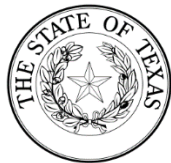


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. 13844

Barnwell Properties seeks a water use permit to authorize the maintenance of a dam and 24.5 acre-foot capacity reservoir located on an unnamed tributary of Bishop Creek, Cypress Creek Basin for recreational purposes in Upshur County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Barnwell Properties, 318 Hwy 271 N, Gilmer, Texas 75644, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code (TWC) § 11.121 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.152 and 295.153, *et seq.* Notice is being published and mailed to water right holders of record in the Cypress Creek Basin pursuant to TAC §§ 295.152(a) and 295.153(b).

Barnwell Properties seeks authorization to maintain a dam and reservoir located on an unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek, tributary of Cypress Creek, Cypress Creek Basin and impound therein not to exceed 24.5 acre-feet of water for recreational purposes in Upshur County.

A point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W in Zip Code 75644.

Ownership of the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County.

This application is subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact.

The application and partial fees were received on June 8, 2022. Additional information and fees were received on August 17 and September 1, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 23, 2022.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft Water Use Permit, if granted, would contain a special condition requiring the Applicant to pass all inflows of state water should they be required to satisfy downstream senior and superior water rights. The application, technical memoranda, and Executive Director's draft permit 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, within 30 days of the date of newspaper publication of the notice. 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 within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

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 amendment 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 amendment 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 13844 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 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 08, 2023

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



WATER USE PERMIT

PERMIT NO. 13844

TYPE § 11.121

Permittee:	Barnwell Properties	Address:	318 Hwy 271 N Gilmer, Texas 75644
Filed:	September 23, 2022	Granted:	
Purpose:	Recreational	County:	Upshur
Watercourse:	Unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek	Watershed:	Cypress Creek Basin

WHEREAS, Barnwell Properties (Applicant) seeks authorization to maintain a dam and reservoir located on an unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek, tributary of Cypress Creek, Cypress Creek Basin, and impound therein not to exceed 24.5 acre-feet of water for recreational purposes in Upshur County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W; and

WHEREAS, the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County; and

WHEREAS, this application is subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact; and

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

WHEREAS, the Executive Director recommends that a special condition be included in the permit; and

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

NOW, THEREFORE, this permit, designated Water Use Permit No. 13844, is issued to Barnwell Properties subject to the following terms and conditions:

1. IMPOUNDMENT

- A. Permittee is authorized to maintain a dam and reservoir, impounding 24.5 acre-feet, on an unnamed tributary of Bishop Creek, Cypress Creek Basin in Upshur County.
- B. A point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W.
- C. Ownership of the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County.

2. USE

Permittee is authorized to use the reservoir described in Paragraph 1. IMPOUNDMENT for recreational purposes in Upshur County.

3. PRIORITY

The time priority of this right is September 23, 2022.

4. SPECIAL CONDITION

Permittee shall pass all inflows of state water should they be required to satisfy downstream senior and superior water rights.

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

This permit is issued subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact.

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

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

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

For the Commission

Date Issued:

Jenna Rollins

From: Shannon Urbanek [REDACTED]
Sent: Tuesday, January 31, 2023 6:06 PM
To: Jenna Rollins
Cc: Laura Rectenwald; Anna Williamson
Subject: RE: Barnwell Properties WRPERM No. 13844 Drafts

Jenna,
We have received the draft permit and public notice and do not have any comments at this time. I have provided Mr. Haws with a copy of the draft and advised him of the 30-day comment period. We appreciate your help with the permitting process.

Regards,



Shannon Urbanek
Natural Resources Biologist

Titanium Environmental Services
311 East Cotton Street
Longview, Texas 75601
Office: 903-234-8443
Mobile: 903-424-6223

From: Laura Rectenwald [REDACTED]
Sent: Monday, January 30, 2023 4:16 PM
To: Anna Williamson [REDACTED]; Shannon Urbanek
Subject: Fwd: Barnwell Properties WRPERM No. 13844 Drafts

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Jenna Rollins

From: Laura Rectenwald [REDACTED]
Sent: Tuesday, January 31, 2023 5:11 PM
To: Jenna Rollins
Subject: RE: Barnwell Properties WRPERM No. 13844 Drafts

Jenna,
Thanks so much. We are completing our review before giving a final response but everything is looking good.
I will get back with you in a day or two.
Sincerely,
Laura

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

Call to: Ms. Anna Williamson	Call from: Jenna Rollins
Date: 1/31/23	Project No: 13844
<i>Information for File follows:</i> This was a phone call to the applicant to clarify a question the applicant had about the draft permit and notice.	
Signed: <i>Jenna Rollins</i>	Date: 1/31/23

Jenna Rollins

From: Jenna Rollins
Sent: Monday, January 30, 2023 2:00 PM
To: Laura Rectenwald
Subject: Barnwell Properties WRPERM No. 13844 Drafts
Attachments: Barnwell_Properties_13844_Drafts_Sent_1.30.23.pdf

Dear Ms. Rectenwald,

Please review the attached draft permit and public notice for Barnwell Properties WRPERM No. 13844 and provide any comments by 2/13/23. Please let me know if you have any questions.

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin Chancellor *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 30, 2023

Ms. Laura Rectenwald, Environmental Consultant
Titanium Environmental
311 East Cotton Street
Longview, Texas 75601

VIA E-MAIL

RE: Barnwell Properties
WRPERM 13844
CN606000826, RN111514725
Application No. 13844 for a Water Use Permit
Texas Water Code § 11.121, Requiring Mailed and Published Notice
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County

Dear Ms. Rectenwald:

Drafts, subject to revision, of the public notice, Water Use Permit No. 13844, 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 February 13, 2023 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 30-day comment period and once the comment period has closed, Water Use Permit No. 13844 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 jenna.rollins@tceq.texas.gov or at (512) 239-1845.

Sincerely,

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

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

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. 13844

Barnwell Properties seeks a water use permit to authorize the maintenance of a dam and 24.5 acre-foot capacity reservoir located on an unnamed tributary of Bishop Creek, Cypress Creek Basin for recreational purposes in Upshur County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Barnwell Properties, 318 Hwy 271 N, Gilmer, Texas 75644, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code (TWC) § 11.121 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.152 and 295.153, *et seq.* Notice is being published and mailed to water right holders of record in the Cypress Creek Basin pursuant to TAC §§ 295.152(a) and 295.153(b).

Barnwell Properties seeks authorization to maintain a dam and reservoir located on an unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek, tributary of Cypress Creek, Cypress Creek Basin and impound therein not to exceed 24.5 acre-feet of water for recreational purposes in Upshur County.

A point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W in Zip Code 75644.

Ownership of the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County.

This application is subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact.

The application and partial fees were received on June 8, 2022. Additional information and fees were received on August 17 and September 1, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 23, 2022.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft Water Use Permit, if granted, would contain a special condition requiring the Applicant to pass all inflows of state water should they be required to satisfy downstream senior and superior water rights. The application, technical memoranda, and Executive Director's draft permit 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 Chief Clerk, at the address provided in the information section below, by _____. 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 _____. The Executive Director may approve the application unless a written request for a contested case hearing is filed by _____.

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 13844 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 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



WATER USE PERMIT

PERMIT NO. 13844

TYPE § 11.121

Permittee:	Barnwell Properties	Address:	318 Hwy 271 N Gilmer, Texas 75644
Filed:	September 23, 2022	Granted:	
Purpose:	Recreational	County:	Upshur
Watercourse:	Unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek	Watershed:	Cypress Creek Basin

WHEREAS, Barnwell Properties (Applicant) seeks authorization to maintain a dam and reservoir located on an unnamed tributary of Bishop Creek, tributary of Caney Creek, tributary of Little Cypress Creek, tributary of Cypress Creek, Cypress Creek Basin, and impound therein not to exceed 24.5 acre-feet of water for recreational purposes in Upshur County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W; and

WHEREAS, the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County; and

WHEREAS, this application is subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact; and

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

WHEREAS, the Executive Director recommends that a special condition be included in the permit; and

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

NOW, THEREFORE, this permit, designated Water Use Permit No. 13844, is issued to Barnwell Properties subject to the following terms and conditions:

1. IMPOUNDMENT

- A. Permittee is authorized to maintain a dam and reservoir, impounding 24.5 acre-feet, on an unnamed tributary of Bishop Creek, Cypress Creek Basin in Upshur County.
- B. A point on the centerline of the dam is located at Latitude 32.806350° N, Longitude 94.875421° W.
- C. Ownership of the lands to be inundated are evidenced by a *Warranty Deed with Vendor's Lien* recorded August 18, 2020, Document Number 202005935, filed with the Official Public Records of Upshur County.

2. USE

Permittee is authorized to use the reservoir described in Paragraph 1. IMPOUNDMENT for recreational purposes in Upshur County.

3. PRIORITY

The time priority of this right is September 23, 2022.

4. SPECIAL CONDITION

Permittee shall pass all inflows of state water should they be required to satisfy downstream senior and superior water rights.

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

This permit is issued subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact.

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

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

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

For the Commission

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jenna Rollins, Project Manager
Water Rights Permitting Team

Date: January 3, 2023

Through: *KA* Kathy Alexander, Ph.D., Policy and Technical Analyst
Water Availability Division

TG Trent Gay, Team Leader
Surface Water Availability Team

From: Jenny M. Torres, Hydrologist
Surface Water Availability Team

Subject: Barnwell Properties
WRPERM 13844
CN606000826
Unnamed Tributary of Bishop Creek, Cypress Creek Basin
Upshur County

WATER AVAILABILITY ANALYSIS

Application Summary

Barnwell Properties (Applicant) requests a water use permit to maintain a reservoir on an unnamed tributary of Bishop Creek, Cypress Creek Basin, impounding 24.5 acre-feet of water for recreational purposes in Upshur County.

Water Availability Analysis

Resource Protection staff did not recommend that the application be subject to instream flow requirements. See Resource Protection staff's November 17, 2022. memorandum.

The Water Rights Analysis Package (WRAP) simulates management of the water resources of a river basin. TCEQ used 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.

An evaluation of a proposed appropriation of state water must consider effects of the proposed permit on groundwater or groundwater recharge. The naturalized flows that are the basis for the TCEQ WAM take 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. Therefore, any effects on groundwater or groundwater recharge are incorporated into the modeling for this application. By considering any gains and losses due to groundwater/surface water interaction in its water availability analysis, the commission is protecting groundwater resources.

Staff first evaluated the application using the Full Authorization simulation of the Cypress Creek Basin WAM, in which all basin rights utilize their maximum authorized amount. The period of record for the Cypress Creek Basin is 1948 - 1998. Results indicate that the reservoir is 50% full 100% of the time and 100% full 54% of the time.

Conclusion

Staff can support granting the application provided the permit includes the following special condition:

1. Permittee shall pass all inflows of state water should they be required to satisfy downstream senior and superior water rights.

Note that the application is subject to the requirements of the Red River Compact.



Jenny M Torres, Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jenna Rollins
Water Rights Permitting Team

Date: December 8, 2022

Thru:

From: Warren D. Samuelson, P. E., Manager
Dam Safety Section MC-177

Subject: Barnwell Properties, Application for a permit to maintain a dam and reservoir, unnamed tributary of Bishop Creek, Cypress Basin, Upshur County

Barnwell Properties (Applicant) seeks authorization to maintain a dam and reservoir impounding 24.5 acre-feet of water on unnamed tributary of an unnamed tributary of Bishop Creek, tributary of Little Cypress Creek, tributary of Little Cypress Bayou, Cypress Basin for recreational purposes in Upshur County.

The dam is exempt from the dam safety rules due to Legislation.

Therefore, there are no further dam safety requirements that need to be met.

Warren D. Samuelson

Warren D. Samuelson, P. E., Manager
Dam Safety Section

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jenna Rollins, Project Manager
Water Rights Permitting Team

Date: November 30, 2022

Through: Leslie Patterson, Team Leader
Resource Protection Team

From: Trent Jennings, Water Conservation Specialist
Resource Protection Team

Subject: Barnwell Properties
WRPERM 13844
CN606000826
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County

APPLICATION SUMMARY

Barnwell Properties (Applicant) requests a water use permit to maintain a reservoir on an unnamed tributary of Bishop Creek, Cypress Creek Basin, impounding 24.5 acre-feet of water for recreational purposes in Upshur County.

WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code §295.9(5), applications to impound water for in-place use are exempt from submitting a water conservation plan.

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

RECOMMENDATIONS

Resource Protection Staff have no recommendations regarding the proposed permit, if granted.



Trent Jennings, Water Conservation Specialist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jenna Rollins, Project Manager
Water Rights Permitting Team

Date: November 17, 2022

Through: Leslie Patterson, Team Leader
KA for LP Resource Protection Team

From: Kenneth Coonrod, Aquatic Scientist
Resource Protection Team

Subject: Barnwell Properties
WRPERM 13844
CN606000826
Unnamed Tributary of Bishop Creek, Cypress Creek Basin
Upshur 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

Barnwell Properties (Applicant) requests a water use permit to maintain a reservoir on an unnamed tributary of Bishop Creek, Cypress Creek Basin, impounding 24.5 acre-feet of water for recreational purposes in Upshur County.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitats: The Applicant's impoundment is located on an unnamed tributary of Bishop Creek, an intermittent stream, and is situated in the Tertiary Uplands ecoregion (Griffith et al. 2004).

The checklist for the Cypress Creek Basin identified 63 species of ichthyofauna occurring within the Little Cypress hydrologic unit (United States Geologic Survey code 11140307) (Hendrickson and Cohen 2015). The alligator snapping turtle (*Macrochelys temminckii*), a crayfish (*Orconectes maletae*), the southern hickorynut (*Obovaria arkansasensis*), and the Texas heelsplitter (*Potamilus amphichaenus*), are high-interest aquatic species known to occur in Upshur County (TPWD 2015).

"Streamflow, which is strongly correlated with many critical physicochemical characteristics of rivers such as water temperature, channel geomorphology and habitat diversity, can be considered the 'master variable' that limits the distribution and abundance of riverine species and regulates the ecological integrity of flowing

water systems" (Resh et al. 1988; Power et al. 1995; Poff et al. 1997). Maintaining the natural flow regime, or streamflow variability, plays a critical role in sustaining native biodiversity and ecosystem integrity in rivers (Poff et al. 1997). The TCEQ desktop methodology for determining environmental flow restrictions, excluding basins with adopted environmental flow standards, is the Lyons Method. The Lyons Method establishes minimum flows of 40% of the median monthly flows for October through February and 60% of the median monthly flows for March through September in order to protect aquatic habitat (Bounds et al. 1979). This methodology produces flow numbers for each month of the year to mimic natural flow patterns (Bounds et al. 1979). Resource Protection staff do not recommend a streamflow restriction, because the Applicant's reservoir is located on an intermittent stream and streamflow restrictions are not assigned to intermittent streams in the Cypress Creek Basin. The Applicant's request is not expected to adversely impact aquatic and riparian habitats in the area.

Recreational Uses: The reservoir and unnamed tributary have a presumed primary contact recreation 1 use (TCEQ 2022). The Applicant's request should not adversely impact recreational uses.

Water Quality: The reservoir has a presumed high aquatic life use and the unnamed tributary has a presumed minimal aquatic life use (TCEQ 2022). The Applicant's 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 proposed project site is located near the Texas and Louisiana border and is significantly more than 200 river miles from the Gulf Coast. The project should not impact Texas bays and estuaries, because the stream does not flow to a bay or estuary in Texas.

RECOMMENDATIONS

Resource Protection staff have no recommendations regarding this proposed permit, if granted.

LITERATURE CITED

Bounds RL, Lyons BW, Travis CD. 1979. Statewide Fishery Management Recommendations: Existing Reservoir and Stream Management Recommendations, Statewide Minimum Streamflow Recommendations. Federal Aid Project F-30-R-4. Austin (TX): Texas Parks and Wildlife Department.

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Barnwell Properties, 13844

Unnamed tributary of Bishop Creek, Cypress Creek Basin

Page 3 of 3

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Kenneth Coonrod

Kenneth Coonrod, Aquatic Scientist

Jenna Rollins

From: Anna Williamson [REDACTED]
Sent: Tuesday, January 24, 2023 1:59 PM
To: Jenna Rollins
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Jenna!

Thank you very much for the update!

Have a great day!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Tuesday, January 24, 2023 1:58 PM
To: Anna Williamson [REDACTED]
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Anna,

A draft permit and public notice has been prepared and is currently being reviewed by TCEQ staff.

All the best,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

From: Anna Williamson [REDACTED]
Sent: Tuesday, January 24, 2023 12:57 PM
To: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Jenna,

I have not heard anything about this project since September 2022 and I was hoping for a project update for Dean Haws' Barnwell Properties.

Thank you and have a great day!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Tuesday, August 23, 2022 3:38 PM
To: Anna Williamson [REDACTED]
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Ms. Williamson,

That should still work!

Best regards,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

From: Anna Williamson [REDACTED]
Sent: Tuesday, August 23, 2022 3:33 PM
To: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Jenna!

Dean was wanting to get his check out quickly, so I sent him the address below:

Jenna Rollins, MC 160
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

I hope that still works!

Thanks!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Tuesday, August 23, 2022 3:31 PM
To: Anna Williamson [REDACTED]
Subject: Barnwell Properties, WRPERM 13844

Good afternoon Ms. Williamson,

I received your message, and Mr. Haws can send his check with the remaining fees to the address below:

Texas Commission on Environmental Quality
Water Availability Division
P.O. Box 13087, MC-160
Austin, Texas, 78711-3087

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Jenna Rollins, Project Manager
Water Rights Permitting Team

DATE: September 23, 2022

SUBJECT: Barnwell Properties
WRPERM 13844
CN606000826, RN111514725
Application No. 13844 for a Water Use Permit
Texas Water Code § 11.121, Requiring Mailed and Published Notice
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County

The application and partial fees were received on June 8, 2022. Additional information and fees were received on August 17 and September 1, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 23, 2022. Published and mailed notice to the water right holders of record in the Cypress Creek Basin is required pursuant to Title 30 Texas Administrative Code §§ 295.152(a) and 295.153(b). All fees have been paid and the application is sufficient for filing.

Jenna Rollins

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

OCC Mailed Notice Required YES NO

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 23, 2022

Ms. Laura Rectenwald, Environmental Consultant
Titanium Environmental
311 East Cotton Street
Longview, Texas 75601

VIA E-MAIL

RE: Barnwell Properties
WRPERM 13844
CN606000826, RN111514725
Application No. 13844 for a Water Use Permit
Texas Water Code § 11.121, Requiring Mailed and Published Notice
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County

Dear Ms. Rectenwald:

This acknowledges receipt, on August 17 and September 1, 2022, of additional information and fees in the amount of \$10.00 (Receipt No. M300020, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on September 23, 2022. Staff will continue processing the application for consideration by the Executive Director.

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

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

Sincerely,

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

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

Attachment



01-SEP-22 12:32 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	M300019A	16854		BS00097099	01-SEP-22	-\$112.50
	WUP		090122	N	D3800004		
WATER USE PERMITS		POSTMUS, HENK	RHDAVIS	CK			
	WUP	M300019B	16854		BS00097099	01-SEP-22	-\$112.50
	WUP		090122	N	D3800004		
WATER USE PERMITS		POSTMUS, HENK	RHDAVIS	CK			
	WUP	M300020	1156		BS00097099	01-SEP-22	-\$10.00
	WUP	13844	090122	N	D3800004		
WATER USE PERMITS		BARNWELL PROPERTIES	RHDAVIS	CK			
Total (Fee Code):							-\$235.00
Grand Total:							-\$46,617.70

RECEIVED
SEP 06 2022
Water Availability D.

Jenna Rollins

From: Anna Williamson [REDACTED]
Sent: Thursday, September 1, 2022 3:34 PM
To: Jenna Rollins
Cc: Shannon Urbanek; Laura Rectenwald
Subject: Barnwell Properties, WRPERM 13844_ Response to TCEQ RFI
Attachments: Barnwell Properties, WRPERM 13844_Response to TCEQ RFI.pdf; WRPERM 12844
_Revised_Water Rights Permit Application.pdf

Hello:

Attached are the documents for the response to the TCEQ RFI and the revised TCEQ Water Rights Permit Application for Barnwell Properties (WRPERM 13844) [CN606000826, RN111514725] documents.

Please let me know if you need anything else.

Thank you and have a nice day!

Anna Claire Williamson

TITANIUM ENVIRONMENTAL SERVICES, LLC

311 East Cotton Street

Longview, Texas 75601

Phone: 903-234-8443

Fax: 903-234-1641
[REDACTED]



September 1, 2022

Jenna Rollins
TCEQ
Water Availability Division, MC-160
P.O. Box 13087
Austin, Texas 78711-3087

**Re: Response to TCEQ RFI for Barnwell Properties
WRPERM 13844
CN606000826, RN111514725
Application No. 13844 for a Water Use Permit
Texas Water Code § 11.121, Requiring Mailed and Published Notice
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County**

Dear Ms. Rollins,

Titanium Environmental Services, LLC (TES) is responding to the Texas Commission on Environmental Quality's (TCEQ) Request for Information (RFI) regarding the Water Rights Permitting Application for the Barnwell Properties' 2.58-acre impoundment located at 6585 Highway 155 in Gilmer, Upshur County, Texas.

Item 1: Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

Attached is the partnership agreement document that TES has had reviewed and deemed acceptable by the TCEQ for delegation of signatory authority.

Item 2: Clarify the legal name of the applicant.

Attached is the IRS document that TES has had reviewed and deemed acceptable by the TCEQ for the legal name of Barnwell Properties.

Item 3: Confirm that the reservoir will impound 24.5 acre-feet of water at its normal operating capacity as shown in Worksheet 2.0.

The reservoir will impound 24.5 acre-feet of water at its normal operating capacity.

Item 4: Confirm that the application is not requesting to divert water. Staff notes *Worksheet 3.0* is provided in the application submittal; however, based on the application, this worksheet is not necessary.

The site is a recreational reservoir and it is not diverting water.

Item 5: Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right) if the applicant intends to divert water from the proposed reservoir.

The site is a recreational reservoir and it is not diverting water.

September 1, 2022

Page 2

Item 6: Confirm that groundwater will be used, if needed, to support the reservoir. Provide a completed *Worksheet 4.1* for the discharge point of the groundwater into the reservoir. Indicate the latitude and longitude coordinated in decimal degrees, to at least six decimal places.

We would like to proceed without the groundwater well as an alternative backup source.

Item 7: Groundwater chemistry information for sulfate, chloride, TDS, pH, and temperature.

We would like to proceed without the groundwater well as an alternative backup source.

Item 8: Remit fees in the amount of \$10.00 is owed to TCEQ.

Dean Haws has mailed the check in the amount of \$10.00 to the TCEQ.

Should you have any questions regarding this letter, please contact me at (903) 234-8443, or by email at [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Claire Williamson".

Anna Claire Williamson

Attachments:

PARTNERSHIP RESOLUTION OF AUTHORITY

By: BARNWELL PROPERTIES

Referred to in this document as "Financial Institution"

Referred to in this document as "Partnership"

The above partnership consists of the following partners (or if a limited partnership, the following general partners):

3077 INVESTMENTS, LLC MCTAYSOM PROPERTIES, LLC DHAW'S INVESTMENTS LP

The above-named parties represent that they constitute all of the partners of the Partnership designated above, or if a limited Partnership, constitute all of the general partners of the partnership designated above. These individuals are referred to in this document as "Partners."

Federal I.D. Number 84-4912106 for BARNWELL PROPERTIES Date 02/28/2020
 (EIN if one has been obtained or SSN if no EIN (Trade Name of Partnership if EIN provided
 has been obtained) or Name of Partner supplying SSN)

AGENTS Any Agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Name and Title or Position	Signature	Facsimile Signature (if used)
A. <u>PAUL WILSON</u>	X 	X _____
B. <u>DEAN HAWS, JR.</u>	X 	X _____
C. <u>MICHAEL TAYSOM</u>	X 	X _____
D. _____	X _____	X _____
E. _____	X _____	X _____
F. _____	X _____	X _____

POWERS GRANTED (Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the number of Agent signatures required to exercise the power.)

Indicate A, B, C, D, E, and/or F	Description of Power	Indicate number of signatures required
<u>A,B,C</u>	(1) Exercise all of the powers listed in this resolution.	<u>2</u>
<u>A,B,C</u>	(2) Open any deposit or share account(s) in the name of the Partnership.	<u>2</u>
<u>A,B,C</u>	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with this Financial Institution.	<u>2</u>
<u>A,B,C</u>	(4) Borrow money on behalf and in the name of the Partnership, sign, execute and deliver promissory notes or other evidences of indebtedness.	<u>2</u>
<u>A,B,C</u>	(5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the Partnership as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.	<u>2</u>
<u>A,B,C</u>	(6) Enter into a written lease for the purpose of renting, maintaining, accessing and terminating a Safe Deposit Box in this Financial Institution.	<u>2</u>
_____	(7) Other _____	_____

LIMITATIONS ON POWERS The following are the Partnership's express limitations on the powers granted under this resolution.

EFFECT ON PREVIOUS RESOLUTIONS This resolution supersedes resolution dated _____ . If not completed, all resolutions remain in effect.

CERTIFICATION OF AUTHORITY I further certify that the Partnership has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions on page 2 and to confer the powers granted above to the person named who have full power and lawful authority to exercise the same.

Signatures: (Type name of each Partner below each signature line.)

