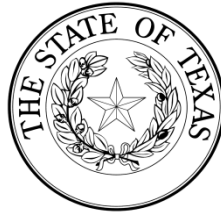


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A WATER USE PERMIT

APPLICATION NO. 3162A

Andrew Rives and Joyce P. Rives seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes, add mining purposes, store water in an off-channel reservoir for subsequent diversion for mining purposes, and add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Andrew Rives and Joyce P. Rives, 2126 FM 2724, Hobson, TX, 78117-5466, Applicants, have applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Water Use Permit pursuant to Texas Water Code (TWC) § 11.122 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, *et seq.* Notice is being mailed to the interjacent water rights holders of record pursuant to Title 30 TAC § 295.158(c)(3)(D).

Water Use Permit No. 3162 authorizes Andrew Rives and Joyce P. Rives to divert and use not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply. The time priority of Permittee's right is April 14, 1975.

Special Condition 3.A. of Water Use Permit No. 3162 states "Diversions are expressly limited to the 7-month period from October 1st thru April 30th of the following year."

Applicants seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County, San Antonio River Basin.

The 523.28 acres of land to be irrigated is comprised of (a) 57.48 acres located in the A. Hernandez Grant, Abstract No. 4 owned by the Applicants; (b) 256.33 acres consisting of 103.46 acres located in the Alex F. Mitchell Survey, Abstract No. 201 and 152.87 acres located in the Manuel Lopez Survey, Abstract No. 181 and the aforementioned Mitchell Survey owned by Jeffery Pollok; and (c) 209.47 acres located in the A. Hernandez Grant, Abstract No. 4 owned by Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives.

Ownership by Applicants of the 57.48-acre portion of lands to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County.

Consent to irrigate within the two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery

Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County.

Applicants request that the place of use authorizations within lands not owned by Andrew Rives and Joyce P. Rives be terminated upon cancellation or termination of the aforementioned agreements.

Applicants also seek to add mining purposes for use within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin.

Applicants also seek to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes.

The off-channel reservoir has an impoundment capacity of 142 acre-feet of water and is identified by a point located at Latitude 28.996719 °N, Longitude 97.900741 °W in the San Antonio River Basin, Karnes County.

Consent to store water in the off-channel reservoir for subsequent diversion and use is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the off-channel reservoir is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Applicant further seeks to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County, as follows:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
- B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
- C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W.

The application and partial fees were received on October 30, 2019. Additional information and fees were received on May 6, May 8, May 11, and May 12, 2020. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 11, 2020.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining a measurement device. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at:

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps.

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the

information section below by March 18, 2024. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by March 18, 2024. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by March 18, 2024.

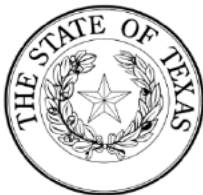
To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 3162 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: February 29, 2024

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
WATER USE PERMIT

PERMIT NO. 3162A

TYPE § 11.122

Permittees:	Andrew Rives and Joyce P. Rives	Address:	2126 FM 2724 Hobson, Texas 78117-5466
Filed:	June 11, 2020	Granted:	
Purposes:	Agriculture, Mining	Counties:	Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson
Watercourse:	Cibolo Creek, tributary of the San Antonio River	Watershed:	San Antonio River Basin

WHEREAS, Water Use Permit No. 3162 authorizes Andrew Rives and Joyce P. Rives (Permittees/Applicants) to divert and use not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply; and

WHEREAS, Special Condition 3.A. of Water Use Permit No. 3162 states "Diversions are expressly limited to the 7-month period from October 1st thru April 30th of the following year."; and

WHEREAS, the time priority of Permittee's right is April 14, 1975; and

WHEREAS, Applicants seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County, San Antonio River Basin; and

WHEREAS, the 523.28 acres of land to be irrigated is comprised of (a) 57.48 acres located in the A. Hernandez Grant, Abstract No. 4 owned by the Applicants; (b) 256.33 acres consisting of 103.46 acres located in the Alex F. Mitchell Survey, Abstract No. 201 and 152.87 acres located in the Manuel Lopez Survey, Abstract No. 181 and the aforementioned Mitchell Survey owned by Jeffery Pollok; and (c) 209.47 acres located in the A. Hernandez Grant, Abstract No. 4 owned by Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives; and

WHEREAS, ownership by Applicants of the 57.48-acre portion of lands to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County; and

WHEREAS, consent to irrigate within the two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County; and

WHEREAS, Applicants request that the place of use authorizations within lands not owned by Andrew Rives and Joyce P. Rives be terminated upon cancellation or termination of the aforementioned agreements; and

WHEREAS, Applicants also seek to add mining purposes for use within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin; and

WHEREAS, Applicants also seek to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes; and

WHEREAS, the off-channel reservoir has an impoundment capacity of 142 acre-feet of water and is identified by a point located at Latitude 28.996719 °N, Longitude 97.900741 °W in the San Antonio River Basin, Karnes County; and

WHEREAS, consent to store water in the off-channel reservoir for subsequent diversion and use is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the off-channel reservoir is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, Applicant further seeks to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County, as follows:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
 - B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
 - C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W;
- and

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

WHEREAS, this amendment, if granted, is subject to requirements and orders of the South Texas Watermaster; and

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

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

NOW, THEREFORE, this amendment to Water Use Permit No. 3162, designated Water Use Permit No. 3162A, is issued to Andrew Rives and Joyce P. Rives subject to the following terms and conditions:

1. USE

In lieu of the previous authorizations, Permittees are authorized to divert and use not to exceed the currently authorized 60 acre-feet of water per year from Cibolo Creek for:

- A. Storage in the off-channel reservoir for subsequent diversion and use for mining purposes within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin.
- B. Agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County.

Ownership by Permittees of the 57.48 acres of land to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County.

Consent to irrigate within two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County.

2. DIVERSION

In addition to the previous authorization, Permittees are authorized to divert water from three points on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin in Karnes County at the following points and rate:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
- B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
- C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W; and

D. Maximum Combined Diversion Rate, in combination with the diversion point authorized in Paragraph 2. DIVERSION of Water Use Permit No. 3162, is 0.67 cfs (300 gpm).

3. CONSERVATION

Permittees shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

4. SPECIAL CONDITIONS

- A. Permittees shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- B. Permittees shall not divert water at the new diversion points authorized in this amendment if the average streamflow at USGS Gage No. 08186000 – Cibolo Creek near Falls City, TX is less than or equal to 8 cfs. The “average streamflow” at the gage is the average of measured streamflows at the gage for the previous 24 hours.
- C. Diversions continue to be expressly limited to the 7-month period from October 1st thru April 30th of the following year.
- D. Permittees shall install and maintain a measuring device which accounts for, within 5% accuracy, the quantity of water diverted from the point(s) authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- E. Permittees shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- F. Permittees shall contact the South Texas Watermaster prior to diversion of water authorized by this amendment.

This water right is appurtenant to and is an undivided part of the above-described 57.48 acres of land owned by the Permittees within which irrigation is authorized. A transfer of any portion of the land described includes, unless otherwise specified, a proportionate amount of the Permit by the Permittees or seller at the time of the transaction.

This amendment is issued subject to all terms, conditions and provisions contained in Water Use Permit No. 3162, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the San Antonio River Basin.

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

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

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

For the Commission

Date Issued:

DRAFT

Sarah Henderson

From: Kirk Kennedy <[REDACTED]>
Sent: Friday, February 23, 2024 3:12 PM
To: Sarah Henderson
Cc: Andy Rives; Ed McCarthy [REDACTED]
Subject: RE: Andrew Rives and Joyce P. Rives WRPERM No. 3162A

Sarah,

We have reviewed the revised/edited version of the permit draft and are satisfied with the changes. Please precede with forwarding to the Office of the Chief Clerk.

Thanks

Kirk Kennedy, P.G.
Kennedy Resource Company
1443 CR 204
Burnet, Texas 78611
OFFICE: (512) 843-5109
CELL: (512) 589-5109
FAX: (720) 262-7775

From: Sarah Henderson <sarah.henderson@tceq.texas.gov>
Sent: Wednesday, January 31, 2024 5:04 PM
To: Kirk Kennedy <[REDACTED]>
Cc: Andy Rives <[REDACTED]>
Subject: Andrew Rives and Joyce P. Rives WRPERM No. 3162A

Mr. Kennedy,

In response to your letter dated January 12, 2024, please find the attached revised, redlined draft amendment for your review.

No revisions were made to the draft public notice.

Please review the revised draft amendment and contact me no later than February 14, 2024 with any additional comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Sincerely,
Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
(F) 512.239.4770

Sarah Henderson

From: Sarah Henderson
Sent: Wednesday, January 31, 2024 5:04 PM
To: Kirk Kennedy
Cc: Andy Rives
Subject: Andrew Rives and Joyce P. Rives WRPERM No. 3162A
Attachments: Rives_3162A_Revised_Redline_Draft Amendment_31Jan2024.pdf

Mr. Kennedy,

In response to your letter dated January 12, 2024, please find the attached revised, redlined draft amendment for your review.

No revisions were made to the draft public notice.

Please review the revised draft amendment and contact me no later than February 14, 2024 with any additional comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Sincerely,
Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
(F) 512.239.4770

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
WATER USE PERMIT

PERMIT NO. 3162A

TYPE § 11.122

Permittees:	Andrew Rives and Joyce P. Rives	Address:	2126 FM 2724 Hobson, Texas 78117-5466
Filed:	June 11, 2020	Granted:	
Purposes:	Agriculture, Mining	Counties:	Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson
Watercourse:	Cibolo Creek, tributary of the San Antonio River	Watershed:	San Antonio River Basin

WHEREAS, Water Use Permit No. 3162 authorizes Andrew Rives and Joyce P. Rives (Permittees/Applicants) to divert and use not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply; and

WHEREAS, Special Condition 3.A. of Water Use Permit No. 3162 states "Diversions are expressly limited to the 7-month period from October 1st thru April 30th of the following year."; and

WHEREAS, the time priority of Permittee's right is April 14, 1975; and

WHEREAS, Applicants seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County, San Antonio River Basin; and

WHEREAS, the 523.28 acres of land to be irrigated is comprised of (a) 57.48 acres located in the A. Hernandez Grant, Abstract No. 4 owned by the Applicants; (b) 256.33 acres consisting of 103.46 acres located in the Alex F. Mitchell Survey, Abstract No. 201 and 152.87 acres located in the Manuel Lopez Survey, Abstract No. 181 and the aforementioned Mitchell Survey owned by Jeffery Pollok; and (c) 209.47 acres located in the A. Hernandez Grant, Abstract No. 4 owned by Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives; and

WHEREAS, ownership by Applicants of the 57.48-acre portion of lands to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County; and

WHEREAS, consent to irrigate within the two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County; and

WHEREAS, Applicants request that the place of use authorizations within lands not owned by Andrew Rives and Joyce P. Rives be terminated upon cancellation or termination of the aforementioned agreements; and

WHEREAS, Applicants also seek to add mining purposes for use within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin; and

WHEREAS, Applicants also seek to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes; and

WHEREAS, the off-channel reservoir has an impoundment capacity of 142 acre-feet of water and is identified by a point located at Latitude 28.996719 °N, Longitude 97.900741 °W in the San Antonio River Basin, Karnes County; and

WHEREAS, consent to store water in the off-channel reservoir for subsequent diversion and use is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the off-channel reservoir is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, Applicant further seeks to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County, as follows:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
 - B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
 - C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W;
- and

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

WHEREAS, this amendment, if granted, is subject to requirements and orders of the South Texas Watermaster; and

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

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

NOW, THEREFORE, this amendment to Water Use Permit No. 3162, designated Water Use Permit No. 3162A, is issued to Andrew Rives and Joyce P. Rives subject to the following terms and conditions:

1. USE

In lieu of the previous authorizations, Permittees are authorized to divert and use not to exceed the currently authorized 60 acre-feet of water per year from Cibolo Creek for:

- A. Storage in the off-channel reservoir for subsequent diversion and use for mining purposes within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin.
- B. Agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County.

Ownership by Permittees of the 57.48 acres of land to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County.

Consent to irrigate within two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County.

2. DIVERSION

In addition to the previous authorization, Permittees are authorized to divert water from three points on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin in Karnes County at the following points and rate:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
- B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
- C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W; and

D. Maximum Combined Diversion Rate, in combination with the diversion point authorized in Paragraph 2. DIVERSION of Water Use Permit No. 3162, is 0.67 cfs (300 gpm).

3. CONSERVATION

Permittees shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

4. SPECIAL CONDITIONS

- A. Permittees shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- B. Permittees shall not divert water at the new diversion points authorized in this amendment if the average streamflow at USGS Gage No. 08186000 – Cibolo Creek near Falls City, TX is less than or equal to 8 cfs. The “average streamflow” at the gage is the average of measured streamflows at the gage for the previous 24 hours.
- C. Diversions continue to be expressly limited to the 7-month period from October 1st thru April 30th of the following year.
- D. Permittees shall install and maintain a measuring device which accounts for, within 5% accuracy, the quantity of water diverted from the point(s) authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- E. Permittees shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- F. Permittees shall contact the South Texas Watermaster prior to diversion of water authorized by this amendment.

This water right is appurtenant to and is an undivided part of the above-described 57.48 acres of land owned by the Permittees within which irrigation is authorized. A transfer of any portion of the land described includes, unless otherwise specified, a proportionate amount of the Permit by the Permittees or seller at the time of the transaction.

This amendment is issued subject to all terms, conditions and provisions contained in Water Use Permit No. 3162, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the San Antonio River Basin.

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

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

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

For the Commission

Date Issued:

DRAFT

Sarah Henderson

From: Kirk Kennedy [REDACTED]
Sent: Friday, January 12, 2024 4:47 PM
To: Sarah Henderson
Subject: WRPERM 3162 - Rives Amendment Permit Draft
Attachments: KRC Letter for Rives Amendment WRPERM 3162-01122024.pdf

Sarah,

Attached is a letter that describes my issue/question.

Have a nice weekend.

Thanks

Kirk Kennedy, P.G.
Kennedy Resource Company
1443 CR 204
Burnet, Texas 78611
OFFICE: (512) 843-5109
CELL: (512) 589-5109
FAX: (720) 262-7775

TO: Texas Commission on Environmental Quality
P.O. Box 13087, MC-160
Austin, Texas 78711

DATE: January 12, 2024

SUBJECT: WRPERM 3162 (amendment)

APPLICANT: Andrew Rives and Joyce P. Rivas

Dear Sirs,

We have reviewed the proposed notice and permit draft for WRPERM 3162, which is an amendment of an existing water right authorized to divert 60 acre-feet per year for irrigation use from Cibolo Creek. The proposed amendment would **add** three additional diversion points on Cibolo Creek downstream of the original authorization with no increase in the previously authorized annual amount or diversion rate. It is also noted that the original authorization contains a special condition which limits diversions to the months of October 1 through April 30 (diversions are prohibited during the months of May through September) and there are no other flow related special conditions in the original permit.

Review of the language in the draft amendment permit indicates that the proposed additional diversion points will be subject to special conditions based on SB3 environmental flow requirements and also that diversion at the new locations would be prohibited during the months of May through September, as was the condition in the original authorization. However, the permit draft also imposes the new instream flow requirements on any diversion made by the water right owner at any of the diversion locations, which includes the original location. As a result, by seeking the additional diversion points downstream, the water right owner's ability to divert water at the existing authorized location will now have the additional SB3 based eflow imposed as well as the previous special condition imposed in his water right from the original authorization (prohibited from making diversion during the months of May through September).

Review of the water availability memo detailing the analysis done by the TCEQ staff to support the amendment states that the entire water right was simulated at the most downstream location sought in the amendment, with the recommended SB3 based eflow restriction imposed, and that that there were no negative impacts to any other water rights. In addition, review of the environmental flow analysis done by the TCEQ staff states, "Resource Protection staff recommend a streamflow restriction for the addition of the three diversion points" and later in their memo restate their recommendation making it clear that it applies to "the diversion points authorized in this amendment.

Therefore, we respectfully ask that the amendment be re-worded so that diversions at the previous, and currently authorized location, not be subjected to the SB3 based environmental flow conditions in addition to the special condition that was imposed on the original permit. Alternatively, because TCEQ staff's technical memorandums appear to conclude that imposing the SB3 based eflow requirements on the entire authorization (existing and new location) are protective of the environment as well as existing

water rights, we would accept this condition on the existing location if the previous limitation of diversion during the months of May through September were deemed to be no longer needed at any of the locations because of the SB3 flow requirement.

Please feel free to give me a call if you have any questions.

A handwritten signature in black ink, appearing to read "Kirk Kennedy". The signature is fluid and cursive, with the first name "Kirk" being more prominent than the last name "Kennedy".

Kirk Kennedy
Kennedy Resource Company
1443 CR 204
Burnet, TX 78611
(512) 589-5109

Sarah Henderson

From: Sarah Henderson
Sent: Friday, January 5, 2024 5:49 PM
To: Andy Rives
Subject: Andrew Rives and Joyce P. Rives WRPERM No. 3162A
Attachments: Rives_3162A_Applicant Drafts_5Jan2024.pdf

Mr. Rives,
For your review and comments, please find the attached.
A response is requested by January 19, 2024.

Feel free to contact me with any questions.
Sincerely,
Sarah

Sarah Henderson
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P) 512.239.2535
(F) 512.239.4770

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 5, 2024

Mr. Andrew Rives
2126 FM 2724
Hobson, Texas 78117

VIA E-MAIL

RE: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 3162A to Amend Water Use Permit No. 3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Mr. Rives:

Drafts, subject to revision, of the public notice, proposed amendment to Water Use Permit No. 3162, and the related technical memoranda are attached.

Staff is recommending that the referenced application be granted in accordance with the attached drafts. Please review the drafts and contact me no later than January 19, 2024 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a two-week comment period and once the comment period has closed, the proposed amendment to Water Use Permit No. 3162 may be issued as drafted given no hearing requests are received.

If you have any questions concerning this matter please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Sarah Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A WATER USE PERMIT

APPLICATION NO. 3162A

Andrew Rives and Joyce P. Rives seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes, add mining purposes, store water in an off-channel reservoir for subsequent diversion for mining purposes, and add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Andrew Rives and Joyce P. Rives, 2126 FM 2724, Hobson, TX, 78117-5466, Applicants, have applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Water Use Permit pursuant to Texas Water Code (TWC) § 11.122 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, *et seq.* Notice is being mailed to the interjacent water rights holders of record pursuant to Title 30 TAC § 295.158(c)(3)(D).

Water Use Permit No. 3162 authorizes Andrew Rives and Joyce P. Rives to divert and use not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply. The time priority of Permittee's right is April 14, 1975.

Special Condition 3.A. of Water Use Permit No. 3162 states "Diversions are expressly limited to the 7-month period from October 1st thru April 30th of the following year."

Applicants seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County, San Antonio River Basin.

The 523.28 acres of land to be irrigated is comprised of (a) 57.48 acres located in the A. Hernandez Grant, Abstract No. 4 owned by the Applicants; (b) 256.33 acres consisting of 103.46 acres located in the Alex F. Mitchell Survey, Abstract No. 201 and 152.87 acres located in the Manuel Lopez Survey, Abstract No. 181 and the aforementioned Mitchell Survey owned by Jeffery Pollok; and (c) 209.47 acres located in the A. Hernandez Grant, Abstract No. 4 owned by Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives.

Ownership by Applicants of the 57.48-acre portion of lands to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County.

Consent to irrigate within the two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County.

Applicants request that the place of use authorizations within lands not owned by Andrew Rives and Joyce P. Rives be terminated upon cancellation or termination of the aforementioned agreements.

Applicants also seek to add mining purposes for use within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin.

Applicants also seek to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes.

The off-channel reservoir has an impoundment capacity of 142 acre-feet of water and is identified by a point located at Latitude 28.996719 °N, Longitude 97.900741 °W in the San Antonio River Basin, Karnes County.

Consent to store water in the off-channel reservoir for subsequent diversion and use is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the off-channel reservoir is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Applicant further seeks to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County, as follows:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
- B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
- C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W.

The application and partial fees were received on October 30, 2019. Additional information and fees were received on May 6, May 8, May 11, and May 12, 2020. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 11, 2020.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining a measurement device. The application, technical memoranda, and

Executive Director's draft amendment are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by _____ 2024. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by _____ 2024. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by _____ 2024.

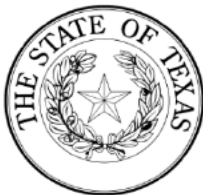
To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 3162 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
WATER USE PERMIT

PERMIT NO. 3162A

TYPE § 11.122

Permittees:	Andrew Rives and Joyce P. Rives	Address:	2126 FM 2724 Hobson, Texas 78117-5466
Filed:	June 11, 2020	Granted:	
Purposes:	Agriculture, Mining	Counties:	Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson
Watercourse:	Cibolo Creek, tributary of the San Antonio River	Watershed:	San Antonio River Basin

WHEREAS, Water Use Permit No. 3162 authorizes Andrew Rives and Joyce P. Rives (Permittees/Applicants) to divert and use not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply; and

WHEREAS, Special Condition 3.A. of Water Use Permit No. 3162 states "Diversions are expressly limited to the 7-month period from October 1st thru April 30th of the following year."; and

WHEREAS, the time priority of Permittee's right is April 14, 1975; and

WHEREAS, Applicants seek to amend Water Use Permit No. 3162 to add a place of use for agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County, San Antonio River Basin; and

WHEREAS, the 523.28 acres of land to be irrigated is comprised of (a) 57.48 acres located in the A. Hernandez Grant, Abstract No. 4 owned by the Applicants; (b) 256.33 acres consisting of 103.46 acres located in the Alex F. Mitchell Survey, Abstract No. 201 and 152.87 acres located in the Manuel Lopez Survey, Abstract No. 181 and the aforementioned Mitchell Survey owned by Jeffery Pollok; and (c) 209.47 acres located in the A. Hernandez Grant, Abstract No. 4 owned by Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives; and

WHEREAS, ownership by Applicants of the 57.48-acre portion of lands to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County; and

WHEREAS, consent to irrigate within the two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County; and

WHEREAS, Applicants request that the place of use authorizations within lands not owned by Andrew Rives and Joyce P. Rives be terminated upon cancellation or termination of the aforementioned agreements; and

WHEREAS, Applicants also seek to add mining purposes for use within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin; and

WHEREAS, Applicants also seek to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes; and

WHEREAS, the off-channel reservoir has an impoundment capacity of 142 acre-feet of water and is identified by a point located at Latitude 28.996719 °N, Longitude 97.900741 °W in the San Antonio River Basin, Karnes County; and

WHEREAS, consent to store water in the off-channel reservoir for subsequent diversion and use is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Applicants and Jeffery Pollok. Ownership of the off-channel reservoir is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County; and

WHEREAS, Applicant further seeks to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County, as follows:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
 - B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
 - C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W;
- and

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

WHEREAS, this amendment, if granted, is subject to requirements and orders of the South Texas Watermaster; and

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

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

NOW, THEREFORE, this amendment to Water Use Permit No. 3162, designated Water Use Permit No. 3162A, is issued to Andrew Rives and Joyce P. Rives subject to the following terms and conditions:

1. USE

In lieu of the previous authorizations, Permittees are authorized to divert and use not to exceed the currently authorized 60 acre-feet of water per year from Cibolo Creek for:

- A. Storage in the off-channel reservoir for subsequent diversion and use for mining purposes within those portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties in the San Antonio River Basin.
- B. Agricultural purposes to irrigate 60 acres of land out of multiple tracts totaling 523.28 acres of land in Karnes County.

Ownership by Permittees of the 57.48 acres of land to be irrigated is evidenced by a *Warranty Deed with Vendor's Lien* recorded as Document No. 39788, Volume 654, Page 575 in the official records of Karnes County.

Consent to irrigate within two tracts of land totaling 256.33 acres is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Jeffery Pollok. Ownership of the lands to be irrigated is evidenced by a *Partition Deed* recorded in Volume 717, Page 377 and a *Partition Deed* recorded in Volume 717, Page 382 in the official records of Karnes County.

Consent to irrigate the 209.47 acres of land is evidenced by a *Water Use Consent Agreement Related to Water Rights Permit No. 3162* between Permittees and Panna Maria Investments II, LP, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives. Ownership of the lands to be irrigated is evidenced by a *Gift Deed* recorded in Volume 739, Page 64, a *Gift Deed* recorded in Volume 739, Page 67, a *Warranty Deed* recorded in Volume 1105, Page 886, the *Last Will and Testament of Ben J. Pawelek* recorded in Volume 94, Page 476, and the *Last Will and Testament of Alvin James Pawelek* filed April 18, 2005 in the official records of Karnes County.

2. DIVERSION

In addition to the previous authorization, Permittees are authorized to divert water from three points on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin in Karnes County at the following points and rate:

- A. Diversion Point No. 1 is located at Latitude 28.994299 °N, Longitude 97.901404 °W;
- B. Diversion Point No. 2 is located at Latitude 28.989902 °N, Longitude 97.883583 °W;
- C. Diversion Point No. 3 is located at Latitude 28.969322 °N, Longitude 97.874461 °W; and

D. Maximum Combined Diversion Rate, in combination with the diversion point authorized in Paragraph 2. DIVERSION of Water Use Permit No. 3162, is 0.67 cfs (300 gpm).

3. CONSERVATION

Permittees shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

4. SPECIAL CONDITIONS

- A. Permittees shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- B. Permittees shall not divert water at the diversion points authorized in this amendment if the average streamflow at USGS Gage No. 08186000 - Cibolo Creek near Falls City, TX is less than or equal to 8 cfs. The "average streamflow" at the gage is the average of measured streamflows at the gage for the previous 24 hours.
- C. Diversions continue to be expressly limited to the 7-month period from October 1st thru April 30th of the following year.
- D. Permittees shall install and maintain a measuring device which accounts for, within 5% accuracy, the quantity of water diverted from the point(s) authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- E. Permittees shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- F. Permittees shall contact the South Texas Watermaster prior to diversion of water authorized by this amendment.

This water right is appurtenant to and is an undivided part of the above-described 57.48 acres of land owned by the Permittees within which irrigation is authorized. A transfer of any portion of the land described includes, unless otherwise specified, a proportionate amount of the Permit by the Permittees or seller at the time of the transaction.

This amendment is issued subject to all terms, conditions and provisions contained in Water Use Permit No. 3162, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the San Antonio River Basin.

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

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

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

For the Commission

Date Issued:

DRAFT


Texas Commission on Environmental Quality


INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager
Water Rights Permitting Team

Date: February 13, 2023

Through: Leslie Patterson, Team Leader
Resource Protection Team

 Jennifer Allis, Senior Water Conservation Specialist
Resource Protection Team



From: Trent Jennings, Water Conservation Specialist
Resource Protection Team

Subject: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560
Cibolo Creek, San Antonio River Basin
Karnes County

APPLICATION SUMMARY

Water Use Permit No. 3162 (Permit) authorizes Andrew Rives and Joyce P. Rives (Applicants) to divert 60 acre-feet of water per year from a point on Cibolo Creek, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract in Karnes County.

Applicants request to amend the Permit to add three diversion points on Cibolo Creek, add a place of use for agricultural purposes to irrigate 60 acres out of three larger tracts totaling 523.25 acres in Karnes County, add mining purposes within the San Antonio River Basin, and store water in an off-channel reservoir for subsequent diversion and use for mining purposes.

WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code (TAC) §295.9(4), applications requesting to change the place or purpose of use require the submittal of a water conservation plan. However, an application requesting to change the place of use to expand the amount of acreage to be irrigated to an adjacent tract of land does not require the submittal of a water conservation plan. Therefore, a water conservation plan is required for mining purposes, but not for agricultural purposes for this requested amendment.

The water conservation plan for mining purposes was reviewed by Resource Protection staff and found to be administratively complete per 30 TAC §288.3.

The application is consistent with the 2021 Region L Water Plan and the 2022 State Water Plan because there is nothing in the water plans that conflicts with issuing this proposed amendment.

RECOMMENDATIONS

The following water conservation language should be included in the proposed amendment, if granted:

Permittee shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.



Trent Jennings, Water Conservation Specialist


Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager
Water Rights Permitting Team

Date: February 13, 2023

Through: Leslie Patterson, Team Leader
Resource Protection Team

From:  Jade Rutledge, Aquatic Scientist
Resource Protection Team

Subject: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560
Cibolo Creek, San Antonio River Basin
Karnes County

Environmental reviews of water right applications are conducted in accordance with applicable provisions of the Texas Water Code (TWC) and the administrative rules of the Texas Commission on Environmental Quality (TCEQ). The provisions applicable to environmental reviews can vary according to the type and the location of the authorization requested.

APPLICATION SUMMARY

Water Use Permit No. 3162 (Permit) authorizes Andrew Rives and Joyce P. Rives (Applicants) to divert 60 acre-feet of water per year from a point on Cibolo Creek, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes in Karnes County.

Applicants request to amend the Permit to add three diversion points on Cibolo Creek, add a place of use for agricultural purposes in Karnes County, add mining purposes within the San Antonio River Basin, and store water in an off-channel reservoir for subsequent diversion for mining purposes.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitats: The Applicants' proposed diversion points are located on Cibolo Creek, a perennial watercourse, in the Southern Post Oak Savanna ecoregion (Griffith et al. 2007).

The checklist for the San Antonio River Basin identified 25 species of ichthyofauna occurring within the Cibolo hydrologic unit (United States Geological Survey [USGS] code 12100304) (Hendrickson and Cohen 2015). This amendment is not expected to have an effect on any high-interest aquatic or aquatic-dependent species.

The Applicants have agreed to install screens on any new diversion structures in order to minimize entrainment and impingement of aquatic organisms. The Applicants' request is not expected to adversely impact aquatic and riparian habitats in the area.

On August 8, 2012, the TCEQ adopted environmental flow standards for the Guadalupe, San Antonio, Mission, and Aransas Rivers, and Mission, Copano, Aransas, and San Antonio Bays (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter E). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC §298.360). The Applicants do not request a new appropriation of water or an amendment that increases the amount of water stored, taken, or diverted. Resource Protection staff recommend a streamflow restriction for the addition of three diversion points. Resource Protection staff utilized the subsistence environmental flow standards (Title 30 TAC § 298.380(c)(14)(A)) established at USGS Gage No. 08186000 – Cibolo Creek near Falls City, TX for the streamflow restriction as shown in Table 1.

Table 1. Environmental Flow Values at USGS Gage No. 08186000 – Cibolo Creek near Falls City.

Season	Subsistence
Winter	8 cfs
Spring	8 cfs
Summer	8 cfs
Fall	8 cfs

cfs=cubic feet per second

The applicable subsistence flow values depend on the season. Seasons are defined in Title 30 TAC § §298.355 as follows: Winter (January through March), Spring (April through June), Summer (July through September), and Fall (October through December). Staff recommend that diversion of water under this proposed amendment should be limited to comply with the applicable subsistence flow values.

Recreational Uses: Lower Cibolo Creek (Segment 1902) has a designated primary contact recreation 1 use (TCEQ 2018). The Applicants' request should not adversely impact recreational uses.

Water Quality: Lower Cibolo Creek (Segment 1902) has a designated high aquatic life use (TCEQ 2018). Lower Cibolo Creek from the confluence with Mulifest Creek upstream to the confluence with Pulaski Creek was also identified in the Texas Integrated Report as non-supporting for bacteria in water and with a concern for screening levels for impaired macrobenthic community in water (TCEQ 2020). The Applicants' request should not adversely impact water quality.

Freshwater Inflows: Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The application does not request a new appropriation of water. Therefore, the Applicants' request should not have any impact to San Antonio Bay.

RECOMMENDATIONS

Resource Protection staff recommends the following Special Conditions be included in the proposed amendment, if granted:

1. Permittees shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
2. Permittees shall not divert water at the diversion points authorized in this amendment if the average streamflow at USGS Gage No. 08186000 – Cibolo Creek near Falls City, TX is less than or equal to 8 cfs. The "average streamflow" at the gage is the average of measured streamflows at the gage for the previous 24 hours.

LITERATURE CITED

Griffith GE, Bryce SA, Omernik JM, Rogers AC. 2007. Ecoregions of Texas - Project Report to Texas Commission on Environmental Quality. Reston (VA): U.S. Geological Survey. Report No.: AS-199. 125p.

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [cited 2022 June 14]; Version 2.0. Available from <http://www.fishesoftexas.org/home/> doi:10.17603/C3WC70

TCEQ. 2018. Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TCEQ. 2020. Texas Integrated Report of Surface Water Quality. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2015. TPWD County Lists of Texas Protected Species and Species of Greatest Conservation Need [Internet]. Austin (TX): Karnes County, revised March 17, 2022. [2022 June 14]. Available from <http://tpwd.texas.gov/gis/rtest/>.

*Andrew Rives and Joyce P. Rives, 3162A
Cibolo Creek, San Antonio River Basin
Page 4 of 4*

Jade Rutledge

Jade Rutledge, Aquatic Scientist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager Date: February 13, 2023
Water Rights Permitting Team

Through: Kathy Alexander, Ph.D., Policy and Technical Analyst
K A Water Availability Division

From: Alisa Patterson, P.E., Section Hydrologist
Water Rights Permitting & Availability Section

Subject: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560
Cibolo Creek, San Antonio River Basin
Karnes County

Water Availability Review

Application Summary

Water Use Permit No. 3162 (Permit) authorizes Andrew Rives and Joyce P. Rives (Applicants) to divert 60 acre-feet of water per year from a point on Cibolo Creek, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes in Karnes County.

Applicants request to amend the Permit to add three diversion points on Cibolo Creek, add a place of use for agricultural purposes in Karnes County, add mining purposes within the San Antonio River Basin, and store water in an off-channel reservoir for subsequent diversion for mining purposes.

The application was declared administratively compete on June 11, 2020.

Water Availability Review

Resource Protection Staff recommended that the application be subject to instream flow restrictions. See the Resource Protection Memo dated February 13, 2023.

The request to authorize off-channel storage does not require a water availability analysis because the application is not a request for a new appropriation of water,

and the amount of water diverted does not change. However, the request to add diversion points must be reviewed to ensure that the request does not affect other water rights.

The Water Rights Analysis Package (WRAP) simulates management of the water resources of a river basin. TCEQ uses WRAP in the evaluation of water right permit applications using priority-based water allocations. WRAP is a generalized simulation model for application to any river basin, and input datasets must be developed for the particular river basin of concern. The TCEQ developed water availability models (WAMs) for Texas river basins that include geographical information, water right information, naturalized flows, evaporation rates, and specific management assumptions. Hydrology staff operates WRAP to evaluate water rights applications to determine water availability and to ensure that senior water rights are protected.

Staff used the Full Authorization simulation of the San Antonio WAM to evaluate impacts on other water rights as a result of diverting the authorized water from the requested diversion points. The period of record for the San Antonio WAM is 1934 to 1989. Staff modeled the application at the most downstream requested diversion point. The environmental flow requirements recommended by Resource Protection staff are for USGS Gage No. 0818600, which is located upstream of the applicant's location. Therefore, Staff modeled the environmental flow requirements at the applicant's diversion point. Staff compared the pre- and post- application volume reliabilities of all water rights in the San Antonio River Basin and found no negative impacts to any other water rights.

In addition, the application is subject to the requirements and orders of the South Texas Watermaster. The Watermaster actively manages water rights on a daily basis and protects senior water rights in times of shortage. Therefore, existing water rights should not be affected by the application.

Conclusion

Staff can support granting the application.

Note that the application is subject to the requirements and orders of the South Texas Watermaster.

