

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

### APPLICATION NO. 12-4345B

BASF Corporation seeks to amend Certificate of Adjudication No. 12-4345 to authorize additional purposes of use, places of use, and an exempt interbasin transfer to the adjacent San Jacinto-Brazos Coastal Basin. BASF Corporation also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream and to use the bed and banks of Oyster Creek and Buffalo Camp Bayou to convey water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** BASF Corporation, 602 Copper Road, Freeport, TX, 77541-3001, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) §§ 11.122, 11.085, and 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, *et seq.* Notice of this application is required to be mailed to the interjacent water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.160, the downstream water right holders of record in the San Jacinto-Brazos Coastal Basin pursuant to Title 30 TAC § 295.161(a), and to the Texas Parks and Wildlife Department and the Public Interest Council pursuant to Title 30 TAC § 295.161(c).

Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water.

Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use.

Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Multiple time priorities and special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use.

Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream.

Water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow).

Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended.

Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended.

The application and partial fees were received on October 11, 2021. Additional fees were received on December 6, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on December 14, 2021.

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

[https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](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 September 16, 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 September 16, 2024. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by September 16, 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 ADJ 4345 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: August 13, 2024

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 12-4345B

TYPE §§ 11.122, 11.085, 11.042

Owner:	BASF Corporation	Address:	602 Copper Road Freeport, Texas 77541-3001
Filed:	December 14, 2021	Granted:	
Purposes:	Domestic, Municipal, Agricultural, Recreational, and Industrial	Counties:	McLennan, Limestone, Falls, Robertson and Brazoria
Watercourses:	Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos River	Watersheds:	Brazos River Basin and San Jacinto-Brazos Coastal Basin

WHEREAS, Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner/Applicant) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water; and

WHEREAS, Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use; and

WHEREAS, Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County; and

WHEREAS, the time priority of owner's right is March 6, 1951 for the impoundment of 8,000 acre-feet of water, the diversion of 8,996 acre-feet of water per year from the Brazos River and the diversion and use of 10,000 acre-feet of water from Lake Creek Reservoir; and

WHEREAS, the time priority of owner's right is March 5, 1952 for the impoundment of the additional 500 acre-feet of water; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-



feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use; and

WHEREAS, Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin; and

WHEREAS, Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream; and

WHEREAS, water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow); and

WHEREAS, Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended; and

WHEREAS, Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended; and

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

WHEREAS, releases from Lake Creek Reservoir and diversions from the Brazos River under this amendment, if granted, are subject to the requirements and orders of the Brazos Watermaster; and

WHEREAS, BASF Corporation has provided and the Executive Director has approved the *Accounting Plan for Water Right Number 12-4345A*; and

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 12-4345, designated Certificate of Adjudication No. 12-4345B, is issued to BASF Corporation subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized:

- A. To divert and use the 8,996 acre-feet of water per year diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.
- B. To use the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.

- C. An exempt interbasin transfer of the 10,000 acre-feet of water per year from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.
- D. To use the released water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, owned by Dow, including the authorizations to convey water through the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals.

## 2. DIVERSION

In addition to previous authorizations, Owner is authorized to divert water released from Lake Creek Reservoir from a diversion reach on the Brazos River, as described below:

- A. The upstream limit of the diversion reach is located at Latitude 29.349369 N, Longitude 95.582431 W in Brazoria County.
- B. The downstream limit of diversion reach is located at Latitude 28.878315 N, Longitude 95.379111 W in Brazoria County.
- C. At a maximum combined diversion rate of 630 cfs (282,762 gpm).

## 3. CONSERVATION

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

## 4. SPECIAL CONDITIONS

- A. Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 Texas Administrative Code (TAC) § 288.4.
- B. One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.
- C. Owner 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 at any new diversion structure(s).
- D. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 2. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of

any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 2. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan provide copies of the appropriate documents effectuating such changes.

- E. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.
- F. Owner shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records on the Brazos River.
- G. Owner shall contact the Brazos Watermaster prior to releases of water from Lake Creek Reservoir and the diversion of released water from the Brazos River authorized by this amendment.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 12-4345, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the Brazos River Basin and the San Jacinto-Brazos Coastal Basin.

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

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

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

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For the Commission

Date Issued:

## Sarah Henderson

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**From:** Yasuko Dodd [REDACTED]  
**Sent:** Monday, August 5, 2024 3:50 PM  
**To:** Sarah Henderson; Alan B Ferrell  
**Cc:** Chris Kozlowski; Humberto Galvan  
**Subject:** RE: [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B

Sarah,  
Thank you so much. It looks good.

Sincerely,  
**Yasuko Dodd P.E.**  
Sr. Environmental Specialist

Phone: +1 979 415 6952, Mobile: +1 979 665 2806, [REDACTED]  
Postal Address: BASF Corporation, 602 Copper Road, TX 77541 Freeport, United States



BASF Corporation

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**From:** Sarah Henderson <sarah.henderson@tceq.texas.gov>  
**Sent:** Monday, August 5, 2024 3:04 PM  
**To:** Yasuko Dodd [REDACTED] Alan B Ferrell [REDACTED]  
**Cc:** Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** RE: [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B

Yasuko,  
Thank you for your comments regarding the draft public notice and draft amendment to Certificate of Adjudication No. 12-4345B.  
Staff has made the requested edits to the draft amendment, attached.

No changes were made to the draft public notice.  
Staff will proceed with issuing the public notice, as drafted.

Sincerely,  
Sarah

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

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**From:** Yasuko Dodd <[REDACTED]>  
**Sent:** Tuesday, July 23, 2024 8:22 AM

To: Sarah Henderson <[Sarah.Henderson@tceq.texas.gov](mailto:Sarah.Henderson@tceq.texas.gov)>

Cc: Deborah Dalley [REDACTED]; Alan B Ferrell <[REDACTED]>; Travis Wilson Walthall [REDACTED]

Subject: FW: [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B

Sarah,

BASF reviewed the draft public notice and had one comment. Please add word "per year" after the word "acre-feet of water" (highlighted in attached PDF) in the attached PDF (page 6 of 18), Certificate of Adjudication page 2 of 4 Section 1. Use 1.A and 1.B.

## 1. USE

In addition to previous authorizations, Owner is authorized:

8,996 acre-feet of water per year

- A. To divert and use the 8,996 acre-feet of water diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.

10,000 acre-feet of water per year

- B. To use the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.

2 of 4

Sincerely,

**Yasuko Dodd P.E.**

Sr. Environmental Specialist

Phone: +1 979 415 6952, Mobile: +1 979 665 2806, Email: [REDACTED]

Postal Address: BASF Corporation, 602 Copper Road, TX 77541 Freeport, United States



We create chemistry

BASF Corporation

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From: Sarah Henderson <[sarah.henderson@tceq.texas.gov](mailto:sarah.henderson@tceq.texas.gov)>

Sent: Friday, July 12, 2024 5:28 PM

To: Alan B Ferrell [REDACTED]

Subject: [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B

Mr. Ferrell,

Please find the attached draft public notice, draft amendment and related technical memoranda for your review and comments.

A response is requested by July 26, 2024.

Feel free to contact me with any questions.

Sincerely,

Sarah

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



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 12-4345B

TYPE §§ 11.122, 11.085, 11.042

Owner:	BASF Corporation	Address:	602 Copper Road Freeport, Texas 77541-3001
Filed:	December 14, 2021	Granted:	
Purposes:	Domestic, Municipal, Agricultural, Recreational, and Industrial	Counties:	McLennan, Limestone, Falls, Robertson and Brazoria
Watercourses:	Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos River	Watersheds:	Brazos River Basin and San Jacinto-Brazos Coastal Basin

WHEREAS, Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner/Applicant) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water; and

WHEREAS, Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use; and

WHEREAS, Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County; and

WHEREAS, the time priority of owner's right is March 6, 1951 for the impoundment of 8,000 acre-feet of water, the diversion of 8,996 acre-feet of water per year from the Brazos River and the diversion and use of 10,000 acre-feet of water from Lake Creek Reservoir; and

WHEREAS, the time priority of owner's right is March 5, 1952 for the impoundment of the additional 500 acre-feet of water; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-

feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use; and

WHEREAS, Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin; and

WHEREAS, Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream; and

WHEREAS, water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow); and

WHEREAS, Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended; and

WHEREAS, Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended; and

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

WHEREAS, releases from Lake Creek Reservoir and diversions from the Brazos River under this amendment, if granted, are subject to the requirements and orders of the Brazos Watermaster; and

WHEREAS, BASF Corporation has provided and the Executive Director has approved the *Accounting Plan for Water Right Number 12-4345A*; and

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 12-4345, designated Certificate of Adjudication No. 12-4345B, is issued to BASF Corporation subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized:

- A. To divert and use the 8,996 acre-feet of water per year diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.
- B. To use the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.



- C. An exempt interbasin transfer of the 10,000 acre-feet of water per year from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.
- D. To use the released water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, owned by Dow, including the authorizations to convey water through the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals.

## 2. DIVERSION

In addition to previous authorizations, Owner is authorized to divert water released from Lake Creek Reservoir from a diversion reach on the Brazos River, as described below:

- A. The upstream limit of the diversion reach is located at Latitude 29.349369 N, Longitude 95.582431 W in Brazoria County.
- B. The downstream limit of diversion reach is located at Latitude 28.878315 N, Longitude 95.379111 W in Brazoria County.
- C. At a maximum combined diversion rate of 630 cfs (282,762 gpm).

## 3. CONSERVATION

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

## 4. SPECIAL CONDITIONS

- A. Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 Texas Administrative Code (TAC) § 288.4.
- B. One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.
- C. Owner 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 at any new diversion structure(s).
- D. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 2. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of

any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 2. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan provide copies of the appropriate documents effectuating such changes.

- E. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.
- F. Owner shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records on the Brazos River.
- G. Owner shall contact the Brazos Watermaster prior to releases of water from Lake Creek Reservoir and the diversion of released water from the Brazos River authorized by this amendment.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 12-4345, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the Brazos River Basin and the San Jacinto-Brazos Coastal Basin.

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

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

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

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For the Commission

Date Issued:

## Sarah Henderson

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**From:** Yasuko Dodd <[REDACTED]>  
**Sent:** Tuesday, July 23, 2024 8:22 AM  
**To:** Sarah Henderson  
**Cc:** Deborah Dalley; Alan B Ferrell; Travis Wilson Walthall; [REDACTED]  
**Subject:** FW: [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B  
**Attachments:** Draft-12-4345B Public Notice\_BASF.pdf

Sarah,  
BASF reviewed the draft public notice and had one comment. Please add word "per year" after the word "acre-feet of water" (highlighted in attached PDF) in the attached PDF (page 6 of 18), Certificate of Adjudication page 2 of 4 Section 1. Use 1.A and 1.B.

### 1. USE

In addition to previous authorizations, Owner is authorized:

- 8,996 acre-feet of water per year**
- A. To divert and use the **8,996 acre-feet of water** diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.
- 10,000 acre-feet of water per year**
- B. To use the bed and banks of Manos Creek and the Brazos River to convey **10,000 acre-feet of water** released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.

2 of 4

Sincerely,  
**Yasuko Dodd P.E.**  
Sr. Environmental Specialist

Phone: +1 979 415 6952, Mobile: +1 979 665 2806, Email: [REDACTED]  
Postal Address: BASF Corporation, 602 Copper Road, TX 77541 Freeport, United States



BASF Corporation

---

**From:** Sarah Henderson <[sarah.henderson@tceq.texas.gov](mailto:sarah.henderson@tceq.texas.gov)>  
**Sent:** Friday, July 12, 2024 5:28 PM  
**To:** Alan B Ferrell [REDACTED]  
**Subject:** [EXT] BASF Corporation - Certificate of Adjudication No. 12-4345B

Mr. Ferrell,  
Please find the attached draft public notice, draft amendment and related technical memoranda for your review and comments.

A response is requested by July 26, 2024.

Feel free to contact me with any questions.

Sincerely,

Sarah

Sarah Henderson  
Water Rights Permitting Team  
Water Availability Division  
Texas Commission on Environmental Quality  
P.O. Box 13087/MC-160  
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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

July 12, 2024

Mr. Alan Ferrell  
BASF Corporation  
602 Copper Road  
Freeport, Texas 77541-3001

**VIA E-MAIL**

RE: BASF Corporation  
ADJ 4345  
CN600124895, RN106845522  
Application No. 12-4345B to Amend Certificate of Adjudication No. 12-4345  
Texas Water Code §§ 11.122, 11.085, 11.042, Requiring Limited Mailed Notice  
Manos Creek, Oyster Creek, Buffalo Camp Bayou and the Brazos River, Brazos River  
Basin and San Jacinto-Brazos Coastal Basin  
McLennan and Brazoria counties

Dear Mr. Ferrell:

Drafts, subject to revision, of the public notice, proposed amendment to Certificate of Adjudication No. 12-4345, 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 26, 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 30-day comment period and once the comment period has closed, the proposed amendment to Certificate of Adjudication No. 12-4345 may be issued as drafted given no hearing requests are received.

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

Sincerely,

*Sarah Henderson*

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

Attachments

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

### APPLICATION NO. 12-4345B

BASF Corporation seeks to amend Certificate of Adjudication No. 12-4345 to authorize additional purposes of use, places of use, and an exempt interbasin transfer to the adjacent San Jacinto-Brazos Coastal Basin. BASF Corporation also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream and to use the bed and banks of Oyster Creek and Buffalo Camp Bayou to convey water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** BASF Corporation, 602 Copper Road, Freeport, TX, 77541-3001, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) §§ 11.122, 11.085, and 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, *et seq.* Notice of this application is required to be mailed to the interjacent water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.160, the downstream water right holders of record in the San Jacinto-Brazos Coastal Basin pursuant to Title 30 TAC § 295.161(a), and to the Texas Parks and Wildlife Department and the Public Interest Council pursuant to Title 30 TAC § 295.161(c).

Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water.

Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use.

Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Multiple time priorities and special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use.



Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream.

Water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow).

Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended.

Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended.

The application and partial fees were received on October 11, 2021. Additional fees were received on December 6, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on December 14, 2021.

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

[https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps).

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

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

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

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

must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

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

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 4345 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 12-4345B

TYPE §§ 11.122, 11.085, 11.042

Owner:	BASF Corporation	Address:	602 Copper Road Freeport, Texas 77541-3001
Filed:	December 14, 2021	Granted:	
Purposes:	Domestic, Municipal, Agricultural, Recreational, and Industrial	Counties:	McLennan, Limestone, Falls, Robertson and Brazoria
Watercourses:	Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos River	Watersheds:	Brazos River Basin and San Jacinto-Brazos Coastal Basin

WHEREAS, Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner/Applicant) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water; and

WHEREAS, Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use; and

WHEREAS, Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County; and

WHEREAS, the time priority of owner's right is March 6, 1951 for the impoundment of 8,000 acre-feet of water, the diversion of 8,996 acre-feet of water per year from the Brazos River and the diversion and use of 10,000 acre-feet of water from Lake Creek Reservoir; and

WHEREAS, the time priority of owner's right is March 5, 1952 for the impoundment of the additional 500 acre-feet of water; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-

feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use; and

WHEREAS, Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin; and

WHEREAS, Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream; and

WHEREAS, water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow); and

WHEREAS, Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended; and

WHEREAS, Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended; and

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

WHEREAS, releases from Lake Creek Reservoir and diversions from the Brazos River under this amendment, if granted, are subject to the requirements and orders of the Brazos Watermaster; and

WHEREAS, BASF Corporation has provided and the Executive Director has approved the *Accounting Plan for Water Right Number 12-4345A*; and

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 12-4345, designated Certificate of Adjudication No. 12-4345B, is issued to BASF Corporation subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized:

8,996 acre-feet of water per year

- A. To divert and use the 8,996 acre-feet of water diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.

10,000 acre-feet of water per year

- B. To use the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.

- C. An exempt interbasin transfer of the 10,000 acre-feet of water per year from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.
- D. To use the released water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, owned by Dow, including the authorizations to convey water through the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals.

## 2. DIVERSION

In addition to previous authorizations, Owner is authorized to divert water released from Lake Creek Reservoir from a diversion reach on the Brazos River, as described below:

- A. The upstream limit of the diversion reach is located at Latitude 29.349369 N, Longitude 95.582431 W in Brazoria County.
- B. The downstream limit of diversion reach is located at Latitude 28.878315 N, Longitude 95.379111 W in Brazoria County.
- C. At a maximum combined diversion rate of 630 cfs (282,762 gpm).

## 3. CONSERVATION

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

## 4. SPECIAL CONDITIONS

- A. Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 Texas Administrative Code (TAC) § 288.4.
- B. One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.
- C. Owner 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 at any new diversion structure(s).
- D. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 2. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of

any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 2. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan provide copies of the appropriate documents effectuating such changes.

- E. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.
- F. Owner shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records on the Brazos River.
- G. Owner shall contact the Brazos Watermaster prior to releases of water from Lake Creek Reservoir and the diversion of released water from the Brazos River authorized by this amendment.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 12-4345, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the Brazos River Basin and the San Jacinto-Brazos Coastal Basin.

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

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

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

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For the Commission


Date Issued:

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Sarah Henderson Project Manager      **Date:** March 21, 2023  
Water Rights Permitting Team

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

**From:** Jennifer Allis, Senior Water Conservation Specialist  
Resource Protection Team

**Subject:** BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

### APPLICATION SUMMARY

Certificate of Adjudication No. 12-4345 (Certificate), as amended, authorizes BASF Corporation (Applicant) to divert 8,996 acre-feet of water per year from a point on the Brazos River, Brazos River Basin, at a maximum rate of 45 cfs (20,250 gpm), to maintain a reservoir (Lake Creek Reservoir) on Manos Creek impounding 8,500 acre-feet of water, and to divert 10,000 acre-feet of water per year from the perimeter of the reservoir at a maximum rate of 455 cfs (204,750 gpm) for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its diversion points, storage reservoirs, discharge points, and conveyance locations and facilities.