X 	X 	X 
3077 INVESTMENTS, LLC	DHAW'S INVESTMENTS LP	MCTAYSOM PROPERTIES, LLC
X _____	X _____	X _____

The Partners to the Partnership resolve, warrant and agree as follows:

- (1) The Financial Institution is designated as a depository for the funds of the Partnership and to provide other financial accommodations indicated in this resolution.
- (2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by the Financial Institution. Any and all prior resolutions adopted by the Partners and certified to the Financial Institution as governing the operation of this partnership's account(s), are in full force and effect, until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Financial Institution, establishing the authority for the changes.
- (3) The signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the Partnership. Any Agent, so long as they act in a representative capacity as an Agent of the Partnership, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Financial Institution, subject to any restrictions on this resolution or otherwise agreed to in writing.
- (4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the Partnership with the Financial Institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
- (5) The Partners agree to the terms and conditions of any account agreement, properly opened by any Agent of the Partnership. The Partners authorize the Financial Institution, at any time, to charge the Partnership for all checks, drafts, or other orders, for the payment of money, that are drawn on the Financial Institution, so long as they contain the required number of signatures for this purpose.
- (6) The Partners acknowledge and agree that the Financial Institution may furnish at its discretion automated access devices to Agents of the Partnership to facilitate those powers authorized by this resolution or other resolutions in effect at the time of issuance. The term "automated access device" includes, but is not limited to, credit cards, automated teller machines (ATM), and debit cards.
- (7) The Partners acknowledge and agree that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the Agent named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that are filed separately by the Partnership with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the Agent(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature specimen on file. The Partners authorize each Agent to have custody of the Partnership's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have no responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.
- (8) If any other parties become interested in the partnership as co-partners, the partnership relationship is altered in any way or if the business should become incorporated, the Partners shall promptly notify the Financial Institution.
- (9) By signing this resolution, Partners represent that they have provided the Financial Institution with true and complete copies of the partnership agreement, if any, as amended to the date of this resolution.

Pennsylvania. The designation of an Agent does not create a power of attorney; therefore, Agents are not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code) unless the agency was created by a separate power of attorney. Any provision that assigns Financial Institution rights to act on behalf of any person or entity is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code).

FOR FINANCIAL INSTITUTION USE ONLY

Acknowledged and received on _____ (date) by _____ (initials) This resolution is superseded by resolution dated _____.

Comments:

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT (the "Agreement") made and entered into this 1 day of January, 2020 (the "Execution Date"),

AMONGST:

MCTAYSOM PROPERTIES LLC of 14044 WINDROW DR FORNEY TX 75126,
3077 INVESTMENTS LLC of 3077 FM 49 GILMER TX 75644, and
DHAWS INVESTMENTS LP of 434 SHATTLES RD GILMER TX 75644
(individually the "Partner" and collectively the "Partners").

BACKGROUND:

- A. The Partners wish to associate themselves as partners in business.
- B. This Agreement sets out the terms and conditions that govern the Partners within the Partnership.

IN CONSIDERATION OF and as a condition of the Partners entering into this Agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the parties to this Agreement agree as follows:

Formation

- 1. By this Agreement the Partners enter into a general partnership (the "Partnership") in accordance with the laws of The State of Texas. The rights and obligations of the Partners will be as as stated in the applicable legislation of The State of Texas (the 'Act') except as otherwise provided in this Agreement.

Name

- 2. The firm name of the Partnership will be: BARNWELL PROPERTIES.

Purpose

- 3. The purpose of the Partnership will be: INVESTMENT PROPERTIES.

Term

4. The Partnership will begin on January 1st, 2020 and will continue until terminated as provided in this Agreement.

Place of Business

5. The principal office of the business of the Partnership will be located at 14044 WINDROW DR FORNEY TX 75126 or such other place as the Partners may from time to time designate.

Capital Contributions

6. Each of the Partners has contributed to the capital of the Partnership, in cash or property in agreed upon value, as follows (the "Capital Contribution"):

Partner	Contribution Description	Agreed Value
MCTAYSOM PROPERTIES LLC	33 1/3	██████ USD
3077 INVESTMENTS LLC	33 1/3	██████ USD
DHAWS INVESTMENTS LP	33 1/3	██████ USD

7. All Partners will contribute their respective Capital Contributions fully and on time.

Withdrawal of Capital

8. No Partner will withdraw any portion of their Capital Contribution without the express written consent of the remaining Partners.

Additional Capital

9. Capital Contributions may be amended from time to time, according to the requirements of the Partnership provided that the interests of the Partners are not affected, except with the unanimous consent of the Partners. No Partner will be required to make Additional Capital Contributions. Whenever additional capital is determined to be required and an individual

Partner is unwilling or unable to meet the additional contribution requirement within a reasonable period, as required by Partnership business obligations, remaining Partners may contribute in proportion to their existing Capital Contributions to resolve the amount in default. In such case the allocation of profits or losses among all the Partners will be adjusted to reflect the aggregate change in Capital Contributions by the Partners.

10. Any advance of money to the Partnership by any Partner in excess of the amounts provided for in this Agreement or subsequently agreed to as Additional Capital Contribution will be deemed a debt owed by the Partnership and not an increase in Capital Contribution of the Partner. This liability will be repaid with interest at rates and times to be determined by a majority of the Partners within the limits of what is required or permitted in the Act. This liability will not entitle the lending Partner to any increased share of the Partnership's profits nor to a greater voting power. Such debts may have preference or priority over any other payments to Partners as may be determined by a majority of the Partners.

Capital Accounts

11. An individual capital account (the "Capital Accounts") will be maintained for each Partner and their Initial Capital Contribution will be credited to this account. Any Additional Capital Contributions made by any Partner will be credited to that Partner's individual Capital Account.

Interest on Capital

12. No borrowing charge or loan interest will be due or payable to any Partner on their agreed Capital Contribution inclusive of any agreed Additional Capital Contributions.

Financial Decisions

13. Decisions regarding the distribution of profits, allocation of losses, and the requirement for Additional Capital Contributions as well as all other financial matters will be decided by a majority vote of the Partners.

Profit and Loss

14. Subject to any other provisions of this Agreement, the net profits and losses of the Partnership, for both accounting and tax purposes, will accrue to and be borne by the Partners in equal proportions (the "Profit and Loss Distribution").

Books of Account

15. Accurate and complete books of account of the transactions of the Partnership will be kept in accordance with generally accepted accounting principles (GAAP) and at all reasonable times will be available and open to inspection and examination by any Partner. The books and records of the Partnership will reflect all the Partnership's transactions and will be appropriate and adequate for the business conducted by the Partnership.

Annual Report

16. As soon as practicable after the close of each fiscal year, the Partnership will furnish to each Partner an annual report showing a full and complete account of the condition of the Partnership. This report will consist of at least the following documents:

- a. a statement of all information as will be necessary for the preparation of each Partner's income or other tax returns;
- b. a copy of the Partnership's federal income tax returns for that fiscal year;
- c. supporting income statement;
- d. a balance sheet;
- e. a cash flow statement;
- f. a breakdown of the profit and loss attributable to each Partner; and
- g. any additional information that the Partners may require.

Banking and Partnership Funds

17. The funds of the Partnership will be placed in such investments and banking accounts as will be designated by the Partners. All withdrawals from these bank accounts will be made by the duly authorized agent or agents of the Partners as agreed by unanimous consent of the Partners. Partnership funds will be held in the name of the Partnership and will not be commingled with those of any other person or entity.

Fiscal Year

18. The fiscal year will end on the 31st day of December of each year.

Audit

19. Any of the Partners will have the right to request an audit of the Partnership books. The cost of the audit will be borne by the Partnership. The audit will be performed by an accounting firm acceptable to all the Partners. Not more than one (1) audit will be required by any or all of the Partners for any fiscal year.

Management

20. Except as all of the Partners may otherwise agree in writing, all actions and decisions respecting the management, operation and control of the Partnership and its business will be decided by a majority vote of the Partners.

Contract Binding Authority

21. Each Partner will have authority to bind the Partnership in contract.

Partnership Representative

22. _____ will be the partnership representative ("the Partnership Representative") with the sole authority to act on behalf of the Partnership in relation to IRS tax audits pursuant to Chapter 63 Subchapter C of the Internal Revenue Code of 1986 ("the Tax Rules").
23. The Partnership Representative is appointed for the current tax year and subsequent tax years until otherwise designated by the Partners.
24. The Partnership Representative will promptly advise the Partners of any audit of the Partnership initiated by the IRS and provide regular updates to the Partners on the progress of such audits and any resulting settlement negotiations. The Partnership Representative will be generally accountable to the Partners and will obtain the majority approval of the Partners for (i) any decisions affecting the tax liability of the Partnership or the Partners; and (ii) any decision finalizing tax settlement with the IRS.
25. The Partnership Representative may resign from the position by serving notice in writing on both the Partnership and the IRS. The Partnership, acting by majority vote, may revoke the designation of the Partnership Representative by serving notice on the Partnership

Representative and the IRS and simultaneously appointing a new Partnership Representative for that taxable year.

26. Whether serving in an active capacity or not, any person who has served as Partnership Representative in respect of any given taxable year or portion thereof will remain accountable to the Partnership, throughout the period of limitation relating to that taxable year, in respect of any notification received from the IRS and will promptly advise the Partnership of any and all such correspondence.
27. In the event that a tax settlement reached between the IRS and the Partnership Representative is not satisfactory to one or more of the Partners and the matter cannot be resolved through negotiation in good faith at a meeting of the Partners, then, two weeks, or such longer period as the partners may agree, following such meeting the Partners agree to submit the dispute to mediation.

Tax Elections

28. In the event of an imputed underpayment by the Partnership assessed at audit, the Partnership Representative will elect the application of Section 6226 of Subchapter C (Alternative to Payment of Imputed Underpayment by Partnership) and duly furnish to each Partner, and to the Secretary of the Treasury or his delegate, a statement of that Partner's share of any adjustments within 45 days of the notice of final partnership adjustment.

Meetings

29. Regular meetings of the Partners will be held only as required.
30. Any Partner can call a special meeting to resolve issues that require a vote, as indicated by this Agreement, by providing all Partners with reasonable notice. In the case of a special vote, the meeting will be restricted to the specific purpose for which the meeting was held.
31. All meetings will be held at a time and in a location that is reasonable, convenient and practical considering the situation of all Partners.

Admitting a New Partner

32. A new Partner may only be admitted to the Partnership with a majority vote of the existing Partners, except in the case of a prospective partner, the admission of which would render the Partnership ineligible to elect out of the application of the Tax Rules, in which case a unanimous vote of the existing Partners will be required to admit that partner.
33. Any new Partner agrees to be bound by all the covenants, terms, and conditions of this Agreement, inclusive of all current and future amendments. Further, a new Partner will execute such documents as are needed to effect the admission of the new Partner. Any new Partner will receive such business interest in the Partnership as determined by a unanimous decision of the other Partners.

Transfer of Partnership Interest

34. A Partner may assign their distribution interest in the Partnership and its assets provided that, where the acquisition of the interest by the prospective partner will render the Partnership ineligible to elect out of the application of the Tax Rules, the assigning Partner must first obtain the unanimous consent of the remaining Partners. This transfer will only include that Partner's economic rights and interests and will not include any other rights of that Partner nor will it include an automatic admission as a Partner of the Partnership or the right to exercise any management or voting interests. A Partner who assigns any or all of their partnership interest to any third party will relinquish their status as Partner including all management and voting rights. Assignment of Partner status, under this clause, including any management and voting interests, will require the consent of all the remaining Partners.

Voluntary Withdrawal of a Partner

35. Any Partner will have the right to voluntarily withdraw from the Partnership at any time. Written notice of intention to withdraw must be served upon the remaining Partners at least three (3) months prior to the withdrawal date.
36. Except as otherwise provided elsewhere in this Agreement, the voluntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
37. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election upon

the Dissociated Partner within thirty (30) days after receipt of the Dissociated Partner's notice of intention to withdraw, including the purchase price and method and schedule of payment for the Dissociated Partner's interest. The purchase amount of any buyout of the Dissociated Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.

38. A Dissociated Partner will only exercise the right to withdraw in good faith and will act to minimize any present or future harm done to the remaining Partners as a result of the withdrawal.

Involuntary Withdrawal of a Partner

39. Events resulting in the involuntary withdrawal of a Partner from the Partnership will include but not be limited to: death of a Partner; Partner mental incapacity; Partner disability preventing reasonable participation in the Partnership; Partner incompetence; breach of fiduciary duties by a Partner; criminal conviction of a Partner; Expulsion of a Partner; Operation of Law against a Partner; or any act or omission of a Partner that can reasonably be expected to bring the business or societal reputation of the Partnership into disrepute.
40. Except as otherwise provided elsewhere in this Agreement, the involuntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
41. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election, including the purchase price and method and schedule of payment upon the Dissociated Partner, their executor, administrator, trustee, committee or analogous fiduciary within a reasonable period after acquiring knowledge of the change in circumstance to the Dissociated Partner. The purchase amount of any buyout of a Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.
42. A trustee in bankruptcy or similar third party who may acquire that Dissociated Partner's interest in the Partnership will only acquire that Partner's economic rights and interests and will not acquire any other rights of that Partner or be admitted as a Partner of the Partnership or have the right to exercise any management or voting interests.

Dissociation of a Partner

43. Where the remaining Partners have purchased the interest of a Dissociated Partner, the purchase amount will be paid in full, but without interest, within 90 days of the date of withdrawal.
44. The Partnership will retain exclusive rights to use of the trade name and firm name and all related brand and model names of the Partnership.
45. Where the voluntary or involuntary withdrawal of a Partner results in only one Partner remaining or where no buyer is found to purchase the interest of the Dissociated Partner then the Partnership will proceed in a reasonable and timely manner to dissolve the Partnership, with all debts being paid first, prior to any distribution of the remaining funds. Valuation and distribution will be determined as described in the Valuation of Interest section of this Agreement.
46. The remaining Partners retain the right to seek damages from a Dissociated Partner where the dissociation resulted from a malicious or criminal act by the Dissociated Partner or where the Dissociated Partner had breached their fiduciary duty to the Partnership or was in breach of this Agreement or had acted in a way that could reasonably be foreseen to bring harm or damage to the Partnership or to the reputation of the Partnership.
47. On any purchase and sale of a Partnership interest, a Dissociated Partner will only have liability for Partnership obligations that were incurred during their time as a Partner. Immediately upon the sale of a withdrawing Partner's interest, the Partnership will prepare, file, serve, and publish all notices required by law to protect the withdrawing Partner from liability for future Partnership obligations.

Dissolution

48. Except as otherwise provided in this Agreement, the Partnership will be dissolved upon a majority vote of all Partners.

Distribution of Property on Dissolution of Partnership

49. In the event of the dissolution of the Partnership, each Partner will share equally (the "Dissolution Distribution") in any remaining assets or liabilities of the Partnership.
50. Upon Dissolution of the Partnership and liquidation of Partnership Property, and after payment of all selling costs and expenses, the liquidator will distribute the Partnership assets to the

following groups according to the following order of priority:

- a. in satisfaction of liabilities to creditors except Partnership obligations to current Partners;
- b. in satisfaction of Partnership debt obligations to current Partners; and then
- c. to the Partners according to the Dissolution Distribution described above.

51. The claims of each priority group will be satisfied in full before satisfying any claims of a lower priority group. Any excess of Partnership assets after liabilities or any insufficiency in Partnership assets in resolving liabilities under this section will be shared by the Partners according to the Dissolution Distribution described above.

Valuation of Interest

52. In the absence of a written agreement setting a value, the value of the Partnership will be based on the fair market value appraisal of all Partnership assets (less liabilities) determined in accordance with generally accepted accounting principles (GAAP). This appraisal will be conducted by an independent accounting firm agreed to by all Partners. An appraiser will be appointed within a reasonable period of the date of withdrawal or dissolution. The results of the appraisal will be binding on all Partners. A withdrawing Partner's interest will be based on that Partner's proportion of the Dissolution Distribution described above, less any outstanding liabilities the withdrawing Partner may have to the Partnership. The intent of this section is to ensure the survival of the Partnership despite the withdrawal of any individual Partner.
53. No allowance will be made for goodwill, trade name, patents or other intangible assets, except where those assets have been reflected on the Partnership books immediately prior to valuation.

Goodwill

54. The goodwill of the Partnership business will be assessed at an amount to be determined by appraisal using generally accepted accounting principles (GAAP).

Title to Partnership Property

55. Title to all Partnership Property will remain in the name of the Partnership. No Partner or group of Partners will have any ownership interest in such Partnership Property in whole or in part.

Voting

56. Any vote required by the Partnership will be assessed where each Partner receives one vote carrying equal weight.

Force Majeure

57. A Partner will be free of liability to the Partnership where the Partner is prevented from executing their obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Partner has communicated the circumstance of said event to any and all other Partners and taken any and all appropriate action to mitigate said event.

Duty of Loyalty

58. No Partner will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive with the business of the Partnership or that would be in direct conflict of interest to the Partnership without the unanimous written consent of the remaining Partners. Any and all businesses, ventures or transactions with any appearance of conflict of interest must be fully disclosed to all other Partners. Failure to comply with any of the terms of this clause will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.
59. A withdrawing Partner will not carry on a similar business to the business of the Partnership within any established or contemplated market regions of the Partnership for a period of at least one (1) year after the date of withdrawal.

Duty of Accountability for Private Profits

60. Each Partner must account to the Partnership for any benefit derived by that Partner without the consent of the other Partners from any transaction concerning the Partnership or any use by that Partner of the Partnership property, name or business connection. This duty continues to apply to any transactions undertaken after the Partnership has been dissolved but before the affairs of the Partnership have been completely wound up by the surviving Partner or Partners or their agent or agents.

Duty to Devote Time

61. Each Partner will devote such time and attention to the business of the Partnership as the majority of the Partners will from time to time reasonably determine for the conduct of the Partnership business.

Actions Requiring Unanimous Consent of the Partners

62. The following list of actions will require the unanimous consent of all Partners:
- a. assigning check signing authority;
 - b. committing the Partnership to new liabilities or obligations totaling over \$ [REDACTED] USD;
 - c. incurring single expenditures that exceed \$ [REDACTED] USD;
 - d. selling or encumbering of any Partnership asset whose fair market value exceeds [REDACTED] USD;
 - e. hiring any employee whose total compensation package exceeds [REDACTED] USD per annum;
 - f. firing of any employee except in the case of gross misconduct that exposes the Partnership to possible liability;
 - g. waiving or releasing any Partnership claim except for full consideration; and
 - h. endangering the ownership or possession of Partnership property.
63. Any losses incurred as a result of a violation of this section will be charged to and collected from the individual Partner that acted without unanimous consent and caused the loss.

Forbidden Acts

64. No Partner may do any act in contravention of this Agreement.
65. No Partner may permit, intentionally or unintentionally, the assignment of express, implied or apparent authority to a third party that is not a Partner in the Partnership.

66. No Partner may do any act that would make it impossible to carry on the ordinary business of the Partnership.
67. No Partner may confess a judgment against the Partnership.
68. No Partner will have the right or authority to bind or obligate the Partnership to any extent with regard to any matter outside the intended purpose of the Partnership.
69. Any violation of the above Forbidden Acts will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.

Indemnification

70. All Partners will be indemnified and held harmless by the Partnership from and against any and all claims of any nature, whatsoever, arising out of a Partner's participation in Partnership affairs. A Partner will not be entitled to indemnification under this section for liability arising out of gross negligence or willful misconduct of the Partner or the breach by the Partner of any provisions of this Agreement.

Liability

71. A Partner will not be liable to the Partnership, or to any other Partner, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement or the Partnership.

Liability Insurance

72. The Partnership may acquire insurance on behalf of any Partner, employee, agent or other person engaged in the business interest of the Partnership against any liability asserted against them or incurred by them while acting in good faith on behalf of the Partnership.

Life Insurance

73. The Partnership will have the right to acquire life insurance on the lives of any or all of the Partners, whenever it is deemed necessary by the Partnership. Each Partner will cooperate fully with the Partnership in obtaining any such policies of life insurance.

Amendments

74. This Agreement may not be amended in whole or in part without the unanimous written consent of all Partners.

Governing Law and Jurisdiction

75. This Agreement will be construed in accordance with and exclusively governed by the laws of The State of Texas.
76. The Partners submit to the jurisdiction of the courts of The State of Texas for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

Definitions

77. For the purpose of this Agreement, the following terms are defined as follows:
- a. "Additional Capital Contributions" means Capital Contributions, other than Initial Capital Contributions, made by Partners to the Partnership.
 - b. "Capital Contribution" means the total amount of cash or Property contributed to the Partnership by any one Partner.
 - c. "Dissociated Partner" means any Partner who is removed from the Partnership through a voluntary or involuntary withdrawal as provided in this Agreement.
 - d. "Expulsion of a Partner" can occur on application by the Partnership or another Partner, where it has been determined that the Partner:
 - i. has engaged in wrongful conduct that adversely and materially affected the Partnership's business;
 - ii. has willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or to the other Partners; or
 - iii. has engaged in conduct relating to the Partnership's business that makes it not reasonably practicable to carry on the business

with the Partner.

- e. "Initial Capital Contribution" means Capital Contributions made by any Partner to acquire an interest in the Partnership.
- f. "Operation of Law" means rights or duties that are cast upon a party by the law, without any act or agreement on the part of the individual including, but not limited to, an assignment for the benefit of creditors, a divorce, or a bankruptcy.

Miscellaneous

- 78. Time is of the essence in this Agreement.
- 79. This Agreement may be executed in counterpart.
- 80. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
- 81. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
- 82. This Agreement contains the entire agreement between the parties. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made by any party to this Agreement in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
- 83. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Partner's successors, assigns, executors, administrators, beneficiaries, and representatives.

- 84. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.
- 85. All of the rights, remedies and benefits provided by this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law.

IN WITNESS WHEREOF the Partners have duly affixed their signatures under hand and seal on this 1 day of January, 2020

MCTAYSOM PROPERTIES LLC

Per: _____

(Seal)



3077 INVESTMENTS LLC

Per: _____

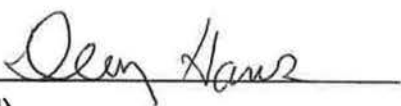
(Seal)



DHAWS INVESTMENTS LP

Per: _____

(Seal)



Date of this notice: 02-28-2020

Employer Identification Number:
84-4912106

Form: SS-4

Number of this notice: CP 575 B

BARNWELL PROPERTIES
PAUL EDWARD WILSON GEN PTR
14044 WINDROW DR
FORNEY, TX 75126

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 84-4912106. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1065

03/15/2021

If you have questions about the form(s) or the due date(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

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): _____

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: _____

ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

____ New Appropriation of State Water

____ Amendment to a Water Right *

____ Bed and Banks

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

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

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

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

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

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

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

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

CN : _____ (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:

Title:

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

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:

Mailing Address:

City:

State:

ZIP Code:

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:



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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number:

Amount past due:

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

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

Enforcement order number:

Amount past due:

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

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

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

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

6. SIGNATURE PAGE (Instructions, Page 11)

Applicant:

I, Dean Haws

Owner Operator

(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: x Dean H
(Use blue ink)

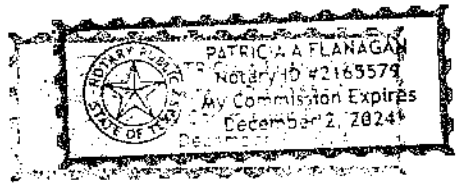
Date: 3/16/22

Subscribed and Sworn to before me by the said

on this 16th day of March, 2022.

My commission expires on the 2nd day of Dec, 2024.

Notary Public



[SEAL]

County, Texas

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

Addendums

Signatory Authority

PARTNERSHIP RESOLUTION OF AUTHORITY

By: BARNWELL PROPERTIES

Referred to in this document as "Financial Institution"

Referred to in this document as "Partnership"

The above partnership consists of the following partners (or if a limited partnership, the following general partners):

3077 INVESTMENTS, LLC MCTAYSOM PROPERTIES, LLC DHAW'S INVESTMENTS LP

The above-named parties represent that they constitute all of the partners of the Partnership designated above, or if a limited Partnership, constitute all of the general partners of the partnership designated above. These individuals are referred to in this document as "Partners."

Federal I.D. Number 84-4912106 for BARNWELL PROPERTIES Date 02/28/2020
 (EIN if one has been obtained or SSN if no EIN (Trade Name of Partnership if EIN provided
 has been obtained) or Name of Partner supplying SSN)

AGENTS Any Agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Name and Title or Position	Signature	Facsimile Signature (if used)
A. <u>PAUL WILSON</u>	X 	X _____
B. <u>DEAN HAWS, JR.</u>	X 	X _____
C. <u>MICHAEL TAYSOM</u>	X 	X _____
D. _____	X _____	X _____
E. _____	X _____	X _____
F. _____	X _____	X _____

POWERS GRANTED (Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the number of Agent signatures required to exercise the power.)

Indicate A, B, C, D, E, and/or F	Description of Power	Indicate number of signatures required
<u>A,B,C</u>	(1) Exercise all of the powers listed in this resolution.	<u>2</u>
<u>A,B,C</u>	(2) Open any deposit or share account(s) in the name of the Partnership.	<u>2</u>
<u>A,B,C</u>	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with this Financial Institution.	<u>2</u>
<u>A,B,C</u>	(4) Borrow money on behalf and in the name of the Partnership, sign, execute and deliver promissory notes or other evidences of indebtedness.	<u>2</u>
<u>A,B,C</u>	(5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the Partnership as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.	<u>2</u>
<u>A,B,C</u>	(6) Enter into a written lease for the purpose of renting, maintaining, accessing and terminating a Safe Deposit Box in this Financial Institution.	<u>2</u>
_____	(7) Other _____	_____

LIMITATIONS ON POWERS The following are the Partnership's express limitations on the powers granted under this resolution.

EFFECT ON PREVIOUS RESOLUTIONS This resolution supersedes resolution dated _____ . If not completed, all resolutions remain in effect.

CERTIFICATION OF AUTHORITY I further certify that the Partnership has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions on page 2 and to confer the powers granted above to the person named who have full power and lawful authority to exercise the same.

Signatures: (Type name of each Partner below each signature line.)