Alisa Patterson

Alisa Patterson, P.E., Section Hydrologist

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Sarah Henderson, Project Manager
Water Rights Permitting Team

DATE: June 11, 2020

SUBJECT: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 3162A to Amend Water Use Permit No. 3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

The application and partial fees were received on October 30, 2019. Additional information and fees were received on April 17, and April 29, May 6, May 8, May 11 and May 12, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 11, 2020. Mailed notice to the interjacent water right holders of record within the San Antonio River Basin is required pursuant to 30 TAC § 295.158(c)(2)(D) for changing the diversion point.

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

Sarah Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

OCC Mailed Notice Required YES NO

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 11, 2020

Mr. Andrew Rives
2126 FM 2724
Hobson, Texas 78117

VIA E-MAIL

RE: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 3162A to Amend Water Use Permit No. 3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Mr. Rives:

This acknowledges receipt of additional information, on May 6, May 8, May 11 and May 12, 2020, and April 29, 2020 for fees in the amount of \$73.94 (Receipt No. M018464, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on June 11, 2020. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning this matter please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Sarah E Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

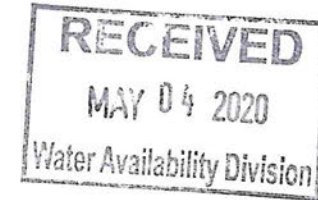
Attachment



29-APR-20 02:29 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M018464	1835		BS00080208	29-APR-20	-\$73.94
	WUP	ADJ193162A	042920	N	D0804758		
WATER USE PERMITS		RIVES, ANDREW L/JOYCE	VHERNAND	CK			
						Total (Fee Code):	-\$73.94
						Grand Total:	-\$243.94



TCEQ Interoffice Memorandum

From: Sarah Henderson
Water Rights Permitting Team

Date: February 10, 2023

Subject: Andrew Rives and Joyce P. Rives
Application No. 3162A to Amend Water Use Permit No. 3162
Cibolo Creek, San Antonio River Basin
Karnes County

On June 9, 2006, the Texas Supreme Court issued an opinion in the case of *Marshall v Uncertain*.¹ The Supreme Court in that opinion considered the Commission's practices regarding notice and hearing for applications to amend a water right under Texas Water Code (TWC) §11.122(b). The Court held that it could not determine under the record in that case whether notice and a hearing would be required. The Court remanded the case to the Commission.

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

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

The purpose of this memo is to discuss the public notice that should be given in the above referenced application by Andrew Rives and Joyce P. Rives in light of agency rules and the Court's decision in the case of *Marshall*.

Current Permit and Application for Amendment

Water Use Permit No. 3162 (Permit) was issued to Ben J. Pawelek and authorizes the diversion and use of not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply. The time priority of owner's right is April 14, 1975.

¹ City of Marshall et. al. v. City of Uncertain et. al., No. 03-1111 (Tx. June 9, 2006).

Andrew Rives and Joyce P. Rives (Permittees/Applicants) acquired Water Use Permit No. 3162 and seek to amend the Permit to add mining purposes for use within all or portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties within the San Antonio River Basin, to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes, to add a place of use for agricultural purposes to irrigate 60 acres out of multiple tracts totaling 523.28 acres, and to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County.

Rules Related to Notice

Adding a Purpose of Use

Under 30 Texas Administrative Code (TAC) §295.158(c)(2)(A), no notice is required, except to the record holder, to add a purpose of use that does not substantially alter the nature of the water right from a water right authorizing only non-consumptive use to a water right authorizing consumptive use; or a pattern of use that is explicitly authorized by or required by the original water right. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

Adding a Place of Use

Under 30 TAC §295.158(c)(2)(B), no notice is required, except to the record holder, to add a place of use if the new place of use is located in the same river basin as the original place of use. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

Adding Diversion Points

The Commission has rules concerning what notice is required for applications to amend a water right in 30 Texas Administrative Code (TAC) § 295.158. New diversion points are governed by a specific rule. 30 TAC § 295.158(c)(3)(D) requires mailed notice to interjacent water rights holders of record when amending a water right to add a diversion point when the existing rate of diversion will not be increased. This rule will be applied to the request to add three diversion points on Cibolo Creek. Because there is a specific rule that addresses a request to add diversion points, the request is not governed by the City of Marshall case and the notice requirements will not be discussed any further in this memo.

Adding an Off-Channel Reservoir

The Commission has rules concerning what notice is required for applications to amend a water right in 30 TAC §295.158. There are no rules that specifically provide notice for adding off-channel storage. Under 30 TAC §295.158(c)(1), no notice is required if no additional consumptive use is contemplated, no increase in diversion rate or period will be granted, and in the judgment of the Commission there is no

potential for harming another water right. This application falls under that rule and does not require notice for the reasons set out below.

The notice recommendation for the Applicants' request to add off-channel storage will be discussed below.

Texas Water Code

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

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

Adverse Impact on Water Right Holders and the Environment

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

Under the full use assumption, adding off-channel storage can have no greater impact on other water right holders or the environment than the impacts to those interests under the existing Permit because adding off-channel storage will not increase the amount of water authorized for diversion by the Permit. Both before and after the amendment, the maximum amount of water diverted (60 acre-feet of water per year) will be the same. The Applicants, under the existing Permit and the proposed amended Permit, could take all of that water anytime between October 1st and April 30th, subject to a maximum combined diversion rate of 0.67 cfs (300 gpm). There are special conditions in the Permit that restrict the water right holder to a particular pattern of use; however, the requested amendment does not affect this pattern of use. Because the application does not request a change in the specific pattern of use in the Permit, the full use assumption requires the Commission to consider the existing Permit and the proposed amended Permit as potentially exercised under the existing pattern of use.

It makes no difference to other water right holders or the environment, whether the water right holder is diverting its 60 acre-feet of water for agricultural and mining purposes or storing the diverted water in an off-channel reservoir. The effect on streamflow, and therefore water available for downstream water right holders or the downstream aquatic environment will be the same: there will be 60 acre-feet of water per year less after the diversion. Therefore, with the full use assumption, the proposed addition of off-channel storage does not cause adverse impact to other water right holders or the environment.

The Executive Director has determined that there are no impacts to water rights or the environment beyond the full use assumption. This amendment requests to add off-channel storage. This application does not change a non-consumptive use to a consumptive use. Also, while there is a pattern of use specified in the permit, the requested amendment does not affect this pattern of use; therefore the Executive Director has determined that this is not a proper factor to consider on notice because the pattern of use in the Permit does not change.

Another issue is whether the Executive Director should consider the Applicants use of all of the water authorized in the existing water right. The Executive Director has determined that this is not a proper factor to consider because it would discourage conservation and future water planning.

Other Applicable Requirements

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

Administrative Requirements

Staff reviewed the application and has found that it meets all administrative requirements of TWC Chapter 11. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 11, 2020.

Beneficial Use

Proposed appropriations of state water must be for a beneficial use. Beneficial use is defined in TWC §11.002(4) as “the use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water.” The authorized use in the Permit is agricultural which is recognized as a beneficial use by TWC §11.023(a)(2) and was already found to be a beneficial use when the Commission issued the Permit. The request to add off-channel storage does not change the authorized use in the Permit.

One question to consider is whether the Applicants should only be allowed to add off-channel storage for water that is being used. The Executive Director has determined that limiting the authorization for off-channel storage to the amount of water

currently being used is inappropriate. The fact that the Applicants may not be using all of their appropriated water does not mean that there has not been or will not be a beneficial use for the water. In addition, this factor would discourage conservation and future water planning.

Detriment to Public Welfare

A proposed appropriation of state water must not be detrimental to the public welfare. No definition of “detriment to public welfare” is provided in the law. Therefore, the Commission has wide discretion in determining benefits or detriments to the public welfare. The Applicants seek to add off-channel storage. There are no specific facts known to the Executive Director that would indicate that this is detrimental to the public welfare.

The Executive Director has determined that limiting the addition of off-channel storage to the amount of water currently being used is inappropriate for the reasons stated above.

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

Groundwater Effects

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

The San Antonio WAM includes Cibolo Creek at which the diversion under this Permit occurs. The San Antonio WAM includes channel loss factors at the Applicants location.²

Concerning use of the Texas Water Development Board Groundwater Availability Models (GAMs) and information from the University of Texas, Bureau of Economic Geology (BEG) to assess groundwater impact from the proposed amendment, predictive simulations using the GAMs do not account for streamflow changes associated with permitted surface water withdrawals or return flows. GAMs were not originally designed to address groundwater-surface water interaction and there are

² Water Availability in the Guadalupe-San Antonio River Basin. Prepared by HDR Engineering, Inc. and others for the Texas Natural Resource Conservation Commission. December 1999.

issues with using these models for that purpose.³ The GAMs are regional in nature and are not able to simulate groundwater-surface water interaction in detail.⁴ The BEG provides information about aquifer recharge rates.⁵

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

Concerning information available from groundwater conservation districts and the Regional Water Plan, the application is located in the Evergreen Underground Water Conservation District⁶, and the Region L Regional Water Planning Area.⁷ The Evergreen UWCD District Management Plan⁸ discussed groundwater and groundwater recharge but did not contain specific information at the applicant's location. The Region L Water Plan did not contain information about groundwater and groundwater recharge at the applicant's location.⁹

The amount of water diverted by the Applicant will be the same (60 acre-feet per year) whether that water is drawn from Cibolo Creek for the agricultural use or for storage in an off-channel reservoir. Thus, the storage of the diverted water in an off-channel reservoir will have no greater impact on groundwater resources or groundwater recharge than the diversion of the full authorized volume of water for agricultural use. Therefore, the Executive Director concludes that there is no potential groundwater issue involved with this application.

Consistency with Regional and State Plans

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

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

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

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

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

⁷ <http://www.twdb.texas.gov/waterplanning/rwp/plans/2021/index.asp>

⁸ https://www.twdb.texas.gov/groundwater/docs/GCD/euwcw/euwcw_mgmt_plan2021.pdf

⁹ 2021 South Central Texas Regional Water Plan. Prepared by South Central Texas Regional Water Planning Group. November, 2020.

relevant regional water plan and the state water plan because there is nothing in the state and regional water plans that conflict with issuing this amendment.

Avoidance of Waste and Achievement of Water Conservation

The Commission has adopted rules in 30 TAC §295.9(4) that specify which applications to amend existing water rights require the submittal of water conservation plans. Applicants are requesting to add mining purposes, to add tracts of land adjacent to the existing authorization and to add off-channel storage and are not increasing the amount of the appropriation. Pursuant to 30 TAC §295.9, an application requesting to change the place of use to expand the amount of acreage to be irrigated to an adjacent tract of land and to add off-channel storage does not require the submittal of a water conservation plan. A water conservation plan is required for mining purposes and Applicants submitted a water conservation plan for mining use, which was reviewed for administrative sufficiency and was found to meet the requirements of 30 TAC Chapter 288. Staff finds that the Applicant can achieve water conservation and avoid waste.

Conclusion

The Applicants' request to add off-channel storage requires no notice pursuant to Commission rules. The request does not seek to increase either the amount of water diverted or the rate of diversion. Under the full use assumption, the request to add off-channel storage will not have an adverse impact on other water right holders and the environment, and there are no negative impacts to other water rights and the environment beyond the full use assumption. Adding off-channel storage does not raise any issues of beneficial use, detriment to the public welfare, groundwater effects, consistency with the state and regional water plans, compliance with administrative requirements, or avoidance of waste and achievement of water conservation. As such, Commission rules, statutes, and case law allow the request to add off-channel storage to be processed with no notice.

The Applicants' request to add a purpose and place of use requires no notice, except to the record holder. There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

The Applicants' request to add diversion points requires mailed notice to the interjacent water right holders of record pursuant to Commission rules. Therefore, mailed notice will be provided to the interjacent water right holders of record for this application.

TCEQ Interoffice Memorandum

From: Sarah Henderson
Water Rights Permitting Team

Date: February 10, 2023

Subject: Andrew Rives and Joyce P. Rives
Application No. 3162A to Amend Water Use Permit No. 3162
Cibolo Creek, San Antonio River Basin
Karnes County

On June 9, 2006, the Texas Supreme Court issued an opinion in the case of *Marshall v Uncertain*.¹ The Supreme Court in that opinion considered the Commission's practices regarding notice and hearing for applications to amend a water right under Texas Water Code (TWC) §11.122(b). The Court held that it could not determine under the record in that case whether notice and a hearing would be required. The Court remanded the case to the Commission.

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

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

The purpose of this memo is to discuss the public notice that should be given in the above referenced application by Andrew Rives and Joyce P. Rives in light of agency rules and the Court's decision in the case of *Marshall*.

Current Permit and Application for Amendment

Water Use Permit No. 3162 (Permit) was issued to Ben J. Pawelek and authorizes the diversion and use of not to exceed 60 acre-feet of water per year from a point on Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin, at a maximum diversion rate of 0.67 cfs (300 gpm), for agricultural purposes to irrigate 60 acres of land out of a 191-acre tract located in the Manuel Lopez Survey, Abstract No. 181 in Karnes County. Special conditions apply. The time priority of owner's right is April 14, 1975.

¹ City of Marshall et. al. v. City of Uncertain et. al., No. 03-1111 (Tx. June 9, 2006).

Andrew Rives and Joyce P. Rives (Permittees/Applicants) acquired Water Use Permit No. 3162 and seek to amend the Permit to add mining purposes for use within all or portions of Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria, and Wilson counties within the San Antonio River Basin, to store water in an existing off-channel reservoir for subsequent diversion and use for mining purposes, to add a place of use for agricultural purposes to irrigate 60 acres out of multiple tracts totaling 523.28 acres, and to add three diversion points on Cibolo Creek, San Antonio River Basin in Karnes County.

Rules Related to Notice

Adding a Purpose of Use

Under 30 Texas Administrative Code (TAC) §295.158(c)(2)(A), no notice is required, except to the record holder, to add a purpose of use that does not substantially alter the nature of the water right from a water right authorizing only non-consumptive use to a water right authorizing consumptive use; or a pattern of use that is explicitly authorized by or required by the original water right. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

Adding a Place of Use

Under 30 TAC §295.158(c)(2)(B), no notice is required, except to the record holder, to add a place of use if the new place of use is located in the same river basin as the original place of use. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

Adding Diversion Points

The Commission has rules concerning what notice is required for applications to amend a water right in 30 Texas Administrative Code (TAC) § 295.158. New diversion points are governed by a specific rule. 30 TAC § 295.158(c)(3)(D) requires mailed notice to interjacent water rights holders of record when amending a water right to add a diversion point when the existing rate of diversion will not be increased. This rule will be applied to the request to add three diversion points on Cibolo Creek. Because there is a specific rule that addresses a request to add diversion points, the request is not governed by the City of Marshall case and the notice requirements will not be discussed any further in this memo.

Adding an Off-Channel Reservoir

The Commission has rules concerning what notice is required for applications to amend a water right in 30 TAC §295.158. There are no rules that specifically provide notice for adding off-channel storage. Under 30 TAC §295.158(c)(1), no notice is required if no additional consumptive use is contemplated, no increase in diversion rate or period will be granted, and in the judgment of the Commission there is no

potential for harming another water right. This application falls under that rule and does not require notice for the reasons set out below.

The notice recommendation for the Applicants' request to add off-channel storage will be discussed below.

Texas Water Code

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

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

Adverse Impact on Water Right Holders and the Environment

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

Under the full use assumption, adding off-channel storage can have no greater impact on other water right holders or the environment than the impacts to those interests under the existing Permit because adding off-channel storage will not increase the amount of water authorized for diversion by the Permit. Both before and after the amendment, the maximum amount of water diverted (60 acre-feet of water per year) will be the same. The Applicants, under the existing Permit and the proposed amended Permit, could take all of that water anytime between October 1st and April 30th, subject to a maximum combined diversion rate of 0.67 cfs (300 gpm). There are special conditions in the Permit that restrict the water right holder to a particular pattern of use; however, the requested amendment does not affect this pattern of use. Because the application does not request a change in the specific pattern of use in the Permit, the full use assumption requires the Commission to consider the existing Permit and the proposed amended Permit as potentially exercised under the existing pattern of use.

It makes no difference to other water right holders or the environment, whether the water right holder is diverting its 60 acre-feet of water for agricultural and mining purposes or storing the diverted water in an off-channel reservoir. The effect on streamflow, and therefore water available for downstream water right holders or the downstream aquatic environment will be the same: there will be 60 acre-feet of water per year less after the diversion. Therefore, with the full use assumption, the proposed addition of off-channel storage does not cause adverse impact to other water right holders or the environment.

The Executive Director has determined that there are no impacts to water rights or the environment beyond the full use assumption. This amendment requests to add off-channel storage. This application does not change a non-consumptive use to a consumptive use. Also, while there is a pattern of use specified in the permit, the requested amendment does not affect this pattern of use; therefore the Executive Director has determined that this is not a proper factor to consider on notice because the pattern of use in the Permit does not change.

Another issue is whether the Executive Director should consider the Applicants use of all of the water authorized in the existing water right. The Executive Director has determined that this is not a proper factor to consider because it would discourage conservation and future water planning.

Other Applicable Requirements

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

Administrative Requirements

Staff reviewed the application and has found that it meets all administrative requirements of TWC Chapter 11. The application was declared administratively complete and filed with the Office of the Chief Clerk on June 11, 2020.

Beneficial Use

Proposed appropriations of state water must be for a beneficial use. Beneficial use is defined in TWC §11.002(4) as “the use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water.” The authorized use in the Permit is agricultural which is recognized as a beneficial use by TWC §11.023(a)(2) and was already found to be a beneficial use when the Commission issued the Permit. The request to add off-channel storage does not change the authorized use in the Permit.

One question to consider is whether the Applicants should only be allowed to add off-channel storage for water that is being used. The Executive Director has determined that limiting the authorization for off-channel storage to the amount of water

currently being used is inappropriate. The fact that the Applicants may not be using all of their appropriated water does not mean that there has not been or will not be a beneficial use for the water. In addition, this factor would discourage conservation and future water planning.

Detriment to Public Welfare

A proposed appropriation of state water must not be detrimental to the public welfare. No definition of “detriment to public welfare” is provided in the law. Therefore, the Commission has wide discretion in determining benefits or detriments to the public welfare. The Applicants seek to add off-channel storage. There are no specific facts known to the Executive Director that would indicate that this is detrimental to the public welfare.

The Executive Director has determined that limiting the addition of off-channel storage to the amount of water currently being used is inappropriate for the reasons stated above.

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

Groundwater Effects

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

The San Antonio WAM includes Cibolo Creek at which the diversion under this Permit occurs. The San Antonio WAM includes channel loss factors at the Applicants location.²

Concerning use of the Texas Water Development Board Groundwater Availability Models (GAMs) and information from the University of Texas, Bureau of Economic Geology (BEG) to assess groundwater impact from the proposed amendment, predictive simulations using the GAMs do not account for streamflow changes associated with permitted surface water withdrawals or return flows. GAMs were not originally designed to address groundwater-surface water interaction and there are

² Water Availability in the Guadalupe-San Antonio River Basin. Prepared by HDR Engineering, Inc. and others for the Texas Natural Resource Conservation Commission. December 1999.

issues with using these models for that purpose.³ The GAMs are regional in nature and are not able to simulate groundwater-surface water interaction in detail.⁴ The BEG provides information about aquifer recharge rates.⁵

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

Concerning information available from groundwater conservation districts and the Regional Water Plan, the application is located in the Evergreen Underground Water Conservation District⁶, and the Region L Regional Water Planning Area.⁷ The Evergreen UWCD District Management Plan⁸ discussed groundwater and groundwater recharge but did not contain specific information at the applicant's location. The Region L Water Plan did not contain information about groundwater and groundwater recharge at the applicant's location.⁹

The amount of water diverted by the Applicant will be the same (60 acre-feet per year) whether that water is drawn from Cibolo Creek for the agricultural use or for storage in an off-channel reservoir. Thus, the storage of the diverted water in an off-channel reservoir will have no greater impact on groundwater resources or groundwater recharge than the diversion of the full authorized volume of water for agricultural use. Therefore, the Executive Director concludes that there is no potential groundwater issue involved with this application.

Consistency with Regional and State Plans

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

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

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

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

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

⁷ <http://www.twdb.texas.gov/waterplanning/rwp/plans/2021/index.asp>

⁸ https://www.twdb.texas.gov/groundwater/docs/GCD/euwcd/euwcd_mgmt_plan2021.pdf

⁹ 2021 South Central Texas Regional Water Plan. Prepared by South Central Texas Regional Water Planning Group. November, 2020.

relevant regional water plan and the state water plan because there is nothing in the state and regional water plans that conflict with issuing this amendment.

Avoidance of Waste and Achievement of Water Conservation

The Commission has adopted rules in 30 TAC §295.9(4) that specify which applications to amend existing water rights require the submittal of water conservation plans. Applicants are requesting to add mining purposes, to add tracts of land adjacent to the existing authorization and to add off-channel storage and are not increasing the amount of the appropriation. Pursuant to 30 TAC §295.9, an application requesting to change the place of use to expand the amount of acreage to be irrigated to an adjacent tract of land and to add off-channel storage does not require the submittal of a water conservation plan. A water conservation plan is required for mining purposes and Applicants submitted a water conservation plan for mining use, which was reviewed for administrative sufficiency and was found to meet the requirements of 30 TAC Chapter 288. Staff finds that the Applicant can achieve water conservation and avoid waste.

Conclusion

The Applicants' request to add off-channel storage requires no notice pursuant to Commission rules. The request does not seek to increase either the amount of water diverted or the rate of diversion. Under the full use assumption, the request to add off-channel storage will not have an adverse impact on other water right holders and the environment, and there are no negative impacts to other water rights and the environment beyond the full use assumption. Adding off-channel storage does not raise any issues of beneficial use, detriment to the public welfare, groundwater effects, consistency with the state and regional water plans, compliance with administrative requirements, or avoidance of waste and achievement of water conservation. As such, Commission rules, statutes, and case law allow the request to add off-channel storage to be processed with no notice.

The Applicants' request to add a purpose and place of use requires no notice, except to the record holder. There are no additional owners of Water Use Permit No. 3162; therefore, no notice will be provided.

The Applicants' request to add diversion points requires mailed notice to the interjacent water right holders of record pursuant to Commission rules. Therefore, mailed notice will be provided to the interjacent water right holders of record for this application.

CERTIFIED MAIL

Rives
2126 FM 2724
Hobson, Texas 78117



7017 2400 0001 1502 5324



1000

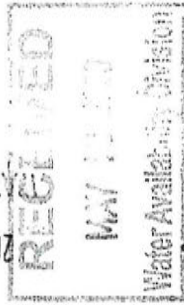
78711

U.S. POSTAGE PAID
FORM LETTER
KARNES CITY, TX
78118
MAY 07, 20

\$6.95

R2305K132590-09

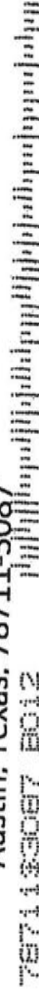
2020 MAY 12 A 9:49
WATER AVAILABILITY DIV.



Texas Commission on Environmental Quality, **RECEIVED**
Water Rights Permitting Section
Water Availability Division
Attn: Sarah Henderson
P.O. Box 13087, MC-160
Austin, Texas. 78711-3087

MAY 11 2020

TO EQ MAIL CENTER
VT



7871133087 8012

May 5, 2020

Sarah Henderson, Project Manager, MC-160
Water Rights Permitting Section
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 19-3162A to Amend Water Use Permit No. 19-3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Ms. Henderson:

I am answering your question #2 in connection with your letter dated April 21, 2020 requesting additional information regarding Application No. 19-3162A to amend Certificate of Adjudication No. 19-3162. My letter is limited to only your No. 2, which reads as follows:

2. Confirm that the place of use for mining purposes is anywhere within the San Antonio River Basin. If so, provide the counties or portions of counties in which mining water will be used.

Response: Applicant requests to use the water diverted for mining purposes anywhere within the San Antonio River basin. The San Antonio River basin includes all or portions of the following counties: Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria and Wilson.

In regards to #3 additional fees; I have sent to the TECQ a check for \$73.94 and have received a signed return receipt dated April 27, 2020

If you should require more information please let me know. I want to thank you and all the people at the Texas Commission for Environmental Quality for assisting me in getting this application processed.

Thank you all,



Andy Rives
2126 FM 2724
Hobson, Texas 78117



Sarah Henderson

From: Ed McCarthy [REDACTED]
Sent: Monday, May 11, 2020 9:45 AM
To: Sarah Henderson
Cc: Andy Rives
Subject: Application No. 19-3162A to amend Permit No. 3162 - Andy & Joyce Rives
Attachments: 5-7-20 - Henderson RFI Response Ltr - Permit No 3162.pdf

Good morning Sarah

Hope you are doing well amidst all of this craziness.

The attached letter is intended to respond to RFI No. 1 in your April 21st letter to the Rives requesting additional information in support of the Application. I hope I have adequately addressed your request. Please call me if there are any questions, or additional information is needed.

I mailed you the original hard copy of the Letter last week.

Best wishes.

Ed

Cc: Andy Rives

LAW OFFICES OF
McCARTHY & McCARTHY, L.L.P.

1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701
(512) 904-2310
(512) 692-2826 (FAX)

May 7, 2020

Sarah Henderson, Project Manager, MC-160
Water Rights Permitting Section
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

via e-mail & regular mail

Re: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 19-3162A to Amend Water Use Permit No. 19-3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Ms. Henderson:

I am writing to you on behalf of Andrew and Joyce Rives (the “Rives”) in connection with your letter dated April 21, 2020, requesting additional information (“RFI”) regarding Application No. 19-3162A to amend Certificate of Adjudication No. 19-3162. My letter is limited to your RFI No. 1, which reads as follows:

- 1. Provide recorded copies of legal documents establishing the current owner of the 209.47 acre-tract.**

Staff acknowledges receipt of a *Warranty Deed* dated January 19, 2013 conveying the entire said 209.47-acre tract from Joyce P. Rives to Panna Maria Investments II, LP; however, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives are also named owners of the tract in the Consent Agreement submitted. Note: the deeds provided must be in the name of the applicant or provide proper consent.

Response: Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives are named as owners of the tract in question in the Consent Agreement submitted in support of the Application. No “deed” reflecting their ownership interest in the subject property referenced in the Application was submitted because their respective undivided ownership

interests in the property are not the result of a traditional conveyance by deed. Instead, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives derive their title interest in the property through inheritance. Specifically, in his Will, Alvin J. Pawelek, their Uncle (their Mother's Brother) left them each an undivided one-quarter interest in his 129-acre undivided interest in 209.47 acres located in Karnes County, Texas, which is the "Benefited" Properties described in in the Consent Agreement included in the Application. A certified copy of Alvin Pawelek's Will, as recorded in the Official Public Records of Karnes County, Texas, which is identical to the Will of Alvin Pawelek included in the Application, is attached hereto as Appendix "A."

According to the last page of Alvin Pawelek's Will, the 129-acre interest in the 209.47-acre "Benefited" Property, owned by Alvin L. Pawelek was inherited from his father (the grandfather of Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives) the late Ben J. Pawelek, Jr. The 209.47-acre tract, out of which Alvin James Pawelek was bequeathed the 129-acre interest, is described by metes and bounds on pages four and five of the Ben J. Pawelek, Jr., Last Will and Testament, recorded in Volume 94, Pages 476-484 of the Official Public Records of Karnes County on June 26, 1986. A certified copy of Ben J. Pawelek, Jr.'s Will is attached hereto as Appendix "B." The enclosed certified copy of Ben J. Pawelek, Jr.'s Will is identical to the copy included in the Application.

Additionally, by Gift Deed dated December 13, 1999, and recorded in Volume 739, Pages 64 *et seq* of the Karnes County Deed Records, Alvin Pawelek's Mother, Theresa Pawelek, conveyed an undivided interest in and to 64.5 acres out of the 209.47-acre tract described herein. Mr. Pawelek's interest derived from that Gift Deed is also bequeathed in the same provision of his Will discussed above to Sarah Rives, Stacey Rives, Charles Rives and Stephany Rives. A certified copy of the Gift Deed, identical to the Gift Deed included in the Application, is attached hereto as Appendix "C."

As evidenced by the discussion above, and the attached copies of Certified Records from the Official Public Records of Karnes County, Texas, Sarah Rives, Stacey Rives, Charles Rives and Stephany Rives, as the heirs of Alvin James Pawelek are record title holders of equal one-quarter undivided interests in 129 acres out of the 209.47-acre tract described in the Application as one of the "Benefited" Properties. While not "deeds" per se, the documents in the form of the Wills operate as "muniments of title" to effect the transfer of title from the Testator to the named Heir(s), which in this case means Sarah Rives, Stacey Rives, Charles Rives, and Stephany Rives. *See generally* Chapter 257, Texas Estates Code.

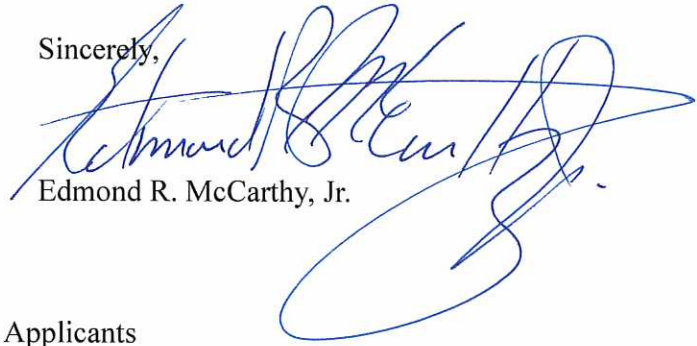
The two Wills, together with the Gift Deed, all recorded in the Official Public Records of Karnes County, form a chain of title the equivalent of a traditional conveyance by deed to establish the title interests of Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives in response to RFI No. 1 above. I believe Appendices "A" through "C", inclusive, are responsive to your request.

May 7, 2020
Page 3

Please let me know if you have any questions. The Rives and I appreciate the support and hard work of you and your team on this project.

Best wishes.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edmond R. McCarthy, Jr.", with a large, stylized flourish at the end.

Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc: Andrew Rives and Joyce P. Rives, Applicants

APPENDIX “A”

**Certified Copy of the Last Will and Testament
of Alvin J. Pawelek recorded in the
Official Public Records of Karnes County, Texas**

LAST WILL AND TESTAMENT

of

ALVIN J. PAWELEK

I, ALVIN J. PAWELEK, of the County of Medina and the State of Texas, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will and Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I.

IDENTITY OF THE FAMILY

At the time of the execution of this Will, I am not married and I have no children.

II.

PAYMENT OF EXPENSES

I direct that all the expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States Government or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging said indebtedness, if in my Independent Executrix's judgment, the condition of my estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III.

DISPOSITION OF ESTATE

A. I give, devise and bequeath all of my right, title and interest in that certain undivided One Hundred Twenty Nine Acres of land, located in Panna Maria, Karnes County, Texas, to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike. It is the intent of this bequest that the aforementioned legatees be seized of a one quarter (1/4) interest, being approximately 32.25 acres of land, more or less, in the undivided tract which is more fully described in the Last Will and Testament of Ben J. Pawelek, Jr., in Volume 94, Page 476, and that certain Gift Deed at Volume 739, Page 64, of the deed records of Karnes County, Texas.

B. I give, devise and bequeath Ten Thousand (\$10,000.00) Dollars to LEROY J. PAWELEK, for the benefit of, and to be held in trust for, BEN PAWELEK, my nephew, until he reaches eighteen (18) years of age, at which time this money and any interest related to the principal may be used for college tuition for BEN PAWELEK. Should BEN PAWELEK reach the age of eighteen and not desire to attend college, then at the age of twenty-one (21) years, the entire principal and interest of the account will be distributed to BEN PAWELEK for his use and enjoyment in any fashion he should please.

C. I give, devise and bequeath Five Thousand (\$5,000.00) Dollars to ROSE ORTIZ. ROSE ORTIZ has long been my friend and has provided me valuable assistance over the years and I wish to express my gratitude with this gift.

D. I give, devise and bequeath my 2002 Chevy Silverado Truck to CHARLES RIVES.

Also my grand father's clock to Charles Rives

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:56:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Alvin Pawelek Deputy

E. I give, devise and bequeath my IRA and Bank Accounts to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike.

F. I give, devise and bequeath all of my camping equipment to CHARLES RIVES and BEN PAWELEK, in equal shares, share and share alike.

G. I give, devise and bequeath all of my fishing equipment to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

H. I give, devise and bequeath all of my guns to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

I. I give, devise and bequeath all of the rest of my estate of whatsoever kind and wheresoever situated as follows: my niece's and nephew's share and share alike.

J. Any other property of mine that has not been disposed of under any other provision of this Will shall go and be distributed to my heirs-at-law. Their identity and respective shares shall be determined in all respects as if my death had occurred immediately following the happening of the event requiring such distribution, and according to the laws of Texas then in force governing the distribution of the estate of an intestate.

IV.

DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person or beneficiary with respect to all or any part of my estate who shall not survive until ninety (90) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such person had predeceased me.

V.

APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute and appoint my Sister, JOYCE ANN PAWELEK RIVES, as Independent Executrix of my estate.

B. If any individual Independent Executor or Executrix becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two medical doctors (neither of whom is a beneficiary under this Will) affirming that each has examined the Independent Executor or Executrix and that each has concluded, based on such examination, that the Independent Executor or Executrix is unable to discharge his or her duties under this Will, the Independent Executor or Executrix shall cease to serve, as if he or she had resigned, effective the date of the certification.

C. It is my will and desire and I hereby direct that in the administration of my estate, my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action shall be had in any court in the administration of my estate other than the probating of this, my Last Will and Testament, and the filing of any Inventory, Appraisement and List of Claims of my estate that may be required.

AP

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:55:08 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

VI.

POWERS OF EXECUTOR

The estate created or arising by virtue of my death and this instrument, my Last Will and Testament, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix or any successor named above, full power and authority over any and all of my estate and they are hereby authorized to sell, manage, and dispose of the same or any part thereof, and in connection with any such sale or transaction, make, execute and deliver proper deeds, assignments and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix or any successor named above, shall have full power and authority to compromise, settle and adjust any and all debts, claims and taxes which may be due from or owing by my estate.

C. My Independent Executrix or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

D. My Independent Executrix or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

E. As compensation for her services hereunder, my Independent Executrix or any successor named above shall be entitled to charge the same fees customarily charged for similar services in other estates at the time the services are rendered.

VII.

SPENDTHRIFT PROVISION

No interest of any beneficiary in the corpus or income of my estate shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary and may not otherwise be alienated or encumbered by such beneficiary, except as may be otherwise expressly provided herein.

VIII.

DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Last Will and Testament, and the administration of the estate established herein, the following provisions shall apply:

A. The words "child, children, descendants, issue," and similar terms shall be deemed only to include children born to, or adopted (on or before eighteen years of age) in, a lawful marriage.

B. When a distribution is directed to be made to any person's descendants "per stirpes," the division into stirpes shall begin at the generation nearest to such person that has a living member.

C. The use of the masculine, feminine or neuter genders shall be interpreted to include the other genders, and the use of either the singular or the plural number shall be interpreted to include the other number, unless such an interpretation in a particular case is inconsistent with the general tenor of this instrument. Any references herein relating to my Independent Executrix shall include her successors regardless of the gender of the successors.

AP

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:55:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

SELF-PROVING AFFIDAVIT

STATE OF TEXAS

§
§
§

COUNTY OF MEDINA

BEFORE ME, the undersigned authority, on this day personally appeared ALVIN J. PAWELEK, Nora A. Skau and Robert S. May, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said ALVIN J. PAWELEK, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testator, that the said Testator had declared to them that said instrument is his Last Will and Testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that said Testator was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Alvin J. Pawelek
ALVIN J. PAWELEK, Testator

Nora A. Skau
Witness

Robert S. May
Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said ALVIN J. PAWELEK, Testator, and by the said Nora A. Skau and Robert S. May, Witnesses, this 5th day of AUGUST, A.D. 2004.



