

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

### APPLICATION NO. 13920

Baros Family Investments (Applicant) has applied for authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Baros Family Investments, 1314 E. Sonterra Blvd., Ste. 401, San Antonio, Texas 78258, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code § 11.042, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1 *et seq.* Notice is being mailed to interjacent water right holders of record in the Lavaca River Basin pursuant to Title 30 TAC § 295.161(b), and to the Texas Parks and Wildlife Department and the Public Interest Counsel pursuant to Title 30 TAC § 295.161(c).

Baros Family Investments seeks authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County.

The proposed discharge and diversion points are located on Kuehn's Creek at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County, ZIP Code 77975.

The Applicant indicates groundwater will be discharged at a maximum discharge rate of 4.456 cfs (2,000 gpm) and diverted at a maximum diversion rate of 4.456 cfs (2,000 gpm).

The application and partial fees were received on May 19, 2023. Additional information was received on June 13, 2023 and June 21, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 28, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions, including, but not limited to, the installation of measurement devices. 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](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by August 05, 2024. A public meeting is intended for the taking of

public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 05, 2024. The Executive Director may approve the application unless a written request for a contested case hearing is filed by August 05, 2024.

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

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

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13920 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](http://www.tceq.texas.gov). Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: July 02, 2024

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## WATER USE PERMIT

PERMIT NO. 13920

TYPE § 11.042

Permittee:	Baros Family Investments	Address:	1314 E. Sonterra Blvd., Ste. 401 San Antonio, Texas 78258
Filed:	June 28, 2023	Granted:	
Purpose:	Mining	County:	Lavaca
Watercourse:	Kuehns Creek, tributary of the West Prong Lavaca River	Watershed:	Lavaca River Basin

WHEREAS, Baros Family Investments (Applicant/Permittee) seeks authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County; and

WHEREAS, the proposed discharge point and diversion points are located on the perimeter of the reservoir identified by a point on the centerline of the dam being Latitude 29.545163°N, Longitude 97.168417°W; and

WHEREAS, the Applicant indicates groundwater will be discharged at a maximum discharge rate of 4.456 cfs (2,000 gpm) and diverted at a maximum diversion rate of 4.456 cfs (2,000 gpm); and

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

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

WHEREAS, the Executive Director recommends that special conditions be included in 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. 13920, is issued to Baros Family Investments subject to the following terms and conditions:

1. USE

Permittee is authorized to use the bed and banks of Kuehns Creek to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County.

2. DISCHARGE POINT

- A. Permittee will discharge groundwater into Kuehns Creek at a point located at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County.
- B. Maximum discharge rate: 4.456 cfs (2,000 gpm).

3. DIVERSION POINT

- A. Permittee will divert groundwater from Kuehns Creek at a point located at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County.
- B. Maximum diversion rate: 4.456 cfs (2,000 gpm).

4. PRIORITY

The groundwater authorized to be conveyed via the bed and banks of a State watercourse in this permit does not have a priority date and is not subject to priority calls from senior water rights.

5. SPECIAL CONDITIONS

- A. Permittee is not authorized to divert state water and shall only divert groundwater that has been discharged into Kuehns Creek.
- B. Prior to diversion of the groundwater authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain measuring device(s), at the discharge point of the groundwater and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
- C. Permittee shall maintain daily records of the amount of groundwater discharged and subsequently diverted and provide those records to the South Texas Watermaster when requested.
- D. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- E. Permittee shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- F. Permittee shall contact the South Texas Watermaster prior to diversion of water authorized by this permit.

This permit is issued subject to all superior water rights in the Lavaca River Basin.

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

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

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

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For the Commission

Date Issued:

DRAFT

## Natalia Ponebshek

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**From:** [REDACTED]  
**Sent:** Monday, June 24, 2024 4:08 PM  
**To:** Natalia Ponebshek  
**Cc:** Chris Kozlowski; Humberto Galvan  
**Subject:** Re: Baros Family Investments App No. 13920 Draft Permit

"no comment"

David L. Baros, CPA  
Baros and Company, PC  
Certified Public Accountants  
1314 East Sonterra Blvd., Suite 401  
San Antonio, Texas 78258  
210.366.9444  
210.340.9081 (fax)

On Monday, June 24, 2024 at 03:58:25 PM CDT, Natalia Ponebshek <natalia.ponebshek@tceq.texas.gov> wrote:

If you approve as is, please provide a "no comment" response.

Thank you,

Natalia Ponebshek, Project Manager

Water Rights Permitting Team

Water Rights Permitting and Availability Section

(512) 239-4641

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**From:** baroscpa@aol.com [REDACTED]  
**Sent:** Monday, June 24, 2024 3:43 PM  
**To:** Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov>  
**Cc:** Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** Re: Baros Family Investments App No. 13920 Draft Permit

Natalia,

I am assuming no response is needed if I approve "as is"?

David L. Baros, CPA  
Baros and Company, PC  
Certified Public Accountants  
1314 East Sonterra Blvd., Suite 401  
San Antonio, Texas 78258  
210.366.9444  
210.340.9081 (fax)

On Monday, June 24, 2024 at 03:36:04 PM CDT, Natalia Ponebshek <[natalia.ponebshek@tceq.texas.gov](mailto:natalia.ponebshek@tceq.texas.gov)> wrote:

Good afternoon,

Please review the draft permit and notice for Baros Family Investments App No. 13920 and provide a response by July 8, 2024. Please let me know if you have any questions.

Thank you,

Natalia Ponebshek, Project Manager

Water Rights Permitting Team

Water Rights Permitting and Availability Section

(512) 239-4641

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 24, 2024

Mr. David Baros  
Baros Family Investments  
1314 E. Sonterra Blvd. Ste. 401  
San Antonio, Texas 78258

VIA E-MAIL

RE: Baros Family Investments  
WRPERM 13920  
CN605949718, RN111742482  
Application No. 13920 For a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Kuehns Creek, Lavaca River Basin  
Lavaca County

Dear Mr. Baros:

Drafts, subject to revision, of the public notice, proposed Water Use Permit No. 13920, 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 July 8, 2024 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note, this application requires a 15-day comment period, and once the comment period has closed, the proposed Water Use Permit No. 13920 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 [natalia.ponebshek@tceq.texas.gov](mailto:natalia.ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, 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. 13920

Baros Family Investments (Applicant) has applied for authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Baros Family Investments, 1314 E. Sonterra Blvd., Ste. 401, San Antonio, Texas 78258, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code § 11.042, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1 *et seq.* Notice is being mailed to interjacent water right holders of record in the Lavaca River Basin pursuant to Title 30 TAC § 295.161(b), and to the Texas Parks and Wildlife Department and the Public Interest Counsel pursuant to Title 30 TAC § 295.161(c).

Baros Family Investments seeks authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County.

The proposed discharge and diversion points are located on Kuehn's Creek at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County, ZIP Code 77975.

The Applicant indicates groundwater will be discharged at a maximum discharge rate of 4.456 cfs (2,000 gpm) and diverted at a maximum diversion rate of 4.456 cfs (2,000 gpm).

The application and partial fees were received on May 19, 2023. Additional information was received on June 13, 2023 and June 21, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 28, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions, including, but not limited to, the installation of measurement devices. 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](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by \_\_\_\_\_. 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 13920 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](http://www.tceq.texas.gov). Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## WATER USE PERMIT

PERMIT NO. 13920

TYPE § 11.042

Permittee:	Baros Family Investments	Address:	1314 E. Sonterra Blvd., Ste. 401 San Antonio, Texas 78258
Filed:	June 28, 2023	Granted:	
Purpose:	Mining	County:	Lavaca
Watercourse:	Kuehns Creek, tributary of the West Prong Lavaca River	Watershed:	Lavaca River Basin

WHEREAS, Baros Family Investments (Applicant/Permittee) seeks authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County; and

WHEREAS, the proposed discharge point and diversion points are located on the perimeter of the reservoir identified by a point on the centerline of the dam being Latitude 29.545163°N, Longitude 97.168417°W; and

WHEREAS, the Applicant indicates groundwater will be discharged at a maximum discharge rate of 4.456 cfs (2,000 gpm) and diverted at a maximum diversion rate of 4.456 cfs (2,000 gpm); and

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

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

WHEREAS, the Executive Director recommends that special conditions be included in 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. 13920, is issued to Baros Family Investments subject to the following terms and conditions:

1. USE

Permittee is authorized to use the bed and banks of Kuehns Creek to convey not to exceed 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer for subsequent diversion for mining purposes in Lavaca County.

2. DISCHARGE POINT

- A. Permittee will discharge groundwater into Kuehns Creek at a point located at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County.
- B. Maximum discharge rate: 4.456 cfs (2,000 gpm).

3. DIVERSION POINT

- A. Permittee will divert groundwater from Kuehns Creek at a point located at Latitude 29.545163°N, Longitude 97.168417°W in Lavaca County.
- B. Maximum diversion rate: 4.456 cfs (2,000 gpm).

4. PRIORITY

The groundwater authorized to be conveyed via the bed and banks of a State watercourse in this permit does not have a priority date and is not subject to priority calls from senior water rights.

5. SPECIAL CONDITIONS

- A. Permittee is not authorized to divert state water and shall only divert groundwater that has been discharged into Kuehns Creek.
- B. Prior to diversion of the groundwater authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain measuring device(s), at the discharge point of the groundwater and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
- C. Permittee shall maintain daily records of the amount of groundwater discharged and subsequently diverted and provide those records to the South Texas Watermaster when requested.
- D. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).
- E. Permittee shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- F. Permittee shall contact the South Texas Watermaster prior to diversion of water authorized by this permit.

This permit is issued subject to all superior water rights in the Lavaca River Basin.

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

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

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

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For the Commission

Date Issued:

DRAFT

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Jenna Rollins, Project Manager  
Water Rights Permitting Team

**Date:** April 10, 2024

**Through:** Leslie Patterson, Team Leader   
Resource Protection Team

**From:** Kristin Wang, Senior Water Conservation Specialist  
Resource Protection Team

**Subject:** Baros Family Investments  
WRPERM 13920  
CN605949718  
Kuehns Creek, Lavaca River Basin  
Lavaca County

### APPLICATION SUMMARY

Baros Family Investments (Applicant) requests authorization to use the bed and banks of Kuehns Creek, Lavaca River Basin to convey 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer, discharged at a maximum rate of 4.456 cfs (2,000 gpm), for subsequent diversion at a maximum rate of 4.456 cfs (2,000 gpm), for mining purposes in Lavaca County.

### WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code §295.9, a water conservation plan is not required to be submitted for this application.

The application is consistent with the 2021 Region P 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.



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Kristin Wang, Senior Water Conservation Specialist

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

To: Jenna Rollins, Project Manager  
Water Rights Permitting Team

Date: April 10, 2024

Through: Leslie Patterson, Team Leader   
Resource Protection Team

From: Nathalie Montes, Aquatic Scientist  
Resource Protection Team

Subject: Baros Family Investments  
WRPERM 13920  
CN605949718  
Kuehns Creek, Lavaca River Basin  
Lavaca 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

Baros Family Investments (Applicant) requests authorization to use the bed and banks of Kuehns Creek, Lavaca River Basin to convey 410 acre-feet of groundwater per year from the Yegua-Jackson aquifer, discharged at a maximum rate of 4.456 cfs (2,000 gpm), for subsequent diversion at a maximum rate of 4.456 cfs (2,000 gpm), for mining purposes in Lavaca County.

### ENVIRONMENTAL ANALYSIS

**Aquatic and Riparian Habitats:** Kuehns Creek is an intermittent stream with perennial pools, situated in the Southern Blackland/Fayette Prairie ecoregion (Griffith *et al.* 2007).

The checklist for the Lavaca River Basin identified 57 species of ichthyofauna occurring within the Lavaca hydrologic unit (United States Geologic Survey code 12100101) (Hendrickson and Cohen 2015). This permit is not expected to have an effect on any federally listed or high interest aquatic or aquatic-dependent species.

The Applicant has agreed to install screens on any new diversion structure(s) in order to minimize entrainment and impingement of aquatic organisms.

On August 8, 2012, the TCEQ adopted environmental flow standards for the Colorado and Lavaca Rivers, and Matagorda and Lavaca Bays (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter D). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC §298.310). The Applicant does not request a new appropriation of water or an amendment that increases the amount of water stored, taken, or diverted; therefore, the environmental flow standards do not apply. The Applicant's request to use the bed and banks of Kuehns Creek to convey 410 acre-feet of groundwater for subsequent diversion for mining proposes is not expected to adversely impact aquatic and riparian habitats in the area.

**Recreational Uses:** Kuehns Creek has a presumed primary contact recreation 1, use (TCEQ 2022). The Applicant's request should not adversely impact recreational uses.

**Water Quality:** Kuehns Creek has a presumed limited aquatic life use (TCEQ 2022). The Applicant's request should not adversely impact water quality.

The Applicant requests to discharge groundwater from one well in the Yegua-Jackson aquifer into an existing reservoir for subsequent diversion. Resource Protection staff have reviewed the Applicant's groundwater quality information, and the groundwater to be used is of sufficient quality that it should not adversely impact water quality.

**Freshwater Inflows:** Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The application does not request a new appropriation of water. Therefore, the Applicant's request should not have any impact to the Lavaca or Matagorda bays.