X 	X 	X 
3077 INVESTMENTS, LLC	DHAW'S INVESTMENTS LP	MCTAYSOM PROPERTIES, LLC
X _____	X _____	X _____

The Partners to the Partnership resolve, warrant and agree as follows:

- (1) The Financial Institution is designated as a depository for the funds of the Partnership and to provide other financial accommodations indicated in this resolution.
- (2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by the Financial Institution. Any and all prior resolutions adopted by the Partners and certified to the Financial Institution as governing the operation of this partnership's account(s), are in full force and effect, until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Financial Institution, establishing the authority for the changes.
- (3) The signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the Partnership. Any Agent, so long as they act in a representative capacity as an Agent of the Partnership, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Financial Institution, subject to any restrictions on this resolution or otherwise agreed to in writing.
- (4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the Partnership with the Financial Institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
- (5) The Partners agree to the terms and conditions of any account agreement, properly opened by any Agent of the Partnership. The Partners authorize the Financial Institution, at any time, to charge the Partnership for all checks, drafts, or other orders, for the payment of money, that are drawn on the Financial Institution, so long as they contain the required number of signatures for this purpose.
- (6) The Partners acknowledge and agree that the Financial Institution may furnish at its discretion automated access devices to Agents of the Partnership to facilitate those powers authorized by this resolution or other resolutions in effect at the time of issuance. The term "automated access device" includes, but is not limited to, credit cards, automated teller machines (ATM), and debit cards.
- (7) The Partners acknowledge and agree that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the Agent named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that are filed separately by the Partnership with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the Agent(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature specimen on file. The Partners authorize each Agent to have custody of the Partnership's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have no responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.
- (8) If any other parties become interested in the partnership as co-partners, the partnership relationship is altered in any way or if the business should become incorporated, the Partners shall promptly notify the Financial Institution.
- (9) By signing this resolution, Partners represent that they have provided the Financial Institution with true and complete copies of the partnership agreement, if any, as amended to the date of this resolution.

Pennsylvania. The designation of an Agent does not create a power of attorney; therefore, Agents are not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code) unless the agency was created by a separate power of attorney. Any provision that assigns Financial Institution rights to act on behalf of any person or entity is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code).

FOR FINANCIAL INSTITUTION USE ONLY

Acknowledged and received on _____ (date) by _____ (initials) This resolution is superseded by resolution dated _____.

Comments:

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT (the "Agreement") made and entered into this 1 day of January, 2020 (the "Execution Date"),

AMONGST:

MCTAYSOM PROPERTIES LLC of 14044 WINDROW DR FORNEY TX 75126,
3077 INVESTMENTS LLC of 3077 FM 49 GILMER TX 75644, and
DHAWS INVESTMENTS LP of 434 SHATTLES RD GILMER TX 75644
(individually the "Partner" and collectively the "Partners").

BACKGROUND:

- A. The Partners wish to associate themselves as partners in business.
- B. This Agreement sets out the terms and conditions that govern the Partners within the Partnership.

IN CONSIDERATION OF and as a condition of the Partners entering into this Agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the parties to this Agreement agree as follows:

Formation

- 1. By this Agreement the Partners enter into a general partnership (the "Partnership") in accordance with the laws of The State of Texas. The rights and obligations of the Partners will be as as stated in the applicable legislation of The State of Texas (the 'Act') except as otherwise provided in this Agreement.

Name

- 2. The firm name of the Partnership will be: BARNWELL PROPERTIES.

Purpose

- 3. The purpose of the Partnership will be: INVESTMENT PROPERTIES.

Term

4. The Partnership will begin on January 1st, 2020 and will continue until terminated as provided in this Agreement.

Place of Business

5. The principal office of the business of the Partnership will be located at 14044 WINDROW DR FORNEY TX 75126 or such other place as the Partners may from time to time designate.

Capital Contributions

6. Each of the Partners has contributed to the capital of the Partnership, in cash or property in agreed upon value, as follows (the "Capital Contribution"):

Partner	Contribution Description	Agreed Value
MCTAYSOM PROPERTIES LLC	33 1/3	██████ USD
3077 INVESTMENTS LLC	33 1/3	██████ USD
DHAWS INVESTMENTS LP	33 1/3	██████ USD

7. All Partners will contribute their respective Capital Contributions fully and on time.

Withdrawal of Capital

8. No Partner will withdraw any portion of their Capital Contribution without the express written consent of the remaining Partners.

Additional Capital

9. Capital Contributions may be amended from time to time, according to the requirements of the Partnership provided that the interests of the Partners are not affected, except with the unanimous consent of the Partners. No Partner will be required to make Additional Capital Contributions. Whenever additional capital is determined to be required and an individual

Partner is unwilling or unable to meet the additional contribution requirement within a reasonable period, as required by Partnership business obligations, remaining Partners may contribute in proportion to their existing Capital Contributions to resolve the amount in default. In such case the allocation of profits or losses among all the Partners will be adjusted to reflect the aggregate change in Capital Contributions by the Partners.

10. Any advance of money to the Partnership by any Partner in excess of the amounts provided for in this Agreement or subsequently agreed to as Additional Capital Contribution will be deemed a debt owed by the Partnership and not an increase in Capital Contribution of the Partner. This liability will be repaid with interest at rates and times to be determined by a majority of the Partners within the limits of what is required or permitted in the Act. This liability will not entitle the lending Partner to any increased share of the Partnership's profits nor to a greater voting power. Such debts may have preference or priority over any other payments to Partners as may be determined by a majority of the Partners.

Capital Accounts

11. An individual capital account (the "Capital Accounts") will be maintained for each Partner and their Initial Capital Contribution will be credited to this account. Any Additional Capital Contributions made by any Partner will be credited to that Partner's individual Capital Account.

Interest on Capital

12. No borrowing charge or loan interest will be due or payable to any Partner on their agreed Capital Contribution inclusive of any agreed Additional Capital Contributions.

Financial Decisions

13. Decisions regarding the distribution of profits, allocation of losses, and the requirement for Additional Capital Contributions as well as all other financial matters will be decided by a majority vote of the Partners.

Profit and Loss

14. Subject to any other provisions of this Agreement, the net profits and losses of the Partnership, for both accounting and tax purposes, will accrue to and be borne by the Partners in equal proportions (the "Profit and Loss Distribution").

Books of Account

15. Accurate and complete books of account of the transactions of the Partnership will be kept in accordance with generally accepted accounting principles (GAAP) and at all reasonable times will be available and open to inspection and examination by any Partner. The books and records of the Partnership will reflect all the Partnership's transactions and will be appropriate and adequate for the business conducted by the Partnership.

Annual Report

16. As soon as practicable after the close of each fiscal year, the Partnership will furnish to each Partner an annual report showing a full and complete account of the condition of the Partnership. This report will consist of at least the following documents:

- a. a statement of all information as will be necessary for the preparation of each Partner's income or other tax returns;
- b. a copy of the Partnership's federal income tax returns for that fiscal year;
- c. supporting income statement;
- d. a balance sheet;
- e. a cash flow statement;
- f. a breakdown of the profit and loss attributable to each Partner; and
- g. any additional information that the Partners may require.

Banking and Partnership Funds

17. The funds of the Partnership will be placed in such investments and banking accounts as will be designated by the Partners. All withdrawals from these bank accounts will be made by the duly authorized agent or agents of the Partners as agreed by unanimous consent of the Partners. Partnership funds will be held in the name of the Partnership and will not be commingled with those of any other person or entity.

Fiscal Year

18. The fiscal year will end on the 31st day of December of each year.

Audit

19. Any of the Partners will have the right to request an audit of the Partnership books. The cost of the audit will be borne by the Partnership. The audit will be performed by an accounting firm acceptable to all the Partners. Not more than one (1) audit will be required by any or all of the Partners for any fiscal year.

Management

20. Except as all of the Partners may otherwise agree in writing, all actions and decisions respecting the management, operation and control of the Partnership and its business will be decided by a majority vote of the Partners.

Contract Binding Authority

21. Each Partner will have authority to bind the Partnership in contract.

Partnership Representative

22. _____ will be the partnership representative ("the Partnership Representative") with the sole authority to act on behalf of the Partnership in relation to IRS tax audits pursuant to Chapter 63 Subchapter C of the Internal Revenue Code of 1986 ("the Tax Rules").
23. The Partnership Representative is appointed for the current tax year and subsequent tax years until otherwise designated by the Partners.
24. The Partnership Representative will promptly advise the Partners of any audit of the Partnership initiated by the IRS and provide regular updates to the Partners on the progress of such audits and any resulting settlement negotiations. The Partnership Representative will be generally accountable to the Partners and will obtain the majority approval of the Partners for (i) any decisions affecting the tax liability of the Partnership or the Partners; and (ii) any decision finalizing tax settlement with the IRS.
25. The Partnership Representative may resign from the position by serving notice in writing on both the Partnership and the IRS. The Partnership, acting by majority vote, may revoke the designation of the Partnership Representative by serving notice on the Partnership

Representative and the IRS and simultaneously appointing a new Partnership Representative for that taxable year.

26. Whether serving in an active capacity or not, any person who has served as Partnership Representative in respect of any given taxable year or portion thereof will remain accountable to the Partnership, throughout the period of limitation relating to that taxable year, in respect of any notification received from the IRS and will promptly advise the Partnership of any and all such correspondence.
27. In the event that a tax settlement reached between the IRS and the Partnership Representative is not satisfactory to one or more of the Partners and the matter cannot be resolved through negotiation in good faith at a meeting of the Partners, then, two weeks, or such longer period as the partners may agree, following such meeting the Partners agree to submit the dispute to mediation.

Tax Elections

28. In the event of an imputed underpayment by the Partnership assessed at audit, the Partnership Representative will elect the application of Section 6226 of Subchapter C (Alternative to Payment of Imputed Underpayment by Partnership) and duly furnish to each Partner, and to the Secretary of the Treasury or his delegate, a statement of that Partner's share of any adjustments within 45 days of the notice of final partnership adjustment.

Meetings

29. Regular meetings of the Partners will be held only as required.
30. Any Partner can call a special meeting to resolve issues that require a vote, as indicated by this Agreement, by providing all Partners with reasonable notice. In the case of a special vote, the meeting will be restricted to the specific purpose for which the meeting was held.
31. All meetings will be held at a time and in a location that is reasonable, convenient and practical considering the situation of all Partners.

Admitting a New Partner

32. A new Partner may only be admitted to the Partnership with a majority vote of the existing Partners, except in the case of a prospective partner, the admission of which would render the Partnership ineligible to elect out of the application of the Tax Rules, in which case a unanimous vote of the existing Partners will be required to admit that partner.
33. Any new Partner agrees to be bound by all the covenants, terms, and conditions of this Agreement, inclusive of all current and future amendments. Further, a new Partner will execute such documents as are needed to effect the admission of the new Partner. Any new Partner will receive such business interest in the Partnership as determined by a unanimous decision of the other Partners.

Transfer of Partnership Interest

34. A Partner may assign their distribution interest in the Partnership and its assets provided that, where the acquisition of the interest by the prospective partner will render the Partnership ineligible to elect out of the application of the Tax Rules, the assigning Partner must first obtain the unanimous consent of the remaining Partners. This transfer will only include that Partner's economic rights and interests and will not include any other rights of that Partner nor will it include an automatic admission as a Partner of the Partnership or the right to exercise any management or voting interests. A Partner who assigns any or all of their partnership interest to any third party will relinquish their status as Partner including all management and voting rights. Assignment of Partner status, under this clause, including any management and voting interests, will require the consent of all the remaining Partners.

Voluntary Withdrawal of a Partner

35. Any Partner will have the right to voluntarily withdraw from the Partnership at any time. Written notice of intention to withdraw must be served upon the remaining Partners at least three (3) months prior to the withdrawal date.
36. Except as otherwise provided elsewhere in this Agreement, the voluntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
37. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election upon

the Dissociated Partner within thirty (30) days after receipt of the Dissociated Partner's notice of intention to withdraw, including the purchase price and method and schedule of payment for the Dissociated Partner's interest. The purchase amount of any buyout of the Dissociated Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.

38. A Dissociated Partner will only exercise the right to withdraw in good faith and will act to minimize any present or future harm done to the remaining Partners as a result of the withdrawal.

Involuntary Withdrawal of a Partner

39. Events resulting in the involuntary withdrawal of a Partner from the Partnership will include but not be limited to: death of a Partner; Partner mental incapacity; Partner disability preventing reasonable participation in the Partnership; Partner incompetence; breach of fiduciary duties by a Partner; criminal conviction of a Partner; Expulsion of a Partner; Operation of Law against a Partner; or any act or omission of a Partner that can reasonably be expected to bring the business or societal reputation of the Partnership into disrepute.
40. Except as otherwise provided elsewhere in this Agreement, the involuntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
41. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election, including the purchase price and method and schedule of payment upon the Dissociated Partner, their executor, administrator, trustee, committee or analogous fiduciary within a reasonable period after acquiring knowledge of the change in circumstance to the Dissociated Partner. The purchase amount of any buyout of a Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.
42. A trustee in bankruptcy or similar third party who may acquire that Dissociated Partner's interest in the Partnership will only acquire that Partner's economic rights and interests and will not acquire any other rights of that Partner or be admitted as a Partner of the Partnership or have the right to exercise any management or voting interests.

Dissociation of a Partner

43. Where the remaining Partners have purchased the interest of a Dissociated Partner, the purchase amount will be paid in full, but without interest, within 90 days of the date of withdrawal.
44. The Partnership will retain exclusive rights to use of the trade name and firm name and all related brand and model names of the Partnership.
45. Where the voluntary or involuntary withdrawal of a Partner results in only one Partner remaining or where no buyer is found to purchase the interest of the Dissociated Partner then the Partnership will proceed in a reasonable and timely manner to dissolve the Partnership, with all debts being paid first, prior to any distribution of the remaining funds. Valuation and distribution will be determined as described in the Valuation of Interest section of this Agreement.
46. The remaining Partners retain the right to seek damages from a Dissociated Partner where the dissociation resulted from a malicious or criminal act by the Dissociated Partner or where the Dissociated Partner had breached their fiduciary duty to the Partnership or was in breach of this Agreement or had acted in a way that could reasonably be foreseen to bring harm or damage to the Partnership or to the reputation of the Partnership.
47. On any purchase and sale of a Partnership interest, a Dissociated Partner will only have liability for Partnership obligations that were incurred during their time as a Partner. Immediately upon the sale of a withdrawing Partner's interest, the Partnership will prepare, file, serve, and publish all notices required by law to protect the withdrawing Partner from liability for future Partnership obligations.

Dissolution

48. Except as otherwise provided in this Agreement, the Partnership will be dissolved upon a majority vote of all Partners.

Distribution of Property on Dissolution of Partnership

49. In the event of the dissolution of the Partnership, each Partner will share equally (the "Dissolution Distribution") in any remaining assets or liabilities of the Partnership.
50. Upon Dissolution of the Partnership and liquidation of Partnership Property, and after payment of all selling costs and expenses, the liquidator will distribute the Partnership assets to the

following groups according to the following order of priority:

- a. in satisfaction of liabilities to creditors except Partnership obligations to current Partners;
- b. in satisfaction of Partnership debt obligations to current Partners; and then
- c. to the Partners according to the Dissolution Distribution described above.

51. The claims of each priority group will be satisfied in full before satisfying any claims of a lower priority group. Any excess of Partnership assets after liabilities or any insufficiency in Partnership assets in resolving liabilities under this section will be shared by the Partners according to the Dissolution Distribution described above.

Valuation of Interest

52. In the absence of a written agreement setting a value, the value of the Partnership will be based on the fair market value appraisal of all Partnership assets (less liabilities) determined in accordance with generally accepted accounting principles (GAAP). This appraisal will be conducted by an independent accounting firm agreed to by all Partners. An appraiser will be appointed within a reasonable period of the date of withdrawal or dissolution. The results of the appraisal will be binding on all Partners. A withdrawing Partner's interest will be based on that Partner's proportion of the Dissolution Distribution described above, less any outstanding liabilities the withdrawing Partner may have to the Partnership. The intent of this section is to ensure the survival of the Partnership despite the withdrawal of any individual Partner.
53. No allowance will be made for goodwill, trade name, patents or other intangible assets, except where those assets have been reflected on the Partnership books immediately prior to valuation.

Goodwill

54. The goodwill of the Partnership business will be assessed at an amount to be determined by appraisal using generally accepted accounting principles (GAAP).

Title to Partnership Property

55. Title to all Partnership Property will remain in the name of the Partnership. No Partner or group of Partners will have any ownership interest in such Partnership Property in whole or in part.

Voting

56. Any vote required by the Partnership will be assessed where each Partner receives one vote carrying equal weight.

Force Majeure

57. A Partner will be free of liability to the Partnership where the Partner is prevented from executing their obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Partner has communicated the circumstance of said event to any and all other Partners and taken any and all appropriate action to mitigate said event.

Duty of Loyalty

58. No Partner will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive with the business of the Partnership or that would be in direct conflict of interest to the Partnership without the unanimous written consent of the remaining Partners. Any and all businesses, ventures or transactions with any appearance of conflict of interest must be fully disclosed to all other Partners. Failure to comply with any of the terms of this clause will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.
59. A withdrawing Partner will not carry on a similar business to the business of the Partnership within any established or contemplated market regions of the Partnership for a period of at least one (1) year after the date of withdrawal.

Duty of Accountability for Private Profits

60. Each Partner must account to the Partnership for any benefit derived by that Partner without the consent of the other Partners from any transaction concerning the Partnership or any use by that Partner of the Partnership property, name or business connection. This duty continues to apply to any transactions undertaken after the Partnership has been dissolved but before the affairs of the Partnership have been completely wound up by the surviving Partner or Partners or their agent or agents.

Duty to Devote Time

61. Each Partner will devote such time and attention to the business of the Partnership as the majority of the Partners will from time to time reasonably determine for the conduct of the Partnership business.

Actions Requiring Unanimous Consent of the Partners

62. The following list of actions will require the unanimous consent of all Partners:
- a. assigning check signing authority;
 - b. committing the Partnership to new liabilities or obligations totaling over \$ [REDACTED] USD;
 - c. incurring single expenditures that exceed \$ [REDACTED] USD;
 - d. selling or encumbering of any Partnership asset whose fair market value exceeds [REDACTED] USD;
 - e. hiring any employee whose total compensation package exceeds [REDACTED] USD per annum;
 - f. firing of any employee except in the case of gross misconduct that exposes the Partnership to possible liability;
 - g. waiving or releasing any Partnership claim except for full consideration; and
 - h. endangering the ownership or possession of Partnership property.
63. Any losses incurred as a result of a violation of this section will be charged to and collected from the individual Partner that acted without unanimous consent and caused the loss.

Forbidden Acts

64. No Partner may do any act in contravention of this Agreement.
65. No Partner may permit, intentionally or unintentionally, the assignment of express, implied or apparent authority to a third party that is not a Partner in the Partnership.

66. No Partner may do any act that would make it impossible to carry on the ordinary business of the Partnership.
67. No Partner may confess a judgment against the Partnership.
68. No Partner will have the right or authority to bind or obligate the Partnership to any extent with regard to any matter outside the intended purpose of the Partnership.
69. Any violation of the above Forbidden Acts will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.

Indemnification

70. All Partners will be indemnified and held harmless by the Partnership from and against any and all claims of any nature, whatsoever, arising out of a Partner's participation in Partnership affairs. A Partner will not be entitled to indemnification under this section for liability arising out of gross negligence or willful misconduct of the Partner or the breach by the Partner of any provisions of this Agreement.

Liability

71. A Partner will not be liable to the Partnership, or to any other Partner, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement or the Partnership.

Liability Insurance

72. The Partnership may acquire insurance on behalf of any Partner, employee, agent or other person engaged in the business interest of the Partnership against any liability asserted against them or incurred by them while acting in good faith on behalf of the Partnership.

Life Insurance

73. The Partnership will have the right to acquire life insurance on the lives of any or all of the Partners, whenever it is deemed necessary by the Partnership. Each Partner will cooperate fully with the Partnership in obtaining any such policies of life insurance.

Amendments

74. This Agreement may not be amended in whole or in part without the unanimous written consent of all Partners.

Governing Law and Jurisdiction

75. This Agreement will be construed in accordance with and exclusively governed by the laws of The State of Texas.
76. The Partners submit to the jurisdiction of the courts of The State of Texas for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

Definitions

77. For the purpose of this Agreement, the following terms are defined as follows:
- a. "Additional Capital Contributions" means Capital Contributions, other than Initial Capital Contributions, made by Partners to the Partnership.
 - b. "Capital Contribution" means the total amount of cash or Property contributed to the Partnership by any one Partner.
 - c. "Dissociated Partner" means any Partner who is removed from the Partnership through a voluntary or involuntary withdrawal as provided in this Agreement.
 - d. "Expulsion of a Partner" can occur on application by the Partnership or another Partner, where it has been determined that the Partner:
 - i. has engaged in wrongful conduct that adversely and materially affected the Partnership's business;
 - ii. has willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or to the other Partners; or
 - iii. has engaged in conduct relating to the Partnership's business that makes it not reasonably practicable to carry on the business

with the Partner.

- e. "Initial Capital Contribution" means Capital Contributions made by any Partner to acquire an interest in the Partnership.
- f. "Operation of Law" means rights or duties that are cast upon a party by the law, without any act or agreement on the part of the individual including, but not limited to, an assignment for the benefit of creditors, a divorce, or a bankruptcy.

Miscellaneous

- 78. Time is of the essence in this Agreement.
- 79. This Agreement may be executed in counterpart.
- 80. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
- 81. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
- 82. This Agreement contains the entire agreement between the parties. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made by any party to this Agreement in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
- 83. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Partner's successors, assigns, executors, administrators, beneficiaries, and representatives.

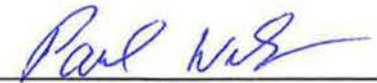
- 84. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.
- 85. All of the rights, remedies and benefits provided by this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law.

IN WITNESS WHEREOF the Partners have duly affixed their signatures under hand and seal on this 1 day of January, 2020

MCTAYSOM PROPERTIES LLC

Per: 
(Seal)

3077 INVESTMENTS LLC

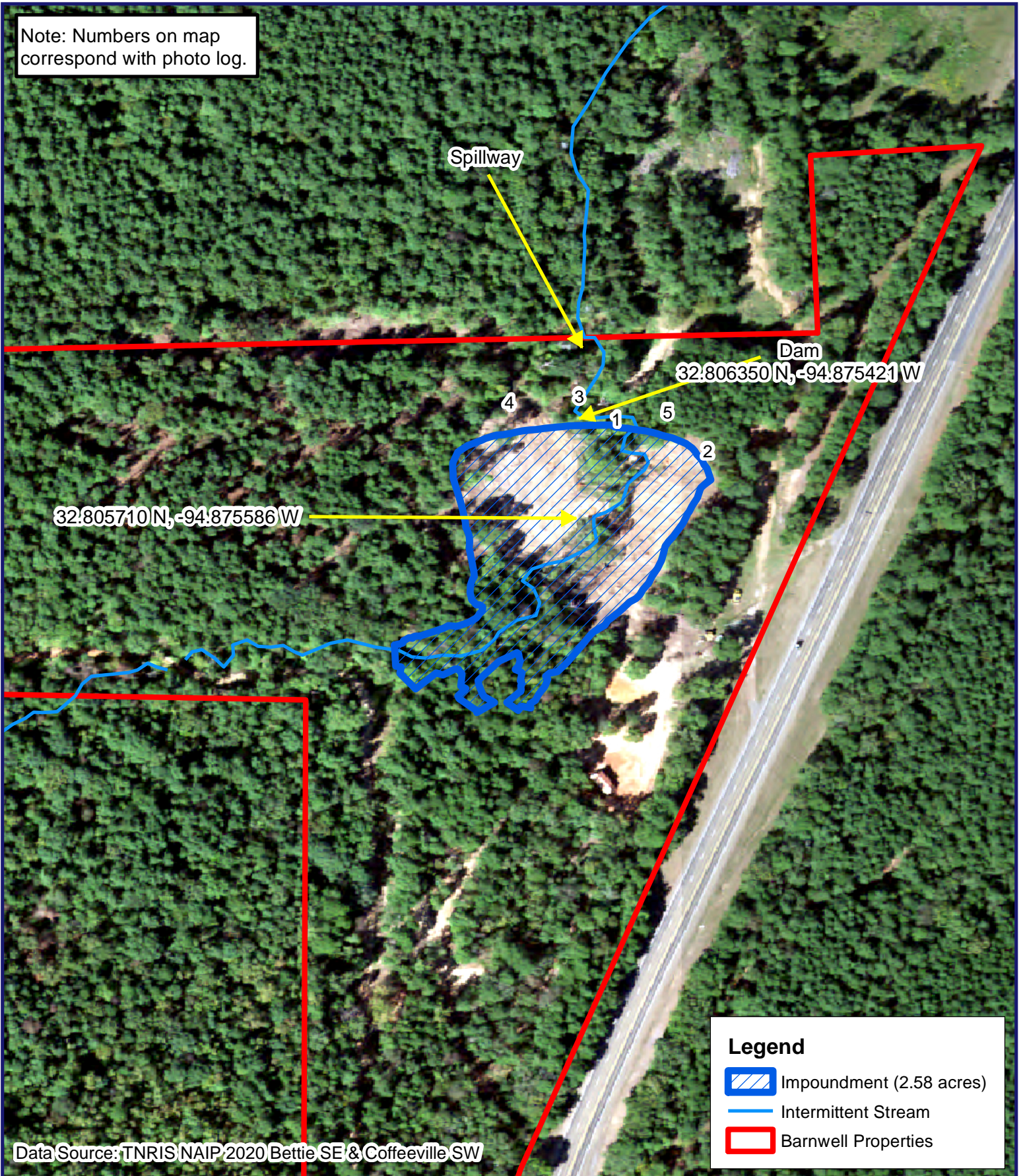
Per: 
(Seal)

DHAWS INVESTMENTS LP

Per: 
(Seal)

Figures

Note: Numbers on map correspond with photo log.