Sonya Dee Alarcon
Notary Public, State of Texas

AA

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on 05/05/2020 09:55:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

D. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, ALVIN J. PAWELEK, hereby sign my name to this, my last Will, on each page of which I have placed my initials, on this 5th day of August, 2004, at Hondo, Texas.

Alvin Pawelek
ALVIN J. PAWELEK, Testator

ATTESTATION

The foregoing instrument was signed in our presence by ALVIN J. PAWELEK and declared by him to be his last Will. We, at the request and in the presence of ALVIN J. PAWELEK and in the presence of each other, have subscribed our names below as witnesses on this 5th day of August, 2004.

Nora A. Skell
Witness NORA A. SKELL

491 N. Sunset Strip Ste 109
Street Address

Kenedy TX
City and State

Robert S. May
Witness ROBERT S. MAY

491 N. Sunset Strip Ste 109
Street Address

Kenedy TX 78119
City and State

AP

FILED
April 18, 2005
At 4:15 o'clock P.M.
ALVA JONAS
COUNTY CLERK
KARNES COUNTY TEXAS
Marilyn Bedney
Deputy

CERTIFIED COPY CERTIFICATE
COUNTY OF KARNES
STATE OF TEXAS
COUNTY OF KARNES
The above is a full true and correct photographic copy of the original record
now in my lawful custody and possession, as the same is recorded in
the Official Public records in my office, and I hereby certify on
05/08/2020 09:55:09 AM
Card Swize, County Clerk
Karnes County, Texas
By Card Swize Deputy

APPENDIX “B”

**Certified Copy of the Last Will and Testament
of Ben J. Pawelek, Jr., recorded in the
Official Public Records of Karnes County, Texas**

THE STATE OF TEXAS § LAST WILL AND TESTAMENT OF BEN J. PAWELEK, JR.
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

I, BEN J. PAWELEK, JR., a resident of Karnes County, Texas, being of sound mind and disposing memory, and above the age of Eighteen (18) years, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils previously made by me.

I.

I declare that the following is a true and correct statement of my marital and family history as of the date of the making of this, my Last Will and Testament:

I am married to THERESA PAWELEK and I have the following Children, now Living, whose names and Status are:

<u>NAME</u>	<u>STATUS</u>
JOYCE ANN PAWELEK RIVES	Adult
ALVIN JAMES PAWELEK	Adult
LEROY JOHN PAWELEK	Minor

All references in this my Last Will and Testament to my Wife are references to the above named THERESA PAWELEK; all references in this my Last Will and Testament to my Children include not only the above Children, but also any child hereafter born to or adopted by me. For the purposes of this Will references shall be made to "my Children" which is in the plural, and this is purposely done so that any Children hereinafter adopted by me or born to me, shall be included in this my Last Will and Testament.

II.

I direct that at the time of my Death I be given a Christianlike funeral appropriate to my station in life. I further direct that all of my just Debts, including all expenses of my last illness, funeral and burial, and the expense of a suitable monument at my grave, shall be paid by my Executor or Executrix, as the case may be, as soon as reasonably convenient after my Death.

III.

It is my intention by this Will to dispose of all the Property,

- Page One -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:51:08 AM



Carel Swize, County Clerk
Karnes County, Texas

By Alfred Keyser Deputy

and any interest in any property, I own, wherever situated, and of whatever type, be the same real or personal.

IV.

I hereby nominate, constitute and appoint my Wife, THERESA PAWELEK, as Independent Executrix of this my Last Will and Testament. In the event that my Wife, THERESA PAWELEK, shall predecease me, fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Independent Executor of this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me or fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Independent Executrix of this my Last Will and Testament.

I direct that no bond or other security shall be required of any Executor appointed in this my Last Will and Testament. My executor or Executrix, whether original or substitute is referred to herein as my "Executor". I further direct that my Executor, herein appointed, shall serve without the supervision of any Court, and that no action shall be had in the County Court, or in any other Court, in relation to the settlement of my Estate, other than the probating and recording of this Will and the return of the statutory Inventory, Appraisement and List of Claims of said Estate and of all claims due and owing by me at the time of my Death.

V.

I hereby nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Trustee over any Trust, original or residuary, created in this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me, fail to qualify, resign or cease to act as such Trustee for any reason, then I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Trustee over such Trust.

I direct that such Trustee shall serve without bond, and without the supervision of any Court and without compensation of any type.

- Page Two -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:51:17 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

If my Wife, THERESA PAWELEK, does not survive me, then and in such event I appoint my Daughter, JOYCE ANN PAWELEK RIVES, as the Guardian of the person of each of my minor Children. In the event that my Daughter, JOYCE ANN PAWELEK RIVES, shall predecease me, fail to qualify, resign or cease to act for any reason as Guardian, then I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Guardian of the person of each of my minor children.

No bond or other security shall be required in any jurisdiction of any of the above parties for the performances of her respective duties as Guardian. Further, such Guardian shall receive no compensation for acting in such capacity.

VII.

I hereby give, devise and bequeath unto my Son, LEROY JOHN PAWELEK, the following described Tract of land, in fee simple, as his property absolutely.

FIRST TRACT:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, and described by metes and bounds as follows:

BEGINNING at a stake in the lower line of the Old Biela Place set for the East Corner of 250 acres conveyed to Susan Biela and being the South Corner of this tract;

THENCE with the N.E. line of said 250 acres, N. 29 W. 689 vrs. to a stake in the upper line of the said Biela Place set for the North corner of said 250 acre tract;

THENCE with said line N. 61 E. 939 vrs. to the West boundary line of the Helena and Floresville Road being 30 feet from the fence on the East side of said road;

THENCE with the West side of said road, S. 33 E. 295 vrs.; S. 24-1/2 E. 235 vrs.; S. 30-1/2 E. 60 vrs.; S. 55-1/2 E. 109 vrs. to the corner post on the West side of said road in the lower line of the Biela Place;

THENCE with the said line S. 61 W. 995 vrs. to the Place of Beginning Containing 116 acres of land. And

Being the same land described in a deed from R. H. Fechner to Ben Pawelek dated Oct. 5, 1924, recorded in Vol. 75, Page 140, Deed Records of Karnes County, Texas.

SECOND TRACT:

All that certain tract or parcel of land lying and being in the County of Karnes and State of Texas, and is 100 acres out of the Manuel Lopez Original Grant on the Cibolo River, said 100 acres being the lower half of a 200 acre tract, said 200 acre tract being described by field notes:

BEGINNING at a pecan tree mkd. O & B from whence another Pecan Tree Mkd. J Bra. N. 14-1/2 E. 15 vrs.;

THENCE N. 61 E. with the S.E. line of the land of Mrs. Susan Biela at 5811 vrs. to the corner of same in division line of the Manuel Lopez and Jesus Hernandez Surveys;

THENCE S. 29 E. with said division line at 197.2 vrs. a stake in said line for corner;

THENCE S. 61 W. parallel with the North line of this survey 5663 vrs. to the lower bank of the Cibolo River a stake for corner, from whence a Hackberry tree mkd. X bra. N. 51 E. 31-1/2 varas;

- Page Three -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:51:27 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

THENCE up the river with its meanders to the Place of Beginning. As before stated the 100 acres herein conveyed being the lower part of the said 200 acres, the upper 100 acres having been conveyed by Domin Opiela to John W. Pawelek on Dec. 10, 1907. And being the same land described in a deed from Ignac Pawelek to Ben Pawelek dated Oct. 7, 1918, recorded in Vol. 60, Page 573, Deed Records of Karnes County, Texas.

SAVE AND EXCEPT HOWEVER:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, about 10 miles North of the town of Karnes City on the Cibolo River and described by metes and bounds as follows:

BEGINNING at a corner post in the East line of the Old Helena and San Antonio Road, being the S.W. corner of the Anton Foegelle tract of land;

THENCE with the North line of the Ben Pawelek tract and the South line of the Foegelle tract of land, N. 61 E. 747 vrs. to a stake and N.W. corner of a tract of land now owned by Ignatz Pawelek;

THENCE S. 29 E. 197.2 vrs. to a stake and the S.W. corner of the Ignatz Pawelek tract of land in the North line of the Mrs. Mary Pawelek lands;

THENCE with the North line of the Mary Pawelek tract of land, S. 61 W., 666 vrs. to a corner post in the East line of the Helena and San Antonio Public Road;

THENCE with the East line of the road, N. 51-1/4 W., 212.5 vrs. to the Place of Beginning, Containing 24.6 acres of land. And

Being the same land described in a Deed from Ben X. Pawelek, et ux. to Ignatz Pawelek dated Nov. 16, 1925, recorded in Vol. 78, Page 122, Deed Records of Karnes County, Texas.

I hereby give, devise and bequeath unto my Children, JOYCE a 75 acre Interest a 129 acre Interest in ANN PAWELEK RIVES and ALVIN JAMES PAWELEK, the following described

Tract of land, ~~in several shares, shares and shares, in several shares, in several shares,~~

as their property absolutely.

BJP

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit: All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A. F. Pawelek and Mary Pawelek to V. S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the Z. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left; THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left; THENCE with the Long Chord of said curve; N. 39 degrees 28 minutes E. -548.4 feet to the P.T. of same;

- Page Four -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:51:40 AM



Carol Swize, County Clerk
Karnes County, Texas

By *Alvin James Pawelek* Deputy

THENCE continuing with fence and South R.O.W. line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract;

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -230.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -286.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 09 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes W. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the Z. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

The bequests herein made to my Children, shall be burdened with a Life Estate for the benefit of my Wife, THERESA PAWELEK, that is to say, that in the event that my Wife survives me, then and in such event, she shall have the use and benefit, and the income therefrom, including income from any oil, gas and uranium minerals, for the balance of her natural life, and at her death, then the above described properties shall pass to and vest in my Children, in fee simple, as their property absolutely, however, I direct that the Children shall have the right to make Oil, Gas, Uranium and other Mineral Leases,

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on 05/05/2020 09:51:55 AM



Carol Swize, County Clerk
Karnes County, Texas

By [Signature] Deputy

and shall receive the bonuses and delay rentals from their respective tracts, however, I further direct that the Royalty in and under all of the above described Tracts of land shall remain undivided and the Children shall share equally in such Royalty.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Wife, THERESA PAWELEK, in fee simple, as her property absolutely.

In the event that my Wife, THERESA PAWELEK, shall predecease me or fails to survive me by Thirty (30) days, then and in such event, I give, devise and bequeath unto my Children, above named, the real property as hereinabove specifically bequeathed under Paragraph VII of this my Last Will and Testament, under all the same terms and conditions as hereinabove specified.

I further give, devise and bequeath any of the Cattle located or situated on the respective tracts to the Child or Children receiving those respective tracts.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Children, above named, in equal shares, share and share alike in fee simple, as their property absolutely.

In the event that any of my Children, hereinabove named, shall predecease me leaving no Children them surviving, then and in such event, I direct that such deceased Child's portion of my estate, whether the same be a remainder interest or a present interest, shall be divided equally among my surviving Children, in accordance with all provisions of this my Last Will and Testament.

In the event that any Children of mine, hereinabove named, shall predecease me, leaving Children them surviving, then I direct that such deceased Child's portion of my estate, whether the same be a remainder or present interest, shall be delivered over to the surviving Children of my deceased Child, provided that the Children of my deceased Child have attained the age of Eighteen (18) years. In the event that such Children of my deceased Child have not attained the age of Eighteen (18) years, then and in such event, I direct that such Deceased Child's portion of my estate, whether the same be remainder or present interest,

- Page Six -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:52:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Alfred Velp Deputy

shall be delivered over to the Trustee, hereinabove named, under and in accordance with all provisions of this my Last Will and Testament.

In the event that any of my Children, hereinabove named, who receive or are to receive any of my property, under the terms of this Will, whether present or remainder interest, shall be below the age of Eighteen (18) years, then and in such event, I direct that such Child's portion of my estate shall be calculated and determined, and shall be delivered over to the Trustee hereinabove named, to be held in Trust for the benefit of such minor Child, until such minor Child shall attain the age of Eighteen (18) years, in accordance and under the provisions of the Paragraphs hereinabove and hereinafter recited, of this my Last Will and Testament.

VIII.

In the event any beneficiary in this my Last Will and Testament, whether the same be my Child, Children, Grandchildren, or otherwise, shall receive, or be entitled to any property under this my Last Will and Testament, and such beneficiary, shall be below the age of Eighteen (18) years, then and in such event, I give, devise and bequeath such beneficiary's portion of my estate, to the Trustee, hereinabove named, and direct that the Trustee is to take, hold, receive, manage, invest, and reinvest the same, and to apply such part of the income thereof, and/or the principal, as he shall see fit for the education, support, maintenance and welfare of such beneficiary, until such beneficiary shall attain the age of Eighteen (18) years to pay over and transfer to him the principal fund and accumulated income thereon so held in Trust. In the event that said beneficiary shall not attain the age of Eighteen (18) years, my Trustee shall hold such Trust fund in Trust for his issue living at his death, and if there be none such, then in Trust for such person as would be entitled to his estate upon his dying intestate. I direct that such Trustee shall have all the powers conferred upon him by the Texas Trust Act, and in addition shall act without any bond, and without the supervision of any Court. I further direct that such Trustee shall receive no compensation for acting in the office as such.

IX.

My Wife and I are executing Wills at approximately the same time in which each of us is the primary beneficiary of the Will of the other.

- 1 - Seven -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:52:20 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

shall be delivered over to the Trustee, hereinabove named, under and in accordance with all provisions of this my Last Will and Testament.

In the event that any of my Children, hereinabove named, who receive or are to receive any of my property, under the terms of this Will, whether present or remainder interest, shall be below the age of Eighteen (18) years, then and in such event, I direct that such Child's portion of my estate shall be calculated and determined, and shall be delivered over to the Trustee hereinabove named, to be held in Trust for the benefit of such minor Child, until such minor Child shall attain the age of Eighteen (18) years, in accordance and under the provisions of the Paragraphs hereinabove and hereinafter recited, of this my Last Will and Testament.

VIII.

In the event any beneficiary in this my Last Will and Testament, whether the same be my Child, Children, Grandchildren, or otherwise, shall receive, or be entitled to any property under this my Last Will and Testament, and such beneficiary, shall be below the age of Eighteen (18) years, then and in such event, I give, devise and bequeath such beneficiary's portion of my estate, to the Trustee, hereinabove named, and direct that the Trustee is to take, hold, receive, manage, invest, and reinvest the same, and to apply such part of the income thereof, and/or the principal, as he shall see fit for the education, support, maintenance and welfare of such beneficiary, until such beneficiary shall attain the age of Eighteen (18) years to pay over and transfer to him the principal fund and accumulated income thereon so held in Trust. In the event that said beneficiary shall not attain the age of Eighteen (18) years, my Trustee shall hold such Trust fund in Trust for his issue living at his death, and if there be none such, then in Trust for such person as would be entitled to his estate upon his dying intestate. I direct that such Trustee shall have all the powers conferred upon him by the Texas Trust Act, and in addition shall act without any bond, and without the supervision of any Court. I further direct that such Trustee shall receive no compensation for acting in the office as such.

IX.

My Wife and I are executing Wills at approximately the same time in which each of us is the primary beneficiary of the Will of the other.

- 1 - Seven -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:54:13 AM



Carol Swizo, County Clerk
Karnes County, Texas

By  Deputy

These Wills are not executed because of any agreement between my Wife and myself. Either Will may be revoked at any time at the sole discretion of the maker thereof.

X.

If any provision of this Will or of any Codicil thereto is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective so far as is possible and reasonable.

XI.

As used in this Will, whenever the context so indicates, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others.

I now make and publish this foregoing instrument consisting of Eight (8) Typewritten Pages, as my Last Will and Testament, hereto signing and subscribing my name on this the 6th day of October, 1980, in the presence of my subscribing witnesses.

Ben J. Pawelek, Jr.
BEN J. PAWELEK, JR.

The undersigned, each being over fourteen (14) years of age, hereby declare that BEN J. PAWELEK, JR., Testator, declared to us that the foregoing instrument is his Last Will and Testament and he requested us to act as witnesses to same and to his signature thereon. He thereupon signed said Will in our presence, all of us being present at the same time. And we now, at his request, in his presence and in the presence of each other, do hereunto sign our names as attesting witnesses, all done this 6th day of October, 1980, A.D., at Kenedy, Karnes County, Texas. We and each of us, declare that we believe the said Testator to be of sound mind and memory.

Witness: Deanna Moran

Address: P.O. Box 1754

Kenedy, Texas 78119

Witness: John W. Berny

Address: P.O. Box 740

Kenedy, Texas 78119

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on 05/05/2020 09:54:18 AM



Carol Swize, County Clerk
Karnes County, Texas

By Will Keizer Deputy

APPENDIX “C”

**Certified Copy of the Gift Deed from
Theresa Pawelek to Alvin J. Pawelek conveying
64.5 acres out of the 209.47 acre tract, described
therein by metes and bounds, recorded in the
Official Public Records of Karnes County, Texas**

THE STATE OF TEXAS § GIFT DEED
 §
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

That I, THERESA PAWELEK, of the County of Karnes and State of Texas, hereinafter called "GRANTOR", for and in consideration of the love and affection which I have and bear unto and towards my son, ALVIN JAMES PAWELEK, hereinafter called "GRANTEE", have GIVEN, GRANTED AND CONVEYED, and by these presents do hereby GIVE, GRANT AND CONVEY, unto ALVIN JAMES PAWELEK whose address is 1402 22nd Street, Hondo, Texas 78861, as his separate property and estate, an undivided interest in and to a 64.5 acre interest of land situated in Karnes County, Texas, more particularly described as follows, to wit:

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A.F. Pawelek and Mary Pawelek to V.E. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the E. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract hrs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibelo Creek intersects the San Antonio River hrs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:58:21 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

PA 0739/ME/064

minutes E. -548.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. Line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract.

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -386.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 52 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes E. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.30 feet to a point for the Southeast corner of this tract and the Northeast corner if the E. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.6 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

SAVE AND EXCEPT, and there is hereby reserved unto GRANTOR, her heirs and assigns, all of the oil, gas and other minerals and royalty, specifically including radio active minerals whether production be obtained by surface destruction or otherwise, in and under and that may be produced from the above described property, together with the right of ingress and egress at all

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:59:28 AM



Carol Swize, County Clerk
Karnes County, Texas

By Walter Keiper Deputy

FM 0739 INC 085

times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, and this reservation shall subsist and be in full force and effect perpetually from date hereof.

TO HAVE AND TO HOLD the above described property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said GRANTEE, his heirs, personal representatives, successors and assigns forever; and I do hereby bind myself, my heirs, personal representatives, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said property unto the said GRANTEE and to his heirs, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

0739 REC 065

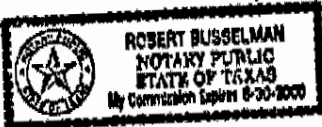
EXECUTED on this the 13th day of December, 1999.

Theresa Pawelek
THERESA PAWELEK

STATE OF TEXAS §
COUNTY OF KARNES §

This instrument was acknowledged to before me on this the 13th day of December, 1999, by THERESA PAWELEK.

[Signature]
Notary Public, State of Texas



REGISTERED

55073

RECORDED OFFICIAL RECORDS
FILE DATE Dec 13 1999
FILE TIME 11:20:00 AM
VOL. 249 PAGE 067
RECORDING DATE Dec 13 1999
ELIZABETH SWIZE
COUNTY CLERK, KARNES COUNTY
BY [Signature]

Filed For Record the 13
day of Dec A.D. 1999
At 2:30 o'clock P.M.
ELIZABETH SWIZE
Clerk, Karnes County, Texas
BY [Signature] Deputy

Robert Buselman

COUNTY OF KARNES
STATE OF TEXAS
COUNTY CLERK
CERTIFIED COPY CERTIFICATE
The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/08/2020 09:59:35 AM
Carol Swize, County Clerk
Karnes County, Texas
By [Signature] Deputy

06250011178971
78701

Law Offices Of
MCCARTHY & MCCARTHY, L.L.P.
1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701

Sarah Henderson, Project Manager (MC-160)
Water Rights Permitting, Water Availability Div.
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

RECEIVED
MAY 8 9 2020
TCEQ MAIL CENTER
HH

872058 20
US POSTAGE
FIRST-CLASS
06250011178971
78701
\$1.80
06250011178971
78701

LAW OFFICES OF
McCARTHY & McCARTHY, L.L.P.

1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701
(512) 904-2310
(512) 692-2826 (FAX)

May 7, 2020

Sarah Henderson, Project Manager, MC-160
Water Rights Permitting Section
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

via e-mail & regular mail

Re: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 19-3162A to Amend Water Use Permit No. 19-3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Ms. Henderson:

I am writing to you on behalf of Andrew and Joyce Rives (the "Rives") in connection with your letter dated April 21, 2020, requesting additional information ("RFI") regarding Application No. 19-3162A to amend Certificate of Adjudication No. 19-3162. My letter is limited to your RFI No. 1, which reads as follows:

- 1. Provide recorded copies of legal documents establishing the current owner of the 209.47 acre-tract.**

Staff acknowledges receipt of a *Warranty Deed* dated January 19, 2013 conveying the entire said 209.47-acre tract from Joyce P. Rives to Panna Maria Investments II, LP; however, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives are also named owners of the tract in the Consent Agreement submitted. Note: the deeds provided must be in the name of the applicant or provide proper consent.

Response: Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives are named as owners of the tract in question in the Consent Agreement submitted in support of the Application. No "deed" reflecting their ownership interest in the subject property referenced in the Application was submitted because their respective undivided ownership

RECEIVED

MAY 11 2020

Water Availability Division

interests in the property are not the result of a traditional conveyance by deed. Instead, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives derive their title interest in the property through inheritance. Specifically, in his Will, Alvin J. Pawelek, their Uncle (their Mother's Brother) left them each an undivided one-quarter interest in his 129-acre undivided interest in 209.47 acres located in Karnes County, Texas, which is the "Benefited" Properties described in in the Consent Agreement included in the Application. A certified copy of Alvin Pawelek's Will, as recorded in the Official Public Records of Karnes County, Texas, which is identical to the Will of Alvin Pawelek included in the Application, is attached hereto as Appendix "A."

According to the last page of Alvin Pawelek's Will, the 129-acre interest in the 209.47-acre "Benefited" Property, owned by Alvin L. Pawelek was inherited from his father (the grandfather of Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives) the late Ben J. Pawelek, Jr. The 209.47-acre tract, out of which Alvin James Pawelek was bequeathed the 129-acre interest, is described by metes and bounds on pages four and five of the Ben J. Pawelek, Jr., Last Will and Testament, recorded in Volume 94, Pages 476-484 of the Official Public Records of Karnes County on June 26, 1986. A certified copy of Ben J. Pawelek, Jr.'s Will is attached hereto as Appendix "B." The enclosed certified copy of Ben J. Pawelek, Jr.'s Will is identical to the copy included in the Application.

Additionally, by Gift Deed dated December 13, 1999, and recorded in Volume 739, Pages 64 *et seq* of the Karnes County Deed Records, Alvin Pawelek's Mother, Theresa Pawelek, conveyed an undivided interest in and to 64.5 acres out of the 209.47-acre tract described herein. Mr. Pawelek's interest derived from that Gift Deed is also bequeathed in the same provision of his Will discussed above to Sarah Rives, Stacey Rives, Charles Rives and Stephany Rives. A certified copy of the Gift Deed, identical to the Gift Deed included in the Application, is attached hereto as Appendix "C."

As evidenced by the discussion above, and the attached copies of Certified Records from the Official Public Records of Karnes County, Texas, Sarah Rives, Stacey Rives, Charles Rives and Stephany Rives, as the heirs of Alvin James Pawelek are record title holders of equal one-quarter undivided interests in 129 acres out of the 209.47-acre tract described in the Application as one of the "Benefited" Properties. While not "deeds" per se, the documents in the form of the Wills operate as "muniments of title" to effect the transfer of title from the Testator to the named Heir(s), which in this case means Sarah Rives, Stacey Rives, Charles Rives, and Stephany Rives. *See generally* Chapter 257, Texas Estates Code.

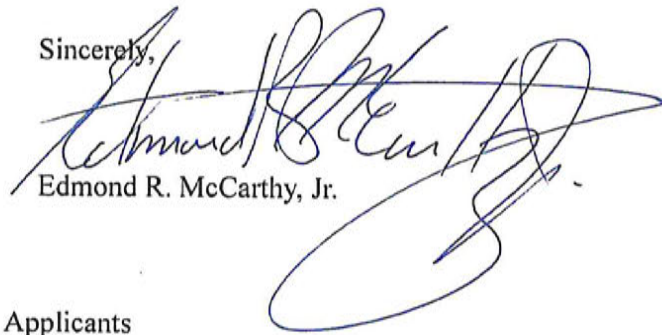
The two Wills, together with the Gift Deed, all recorded in the Official Public Records of Karnes County, form a chain of title the equivalent of a traditional conveyance by deed to establish the title interests of Sarah R. Fossum, Stacey R. Roy, Charles B. Rives, and Stephany Rives in response to RFI No. 1 above. I believe Appendices "A" through "C", inclusive, are responsive to your request.

May 7, 2020
Page 3

Please let me know if you have any questions. The Rives and I appreciate the support and hard work of you and your team on this project.

Best wishes.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edmond R. McCarthy, Jr.", with a large, stylized flourish at the end.

Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc: Andrew Rives and Joyce P. Rives, Applicants

APPENDIX “A”

**Certified Copy of the Last Will and Testament
of Alvin J. Pawelek recorded in the
Official Public Records of Karnes County, Texas**

LAST WILL AND TESTAMENT

of

ALVIN J. PAWELEK

I, ALVIN J. PAWELEK, of the County of Medina and the State of Texas, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will and Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I.

IDENTITY OF THE FAMILY

At the time of the execution of this Will, I am not married and I have no children.

II.

PAYMENT OF EXPENSES

I direct that all the expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States Government or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging said indebtedness, if in my Independent Executrix's judgment, the condition of my estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III.

DISPOSITION OF ESTATE

A. I give, devise and bequeath all of my right, title and interest in that certain undivided One Hundred Twenty Nine Acres of land, located in Panna Maria, Karnes County, Texas, to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike. It is the intent of this bequest that the aforementioned legatees be seized of a one quarter (1/4) interest, being approximately 32.25 acres of land, more or less, in the undivided tract which is more fully described in the Last Will and Testament of Ben J. Pawelek, Jr., in Volume 94, Page 476, and that certain Gift Deed at Volume 739, Page 64, of the deed records of Karnes County, Texas.

B. I give, devise and bequeath Ten Thousand (\$10,000.00) Dollars to LEROY J. PAWELEK, for the benefit of, and to be held in trust for, BEN PAWELEK, my nephew, until he reaches eighteen (18) years of age, at which time this money and any interest related to the principal may be used for college tuition for BEN PAWELEK. Should BEN PAWELEK reach the age of eighteen and not desire to attend college, then at the age of twenty-one (21) years, the entire principal and interest of the account will be distributed to BEN PAWELEK for his use and enjoyment in any fashion he should please.

C. I give, devise and bequeath Five Thousand (\$5,000.00) Dollars to ROSE ORTIZ. ROSE ORTIZ has long been my friend and has provided me valuable assistance over the years and I wish to express my gratitude with this gift.

D. I give, devise and bequeath my 2002 Chevy Silverado Truck to CHARLES RIVES.

Also my grand father's clock to CHARLES RIVES

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:55:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Walter Reyes Deputy

E. I give, devise and bequeath my IRA and Bank Accounts to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike.

F. I give, devise and bequeath all of my camping equipment to CHARLES RIVES and BEN PAWELEK, in equal shares, share and share alike.

G. I give, devise and bequeath all of my fishing equipment to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

H. I give, devise and bequeath all of my guns to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

I. I give, devise and bequeath all of the rest of my estate of whatsoever kind and wheresoever situated as follows: my niece's and nephew's share and share alike.

J. Any other property of mine that has not been disposed of under any other provision of this Will shall go and be distributed to my heirs-at-law. Their identity and respective shares shall be determined in all respects as if my death had occurred immediately following the happening of the event requiring such distribution, and according to the laws of Texas then in force governing the distribution of the estate of an intestate.

IV.

DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person or beneficiary with respect to all or any part of my estate who shall not survive until ninety (90) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such person had predeceased me.

V.

APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute and appoint my Sister, JOYCE ANN PAWELEK RIVES, as Independent Executrix of my estate.

B. If any individual Independent Executor or Executrix becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two medical doctors (neither of whom is a beneficiary under this Will) affirming that each has examined the Independent Executor or Executrix and that each has concluded, based on such examination, that the Independent Executor or Executrix is unable to discharge his or her duties under this Will, the Independent Executor or Executrix shall cease to serve, as if he or she had resigned, effective the date of the certification.

C. It is my will and desire and I hereby direct that in the administration of my estate, my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action shall be had in any court in the administration of my estate other than the probating of this, my Last Will and Testament, and the filing of any Inventory, Appraisal and List of Claims of my estate that may be required.

AP

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:55:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

VI.

POWERS OF EXECUTOR

The estate created or arising by virtue of my death and this instrument, my Last Will and Testament, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix or any successor named above, full power and authority over any and all of my estate and they are hereby authorized to sell, manage, and dispose of the same or any part thereof, and in connection with any such sale or transaction, make, execute and deliver proper deeds, assignments and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix or any successor named above, shall have full power and authority to compromise, settle and adjust any and all debts, claims and taxes which may be due from or owing by my estate.

C. My Independent Executrix or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

D. My Independent Executrix or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

E. As compensation for her services hereunder, my Independent Executrix or any successor named above shall be entitled to charge the same fees customarily charged for similar services in other estates at the time the services are rendered.

VII.

SPENDTHRIFT PROVISION

No interest of any beneficiary in the corpus or income of my estate shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary and may not otherwise be alienated or encumbered by such beneficiary, except as may be otherwise expressly provided herein.

VIII.

DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Last Will and Testament, and the administration of the estate established herein, the following provisions shall apply:

A. The words "child, children, descendants, issue," and similar terms shall be deemed only to include children born to, or adopted (on or before eighteen years of age) in, a lawful marriage.

B. When a distribution is directed to be made to any person's descendants "per stirpes," the division into stirpes shall begin at the generation nearest to such person that has a living member.

C. The use of the masculine, feminine or neuter genders shall be interpreted to include the other genders, and the use of either the singular or the plural number shall be interpreted to include the other number, unless such an interpretation in a particular case is inconsistent with the general tenor of this instrument. Any references herein relating to my Independent Executrix shall include her successors regardless of the gender of the successors.

AP

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
06/05/2020 09:55:09 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

SELF-PROVING AFFIDAVIT

STATE OF TEXAS

§
§
§

COUNTY OF MEDINA

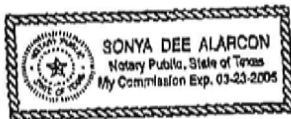
BEFORE ME, the undersigned authority, on this day personally appeared ALVIN J. PAWELEK, Nora A Skau and Robert S May, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said ALVIN J. PAWELEK, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testator, that the said Testator had declared to them that said instrument is his Last Will and Testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that said Testator was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Alvin J. Pawelek
ALVIN J. PAWELEK, Testator

Nora A Skau
Witness

Robert S May
Witness

SUBSCRIBED AND SWORN TO BEFORE ME, by the said ALVIN J. PAWELEK, Testator, and by the said Nora A Skau and Robert S May, Witnesses, this 5th day of AUGUST, A.D. 2004.



Sonya Dee Alarcon
Notary Public, State of Texas

AD

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on 05/05/2020 09:55:09 AM



Carol Swiza, County Clerk
Karnes County, Texas
By Carol Swiza Deputy

D. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, ALVIN J. PAWELEK, hereby sign my name to this, my last Will, on each page of which I have placed my initials, on this 5th day of August 2004, at Hondo, Texas.

Alvin J. Pawelek

ALVIN J. PAWELEK, Testator

ATTESTATION

The foregoing instrument was signed in our presence by ALVIN J. PAWELEK and declared by him to be his last Will. We, at the request and in the presence of ALVIN J. PAWELEK and in the presence of each other, have subscribed our names below as witnesses on this 5th day of August, 2004.

Donna A. Shaw

Witness *Donna A. Shaw*

491 N. Sunset Strip Ste 109
Street Address

Kenedy TX

City and State

Robert S. May

Witness *Robert S. May*

491 N. Sunset Strip Ste 109
Street Address

Kenedy TX 78119

City and State

FILED
April 18, 2005
At 4:15 o'clock P.M.
ALVA JONAS
COUNTY CLERK
KARNES COUNTY TEXAS
Maileen Bedney
Deputy

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES
The above is a full true and correct photographic copy of the original record
in my lawful custody and possession, as the same is recorded in
the Official Public records in my office, and I hereby certify on
05/08/2005 08:55:09 AM
Carol Swize, County Clerk
Karnes County, Texas
By *Carol Swize* Deputy

APPENDIX “B”

**Certified Copy of the Last Will and Testament
of Ben J. Pawelek, Jr., recorded in the
Official Public Records of Karnes County, Texas**

THE STATE OF TEXAS § LAST WILL AND TESTAMENT OF BEN J. PAWELEK, JR.
 COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

I, BEN J. PAWELEK, JR., a resident of Karnes County, Texas, being of sound mind and disposing memory, and above the age of Eighteen (18) years, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils previously made by me.

I.

I declare that the following is a true and correct statement of my marital and family history as of the date of the making of this, my Last Will and Testament:

I am married to THERESA PAWELEK and I have the following Children, now Living, whose names and Status are:

<u>NAME</u>	<u>STATUS</u>
JOYCE ANN PAWELEK RIVES	Adult
ALVIN JAMES PAWELEK	Adult
LEROY JOHN PAWELEK	Minor

All references in this my Last Will and Testament to my Wife are references to the above named THERESA PAWELEK; all references in this my Last Will and Testament to my Children include not only the above Children, but also any child hereafter born to or adopted by me. For the purposes of this Will references shall be made to "my Children" which is in the plural, and this is purposely done so that any Children hereinafter adopted by me or born to me, shall be included in this my Last Will and Testament.

II.

I direct that at the time of my Death I be given a Christianlike funeral appropriate to my station in life. I further direct that all of my just Debts, including all expenses of my last illness, funeral and burial, and the expense of a suitable monument at my grave, shall be paid by my Executor or Executrix, as the case may be, as soon as reasonably convenient after my Death.

III.

It is my intention by this Will to dispose of all the Property,

- Page One -

CERTIFIED COPY CERTIFICATE
 STATE OF TEXAS
 COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
 05/05/2020 09:51:08 AM



Carol Swize, County Clerk
 Karnes County, Texas

By Alvin Kasper Deputy

and any interest in any property, I own, wherever situated, and of whatever type, be the same real or personal.

IV.

I hereby nominate, constitute and appoint my Wife, THERESA PAWELEK, as Independent Executrix of this my Last Will and Testament. In the event that my Wife, THERESA PAWELEK, shall predecease me, fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Independent Executor of this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me or fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Independent Executrix of this my Last Will and Testament.

I direct that no bond or other security shall be required of any Executor appointed in this my Last Will and Testament. My executor or Executrix, whether original or substitute is referred to herein as my "Executor". I further direct that my Executor, herein appointed, shall serve without the supervision of any Court, and that no action shall be had in the County Court, or in any other Court, in relation to the settlement of my Estate, other than the probating and recording of this Will and the return of the statutory Inventory, Appraisement and List of Claims of said Estate and of all claims due and owing by me at the time of my Death.

V.

I hereby nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Trustee over any Trust, original or residuary, created in this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me, fail to qualify, resign or cease to act as such Trustee for any reason, then I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Trustee over such Trust.

