

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A TEMPORARY WATER USE PERMIT

APPLICATION NO. 13884

Chesapeake Operating, L.L.C. seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Chesapeake Operating, L.L.C., Applicant, PO Box 18496, Oklahoma City, OK 73154, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Temporary Water Use Permit pursuant to Texas Water Code § 11.138 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being mailed to the downstream water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.154(a).

Chesapeake Operating, L.L.C. seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

The water will be diverted from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County, ZIP Code 77807.

The application was received on October 28, 2022. Additional information and fees were received on December 1 and 8, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 20, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions and installing a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by August 21, 2023. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 21, 2023. The Executive Director may approve the application unless a written request for a contested case hearing is filed by August 21, 2023.

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 WRTP 13884 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

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

Issued: August 03, 2023

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## TEMPORARY WATER USE PERMIT

PERMIT NO. 13884

TYPE § 11.138

Permittee: Chesapeake Operating, L.L.C. Address: PO Box 18496  
Oklahoma City, OK 73154

Received: October 28, 2022 Granted:

Watercourse: Unnamed tributary of Little Brazos River County: Robertson  
Watershed: Brazos River Basin

WHEREAS, after considering the recommendation of the staff relative to the above identified application, the following findings of fact and conclusions of law are made:

### FINDINGS OF FACT

1. The application is in proper form and accompanied by all necessary fees.
2. Sufficient water is available at the proposed diversion point to satisfy the requested diversion and use of not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.
3. The water will be diverted at a maximum diversion rate of 7.49 cfs (3,360 gpm) from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County.
4. Notice of this application was mailed to the downstream water right holders of record.

### CONCLUSIONS OF LAW

- A. Jurisdiction is vested to consider this application under Texas Water Code § 11.138 and Title 30 Texas Administrative Code §§ 295.174 and 297.13.
- B. Applicant has complied with the particular requirements of the Texas Commission on Environmental Quality.
- C. The Executive Director recommends that special conditions be included.  
NOW, THEREFORE, Temporary Water Use Permit No. 13884 is issued to the

Chesapeake Operating, L.L.C. subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.

2. DIVERSION

Permittee is authorized to divert:

- A. From a point on an unnamed tributary of Little Brazos River located at Latitude at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County.
- B. At a maximum diversion rate of 7.49 cfs (3,360 gpm).

3. SPECIAL CONDITIONS

- A. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens at the diversion structure.
- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08111500 - Brazos River near Hempstead, TX, as set forth in Paragraphs 3.C.-3.G.

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

- C. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through October).
- D. Permittee shall determine the hydrologic condition once per season. The Palmer Hydrologic Drought Index (PHDI) value present on the last day of the month of the preceding season, as reported by the National Weather Service shall be used to determine the hydrologic condition for the following season as set out in Paragraphs I-III below.

- I. Permittee shall determine the PHDI Index for a season based on the following formula:

$$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$$

- II. The PHDI Index and corresponding hydrologic conditions that govern diversions under this permit are:

Dry	Average	Wet
Less than -1.73	Between -1.73 and 2.13	Greater than 2.13

- III. Permittee may utilize an interim PHDI value to determine the hydrologic condition until the value for the month preceding the start of the season is published. The interim PHDI value shall be based on the latest published monthly PHDI value that is available on the last day of the month of the preceding season. When a value for the month preceding the season is published, Permittee shall update the hydrologic condition determined based on the interim value if the final value results in a change to the calculated hydrologic condition. Any updated hydrologic condition shall then be applicable to diversions under this permit.

**Subsistence Flow Special Conditions and 50% Rule:**

- E. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the Brazos Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
- F. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Condition**

- G. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable base flow for the applicable hydrologic condition, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

- H. Permittee shall maintain records of the calculated hydrologic condition for the season and the streamflow values at the time of the diversion and make those records available to the Brazos Watermaster upon request.
- I. This temporary water use permit is junior in priority to all existing water rights in the Brazos River Basin.
- J. Upon diversion and use of the water authorized herein, this temporary water use permit shall expire and be of no further force and effect.
- K. This temporary water use permit shall expire and become null and void three years from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- L. No diversion of water shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- M. Permittee shall install and maintain a measuring device or method which accounts for, within 5% accuracy, the quantity of water diverted from the point authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- N. Permittee shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records.
- O. Permittee shall contact the Brazos Watermaster prior to diversion of water authorized by this permit.
- P. The issuance of this temporary water use permit does not grant to the permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

This temporary water use permit does not vest in its holder a permanent right and shall in no event be construed as a commitment of the Commission to approve or disapprove any other application or request by the Permittee.

This temporary permit is subject to the requirements and orders of the Brazos Watermaster.

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

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

This temporary water use permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to its right of continuing supervision.

\_\_\_\_\_  
For the Commission

DATE ISSUED:

DRAFT

## Natalia Ponebshek

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**From:** Christy Keith [REDACTED] >  
**Sent:** Tuesday, July 25, 2023 9:52 AM  
**To:** Natalia Ponebshek; Eric Dean  
**Subject:** RE: Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit Follow Up  
**Attachments:** chesapeake\_operating\_llc\_13884\_Draft\_Permit\_Follow up\_Package\_7.14.2023.pdf

Classification: DCL-Internal

Good Morning Natalia,

Sorry for the delay, Chesapeake has no concerns or questions regarding the attached draft permit. Please let me know if any further information is needed from Chesapeake.

Thank you,  
*Christy Keith*  
Manager – Regulatory, Eagleford and Haynesville  
Chesapeake Energy Corporation  
Office: 405-534-4388  
Mobile: 405-919-1684  
Fax: 405-849-7539  
Email: [REDACTED]



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**From:** Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov>  
**Sent:** Friday, July 14, 2023 4:18 PM  
**To:** Sheldon Burleson <[REDACTED]>; Christy Keith [REDACTED]; Eric Dean <[REDACTED]>  
**Cc:** [REDACTED]  
**Subject:** [EXTERNAL] Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit Follow Up

Good afternoon,

Please find the attached follow up letter for providing a draft permit response for the abovementioned application. A response is due by July 28, 2023. Please let me know if you have any questions.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641



This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 14, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

**VIA E-MAIL AND CERTIFIED MAIL**

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

This is a follow-up to our previous letter dated June 12, 2023 (copy attached) regarding the draft public notice and proposed Temporary Water Use Permit No. 13884 for the referenced application. To date, a response has not been received.

Please submit the information requested by July 28, 2023 or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter, please contact me via e-mail at [Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

Attachment

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 12, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

VIA E-MAIL

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

This acknowledges receipt, on June 8, 2023, of the applicant's request for an extension of time to respond to the Texas Commission on Environmental Quality letter dated May 19, 2023 regarding the draft public notice and proposed Temporary Water Use Permit No. 13884 for the referenced application.

A 30-day extension is granted until July 2, 2023. Please review the drafts and contact me no later than July 2, 2023, with any comments or questions as the notices will be forwarded to the Office of the Chief Clerk for mailing after that date.

If you have any questions concerning this matter, please contact Ms. Natalia Ponebshek via e-mail at [natalia.ponebshek@tceq.texas.gov](mailto:natalia.ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

A handwritten signature in black ink that reads "Bert Galvan".

Bert Galvan, Manager  
Water Rights Permitting & Availability Section  
Water Availability Division

BG/np

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 19, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

**VIA E-MAIL**

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

Drafts, subject to revision, of the public notice, proposed Temporary Water Use Permit No. 13884, 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 June 2, 2023 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a 15-day comment period and once the comment period has closed, the proposed Temporary Water Use Permit No. 13884 may be issued as drafted given no hearing requests are received.

If you have any questions concerning this matter, please contact me via email at [Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov) or at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

Attachments

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## TEMPORARY WATER USE PERMIT

PERMIT NO. 13884

TYPE § 11.138

Permittee: Chesapeake Operating, L.L.C.

Address: PO Box 18496  
Oklahoma City, OK 73154

Received: October 28, 2022

Granted:

Watercourse: Unnamed tributary of Little  
Brazos River

County: Robertson

Watershed: Brazos River Basin

WHEREAS, after considering the recommendation of the staff relative to the above identified application, the following findings of fact and conclusions of law are made:

### FINDINGS OF FACT

1. The application is in proper form and accompanied by all necessary fees.
2. Sufficient water is available at the proposed diversion point to satisfy the requested diversion and use of not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.
3. The water will be diverted at a maximum diversion rate of 7.49 cfs (3,360 gpm) from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County.
4. Notice of this application was mailed to the downstream water right holders of record.

### CONCLUSIONS OF LAW

- A. Jurisdiction is vested to consider this application under Texas Water Code § 11.138 and Title 30 Texas Administrative Code §§ 295.174 and 297.13.
- B. Applicant has complied with the particular requirements of the Texas Commission on Environmental Quality.
- C. The Executive Director recommends that special conditions be included.  
NOW, THEREFORE, Temporary Water Use Permit No. 13884 is issued to the

Chesapeake Operating, L.L.C. subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.