## **WATER CONSERVATION REVIEW**

Pursuant to Title 30 Texas Administrative Code (TAC) §295.9(4), an application requesting to change the purpose or place of use requires the submittal of water conservation and drought contingency plans.

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

Applicant has stated that no water is currently being diverted for agricultural or municipal uses; therefore, the appropriate water conservation and drought contingency plans which comply with 30 TAC Chapter 288, shall be submitted for Resource Protection staff review prior to the diversion of water for these uses.

Additionally, pursuant to 30 TAC §295.9(5), applications for in-place recreational use are exempt from submitting a water conservation plan.

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

## **RECOMMENDATIONS**

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

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

Resource Protection Staff recommend the following special conditions be included in the proposed amendment, if granted:

- 1) Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 TAC §288.4.

- 2) One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.

*Jennifer Allis*

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Jennifer Allis, Senior Water Conservation Specialist

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Sarah Henderson, Project Manager      **Date:** March 24, 2023  
Water Rights Permitting Team

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

**From:** Kenneth Coonrod, Aquatic Scientist  
Resource Protection Team

**Subject:** BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

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

Certificate of Adjudication No. 12-4345 (Certificate), as amended, authorizes BASF Corporation (Applicant) to divert 8,996 acre-feet of water per year from a point on the Brazos River, Brazos River Basin, at a maximum rate of 45 cfs (20,250 gpm), to maintain a reservoir (Lake Creek Reservoir) on Manos Creek impounding 8,500 acre-feet of water, and to divert 10,000 acre-feet of water per year from the perimeter of the reservoir at a maximum rate of 455 cfs (204,750 gpm) for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its diversion



points, storage reservoirs, discharge points, and conveyance locations and facilities.

## ENVIRONMENTAL ANALYSIS

**Aquatic and Riparian Habitats:** The Applicant's proposed diversion locations include the Brazos River, Oyster Creek, and Buffalo Camp Bayou, perennial water bodies, which traverse the Floodplains and Low Terraces and the Mid-Coast Barrier Islands and Coastal Marshes ecoregions (Griffith et al. 2004).

The checklist for the Brazos River Basin identified 152 species of ichthyofauna occurring within the Lower Brazos, the San Bernard, and the Austin-Oyster hydrologic units (United States Geologic Survey codes 12070104, 12090401, and 12040205) (Hendrickson and Cohen 2015). The black rail (*Laterallus jamaicensis*), the piping plover (*Charadrius melodus*), the rufa red knot (*Calidris canutus rufa*), the saltmarsh topminnow (*Fundulus jenkinsi*), the West Indian manatee (*Trichechus manatus*), the alligator snapping turtle (*Macrochelys temminckii*), the Texas diamondback terrapin (*Malaclemys terrapin littoralis*), the Brazos heelsplitter (*Potamilus streckersoni*), and the Texas fawnsfoot (*Truncilla macrodon*), high-interest, aquatic and aquatic-dependents species, are known to occur in Brazoria County (TPWD 2015).

The TCEQ regulates bed and banks authorizations to convey stored water under the authority of TWC §11.042. That provision allows the commission to place special conditions in the authorization to "maintain instream uses and freshwater inflows to bays and estuaries." On February 12, 2014, the TCEQ adopted environmental flow standards for the Brazos River and its associated bay and estuary system (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter G). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC § 460). 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 proposes to convey stored water for subsequent diversion at the diversion rates and points authorized under Certificate of Adjudication No. 12-5328, located within the Applicant's requested diversion reach on the Brazos River, and on Buffalo Camp Bayou and Oyster Creek. The Applicant's request is not expected to adversely impact aquatic and riparian habitats in the area.

**Recreational Uses:** Brazos River Below Navasota River (Segment 1202), Brazos River Tidal (Segment 1201), and Oyster Creek Above Tidal (Segment 1110) have a designated primary contact recreation 1 use (TCEQ 2022a). Buffalo Camp Bayou has a presumed primary contact recreation 1 use (TCEQ 2022a). The Applicant's request should not adversely impact recreational uses.

**Water Quality:** Brazos River Below Navasota River (Segment 1202), Brazos River Tidal (Segment 1201), and Oyster Creek Above Tidal (Segment 1110) have a designated high aquatic life use, and Segments 1202 and 1201 have a designated public water supply use (public water supply designation for Segment 1201 only applies from its upstream boundary to 300 meters downstream of SH 332 in Brazoria County) (TCEQ 2022a). Buffalo Camp Bayou has a presumed high aquatic life use (TCEQ 2022a). Segment 1202, the portion of the Brazos River from the confluence with the Brazos River Tidal in Brazoria County upstream to the confluence with Steep Bank Creek in Fort Bend County, is identified in the Texas Integrated Report with a concern for screening levels for chlorophyll-*a* in water (TCEQ 2022b). Segment 1110, from a point 100 meters (110 yards) upstream of FM 2004 in Brazoria County upstream to the Styles Bayou confluence, is also listed as non-supporting for dissolved oxygen in water for a 24-hour average and for a 24-hour minimum as well as non-supporting for bacteria in water (TCEQ 2022b). Additionally, Segment 1110 is listed with a concern for screening levels for impaired habitat in water (TCEQ 2022b). The Applicant's request should not adversely impact water quality.

**Freshwater Inflows:** Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The application does not request a new appropriation of water; therefore, the Applicant's request should not have any impact to the Brazos River's estuary system.

## RECOMMENDATIONS

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

1. Owners 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 at the diversion structure(s).

## LITERATURE CITED

Griffith, G.E., S.A. Bryce, J.M. Omernik, J.A. Comstock, A.C. Rogers, B. Harrison, S.L. Hatch, and D. Bezanson. 2004. Ecoregions of Texas. (2-sided color poster with map, descriptive text, and photographs). U.S. Geological Survey, Reston, VA. Scale 1:2,500,000.

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [cited 2022 Dec 27]; Version 2.0. Available from <http://doi.org/10.17603/C3WC70>.

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

TCEQ. 2022b. Texas Integrated Report of Surface Water Quality. 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): Brazoria County, revised July 12, 2022. [cited 2022 Dec 27]. Available from <http://tpwd.texas.gov/gis/rtest/>.

*Kenneth Coonrod*

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Kenneth Coonrod, Aquatic Scientist

**Texas Commission on Environmental Quality**

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INTEROFFICE MEMORANDUM

To: Sarah Henderson, Project Manager  
Water Rights Permitting Team

Date: January 26, 2024

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

TG Trent Gay, Team Leader  
Surface Water Availability Team

From: Andrew Garcia, Hydrologist  
Surface Water Availability Team

Subject: BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

**HYDROLOGY REVIEW**

**Application Summary**

Certificate of Adjudication No. 12-4345 (Certificate), as amended, authorizes BASF Corporation (Applicant) to divert 8,996 acre-feet of water per year from a point on the Brazos River, Brazos River Basin, at a maximum rate of 45 cfs (20,250 gpm), to maintain a reservoir (Lake Creek Reservoir) on Manos Creek impounding 8,500 acre-feet of water, and to divert 10,000 acre-feet of water per year from the perimeter of the reservoir at a maximum rate of 455 cfs (204,750 gpm) for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its

diversion points, storage reservoirs, discharge points, and conveyance locations and facilities.

Applicant submitted an accounting plan on October 19, 2022. The accounting plan was subsequently revised, and a final version was submitted on May 24, 2023.

The application was declared administratively complete on December 14, 2021.

## **Hydrology Review**

Resource Protection staff did not recommend instream flow requirements for this application; however, they did recommend a special condition. See the Resource Protection memo dated March 24, 2023.

Reviews of requests for interbasin transfers (IBTs) are conducted in accordance with Chapter §11.085 of the Texas Water Code (TWC) and TCEQ rules regarding IBTs. BASF's request for an IBT is exempt under TWC §11.085(v)(3). Therefore, staff did not perform a review under TWC §11.085.

Regarding the request to use the bed and banks of Manos Creek and the Brazos River to convey stored water from Lake Creek Reservoir to Dow's diversion point, the application included the information required in 30 Texas Administrative Code (TAC) §295.111. Staff evaluated the Applicant's estimated conveyance losses and found them adequate.

Through existing service agreements BASF requests to divert the conveyed water from the Brazos River and discharge it into Harris Reservoir and Brazoria Reservoir, in accordance with the authorizations in Certificate of Adjudication No. 12-5328.

BASF submitted an accounting plan (*Accounting Plan for Water Right Number 12-4345A*), that accounts for discharges from Lake Creek Reservoir, losses, travel time, and diversions within Diversion Reach 3 under Certificate of Adjudication No. 12-4345. Staff reviewed the accounting plan and found it to be acceptable. Staff believes that maintenance of the approved accounting plan will ensure no impacts to other water rights in the Brazos Basin will occur.

Regarding the request to use the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey water the application included the information required in 30 Texas Administrative Code (TAC) §295.113.

BASF requested authorization to use water discharged from Harris and Brazoria Reservoirs in accordance with the authorizations in Certificate 12-5328, including the authorization to convey water to and through Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals. Because the discharge and diversion amounts and rates for operations under Certificate of Adjudication No. 12-5328 will not change if this permit is granted, and any losses are already accounted for in operations under that certificate, further staff review of this request is not necessary.

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

## Conclusion

Hydrology staff can support granting the application as requested provided that the amendment granted includes the following special condition:

1. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 3. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 3. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.
2. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.

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



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Andrew Garcia, Hydrologist

## Sarah Henderson

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**From:** Sarah Henderson  
**Sent:** Friday, July 12, 2024 5:28 PM  
**To:** [REDACTED]  
**Subject:** BASF Corporation - Certificate of Adjudication No. 12-4345B  
**Attachments:** BASF Corporation\_12-4345B\_Drafts\_Applicant\_12Jul2024.pdf

Mr. Ferrell,  
Please find the attached draft public notice, draft amendment and related technical memoranda for your review and comments.  
A response is requested by July 26, 2024.

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

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

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2024

Mr. Alan Ferrell  
BASF Corporation  
602 Copper Road  
Freeport, Texas 77541-3001

**VIA E-MAIL**

RE: BASF Corporation  
ADJ 4345  
CN600124895, RN106845522  
Application No. 12-4345B to Amend Certificate of Adjudication No. 12-4345  
Texas Water Code §§ 11.122, 11.085, 11.042, Requiring Limited Mailed Notice  
Manos Creek, Oyster Creek, Buffalo Camp Bayou and the Brazos River, Brazos River  
Basin and San Jacinto-Brazos Coastal Basin  
McLennan and Brazoria counties

Dear Mr. Ferrell:

Drafts, subject to revision, of the public notice, proposed amendment to Certificate of Adjudication No. 12-4345, 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 26, 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 30-day comment period and once the comment period has closed, the proposed amendment to Certificate of Adjudication No. 12-4345 may be issued as drafted given no hearing requests are received.

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

Sincerely,

*Sarah Henderson*

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

Attachments



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

### APPLICATION NO. 12-4345B

BASF Corporation seeks to amend Certificate of Adjudication No. 12-4345 to authorize additional purposes of use, places of use, and an exempt interbasin transfer to the adjacent San Jacinto-Brazos Coastal Basin. BASF Corporation also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream and to use the bed and banks of Oyster Creek and Buffalo Camp Bayou to convey water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** BASF Corporation, 602 Copper Road, Freeport, TX, 77541-3001, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) §§ 11.122, 11.085, and 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, *et seq.* Notice of this application is required to be mailed to the interjacent water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.160, the downstream water right holders of record in the San Jacinto-Brazos Coastal Basin pursuant to Title 30 TAC § 295.161(a), and to the Texas Parks and Wildlife Department and the Public Interest Council pursuant to Title 30 TAC § 295.161(c).

Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water.

Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use.

Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Multiple time priorities and special conditions apply.

Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use.

Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream.

Water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow).

Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended.

Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended.

The application and partial fees were received on October 11, 2021. Additional fees were received on December 6, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on December 14, 2021.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining an accounting plan. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps).

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

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

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

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

must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

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

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 4345 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 12-4345B

TYPE §§ 11.122, 11.085, 11.042

Owner:	BASF Corporation	Address:	602 Copper Road Freeport, Texas 77541-3001
Filed:	December 14, 2021	Granted:	
Purposes:	Domestic, Municipal, Agricultural, Recreational, and Industrial	Counties:	McLennan, Limestone, Falls, Robertson and Brazoria
Watercourses:	Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos River	Watersheds:	Brazos River Basin and San Jacinto-Brazos Coastal Basin

WHEREAS, Certificate of Adjudication No. 12-4345, as amended, authorizes BASF Corporation (Owner/Applicant) to maintain a dam and reservoir (Lake Creek Reservoir) on Manos Creek, tributary of the Brazos River, Brazos River Basin and impound not to exceed 8,500 acre-feet of water; and

WHEREAS, Owner is also authorized to divert not to exceed 8,996 acre-feet of water per year from a point on the Brazos River, at a maximum diversion rate of 45 cfs (20,250 gpm), into Lake Creek Reservoir for subsequent diversion and use; and

WHEREAS, Owner is further authorized to divert and use not to exceed 10,000 acre-feet of water per year from the perimeter of Lake Creek Reservoir, at a maximum diversion rate of 455 cfs (204,750 gpm), for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County; and

WHEREAS, the time priority of owner's right is March 6, 1951 for the impoundment of 8,000 acre-feet of water, the diversion of 8,996 acre-feet of water per year from the Brazos River and the diversion and use of 10,000 acre-feet of water from Lake Creek Reservoir; and

WHEREAS, the time priority of owner's right is March 5, 1952 for the impoundment of the additional 500 acre-feet of water; and

WHEREAS, Applicant seeks to amend Certificate of Adjudication No. 12-4345 to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-



feet of water and to add Limestone, Falls, Robertson, and Brazoria counties as a place of use; and

WHEREAS, Applicant also seeks an exempt interbasin transfer of the 10,000 acre-feet of water from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin; and

WHEREAS, Applicant also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey not to exceed 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream; and

WHEREAS, water released from Lake Creek Reservoir will be diverted at rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow); and

WHEREAS, Applicant further seeks to authorize the use of the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals in the San Jacinto-Brazos Coastal Basin to convey released water diverted from the Brazos River at Dow's authorized diversion points and conveyed through Dow's distribution system, in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended; and

WHEREAS, Applicant has provided consent from Dow for the application and for use of Dow's existing facilities authorized in Certificate of Adjudication No. 12-5328, as amended; and

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

WHEREAS, releases from Lake Creek Reservoir and diversions from the Brazos River under this amendment, if granted, are subject to the requirements and orders of the Brazos Watermaster; and

WHEREAS, BASF Corporation has provided and the Executive Director has approved the *Accounting Plan for Water Right Number 12-4345A*; and

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 12-4345, designated Certificate of Adjudication No. 12-4345B, is issued to BASF Corporation subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized:

- A. To divert and use the 8,996 acre-feet of water diverted from the Brazos River for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan, Falls, Limestone, Robertson and Brazoria counties.
- B. To use the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water released from Lake Creek Reservoir for use in Falls, Limestone, Robertson and Brazoria counties.

- C. An exempt interbasin transfer of the 10,000 acre-feet of water per year from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.
- D. To use the released water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, owned by Dow, including the authorizations to convey water through the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals.

## 2. DIVERSION

In addition to previous authorizations, Owner is authorized to divert water released from Lake Creek Reservoir from a diversion reach on the Brazos River, as described below:

- A. The upstream limit of the diversion reach is located at Latitude 29.349369 N, Longitude 95.582431 W in Brazoria County.
- B. The downstream limit of diversion reach is located at Latitude 28.878315 N, Longitude 95.379111 W in Brazoria County.
- C. At a maximum combined diversion rate of 630 cfs (282,762 gpm).

## 3. CONSERVATION

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

## 4. SPECIAL CONDITIONS

- A. Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 Texas Administrative Code (TAC) § 288.4.
- B. One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.
- C. Owner 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 at any new diversion structure(s).
- D. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 2. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of

any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 2. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan provide copies of the appropriate documents effectuating such changes.

- E. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.
- F. Owner shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records on the Brazos River.
- G. Owner shall contact the Brazos Watermaster prior to releases of water from Lake Creek Reservoir and the diversion of released water from the Brazos River authorized by this amendment.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate of Adjudication No. 12-4345, as amended, except as specifically amended herein.

This amendment is issued subject to all superior and senior water right holders in the Brazos River Basin and the San Jacinto-Brazos Coastal Basin.

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

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

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

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For the Commission


Date Issued:

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Sarah Henderson Project Manager      **Date:** March 21, 2023  
Water Rights Permitting Team

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

**From:** Jennifer Allis, Senior Water Conservation Specialist  
Resource Protection Team

**Subject:** BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

### APPLICATION SUMMARY

Certificate of Adjudication No. 12-4345 (Certificate), as amended, authorizes BASF Corporation (Applicant) to divert 8,996 acre-feet of water per year from a point on the Brazos River, Brazos River Basin, at a maximum rate of 45 cfs (20,250 gpm), to maintain a reservoir (Lake Creek Reservoir) on Manos Creek impounding 8,500 acre-feet of water, and to divert 10,000 acre-feet of water per year from the perimeter of the reservoir at a maximum rate of 455 cfs (204,750 gpm) for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its diversion points, storage reservoirs, discharge points, and conveyance locations and facilities.



## **WATER CONSERVATION REVIEW**

Pursuant to Title 30 Texas Administrative Code (TAC) §295.9(4), an application requesting to change the purpose or place of use requires the submittal of water conservation and drought contingency plans.

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

Applicant has stated that no water is currently being diverted for agricultural or municipal uses; therefore, the appropriate water conservation and drought contingency plans which comply with 30 TAC Chapter 288, shall be submitted for Resource Protection staff review prior to the diversion of water for these uses.

Additionally, pursuant to 30 TAC §295.9(5), applications for in-place recreational use are exempt from submitting a water conservation plan.