I direct that such Trustee shall serve without bond, and without the supervision of any Court and without compensation of any type.

- Page Two -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on

05/05/2020 09:51:17 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

If my Wife, THERESA PAWELEK, does not survive me, then and in such event I appoint my Daughter, JOYCE ANN PAWELEK RIVES, as the Guardian of the person of each of my minor Children. In the event that my Daughter, JOYCE ANN PAWELEK RIVES, shall predecease me, fail to qualify, resign or cease to act for any reason as Guardian, then I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Guardian of the person of each of my minor children.

No bond or other security shall be required in any jurisdiction of any of the above parties for the performances of her respective duties as Guardian. Further, such Guardian shall receive no compensation for acting in such capacity.

VII.

I hereby give, devise and bequeath unto my Son, LEROY JOHN PAWELEK, the following described Tract of land, in fee simple, as his property absolutely.

FIRST TRACT:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, and described by metes and bounds as follows:
 BEGINNING at a stake in the lower line of the Old Biela Place set for the East Corner of 250 acres conveyed to Susan Biela and being the South Corner of this tract;
 THENCE with the N.E. line of said 250 acres, N. 29 W. 689 vrs. to a stake in the upper line of the said Biela Place set for the North corner of said 250 acre tract;
 THENCE with said line N. 61 E. 939 vrs. to the West boundary line of the Helens and Floresville Road being 30 feet from the fence on the East side of said road;
 THENCE with the West side of said road, S. 33 E. 295 vrs.; S. 24-1/2 E. 235 vrs.; S. 30-1/2 E. 60 vrs.; S. 55-1/2 E. 109 vrs. to the corner post on the West side of said road in the lower line of the Biela Place;
 THENCE with the said line S. 61 W. 995 vrs. to the Place of Beginning Containing 116 acres of land. And Being the same land described in a deed from R. H. Fechner to Ben Pawelek dated Oct. 5, 1924, recorded in Vol. 75, Page 140, Deed Records of Karnes County, Texas.

SECOND TRACT:

All that certain tract or parcel of land lying and being in the County of Karnes and State of Texas, and is 100 acres out of the Manuel Lopez Original Grant on the Cibolo River, said 100 acres being the lower half of a 200 acre tract, said 200 acre tract being described by field notes:
 BEGINNING at a pecan tree mxd. O & B from whence another Pecan Tree Mxd. J Bra. N. 14-1/2 E. 15 vrs.;
 THENCE N. 61 E. with the S.E. line of the land of Mrs. Susan Biela at 5811 vrs. to the corner of same in division line of the Manuel Lopez and Jesus Hernandez Surveys;
 THENCE S. 29 E. with said division line at 197.2 vrs. a stake in said line for corner;
 THENCE S. 61 W. parallel with the North line of this survey 5663 vrs. to the lower bank of the Cibolo River a stake for corner, from whence a Hackberry tree mxd. X Bra. N. 51 E. 31-1/2 varas;

- Page Three -

CERTIFIED COPY CERTIFICATE
 STATE OF TEXAS
 COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
 05/05/2020 09:51:27 AM



Carol Swizo, County Clerk
 Karnes County, Texas

By Carol Swizo Deputy

THENCE up the river with its meanders to the Place of Beginning. As before stated the 100 acres herein conveyed being the lower part of the said 200 acres, the upper 100 acres having been conveyed by Domin Opieła to John W. Pawelek on Dec. 10, 1907. And being the same land described in a deed from Ignac Pawelek to Ben Pawelek dated Oct. 7, 1916, recorded in Vol. 60, Page 573, Deed Records of Karnes County, Texas.

SAVE AND EXCEPT HOWEVER:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, about 10 miles North of the town of Karnes City on the Cibolo River and described by metes and bounds as follows:

BEGINNING at a corner post in the East line of the Old Helena and San Antonio Road, being the S.W. corner of the Anton Foegelle tract of land;

THENCE with the North line of the Ben Pawelek tract and the South line of the Foegelle tract of land, N. 61 E. 747 vrs. to a stake and N.W. corner of a tract of land now owned by Ignatz Pawelek;

THENCE S. 29 E. 197.2 vrs. to a stake and the S.W. corner of the Ignatz Pawelek tract of land in the North line of the Mrs. Mary Pawelek lands;

THENCE with the North line of the Mary Pawelek tract of land, S. 61 W., 656 vrs. to a corner post in the East line of the Helena and San Antonio Public Road;

THENCE with the East line of the road, N. 51-1/4 W., 212.5 vrs. to the Place of Beginning, Containing 24.6 acres of land. And

Being the same land described in a Deed from Ben X. Pawelek, et ux. to Ignatz Pawelek dated Nov. 16, 1925, recorded in Vol. 78, Page 122, Deed Records of Karnes County, Texas.

I hereby give, devise and bequeath unto my Children, JOYCE a 75 acre Interest and ALVIN JAMES PAWELEK, a 129 acre Interest in ANN PAWELEK RIVES and ALVIN JAMES PAWELEK, the following described

Tract of land, ~~in equal shares with Mrs. Ann Pawelek, Mrs. Dora Pawelek,~~

as their property absolutely.

B.J.P.

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit: All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A. F. Pawelek and Mary Pawelek to V. S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the Z. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28 minutes E. -548.4 feet to the P.T. of same;

- Page Four -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public Records in my office, and I hereby certify on
05/05/2020 09:51:40 AM



Carol Swize, County Clerk

Karnes County, Texas

By *Alvin James Pawelek* Deputy

THENCE continuing with fence and South R.O.W. line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract;

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
 2. S. 13 degrees 48 minutes E. -148.30 feet;
 3. S. 00 degrees 52 minutes E. -879.40 feet;
 4. S. 03 degrees 29 minutes W. -443.50 feet;
 5. S. 05 degrees 51 minutes E. -280.50 feet;
 6. S. 37 degrees 43 minutes E. -167.10 feet;
 7. S. 51 degrees 46 minutes E. -326.90 feet;
 8. S. 64 degrees 48 minutes E. -286.50 feet;
 9. S. 86 degrees 57 minutes E. -620.40 feet;
 10. N. 77 degrees 23 minutes E. -244.80 feet;
 11. N. 59 degrees 31 minutes E. -406.00 feet;
 12. N. 53 degrees 09 minutes E. -366.10 feet;
 13. S. 60 degrees 23 minutes E. -144.70 feet;
 14. S. 37 degrees 35 minutes E. -247.80 feet;
 15. S. 38 degrees 21 minutes W. -234.70 feet;
 16. S. 22 degrees 46 minutes E. -256.10 feet;
 17. S. 09 degrees 47 minutes W. -143.30 feet;
 18. S. 77 degrees 05 minutes W. -175.50 feet;
 19. S. 30 degrees 38 minutes W. -237.70 feet;
 20. S. 46 degrees 40 minutes W. -217.60 feet;
 21. S. 75 degrees 50 minutes W. -167.40 feet;
 22. N. 77 degrees 40 minutes W. -440.40 feet;
 23. S. 76 degrees 03 minutes W. -204.00 feet;
 24. S. 34 degrees 43 minutes W. -174.40 feet;
 25. N. 72 degrees 34 minutes W. -97.00 feet;
 26. N. 38 degrees 20 minutes W. -158.00 feet;
 27. N. 19 degrees 17 minutes W. -226.40 feet;
 28. N. 48 degrees 07 minutes W. -297.00 feet;
 29. N. 60 degrees 36 minutes W. -241.70 feet;
 30. S. 84 degrees 33 minutes W. -184.60 feet;
 31. S. 38 degrees 36 minutes W. -274.20 feet;
 32. S. 14 degrees 26 minutes W. -192.00 feet;
 33. S. 00 degrees 09 minutes W. -160.00 feet;
 34. S. 11 degrees 06 minutes W. -229.00 feet;
 35. S. 01 degrees 15 minutes E. -384.30 feet and
 36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the Z. Keller 140 acre tract;
- THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.
- The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

The bequests herein made to my Children, shall be burdened with a Life Estate for the benefit of my Wife, THERESA PAWELEK, that is to say, that in the event that my Wife survives me, then and in such event, she shall have the use and benefit, and the income therefrom, including income from any oil, gas and uranium minerals, for the balance of her natural life, and at her death, then the above described properties shall pass to and vest in my Children, in fee simple, as their property absolutely, however, I direct that the Children shall have the right to make Oil, Gas, Uranium and other Mineral Leases,

- Page Five -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on

06/05/2020 09:51:55 AM



Carol Swizo, County Clerk
Karnes County, Texas

By Carol Swizo Deputy

and shall receive the bonuses and delay rentals from their respective tracts, however, I further direct that the Royalty in and under all of the above described Tracts of land shall remain undivided and the Children shall share equally in such Royalty.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Wife, THERESA PAWELEK, in fee simple, as her property absolutely.

In the event that my Wife, THERESA PAWELEK, shall predecease me or fails to survive me by Thirty (30) days, then and in such event, I give, devise and bequeath unto my Children, above named, the real property as hereinabove specifically bequeathed under Paragraph VII of this my Last Will and Testament, under all the same terms and conditions as hereinabove specified.

I further give, devise and bequeath any of the Cattle located or situated on the respective tracts to the Child or Children receiving those respective tracts.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Children, above named, in equal shares, share and share alike in fee simple, as their property absolutely.

In the event that any of my Children, hereinabove named, shall predecease me leaving no Children them surviving, then and in such event, I direct that such deceased Child's portion of my estate, whether the same be a remainder interest or a present interest, shall be divided equally among my surviving Children, in accordance with all provisions of this my Last Will and Testament.

In the event that any Children of mine, hereinabove named, shall predecease me, leaving Children them surviving, then I direct that such deceased Child's portion of my estate, whether the same be a remainder or present interest, shall be delivered over to the surviving Children of my deceased Child, provided that the Children of my deceased Child have attained the age of Eighteen (18) years. In the event that such Children of my deceased Child have not attained the age of Eighteen (18) years, then and in such event, I direct that such Deceased Child's portion of my estate, whether the same be remainder or present interest,

- Page Six -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:52:00 AM



Carol Swize, County Clerk
Karnes County, Texas

By Carol Swize Deputy

These Wills are not executed because of any agreement between my wife and myself. Either Will may be revoked at any time at the sole discretion of the maker thereof.

X.

If any provision of this Will or of any Codicil thereto is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective so far as is possible and reasonable.

XI.

As used in this Will, whenever the context so indicates, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others.

I now make and publish this foregoing instrument consisting of Eight (8) Typewritten Pages, as my Last Will and Testament, hereto signing and subscribing my name on this the 6th day of October, 1980, in the presence of my subscribing witnesses.

Ben J. Pawelek, Jr.
BEN J. PAWELEK, JR.

The undersigned, each being over fourteen (14) years of age, hereby declare that BEN J. PAWELEK, JR., Testator, declared to us that the foregoing instrument is his Last Will and Testament and he requested us to act as witnesses to same and to his signature thereon. He thereupon signed said Will in our presence, all of us being present at the same time. And we now, at his request, in his presence and in the presence of each other, do hereunto sign our names as attesting witnesses, all done this 6th day of October, 1980, A.D., at Kenedy, Karnes County, Texas. We and each of us, declare that we believe the said Testator to be of sound mind and memory.

Witness: Deanna M. M...

Address: 2034 1754

Kenedy, Texas 78119

Witness: John W. Berry

Address: P.O. Box 740

Kenedy, Texas 78119

- Page Eight -

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on 05/05/2020 09:54:18 AM



Carol Swize, County Clerk
Karnes County, Texas
By Will Keizer Deputy

APPENDIX “C”

**Certified Copy of the Gift Deed from
Theresa Pawelek to Alvin J. Pawelek conveying
64.5 acres out of the 209.47 acre tract, described
therein by metes and bounds, recorded in the
Official Public Records of Karnes County, Texas**

THE STATE OF TEXAS § GIFT DEED
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

That I, THERESA PAWELEK, of the County of Karnes and State of Texas, hereinafter called "GRANTOR", for and in consideration of the love and affection which I have and bear unto and towards my son, ALVIN JAMES PAWELEK, hereinafter called "GRANTEE", have GIVEN, GRANTED AND CONVEYED, and by these presents do hereby GIVE, GRANT AND CONVEY, unto ALVIN JAMES PAWELEK whose address is 1402 22nd Street, Honda, Texas 78861, as his separate property and estate, an undivided interest in and to a 64.5 acre interest of land situated in Karnes County, Texas, more particularly described as follows, to wit:

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A.F. Pawelek and Mary Pawelek to V.E. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the E. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract hrs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River hrs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degree 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 37 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28

IN 0730/2020

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public Records in my office, and I hereby certify on 05/05/2020 09:58:21 AM



Carol Swiza, County Clerk
Karnes County, Texas

By Alexander Deputy

minutes E. -548.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. Line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract.

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the water edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 54 degrees 48 minutes E. -386.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 52 minutes E. -355.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.60 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -173.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes E. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -150.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 19 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the E. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klump, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

SAVE AND EXCEPT, and there is hereby reserved unto GRANTOR, her heirs and assigns, all of the oil, gas and other minerals and royalty, specifically including radio active minerals whether production be obtained by surface destruction or otherwise, in and under and that may be produced from the above described property, together with the right of ingress and egress at all

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES

The above is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:59:28 AM



Carol Swize, County Clerk
Karnes County, Texas

By Walter Keiper Deputy

TA 07239 MK 065

IN 0739 REC 0856

times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, and this reservation shall subsist and be in full force and effect perpetually from date hereof.

TO HAVE AND TO HOLD the above described property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said GRANTEE, his heirs, personal representatives, successors and assigns forever; and I do hereby bind myself, my heirs, personal representatives, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said property unto the said GRANTEE and to his heirs, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

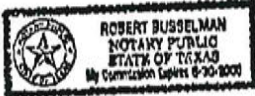
EXECUTED on this the 13th day of December, 1999.

Theresa Pawelek
THERESA PAWELEK

STATE OF TEXAS §
COUNTY OF KARNES §

This instrument was acknowledged to before me on this the 13th day of December, 1999, by THERESA PAWELEK.

[Signature]
Notary Public, State of Texas



REGISTERED

55073

RECORDED OFFICIAL RECORDS
FILE DATE Dec 13 1999
FILE TIME 11:20:00 AM
VOL. 289 PAGE 010

RECORDING DATE
Dec 13 1999



ELIZABETH SWIZE
COUNTY CLERK, KARNES COUNTY
BY *Wendy Redaway*

Filed For Record the 13
day of Dec, A.D. 1999
At 2:30 o'clock P.M.

ELIZABETH SWIZE
Clerk County of Karnes County, Texas
BY *[Signature]* Deputy

Robert Busseman



CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF KARNES
This is a full true and correct photographic copy of the original record now in my lawful custody and possession, as the same is recorded in the Official Public records in my office, and I hereby certify on
05/05/2020 09:59:35 AM



Carol Swize, County Clerk
Karnes County, Texas
By *[Signature]* Deputy

Sarah Henderson

From: Andy Rives [REDACTED]
Sent: Wednesday, May 6, 2020 4:54 PM
To: Sarah Henderson
Subject: Andrew and Joyce P Rives WRPERM No. 3162A
Attachments: 5-20 Reply letter to TCEQ.docx

Ms Henderson

In regards to your letter of April 21, 2020. Question #1 will be answered by Ed McCarthy, you should be receiving it soon. Attached is the answer to question #2. The additional fees of \$73.94 have been sent to the TCEQ and I have gotten a signed return receipt. I am sending you a signed copy of the attached letter via USPS mail.

If you should need any additional information please let me know.

Sincerely,
Andy Rives

May 5, 2020

Sarah Henderson, Project Manager, MC-160
Water Rights Permitting Section
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 19-3162A to Amend Water Use Permit No. 19-3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Ms. Henderson:

I am answering your question #2 in connection with your letter dated April 21, 2020 requesting additional information regarding Application No. 19-3162A to amend Certificate of Adjudication No. 19-3162. My letter is limited to only your No. 2, which reads as follows:

2. Confirm that the place of use for mining purposes is anywhere within the San Antonio River Basin. If so, provide the counties or portions of counties in which mining water will be used.

Response: Applicant requests to use the water diverted for mining purposes anywhere within the San Antonio River basin. The San Antonio River basin includes all or portions of the following counties: Atascosa, Bandera, Bexar, Comal, Dewitt, Goliad, Guadalupe, Karnes, Medina, Refugio, Victoria and Wilson.

In regards to #3 additional fees; I have sent to the TECQ a check for \$73.94 and have received a signed return receipt dated April 27, 2020

If you should require more information please let me know. I want to thank you and all the people at the Texas Commission for Environmental Quality for assisting me in getting this application processed.

Thank you all,

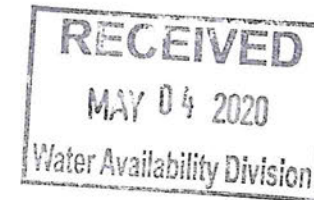
Andy Rives
2126 FM 2724
Hobson, Texas 78117
(830)-299-5036



29-APR-20 02:29 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M018464	1835		BS00080208	29-APR-20	-\$73.94
	WUP	ADJ193162A	042920	N	D0804758		
WATER USE PERMITS		RIVES, ANDREW L/JOYCE	VHERNAND	CK			
						Total (Fee Code):	-\$73.94
						Grand Total:	-\$243.94



Sarah Henderson

From: Sarah Henderson
Sent: Tuesday, April 21, 2020 3:32 PM
To: [REDACTED]
Subject: Andrew and Joyce P Rives WRPERM No. 3162A
Attachments: Rives_3162A_RFI_21Apr.pdf; Rives_3162A_Receipt.docx.pdf

Mr. Rives,

Please find the attached letter requesting additional information regarding the referenced water use amendment application. A receipt for fees paid is also attached. A response to the letter is due May 21, 2020. Feel free to contact me with any questions.

Sincerely,

Sarah Henderson
512.239.2535

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 21, 2020

Mr. Andrew Rives
2126 FM 2724
Hobson, Texas 78117

VIA E-MAIL

RE: Andrew Rives and Joyce P. Rives
WRPERM 3162
CN600753552, CN600753560, RN101448231
Application No. 19-3162A to Amend Water Use Permit No. 19-3162
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Cibolo Creek, San Antonio River Basin
Karnes County

Dear Mr. Rives:

This acknowledges receipt, on October 30, 2019, of the referenced water use permit application and fees in the amount of \$112.50 (Receipt No. M003446, copy enclosed).

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

1. Provide recorded copies of legal documents establishing the current owner of the 209.47 acre-tract.

Staff acknowledges receipt of a *Warranty Deed* dated January 19, 2013 conveying the entire said 209.47-acre tract from Joyce P. Rives to Panna Maria Investments II, LP; however, Sarah R. Fossum, Stacey R. Roy, Charles B. Rives and Stephany Rives are also named owners of the tract in the Consent Agreement submitted. Note: the deeds provided must be in the name of the applicant or provide proper consent.

2. Confirm that the place of use for mining purposes is anywhere within the San Antonio River Basin. If so, provide the counties or portions of counties in which mining water will be used.

3. Remit fees in the amount of **\$73.94** as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$ 100.00
Recording Fee	\$ 12.50
Storage Fee (\$0.50 x 142 acre-feet)	\$ 71.00
<u>Notice Fee (\$0.94 x 1 WR Holder)</u>	<u>\$ 2.94</u>
Total Fees	\$ 186.44
<u>Fees Received</u>	<u>\$ 112.50</u>
Fees Due	\$ 73.94

Please provide the requested information and fees by May 21, 2020 or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter please contact me via email at sarah.henderson@tceq.texas.gov or by telephone at (512) 239-2535.

Sincerely,

Sarah E Henderson

Sarah Henderson, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



Basis2 Receipt Report by Endorsement Number

APR-17-20 08:11 AM

Acct. #: WUP

Account Name: WATER USE PERMITS

<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>
	M003446	3162	RIVES, ANDY/JOYCE	CK	11870		BS00076290	01-NOV-19	\$112.50

October 28, 2019

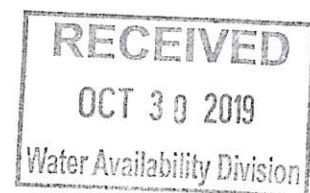
TCEQ
Water Availability
Attn: Sarah Henderson
MC-160 P.O. Box 13087
Austin, Texas 78711-3087

Dear Ms. Henderson,

Enclosed is 1 original and 6 copies of the Application by Andrew and Joyce P. Rives for Amendment to Permit 3162. Also, enclosed is a check in the amount of \$112.50 for filing fees.

Thank You,

Andrew and Joyce Rives
2126 FM 2724
Hobson, Texas 78117
(830)-299-5036



Contents

- 1. Summary of Request**
- 2. Administrative Information Checklist**
- 3. Affidavit of Identity-Joyce Rives**
- 4. Technical Information Report**
- 5. Marshall Criteria Supplemental Information**
- 6. Mining Water Conservation Plan**
- 7. System Inventory and Water Conservation Plan**
- 8. Maps and Pictures for Rives Water Rights Diversion Application**
- 9. Rives and Pollok Water Use Consent Agreement**
- 10. Rives 57.48 Acres Warranty Deed**
- 11. Rives 210 Acres Water Use Consent Agreement**

Summary of Request

TO: Texas Commission on Environmental Quality
Office of Water
Water Availability Division

FROM: Andrew and Joyce P. Rives

DATE: June 7, 2019

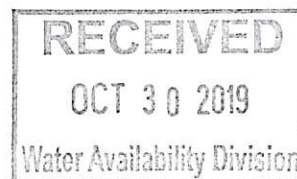
RE: Summary of Request
Application by Andrew and Joyce P. Rives
Amendment to Permit 3162

Applicants Andrew and Joyce P. Rives are the owners of Permit No. 3162. In lieu of the existing diversion point and lands to be irrigated, applicants request to amend Permit No. 3162 to add three new diversion points on Cibolo Creek; add three new tracts of land to be irrigated; and to use the water for both irrigation and mining purposes. One tract of land (57.48 acres) is owned by applicants; one tract of land (209.47 acres) is owned by applicants, Panna Maria Investments, II, LLC (Joyce P. and Andrew Rives), Sara R. Fossum, Stacy R. Roy, Charles Rives, and Stephany Rives; and another tract of land owned by Jeffrey Pollok (256.33 acres). Agreements to use the tracts of land not owned by applicants and associated diversion points are attached to the application.

Applicants also request to use the water diverted for mining purposes anywhere within the San Antonio River basin.

Applicants also request to divert water to be used for subsequent mining purposes into an off-channel reservoir (6.47 acres and 142 acre-feet) on the land owned by Jeffery Pollok. An agreement to use the reservoir owned by Jeffery Pollok is attached to the application.

Applicants request that any rights to the use of water on the lands not owned by Andy and Joyce P. Rives shall be terminated upon cancellation or termination of the aforementioned agreements.



Administrative Information Checklist

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): Andrew & Joyce P Rives

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

Y/N

- Administrative Information Report**
- Additional Co-Applicant Information
- Additional Co-Applicant Signature Pages
- Written Evidence of Signature Authority
- Technical Information Report**
- USGS Map (or equivalent)
- Map Showing Project Details
- Original Photographs
- Water Availability Analysis
- Worksheet 1.0**
- Recorded Deeds for Irrigated Land
- Consent For Irrigation Land
- Worksheet 1.1**
- Addendum to Worksheet 1.1
- Worksheet 1.2**
- Addendum to Worksheet 1.2
- Worksheet 2.0**

- Additional W.S 2.0 for Each Reservoir
- Dam Safety Documents
- Notice(s) to Governing Bodies
- Recorded Deeds for Inundated Land
- Consent For Inundation Land

Y/N

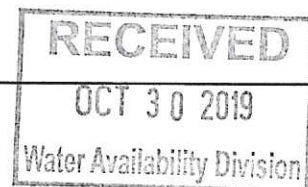
- Worksheet 3.0**
- Additional W.S 3.0 for each Point
- Recorded Deeds for Diversion Points
- Consent For Diversion Access
- Worksheet 4.0**
- TPDES Permit(s)
- WWTP Discharge Data
- 24-hour Pump Test
- Groundwater Well Permit
- Signed Water Supply Contract
- Worksheet 4.1**
- Worksheet 5.0**
- Addendum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

- Worksheet 7.0**
- Accounting Plan
- Worksheet 8.0**
- Fees

For Commission Use Only:

Proposed/Current Water Right Number: _____

Basin: Watermaster area Y/N: _____



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: [Andy Rives](#)

Title: [co-owner](#)

Organization Name: [na](#)

Mailing Address: [2126 FM 2724](#)

City: [Hobson](#)

State: [Texas](#) ZIP Code: [78117](#)

Phone No.: [\(830\)-299-5036](#)

E-mail Address: [REDACTED]

ADMINISTRATIVE INFORMATION REPORT

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

***** Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4691.**

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

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

New Appropriation of State Water

Amendment to a Water Right *

Bed and Banks

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

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

[See attached Summary of Request memorandum.](#)

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

Indicate the number of Applicants/Co-Applicants 2
(Include a copy of this section for each Co-Applicant, if any)

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

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

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?
You may search for your CN on the TCEQ website at

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

(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: Andrew Rives & Joyce P Rives

Title: Co owners

Have you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application? 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: Andrew & Joyce P Rives

Mailing Address: 2126 FM 2724

City: Hobson

State: Texas

ZIP Code: 78117

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

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

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: NA

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

a. The application will not be processed unless all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol by all applicants/co-applicants. If you need assistance determining whether you owe delinquent penalties or fees, please call the Water Rights Permitting Team at (512) 239-4691, prior to submitting your application.

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

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

Account number:

Amount past due:

2. Does Applicant or Co-Applicant owe any penalties to the TCEQ? **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**

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

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

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

Applicant:

I, Joyce P. Rives
(Typed or printed name)

Owner
(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.

Joyce P. Rives
Signature: (Use blue ink)

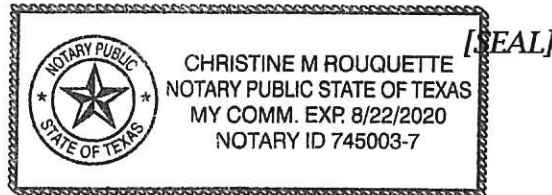
Date: 10/15/19

Subscribed and Sworn to before me by the said

on this 15 day of October, 2019.

My commission expires on the 22 day of August, 2020.

Christine M. Rouquette
Notary Public



County, Texas

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Andrew Rives _____ Owner
(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.

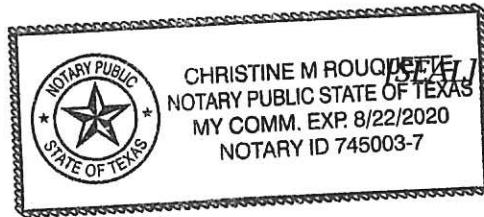
Signature: Andrew Rives (Use blue ink) Date: 10/15/19

Subscribed and Sworn to before me by the said

on this 15 day of October, 2019.

My commission expires on the 22 day of August, 2020.

Christine M Rouquette
Notary Public



County, Texas

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

Affidavit of Identity
Joyce Rives

AFFIDAVIT OF IDENTITY

THE STATE OF TEXAS §
 §
COUNTY OF KARNES §

Date: October 15, 2019

Affiant: Joyce Ann Rives

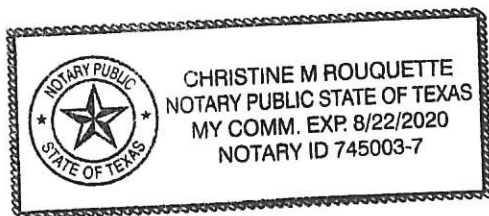
Affiant's Other Name(s):

After having been first duly sworn by the undersigned Notary Public of the State of Texas, Affiant, Joyce Ann Rives, on oath swears and states that the following statements are true:

1. Affiant is the daughter of Theresa Pawelek and Ben J. Pawelek, Jr. of Karnes County, Texas, and formerly known as Joyce Ann Pawelek,.
2. Affiant is married to Andrew Rives of Karnes County, Texas.
3. Affiant is sometimes known by Affiant's other name(s), including the following:
 - a. Joyce A. Pawelek,
 - b. Joyce Ann Pawelek Rives,
 - c. Joyce P. Rives, and
 - d. Joyce Ann Rives,
4. Affiant and the persons indicated by Affiant's other names are one and the same person.

Joyce Ann Rives
Joyce Ann Rives

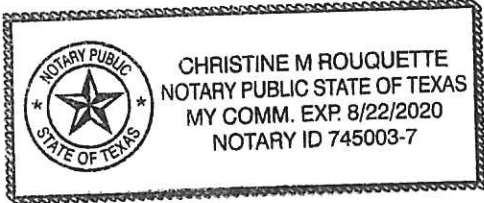
15 SWORN TO AND SUBSCRIBED BEFORE ME by the said Joyce Ann Rives on this the day of October, 2019, to certify which, witness my hand and seal of office.




Christine M Rouquette
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF KARNES §

This instrument was acknowledged before me on this 15 day of October, 2019, by Joyce Ann Rives.





Notary Public, State of Texas

Technical Information Report

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

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

Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4691 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? **Yes** (If yes, date : 4/18/2019).

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

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

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

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

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

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

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

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

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. *If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. See instructions page. 6.*

Water Right (Certificate or Permit) number you are requesting to amend: Permit No. 3162

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? **No** (if yes, complete chart below):

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

- a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? **No**

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

- b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? **No**

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

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

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? **Yes**

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

- e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? **Yes, off-channel**

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? **No** *If yes, call the Water Availability Division at (512) 239-4691 to discuss.*

Additionally, all amendments require:

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

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

N/A

- 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). 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). 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). 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). 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). 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":

Applicants propose to add three new diversion points and additional tracts of land to use the water currently authorized for agricultural uses. Applicant additionally requests to divert water from these diversion points for mining purposes within the San Antonio River basin. Water for mining purposes may, from time to time, be stored in an off-channel reservoir for subsequent use. Mining and agricultural uses are beneficial uses per the Texas Water Code and TCEQ rules. Mining and agricultural uses, as described, are not inconsistent with the State and Regional Water Plans.

- b. Did the Applicant perform its own Water Availability Analysis? **No**

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

N/A

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

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

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

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

1. Location Information Regarding the Lands to be Irrigated

i) Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.

ii) Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.

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**
60	Agriculture	Mining and Agriculture	Karnes County San Antonio River Basin	Karnes County San Antonio River Basin

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- i) Applicant proposes to irrigate a total of 60 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 523.25 acres in Karnes County, TX.
 - ii) Location of land to be irrigated: In the Alex F. Mitchell Original Survey No. _____, Abstract No. 201.
 - Location of land to be irrigated: In the Manuel Lopez Original Survey No. _____, Abstract No. 181.
 - Location of land to be irrigated: In the Andres Hernandez Grant Original Survey No. _____, Abstract No. 4.

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

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

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.

- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

N/A

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? No

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

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

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

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

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

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

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

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

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

WORKSHEET 1.2

NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

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

See attached worksheet.

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

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

WORKSHEET 2.0 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: 142.
- c. The impoundment is on-channel _____ or off-channel XX (mark one)
 1. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4691? **No**
 2. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? **N/A**
- d. Is the impoundment structure already constructed? **Yes**
 - 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) 239-4691).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): N/A
- b. Zip Code: 78117
- c. In the Alex F. Mitchell Original Survey No. , Abstract No. 201,
 Karnes 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 28.996719 °N, Longitude 97.900741 °W.

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

- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google Maps

dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. **Yes**

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. 1 Diversion Point No. (Pollok Property)
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 300 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Yes**
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches _____ cfs or 300 gpm*

d. For amendments, is Applicant seeking to increase combined diversion rate? **No**

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

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

Check one		Write: Existing or Proposed
<input checked="" type="checkbox"/>	Directly from stream	Proposed
<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. **No**

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

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Cibolo Creek tributary of San Antonio River
- b. Zip Code: 78117
- c. Location of point: In the Alex F Mitchell Original Survey No. _____, Abstract No. 201, Karnes 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 28.994299 °N, Longitude 97.901404 °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): Google map
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.1 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. 2 Diversion Point No. (Andrew and Joyce P. Rives diversion point)
 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 300 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Yes**
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* _____ cfs or 300 gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? **No**

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

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

Check one		Write: Existing or Proposed
X	Directly from stream	Proposed
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. **No**

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

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- h. On watercourse (USGS name): Cibolo Creek tributary of San Antonio River
- i. Zip Code: 78117
- j. Location of point: In the A. Hernandez Original Survey No. _____, Abstract No. 4, Karnes 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.

- k. Point is at:
Latitude 28.989902 °N, Longitude 97.883583 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- l. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google map
- m. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- n. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.2 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. 3 Diversion Point No. (Rives, et. al. property)
 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 300 gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? **Yes**
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* _____ cfs or 300 gpm
- d. For amendments, is Applicant seeking to increase combined diversion rate? **No**

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

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

Check one		Write: Existing or Proposed
<input checked="" type="checkbox"/>	Directly from stream	Proposed
<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. **No**

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

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- o. On watercourse (USGS name): Cibolo Creek tributary of San Antonio River
- p. Zip Code: 78117
- q. Location of point: In the Andrew Hernandez _____ Original
Survey No. _____, Abstract No. 4, Karnes _____ 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.

- r. Point is at:
Latitude 28.969322 °N, Longitude 97.874461 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- s. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google map
- t. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- u. 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.

NA

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 _____ % and explain the method of calculation: _____

Is the source of the discharged water return flows? **Y / N** If yes, provide the following information:

1. The TPDES Permit Number(s) _____ (attach a copy of the

current TPDES permit(s))

2. Applicant is the owner/holder of each TPDES permit listed above? Y / N

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

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").

4. The percentage of return flows from groundwater _____, surface water _____?

5. If any percentage is surface water, provide the base water right number(s) _____.

c. Is the source of the water being discharged groundwater? Y / N If yes, provide the following information:

1. Source aquifer(s) from which water will be pumped: _____

2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers _____.

3. Indicate how the groundwater will be conveyed to the stream or reservoir.

4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.

ci. Is the source of the water being discharged a surface water supply contract? Y / N
If yes, provide the signed contract(s).

cii. Identify any other source of the water _____

WORKSHEET 4.1 DISCHARGE POINT INFORMATION

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

For water discharged at this location provide:

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

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

WORKSHEET 5.0 ENVIRONMENTAL INFORMATION

This worksheet is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins. The worksheet is also required in all basins for: requests to change a diversion point, applications using an alternate source of water, and bed and banks applications. **Instructions, Page 28.**

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

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. The following description applies to Diversion Points No. 1, No. 2, and No. 3.

Stream

Reservoir

Average depth of the entire water body, in feet: 6-8

Other, specify: N/A

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 un-pastured 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?

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

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

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the map submitted with the application indicating the location of the photograph and the direction of the shot.
2. Measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure). Applicants [will use a screen on the diversion pump.](#)
3. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir. The reservoir was an old abandoned mine on the Jeffery Pollok property. The reservoir was associated with a mine in the 1970's developed by Chevron and to the best of my knowledge was reclaimed and abandoned according to the State of Texas laws and released to Mr. Pollok.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
N/A
 - 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. N/A

2. Alternate Sources of Water and/or Bed and Banks Applications N/A

For all bed and banks applications: N/A

- a. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).

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.

If the alternate source is treated return flows, provide the TPDES permit number N/A

If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide: N/A

- a. 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.

NA

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.