2. DIVERSION

Permittee is authorized to divert:

- A. From a point on an unnamed tributary of Little Brazos River located at Latitude at Latitude 30.728828' N, Longitude 96.502535' W in Robertson County.
- B. At a maximum diversion rate of 7.49 cfs (3,360 gpm).

3. SPECIAL CONDITIONS

- A. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens at the diversion structure.
- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08111500 - Brazos River near Hempstead, TX, as set forth in Paragraphs 3.C.-3.G.

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
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		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

- C. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through October).
- D. Permittee shall determine the hydrologic condition once per season. The Palmer Hydrologic Drought Index (PHDI) value present on the last day of the month of the preceding season, as reported by the National Weather Service shall be used to determine the hydrologic condition for the following season as set out in Paragraphs I-III below.

- I. Permittee shall determine the PHDI Index for a season based on the following formula:

$$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$$

- II. The PHDI Index and corresponding hydrologic conditions that govern diversions under this permit are:

Dry	Average	Wet
Less than -1.73	Between -1.73 and 2.13	Greater than 2.13

- III. Permittee may utilize an interim PHDI value to determine the hydrologic condition until the value for the month preceding the start of the season is published. The interim PHDI value shall be based on the latest published monthly PHDI value that is available on the last day of the month of the preceding season. When a value for the month preceding the season is published, Permittee shall update the hydrologic condition determined based on the interim value if the final value results in a change to the calculated hydrologic condition. Any updated hydrologic condition shall then be applicable to diversions under this permit.

**Subsistence Flow Special Conditions and 50% Rule:**

- E. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the Brazos Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
- F. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Condition**

- G. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable base flow for the applicable hydrologic condition, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

- H. Permittee shall maintain records of the calculated hydrologic condition for the season and the streamflow values at the time of the diversion and make those records available to the Brazos Watermaster upon request.
- I. This temporary water use permit is junior in priority to all existing water rights in the Brazos River Basin.
- J. Upon diversion and use of the water authorized herein, this temporary water use permit shall expire and be of no further force and effect.
- K. This temporary water use permit shall expire and become null and void three years from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- L. No diversion of water shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- M. Permittee shall install and maintain a measuring device or method which accounts for, within 5% accuracy, the quantity of water diverted from the point authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- N. Permittee shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records.
- O. Permittee shall contact the Brazos Watermaster prior to diversion of water authorized by this permit.
- P. The issuance of this temporary water use permit does not grant to the permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

This temporary water use permit does not vest in its holder a permanent right and shall in no event be construed as a commitment of the Commission to approve or disapprove any other application or request by the Permittee.

This temporary permit is subject to the requirements and orders of the Brazos Watermaster.

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

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



This temporary water use permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to its right of continuing supervision.

\_\_\_\_\_  
For the Commission

DATE ISSUED:

DRAFT

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A TEMPORARY WATER USE PERMIT

APPLICATION NO. 13884

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**APPLICATION.** Chesapeake Operating, L.L.C., Applicant, PO Box 18496, Oklahoma City, OK 73154, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Temporary Water Use Permit pursuant to Texas Water Code § 11.138 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being mailed to the downstream water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.154(a).

Chesapeake Operating, L.L.C. seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

The water will be diverted from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County, ZIP Code 77807.

The application was received on October 28, 2022. Additional information and fees were received on December 1 and 8, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 20, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions and installing a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wrapend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wrapend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by \_\_\_\_\_. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if

the Executive Director determines that there is a significant degree of public interest in the application.

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

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

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

**INFORMATION.** Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 13884 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

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

Issued:

# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Natalia Ponebshek, Project Manager  
Water Rights Permitting Team

**Date:** March 22, 2023

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

**From:** Nathalie Montes, Aquatic Scientist  
Resource Protection Team

**Subject:** Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004  
Unnamed tributary of Little Brazos River, Brazos River Basin  
Robertson County

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

### APPLICATION SUMMARY

Chesapeake Operating, L.L.C. (Applicant) requests a temporary water use permit to divert a maximum of 386.7 acre-feet of water within a three-year period from a point on a reservoir on an unnamed tributary of the Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

### ENVIRONMENTAL ANALYSIS

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 § 298.460).

The Applicant is requesting use of surplus water, which would be subject to the adopted standards. This review is conducted in accordance with §11.147(e-3) of the TWC and Title 30 TAC Chapter 298 Subchapter G Brazos River and its Associated Bay and Estuary System. In Title 30 TAC §298.480(17), environmental flow standards were established at United States Geological Survey (USGS) Gage No. 08111500 – Brazos River near Hempstead, TX, and the applicable environmental flow standards are shown in Table 1.

**Table 1. Environmental Flow Standards at USGS Gage No. 08111500 – Brazos River near Hempstead, TX**

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

Base flow standards vary depending on the season and current hydrologic conditions. Seasons are defined in Title 30 TAC §298.455 as follows: Winter (November through February), Spring (March through June), and Summer (July through October). Hydrologic conditions will be addressed in the water availability analysis for this application.

No special conditions for high flow pulses are required because the proposed maximum diversion rate, 7.49 cfs, is less than 20% of the applicable pulse trigger level requirements of an applicable high flow pulse, as described in Title 30 TAC §298.485(b).

Resource Protection staff recommend that diversion of water under this proposed temporary permit should be limited to comply with the applicable environmental flow standards.

### **RECOMMENDATIONS**

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

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

- Diversions shall be restricted based on the following streamflows at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, as set forth in Special Conditions 3-6.

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

- Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through October).

**Subsistence Flow Special Conditions and 50% rule:**

- Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the Brazos Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
- If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided,

however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Condition**

6. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable base flow for the applicable hydrologic condition, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

*Nathalie Montes*

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Nathalie Montes, Aquatic Scientist

**Texas Commission on Environmental Quality**

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INTEROFFICE MEMORANDUM

To: Natalia Ponebshek, Project Manager  
Water Rights Permitting Team

Date: May 8, 2023

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

TG Trent Gay, Team Leader  
Surface Water Availability Team

From: Andrew Maria, Hydrologist  
Surface Water Availability Team

Subject: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004  
Unnamed tributary of Little Brazos River, Brazos River Basin  
Robertson County

**HYDROLOGY REVIEW**

**Application Summary**

Chesapeake Operating, L.L.C. (Applicant) requests a temporary water use permit to divert a maximum of 386.7 acre-feet of water within a three-year period from a point on a reservoir on an unnamed tributary of the Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

The application was declared administratively complete on January 20, 2023.

**Hydrology Review**

Pursuant to 30 Texas Administrative Code (TAC) 298 Subchapter G, Resource Protection staff recommends that the application be subject to instream flow requirements. Specific instream flow requirements are included in the Resource Protection staff's March 22, 2023 memorandum.

Staff reviewed current conditions in the Brazos River Basin to determine whether surplus water is available for this request. Staff notes that the most recent Drought Monitor (April 25, 2023) indicates that the portion of Robertson County where the application is located is not experiencing any drought conditions.

TCEQ's environmental flow standards for the Brazos Basin in 30 TAC §298 Subchapter G (Brazos River and its Associated Bay and Estuary System) include a hydrologic condition (§298.470 Calculation of Hydrologic Conditions). The hydrologic condition is based on the Palmer Hydrologic Drought Index (PHDI) and



the PHDI Index as defined in §298.455 (6) and (7). Based on §298.455(4), the application is located in the Lower Basin. The Climate Divisions included in the Lower Basin are the North Central (Climate Division 3), East Texas (Climate Division 4), Edwards Plateau (Climate Division 6), South Central (Climate Division 7), and Upper Coast (Climate Division 8). The values for the PHDI Index for the Lower Basin used to determine the hydrologic condition are calculated as follows (§298.470(b)):

$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$

The determination of the hydrologic condition for a particular season shall be determined once per season. The PHDI value present on the last day of the month of the preceding season, as reported by the National Weather Service, and calculated for the geographic area as described in subsection (b) of §298.470, will determine the hydrologic condition for the following season. The values for the PHDI are available at <http://www.ncdc.noaa.gov/cag/>. Under the adopted rules, PHDI values are based on the last day of the month before the start of a new season; however, final approved PHDI values for a month are typically available from the National Climatic Data Center (NCDC) near the middle of the following month. Therefore, in order to determine the hydrologic condition for a season, the latest published monthly value can be used on an interim basis until the final value for the month preceding the season is available. When the NCDC publishes the final value for the month preceding the season, the hydrologic condition applicable for the season can be updated if required.

The diversion requested in the application is for a short period of time (three years). This temporary permit will be junior to all existing water rights, and subject to suspension if water is needed for those water rights. Staff's opinion is that existing water rights will not be affected by this short-term temporary permit.

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

## Conclusion

Staff can support granting the application provided the following special conditions are included in the permit:

1. Permittee shall determine the hydrologic condition once per season. The Palmer Hydrologic Drought Index (PHDI) value present on the last day of the month of the preceding season, as reported by the National Weather Service shall be used to determine the hydrologic condition for the following season as set out in Paragraphs 1.(a) - (c) below.

a. Permittee shall determine the PHDI Index for a season based on the following formula:

$$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$$

b. The PHDI Index and corresponding hydrologic conditions that govern diversions under this permit are:

Dry	Average	Wet
Less than -1.73	Between -1.73 and 2.13	Greater than 2.13

c. Permittee may utilize an interim PHDI value to determine the hydrologic condition until the value for the month preceding the start of the season is published. The interim PHDI value shall be based on the latest published monthly PHDI value that is available on the last day of the month of the preceding season. When a value for the month preceding the season is published, Permittee shall update the hydrologic condition determined based on the interim value if the final value results in a change to the calculated hydrologic condition. Any updated hydrologic condition shall then be applicable to diversions under this permit.

