

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**NOTICE OF AN APPLICATION FOR AN
EXTENSION OF TIME TO COMPLETE
CONSTRUCTION OF A PROJECT AUTHORIZED BY
CERTIFICATE OF ADJUDICATION NO. 12-4355A**

City of Marlin seeks authorization to extend the time to complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, Brazos River Basin, in Falls County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. City of Marlin, P.O. Box 66376, Marlin, Tx 78766, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an extension of time pursuant to Texas Water Code § 11.145, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being published and mailed to the water rights holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.159(a).

Certificate of Adjudication No. 12-4355 authorizes the City of Marlin, Owner, to maintain two existing dams and reservoirs on Big Sandy Creek (New Marlin Reservoir and Marlin City Lake), Brazos River Basin with a total combined impoundment capacity of 3,926 acre-feet of water for recreational purposes.

Owner is also authorized to maintain an existing dam and reservoir on Brushy Creek (Brushy Creek Reservoir), Brazos River Basin, ZIP Code 76661, and impound therein not to exceed 6,560 acre-feet of water for recreational, industrial, and municipal purposes.

Owner is also authorized to divert and use not to exceed 4,000 acre-feet of water per year from New Marlin Reservoir and/or Brushy Creek Reservoir for municipal purposes, to divert and use not to exceed 2,000 acre-feet of water per year from the Brazos River for municipal purposes, and to divert and use not to exceed 2,000 acre-feet per year from the Brazos River for industrial purposes in Falls County.

Owner is further authorized to use Marlin City Lake for municipal use as a sedimentation basin. Multiple special conditions, priority dates, and diversion rates apply.

Authorization to construct the dam and reservoir was originally granted on April 19, 1991. The Applicant has previously been granted six Orders extending the time to commence and complete construction of the Brushy Creek Dam and Reservoir. The current order states that Owner shall complete construction by May 8, 2024.

The Applicant seeks an extension of time to complete construction of Brushy Creek Dam and Reservoir. The Applicant proposes to complete construction by May 8, 2029.

The application was received on April 16, 2024, and fees were received on April 18, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 13, 2025.

The Executive Director has determined the Applicant has shown due diligence and justification for delay. In the event a hearing is held on this application, the Commission shall also consider whether the authorization for the appropriation shall be forfeited for failure to demonstrate sufficient due diligence and justification for delay.

The Executive Director has completed the technical review of the application and prepared a draft Order. The draft Order, if granted, would authorize the extension of time to complete construction until May 8, 2029. The application, technical memoranda and Executive Director's draft Order are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively,

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

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

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

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

INFORMATION. Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 4355 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: October 16, 2025

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER extending the time for the City of Marlin to complete the construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A.

An application by the City of Marlin was presented to the Executive Director of the Texas Commission on Environmental Quality for consideration of approval. The Applicant requests authorization to extend the time to complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A. The applicant has previously been granted six Orders for extending the time to commence and complete construction of the dam and reservoir, and the current Order states the City of Marlin shall complete construction of the dam and reservoir by May 8, 2024. The Applicant seeks authorization to extend the time to complete construction of the dam and reservoir to May 8, 2029.

After considering the application and matters thereto related, the Executive Director has determined that the Applicant has shown reasonable diligence and there is reasonable cause for the delay.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the City of Marlin shall complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A, by May 8, 2029.

All other terms and conditions contained in Certificate of Adjudication No. 12-4355A, which are not specifically contrary to the terms of this Order, shall remain in full force and effect.

For the Commission

DATE ISSUED:

From: [Brian Sledge](#)
To: [Sarah Henderson](#)
Cc: [Chris Kozlowski](#); [Humberto Galvan](#); [Jennifer Smith](#)
Subject: Re: City of Marlin ADJ No. 12-4355A
Date: Wednesday, October 8, 2025 3:31:06 PM
Attachments: [image001.png](#)

Hi Sarah-

As we just discussed by phone, this email will memorialize that we are fine with the draft notice and order for Marlin just as you sent them in your September 19 email, and we are ready to proceed to notice.