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

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 512-239-4691, 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? **N/A

- 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? Yes

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. N/A Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. N/A Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. N/A 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 512-239-4691 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

NA

	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		
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) 239-4691.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

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

3. BED AND BANKS

NA

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

Marshall Criteria Supplemental Information

TO: Texas Commission on Environmental Quality
Office of Water
Water Availability Division

FROM: Andrew and Joyce P. Rives

DATE: June 7, 2019

RE: Marshall Criteria Supplemental Information
Application by Andrew and Joyce P. Rives
Amendment to Permit 3162

Applicants Andrew and Joyce P. Rives are the owners of Permit No. 3162. In lieu of the existing diversion point and lands to be irrigated, applicants request to amend Permit No. 3162 to add three new diversion points on Cibolo Creek; add three new tracks of land to be irrigated; and to use the water for both irrigation and mining purposes. Two tracks of land (210 acres and 57 acres) are owned by applicants. One tract of land is owned by Jeffrey Pollok (256 acres). An agreement to use this tract of land and diversion point is attached to the application.

Applicants also request to use the water diverted for mining purposes anywhere within the San Antonio River basin. Applicants also request to divert water to be used for mining purposes into an off-channel reservoir on the land owned by Jeffery Pollok.

The 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 includes a sworn application, deeds, maps, completed conservation plans, and fees.

The proposed amendment is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. The proposed uses of the water are for the irrigation fall/winter crops such as oats for harvesting or grazing. The mining use will be for fracking to aid in the production of oil and gas. Water will be injected into fractures in rocks and rock formations to open avenues allowing for the additional production of oil and/or gas.

The proposed changes requested by this amendment are not adverse or detrimental to the public welfare or to any existing water right holders. The proposes diversion points are all downstream of the existing diversion point, thus enabling the water to remain in Cibolo Creek for a longer distance. This provides for additional flows to remain in the stream longer enhancing the environmental benefits of this reach of the creek. Also, domestic and livestock uses in this reach will benefit from this additional water supply.

Since the diversion locations will be only a short distance downstream, the proposed amendment will have no additional effects on groundwater or groundwater recharge.

The proposed amendment addresses a water supply need (agriculture and mining) that is consistent with the state water plan and the regional water plan for this area.

Applicant has prepared and is submitting a water conservation plan for both agriculture and mining use that meets the state requirements.

The proposed diversion points are all downstream of the existing diversion point, thus enabling the water to remain in Cibolo Creek for a longer distance. This provides for additional flows to remain in the stream longer enhancing the environmental benefits of this reach of the creek. Also, domestic and livestock uses in this reach will benefit from this additional water supply.

Mining Water Conservation Plan



Texas Commission on Environmental Quality

Water Availability Division

MC-160, P.O. Box 13087 Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-2214

Mining Water Conservation Plan

This form is provided to assist entities in developing a water conservation plan for mining water use. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.

Contact Information


Name: Andy Rives

Address: 2126 FM 2724

Telephone Number: (830) 299 5036 Fax: ()

Form Completed By: Herman R. Settemeyer, P. E.

Title: Partner RSAH2O, LLC

Signature:  Date: 10 / 22 / 2019

A water conservation plan for mining use must include the following requirements (as detailed in 30 TAC Section 288.3). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

I. BACKGROUND DATA

A. Water Use

1. Annual diversion appropriated or requested (in acre-feet):

60

2. Maximum diversion rate (cfs):

0.67 cfs or 300 gallons per minute

B. Water Sources

1. Please indicate the maximum or average annual amounts of water currently used and anticipated to be used (in acre-feet) for mining purposes:

<i>Source</i>	<i>Water Right No.(s)</i>	<i>Current Use</i>	<i>Anticipated Use</i>
Surface Water	Permit No. 3162	60 acre-feet	60 acre-feet
Groundwater			
Purchased			
Total		60 a/f	60 acre-feet

2. How was the surface water data and/or groundwater data provided in B(1) obtained?

Master meter ; Customer meter ; Estimated x; Other

3. Was purchased water raw or treated? N/A

If both, % raw ; % treated ; and Supplier(s)

C. Mining Information

1. Major product(s) or service(s) produced by applicant:

Water for fracking to aid in the mining of oil and/or gas

2. North American Industry Classification System (NAICS):

212321

II. WATER USE AND CONSERVATION PRACTICES

A. Water Use in Mining Processes

<i>Mining Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Hydraulic Fracturing	0	100	0	0	60
Drilling					
Washing Sand/gravel					
Dust Control					
Oil Field Repressuring					

Other _____

<i>Facility Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Pond(s)	_____	_____	_____	_____	_____
Sanitary & drinking water	_____	_____	_____	_____	_____
Irrigation & dust control	_____	_____	_____	_____	_____
Other	_____	100	_____	_____	60

1. Was fresh water recirculated at this facility? Yes No

2. Provide a detailed description of how the water will be utilized in the mining process.

Water will be injected into fractures in rocks and rock formations to force them to open further thus allowing the additional production of oil and/or gas.

3. Estimate the quantity of water consumed in production and mining processes and is therefore unavailable for reuse, discharge, or other means of disposal.

90%

4. Monthly water consumption for previous year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	0	_____	_____
February	0	_____	_____
March	0	_____	_____
April	0	_____	_____
May	0	_____	_____
June	0	_____	_____
July	0	_____	_____
August	0	_____	_____

September	0		
October	0		
November	0		
December	0		
Totals	0		

5. Projected monthly water consumption for next year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	8.5	90	7.65
February	8.5	90	7.65
March	8.5	90	7.65
April	8.5	90	7.65
May			
June			
July			
August			
September			
October	8.5	90	7.65
November	8.75	90	7.875
December	8.75	90	7.875
Totals	60	590	54

B. *Specific and Quantified Conservation Goal*

Water conservation goals for the mining sector are generally established either for (1) the amount of water recycled, (2) the amount of water reused, or (3) the amount of water not lost or consumed, and therefore is available for return flow.

1. Water conservation goal (water use efficiency measure)

Type of goal(s):

20% of water not consumed and therefore returned or reused

Other (specify)

2. Provide specific, quantified 5-year and 10-year targets for water savings and the basis for development of such goals for this water use/facility.

All water used in in the fracking process is conveyed via 16-inch temporary flexible hose or trucks to oil or gas wells. The water is then injected into the well and subsequently into fractures in rocks and rock formations to force them to open further thus enhancing the production of oil and/or gas. Opportunities for increasing water usage efficiency is through educating employees on water conservation and use of best management practices. A reasonable 5-year target would be a 15% reduction in water usage and a 10-year target of 20%.

Quantified 5-year and 10-year targets for water savings:

- a. 5-year goal: 15%
 - b. 10-year goal: 20%
3. Describe the practice(s) and/or device(s) within an accuracy of plus or minus 5% used to measure and account for the amount of water diverted from the supply source.

The total amount of water diverted will be metered as approved by South Texas Watermaster.

4. Provide a description of the leak-detection and repair, and water-loss accounting measures used.

The system will be inspected frequently the detect and repair leaks promptly.

5. Describe the application of state-of-the-art equipment and/or process modifications used to improve water use efficiency.

All equipment used is designed as efficiently as possible and properly maintained.

6. Describe any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan:

Maintaining and upgrading the diversion facilities from Cibolo Creek in good working condition and education of entities operating the facilities.

III. Water Conservation Plans submitted with a Water Right Application for New or Additional State Water

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

**System Inventory and Water Conservation Plan
For Individually-Operated Irrigation Systems**



Texas Commission on Environmental Quality

Water Availability Division

MC-160, P.O. Box 13087 Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-2214

System Inventory and Water Conservation Plan for Individually-Operated Irrigation Systems

This form is provided to assist entities in developing a water conservation plan for individually-operated irrigation systems. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.

Contact Information


Name: Andy Rives

Address: 2126 FM 2724

Telephone Number: (830) 299 5036 Fax: NA

Form Completed By: Herman R. Settemeyer, P. E.

Title: Partner RSAH2O, LLC

Signature:  Date: 10 / 22 / 2019

A water conservation plan for agriculture use (individual irrigation user) must include the following requirements (as detailed in 30 TAC Section 288.4). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

I. BACKGROUND DATA

A. Water Use

1. Annual diversion appropriated or requested (in acre-feet): 60

<i>Type of crop</i>	<i>Growing Season (Months)</i>	<i>Acres irrigated/year</i>
Oats	7	60
Total acres irrigated		60

2. In the table below, list the amount of water (in acre-feet) that is or will be diverted monthly for irrigation during the year.

January	February	March	April
8.5	8.5	8.5	8.5
May	June	July	August
0	0	0	0
September	October	November	December
0	8.5	8.75	8.75
Total All Months			60

3. Are crops rotated seasonally or annually? Yes No

If yes, please describe: Will rotate crops between rye grass, wheat and native/improves grasses pending on the weather.

4. Describe soil type (including permeability characteristics, if applicable).

The information below was provided by Natural Resource Conservation Service, Survey area version 12, 09/15/2016 specifically for the farm-areas to be irrigated.

St - Sinton sandy clay loam

The Sinton component makes up 85 percent of the map unit. Slopes are 0 to 1 percent. This component is on flood plains on river valleys. The parent material consists of loamy alluvium. Depth to a root restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches (or restricted depth) is high. Shrink-swell potential is low. This soil is occasionally flooded. It is not ponded.

Intake family 1.5; soils in this family are moderately deep or deeper, have loamy or sandy textured surface over loamy textured subsurface layers and moderately rapid over moderate permeability.

Irrigation system information

5. Describe the existing irrigation method or system and associated equipment including pumps, flow rates, plans, and/or sketches of system the layout. Include the rate (in gallons per minute or cubic feet per second) that water is diverted from the source of supply. If this WCP is submitted as part of a water right application, verify that the diversion volumes and rates are consistent with those in the application.

Applicant will use up to a 300 gallon per minute diesel powered centrifugal pump. The pump will pump the water from Cibolo Creek to a 3-inch flexible pipe attached to a hose reel and travelling sprinkler gun system for irrigation of the fields.

6. Describe the method(s) and/or device(s) used to measure and account for the amount of water diverted from the source of supply, and verify the accuracy is within plus or minus 5%.

A meter will be installed when water is diverted, with an accuracy of +/- 5% or as approved by the South Texas Watermaster, to measure the water diverted from Cibolo Creek.

7. Provide specific, quantified 5-year and 10-year targets for water savings including, where appropriate, quantitative goals for irrigation water use efficiency and a pollution abatement and prevention plan below in 3(a) and 3(b). Water savings may be represented in acre-feet or in water use efficiency. If you are not planning to change your irrigation system in the next five or ten years, then you may use your existing efficiencies or savings as your 5-year and /or 10-year goals. Please provide an explanation in the space provided below if you plan to use your existing efficiencies or savings.

Applicant plans to use the irrigation system described above. Applicant plans to implement best management practices such as irrigation during times when evaporation is lowest. As well as monitoring for water leaks in the system. Such measures should improve efficiencies for the 5-year and 10-year goals as noted below.

Quantified 5-year and 10-year targets for water savings:

a. 5-year goal:
Savings in acre-feet or system efficiency as a percentage 5 %

b. 10-year goal:
Savings in acre-feet or system efficiency as a percentage 10 %

(Examples of Typical Efficiencies for Various Types of Irrigation Systems - Surface: 50-80%; Sprinkler: 70-85%; LEPA: 80-90%; Micro-irrigation: 85-95%)

8. If there is an existing irrigation system, have any system evaluations been performed on the efficiency of the system?

Yes X No

If yes, please provide the date of the evaluation, evaluator's name and the results of the evaluation:

B. Conservation practices

1. Describe any water conserving irrigation equipment, application system or method in the irrigation system (e.g., surge irrigation, low pressure sprinkler, drip irrigation, nonleaking pipe).

Applicant will be using non leaking flexible pipe with his traveling sprinkler system. Applicant will monitor the irrigation to ensure the system is working properly.

2. Describe any methods that will be used for water loss control and leak detection and repair.

Applicant will monitor the irrigation to ensure the system is working properly.

3. Describe any water-saving scheduling or practices to be used in the application of water (e.g., irrigation only in early morning, late evening or night hours and/or during lower temperatures and winds) and methods to measure the amount of water applied (e.g. soil-moisture monitoring).

Applicant plans to irrigate during the early morning, late evening or night hours, and/or during lower temperatures to ensure the amount of water applied is beneficially used.

4. Describe any water-saving land improvements or plans to be incorporated into the irrigation practices for retaining or reducing runoff and increasing infiltration of rain and irrigation water (e.g., land leveling, conservation tillage, furrow diking, weed control, terracing, etc.).

Applicant plans to implement weed control measures to maximize crop production and minimize water usage.

5. Describe any methods for recovery and reuse of tail water runoff.

Applicant will ensure water is not diverted and applied in excess causing water to leave the fields.

6. Describe any other water conservation practices, methods, or techniques for preventing waste and achieving conservation.

Applicant will install field rain gages to ensure only water needed to maximize crop production is applied. Applicant will research amounts of water required for the crops produced. Such monitoring will ensure minimal waste of water.

II. WATER CONSERVATION PLANS SUBMITTED WITH A WATER RIGHT APPLICATION FOR NEW OR ADDITIONAL STATE WATER

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

Maps and Pictures for Rives Water Rights Diversion Application

- Rives diversion points, Original diversion point, Pollok 256 acres diversion point, Rives 57 acres diversion point, and Rives 210 acres diversion point. 1 page
- Pollok Diversion point, quadrants, Pollok Reservoir, Pollok diversion point, upstream and downstream pictures. 4 pages.
- Rives 57 acres Diversion point, quadrants, Rives 57-acre diversion point, upstream and downstream pictures. 4 pages
- Rives 210 acres Diversion point, quadrants, Rives 210-acre diversion point, upstream and downstream pictures. 4 pages

Rives-Permit No. 3162

All diversion points location

Legend

Original diversion point

Pollok Reservoir

Pollok 256 acre diversion point

Rives 57 acre diversion point

2724

81

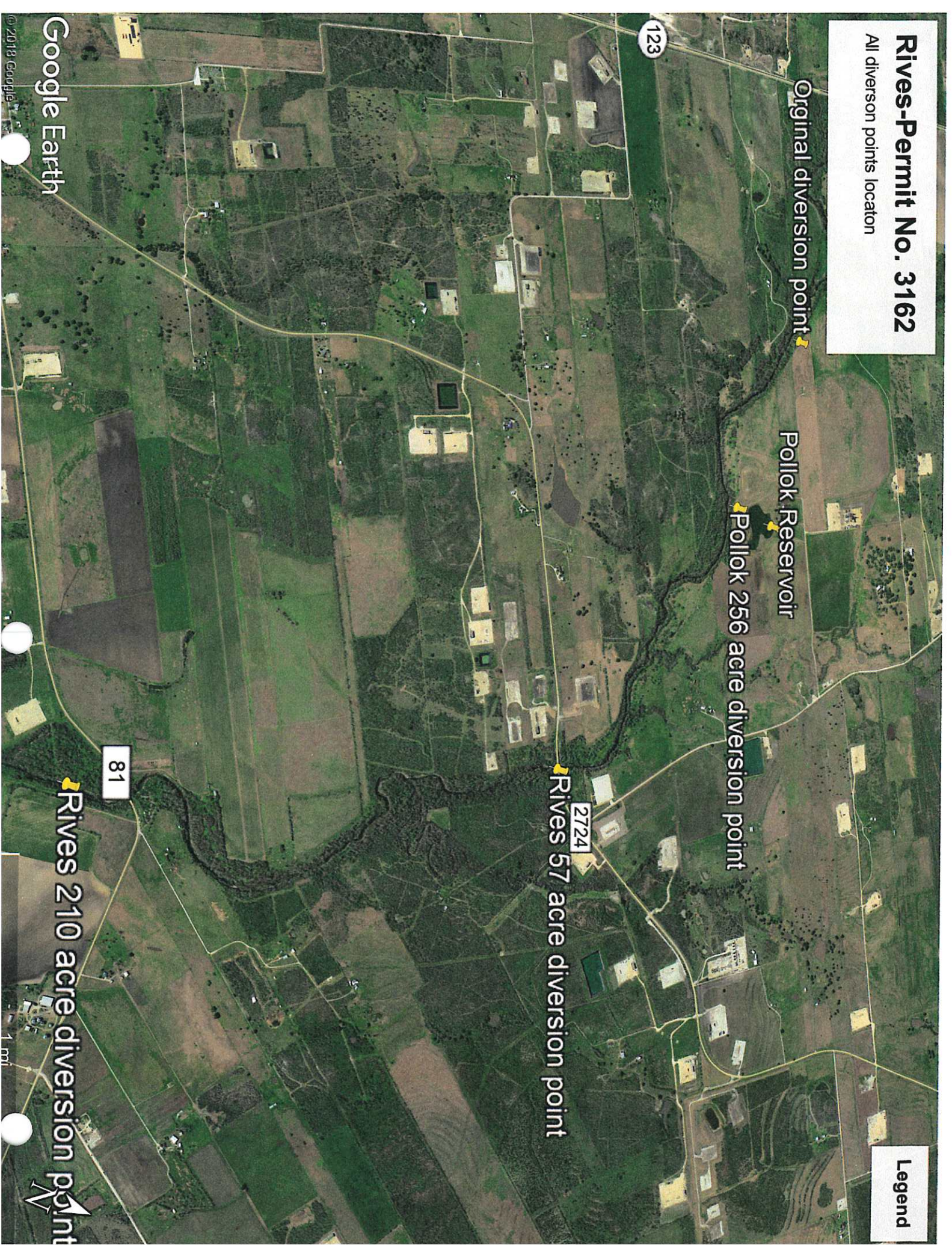
Rives 210 acre diversion point

123

Google Earth

© 2018 Google

1 mi



Pollok Diversion Point

Legend
📌 Diversion point

Pollok Reservoir

📌 28.994299053328085, -97.901404359445

3000 ft



Google Earth

© 2018 Google



Pollok 256.33 acres diversion point. Coordinates 28.994299053328085, -97.901404359445
Depth 8'



Pollok 256.33 acres up stream of diversion point



Pollock 256.33 acres down stream of diversion point.

Rives 210 Acres Diversion Point
28.96932269, -97.8744520

Legend

 Rives 210 acres, diversion point

F.M. 81

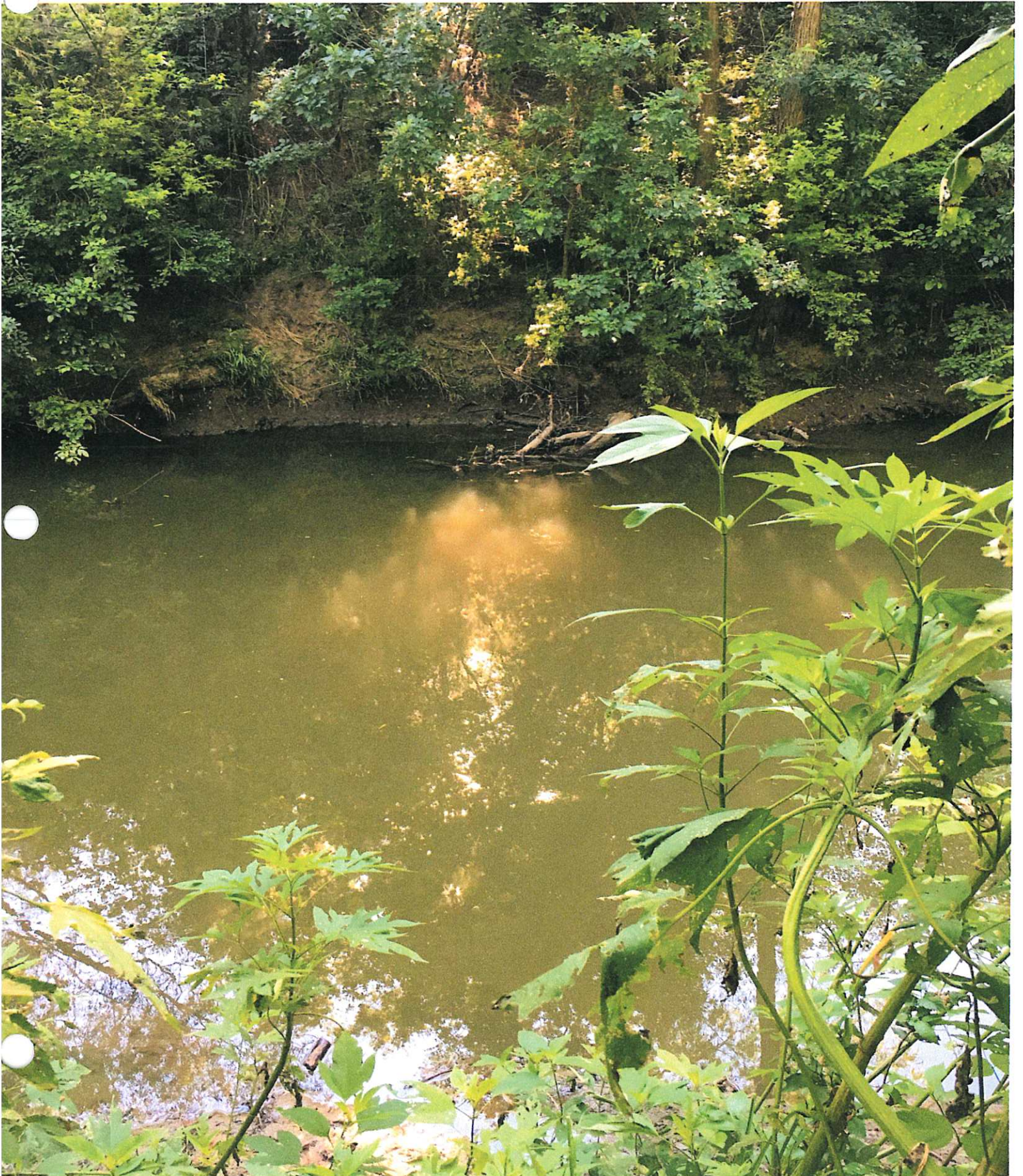
Google Earth

© 2018 Google

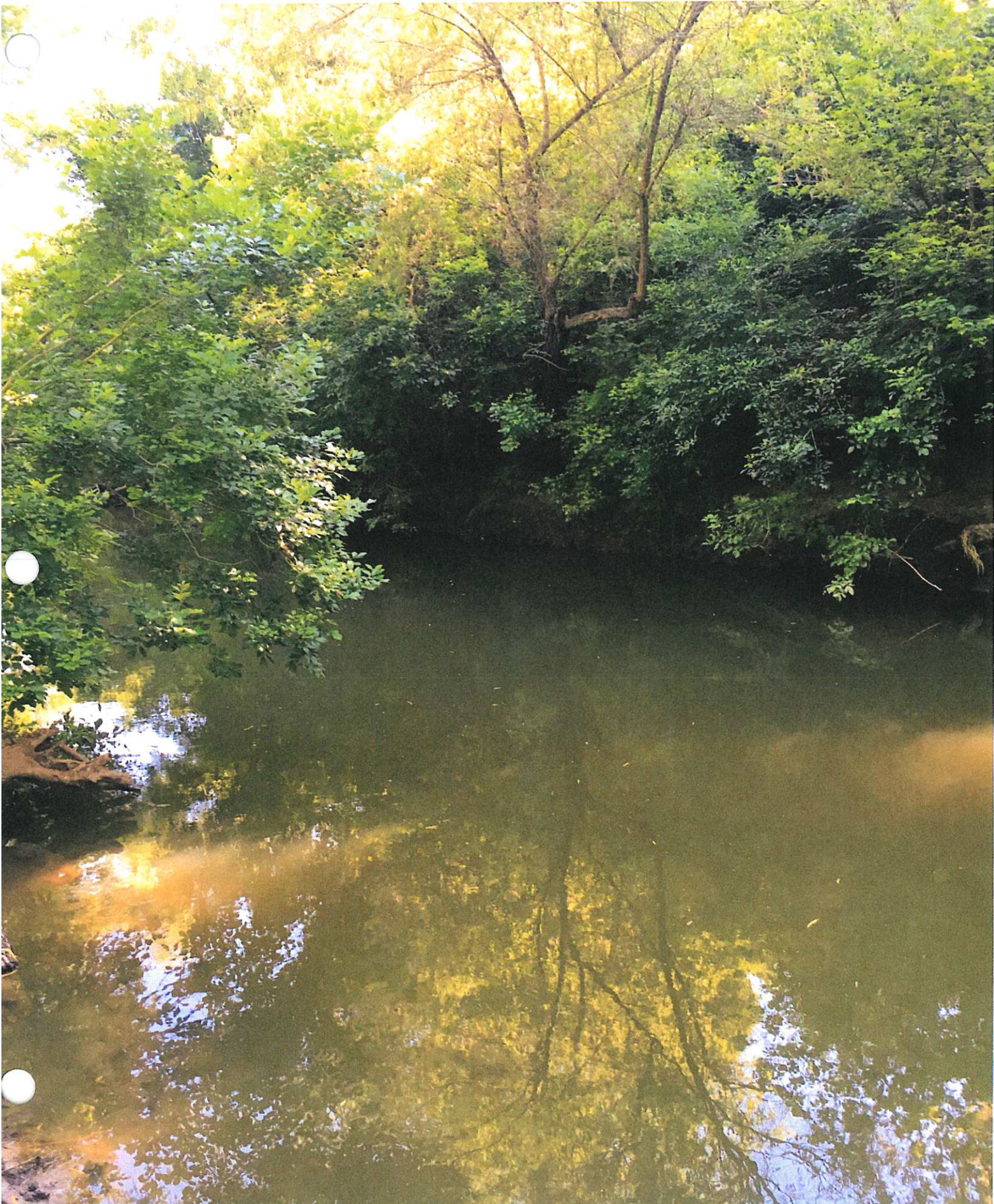
2000 ft



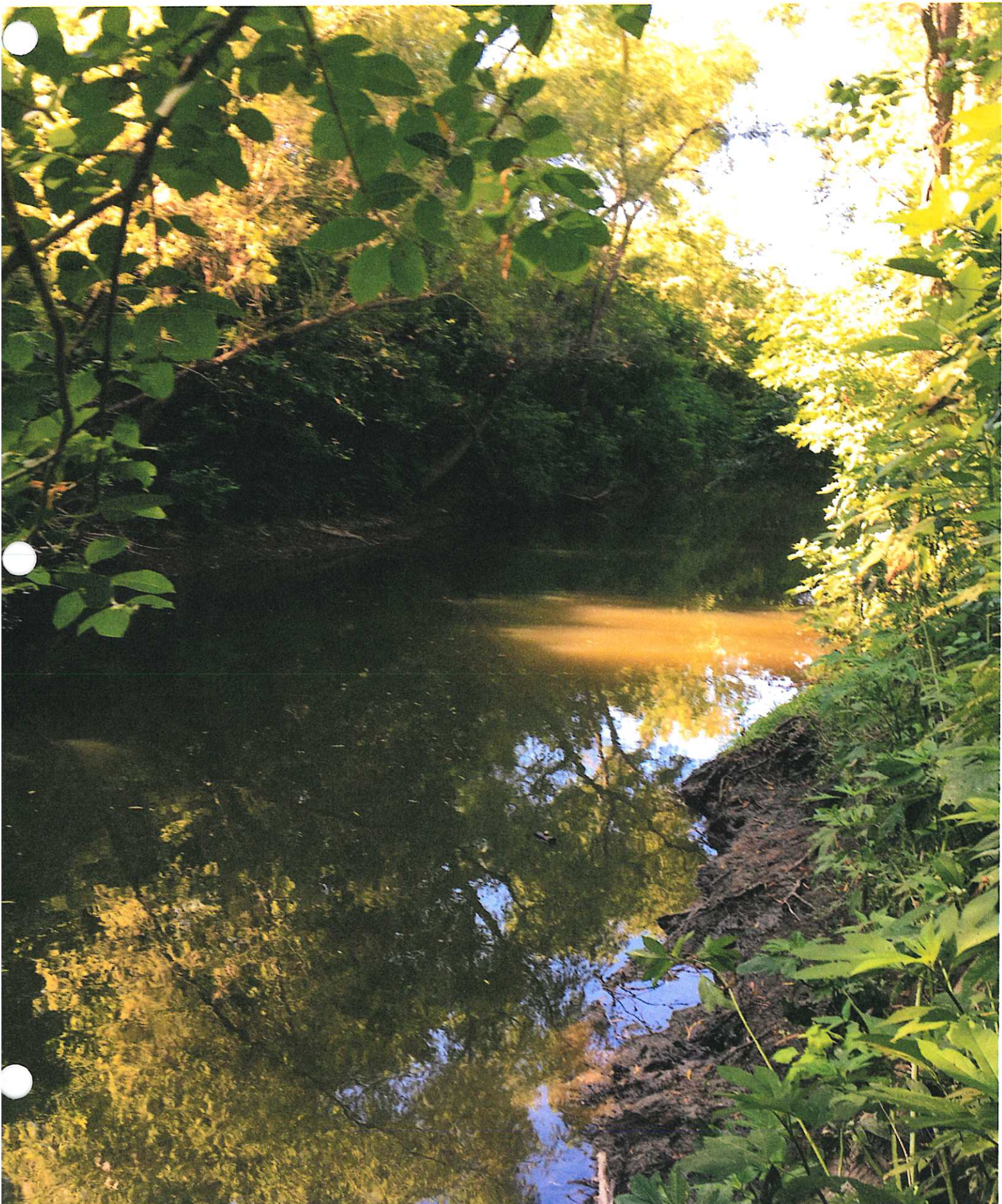
Rives 209.47 acres diversion point. Coordinates 28.969322685415843, -97.8744618968844.
Depth 10'



Rives 209.47 acres up stream of diversion point



Rives 209.47 acres down stream of diversion point



Rives 57 Acres Diversion Point
28.98990241, -97.88358368

 Rives 57 acre diversion point
28.98990241, -97.88358368

FM 2724

Legend

Google Earth

© 2018 Google

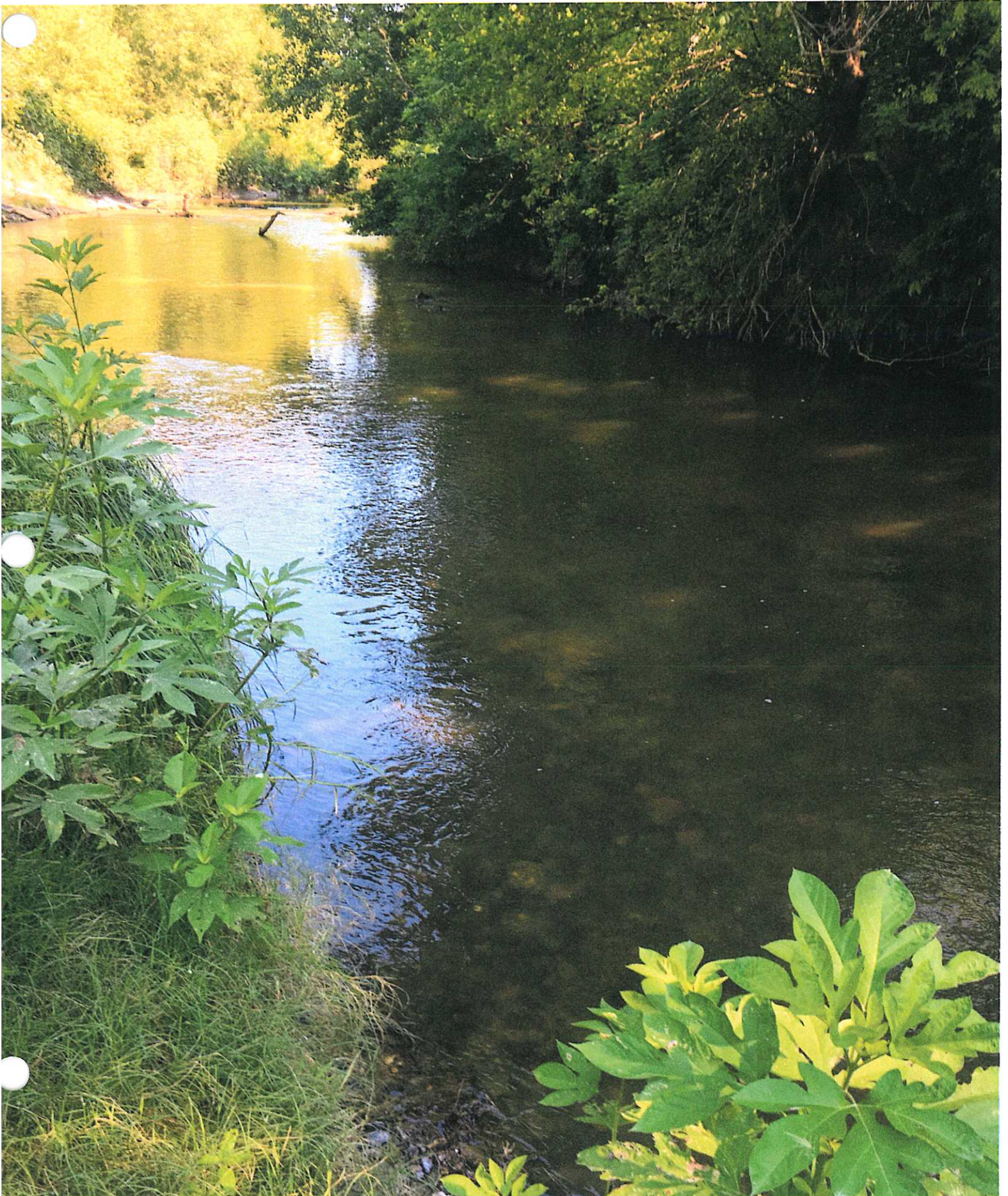
1000 ft



Rives 57.48 acres diversion point. Coordinates 28.98990241138088, -97.8835836772031.
Depth 9'



Rives 57.48 acres up stream of diversion point



Rives 57.48 acres down stream of diversion point



**Water Use Consent Agreement
Rives and Pollok 256 Acres**

- **Signed Water Use Agreement**
- **Ownership Documents**
- **Legal Description**

**WATER USE CONSENT AGREEMENT
RELATED TO WATER RIGHTS PERMIT NO. 3162**

This Water Use Consent Agreement related to Water Rights Permit No. 3162 is entered into effective August __, 2019 (the "Consent Agreement"), by and between Andrew Rives, and wife, Joyce P. Rives (collectively the "Owner") and Jeffery Pollok ("Beneficiary") for the purposes and considerations recited herein. The Owner and Beneficiary may be referred to herein individually as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Owner is authorized to divert up to sixty (60) acre-feet per annum of water from the Cibolo Creek, a tributary of the San Antonio River and the San Antonio River Basin, during the Diversion Season pursuant to Permit No. 3162 issued by the Texas Commission on Environmental Quality; and

WHEREAS, the Permit currently authorizes Owner to divert and beneficially use the water authorized therein for irrigation purposes on up to 60 acres of land out of a 191-acre tract described in the Permit with water diverted at a Diversion Point identified in the Permit; and

WHEREAS, Beneficiary owns the Benefitted Property located adjacent to Cibolo Creek and downstream of the Diversion Point identified in the Permit; and

WHEREAS, Beneficiary desires to contract with Owner for purposes of using all or a portion of the water authorized for diversion and beneficial use by the Permit from time-to-time on the Benefitted Property for any beneficial use or purpose authorized by the Permit, as the same may be amended from time to time, including for (i) irrigation and/or (ii) mining purposes on the Benefitted Property, and (iii) temporary storage of water available for diversion during the Diversion Season in an off-channel reservoir located on the Benefitted Property for subsequent beneficial use authorized by the Permit as amended ("Beneficiary's Objectives"); and

WHEREAS, in order to accomplish and implement Beneficiary's Objectives, the Permit must be amended (i) to add additional downstream diversion points, as well as (ii) to authorize the use of the water for irrigation purposes on the Benefitted Property, and (iii) to authorize the use of water for mining purposes; and

WHEREAS, Owner is amenable to entering into a contract with Beneficiary to accomplish Beneficiary's Objectives; and

WHEREAS, Beneficiary is willing to cooperate with Owner to obtain the amendment(s) to the Permit necessary to implement Beneficiary's Objectives; and

WHEREAS, Owner and Beneficiary agree that the amendment(s) necessary to the Permit include (i) the addition of a diversion point on the Benefitted Property, as well as a description of the acreage within the Benefitted Property Beneficiary desires to be able to irrigate, (ii) adding "mining" to the authorized beneficial purposes to which the water diverted pursuant to the Permit may be used, as well as (iii) adding authorization for temporary storage of water diverted in an off-channel reservoir on the Benefitted Property; and

WHEREAS, Beneficiary and Owner agree (i) that the amendments to the Permit will not include any increase in either (a) the quantity of water available for diversion, (b) the rate of diversion for the volume of water authorized currently under the Permit or (c) any change in the Diversion Season; and

WHEREAS, Beneficiary and Owner further agree that Beneficiary (i) will maintain the necessary diversion point(s), and (ii) will install, maintain and operate the necessary diversion works and facilities on Beneficiary's Property;

NOW, THEREFORE, in consideration of the premises, the promises and anticipated mutual benefits to be derived from the Consent Agreement, the Owner and Beneficiary agree as follows:

1.0 Definitions. As used herein, the following terms shall have the meanings set forth in this Section 1.0:

- a. "Benefitted Property" means that certain 103.46 acres of land in Karnes County, Texas, owned by the Beneficiary and more particularly described in that certain Partition Deed recorded in Volume 0717 at pages 377 of the of Karnes County, Texas (the "Deed"). A copy of the referenced Deed is attached hereto and incorporated herein by reference for all purposes as Exhibit "1".
- b. "Consent to Irrigate" means authorization for water diverted pursuant to the Permit to be applied to beneficial use for irrigation and agricultural purposes without waste on the Benefitted Property as contemplated by the TCEQ Rules.
- c. "Diversion Point" means the point along Cibolo Creek at which state water is authorized to be diverted by the Permit as of the Effective Date.
- d. "Diversion Rate" means the maximum authorized diversion rate under the Permit of .67 cfs (300 gpm).
- e. "Diversion Season" means the seven-month period from October 1 to April 30 during which diversions under the Permit are authorized pursuant to the Permit's special conditions.
- f. "New Diversion Point No. 1" means the diversion point authorized by this Consent Agreement, and for which Beneficiary shall maintain the facilities necessary to divert water under the Permit, as amended. The location of the New Diversion Point No. 1 is generally depicted on the plat attached hereto as Exhibit "2" and incorporated herein by reference for all purposes. The proposed coordinates for New Diversion Point No. 1 are Latitude 28.994299, Longitude -97.901404.
- g. "Permit" means the authorization issued by the Texas Commission on Environmental Quality to divert state water from Cibolo Creek and

identified as Permit No. 3162, a copy of which is attached hereto and incorporated herein by reference for all purposes as Exhibit "3".