2. Permittee shall maintain records of the calculated hydrologic condition for the season and the streamflow values at the time of the diversion and make those records available to the Brazos Watermaster upon request.

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

*Andrew Maria*

Andrew Maria, Hydrologist

## Natalia Ponebshek

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**From:** Tony Villasana [REDACTED] >  
**Sent:** Wednesday, July 12, 2023 4:52 PM  
**To:** Natalia Ponebshek  
**Cc:** Rachel Henn  
**Subject:** Chesapeake Operating, L.L.C. WRTP 13884  
**Attachments:** Chesapeake\_Operating\_LLC\_13884\_Extension letter\_6-12-23.pdf

Natalia,

WildFire Energy is interested in moving forward with this permit application. We have reviewed the draft sent to Chesapeake and agree to the draft applications' terms.

How do you think we should proceed? Please let me know what information we can you need to finalize the permit application.

Thank you,

Tony Villasana  
WildFire Energy LLC  
Burleson Sand LLC  
EHS & Regulatory, Director  
Phone: 832-558-0100  
[REDACTED]

## Natalia Ponebshek

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**From:** Natalia Ponebshek  
**Sent:** Wednesday, July 12, 2023 3:17 PM  
**To:** Sheldon Burleson  
**Cc:** Christy Keith; Eric Dean  
**Subject:** RE: Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit Extension Letter

Hello,

I am following up regarding the review of the draft permit, as a response was due on 7/2/2023. Please let me know if you have any questions.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641

---

**From:** Sheldon Burleson [REDACTED]  
**Sent:** Monday, June 12, 2023 2:53 PM  
**To:** Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov>  
**Cc:** Christy Keith [REDACTED]; Eric Dean [REDACTED]  
**Subject:** FW: Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit Extension Letter

Classification: DCL-Internal

Thank you Natalia for the confirmation of the extension. We are working with WildFire Energy (the asset purchaser) to address this.

Sheldon Burleson  
Vice President – Eagle Ford  
Work: 405-935-2668  
Mobile: 405-625-4062



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**From:** Natalia Ponebshek <[Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov)>  
**Sent:** Monday, June 12, 2023 1:46 PM  
**To:** Sheldon Burleson [REDACTED]  
**Subject:** [EXTERNAL] Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit Extension Letter

Good afternoon,

Please find the attached extension letter for providing a draft permit response for the abovementioned application. A response is due by July 2, 2023.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641

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This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 12, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

VIA E-MAIL

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

This acknowledges receipt, on June 8, 2023, of the applicant's request for an extension of time to respond to the Texas Commission on Environmental Quality letter dated May 19, 2023 regarding the draft public notice and proposed Temporary Water Use Permit No. 13884 for the referenced application.

A 30-day extension is granted until July 2, 2023. Please review the drafts and contact me no later than July 2, 2023, with any comments or questions as the notices will be forwarded to the Office of the Chief Clerk for mailing after that date.

If you have any questions concerning this matter, please contact Ms. Natalia Ponebshek via e-mail at [natalia.ponebshek@tceq.texas.gov](mailto:natalia.ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

A handwritten signature in black ink that reads "Bert Galvan".

Bert Galvan, Manager  
Water Rights Permitting & Availability Section  
Water Availability Division

BG/np

## Natalia Ponebshek

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**From:** Sheldon Burleson [REDACTED] >  
**Sent:** Thursday, June 8, 2023 2:30 PM  
**To:** Natalia Ponebshek  
**Cc:** Eric Dean; Dustin Lewis  
**Subject:** FW: Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit  
**Attachments:** chesapeake\_operating\_llc\_13884\_Draft\_Permit\_Sent\_5.19.2023.pdf

Classification: DCL-Internal

Natalia,  
Thank you for your time. My apologies for the delay. We are determining the correct next step as we have divested our operations in the Robertson County area to WildFire Energy. I'd like to have additional time to comment on this application and to determine our response.

Thank you for your patience,

Sheldon Burleson  
Vice President – Eagle Ford  
Work: 405-935-2668  
Mobile: 405-625-4062



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**From:** Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov>  
**Sent:** Friday, May 19, 2023 5:06 PM  
**To:** Sheldon Burleson [REDACTED] >  
**Subject:** [EXTERNAL] Chesapeake Operating, L.L.C. WRTP 13884 Draft Permit

Hello,

Please find the attached draft amendment and notice for the abovementioned application. Please provide any comments you may have by close of business on June 2, 2023.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641

delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).



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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 19, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

**VIA E-MAIL**

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

Drafts, subject to revision, of the public notice, proposed Temporary Water Use Permit No. 13884, 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 June 2, 2023 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a 15-day comment period and once the comment period has closed, the proposed Temporary Water Use Permit No. 13884 may be issued as drafted given no hearing requests are received.

If you have any questions concerning this matter, please contact me via email at [Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov) or at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

Attachments

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## TEMPORARY WATER USE PERMIT

PERMIT NO. 13884

TYPE § 11.138

Permittee: Chesapeake Operating, L.L.C. Address: PO Box 18496  
Oklahoma City, OK 73154

Received: October 28, 2022 Granted:

Watercourse: Unnamed tributary of Little Brazos River County: Robertson  
Watershed: Brazos River Basin

WHEREAS, after considering the recommendation of the staff relative to the above identified application, the following findings of fact and conclusions of law are made:

### FINDINGS OF FACT

1. The application is in proper form and accompanied by all necessary fees.
2. Sufficient water is available at the proposed diversion point to satisfy the requested diversion and use of not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.
3. The water will be diverted at a maximum diversion rate of 7.49 cfs (3,360 gpm) from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County.
4. Notice of this application was mailed to the downstream water right holders of record.

### CONCLUSIONS OF LAW

- A. Jurisdiction is vested to consider this application under Texas Water Code § 11.138 and Title 30 Texas Administrative Code §§ 295.174 and 297.13.
- B. Applicant has complied with the particular requirements of the Texas Commission on Environmental Quality.
- C. The Executive Director recommends that special conditions be included.  
NOW, THEREFORE, Temporary Water Use Permit No. 13884 is issued to the

Chesapeake Operating, L.L.C. subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, for mining purposes in Robertson County.

2. DIVERSION

Permittee is authorized to divert:

- A. From a point on an unnamed tributary of Little Brazos River located at Latitude at Latitude 30.728828' N, Longitude 96.502535' W in Robertson County.
- B. At a maximum diversion rate of 7.49 cfs (3,360 gpm).

3. SPECIAL CONDITIONS

- A. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens at the diversion structure.
- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08111500 - Brazos River near Hempstead, TX, as set forth in Paragraphs 3.C.-3.G.

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

- C. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through October).
- D. Permittee shall determine the hydrologic condition once per season. The Palmer Hydrologic Drought Index (PHDI) value present on the last day of the month of the preceding season, as reported by the National Weather Service shall be used to determine the hydrologic condition for the following season as set out in Paragraphs I-III below.

- I. Permittee shall determine the PHDI Index for a season based on the following formula:

$$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$$

- II. The PHDI Index and corresponding hydrologic conditions that govern diversions under this permit are:

Dry	Average	Wet
Less than -1.73	Between -1.73 and 2.13	Greater than 2.13

- III. Permittee may utilize an interim PHDI value to determine the hydrologic condition until the value for the month preceding the start of the season is published. The interim PHDI value shall be based on the latest published monthly PHDI value that is available on the last day of the month of the preceding season. When a value for the month preceding the season is published, Permittee shall update the hydrologic condition determined based on the interim value if the final value results in a change to the calculated hydrologic condition. Any updated hydrologic condition shall then be applicable to diversions under this permit.

**Subsistence Flow Special Conditions and 50% Rule:**

- E. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the Brazos Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
- F. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Condition**

- G. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable base flow for the applicable hydrologic condition, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

- H. Permittee shall maintain records of the calculated hydrologic condition for the season and the streamflow values at the time of the diversion and make those records available to the Brazos Watermaster upon request.
- I. This temporary water use permit is junior in priority to all existing water rights in the Brazos River Basin.
- J. Upon diversion and use of the water authorized herein, this temporary water use permit shall expire and be of no further force and effect.
- K. This temporary water use permit shall expire and become null and void three years from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- L. No diversion of water shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- M. Permittee shall install and maintain a measuring device or method which accounts for, within 5% accuracy, the quantity of water diverted from the point authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- N. Permittee shall allow representatives of the Brazos Watermaster reasonable access to the property to inspect the measuring device and records.
- O. Permittee shall contact the Brazos Watermaster prior to diversion of water authorized by this permit.
- P. The issuance of this temporary water use permit does not grant to the permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

This temporary water use permit does not vest in its holder a permanent right and shall in no event be construed as a commitment of the Commission to approve or disapprove any other application or request by the Permittee.