Please let me know if you need anything else on our end.

Thanks for all your work on this!
- Brian

On Sep 18, 2025, at 6:51 PM, Brian Sledge [REDACTED] wrote:

Hi Sarah –

Thank you for sending over these draft documents. The draft Notice and Order both look good. I would only note one thing for your possible consideration. In the final Notice when this water right was extended for Marlin in 2019, the last sentence of Paragraph 5 previously stated, “The applicant indicates that the reservoir will be located in Zip Code 76661.” That was not included in this draft notice, and I simply raise it to the extent that it may have been overlooked and something you typically deem necessary for these types of notices under Chapter 295.

Kind regards,
Brian



--

Brian L. Sledge

SledgeLaw Group, PLLC

Attorneys at Law · Governmental Relations

911 W. 29th Street, Austin, Texas 78705

512.579.3600 main

512.579.3601 direct

512.579.3611 fax

512.773.8967 mobile
[REDACTED]

CONFIDENTIALITY NOTICE: The information in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this email and its attachments, if any, or the information contained herein is prohibited. If you have received this email in error, please immediately notify the sender by return email and delete this email from your system.

From: Sarah Henderson [mailto:sarah.henderson@tceq.texas.gov]

Sent: Tuesday, September 16, 2025 4:57 PM

To: [REDACTED]

Cc: Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan <Humberto.Galvan@tceq.texas.gov>

Subject: City of Marlin ADJ No. 12-4355A

Mr. Sledge,

Please find the attached draft documents for your review.

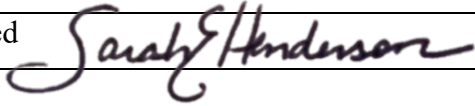
Comments are requested by September 30, 2025.

Sincerely,

Sarah

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

Texas Commission on Environmental Quality
TELEPHONE MEMO TO THE FILE

Call to: Mr. Brian Sledge	Call from: TCEQ Staff Sarah Henderson
Date: October 8, 2025	Project No: ADJ No. 12-4355A
<i>Information for File follows:</i> I phoned Mr. Sledge to discuss his September 18, 2025 response regarding the draft order and notice for the referenced application. I let him know that the ZIP Code was included in the draft notice; however, it was located in a different paragraph from the previous notice issued in 2019. I asked Mr. Sledge if he was ok with the notice as drafted or if he would like the current notice to mirror the 2019 notice. Mr. Sledge stated that he was ok with the notice as drafted and would send me a follow-up email to state as such.	
Signed 	

From: [Brian Sledge](#)
To: [Sarah Henderson](#)
Cc: [Chris Kozlowski](#); [Humberto Galvan](#); "[Jennifer Smith](#)"
Subject: RE: City of Marlin ADJ No. 12-4355A
Date: Thursday, September 18, 2025 6:51:49 PM
Attachments: [image001.png](#)

Hi Sarah –

Thank you for sending over these draft documents. The draft Notice and Order both look good. I would only note one thing for your possible consideration. In the final Notice when this water right was extended for Marlin in 2019, the last sentence of Paragraph 5 previously stated, "The applicant indicates that the reservoir will be located in Zip Code 76661." That was not included in this draft notice, and I simply raise it to the extent that it may have been overlooked and something you typically deem necessary for these types of notices under Chapter 295.

Kind regards,
Brian



--

Brian L. Sledge

SledgeLaw Group, PLLC

Attorneys at Law · Governmental Relations

911 W. 29th Street, Austin, Texas 78705

512.579.3600 main

512.579.3601 direct

512.579.3611 fax

512.773.8967 mobile



CONFIDENTIALITY NOTICE: The information in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this email and its attachments, if any, or the information contained herein is prohibited. If you have received this email in error, please immediately notify the sender by return email and delete this email from your system.