- h. "South Texas Water Master" means the operating division within the TCEQ authorized to monitor, manage and regulate Permit No. 3162, as amended, and the diversions and use of the water contemplated by this Consent Agreement.
- i. "TCEQ" means the Texas Commission on Environmental Quality or any successor or predecessor agency authorized to regulate and manage state surface water by the Texas Legislature.

2.0 Consent to Irrigate. (a) Pursuant to 30 TAC § 295.32(5), Beneficiary agrees that the Owner is authorized to identify the Benefitted Property, including the New Diversion Point No. 1 within the Benefitted Property, as part of any application to amend the Permit to be filed with TCEQ by Owner for purposes of authorizing irrigation of additional acreage, to include the Benefitted Property, with water authorized for diversion at the New Diversion Point No. 1 on the Benefitted Property authorized under the Permit, as amended.

(b) The Parties recognize (i) that the Permit and all right, title and interest in and to the Permit and the water authorized for diversion pursuant to the Permit shall remain in the Owner until the water is actually diverted by the Beneficiary at the Diversion Point, and (ii) that the land and title and all right and ownership and interest in and to the Benefitted Property described in the Deed shall remain in the Beneficiary, provided that the land shall be eligible for irrigation and mining use under the Permit, once amended. The Parties further agree that this Consent Agreement is not intended to make the Benefitted Property an appurtenance to the Permit or the water authorized for irrigation under the Permit. Accordingly, sale of the Benefitted Property, or any portion of it, shall never include a proportionate share of the Permit or the irrigation right authorized by the Permit, or the mining right to be authorized by the amended Permit.

(c) In the event Beneficiary sells any portion of the Benefitted Property less than the whole, (i) this Consent Agreement and the rights to irrigate or conduct mining operations, including hydraulic fracturing and other oil and gas development activities, on the Benefitted Property shall be available and apply solely to the portion of the Benefitted Property retained by Beneficiary, and (ii) if any such sale includes the New Diversion Point No. 1, Owner has the discretion of whether to apply to the TCEQ for a new diversion point to be located on the portion of the Benefitted Property retained by the Beneficiary.

(d) Diversion and use on the Benefitted Property of any water made available by diversion pursuant to the Permit as amended pursuant to this Consent Agreement shall be limited to times, volumes, locations and purposes authorized in writing by Owner, which authorization shall be granted in writing and shall not be unreasonably withheld or delayed.

3.0 Title to Real Property Interest in Benefitted Property and the Permit. (a) Owner acknowledges and agrees that the right being granted pursuant to this Consent Agreement is for Beneficiary to construct, maintain and operate diversion works at the location on the Benefitted

Property identified in **Exhibit “3,”** and use the water diverted at Diversion Point No. 1 for beneficial use for irrigation/agriculture or mining purposes on the Benefitted Property.

(b) Beneficiary acknowledges and agrees that nothing in this Consent Agreement is intended to, nor should it be interpreted as conveying any real property interest in or to the Permit, or the water rights authorized therein, in favor of Beneficiary. To the contrary, the Parties agree that this Consent Agreement conveys no property interest in the Permit, nor does it render the Benefitted Property as being “appurtenant to” the Permit or the irrigation rights granted therein, now or as the Permit may be amended at any time in the future.

4.0 Owner’s use of the Benefitted Property. (a) The Parties acknowledge and agree that the purpose of this Consent Agreement, in part, is to provide the Owner with a location that Owner may identify as a “point of diversion” for purposes of amending the Permit to implement this Consent Agreement, and thereafter, for Beneficiary to construct, operate and maintain diversion works on the Benefitted Property to facilitate the diversion and delivery of water for beneficial purposes, including irrigation and/or mining use, or other beneficial use of purposes, including temporary storage in an off-channel reservoir on the Benefitted Property authorized under the amended Permit. The Parties further agree and acknowledge, that they will enter into separate agreements from time-to-time authorizing Beneficiary to divert and use all or a portion of the water authorized by the Permit, as amended, for beneficial use on the Benefitted Property for any purpose authorized in the Permit, including the irrigation of up to 60 acres out of the 103.46 acres contained in the Benefitted Property described in the attached **Exhibit “1”**.

(b) During periods when the Parties are not actively engaged in the purchase and sale of water for diversion at and delivery to the Benefitted Property for beneficial use as contemplated by this Consent Agreement, Beneficiary may continue to maintain the diversion point for so long as this Consent Agreement remains in place. Upon termination of this Consent Agreement, as prescribed by paragraph 6.0 below, Owner shall provide written notice to TCEQ in the form of an amendment to the Permit, requesting the deletion of the additional Diversion Point(s) on the Benefitted Property from the Permit.

(c) Owner shall have no right to occupy or use the Benefitted Property. The Parties agree that this Consent Agreement grants Owner no right to occupy the Benefitted Property for purposes of hunting, fishing, picnicking, camping, boating or other recreational activities.

5.0 Permit Amendment/Water Master Issues/Diversion Works. (a) Owner shall be responsible for the preparation, and associated costs, of filing the Permit amendment necessary to implement this Consent Agreement. Beneficiary shall cooperate with Owner in a timely manner to provide information necessary to complete and file the Permit amendment as well as respond to any requests for additional information from the TCEQ.

(b) Owner has advised Beneficiary that the Permit management is subject to the jurisdiction of the South Texas Water Master operation headquartered in San Antonio, Texas. Pursuant to Chapter 304 of the Commission’s Rules, codified in Title 30 Texas Administrative Code, the South Texas Water Master is authorized to charge annual Water Master fees while Permittee is operating within the Water Master’s jurisdiction. These fees are assessed based upon the paper water right, not the amount of water actually diverted in any calendar year. With respect

to the annual Water Master fees, the Parties agree that Owner shall be responsible for payment of the annual invoice Water Master fees upon receipt.

(c) Notwithstanding anything to the contrary in this Consent Agreement, the Parties expressly agree that Beneficiary, not the Owner, shall be solely responsible for the installation and maintenance, including all associated costs, for the Diversion Works and the TCEQ approved meter to be installed, maintained, operated and repaired or replaced, as necessary, during the term of this Consent Agreement. The Parties further agree that the benefits derived from the Diversion Works, as well as the beneficial use of the water diverted at the Diversion Point and applied to beneficial purposes on the Benefitted Property is in the Beneficiary, rather than the Owner. Accordingly, the Parties agree that the Beneficiary, rather than the Owner is responsible for the costs associated with the installation, operation and maintenance of the Diversion Works as wells as the cost, if any, to bring utilities to the Diversion Point, as well as the cost of the utility services provided to operate the Diversion Works.

(d) Beneficiary agrees to comply with all requirements of the WaterMaster, in addition to the terms and conditions of the Permit and all applicable laws and regulations.

6.0 Term. (a) Unless terminated earlier pursuant to this Consent Agreement, it shall remain in place for so long as the Permit includes the Diversion Point(s) identified on the Plat attached hereto as Exhibit "2";

(b) Either Party may terminate this Consent Agreement by providing the other Party 180-days' prior written notice of the date of termination. The notice of termination shall be effective upon receipt by the Party intended to receive the notice. All notices shall be sent to the addresses and in the form provided by paragraph 17.0 of this Consent Agreement.

7.0 Water Conservation/Drought Management. All diversion of water at New Diversion Point No. 1 pursuant to the amended Permit, shall be in accordance with any Water Conservation and/or Drought Management Plans as may be required by the TCEQ.

8.0 Attorney's Fees. If either Party retains an attorney to enforce this Consent Agreement, the Party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

9.0 Binding Effect. This Consent Agreement binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

10.0 Choice of Law. This Consent Agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

11.0 Counterparts. This Consent Agreement may be executed in multiple counterparts. All counterparts taken together constitute the Consent Agreement.

12.0 Waiver of Default. A default is not waived if the non-defaulting Party fails to declare default immediately or delays in taking any action with respect to the default. Pursuit of

any remedies set forth in this Consent Agreement does not preclude pursuit of other remedies in this Consent Agreement or provided by law.

13.0 Further Assurances. Each signatory Party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Consent Agreement and all transactions contemplated by this Consent Agreement.

14.0. Indemnity. Each Party agrees to indemnify, defend, and hold harmless the other Party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this Consent Agreement by the indemnifying Party. The obligations of the Parties under this provision will survive termination of this Consent Agreement for a period of two full calendar years.

15.0 Survival. The obligations of the Parties in this Consent Agreement that cannot be or were not performed before termination of this Consent Agreement survive termination of this Consent Agreement.

16.0 Legal Construction. If any provision in this Consent Agreement is unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Consent Agreement will be construed as if the unenforceable provision had never been a part of the Consent Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. This Consent Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

17.0 Notices. (a) Any notice required or permitted under this Consent Agreement must be in writing. Any notice required by this Consent Agreement will be deemed to be given (whether received or not) the earlier of receipt or three business days after being deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Consent Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, or e-mail and will be effective when received. Any address for notice may be changed by written notice given as provided herein.

(b) Until such time as a Party provides written notice of a change of address for purposes of Notice in accordance with subparagraph (a) above, the following addresses will be used for all Notices required or contemplated by this Consent Agreement:

Owner: Mr. & Mrs. Andrew Rives
2126 FM 2724, Hobson, Texas, 78117

Beneficiary: Jeffery Pollok
6171 CR 228
Falls City, Texas, 78113

18.0 Entire Consent Agreement. This Consent Agreement and any exhibits, together with Permit No. 3162, as amended, are the entire Consent Agreement of the Parties concerning the Consent Agreement and the granting of the Consent to Irrigate and use water for Mining purposes herein. There are no other or additional representations, Consent Agreements, warranties, or promises, and neither Party is relying on any statements or representations of the other Party or any agent of the other Party, that are not in this Consent Agreement and any exhibits hereto, Permit No. 3162, as amended.

This Consent Agreement may be executed in duplicate. Faxed or e-mailed copies of the executed Consent Agreement shall be effective upon receipt. The Consent Agreement may be executed in multiple counterparts.

SIGNATURES APPEAR ON FOLLOWING PAGES

BENEFICIARY:

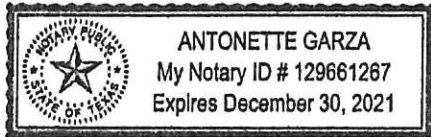
By: *Jeffery Pollok*
Jeffery Pollok

Date of Signature: 9-20, 2019

STATE OF TEXAS §
 §
COUNTY OF Wilson §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 20 day of Sept., 2019,
by Jeffery Pollok, Beneficiary.



Antonette Garza
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Antonette Garza
My Commission Expires: 12-30-21

OWNER:

By: Andrew Rives
Andrew Rives

Date of Signature: 10/15, 2019

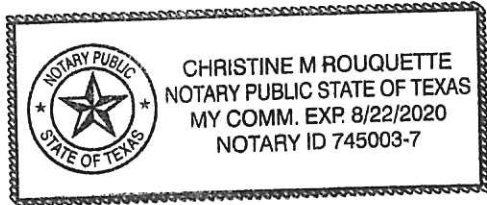
By: Joyce P. Rives
Joyce Rives

Date of Signature: 10/15, 2019

STATE OF TEXAS §
 §
COUNTY OF KARNES §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 15 day of October, 2019, by Andrew Rives, and wife, Joyce P. Rives, as Owner.



Christine M Rouquette
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Christine M Rouquette
My Commission Expires: 8/22/2020

Exhibit "1"

Copy of Partition Deed recorded in Volume 0717 at Pages 377
et seq. of the Real Property Records of Karnes County, Texas

PARTITION DEED

STATE OF TEXAS §

COUNTY OF KARNES §

Date: APRIL 20, 1998

Grantor: RODNEY DAVID POLLOK

Grantor's Mailing Address: 134 MARY HELEN, SAN ANTONIO, BEXAR COUNTY,
TEXAS 78222

Grantor: WANDA JANE POLLOK HUBBERT

Grantor's Mailing Address: RT. 1 BOX 211 EH, SAN ANTONIO, BEXAR COUNTY,
TEXAS 78223

Grantor: AUDREY ANN POLLOK RESPONDEK

Grantor's Mailing Address: RT. 1 BOX 123, FALLS CITY, WILSON COUNTY,
TEXAS 78113

Grantee: JEFFERY FABIAN POLLOK

Grantee's Mailing Address: RT. 1 BOX 119, FALLS CITY, WILSON COUNTY,
TEXAS 78113

WHEREAS Grantors and Grantee, hold in common, the hereinafter described real property, in addition to other real property being held in common, and they are desirous of making a partition of same.

NOW, THEREFORE, it is hereby COVENANTED, GRANTED and AGREED that Grantee, shall hold, possess and enjoy, as Grantee's portion of the said property held in common, free from any and all claims of Grantors, the following described property:

All that certain **103.46 acre tract or parcel of land** situated within the Alex F. Mitchell Survey A-201, Karnes County, Texas, and being all of that certain 121.6 acre tract or parcel of land (by resurvey found to contain 103.46 acres) as conveyed by Clement Opiela et al. to Aloys Kotzur by Deed dated October 14, 1958, recorded in Volume 263, Pages 163-172, Deed Records of Karnes County, Texas.

Said 103.46 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at an iron pipe set in the East line of a 28.4 acre tract as recorded in Volume 74, Page 588, Deed Records of Karnes County, Texas for the Northwest corner of this tract and the Northwest corner of aforementioned 121.6 acre tract (103.46 acres). Same being the Southwest corner of a 103 acre tract as recorded in Volume 74, Page 588, Deed Records of Karnes County, Texas and an interior corner of a 152.87 acre tract this day surveyed and from whence the Northwest corner of the Alex F. Mitchell Survey A-201 brs. N. 30 degrees 24 minutes W. 633.3 feet and S. 60 degrees 36 minutes W. 2182.5 feet.

THENCE N. 61 degrees 03 minutes E. with the common line of this tract and the 152.87 acre tract, a distance of 4015 feet to a corner post set in the South line of aforementioned 103 acre tract at a point where it intersects the West line of the old Helena-

VOL 0717 PAGE 377

San Antonio Road for the Northeast corner of this tract and the most Easterly Southeast corner of the 152.87 acre tract.

THENCE with the West fence line of the old Helena-San Antonio Road as follows:

S. 33 degrees 45 minutes E. 836.0 feet to a corner post and,

S. 30 degrees 11 minutes E. 373.2 feet to an iron pipe set by a corner post for the Southeast corner of this tract.

THENCE S. 60 degrees 58 minutes W. with fence, at 2919.5 feet pass an iron pipe set on the high bank of the Cibolo River and continue a total distance of 3019.5 feet to a point on the North bank of said Cibolo River for the Southwest corner of this tract;

THENCE with the North bank of the Cibolo River and its meanders as follows:

N. 68 degrees 17 minutes W. 258.45 feet;

N. 80 degrees 43 minutes W. 88.0 feet;

N. 86 degrees 10 minutes W. 254.8 feet;

S. 76 degrees 42 minutes W. 448.6 feet and

S. 65 degrees 47 minutes W. 177.7 feet to a point in same for a corner of this tract.

Same being the Southeast corner of aforementioned 28.4 acre tract and the most Southerly Southeast corner of the 152.87 acre tract.

THENCE N. 30 degrees 24 minutes W. a distance of 682.76 feet to the place of BEGINNING.

And being the same property described in Deed dated December 16, 1996, executed by Alice Kotzur to Fabian Thomas Pollok, of record in Volume 693, Page 581, Official Public Records, Karnes County, Texas.

LESS AND EXCEPT

2.14 acres of land within the Alex F. Mitchell Survey, A-201, Karnes County, Texas; part of a 103.46 acre tract of land described in a conveyance from Alice Kotzur to Fabian Thomas Pollok of record in Volume 693, Page 581, Official Public Records of Karnes County, Texas and being more particularly described as follows:

Beginning at an iron pipe (fnd) on the southwesterly R.O.W. of the Old San Antonio-Helena Road for the northerly corner of the Ignatz E. Sczepanik, et ux, land described in Volume 581, Page 837, Karnes County Deed Records; the easterly corner of the 103.46 acre parent tract and of this tract.

THENCE: S60-58-00W, with the common line of the Sczepanik and Pollok lands, generally along fence, 301.94 feet to a ½ inch iron pin set for the southerly corner of this tract.

THENCE: N15-15-48W, into the 103.46 acre parent tract, partially along an existing fence, 373.85 feet to a ½ inch iron pin set for the westerly corner of this tract.

THENCE: N57-51-22E, generally along an existing fence, 205.75 feet to a ½ inch iron pin set for the northerly corner of this tract on the southwesterly R.O.W. of the Old San Antonio-Helena Road.

THENCE: S30-11-00E, (record bearing-Volume 693, Page 581) with said road R.O.W., 374.35 feet to the place of beginning containing 2.14 acres of land, more or less.


Grantors hereby COVENANT, GRANT and CONFIRM and by these presents do hereby COVENANT, GRANT and CONFIRM unto Grantee the above described property.

VOL 0717 PAGE 378

This partition is made and accepted subject to any and all matters, restrictions, covenants, conditions, ordinances, encumbrances, rights of way, easements, tax liens, boundary disputes, shortages in area, matters shown on surveys, maps or plats, encroachments, overlapping of improvements, rights of parties in possession, maintenance charges and the lien securing said charges, and all outstanding mineral and royalty interests, if any, affecting the Property, whether or not of record in the office of the County Clerk of said County, to the extent, but only to the extent, the same are now in force and effect and relate to the Property.

W/01 0717 PAGE 379

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



RODNEY DAVID POLLOK



WANDA JANE POLLOK HUBBERT

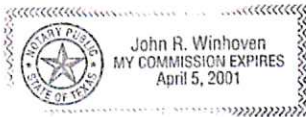



AUDREY ANN POLLOK RESPONDEK

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by RODNEY DAVID POLLOK.



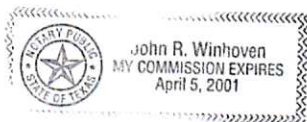



Notary Public in and for
The State of Texas.

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by WANDA JANE POLLOK HUBBERT.



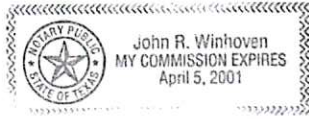


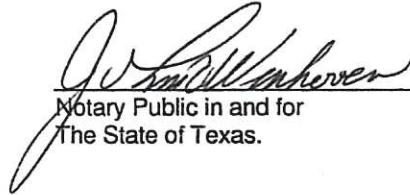
Notary Public in and for
The State of Texas.

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by AUDREY ANN POLLOK RESPONDEK.





Notary Public in and for
The State of Texas.

AFTER RECORDING RETURN TO:

JEFFERY FABIAN POLLOK
RT. 1 BOX 119
FALLS CITY, TEXAS 78113

Vol 0717 PAGE 380

PARTITION DEED

STATE OF TEXAS §

COUNTY OF KARNES §

Date: APRIL 20, 1998

Grantor: RODNEY DAVID POLLOK

Grantor's Mailing Address: 134 MARY HELEN, SAN ANTONIO, BEXAR COUNTY, TEXAS 78222

Grantor: WANDA JANE POLLOK HUBBERT

Grantor's Mailing Address: RT. 1 BOX 211 EH, SAN ANTONIO, BEXAR COUNTY, TEXAS 78223

Grantor: AUDREY ANN POLLOK RESPONDEK

Grantor's Mailing Address: RT. 1 BOX 123, FALLS CITY, WILSON COUNTY, TEXAS 78113

Grantee: JEFFERY FABIAN POLLOK

Grantee's Mailing Address: RT. 1 BOX 119, FALLS CITY, WILSON COUNTY, TEXAS 78113

WHEREAS Grantors and Grantee, hold in common, the hereinafter described real property, in addition to other real property being held in common, and they are desirous of making a partition of same.

NOW, THEREFORE, it is hereby COVENANTED, GRANTED and AGREED that Grantee, shall hold, possess and enjoy, as Grantee's portion of the said property held in common, free from any and all claims of Grantors, the following described property:

All that certain **152.87 acre tract or parcel of land** situated within the Manuel Lopez Survey, A-181, and the Alex F. Mitchell Survey, A-201, Karnes County, Texas, and being all of that certain 63.6 acre tract or parcel of land as conveyed by Mary M. Pawelek to Aloys Kotzur et ux. by Deed dated march 27, 1941, recorded in Volume 122, Page 70, Deed Records of Karnes County, Texas; being all of that certain 28.4 acre tract or parcel of land as conveyed by Mary Pawelek to Constance Pawelek by Deed dated April 29, 1925, recorded in Volume 74, Page 588, Deed; Records of Karnes County, Texas, and being also a portion of that certain 103 acre tract or parcel of land as conveyed by Mary Pawelek to Constance Pawelek by Deed dated April 29, 1925, recorded in Volume 74, Page 588, Deed Records of Karnes County, Texas.

Said 152.87 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a point on the North bank of the Cibolo River for the most Westerly Southwest corner of this tract and the Southwest corner of aforementioned 63.6 acre tract. Same being the Southwest corner of the Manuel Lopez Survey, A-181, and the Northwest corner of the Alex F. Mitchell Survey, A-201.

THENCE: With the North bank of the Cibolo River and its meanders as follows:

URL 0717 PAGE 382

N. 71 degrees 54 minutes W. 60.1 feet;
 N. 78 degrees 35 minutes W. 132.16 feet;
 S. 86 degrees 54 minutes W. 132.97 feet;
 N. 76 degrees 56 minutes W. 246.35 feet, and
 N. 84 degrees 52 minutes W. 215.73 feet to a point in same for the Northwest corner of this tract and the Northwest corner of aforementioned 63.6 acre tract.

THENCE: N. 60 degrees 46 minutes E. with fence, at 191.6 feet pass a stone at a turn of a road and continuing with same course and fence line a total distance of 6453.1 feet to a corner post set in the West fence line of the old Helena-San Antonio Road for the Northeast corner of this tract.

THENCE: With the West fence line of the Old Helena-San Antonio Road as follows:

S. 50 degrees 49 minutes E. 478.3 feet to a fence angle;
 S. 47 degrees 36 minutes E. 422.0 feet to a fence angle and
 S. 39 degrees 09 minutes E. 279.0 feet to a corner post set in the South line of aforementioned 103 acre tract for the most Easterly Southeast corner of this tract and the Northeast corner of a 103.46 acre tract this day surveyed (called 121.6 acre tract).

THENCE: S. 61 degrees 03 minutes W. a distance of 4015.0 feet to an iron pipe set in the East line of aforementioned 28.4 acre tract for an interior corner of this tract. Same being the Southwest corner of aforementioned 103 acre tract and the Northwest corner of aforementioned 103.46 acre tract (called 121.6 acre tract).

THENCE S. 30 degrees 24 minutes E. with fence in part, a distance of 682.76 feet to a point on the North bank of the Cibolo River for the most Southerly Southeast corner of this tract and the Southeast corner of aforementioned 28.4 acre tract.

THENCE: With the North bank of the Cibolo River and its meanders as follows:

S. 65 degrees 47 minutes W. 67.0 feet;
 S. 75 degrees 19 minutes W. 192.5 feet;
 S. 37 degrees W. 194.4 feet;
 S. 60 degrees 03 minutes W. 488.5 feet and
 S. 66 degrees 31 minutes W. 217.4 feet to a point in same for the most Southerly Southwest corner of this tract and the Southwest corner of aforementioned 28.4 acre tract. Same being the Southeast corner of the L. Urbanczyk 25 acre tract.

THENCE: N. 12 degrees 04 minutes W. with fence, a distance of 1385.2 feet to an iron pipe set in the South line of aforementioned 63.6 acre tract; same being the common line of the Manuel Lopez and the Alex F. Mitchell Surveys for an interior corner of this tract and the Northwest corner of aforementioned 28.4 acre tract. Same being the Northeast corner of the L. Urbanczyk 25 acre tract.

THENCE: S. 60 degrees 36 minutes W. with the common line of the Manuel Lopez and the Alex F. Mitchell Surveys, a distance of 1471.5 feet to the place of BEGINNING.

And being the same property described in Deed dated February 12, 1976, executed by Aloys Kotzur and wife, Constance Kotzur to Celeste Kotzur Pollok, of record in Volume 451, Page 195, Deed Records, Wilson County, Texas.


Grantors hereby COVENANT, GRANT and CONFIRM and by these presents do hereby COVENANT, GRANT and CONFIRM unto Grantee the above described property.

This partition is made and accepted subject to any and all matters, restrictions, covenants, conditions, ordinances, encumbrances, rights of way, easements, tax liens,

Vol 0717 PAGE 384

boundary disputes, shortages in area, matters shown on surveys, maps or plats, encroachments, overlapping of improvements, rights of parties in possession, maintenance charges and the lien securing said charges, and all outstanding mineral and royalty interests, if any, affecting the Property, whether or not of record in the office of the County Clerk of said County, to the extent, but only to the extent, the same are now in force and effect and relate to the Property.

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


RODNEY DAVID POLLOK

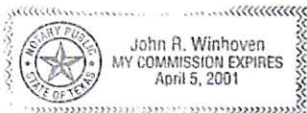

WANDA JANE POLLOK HUBBERT



AUDREY ANN POLLOK RESPONDEK

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by RODNEY DAVID POLLOK.

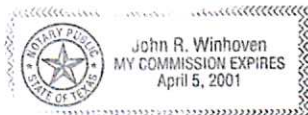




Notary Public in and for
The State of Texas.

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by WANDA JANE POLLOK HUBBERT.

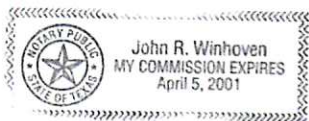




Notary Public in and for
The State of Texas.

STATE OF TEXAS §

COUNTY OF Wilson §

This instrument was acknowledged before me on May 1, 1998 by AUDREY ANN POLLOK RESPONDEK.




Notary Public in and for
The State of Texas.

NOT 0717 PAGE 385

AFTER RECORDING RETURN TO:

JEFFERY FABIAN POLLOK
RT. 1 BOX 119
FALLS CITY, TEXAS 78113

Exhibit "2"

Plat depicting the New Diversion Point No. 1

Pollok Diversion Point

Legend
📌 Diversion point

📌 28.994299053328085, -97.901404359445

CR 253

CR 254

Google Earth

© 2018 Google

FM 2724

3000 ft

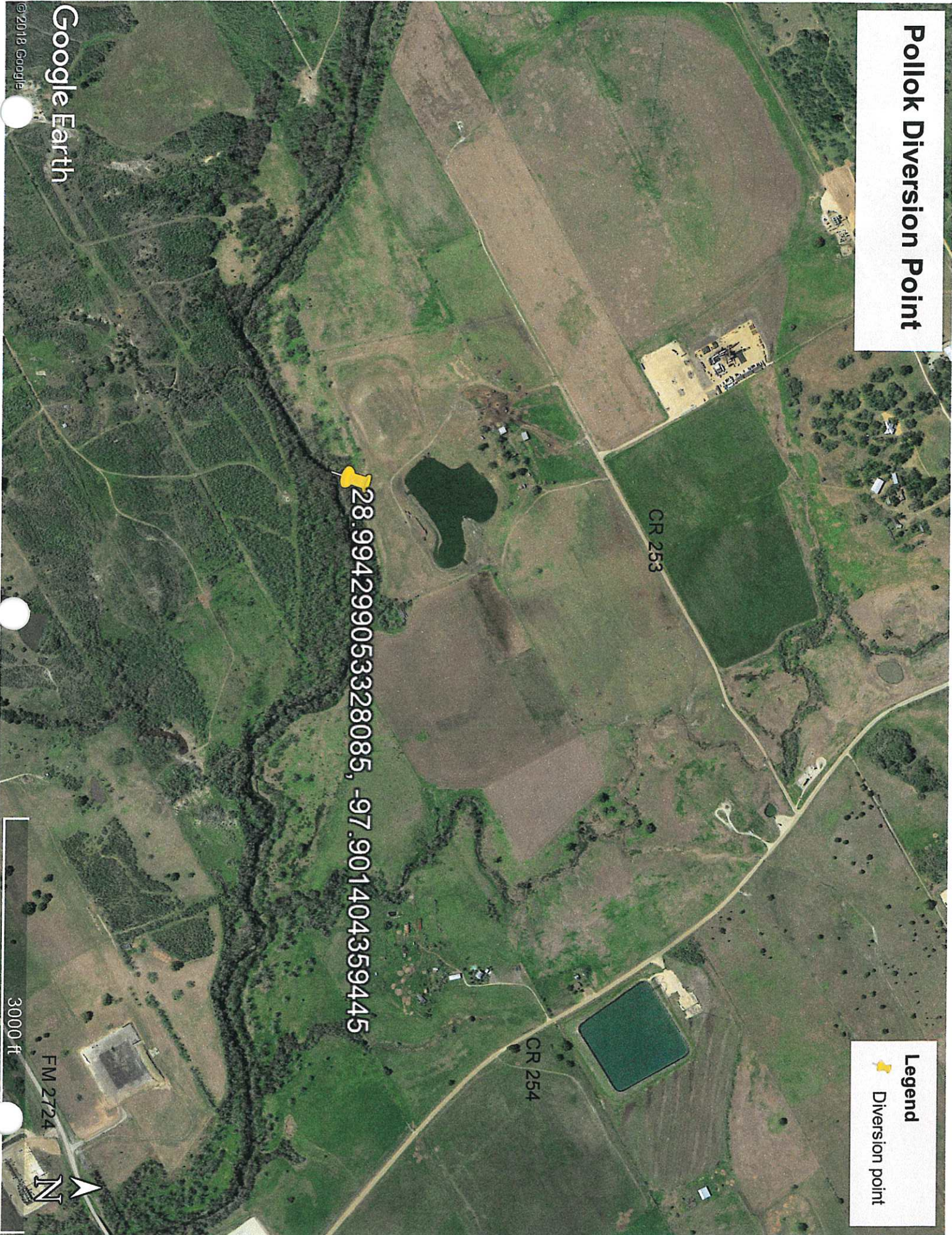


Exhibit "3"

Copy of Permit No. 3162

PERMIT TO
APPROPRIATE STATE WATER

APPLICATION NO. 3431	PERMIT NO. 3162	TYPE: Regular
Permittee : Ben J. Pawelek	Address : Route 1, Box 186 Hobson, Texas 78117	
Received : January 2, 1975	Filed : April 14, 1975	
Granted : July 29, 1975	County : Karnes	
Watercourse : Cibolo Creek, tributary of San Antonio River	Watershed: San Antonio River Basin	

WHEREAS, the Texas Water Rights Commission finds that jurisdiction of the application is established, due notice and publication thereof having been accomplished, and hearing having been held, all in accordance with the Texas Water Code and the Rules and Regulations of the Commission.

NOW, THEREFORE, this permit to appropriate State water is issued to Ben J. Pawelek, subject to the following terms and conditions:

1. USE

Permittee is authorized to directly divert and use not to exceed 60 acre-feet of water per annum from Cibolo Creek to irrigate 60 acres of land out of a 191-acre tract in the Manuel Lopez Survey, Abstract No. 181, Karnes County, Texas.

2. DIVERSION

- (a) Point of Diversion: By means of one portable pump at a point which is S 61° W, 1598 feet from the northwest corner of the aforesaid survey.
- (b) Maximum Diversion Rate: 0.67 cfs (300 gpm).

3. SPECIAL CONDITIONS

- (a) Diversions by applicant are expressly limited to the 7 months period from October 1 through April 30 of the following year.
- (b) This permit is issued subject to the adjudication of water rights on Cibolo Creek.

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

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

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

This permit is issued subject to the Rules and Regulations of the Texas Water Rights Commission and to its right of continual supervision.

TEXAS WATER RIGHTS COMMISSION

/s/ Joe D. Carter
Joe D. Carter, Chairman

/s/ Joe R. Carroll
Joe R. Carroll, Commissioner

/s/ Dorsey B. Hardeman
Dorsey B. Hardeman, Commissioner

Date Issued:

August 5, 1975

(SEAL)

Attest:

/s/ Mary Ann Hefner
Mary Ann Hefner, Secretary

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner



John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director

January 24, 1991

Mr. Andrew Rives
Route 1, Box 183
Hobson, Texas 78117

Re: Permit No. 3162 (Application No. 3431)
60 acre-feet of water per annum from Cibolo Creek for
irrigation of 60 acres of land out of a 191-acre tract
located in the Manuel Lopez Survey, Abstract 181,
Karnes County, Texas

Dear Mr. Rives:

Based on a copy of a warranty deed recently submitted to us, we are changing our records to reflect you and your wife, Mrs. Joyce P. Rives, as the owners of the referenced permit.

If we can be of any assistance in the future, please do not hesitate to contact us.