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

## **RECOMMENDATIONS**

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

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

Resource Protection Staff recommend the following special conditions be included in the proposed amendment, if granted:

- 1) Ninety days prior to the diversion of water for agricultural use, Owner or contract customer shall submit a water conservation plan to the TCEQ that meets the requirements of 30 TAC §288.4.

- 2) One hundred eighty days prior to the diversion of water for municipal use, Owner or contract customer shall submit water conservation and drought contingency plans to the TCEQ that meet the requirements of 30 TAC Chapter 288.

*Jennifer Allis*

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Jennifer Allis, Senior Water Conservation Specialist

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Sarah Henderson, Project Manager      **Date:** March 24, 2023  
Water Rights Permitting Team

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

**From:** Kenneth Coonrod, Aquatic Scientist  
Resource Protection Team

**Subject:** BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

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

Certificate of Adjudication No. 12-4345 (Certificate), as amended, authorizes BASF Corporation (Applicant) to divert 8,996 acre-feet of water per year from a point on the Brazos River, Brazos River Basin, at a maximum rate of 45 cfs (20,250 gpm), to maintain a reservoir (Lake Creek Reservoir) on Manos Creek impounding 8,500 acre-feet of water, and to divert 10,000 acre-feet of water per year from the perimeter of the reservoir at a maximum rate of 455 cfs (204,750 gpm) for domestic, municipal, agricultural, recreational, and industrial purposes in McLennan County.

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its diversion

points, storage reservoirs, discharge points, and conveyance locations and facilities.

## ENVIRONMENTAL ANALYSIS

**Aquatic and Riparian Habitats:** The Applicant's proposed diversion locations include the Brazos River, Oyster Creek, and Buffalo Camp Bayou, perennial water bodies, which traverse the Floodplains and Low Terraces and the Mid-Coast Barrier Islands and Coastal Marshes ecoregions (Griffith et al. 2004).

The checklist for the Brazos River Basin identified 152 species of ichthyofauna occurring within the Lower Brazos, the San Bernard, and the Austin-Oyster hydrologic units (United States Geologic Survey codes 12070104, 12090401, and 12040205) (Hendrickson and Cohen 2015). The black rail (*Laterallus jamaicensis*), the piping plover (*Charadrius melodus*), the rufa red knot (*Calidris canutus rufa*), the saltmarsh topminnow (*Fundulus jenkinsi*), the West Indian manatee (*Trichechus manatus*), the alligator snapping turtle (*Macrochelys temminckii*), the Texas diamondback terrapin (*Malaclemys terrapin littoralis*), the Brazos heelsplitter (*Potamilus streckersoni*), and the Texas fawnsfoot (*Truncilla macrodon*), high-interest, aquatic and aquatic-dependents species, are known to occur in Brazoria County (TPWD 2015).

The TCEQ regulates bed and banks authorizations to convey stored water under the authority of TWC §11.042. That provision allows the commission to place special conditions in the authorization to "maintain instream uses and freshwater inflows to bays and estuaries." On February 12, 2014, the TCEQ adopted environmental flow standards for the Brazos River and its associated bay and estuary system (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter G). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC § 460). 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 proposes to convey stored water for subsequent diversion at the diversion rates and points authorized under Certificate of Adjudication No. 12-5328, located within the Applicant's requested diversion reach on the Brazos River, and on Buffalo Camp Bayou and Oyster Creek. The Applicant's request is not expected to adversely impact aquatic and riparian habitats in the area.

**Recreational Uses:** Brazos River Below Navasota River (Segment 1202), Brazos River Tidal (Segment 1201), and Oyster Creek Above Tidal (Segment 1110) have a designated primary contact recreation 1 use (TCEQ 2022a). Buffalo Camp Bayou has a presumed primary contact recreation 1 use (TCEQ 2022a). The Applicant's request should not adversely impact recreational uses.

**Water Quality:** Brazos River Below Navasota River (Segment 1202), Brazos River Tidal (Segment 1201), and Oyster Creek Above Tidal (Segment 1110) have a designated high aquatic life use, and Segments 1202 and 1201 have a designated public water supply use (public water supply designation for Segment 1201 only applies from its upstream boundary to 300 meters downstream of SH 332 in Brazoria County) (TCEQ 2022a). Buffalo Camp Bayou has a presumed high aquatic life use (TCEQ 2022a). Segment 1202, the portion of the Brazos River from the confluence with the Brazos River Tidal in Brazoria County upstream to the confluence with Steep Bank Creek in Fort Bend County, is identified in the Texas Integrated Report with a concern for screening levels for chlorophyll-*a* in water (TCEQ 2022b). Segment 1110, from a point 100 meters (110 yards) upstream of FM 2004 in Brazoria County upstream to the Styles Bayou confluence, is also listed as non-supporting for dissolved oxygen in water for a 24-hour average and for a 24-hour minimum as well as non-supporting for bacteria in water (TCEQ 2022b). Additionally, Segment 1110 is listed with a concern for screening levels for impaired habitat in water (TCEQ 2022b). The Applicant's request should not adversely impact water quality.

**Freshwater Inflows:** Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The application does not request a new appropriation of water; therefore, the Applicant's request should not have any impact to the Brazos River's estuary system.

## RECOMMENDATIONS

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

1. Owners 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 at the diversion structure(s).

## LITERATURE CITED

Griffith, G.E., S.A. Bryce, J.M. Omernik, J.A. Comstock, A.C. Rogers, B. Harrison, S.L. Hatch, and D. Bezanson. 2004. Ecoregions of Texas. (2-sided color poster with map, descriptive text, and photographs). U.S. Geological Survey, Reston, VA. Scale 1:2,500,000.

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [cited 2022 Dec 27]; Version 2.0. Available from <http://doi.org/10.17603/C3WC70>.

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

TCEQ. 2022b. Texas Integrated Report of Surface Water Quality. 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): Brazoria County, revised July 12, 2022. [cited 2022 Dec 27]. Available from <http://tpwd.texas.gov/gis/rtest/>.

*Kenneth Coonrod*

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Kenneth Coonrod, Aquatic Scientist

## INTEROFFICE MEMORANDUM

Date: January 26, 2024

TG Trent Gay, Team Leader  
Surface Water Availability Team

Subject: BASF Corporation  
ADJ 4345  
CN600124895  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan, Limestone, Falls, Robertson, and Brazoria counties

## Application Summary

Applicant requests to amend the Certificate to add domestic, municipal, agricultural, recreational, and industrial purposes of use to the 8,996 acre-feet of water per year, and to add places of use in Limestone, Falls, Robertson, and Brazoria counties. Applicant also requests an exempt interbasin transfer for the 10,000 acre-foot portion of water diverted from Lake Creek Reservoir from the Brazos River Basin to the adjacent San Jacinto-Brazos Coastal Basin.

Additionally, Applicant requests authorization to use the bed and banks of Manos Creek, the Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey the 10,000 acre-feet of stored water released from Lake Creek Reservoir for subsequent diversion at diversion rates and points authorized under Certificate of Adjudication No. 12-5328, as amended, owned by The Dow Chemical Company (Dow). Applicant provided consent from Dow for use of its



diversion points, storage reservoirs, discharge points, and conveyance locations and facilities.

Applicant submitted an accounting plan on October 19, 2022. The accounting plan was subsequently revised, and a final version was submitted on May 24, 2023.

The application was declared administratively complete on December 14, 2021.

## **Hydrology Review**

Resource Protection staff did not recommend instream flow requirements for this application; however, they did recommend a special condition. See the Resource Protection memo dated March 24, 2023.

Reviews of requests for interbasin transfers (IBTs) are conducted in accordance with Chapter §11.085 of the Texas Water Code (TWC) and TCEQ rules regarding IBTs. BASF's request for an IBT is exempt under TWC §11.085(v)(3). Therefore, staff did not perform a review under TWC §11.085.

Regarding the request to use the bed and banks of Manos Creek and the Brazos River to convey stored water from Lake Creek Reservoir to Dow's diversion point, the application included the information required in 30 Texas Administrative Code (TAC) §295.111. Staff evaluated the Applicant's estimated conveyance losses and found them adequate.

Through existing service agreements BASF requests to divert the conveyed water from the Brazos River and discharge it into Harris Reservoir and Brazoria Reservoir, in accordance with the authorizations in Certificate of Adjudication No. 12-5328.

BASF submitted an accounting plan (*Accounting Plan for Water Right Number 12-4345A*), that accounts for discharges from Lake Creek Reservoir, losses, travel time, and diversions within Diversion Reach 3 under Certificate of Adjudication No. 12-4345. Staff reviewed the accounting plan and found it to be acceptable. Staff believes that maintenance of the approved accounting plan will ensure no impacts to other water rights in the Brazos Basin will occur.

Regarding the request to use the bed and banks of Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to convey water the application included the information required in 30 Texas Administrative Code (TAC) §295.113.

BASF requested authorization to use water discharged from Harris and Brazoria Reservoirs in accordance with the authorizations in Certificate 12-5328, including the authorization to convey water to and through Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals. Because the discharge and diversion amounts and rates for operations under Certificate of Adjudication No. 12-5328 will not change if this permit is granted, and any losses are already accounted for in operations under that certificate, further staff review of this request is not necessary.

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

## Conclusion

Hydrology staff can support granting the application as requested provided that the amendment granted includes the following special condition:

1. Owner shall only divert and use water pursuant to Paragraph 1. USE and Paragraph 3. DIVERSION in accordance with the most recently approved accounting plan (*Accounting Plan for Water Right Number 12-4345A*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification that changes the terms and conditions of this amendment must be in the form of an amendment to the certificate. Should Owner fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Owner shall immediately cease diversion pursuant to Paragraph 3. DIVERSION, and either apply to amend the certificate, or voluntarily forfeit the amendment. If Owner fails to amend the accounting plan or forfeit the amendment, the Commission may begin proceedings to cancel the amendment. Owner shall immediately notify the Executive Director upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.
2. Prior to diversion, if sufficiently accurate measuring devices are not available, Owner shall install and maintain measuring device(s), at the discharge point of the water from Lake Creek Reservoir, capable of measuring within plus or minus 5% accuracy.

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



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Andrew Garcia, Hydrologist

## Sarah Henderson

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**From:** Alan B Ferrell <[REDACTED]>  
**Sent:** Tuesday, November 14, 2023 8:15 AM  
**To:** Sarah Henderson  
**Cc:** Kathy Alexander  
**Subject:** BASF New Contact Information

Good Morning,

I wanted to reach out and update you some changes in responsibilities for our Lake Creek Reservoir Site. I will be the new contact for the site. I also wanted to see if an update was available on the status of the "Bed and Banks Permit" as well as the newly requested water rights permit. Thanks in advance,

Kind Regards,  
**Alan Ferrell**  
Lake Creek Ranch & Freeport Site Special Projects

Phone: 979 415-6788, Mobile: 409-543-0660, Fax: 979 415-8487, Email: [REDACTED]  
Postal Address: BASF Corporation, 910, 602 Copper Road, TX 77541 Freeport, USA



BASF Corporation

## Sarah Henderson

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**From:** Frank Schalla [REDACTED] >  
**Sent:** Wednesday, May 31, 2023 2:17 PM  
**To:** Sarah Henderson  
**Cc:** Kathy Alexander; Trent Gay; Yasuko Dodd; Brian Meagher; Tim Osting  
**Subject:** Application to Amend No. 12-4345: Accounting Plan spreadsheet and Statement 7 Revision  
**Attachments:** STATEMENT7\_WR12-4345\_20230531.pdf; Accounting Plan Spreadsheet\_20230531.xlsx

Hello Sarah,

Please find attached revisions to Statement 7 and the Accounting Plan spreadsheet that were submitted with the original application package to amend Certificate of Adjudication No. 12-4345.

Please feel free to reach out to myself or Tim Osting if you have any further questions.

Sincerely,

Frank Schalla, PE  
Senior Water Resources Engineer

**AquaStrategies**

[aquastrategies.com](http://aquastrategies.com)

+1.469.408.5313 (USA)

+44.7933.245938 (UK)

## **STATEMENT 7**

### **SUPPLEMENTAL ATTACHMENT TO WORKSHEET 7.0**

#### **ACCOUNTING PLAN**

Certificate of Adjudication number 12-4345A authorizes BASF Corporation to divert and use up to 10,000 acre-feet of water per year at a maximum diversion rate of 455 cfs from Lake Creek Reservoir. Additionally, it authorizes BASF Corporation to divert 8,996 acre-feet of water per year at a maximum diversion rate of 45 cfs from the Brazos River into Lake Creek Reservoir for subsequent diversion and use. The priority date for the diversion of 8,996 acre-feet of water per year, and diversion and use of 10,000 acre-feet of water per year is March 6, 1951.

This Accounting Plan will be used to track Lake Creek Reservoir released water, and the transport of released water using the bed and banks of Manos Creek and the Brazos River downstream to multiple diversion locations within diversion reach number 3. The Accounting Plan spreadsheet included within the application package will be used to record and account for Lake Creek Reservoir average daily releases, travel time, channel losses, released water available for diversion at multiple diversion points within the proposed diversion reach, and the amount of water diverted at multiple diversion points. The Accounting Plan spreadsheet will also be used to summarize reservoir releases and diversions in a month total and annual total format. Four potential diversion locations within diversion reach number 3 are shown with corresponding cumulative channel losses and travel times: Upstream limit of diversion reach number 3, existing diversion point at Harris Reservoir, existing diversion point at Brazoria Reservoir, and the downstream limit of diversion reach number 3. If a new diversion point is added within diversion reach number 3 it will be reflected in an updated accounting plan and submitted to the TCEQ Executive Direction for approval prior to diversion.

All Lake Creek Reservoir released water and diversions from BASF Corporation owned and operated diversion points will be recorded using a measuring device which accounts for the quantity of water released within an accuracy of plus or minus 5.0%. Some existing authorized diversion points within diversion reach 3 that are included in the Accounting Plan are owned and operated by another entity, as detailed in the Letter of Consent (see Exhibit 1).

Calculated cumulative channel losses from Lake Creek Reservoir to the upstream or downstream limits of the proposed diversion reach range from 8.15 to 9.60%, respectively. Cumulative travel time from Lake Creek Reservoir to the upstream or downstream limit of the proposed diversion reach range from 8.60 to 10.07 days, respectively. Cumulative channel loss values and cumulative travel time values used for this accounting plan are derived from the incremental loss and incremental travel time values in the Brazos River Authority (BRA) Water Management Plan (Section 4, Table 4.7, <https://brazos.org/About-Us/Water-Supply/SysOps>). To estimate a channel loss and travel time value for a length of river that is shorter than a BRA reach, reach values were proportionately adjusted using National Hydrology Dataset (NHD) flowline river mile lengths. Additionally, the NHD river mile length from the "Rosharon gage to Harris Reservoir Diversion" reach was altered to remove a closed Oxbow Lake currently included in the NHD flowline length. Table 1 below lists calculated cumulative channel loss and cumulative travel time values used in the Accounting Plan spreadsheet.

Table 1. Accounting Plan calculated cumulative travel times and cumulative channel loss values.

Brazos River Authority Reach	Subreach	Brazos River Authority Incremental Travel Time (days)	Brazos River Authority Incremental Channel Loss (%)	National Hydrography Dataset Incremental Length <sup>1</sup> (river miles)	Subreach Incremental Travel Time (days)	Subreach Incremental Losses (%)	Cumulative Travel Time from Lake Creek Reservoir (days)	Cumulative Channel Loss Factor from Lake Creek Reservoir (%)
Waco gage to Highbank gage	Waco gage to Brazos/Manos Creek confluence (Lake Creek Reservoir)	1.39	0.94	13.09	0.32	0.22	-	-
	Brazos/Manos Creek confluence (Lake Creek Reservoir) to Highbank gage			43.38	1.07	0.72	1.07	0.72%
Highbank gage to Brazos/Little confluence	-	0.90	0.61	-	-	-	1.97	1.33%
Brazos/Little confluence to Bryan gage	-	0.80	0.86	-	-	-	2.77	2.17%
Bryan gage to Brazos/Yegua confluence	-	0.99	1.06	-	-	-	3.76	3.21%
Brazos/Yegua confluence to Brazos/Navasota confluence	-	0.43	0.46	-	-	-	4.19	3.66%
Brazos/Navasota confluence to Hempstead gage	-	0.87	0.93	-	-	-	5.06	4.55%
Hempstead gage to Richmond gage	-	2.62	2.82	-	-	-	7.68	7.24%
Richmond gage to Rosharon gage	-	0.92	0.98	-	-	-	8.60	8.15%
Rosharon gage to Gulf of Mexico	Rosharon gage to Harris Reservoir Diversion	1.47	1.58	11.23	0.29	0.31	8.89	8.44%
	Harris Reservoir Diversion to Brazoria Reservoir Diversion			21.59	0.56	0.60	9.45	8.99%
	Brazoria Reservoir Diversion to Gulf of Mexico			24.01	0.62	0.67	10.07	9.60%

<sup>1</sup> The National Hydrography Dataset (NHD) length from the “Rosharon gage to Harris Reservoir Diversion” reach was altered to remove a closed Oxbow Lake included in the NHD flowline length.

Through the Letter of Consent (Exhibit 1), water diverted from diversion points number 4 and 5 will be fully controlled by a private entity. This entity has an existing and approved Accounting Plan for diversions from existing diversion points into Harris Reservoir and Brazoria Reservoir, as well as the subsequent discharges and diversions into and from Oyster Creek and Buffalo Camp Bayou. This entities' Accounting Plan is not discussed herein.