From: Sarah Henderson [mailto:sarah.henderson@tceq.texas.gov]

Sent: Tuesday, September 16, 2025 4:57 PM

To: [REDACTED]

Cc: Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan

<Humberto.Galvan@tceq.texas.gov>

Subject: City of Marlin ADJ No. 12-4355A

Mr. Sledge,

Please find the attached draft documents for your review.

Comments are requested by September 30, 2025.

Sincerely,

Sarah

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

From: [Sarah Henderson](#)
To: [REDACTED]
Cc: [Chris Kozlowski](#); [Humberto Galvan](#)
Subject: City of Marlin ADJ No. 12-4355A
Date: Tuesday, September 16, 2025 4:56:00 PM
Attachments: [City of Marlin 12-4355A Drafts 16Sept2025.pdf](#)

Mr. Sledge,

Please find the attached draft documents for your review.
Comments are requested by September 30, 2025.

Sincerely,
Sarah

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

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 16, 2025

Mr. Brian L. Sledge, Attorney
Sledge Law Group PLLC
P.O. Box 66367
Austin, TX 78766-6367

VIA E-MAIL

RE: City of Marlin
ADJ 4355
CN600506604, RN105778070
Application for an Extension of Time to Complete Construction for Certificate of
Adjudication No. 12-4355A
Texas Water Code § 11.145, Mailed and Published Notice Required
Brushy Creek, Brazos River Basin
Falls County

Dear Mr. Sledge:

Drafts, subject to revision, of the order, notice, 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 September 30, 2025, with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

This application requires a 30-day comment period and once the comment period has closed, the proposed order may be issued as drafted given no hearing requests are received.

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

Sincerely,

A handwritten signature in cursive script that reads "Sarah Henderson".

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

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER extending the time for the City of Marlin to complete the construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A.

An application by the City of Marlin was presented to the Executive Director of the Texas Commission on Environmental Quality for consideration of approval. The Applicant requests authorization to extend the time to complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A. The applicant has previously been granted six Orders for extending the time to commence and complete construction of the dam and reservoir, and the current Order states the City of Marlin shall complete construction of the dam and reservoir by May 8, 2024. The Applicant seeks authorization to extend the time to complete construction of the dam and reservoir to May 8, 2029.

After considering the application and matters thereto related, the Executive Director has determined that the Applicant has shown reasonable diligence and there is reasonable cause for the delay.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the City of Marlin shall complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, tributary of Big Creek, Brazos River Basin, as authorized by Certificate of Adjudication No. 12-4355A, by May 8, 2029.

All other terms and conditions contained in Certificate of Adjudication No. 12-4355A, which are not specifically contrary to the terms of this Order, shall remain in full force and effect.

For the Commission

DATE ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR AN EXTENSION OF TIME TO COMPLETE CONSTRUCTION OF A PROJECT AUTHORIZED BY CERTIFICATE OF ADJUDICATION NO. 12-4355A

City of Marlin seeks authorization to extend the time to complete construction of Brushy Creek Dam and Reservoir on Brushy Creek, Brazos River Basin, in Falls County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. City of Marlin, P.O. Box 66376, Marlin, Tx 78766, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an extension of time pursuant to Texas Water Code § 11.145, and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being published and mailed to the water rights holders of record in the Brazos River Basin pursuant to Title 30 TAC § 295.159(a).

Certificate of Adjudication No. 12-4355 authorizes the City of Marlin, Owner, to maintain two existing dams and reservoirs on Big Sandy Creek (New Marlin Reservoir and Marlin City Lake), Brazos River Basin with a total combined impoundment capacity of 3,926 acre-feet of water for recreational purposes.

Owner is also authorized to maintain an existing dam and reservoir on Brushy Creek (Brushy Creek Reservoir), Brazos River Basin, ZIP Code 76661, and impound therein not to exceed 6,560 acre-feet of water for recreational, industrial, and municipal purposes.