This temporary permit is subject to the requirements and orders of the Brazos Watermaster.

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

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

This temporary water use permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to its right of continuing supervision.

\_\_\_\_\_  
For the Commission

DATE ISSUED:

DRAFT

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A TEMPORARY WATER USE PERMIT

APPLICATION NO. 13884

Chesapeake Operating, L.L.C. seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Chesapeake Operating, L.L.C., Applicant, PO Box 18496, Oklahoma City, OK 73154, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Temporary Water Use Permit pursuant to Texas Water Code § 11.138 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being mailed to the downstream water right holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.154(a).

Chesapeake Operating, L.L.C. seeks a temporary water use permit to divert and use not to exceed 386.7 acre-feet of water, within a period of three years, from a point on an unnamed tributary of Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

The water will be diverted from a point located at Latitude 30.728828° N, Longitude 96.502535° W in Robertson County, ZIP Code 77807.

The application was received on October 28, 2022. Additional information and fees were received on December 1 and 8, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 20, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions and installing a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wrapend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wrapend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by \_\_\_\_\_. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if

the Executive Director determines that there is a significant degree of public interest in the application.

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

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

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

**INFORMATION.** Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 13884 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

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

Issued:



# Texas Commission on Environmental Quality

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## INTEROFFICE MEMORANDUM

**To:** Natalia Ponebshek, Project Manager  
Water Rights Permitting Team

**Date:** March 22, 2023

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

**From:** Nathalie Montes, Aquatic Scientist  
Resource Protection Team

**Subject:** Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004  
Unnamed tributary of Little Brazos River, Brazos River Basin  
Robertson County

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

### APPLICATION SUMMARY

Chesapeake Operating, L.L.C. (Applicant) requests a temporary water use permit to divert a maximum of 386.7 acre-feet of water within a three-year period from a point on a reservoir on an unnamed tributary of the Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

### ENVIRONMENTAL ANALYSIS

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 § 298.460).

The Applicant is requesting use of surplus water, which would be subject to the adopted standards. This review is conducted in accordance with §11.147(e-3) of the TWC and Title 30 TAC Chapter 298 Subchapter G Brazos River and its Associated Bay and Estuary System. In Title 30 TAC §298.480(17), environmental flow standards were established at United States Geological Survey (USGS) Gage No. 08111500 – Brazos River near Hempstead, TX, and the applicable environmental flow standards are shown in Table 1.

**Table 1. Environmental Flow Standards at USGS Gage No. 08111500 – Brazos River near Hempstead, TX**

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

Base flow standards vary depending on the season and current hydrologic conditions. Seasons are defined in Title 30 TAC §298.455 as follows: Winter (November through February), Spring (March through June), and Summer (July through October). Hydrologic conditions will be addressed in the water availability analysis for this application.

No special conditions for high flow pulses are required because the proposed maximum diversion rate, 7.49 cfs, is less than 20% of the applicable pulse trigger level requirements of an applicable high flow pulse, as described in Title 30 TAC §298.485(b).

Resource Protection staff recommend that diversion of water under this proposed temporary permit should be limited to comply with the applicable environmental flow standards.

### **RECOMMENDATIONS**

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

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

- Diversions shall be restricted based on the following streamflows at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, as set forth in Special Conditions 3-6.

Season	Subsistence	Hydrologic Condition	Base
Winter	510 cfs	Dry	920 cfs
		Average	1,440 cfs
		Wet	2,890 cfs
Spring	510 cfs	Dry	1,130 cfs
		Average	1,900 cfs
		Wet	3,440 cfs
Summer	510 cfs	Dry	950 cfs
		Average	1,330 cfs
		Wet	2,050 cfs

cfs = cubic feet per second

- Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through October).

**Subsistence Flow Special Conditions and 50% rule:**

- Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX, is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the Brazos Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
- If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided,

however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Condition**

6. If average adjusted streamflow at USGS Gage No. 08111500 – Brazos River near Hempstead, TX is greater than the applicable base flow for the applicable hydrologic condition, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

*Nathalie Montes*

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Nathalie Montes, Aquatic Scientist

**Texas Commission on Environmental Quality**

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INTEROFFICE MEMORANDUM

To: Natalia Ponebshek, Project Manager  
Water Rights Permitting Team

Date: May 8, 2023

Through ~~K~~ <sup>A</sup> Kathy Alexander, Ph.D., Policy and Technical Analyst  
Water Availability Division

TG Trent Gay, Team Leader  
Surface Water Availability Team

From: Andrew Maria, Hydrologist  
Surface Water Availability Team

Subject: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004  
Unnamed tributary of Little Brazos River, Brazos River Basin  
Robertson County

**HYDROLOGY REVIEW**

**Application Summary**

Chesapeake Operating, L.L.C. (Applicant) requests a temporary water use permit to divert a maximum of 386.7 acre-feet of water within a three-year period from a point on a reservoir on an unnamed tributary of the Little Brazos River, Brazos River Basin, at a maximum diversion rate of 7.49 cfs (3,360 gpm), for mining purposes in Robertson County.

The application was declared administratively complete on January 20, 2023.

**Hydrology Review**

Pursuant to 30 Texas Administrative Code (TAC) 298 Subchapter G, Resource Protection staff recommends that the application be subject to instream flow requirements. Specific instream flow requirements are included in the Resource Protection staff's March 22, 2023 memorandum.

Staff reviewed current conditions in the Brazos River Basin to determine whether surplus water is available for this request. Staff notes that the most recent Drought Monitor (April 25, 2023) indicates that the portion of Robertson County where the application is located is not experiencing any drought conditions.

TCEQ's environmental flow standards for the Brazos Basin in 30 TAC §298 Subchapter G (Brazos River and its Associated Bay and Estuary System) include a hydrologic condition (§298.470 Calculation of Hydrologic Conditions). The hydrologic condition is based on the Palmer Hydrologic Drought Index (PHDI) and

the PHDI Index as defined in §298.455 (6) and (7). Based on §298.455(4), the application is located in the Lower Basin. The Climate Divisions included in the Lower Basin are the North Central (Climate Division 3), East Texas (Climate Division 4), Edwards Plateau (Climate Division 6), South Central (Climate Division 7), and Upper Coast (Climate Division 8). The values for the PHDI Index for the Lower Basin used to determine the hydrologic condition are calculated as follows (§298.470(b)):

$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$

The determination of the hydrologic condition for a particular season shall be determined once per season. The PHDI value present on the last day of the month of the preceding season, as reported by the National Weather Service, and calculated for the geographic area as described in subsection (b) of §298.470, will determine the hydrologic condition for the following season. The values for the PHDI are available at <http://www.ncdc.noaa.gov/cag/>. Under the adopted rules, PHDI values are based on the last day of the month before the start of a new season; however, final approved PHDI values for a month are typically available from the National Climatic Data Center (NCDC) near the middle of the following month. Therefore, in order to determine the hydrologic condition for a season, the latest published monthly value can be used on an interim basis until the final value for the month preceding the season is available. When the NCDC publishes the final value for the month preceding the season, the hydrologic condition applicable for the season can be updated if required.

The diversion requested in the application is for a short period of time (three years). This temporary permit will be junior to all existing water rights, and subject to suspension if water is needed for those water rights. Staff's opinion is that existing water rights will not be affected by this short-term temporary permit.

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

## Conclusion

Staff can support granting the application provided the following special conditions are included in the permit:

1. Permittee shall determine the hydrologic condition once per season. The Palmer Hydrologic Drought Index (PHDI) value present on the last day of the month of the preceding season, as reported by the National Weather Service shall be used to determine the hydrologic condition for the following season as set out in Paragraphs 1.(a) - (c) below.

a. Permittee shall determine the PHDI Index for a season based on the following formula:

$$(0.619 * \text{North Central PHDI}) + (0.147 * \text{East Texas PHDI}) + (0.057 * \text{Edwards Plateau PHDI}) + (0.132 * \text{South Central PHDI}) + (0.045 * \text{Upper Coast PHDI})$$

b. The PHDI Index and corresponding hydrologic conditions that govern diversions under this permit are:

Dry	Average	Wet
Less than -1.73	Between -1.73 and 2.13	Greater than 2.13

c. Permittee may utilize an interim PHDI value to determine the hydrologic condition until the value for the month preceding the start of the season is published. The interim PHDI value shall be based on the latest published monthly PHDI value that is available on the last day of the month of the preceding season. When a value for the month preceding the season is published, Permittee shall update the hydrologic condition determined based on the interim value if the final value results in a change to the calculated hydrologic condition. Any updated hydrologic condition shall then be applicable to diversions under this permit.

2. Permittee shall maintain records of the calculated hydrologic condition for the season and the streamflow values at the time of the diversion and make those records available to the Brazos Watermaster upon request.

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

*Andrew Maria*

Andrew Maria, Hydrologist

# 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: Natalia Ponebshek, Project Manager  
Water Rights Permitting Team

DATE: January 20, 2023

SUBJECT: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

The application was received on October 28, 2022. Additional information and fees were received on December 1 and 8, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 20, 2023. Limited mailed notice to downstream water right holders of record in the Brazos River Basin is required pursuant to Title 30 Texas Administrative Code § 295.154(a).