## **RECOMMENDATIONS**

Resource Protection staff recommend the following Special Conditions be included in the proposed permit, if granted:

1. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any new diversion structure(s).

## **LITERATURE CITED**

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

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [cited 2023 August 8]; Version 2.0. Available from <http://doi.org/10.17603/C3WC70>.

TCEQ. 2022. Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2015. Texas Parks and Wildlife Department, Wildlife Division, Diversity and Habitat Programs. TPWD County Lists of Protected Species and Species of Greatest Conservation Need [Internet]. Austin (TX): Lavaca County, revised January 4, 2023. [2023 August 8]. Available from <http://tpwd.texas.gov/gis/rtest/>.

*Nathalie Montes*  
\_\_\_\_\_  
Nathalie Montes, Aquatic Scientist

**Texas Commission on Environmental Quality**

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INTEROFFICE MEMORANDUM

To: Jenna Rollins, Project Manager  
Water Rights Permitting Team

Date: April 10, 2024

Through: ~~X~~ Kathy Alexander, Ph.D., Policy and Technical Analyst  
Water Availability Division

TA Trent Gay, Team Leader  
Surface Water Availability Team

From: Andrew Maria, Hydrologist  
Surface Water Availability Team

Subject: Baros Family Investments  
WRPERM 13920  
CN605949718  
Kuehns Creek, Lavaca River Basin  
Lavaca County

**HYDROLOGY REVIEW**

**Application Summary**

Baros Family Investments (Applicant) requests authorization to use the bed and banks of Kuehns Creek, Lavaca River Basin to convey 410 acre-feet of groundwater per year from the Yegua-Jackson Aquifer, discharged at a maximum rate of 4.456 cfs (2,000 gpm), for subsequent diversion at a maximum rate of 4.456 cfs (2,000 gpm), for mining purposes in Lavaca County.

The application was declared administratively complete on June 28, 2023.

**Hydrology Review**

Resource Protection staff did not recommend instream flow requirements for this application; however, they did recommend a special condition. See Resource Protection staff's April 10, 2024 memorandum.

The application does not request a new appropriation of water; therefore, a water availability analysis is not necessary. However, the application must be reviewed to ensure no water rights are affected by the request.

Regarding the request to use the bed and banks of Kuehns Creek to convey groundwater, the application included the information required in 30 Texas Administrative Code (TAC) §295.113. Staff's opinion is that if the Applicant diverts only discharged groundwater, as set out in staff's recommended special conditions, no water rights should be affected by the request.

In addition, the application is subject to the requirements of the South Texas Watermaster. The Watermaster actively manages water rights on a daily basis and protects senior water rights in times of shortage.

### **Conclusion**

Hydrology staff can support granting the application as requested provided that any permit granted includes the following special conditions:

1. Permittee is not authorized to divert state water and shall only divert groundwater that has been discharged into Kuehns Creek.
2. Prior to diversion of the groundwater authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain measuring device(s), at the discharge point of the groundwater and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
3. Permittee shall maintain daily records of the amount of groundwater discharged and subsequently diverted, and provide those records to the South Texas Watermaster when requested.

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

*Andrew Maria*

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Andrew Maria, Hydrologist

## Jenna Rollins

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**From:** [REDACTED]  
**To:** Jenna Rollins  
**Subject:** Re: Temporary Permit 13819 Expiration

Thank you

David L. Baros, CPA  
Baros and Company, PC  
Certified Public Accountants  
1314 East Sonterra Blvd., Suite 401  
San Antonio, Texas 78258  
210.366.9444  
210.340.9081 (fax)

On Wednesday, February 21, 2024 at 10:59:32 AM CST, Jenna Rollins <jenna.rollins@tceq.texas.gov> wrote:

Good morning Mr. Baros,

The Baros Family Investments application No. 13920 is currently in tech review and is being reviewed by our technical staff. Once technical review is completed I will prepare a draft permit and send it to you for review.

Best regards,

Jenna Rollins, Project Manager

Water Rights Permitting Team

Water Rights Permitting and Availability Section

512-239-1845

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**From:** baroscpa@aol.com [REDACTED]  
**Sent:** Tuesday, February 20, 2024 10:55 AM  
**To:** Jenna Rollins <Jenna.Rollins@tceq.texas.gov>  
**Subject:** Fw: Temporary Permit 13819 Expiration

What is status of the permanent permit application?

[Sent from the all new AOL app for iOS](#)

Begin forwarded message:

On Tuesday, February 20, 2024, 8:28 AM, Claire Weirich <[Claire.Weirich@tceq.texas.gov](mailto:Claire.Weirich@tceq.texas.gov)> wrote:

Good morning Mr. David,

The status of your perpetual permit is in tech review. If you have any questions of the permit please contact Ms. Jenna Rollins, she'll be able to answer your questions:

Office of Water

Water Availability Division

Water Rights Permitting Team

[Jenna.Rollins@tceq.texas.gov](mailto:Jenna.Rollins@tceq.texas.gov)

512-239-1845

Sincerely Claire

---

**From:** [REDACTED]  
**Sent:** Monday, February 19, 2024 7:59 AM  
**To:** Claire Weirich <[Claire.Weirich@tceq.texas.gov](mailto:Claire.Weirich@tceq.texas.gov)>  
**Subject:** Re: Temporary Permit 13819 Expiration

Claire,

Can you provide the status of the perpetual /permanent permit application?

David L. Baros, CPA  
Baros and Company, PC  
Certified Public Accountants

1314 East Sonterra Blvd., Suite 401  
San Antonio, Texas 78258  
210.366.9444  
210.340.9081 (fax)

On Friday, February 16, 2024 at 08:12:23 AM CST, Claire Weirich <[claire.weirich@tceq.texas.gov](mailto:claire.weirich@tceq.texas.gov)> wrote:

Good morning Keaton,

This is a reminder that the temporary permit has expired today. Please let me know if you have any questions and have a good day,

Claire Weirich

TCEQ-Watermaster Specialist

210-542-6528

[claire.weirich@tceq.texas.gov](mailto:claire.weirich@tceq.texas.gov)



# TCEQ Interoffice Memorandum

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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: June 28, 2023

SUBJECT: Baros Family Investments  
WRPERM 13920  
CN605949718, RN111742482  
Application No. 13920 For a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Kuehns Creek, Lavaca River Basin  
Lavaca County

The application and fees were received on May 19, 2023. Additional information was received on June 13, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 28, 2023. Mailed notice to the interjacent water right holders of record in the Lavaca River Basin is required pursuant to Title 30 Texas Administrative Code § 295.161(b), and mailed notice to the Texas Parks and Wildlife Department and the Public Interest Council is required pursuant to Title 30 Texas Administrative Code § 295.161(c).

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*  
Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 28, 2023

Mr. David Baros  
Baros Family Investments  
1314 E. Sonterra Blvd. Ste. 401  
San Antonio, Texas 78258

VIA E-MAIL

RE: Baros Family Investments  
WRPERM 13920  
CN605949718, RN111742482  
Application No. 13920 For a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Kuehns Creek, Lavaca River Basin  
Lavaca County

Dear Mr. Baros:

This acknowledges receipt, on June 13, 2023, of additional information.

The application was declared administratively complete and filed with the Office of the Chief Clerk on June 28, 2023. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning the application, please contact me via email at [jenna.rollins@tceq.texas.gov](mailto: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

## Jenna Rollins

---

**From:** [REDACTED]  
**Sent:** Tuesday, June 13, 2023 4:41 PM  
**To:** Jenna Rollins  
**Subject:** Re: Baros Family Investments, Application No. 13920

Jenna,

In response to your additional questions:

- 1) Yes the reservoir was originally constructed for domestic and livestock purposes.
  
- 2) Yes we are requesting authorization to use the bed and banks of the Kuehns Creek to convey groundwater for subsequent diversion and use for mining purposes,
  
- 3) Yes the total amount of Groundwater to be conveyed is 410 - acre feet per year, including losses from evaporation.

Please let me know if any additional information is needed,

David Baros

[Sent from the all new AOL app for iOS](#)

On Tuesday, June 13, 2023, 3:58 PM, Jenna Rollins <Jenna.Rollins@tceq.texas.gov> wrote:

Dear Mr. Baros,

Please review the attached request for information letter for Baros Family Investments, application No. 13920, and provide a response by July 13, 2023.

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 E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 13, 2023

Mr. David Baros  
Baros Family Investments  
1314 E. Sonterra Blvd. Ste. 401  
San Antonio, Texas 78258

VIA E-MAIL

RE: Baros Family Investments  
WRPERM 13920  
CN605949718, RN111742482  
Application No. 13920 For a Water Use Permit  
Texas Water Code §§ 11.042, 11.121, Requiring Mailed and Published Notice  
Kuehns Creek, Lavaca River Basin  
Lavaca County

Dear Mr. Baros:

This acknowledges receipt, on May 19, 2023, of the referenced application, and fees in the amount of \$112.50 (Receipt No. M316748, copy attached).

Additional information is required before the application can be declared administratively complete.

1. Confirm that the reservoir was originally constructed for domestic and livestock purposes.
2. Confirm that the application is requesting authorization to use the bed and banks of Kuehns Creek, tributary of the West Prong Lavaca River, Lavaca River Basin to convey groundwater for subsequent diversion and use for mining purposes.
3. Confirm that the total amount of groundwater to be conveyed is 410-acre feet per year, including any losses from evaporation.

Please provide the requested information by July 13, 2023 or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

Mr. David Baros  
Application No. 13920  
June 13, 2023  
Page 2 of 2

If you have any questions concerning this matter, please contact me via email at [jenna.rollins@tceq.texas.gov](mailto:jenna.rollins@tceq.texas.gov) or by telephone 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



22-MAY-23 10:34 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M316748	3056		BS00103135	22-MAY-23	-\$112.50
	WUP		052223	N	D3802655		
	WATER USE PERMITS	BAROS	VHERNAND	CK			
		FAMILY					
		INVESTMENTS					
						Total (Fee Code):	-\$112.50
						Grand Total:	-\$5,651.95

RECEIVED  
MAY 24 2023  
Water Availability Division

RECEIVED  
MAY 24 2023  
Water Availability Division

# 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): Baros Family Investments

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

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

# ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

New Appropriation of State Water

Amendment to a Water Right \*

Bed and Banks

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

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

- Request to use reservoir to convey ground water.
- Authorize to convey ground water for mining in Lavaca County.
- Request to authorize a reservoir and keep it full and spilling with ground water.

**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?

Baros Family Investments

(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 : 605949718 ( 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: David Baros

Title: Partner

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

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

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

Name: Baros Family Investments

Mailing Address: 1314 East Sonterra Blvd. Ste 401

City: San Antonio State: TX ZIP Code: 78259

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: David Baros

Title: Partner

Organization Name: Baros Family Investments

Mailing Address: 1314 East Sonterra Blvd. Ste 401

City: San Antonio State: TX ZIP Code: 78258

Phone Number: 210 366 9444

Fax Number: 210 340 9081

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: N/A

Title: \_\_\_\_\_

Organization Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)**

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

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

If yes, provide the following information:

Account number: \_\_\_\_\_ Amount past due: \_\_\_\_\_

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

If yes, please provide the following information:

Enforcement order number: \_\_\_\_\_ Amount past due: \_\_\_\_\_

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

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

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

[https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus\\_PriorThreeYears](https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus_PriorThreeYears)

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

Yes / No No

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

Applicant:

I, David Baros Partner  
(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.

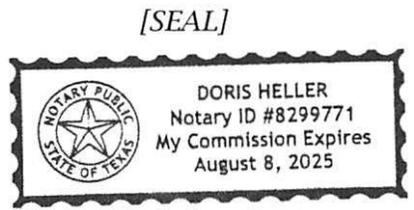
I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature: [Handwritten Signature] Date: 5/19/23  
(Use blue ink)

Subscribed and Sworn to before me by the said David Baros  
on this 19<sup>th</sup> day of May, 2023.  
My commission expires on the 08 day of August, 2025.

Notary Public Doris Heller

Bexar  
County, Texas



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

# TECHNICAL INFORMATION REPORT

## WATER RIGHTS PERMITTING

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

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

Date of pre-application meeting: 05/19/23

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

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

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

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

- 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 N (if yes, complete chart below):

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

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

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

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

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

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

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

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

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

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

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

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

*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”:

Application is consistent with water plans because there is nothing in the plans that conflict with the application.

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

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

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

See attached

# Untitled Map

Write a description for your map.

## Legend

baros pond

29.545163N, 97.1684717W

baros pond

Google Earth

291



1000 ft



# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

### 1. New Authorizations (Instructions, Page. 16)

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

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

577 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: **NA**

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

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

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

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

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

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

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

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

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

# WORKSHEET 1.1

## INTERBASIN TRANSFERS, TWC § 11.085

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 \_\_\_\_\_

N/A

### 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"

N/A

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

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

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

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

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

N/A

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

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

## WORKSHEET 2.0 Impoundment/Dam Information

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

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

### 1. Storage Information (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 167.
- c. The impoundment is on-channel Y 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 N
- d. Is the impoundment structure already constructed? Y / N Y
- i. For already constructed **on-channel** structures:
    1. Date of Construction: May 2014
    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 N
    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 \_\_\_\_\_
  - 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: 16.
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): Kuehn's Creek
- b. Zip Code: 77975
- c. In the Thomas Toby (D. Files) Original Survey No. \_\_\_\_\_, Abstract No. 465,  
Lavaca 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 29.545163 °N, Longitude 97.162417 °W.