32.805710 N, -94.875586 W

Dam
32.806350 N, -94.875421 W

Spillway

Legend

-  Impoundment (2.58 acres)
-  Intermittent Stream
-  Barnwell Properties

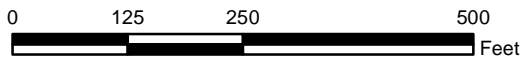
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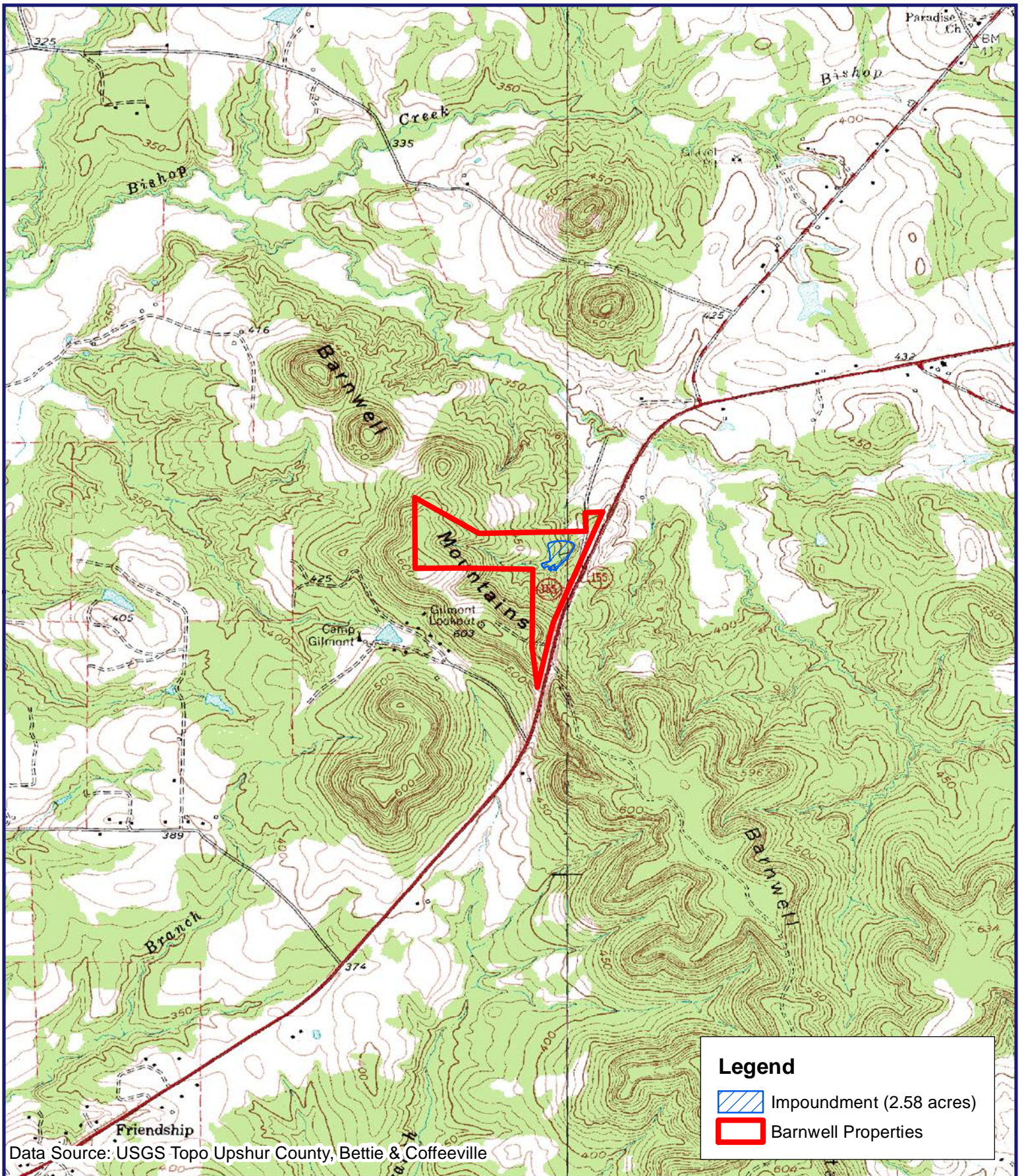
TITANIUM ENVIRONMENTAL SERVICES, LLC


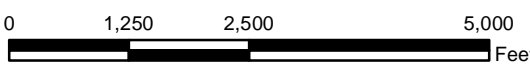

311 East Cotton St • Longview, Texas 75606
Phone (903) 234-8443 • Fax (903) 234-1641
www.titaniumenvironmental.com

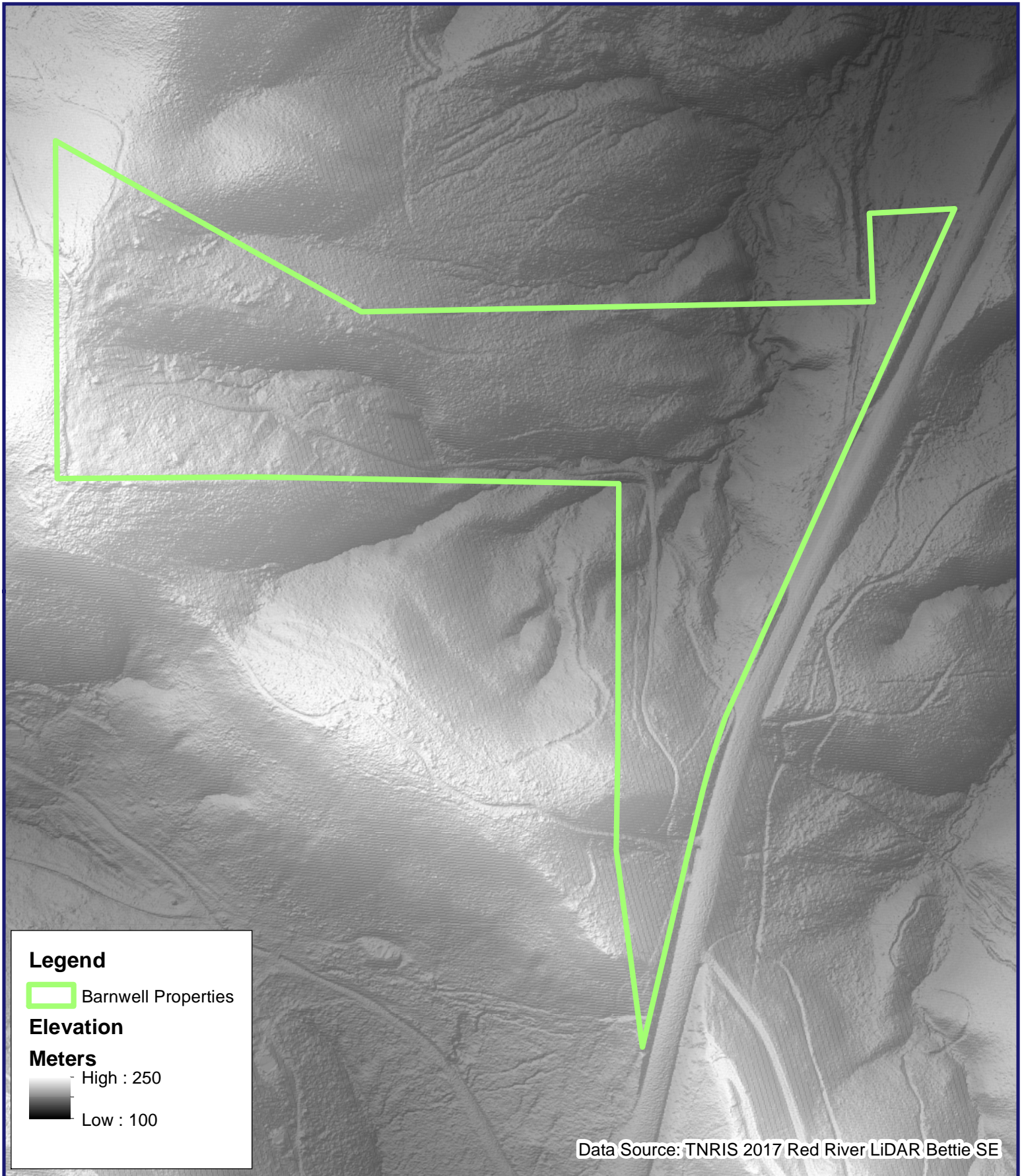
CLIENT	PROJECT DESCRIPTION	FIGURE
Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Site Map



Created by: AC Williamson
Date: 8/23/2021
Revised by: ACW
Date: 8/15/2022




 TITANIUM ENVIRONMENTAL SERVICES, LLC 311 East Cotton St • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com	CLIENT	PROJECT DESCRIPTION	FIGURE
	Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Topographic Map
			Created by: AC Williamson Date: 8/23/2021 Revised by: AC Williamson Date: 11/22/2021




Data Source: TNRIS 2017 Red River LiDAR Bettie SE

Legend

 Barnwell Properties

Elevation

Meters

 High : 250

Low : 100




 <p>TITANIUM ENVIRONMENTAL SERVICES, LLC</p> <p>311 East Cotton St • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com</p>	CLIENT	PROJECT DESCRIPTION	FIGURE
	Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Lidar Map
<p>0 250 500 1,000</p>  Feet			<p>Created by: AC Williamson Date: 8/19/2021</p> <p>Revised by: AC Williamson Date: 8/20/2021</p>

Photo Log

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 1. Viewing culverts on the north side of the impoundment on the northern part of the property from the west facing east.



Photo 2. Viewing the constructed road and dam on the north side of the impoundment on the northern part of the property from the east facing west.

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 3. Viewing the culverts on the north (downstream) side of the dam on the northern part of the property facing east.



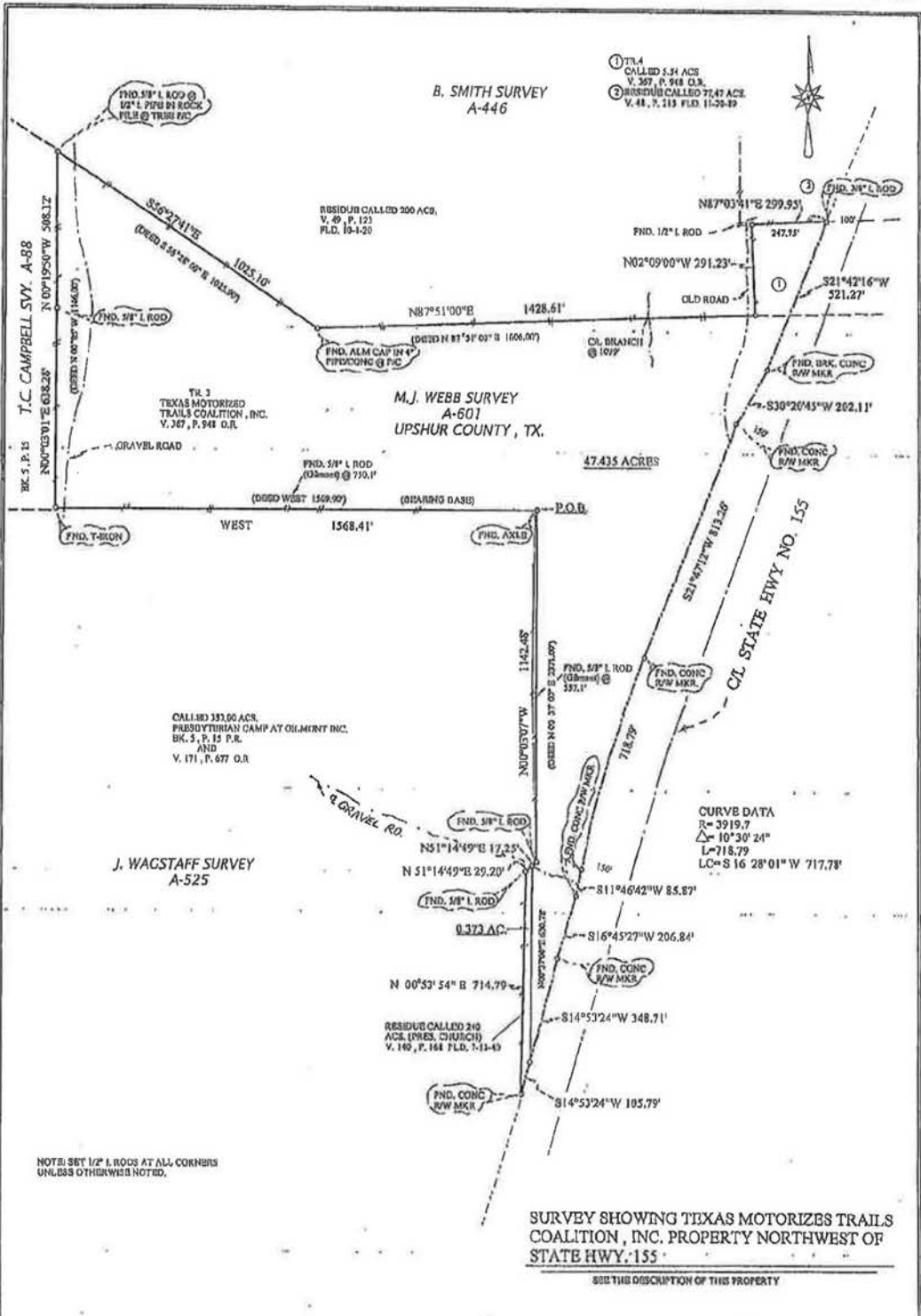
Photo 4. Viewing the stabilized dam with vegetation on the northern part of the property facing southeast.

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 5. Viewing the stabilized dam with vegetation on the northeastern part of the property facing west.

Survey and Deed



SURVEY SHOWING TEXAS MOTORIZED TRAILS COALITION, INC. PROPERTY NORTHWEST OF STATE HWY. 155

SEE THE DESCRIPTION OF THIS PROPERTY

I, MICHAEL L. TURNER, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL BOUNDARY SURVEY MADE ON THE GROUND BY ME IN JUNE 2001. THE CORNERS AND PROPERTY LINES ARE AS SHOWN ON THIS PLAT. THERE WERE NO FOUND VISIBLE EASEMENTS CROSSING THE BOUNDARIES OF SUBJECT PROPERTY OTHER THAN THOSE SHOWN ON THE PLAT OF THIS SURVEY.

Michael L. Turner 7-9-01

MICHAEL L. TURNER R.P.I.S. NO. 4626



MICHAEL L. TURNER
 REGISTERED LAND SURVEYOR
 107 HENDERSON STREET
 OILMERT TX. 72644 (PH) 913-3943
 CLIENT: FARRELL
 DATE: 6-01 SCALE: NOTED JOB:UP33-01



DESCRIPTION - 47.435 ACRES
M. J. WEBB SURVEY, A - 601
B. SMITH SURVEY, A - 446
UPSHUR COUNTY, TEXAS

BEING a 47.435 acre tract of land situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being part of a called 267.15 acre tract of land described as Tr. No. 3 and part of a called 5.54 acre tract of land described as Tr. No. 4 in a deed to Texas Motorized Trails Coalition, Inc., as shown of record in Volume 367, Page 948, Official Records of said county, said 47.435 acre tract of land being more particularly described as follows;

BEGINNING at an auto axle found at an ell corner of said Tr. 3, same being a Northeast corner of a called 353 acre tract of land described in Book 5, Page 15, Plat Records, same also described as a called 240 acre tract of land in Volume 140, Page 168, Deed Records, said corner also being the Northeast corner of the J. Wagstaff Survey, Abstract No. 525 and an ell corner of said Webb Survey;

THENCE WEST (deed WEST 1569.90 feet) along the most Westerly South line of said Tr. 3 (Bearing Base) and the most Westerly South line of said Webb Survey and the North line of said 353 acre tract and the North line of said Wagstaff Survey and generally along the remains of an old down fence at 750.1 feet passing through a 5/8 inch Iron rod found, continuing along same bearing and said line in all, a total distance of 1568.41 feet to a "T" iron found at the most Westerly Southwest corner of said Tr. 3, and said Webb Survey, same being an ell corner of said 353 acre tract and the Southeast corner of the T. L. Campbell Survey, Abstract No. 88;

THENCE N 00deg 03min 01sec E along an East line of said 353 acre tract and along a common occupied line between said Campbell Survey and said Webb Survey, same being an occupied West line of said Tr. 3 and generally along the remains of an old down fence, a distance of 638.28 feet to a 5/8 inch Iron rod found in said line;

THENCE N 00deg 19min 50sec W continuing along said line and old down fence a distance of 508.12 feet to a 5/8 inch Iron rod found near a 1/2 inch Iron pipe in a small scattered rock pile found at the most Northerly corner of said Tr. 3 and said Webb Survey, same being a corner of said 353 acre tract, said corner being in the Southwest line of a called 200 acre tract of land described in Volume 49, Page 123, Deed Records, said line also being the Southwest line of the B. Smith Survey, Abstract No. 446, said corner being on the East side of a double 8 inch diameter Red Oak tree;

THENCE S 56deg 27min 41sec E (deed S56deg28min00secE 1025.90 feet) along the North line of said Tr. 3 and said Webb Survey and along the Southwest line of said Smith Survey and said 200 acre tract and generally along the remains of an old down fence, a distance of 1025.10 feet to a 4 inch Iron diameter steel pipe filled with concrete at an old fence corner and in a scattered rock pile at a corner of said Tr. 4 and said Webb Survey and corner of said 200 acre tract and said Smith Survey;

THENCE N 87deg 51min 00sec E (deed N87deg51min00secE, 1606.00 feet) along a common line between said Webb Survey and said Smith Survey, same being a common line between said Tr. 3 and said 200 acre tract and generally along the remains of an old down fence, at 1079 feet passing the center of a branch, continuing along same bearing and said line in all, a total distance of 1428.61 feet to a 1/2 inch Iron rod set for the Southwest corner of said Tr. 4 at Volume 367, Page 948, same being a Southeast corner of the residue of said tract at Volume 49, Page 123, Deed Records, said corner being on the East side of an old road bed, an 18 inch diameter Sweet Gum tree with wire bears S10deg58minW, a distance of 21 feet;

THENCE N 02deg 09min 00sec W along the West line of Tr. 4 and an East line of the residue of said 200 acre tract, a distance of 291.23 feet to a 1/2 inch Iron rod set for the Northwest corner of said Tr. 4, said corner being in the South line of a called 77.47 acre tract of land described in Volume 48, Page 215, Official Records, a 1/2 inch iron rod found at the Southwest corner of said 77.47 acre tract bears S87deg03min41secW, a distance of 52.2 feet, a 3/8 inch iron rod found in the center of an old road bed bears S87deg03min41secW, a distance of a 33.47 feet, an old leaning cross tie fence corner post bears N02deg09min00secW, a distance of 4.6 feet;

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

WARRANTY DEED WITH VENDOR'S LIEN

Date: Executed as of the dates of the acknowledgments, to be effective May 28, 2020

Grantor: D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP

Grantor's
Mailing Address: 434 Shattles Road
Gilmer, Upshur County, Texas 75644

Grantee: BARNWELL PROPERTIES, A TEXAS GENERAL PARTNERSHIP

Grantee's
Mailing Address: 14044 Windrow Drive
Forney, Kaufman County, Texas 75126

Consideration:

TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, and a note of even date that is in the principal amount of FOUR HUNDRED ONE THOUSAND FIVE HUNDRED NINETY-EIGHT AND 75/100 DOLLARS (\$401,598.75), and is executed by Grantee, payable to the order of FIRST NATIONAL BANK OF GILMER. The note is secured by a vendor's lien retained in favor of FIRST NATIONAL BANK OF GILMER, in this Deed and by a Deed of Trust of even date from Grantee to Alesia Jones, Trustee.

Property (including improvements):

All that certain lot, tract or parcel of land being 47.435 acres of land, more or less, situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

Reservations from Conveyance and Warranty: NONE

Exceptions to Conveyance and Warranty:

Liens described a part of the consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests, and water interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; all rights, obligations, and other matters arising from and existing by reason any governmental or other entity authorized to establish regulations and assess taxes and liens, including, but not limited to, the county where the property is located and water improvement districts; applicable zoning regulations; and taxes for the current year, which Grantee assumes and agrees to pay; but not subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantor assumes.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold it to Grantee, Grantee's heirs, executors, administrators, and successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns, against every person

whomsoever lawfully claiming or to claim the same or any part thereof except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

FIRST NATIONAL BANK OF GILMER, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of FIRST NATIONAL BANK OF GILMER and are transferred to FIRST NATIONAL BANK OF GILMER, without recourse against Grantor.

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

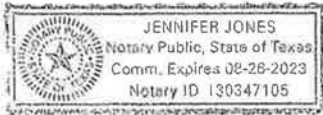
D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP

BY: DDE ENTERPRISES, LLC, A TEXAS LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

By: [Signature]
DEAN HAWS, PRESIDENT

STATE OF TEXAS §
COUNTY OF UPSHUR §

This instrument was acknowledged before me on the 29 day of May, 2020 by DEAN HAWS, PRESIDENT OF DDE ENTERPRISES, LLC, A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP, IN THE CAPACITY THEREIN STATED AND AS THE ACT AND DEED OF SAID ENTITY.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

PREPARED IN THE LAW OFFICE OF:

Celia C. Flowers
Attorney at Law
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701

AFTER RECORDING RETURN TO:

Barnwell Properties
14044 Windrow Drive
Forney, TX 75126

EXHIBIT "A"

BEING a 47.435 acre tract of land situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being part of a called 267.15 acre tract of land described as Tr. No. 3 and part of a called 5.54 acre tract of land described as Tr. No. 4 in a deed to Texas Motorized Trails Coalition, Inc., as shown of record in Volume 367, Page 948, Official Records of said county, said 47.435 acre tract of land being more particularly described as follows;

BEGINNING at an auto axle found at an ell corner of said Tr. 3, same being a Northeast corner of a called 353 acre tract of land described in Book 5, Page 15, Plat Records, same also described as a called 240 acre tract of land in Volume 140, Page 168, Deed Records, said corner also being the Northeast corner of the J. Wagstaff Survey, Abstract No. 525 and an ell corner of said Webb Survey;

THENCE WEST (deed WEST 1569.90 feet) along the most Westerly South line of said Tr. 3 (Bearing Base) and the most Westerly South line of said Webb Survey and the North line of said 353 acre tract and the North line of said Wagstaff Survey and generally along the remains of an old down fence at 750.1 feet passing through a 5/8 inch iron rod found, continuing along same bearing and said line in all, a total distance of 1568.41 feet to a "T" iron found at the most Westerly Southwest corner of said Tr. 3, and said Webb Survey, same being an ell corner of said 353 acre tract and the Southeast corner of the T. L. Campbell Survey, Abstract No. 88;

THENCE N 00deg 03min 01sec E along an East line of said 353 acre tract and along a common occupied line between said Campbell Survey and said Webb Survey, same being an occupied West line of said Tr. 3 and generally along the remains of an old down fence, a distance of 638.28 feet to a 5/8 inch iron rod found in said line;

THENCE N 00deg 19min 50sec W continuing along said line and old down fence a distance of 508.12 feet to a 5/8 inch iron rod found near a 1/2 inch iron pipe in a small scattered rock pile found at the most Northerly corner of said Tr. 3 and said Webb Survey, same being a corner of said 353 acre tract, said corner being in the Southwest line of a called 200 acre tract of land described in Volume 49, Page 123, Deed Records, said line also being the Southwest line of the B. Smith Survey, Abstract No. 446, said corner being on the East side of a double 8 inch diameter Red Oak tree;

THENCE S 56deg 27min 41sec E (deed S56deg28min00secE 1025.90 feet) along the North line of said Tr. 3 and said Webb Survey and along the Southwest line of said Smith Survey and said 200 acre tract and generally along the remains of an old down fence, a distance of 1025.10 feet to a 4 inch iron diameter steel pipe filled with concrete at an old fence corner and in a scattered rock pile at a corner of said Tr. 4 and said Webb Survey and corner of said 200 acre tract and said Smith Survey;

THENCE N 87deg 51min 00sec E (deed N87deg51min00secE, 1606.00 feet) along a common line between said Webb Survey and said Smith Survey, same being a common line between said Tr. 3 and said 200 acre tract and generally along the remains of an old down fence, at 1079 feet passing the center of a branch, continuing along same bearing and said line in all, a total distance of 1428.61 feet to a 1/2 inch iron rod set for the Southwest corner of said Tr. 4 at Volume 367, Page 948, same being a Southeast corner of the residue of said tract at Volume 49, Page 123, Deed Records, said corner being on the East side of an old road bed, an 18 inch diameter Sweet Gum tree with wire bears S10deg58minW, a distance of 21 feet;

THENCE N 02deg 09min 00sec W along the West line of Tr. 4 and an East line of the residue of said 200 acre tract, a distance of 291.23 feet to a 1/2 inch iron rod set for the Northwest corner of said Tr. 4, said corner being in the South line of a called 77.47 acre tract of land described in Volume 48, Page 215, Official Records, a 1/2 inch iron rod found at the Southwest corner of said 77.47 acre tract bears S87deg03min41secW, a distance of 52.2 feet, a 3/8 inch iron rod found in the center of an old road bed bears S87deg03min41secW, a distance of 33.47 feet, an old leaning cross tie fence corner post bears N02deg09min00secW, a distance of 4.6 feet;

THENCE N 87deg 03min 41sec E (deed N87deg51minE) along the North line of said Tr. 4 and the South line of said 77.49 acre tract and generally along an old fence a distance of 247.75 feet to a 3/8 inch iron rod found at the end of a fence in the West right of way line of State Highway No. 155;

THENCE in a Southwesterly direction along the West right of way line of said highway as follows;

S 21deg 42min 16sec W a distance of 521.27 feet to a broken concrete right of way marker;
 S 30deg 20min 45sec W a distance of 202.11 feet to a concrete right of way marker;
 S 21deg 47min 12sec W a distance of 813.26 feet to a concrete right of way marker;

THENCE continuing along said right of way line, same being along a curve to the left, said curve having a central angle of 10deg30min24sec, a radius of 3919.7 feet, a long chord bearing of S16deg28min01secW a long chord distance of 717.78 feet along the arc of said curve, a distance of 718.79 feet to a concrete right of way marker;

THENCE continuing along said right of way line as follows;

S 11deg 46min 42sec W a distance of 85.87 feet to a concrete right of way marker;
 S 16deg 45min 27sec W a distance of 206.84 feet to a concrete right of way marker;
 S 14deg 53min 24sec W a distance of 348.71 feet to a 1/2 Inch Iron rod set for a corner in a West line of said Tr. 3, same being the East line of a called 240 acre tract of land described in Volume 140, Page 168, Deed Records, a concrete right of way marker found bears S14deg53min24secW, a distance of 105.79 feet;

THENCE N 00deg 37min 00sec E along said line, same being the West line of said Webb Survey and same being the East line of the J. Wagstaff Survey, Abstract No. 525, a distance of 630.78 feet to a 1/2 Inch Iron rod set for a corner in a Southeast line of previously mentioned 353 acre tract as described in Book 5, Page 15, Plat Records, said corner being in a gravel road, a 5/8 Inch Iron rod found at the end of a fence bears S51deg14min49secW, a distance of 29.20 feet;

THENCE N 51deg 14min 49sec E along said Southeast line a distance of 17.25 feet to a 5/8 Inch Iron rod found at a corner in the East line of said 353 acre tract, said corner being on the Southwest side of a fence corner;

THENCE N 00deg 03min 07sec W along the East line of said 353 acre tract and generally along the remains of an old-down fence at 557.1 feet passing through a 5/8 Inch Iron rod found, continuing along same bearing and said East line in all, a total distance of 1142.48 feet to the Point of Beginning and containing 47.435 acres of land of which approximately 1.2 acre of land lies in said Smith Survey and approximately 46.235 acres of land lie in said Webb Survey.