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

*Natalia Ponebshek*

---

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

**OCC Mailed Notice Required**     **YES**                       **NO**



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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 20, 2023

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

**VIA E-MAIL**

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

This acknowledges receipt, on December 1 and 8, 2023, of additional information and fees in the amount of \$674.61 (Receipt Nos. M306084A & B, copies attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on January 20, 2023. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning the application, please contact me via email at [Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

Attachments



08-DEC-22 01:19 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Check Number</u>	<u>CC Type</u>	<u>Card Auth.</u>	<u>User Data</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			M306084A		6054							BS00099426	08-DEC-22	
		WUP		13884		120822	N						D3801012		
			WATER USE PERMITS	GEOSYNTEC		VHERNAND	CK								
				CONSULTANTS											
				INC											
														Total (Fee Code) :	- \$637.95

RECEIVED

DEC 12 2022

Water Availability Division



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



PAY TO THE ORDER  
OF STATE COMPTROLLER  
TCEQ  
306084 E-88

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 29, 2022

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

VIA E-MAIL

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

RECEIVED  
DEC 12 2022  
Water Availability Division

Dear Mr. Burleson:

This acknowledges receipt, on October 28, 2022, of the referenced application.

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

A temporary permit may only be issued if there is surplus water available for use on a short-term (temporary or ephemeral) basis in the source supply. During low flow conditions, which occur during a drought or periods of limited rainfall, all water in the basin will be required for existing senior water rights and there is no presumption of any surplus flows.

1. 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). Refer to pages 28-29 from the *Instructions for Completing the Water Right Permitting Application* (Form TCEQ-10214A-inst) for assistance in developing your response. Confirm that the reservoir is currently used solely for domestic and livestock purposes.
2. Remit fees in the amount of **\$674.61** as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Filing Fee (WRTP $\geq$ 10 acre-feet)	\$ 250.00
Recording Fee	\$ 1.25
Use Fee (\$1.00 per acre-foot x 386.7 acre-feet)	\$ 386.70
Notice Fee (\$0.94 x 39 WR Holders)	\$ 36.66
<b>TOTAL FEES</b>	<b>\$ 674.61</b>
<b>FEES RECEIVED</b>	<b>\$ 00.00</b>
<b>TOTAL FEES DUE</b>	<b>\$ 674.61</b>

Please provide the requested information and fees by December 29, 2022 or the application may be returned pursuant to Title 30 TAC § 281.18.

## Natalia Ponebshek

---

**From:** Jennifer Gillespie [REDACTED] >  
**Sent:** Thursday, December 1, 2022 4:44 PM  
**To:** Natalia Ponebshek  
**Cc:** Christy Keith; Scott Walker  
**Subject:** WRTP 13884 - CHK Temporary Water Use Permit  
**Attachments:** WRTP 13884 Landowner Statement of Use.pdf

Natalia,

Thank you for taking the time to answer my questions today. Below please find a response to your inquiries regarding WRTP 13884 as dated 11/29/2022:

1. Indicate measure the applicant will take to avoid impingement and entrainment of aquatic organisms.
  - a. Chesapeake will utilize a water intake diversion structure that with openings of approximately one inch. This structure will be further wrapped in fine mesh (1/4 to 1/8 in) to prevent impingement of aquatic species. Further, the diversion structure will utilize a float or stakes to keep it off the bottom of the pond to avoid uptake of benthic substrate.
2. Confirm that the reservoir is currently used solely for domestic and livestock purposes.
  - a. Please see the attached email PDF chain providing an email from the landowner, Rollin Heifrin that the water in the lake is used for livestock and for recreational fishing.

Please feel free to reach out to me if you have any further questions by phone or email.

**Jenn Gillespie**  
**Ecologist**  
**Geosyntec Consultants, Inc.**  
8217 Shoal Creek Blvd, Suite 200  
Austin, TX 78757  
Office Direct: 512.354.3288  
Cell: 484.885.5855

[GEOSYNTEC](#) | [SIREM](#) | [SAVRON](#)

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**From:** [Christy Keith](#)  
**To:** [Jennifer Gillespie](#)  
**Subject:** FW: Heifrin Pond  
**Date:** Wednesday, October 26, 2022 12:05:20 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any suspicion, please confirm with the sender verbally that this email is authentic. If you suspect fraud, click "Phish Alert Report."

Classification: DCL-Internal

Jennifer,

Please see Mr. Heifrin email below regarding the use of the pond.

---

**From:** Mike Wilson [REDACTED]  
**Sent:** Friday, October 14, 2022 1:55 PM  
**To:** Christy Keith [REDACTED]  
**Cc:** Mike Wilson [REDACTED]  
**Subject:** Fwd: Heifrin Pond

Classification: DCL-Internal

Christy,

Sorry this has taken so long. I asked Mr Heifrin after you and I spoke, but forgot to follow up with him.

Mike

Michael L Wilson, CPL  
Contract Surface Land Rep  
Brazos Valley Business Unit  
Chesapeake Energy  
(979) 412-0231

---

**From:** Rollin Heifrin [REDACTED]  
**Sent:** Friday, October 14, 2022 1:13 PM  
**To:** Mike Wilson [REDACTED] >  
**Subject:** [EXTERNAL] Re: Heifrin Pond

Dear Mile The water in our lake is used for fishing and livestock water.

Thanks Rollin Heifrin

---

**From:** Mike Wilson [REDACTED] >  
**Sent:** Friday, October 14, 2022 1:03 PM  
**To** [REDACTED]  
**Subject:** Heifrin Pond

[Classification: DCL-Internal](#)

Rollin,

Per our conversation, would you please reply and tell me what you use the water for in your pond.

Thanks,

Mike

Michael L Wilson, CPL  
Contract Surface Land Rep  
Brazos Valley Business Unit  
Chesapeake Energy  
(979) 412-0231

---

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## Natalia Ponebshek

---

**From:** Sheldon Burleson [REDACTED] >  
**Sent:** Wednesday, November 30, 2022 1:55 PM  
**To:** Natalia Ponebshek  
**Subject:** RE: Chesapeake Operating, L.L.C. WRTP 13884 RFI

Classification: DCL-Internal

Thank you. We will review and respond.

Sheldon Burleson  
Vice President – Eagle Ford  
Work: 405-935-2668  
Mobile: 405-625-4062



---

**From:** Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov>  
**Sent:** Tuesday, November 29, 2022 4:08 PM  
**To:** Sheldon Burleson [REDACTED]  
**Subject:** [EXTERNAL] Chesapeake Operating, L.L.C. WRTP 13884 RFI

Please find the attached request for information for the abovementioned application. A response is due by December 29, 2022.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641

---

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## Natalia Ponebshek

---

**From:** Natalia Ponebshek  
**Sent:** Tuesday, November 29, 2022 4:08 PM  
**To:** [REDACTED]  
**Subject:** Chesapeake Operating, L.L.C. WRTP 13884 RFI  
**Attachments:** Chesapeake\_Operating\_LLC\_13884\_RFI 1\_Sent\_11.29.2022.pdf

Please find the attached request for information for the abovementioned application. A response is due by December 29, 2022.

Thank you,

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4641

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 29, 2022

Mr. Sheldon Burleson  
Chesapeake Operating, L.L.C.  
Attn. Regulatory Department  
P.O. Box 18496  
Oklahoma City, Oklahoma 73154

VIA E-MAIL

RE: Chesapeake Operating, L.L.C.  
WRTP 13884  
CN600514004, RN111596573  
Application No. 13884 for a Temporary Water Use Permit  
Texas Water Code § 11.138, Requiring Limited Mailed Notice  
Unnamed tributary of the Little Brazos River, Brazos River Basin  
Robertson County

Dear Mr. Burleson:

This acknowledges receipt, on October 28, 2022, of the referenced application.

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

A temporary permit may only be issued if there is surplus water available for use on a short-term (temporary or ephemeral) basis in the source supply. During low flow conditions, which occur during a drought or periods of limited rainfall, all water in the basin will be required for existing senior water rights and there is no presumption of any surplus flows.

1. 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). Refer to pages 28-29 from the *Instructions for Completing the Water Right Permitting Application* (Form TCEQ-10214A-inst) for assistance in developing your response. Confirm that the reservoir is currently used solely for domestic and livestock purposes.
2. Remit fees in the amount of **\$674.61** as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Filing Fee (WRTP $\geq$ 10 acre-feet)	\$ 250.00
Recording Fee	\$ 1.25
Use Fee (\$1.00 per acre-foot x 386.7 acre-feet)	\$ 386.70
Notice Fee (\$0.94 x 39 WR Holders)	\$ 36.66
<b>TOTAL FEES</b>	<b>\$ 674.61</b>
<b>FEES RECEIVED</b>	<b>\$ 00.00</b>
<b>TOTAL FEES DUE</b>	<b>\$ 674.61</b>

Please provide the requested information and fees by December 29, 2022 or the application may be returned pursuant to Title 30 TAC § 281.18.