Owner is also authorized to divert and use not to exceed 4,000 acre-feet of water per year from New Marlin Reservoir and/or Brushy Creek Reservoir for municipal purposes, to divert and use not to exceed 2,000 acre-feet of water per year from the Brazos River for municipal purposes, and to divert and use not to exceed 2,000 acre-feet per year from the Brazos River for industrial purposes in Falls County.

Owner is further authorized to use Marlin City Lake for municipal use as a sedimentation basin. Multiple special conditions, priority dates, and diversion rates apply.

Authorization to construct the dam and reservoir was originally granted on April 19, 1991. The Applicant has previously been granted six Orders extending the time to commence and complete construction of the Brushy Creek Dam and Reservoir. The current order states that Owner shall complete construction by May 8, 2024.

The Applicant seeks an extension of time to complete construction of Brushy Creek Dam and Reservoir. The Applicant proposes to complete construction by May 8, 2029.

The application was received on April 16, 2024, and fees were received on April 18, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 13, 2025.

The Executive Director has determined the Applicant has shown due diligence and justification for delay. In the event a hearing is held on this application, the Commission shall also consider whether the authorization for the appropriation shall be forfeited for failure to demonstrate sufficient due diligence and justification for delay.

The Executive Director has completed the technical review of the application and prepared a draft Order. The draft Order, if granted, would authorize the extension of time to complete construction until May 8, 2029. The application, technical memoranda and Executive Director's draft Order are available for viewing on the TCEQ web page at:

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

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

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

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

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

INFORMATION. Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 4355 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

TCEQ Interoffice Memorandum

To: Sarah Henderson
Water Rights Permitting Team

From:  Trina Lancaster, PE, Manager
8/15/25 Dam safety Section, MC-177

Date: August 15, 2025

Subject: City of Marlin, Request for Extension of Time to construct a dam and reservoir, Certificate of Adjudication No. 12-4355A, Brushy Creek, Brazos River Basin, Falls County

The applicant seeks an extension of time to complete construction by May 8, 2029. Construction was to be completed by May 8, 2024. The owner has indicated that construction has not been completed due to delays in getting assistance for federal permitting and authorizations which were hindered due to the COVID-19 pandemic.

The reservoir is to impound 6,560 acre-feet when completed.

The proposed time limitation extension is appropriate to allow time to obtain the necessary funding and to develop plans and specifications for agency approval.

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Sarah Henderson, Project Manager
Water Rights Permitting Team

DATE: August 13, 2025

SUBJECT: City of Marlin
ADJ 4355
CN600506604, RN105778070
Application for an Extension of Time to Complete Construction for
Certificate of Adjudication No. 12-4355A
Texas Water Code § 11.145, Mailed and Published Notice Required
Brushy Creek, Brazos River Basin
Falls County

The application was received on April 16, 2024. Fees were received on April 18, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 13, 2025. Published and mailed notice to water right holders of record in the Brazos River Basin is required pursuant to Title 30 Texas Administrative Code § 295.159(a).

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



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

OCC Mailed Notice Required ☒ **YES** ☐ **NO**

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 13, 2025

Mr. Brian L. Sledge, Attorney
Sledge Law Group PLLC
P.O. Box 66367
Austin, TX 78766-6367

VIA E-MAIL

RE: City of Marlin
ADJ 4355
CN600506604, RN105778070
Application for an Extension of Time to Complete Construction for Certificate of
Adjudication No. 12-4355A
Texas Water Code § 11.145, Mailed and Published Notice Required
Brushy Creek, Brazos River Basin
Falls County

Dear Mr. Sledge:

This acknowledges receipt, on April 16, 2024, of the referenced application and, on April 18, 2024, of fees in the amount of \$2,509.84 (Receipt No. M416483, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on August 13, 2025. 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.

Staff notes that as of August 13, 2025, one or more of the Texas Water Development Board's (TWDB) Water Use Surveys have not been received and/or declared administratively complete by the TWDB.