Very truly yours,

Mohan A. Reddy

Mohan A. Reddy
Surface Water Section
Phone: 512/371-6262

MAR:ph

cc: South Texas Watermaster, San Antonio

Rives 57.48 Acres Warranty Deed

Release of Lien

Legal Property Description

THE STATE OF TEXAS § WARRANTY DEED WITH VENDOR'S LIEN
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

That we, ADRIAN OPIELA, ADRIAN OPIELA, JR., and LINDA LOU OPIELA, of the County of Karnes and State of Texas, hereinafter called "GRANTORS", for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to us in hand paid by ANDREW L. RIVES and wife, JOYCE A. RIVES, hereinafter called "GRANTEES", and of the further consideration of the execution and delivery by GRANTEES of their one certain promissory note in the principal sum of SEVENTEEN THOUSAND FOUR HUNDRED EIGHTY AND NO/100 DOLLARS (\$17,480.00) payable to ADRIAN OPIELA, ADRIAN OPIELA, JR., and LINDA LOU OPIELA, as in said note provided; and said note expressly stating and acknowledging the same to be secured by a Vendor's Lien, as hereinafter retained and assigned, and as well the Deed of Trust executed and given this day to JOHN W. BERRY, Trustee, as their additional obligation and security for the full, prompt and final payment of said note;

Have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY, unto the said ANDREW L. RIVES and wife, JOYCE A. RIVES, whose address is Route 1, Box 183, Hobson, Karnes County, Texas 78117, all that certain real property, together with any and all improvements thereon, lying and being situated in the County of Karnes and State of Texas and more particularly described as follows, to wit:

57.48 acres of land out of the A. Hernandez Grant, A-4, Karnes County, Texas; part of the Adrian Opiela, et al, land known as "Fourteenth Tract" in a conveyance of record in Volume 635, Page 773, Deed Records of Karnes County, Texas and being more particularly described as follows:

Beginning at a 1/2 inch iron pin set on the southeasterly line of the Opiela land for the southerly corner of this tract; easterly corner of a 10.27 acre tract surveyed this day, being N61-38-09E, distance of 1092.18 feet from an iron pin set on the easterly R.O.W. of F.M. Hwy. 2724 for the southerly corner of the Opiela land.

THENCE: N15-10-37W, across the Opiela land, with the common line of the 10.27 acre tract and of this tract, 524.11 feet to a 1/2 inch iron pin set on the southeasterly R.O.W. of F.M. Hwy. 2724 for the westerly corner of this tract.

THENCE: N61-18-56E, with said Hwy. R.O.W., 3735.73 feet to a 1/2 inch iron pin set for the PC of a R.O.W. curve to the right.

VOL 654 PAGE 575

VOL. 654 PAGE 578

THENCE: with said curve having a radius of 1960.08 feet; chord bearing of N67-38-38E; chord distance of 409.84 feet and arc length of 410.67 feet to a 1/2 inch iron pin set for the PT of said curve.

THENCE: N73-58-12E, continuing with said R.O.W., 113.65 feet to a 1/2 inch iron pin set for the PC of a R.O.W. curve to the left.

THENCE: with said curve having a radius of 1960.08 feet; chord bearing of N67-58-02E; chord distance of 409.78 feet and arc length of 410.53 feet to a 1/2 inch iron pin set for the PT of said curve.

THENCE: N61-58-05E, continuing with said R.O.W., 221.11 feet to a 1/2 inch iron pin set on the southwesterly bank of Cibolo Creek for the northerly corner of this tract.

THENCE: with the meanders of said bank of Cibolo Creek; S11-10-48E, distance of 129.37 feet; S30-07-50E, distance of 184.82 feet and S33-50-13E, distance of 113.96 feet to the easterly corner of this tract.

THENCE: S61-42-29W, with fence along the southeasterly line of the Opiela land, 3376.42 feet and S61-38-09W, distance of 1604.16 feet to the place of beginning and containing 57.48 acres of land.

SAVE AND EXCEPT the following tract of land:

Being 10.00 acres of land out of the A. Hernandez Grant, A-4, Karnes County, Texas, being part of the land known as "Fourteenth Tract" in a conveyance from Bridgett Labus to Adrian Opiela, et al, of record in Volume 635, Page 773, Deed Records of Karnes County, Texas and being more particularly described as follows:

Beginning at a 1/2 inch iron pin (fnd) in the southeasterly fence line of the Opiela land for the southerly corner of this tract; easterly corner of the Randy W. Pawelek, et ux land described in Volume 649, Page 201, Deed Records of Karnes County, Texas, being N61-38-46E, distance of 1092.18 feet from an iron pin (fnd) on the northerly R.O.W. of F.M. 2724.

THENCE: N15-10-37W, with the common line of the Pawelek land and of this tract, 524.10 feet to an iron pin (fnd) on the southeasterly R.O.W. of F.M. Hwy. 2724 for the westerly corner of this tract.

THENCE: N61-18-56E, with said Hwy. R.O.W., 790.46 feet to a 1/2 inch iron pin set for the northerly corner of this tract.

THENCE: S28-21-51E, across the Opiela land, 514.70 feet to a 1/2 inch iron pin set on the southeasterly line of the Opiela land for the easterly corner of this tract.

THENCE: S61-38-09W, with fence, 910.0 feet to the place of beginning and containing 10.00 acres of land.

TO HAVE AND TO HOLD the above described property and premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said GRANTEES, their heirs and assigns forever; and we do hereby bind ourselves, our heirs, executors, assigns and administrators, to WARRANT AND FOREVER DEFEND all and singular the said property and premises unto the said GRANTEES, and to their heirs and assigns,

against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This conveyance is made subject to all the easements, rights-of-ways, and restrictions of record in the office of the County Clerk of Karnes County, Texas.

BUT IT IS EXPRESSLY AGREED AND STIPULATED that a Vendor's Lien and Superior Title is reserved against the above described property, premises and improvements until the above described note and all interest thereon is fully paid according to its face and tenor, effect and reading, when this Deed shall become absolute.

To Have And To Hold the same unto the said ADRIAN OPIELA, ADRIAN OPIELA, JR., and LINDA LOU OPIELA, and unto their successors and assigns forever; subject only to the right of the GRANTEES to pay off said Note and receive a discharge and release thereof of its security, in accordance with the terms thereof and such security as is given by the GRANTEES therewith.

EXECUTED on this the 17th. day of January, 1994.

VOL 654 PAGE 577

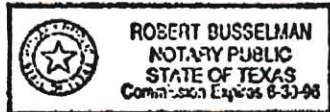
Adrian Opiela
ADRIAN OPIELA

Adrian Opiela, Jr.
ADRIAN OPIELA, JR.

Linda Lou Opiela
LINDA LOU OPIELA

THE STATE OF TEXAS §
COUNTY OF KARNES §

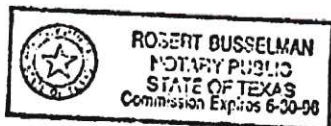
This instrument was acknowledged before me on this the 17th. day of January, 1994, by ADRIAN OPIELA.



[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF KARNES §

This instrument was acknowledged before me on this the 17th. day of January, 1994, by ADRIAN OPIELA, JR..

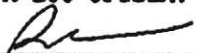


[Signature]
Notary Public, State of Texas

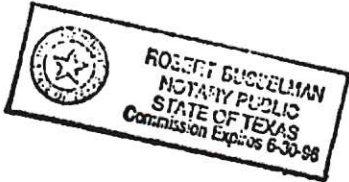
THE STATE OF TEXAS §

COUNTY OF KARNES §

This instrument was acknowledged before me on this the
17th day of January, 1994, by LINDA LOU OPIELA.



Notary Public, State of Texas



Vol 654 Page 578

39788

REGISTERED

FROM:
ADRIAN OPILA, ET. AL.

TO:
ANDREW L. RIVES, ET. VX.

WARRANTY DEED
WITH VENDOR'S LITEN

Filed For Record the 18th
day of Jan A.D. 1994
At 11:30 o'clock AM
ELIZABETH SWIZE
9th County Court, Karnes County, Texas
By Marilyn Bedney Deputy

Robert L. Busselman
Attorney at Law
KENEDY, TEXAS

Vol 654 Page 579

RECORDED IN OFFICIAL RECORDS
FILE DATE Jan 18, 1994
FILE TIME 11:30 O'CLOCK AM
VOL. 654 PAGE 579



RECORDING DATE
Jan 18, 1994
ELIZABETH SWIZE
COUNTY CLERK, KARNES COUNTY
BY Marilyn Bedney

RELEASE OF LIEN

Date: September 18, 2012

Note

Date: January 17, 1994

Original Amount: SEVENTEEN THOUSAND FOUR HUNDRED EIGHTY AND NO/100 DOLLARS (\$17,480.00)

Maker: ANDREW L. RIVES and wife, JOYCE A. RIVES

Payee: ADRIAN OPIELA, ADRIAN OPIELA, JR., and LINDA LOU OPIELA

Date of Maturity: January 17, 1995

Holder of Note and Lien: (1) FLORENCE OPIELA, (2) ADRIAN OPIELA, JR., and (3) LINDA LOU OPIELA POLDRECK (formerly Linda Lou Opiela)

Holder's Mailing Address (including county):

- (1) 14756 FM 887, Gillett, Karnes County, Texas 78116;
- (2) 14756 FM 887, Gillett, Karnes County, Texas 78116; and
- (3) P. O. Box 188, Weesatche, Goliad County, Texas 77993

Note and Lien are Described in the Following Documents, Recorded in:

Deed retaining Vendor's Lien, dated January 17, 1994, from Adrian Opiela et al to Andrew L. Rives et ux, recorded in Volume 654, Page 575, Official Public Records of Karnes County, Texas; and Deed of Trust dated January 17, 1994, from Andrew L. Rives et ux to John W. Berry, Trustee for benefit of Adrian Opiela et al, recorded in Volume 654, Page 580, Official Public Records of Karnes County, Texas.

Property (including any improvements) Subject to Lien:

57.48 acres of land, more or less, part of the A. Hernandez Grant, A-4, in Karnes County, Texas, more fully described by metes and bounds in the Deed and Deed of Trust referred to above.

Holder of the note acknowledges its payment and releases the property from the lien.

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

Florence Opiela
FLORENCE OPIELA

Adrian Opiela, Jr.
ADRIAN OPIELA, JR.

Linda Lou Opiela Poldreck
LINDA LOU OPIELA POLDRECK

THE STATE OF TEXAS :
COUNTY OF Delaware :

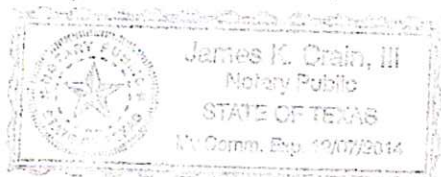
This instrument was acknowledged before me on the 13th day of December, 2012,
by FLORENCE OPIELA.



J. Crain
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS :
COUNTY OF Delaware :

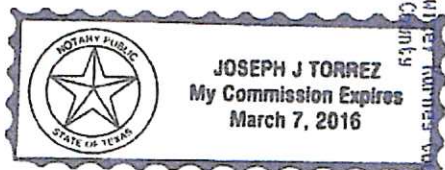
This instrument was acknowledged before me on the 13th day of December, 2012,
by ADRIAN OPIELA, JR.



J. Crain
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS :
COUNTY OF Texas :

This instrument was acknowledged before me on the 16th day of November, 2012,
by LINDA LOU OPIELA POLDRECK.



Shirley S. Torrez, County Clerk
Delaware County

STATE OF TEXAS
COUNTY OF KARNES
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the public records of:
Delaware County
as shown hereon by me,
Dec 21, 2012

J. Torrez
NOTARY PUBLIC, STATE OF TEXAS

Filed for Record in:
Karnes County
On: Dec 21, 2012 at 09:08A
As a:
Recording Official Record
Document Number: 00118370
Amount: 20.00
Receipt Number - 61807
By:
Elizandra Garcia

**Water Use Consent Agreement
Rives Family 210 Acres**

- **Signed Water Use Agreement**
- **Ownership Documents**
- **Legal Description**

**WATER USE CONSENT AGREEMENT
RELATED TO WATER RIGHTS PERMIT NO. 3162**

This Water Use Consent Agreement related to Water Rights Permit No. 3162 is entered into effective October __, 2019 (the "Consent Agreement"), by and between Andrew Rives, and wife, Joyce P. Rives (collectively the "Owner") and Sarah R. Fossum, Stacey R Roy, Charles B. Rives, Stephany Rives and Panna Maria Investments II, LP, a Texas limited partnership (collectively the "Beneficiary") for the purposes and considerations recited herein. The Owner and Beneficiary may be referred to herein individually as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Owner is authorized to divert up to sixty (60) acre-feet per annum of water from the Cibolo Creek, a tributary of the San Antonio River and the San Antonio River Basin, during the Diversion Season pursuant to Permit No. 3162 issued by the Texas Commission on Environmental Quality; and

WHEREAS, the Permit currently authorizes Owner to divert and beneficially use the water authorized therein for irrigation purposes on up to 60 acres of land out of a 191-acre tract described in the Permit with water diverted at a Diversion Point identified in the Permit; and

WHEREAS, Beneficiary owns the Benefitted Property located adjacent to Cibolo Creek and downstream of the Diversion Point identified in the Permit; and

WHEREAS, Beneficiary desires to contract with Owner for purposes of using all or a portion of the water authorized for diversion and beneficial use by the Permit from time-to-time on the Benefitted Property for any beneficial use or purpose authorized by the Permit, as the same may be amended from time to time, including for (i) irrigation and/or (ii) mining purposes ("Beneficiary's Objectives"); and

WHEREAS, in order to accomplish and implement Beneficiary's Objectives, the Permit must be amended (i) to add additional downstream diversion points, as well as (ii) to authorize the use of the water for irrigation purposes, and (iii) to authorize the use of water for mining purposes on the Benefitted Property; and

WHEREAS, Owner is amenable to entering into a contract with Beneficiary to accomplish Beneficiary's Objectives; and

WHEREAS, Beneficiary is willing to cooperate with Owner to obtain the amendment(s) to the Permit necessary to implement Beneficiary's Objectives; and

WHEREAS, Owner and Beneficiary agree that the amendment(s) necessary to the Permit include (i) the addition of a diversion point on the Benefitted Property, as well as a description of the acreage within the Benefitted Property Beneficiary desires to be able to irrigate, (ii) adding "mining" to the authorized beneficial purposes to which the water diverted pursuant to the Permit may be used, as well as (iii) adding authorization for temporary storage of water diverted in an off-channel reservoir on the Benefitted Property; and

WHEREAS, Beneficiary and Owner agree (i) that the amendments to the Permit will not include any increase in either (a) the quantity of water available for diversion, (b) the rate of diversion for the volume of water authorized currently under the Permit or (c) any change in the Diversion Season; and

WHEREAS, Beneficiary and Owner further agree that Beneficiary (i) will maintain the necessary diversion point(s), and (ii) will install, maintain and operate the necessary diversion works and facilities on Beneficiary's Property;

NOW, THEREFORE, in consideration of the premises, the promises and anticipated mutual benefits to be derived from the Consent Agreement, the Owner and Beneficiary agree as follows:

1.0 Definitions. As used herein, the following terms shall have the meanings set forth in this Section 1.0:

- a. "Benefitted Property" means that certain 209.47 acres of land in Karnes County, Texas, owned by the Beneficiary and more particularly described in the following instruments filed of record in the Deed Records of Karnes County, Texas (the "Ownership Documents"):
 - (i) Gift Deed recorded in Volume 0739 at pages 064 conveying an undivided interest in 64.5 acres out of a 209.47 acre tract to Alvin James Pawelek (**Exhibit 1-A**);
 - (ii) Gift Deed recorded in Volume 0739 at pages 067 conveying an undivided interest in 37.5 acres out of a 209.47 acre tract to Joyce Ann Pawelek Rives (**Exhibit 1-B**);
 - (iii) Warranty Deed recorded in Volume 1105 at pages 886 conveying all of Grantor, Joyce Ann Rives, interest in a 209.47 acre tract to Panna Marie Investments II, LP, a Texas limited partnership (**Exhibit 1-C**);
 - (iv) Last Will and Testament of Ben J. Pawelek (**Exhibit 1-D**) bequeathing, *inter alia*:
 - (1) a 75-acre interest out of a 209.47 acre tract to Joyce Ann Pawelek Rives; and
 - (2) a 129-acre interest out of a 209.47 acre tract to Alvin James Pawelek; and
 - (v) Last Will and Testament of Alvin James Pawelek (**Exhibit 1-E**) bequeathing, *inter alia*, a 129-acre interest out of a 209.47 acre tract in equal $\frac{1}{4}$ undivided interests described as "being approximately 32.25 acres of land" to Sarah R. Fossum, Stacey R Roy, Charles B. Rives and Stephany Rives.

Copies of the referenced Ownership Documents is attached hereto and incorporated herein by reference for all purposes as **Exhibits “1-A” through “1-E”, inclusive.**

- b. “Consent to Irrigate” means authorization for water diverted pursuant to the Permit to be applied to beneficial use for irrigation and agricultural purposes without waste on the Benefitted Property as contemplated by the TCEQ Rules.
- c. “Diversion Point” means the point along Cibolo Creek at which state water is authorized to be diverted by the Permit as of the Effective Date.
- d. “Diversion Rate” means the maximum authorized diversion rate under the Permit of .67 cfs (300 gpm).
- e. “Diversion Season” means the seven-month period from October 1 to April 30 during which diversions under the Permit are authorized pursuant to the Permit’s special conditions.
- f. “New Diversion Point No. 1” means the diversion point authorized by this Consent Agreement, and for which Beneficiary shall maintain the facilities necessary to divert water under the Permit, as amended. The location of the New Diversion Point No. 1 is generally depicted on the plat attached hereto as **Exhibit “2”** and incorporated herein by reference for all purposes. The proposed coordinates for New Diversion Point No. 1 are Latitude 28.96932269, Longitude -97.8744520.
- g. “Permit” means the authorization issued by the Texas Commission on Environmental Quality to divert state water from Cibolo Creek and identified as Permit No. 3162, a copy of which is attached hereto and incorporated herein by reference for all purposes as **Exhibit “3”**.
- h. “South Texas Water Master” means the operating division within the TCEQ authorized to monitor, manage and regulate Permit No. 3162, as amended, and the diversions and use of the water contemplated by this Consent Agreement.
- i. “TCEQ” means the Texas Commission on Environmental Quality or any successor or predecessor agency authorized to regulate and manage state surface water by the Texas Legislature.

2.0 **Consent to Irrigate.** (a) Pursuant to 30 TAC § 295.32(5), Beneficiary agrees that the Owner is authorized to identify the Benefitted Property, including the New Diversion Point No. 1 within the Benefitted Property, as part of any application to amend the Permit to be filed with TCEQ by Owner for purposes of authorizing irrigation of additional acreage, to include the Benefitted Property, with water authorized for diversion at the New Diversion Point No. 1 on the Benefitted Property authorized under the Permit, as amended.

(b) The Parties recognize (i) that the Permit and all right, title and interest in and to the Permit and the water authorized for diversion pursuant to the Permit shall remain in the Owner until the water is actually diverted by the Beneficiary at the Diversion Point, and (ii) that the land and title and all right and ownership and interest in and to the Benefitted Property described in the Ownership Documents shall remain in the Beneficiary, provided that the land shall be eligible for irrigation and mining use under the Permit, once amended. The Parties further agree that this Consent Agreement is not intended to make the Benefitted Property an appurtenance to the Permit or the water authorized for irrigation under the Permit. Accordingly, sale of the Benefitted Property, or any portion of it, shall never include a proportionate share of the Permit or the irrigation right authorized by the Permit, or the mining right to be authorized by the amended Permit.

(c) In the event Beneficiary sells any portion of the Benefitted Property less than the whole, (i) this Consent Agreement and the rights to irrigate or conduct mining operations, including hydraulic fracturing and other oil and gas development activities, on the Benefitted Property shall be available and apply solely to the portion of the Benefitted Property retained by Beneficiary, and (ii) if any such sale includes the New Diversion Point No. 1, Owner has the discretion of whether to apply to the TCEQ for a new diversion point to be located on the portion of the Benefitted Property retained by the Beneficiary.

(d) Diversion and use on the Benefitted Property of any water made available by diversion pursuant to the Permit as amended pursuant to this Consent Agreement shall be limited to times, volumes, locations and purposes authorized in writing by Owner, which authorization shall be granted in writing and shall not be unreasonably withheld or delayed.

3.0 Title to Real Property Interest in Benefitted Property and the Permit. (a) Owner acknowledges and agrees that the right being granted pursuant to this Consent Agreement is for Beneficiary to construct, maintain and operate diversion works at the location on the Benefitted Property identified in Exhibit "3," and use the water diverted at Diversion Point No. 1 for beneficial use for irrigation/agriculture or mining purposes on the Benefitted Property.

(b) Beneficiary acknowledges and agrees that nothing in this Consent Agreement is intended to, nor should it be interpreted as conveying any real property interest in or to the Permit, or the water rights authorized therein, in favor of Beneficiary. To the contrary, the Parties agree that this Consent Agreement conveys no property interest in the Permit, nor does it render the Benefitted Property as being "appurtenant to" the Permit or the irrigation rights granted therein, now or as the Permit may be amended at any time in the future.

4.0 Owner's use of the Benefitted Property. (a) The Parties acknowledge and agree that the purpose of this Consent Agreement, in part, is to provide the Owner with a location that Owner may identify as a "point of diversion" for purposes of amending the Permit to implement this Consent Agreement, and, thereafter, for Beneficiary to construct, operate and maintain diversion works on the Benefitted Property to facilitate the diversion and delivery of water for beneficial purposes, including irrigation and/or mining use, or other beneficial use of purposes on the Benefitted Property authorized under the amended Permit. The Parties further agree and acknowledge, that they will enter into separate agreements from time-to-time authorizing Beneficiary to divert and use all or a portion of the water authorized by the Permit, as amended,

for beneficial use on the Benefitted Property for any purpose authorized in the Permit, including the irrigation of up to 60 acres out of the 209.47 acres contained in the Benefitted Property described in the attached Exhibit "1".

(b) During periods when the Parties are not actively engaged in the purchase and sale of water for diversion at and delivery to the Benefitted Property for beneficial use as contemplated by this Consent Agreement, Beneficiary may continue to maintain the diversion point for so long as this Consent Agreement remains in place. Upon termination of this Consent Agreement, as prescribed by paragraph 6.0 below, Owner shall provide written notice to TCEQ in the form of an amendment to the Permit, requesting the deletion of the additional Diversion Point(s) on the Benefitted Property from the Permit.

(c) Owner shall have no right to occupy or use the Benefitted Property. The Parties agree that this Consent Agreement grants Owner no right to occupy the Benefitted Property for purposes of hunting, fishing, picnicking, camping, boating or other recreational activities.

5.0 Permit Amendment/Water Master Issues/Diversion Works. (a) Owner shall be responsible for the preparation, and associated costs, of filing the Permit amendment necessary to implement this Consent Agreement. Beneficiary shall cooperate with Owner in a timely manner to provide information necessary to complete and file the Permit amendment as well as respond to any requests for additional information from the TCEQ.

(b) Owner has advised Beneficiary that the Permit management is subject to the jurisdiction of the South Texas Water Master operation headquartered in San Antonio, Texas. Pursuant to Chapter 304 of the Commission's Rules, codified in Title 30 Texas Administrative Code, the South Texas Water Master is authorized to charge annual Water Master fees while Permittee is operating within the Water Master's jurisdiction. These fees are assessed based upon the paper water right, not the amount of water actually diverted in any calendar year. With respect to the annual Water Master fees, the Parties agree that Owner shall be responsible for payment of the annual invoice Water Master fees upon receipt.

(c) Notwithstanding anything to the contrary in this Consent Agreement, the Parties expressly agree that Beneficiary, not the Owner, shall be solely responsible for the installation and maintenance, including all associated costs, for the Diversion Works and the TCEQ approved meter to be installed, maintained, operated and repaired or replaced, as necessary, during the term of this Consent Agreement. The Parties further agree that the benefits derived from the Diversion Works, as well as the beneficial use of the water diverted at the Diversion Point and applied to beneficial purposes on the Benefitted Property is in the Beneficiary, rather than the Owner. Accordingly, the Parties agree that the Beneficiary, rather than the Owner is responsible for the costs associated with the installation, operation and maintenance of the Diversion Works as well as the cost, if any, to bring utilities to the Diversion Point, as well as the cost of the utility services provided to operate the Diversion Works.

(d) Beneficiary agrees to comply with all requirements of the WaterMaster, in addition to the terms and conditions of the Permit and all applicable laws and regulations.

6.0 Term. (a) Unless terminated earlier pursuant to this Consent Agreement, it shall remain in place for so long as the Permit includes the Diversion Point(s) identified on the Plat attached hereto as Exhibit "2";

(b) Either Party may terminate this Consent Agreement by providing the other Party 180-days' prior written notice of the date of termination. The notice of termination shall be effective upon receipt by the Party intended to receive the notice. All notices shall be sent to the addresses and in the form provided by paragraph 17.0 of this Consent Agreement.

7.0 Water Conservation/Drought Management. All diversion of water at New Diversion Point No. 1 pursuant to the amended Permit, shall be in accordance with any Water Conservation and/or Drought Management Plans as may be required by the TCEQ.

8.0 Attorney's Fees. If either Party retains an attorney to enforce this Consent Agreement, the Party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

9.0 Binding Effect. This Consent Agreement binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

10.0 Choice of Law. This Consent Agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

11.0 Counterparts. This Consent Agreement may be executed in multiple counterparts. All counterparts taken together constitute the Consent Agreement.

12.0 Waiver of Default. A default is not waived if the non-defaulting Party fails to declare default immediately or delays in taking any action with respect to the default. Pursuit of any remedies set forth in this Consent Agreement does not preclude pursuit of other remedies in this Consent Agreement or provided by law.

13.0 Further Assurances. Each signatory Party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Consent Agreement and all transactions contemplated by this Consent Agreement.

14.0 Indemnity. Each Party agrees to indemnify, defend, and hold harmless the other Party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this Consent Agreement by the indemnifying Party. The obligations of the Parties under this provision will survive termination of this Consent Agreement for a period of two full calendar years.

15.0 Survival. The obligations of the Parties in this Consent Agreement that cannot be or were not performed before termination of this Consent Agreement survive termination of this Consent Agreement.

16.0 Legal Construction. If any provision in this Consent Agreement is unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Consent Agreement will be construed as if the unenforceable provision had never been a part of the Consent Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. This Consent Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

17.0 Notices. (a) Any notice required or permitted under this Consent Agreement must be in writing. Any notice required by this Consent Agreement will be deemed to be given (whether received or not) the earlier of receipt or three business days after being deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Consent Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, or e-mail and will be effective when received. Any address for notice may be changed by written notice given as provided herein.

(b) Until such time as a Party provides written notice of a change of address for purposes of Notice in accordance with subparagraph (a) above, the following addresses will be used for all Notices required or contemplated by this Consent Agreement:

Owner: Mr. & Mrs. Andrew Rives
2126 FM 2724
Hobson, Karnes County, Texas 78117

Beneficiary: Panna Maria Investments II, LP
Attn: Joyce Rives, Limited Partner
2126 FM 2724
Hobson, Karnes County, Texas 78117

Sarah R. Fossum
3213 Pearce Road
Austin, Travis County, Texas 78730

Stacey R Roy
2803 Brass Button
Austin, Travis County, Texas 78734

Charles B. Rives
10011 Hidden Bluff
McGregor, McLennan County, Texas 76657

Stephany Rives
2126 FM 2724
Hobson, Karnes County, Texas 78117

18.0 Entire Consent Agreement. This Consent Agreement and any exhibits, together with Permit No. 3162, as amended, are the entire Consent Agreement of the Parties concerning the

Consent Agreement and the granting of the Consent to Irrigate and use water for Mining purposes herein. There are no other or additional representations, Consent Agreements, warranties, or promises, and neither Party is relying on any statements or representations of the other Party or any agent of the other Party, that are not in this Consent Agreement and any exhibits hereto, Permit No. 3162, as amended.

This Consent Agreement may be executed in duplicate. Faxed or e-mailed copies of the executed Consent Agreement shall be effective upon receipt. The Consent Agreement may be executed in multiple counterparts.

SIGNATURES APPEAR ON FOLLOWING PAGES

OWNER:

By: *Andrew Rives*
Andrew Rives

Date of Signature: _____, 2019

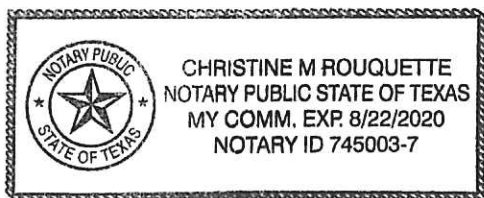
By: *Joyce P. Rives*
Joyce Rives

Date of Signature: 10/15, 2019

STATE OF TEXAS §
 §
COUNTY OF KARNES §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 15 day of October, 2019, by Andrew Rives, and wife, Joyce P. Rives, as Owner.



Christine M Rouquette
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Christine M Rouquette
My Commission Expires: 8/22/2020

BENEFICIARY:
Panna Maria Investments II, LP

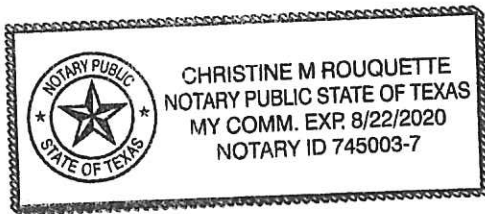
By: Joyce Rives
Joyce Rives, Limited Partner

Date of Signature: 10/15, 2019

STATE OF TEXAS §
 §
COUNTY OF KARNES §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 15 day of October, 2019, by Joyce Rives, acting in her capacity as Limited Partner of Panna Maria Investments II, LP, a Texas limited partnership, Beneficiary, on behalf of said limited partnership.



Christine M Rouquette
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Christine M Rouquette
My Commission Expires: 8/22/2020

BENEFICIARY:
Sarah R. Fossum

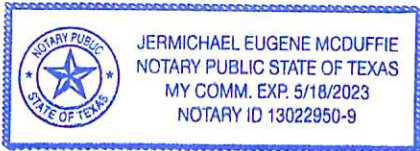
By: *Sarah R Fossum*
Sarah R. Fossum

Date of Signature: Oct. 11, 2019

STATE OF TEXAS §
 §
COUNTY OF KARNES §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 11th day of October, 2019,
by Sarah R. Fossum.




Jermichael Eugene McDuffie
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Jermichael Eugene McDuffie

My Commission Expires: 5/18/2023

BENEFICIARY:
Stacey R Roy

By: 
Stacey R Roy

Date of Signature: 10-24, 2019

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

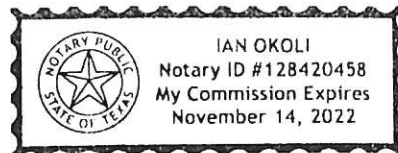
ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 24th day of October, 2019,
by Stacey R Roy.


NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Ian Okoli

My Commission Expires: 11/14/2022



BENEFICIARY:
Charles B. Rives

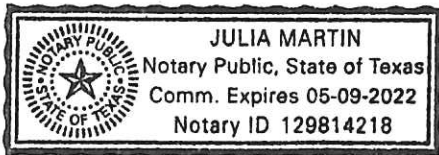
By: Charles B. Rives
Charles B. Rives

Date of Signature: 10-09, 2019

STATE OF TEXAS §
 §
COUNTY OF McLENNAN §

ACKNOWLEDGEMENT

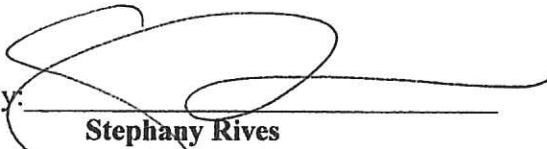
This instrument was acknowledged before me on the 9 day of October, 2019,
by Charles B. Rives.



Julia Martin
NOTARY PUBLIC, STATE OF TEXAS
Printed Name: Julia Martin

My Commission Expires: 05/09/2022

BENEFICIARY:
Stephany Rives

By: 
Stephany Rives

Date of Signature: 10-11-19, 2019

STATE OF TEXAS §
 §
COUNTY OF Brewer §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 11 day of Oct, 2019,
by Stephany Rives.



NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Johnathan Ray Sandoval

My Commission Expires: May 9, 2021



Exhibit "1-A"

Gift Deed recorded in Volume 0739 at pages 064 conveying an undivided interest in 64.5 acres out of a 209.47 acre tract to Alvin James Pawelek

THE STATE OF TEXAS § GIFT DEED
 §
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

That I, THERESA PANELEK, of the County of Karnes and State of Texas, hereinafter called "GRANTOR", for and in consideration of the love and affection which I have and bear unto and towards my son, ALVIN JAMES PANELEK, hereinafter called "GRANTEE", have GIVEN, GRANTED AND CONVEYED, and by these presents do hereby GIVE, GRANT AND CONVEY, unto ALVIN JAMES PANELEK whose address is 1402 22nd Street, Hondo, Texas 78861, as his separate property and estate, an undivided interest in and to a 64.5 acre interest of land situated in Karnes County, Texas, more particularly described as follows, to wit:

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A.F. Pawelek and Mary Pawelek to V.S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the E. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28

IN 0739M-054

minutes E. -348.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. Line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract.

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -386.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 52 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes E. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the E. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

SAVE AND EXCEPT, and there is hereby reserved unto GRANTOR, her heirs and assigns, all of the oil, gas and other minerals and royalty, specifically including radio active minerals whether production be obtained by surface destruction or otherwise, in and under and that may be produced from the above described property, together with the right of ingress and egress at all

WM 0739/NE 055

0739 PM 066

times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, and this reservation shall subsist and be in full force and effect perpetually from date hereof.

TO HAVE AND TO HOLD the above described property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said GRANTEE, his heirs, personal representatives, successors and assigns forever; and I do hereby bind myself, my heirs, personal representatives, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said property unto the said GRANTEE and to his heirs, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

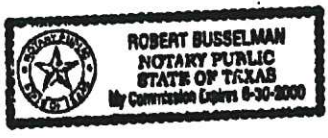
EXECUTED on this the 13th day of December, 1999.

Theresa Pawelek
THERESA PANELEK

STATE OF TEXAS §
COUNTY OF KARNES §

This instrument was acknowledged to before me on this the 13th day of December, 1999, by THERESA PANELEK.

[Signature]
Notary Public, State of Texas



REGISTERED

55073

RECORDED IN OFFICIAL RECORDS
FILE DATE Dec 13 1999
FILE TIME 12:00:00 PM
VOL. 239 PAGE 868
RECORDING DATE Dec 13 1999
ELIZABETH SWIZE
COUNTY CLERK, KARNES COUNTY
BY Elizabeth Swize

Filed For Record the 13
day of Dec A.D. 1999
At 2:30 o'clock PM
ELIZABETH SWIZE
Clerk County Court, Karnes County, Texas
By Elizabeth Swize Deputy

Robert Busseman

Exhibit "1-B"

Gift Deed recorded in Volume 0739 at pages 067 conveying an undivided interest in 37.5 acres out of a 209.47 acre tract to Joyce Ann Pawelek Rives

THE STATE OF TEXAS § GIFT DEED
 §
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

That I, THERESA PAWELEK, of the County of Karnes and State of Texas, hereinafter called "GRANTOR", for and in consideration of the love and affection which I have and bear unto and towards my daughter, JOYCE ANN PAWELEK RIVES, hereinafter called "GRANTEE", have GIVEN, GRANTED AND CONVEYED, and by these presents do hereby GIVE, GRANT AND CONVEY, unto JOYCE ANN PAWELEK RIVES whose address is Rt. 1, Hobson, Texas 78117, as her separate property and estate, an undivided interest in and to a 37.5 acre interest of land situated in Karnes County, Texas, more particularly described as follows, to wit:

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A.F. Pawelek and Mary Pawelek to V.S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by mates and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the Z. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28

VA 0730 MH 067

IN 0739/RE 068

minutes E. -546.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. Line of F.M. Road No. 61 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract.