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

- i. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google map
- ii. 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.  Diversion Point No.
2.  Upstream Limit of Diversion Reach No.
3.  Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** 4.456 cfs (cubic feet per second) or 2000 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N 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

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

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

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

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

Applicant has calculated the drainage area. Y / N 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): Kuehns Creek
- b. Zip Code: 77975
- c. Location of point: In the Thomas Toby (D. Files) Original Survey No. \_\_\_\_\_, Abstract No. 465, Lavaca 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.***

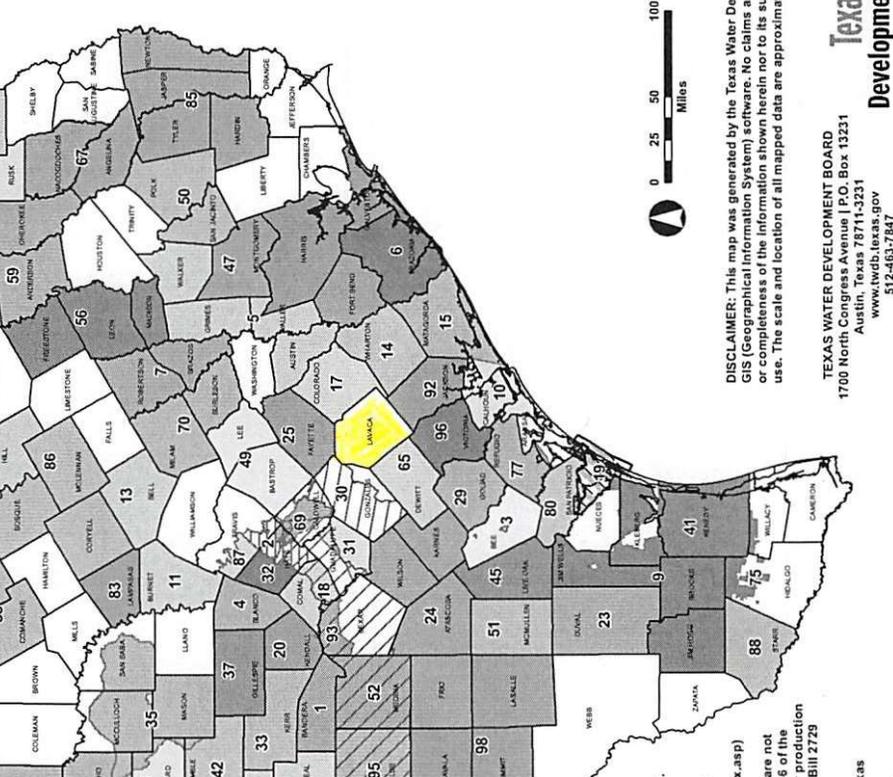
- d. Point is at:  
Latitude 29.545163 °N, Longitude 97.168417 °W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google Map
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

# Groundwater Conservation Districts of Texas

DALLAM	SHERMAN	HANSFORD	COCKRENE	LIPSCOMB
HARTLEY	MCCURTAIN	MCCURTAIN	ROBERTS	34
CLAYCOM	ROTTER	GARSON	63	WHEELER
DEWITT	DEWITT	DEWITT	DEWITT	55
FRANKLIN	CAULDEN	ROSBAR	BRISCOE	HALL
BAILEY	LAMB	36	FLOYD	MITLEY
COOCHISEA	ROCKWELL	LUBBOCK	CRONIN	DICKENS
81	84	LYNN	26	GAZZA
46	54	BORDEN	SCURRY	12
48	97	MCCOY	97	MOJAVE
16	89	89	89	89
82	39	39	39	39
53	53	53	53	53
68	68	68	68	68
90	90	90	90	90
73	73	73	73	73
43	43	43	43	43
91	91	91	91	91
57	57	57	57	57
76	76	76	76	76
40	40	40	40	40
72	72	72	72	72
22	22	22	22	22
38	38	38	38	38

- Confirmed Groundwater Conservation Districts \***
1. Bandera County River Authority & Groundwater District - 11/17/1989
  2. Barton Springs/Edwards Aquifer CD - 8/13/1987
  3. Bee GCD - 1/20/2001
  4. Blanco-Pedernales GCD - 1/23/2001
  5. Bluebonnet GCD - 11/5/2002
  6. Brazoria County GCD - 11/8/2005
  7. Brazoria Valley GCD - 11/5/2002
  8. Brewster County GCD - 11/6/2001
  9. Brush Country GCD - 11/3/2009
  10. Calhoun County GCD - 11/4/2014
  11. Central Texas GCD - 9/24/2005
  12. Clear Fork GCD - 11/5/2002
  13. Clearwater UWC - 8/2/1989
  14. Coastal Bend GCD - 11/6/2001
  15. Coastal Plains GCD - 11/6/2001
  16. Coke County UWC - 11/4/1986
  17. Colorado County GCD - 11/6/2007
  18. Comal Trinity GCD - 6/17/2015
  19. Corpus Christi ASRCD - 6/17/2005
  20. Cow Creek GCD - 11/5/2002
  21. Crockett County GCD - 11/26/1991
  22. Culberson County GCD - 5/21/1998
  23. Duval County GCD - 7/25/2009
  24. Evergreen UWC - 8/30/1965
  25. Fayette County GCD - 11/6/2001
  26. Garza County UWC - 11/5/1996
  27. Gateway GCD - 5/3/2003
  28. Glasscock GCD - 8/22/1981
  29. Goliad County GCD - 11/2/2001
  30. Guadalupe County UWC - 11/2/1994
  31. Guadalupe County GCD - 11/14/1989
  32. Hays Trinity GCD - 5/3/2003
  33. Headwaters GCD - 11/5/1991
  34. Hemphill County UWC - 11/4/1997
  35. Hickory UWC No. 1 - 8/14/1982
  36. High Plains UWC No. 1 - 9/29/1951
  37. Hill Country UWC - 8/8/1987
  38. Hudspeth County UWC No. 1 - 10/5/1957
  39. Irion County UWC - 8/21/1985
  40. Jeff Davis County UWC - 11/2/1993
  41. Kennedy County GCD - 11/2/2004

- Confirmed Groundwater Conservation Districts (Cont.)**
42. Kimble County GCD - 5/3/2002
  43. Kinney County GCD - 11/2/2002
  44. Lipan/Kellogg VCD - 11/2/1987
  45. Llano Estacado UWC - 11/3/1998
  46. Llano Estacado UWC - 11/3/1998
  47. Lone Star GCD - 11/6/2001
  48. Lone Wolf GCD - 2/2/2002
  49. Lost Pines GCD - 11/5/2002
  50. Lower Trinity GCD - 11/7/2006
  51. McMullen GCD - 11/6/2001
  52. Medina County GCD - 8/26/1981
  53. Menard County UWC - 8/14/1999
  54. Mesa UWC - 1/20/1990
  55. Mesquite GCD - 11/4/1986
  56. Mid-East Texas GCD - 11/5/2002
  57. Middle Pecos GCD - 11/5/2002
  58. Middle Trinity GCD - 5/4/2002
  59. Neches & Trinity Valleys GCD - 11/6/2001
  60. North Plains GCD - 11/2/2009
  61. Northern Trinity GCD - 5/15/2007
  62. Northern Trinity GCD - 5/15/2007
  63. Panhandle GCD - 11/2/1986
  64. Panola County GCD - 11/6/2001
  65. Pecan Valley GCD - 11/6/2001
  66. Permian Basin UWC - 9/21/1985
  67. Pineywoods GCD - 11/6/2001
  68. Plum UWC and Supply District - 3/4/1974
  69. Plum Creek CD - 5/11/1993
  70. Post Oak Savannah GCD - 11/5/2002
  71. Prairielands GCD - 9/1/2009
  72. Presidio County UWC - 8/31/1999
  73. Real-Edwards C and R District - 5/30/1959
  74. Red River GCD - 9/1/2009
  75. Red Sands GCD - 11/5/2002
  76. Reeves County GCD - 11/3/2015
  77. Reeves County GCD - 11/6/2001
  78. Rollins Plains GCD - 1/26/1999
  79. Rusk County GCD - 6/5/2004
  80. San Antonio County GCD - 5/12/2007
  81. Sandy Land UWC - 11/7/1989
  82. Santa Rita UWC - 8/19/1989
  83. Saratoga UWC - 11/7/1989
  84. South Plains UWC - 2/8/1992
  85. Southeast Texas GCD - 11/2/2004
  86. Southern Trinity GCD - 6/19/2009
  87. Southwestern Travis County GCD - 11/5/2019
  88. Starr County GCD - 11/6/2001
  89. Sterling County UWC - 11/3/1987
  90. Sutton County UWC - 4/5/1986
  91. Tarrant County GCD - 11/6/2012
  92. Terrell County GCD - 11/6/2012
  93. Terrell County GCD - 11/6/2012
  94. Trinity GCD - 11/6/2001
  95. Trinity GCD - 11/6/2001
  96. Uvalde County UWC - 9/1/1983
  97. Uvalde County GCD - 8/5/2005
  98. West-Tex GCD - 11/5/2002
  99. Wintergarden GCD - 1/17/1998



DISCLAIMER: This map was generated by the Texas Water Development Board using GIS (Geographical Information System) software. No claims are made to the accuracy or completeness of the information shown herein nor to its suitability for a particular use. The scale and location of all mapped data are approximate. Map date: NOV-2019

TEXAS WATER DEVELOPMENT BOARD  
1700 North Congress Avenue | P.O. Box 13231  
Austin, Texas 78711-3231  
www.twdb.texas.gov  
512-463-7847

Confirmed districts are arranged in alphabetical order.

Dates indicate when district was established by law or election.

\* Districts that have, in whole or part, authority as assigned by Chapter 35 of the Texas Water Code. Please refer questions pertaining to individual districts to the district themselves. ([www.twdb.texas.gov/groundwaterconservation\\_districts/index.asp](http://www.twdb.texas.gov/groundwaterconservation_districts/index.asp))

\*\* The subsidence districts and the Edwards Aquifer Authority are not Groundwater Conservation Districts as defined under Chapter 35 of the Texas Water Code but do have the same ground water protection (Senate Bill 1537 from the 79th Legislative Session and House Bill 2729 from the 86th Legislative Session).

Groundwater Conservation District GIS Data created by the Texas Commission on Environmental Quality. For more information, please contact TCEQ at 512-239-1000 or [was@tceq.texas.gov](mailto:was@tceq.texas.gov).

- Other Districts \*\***
- Edwards Aquifer Authority
  - Harris-Galveston Subsidence District
  - Fort Bend Subsidence District
  - County Boundaries



## 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 Mining Purposes / Reservoir Level Retain Full
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 16 (% or amount) and explain the method of calculation: Provided by TCEQ Staff
- c. Is the source of the discharged water return flows? Y / N N If yes, provide the following information:
1. The TPDES Permit Number(s). \_\_\_\_\_ (attach a copy of the **current** TPDES permit(s))
  2. Applicant is the owner/holder of each TPDES permit listed above? Y / N \_\_\_\_\_

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

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0"). NIA
  4. The percentage of return flows from groundwater NIA, surface water \_\_\_\_\_?
  5. If any percentage is surface water, provide the base water right number(s) NIA.
- d. Is the source of the water being discharged groundwater? Y / N Y If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: Yegua - Jackson Aquifer
  2. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers NIA.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.  
Pump directly into 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.  
Not located in a (GCD). See Attached
- di. Is the source of the water being discharged a surface water supply contract? Y / N N  
If yes, provide the signed contract(s).
- dii. Identify any other source of the water NIA

## 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 410 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 2000 gpm.
- c. Name of Watercourse as shown on Official USGS maps: Kuehns Creek
- d. Zip Code 77975 (D. Files)
- e. Location of point: In the Thomas Toby Original Survey No. \_\_\_\_\_, Abstract No. 465, Lavaca County, Texas.
- f. Point is at:  
Latitude 29.545163 °N, Longitude 97.168417 °W.  
*\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): Google Map

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

# WORKSHEET 5.0

## ENVIRONMENTAL INFORMATION

### 1. Impingement and Entrainment

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

*Perforated / Screened Stingers will be attached to suction line.*

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: \_\_\_\_\_

Other, specify: \_\_\_\_\_

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: \_\_\_\_\_

c. Waterbody aesthetics

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

Wilderness: outstanding natural beauty; usually wooded or unpastured area; water clarity exceptional

Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); water clarity discolored

Common Setting: not offensive; developed but uncluttered; water may be colored or turbid

Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

d. Waterbody Recreational Uses

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

Primary contact recreation (swimming or direct contact with water)

Secondary contact recreation (fishing, canoeing, or limited contact with water)

Non-contact recreation

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

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

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

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

a. For all bed and banks applications:

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

*The applicant only requests to discharge and subsequently divert groundwater. The amount of water diverted will not exceed the amount of water discharged, less losses, therefore there should be no changes to downstream instream flows or freshwater inflows.*

b. For all alternate source applications:

- i. If the alternate source is treated return flows, provide the TPDES permit number NIA

- 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.