Mr. Sheldon Burleson  
Application No. 13884  
November 29, 2022  
Page 2 of 2

If you have any questions concerning this matter, please contact me via e-mail at [Natalia.Ponebshek@tceq.texas.gov](mailto:Natalia.Ponebshek@tceq.texas.gov) or by telephone at (512) 239-4641.

Sincerely,

*Natalia Ponebshek*

Natalia Ponebshek, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Telephone (512) 239-4600, FAX (512) 239-4770

APPLICATION FOR A TEMPORARY WATER USE PERMIT FOR MORE THAN 10 ACRE-FEET OF WATER, AND/OR FOR A DIVERSION PERIOD LONGER THAN ONE CALENDAR YEAR

This form is for an application for a temporary permit to divert water under Section 11.138, Texas Water Code. Any permit granted from this application may be suspended at any time by the applicable TCEQ Office if it is determined that surplus water is no longer available.

Notice: This form will not be processed until 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.

- 1. Data on Applicant and Project: Social Security or Federal ID No. 73-1343196
A. Name: Chesapeake Operating, LLC
B. Mailing Address: Attn. Regulatory Department, PO Box 18496, Oklahoma City, OK 73154
C. Telephone Number: (405)935-2668 Fax Number: E-mail Address:
D. Applicant owes fees or penalties? Yes No
E. Describe Use of Water oil and gas production
F. Description of Project (TDH Project No. if applicable) water will be pumped to newly installed well pad for use on oil/gas wells
G. Highway Designation No. TX Highway 6 County Robertson

- 2. Type of Diversion (check one): From Stream From Reservoir
3. Rate of Diversion:
A. Maximum 3,360.00 gpm (capacity of pump)

- 4. Amount and Source of Water:
386.7 acre-feet of water within a period of 3 years (specify term period not to exceed a three year term). The water is to be obtained from an unnamed pond, tributary of unnamed tributary to Little Brazos River, tributary of Brazos River Basin.

- 5. Location of Diversion Point: Provide Latitude and Longitude in decimal degrees to at least six decimal places, and indicate the method used to calculate the diversion point location.
At Latitude 30.728828 N, Longitude 96.502535 W, ((at) or (near) the stream crossing of), (at a reservoir in the vicinity of) S TX-6 (R-O-W) (Highway), located in Zip Code 77807, located 20.50 miles in a S direction from Franklin (County Seat), Robertson County, and 8.5 miles in a NW direction from Bryan, a nearby town shown on County road map. Note: Distance in straight line miles.

Enclose a USGS 7.5 minute topographic map with the diversion point and/or the return water discharge points labeled. Owner's written consent is required for water used from any private reservoir, or private access to diversion point.

- 6. Access to Diversion Point (check one): Public right-of-way Private property Other (Explain)
7. Fees Enclosed: Filing Recording Use (\$1.00 per ac-ft or fraction thereof) Total
10 ac-ft or less greater than 10 ac-ft

Upon completion of any project for which a temporary water permit is granted, the Permittee is required by law to report the amount of water used. This document must be properly signed and duly notarized before it can be accepted or considered by the Texas Commission on Environmental Quality.

Signature of applicant: Sheldon Burleson

Name (print): Sheldon Burleson

Subscribed and sworn to me as being true and correct before me this 20th day of October, 2022



Signature of notary: Paula J. Brown, Notary Public, State of Texas, Oklahoma

# Signature Authority

CHESAPEAKE OPERATING, L.L.C.

ASSISTANT CORPORATE SECRETARY'S CERTIFICATE

The undersigned, hereby certifies that she is a duly elected and serving Assistant Corporate Secretary of Chesapeake Operating, L.L.C., an Oklahoma limited liability company (the "Company"), and that pursuant to the Operating Agreement of the Company, said Agreement being in full force and effect as of this date, Sheldon W. Burleson, duly elected to and currently serving as Vice President – Eagle Ford of the Company, has full authority to sign, on behalf of the Company, such notes, mortgages, contracts and other instruments as may be required in the ordinary course of the Company's business.

IN WITNESS WHEREOF, I have set my hand this 29<sup>th</sup> day of September 2022.



*Anita L. Brodrick*

\_\_\_\_\_  
Anita L. Brodrick  
Assistant Corporate Secretary

# Core Data Form



TCEQ Use Only

# TCEQ Core Data Form

For detailed instructions regarding completion of this form, please read the Core Data Form Instructions or call 512-239-5175.

## SECTION I: General Information

1. Reason for Submission (If other is checked please describe in space provided.)		
<input checked="" type="checkbox"/> New Permit, Registration or Authorization (Core Data Form should be submitted with the program application.)		
<input type="checkbox"/> Renewal (Core Data Form should be submitted with the renewal form)	<input type="checkbox"/> Other	
2. Customer Reference Number (if issued)	Follow this link to search for CN or RN numbers in Central Registry**	3. Regulated Entity Reference Number (if issued)
CN 603397845		RN

## SECTION II: Customer Information

4. General Customer Information	5. Effective Date for Customer Information Updates (mm/dd/yyyy)	no change	
<input type="checkbox"/> New Customer <input type="checkbox"/> Update to Customer Information <input type="checkbox"/> Change in Regulated Entity Ownership <input type="checkbox"/> Change in Legal Name (Verifiable with the Texas Secretary of State or Texas Comptroller of Public Accounts)			
<b>The Customer Name submitted here may be updated automatically based on what is current and active with the Texas Secretary of State (SOS) or Texas Comptroller of Public Accounts (CPA).</b>			
6. Customer Legal Name (If an individual, print last name first: eg: Doe, John)		If new Customer, enter previous Customer below:	
Chesapeake Operating, LLC			
7. TX SOS/CPA Filing Number	8. TX State Tax ID (11 digits)	9. Federal Tax ID (9 digits)	10. DUNS Number (if applicable)
85584060	17313431961	73-1343196	60-128-5422
11. Type of Customer:	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Individual	Partnership: <input type="checkbox"/> General <input type="checkbox"/> Limited
Government: <input type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other:	
12. Number of Employees	13. Independently Owned and Operated?		
<input type="checkbox"/> 0-20 <input type="checkbox"/> 21-100 <input type="checkbox"/> 101-250 <input type="checkbox"/> 251-500 <input checked="" type="checkbox"/> 501 and higher	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
14. Customer Role (Proposed or Actual) – as it relates to the Regulated Entity listed on this form. Please check one of the following			
<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input checked="" type="checkbox"/> Owner & Operator <input type="checkbox"/> Occupational Licensee <input type="checkbox"/> Responsible Party <input type="checkbox"/> Voluntary Cleanup Applicant <input type="checkbox"/> Other:			
15. Mailing Address:	PO Box 18496		
	City	Oklahoma City	State OK ZIP 73154 ZIP + 4 0396
16. Country Mailing Information (if outside USA)		17. E-Mail Address (if applicable)	
		[REDACTED]	
18. Telephone Number	19. Extension or Code	20. Fax Number (if applicable)	
( 405 ) 935-4023		( ) -	

## SECTION III: Regulated Entity Information

21. General Regulated Entity Information (If "New Regulated Entity" is selected below this form should be accompanied by a permit application)	
<input checked="" type="checkbox"/> New Regulated Entity <input type="checkbox"/> Update to Regulated Entity Name <input type="checkbox"/> Update to Regulated Entity Information	
<b>The Regulated Entity Name submitted may be updated in order to meet TCEQ Agency Data Standards (removal of organizational endings such as Inc, LP, or LLC).</b>	
22. Regulated Entity Name (Enter name of the site where the regulated action is taking place.)	
College Station B Pad	



23. Street Address of the Regulated Entity: (No PO Boxes)	no address						
	City		State		ZIP		ZIP + 4
24. County	Robertson						

**Enter Physical Location Description if no street address is provided.**

25. Description to Physical Location:	From TX-6 & TX-OSR, proceed 0.5 mi, turn right on Old Hearne Rd, turn left on Bowman-Henry, continue straight onto Mumford-Benchley for 1 mi lease rd on left.									
26. Nearest City	Bryan				State	TX		Nearest ZIP Code	77807	
27. Latitude (N) In Decimal:	30.737689			28. Longitude (W) In Decimal:	-96.511704					
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds					
30	44	16	96	30	42					
29. Primary SIC Code (4 digits)	30. Secondary SIC Code (4 digits)		31. Primary NAICS Code (5 or 6 digits)		32. Secondary NAICS Code (5 or 6 digits)					
1311			211111							
33. What is the Primary Business of this entity? (Do not repeat the SIC or NAICS description.)										
crude petroleum and natural gas										
34. Mailing Address:										
n/a										
35. E-Mail Address:										
36. Telephone Number										
37. Extension or Code										
38. Fax Number (if applicable)										
( ) - ( ) -										

39. TCEQ Programs and ID Numbers Check all Programs and write in the permits/registration numbers that will be affected by the updates submitted on this form. See the Core Data Form instructions for additional guidance.