Texas Water Code (TWC) § 16.012 (m) states: "A person who fails to timely complete and return the survey is not eligible for funding from the board for board programs and is ineligible to obtain permits, permit amendments, or permit renewals from the commission under Chapter 11."

Be aware that the application for an extension of time to complete construction for Certificate of Adjudication No. 12-4355A will not be issued, if recommended for issuance, until the TWDB's 2022 Water Use Survey is returned and declared administratively complete by the TWDB.

City of Marlin
ADJ 12-4355A
August 13, 2025
Page 2 of 2

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

Sincerely,

A handwritten signature in dark ink, reading "Sarah Henderson". The signature is fluid and cursive, with the first name "Sarah" and last name "Henderson" clearly distinguishable.

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

Attachment



Basis2 Historical Receipt Report

JUL-23-25 01:49 PM

Selected date range
01-APR-24 - 30-APR-24

<u>Fee</u>	<u>Account Number & Name</u>	<u>Endorse.#</u>	<u>T-Code</u>	<u>Fac/Per</u>	<u>Check #</u>	<u>Paid In By</u>	<u>Paid In For</u>	<u>Tran Date</u>	<u>Receipt Amount</u>
WPC	WPC:WATER USE PERMITS- CONSTRUCTION DELAY	M416483	N		3216	SLEDELAU GROUP PLLC	MARLIN, CITY OF	18-APR-24	-\$2,509.84

Total (Fee Code) : - \$2,509.84



April 16, 2024

Mr. Chris Kozlowski, Team Leader
Water Rights Permitting Team
TCEQ, MC 160
P.O. Box 13087
Austin, Texas 78711-3087

Received

Date: 04/16/2024

By: Water Availability Division

Re: City of Marlin, Texas: Application for Extension of Time to Complete an Authorized Project; Brushy Creek Dam and Reservoir; Certificate of Adjudication Number 12-4355

Dear Mr. Kozlowski:

Please accept this letter and the accompanying attachments as an application by the City of Marlin, Texas ("the City"), for an extension of time to complete construction of an authorized project under Section 11.145, Texas Water Code, regarding the construction of the Brushy Creek Dam and Reservoir Project in Falls County, Texas, as authorized by Certificate of Adjudication No. 12-4355 ("the Project"). My firm has served as legal counsel for the City since 2014.

As set forth in the attached application form and resolution approved by the City, Certificate of Adjudication No. 12-4355 and a previously granted extension of time by the Commission authorizes the City to complete construction of the Project no later than May 8, 2024.

In 2007, the Texas Legislature formally designated the Brushy Creek Reservoir as a site of unique value for the construction of a reservoir in Senate Bill 3, and it is included as such in the 2022 State Water Plan. The City has already acquired all of the land in the footprint of the Project and completed a number of engineering studies related to its feasibility and construction. However, it has not been possible to complete construction due to a number of reasons. Among these were litigation that has been associated with the acquisition of upstream sediment control impoundments that were identified as part of the Project in the engineering and feasibility studies to prevent sedimentation of the main reservoir of the Project. That litigation was resolved through a compromise and settlement agreement with the Falls County Water Control and Improvement District No. 1 ("the District") in May 2017. In addition, the District was dissolved and all its assets and liabilities transferred to the City during the 2017 legislative session. Act of May 23, 2017, 85th Leg., R.S., ch. 454, General and Special Laws of Texas. This legislative action removed the primary barrier to the Project moving forward by transferring from the District to the City the easements necessary to the construction of the upstream sediment control impoundments.

The City then began in earnest to have conversations with potential partners and develop a plan for progress and completion of the Project. The City retained in November 2018 a water planning consulting firm with extensive experience in state and regional water planning and Corps

TCEQ Water Availability Division
April 16, 2024

of Engineers Section 404 permits to assist the City with evaluating Project studies that have already been done and working with federal agencies on Section 404 permit requirements. In early 2020, the City began discussions with federal agencies, including the Natural Resource Conservation Service (“NRCS”) and the United States Army Corps of Engineers, regarding federal permits and authorizations for the project, which discussions were hindered and delayed because of the COVID-19 pandemic that began shortly after such discussions were initiated.

