
4. The watering of golf course tees, fairways, and greens is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS.
5. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to protect aquatic life.
6. As deemed necessary, the General Manager is authorized to deny any new, additional, expanded, or increased in size water service connections, meters, service lines, pipelines extensions, or water service facilities.

Wholesale Customers. The following actions shall be taken with regard to wholesale customers:

1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
2. Inform the utility director or other responsible official of each wholesale water customer by telephone or in person and suggest actions, as appropriate, to alleviate problems including initiation of additional mandatory measures to reduce non-essential water use in accordance with Stage 3 of the Plan for retail customers.
3. The General Manager may also initiate curtailment of water deliveries in accordance with Texas Water Code, §11.039. During any period when Stage 3 is in effect, the General Manager is authorized to curtail wholesale customers' water allocation to 70 percent of that month's average for the prior five-year period.

Wholesale customers exceeding their allocation shall pay the following surcharge on excess water deliveries:

- 1.25 times the contract rate for first 15% over allocation
- 1.5 times the current rate for the next 15% over allocation
- 2.0 times the current rate for the next 15% over allocation
- 2.5 times the current rate for use more than 45% over allocation
4. If appropriate, notify city, county, and/or state emergency response officials for assistance.
5. Undertake necessary actions, including repairs and/or clean-up as needed.
6. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

Sec. 48 – 145 Contract Provisions for Wholesale Customers

HWWS will include a provision in every wholesale water contract entered into or renewed after adoption of the Plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.

Sec. 48 – 146 Enforcement

Retail Customers Only

Mandatory water use restrictions, curtailment, or pro rata allocation of available water supplies may be imposed during drought and emergency response stages. These water use restrictions will be enforced by warnings and penalties as follows:

1. On the first violation, customers will be notified by written notice that they have violated the mandatory water use restriction.
2. If the first violation recurs or has not been corrected after ten (10) days from the written notice, HWWS may assess a civil penalty with remedies being a fine up to

\$200 per violation, payable to HWWS. Non-payment of fines will result in surcharges, in the amount of the fine, assessed to the customer's water utility bill.

3. Any surcharge assessed to the customer's water utility bill will be in addition to the regular water utility bill amount. HWWS maintains the right, at any violation or action level, to disconnect irrigation systems and/or suspend water services to a customer for failure to pay the surcharge or public safety issues with reconnection fees and possible citations.
4. Subsequent violations of the Plan shall result in increased civil penalty with remedies being fines up to a maximum of 1,000 dollars or upon the occurrence of three (3) violations, after notice, the discontinuation of services. Services discontinued under this provision shall be restored only upon payment of unpaid fines, surcharges, disconnection and reconnection fees, and any other costs incurred by the utility in discontinuing service.
5. Any customer who is the subject of enforcement actions under the provisions of this section may appeal to the HWWS Board of Trustees pursuant to the appeal and appeal hearing process established herein.
6. The appellant must file a written notice of appeal with the General Manager of HWWS within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant and must also contain a reasonably detailed statement regarding the action being appealed, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.
7. Within 15 calendar days of receipt of the written notice, the HWWS Board of Trustees must notify the appellant of the date of a hearing to hear the appeal. The HWWS Board of Trustees may itself conduct the hearing or may designate any three of its members to conduct the hearing and make recommendation to the full Board of Trustees. The hearing shall be conducted according to the procedure provided herein, unless otherwise agreed in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the Board of Trustees to the City Commission by filing a written notice with the City Manager within 10 calendar days of receipt of the decision of the Board of Trustees. The decision of the Board of Trustees will be reversed only upon a vote of at least four city commissioners in favor of reversal.
8. The following procedures shall be followed for an appeal to Board of Trustees:
 - a. A notice shall be served on the appellant specifying the time and place of a hearing to be held by the HWWS Board of Trustees, regarding the appeal. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten calendar days before the hearing. Service may be made on any agent or officer of a corporation.

- b. The HWWS Board of Trustees may issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- c. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically or electronically. The party requesting stenographic recording shall be responsible for all arrangements and payment. The transcript, so recorded, will be made available to any member of the public or any party to the hearing, upon payment of the usual charges thereof.

Sec. 48 – 147 Variances

Retail Customers

The General Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with HWWS within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the General Manager and shall include the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
4. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
5. Description of the relief requested.
6. Period of time for which the variance is sought.
7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
8. Other pertinent information.