**ELECTRONICALLY RECORDED
OFFICIAL PUBLIC RECORDS**

202005935

Pages: 5 Fee: \$38.00
08/18/2020 10:33 AM

Terri Ross, County Clerk
Upshur County, Texas

Dam Information

Texas Commission on Environmental Quality

INFORMATION SHEET: EXISTING DAM

(PLEASE PRINT OR TYPE)

Reference 30 Texas Administrative Code, Chapter 299, Dams and Reservoirs

SECTION 1: OWNER INFORMATION

Owner's Name Dean Haws Title Owner/Partner
Organization Barnwell Properties

(Signature of Owner)

(Date)

Owner's Address 318 Hwy 271N
City Gilmer State Texas Zip Code 75644
Phone Number (903) 790-7116 Emergency Contact Phone (903) 790- 7116
Fax Number () _____ E-mail _____

Owner Code (Please check one): Federal (F) Local Government (L) Utility (U) Private (P) State (S)

Other (O) please specify: Limited Partnership

Year Built 2021 Year Modified N/A

Dam and Reservoir Use (Please check one): Augmentation Diversion Domestic Erosion Control
 Evaporation Flood Control Fire Control Fish Hydroelectric Industrial Irrigation Mining
 Municipal Pollution Control Recreation Stock Water Settling Ponds Tailings Waste Disposal
 Other, please specify: _____

Engineering Firm N/A
Project Engineer _____ Texas P.E. License Number _____
Engineering Firm Address _____
City _____ State _____ Zip Code _____
Phone () _____ Fax () _____
E-mail _____

SECTION 2: GENERAL INFORMATION

Name of Dam None
Other Name(s) of Dam None
Reservoir Name None
Location Gilmer Latitude 32.806350 Longitude -94.875421
County Upshur Stream Name None
River Basin Cypress Creek Topographic Map No. Bettie and Coffeerville
Distance & Direction from Nearest City or Town 6.5 miles Northeast of Gilmer
Last Inspection Date 8/23/2021 Inspected by (name of company or agency) TES
TX Number N/A Water Rights Number N/A
Date of Emergency Action Plan (EAP), if one exists N/A
Describe the current operating condition of dam Good operational condition

If you have questions on how to fill out this form or about the Dam Safety Program, please contact us at 512-239-5195. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.

TCEQ-20344 (1/07)

SECTION 3: INFORMATION ON DAM

Classification

Size Classification: Large Medium Small
Hazard Classification: High Significant Low
Number of People at Risk 0 Study Year 2022

Type of Dam: Concrete Gravity Earthfill Rockfill Masonry Other (specify) _____

Dam Structure (dimensions to nearest tenth of foot, volume to nearest acre-foot or cubic yard, areas to nearest acre):

Spillway Height N/A ft (*natural surface of ground to bottom of emergency spillway at longitudinal centerline*)
Embankment Height 15 ft (*natural surface of ground to crest of dam at centerline*)
Structural Height N/A ft (*bottom of cutoff trench to crest of dam at centerline*)
Length of Dam 577 ft Crest Width 25 ft
Normal Pool Elevation 430 ft-MSL Principal Spillway Elevation 430 ft-MSL
Emergency Spillway Elevation 430 ft-MSL Top of Dam Elevation 435 ft-MSL
Embankment Volume 8013.9 cu yd
Maximum Impoundment Capacity 45.6 ac-ft (*at top of dam*)
Normal Reservoir Capacity 24.5 ac-ft (*at normal or conservation pool*)
Reservoir Surface Area _____ acres (*at normal or conservation pool*)

Outlet

Outlet Diameter: 2 in ft (*check one*)
Type: CMP

Principal Spillway

Type: Natural Riprap Concrete CMP RCP Other
Width (Diam.): 2x2 ft Capacity: 22 cfs

Emergency Spillway

Type: Natural Riprap Concrete CMP RCP Other
Width (Diam.): N/A ft Capacity: _____ cfs
Total Spillway Capacity: _____ cfs (*crest of the dam*)

SECTION 4: HYDROLOGIC INFORMATION

Required Hydrologic Criteria (% PMF) N/A % PMF Passing _____
PMF Study Year _____
Drainage Area: _____ acres, or _____ sq mi
Curve Number (AMC III condition) _____
Time of Concentration _____ hr
Peak Discharge _____ cfs
Peak Stage _____ ft-MSL
Storm Duration Causing Peak Stage _____ hr

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, Applicant 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) 239-4600 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N_____ (If yes, date :_____).

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

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

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

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

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

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

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

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

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

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

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

Water Right (Certificate or Permit) number you are requesting to amend: _____

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

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

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

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

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

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

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

If yes, submit:

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

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

If yes, submit:

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

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

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

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

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)

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

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

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

The Barnwell Mountain Cabins property is located within the Region D Planning Group.

The Application is consistent with the 2022 State Water Plan and 2021 Regional Water Plan.

The project utilizes the Cypress River Basin as its water source water to replace usage of state waters and ensure downstream flow is not impeded or reduced.

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

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

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

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.

d. See Worksheet 1.2, Marshall Criteria, and submit if required.

e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

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

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

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

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

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

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

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

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

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

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

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

WORKSHEET 1.2 NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

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

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.
- 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:_____.
- c. The impoundment is on-channel_____or off-channel_____(mark one)
 - i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? **Y / N**_____
 - ii. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? **Y / N**_____
- d. Is the impoundment structure already constructed? **Y / N**_____
 - i. For already constructed **on-channel** structures:
 - 1. Date of Construction:_____
 - 2. Was it constructed to be an exempt structure under TWC § 11.142? **Y / N**_____
 - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? **Y / N**_____
 - b. If No, has the structure been issued a notice of violation by TCEQ? **Y / N**_____
 - 3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? **Y / N**_____
 - a. If yes, provide the Site No._____and watershed project name_____;
 - b. Authorization to close "ports" in the service spillway requested? **Y / N**_____
 - ii. For **any** proposed new structures or modifications to structures:
 - 1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? **Y / N**_____
Provide the date and the name of the Staff Person_____
 - 2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
 - a. No additional dam safety documents required with the Application. **Y / N**_____
 - b. Plans (with engineer's seal) for the structure required. **Y / N**_____
 - c. Engineer's signed and sealed hazard classification required. **Y / N**_____
 - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. **Y / N**_____

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

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

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

2. Structure Location (Instructions, Page. 23)

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

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

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

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

Latitude _____°N, Longitude _____°W.

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

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

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

1. Diversion Information (Instructions, Page. 24)

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

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

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

Check one		Write: Existing or Proposed
	Directly from stream	
	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. **Y / N** _____

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

2. Diversion Location (Instructions, Page 25)

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

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

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

- d. Point is at:
Latitude _____°N, Longitude _____°W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): _____
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 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 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

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 29.**

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

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

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
 - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

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

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

- a. For all bed and banks applications:
 - i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.
- b. For all alternate source applications:
 - i. If the alternate source is treated return flows, provide the TPDES permit number_____
 - ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

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

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

- iii. If groundwater will be used, provide the depth of the well_____and the name of the aquifer from which water is withdrawn_____.

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

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

Instructions, Page 31.

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

1. Water Conservation Plans

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

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

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

1. ____Municipal Use. See 30 TAC § 288.2. **
2. ____Industrial or Mining Use. See 30 TAC § 288.3.
3. ____Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. ____Wholesale Water Suppliers. See 30 TAC § 288.5. **

****If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N____**

c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed

appropriation; and evaluates any other feasible alternative to new water development.
See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? Y / N____

2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
1. ____Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. ____Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. ____Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc.* See 30 TAC § 288.30) Y / N____

WORKSHEET 7.0

ACCOUNTING PLAN INFORMATION WORKSHEET

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

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.

Jenna Rollins

From: Anna Williamson [REDACTED]
Sent: Tuesday, August 23, 2022 3:39 PM
To: Jenna Rollins
Subject: RE: Barnwell Properties, WRPERM 13844

Great! Thank you!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Tuesday, August 23, 2022 3:38 PM
To: Anna Williamson [REDACTED]
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Ms. Williamson,

That should still work!

Best regards,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

From: Anna Williamson [REDACTED]
Sent: Tuesday, August 23, 2022 3:33 PM
To: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Subject: RE: Barnwell Properties, WRPERM 13844

Hi Jenna!

Dean was wanting to get his check out quickly, so I sent him the address below:

Jenna Rollins, MC 160
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

I hope that still works!

Thanks!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Tuesday, August 23, 2022 3:31 PM
To: Anna Williamson [REDACTED]
Subject: Barnwell Properties, WRPERM 13844

Good afternoon Ms. Williamson,

I received your message, and Mr. Haws can send his check with the remaining fees to the address below:

Texas Commission on Environmental Quality
Water Availability Division
P.O. Box 13087, MC-160
Austin, Texas, 78711-3087

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

Jenna Rollins

From: Anna Williamson [REDACTED]
Sent: Thursday, August 18, 2022 2:17 PM
To: Jenna Rollins
Subject: RE: Barnwell Properties_New Appropriations Response to TCEQ_ Items 1 and 2

Great! Thank you!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Thursday, August 18, 2022 2:17 PM
To: Anna Williamson [REDACTED]
Subject: RE: Barnwell Properties_New Appropriations Response to TCEQ_ Items 1 and 2

Good afternoon Ms. Williamson,

Upon further review, we have determined that the provided resolution is sufficient for evidence of signature authority. I apologize for the misunderstanding! If you have any additional questions please let me know.

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

From: Anna Williamson [REDACTED]
Sent: Thursday, August 18, 2022 1:36 PM
To: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Subject: RE: Barnwell Properties_New Appropriations Response to TCEQ_ Items 1 and 2

Hi Jenna!

Our phones are down at the office, so if you would please email me your supervisor's response, it would be most appreciated.

Thank you and have a great day!

From: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Sent: Thursday, August 18, 2022 12:02 PM
To: Anna Williamson [REDACTED]
Subject: RE: Barnwell Properties_New Appropriations Response to TCEQ_ Items 1 and 2

Good afternoon Ms. Williamson,

After reviewing the submitted documents, staff has determined that the provided resolution in response to RFI Question #1 does not say anything about giving signature authority for Barnwell Properties; therefore, we will need additional

documentation stating that Mr. Haws is authorized to sign the application for Barnwell Properties pursuant to Title 30 Texas Administrative Code (TAC) § 295.14(5) which states:

If the applicant is a corporation, public district, county, municipality or other corporate entity, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

Staff has also reviewed the IRS document provided in response to RFI Question #2 and has determined that it is sufficient evidence of Barnwell Properties' legal name.

If you have any additional questions please let me know.

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

From: Anna Williamson [REDACTED]
Sent: Wednesday, August 17, 2022 12:50 PM
To: Jenna Rollins <Jenna.Rollins@tceq.texas.gov>
Subject: Barnwell Properties_ New Appropriations Response to TCEQ_ Items 1 and 2

Hi Jenna!

The attached PDF is what I have received from Dean Haws on Items 1 and 2 of the TCEQ's response to the New Appropriations application:

1. Provide documentation evidencing that Mr. Dean Haws is authorized to sign the application for Barnwell Properties, pursuant to Title 30 Texas Administrative Code (TAC) § 295.14(5) which states:

If the applicant is a corporation, public district, county, municipality or other corporate entity, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

Staff notes a Partnership Agreement was provided with the application as evidence of signature authority; however, there is no language included in the agreement authorizing partners to take such action.

Will Pages 3 and 4 of the attached document suffice for the signatory authority?

2. Clarify the legal name of the applicant. The names Barnwell Properties and Barnwell Mountain Cabins as stated on the application are not listed on the Texas Secretary of State website. **Will pages 1 and 2 of the attached document from the IRS suffice or will it need to be through the Texas Secretary of State website?**


Thank you for your time and have a nice day!

Anna Claire Williamson
TITANIUM ENVIRONMENTAL SERVICES, LLC
311 East Cotton Street

Longview, Texas 75601

Phone: 903-234-8443

Fax: 903-234-1641



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

Call to: Jenna Rollins	Call from: Ms. Anna Williamson
Date: 8/18/22	Project No: 13844
<i>Information for File follows:</i> This was a phone call from the applicant to discuss their partial RFI response submitted on 8/17/22.	
Signed: <i>Jenna Rollins</i>	Date: 8/18/22

Jenna Rollins

From: Anna Williamson [REDACTED]
Sent: Wednesday, August 17, 2022 12:50 PM
To: Jenna Rollins
Subject: Barnwell Properties_New Appropriations Response to TCEQ_ Items 1 and 2
Attachments: Barnwell Prop_D. Haws_Partnership_IRS.pdf

Hi Jenna!

The attached PDF is what I have received from Dean Haws on Items 1 and 2 of the TCEQ's response to the New Appropriations application:

1. Provide documentation evidencing that Mr. Dean Haws is authorized to sign the application for Barnwell Properties, pursuant to Title 30 Texas Administrative Code (TAC) § 295.14(5) which states:

If the applicant is a corporation, public district, county, municipality or other corporate entity, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

Staff notes a Partnership Agreement was provided with the application as evidence of signature authority; however, there is no language included in the agreement authorizing partners to take such action. **Will Pages 3 and 4 of the attached document suffice for the signatory authority?**

2. Clarify the legal name of the applicant. The names Barnwell Properties and Barnwell Mountain Cabins as stated on the application are not listed on the Texas Secretary of State website. **Will pages 1 and 2 of the attached document from the IRS suffice or will it need to be through the Texas Secretary of State website?**

Thank you for your time and have a nice day!

Anna Claire Williamson
TITANIUM ENVIRONMENTAL SERVICES, LLC
311 East Cotton Street
Longview, Texas 75601
Phone: 903-234-8443
Fax: 903-234-1641
[REDACTED]

Date of this notice: 02-28-2020

Employer Identification Number:
84-4912106

Form: SS-4

Number of this notice: CP 575 B

BARNWELL PROPERTIES
PAUL EDWARD WILSON GEN PTR
14044 WINDROW DR
FORNEY, TX 75126

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 84-4912106. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1065

03/15/2021

If you have questions about the form(s) or the due date(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

- * Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.
- * Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.
- * Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is BARN. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

Keep this part for your records.

CP 575 B (Rev. 7-2007)

Return this part with any correspondence so we may identify your account. Please correct any errors in your name or address.

CP 575 B

9999999999

Your Telephone Number Best Time to Call
() -

DATE OF THIS NOTICE: 02-28-2020
EMPLOYER IDENTIFICATION NUMBER: 84-4912106
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023
██

BARNWELL PROPERTIES
PAUL EDWARD WILSON GEN PTR
14044 WINDROW DR
FORNEY, TX 75126

PARTNERSHIP RESOLUTION OF AUTHORITY

By: BARNWELL PROPERTIES

Referred to in this document as "Financial Institution"

Referred to in this document as "Partnership"

The above partnership consists of the following partners (or if a limited partnership, the following general partners):

3077 INVESTMENTS, LLC MCTAYSOM PROPERTIES, LLC DHAWES INVESTMENTS LP

The above-named parties represent that they constitute all of the partners of the Partnership designated above, or if a limited Partnership, constitute all of the general partners of the partnership designated above. These individuals are referred to in this document as "Partners."

Federal I.D. Number 84-4912106 for BARNWELL PROPERTIES Date 02/28/2020
 (EIN if one has been obtained or SSN if no EIN) (Trade Name of Partnership if EIN provided or Name of Partner supplying SSN)
 has been obtained)

AGENTS Any Agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Name and Title or Position	Signature	Facsimile Signature (if used)
A. <u>PAUL WILSON</u>	X 	X _____
B. <u>DEAN HAWS, JR.</u>	X 	X _____
C. <u>MICHAEL TAYSOM</u>	X 	X _____
D. _____	X _____	X _____
E. _____	X _____	X _____
F. _____	X _____	X _____

POWERS GRANTED (Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the number of Agent signatures required to exercise the power.)

Indicate A, B, C, D, E, and/or F	Description of Power	Indicate number of signatures required
<u>A,B,C</u>	(1) Exercise all of the powers listed in this resolution.	<u>2</u>
<u>A,B,C</u>	(2) Open any deposit or share account(s) in the name of the Partnership.	<u>2</u>
<u>A,B,C</u>	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with this Financial Institution.	<u>2</u>
<u>A,B,C</u>	(4) Borrow money on behalf and in the name of the Partnership, sign, execute and deliver promissory notes or other evidences of indebtedness.	<u>2</u>
<u>A,B,C</u>	(5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the Partnership as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.	<u>2</u>
<u>A,B,C</u>	(6) Enter into a written lease for the purpose of renting, maintaining, accessing and terminating a Safe Deposit Box in this Financial Institution.	<u>2</u>
_____	(7) Other _____	_____

LIMITATIONS ON POWERS The following are the Partnership's express limitations on the powers granted under this resolution.

EFFECT ON PREVIOUS RESOLUTIONS This resolution supersedes resolution dated _____ . If not completed, all resolutions remain in effect.

CERTIFICATION OF AUTHORITY I further certify that the Partnership has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions on page 2 and to confer the powers granted above to the person named who have full power and lawful authority to exercise the same.

Signatures: (Type name of each Partner below each signature line.)

X 	X 	X 
3077 INVESTMENTS, LLC	DHAWES INVESTMENTS LP	MCTAYSOM PROPERTIES, LLC
X _____	X _____	X _____

The Partners to the Partnership resolve, warrant and agree as follows:

- (1) The Financial Institution is designated as a depository for the funds of the Partnership and to provide other financial accommodations indicated in this resolution.
- (2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by the Financial Institution. Any and all prior resolutions adopted by the Partners and certified to the Financial Institution as governing the operation of this partnership's account(s), are in full force and effect, until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Financial Institution, establishing the authority for the changes.
- (3) The signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the Partnership. Any Agent, so long as they act in a representative capacity as an Agent of the Partnership, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Financial Institution, subject to any restrictions on this resolution or otherwise agreed to in writing.
- (4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the Partnership with the Financial Institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
- (5) The Partners agree to the terms and conditions of any account agreement, properly opened by any Agent of the Partnership. The Partners authorize the Financial Institution, at any time, to charge the Partnership for all checks, drafts, or other orders, for the payment of money, that are drawn on the Financial Institution, so long as they contain the required number of signatures for this purpose.
- (6) The Partners acknowledge and agree that the Financial Institution may furnish at its discretion automated access devices to Agents of the Partnership to facilitate those powers authorized by this resolution or other resolutions in effect at the time of issuance. The term "automated access device" includes, but is not limited to, credit cards, automated teller machines (ATM), and debit cards.
- (7) The Partners acknowledge and agree that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the Agent named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that are filed separately by the Partnership with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the Agent(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature specimen on file. The Partners authorize each Agent to have custody of the Partnership's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have no responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.
- (8) If any other parties become interested in the partnership as co-partners, the partnership relationship is altered in any way or if the business should become incorporated, the Partners shall promptly notify the Financial Institution.
- (9) By signing this resolution, Partners represent that they have provided the Financial Institution with true and complete copies of the partnership agreement, if any, as amended to the date of this resolution.

Pennsylvania. The designation of an Agent does not create a power of attorney; therefore, Agents are not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code) unless the agency was created by a separate power of attorney. Any provision that assigns Financial Institution rights to act on behalf of any person or entity is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code).

FOR FINANCIAL INSTITUTION USE ONLY

Acknowledged and received on _____ (date) by _____ (initials) This resolution is superseded by resolution dated _____.

Comments:

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT (the "Agreement") made and entered into this 1 day of January, 2020 (the "Execution Date"),

AMONGST:

MCTAYSOM PROPERTIES LLC of 14044 WINDROW DR FORNEY TX 75126,
3077 INVESTMENTS LLC of 3077 FM 49 GILMER TX 75644, and
DHAWS INVESTMENTS LP of 434 SHATTLES RD GILMER TX 75644
(individually the "Partner" and collectively the "Partners").

BACKGROUND:

- A. The Partners wish to associate themselves as partners in business.
- B. This Agreement sets out the terms and conditions that govern the Partners within the Partnership.

IN CONSIDERATION OF and as a condition of the Partners entering into this Agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the parties to this Agreement agree as follows:

Formation

- 1. By this Agreement the Partners enter into a general partnership (the "Partnership") in accordance with the laws of The State of Texas. The rights and obligations of the Partners will be as as stated in the applicable legislation of The State of Texas (the 'Act') except as otherwise provided in this Agreement.

Name

- 2. The firm name of the Partnership will be: BARNWELL PROPERTIES.

Purpose

- 3. The purpose of the Partnership will be: INVESTMENT PROPERTIES.

Term

4. The Partnership will begin on January 1st, 2020 and will continue until terminated as provided in this Agreement.

Place of Business

5. The principal office of the business of the Partnership will be located at 14044 WINDROW DR FORNEY TX 75126 or such other place as the Partners may from time to time designate.

Capital Contributions

6. Each of the Partners has contributed to the capital of the Partnership, in cash or property in agreed upon value, as follows (the "Capital Contribution"):

Partner	Contribution Description	Agreed Value
MCTAYSOM PROPERTIES LLC	33 1/3	\$ [REDACTED] USD
3077 INVESTMENTS LLC	33 1/3	[REDACTED] USD
DHAWS INVESTMENTS LP	33 1/3	[REDACTED] USD

7. All Partners will contribute their respective Capital Contributions fully and on time.

Withdrawal of Capital

8. No Partner will withdraw any portion of their Capital Contribution without the express written consent of the remaining Partners.

Additional Capital

9. Capital Contributions may be amended from time to time, according to the requirements of the Partnership provided that the interests of the Partners are not affected, except with the unanimous consent of the Partners. No Partner will be required to make Additional Capital Contributions. Whenever additional capital is determined to be required and an individual

Partner is unwilling or unable to meet the additional contribution requirement within a reasonable period, as required by Partnership business obligations, remaining Partners may contribute in proportion to their existing Capital Contributions to resolve the amount in default. In such case the allocation of profits or losses among all the Partners will be adjusted to reflect the aggregate change in Capital Contributions by the Partners.

10. Any advance of money to the Partnership by any Partner in excess of the amounts provided for in this Agreement or subsequently agreed to as Additional Capital Contribution will be deemed a debt owed by the Partnership and not an increase in Capital Contribution of the Partner. This liability will be repaid with interest at rates and times to be determined by a majority of the Partners within the limits of what is required or permitted in the Act. This liability will not entitle the lending Partner to any increased share of the Partnership's profits nor to a greater voting power. Such debts may have preference or priority over any other payments to Partners as may be determined by a majority of the Partners.

Capital Accounts

11. An individual capital account (the "Capital Accounts") will be maintained for each Partner and their Initial Capital Contribution will be credited to this account. Any Additional Capital Contributions made by any Partner will be credited to that Partner's individual Capital Account.

Interest on Capital

12. No borrowing charge or loan interest will be due or payable to any Partner on their agreed Capital Contribution inclusive of any agreed Additional Capital Contributions.

Financial Decisions

13. Decisions regarding the distribution of profits, allocation of losses, and the requirement for Additional Capital Contributions as well as all other financial matters will be decided by a majority vote of the Partners.

Profit and Loss

14. Subject to any other provisions of this Agreement, the net profits and losses of the Partnership, for both accounting and tax purposes, will accrue to and be borne by the Partners in equal proportions (the "Profit and Loss Distribution").

Books of Account

15. Accurate and complete books of account of the transactions of the Partnership will be kept in accordance with generally accepted accounting principles (GAAP) and at all reasonable times will be available and open to inspection and examination by any Partner. The books and records of the Partnership will reflect all the Partnership's transactions and will be appropriate and adequate for the business conducted by the Partnership.

Annual Report

16. As soon as practicable after the close of each fiscal year, the Partnership will furnish to each Partner an annual report showing a full and complete account of the condition of the Partnership. This report will consist of at least the following documents:

- a. a statement of all information as will be necessary for the preparation of each Partner's income or other tax returns;
- b. a copy of the Partnership's federal income tax returns for that fiscal year;
- c. supporting income statement;
- d. a balance sheet;
- e. a cash flow statement;
- f. a breakdown of the profit and loss attributable to each Partner; and
- g. any additional information that the Partners may require.

Banking and Partnership Funds

17. The funds of the Partnership will be placed in such investments and banking accounts as will be designated by the Partners. All withdrawals from these bank accounts will be made by the duly authorized agent or agents of the Partners as agreed by unanimous consent of the Partners. Partnership funds will be held in the name of the Partnership and will not be commingled with those of any other person or entity.

Fiscal Year

18. The fiscal year will end on the 31st day of December of each year.

Audit

19. Any of the Partners will have the right to request an audit of the Partnership books. The cost of the audit will be borne by the Partnership. The audit will be performed by an accounting firm acceptable to all the Partners. Not more than one (1) audit will be required by any or all of the Partners for any fiscal year.

Management

20. Except as all of the Partners may otherwise agree in writing, all actions and decisions respecting the management, operation and control of the Partnership and its business will be decided by a majority vote of the Partners.

Contract Binding Authority

21. Each Partner will have authority to bind the Partnership in contract.

Partnership Representative

22. _____ will be the partnership representative ("the Partnership Representative") with the sole authority to act on behalf of the Partnership in relation to IRS tax audits pursuant to Chapter 63 Subchapter C of the Internal Revenue Code of 1986 ("the Tax Rules").
23. The Partnership Representative is appointed for the current tax year and subsequent tax years until otherwise designated by the Partners.
24. The Partnership Representative will promptly advise the Partners of any audit of the Partnership initiated by the IRS and provide regular updates to the Partners on the progress of such audits and any resulting settlement negotiations. The Partnership Representative will be generally accountable to the Partners and will obtain the majority approval of the Partners for (i) any decisions affecting the tax liability of the Partnership or the Partners; and (ii) any decision finalizing tax settlement with the IRS.
25. The Partnership Representative may resign from the position by serving notice in writing on both the Partnership and the IRS. The Partnership, acting by majority vote, may revoke the designation of the Partnership Representative by serving notice on the Partnership

Representative and the IRS and simultaneously appointing a new Partnership Representative for that taxable year.