*See Attached - - State Well # 369836*

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L	7.3	8.07	1	container	1/26/22
Chloride, mg/L	12.2	12.3	1	Container	1/26/22
Total Dissolved Solids, mg/L	262.00	262.00	1	Container	1/26/22
pH, standard units	8.8	9.1	1	Container	1/26/22
Temperature*, degrees Celsius	21.5 Celsius	21.5 Celsius	1	gauge	1/26/22

\* 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 780 ft and the name of the aquifer from which water is withdrawn Yegua - Jackson aquifer



Water Quality:

Strata Depth (ft.)	Water Type
120	Good

Chemical Analysis Made: No

Did the driller knowingly penetrate any strata which contained injurious constituents?: No

Certification Data: The driller certified that the driller drilled this well (or the well was drilled under the driller's direct supervision) and that each and all of the statements herein are true and correct. The driller understood that failure to complete the required items will result in the report(s) being returned for completion and resubmittal.

Company Information: Friedel Drilling Company  
555 City of Hochhelm Rd.  
Yoakum, TX 77995

Driller Name: Matthew Clayton Friedel

License Number: 3174

Apprentice Name: Hughie Long

Apprentice Number: 56733

Comments: Moulton B H2H, B H3H

Lithology:  
DESCRIPTION & COLOR OF FORMATION MATERIAL

Casing:  
BLANK PIPE & WELL SCREEN DATA

From (ft)	To (ft)	Description
5		Top Soil
5	44	Clay
44	56	Sandstone, Clay
56	80	Clay
80	94	Sand
94	98	Clay, Sand
98	112	Sand
112	117	Clay, Sand
117	210	Clay
210	214	Sand, Clay
214	224	Sand
224	232	Sand, Clay
232	237	Sand
237	242	Sand, Clay
242	254	Sand
254	260	Sandstone, Clay
260	261	Hard Rock

Dia. (in.)	New/Used	Type	Setting From/To (ft.)
8	N	PVC Casing	+2 660
8	N	PVC Screen	660 780

<b>261 271 Clay</b>
<b>271 273 Hard Rock</b>
<b>273 310 Clay</b>
<b>310 318 Sand</b>
<b>318 329 Sand, Clay</b>
<b>329 335 Sand</b>
<b>225 357 Sand, Clay</b>
<b>357 391 Clay</b>
<b>391 392 Hard Rock</b>
<b>392 421 Sand</b>
<b>421 433 Clay</b>
<b>433 442 Sand, Clay</b>
<b>442 510 Clay</b>
<b>510 526 Sand, Lig</b>
<b>526 535 Clay, Sand</b>
<b>535 586 Clay</b>
<b>586 588 Hard Rock</b>
<b>588 640 Clay</b>
<b>640 654 Sand</b>
<b>654 690 Clay</b>
<b>690 694 Sand, Clay</b>
<b>694 702 Sand</b>
<b>702 718 Sand, Clay</b>
<b>718 744 Clay, Lig</b>
<b>744 753 Sand, Clay</b>
<b>753 768 Sand</b>
<b>768 773 Clay, Sand</b>
<b>773 778 Sand</b>
<b>778 801 Clay</b>
<b>801 816 Sand, Clay</b>
<b>816 819 Hard Rock</b>
<b>819 834 Sand, Clay</b>

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**IMPORTANT NOTICE FOR PERSONS HAVING WELLS DRILLED CONCERNING CONFIDENTIALITY**

TEX. OCC. CODE Title 12, Chapter 1901.251, authorizes the owner (owner or the person for whom the well was drilled) to keep information in Well Reports confidential. The Department shall hold the contents of the well log confidential and not a matter of public record if it receives, by certified mail, a written request to do so from the owner.

Please include the report's Tracking Number on your written request.

**Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, TX 78711  
(512) 334-5540**

# WORKSHEET 6.0

## Water Conservation/Drought Contingency Plans

N/A

This form is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plans is required and to specify the requirements for plans.  
**Instructions, Page 31.**

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

### 1. Water Conservation Plans

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

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

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

1. \_\_\_ Municipal Use. See 30 TAC § 288.2. \*\*
2. \_\_\_ Industrial or Mining Use. See 30 TAC § 288.3.
3. \_\_\_ Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. \_\_\_ Wholesale Water Suppliers. See 30 TAC § 288.5. \*\*

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

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

appropriation; and evaluates any other feasible alternative to new water development. See 30 TAC § 288.7.  
Applicant has included this information in each applicable plan? Y / N\_\_\_\_\_

## 2. Drought Contingency Plans

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

# WORKSHEET 7.0

## ACCOUNTING PLAN INFORMATION WORKSHEET

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

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

### 2. AMENDMENT OR SEVER AND COMBINE

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

### 3. BED AND BANKS

	Description	Amount (\$)
<b>Filing Fee</b>		\$100.00
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		\$ 112.50

AMERIPRISE BANK, FSB

BAROS FAMILY INVESTMENTS  
1314 EAST SONTERRA BLVD., SUITE 401  
SAN ANTONIO, TEXAS 78258

5/19/2023

PAY TO THE ORDER OF TCEQ

\$ \*\*112.50

One Hundred Twelve and 50/100 \*\*\*\*\* DOLLARS

TCEQ-Financial Administration Division  
Cashier's Office MC-214  
P.O. Box 13088  
Austin, Texas 78711-3088

MEMO Baros Family Investments

BAROS FAMILY INVESTMENTS

TCEQ			5/19/2023			
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/19/2023	Bill	[REDACTED]	112.50	112.50		112.50
						Check Amount 112.50

American Enterprise I Baros Family Investments 112.50

BAROS FAMILY INVESTMENTS

TCEQ			5/19/2023			
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/19/2023	Bill	[REDACTED]	112.50	112.50		112.50
						Check Amount 112.50

American Enterprise I Baros Family Investments 112.50

PAYMENT RECORD

**AMENDED AND RESTATED PARTNERSHIP AGREEMENT OF  
BAROS FAMILY INVESTMENTS**  
(A Texas General Partnership)

**THIS AMENDED & RESTATED PARTNERSHIP AGREEMENT** (hereinafter "Agreement"), is made effective as of March 1, 2011, by and between Estelle F. Baros, Susan B. Dahlberg, James A. Baros, Jr., Larry W. Baros, Donna K. Osborne and David L. Baros (the "Partners").

**ARTICLE I**  
**FORMATION, NAME, PRINCIPAL OFFICE, TERM, RECORDS**

**1.1 Formation of Partnership.** The parties hereto hereby form, pursuant to the TBOC, a General Partnership, which organization is hereinafter referred to as the "Partnership." The rights, duties, status and liabilities of the Partners shall, except as hereinafter expressly stated to the contrary, be as provided for in the TBOC.

**1.2 Partnership Name.** The business of the Partnership shall be conducted under the name of Baros Family Investments or such other name as the Partners may select from time to time. As necessary, the Partners shall promptly execute, file, record and/or publish with the proper offices an assumed name certificate.

**1.3 Principal Office.** The principal place of business of the Partnership shall be at 1314 E. Sonterra Blvd., Suite 401, San Antonio, Texas 78258, but substitute or additional places of business may be established at such other locations as may, from time to time, be determined by the Consent of Partners.

**1.4 Term of Partnership.** The Partnership shall become effective upon the execution of this Agreement and shall remain effective for a term of twenty-five years, or until the Partnership is dissolved pursuant to this Agreement or the TBOC.

**1.3 Records.** The Partnership shall keep complete and accurate records of Partnership transactions. All records of the Partnership will be maintained at the principal office. Any Partner shall have the right upon reasonable written notice to the Partnership to inspect and copy the records of the Partnership, at the expense of the Partner requesting the records.

**ARTICLE II**  
**DEFINITIONS**

Whenever used in this Agreement, the terms set forth below shall be defined as follows:

**2.1 "Additional Capital Contribution"** shall mean that amount of money or other property, if any, that the Partners may agree to contribute to the Partnership for additional capital, if any, to be used for operating capital.

**2.2 "Affiliate"** means, with respect to a Partner, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or under common control with such Partner. The term "control," as used in this definition means, with respect to a Person that is a corporation, the right to exercise, directly or indirectly, more than ten percent (10%) of the voting rights attributable to the shares of the controlled corporation, and with respect to a Person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.

**2.3 "Capital Contribution"** means the total contribution to the capital of the Partnership which a Partner is legally bound and obligated to make, which amount is designated as a Capital Contribution for such Partner pursuant to Article IV of this Agreement.

**2.4 "Code"** means the Internal Revenue Code as hereinafter, as from time to time amended.

**2.5 "Consent of Partners"** shall mean the affirmative consent of all of the Partners Entitled to Vote, less one, obtained at a duly called meeting of Partners. For example if there are five Partners Entitled to Vote, the Consent of the Partners means the consent of four Partners Entitled to Vote; or if there are three Partners Entitled to Vote, the Consent of the Partners means the consent of two Partners Entitled to Vote. The term "Partners Entitled to Vote" does not include "Transferees" or "Unauthorized Transferees".

**2.6 "Contribution Agreement"** means the Agreement between the Partnership and Estelle Baros, executed concurrently herewith, relating to the contribution made by Estelle Baros and the value of the contribution, made by Estelle Baros.

**2.7 "Default Rate of Interest"** shall mean the rate per annum equal to the lesser of (a) the Wall Street Journal prime rate as quoted in the money rates section of the Wall Street Journal which is also the base rate on corporate loans at large United States money center commercial banks as its prime commercial or similar reference interest rate, with adjustments to be made on the same date as any change in the rate, and (b) the maximum rate permitted by applicable law.

**2.8 "Distributable Cash"** shall mean, at the time of determination for any period (on the cash receipts and disbursements method of accounting), all Partnership cash derived from the conduct of the Partnership's business, including distributions from entities owned by the Partnership, cash from operations or investments, and cash from the sale or other disposition of Partnership property, other than: (a) Capital Contributions; (b) financing or other loan proceeds; (c) reserves for working capital; (d) cash proceeds derived from the sale of Partnership investments except where the Partners have determined such cash proceeds will not be reinvested; and (d) other amounts that the Partners reasonably determine should be retained by the Partnership in accordance with the Partners' discretion under section 6.1 hereof.

**2.9 "Initial Capital Contribution"** shall mean that amount of money or property initially contributed by the Partners as set forth in Section 4.2 hereof.

**2.10 "Partner" or "Partners"** shall mean Estelle F. Baros, Susan B. Dahlberg, James A. Baros, Jr., Larry W. Baros, Donna K. Osborne and David L. Baros as well as any other Person admitted to the Partnership as a Partner pursuant to Article IX hereof. The terms Partner or Partners does not include Transferees, Unauthorized Transferees, or any successor of any Partner except for those successors admitted to the Partnership as successor Partners pursuant to Article IX hereof.

**2.11 "Partners Entitled to Vote"** means the Partners as defined in Section 2.10 hereof, but does not include "Transferees" or "Unauthorized Transferees".

**2.12 "Partnership Property"** shall mean that property, real, personal, or mixed, tangible or intangible, or an interest in that property, which is contributed to or acquired by the Partnership.

**2.13 "Person"** shall mean any individual, corporation, business trust, estate, trust, custodian, trustee, executor, administrator, nominee, partnership (including a registered limited liability partnership and a limited partnership), association, limited liability company, government, governmental subdivision, governmental agency, governmental instrumentality, and any other legal or commercial entity, in its own or representative capacity

**2.14 "Profits" or "Losses"** means, for each fiscal year or other period, profits and losses as determined by the accounting method generally employed by the Partnership and consistently applied. If there is any dispute as to the specific method of accounting to be employed in any particular situation, the Partnership shall use Generally Accepted Accounting Principals unless another method is established by the Consent of the Partners.

**2.15 "TBOC"** means the Texas Business Organizations Code as hereinafter, as from time to time amended.

**2.16 "Transfer"** when used as a noun shall mean any voluntary or involuntary transfer, sale, pledge, hypothecation, assignment or other disposition, and as a verb shall mean voluntarily or involuntarily to transfer, sell, pledge, hypothecate, assign or otherwise dispose.

**2.17 "Transferee"** shall mean a Person who has acquired all or a portion of an interest in the Partnership by assignment or Transfer without first obtaining the Unanimous Consent of the Partners. The term "Transferee" also includes "Unauthorized Transferees". A Transferee has only the minimal rights granted under the TBOC, including, Sections 152.401-152.405 of the TBOC. A Transferee does not have the right to become a Partner, except as provided in this Agreement. For a proper purpose, a Transferee may require reasonable information or an account of Partnership transactions and make reasonable inspection of the Partnership books upon reasonable notice to the Partnership and at the expense of the Transferee. In addition, no Transferee of an interest in the Partnership shall have the right to assign any transferred interest except as otherwise provided in this Agreement.

**2.18 Unanimous Consent of the Partners**" means the written consent of all the Partners Entitled to Vote at any meeting of the Partners. The term "Partners Entitled to Vote" does not include "Transferees" or "Unauthorized Transferees".

**2.19 Unauthorized Transferee**" means a Transferee who is not a direct lineal and legitimate decedent (born or adopted) of Estelle Baros or her issue.