<input type="checkbox"/> Dam Safety	<input type="checkbox"/> Districts	<input type="checkbox"/> Edwards Aquifer	<input type="checkbox"/> Emissions Inventory Air	<input type="checkbox"/> Industrial Hazardous Waste
<input type="checkbox"/> Municipal Solid Waste	<input type="checkbox"/> New Source Review Air	<input type="checkbox"/> OSSF	<input type="checkbox"/> Petroleum Storage Tank	<input type="checkbox"/> PWS
<input type="checkbox"/> Sludge	<input type="checkbox"/> Storm Water	<input type="checkbox"/> Title V Air	<input type="checkbox"/> Tires	<input type="checkbox"/> Used Oil
<input type="checkbox"/> Voluntary Cleanup	<input type="checkbox"/> Waste Water	<input type="checkbox"/> Wastewater Agriculture	<input checked="" type="checkbox"/> Water Rights	<input type="checkbox"/> Other:

**SECTION IV: Preparer Information**

40. Name:	Jennifer Gillespie		41. Title:	Consultant	
42. Telephone Number	43. Ext./Code	44. Fax Number	45. E-Mail Address		
(512) 354-3288		( ) -	[REDACTED]		

**SECTION V: Authorized Signature**

46. By my signature below, I certify, to the best of my knowledge, that the information provided in this form is true and complete, and that I have signature authority to submit this form on behalf of the entity specified in Section II, Field 6 and/or as required for the updates to the ID numbers identified in field 39.

Company:	Chesapeake Operating, LLC		Job Title:	Director - Regulatory	
Name (In Print):	Mr. Eric Dean			Phone:	(405) 935-4023
Signature:				Date:	3/22/2022

# Landowner Agreement and Statement of Use



May 20, 2022

Martha R. and G. Rollin Heifrin  
10395 Mumford Road  
Bryan, TX 77807

Re: Holding Pond Agreement  
165.497 acres out of the H. Fullerton Survey, A-144 & A-153, W. Coley Survey A-95  
Robertson County, Texas, and R. Henry Survey, A-138 & W. Corey A-253 Brazos County,  
Texas.

Mr. and Mrs. Heifrin:

This Letter is written to acknowledge the terms of the agreement by and between Chesapeake Operating, L.L.C. ("CHK") and G. Rollin Heifrin and wife, Martha R. Heifrin ("Surface Owner"), granting CHK the right to access, use, and/or pull water from the Pond (the "Pond") located on your property (the "Lands") for oil and gas operations off the Lands for a period of **two (2) years** from the date of execution of this letter. The Lands are described as follows:

**Being 165.497 acres of land, more or less, out of the H. Fullerton Survey, A-144, H. Fullerton Survey, A-153, and W. Coley Survey, A-95, Robertson County, Texas and the W. Corey Survey, A- 253 and R. Henry Survey A-138, Brazos County, Texas, and being all of Tract 1, 168.974 acres described in that certain Special Warranty Deed dated March 14, 2013, from Howard M. Reiner, Successor Administrator of the Estate of Sanford Johnson, deceased, as Grantor, to George Rollin Heifrin and wife, Martha Runnels Heifrin, as Grantees; recorded in Volume 1198, Page 145 of the Official Public Records of Robertson County, Texas; LESS AND EXCEPT 3.477 acres of land more or less, described in that Special Warranty Deed and Grant of Easement dated December 21, 2015, from George Rollin Heifrin, as Grantors, to Frank G. Heifrin and April M. Heifrin, as Grantees; recorded in Volume 1280, Page 379 of the Official Public Records of Robertson County, Texas. Leaving herein 165.497 acres of land.**

CHK hereby agrees to pay **\$0.15 (fifteen cents)** for every 42 gallon barrel of water used by CHK from the Pond. Surface Owner may view water meter readings and/or daily water logs upon request. Payments shall be made by CHK as follows: 1) **Fifteen Thousand Dollars and NO/100ths (\$15,000.00)** upon execution of this letter, and 2) any remaining payments within sixty (60) days following the completion of each well and/or pad project.. Additionally, any outstanding payments, and corresponding accounting thereof, will be made withing sixty (60) days of the expiration date of this Letter Agreement.

CHK is granted the right of ingress and egress across the Lands, within reasonable locations agreed upon with the Surface Owners, to access the Pond and to conduct all operations and activities

Chesapeake Energy Corporation

P.O. Box 18496 Oklahoma City, OK 73154-0496 / 6100 N. Western Avenue / Oklahoma City, OK 73118



reasonably necessary to transfer water from the Pond for completion and other oil and gas activities, together with an easement and right to use that portion of the Lands to use or construct an access road to the Pond, and to lay, install, equip, operate, monitor and maintain pumps, metering devices, water lines, power lines and other equipment necessary for the transfer of water from the Pond.

CHK agrees to at all times use reasonable care in all of CHK's operations on the Lands to prevent injury or damage to the surface of the Lands, property situated on the Lands, or other property or land owned by Surface Owner. Upon termination of this agreement on said Lands, CHK shall restore the surface of said Lands to as near its original condition as reasonably practical. CHK agrees to pay for any and all damages caused by CHK, or its business invitees, to the surface of the Lands or other property or land owned by Surface Owner, including all livestock, crops, trees, pipelines, irrigation equipment, buildings, fences, tanks, water, water wells, and without limitation, any and all other property situated on the surface of the Lands or other land owned by Surface Owner. CHK agrees to pay for any damages incurred under this provision within ninety (90) days after Surface Owner notifies CHK of the loss that was incurred by Surface Owner. Otherwise, interest shall accrue at the maximum rate allowed by law from said due date until paid.

Except to the extent of gross negligence or willful misconduct, the parties to this Letter do hereby release, discharge, and acquit the other from any and all liability, and shall indemnify the other against any and all claims and demands for damages, attorney's fees, injury or loss, existing now or done hereafter, to the surface or subsurface of said Lands or to any third parties arising out of or being the result of their or their agents, contractors, licensees, permittees, successors, and assigns own activities associated with the use of the Lands in connection with the collection of water from the Pond and the access, use, gathering, storing, transporting and removal of the water from the Pond located on the above described property. However, such parties' potential liability under this paragraph to the other shall be limited to the acts and/or omission of it, or its predecessors, agents, contractors, licensees, permittees, successors, and assigns, and shall not include any acts and/or omissions of the other party, its agents, contractors, licensees, permittees, successors, or assigns.

If this Letter meets with your understanding of the terms and conditions of the agreement, please sign below. The version marked "copy" is for your records.



Thank you for your help in this matter and we look forward to any future dealings.


Sincerely,

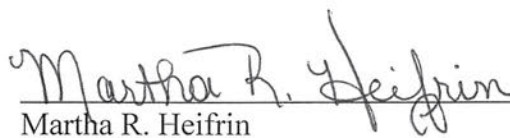
**Chesapeake Operating, L.L.C.**  
an Oklahoma limited liability company

By: \_\_\_\_\_  
K.W. Cryer, Manager-Land, Eagle Ford, Attorney-in-Fact for  
Chesapeake Energy Corporation, Sole Manager

Accepted and Agreed to this 20<sup>th</sup> day of May, 2022.

Surface Owner(s):

  
\_\_\_\_\_  
G. Rollin Heifrin

  
\_\_\_\_\_  
Martha R. Heifrin

**From:** [Christy Keith](#)  
**To:** [Jennifer Gillespie](#)  
**Subject:** FW: Heifrin Pond  
**Date:** Wednesday, October 26, 2022 12:05:20 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any suspicion, please confirm with the sender verbally that this email is authentic. If you suspect fraud, click "Phish Alert Report."

Classification: DCL-Internal

Jennifer,

Please see Mr. Heifrin email below regarding the use of the pond.

---

**From:** Mike Wilson [REDACTED] >  
**Sent:** Friday, October 14, 2022 1:55 PM  
**To:** Christy Keith <[christy.keith@chk.com](mailto:christy.keith@chk.com)>  
**Cc:** Mike Wilson [REDACTED]  
**Subject:** Fwd: Heifrin Pond

Classification: DCL-Internal

Christy,

Sorry this has taken so long. I asked Mr Heifrin after you and I spoke, but forgot to follow up with him.

Mike

Michael L Wilson, CPL  
Contract Surface Land Rep  
Brazos Valley Business Unit  
Chesapeake Energy  
(979) 412-0231

---

**From:** Rollin Heifrin <[rollinheifrin@hotmail.com](mailto:rollinheifrin@hotmail.com)>  
**Sent:** Friday, October 14, 2022 1:13 PM  
**To:** Mike Wilson <[Mike.Wilson@chk-nonemp.com](mailto:Mike.Wilson@chk-nonemp.com)>  
**Subject:** [EXTERNAL] Re: Heifrin Pond

Dear Mile The water in our lake is used for fishing and livestock water.

Thanks Rollin Heifrin

---

**From:** Mike Wilson [REDACTED] >  
**Sent:** Friday, October 14, 2022 1:03 PM  
**To** [REDACTED]  
**Subject:** Heifrin Pond

[Classification: DCL-Internal](#)

Rollin,

Per our conversation, would you please reply and tell me what you use the water for in your pond.