26. Whether serving in an active capacity or not, any person who has served as Partnership Representative in respect of any given taxable year or portion thereof will remain accountable to the Partnership, throughout the period of limitation relating to that taxable year, in respect of any notification received from the IRS and will promptly advise the Partnership of any and all such correspondence.
27. In the event that a tax settlement reached between the IRS and the Partnership Representative is not satisfactory to one or more of the Partners and the matter cannot be resolved through negotiation in good faith at a meeting of the Partners, then, two weeks, or such longer period as the partners may agree, following such meeting the Partners agree to submit the dispute to mediation.

Tax Elections

28. In the event of an imputed underpayment by the Partnership assessed at audit, the Partnership Representative will elect the application of Section 6226 of Subchapter C (Alternative to Payment of Imputed Underpayment by Partnership) and duly furnish to each Partner, and to the Secretary of the Treasury or his delegate, a statement of that Partner's share of any adjustments within 45 days of the notice of final partnership adjustment.

Meetings

29. Regular meetings of the Partners will be held only as required.
30. Any Partner can call a special meeting to resolve issues that require a vote, as indicated by this Agreement, by providing all Partners with reasonable notice. In the case of a special vote, the meeting will be restricted to the specific purpose for which the meeting was held.
31. All meetings will be held at a time and in a location that is reasonable, convenient and practical considering the situation of all Partners.

Admitting a New Partner

32. A new Partner may only be admitted to the Partnership with a majority vote of the existing Partners, except in the case of a prospective partner, the admission of which would render the Partnership ineligible to elect out of the application of the Tax Rules, in which case a unanimous vote of the existing Partners will be required to admit that partner.
33. Any new Partner agrees to be bound by all the covenants, terms, and conditions of this Agreement, inclusive of all current and future amendments. Further, a new Partner will execute such documents as are needed to effect the admission of the new Partner. Any new Partner will receive such business interest in the Partnership as determined by a unanimous decision of the other Partners.

Transfer of Partnership Interest

34. A Partner may assign their distribution interest in the Partnership and its assets provided that, where the acquisition of the interest by the prospective partner will render the Partnership ineligible to elect out of the application of the Tax Rules, the assigning Partner must first obtain the unanimous consent of the remaining Partners. This transfer will only include that Partner's economic rights and interests and will not include any other rights of that Partner nor will it include an automatic admission as a Partner of the Partnership or the right to exercise any management or voting interests. A Partner who assigns any or all of their partnership interest to any third party will relinquish their status as Partner including all management and voting rights. Assignment of Partner status, under this clause, including any management and voting interests, will require the consent of all the remaining Partners.

Voluntary Withdrawal of a Partner

35. Any Partner will have the right to voluntarily withdraw from the Partnership at any time. Written notice of intention to withdraw must be served upon the remaining Partners at least three (3) months prior to the withdrawal date.
36. Except as otherwise provided elsewhere in this Agreement, the voluntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
37. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election upon

the Dissociated Partner within thirty (30) days after receipt of the Dissociated Partner's notice of intention to withdraw, including the purchase price and method and schedule of payment for the Dissociated Partner's interest. The purchase amount of any buyout of the Dissociated Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.

38. A Dissociated Partner will only exercise the right to withdraw in good faith and will act to minimize any present or future harm done to the remaining Partners as a result of the withdrawal.

Involuntary Withdrawal of a Partner

39. Events resulting in the involuntary withdrawal of a Partner from the Partnership will include but not be limited to: death of a Partner; Partner mental incapacity; Partner disability preventing reasonable participation in the Partnership; Partner incompetence; breach of fiduciary duties by a Partner; criminal conviction of a Partner; Expulsion of a Partner; Operation of Law against a Partner; or any act or omission of a Partner that can reasonably be expected to bring the business or societal reputation of the Partnership into disrepute.
40. Except as otherwise provided elsewhere in this Agreement, the involuntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
41. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election, including the purchase price and method and schedule of payment upon the Dissociated Partner, their executor, administrator, trustee, committee or analogous fiduciary within a reasonable period after acquiring knowledge of the change in circumstance to the Dissociated Partner. The purchase amount of any buyout of a Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.
42. A trustee in bankruptcy or similar third party who may acquire that Dissociated Partner's interest in the Partnership will only acquire that Partner's economic rights and interests and will not acquire any other rights of that Partner or be admitted as a Partner of the Partnership or have the right to exercise any management or voting interests.

Dissociation of a Partner

43. Where the remaining Partners have purchased the interest of a Dissociated Partner, the purchase amount will be paid in full, but without interest, within 90 days of the date of withdrawal.
44. The Partnership will retain exclusive rights to use of the trade name and firm name and all related brand and model names of the Partnership.
45. Where the voluntary or involuntary withdrawal of a Partner results in only one Partner remaining or where no buyer is found to purchase the interest of the Dissociated Partner then the Partnership will proceed in a reasonable and timely manner to dissolve the Partnership, with all debts being paid first, prior to any distribution of the remaining funds. Valuation and distribution will be determined as described in the Valuation of Interest section of this Agreement.
46. The remaining Partners retain the right to seek damages from a Dissociated Partner where the dissociation resulted from a malicious or criminal act by the Dissociated Partner or where the Dissociated Partner had breached their fiduciary duty to the Partnership or was in breach of this Agreement or had acted in a way that could reasonably be foreseen to bring harm or damage to the Partnership or to the reputation of the Partnership.
47. On any purchase and sale of a Partnership interest, a Dissociated Partner will only have liability for Partnership obligations that were incurred during their time as a Partner. Immediately upon the sale of a withdrawing Partner's interest, the Partnership will prepare, file, serve, and publish all notices required by law to protect the withdrawing Partner from liability for future Partnership obligations.

Dissolution

48. Except as otherwise provided in this Agreement, the Partnership will be dissolved upon a majority vote of all Partners.

Distribution of Property on Dissolution of Partnership

49. In the event of the dissolution of the Partnership, each Partner will share equally (the "Dissolution Distribution") in any remaining assets or liabilities of the Partnership.
50. Upon Dissolution of the Partnership and liquidation of Partnership Property, and after payment of all selling costs and expenses, the liquidator will distribute the Partnership assets to the

following groups according to the following order of priority:

- a. in satisfaction of liabilities to creditors except Partnership obligations to current Partners;
- b. in satisfaction of Partnership debt obligations to current Partners; and then
- c. to the Partners according to the Dissolution Distribution described above.

51. The claims of each priority group will be satisfied in full before satisfying any claims of a lower priority group. Any excess of Partnership assets after liabilities or any insufficiency in Partnership assets in resolving liabilities under this section will be shared by the Partners according to the Dissolution Distribution described above.

Valuation of Interest

52. In the absence of a written agreement setting a value, the value of the Partnership will be based on the fair market value appraisal of all Partnership assets (less liabilities) determined in accordance with generally accepted accounting principles (GAAP). This appraisal will be conducted by an independent accounting firm agreed to by all Partners. An appraiser will be appointed within a reasonable period of the date of withdrawal or dissolution. The results of the appraisal will be binding on all Partners. A withdrawing Partner's interest will be based on that Partner's proportion of the Dissolution Distribution described above, less any outstanding liabilities the withdrawing Partner may have to the Partnership. The intent of this section is to ensure the survival of the Partnership despite the withdrawal of any individual Partner.

53. No allowance will be made for goodwill, trade name, patents or other intangible assets, except where those assets have been reflected on the Partnership books immediately prior to valuation.

Goodwill

54. The goodwill of the Partnership business will be assessed at an amount to be determined by appraisal using generally accepted accounting principles (GAAP).

Title to Partnership Property

55. Title to all Partnership Property will remain in the name of the Partnership. No Partner or group of Partners will have any ownership interest in such Partnership Property in whole or in part.

Voting

56. Any vote required by the Partnership will be assessed where each Partner receives one vote carrying equal weight.

Force Majeure

57. A Partner will be free of liability to the Partnership where the Partner is prevented from executing their obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Partner has communicated the circumstance of said event to any and all other Partners and taken any and all appropriate action to mitigate said event.

Duty of Loyalty

58. No Partner will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive with the business of the Partnership or that would be in direct conflict of interest to the Partnership without the unanimous written consent of the remaining Partners. Any and all businesses, ventures or transactions with any appearance of conflict of interest must be fully disclosed to all other Partners. Failure to comply with any of the terms of this clause will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.
59. A withdrawing Partner will not carry on a similar business to the business of the Partnership within any established or contemplated market regions of the Partnership for a period of at least one (1) year after the date of withdrawal.

Duty of Accountability for Private Profits

60. Each Partner must account to the Partnership for any benefit derived by that Partner without the consent of the other Partners from any transaction concerning the Partnership or any use by that Partner of the Partnership property, name or business connection. This duty continues to apply to any transactions undertaken after the Partnership has been dissolved but before the affairs of the Partnership have been completely wound up by the surviving Partner or Partners or their agent or agents.

Duty to Devote Time

61. Each Partner will devote such time and attention to the business of the Partnership as the majority of the Partners will from time to time reasonably determine for the conduct of the Partnership business.

Actions Requiring Unanimous Consent of the Partners

62. The following list of actions will require the unanimous consent of all Partners:
- a. assigning check signing authority;
 - b. committing the Partnership to new liabilities or obligations totaling over ██████ USD;
 - c. incurring single expenditures that exceed ██████ USD;
 - d. selling or encumbering of any Partnership asset whose fair market value exceeds ██████ USD;
 - e. hiring any employee whose total compensation package exceeds ██████ USD per annum;
 - f. firing of any employee except in the case of gross misconduct that exposes the Partnership to possible liability;
 - g. waiving or releasing any Partnership claim except for full consideration; and
 - h. endangering the ownership or possession of Partnership property.
63. Any losses incurred as a result of a violation of this section will be charged to and collected from the individual Partner that acted without unanimous consent and caused the loss.

Forbidden Acts

64. No Partner may do any act in contravention of this Agreement.
65. No Partner may permit, intentionally or unintentionally, the assignment of express, implied or apparent authority to a third party that is not a Partner in the Partnership.

66. No Partner may do any act that would make it impossible to carry on the ordinary business of the Partnership.
67. No Partner may confess a judgment against the Partnership.
68. No Partner will have the right or authority to bind or obligate the Partnership to any extent with regard to any matter outside the intended purpose of the Partnership.
69. Any violation of the above Forbidden Acts will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.

Indemnification

70. All Partners will be indemnified and held harmless by the Partnership from and against any and all claims of any nature, whatsoever, arising out of a Partner's participation in Partnership affairs. A Partner will not be entitled to indemnification under this section for liability arising out of gross negligence or willful misconduct of the Partner or the breach by the Partner of any provisions of this Agreement.

Liability

71. A Partner will not be liable to the Partnership, or to any other Partner, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement or the Partnership.

Liability Insurance

72. The Partnership may acquire insurance on behalf of any Partner, employee, agent or other person engaged in the business interest of the Partnership against any liability asserted against them or incurred by them while acting in good faith on behalf of the Partnership.

Life Insurance

73. The Partnership will have the right to acquire life insurance on the lives of any or all of the Partners, whenever it is deemed necessary by the Partnership. Each Partner will cooperate fully with the Partnership in obtaining any such policies of life insurance.

Amendments

74. This Agreement may not be amended in whole or in part without the unanimous written consent of all Partners.

Governing Law and Jurisdiction

75. This Agreement will be construed in accordance with and exclusively governed by the laws of The State of Texas.
76. The Partners submit to the jurisdiction of the courts of The State of Texas for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

Definitions

77. For the purpose of this Agreement, the following terms are defined as follows:
- a. "Additional Capital Contributions" means Capital Contributions, other than Initial Capital Contributions, made by Partners to the Partnership.
 - b. "Capital Contribution" means the total amount of cash or Property contributed to the Partnership by any one Partner.
 - c. "Dissociated Partner" means any Partner who is removed from the Partnership through a voluntary or involuntary withdrawal as provided in this Agreement.
 - d. "Expulsion of a Partner" can occur on application by the Partnership or another Partner, where it has been determined that the Partner:
 - i. has engaged in wrongful conduct that adversely and materially affected the Partnership's business;
 - ii. has willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or to the other Partners; or
 - iii. has engaged in conduct relating to the Partnership's business that makes it not reasonably practicable to carry on the business

with the Partner.

- e. "Initial Capital Contribution" means Capital Contributions made by any Partner to acquire an interest in the Partnership.
- f. "Operation of Law" means rights or duties that are cast upon a party by the law, without any act or agreement on the part of the individual including, but not limited to, an assignment for the benefit of creditors, a divorce, or a bankruptcy.

Miscellaneous

- 78. Time is of the essence in this Agreement.
- 79. This Agreement may be executed in counterpart.
- 80. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
- 81. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
- 82. This Agreement contains the entire agreement between the parties. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made by any party to this Agreement in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
- 83. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Partner's successors, assigns, executors, administrators, beneficiaries, and representatives.

- 84. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.
- 85. All of the rights, remedies and benefits provided by this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law.

IN WITNESS WHEREOF the Partners have duly affixed their signatures under hand and seal on this 1 day of January, 2020

MCTAYSOM PROPERTIES LLC

Per: _____

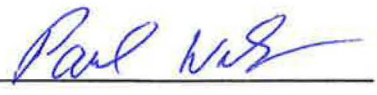
(Seal)



3077 INVESTMENTS LLC

Per: _____

(Seal)



DHAWS INVESTMENTS LP

Per: _____

(Seal)



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

Call to: Jenna Rollins	Call from: Ms. Anna Williamson
Date: 8/12/22	Project No: 13844
<i>Information for File follows:</i> This was a phone call from the applicant to further discuss questions that were sent to the applicant in a Request for Information (RFI) letter.	
Signed: <i>Jenna Rollins</i>	Date: 8/12/22

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

Call to: Ms. Anna Williamson	Call from: Jenna Rollins
Date: 8/10/22	Project No: 13844
<i>Information for File follows:</i> This was a phone call to the applicant to further discuss questions that were sent to the applicant in a Request for Information (RFI) letter.	
Signed: <i>Jenna Rollins</i>	Date: 8/10/22

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

Call to: Ms. Anna Williamson	Call from: Jenna Rollins
Date: 8/10/22	Project No: 13844
<i>Information for File follows:</i> This was a phone call to the applicant to further discuss questions that were sent to the applicant in a Request for Information (RFI) letter.	
Signed: <i>Jenna Rollins</i>	Date: 8/10/22

Jenna Rollins

From: Jenna Rollins
Sent: Tuesday, August 2, 2022 1:52 PM
To: Laura Rectenwald
Subject: Barnwell Properties WRPERM No. 13844
Attachments: Barnwell Properties 13844 RFI Sent 8.2.22.pdf

Dear Ms. Rectenwald,

Please see the attached request for information letter for Barnwell Properties WRPERM No. 13844 and provide a response by 9/1/22.

Thank you,
Jenna Rollins, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
512-239-1845

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

August 2, 2022

Ms. Laura Rectenwald, Environmental Consultant
Titanium Environmental
311 East Cotton Street
Longview, Texas 75601

VIA E-MAIL

RE: Barnwell Properties
WRPERM 13844
CN606000826, RN111514725
Application No. 13844 for a Water Use Permit
Texas Water Code § 11.121, Requiring Mailed and Published Notice
Unnamed tributary of Bishop Creek, Cypress Creek Basin
Upshur County

Dear Ms. Rectenwald:

This acknowledges receipt, on June 8, 2022, of the referenced application and fees in the amount of \$223.54 (Receipt Nos. M214911A and M214911B, copies attached).

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

1. Provide documentation evidencing that Mr. Dean Haws is authorized to sign the application for Barnwell Properties, pursuant to Title 30 Texas Administrative Code (TAC) § 295.14(5) which states:

If the applicant is a corporation, public district, county, municipality or other corporate entity, the application shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

Staff notes a Partnership Agreement was provided with the application as evidence of signature authority; however, there is no language included in the agreement authorizing partners to take such action.

2. Clarify the legal name of the applicant. The names Barnwell Properties and Barnwell Mountain Cabins as stated on the application are not listed on the Texas Secretary of State website.
3. Confirm that the reservoir will impound 24.5 acre-feet of water at its normal maximum operating capacity as shown in Worksheet 2.0.

4. Confirm that the application is not requesting to divert water. Staff notes *Worksheet 3.0* is provided in the application submittal; however, based on the application, this worksheet is not necessary.
5. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right) if the applicant intends to divert water from the proposed reservoir. Refer to pages 28-29 from the *Instructions for Completing the Water Right Permitting Application* (Form TCEQ-10214A-inst) for assistance in developing your response.
6. Confirm that groundwater will be used, if needed, to support the reservoir. Provide a completed *Worksheet 4.1* for the discharge point of the groundwater into the reservoir. Indicate the latitude and longitude coordinated in decimal degrees, to at least six decimal places.
7. Provide reasonably current water chemistry information for the groundwater to be discharged, 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. For each well, provide the well number or identifier, depth of well, and name of the aquifer and formation from which the water is withdrawn.

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 on site at the time the groundwater sample is collected.

Ms. Laura Rectenwald
Application No. 13844
August 2, 2022
Page 3 of 3


8. Remit fees in the amount of **\$10.00**, as described below. Please make the check payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (less than 100 acre-feet)	\$ 100.00
Recording Fee (\$1.25 x 20 pages)	\$ 25.00
Use Fee (\$1.00 x 20.9 acre-feet)	\$ 20.90
Storage Fee (\$1.00 x 20.9 acre-feet)	\$ 20.90
<u>Notice Fee (Cypress Creek Basin)</u>	<u>\$ 66.74</u>
TOTAL FEES	\$ 233.54
FEES RECEIVED	\$ 223.54
TOTAL FEES DUE	\$ 10.00

Please provide the requested information and fees by September 1, 2022 or the application may be returned pursuant to 30 TAC § 281.18.

If you have any questions concerning this matter, please contact me via email at jenna.rollins@tceq.texas.gov or by telephone at (512) 239-1845.

Sincerely,



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

Attachments



Basis2 - Receipt History Report

09-JUN-22 11:37 AM

<u>Bank Slip#</u>	<u>Slip Status</u>					<u>USAS Proj #</u>	<u>Paid For</u>	<u>Orig Tran Amnt</u>
<u>Document#</u>	<u>Site Code</u>	<u>Tran.Date</u>	<u>Tran.Code</u>	<u>Created By</u>	<u>Endorse #</u>	<u>Permit/Proj #</u>	<u>Vendor #</u>	<u>Corrected?</u>
<u>Fee Code</u>	<u>Account Name</u>		<u>Account #</u>	<u>Paid In By</u>	<u>Endorse.Date</u>	<u>Check Number</u>	<u>Pay Type</u>	<u>Corrected Tran Amnt</u>
BS00093614	Closed							-\$166.80
D2802315	RS	25-MAR-22	N		M214911A	13844		
WUP	WATER USE PERMITS		WUP	TAEDA LLC	032522	21078	CK	-\$166.80
BS00093614	Closed							-\$56.74
D2802315	RS	25-MAR-22	N		M214911B	13844		
PTGU	NOTICE FEES WUP WATER USE PERMITS		PTGU	TAEDA LLC	032522	21078	CK	-\$56.74
Grand Total:								-\$223.54



June 8, 2022

Jenna Rollins
TCEQ
Water Availability Division, MC-160
P.O. Box 13087
Austin, Texas 78711-3087

Re: Resubmittal of the TCEQ Water Rights Permitting Application for the 2.58-acre Impoundment located in Gilmer, Upshur County, Texas

Dear Ms. Rollins,

Titanium Environmental Services, LLC (TES) is resubmitting the Texas Commission on Environmental Quality's (TCEQ) Water Rights Permitting Application for the 2.58-acre impoundment located at 6585 Highway 155 in Gilmer, Upshur County, Texas.

The previous TCEQ Water Rights Permitting Application had groundwater as the water source for the 2.58-acre impoundment. A discussion with the TCEQ Water Rights Permitting Team on May 20, 2022, concluded that the Cypress River Basin is a sufficient water source for the impoundment instead of the groundwater well previously stated on the first permit application. TES is resubmitting the TCEQ permit application to request a new appropriation of State Water for the on-channel reservoir. The reservoir will use available water from the Cypress River Basin as the water source. A groundwater well on the property will be used as a backup water source in the event of limited water availability from the Cypress River Basin.

The fee for this application is \$233.54; however, the fee previously paid was \$223.54 (Receipt #M214911) and we would like to apply the previous application fee of \$223.54 toward this application fee. The final amount owed for the application resubmittal would be \$10.00.

Should you have any questions regarding this report, please contact me at (903) 234-8443, or by email at [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Claire Williamson".

Anna Claire Williamson

Attachments:

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): Barnwell Properties

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: _____

ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

New Appropriation of State Water

Amendment to a Water Right *

Bed and Banks

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

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

After-the-fact authorization of an 2.58-acre aesthetics impoundment located on-channel of an unnamed tributary of an unnamed tributary of Bishop Creek in the Little Cypress Creek Basin. The pond utilizes the Cypress River Basin as its primary water source with the groundwater well (State Well #35-09-805) as a back up source. The diversion point of the dam is a gravity-fed corrugated metal pipe connected from the dam to the spillway. The stream channel is intermittent which contains flowing water only part of the year. When the water is not flowing, it may remain in isolated pools or surface water may be absent.

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

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

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

Barnwell Mountain Cabins

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

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

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

CN : **CN605870609** (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: **Dean Haws**

Title: **Owner Operator**

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

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

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

Name: **Dean Haws**

Mailing Address: **318 Hwy 271 N**

City: **Gilmer**

State: **Texas**

ZIP Code: **75644**

Indicate an X next to the type of Applicant:

- | | |
|---|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Sole Proprietorship-D.B.A. |
| <input checked="" 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: _____

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: **Laura Rectenwald**

Title: **Environmental Consultant**

Organization Name: **Titanium Environmental**

Mailing Address: **311 East Cotton Street**

City: **Longview**

State: **Texas**

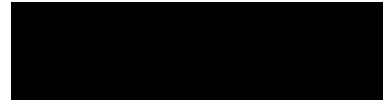
ZIP Code: **75601**

Phone No.: **(903) 234-8443**

Extension:

Fax No.: **(903) 234-1641**

E-mail Address:



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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

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

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

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

Account number:

Amount past due:

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

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

Enforcement order number: **1706657**

Amount past due: **\$0**

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

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

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

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

6. SIGNATURE PAGE (Instructions, Page 11)

Applicant:

I, Dean Haws

Owner Operator

(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: x Dean H
(Use blue ink)

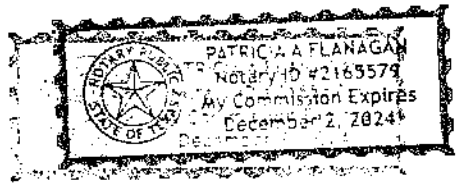
Date: 3/16/22

Subscribed and Sworn to before me by the said

on this 16th day of March, 2022.

My commission expires on the 2nd day of Dec, 2024.

Notary Public



[SEAL]

County, Texas

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

Addendums

Signatory Authority

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT (the "Agreement") made and entered into this 1 day of January, 2020 (the "Execution Date"),

AMONGST:

MCTAYSOM PROPERTIES LLC of 14044 WINDROW DR FORNEY TX 75126,
3077 INVESTMENTS LLC of 3077 FM 49 GILMER TX 75644, and
DHAWS INVESTMENTS LP of 434 SHATTLES RD GILMER TX 75644
(individually the "Partner" and collectively the "Partners").

BACKGROUND:

- A. The Partners wish to associate themselves as partners in business.
- B. This Agreement sets out the terms and conditions that govern the Partners within the Partnership.

IN CONSIDERATION OF and as a condition of the Partners entering into this Agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the parties to this Agreement agree as follows:

Formation

- 1. By this Agreement the Partners enter into a general partnership (the "Partnership") in accordance with the laws of The State of Texas. The rights and obligations of the Partners will be as as stated in the applicable legislation of The State of Texas (the 'Act') except as otherwise provided in this Agreement.

Name

- 2. The firm name of the Partnership will be: BARNWELL PROPERTIES.

Purpose

- 3. The purpose of the Partnership will be: INVESTMENT PROPERTIES.

Term

4. The Partnership will begin on January 1st, 2020 and will continue until terminated as provided in this Agreement.

Place of Business

5. The principal office of the business of the Partnership will be located at 14044 WINDROW DR FORNEY TX 75126 or such other place as the Partners may from time to time designate.

Capital Contributions

6. Each of the Partners has contributed to the capital of the Partnership, in cash or property in agreed upon value, as follows (the "Capital Contribution"):

Partner	Contribution Description	Agreed Value
MCTAYSOM PROPERTIES LLC	33 1/3	██████ USD
3077 INVESTMENTS LLC	33 1/3	██████ USD
DHAWES INVESTMENTS LP	33 1/3	██████ USD

7. All Partners will contribute their respective Capital Contributions fully and on time.

Withdrawal of Capital

8. No Partner will withdraw any portion of their Capital Contribution without the express written consent of the remaining Partners.

Additional Capital

9. Capital Contributions may be amended from time to time, according to the requirements of the Partnership provided that the interests of the Partners are not affected, except with the unanimous consent of the Partners. No Partner will be required to make Additional Capital Contributions. Whenever additional capital is determined to be required and an individual

Partner is unwilling or unable to meet the additional contribution requirement within a reasonable period, as required by Partnership business obligations, remaining Partners may contribute in proportion to their existing Capital Contributions to resolve the amount in default. In such case the allocation of profits or losses among all the Partners will be adjusted to reflect the aggregate change in Capital Contributions by the Partners.

10. Any advance of money to the Partnership by any Partner in excess of the amounts provided for in this Agreement or subsequently agreed to as Additional Capital Contribution will be deemed a debt owed by the Partnership and not an increase in Capital Contribution of the Partner. This liability will be repaid with interest at rates and times to be determined by a majority of the Partners within the limits of what is required or permitted in the Act. This liability will not entitle the lending Partner to any increased share of the Partnership's profits nor to a greater voting power. Such debts may have preference or priority over any other payments to Partners as may be determined by a majority of the Partners.