The following Tables and corresponding column fields in the Accounting Plan spreadsheet are detailed as follows:

- **DIVERSION Table.** List of four diversion points within diversion reach number 3 and corresponding cumulative channel loss and travel time values. The Accounting Table columns A5 and A9 will reference this table based on the respective diversion points.
  - **AA1: Diversion points within diversion reach.** A list of the diversion points where diversions within diversion reach number 3 will occur.
  - **AA2: Cumulative Channel Losses from Lake Creek Reservoir, percent.** The cumulative channel losses, in percent, from Lake Creek Reservoir to identified diversion point in column AA1.
  - **AA3: Cumulative Travel Time from Lake Creek Reservoir, days.** The travel time from Lake Creek Reservoir, in days, to the identified diversion point in column AA1.
  - **AA4: Rounded Cumulative Travel Time from Lake Creek Reservoir, days.** The travel time from Lake Creek Reservoir in days, from Column AA3, rounded to the nearest day to align with the daily accounting timestep, for the identified diversion point in column AA1.
- **ACCOUNTING Table.** Columns used to track and account for water released from Lake Creek Reservoir and subsequently diverted from multiple diversion points within diversion reach number 3.
  - **A1: Date.** Date in the current accounting year.
  - **A2: Month.** Month of the date in column A1.
  - **A3: Lake Creek Reservoir Daily Average Release, in cubic feet per second.** For each day when releases from Lake Creek Reservoir occur, averaged daily releases, in cubic feet per second, are recorded in this column.
  - **A4: Lake Creek Reservoir Release, in acre-feet per day.** Column A3 converted from cubic feet per second to acre-feet per day using a conversion factor of 1.983.
  - **A5: Lake Creek Reservoir Release Water Available for Diversion at Harris Reservoir Diversion Point No. 4, cubic feet per second.** This column multiplies the cumulative delivery factor to Harris Reservoir Diversion Point No. 4 (1 - channel loss value; 1 - Column AA2 for Diversion Point No. 4), by the Lake Creek Reservoir released water amount (column A3) and then offsets this value by the cumulative number of days of travel to Harris Reservoir Diversion Point No. 4 (column AA4 for Diversion Point No. 4).
  - **A6: Lake Creek Reservoir Release Water Available for diversion at Harris Reservoir Diversion Point No. 4, acre-feet per day.** Column A5 converted from cubic feet per second to acre-feet per day using a conversion factor of 1.983.



- **A7: Diversion at Harris Reservoir Diversion Point No. 4, acre-feet per day.** Recorded daily diversion of water from the Harris Reservoir Diversion Point No. 4. Diversions should not exceed amounts in column A6.
- **A8: Remaining Lake Creek Reservoir Release Water Available for Diversion at Harris Reservoir Diversion Point No. 4, acre-feet per day.** The remaining amount of water available for diversion at Diversion Point No. 4, after subtracting diversions at Diversion Point No. 4. Calculated by subtracting column A7 from column A6.
- **A9: Lake Creek Reservoir Release Water Available for Diversion at Brazoria Reservoir Diversion Point No. 5, acre-feet per day.** This column takes the difference in cumulative delivery factors between Brazoria Reservoir Diversion Point No. 5 and Harris Reservoir Diversion Point No. 4 [1- (difference in cumulative channel loss values); 1 – (Column AA2 for Diversion Point No. 5 – Column AA2 for Diversion Point No. 4)], and multiplies it by the Remaining Lake Creek Reservoir released water available for diversion at Harris Reservoir Diversion Point (column A8) and then offsets this value by the difference in cumulative number of days of travel between Harris Reservoir Diversion Point No. 4 and Brazoria Reservoir Diversion Point No. 5 (Column AA4 for Diversion Point No. 5 – Column AA4 for Diversion Point No. 4).
- **A10: Diversion at Brazoria Reservoir Diversion Point No. 5, acre-feet per day.** Recorded daily diversion of water from Brazoria Reservoir Diversion Point No. 5. Diversions should not exceed amount in column A9.
- **A11: Remaining Lake Creek Reservoir Release Water Available for Diversion at Brazoria Reservoir Diversion Point No. 5, acre-feet per day.** The remaining amount of water available for diversion at Diversion Point No. 5, after subtracting diversions at Diversion Point No. 5. Calculated by subtracting column A10 from column A9.
- **SUMMARY Table.** Monthly and annual summary values from ACCOUNTING Table.
  - **B1: Month.** The numerical month and annual value that B columns will be calculated from.
  - **B2: Lake Creek Reservoir Releases, acre-feet.** The amount of Lake Creek Reservoir release water on a monthly and annual basis, calculated from column A4.
  - **B3: Lake Creek Reservoir Release Water Available for Diversion at Harris Reservoir Diversion Point No. 4, acre-feet.** Amount of water available for diversion at Harris Reservoir Diversion Point No. 4, on a monthly and annual basis. Calculated from column A6.
  - **B4: Diversion at Harris Reservoir Diversion Point No. 4, acre-feet.** The amount of water diverted at Harris Reservoir Diversion Point No. 4, on a monthly and annual basis. Calculated from column A7.
  - **B5: Remaining Lake Creek Reservoir Release Water Available for Diversion at Harris Reservoir Diversion Point No. 4, acre-feet.** The amount of remaining water available for diversion at Harris Reservoir Diversion Point No. 4, after

subtracting diversions from Diversion Point No. 4, on a monthly and annual basis. Calculated from column A8.

- **B6: Lake Creek Reservoir Release Water Available for Diversion at Brazoria Reservoir Diversion Point No. 5, acre-feet.** Amount of water available for diversion at Brazoria Reservoir Diversion Point No. 5, on a monthly and annual basis. Calculated from column A9.
- **B7: Diversion at Brazoria Reservoir Diversion Point No. 5, acre-feet.** The amount of water diverted at Brazoria Reservoir Diversion Point No. 5, on a monthly and annual basis, calculated from column A10.
- **B8: Combined Diversions from Diversion Point No. 4 and 5, acre-feet.** The combined amount of water diverted at Harris Reservoir Diversion Point No. 4, and Brazoria Reservoir Diversion Point No. 5, on a monthly and annual basis. Calculated from column A7 and A10.

**BASF Corporation**  
**Certificate of Adjudication No. 12-4345B**

May 31, 2023

Accounting plan and text file available upon request

Contact

Mr. Chris Kozlowski

(512) 239-1801

**Sarah Henderson**

---

**Subject:** RE: BASF

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**From:** Tim Osting <[REDACTED]>  
**Sent:** Wednesday, October 19, 2022 1:25 PM  
**To:** Kathy Alexander <[kathy.alexander@tceq.texas.gov](mailto:kathy.alexander@tceq.texas.gov)>  
**Cc:** Frank Schalla [REDACTED]  
**Subject:** RE: BASF

Hi Kathy, This is the accounting plan spreadsheet. Thanks! Tim

--  
Tim Osting, PE, D.WRE, CFM  
Principal Engineer/COO  
**AquaStrategies**  
Water Planning, Science & Engineering  
[aquastrategies.com](http://aquastrategies.com)  
Cell: 512-627-1563

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**From:** Kathy Alexander <[kathy.alexander@tceq.texas.gov](mailto:kathy.alexander@tceq.texas.gov)>  
**Sent:** Wednesday, October 19, 2022 1:17 PM  
**To:** Tim Osting <[REDACTED]>  
**Subject:** BASF

Tim,  
I'm looking for the accounting plan spreadsheet referenced in the application. Was that included in the application package? I did see the text file but not the electronic spreadsheet.  
Kathy



Kathy Alexander, Ph.D.  
Policy and Technical Analyst  
Water Availability Division  
Office: 512-239-0778  
Mobile: 512-965-9603

**BASF Corporation**  
**Certificate of Adjudication No. 12-4345B**

October 19, 2022

Accounting plan and text file available upon request

Contact

Mr. Chris Kozlowski

(512) 239-1801

# 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: Sarah Henderson, Project Manager  
Water Rights Permitting Team

DATE: December 14, 2021

SUBJECT: BASF Corporation  
ADJ 4345  
CN600124895, RN106845522  
Application No. 12-4345B to Amend Certificate of Adjudication No.  
12-4345  
Texas Water Code §§ 11.122, 11.085 & 11.042, Requiring Limited  
Mailed Notice  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos  
River, Brazos River Basin and San Jacinto-Brazos Coastal Basin  
McLennan and Brazoria counties

The application and partial fees were received on October 11, 2021. Additional fees were received on December 6, 2021. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on December 14, 2021. Mailed notice to the interjacent and downstream water right holders in the Brazos River Basin and the San Jacinto-Brazos Coastal Basin is required pursuant to Title 30 Texas Administrative Code §§ 295.158(c)(3)(D) and 295.161(a)&(c).

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

*Sarah E Henderson*

---

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

**OCC Mailed Notice Required    X YES**

☐ **NO**

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 14, 2021

Ms. Yasuko Dodd  
BASF Corporation  
602 Copper Road  
Freeport, Texas 77541

**VIA E-MAIL**

RE: BASF Corporation  
ADJ 4345  
CN600124895, RN106845522  
Application No. 12-4345B to Amend Certificate of Adjudication No. 12-4345  
Texas Water Code §§ 11.122, 11.085 & 11.042, Requiring Limited Mailed Notice  
Manos Creek, Oyster Creek, Buffalo Camp Bayou and the Brazos River, Brazos River  
Basin and San Jacinto- Brazos Coastal Basin  
McLennan and Brazoria counties

Dear Ms. Dodd:

This acknowledges receipt, on December 6, 2021, of additional fees in the amount of \$72.38 (Receipt No. M206253, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on December 14, 2021. Staff will continue processing the application for consideration by the Executive Director.

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

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

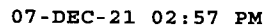
Sincerely,

*Sarah E Henderson*

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

Attachment





## TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Code</u>	<u>Ref#1</u>	<u>Check Number</u>	<u>CC Type</u>				
<u>Account#</u>	<u>Ref#2</u>	<u>Card Auth.</u>	<u>Tran Code</u>	<u>Slip Key</u>			
<u>Fee Description</u>	<u>Account Name</u>	<u>Paid In By</u>	<u>User Data</u>	<u>Rec Code</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M206253	2176		BS00090873	07-DEC-21	-\$72.38
	WUP	ADJ4345	120721	N	D2801068		
	WATER USE PERMITS	AQUA	JARIVERA	CK			
		STRATEGIES					
		INC					
				Total	(Fee Code):		-\$72.38
				Grand Total:			-\$2,459.63

Page 7 of 7

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DEC 09 2021

Water Availability Division

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 24, 2021

Ms. Yasuko Dodd  
BASF Corporation  
602 Copper Road  
Freeport, Texas 77541

VIA E-MAIL

RE: BASF Corporation  
ADJ 4345  
CN600124895, RN106845522  
Application No. 12-4345B to Amend Certificate of Adjudication No. 12-4345  
Texas Water Code §§ 11.122, 11.085 & 11.042, Requiring Limited Mailed Notice  
Manos Creek, Oyster Creek, Buffalo Camp Bayou, and the Brazos River, Brazos River  
Basin  
McLennan and Brazoria counties

Dear Ms. Dodd:

This acknowledges receipt, on October 11, 2021, of the referenced application and fees in the amount of \$112.50 (Receipt No. M201241, copy attached).

Before the application can be declared administratively complete, additional fees are required. Remit fees in the amount of **\$72.38** as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$ 100.00
Recording Fee	\$ 12.50
<u>Notice Fee (\$0.94 x 77 WR holders)</u>	<u>\$ 72.38</u>
Total Fees	\$ 184.88
<u>Fees Received</u>	<u>\$ 112.50</u>
<b>Fees Due</b>	<b>\$ 72.38</b>

Please provide the requested fees by December 27, 2021, or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

Be aware that the amendment request to add uses to Certificate of Adjudication No. 12-4345 may result in annual Water Use Assessment Fees (WUF). For more detailed information on these fees, see the attached *Water Use Assessment Fee: The Annual Fee Associated with Water Rights Permits* fact sheet or contact the Water Quality Monitoring & Assessment Section at (512) 239-3838.

RECEIVED

DEC 06 2021

Water Availability Division

BASF Corporation  
Application No. 12-4345B  
November 24, 2021  
Page 2 of 2

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

Sincerely,

*Sarah E Henderson*

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

Attachments

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12-OCT-21 07:37 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	M201241	2172		BS00089313	12-OCT-21	-\$112.50
	WUP	ADJ124345A	101121	N	D2800265		
	WATER USE PERMITS	AQUA	JARIVERA	CK			
		STRATEGIES					
		INC					
					Total (Fee Code):		-\$112.50
					Grand Total:		-\$2,938.20

RECEIVED  
OCT 13 2021  
Water Availability Division

# Water Use Assessment Fee (WUF)

## Frequently Asked Questions

### What Is This Fee?

The Water Use Assessment Fee is a fee that is assessed annually on applicable water rights permits. Texas Water Code, §26.0135 & 26.0291 authorizes the TCEQ to establish fees to recover the reasonable costs of water quality assessment programs from wastewater and water right permit holders. TCEQ rules, Title 30 Texas Administrative Code (TAC), §21.1-21.4, set out the methodology for assessing water use fees, described below.

### Why are you billed?

If you hold a water right and do not fall under an exemption, then you are subject to the Water Use Assessment Fee. Unless the water right is amended to fall under an exemption, you will be billed for this water right on an annual basis.

Amendments can also make a water right that was not previously billed now billable. If you have not been billed in the past but are now receiving a WUF invoice, this is most likely because your water right has been amended and is now considered billable.

If the water under your water right is being sold to a wastewater treatment plant that pays the Consolidated Water Quality Fee, and you can provide proof of these sales, please contact us using the information at the end of this document.

### What are reasons for exemption?

Exemptions are listed in 30 TAC, § 21.3(c). Exemptions from the Water Use Assessment Fee include: municipal or industrial water rights directly associated with a facility that is assessed a Consolidated Water Quality Fee; agriculture (irrigation) water rights; non-priority hydroelectric water rights for a facility with a capacity of less than 2 megawatts; consumptive authorization less than 250 acre-feet; and non-consumptive authorization less than 2,500 acre-feet.

### How Is the Fee Assessed?

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Fees are based on the authorized annual use, not actual use. The total fee is the sum of the separate fees for each authorized water use in each of the following categories for each permit.

The fee rate of **\$0.385** per acre-foot per year applies to authorized consumptive use (municipal, industrial, or mining purposes) if the specified limit is more than 250 acre-feet per year.

The fee rate of **\$0.021** per acre-foot per year applies to authorized non-consumptive use (including hydroelectric and some recreation) if the specified limit is more than 2,500 acre-feet per year.

The maximum water use fee for a single permit is \$123,420, which may be adjusted annually using the latest Consumer Price Index.

### How are Diversion Amounts Distributed Among Uses?

For permits with multiple uses that do not specify the amount per use, the total authorized amount is divided equally among all uses.

**Example:** 10,000 ac-ft for irrigation, municipal, industrial, and mining  
10,000/4 = 2,500 ac-ft per use  
Irrigation is exempt; municipal not billed because wastewater treatment plant that uses the water pays the Consolidated Water Quality Fee; industrial billed \$962.50 for 2,500 ac-ft; mining billed \$962.50 for 2,500 ac-ft.

### **Why do I have Multiple Invoice Numbers?**

Multiple invoice numbers are generated when the water right has multiple uses such as municipal (code 1), industrial (code 2), and mining (code 4). The bill is divided by use for accounting purposes.

### **What If I Have More Than One Account?**

You may send all your payments in one envelope, but please enclose a separate check for each coupon. Do not send a check for the total amount. If the number of checks does not equal the number of coupons, the agency will be unable to determine which accounts to credit. Also, TCEQ will not be able to process your transactions by the automated process, and your account may not be credited in time to avoid late fees.

### **Where Do I Get More Information?**

For copies of the fee rules (30 TAC, §21.1-21.4), refer to the TCEQ rules from the Texas Administrative Code on the Secretary of State's web site at [www.sos.state.tx.us](http://www.sos.state.tx.us). To learn more about the fee, please visit:

<http://www.tceq.state.tx.us/agency/drought/waterfees.html>.

For billing and account balance information, call the TCEQ's Financial Administration Division, Revenue Section at (512) 239-0369.

If you have any questions about the Water Use Assessment Fee or the rates for your water right, contact the Water Quality Monitoring & Assessment Section at (512) 239-3838, or via email at [wateruse@tceq.texas.gov](mailto:wateruse@tceq.texas.gov), or write to:

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Texas Commission on Environmental Quality  
Water Quality Monitoring & Assessment, MC 234  
Water Use Fees  
P.O. Box 13087  
Austin, TX 78711-3087

## Sarah Henderson

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**From:** Sarah Henderson  
**Sent:** Wednesday, November 24, 2021 1:17 PM  
**To:** [REDACTED]  
**Subject:** BASF Corporation ADJ No. 12-4345B  
**Attachments:** BASF\_12\_4345B\_RFI\_24Nov2021.pdf

Ms. Dodd,

Please find the attached request for additional fees regarding the referenced water use amendment application. A response is requested by December 27, 2021.

Thank you,  
Sarah

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



Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
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BASF Corporation  
Application No. 12-4345B  
November 24, 2021  
Page 2 of 2

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Sincerely,

*Sarah E Henderson*

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

Attachments



12-OCT-21 07:37 AM

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RECEIVED  
OCT 13 2021  
Water Availability Division

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Texas Commission on Environmental Quality  
Water Quality Monitoring & Assessment, MC 234  
Water Use Fees  
P.O. Box 13087  
Austin, TX 78711-3087



October 4, 2021

TCEQ Central Office (MC 160)  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: BASF Corporation's Application to Amend Certificate of Adjudication No. 12-4345A; (CN: 600124895)

Dear Sir:

The BASF Corporation (BASF) is pleased to submit its Application for Amend Certificate of Adjudication No. 12-4345A (Application) to the Texas Commission on Environmental Quality (TCEQ) for review and consideration. The Application has been uploaded to the TCEQ's FTP site and an email of its filing has been provided to [WRPT@tceq.texas.gov](mailto:WRPT@tceq.texas.gov). One hard copy of the Application, along with a check for \$112.50, is enclosed.

The Application seeks authorization to use the bed and banks of Manos Creek, Brazos River, Oyster Creek, and Buffalo Camp Bayou to transport water from Lake Creek Reservoir to Brazoria County. The Application requests the addition of a diversion reach in Brazoria County, and additional diversion points. Finally, the Application seeks authorization to use the 8,996 acre-feet of water that BASF is already authorized to divert from the Brazos River under Certificate of Adjudication No. 12-4345 prior to its discharge into the Lake Creek Reservoir for the uses already authorized.