**2.20 "Wholly Owned Affiliate"** of any Person shall mean an Affiliate of such Person, 100% of the voting stock or beneficial ownership of which is owned by such Person, directly or indirectly, through one or more Wholly Owned Affiliates, or by any Person who, directly or indirectly, owns 100% of the voting stock or beneficial ownership of such Person, and an Affiliate of such Person who, directly or indirectly, owns 100% of the voting stock or beneficial ownership of such Person.

### **ARTICLE III** **PURPOSE**

**3.1 Purposes of the Partnership.** The purposes of the Partnership shall be (a) to own, hold, sell, develop, lease, dispose of, exchange, convert, manage, exercise voting rights with respect to, and otherwise exercise all of the rights, duties and obligations of an owner of the Partnership Property; (b) to reinvest, in any manner and in any real or personal property which the Partners deem appropriate, all proceeds derived from the Partnership Property; (c) to invest the Partnership Property in any manner deemed reasonable by the Partners, in any real or personal property; and (d) to conduct any other business or make any investment which a partnership may make without violating the TBOC or any other applicable law.

**3.2 Powers.** The Partners, upon the Consent of the Partners, may make, enter into, deliver and perform all contracts, agreements or undertakings, pay all costs and expenses and perform all acts deemed appropriate by the Partners to carry out the Partnership purposes, subject to the limitations of this Agreement and the TBOC.

**3.3 Restraints on Competition By Partners.** It is acknowledged that the Partners may in the future, from time to time, obtain additional opportunities for investment in other business enterprises. Each Partner shall be free to acquire such interests in other business enterprises as such Partner may in such Partner's sole discretion deem desirable without having to offer interests in such business enterprises to the other Partners or this Partnership, and such action on the part of any Partner shall not be deemed a breach of any fiduciary relationship owed by that Partner to the other Partners or the Partnership. Participation in the Partnership shall not in any way act as a restraint on the other present or future business activities or investments of a Partner (or any Affiliate of a Partner), or any employee, officer, director, member, manager, or shareholder of a Partner. As a result of this Agreement, no Partner (or Affiliate of any Partner), shall be obligated or bound to offer the Partnership or any of the other Partners any business opportunity presented to or offered to them or the Partnership as a prerequisite to the acquisition of or investment in such business opportunity by such Partner (or any Affiliate of a Partner), or any employee, officer, director, member, manager, or shareholder of such Partner for its account

or the account of others. Any such business or activity of a Partner (or any Affiliate of a Partner), or any employee, officer, director, member, manager, or shareholder of a Partner may be undertaken with or without prior notice to or participation therein by the Partnership or the other Partners. Each Partner and the Partnership hereby waive any right or claim such Partner or the Partnership may have against a Partner (or any Affiliate of a Partner), or any employee, officer, director, member, manager, or shareholder of a Partner with respect to such business or activity or the income or profits thereof.

**3.4 Doing Business With Affiliates.** Upon the Consent of the Partners, the Partnership may contract with any of the Partners or their Affiliates for the purchase of goods and services for the benefit of the Partnership at any time provided that the compensation paid to such Person shall be commensurate with rates prevailing for such services at the time such services are performed, and any charges so incurred shall be deemed expenses of the Partnership. Upon the Consent of the Partners, the Partnership shall have the authority to enter into any transaction despite the fact that another party to the transaction may be (a) a trust of which a Partner is a trustee or beneficiary; (b) an estate of which a Partner is a personal representative or beneficiary; (c) a business controlled by one or more Partners or a business of which any Partner is also a director, officer, partner, member, manager or employee; (d) any Affiliate, employee, stockholder, associate, manager, partner, or business associate; (e) any Partner, acting individually; or (f) any relative of a Partner; provided the terms of the transaction are no less favorable than those the Partnership could obtain from unrelated third parties.

**ARTICLE IV**  
**CAPITAL CONTRIBUTIONS AND**  
**SHARES OF PROFITS AND LOSSES**

**4.1 Ownership Percentages.** The percentage interest of each Partner will be determined by dividing the balance of such Partner's capital account by the total of all of the capital accounts of all Partners. A Partner's percentage interest will be determinative of: (a) a Partner's ownership interest in the Partnership as an entity; (b) a Partner's interest in the distribution of Distributable Cash; (c) a Partner's allocable share of the items of Profits and Losses; and (d) a Partner's distributive share of cash and other property upon dissolution of the Partnership.

**4.2 Capital Contributions.** Receipt is hereby acknowledged for each Partner of the following Capital Contributions:

**Partner**

**Contributed Property**

Estelle F. Baros

The mineral interests more particularly described in the Contribution Agreement executed by the Partners on this date having an agreed value as stated in the appraisal to be provided pursuant to the Contribution Agreement

**Partner**

**Contributed Property**

Susan B. Dahlberg

Previously contributed cash or marketable securities having a value of [REDACTED] as of February 28, 2011, and held by Ameriprise Financial in the name of the Partnership.

James A. Baros, Jr.

Previously contributed cash or marketable securities having a value of [REDACTED] as of February 28, 2011, and held by Ameriprise Financial in the name of the Partnership.

Larry W. Baros

Previously contributed cash or marketable securities having a value of \$[REDACTED] as of February 28, 2011, and held by Ameriprise Financial in the name of the Partnership.

Donna K. Osborne

Previously contributed cash or marketable securities having a value of [REDACTED] as of February 28, 2011, and held by Ameriprise Financial in the name of the Partnership.

David L. Baros

Previously contributed cash or marketable securities having a value of [REDACTED] as of February 28, 2011, and held by Ameriprise Financial in the name of the Partnership.

**4.3 Additional Capital Contributions.** The Partners shall not be permitted to make Additional Capital Contributions except upon the Consent of the Partners. After the death or incapacity of any one of the original Partners (Susan B. Dahlberg, James A. Baros, Jr., Larry W. Baros, Donna K. Osborne or David L. Baros), no Additional Contributions may be made to the Partnership except for the purpose of paying legitimate expenses of the Partnership on a pro rata basis. Funds advanced to the Partnership by a Partner which are not Additional Capital

Contribution which shall be the fair market value of the assets such Partner contributed. A Partner's capital account shall be credited with its Additional Capital Contribution, and such Partner's share of Partnership Profits. A Partner's capital account shall be decreased by the amount of money and the fair market value of property distributed to such Partner and by the amount of Partnership losses charged to such Partner. The capital accounts shall not bear interest. Additional Capital Contributions shall be recorded at the fair market value of the assets contributed by the Partner and the distributions to a Partner shall also be recorded at the fair market value of the assets distributed.

**4.5 Return of Capital.** No Partner shall have the right to withdraw, demand a return or reduce his, her or its Capital Contribution to the Partnership. In the event a return of or reduction in the capital account of a Partner is made, any amounts paid to such Partner shall be reduced by all costs, fees and other expenses incurred by the Partnership in facilitating such return of or reduction in capital.

**4.6 Additional Operating Capital.** No Partner shall have any obligation to make additional contributions of capital to the Partnership or make any loan to the Partnership, and no Partner shall have any liability to the Partnership or any other Partner by virtue of refusing to make any additional contributions of capital or loans to the Partnership.

**4.7 Use of Contributions.** The cash and property contributed by the Partners will be utilized by the Partnership for the purposes of the Partnership set forth in Article III.

**4.8 Nature of Interests.** All property owned by the Partnership, whether real or personal, tangible or intangible, shall be deemed to be owned by the Partnership as an entity. No Partner shall have any direct ownership of any Partnership property.

## **ARTICLE V** **ACCOUNTING**

**5.1 Profits and Losses.** Profits or Losses for any fiscal year shall be allocated among the Partners in proportion to their ownership interests in the Partnership, unless a different allocation is agreed to in writing by Unanimous Consent of the Partners.

**5.2 Fiscal Year and Annual Accounting.** The Partnership fiscal year shall be the calendar year. The Partnership books shall be kept on the cash receipts and disbursements method of accounting. The Partnership shall furnish to the Partners, on an annual basis, accounting reports reflecting Partnership income and expenses. In addition, the Partnership shall provide the Partners with the full annual Partnership tax return for the preceding year in a timely manner to comply with all Code reporting deadlines.

## **ARTICLE VI** **DISTRIBUTIONS**

**6.1 Distributions of Partnership Funds.** Except as determined otherwise by the

Consent of the Partners and except as otherwise provided herein, the Partnership is required to make mandatory Distributions of all Distributable Cash in excess of Twenty-Five Thousand and No/100ths Dollars (\$25,000.00) not later than the fifteenth (15<sup>th</sup>) day of each calendar month. With regard to Distributable Cash and other Partnership Property, the Partners shall make a determination, in accordance with such Partners' duty of care and loyalty to the Partnership, as to the need for the Partnership Property in the operation of the Partnership business, considering current needs for operating capital and prudent reserves for future operating capital, all in keeping with the Partnership's purposes. It is the duty of the Partners, in determining the amount of Distributable Cash available for the payment of distributions, to take into account the needs of the Partnership in its business and sums necessary in the operation of its business until the income from further operations is available, the amounts of its debts, the necessity or advisability of paying its debts, or at least reducing such debts within the limits of the Partnership's credit, and the preservation of its capital as represented in the Partnership Property as a fund for the protection of its creditors. Unless agreed in writing by a transferor and transferee, Distributable Cash allocable to a transferred Partnership interest which may have been transferred shall be distributed to the holder of such Partnership interest who was recognized as the owner on the date of such distribution, without regard to the results of Partnership operations during the year.

**6.2 Loans.** Any Person may, upon the Consent of the Partners, lend or advance money to the Partnership. If any Partner shall make any loan or loans to the Partnership or advance money on its behalf, the amount of any such loan or advance shall not be treated as a Capital Contribution but shall be a debt due from the Partnership. The amount of any such loan or advance by a lending Partner shall be repayable out of the Partnership's cash and shall bear interest at such rate as the Partners and the lending Partner shall agree but not in excess of the maximum rate permitted by law. If a Partner, or an Affiliate of a Partner, is the lending Partner, the rate of interest shall be determined by the Partners taking into consideration, without limitation, prevailing interest rates and the interest rates such Partner or an Affiliate of such Partner would be required to pay in the event such Partner or Affiliate of such Partner had itself borrowed funds to loan or advance to the Partnership, and the terms and conditions of such loan, including the rate of interest, shall be no less favorable to the Partnership than if the lender had been an independent third party.

**6.3 Tax Distributions.** If for any Partnership Year, the Partnership reports taxable income (including gains from the disposition of Partnership Assets), the Partners shall cause the Partnership to make a distribute Distributable Cash in amounts sufficient to pay the federal income tax liability of each Partner associated with the Partnership's taxable income. Such distribution shall be made to the Partners in proportion to the taxable income allocated to them in accordance with the provisions of this Agreement and shall be in an amount equal to the taxable income so allocated multiplied by the maximum rate of federal income tax imposed upon individuals under the Code at the time such allocation is made. When determining the amount of any required distribution under this Section, the amount of any previous distributions made during the calendar year in which the tax liability accrued shall be taken into account.

**ARTICLE VII**  
**POWERS, RIGHTS AND DUTIES OF PARTNERS**

**7.1 Time Devoted to Partnership Business.** The Partners shall not be required to devote full time to the affairs of the Partnership, but shall diligently and faithfully devote whatever time, effort, and skill may be necessary for the conduct of the Partnership's business, and shall perform all of the duties of a Partner which are provided for in this Agreement and the TBOC. Notwithstanding the foregoing, it is not anticipated that any Partner will be required to devote any significant time to conducting the business of the Partnership.

**7.2 Management.**

(a) **Appointment of Managing Partner.** Upon the Consent of the Partners, the Partners may appoint a Partner as Managing Partner. The Managing Partner shall serve until the designation is revoked by the Consent of the Partners, or until such Managing Partner is removed by the Consent of the Partners, or the Managing Partner ceases to serve for any other reason. If a Managing Partner is designated, the Managing Partner is authorized and directed to manage and control the assets and the business of the Partnership. The Managing Partner may exercise all of the powers which could be exercised by Partners, subject to the limitations described in sections 7.4 and 7.5 of this Agreement or any limitations described in any document appointing the Managing Partner. It is understood and agreed that the Managing Partner shall consult and confer with the Partners before taking any steps resulting in any substantial change in the operation or policies of the Partnership affairs, or the sale of any portion of the Partnership assets other than in the usual course of business, or in any manner which affects the Partnership business in a manner judged unusual by the Partners in the ordinary operation of the Partnership business. If a Managing Partner is serving as such, any reference to "Partner" or "Partners" in this Agreement shall also include "Managing Partner" if applicable.

(b) **Appointment of Financial Manager.** The Partners hereby appoint David Baros as the "Financial Manager" of the Partnership. The Financial Manager shall have the authority to conduct the day to day financial affairs of the Partnership including, but not limited to, the authority listed in Section 7.3(a) relating to the conduct of the day to day affairs of the Partnership, and Section 7.3(d) relating to the designation and establishment of a depository for Partnership funds and the ability to draw upon the same for Partnership purposes. It is understood and agreed that the Financial Manager shall consult and confer with the Partners before taking any steps resulting in any substantial change in the operation or policies of the Partnership affairs, or in any manner which affects the Partnership business in a manner judged unusual by the Partners in the ordinary operation of the Partnership business. The Financial Manager shall serve until he is removed or replaced upon the Consent of the Partners.