The City continues to diligently pursue the project, and is currently in renewed discussions with the NRCS for that federal agency to conduct a review of the existing project studies to reaffirm the feasibility of the Brushy Creek Reservoir project and to take the lead on pursuing any federal 404 permit authorizations that may be required for the project. The City has recently submitted a formal request for NRCS to do so, and has received favorable feedback from NRCS on its ability and willingness to do so. Additionally, Congressman Pete Sessions of Waco has taken a supportive interest in the Project and will be working to provide federal assistance to the City.

Attached to this letter are (1) a resolution by the Marlin City Council authorizing the submission of application for an extension of time to construct the project, and (2) a completed application for the extension signed by the mayor of the City.

We look forward to expeditiously working with you and the Commission staff to favorably consider this application. If the City or my firm can provide additional information to you as you review the application, we would be pleased to do so.

On behalf of the City, thank you in advance for your timely consideration of this application.

Very truly yours,

A handwritten signature in black ink, appearing to be 'BS' with a stylized flourish extending to the right.

Brian L. Sledge
Legal Counsel for the City of Marlin

cc: Hon. Susan R. Byrd, Mayor, and Mr. Keith Whitfield, City Manager, City of Marlin



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Water Availability Division - MC-160, P.O. Box 13087 Austin, Texas 78711-3087
Telephone (512) 239-4600 FAX (512) 239-2214

**APPLICATION FOR AN EXTENSION OF TIME TO BEGIN AND/OR
COMPLETE CONSTRUCTION OF AN AUTHORIZED PROJECT**
Texas Water Code Section §11.145
TO BE SUBMITTED PRIOR TO EXPIRATION DATE

1. Applicant Information

Permittee/Owner Name: City of Marlin
Point of Contact name: Brian L. Sledge, Attorney for the City
Mailing Address: P.O. Box 66367, Austin, TX 78766

Phone Number: 512-579-3601 Email Address: [REDACTED]

2. Fees or penalties

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

Does Applicant or Co-Applicant owe any **fees** to the TCEQ?

Yes or No: No

If yes, provide the following information:

Account number: n/a Amount past due: n/a

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

Yes or No: No

If yes, please provide the following information:

Enforcement order number: n/a Amount past due: n/a

3. Project Data

Certificate of Adjudication No.: 12-4355 or Permit No.: 4355

and,

River Basin: Brazos

4. **Project Dates**

BEGINNING CONSTRUCTION DATE:

Original (Date in water right): March 16, 1991

Current (From last extension granted,
if applicable): _____

Proposed: _____

COMPLETION DATE:

Original: 03/06/1993

Current: 05/08/2024

Proposed: 05/08/2029

5. **Reason(s) for delay and why the proposed dates requested are necessary**

Under 30 TAC 295.72(b) the applicant must include* why the extension should be granted and why the permit should not be forfeited if the commission finds that sufficient due diligence to begin and/or complete construction of the authorized project has not been demonstrated. Reasonable causes for delay include, but are not limited to, the operation of legal proceedings or other causes which were not within the reasonable control of the permittee and which were reasonably unforeseeable at the time of the appropriation or the last extension. Financial hardship shall not, by itself, constitute sufficient cause for the granting of an extension. Notice of the application, if required, will also indicate that the Commission will consider whether the appropriation shall be forfeited by the applicant, if the extension is denied.

** Please provide a statement setting forth the reasons why construction work could not be commenced or completed in the space below or attach a statement entitled*

"Reasons Why Construction Work Could not be Commenced or Completed."