Capital Accounts

11. An individual capital account (the "Capital Accounts") will be maintained for each Partner and their Initial Capital Contribution will be credited to this account. Any Additional Capital Contributions made by any Partner will be credited to that Partner's individual Capital Account.

Interest on Capital

12. No borrowing charge or loan interest will be due or payable to any Partner on their agreed Capital Contribution inclusive of any agreed Additional Capital Contributions.

Financial Decisions

13. Decisions regarding the distribution of profits, allocation of losses, and the requirement for Additional Capital Contributions as well as all other financial matters will be decided by a majority vote of the Partners.

Profit and Loss

14. Subject to any other provisions of this Agreement, the net profits and losses of the Partnership, for both accounting and tax purposes, will accrue to and be borne by the Partners in equal proportions (the "Profit and Loss Distribution").

Books of Account

15. Accurate and complete books of account of the transactions of the Partnership will be kept in accordance with generally accepted accounting principles (GAAP) and at all reasonable times will be available and open to inspection and examination by any Partner. The books and records of the Partnership will reflect all the Partnership's transactions and will be appropriate and adequate for the business conducted by the Partnership.

Annual Report

16. As soon as practicable after the close of each fiscal year, the Partnership will furnish to each Partner an annual report showing a full and complete account of the condition of the Partnership. This report will consist of at least the following documents:

- a. a statement of all information as will be necessary for the preparation of each Partner's income or other tax returns;
- b. a copy of the Partnership's federal income tax returns for that fiscal year;
- c. supporting income statement;
- d. a balance sheet;
- e. a cash flow statement;
- f. a breakdown of the profit and loss attributable to each Partner; and
- g. any additional information that the Partners may require.

Banking and Partnership Funds

17. The funds of the Partnership will be placed in such investments and banking accounts as will be designated by the Partners. All withdrawals from these bank accounts will be made by the duly authorized agent or agents of the Partners as agreed by unanimous consent of the Partners. Partnership funds will be held in the name of the Partnership and will not be commingled with those of any other person or entity.

Fiscal Year

18. The fiscal year will end on the 31st day of December of each year.

Audit

19. Any of the Partners will have the right to request an audit of the Partnership books. The cost of the audit will be borne by the Partnership. The audit will be performed by an accounting firm acceptable to all the Partners. Not more than one (1) audit will be required by any or all of the Partners for any fiscal year.

Management

20. Except as all of the Partners may otherwise agree in writing, all actions and decisions respecting the management, operation and control of the Partnership and its business will be decided by a majority vote of the Partners.

Contract Binding Authority

21. Each Partner will have authority to bind the Partnership in contract.

Partnership Representative

22. _____ will be the partnership representative ("the Partnership Representative") with the sole authority to act on behalf of the Partnership in relation to IRS tax audits pursuant to Chapter 63 Subchapter C of the Internal Revenue Code of 1986 ("the Tax Rules").
23. The Partnership Representative is appointed for the current tax year and subsequent tax years until otherwise designated by the Partners.
24. The Partnership Representative will promptly advise the Partners of any audit of the Partnership initiated by the IRS and provide regular updates to the Partners on the progress of such audits and any resulting settlement negotiations. The Partnership Representative will be generally accountable to the Partners and will obtain the majority approval of the Partners for (i) any decisions affecting the tax liability of the Partnership or the Partners; and (ii) any decision finalizing tax settlement with the IRS.
25. The Partnership Representative may resign from the position by serving notice in writing on both the Partnership and the IRS. The Partnership, acting by majority vote, may revoke the designation of the Partnership Representative by serving notice on the Partnership

Representative and the IRS and simultaneously appointing a new Partnership Representative for that taxable year.

26. Whether serving in an active capacity or not, any person who has served as Partnership Representative in respect of any given taxable year or portion thereof will remain accountable to the Partnership, throughout the period of limitation relating to that taxable year, in respect of any notification received from the IRS and will promptly advise the Partnership of any and all such correspondence.
27. In the event that a tax settlement reached between the IRS and the Partnership Representative is not satisfactory to one or more of the Partners and the matter cannot be resolved through negotiation in good faith at a meeting of the Partners, then, two weeks, or such longer period as the partners may agree, following such meeting the Partners agree to submit the dispute to mediation.

Tax Elections

28. In the event of an imputed underpayment by the Partnership assessed at audit, the Partnership Representative will elect the application of Section 6226 of Subchapter C (Alternative to Payment of Imputed Underpayment by Partnership) and duly furnish to each Partner, and to the Secretary of the Treasury or his delegate, a statement of that Partner's share of any adjustments within 45 days of the notice of final partnership adjustment.

Meetings

29. Regular meetings of the Partners will be held only as required.
30. Any Partner can call a special meeting to resolve issues that require a vote, as indicated by this Agreement, by providing all Partners with reasonable notice. In the case of a special vote, the meeting will be restricted to the specific purpose for which the meeting was held.
31. All meetings will be held at a time and in a location that is reasonable, convenient and practical considering the situation of all Partners.

Admitting a New Partner

32. A new Partner may only be admitted to the Partnership with a majority vote of the existing Partners, except in the case of a prospective partner, the admission of which would render the Partnership ineligible to elect out of the application of the Tax Rules, in which case a unanimous vote of the existing Partners will be required to admit that partner.
33. Any new Partner agrees to be bound by all the covenants, terms, and conditions of this Agreement, inclusive of all current and future amendments. Further, a new Partner will execute such documents as are needed to effect the admission of the new Partner. Any new Partner will receive such business interest in the Partnership as determined by a unanimous decision of the other Partners.

Transfer of Partnership Interest

34. A Partner may assign their distribution interest in the Partnership and its assets provided that, where the acquisition of the interest by the prospective partner will render the Partnership ineligible to elect out of the application of the Tax Rules, the assigning Partner must first obtain the unanimous consent of the remaining Partners. This transfer will only include that Partner's economic rights and interests and will not include any other rights of that Partner nor will it include an automatic admission as a Partner of the Partnership or the right to exercise any management or voting interests. A Partner who assigns any or all of their partnership interest to any third party will relinquish their status as Partner including all management and voting rights. Assignment of Partner status, under this clause, including any management and voting interests, will require the consent of all the remaining Partners.

Voluntary Withdrawal of a Partner

35. Any Partner will have the right to voluntarily withdraw from the Partnership at any time. Written notice of intention to withdraw must be served upon the remaining Partners at least three (3) months prior to the withdrawal date.
36. Except as otherwise provided elsewhere in this Agreement, the voluntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
37. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election upon

the Dissociated Partner within thirty (30) days after receipt of the Dissociated Partner's notice of intention to withdraw, including the purchase price and method and schedule of payment for the Dissociated Partner's interest. The purchase amount of any buyout of the Dissociated Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.

38. A Dissociated Partner will only exercise the right to withdraw in good faith and will act to minimize any present or future harm done to the remaining Partners as a result of the withdrawal.

Involuntary Withdrawal of a Partner

39. Events resulting in the involuntary withdrawal of a Partner from the Partnership will include but not be limited to: death of a Partner; Partner mental incapacity; Partner disability preventing reasonable participation in the Partnership; Partner incompetence; breach of fiduciary duties by a Partner; criminal conviction of a Partner; Expulsion of a Partner; Operation of Law against a Partner; or any act or omission of a Partner that can reasonably be expected to bring the business or societal reputation of the Partnership into disrepute.
40. Except as otherwise provided elsewhere in this Agreement, the involuntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
41. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election, including the purchase price and method and schedule of payment upon the Dissociated Partner, their executor, administrator, trustee, committee or analogous fiduciary within a reasonable period after acquiring knowledge of the change in circumstance to the Dissociated Partner. The purchase amount of any buyout of a Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.
42. A trustee in bankruptcy or similar third party who may acquire that Dissociated Partner's interest in the Partnership will only acquire that Partner's economic rights and interests and will not acquire any other rights of that Partner or be admitted as a Partner of the Partnership or have the right to exercise any management or voting interests.

Dissociation of a Partner

43. Where the remaining Partners have purchased the interest of a Dissociated Partner, the purchase amount will be paid in full, but without interest, within 90 days of the date of withdrawal.
44. The Partnership will retain exclusive rights to use of the trade name and firm name and all related brand and model names of the Partnership.
45. Where the voluntary or involuntary withdrawal of a Partner results in only one Partner remaining or where no buyer is found to purchase the interest of the Dissociated Partner then the Partnership will proceed in a reasonable and timely manner to dissolve the Partnership, with all debts being paid first, prior to any distribution of the remaining funds. Valuation and distribution will be determined as described in the Valuation of Interest section of this Agreement.
46. The remaining Partners retain the right to seek damages from a Dissociated Partner where the dissociation resulted from a malicious or criminal act by the Dissociated Partner or where the Dissociated Partner had breached their fiduciary duty to the Partnership or was in breach of this Agreement or had acted in a way that could reasonably be foreseen to bring harm or damage to the Partnership or to the reputation of the Partnership.
47. On any purchase and sale of a Partnership interest, a Dissociated Partner will only have liability for Partnership obligations that were incurred during their time as a Partner. Immediately upon the sale of a withdrawing Partner's interest, the Partnership will prepare, file, serve, and publish all notices required by law to protect the withdrawing Partner from liability for future Partnership obligations.

Dissolution

48. Except as otherwise provided in this Agreement, the Partnership will be dissolved upon a majority vote of all Partners.

Distribution of Property on Dissolution of Partnership

49. In the event of the dissolution of the Partnership, each Partner will share equally (the "Dissolution Distribution") in any remaining assets or liabilities of the Partnership.
50. Upon Dissolution of the Partnership and liquidation of Partnership Property, and after payment of all selling costs and expenses, the liquidator will distribute the Partnership assets to the

following groups according to the following order of priority:

- a. in satisfaction of liabilities to creditors except Partnership obligations to current Partners;
- b. in satisfaction of Partnership debt obligations to current Partners; and then
- c. to the Partners according to the Dissolution Distribution described above.

51. The claims of each priority group will be satisfied in full before satisfying any claims of a lower priority group. Any excess of Partnership assets after liabilities or any insufficiency in Partnership assets in resolving liabilities under this section will be shared by the Partners according to the Dissolution Distribution described above.

Valuation of Interest

52. In the absence of a written agreement setting a value, the value of the Partnership will be based on the fair market value appraisal of all Partnership assets (less liabilities) determined in accordance with generally accepted accounting principles (GAAP). This appraisal will be conducted by an independent accounting firm agreed to by all Partners. An appraiser will be appointed within a reasonable period of the date of withdrawal or dissolution. The results of the appraisal will be binding on all Partners. A withdrawing Partner's interest will be based on that Partner's proportion of the Dissolution Distribution described above, less any outstanding liabilities the withdrawing Partner may have to the Partnership. The intent of this section is to ensure the survival of the Partnership despite the withdrawal of any individual Partner.
53. No allowance will be made for goodwill, trade name, patents or other intangible assets, except where those assets have been reflected on the Partnership books immediately prior to valuation.

Goodwill

54. The goodwill of the Partnership business will be assessed at an amount to be determined by appraisal using generally accepted accounting principles (GAAP).

Title to Partnership Property

55. Title to all Partnership Property will remain in the name of the Partnership. No Partner or group of Partners will have any ownership interest in such Partnership Property in whole or in part.

Voting

56. Any vote required by the Partnership will be assessed where each Partner receives one vote carrying equal weight.

Force Majeure

57. A Partner will be free of liability to the Partnership where the Partner is prevented from executing their obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Partner has communicated the circumstance of said event to any and all other Partners and taken any and all appropriate action to mitigate said event.

Duty of Loyalty

58. No Partner will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive with the business of the Partnership or that would be in direct conflict of interest to the Partnership without the unanimous written consent of the remaining Partners. Any and all businesses, ventures or transactions with any appearance of conflict of interest must be fully disclosed to all other Partners. Failure to comply with any of the terms of this clause will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.
59. A withdrawing Partner will not carry on a similar business to the business of the Partnership within any established or contemplated market regions of the Partnership for a period of at least one (1) year after the date of withdrawal.

Duty of Accountability for Private Profits

60. Each Partner must account to the Partnership for any benefit derived by that Partner without the consent of the other Partners from any transaction concerning the Partnership or any use by that Partner of the Partnership property, name or business connection. This duty continues to apply to any transactions undertaken after the Partnership has been dissolved but before the affairs of the Partnership have been completely wound up by the surviving Partner or Partners or their agent or agents.

Duty to Devote Time

61. Each Partner will devote such time and attention to the business of the Partnership as the majority of the Partners will from time to time reasonably determine for the conduct of the Partnership business.

Actions Requiring Unanimous Consent of the Partners

62. The following list of actions will require the unanimous consent of all Partners:
- a. assigning check signing authority;
 - b. committing the Partnership to new liabilities or obligations totaling over ██████ USD;
 - c. incurring single expenditures that exceed ██████ USD;
 - d. selling or encumbering of any Partnership asset whose fair market value exceeds ██████ USD;
 - e. hiring any employee whose total compensation package exceeds ██████ USD per annum;
 - f. firing of any employee except in the case of gross misconduct that exposes the Partnership to possible liability;
 - g. waiving or releasing any Partnership claim except for full consideration; and
 - h. endangering the ownership or possession of Partnership property.
63. Any losses incurred as a result of a violation of this section will be charged to and collected from the individual Partner that acted without unanimous consent and caused the loss.

Forbidden Acts

64. No Partner may do any act in contravention of this Agreement.
65. No Partner may permit, intentionally or unintentionally, the assignment of express, implied or apparent authority to a third party that is not a Partner in the Partnership.

66. No Partner may do any act that would make it impossible to carry on the ordinary business of the Partnership.
67. No Partner may confess a judgment against the Partnership.
68. No Partner will have the right or authority to bind or obligate the Partnership to any extent with regard to any matter outside the intended purpose of the Partnership.
69. Any violation of the above Forbidden Acts will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.

Indemnification

70. All Partners will be indemnified and held harmless by the Partnership from and against any and all claims of any nature, whatsoever, arising out of a Partner's participation in Partnership affairs. A Partner will not be entitled to indemnification under this section for liability arising out of gross negligence or willful misconduct of the Partner or the breach by the Partner of any provisions of this Agreement.

Liability

71. A Partner will not be liable to the Partnership, or to any other Partner, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement or the Partnership.

Liability Insurance

72. The Partnership may acquire insurance on behalf of any Partner, employee, agent or other person engaged in the business interest of the Partnership against any liability asserted against them or incurred by them while acting in good faith on behalf of the Partnership.

Life Insurance

73. The Partnership will have the right to acquire life insurance on the lives of any or all of the Partners, whenever it is deemed necessary by the Partnership. Each Partner will cooperate fully with the Partnership in obtaining any such policies of life insurance.

Amendments

74. This Agreement may not be amended in whole or in part without the unanimous written consent of all Partners.

Governing Law and Jurisdiction

75. This Agreement will be construed in accordance with and exclusively governed by the laws of The State of Texas.
76. The Partners submit to the jurisdiction of the courts of The State of Texas for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

Definitions

77. For the purpose of this Agreement, the following terms are defined as follows:
- a. "Additional Capital Contributions" means Capital Contributions, other than Initial Capital Contributions, made by Partners to the Partnership.
 - b. "Capital Contribution" means the total amount of cash or Property contributed to the Partnership by any one Partner.
 - c. "Dissociated Partner" means any Partner who is removed from the Partnership through a voluntary or involuntary withdrawal as provided in this Agreement.
 - d. "Expulsion of a Partner" can occur on application by the Partnership or another Partner, where it has been determined that the Partner:
 - i. has engaged in wrongful conduct that adversely and materially affected the Partnership's business;
 - ii. has willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or to the other Partners; or
 - iii. has engaged in conduct relating to the Partnership's business that makes it not reasonably practicable to carry on the business

with the Partner.

- e. "Initial Capital Contribution" means Capital Contributions made by any Partner to acquire an interest in the Partnership.
- f. "Operation of Law" means rights or duties that are cast upon a party by the law, without any act or agreement on the part of the individual including, but not limited to, an assignment for the benefit of creditors, a divorce, or a bankruptcy.

Miscellaneous

- 78. Time is of the essence in this Agreement.
- 79. This Agreement may be executed in counterpart.
- 80. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
- 81. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
- 82. This Agreement contains the entire agreement between the parties. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made by any party to this Agreement in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
- 83. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Partner's successors, assigns, executors, administrators, beneficiaries, and representatives.

- 84. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.
- 85. All of the rights, remedies and benefits provided by this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law.

IN WITNESS WHEREOF the Partners have duly affixed their signatures under hand and seal on this 1 day of January, 2020

MCTAYSOM PROPERTIES LLC

Per: _____

(Seal)

3077 INVESTMENTS LLC

Per: _____

(Seal)

DHAWS INVESTMENTS LP

Per: _____

(Seal)

Figures

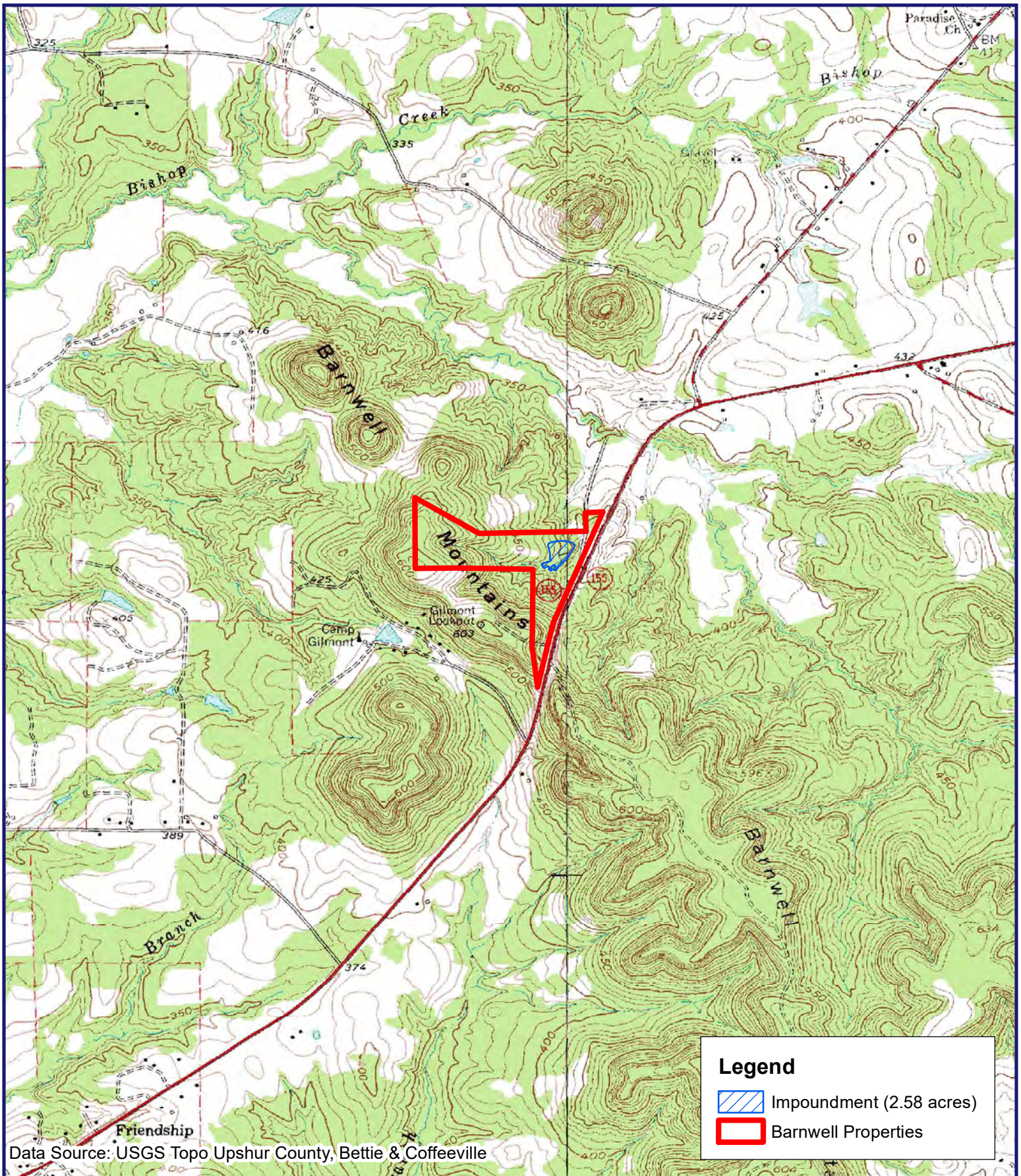
Note: Numbers on map correspond with photo log.


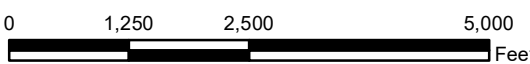



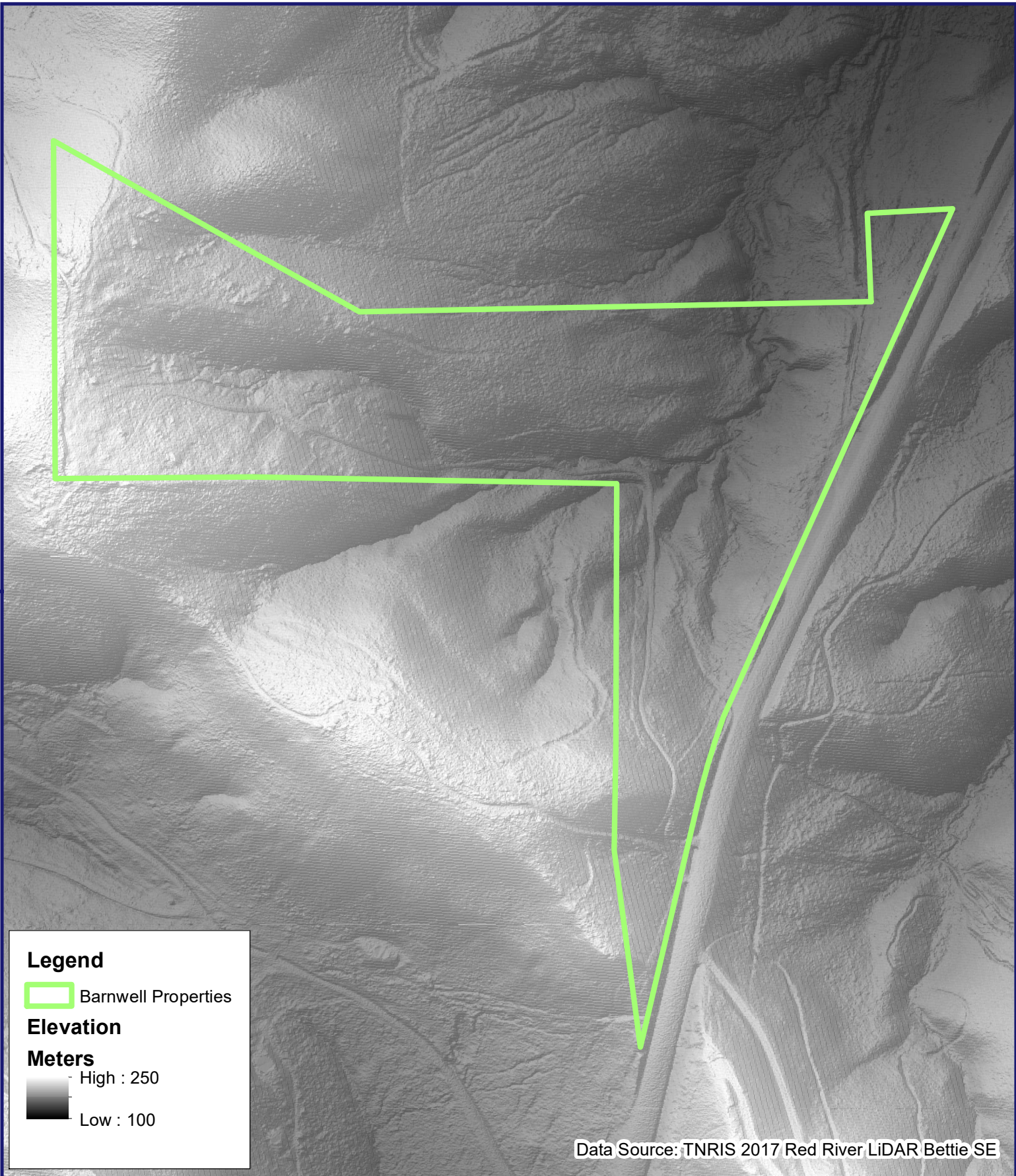
Data Source: TNRIS NAIP 2020 Bettie SE & Coffeerville SW

TITANIUM ENVIRONMENTAL SERVICES, LLC
 311 East Cotton St • Longview, Texas 75606
 Phone (903) 234-8443 • Fax (903) 234-1641
 www.titaniumenvironmental.com

CLIENT	PROJECT DESCRIPTION	FIGURE
Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Site Map
0 125 250 500 Feet		Created by: AC Williamson Date: 8/23/2021 Revised by: ACW Date: 6/3/2022




 TITANIUM ENVIRONMENTAL SERVICES, LLC 311 East Cotton St • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com	CLIENT	PROJECT DESCRIPTION	FIGURE
	Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Topographic Map
			Created by: AC Williamson Date: 8/23/2021 Revised by: AC Williamson Date: 11/22/2021




Data Source: TNRIS 2017 Red River LiDAR Bettie SE


Legend

 Barnwell Properties

Elevation

Meters

 High : 250

 Low : 100




 <p>TITANIUM ENVIRONMENTAL SERVICES, LLC</p> <p>311 East Cotton St • Longview, Texas 75606 Phone (903) 234-8443 • Fax (903) 234-1641 www.titaniumenvironmental.com</p>	CLIENT	PROJECT DESCRIPTION	FIGURE
	Dean Haws	Barnwell Mountain Cabins Gilmer, Upshur County, Texas	Lidar Map
<p>0 250 500 1,000</p>  Feet		<p>N</p> 	<p>Created by: AC Williamson Date: 8/19/2021</p> <p>Revised by: AC Williamson Date: 8/20/2021</p>

Photo Log

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 1. Viewing culverts on the north side of the impoundment on the northern part of the property from the west facing east.



Photo 2. Viewing the constructed road and dam on the north side of the impoundment on the northern part of the property from the east facing west.

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 3. Viewing the culverts on the north (downstream) side of the dam on the northern part of the property facing east.