Thanks,

Mike

Michael L Wilson, CPL  
Contract Surface Land Rep  
Brazos Valley Business Unit  
Chesapeake Energy  
(979) 412-0231

---

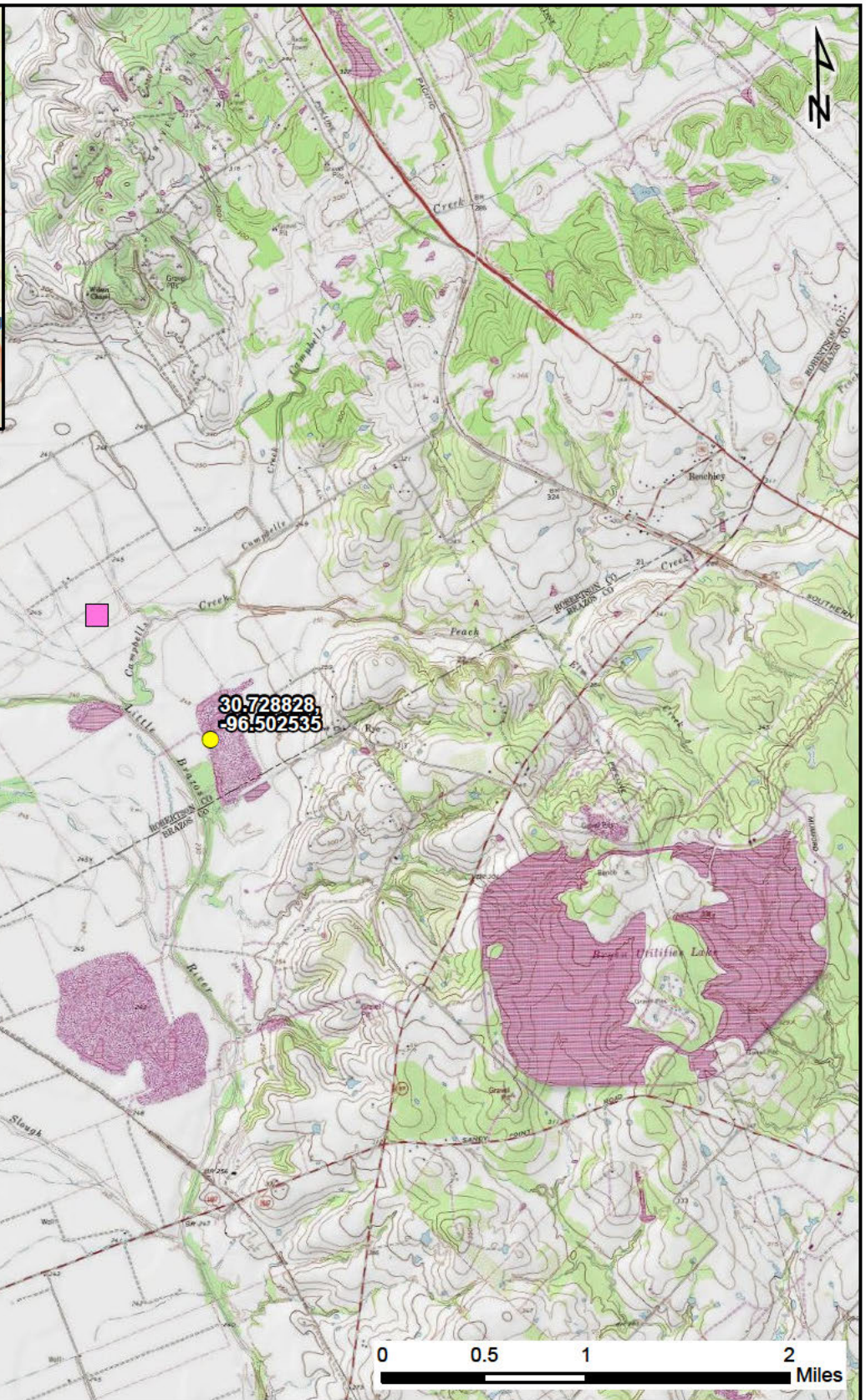
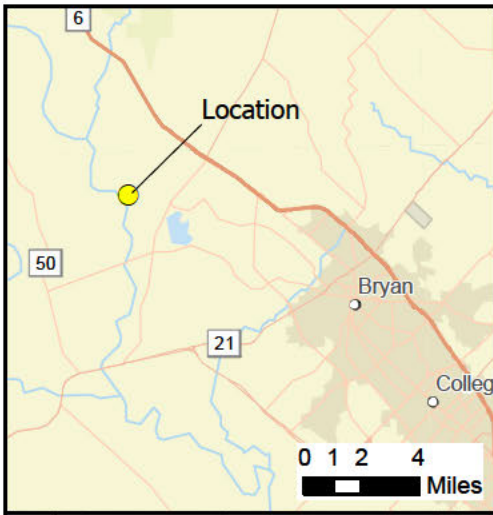
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# Location Map





- Water Use Location
- Water Withdrawal Location

### Site Location - Topo

TCEQ Permit Application  
Robertson County, TX

**Geosyntec**  
consultants

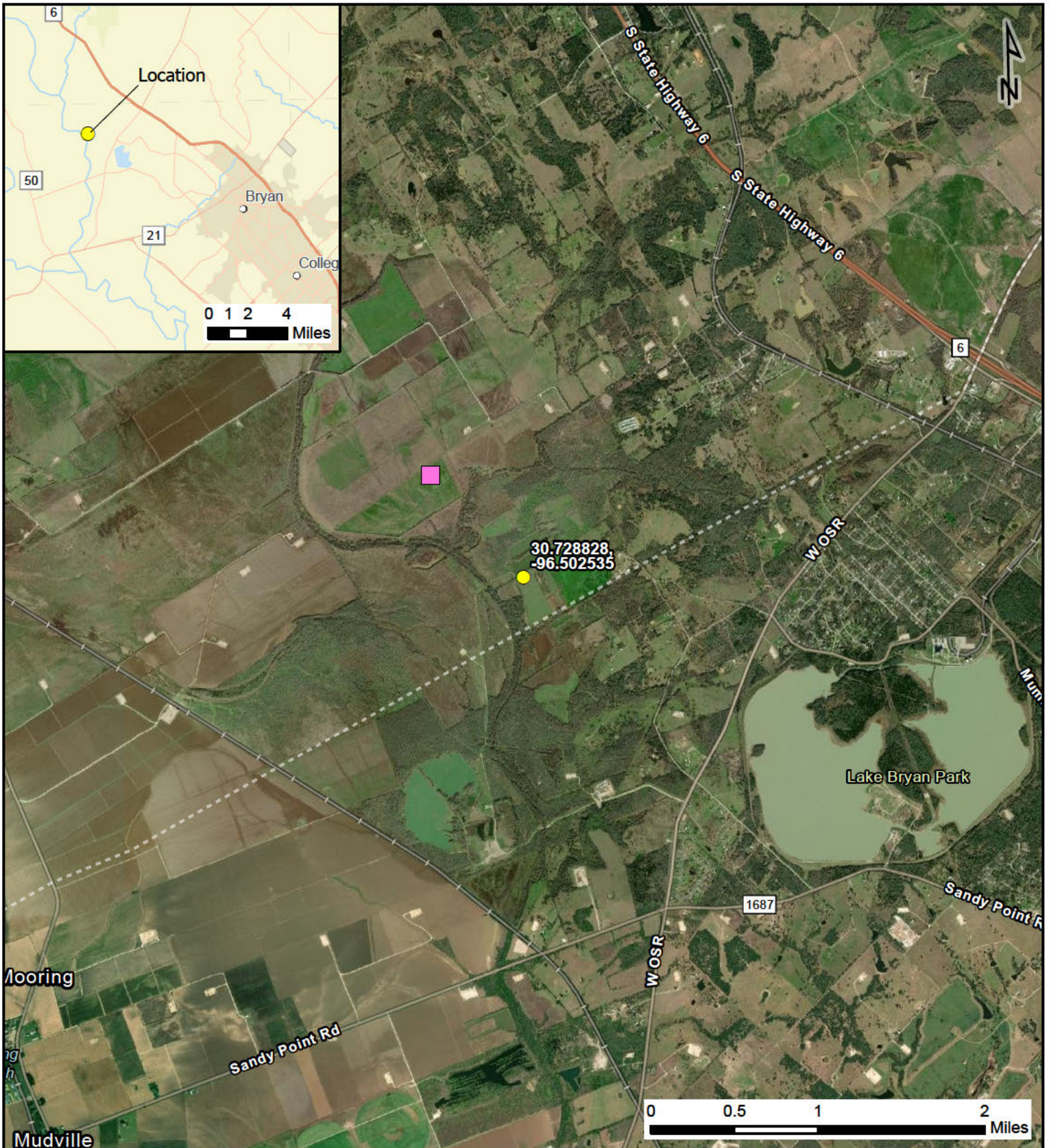
**Figure**

**1**

Mumford Quad

Austin, TX

October 2022



- Water Withdrawal Location
- Water Use Location

**Site Location - Aerial**

TCEQ Permit Application  
Robertson County, TX

**Geosyntec**  
consultants

**Figure**

**2**

Austin, TX

October 2022