The City has already acquired all of the land in the footprint of the Brushy Creek Reservoir Project ("Project") and completed a number of engineering studies related to its feasibility. Years of litigation that were hindering the Project were settled in 2017. Additionally, the Texas Legislature passed a new law in 2017 that dissolved the Falls Creek WCID No. 1 and transferred all its assets and liabilities to the City, particularly including the easements necessary to the construction of the upstream sediment control impoundments that were identified as part of the Project in the engineering and feasibility studies to prevent sedimentation of the main reservoir of the Project. Act of May 23, 2017, 85th Leg., R.S., ch. 454, General and Special Laws of Texas. T

The City then began in earnest to have conversations with potential partners and develop a plan for progress and completion of the Project. The City retained in November 2018 a water planning consulting firm with extensive experience in state and regional water planning and Corps of Engineers Section 404 permits to assist the City with evaluating Project studies that have already been done and working with federal agencies on Section 404 permit requirements. In early 2020, the City began discussions with federal agencies, including the Natural Resource Conservation Service ("NRCS") and the United States Army Corps of Engineers, regarding federal permits and authorizations for the project, which discussions were hindered and delayed because of the COVID-19 pandemic that began shortly after such discussions were initiated.

The City continues to diligently pursue the project, and is currently in renewed discussions with the NRCS for that federal agency to conduct a review of the existing project studies to reaffirm the feasibility of the Brushy Creek Reservoir project and to take the lead on pursuing any federal 404 permit authorizations that may be required for the project. The City has recently submitted a formal request for NRCS to do so, and has received favorable feedback from NRCS on its ability and willingness to do so. Additionally, Congressman Pete Sessions of Waco has taken a supportive interest in the Project and will be working to provide federal assistance to the City.

6. **Application Fees**

(Please make checks payable to the Texas Commission on Environmental Quality or TCEQ)

A. All requests for extension of time require payment of the following fees:

Type	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water requested for any new appropriation and/or impoundment. Enter corresponding fee under Amount (\$) .	500.00
	<u>In Acre-Feet</u>	
	a. Less than 100	
	b. 100 - 5,000	
	c. 5,001 - 10,000	
	d. 10,001 - 250,000	
	e. More than 250,000	
Recording Fee		\$12.50
TOTAL		\$512.50

B. Extensions of time that require mailed and published notice require additional fees. Mailed and published notice of the application is required if a new beginning date for construction is more than four years past the original issue date of the water right, or a new completion date for construction is more than five years past the original completion date. If the application requires mailed and published notice, pay the following fees in addition to the fees in section (A) above:

Type	Description	Amount (\$)
Extension Fee	Pursuant to 30 TAC §295.138, extension fees are equivalent to one-time use fees established under §295.133 not to exceed \$1,000 . Enter corresponding extension fee under Amount (\$). Using the one-time use fees as follows:	1000.00
	Agriculture Use Fee - Only for those with an Irrigation Use. Multiply 50¢ x ____ Number of acres that will be irrigated with State Water.	
	Use Fee - Required for all Use Types, excluding Irrigation Use. Multiply \$1.00 x ____ Maximum annual diversion of State Water in acre-feet.	
	Recreational Storage Fee - For those with Recreational storage. Multiply \$1.00 x ____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
	Storage Fee - For Storage, excluding Recreational Storage. Multiply 50¢ x ____ acre-feet of State Water to be stored at normal max operating level.	
	Note - if the total extension fees in this column above exceed \$1,000 - enter \$1,000 under Amount (\$).	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600. (Different for each basin and the applicant will publish the notice in a locally circulated newspaper at its expense)	997.34
TOTAL		\$ 2509.84

7. **Applicant Signature**

I, **Susan Byrd**

Mayor, City of Marlin

(Typed or printed name)

(Title)

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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

Signature: _____

Date: _____

(Use blue ink)

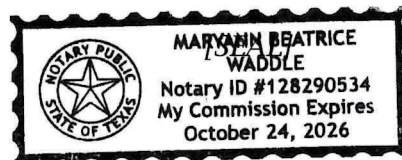
Subscribed and Sworn to before me by the said

on this 24 day of March, 2024.