If you have any questions or concerns, please contact me at (512) 472-8021 or at [REDACTED] or Tim Osting or Frank Schalla at (512) 826-2604 or at [REDACTED]

Respectfully submitted,

Bickerstaff Heath Delgado Acosta LLP  
3711 S. MoPac, Building One, Suite 300  
Austin, TX 78746

[REDACTED]  
Phone: (512) 472-8021  
Fax: (512) 320-5638

By:

A handwritten signature in blue ink that reads 'Emily W. Rogers'.

Emily W. Rogers  
State Bar No. 24002863

ATTORNEYS FOR BASF CORPORATION

# 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): BASF Corporation

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

Y/N

Y Administrative Information Report  
N Additional Co-Applicant Information  
N Additional Co-Applicant Signature Pages  
Y Written Evidence of Signature Authority  
Y Technical Information Report  
N USGS Map (or equivalent)  
Y Map Showing Project Details  
N Original Photographs  
N Water Availability Analysis  
Y Worksheet 1.0  
N Recorded Deeds for Irrigated Land  
N Consent For Irrigation Land  
Y Worksheet 1.1  
N Addendum to Worksheet 1.1  
Y Worksheet 1.2  
Y Addendum to Worksheet 1.2  
N Worksheet 2.0  
N Additional W.S 2.0 for Each Reservoir  
N Dam Safety Documents  
N Notice(s) to Governing Bodies  
N Recorded Deeds for Inundated Land  
N Consent For Inundation Land

Y/N

Y Worksheet 3.0  
Y Additional W.S 3.0 for each Point  
N Recorded Deeds for Diversion Points  
Y Consent For Diversion Access  
Y Worksheet 4.0  
N TPDES Permit(s)  
N WWTP Discharge Data  
N 24-hour Pump Test  
N Groundwater Well Permit  
N Signed Water Supply Contract  
Y Worksheet 4.1  
Y Worksheet 5.0  
Y Addendum to Worksheet 5.0  
Y Worksheet 6.0  
Y Water Conservation Plan(s)  
N Drought Contingency Plan(s)  
N Documentation of Adoption  
Y Worksheet 7.0  
Y Accounting Plan  
Y Worksheet 8.0  
Y Fees

#### For Commission Use Only:

Proposed/Current Water Right Number: \_\_\_\_\_

Basin: \_\_\_\_\_ Watermaster area Y/N: \_\_\_\_\_



# ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

☐ New Appropriation of State Water

☒ Amendment to a Water Right \*

☒ Bed and Banks

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

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

**Please reference Statement 1, Summary of Request section in the Supplemental Attachment**

**for this requested information.**

## 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?

**BASF Corporation**

*(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 : 600124895 ( 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: **Christopher Witte**

Title: **Senior Vice President**

Have you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application? **Yes - see Exhibit 3**

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

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

Name:

Mailing Address: **602 Copper Road**

City: **Freeport**

State: **Texas**

ZIP Code: **77541**

Indicate an X next to the type of Applicant:

<input type="checkbox"/> Individual	<input type="checkbox"/> Sole Proprietorship-D.B.A.
<input type="checkbox"/> Partnership	<input checked="" 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: 11610908094 SOS Charter (filing) Number: 4205406

### 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: Yasuko Dodd

Title: Sr. EHS Specialist

Organization Name: BASF Corporation

Mailing Address: 602 Copper Road

City: Freeport

State: TX

ZIP Code: 77541

Phone No.: 979-415-6952

Extension:

Fax No.:

E-mail Address:



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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

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

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

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

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

Account number:

Amount past due:

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

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

Enforcement order number:

Amount past due:

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

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

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

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



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

Applicant:

I, Christopher P. Witte, Senior Vice President

(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: \_\_\_\_\_

(Use blue ink)

Date: 10/4/2021

Subscribed and Sworn to before me by the said

on this 4<sup>th</sup> day of October, 20 21.

My commission expires on the 11<sup>th</sup> day of February, 20 23.

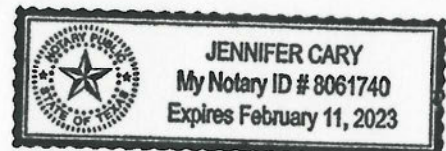
Notary Public

Jennifer Cary

Jennifer Cary

Brazoria  
County, Texas

[SEAL]



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

# TECHNICAL INFORMATION REPORT

## WATER RIGHTS PERMITTING

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

***Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4600 to schedule a meeting.*** Applicant attended a pre-application meeting with TCEQ Staff for this Application? **Y / N** Y (If yes, date : 12/8/2020 and 4/15/2021 ).

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

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

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

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

- c. Applicant requests to extend an existing Term authorization or to make the right permanent?  
Y / N<sup>N</sup> (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: 12-4345A

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

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

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

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

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

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

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

*If yes, submit:*

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

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

*If yes, submit:*

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

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

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

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

**Additionally, all amendments require:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Worksheets and information:*

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

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

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

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

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Please reference Statement 2 in the Supplemental Attachement for this requested information.

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

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

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

# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

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

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

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

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

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
10,000	Agricultural, domestic, municipal, industrial, recreational	Clarify that BASF is authorized to use the 8,996 acre-feet diverted from the Brazos River for agricultural, domestic, municipal, industrial, and recreational prior to discharge into Lake Creek Reservoir	McLennan County	McLennan County, Falls County, Limestone County within Brazos Basin, Robertson County, Brazoria County

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- Applicant proposes to irrigate a total of \_\_\_\_\_ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of \_\_\_\_\_ acres in \_\_\_\_\_ County, TX.
  - Location of land to be irrigated: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.  
***A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.***  
***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***
- 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 Y

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

- a. Provide the Basin of Origin. Brazos River Basin
- b. Provide the quantity of water to be transferred (acre-feet). 10,000
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:  
San Jacinto - Brazos Coastal Basin, Brazoria County

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

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

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

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

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

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

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

## WORKSHEET 1.2

### NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

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

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



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

## WORKSHEET 2.0

### Impoundment/Dam Information

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

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

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

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

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

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

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

## 2. Structure Location (Instructions, Page. 23)

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

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

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

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

Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.

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

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

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

#### 1. Diversion Information (Instructions, Page. 24)

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

1. ☐ 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** <sup>455</sup>\_\_\_\_\_ cfs (cubic feet per second)  
or \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N ☒  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* <sup>630</sup>\_\_\_\_\_ cfs or \_\_\_\_\_ gpm

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

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

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

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

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

Applicant has calculated the drainage area. Y / N ☐

If yes, the drainage area is \_\_\_\_\_ sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Brazos River
- b. Zip Code: 77583
- c. Location of point: In the Andrew Robinson Original Survey No.           , Abstract No. 125, Brazoria 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 29.349369°N, Longitude -95.582431°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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 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.   3   Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** <sup>455</sup>\_\_\_\_\_ cfs (cubic feet per second)  
or \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N Y \_\_\_\_\_  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* <sup>630</sup>\_\_\_\_\_ 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 checked="" type="checkbox"/>	Directly from stream	proposed
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. 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): Brazos River
- b. Zip Code: 77541
- c. Location of point: In the James P. Caldwell Original Survey No.           , Abstract No. 167, Brazoria County, Texas.

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

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

- d. Point is at:  
Latitude 28.878315 °N, Longitude -95.379111 °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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 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. 4 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** 455 cfs (cubic feet per second)  
or        gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N Y  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 630 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
X	Directly from stream	Existing
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. Y / N 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): Brazos River
- b. Zip Code: 77515
- c. Location of point: In the William Parker Original Survey No.           , Abstract No. 104, Brazoria 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 29.243419 °N, Longitude -95.561908 °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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 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. 5 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** 455 cfs (cubic feet per second)  
or        gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / N** Y  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 630 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
X	Directly from stream	Existing
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. **Y / N** 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): Brazos River
- b. Zip Code: 77566
- c. Location of point: In the Stephen F. Austin Original Survey No.           , Abstract No. 19, Brazoria 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 29.052718 °N, Longitude -95.552379 °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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 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. 6 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** 455 cfs (cubic feet per second)  
or        gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N Y  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 740 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
	Directly from stream	
X	From an on-channel reservoir	Existing
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. Y / N 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): Oyster Creek (Reservoir)
- b. Zip Code: 77566
- c. Location of point: In the Jared E. Grace Original Survey No.         , Abstract No. 66, Brazoria 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 29.053604 °N, Longitude -95.464108 °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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.

## WORKSHEET 3.0

### DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 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. 7 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** 300 cfs (cubic feet per second)  
or        gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N Y  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 300 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
	Directly from stream	
X	From an on-channel reservoir	Existing
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. Y / N 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): Buffalo Camp Bayou (Reservoir)
- b. Zip Code: 77566
- c. Location of point: In the Stephen F. Austin Original Survey No.           , Abstract No. 19, Brazoria 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 29.043875 °N, Longitude -95.473319 °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): GIS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See Statement 4 in the Supplemental Attachment for the Plan of Diversion.



## WORKSHEET 4.0

### DISCHARGE INFORMATION

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

- a. The purpose of use for the water being discharged will be Agricultural, domestic, municipal, industrial, recreational.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0 % and explain the method of calculation: Channel loss is negligible in less than one mile of Manos Creek between the discharge point and confluence with Brazos River.

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, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
4. The percentage of return flows from groundwater\_\_\_\_\_, surface water\_\_\_\_\_?
5. If any percentage is surface water, provide the base water right number(s)\_\_\_\_\_.
- c. Is the source of the water being discharged groundwater? Y / N\_\_\_\_\_If yes, provide the following information:
  1. Source aquifer(s) from which water will be pumped:\_\_\_\_\_
  2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers\_\_\_\_\_.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N\_\_\_\_\_If yes, provide the signed contract(s).
- cii. Identify any other source of the water\_\_\_\_\_



## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

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

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is 10,000 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 455 cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: Manos Creek
- d. Zip Code 76682
- f. Location of point: In the Jose David Sanchez Original Survey No. \_\_\_\_\_, Abstract No. 36, McLennan County, Texas.
- g. Point is at:  
Latitude 31.454651 °N, Longitude -96.984967 °W.  
***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

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

See discharge point number 10 in the Supplemental Maps.

## 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 Agricultural, domestic, municipal, industrial, recreational.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0.73% and explain the method of calculation: See Statement 5 in the Supplemental Attachment

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, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
4. The percentage of return flows from groundwater\_\_\_\_\_, surface water\_\_\_\_\_?
5. If any percentage is surface water, provide the base water right number(s)\_\_\_\_\_.
- c. Is the source of the water being discharged groundwater? Y / N N If yes, provide the following information:
  1. Source aquifer(s) from which water will be pumped:\_\_\_\_\_
  2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers\_\_\_\_\_.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N N  
If yes, provide the signed contract(s).
- cii. Identify any other source of the water Surface water discharged from Lake Creek Reservoir

## 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 10,000 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 455 cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: Oyster Creek
- d. Zip Code 77515
- f. Location of point: In the William Parker Original Survey No. \_\_\_\_\_, Abstract No. 104, Brazoria County, Texas.
- g. Point is at:  
Latitude 29.246483 °N, Longitude -95.529982 °W.  
***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

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

See discharge point number 8 in the Supplemental Maps.

## 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 Agricultural, domestic, municipal, industrial, recreational.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0.10 % and explain the method of calculation: See Statement 5 in the Supplemental Attachment

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, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
4. The percentage of return flows from groundwater\_\_\_\_\_, surface water\_\_\_\_\_?
5. If any percentage is surface water, provide the base water right number(s)\_\_\_\_\_.
- c. Is the source of the water being discharged groundwater? Y / N\_\_\_\_\_If yes, provide the following information:
  1. Source aquifer(s) from which water will be pumped:\_\_\_\_\_
  2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers\_\_\_\_\_.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N\_\_\_\_\_If yes, provide the signed contract(s).
- cii. Identify any other source of the water\_\_\_\_\_

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

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

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is 10,000 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 300 cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: Buffalo Camp Bayou
- d. Zip Code 77566
- f. Location of point: In the Stephen F. Austin Original Survey No. \_\_\_\_\_, Abstract No. 19, Brazoria County, Texas.
- g. Point is at:  
Latitude 29.071123 °N, Longitude -95.511886 °W.  
***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

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

See discharge point number 9 in the Supplemental Maps.

## WORKSHEET 5.0 ENVIRONMENTAL INFORMATION

### 1. Impingement and Entrainment

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

In order to minimize entrainment and impingement of aquatic organisms, all diversion structures that are not already authorized shall include a screen with a mesh size of 0.25 inches or smaller and shall implement a maximum flow velocity of 0.5 feet per second through the screen.

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

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

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

a. Identify the appropriate description of the water body.

☒ Stream

☐ Reservoir

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

☐ Other, specify: \_\_\_\_\_

b. Flow characteristics

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

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

☐ Intermittent with Perennial Pools - enduring pools

☒ Perennial - normally flowing

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

☒ USGS flow records

☐ Historical observation by adjacent landowners

☐ Personal observation

☐ Other, specify: \_\_\_\_\_

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

See Statement 6 in the Supplemental Attachment.

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



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

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

- a. For all bed and banks applications: See Statement 6 in the Supplemental Attachment for this assessment.
- i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

- b. For all alternate source applications:

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

- 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.

TCEQ Station 16355 Brazos River near FM1462

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L	50.3	175.9	146	TCEQ CRP	2000-2020
Chloride, mg/L	81.1	515.5	147	TCEQ CRP	2000-2020
Total Dissolved Solids, mg/L	370	752	87	TCEQ CRP	2006-2020
pH, standard units	7.9	8.7	189	TCEQ CRP	2000-2020
Temperature*, degrees Celsius	23.6	33.1	212	TCEQ CRP	2000-2020

\* 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 N/A and the name of the aquifer from which water is withdrawn \_\_\_\_\_.

3.b.ii. Supplemental statement: As authorized by numerous existing state water rights permits, surface water transmitted using the bed and banks of the Brazos River between McLennan County and Brazoria County is frequently diverted within Diversion Reach No. 3 at existing diversion points. For over 50 prior years, that water is discharged into and transmitted along the same waterbodies as described in this application's Plan of Diversion (see Supplemental Attachment Statement 4).



## WORKSHEET 6.0

### Water Conservation/Drought Contingency Plans

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

**Instructions, Page 31.**

*The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plan with pertinent information filled in. For assistance submitting a plan call the Resource Protection Team (Water Conservation staff) at 512-239-4600, or e-mail [wras@tceq.texas.gov](mailto: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. YIndustrial 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** N

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

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

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

## 2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above – indicate each that applies:
  1.        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 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.**

See Statement 7 in the Supplemental Attachment for the Accounting Plan.

### 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>		<b>\$</b>

### 2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
<b>Filing Fee</b>	Amendment: \$100	
	<b>OR</b> 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>		<b>\$</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>		<b>\$ 112.50</b>

## **STATEMENT 1**

### **SUPPLEMENTAL ATTACHMENT TO ADMINISTRATIVE INFORMATION REPORT**

#### **SUMMARY OF REQUEST**

BASF Corporation is seeking amendment to water right 12-4345A to add a place of use in Limestone County, Falls County, Robertson County, and Brazoria County, along with authorization to use the bed and banks of Manos Creek, Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals to transport released water from Lake Creek Reservoir to a Brazos River diversion reach and point of use in Brazoria County.

The existing water right authorizes a diversion of 8,996 acre-feet of water per annum from the Brazos River into Lake Creek Reservoir for subsequent diversion and use. In addition to this authorization, the applicant is seeking authorization to divert and use the 8,996 acre-feet for agricultural, domestic, municipal, industrial, and recreational purposes prior to discharge of that water into the Lake Creek Reservoir for impoundment. No additional appropriation of State Water is being requested as part of this permit language amendment request. Diversion from the Brazos River would be at the existing diversion point and at the existing diversion rate, and the use prior to discharge into Lake Creek Reservoir would not exceed the existing authorized amount of 8,996 acre-feet, and total water right use will not exceed the existing authorized amount of 10,000 acre-feet. Please reference the Plan of Diversion below for a more detailed explanation of this amendment's proposed plan of diversion, including the proposed diversion reach, existing diversion points, existing discharge points, and the transport of waters using the bed and banks of Manos Creek, Brazos River, Oyster Creek, Buffalo Camp Bayou, and existing tributaries and canals. Water diverted from the proposed diversion reach on the Brazos River will be diverted into Harris Reservoir and Brazoria Reservoir.

An Interbasin Transfer is also requested to transfer authorized water from the Brazos River Basin into the San Jacinto – Brazos Coastal Basin. These two adjoining coastal basins are exempt from additional requirements according to TWC 11.085(v). No request for Interbasin Transfer within Limestone County is necessary; water used inside Limestone County will be distributed inside the Brazos River basin.

In the future, the proposed bed and banks authorization may be used for municipal and or agricultural purposes through one or more Water Supply Contracts. The required municipal and or agricultural water conservation plan and drought contingency plan will be deferred until the future use is initiated.

## **STATEMENT 2**

### **SUPPLEMENTAL ATTACHMENT TO TECHNICAL INFORMATION REPORT**

#### **ADDENDUM REGARDING THE STATE AND REGIONAL WATER PLANS**

The proposed amendment and proposed bed and banks authorization will address agricultural, domestic, municipal, and industrial needs in the proposed places of use and do not conflict with the 2021 Region G and Region H Water Plan, and do not conflict with the 2022 State Water Plan. For example, projected long term manufacturing needs in Region H Brazoria County exceed 20,000 acre feet per year beginning in 2020. Projected long-term irrigation needs in Region G Robertson County exceed 17,000 acre-feet per year beginning in 2040. Projected long-term municipal needs in Region G Limestone County (Brazos Basin) exceed 600 acre-feet per year beginning in 2020. Projected long-term municipal and manufacturing needs in Region G McLennan County (Brazos Basin) exceed 900 and 500 acre-feet per year, respectively, beginning in 2020. This proposed amendment can reduce projected water needs by approximately 10,000 acre feet per year within McLennan County, Falls County, Limestone County, Robertson County, and Brazoria County.