Wholesale Customers

The General Manager may, in writing, grant a temporary variance to the curtailment or pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the General Manager within five (5) days after curtailment or pro rata allocation has been invoked. All petitions for variances shall be reviewed by the HWWS Board of Trustees and shall include the following:

1. Name and address of the petitioner(s)
2. Detailed statement with supporting data and information as to how the curtailment or pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
3. Description of the relief requested.
4. Period of time for which the variance is sought.
5. Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
6. Other pertinent information.

Variances granted by the HWWS Board of Trustees shall be subject to the following conditions, unless waived or modified by the Board:

1. Variances granted shall include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Sec. 48 – 148 Plan Review and Update

HWWS will review and update the Plan by May 1, 2024 and every five years thereafter to coincide with planning efforts of the Region M Water Planning Group.

Sec. 48 – 149 List of Appendices

Appendix 1 – HWWS Resolution No. 1819-48 Adopting the Drought Contingency and Emergency Water Management Plan.

APPENDIX 1

RESOLUTION NO. R1819-48

ADOPTING A DROUGHT CONTINGENCY & EMERGENCY WATER MANAGEMENT PLAN AND A DRAFT WATER CONSERVATION PLAN

WHEREAS, conservation of water and drought preparedness are critical objectives for health and safety of the customers of Harlingen Waterworks System; and

WHEREAS, in an ongoing effort to encourage water conservation and ensure readiness for drought conditions, State law requires water utilities to adopt updated water conservation and drought contingency plans every five years; and

WHEREAS, recent legislation has expanded the requirements for water use reporting and adoption of drought contingency plans, and it is in the Waterworks' best interests to develop the required updates and adopt its Plans; and

WHEREAS, the Waterworks' Water Conservation Plan and the Drought Contingency and Emergency Water Management Plan have been updated and expanded to include additional water use information, proposed 5-year and 10-year water savings goals, proposed drought stage triggers with corresponding water use restrictions, and proposed enforcement fines and surcharges for non-compliance, all in accordance with State regulation; and

WHEREAS, State law requires the Drought Contingency & Emergency Water Management Plan to be adopted by ordinance of the City of Harlingen; and

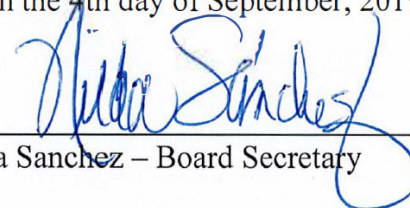
WHEREAS, additional data collection, analysis, and development of the provisions of the Water Conservation Plan will be needed for finalization and adoption by resolution of the Harlingen Waterworks Board of Trustees at a later date; now, therefore:

BE IT RESOLVED, that the Harlingen Waterworks System Utility Board of Trustees does hereby adopt the updated Drought Contingency & Emergency Water Management Plan and refer the same to the Harlingen City Commission for adoption as a city ordinance; and adopt a Draft Water Conservation Plan for regulatory review purposes.

Board Member **Fields** moved, seconded by Board Member **Campbell** that the above Resolution be adopted.

Motion carried **4** Yeas, **0** Nays

I hereby certify the foregoing Resolution was adopted by the Utility Board of Trustees for the Harlingen Waterworks System at a Board meeting held on the 4th day of September, 2019.



Nilda Sanchez – Board Secretary

ORDINANCE NO. 2019-32

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 48 UTILITIES ARTICLE III WATER SYSTEM CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN OF THE CITY OF HARLINGEN CODE OF ORDINANCES; ESTABLISHING ADMINISTRATIVE PENALTIES; ESTABLISHING AN EFFECTIVE DATE HEREOF.

WHEREAS, pursuant to the authority provided for in the City of Harlingen's Charter, the Harlingen Waterworks System ("HWWS") Board of Trustees approved Resolution No. R1819-48, providing for a Drought Contingency and Emergency Water Management Plan ("the Plan"), establishing regulations and restrictions on the delivery and consumption of water; and

WHEREAS, the City Commission of the City of Harlingen finds and determines that such regulations and restrictions are necessary to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions; and

WHEREAS, water uses regulated or prohibited under the Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties; and,

WHEREAS, an opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019; and,

WHEREAS, HWWS will comply with the provisions of the Plan and will periodically provide the public and wholesale customers of HWWS with information about the Plan including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage; and,

WHEREAS, the service area of the City of Harlingen is located within the Rio Grande Region M Planning Group and the HWWS will provide a copy of the Plan to the Texas Water Development Board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS:

Section 1. That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Commission.

Section 2. That CHAPTER 48 UTILITIES, ARTICLE III WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN, CITY OF HARLINGEN CODE OF ORDINANCES is hereby amended as set forth in Exhibit A, attached hereto and included for all purposes.

Section 3. It is hereby declared to be the intention of the City Commission that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

Section 4. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