My commission expires on the 24 day of October, 2026.

Notary Public

County, Texas



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

County, Texas

RESOLUTION No. 18-024

A RESOLUTION AUTHORIZING AN APPLICATION TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) FOR EXTENSION OF TIME TO COMPLETE CONSTRUCTION OF THE BRUSHY CREEK DAM AND RESERVOIR AUTHORIZED UNDER WATER RIGHTS CERTIFICATE OF ADJUDICATION NO. 12-4355; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT:

Whereas, the City of Marlin ("City") has the responsibility and duty to provide a clean and plentiful supply of potable water to its residents, and

Whereas, existing sources of raw water have a limited supply, often forcing drought contingency limitations on water use to be imposed, and

Whereas, the City possesses a permit from the State of Texas to construct a new dam and reservoir on Brushy Creek in Falls County, Texas ("the Brushy Creek Reservoir"), and

Whereas, the Texas Legislature in 2007 designated the Brushy Creek Reservoir as a site of unique value for the construction of a reservoir, and

Whereas, the 2017 State Water Plan finds that the City's current supplies are inadequate to meet projected water demands during either the near-term or for any decade in the 50-year planning horizon of the State Water Plan, and

Whereas, the 2017 State Water Plan identifies construction and use of the Brushy Creek Reservoir and conservation as recommended water supply strategies that will both be necessary in order to meet current and future demands of the City, and

Whereas, the City has acquired the land for the Brushy Creek Reservoir, and

Whereas, the City's efforts to complete the project have been hindered due to numerous reasons, including without limitation litigation with the Falls County Water Control Improvement District No. 1 ("District") that has been associated with the acquisition of upstream sediment control impoundments identified in feasibility studies associated with the Brushy Creek Reservoir project, and

Whereas, the City successfully settled the litigation with the District in 2017, and

Whereas, the Texas Legislature passed Senate Bill 976 in its regular session in 2017, which became law, and which dissolved the District and transferred all of its assets to the City, including assets associated with the Brushy Creek Reservoir project that will be of great benefit to the City in moving forward with the project,

Whereas, the litigation hindered discussions that had been ongoing with other potential partners in the region near the Brushy Creek Reservoir project that may have participated in pursuing the project with the City or purchasing water from the project, and

Whereas, because of the delays described above, the City has not yet completed construction of the Brushy Creek Reservoir, and

Whereas, the City continues to diligently pursue the project, and is currently beginning work on pursuing the Section 404 permit for the Brushy Creek Reservoir project with the U.S. Army Corps of Engineers;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARLIN THAT:

Section 1. The matters and facts recited in the preamble of this Resolution are hereby found to be true and correct.

Section 2. Representatives of the City of Marlin are authorized to continue discussions with potential partners for the Brushy Creek Reservoir project related to project financing and implementation, possible purchases of water from the project, and cost, feasibility, technical, or other studies related to project implementation.

Section 3. The Mayor of Marlin is authorized to execute an extension of time application with the Texas Commission on Environmental Quality for construction of the Brushy Creek Reservoir under the water rights permit, Certificate of Adjudication No. 12-4355, and all other necessary documents to extend the city's permit to construct and operate the proposed Brushy Creek Reservoir (collectively "the application").

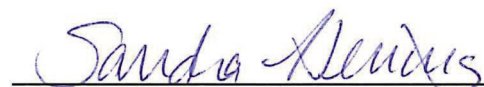
Section 4. The Mayor and designated members of the City Council, the City Manager, attorneys, engineers and other technical consultants, and other authorized representatives of the City are directed to testify and represent the City at meetings, hearings and other proceedings with or before the Texas Commission on Environmental Quality and other state and federal agencies concerning the application and to undertake and perform any other actions appropriate to their respective positions as may be necessary and helpful in prosecuting and obtaining the approval of the application.

Approved and signed this 13 th day of November, 2018.





John Keefer, Mayor



Sandra Herring, City Secretary