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -386.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 52 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes E. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the E. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

SAVE AND EXCEPT, and there is hereby reserved unto GRANTOR, her heirs and assigns, all of the oil, gas and other minerals and royalty, specifically including radio active minerals whether production be obtained by surface destruction or otherwise, in and under and that may be produced from the above described property, together with the right of ingress and egress at all

times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, and this reservation shall subsist and be in full force and effect perpetually from date hereof.

TO HAVE AND TO HOLD the above described property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said GRANTEE, her heirs, personal representatives, successors and assigns forever; and I do hereby bind myself, my heirs, personal representatives, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said property unto the said GRANTEE and to his heirs, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

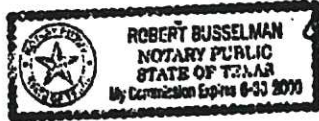
Vol 0739 PAGE 069

EXECUTED on this the 13th day of Dec, 1999.

Theresa Pawelek
THERESA PAWELEK

STATE OF TEXAS §
COUNTY OF KARNES §

This instrument was acknowledged to before me on this the 13th day of Dec, 1999, by THERESA PAWELEK.



[Signature]
Notary Public, State of Texas

REGISTERED
55074

RECORDED IN OFFICIAL RECORDS
FILE DATE Dec 13 1999
FILE TIME 11:00 CLOK P.M.
VOL. 219 PAGE 062
RECORDING DATE
Dec 13 1999
ELIZABETH SWIZE
COUNTY CLERK, KARNES COUNTY
BY [Signature]

Filed For Record the 13
day of Dec A.D. 19 99
At 2:20 o'clock P M
ELIZABETH SWIZE
County Clerk, Karnes County, Texas
By [Signature] Deputy

Robert Buselman

Exhibit "1-C"

**Warranty Deed recorded in Volume 1105 at pages 886 conveying all of
Grantor, Joyce Ann Rives, interest in a 209.47 acre tract to Panna Marie
Investments II, LP, a Texas limited partnership**

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

COUNTY AND STATE: KARNES COUNTY, TEXAS

WARRANTY DEED

Grantor: JOYCE ANN RIVES
2126 FM 2724, Hobson, Texas 78117
Called "Grantor", whether one or more

Grantee: PANNA MARIA INVESTMENTS II, LP, a limited partnership organized under the laws of the State of Texas
2126 FM 2724, Hobson, Texas 78117
Called "Grantee", whether one or more

Conveyance:

FOR VALUE RECEIVED, Grantor has conveyed, granted, transferred and assigned, and hereby grants, conveys, transfers and assigns to Grantee, all, and no less than all, of Grantor's interest in the following described real property (the "Subject Property"):

The Subject Property is Identified in Exhibit "A" attached hereto, to which exhibit reference is here made and is incorporated herein as if typewritten in this location *verbatim*.

SUBJECT TO: (1) any overlapping of improvements or encroachments which a survey would reveal; (2) valid and enforceable land use regulations, restrictions, and conditions; (3) real property taxes, prorated to date; (4) any recorded right-of-way, easement, or other exception to title (including liens) which an examination of title to the property would reveal; (5) any loan or encumbrance secured by a vendor's lien or deed of trust upon the property; (6) rights of parties in possession under lease or as an inspection of the property would reveal; (7) all matters appearing of record in Karnes County, Texas.

FURTHER RESERVATION AND EXCEPTION: The transfer of real estate to the PANNA MARIA INVESTMENTS II, LP which is encumbered by a mortgage or deed of trust may prohibit any transfer thereof without the consent of the lender and may give the lender the option to call the unpaid portion of an installment note immediately due and payable if a transfer is made without the lender's consent. These restrictions are generally called "due on sale" or "due on transfer" prohibitions. Any transfer directive or contribution directive specified by this instrument is subject to any such prohibition or limitation. Grantor reserves and retains such estate and title to the property as will not violate the due on sale or due on transfers of any mortgage, deed of trust, or other instrument, if any and to the extent applicable to a transfer of this property to the PANNA MARIA

INVESTMENTS II, LP. To the extent a transfer of this property is limited by any applicable due on sale prohibition or due on transfer prohibition, ownership will fully vest in the PANNA MARIA INVESTMENTS II, LP only upon receipt of lender's consent to the transfer or upon final release of the mortgage or deed of trust lien by the lender or by the assignee thereof.

Ownership of the Property Prior to the Transfer to PANNA MARIA INVESTMENTS II, LP, LP:

It is acknowledged and agreed that this property is owned, immediately prior to this transfer, as the separate property of JOYCE ANN RIVES. This agreement supersedes any other agreement or arrangement to the contrary.

Consideration:

TEN AND NO/100 DOLLARS and other valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged.

Habendum and Warranty:

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, Grantee's successors, personal representatives, and assigns forever; and Grantor does hereby bind Grantor, Grantor's successors, personal representatives and assigns, to warrant and forever defend, all and singular, the said premises unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. The use of personal pronouns in this instrument shall be construed in context, with the masculine to include the feminine, when appropriate, and the singular to include the plural, when appropriate.

Effective Date:

This transfer and conveyance is effective as of the date of this instrument. If this instrument is not immediately recorded, JOYCE ANN RIVES will hold title in trust and as nominee for and on behalf of the PANNA MARIA INVESTMENTS II, LP.

DATED and EFFECTIVE this 19 day of January, 2013.

JOYCE ANN RIVES	x <i>Joyce Ann Rives</i>
-----------------	--------------------------

State: TEXAS

County: HARRIS

On this 19 day of January in the year 2013 before me, Leslee Jarisch, a Notary Public of said State, personally appeared JOYCE ANN RIVES personally known to me (or proved to me on the oath of _____ or through Texas Driver's License) to be the person whose name is subscribed to the within instrument, and acknowledged that JOYCE ANN RIVES executed the same and for the purpose and consideration therein expressed.

WITNESS MY HAND AND OFFICIAL SEAL.



Leslee Jarisch
Notary Public

EXHIBIT "A"

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A.F. Pawelek and Mary Pawelek to V.S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the Z. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28

00120864 BK OR V1105 P30

minutes E. -548.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. Line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract.

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -386.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 52 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes E. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner if the Z. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

AFTER RECORDING RETURN TO:

PANNA MARIA INVESTMENTS II, LP
JOYCE ANN RIVES
2126 FM 2724, Hobson, Texas 78117

Filed for Record in:
Karnes County

On: Mar 20, 2013 at 10:25A

As of:
Recording Official Record

Document Number: 00120864

Amount: 32.00

Receipt Number - 64381
By,
Vanessa Villanueva

STATE OF TEXAS

COUNTY OF KARNES
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the named records of:

Karnes County
as stamped hereon by me.
Mar 20, 2013

Carol Switzer, Karnes County Clerk
Karnes County

Exhibit "1-D"

Last Will and Testament of Ben J. Pawelek bequeathing, *inter alia*:

- (1) a 75-acre interest out of a 209.47 acre tract to Joyce Ann Pawelek Rives; and**
- (2) a 129-acre interest out of a 209.47 acre tract to Alvin James Pawelek**

THE STATE OF TEXAS § LAST WILL AND TESTAMENT OF BEN J. PAWELEK
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

I, BEN J. PAWELEK, JR., a resident of Karnes County, Texas, being of sound mind and disposing memory, and above the age of Eight (18) years, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils previousl made by me.

I.

I declare that the following is a true and correct statement of my marital and family history as of the date of the making of thi my Last Will and Testament:

I am married to THERESA PAWELEK and I have the following Children, now Living, whose names and Status are:

<u>NAME</u>	<u>STATUS</u>
JOYCE ANN PAWELEK RIVES	Adult
ALVIN JAMES PAWELEK	Adult
LEROY JOHN PAWELEK	Minor

All references in this my Last Will and Testament to my Wife are references to the above named THERESA PAWELEK; all references in this my Last Will and Testament to my Children include not only the above Children, but also any child hereafter born to or adopted by me. For the purposes of this Will references shall be made to "my Children" which is in the plural, and this is purposely done so that any Children hereinafter adopted by me or born to me, shall be included in this my Last Will and Testament.

II.

I direct that at the time of my Death I be given a Christian funeral appropriate to my station in life. I further direct that all of my just Debts, including all expenses of my last illness, fu and burial, and the expense of a suitable monument at my grave, sha be paid by my Executor or Executrix, as the case may be, as soon as reasonably convenient after my Death.

III.

It is my intention by this Will to dispose of all the Proper

and any interest in any property, I own, wherever situated, and of whatever type, be the same real or personal.

IV.

I hereby nominate, constitute and appoint my Wife, THERESA PAWELEK, as Independent Executrix of this my Last Will and Testament. In the event that my Wife, THERESA PAWELEK, shall predecease me, fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Independent Executor of this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me or fail to qualify, resign or cease to act for any reason, then and in that event, I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Independent Executrix of this my Last Will and Testament.

I direct that no bond or other security shall be required of any Executor appointed in this my Last Will and Testament. My executor or Executrix, whether original or substitute is referred to herein as my "Executor". I further direct that my Executor, herein appointed shall serve without the supervision of any Court, and that no action shall be had in the County Court, or in any other Court, in relation to the settlement of my Estate, other than the probating and recording of this Will and the return of the statutory Inventory, Appraisement and List of Claims of said Estate and of all claims due and owing by me at the time of my Death.

V.

I hereby nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Trustee over any Trust, original or residuary, created in this my Last Will and Testament. In the event that my Son, ALVIN JAMES PAWELEK, shall predecease me, fail to qualify, resign or cease to act as such Trustee for any reason, then I nominate, constitute and appoint my Daughter, JOYCE ANN PAWELEK RIVES, as Trustee over such Trust.

I direct that such Trustee shall serve without bond, and without the supervision of any Court and without compensation of any type.

If my Wife, THERESA PAWELEK, does not survive me, then and in such event I appoint my Daughter, JOYCE ANN PAWELEK RIVES, as the Guardian of the person of each of my minor Children. In the event that my Daughter, JOYCE ANN PAWELEK RIVES, shall predecease me, fail to qualify, resign or cease to act for any reason as Guardian, then I nominate, constitute and appoint my Son, ALVIN JAMES PAWELEK, as Guardian of the person of each of my minor children.

No bond or other security shall be required in any jurisdiction of any of the above parties for the performances of her respective duties as Guardian. Further, such Guardian shall receive no compensation for acting in such capacity.

VII.

I hereby give, devise and bequeath unto my Son, LEROY JOHN PAWELEK, the following described Tract of land, in fee simple, as his property absolutely.

FIRST TRACT:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, and described by metes and bounds as follows:

BEGINNING at a stake in the lower line of the Old Biela Place set for the East Corner of 250 acres conveyed to Susan Biela and being the South Corner of this tract;

THENCE with the N.E. line of said 250 acres, N. 29 W. 689 vrs. to a stake in the upper line of the said Biela Place set for the North corner of said 250 acre tract;

THENCE with said line N. 61 E. 939 vrs. to the West boundary line of the Helena and Floresville Road being 30 feet from the fence on the East side of said road;

THENCE with the West side of said road, S. 33 E. 295 vrs.; S. 24-1/2 E. 235 vrs.; S. 30-1/2 E. 60 vrs.; S. 55-1/2 E. 109 vrs. to the corner post on the West side of said road in the lower line of the Biela Place;

THENCE with the said line S. 61 W. 995 vrs. to the Place of Beginning Containing 116 acres of land. And

Being the same land described in a deed from R. H. Fechner to Ben Pawelek dated Oct. 5, 1924, recorded in Vol. 75, Page 140, Deed Records of Karnes County, Texas.

SECOND TRACT:

All that certain tract or parcel of land lying and being in the County of Karnes and State of Texas, and is 100 acres out of the Manuel Lopez Original Grant on the Cibolo River, said 100 acres being the lower half of a 200 acre tract, said 200 acre tract being described by field notes:

BEGINNING at a pecan tree mkd. O & B from whence another Pecan Tree Mkd. J Brs. N. 14-1/2 E. 15 vrs.;

THENCE N. 61 E. with the S.E. line of the land of Mrs. Susan Biela at 5811 vrs. to the corner of same in division line of the Manuel Lopez and Jesus Hernandez Surveys;

THENCE S. 29 E. with said division line at 197.2 vrs. a stake in said line for corner;

THENCE S. 61 W. parallel with the North line of this survey 5663 vrs. to the lower bank of the Cibolo River a stake for corner, from whence a Hackberry tree mkd. X brs. N. 51 E. 31-1/2 varas;

THENCE up the river with its meanders to the Place of Beginning. As before stated the 100 acres herein conveyed being the lower part of the said 200 acres, the upper 100 acres having been conveyed by Domin Opiela to John W. Pawelek on Dec. 10, 1907. And being the same land described in a deed from Ignac Pawelek to Ben Pawelek dated Oct. 7, 1918, recorded in Vol. 60, Page 573, Deed Records of Karnes County, Texas.

SAVE AND EXCEPT HOWEVER:

All that certain tract or parcel of land out of the Manuel Lopez Original Survey in Karnes County, Texas, about 10 miles North of the town of Karnes City on the Cibolo River and described by metes and bounds as follows:

BEGINNING at a corner post in the East line of the Old Helena and San Antonio Road, being the S.W. corner of the Anton Foegelle tract of land;

THENCE with the North line of the Ben Pawelek tract and the South line of the Foegelle tract of land, N. 61 E. 747 vrs. to a stake and N.W. corner of a tract of land now owned by Ignatz Pawelek;

THENCE S. 29 E. 197.2 vrs. to a stake and the S.W. corner of the Ignatz Pawelek tract of land in the North line of the Mrs. Mary Pawelek lands;

THENCE with the North line of the Mary Pawelek tract of land, S. 61 W., 666 vrs. to a corner post in the East line of the Helena and San Antonio Public Road;

THENCE with the East line of the road, N. 51-1/4 W., 212.5 vrs. to the Place of Beginning, Containing 24.6 acres of land. And

Being the same land described in a Deed from Ben X. Pawelek, et ux. to Ignatz Pawelek dated Nov. 16, 1925, recorded in Vol. 78, Page 122, Deed Records of Karnes County, Texas.

I hereby give, devise and bequeath unto my Children, JOYCE a 75 acre Interest a 129 acre Interest in ANN PAWELEK RIVES and ALVIN JAMES PAWELEK, the following described

Tract of land, ~~in equal shares, shares and shares alike, in severalty~~ as their property absolutely. B.J.

All that certain tract or parcel of land lying and being situated in Karnes County, Texas, being described as follows, to wit:

All that certain 209.47 acre tract or parcel of land situated within the Andres Hernandez Grant, A-4, Karnes County, Texas, and being a portion of that certain 1st Tract (412 acres) and a portion of that certain 2nd Tract (238 acres) as described in a royalty deed from A. F. Pawelek and Mary Pawelek to V. S. Pawelek, et al., dated October 13, 1944, recorded in Volume 146, Pages 469-472, Deed Records of Karnes County, Texas.

Said 209.47 acre tract or parcel of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe set in the South line of aforementioned 412 acre tract; same being the North line of the Z. Keller 140 acre tract for the Southwest corner of this tract and the Southeast corner of a 200.0 acre tract this day surveyed and from whence the Southeast corner of the 412 acre tract brs. N. 61 degrees E. -2111.8 feet and from said 3/4 inch iron pipe the Southeast corner of the Andres Hernandez Grant, A-4, being at a point where the Cibolo Creek intersects the San Antonio River brs. approximately S. 46 degrees 15 minutes E. -3200 feet;

THENCE N. 29 degrees W. a distance of 2392.41 feet to a 3/4 inch iron pipe set in the South R.O.W. line of F.M. Road No. 81 (having a width of 80 feet) for the Northwest corner of this tract and the Northeast corner of the aforementioned 200.0 acre tract;

THENCE N. 61 degrees 51 minutes 30 seconds E. with fence and South R.O.W. line of F.M. Road No. 81, a distance of 1553.54 feet to a point in same; being the P.C. of a circular curve to the left; THENCE with the Long Chord of said curve; N. 57 degrees 21 minutes E. 457.48 feet to the P.T. of same;

THENCE N. 52 degrees 50 minutes 30 seconds E. continuing with fence and South R.O.W. line of F.M. Road No. 81, a distance of 347.06 feet to a point in same; being the P.C. of a circular curve to the left;

THENCE with the Long Chord of said curve; N. 39 degrees 28 minutes E. -548.4 feet to the P.T. of same;

THENCE continuing with fence and South R.O.W. line of F.M. Road No. 81 as follows: N. 26 degrees 05 minutes 30 seconds E. 718.34 feet to a point where highway widens and N. 40 degrees 28 minutes E. 510 feet to a point of intersection with the right bank of the Cibolo Creek for the Northeast corner of this tract;

THENCE down the right bank of the Cibolo Creek with its meanders and being approximately 15 feet from the waters edge as follows:

1. S. 59 degrees 15 minutes E. -54.20 feet;
2. S. 13 degrees 48 minutes E. -148.30 feet;
3. S. 00 degrees 52 minutes E. -879.40 feet;
4. S. 01 degrees 29 minutes W. -443.50 feet;
5. S. 05 degrees 51 minutes E. -280.50 feet;
6. S. 37 degrees 43 minutes E. -167.10 feet;
7. S. 51 degrees 46 minutes E. -326.90 feet;
8. S. 64 degrees 48 minutes E. -286.50 feet;
9. S. 86 degrees 57 minutes E. -620.40 feet;
10. N. 77 degrees 23 minutes E. -244.80 feet;
11. N. 59 degrees 31 minutes E. -406.00 feet;
12. N. 53 degrees 09 minutes E. -366.10 feet;
13. S. 60 degrees 23 minutes E. -144.70 feet;
14. S. 37 degrees 35 minutes E. -247.80 feet;
15. S. 38 degrees 21 minutes W. -234.70 feet;
16. S. 22 degrees 46 minutes E. -256.10 feet;
17. S. 09 degrees 47 minutes W. -143.30 feet;
18. S. 77 degrees 05 minutes W. -175.50 feet;
19. S. 30 degrees 38 minutes W. -237.70 feet;
20. S. 46 degrees 40 minutes W. -217.60 feet;
21. S. 75 degrees 50 minutes W. -167.40 feet;
22. N. 77 degrees 40 minutes W. -440.40 feet;
23. S. 76 degrees 03 minutes W. -204.00 feet;
24. S. 34 degrees 43 minutes W. -174.40 feet;
25. N. 72 degrees 34 minutes W. -97.00 feet;
26. N. 38 degrees 20 minutes W. -158.00 feet;
27. N. 19 degrees 17 minutes W. -226.40 feet;
28. N. 48 degrees 07 minutes W. -297.00 feet;
29. N. 60 degrees 36 minutes W. -241.70 feet;
30. S. 84 degrees 33 minutes W. -184.60 feet;
31. S. 38 degrees 36 minutes W. -274.20 feet;
32. S. 14 degrees 26 minutes W. -192.00 feet;
33. S. 00 degrees 09 minutes W. -160.00 feet;
34. S. 11 degrees 06 minutes W. -229.00 feet;
35. S. 01 degrees 15 minutes E. -384.30 feet and
36. S. 15 degrees 29 minutes E. -68.20 feet to a point for the Southeast corner of this tract and the Northeast corner of the Z. Keller 140 acre tract;

THENCE S. 61 degrees W. at 34 feet pass a 3/4 inch iron pipe set on the high bank of the Cibolo Creek and continuing a total distance of 211.8 feet to the Place of Beginning.

The above described tract or parcel of land CONTAINS 209.47 acres as surveyed by Chas. Klumpp, Jr., Registered Public Surveyor No. 38, during the Month of February, 1970.

The bequests herein made to my Children, shall be burdened with a Life Estate for the benefit of my Wife, THERESA PAWELEK, that is to say, that in the event that my Wife survives me, then and in such event, she shall have the use and benefit, and the income therefrom, including income from any oil, gas and uranium minerals, for the balance of her natural life, and at her death, then the above described properties shall pass to and vest in my Children, in fee simple, as their property absolutely, however, I direct that the Children shall have the right to make Oil, Gas, Uranium and other Mineral Leases,

and shall receive the bonuses and delay rentals from their respective tracts, however, I further direct that the Royalty in and under all of the above described Tracts of land shall remain undivided and the Children shall share equally in such Royalty.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Wife, THERESA PAWELEK, in fee simple, as her property absolutely.

In the event that my Wife, THERESA PAWELEK, shall predecease me or fails to survive me by Thirty (30) days, then and in such event, I give, devise and bequeath unto my Children, above named, the real property as hereinabove specifically bequeathed under Paragraph VII of this my Last Will and Testament, under all the same terms and conditions as hereinabove specified.

I further give, devise and bequeath any of the Cattle located or situated on the respective tracts to the Child or Children receiving those respective tracts.

All the rest and residue of my Estate, whether the same be separate, community or mixed, I hereby give, devise and bequeath in fee to my Children, above named, in equal shares, share and share alike in fee simple, as their property absolutely.

In the event that any of my Children, hereinabove named, shall predecease me leaving no Children them surviving, then and in such event, I direct that such deceased Child's portion of my estate, whether the same be a remainder interest or a present interest, shall be divided equally among my surviving Children, in accordance with all provisions of this my Last Will and Testament.

In the event that any Children of mine, hereinabove named, shall predecease me, leaving Children them surviving, then I direct that such deceased Child's portion of my estate, whether the same be a remainder or present interest, shall be delivered over to the surviving Children of my deceased Child, provided that the Children of my deceased Child have attained the age of Eighteen (18) years. In the event that such Children of my deceased Child have not attained the age of Eighteen (18) years, then and in such event, I direct that such Deceased Child's portion of my estate, whether the same be remainder or present interest

shall be delivered over to the Trustee, hereinabove named, under and in accordance with all provisions of this my Last Will and Testament.

In the event that any of my Children, hereinabove named, who receive or are to receive any of my property, under the terms of this Will, whether present or remainder interest, shall be below the age of Eighteen (18) years, then and in such event, I direct that such Child's portion of my estate shall be calculated and determined, and shall be delivered over to the Trustee hereinabove named, to be held in Trust for the benefit of such minor Child, until such minor Child shall attain the age of Eighteen (18) years, in accordance and under the provisions of the Paragraphs hereinabove and hereinafter recited, of this my Last Will and Testament.

VIII.

In the event any beneficiary in this my Last Will and Testament, whether the same be my Child, Children, Grandchildren, or otherwise, shall receive, or be entitled to any property under this my Last Will and Testament, and such beneficiary, shall be below the age of Eighteen (18) years, then and in such event, I give, devise and bequeath such beneficiary's portion of my estate, to the Trustee, hereinabove named, and direct that the Trustee is to take, hold, receive, manage, invest, and reinvest the same, and to apply such part of the income thereof, and/or the principal, as he shall see fit for the education, support, maintenance and welfare of such beneficiary, until such beneficiary shall attain the age of Eighteen (18) years to pay over and transfer to him the principal fund and accumulated income thereon so held in Trust. In the event that said beneficiary shall not attain the age of Eighteen (18) years, my Trustee shall hold such Trust fund in Trust for his issue living at his death, and if there be none such, then in Trust for such person as would be entitled to his estate upon his dying intestate. I direct that such Trustee shall have all the powers conferred upon him by the Texas Trust Act, and in addition shall act without any bond, and without the supervision of any Court. I further direct that such Trustee shall receive no compensation for acting in the office as such.

IX.

My Wife and I are executing Wills at approximately the same time in which each of us is the primary beneficiary of the Will of the other.

These Wills are not executed because of any agreement between my Wife and myself. Either Will may be revoked at any time at the sole discretion of the maker thereof.

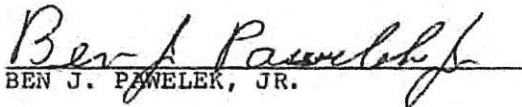
X.

If any provision of this Will or of any Codicil thereto is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective so far as is possible and reasonable.

XI.

As used in this Will, whenever the context so indicates, the masculine, feminine or neuter gender, and the singular or plural number shall each be deemed to include the others.

I now make and publish this foregoing instrument consisting of Eight (8) Typewritten Pages, as my Last Will and Testament, hereto signing and subscribing my name on this the 6th day of October 1980, in the presence of my subscribing witnesses.

BEN J. PAWELEK, JR.


The undersigned, each being over fourteen (14) years of age, hereby declare that BEN J. PAWELEK, JR., Testator, declared to us that the foregoing instrument is his Last Will and Testament and he requested us to act as witnesses to same and to his signature thereon. He thereupon signed said Will in our presence, all of us being present at the same time. And we now, at his request, in his presence and in the presence of each other, do hereunto sign our names as attest witnesses, all done this 6th day of October, 1980, A.D., at Kenedy, Karnes County, Texas. We and each of us, declare that we believe the said Testator to be of sound mind and memory.

Witness: Deanna Moman

Address: P.O. Box 1284

Kenedy, Texas 78119

Witness: John W. Berry

Address: P.O. Box 740

Kenedy, Texas 78119

THE STATE OF TEXAS §
COUNTY OF KARNES § KNOW ALL MEN BY THESE PRESENTS:

Before me, the undersigned authority, on this day personally appeared BEN J. PAWELEK, JR., John W. Berry and Dia Monson, known to me to be the Testator and the witnesses respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said BEN J. PAWELEK, JR., Testator, declared to me and to the witnesses, in my presence that the said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed and the said witnesses, each on his or her oath, stated to me in the presence and hearing of said Testator, that the said Testator had declared to them that the said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of said Testator, and at his request; that he was at that time over the age of eighteen years and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Ben J. Pawelek, Jr.
BEN J. PAWELEK, JR. Testator

Dianna Monson
Dianna Monson Witness

John W. Berry
John W. Berry Witness

FILED

File 26th day of June 19 86
ELIZABETH SWIZE
Clerk County Court, Karnes County, Texas
By Marilyn Beck Deputy

SUBSCRIBED AND ACKNOWLEDGED TO BEFORE ME by the said BEN J. PAWELEK, JR., Testator, and subscribed and sworn to before me by the said John W. Berry and Dianna Monson witnesses, on this the 6th day of October, 19 80.

Robert L. Duce
Robert L. Duce
Notary Public, Karnes County, T



Exhibit "1-E"

Last Will and Testament of Alvin James Pawelek bequeathing, *inter alia*, a 129-acre interest out of a 209.47 acre tract in equal $\frac{1}{4}$ undivided interests described as "being approximately 32.25 acres of land" to Sarah R. Fossum, Stacey R Roy, Charles B. Rives and Stephany Rives

LAST WILL AND TESTAMENT

of

ALVIN J. PAWELEK

I, ALVIN J. PAWELEK, of the County of Medina and the State of Texas, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will and Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I.

IDENTITY OF THE FAMILY

At the time of the execution of this Will, I am not married and I have no children.

II.

PAYMENT OF EXPENSES

I direct that all the expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States Government or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging said indebtedness, if in my Independent Executrix's judgment, the condition of my estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III.

DISPOSITION OF ESTATE

A. I give, devise and bequeath all of my right, title and interest in that certain undivided One Hundred Twenty Nine Acres of land, located in Panna Maria, Karnes County, Texas, to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike. It is the intent of this bequest that the aforementioned legatees be seized of a one quarter (1/4) interest, being approximately 32.25 acres of land, more or less, in the undivided tract which is more fully described in the Last Will and Testament of Ben J. Pawelek, Jr., in Volume 94, Page 476, and that certain Gift Deed at Volume 739, Page 64, of the deed records of Karnes County, Texas.

B. I give, devise and bequeath Ten Thousand (\$10,000.00) Dollars to LEROY J. PAWELEK, for the benefit of, and to be held in trust for, BEN PAWELEK, my nephew, until he reaches eighteen (18) years of age, at which time this money and any interest related to the principal may be used for college tuition for BEN PAWELEK. Should BEN PAWELEK reach the age of eighteen and not desire to attend college, then at the age of twenty-one (21) years, the entire principal and interest of the account will be distributed to BEN PAWELEK for his use and enjoyment in any fashion he should please.

C. I give, devise and bequeath Five Thousand (\$5,000.00) Dollars to ROSE ORTIZ. ROSE ORTIZ has long been my friend and has provided me valuable assistance over the years and I wish to express my gratitude with this gift.

D. I give, devise and bequeath my 2002 Chevy Silverado Truck to CHARLES RIVES.

Also my grandfathers clock to CHARLES RIVES.

E. I give, devise and bequeath my IRA and Bank Accounts to SARAH RIVES, STACEY RIVES, CHARLES RIVES and STEPHANY RIVES, in equal shares, share and share alike.

F. I give, devise and bequeath all of my camping equipment to CHARLES RIVES and BEN PAWELEK, in equal shares, share and share alike.

G. I give, devise and bequeath all of my fishing equipment to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

H. I give, devise and bequeath all of my guns to SARAH RIVES, STACEY RIVES, CHARLES RIVES, STEPHANY RIVES and BEN PAWELEK, in equal shares, share and share alike.

I. I give, devise and bequeath all of the rest of my estate of whatsoever kind and wheresoever situated as follows: my niece's and nephew's share and share alike.

J. Any other property of mine that has not been disposed of under any other provision of this Will shall go and be distributed to my heirs-at-law. Their identity and respective shares shall be determined in all respects as if my death had occurred immediately following the happening of the event requiring such distribution, and according to the laws of Texas then in force governing the distribution of the estate of an intestate.

IV.

DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person or beneficiary with respect to all or any part of my estate who shall not survive until ninety (90) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such person had predeceased me.

V.

APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute and appoint my Sister, JOYCE ANN PAWELEK RIVES, as Independent Executrix of my estate.

B. If any individual Independent Executor or Executrix becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two medical doctors (neither of whom is a beneficiary under this Will) affirming that each has examined the Independent Executor or Executrix and that each has concluded, based on such examination, that the Independent Executor or Executrix is unable to discharge his or her duties under this Will, the Independent Executor or Executrix shall cease to serve, as if he or she had resigned, effective the date of the certification.

C. It is my will and desire and I hereby direct that in the administration of my estate, my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action shall be had in any court in the administration of my estate other than the probating of this, my Last Will and Testament, and the filing of any Inventory, Appraisement and List of Claims of my estate that may be required.

AP

VI.

POWERS OF EXECUTOR

The estate created or arising by virtue of my death and this instrument, my Last Will and Testament, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix or any successor named above, full power and authority over any and all of my estate and they are hereby authorized to sell, manage, and dispose of the same or any part thereof, and in connection with any such sale or transaction, make, execute and deliver proper deeds, assignments and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix or any successor named above, shall have full power and authority to compromise, settle and adjust any and all debts, claims and taxes which may be due from or owing by my estate.

C. My Independent Executrix or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

D. My Independent Executrix or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

E. As compensation for her services hereunder, my Independent Executrix or any successor named above shall be entitled to charge the same fees customarily charged for similar services in other estates at the time the services are rendered.

VII.

SPENDTHRIFT PROVISION

No interest of any beneficiary in the corpus or income of my estate shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary and may not otherwise be alienated or encumbered by such beneficiary, except as may be otherwise expressly provided herein.

VIII.

DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Last Will and Testament, and the administration of the estate established herein, the following provisions shall apply:

A. The words "child, children, descendants, issue," and similar terms shall be deemed only to include children born to, or adopted (on or before eighteen years of age) in, a lawful marriage.

B. When a distribution is directed to be made to any person's descendants "per stirpes," the division into stirpes shall begin at the generation nearest to such person that has a living member.

C. The use of the masculine, feminine or neuter genders shall be interpreted to include the other genders, and the use of either the singular or the plural number shall be interpreted to include the other number, unless such an interpretation in a particular case is inconsistent with the general tenor of this instrument. Any references herein relating to my Independent Executrix shall include her successors regardless of the gender of the successors.

AP

SELF-PROVING AFFIDAVIT

STATE OF TEXAS

§

COUNTY OF MEDINA

§

§

BEFORE ME, the undersigned authority, on this day personally appeared ALVIN J. PAWELEK, Nora A Skau and Robert J. May, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said ALVIN J. PAWELEK, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testator, that the said Testator had declared to them that said instrument is his Last Will and Testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that said Testator was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Alvin J. Pawelek

ALVIN J. PAWELEK, Testator

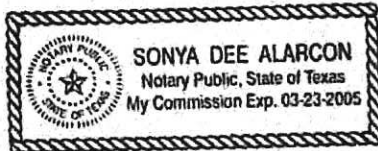
Nora A. Skau

Witness

Robert J. May

Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said ALVIN J. PAWELEK, Testator, and by the said Nora A. Skau and Robert J. May, Witnesses, this 5th day of August, A.D. 2004.



Sonya Dee Alarcon
Notary Public, State of Texas

AD

D. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, ALVIN J. PAWELEK, hereby sign my name to this, my last Will, on each page of which I have placed my initials, on this 5th day of August, 2004, at Hondo, Texas.

Alvin Pawelek

ALVIN J. PAWELEK, Testator

ATTESTATION

The foregoing instrument was signed in our presence by ALVIN J. PAWELEK and declared by him to be his last Will. We, at the request and in the presence of ALVIN J. PAWELEK and in the presence of each other, have subscribed our names below as witnesses on this 5th day of August, 2004.

Nora A. Skall

Witness

NORA A. SKALL

491 N. Sunset Strip Ste 109

Street Address

Kenedy TX

City and State

Robert S. May

Witness

ROBERT S. MAY

491 N. Sunset Strip Ste 109

Street Address

Kenedy TX 78119

City and State

AP

FILED
April 18, 2005

At 4:15 o'clock P.M.

ALVA JONAS

COUNTY CLERK

HARRIS COUNTY TEXAS

Marilyn Beckner
Deputy

Exhibit "2"

Plat depicting the New Diversion Point No. 1

Rives 210 Acres Diversion Point
28.96932269, -97.8744520

Legend

 Rives 210 arces, diversion point

F.M. 81

Google Earth
© 2018 Google



2000 ft

Exhibit "3"

Copy of Permit No. 3162

PERMIT TO
APPROPRIATE STATE WATER

APPLICATION NO. 3431	PERMIT NO. 3162	TYPE: Regular
Permittee : Ben J. Pawelek	Address : Route 1, Box 186 Hobson, Texas 78117	
Received : January 2, 1975	Filed : April 14, 1975	
Granted : July 29, 1975	County : Karnes	
Watercourse : Cibolo Creek, tributary of San Antonio River	Watershed: San Antonio River Basin	

WHEREAS, the Texas Water Rights Commission finds that jurisdiction of the application is established, due notice and publication thereof having been accomplished, and hearing having been held, all in accordance with the Texas Water Code and the Rules and Regulations of the Commission.

NOW, THEREFORE, this permit to appropriate State water is issued to Ben J. Pawelek, subject to the following terms and conditions:

1. USE

Permittee is authorized to directly divert and use not to exceed 60 acre-feet of water per annum from Cibolo Creek to irrigate 60 acres of land out of a 191-acre tract in the Manuel Lopez Survey, Abstract No. 181, Karnes County, Texas.

2. DIVERSION

- (a) Point of Diversion: By means of one portable pump at a point which is S 61° W, 1598 feet from the northwest corner of the aforesaid survey.
- (b) Maximum Diversion Rate: 0.67 cfs (300 gpm).

3. SPECIAL CONDITIONS

- (a) Diversions by applicant are expressly limited to the 7 months period from October 1 through April 30 of the following year.
- (b) This permit is issued subject to the adjudication of water rights on Cibolo Creek.

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

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

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

This permit is issued subject to the Rules and Regulations of the Texas Water Rights Commission and to its right of continual supervision.

TEXAS WATER RIGHTS COMMISSION

/s/ Joe D. Carter

Joe D. Carter, Chairman

/s/ Joe R. Carroll

Joe R. Carroll, Commissioner

/s/ Dorsey B. Hardeman

Dorsey B. Hardeman, Commissioner

Date Issued:

August 5, 1975

(SEAL)

Attest:

/s/ Mary Ann Hefner

Mary Ann Hefner, Secretary