### STATEMENT 3

#### SUPPLEMENTAL ATTACHMENT TO WORKSHEET 1.2

##### MARSHALL CRITERIA

- a) Administrative Requirements and Fees. This application meets the administrative requirements for an amendment to a water use permit and a bed and banks authorization. This application includes required items that are listed in the TCEQ Water Rights Permitting Application Administrative Information Checklist.
- b) Beneficial Use. The proposed amendment and proposed bed and banks authorization will be used for industrial purposes related to the production of industrial materials, and other uses authorized by the permit. The proposed uses conform to beneficial use as defined in Texas Water Code (TWC) 11.002(4) and purposes for use defined in TWC 11.023. In the future, the proposed bed and banks authorization and permit language amendment is anticipated to be used for municipal, agricultural, domestic, and recreational purposes through one or more Water Supply Contracts, if applicable. In addition, the applicant is seeking authorization to divert and use the 8,996 acre-feet for agricultural, domestic, municipal, industrial, and recreational purposes prior to discharge of that water into the Lake Creek Reservoir for impoundment; this results in greater efficiency by reducing redundant pumping, and also increases beneficial use of water by reducing potential for evaporation inside the lake.
- c) Public Welfare. No effects of the proposed amendment or bed and banks authorization on the public welfare are expected as this water will be put to beneficial use for industrial and municipal purposes, including no effects on the well-being of humans and the environment.
- d) Groundwater Effects. No effects of proposed amendment or bed and banks authorization on groundwater or groundwater recharge are expected.
- e) State Water Plan. The proposed amendment and proposed bed and banks authorization will address agricultural, domestic, municipal, and industrial needs in the proposed places of use and do not conflict with the 2021 Region G and Region H Water Plan, and do not conflict with the 2022 State Water Plan. For example, projected long term manufacturing needs in Region H Brazoria County exceed 20,000 acre feet per year beginning in 2020. Projected long-term irrigation needs in Region G Robertson County exceed 17,000 acre-feet per year beginning in 2040. Projected long-term municipal needs in Region G Limestone County (Brazos Basin) exceed 600 acre-feet per year beginning in 2020. Projected long-term municipal and manufacturing needs in Region G McLennan County (Brazos Basin) exceed 900 and 500 acre-feet per year, respectively, beginning in 2020. These plans contemplate the purchase and relocation of water rights to meet water supply demands, and the sale of raw water under water rights to meet demands. This proposed amendment can reduce projected water needs by approximately 10,000 acre feet per year within McLennan County, Falls County, Limestone County within the Brazos Basin, Robertson County, and Brazoria County.
- f) Waste Avoidance. A Water Conservation Plan is included describing monitoring and conservation practices that include quantified conservation goals that are applicable to beneficial uses permitted by this proposed water right amendment. For uses that require it, a drought contingency plan will be provided upon commencement of that use. The proposed amendment reduces potential evaporation and reduces electrical power requirement by eliminating redundant pumping.

- g) Impacts on Water Rights or On-stream Environment. The proposed amendment and bed and banks authorization do not request additional water, storage or rates of diversion. The proposed amendment requests to use existing permitted water in a different location as coordinated with the watermaster using metering and accounting for losses in an accounting plan. No detrimental impacts to water right holders, Lake Creek Reservoir, or to the on-stream environment are expected.



## **STATEMENT 4**

### **SUPPLEMENTAL ATTACHMENT TO WORKSHEET 3.0**

#### **PLAN OF DIVERSION**

Authorized water from Certificate of Adjudication number 12-4345A will be released from Lake Creek Reservoir at existing discharge point number 10 (see Map 2) to transport downstream using the bed and banks of Manos Creek and the Brazos River to downstream diversion reach number 3 (see Maps No. 1, 2 and 3). Diversion reach number 3 has an upstream limit at the location of the USGS 08116650 Brazos River near Rosharon, TX streamgage (see Map No. 4) and a downstream limit at the mouth of the Brazos River at the Gulf of Mexico (See Map No. 7). Channel losses and travel time along Manos Creek and the Brazos River are fully described and accounted for in the accounting plan (see STATEMENT 7).

Through an existing site services agreement with Dow, BASF has the legal ability to divert into the Dow system<sup>1</sup> at two existing diversion points within the proposed diversion reach number 3. Water will be diverted into Harris Reservoir at diversion point number 4 (see Map No. 5) and diverted into Brazoria Reservoir at diversion point number 5 (see Map No. 6).

Authorized water will then be discharged from Harris Reservoir into Oyster Creek at discharge point number 8 (see Map No. 5), and from Brazoria Reservoir into Buffalo Camp Bayou at discharge point number 9 (see Map No. 6). Authorized water discharged into Oyster Creek from Harris Reservoir will be transported downstream using the bed and banks of Oyster Creek to the existing downstream diversion point number 6 (see Map No. 5 and 6). Authorized water discharged into Buffalo Camp Bayou from Brazoria Reservoir will be transported downstream using the bed and banks of Buffalo Camp Bayou to the existing downstream diversion point number 7 (see Map No. 6).

Authorized water will then be diverted from Oyster Creek into a canal, located at diversion point number 6, and diverted from Buffalo Camp Bayou into the same canal, located at diversion point number 7 (see Map No. 6). Authorized water diverted into the canal will then be transported downstream for BASF Corporation's beneficial use.

Attached as Exhibit 1 is Dow Chemical Company's Letter of Consent regarding the use of the Dow system including Dow's existing and future facilities to divert, store, discharge, and deliver water under Certificate of Adjudication Nos. 12-4345 and 12-4345A.

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<sup>1</sup> The Dow system is primarily authorized under Certificate of Adjudication 12-5328 with amendments.

## STATEMENT 5

### SUPPLEMENTAL ATTACHMENT TO WORKSHEET 4.0

#### **b. Provide the amount of water that will be lost (...) and explain the method of calculation**

Calculated channel loss in Oyster Creek, from discharge point number 8 to diversion point number 6, a National Hydrography Dataset (NHD) flowline river mile length of 26.4 miles, is 0.73%.

Calculated channel losses in Buffalo Camp Bayou, from discharge point number 9 to diversion point number 7, a NHD flowline river mile length of 3.6 miles, is 0.10%.

Fifty percent of authorized water released from Lake Creek Reservoir for use in Brazoria County is expected to be transported through Oyster Creek and fifty percent through Buffalo Camp Bayou.

Channel loss values were calculated from NHD river mile lengths and a channel loss rate of 0.0278% per mile. The channel loss rate of 0.0278% per mile was calculated from the incremental loss value of 1.58% for the adjacent Brazos River for the Rosharon gage to Gulf of Mexico reach (Brazos River Authority Water Management Plan, Section 4, Table 4.7, <https://brazos.org/About-Us/Water-Supply/SysOps>). USDA SSURGO data near the Brazos River indicates the Unified Soil Classification System and AASHTO soil classifications are predominantly clay and silty soils (CL and CH, and A-4) with 0 to 1 percent slopes; these local soil and topography characteristics are comparable to adjacent Oyster Creek and Buffalo Camp Bayou. Because local topography and soil characteristics are similar, the channel loss rate expected in the Brazos River reach is used for the expected channel loss rate in Oyster Creek and Buffalo Camp Bayou.

**STATEMENT 6**  
**SUPPLEMENTAL ATTACHMENT TO WORKSHEET 5.0**

**2. NEW APPROPRIATIONS OF WATER (...) AND CHANGES IN DIVERSION POINT(S)**

**D. WATERBODY RECREATIONAL USES**

**ADDENDUM TO WORKSHEET 5.0**

1. Photographs of the stream near the Upstream Limit of Diversion Reach No. 3 (see Supplemental Map 4) are included below. No new diversion point is proposed at this time. Additional information will be submitted at such time an additional diversion point within this diversion reach becomes associated with this permit.
2. No new reservoirs are proposed at this time.



Photo 1 – Brazos River near Rosharon, downstream of FM 1462, looking downstream.



Photo 2 – Brazos River near Rosharon, downstream of FM 1462, looking upstream.

### **3. ALTERNATIVE SOURCES OF WATER AND/OR BED AND BANKS APPLICATIONS**

#### **a. 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 proposed bed and banks authorization to transport released water from Lake Creek Reservoir is not expected to affect the flows remaining in Manos Creek, Brazos River, Oyster Creek, or Buffalo Camp Bayou to meet instream uses and freshwater inflow requirements. The amount of water transported using the proposed bed and banks authorization, and subsequently diverted within the requested diversion reach or at any of the existing diversion points, will not exceed the amount of authorized water released, less losses, from Lake Creek Reservoir. Therefore, there should be no changes to downstream instream flows or freshwater inflows in Manos Creek, Brazos River, Oyster Creek or Buffalo Camp Bayou.

More information on the calculation of the channel loss factor and travel time can be viewed in the STATEMENT 5: SUPPLEMENTAL ATTACHEMENT TO WORKSHEET 4.0 and STATEMENT 7: SUPPLEMENTAL ATTACHEMENT TO WORKSHEET 7.0 - ACCOUNTING PLAN.

## **STATEMENT 7**

### **SUPPLEMENTAL ATTACHMENT TO WORKSHEET 7.0**

#### **ACCOUNTING PLAN**

Certificate of Adjudication number 12-4345A authorizes BASF Corporation to divert and use up to 10,000 acre-feet of water per year at a maximum diversion rate of 455 cfs from Lake Creek Reservoir. Additionally, it authorizes BASF Corporation to divert 8,996 acre-feet of water per year at a maximum diversion rate of 45 cfs from the Brazos River into Lake Creek Reservoir for subsequent diversion and use. The priority date for the diversion of 8,996 acre-feet of water per year, and diversion and use of 10,000 acre-feet of water per year is March 6, 1951.

This Accounting Plan will be used to track Lake Creek Reservoir released water, and the transport of released water using the bed and banks of Manos Creek and the Brazos River, including channel losses and travel time, downstream to multiple diversion locations within diversion reach number 3. The Accounting Plan spreadsheet included within the application package will be used to record and account for Lake Creek Reservoir average daily releases, travel time, channel losses, water available for diversion at diversion points within the proposed diversion reach, and the amount of water diverted. The Accounting Plan spreadsheet will also be used to summarize reservoir releases and diversions in a monthly and annual format. Four potential diversion locations within the diversion reach, with corresponding cumulative channel losses and travel times, are provided in the Accounting Plan spreadsheet: Upstream limit of diversion reach number 3, existing diversion point at Harris Reservoir, existing diversion point at Brazoria Reservoir, and the downstream limit of diversion reach number 3.

All Lake Creek Reservoir released water and diversions from BASF Corporation owned and operated diversion points will be recorded using a measuring device which accounts for the quantity of water released within an accuracy of plus or minus 5.0%. Some existing authorized diversion points within diversion reach 3 that are included in the Accounting Plan are owned and operated by another entity, as detailed in the Letter of Consent (see Exhibit 1).

Calculated cumulative channel losses from Lake Creek Reservoir to the upstream or downstream limits of the proposed diversion reach range from 8.15 to 9.60%, respectively. Cumulative travel time from Lake Creek Reservoir to the upstream or downstream limit of the proposed diversion reach range from 8.60 to 10.07 days, respectively. Cumulative channel loss values and cumulative travel time values used for this accounting plan are derived from the incremental loss and incremental travel time values in the Brazos River Authority (BRA) Water Management Plan (Section 4, Table 4.7, <https://brazos.org/About-Us/Water-Supply/SysOps>). To estimate a channel loss and travel time value for a length of river that is shorter than a BRA reach, reach values were proportionately adjusted using National Hydrology Dataset (NHD) flowline river mile lengths. Additionally, the NHD river mile length from the "Rosharon gage to Harris Reservoir Diversion" reach was altered to remove a closed Oxbow Lake currently included in the NHD flowline length. Table 1 below lists calculated cumulative channel loss and cumulative travel time values used in the Accounting Plan spreadsheet.



Table 1. Accounting Plan calculated cumulative travel times and cumulative channel loss values.

Brazos River Authority Reach	Subreach	Brazos River Authority Incremental Travel Time (days)	Brazos River Authority Incremental Channel Loss (%)	National Hydrography Dataset Incremental Length <sup>1</sup> (river miles)	Subreach Incremental Travel Time (days)	Subreach Incremental Losses (%)	Cumulative Travel Time from Lake Creek Reservoir (days)	Cumulative Channel Loss Factor from Lake Creek Reservoir (%)
Waco gage to Highbank gage	Waco gage to Brazos/Manos Creek confluence (Lake Creek Reservoir)	1.39	0.94	13.09	0.32	0.22	-	-
	Brazos/Manos Creek confluence (Lake Creek Reservoir) to Highbank gage			43.38	1.07	0.72	1.07	0.72%
Highbank gage to Brazos/Little confluence	-	0.90	0.61	-	-	-	1.97	1.33%
Brazos/Little confluence to Bryan gage	-	0.80	0.86	-	-	-	2.77	2.17%
Bryan gage to Brazos/Yegua confluence	-	0.99	1.06	-	-	-	3.76	3.21%
Brazos/Yegua confluence to Brazos/Navasota confluence	-	0.43	0.46	-	-	-	4.19	3.66%
Brazos/Navasota confluence to Hempstead gage	-	0.87	0.93	-	-	-	5.06	4.55%
Hempstead gage to Richmond gage	-	2.62	2.82	-	-	-	7.68	7.24%
Richmond gage to Rosharon gage	-	0.92	0.98	-	-	-	8.60	8.15%
Rosharon gage to Gulf of Mexico	Rosharon gage to Harris Reservoir Diversion	1.47	1.58	11.23	0.29	0.31	8.89	8.44%
	Harris Reservoir Diversion to Brazoria Reservoir Diversion			21.59	0.56	0.60	9.45	8.99%
	Brazoria Reservoir Diversion to Gulf of Mexico			24.01	0.62	0.67	10.07	9.60%

<sup>1</sup> The National Hydrography Dataset (NHD) length from the “Rosharon gage to Harris Reservoir Diversion” reach was altered to remove a closed Oxbow Lake included in the NHD flowline length.

Through the Letter of Consent (Exhibit 1), water diverted from diversion points number 4 and 5 will be fully controlled by a private entity. This entity has an existing and approved Accounting Plan for diversions from existing diversion points into Harris Reservoir and Brazoria Reservoir, as well as the subsequent discharges and diversions into and from Oyster Creek and Buffalo Camp Bayou. This entities' Accounting Plan is not discussed herein.

The following Tables and corresponding column fields in the Accounting Plan spreadsheet are detailed as follows:

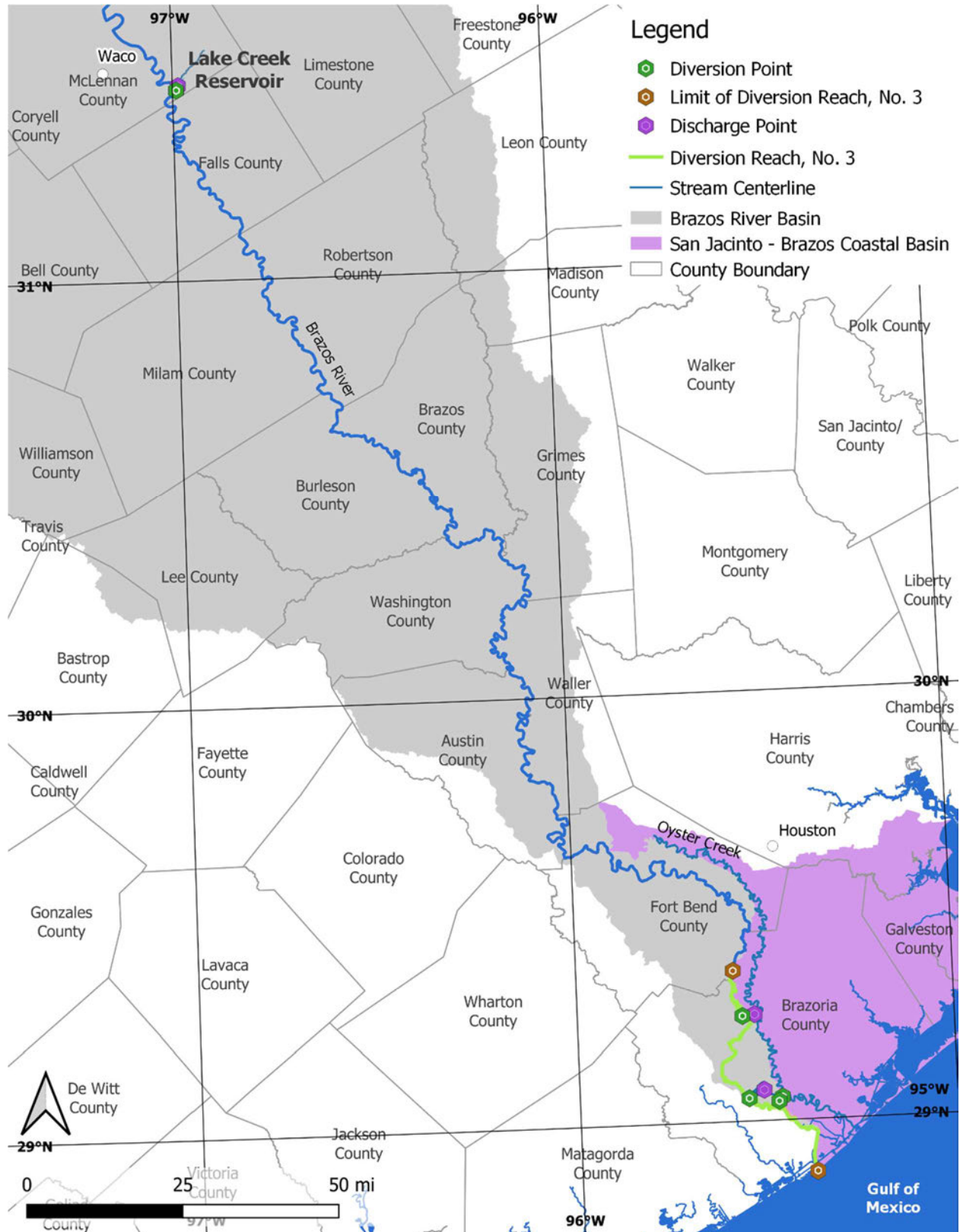
- **DIVERSION Table.** List of four diversion points within diversion reach number 3 and corresponding cumulative channel loss and travel time values. User will reference this table to populate ACCOUNTING Table columns A3, A4, and A5 based on selected diversion point.
  - **AA1: Diversion points within diversion reach.** A list of the diversion points where diversions within diversion reach number 3 will occur.
  - **AA2: Cumulative Channel Losses from Lake Creek Reservoir, percent.** The cumulative channel losses, in percent, from Lake Creek Reservoir to identified diversion point in column AA1.
  - **AA3: Cumulative Travel Time from Lake Creek Reservoir, days.** The travel time from Lake Creek Reservoir, in days, to the identified diversion point in column AA1.
- **ACCOUNTING Table.** Columns used to track and account for water released from Lake Creek Reservoir and subsequently diverted from a diversion point within diversion reach number 3.
  - **A1: Date.** Dates in the current accounting year, including travel time lag from previous year.
  - **A2: Month.** Month of the date in column A1.
  - **A3: Diversion Point.** Identified point of diversion within diversion reach number 3, referenced from column AA1. The Accounting Plan spreadsheet user will input this column value.
  - **A4: Cumulative Channel Loss from Lake Creek Reservoir to diversion point, percent.** The cumulative channel loss value, expressed in percent, according to the diversion point (column A3; column AA1) and corresponding channel loss value (column AA2). The Accounting Plan spreadsheet user will input this column value.
  - **A5: Cumulative Travel Time from Lake Creek Reservoir to diversion point, days.** The estimated travel time, rounded to the nearest day to align with the daily accounting timestep, according to the diversion point (column AA1) and corresponding travel time value (column AA3). The Accounting Plan spreadsheet user will input this column value.
  - **A6: Lake Creek Reservoir Daily Average Release, in cubic feet per second.** For each day when releases from Lake Creek Reservoir occur, averaged daily releases, in cubic feet per second, are recorded in this column.