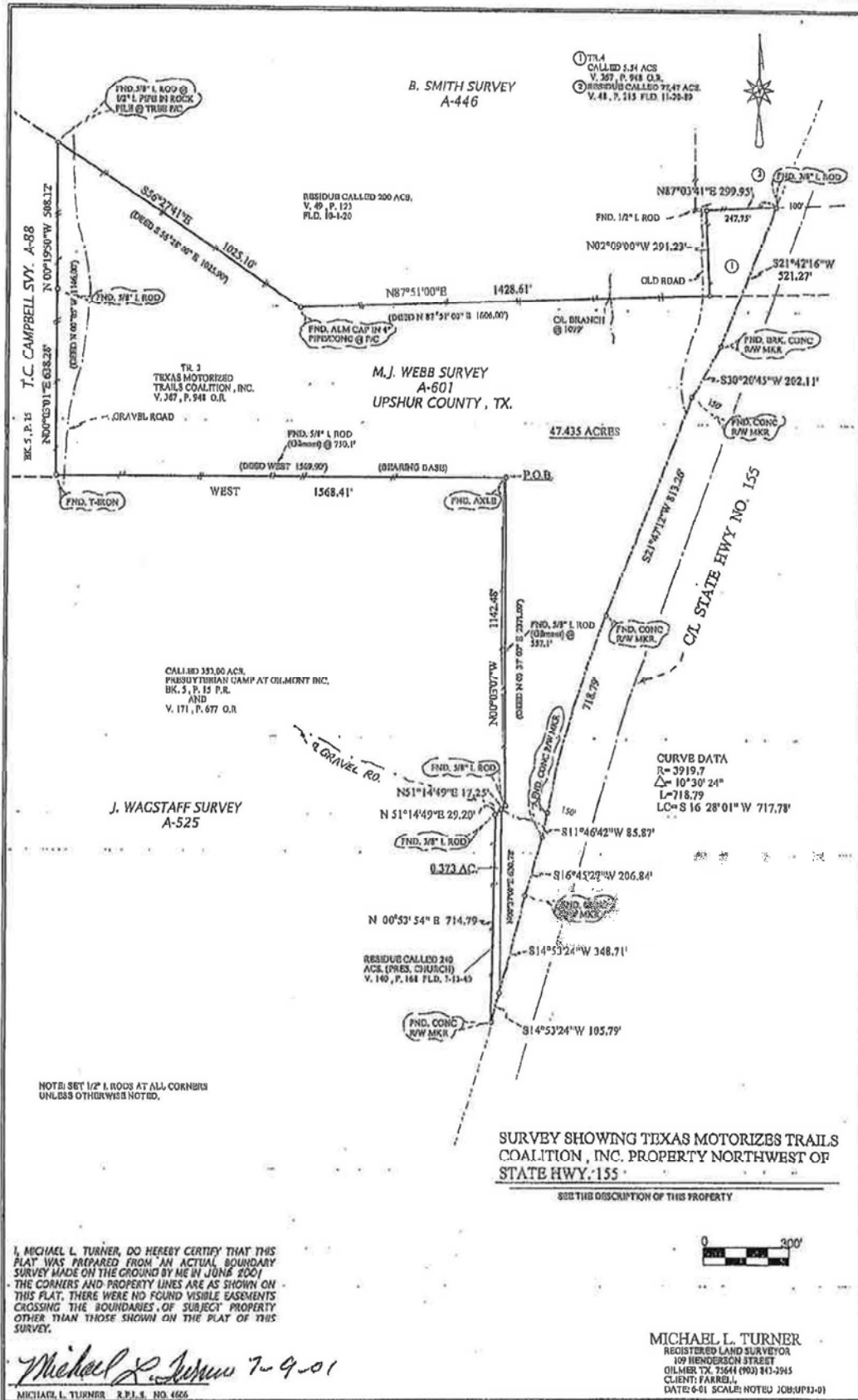
Photo 4. Viewing the stabilized dam with vegetation on the northern part of the property facing southeast.

Dean Haws Barnwell Mountain Cabins Photograph Log
August 23, 2021



Photo 5. Viewing the stabilized dam with vegetation on the northeastern part of the property facing west.

Survey and Deed





MICHAEL TURNER LAND SURVEYING, INC.

109 HENDERSON STREET
GILMER, TEXAS 75644
903-843-2965

DESCRIPTION - 47.435 ACRES
M. J. WEBB SURVEY, A - 601
B. SMITH SURVEY, A - 446
UPSHUR COUNTY, TEXAS

BEING a 47.435 acre tract of land situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being part of a called 267.15 acre tract of land described as Tr. No. 3 and part of a called 5.54 acre tract of land described as Tr. No. 4 in a deed to Texas Motorized Trails Coalition, Inc., as shown of record in Volume 367, Page 948, Official Records of said county, said 47.435 acre tract of land being more particularly described as follows;

BEGINNING at an auto axle found at an ell corner of said Tr. 3, same being a Northeast corner of a called 353 acre tract of land described in Book 5, Page 15, Plat Records, same also described as a called 240 acre tract of land in Volume 140, Page 168, Deed Records, said corner also being the Northeast corner of the J. Wagstaff Survey, Abstract No. 525 and an ell corner of said Webb Survey;

THENCE WEST (deed WEST 1569.90 feet) along the most Westerly South line of said Tr. 3 (Bearing Base) and the most Westerly South line of said Webb Survey and the North line of said 353 acre tract and the North line of said Wagstaff Survey and generally along the remains of an old down fence at 750.1 feet passing through a 5/8 inch iron rod found, continuing along same bearing and said line in all, a total distance of 1568.41 feet to a "T" iron found at the most Westerly Southwest corner of said Tr. 3, and said Webb Survey, same being an ell corner of said 353 acre tract and the Southeast corner of the T. L. Campbell Survey, Abstract No. 88;

THENCE N 00deg 03min 01sec E along an East line of said 353 acre tract and along a common occupied line between said Campbell Survey and said Webb Survey, same being an occupied West line of said Tr. 3 and generally along the remains of an old down fence, a distance of 638.28 feet to a 5/8 inch iron rod found in said line;

THENCE N 00deg 19min 50sec W continuing along said line and old down fence a distance of 508.12 feet to a 5/8 inch iron rod found near a 1/2 inch iron pipe in a small scattered rock pile found at the most Northerly corner of said Tr. 3 and said Webb Survey, same being a corner of said 353 acre tract, said corner being in the Southwest line of a called 200 acre tract of land described in Volume 49, Page 123, Deed Records, said line also being the Southwest line of the B. Smith Survey, Abstract No. 446, said corner being on the East side of a double 8 inch diameter Red Oak tree;

THENCE S 56deg 27min 41sec E (deed S56deg28min00secE 1025.90 feet) along the North line of said Tr. 3 and said Webb Survey and along the Southwest line of said Smith Survey and said 200 acre tract and generally along the remains of an old down fence, a distance of 1025.10 feet to a 4 inch iron diameter steel pipe filled with concrete at an old fence corner and in a scattered rock pile at a corner of said Tr. 4 and said Webb Survey and corner of said 200 acre tract and said Smith Survey;

THENCE N 87deg 51min 00sec E (deed N87deg51min00secE, 1606.00 feet) along a common line between said Webb Survey and said Smith Survey, same being a common line between said Tr. 3 and said 200 acre tract and generally along the remains of an old down fence, at 1079 feet passing the center of a branch, continuing along same bearing and said line in all, a total distance of 1428.61 feet to a 1/2 inch iron rod set for the Southwest corner of said Tr. 4 at Volume 367, Page 948, same being a Southeast corner of the residue of said tract at Volume 49, Page 123, Deed Records, said corner being on the East side of an old road bed, an 18 inch diameter Sweet Gum tree with wire bears S10deg58minW, a distance of 21 feet;

THENCE N 02deg 09min 00sec W along the West line of Tr. 4 and an East line of the residue of said 200 acre tract, a distance of 291.23 feet to a 1/2 inch iron rod set for the Northwest corner of said Tr. 4, said corner being in the South line of a called 77.47 acre tract of land described in Volume 48, Page 215, Official Records, a 1/2 inch iron rod found at the Southwest corner of said 77.47 acre tract bears S87deg03min41secW, a distance of 52.2 feet, a 3/8 inch iron rod found in the center of an old road bed bears S87deg03min41secW, a distance of a 33.47 feet, an old leaning cross tie fence corner post bears N02deg09min00secW, a distance of 4.6 feet;

Cont'd pg. 2

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

WARRANTY DEED WITH VENDOR'S LIEN

Date: Executed as of the dates of the acknowledgments, to be effective
May 28, 2020

Grantor: D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP

Grantor's
Mailing Address: 434 Shattles Road
Gilmer, Upshur County, Texas 75644

Grantee: BARNWELL PROPERTIES, A TEXAS GENERAL PARTNERSHIP

Grantee's
Mailing Address: 14044 Windrow Drive
Forney, Kaufman County, Texas 75126

Consideration:

TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, and a note of even date that is in the principal amount of FOUR HUNDRED ONE THOUSAND FIVE HUNDRED NINETY-EIGHT AND 75/100 DOLLARS (\$401,598.75), and is executed by Grantee, payable to the order of FIRST NATIONAL BANK OF GILMER. The note is secured by a vendor's lien retained in favor of FIRST NATIONAL BANK OF GILMER, in this Deed and by a Deed of Trust of even date from Grantee to Alesia Jones, Trustee.

Property (including improvements):

All that certain lot, tract or parcel of land being 47.435 acres of land, more or less, situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being more particularly described by metes and bounds on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

Reservations from Conveyance and Warranty: NONE

Exceptions to Conveyance and Warranty:

Liens described a part of the consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests, and water interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; all rights, obligations, and other matters arising from and existing by reason any governmental or other entity authorized to establish regulations and assess taxes and liens, including, but not limited to, the county where the property is located and water improvement districts; applicable zoning regulations; and taxes for the current year, which Grantee assumes and agrees to pay; but not subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantor assumes.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold it to Grantee, Grantee's heirs, executors, administrators, and successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns, against every person

whomsoever lawfully claiming or to claim the same or any part thereof except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

FIRST NATIONAL BANK OF GILMER, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of FIRST NATIONAL BANK OF GILMER and are transferred to FIRST NATIONAL BANK OF GILMER, without recourse against Grantor.

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

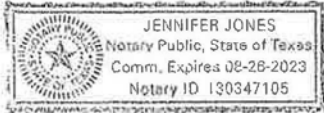
D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP

BY: DDE ENTERPRISES, LLC, A TEXAS LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

By: [Signature]
DEAN HAWS, PRESIDENT

STATE OF TEXAS §
COUNTY OF UPSHUR §

This instrument was acknowledged before me on the 29 day of May, 2020 by DEAN HAWS, PRESIDENT OF DDE ENTERPRISES, LLC, A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF D.HAWS INVESTMENTS LP, A TEXAS LIMITED PARTNERSHIP, IN THE CAPACITY THEREIN STATED AND AS THE ACT AND DEED OF SAID ENTITY.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

PREPARED IN THE LAW OFFICE OF:

Celia C. Flowers
Attorney at Law
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701

AFTER RECORDING RETURN TO:

Barnwell Properties
14044 Windrow Drive
Forney, TX 75126

EXHIBIT "A"

BEING a 47.435 acre tract of land situated in the M. J. Webb Survey, Abstract No. 601 and in the B. Smith Survey, Abstract No. 446, Upshur County, Texas, and being part of a called 267.15 acre tract of land described as Tr. No. 3 and part of a called 5.54 acre tract of land described as Tr. No. 4 in a deed to Texas Motorized Trails Coalition, Inc., as shown of record in Volume 367, Page 948, Official Records of said county, said 47.435 acre tract of land being more particularly described as follows;

BEGINNING at an auto axle found at an ell corner of said Tr. 3, same being a Northeast corner of a called 353 acre tract of land described in Book 5, Page 15, Plat Records, same also described as a called 240 acre tract of land in Volume 140, Page 168, Deed Records, said corner also being the Northeast corner of the J. Wagstaff Survey, Abstract No. 525 and an ell corner of said Webb Survey;

THENCE WEST (deed WEST 1569.90 feet) along the most Westerly South line of said Tr. 3 (Bearing Base) and the most Westerly South line of said Webb Survey and the North line of said 353 acre tract and the North line of said Wagstaff Survey and generally along the remains of an old down fence at 750.1 feet passing through a 5/8 inch iron rod found, continuing along same bearing and said line in all, a total distance of 1568.41 feet to a "T" iron found at the most Westerly Southwest corner of said Tr. 3, and said Webb Survey, same being an ell corner of said 353 acre tract and the Southeast corner of the T. L. Campbell Survey, Abstract No. 88;

THENCE N 00deg 03min 01sec E along an East line of said 353 acre tract and along a common occupied line between said Campbell Survey and said Webb Survey, same being an occupied West line of said Tr. 3 and generally along the remains of an old down fence, a distance of 638.28 feet to a 5/8 inch iron rod found in said line;

THENCE N 00deg 19min 50sec W continuing along said line and old down fence a distance of 508.12 feet to a 5/8 inch iron rod found near a 1/2 inch iron pipe in a small scattered rock pile found at the most Northerly corner of said Tr. 3 and said Webb Survey, same being a corner of said 353 acre tract, said corner being in the Southwest line of a called 200 acre tract of land described in Volume 49, Page 123, Deed Records, said line also being the Southwest line of the B. Smith Survey, Abstract No. 446, said corner being on the East side of a double 8 inch diameter Red Oak tree;

THENCE S 56deg 27min 41sec E (deed S56deg28min00secE 1025.90 feet) along the North line of said Tr. 3 and said Webb Survey and along the Southwest line of said Smith Survey and said 200 acre tract and generally along the remains of an old down fence, a distance of 1025.10 feet to a 4 inch iron diameter steel pipe filled with concrete at an old fence corner and in a scattered rock pile at a corner of said Tr. 4 and said Webb Survey and corner of said 200 acre tract and said Smith Survey;

THENCE N 87deg 51min 00sec E (deed N87deg51min00secE, 1606.00 feet) along a common line between said Webb Survey and said Smith Survey, same being a common line between said Tr. 3 and said 200 acre tract and generally along the remains of an old down fence, at 1079 feet passing the center of a branch, continuing along same bearing and said line in all, a total distance of 1428.61 feet to a 1/2 inch iron rod set for the Southwest corner of said Tr. 4 at Volume 367, Page 948, same being a Southeast corner of the residue of said tract at Volume 49, Page 123, Deed Records, said corner being on the East side of an old road bed, an 18 inch diameter Sweet Gum tree with wire bears S10deg58minW, a distance of 21 feet;

THENCE N 02deg 09min 00sec W along the West line of Tr. 4 and an East line of the residue of said 200 acre tract, a distance of 291.23 feet to a 1/2 inch iron rod set for the Northwest corner of said Tr. 4, said corner being in the South line of a called 77.47 acre tract of land described in Volume 48, Page 215, Official Records, a 1/2 inch iron rod found at the Southwest corner of said 77.47 acre tract bears S87deg03min41secW, a distance of 52.2 feet, a 3/8 inch iron rod found in the center of an old road bed bears S87deg03min41secW, a distance of 33.47 feet, an old leaning cross tie fence corner post bears N02deg09min00secW, a distance of 4.6 feet;

THENCE N 87deg 03min 41sec E (deed N87deg51minE) along the North line of said Tr. 4 and the South line of said 77.49 acre tract and generally along an old fence a distance of 247.75 feet to a 3/8 inch iron rod found at the end of a fence in the West right of way line of State Highway No. 155;

THENCE in a Southwesterly direction along the West right of way line of said highway as follows;

S 21deg 42min 16sec W a distance of 521.27 feet to a broken concrete right of way marker;
 S 30deg 20min 45sec W a distance of 202.11 feet to a concrete right of way marker;
 S 21deg 47min 12sec W a distance of 813.26 feet to a concrete right of way marker;

THENCE continuing along said right of way line, same being along a curve to the left, said curve having a central angle of 10deg30min24sec, a radius of 3919.7 feet, a long chord bearing of S16deg28min01secW a long chord distance of 717.78 feet along the arc of said curve, a distance of 718.79 feet to a concrete right of way marker;

THENCE continuing along said right of way line as follows;

S 11deg 46min 42sec W a distance of 85.87 feet to a concrete right of way marker;
 S 16deg 45min 27sec W a distance of 206.84 feet to a concrete right of way marker;
 S 14deg 53min 24sec W a distance of 348.71 feet to a 1/2 Inch Iron rod set for a corner in a West line of said Tr. 3, same being the East line of a called 240 acre tract of land described in Volume 140, Page 168, Deed Records, a concrete right of way marker found bears S14deg53min24secW, a distance of 105.79 feet;

THENCE N 00deg 37min 00sec E along said line, same being the West line of said Webb Survey and same being the East line of the J. Wagstaff Survey, Abstract No. 525, a distance of 630.78 feet to a 1/2 Inch Iron rod set for a corner in a Southeast line of previously mentioned 353 acre tract as described in Book 5, Page 15, Plat Records, said corner being in a gravel road, a 5/8 inch iron rod found at the end of a fence bears S51deg14min49secW, a distance of 29.20 feet;

THENCE N 51deg 14min 49sec E along said Southeast line a distance of 17.25 feet to a 5/8 Inch Iron rod found at a corner in the East line of said 353 acre tract, said corner being on the Southwest side of a fence corner;

THENCE N 00deg 03min 07sec W along the East line of said 353 acre tract and generally along the remains of an old down fence at 557.1 feet passing through a 5/8 inch Iron rod found, continuing along same bearing and said East line in all, a total distance of 1142.48 feet to the Point of Beginning and containing 47.435 acres of land of which approximately 1.2 acre of land lies in said Smith Survey and approximately 46.235 acres of land lie in said Webb Survey.

**ELECTRONICALLY RECORDED
OFFICIAL PUBLIC RECORDS**

202005935

Pages: 5 Fee: \$38.00
08/18/2020 10:33 AM

Terri Ross, County Clerk
Upshur County, Texas

Dam Information

Texas Commission on Environmental Quality

INFORMATION SHEET: EXISTING DAM

(PLEASE PRINT OR TYPE)

Reference 30 Texas Administrative Code, Chapter 299, Dams and Reservoirs

SECTION 1: OWNER INFORMATION

Owner's Name Dean Haws Title Owner/Partner
Organization Barnwell Properties
X Dean Haws (Signature of Owner) 3/16/22 (Date)

Owner's Address 318 Hwy 271N
City Gilmer State Texas Zip Code 75644
Phone Number (903) 790-7116 Emergency Contact Phone (903) 790-7116
Fax Number () _____ E-mail _____
Owner Code (Please check one): Federal (F) Local Government (L) Utility (U) Private (P) State (S)
 Other (O) please specify: Limited Partnership

Year Built 2021 Year Modified N/A
Dam and Reservoir Use (Please check one): Augmentation Diversion Domestic Erosion Control
 Evaporation Flood Control Fire Control Fish Hydroelectric Industrial Irrigation Mining
 Municipal Pollution Control Recreation Stock Water Settling Ponds Tailings Waste Disposal
 Other, please specify: _____
Engineering Firm N/A
Project Engineer _____ Texas P.E. License Number _____
Engineering Firm Address _____
City _____ State _____ Zip Code _____
Phone () _____ Fax () _____
E-mail _____

SECTION 2: GENERAL INFORMATION

Name of Dam None
Other Name(s) of Dam None
Reservoir Name None
Location Gilmer Latitude 32.806350 Longitude -94.875421
County Upshur Stream Name None
River Basin Cypress Creek Topographic Map No. Bettie and Coffeeville
Distance & Direction from Nearest City or Town 6.5 miles Northeast of Gilmer
Last Inspection Date 8/23/2021 Inspected by (name of company or agency) TES
TX Number N/A Water Rights Number N/A
Date of Emergency Action Plan (EAP), if one exists _____
Describe the current operating condition of dam Good operational condition

If you have questions on how to fill out this form or about the Dam Safety Program, please contact us at 512-239-5195. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.

TCEQ-20344 (1/07)

SECTION 3: INFORMATION ON DAM

Classification

Size Classification: Large Medium Small
Hazard Classification: High Significant Low
Number of People at Risk 0 Study Year 2022

Type of Dam: Concrete Gravity Earthfill Rockfill Masonry Other (specify) _____

Dam Structure (dimensions to nearest tenth of foot, volume to nearest acre-foot or cubic yard, areas to nearest acre):

Spillway Height N/A ft (natural surface of ground to bottom of emergency spillway at longitudinal centerline)
Embankment Height 15 ft (natural surface of ground to crest of dam at centerline)
Structural Height N/A ft (bottom of cutoff trench to crest of dam at centerline)
Length of Dam 577 ft Crest Width 25 ft
Normal Pool Elevation 430 ft-MSL Principal Spillway Elevation 430 ft-MSL
Emergency Spillway Elevation 430 ft-MSL Top of Dam Elevation 435 ft-MSL
Embankment Volume 8013.9 cu yd
Maximum Impoundment Capacity 45.6 ac-ft (at top of dam)
Normal Reservoir Capacity 19.5 ac-ft (at normal or conservation pool)
Reservoir Surface Area _____ acres (at normal or conservation pool)

Outlet

Outlet Diameter: 2 in [x] ft (check one)
Type: CMP

Principal Spillway

Type: Natural Riprap Concrete CMP RCP Other
Width (Diam.): 2x2 ft Capacity: 22 cfs

Emergency Spillway

Type: Natural Riprap Concrete CMP RCP Other
Width (Diam.): N/A ft Capacity: _____ cfs
Total Spillway Capacity: _____ cfs (crest of the dam)

SECTION 4: HYDROLOGIC INFORMATION

Required Hydrologic Criteria (% PMF) N/A % PMF Passing _____
PMF Study Year _____
Drainage Area: _____ acres, or _____ sq mi
Curve Number (AMC III condition) _____
Time of Concentration _____ hr
Peak Discharge _____ cfs
Peak Stage _____ ft-MSL
Storm Duration Causing Peak Stage _____ hr

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, Applicant 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) 239-4600 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N Y (If yes, date : 5/20/2022).

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

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

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

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

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

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

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

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

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

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

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

Water Right (Certificate or Permit) number you are requesting to amend: _____

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

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

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

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

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

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

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

If yes, submit:

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

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

If yes, submit:

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

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

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

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

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

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

The Barnwell Mountain Cabins property is located within the Region D Planning Group.

The Application is consistent with the 2022 State Water Plan and 2021 Regional Water Plan.

The project utilizes the Cypress River Basin as its water source water to replace usage of state waters and ensure downstream flow is not impeded or reduced.

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

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

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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

Quantity (acre-foot) <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>
20.9	Cypress River Basin	Aesthetic pond at cabin/RV property.	Aesthetic use in basin.

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

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

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

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

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

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

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

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

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

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

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

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

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

WORKSHEET 1.2 NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

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

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.
- 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: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 24.5.
- c. The impoundment is on-channel x or off-channel _____ (mark one)
 - i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? **Y** / **N** Y
 - ii. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? **Y** / **N** Y
- d. Is the impoundment structure already constructed? **Y** / **N** Y
 - i. For already constructed **on-channel** structures:
 1. Date of Construction: November 2020
 2. Was it constructed to be an exempt structure under TWC § 11.142? **Y** / **N** 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** Y
 3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? **Y** / **N** N
 - a. If yes, provide the Site No. _____ and watershed project name _____;
 - b. Authorization to close "ports" in the service spillway requested? **Y** / **N** 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** Y
 - b. Plans (with engineer's seal) for the structure required. **Y** / **N** N
 - c. Engineer's signed and sealed hazard classification required. **Y** / **N** N
 - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. **Y** / **N** 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**N

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

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level: 2.58.
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**N
If yes, the drainage area is _____ sq. miles.
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): Unnamed tributary of an unnamed tributary of Bishop Creek
- b. Zip Code: 75644
- c. In the M.J. Webb and B. Smith Original Survey No. A-601 and A-446, Abstract No. A-601 and A-446,
Upshur 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 32.806350 °N, Longitude -94.875421 °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 Earth Pro within handheld GPS boundary of impoundment
- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. **Y / N**Y

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

*** 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
	Directly from stream	
✓	From an on-channel reservoir	Existing
	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. **Y / N**

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

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Unnamed tributary of an unnamed tributary of Bishop Creek
- b. Zip Code: 75644
- c. Location of point: In the M.J. Webb Original Survey No. A-601, Abstract No. A-601, Upshur 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 32.806303 °N, Longitude -94.875436 °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 Earth Pro within handheld GPS boundary of impoundment
- 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 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

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 29.**

Aesthetic impoundment use only, no discharge. Pond capacity will be maintained with surface supply from the Cypress River Basin.

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: 9

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
 - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

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

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

- a. For all bed and banks applications:
 - i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.
- b. For all alternate source applications:

- i. If the alternate source is treated return flows, provide the TPDES permit number_____

- ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:

Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

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

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

- iii. If groundwater will be used, provide the depth of the well_____and the name of the aquifer from which water is withdrawn_____.

WORKSHEET 6.0

Water Conservation/Drought Contingency Plans

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

Instructions, Page 31.

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

1. Water Conservation Plans

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

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

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

1. ____Municipal Use. See 30 TAC § 288.2. **
2. ____Industrial or Mining Use. See 30 TAC § 288.3.
3. ____Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. ____Wholesale Water Suppliers. See 30 TAC § 288.5. **

**If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N____

c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed

appropriation; and evaluates any other feasible alternative to new water development.
See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? Y / N____

2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
1. ____Municipal Uses by public water suppliers. See 30 TAC § 288.20.
 2. ____Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
 3. ____Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc.* See 30 TAC § 288.30) Y / N____

WORKSHEET 7.0

ACCOUNTING PLAN INFORMATION WORKSHEET

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

1. Is Accounting Plan Required

Accounting Plans are generally required:

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

2. Accounting Plan Requirements

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

WORKSHEET 8.0 CALCULATION OF FEES

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

1. NEW APPROPRIATION

	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u> a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00	\$100.00
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x <u>20.9</u> Maximum annual diversion of State Water in acre-feet. **	\$20.90
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x <u>20.9</u> acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	\$20.90
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600.	\$66.74
TOTAL		\$ 233.54

2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
Filing Fee	Amendment: \$100 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		\$

3. BED AND BANKS

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