**7.3 Authority of Partners.** Subject to the limitations of this Agreement, and to the duties, obligations and limitations imposed upon the Partners at law, the Partners, acting collectively, shall manage the day-to-day operations of the Partnership. The Partners, acting collectively, shall have the authority to take any action which the Partners believe in good faith to be in furtherance of the Partnership business and purposes and to exercise all rights and powers

generally conferred by law in connection therewith. No Person dealing with the Partnership shall be required to inquire into, or obtain any consents or other documentation as to the authority of the Partners to take any such action or to exercise any such rights or powers. Specifically:

(a) The Partners shall have the right, power and authority on behalf of the Partnership:

(1) To receive and hold all Partnership Property in the name of the Partnership;

(2) To obtain and maintain such insurance as is deemed to be desirable and appropriate by the Partners;

(3) To open, maintain, and close bank accounts, brokerage accounts and checking accounts in the name of the Partnership, to designate and change signatories on such accounts, and to draw checks and other orders for the payment of monies;

(4) To engage accountants, attorneys and any and all other agents and assistants, both professional and non-professional, which may include the Partners, and to compensate them reasonably for services rendered;

(5) To collect all sums due to the Partnership;

(6) To prepare and file all tax returns of the Partnership and to make all elections for the Partnership thereunder;

(7) To the extent that funds of the Partnership are available therefor, to pay as they become due all debts and obligations of the Partnership;

(8) To vote and exercise all other rights available to the holder of any securities included in the Partnership Property; and

(9) To take any and all other action, including legal action, that the Partners deem necessary, appropriate or advisable in furtherance of the Partnership's business and purposes.

(b) The Partners shall have the sole authority to manage, deal with, negotiate and contract with respect to, and convey the Partnership Property on behalf of the Partnership.

(c) The Partners shall act in good faith in the performance of the Partners' obligations hereunder but shall have no liability or obligation to any other Partner or the Partnership for any decision made or action taken in connection with the discharge of the Partners' duties hereunder if such decision or action is made or taken in good faith and in the exercise of due care in connection with the Partnership business.

(d) The Partners shall have the power to designate, from time to time, a depository of Partnership funds, and to draw upon the same for Partnership purposes.

(e) Any person dealing with the Partnership or the Partners may rely on a certificate signed by the Partners concerning:

(1) The identity of the Partners;

(2) The existence or nonexistence of any fact or facts that constitute conditions precedent to acts by the Partners or in any other manner germane to the business and affairs of the Partnership;

(3) The person or persons who are authorized to execute and deliver any instrument or document of the Partnership; or

(4) Any act or failure to act by the Partnership or concerning any other matter whatsoever involving the Partnership or any Partner.

**7.4 Requirement of Unanimous Consent.** The Partners shall not have the authority to enter into any of the following transactions without the Unanimous Consent of all the Partners:

(a) Terminate, liquidate and wind up the Partnership, except as otherwise provided in this Agreement;

(b) Admit additional or substitute Partners, except as otherwise provided in this Agreement;

(c) Do any act that would make it impossible to carry on the purposes of the Partnership and business of the Partnership;

(d) Engage in any business activity other than that which is consistent with the purposes of the Partnership;

(e) Amend this Agreement.

**7.5 Restrictions on Partners.** The Partners will not have the authority to enter into any of the following transactions:

(a) Prior to the actual termination of the Partnership, sell substantially all of the Partnership Property in liquidation or cessation of business except upon the Unanimous Consent of the Partners;

(b) Compromise any claim or dispute having an amount or value in issue in excess of 50% of the total value of the Partnership Property except upon the Consent of

the Partners;

(c) Sell, assign, lease, exchange, convert or otherwise transfer or dispose of all or part of the Partnership Property except upon the Consent of the Partners;

(d) Mortgage, pledge, grant a security interest in, or incur, renew, or refinance any indebtedness of the Partnership except upon the Consent of the Partners;

(e) Confess a judgment against the Partnership except upon the Consent of the Partners;

(f) Do any act in violation of this Agreement; and

(g) Make, execute or deliver any assignments for the benefit of creditors except upon the Consent of the Partners.

**7.6 Dissolution or Bankruptcy of a Partner.** On the dissolution or bankruptcy of a Partner, such Partner and his, her or its successors shall thereafter have the status of a Transferee and shall receive distributions to which such Transferee is entitled.

**7.7 Indemnification of the Partners.** The Partners shall be jointly and severally indemnified and held harmless by the Partnership and by each other to the extent of each Partner's individual ownership in the Partnership from and against any and all claims, demands, liabilities, costs, damages and causes of action of any nature whatsoever, arising out of or incidental to the management of the Partnership affairs or to any Persons acting as an employee while in the course of managing the Partnership affairs; provided, however, that no Partner shall be entitled to indemnification hereunder where the claim at issue is based upon any of the following:

(a) A matter entirely unrelated to such Partner's management of the Partnership affairs.

(b) The proven gross negligence, misconduct, fraud or bad faith of such Partner.

(c) The proven breach by such Partner of any provisions of this Agreement.

The indemnification rights herein contained shall be cumulative of, and in addition to, any and all other rights, remedies, and resources to which the Partners, shall be entitled, whether pursuant to some other provisions of this Agreement, at law or in equity.

**7.8 Meetings.**

(a) A quorum shall be present at a Partners' meeting if the majority of the Partners Entitled to Vote are present at the meeting. With respect to any matter, other than a matter for which the affirmative vote of the holders of a specified number or Partners, or

percentage of Partnership interests, is required by the TBOC or this Agreement, the affirmative vote of a majority of Partners Entitled to Vote, and present at a meeting in which a quorum is present, shall be the act of the Partners.

(b) All Partners' meetings shall be held at the Partnership's principal office or at such other place within or outside the State of Texas as shall be specified or fixed in the notices or waivers of notice thereof; provided that any or all Partners may participate in any such meetings by means of conference telephone or similar communications equipment pursuant to section 7.13 of this Agreement.

(c) Notwithstanding the other provisions of this Agreement, the chairman of the meeting, or the majority of Partners Entitled to Vote who are present at the meeting, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If such meeting is adjourned by the Partners, such time and place shall be determined by a vote of a majority of the Partners who are present at the meeting. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

(d) If the Partners have not had a meeting within the previous twelve calendar months, any Partner may call an annual Partners' meeting which shall be held at the principal place of business for the Partnership, on such date and at such time as the may be fixed in the notice of the meeting.

(e) Special Partners' meetings for any proper purpose or purposes may be called at any time by the Managing Partner, or the Financial Manager, or by any two Partners. If not otherwise stated in or fixed in accordance with the remaining provisions hereof, the record date for determining Partners entitled to call a special meeting is the date any Partner first signs the notice of that meeting. Only business within the purpose or purposes described in the notice (or waiver thereof) required by this Agreement may be conducted at a special Partners' meeting.

(f) Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Partners or person calling the meeting, to each Partner entitled to vote at such meeting. If mailed, any such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, and addressed to the Partner at the Partner's address provided in this Agreement or so other address as a Partner may have provided to the Partnership by written notice.

(g) The date on which notice of a Partners' meeting is mailed or the date on which the resolution of the Partners declaring a distribution is adopted, as the case may be, shall be the record date for the determination of the Partners entitled to notice of or to vote at such meeting, including any adjournment thereof, or the Partners entitled to receive such

distribution.

(h) Notice of meetings may be given to Partners by facsimile or electronic message (e-mail) and shall be deemed received if sent to a valid facsimile number or email address regularly used by a Partner.

**7.9 Voting List.** The Partners shall make, at least ten (10) days before each Partners' meeting, a complete list of the Partners Entitled to Vote at such meeting or any adjournment thereof with the address of and the percentage interests held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the Partnership's registered office or principal office and shall be subject to inspection by any Partner at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Partner during the whole time of the meeting. The original partnership records shall be prima-facie evidence as to who are the Partners entitled to examine such list or transfer records or to vote at any Partners' meeting. Failure to comply with the requirements of this section shall not affect the validity of any action taken at the meeting.

**7.10 Proxies.** Proxies are not permitted and a Partner may not vote by proxy.

**7.11 Conduct of Meetings.** The chairman shall preside over all Partners' meetings. The chairman shall be a Partner designated by a majority of present at the meeting. Designating a chairman of the meeting shall be the first order of business of any meeting. Thereafter, the chairman shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him in order.

**7.12 Action by Written Consent Without Meeting.**

(a) Subject to the requirements and restrictions imposed on the Partners by this Agreement, any action required or permitted to be taken at any annual or special Partners' meeting may be taken without a meeting, without prior notice, and without a vote, by the Unanimous Consent of the Partners. Every written consent shall bear the date of signature of each Partner who signs the consent, and the consent may be in one or more counterparts. A telegram, telex, cablegram or similar transmission by a Partner, or a photographic, photostatic, facsimile or similar reproduction of a writing signed by a Partner, shall be regarded as signed by the Partner for purposes of this section. The signed consent or a signed copy of the consent shall be kept on file at the Partnership's principal office. Prompt notice of the taking of any action by Partners without a meeting by less than unanimous written consent shall be given to those Partners who did not consent in writing to the action.

(b) The record date for determining Partners entitled to consent to action in writing without a meeting shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Partnership by delivery to its registered office, its principal office, or the Partners. Delivery shall be by hand or

by certified or registered mail, return receipt requested. Delivery to the Partnership's principal office shall be addressed to the Partners.

(e) If any action by Partners is taken by written consent, any articles or documents filed with the Secretary of State of Texas as a result of the taking of the action shall state, in lieu of any statement required by the TBOC concerning any vote of Partners, that written consent has been given in accordance with the provisions of the TBOC and that any written notice required by the TBOC has been given.

**7.13 Action by Telephone Conference or Other Remote Communications Technology.** Partners may participate in and hold a meeting by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other. Or, another suitable electronic communications system may be used including videoconferencing technology or the Internet, but only if, each Partner entitled to participate in the meeting consents to the meeting being held by means of that system and the system provides access to the meeting in a manner or using a method by which each Partner participating in the meeting can communicate concurrently with each other participant. Participation in such meeting shall constitute attendance and presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**7.14 Partners' Approval or Ratification of Acts or Contracts.** At their discretion, the Partners may submit any act or contract for approval or ratification at any annual or special Partners' meeting called for the purpose of considering any such act or contract. Subject to the requirements and restrictions imposed on the Partners by this Agreement, any act or contract approved or ratified by a majority-in-interest of the Partners shall be as valid and as binding upon the Partnership and upon all the Partners as if it had been approved or ratified by every Partner of the Partnership.

**7.15 Classes of Partners; Voting.** At an annual or special meeting called for that purpose, the Partners may from time to time establish classes or groups of Partners. One or more of the Partners' groups or classes may have certain expressed relative rights, powers, and duties, including voting rights, to be established at the time when the classes or groups are created, with seniority granted to one or more class or group as designated by the Partners.

**7.16 Emergency Management of the Partnership.** The following emergency provisions apply to the Partnership:

(a) **Definition of Emergency.** In the event of an emergency, to the extent not limited or prohibited by law, or by this Agreement, the following provisions regarding the management of the Partnership shall take effect immediately. Pursuant to the TBOC, an emergency exists if a majority of the Partnership's governing persons cannot readily participate in a meeting because of the occurrence of a catastrophic event. The minimum requirements for participation at the meeting of the Partners in the event of an emergency are two (2) of the Partners entitled to vote.

(b) **Effect of Emergency Provisions.** These emergency provisions take effect only in the event of an emergency as defined hereinabove, and will no longer be effective after the emergency ends. Any and all provisions of this Agreement that are consistent with these emergency provisions remain in effect during an emergency. Any or all of these actions of the Partnership taken in good faith in accordance with these provisions are binding upon this Partnership and may not be used to impose liability on a managerial official, employee, or agent of the Partnership.

## **ARTICLE VIII** **MANAGEMENT FEES AND OTHER EXPENSES**

8.1 **Salary, Fees and Draws.** Except as provided in this Article or by the Consent of the Partners, no Partner shall receive any salary, fee, or draw for services rendered to or on behalf of the Partnership.

8.2 **Expenses.** In connection with the operation of the Partnership, the Partners shall be reimbursed for any direct expenses reasonably incurred in connection with the Partnership's business; provided, however, that no such expense shall be incurred other than at a price which reflects a competitive market rate for such expense; and provided further, that no contract or arrangement entered into by a Partner on behalf of the Partnership with such Partner or an Affiliate shall be on terms less advantageous to the Partnership than that generally available from an unaffiliated third party. Without limiting the foregoing, the Partners may charge to the Partnership and pay or recover out of Partnership funds, as and when available, the following: all fees that may be required by applicable state or local authorities relating to the formation and operation of the Partnership or in compliance with the terms of this Agreement, including but not limited to, all filing fees for assumed name certificates, all reasonable expenses incurred by the Partners in connection with the organization and formation of the Partnership, all reasonable expenses incurred by the Partners to acquire, preserve, protect, or perfect the title to the Partnership Property or to operate and maintain such property, including, but not limited to, travel expenses, attorneys' fees, accountants' fees and court costs incurred in connection with such matters and any sums owed by the Partnership pursuant to any contract entered by the Partners pursuant to their authority under this Agreement; the cost of public liability insurance carried in connection with the business of the Partnership; taxes on property of the Partnership; principal and interest, and any other amounts whatsoever owing on any indebtedness of the Partnership, or any part hereof, or any instruments securing any of same, together with any expenses incurred in connection with renewing or rearranging such or any other indebtedness incurred for the benefit of the Partnership deemed necessary by the Partners; and normal closing costs reasonably incurred in the event of the lease, sale or other disposition of the Partnership Property.