- **A7: Lake Creek Reservoir Release, in acre-feet per day.** Column field A6 converted from cubic feet per second to acre-feet per day using a conversion factor of 1.983.
- **A8: Lake Creek Reservoir Release Water Available for diversion at diversion point, cubic feet per second.** This column multiplies the cumulative delivery factor (1- channel loss value; 1 - Column A4), by the Lake Creek Reservoir released water amount (column A6) and then offsets this value by the cumulative number of days of travel (column A5).
- **A9: Lake Creek Reservoir Release Water Available for diversion at diversion point, acre-feet per day.** Column A8 converted from cubic feet per second to acre-feet per day using a conversion factor of 1.983.
- **A10: Daily averaged diversion at diversion point, acre-feet per day.** Recorded daily averaged diversion of water from diversion point. Diversions should not exceed amounts in column A9.
- **SUMMARY Table.** Monthly and annual summary values from ACCOUNTING Table.
  - **B1: Month.** The numerical month and annual value that B columns will be calculated from.
  - **B2: Lake Creek Reservoir Releases, acre-feet.** The amount of Lake Creek Reservoir release water on a monthly and annual basis, calculated from column A6.
  - **B3: Lake Creek Reservoir Release Water Available for Diversion at Diversion Point, acre-feet.** Amount of water available for diversion at diversion point, on a monthly and annual basis, calculated from column A8.
  - **B4: Diversion at diversion point, acre-feet.** The amount of water diverted at diversion point, on a monthly and annual basis, calculated from column A9.

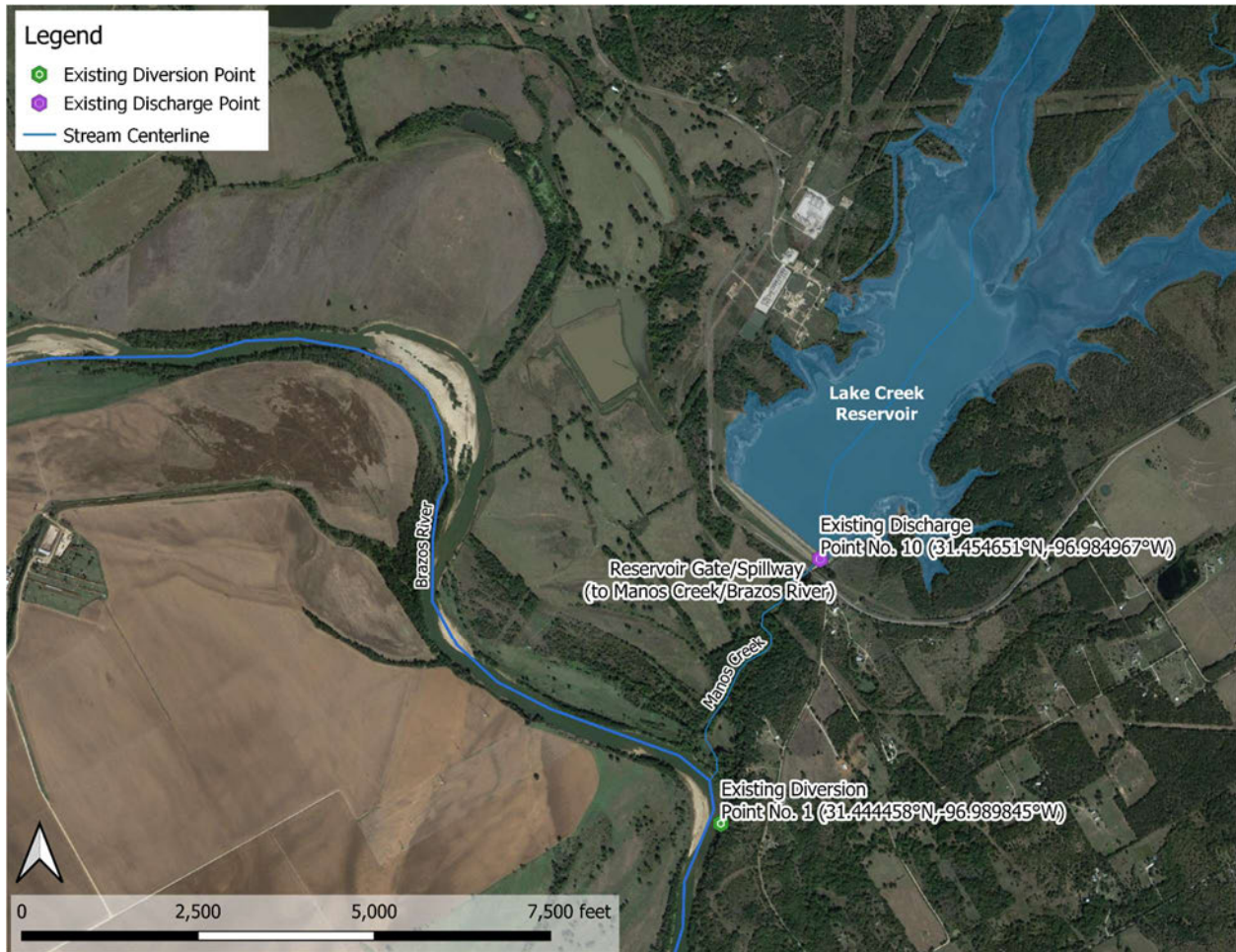


## **SUPPLEMENTAL MAPS**

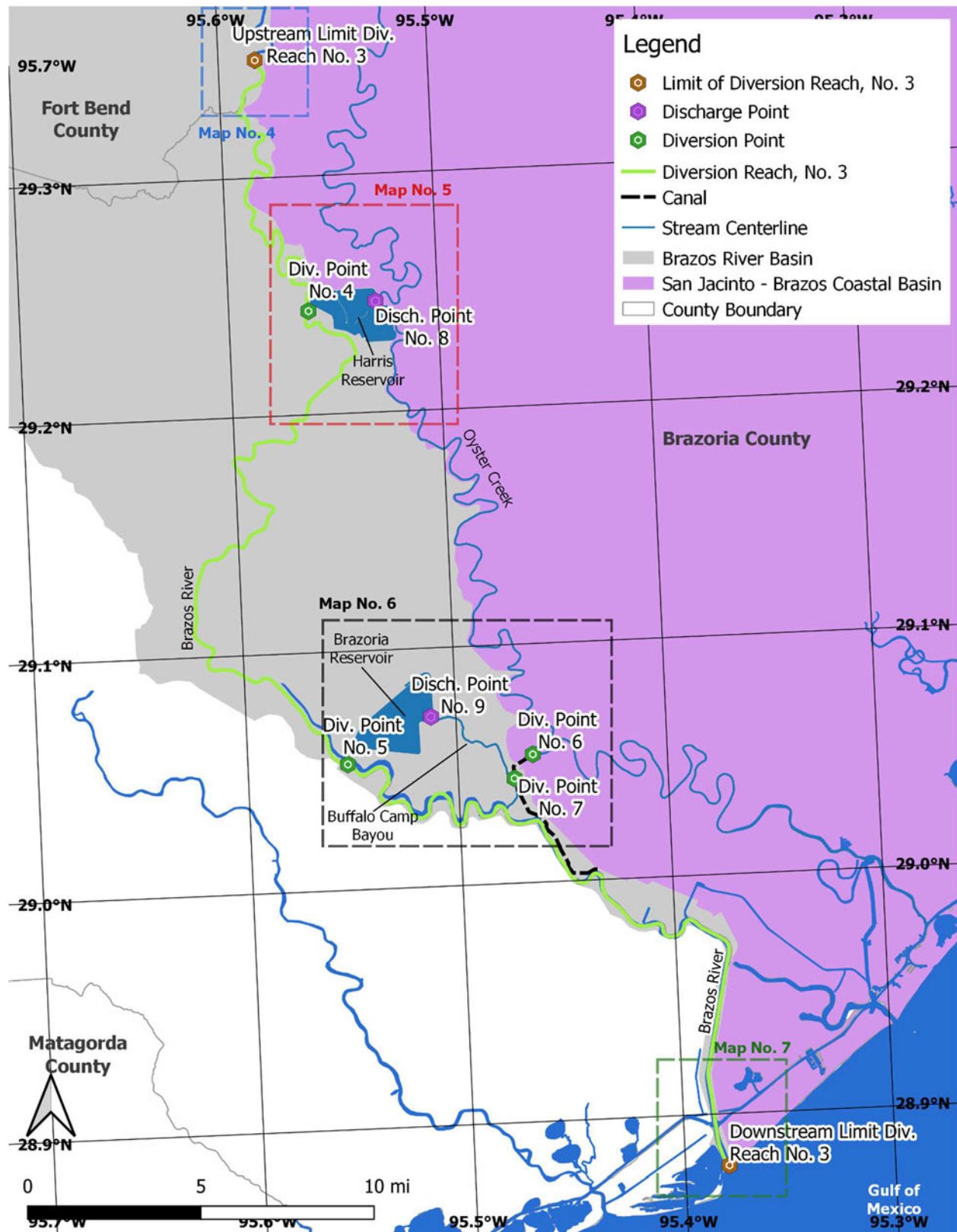
**Supplemental Map #1: Overview of Lake Creek Reservoir, proposed diversion reach, existing diversion points, and existing discharge points associated with application.**



**Supplemental Map #2: Location of Lake Creek Reservoir, water rights 12-4345 and 12-4345A, existing diversion point number 1, existing discharge point number 10, in McLennan County in the Brazos River Basin.**

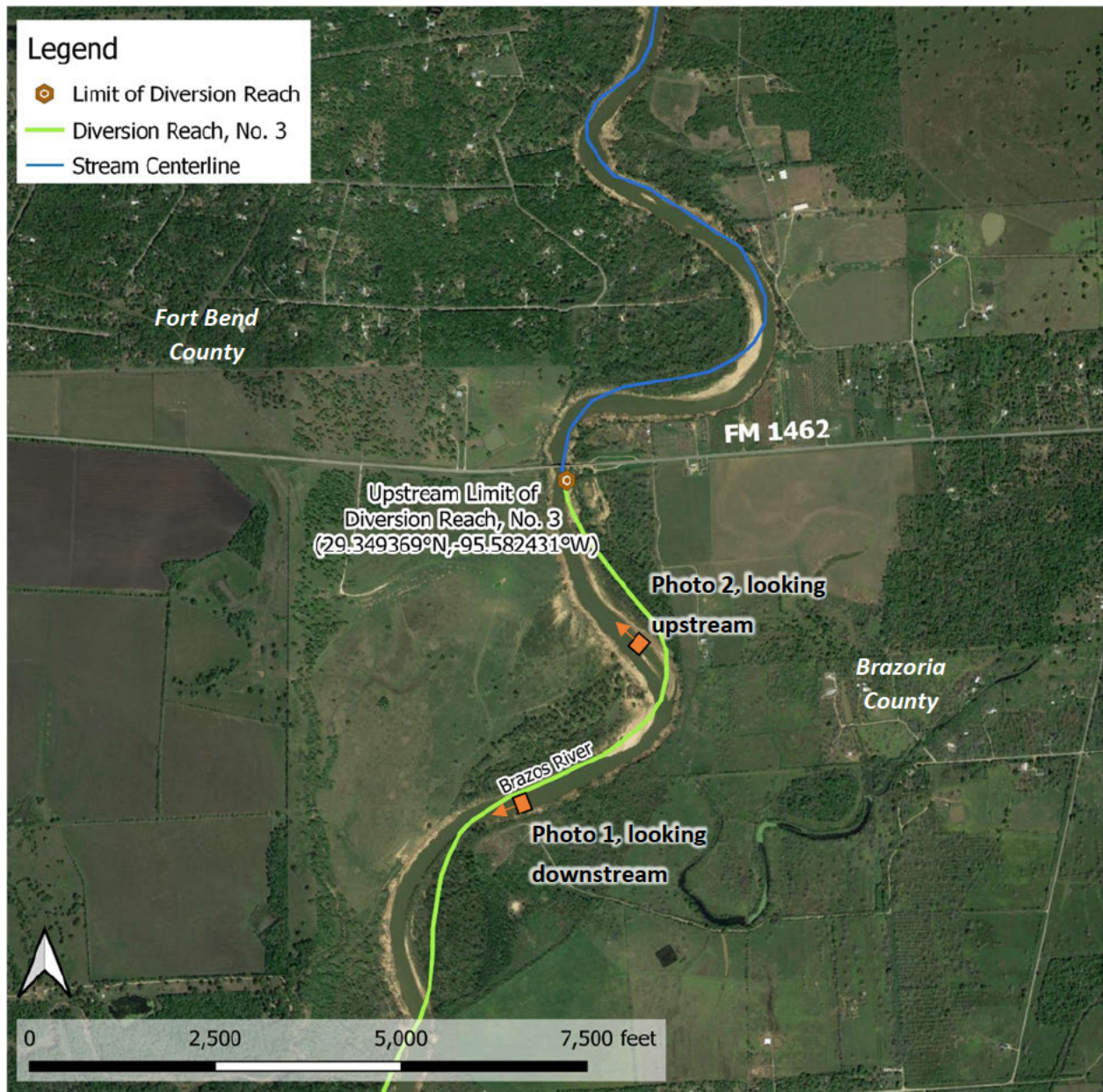


**Supplemental Map #3: Overview of proposed diversion reach no. 3, existing diversion points no. 4, 5, 6, 7, and existing discharge points no. 8 and 9. Insets for Supplemental Maps #4 – 7 are also shown.**



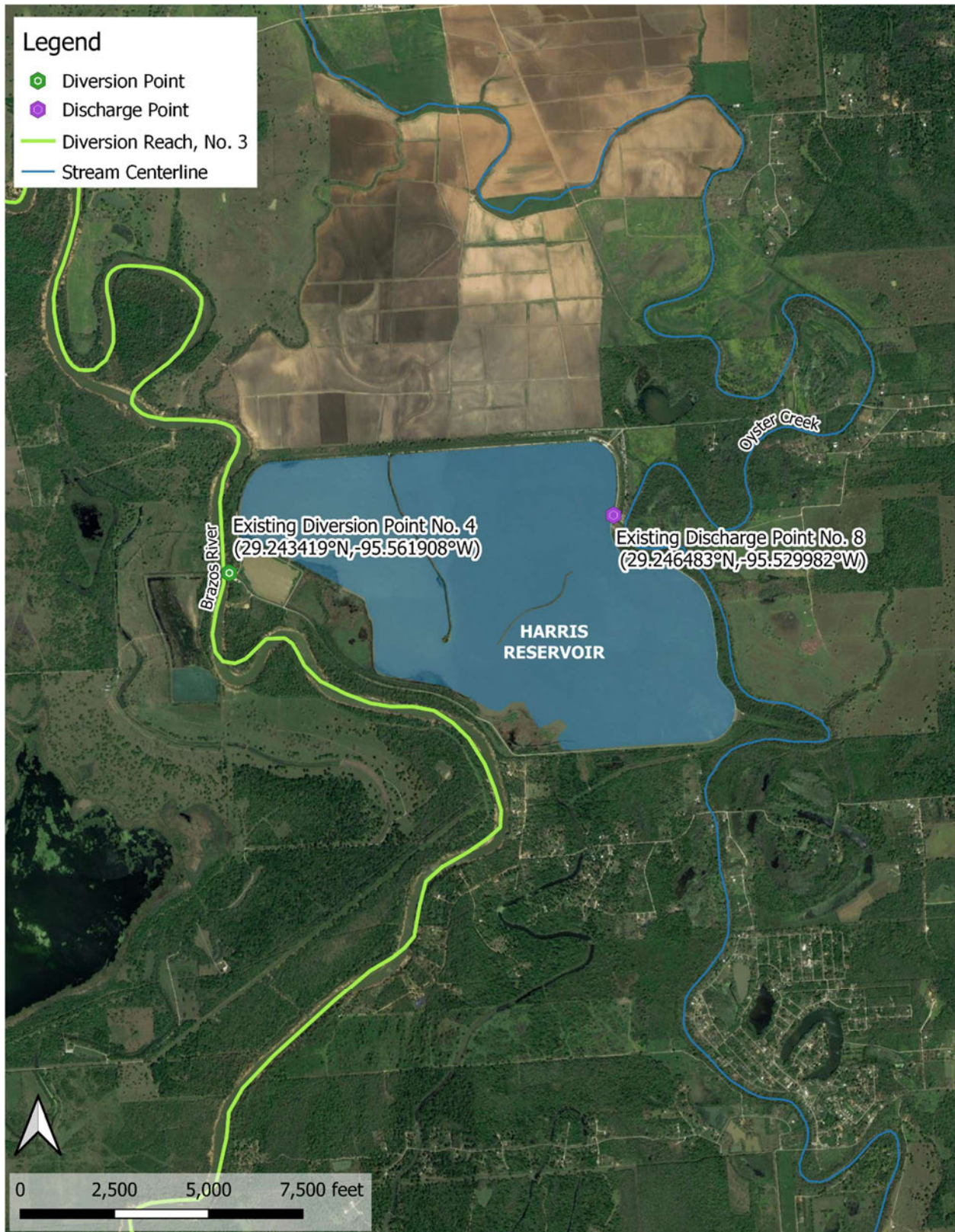


Supplemental Map #4: Proposed upstream limit of diversion reach no. 3.



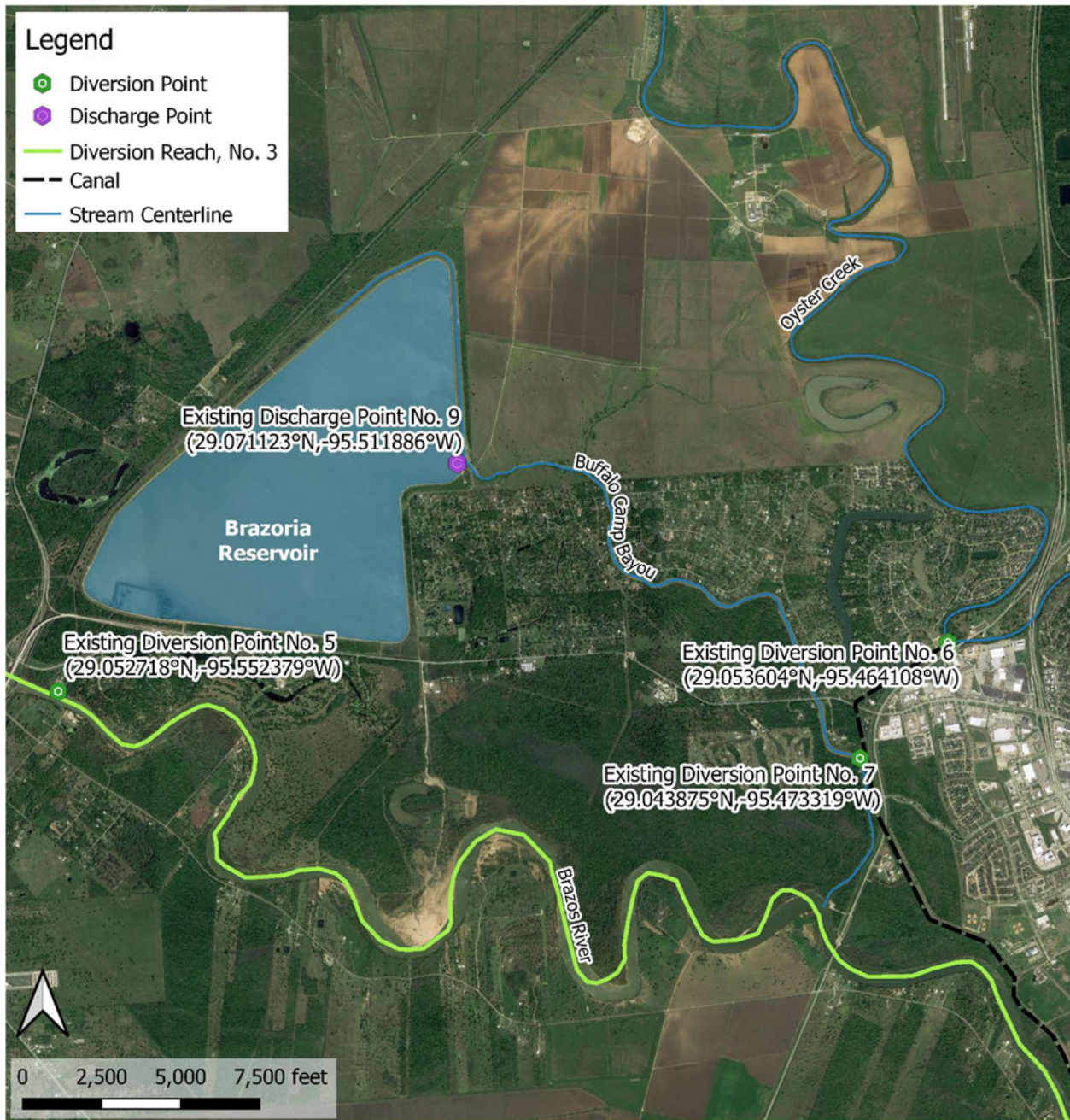


Supplemental Map #5: Existing diversion point number 4 and existing discharge point number 8.





Supplemental Map #6: Existing diversion points number 5, 6 and 7, and existing discharge point number 9.





Supplemental Map #7: Proposed downstream limit of diversion reach no. 3.





**Exhibit 1 – Dow Chemical Company’s Letter of Consent**

## LETTER OF CONSENT

To the Texas Commission on Environmental Quality:

The Dow Chemical Company ("Dow") does hereby consent to BASF Corporation ("BASF") requesting and obtaining TCEQ approval for a Bed and Banks permit that envisions use of Dow's existing and future pumping facilities, as potential diversion points, to divert, store, discharge, and deliver water under Certificate of Adjudication Nos. 12-4345 and 12-4345A from the Brazos River to BASF's facilities in Clute, Texas. Dow's existing facilities currently include the Harris and Brazoria reservoirs, intake facilities, and discharge facilities; facilities on Oyster Creek and Buffalo Camp Bayou; and Dow's canal system.

The proposed diversion at Dow's intake facilities would be contractually facilitated in accordance with and subject to the provisions of Dow's and BASF's Site Services Agreement, dated April 1, 2020 (the "Agreement"). Subject to and in accordance with the provisions of the Agreement, Dow has agreed to deliver BASF's owned, leased, or contracted water to BASF.

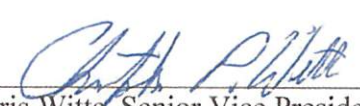
Further, Dow consents to the inclusion of Dow's diversion, storage, discharge, and conveyance locations and facilities, as a potential delivery point, in an amendment to Certificate of Adjudication Nos. 12-4345 and 12-4345A.

For the avoidance of doubt, Dow's consent to the conditional use of Dow's facilities as a potential Bed and Banks diversion location for Certificate of Adjudication Nos. 12-4345 and 12-4345A does not grant BASF any legal rights to the use of Dow's assets or water conveyance system beyond the rights expressly provided for in the Agreement or in future contractual agreements.

  
\_\_\_\_\_  
Fernando Signorini, Gulf Coast V.P. of Operations  
The Dow Chemical Company

## ACKNOWLEDGEMENT

BASF hereby acknowledges that it is only entitled to use Dow's facilities by agreement with Dow, and that any amendment to Certificate of Adjudication Nos. 12-4345 and 12-4345A will not grant BASF an independent right to use Dow's facilities for the delivery of the water under Certificate of Adjudication Nos. 12-4345 and 12-4345A.

  
\_\_\_\_\_  
Chris Witte, Senior Vice President  
BASF Corporation

## **Exhibit 2 – Water Conservation Plan**



## Texas Commission on Environmental Quality

### Water Availability Division

MC-160, P.O. Box 13087 Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-2214

### Industrial Water Conservation Plan

This form is provided to assist entities in developing a water conservation plan for industrial water use. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

*Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.*

#### Contact Information

Name: Christopher Witte  
Address: 602 Copper Road; Freeport, TX 77541  
Telephone Number: (979) 415-6111 Fax: ( )  
Form Completed By: Yasuko Dodd  
Title: Sr. EHS Specialist  
Signature: *Christopher P. Witte* Date: 10/04/2021

A water conservation plan for industrial use must include the following requirements (as detailed in 30 TAC Section 288.3). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

#### I. BACKGROUND DATA

##### A. Water Use

1. Annual diversion appropriated or requested (in acre-feet):

10,000 acre-feet

2. Maximum diversion rate (cfs):

455 cfs

##### B. Water Sources

1. Please indicate the maximum or average annual amounts of water currently used and anticipated to be used (in acre-feet) for industrial purposes:

The BASF Freeport Site currently uses multiple existing water sources and source types, and anticipates replacing some future water use with water right no. 12-4345a authorized water. Only water right no. 12-4345a authorized water use is included in this Water Conservation Plan. Anticipated use amount does not include channel losses from Lake Creek reservoir to downstream Brazos River diversion point.

<i>Source</i>	<i>Water Right No./ Contract(s)</i>	<i>Current Use</i>	<i>Anticipated Use</i>
Surface Water	12-4345a	0	10,000
Groundwater	N/A	0	0
Purchased	N/A	0	0
<b>Total</b>	-	0	10,000

2. How was the surface water data and/or groundwater data provided in B(1) obtained?

Master meter and Customer meter

3. Was purchased water raw or treated?

N/A

### *C. Industrial Information*

1. Major product(s) or service(s) produced by applicant:

A variety of organic chemicals, including basic chemicals, raw materials and intermediates used in the manufacturing of Nylon 6, acrylic monomers, alcohols and other specialty chemicals.

2. North American Industry Classification System (NAICS):

325 - Chemical Manufacturing

## **II. WATER USE AND CONSERVATION PRACTICES**

### *A. Water Use in Industrial Processes*

Authorized water use from water right number 12-4345a has not yet occurred at the BASF Corporation Freeport Site. Water use amount by production type is estimated based on an anticipated use amount of 10,000 acre-feet. Anticipated use amount does not include channel losses from Lake Creek reservoir to downstream Brazos River diversion point.

<i>Production Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Boiler feed, Incorporated into product, washing, other (DI Water)	0	100	0	0	3,826

Cooling Towers,  
Once through,  
processing,  
washing,  
transport, other  
(Clarified River  
Water)

0	100	0	0	6,174
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Sanitary &  
drinking water

0	0	0	0	0
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1. Was fresh water recirculated at this facility? ☒ Yes ☐ No
2. Provide a detailed description of how the water will be utilized in the industrial process.

At the BASF Corporation Freeport Site, water undergoes various water treatment steps to gain a higher water quality: clarified surface water and DI water. This water is then used in cooling towers for process cooling, steam generation for process heating, process water incorporated into final products, and cleaning/clearing production units.

3. Estimate the quantity of water consumed in production processes and is therefore unavailable for reuse, discharge, or other means of disposal.

Authorized water use from water right number 12-4345a has not yet occurred at the BASF Corporation Freeport Site. Using existing water consumption amounts from existing water sources, approximately 4,567 acre-feet per year would be consumed in production processes from 10,000 acre-feet of anticipated future water use from water right number 12-4345a.

4. Monthly water consumption for previous year (in acre-feet).

Authorized water use from water right number 12-4345a has not yet occurred at the BASF Corporation Freeport Site. This table does not represent other existing sources currently being used. Existing water sources are anticipated to be replaced in the future with water use from water right number 12-4345a.

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0
May	0	0	0
June	0	0	0
July	0	0	0
August	0	0	0

September	0	0	0
October	0	0	0
November	0	0	0
December	0	0	0
<b>Totals</b>	<b>0</b>	<b>0</b>	<b>0</b>

5. Projected monthly water consumption for next year (in acre-feet).

Projected monthly water consumption for the next year is based on 10,000 acre-feet of anticipated future water use; actual use and consumption will vary year to year.

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	833.33	54.33%	380.58
February	833.33	54.33%	380.58
March	833.33	54.33%	380.58
April	833.33	54.33%	380.58
May	833.33	54.33%	380.58
June	833.33	54.33%	380.58
July	833.33	54.33%	380.58
August	833.33	54.33%	380.58
September	833.33	54.33%	380.58
October	833.33	54.33%	380.58
November	833.33	54.33%	380.58
December	833.33	54.33%	380.58
<b>Totals</b>	<b>10,000</b>	<b>54.33%</b>	<b>4,567</b>

*B. Specific and Quantified Conservation Goal*

Water conservation goals for the industrial sector are generally established either for (1) the amount of water recycled, (2) the amount of water reused, or (3) the amount of water not lost or consumed, and therefore is available for return flow.

1. Water conservation goal (water use efficiency measure)

Type of goal(s):

Reducing gallons of water consumed per pound of product shipped 0.5% per year.

2. Provide specific, quantified 5-year and 10-year targets for water savings and the basis for development of such goals for this water use/facility.



Based on 25 years of available historical data, using a percent reduction of water consumed per product weight (gallon of water consumed per pound of product shipped) is a reasonable measure for water conservation goal.

Quantified 5-year and 10-year targets for water savings:

- a. 5-year goal: To reduce gallons of water consumed per pound of product shipped by 2.5%
  - b. 10-year goal: To reduce gallons of water consumed per pound of product shipped by 4.9%.
3. Describe the device(s) and/or method(s) used to measure and account for the amount of water diverted from the supply source, and verify the accuracy is within plus or minus 5%.

BASF Corporation is required to use meters verified by the Brazos Watermaster Program (Watermaster) prior to diversion of water. Further, all diversions of water by BASF Corporation must be metered or otherwise measured within an accuracy of plus or minus five percent and reported to the Watermaster in a timely manner. Metering devices must be tested and calibrated each year with reports of such testing and calibration results.

At this time meters used to measure diversions and discharges from public watercourses (as noted previously in Section II.2) are owned and operated by a private entity through an existing water supply contract.

4. Provide a description of the leak-detection and repair, and water-loss accounting measures used.

BASF Corporation produces a Responsible Care Report that documents water use, water use categories, final disposition of water, and evaporative loss of cooling water. Additionally, pressure, water consumption, and storage of water are constantly monitored and inspected.

5. Describe the application of state-of-the-art equipment and/or process modifications used to improve water use efficiency.

Multiple cooling towers are operated for cooling processes to reduce water needs. Condensate is collected and re-used up to 70%. Production waste water is reused as water supply/feed stock in another business unit. The reverse osmosis reject recovery system has an online flow meter for volume monitoring.

6. Describe any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan:

The ISO 50001 and 9001 certifications are established at the BASF Corporation Freeport Site. The Freeport Site participates in the BASF Corporation internal wastewater treatment plant benchmark. Local Wastewater Risk Assessments are available for each production unit. Regular internal Responsible Care audits are conducted and regular internal and external ISO audits are conducted.

### **III. Water Conservation Plans submitted with a Water Right Application for New or Additional State Water**

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

**Exhibit 3 – Written Evidence of Signature Authority**



The Chemical Company

**Environment, Health and  
Safety**

September 1, 2010

James L. Bero  
Senior Vice President

Christopher P. Witte  
BASF Corporation  
602 Copper Road  
Freeport, TX 77541

Dear Chris:

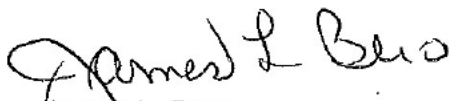
Thank you for accepting the delegated responsibility to sign and to certify environmental permit applications, reports and other related documents for the facilities of BASF Corporation to which you are assigned.

As you know, care must be taken in completing such applications and reports, since penalties may be imposed for false statements, although penalties are not ordinarily imposed for mistakes made through mere inadvertence. Your plant and site ecology personnel must work closely with you to assure accuracy. In addition, NTU or NOL/R are available for advice and consultation should you wish assistance in completing such documents. Please feel free to call Wayne Enderle or Steve Goldberg at Florham Park with any such questions you may have.

In carrying out your responsibilities, you are covered by the Corporate Compliance Indemnification Policy. Under that policy, the Company provides full indemnification of employee and agents against all expenses (including attorneys' fees), judgments, fines, and reasonable settlements where one has (1) acted in good faith and in a manner he or she believed to be in BASF's best interests; and (2) in a criminal context, where one did not have reasonable cause to believe the challenged conduct was unlawful.

If you have any questions about this Policy, please feel free to call our General Counsel, David Stryker.

Sincerely,



James L. Bero

Attachment

BASF Corporation  
100 Campus Drive  
Florham Park, NJ 07932  
Tel: (973) 245-6850  
Fax: (973) 245-6707



The Chemical Company


## Environmental Permit/Reporting Signature Authorization

Under federal, state, and local environmental laws, which require certification of certain permit applications, reports or other documents, authority may be delegated to a duly authorized representative with responsibilities for that operation.

The managerial position identified below is responsible for environmental activities at the Freeport facility and has responsibility for the overall operation of the site or plant facilities subject to environmental permitting.

Therefore, I, James L. Bero, Senior Vice President, Environment, Health and Safety, do hereby authorize Christopher P. Witte, VP & General Manager to certify any such permit applications, reports, and other required regulatory documents on behalf of BASF Corporation.


This authority shall continue until revoked, modified, or superseded. The person authorized herein shall not further delegate their authority.

  
James L. Bero

Senior Vice President, Environment, Health and Safety  
Title

September 1, 2010  
Date

Concurrence:

  
Steven J. Goldberg (NOL/R)