## **ARTICLE IX** **TRANSFERS OF PARTNERSHIP INTERESTS**

9.1 **Generally.** No Person may become a Partner, and no Partner may transfer all or

any portion of such Partner's interest in the Partnership, without the prior Unanimous Consent of the Partners, which consent may be granted or withheld in the sole discretion of any Partner. Each Partner agrees with the Partnership and all of the other Partners that such Partner will not make or permit a disposition of all or any portion of its Partnership Interest in violation of the provisions of this Article IX. Notwithstanding the foregoing, a transfer from one Partner to another shall not require any consent from the other Partners.

**9.2 Prohibited Transfers.** Any purported Transfer by any Partner of an interest in the Partnership that is not consented to by all of the Partners under section 9.1 of this Agreement shall be null and void and of no effect whatever; provided that if the Partnership is required to recognize a Transfer that is not permitted (or if the Partnership, in its sole discretion, elects to recognize a Transfer that is not permitted), the rights of the Transferee shall be limited to those rights set forth in section 152.404 of the TBOC. In the case of a Transfer or attempted Transfer of an interest that is not a transfer consented to by all of the Partners under section 9.1 of this Agreement, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Partnership and the other Partners from all cost, liability, and damage that any of such indemnified Persons may incur (including, without limitation, incremental tax liability and lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

**9.3 Acquisition of an Interest Conveyed to an Unauthorized Transferee.** If an interest in the Partnership is transferred for any reason to an Unauthorized Transferee because: (1) any Person acquires a Partnership Interest, or becomes an Unauthorized Transferee, as the result of an order of a court which the Partnership is required by law to recognize; (2) a Partner's interest in the Partnership is subjected to a lawful "charging order"; (3) a Partner's ex-spouse is awarded all or a portion of a Partner's partnership interest in a divorce proceeding; (4) a Partner dies; (5) a Partner's spouse dies; (6) a Partner makes an unauthorized Transfer of an interest in the Partnership; or (7) of the dissolution or bankruptcy of a Partner, the Partnership will have the unilateral option to acquire the interest of the Transferee, or any fraction or part thereof, upon the following terms and conditions:

(a) The Partnership will have the option to acquire the interest by giving written notice to the Transferee of its intent to purchase within one year from the date it is finally determined that the Partnership is required to recognize the Transfer.

(b) The valuation date for the determination of the purchase price of the interest will be the first day of the month following the month in which the above notice is delivered.

(c) Unless the Partnership and the Unauthorized Transferee agree otherwise, the purchase price for the interest, or any fraction to be acquired by the Partnership, shall be its fair market value as determined by a written valuation report prepared by a Person selected by the Consent of the Partners who is qualified to perform business valuations of partnerships and ownership interests in partnerships describing the value of the ownership interest in the Partnership. If the Unauthorized Transferee does not agree with the

valuation determined by the appraiser selected by the Partnership, the Unauthorized Transferee shall have thirty days from the date the Unauthorized Transferee receives a copy of the appraisal to deliver a second written appraisal prepared by a qualified appraiser to the Partnership. If the first appraiser and the second appraiser cannot agree on a valuation of the Partnership interest, the first two appraisers shall retain a third appraiser to review the work performed by the first two appraisers and establish a market value for the Partnership interest. The value determined by the third appraiser shall be final and binding for all purposes. The cost of all of the foregoing appraisals shall be paid by the Unauthorized Transferee. Closing of the sale will occur at the principal office of the Partnership at 10:00 a.m. on the first Tuesday of the month following the month in which the applicable Appraisal is rendered, or the time to protest the Appraisal has passed, which ever is later. The purchase price paid by the Partnership shall be reduced by any costs or fees incurred by the Partnership in acquiring the interest of such Transferee, including any costs the Partnership may have advanced to pay for any appraisal.

(d) In order to reduce the burden upon the resources of the Partnership, the Partnership will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in ten (10) equal annual installments (or for a period of time equal to the remaining term of the Partnership if such period is less than ten (10) years) with interest at the Default Rate of Interest. The first installment of principal, with interest, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with accrued interest, will be due and payable on the first day of each succeeding calendar year until the entire amount of the obligation is paid. The Partnership will have the right to prepay all or any part of the purchase money obligation at any time without penalty.

(e) Neither the Transferee of an unauthorized Transfer nor the Partner causing the unauthorized Transfer shall have the right to vote on Partnership matters during the prescribed option period or, if the option to purchase is timely exercised, until the sale is closed.

(f) The purchase option granted to the Partnership is only applicable to Unauthorized Transferees and is not applicable to Persons who are Transferees, but not also Unauthorized Transferees.

**9.4 Survival of Liabilities.** It is expressly understood and agreed that no Transfer of a Partnership Interest, even if it subsequently results in the substitution of the Transferee as a Partner herein, shall release the transferor or assignor from those liabilities as to the Partnership which survive such Transfer as a matter of law. Likewise, the transferred partnership interest shall be subject to all of the obligations owed to the Partnership by the transferor.

**9.5 Partnership Interest Pledge or Encumbrance.** No Partner may grant a security interest or otherwise pledge, hypothecate or encumber his, her or its interest in this Partnership or such Partner's distributions without the Unanimous Consent of all the Partners. It is understood that the Partners are under no obligation to give consent nor are they subject to liability for

withholding consent.

**9.6 Nonrecognition of an Unauthorized Transfer.** The Partnership will not be required to recognize the interest of any Transferee who has obtained a purported transferred interest as the result of a Transfer that is not authorized by this Agreement and the Transfer shall be null and void for all purposes. If there is doubt as to ownership of an interest in the Partnership or who is entitled to distributions or liquidating proceeds or other property, the Partners may accumulate such property until the issue is resolved to the satisfaction of the Partners.

**ARTICLE X**  
**TERMINATION AND WINDING UP PARTNERSHIP BUSINESS**

**10.1 Winding Up and Termination of Partnership.** The following events shall result in the winding up and termination of the Partnership:

- (a) The end of the Partnership term of twenty-five (25) years on December 31, 2036;
- (b) At any time when there are less than three (3) remaining Partners Entitled to Vote; or
- (c) Upon the Consent of the Partners.

The Partnership shall continue after the occurrence of an event requiring winding up until the winding up of its business is completed, at which time the Partnership shall be terminated.

**10.2 Conduct of Winding Up.**

(a) The following Persons are authorized to wind up the business of the Partnership:

(1) First, the Partners who have not withdrawn may wind up the Partnership's business;

(2) Second, the legal representative of the last surviving Partner may wind up the Partnership's business; or

(3) any Person appointed by a court to carry out the winding up.

(b) To the extent appropriate for winding up, as soon as reasonably practicable, and in the name of and for and on behalf of the Partnership, a Person winding up the Partnership's business may:

(1) prosecute and defend civil, criminal, or administrative suits;

- (2) settle and close the Partnership's business;
- (3) dispose of and convey Partnership Property;
- (4) satisfy or provide for the satisfaction of the Partnership's liabilities;
- (5) distribute to the Partners any remaining Partnership Property; and
- (6) perform any other necessary act.

(c) A Person winding up the Partnership's business may continue the business of the Partnership in whole or in part, including delaying the disposition of Partnership Property, but only for the limited period necessary to avoid unreasonable loss of the Partnership Property or business.

**10.3 Partner's Liability to Partnership For Incurring Inappropriate Liability After Occurrence of Event Requiring Winding Up.** A Partner who, with notice that an event requiring a winding up has occurred, incurs a Partnership liability under section 10.04(b) by an act that is not appropriate for winding up the Partnership business shall be liable to the Partnership for a loss caused to the Partnership arising from that liability.

**10.4 Partner's Power to Bind Partnership After Occurrence of Event Requiring Winding Up.** After the occurrence of an event requiring winding up, the Partnership shall be bound by a Partner's act that:

- (a) is appropriate for winding up the Partnership business; or
- (b) would otherwise bind the Partnership before the occurrence of the event requiring winding up, if the other party to the transaction does not have notice that an event requiring winding up has occurred.

**10.5 Rules for Distribution on Winding Up.**

(a) In winding up the Partnership business, the Partnership Property, including the contributions of the Partners required by this section 10.5, shall be applied to discharge its obligations to creditors, including, to the extent permitted by other applicable law, Partners who are creditors other than in their capacities as Partners. Any surplus must be applied to pay in cash the net amount distributable to Partners in accordance with their right to distributions under subsection 10.5(b).

(b) Each Partner shall be entitled to a settlement of all Partnership accounts on winding up the Partnership business. In settling accounts among the Partners, the Partnership interest of a withdrawn Partner that has not been redeemed under Chapter 152, Subchapter H of the TBOC shall be credited with a share of any profits for the

period after the Partner's withdrawal but shall be charged with a share of losses for that period only to the extent of profits credited for that period, and the profits and losses that result from the liquidation of the Partnership Property shall be credited and charged to the Partners' capital accounts. The Partnership shall make a distribution to each Partner in an amount equal to that Partner's positive balance in the Partner's capital account. Except as provided by section 152.304(b) or 152.801 of the TBOC, each Partner shall contribute to the Partnership an amount equal to that Partner's negative balance in the Partner's capital account.

(c) Except as provided by section 152.304(b) or 152.801 of the TBOC, to the extent not taken into account in settling the accounts among Partners under subsection 10.5(b) above:

(1) each Partner must contribute, in the proportion in which the Partner shares Partnership losses, the amount necessary to satisfy Partnership obligations, excluding liabilities that creditors have agreed may be satisfied only with Partnership Property without recourse to individual Partners;

(2) if a Partner fails to contribute, the other Partners shall contribute, in the proportions in which the Partners share Partnership losses, the additional amount necessary to satisfy the Partnership obligations; and

(3) a Partner or Partner's legal representative may enforce or recover from the other Partners, or from the estate of a deceased Partner, contributions the Partner or estate makes to the extent the amount contributed exceeds that Partner's or the estate's share of the Partnership obligations.

(d) The estate of a deceased Partner shall be liable for the Partner's obligation to contribute to the Partnership.

(e) The Partnership, an assignee for the benefit of creditors of the Partnership or a Partner, or a person appointed by a court to represent creditors of the Partnership or a Partner may enforce the obligation of a Partner or the estate of a deceased Partner to contribute to the Partnership.

## **ARTICLE XI** **MISCELLANEOUS**

11.1 **Notices**. Any notices required hereunder shall be sent to the Partners by personal service or by certified or registered mail, return receipt requested, at the address set forth by each Partner's signature on the signature page hereof. By giving to the Partnership and each Partner written notice thereof, the parties hereto and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America. No transferee of any interest of any Partner shall be entitled

to receive a notice independent of the notice sent to the Partner making such transfer;

**11.2 Additional Instruments.** Each Partner hereby agrees to execute all such agreements, certificates, tax statements, tax returns and other documents as may be required by law to effectuate the provisions contained herein.

**11.3 Applicable to Successors.** This Agreement and each provision herein shall be binding upon and applicable to, and shall inure to the benefit of, the parties hereto and their respective heirs, legatees, devisees, successors, assigns and legal representatives, except as otherwise expressly provided herein.

**11.4 Waiver.** No consent or waiver, express or implied, by any parties hereto of the breach or default by any other party or parties hereto in the performance by any such party or parties of its or their obligation hereunder shall be deemed or construed to be a consent to or waiver of any other breach of default in the performance of such other or others of the same or any other obligations of such other or others hereunder. Failure on the part of any party hereto to complain of any act of any of the other parties or to declare any of the other parties hereto in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

**11.5 Severability.** If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other Persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**11.6 Amendment.** This Agreement may be amended or modified at any time only if all Partners agree to such amendment or modification in writing.

**11.7 Waiver of Rights to Partition.** Inasmuch as all real and personal property owned by the Partnership is owned by the Partnership as an entity, and no party hereto, individually, has any ownership in such property, none of the parties hereto shall have any right to partition any of the Partnership Property, and all parties hereto hereby irrevocably waive any and all rights that any party hereto might have to maintain any action for partition of any of the Partnership Property with respect to their undivided interest, if any, therein, either as a partition in kind or a partition by sale.

**11.10 Counterparts.** This Agreement may be signed in a number of counterparts, each of which shall be an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Agreement shall be sufficient for all purposes without producing or accounting for the other counterparts hereof.

**11.11 Gender.** Wherever in this Agreement, words, including pronouns, are used in the masculine, they shall be read and construed in the feminine or neuter whenever they would so apply, and wherever in this Agreement, words, including pronouns, are used in the singular or plural, they shall be read and construed in the plural or singular, respectively, wherever they

would so apply.

**11.12 Attorney Fees.** In the event a dispute arises between any Partner(s) and the Partnership or between the Partners, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs incurred.

**11.13 Foreign Qualification.** Prior to the qualification of the Partnership to conduct business in any jurisdiction other than Texas, the Partners shall cause the Partnership to comply, to the extent procedures are available and those matters are reasonably within the control of the Partners, with all requirements necessary to qualify the Partnership as a foreign partnership in that jurisdiction. At the request of the Partners, each Partner shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with the terms of this Agreement that are necessary or appropriate to qualify, continue and terminate the Partnership as a foreign partnership in all jurisdictions in which the Partnership may conduct business.

**11.14 Governing Law.** This Agreement shall be subject to, and governed by, the laws of the State of Texas.

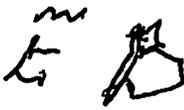
**11.15 Reliance by Third Parties.** Notwithstanding any other provision of this Agreement, any action taken by the Partners on behalf of the Partnership shall be binding as to any Person who acts in reliance on the authority of the Partners taking such action, and such Person shall have no duty to ascertain whether such Partner has such authority even if such action appears to be prohibited by this Agreement. Any Person dealing with the Partnership or the Partners may rely upon a certificate signed by the Partners as to: (a) the identity of the Partners; (b) any conditions precedent to acts by the Partnership; (c) the Persons who are authorized to execute any documents and bind the Partnership; and (d) any other matter involving the Partnership or any Partner.

**11.16 Entire Agreement.** The Agreements and representations in this Partnership Agreement contain all of the Agreements and representations of the parties hereto, and it is expressly provided that the Partners shall not be liable for any claim that may hereafter be made alleging any verbal agreement by and between the Parties hereto and the Partners, or any Partner's agents, employees or associates.

**11.17 Headings.** The heading of each of the articles and sections of this Agreement are inserted for convenience only and shall not be considered in construing the terms of this Agreement.

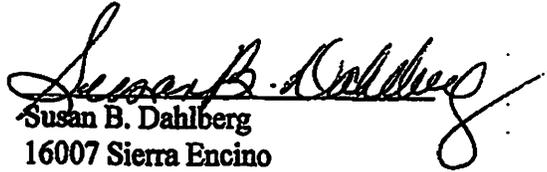
**11.18 Legal Counsel:** Attorney Michael G. Panzarella has prepared this Agreement on behalf of the Partnership. The individual Partners understand and acknowledge that Michael G. Panzarella does not represent any individual Partner and each of the Partners has been advised to seek independent legal counsel.

**EXECUTED** in multiple counterparts, by the Partners on date first above written.



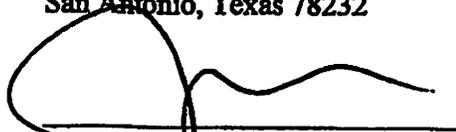
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Estelle F. Baros  
120 Riviera  
San Antonio, Texas 78213



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Susan B. Dahlberg  
16007 Sierra Encino  
San Antonio, Texas 78232



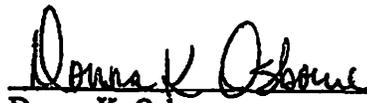
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James A. Baros, Jr.  
2075 McKinney Loop  
Blanco, Texas 78606



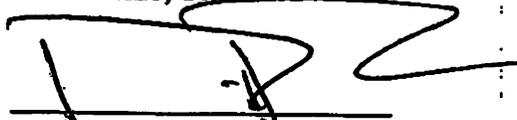
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Larry W. Baros  
21 San Isidro  
San Antonio, Texas 78261



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Donna K. Osborne  
2606 Inwood Briar  
San Antonio, Texas 78248



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David L. Baros  
1314 E. Sonterra Blvd., Suite 401  
San Antonio, Texas 78258

Law Offices of  
**MICHAEL G. PANZARELLA, PLLC**

**ATTORNEY AT LAW**  
1314 E. Sonterra Blvd., Suite 401  
San Antonio, TX 78258  
Phone (210) 274-5726  
Fax (210) 585-2252

email: [REDACTED]

July 28, 2014

Lavaca County Clerk  
412 North Texana  
Hallettsville, Texas 77964

Re: Special Warranty Deed Filing

Dear Sir or Madam:

I am attaching a Special Warranty Deed to be filed for the 186 acres described in the deed.

I have also attached a check for filing fees in the amount of \$38.00, \$26.00 for the first page, plus \$4.00 for each additional page.

I have included a post prepaid envelope so that you can return the original document to me after filing.

If you have any questions regarding the foregoing, please call me on my cell phone at 210-274-5726 or send an email to the above email address.

Sincerely,

Michael G. Panzarella

**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.**

**SPECIAL WARRANTY DEED**

Date: July 28, 2014

**Grantor:** DAVID L. BAROS; Successor Trustee of the *JAMES A. BAROS FAMILY TRUST*

**Grantor's Mailing Address:**

David L. Baros, Trustee  
1314 E. Sonterra Blvd.  
Suite 401  
San Antonio, TX 78258  
Bexar County

**Grantee:** BAROS FAMILY INVESTMENTS, a Texas general partnership

**Grantee's Mailing Address:**

David L. Baros, Managing Partner  
1314 E. Sonterra Blvd.  
Suite 401  
San Antonio, TX 78258  
Bexar County

**Consideration:**

Pursuant to the terms of the James A. Baros Family Trust and agreement of the beneficiaries thereof.

**Property (including any improvements):**

All of that certain parcel of land containing 186 acres, more or less, situated in Lavaca County, Texas, and being more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes.

**Reservations from Conveyance:** None.

**Exceptions to Conveyance and Warranty:**

This conveyance is expressly made and accepted subject to all matters on the ground that a true and correct survey would reveal; all validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments; and all zoning laws, regulations and ordinances of municipal and/or other governmental authorities relating to the above described property; and taxes for 2014, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

**Grant, Habendum, and Warranty:**

Grantor for the Consideration and subject to the Reservations from Conveyance 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 (including, without limitation, all permits, vested rights and related privileges with respect thereto, if any) to have and hold it 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 when the claim is by, through, or under Grantor but not otherwise, and except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

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

*This instrument was administratively prepared by Granstaff, Gaedke & Edgmon, P.C. from information provided by the Grantor. No opinion as to title is made or should be construed from this instrument. Granstaff, Gaedke & Edgmon, P.C. has not examined the title to the subject property or otherwise investigated the accuracy of the information provided.*

{Signature Page Follows}



## EXHIBIT "A"

186.58 acres of land, more or less, located in the D. Files (Thomas Toby), A-465 T.D. Fisher, A-186 and Wm. Strode, A-52 Surveys in Lavaca County, Texas, and being the same land described as two tracts in that Deed dated September 7, 2004, from Estelle Francis Baros to The James A. Baros Family Trust, Estelle F. Baros, Trustee, which is recorded in Volume 330, Page 904 of the Official Records of Lavaca County, Texas and being described as follows, to-wit:

FIRST TRACT: 100 -3/4 acres of land, more or less, being a part of the D. Files, T.D. Fisher and Wm. Strode Surveys in Lavaca County, Texas.

Also a strip of land for road purposes situated along the south line of a 326 acre tract deeded by J.T. Thornton to J.H. White containing 6/10 of an acre of land.

The above being the same land conveyed to Jos. Zavesky by Frank Kolar and wife, Josefa Kolar, by deed dated the 21<sup>st</sup> day of November, A.D. 1904, and recorded in Vol. 43, Pages 523-524, of the Deed Records of Lavaca County, Texas, to which reference is made for all purposes.

SECOND TRACT: 85 and 2/3 acres, a part of the David Files and J.S. Fisher Surveys and being also a part of the "Old Reischl Homestead", and being the same land conveyed in Deed from John Antrich, et ux to August Etlinger, dated November 5, 1945, appearing of record in Vol. 148, Pages 392, et seq., of the Deed Records of Lavaca County, Texas to which reference is made for all purposes.

**GRANSTAFF, GAEDKE & EDGMON, P.C.**

5535 Fredericksburg Road, Suite 110

San Antonio, Texas 78229

Telephone: (210) 348-6600

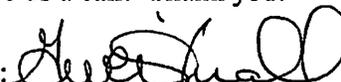
Fax: (210) 366-0892

Please excuse our informality, but to ensure you receive this promptly, I am mailing the enclosed without a formal letter.

To: David L. Baros  
1314 E. Sonterra Blvd., Suite 401  
San Antonio, Texas 78258

Our File: 10755

Remarks: Enclosed is the original of the Special Warranty Deed that was filed in the Lavaca County Clerks office on November 19, 2014. Should you have any questions, please give us a call. Thank you.

By:  12/4/14  
Gwen Vinall, Legal Assistant



**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.**

**SPECIAL WARRANTY DEED**

**Date:** November 14, 2014

**Grantor:** DAVID L. BAROS, Successor Trustee of the *JAMES A. BAROS FAMILY TRUST*

**Grantor's Mailing Address:**

David L. Baros, Trustee  
1314 E. Sonterra Blvd.  
Suite 401  
San Antonio, TX 78258  
Bexar County

**Grantee:** BAROS FAMILY INVESTMENTS, a Texas general partnership

**Grantee's Mailing Address:**

David L. Baros, Managing Partner  
1314 E. Sonterra Blvd.  
Suite 401  
San Antonio, TX 78258  
Bexar County

**Consideration:**

Pursuant to the terms of the James A. Baros Family Trust and agreement of the beneficiaries thereof.

**Property (including any improvements):**

All of that certain parcel of land containing 186 acres, more or less, situated in Lavaca County, Texas, and being more particularly described on **Exhibit "A"** attached hereto and incorporated herein for all purposes.

**Reservations from Conveyance:** None.

**Exceptions to Conveyance and Warranty:**

This conveyance is expressly made and accepted subject to all matters on the ground that a true and correct survey would reveal; all validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments; and all zoning laws, regulations and ordinances of municipal and/or other governmental authorities relating to the above described property; and taxes for 2014, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

**Grant, Habendum, and Warranty:**

Grantor for the Consideration and subject to the Reservations from Conveyance 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 (including, without limitation, all permits, vested rights and related privileges with respect thereto, if any) to have and hold it 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 when the claim is by, through, or under Grantor but not otherwise, and except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

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

*This instrument was administratively prepared by Granstaff, Gaedke & Edgmon, P.C. from information provided by the Grantor. No opinion as to title is made or should be construed from this instrument. Granstaff, Gaedke & Edgmon, P.C. has not examined the title to the subject property or otherwise investigated the accuracy of the information provided.*

{Signature Page Follows}

GRANTOR:



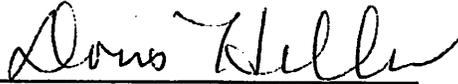
DAVID L. BAROS, Substitute Trustee of the  
*JAMES A. BAROS FAMILY TRUST*

THE STATE OF TEXAS

COUNTY OF Bexar

§  
§  
§

This instrument was acknowledged before me on November 14, 2014, by  
DAVID L. BAROS in the capacity stated.



Notary Public for the State of Texas

AFTER RECORDING RETURN TO:

David L. Baros  
1314 E. Sonterra Blvd., Suite 401  
San Antonio, Texas 78258

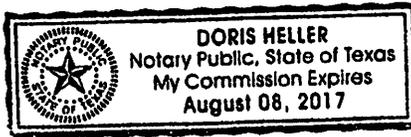


EXHIBIT "A"

**FIRST TRACT:**

Being part of the D. Files, T. D. Fisher, and Wm. Strode Surveys in Lavaca County, Texas, and more fully described as follows, to wit:  
BEGINNING at a stake set for the SW corner of the Wm. Chase League;  
THENCE E 179 varas to Reischls NW corner;  
THENCE S 432 varas to a stone;  
THENCE W 815 varas to a stake set on the Wincik East line;  
THENCE N 362 varas to Wincik's NE corner;  
THENCE W 287 varas to White's SE corner;  
THENCE N 283 varas to a stone;  
THENCE E 923 varas to stone set on the west line of the Chase League;  
THENCE S 213 varas to the place of beginning, containing 100-3/4 acres of land.

Also a strip of land for road purposes situated along the south line of a 326 acre tract deeded by J. T. Thornton to J. H. White, described as follows:

BEGINNING at a stake set on the S line of the Wm. Strode League 107 varas East from the SW corner of the said 326 acre tract;  
THENCE E 403 varas to a stake;  
THENCE N 9 varas to a stake;  
THENCE W 403 varas to a stake;  
THENCE S 9 varas to the place of beginning, containing 6/10 acre of land.

The above being the same land conveyed to Jos. Zavesky by Frank Kolar and wife, Josefa Kolar, by deed dated the 21st day of November, A.D. 1904, and recorded in Vol. 43, Pages 523-524, of the Deed Records of Lavaca County, Texas, to which reference is hereby made for all purposes.

**SECOND TRACT:**

85 and 23/100 acres, a part of the David Files and J. S. Fisher Surveys and being also part of the "Old Reischl Homestead", and being the same land conveyed in Deed from John Antrich et ux to August Etlinger, dated November 5, 1945, and appearing of record in Vol. 148, Pages 392, et seq, of the Deed Records of Lavaca County, Texas, to which reference is hereby made.

**FILED AND RECORDED**

**Instrument Number: 208800 V: 670 P: 27**

**Filing and Recording Date: 11/19/2014 09:42:13 AM Pages: 5 Recording Fee: \$38.00**

I hereby certify that this instrument was FILED on the date and time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS of Lavaca County,



*Elizabeth A. Kouba*

Elizabeth A. Kouba, County Clerk  
Lavaca County, Texas

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