

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1496A

Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson have applied to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin, impounding 6.7 acre-feet of water for recreational purposes in Kimble County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson, P.O. Box 207, Junction, TX 76849, Applicants, have applied to the Texas Commission on Environmental Quality (TCEQ) to amend their portion of Certificate of Adjudication No. 14-1496 pursuant to Texas Water Code (TWC) § 11.122 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 Colorado River Basin pursuant to Title 30 TAC § 295.158(b)(2).

A portion of Certificate of Adjudication No. 14-1496 authorizes Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson (Owners/Applicants) to maintain a reservoir impounding 8 acre-feet of water on Maynard Creek, tributary of the North Llano River, Colorado River Basin and to divert and use not to exceed 22.8126 acre-feet of water per year from the reservoir, at a maximum diversion rate of 1.34 cfs (600 gpm), for agricultural purposes to irrigate 34.54 acres of land out of a 140.591-acre tract in Kimble County. The time priority of this water right is 1898.

Applicants seek to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water for recreational purposes in Kimble County.

A point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W in ZIP Code 76874.

Applicants will maintain the reservoir with their portion of the water currently authorized in Certificate of Adjudication No. 14-1496.

Ownership of the land to be inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County.

Written consent was provided by Judith Ann Gardner for Applicants to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application.

The application and partial fees were received on June 9, 2014. Additional information and fees were received on June 11, June 16, July 16, and August 20, 2014, July 10, 2015, February 3, February 10, March 9, and March 10, 2016, July 25, 2017, and July 12, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on October 12, 2017.

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

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

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

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested 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 1496 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: April 05, 2022

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1496A

TYPE § 11.122

Owners:	Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson	Address:	P.O. Box 207 Junction, TX 76849
Filed:	October 12, 2017	Granted:	
Purposes:	Agriculture, Recreation	County:	Kimble
Watercourse:	Maynard Creek, tributary of the North Llano River	Watershed:	Colorado River Basin

WHEREAS, a portion of Certificate of Adjudication No. 14-1496 authorizes Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson (Owners/Applicants) to maintain a reservoir impounding 8 acre-feet of water on Maynard Creek, tributary of the North Llano River, Colorado River Basin and to divert and use not to exceed 22.8126 acre-feet of water per year from the reservoir, at a maximum diversion rate of 1.34 cfs (600 gpm), for agricultural purposes to irrigate 34.54 acres of land out of a 140.591-acre tract in Kimble County; and

WHEREAS, the time priority of the Owners' right is 1898; and

WHEREAS, Applicants seek to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water for recreational purposes in Kimble County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W; and

WHEREAS, Applicants will maintain the reservoir with their portion of the water currently authorized in Certificate of Adjudication No. 14-1496; and

WHEREAS, ownership of the land to be inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County; and

WHEREAS, written consent was provided by Judith Ann Gardner for Applicants to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application; and

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

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No.14-1496, designated Certificate of Adjudication No. 14-1496A is issued to Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson subject to the following terms and conditions:

1. IMPOUNDMENT

In addition to previous authorizations, Owners are authorized to maintain an existing dam and reservoir on Maynard Creek, tributary of the North Llano River, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water:

- A. A point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W in Kimble County.
- B. Ownership of the land inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County.
- C. Written consent was provided by Judith Ann Gardner for Owners to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application.

2. USE

In addition to previous authorizations, Owners are authorized to maintain the reservoir described in Paragraph 1. IMPOUNDMENT for recreational purposes in Kimble County.

3. TIME PRIORITY

- A. The time priority to maintain the eight-acre-foot capacity reservoir and for the 22.8126 acre-feet of water is 1898
- B. The time priority for the right to maintain the reservoir authorized in this amendment is October 12, 2017.

4. SPECIAL CONDITIONS

- A. Owners shall not impound water unless streamflow exceeds the following environmental flow values at USGS Gage No. 08151500 - Llano River at Llano, TX, subject to the requirements of Paragraphs 4.B. - 4.F. below.

Season	Hydrologic Condition	Subsistence	Base
Winter	Severe	44 cfs	100 cfs
Winter	Dry	N/A	100 cfs
Winter	Average	N/A	150 cfs
Winter	Wet	N/A	190 cfs
Spring	Severe	35 cfs	100 cfs
Spring	Dry	N/A	100 cfs
Spring	Average	N/A	150 cfs
Spring	Wet	N/A	190 cfs
Summer	Severe	3 cfs	67 cfs
Summer	Dry	N/A	67 cfs
Summer	Average	N/A	92 cfs
Summer	Wet	N/A	130 cfs
Fall	Severe	20 cfs	87 cfs
Fall	Dry	N/A	87 cfs
Fall	Average	N/A	120 cfs
Fall	Wet	N/A	190 cfs

cfs = cubic feet per second
N/A = not applicable

- B. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through August), and Fall (September through October).
- C. Owners shall determine the hydrologic condition once per season. The conditions present on the last day of the month of the preceding season shall determine the hydrologic conditions for the following season. Owners shall calculate cumulative streamflow for the previous twelve months at USGS Gage No. 08151500 (Llano River near Llano, TX) on the last day of the preceding season to determine the applicable hydrologic condition. The cumulative streamflow values for determining the hydrologic condition are as follows:

MEASUREMENT POINT	Cumulative Streamflow (acre-feet)			
	SEVERE	DRY	AVERAGE	WET
Llano River at Llano, TX	Less than 90,810	90,810 - 145,660	145,660 - 364,540	Greater than 364,540

Subsistence Flow

- D. Owners shall not impound water if streamflow at USGS Gage No. 08151500 is below the applicable subsistence flow value for a season.
- E. If streamflow at USGS Gage No. 08151500 is above the applicable subsistence flow value for a season but below the applicable dry condition base flow value for a season, Owners may only impound water during severe hydrologic conditions if streamflow does not fall below the applicable subsistence flow value.

Base Flow

- F. Owners may impound water if the flow at USGS Gage No. 08151500 is above the applicable base flow standard for that hydrologic condition and season so long as streamflow at USGS Gage No. 08151500 does not fall below the applicable base flow value for that hydrologic condition.
- G. Owners shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when required to meet the needs of downstream senior water rights or comply with the environmental flow requirements in this amendment.
- H. Owners shall maintain a record of the calculated hydrologic condition, based on the measured streamflow at USGS Gage No. 08151500 (Llano River near Llano, TX) and the amount of water passed through the reservoir to meet the environmental flow requirements.
- I. Upon issuance of this amendment, Owners shall not utilize 12 acre-feet of its 22.8126 acre-feet of diversion rights authorized by this certificate.
- J. Owners shall allow representatives of the Texas Commission on Environmental Quality reasonable access to the property.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No 14-1496, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

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

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

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

For the Commission

DATE ISSUED:

RE: Gardner_Family_Trust_14-1496A_Draft_Amendment_Notice_for_Comment

Keaton Blackburn [REDACTED]

Tue 3/22/2022 7:03 AM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Ms. Beerman, I have talked to my clients about the draft. They and I do not have any questions or concerns about the draft and the contents contained therein. Thank you, William Keaton Blackburn.

Re: Gardner_Family_Trust_14-1496A_Draft_Amendment_Notice_for_Comment

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Mon 3/21/2022 5:38 PM

To: Keaton Blackburn [REDACTED]

Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Mr. Blackburn,

A reminder that comments on the draft amendment for Gardner Family Trust's Amendment to 14-1496 are due COB, Tuesday, March 22, 2022.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Keaton Blackburn [REDACTED]

Sent: Tuesday, March 8, 2022 10:52 AM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Subject: RE: Gardner_Family_Trust_14-1496A_Draft_Amendment_Notice_for_Comment

Ms. Beerman, I have received the Draft and will respond to you before March 22, 2022, if I have any comments.
Thank you, William Keaton Blackburn.

Gardner_Family_Trust_14-1496A_Draft_Amendment_Notice_for_Comment

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Tue 3/8/2022 9:49 AM

To: Keaton Blackburn <[REDACTED]>

Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 1 attachments (1 MB)

Gardner_14-1496A_Draft_amendment_pkg_03.08.2022.pdf;

Mr. Blackburn,

The Draft Amendment/Notice for Gardner Family Trust, COA No. 14-1496A, is ready for your review. The amendment to ADJ 1496 and supporting documents are attached to this email.

Please provide comments by COB Tuesday, March 22, 2022.

If you have any questions or concerns, do not hesitate to contact me.

Many thanks,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

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

March 8, 2022

Mr. William Keaton Blackburn, Attorney at Law
101 North 6th Street
Junction, TX 76849

VIA E-MAIL

Re: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner,
and Lou Zane Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Mr. Blackburn:

Drafts, subject to revision, of the public notice, proposed amendment to Certificate of Adjudication No. 14-1496, and the related technical memoranda are attached.

Staff is recommending that the referenced application be granted in accordance with the enclosed drafts. Please review the drafts and contact me no later than March 22, 2022, with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a 30-day comment period and once the comment period has closed, Certificate of Adjudication No. 14-1496A may be issued as drafted given no hearing requests are received.

If you have any questions concerning the application, please contact me via e-mail at lillian.beerman@tceq.texas.gov or by telephone at (512) 239-4019.

Sincerely,

Lillian E. Beerman, Ph.D.

Lillian E. Beerman, Ph.D., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1496A

TYPE § 11.122

Owners:	Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson	Address:	P.O. Box 207 Junction, TX 76849
Filed:	October 12, 2017	Granted:	
Purposes:	Agriculture, Recreation	County:	Kimble
Watercourse:	Maynard Creek, tributary of the North Llano River	Watershed:	Colorado River Basin

WHEREAS, a portion of Certificate of Adjudication No. 14-1496 authorizes Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson (Owners/Applicants) to maintain a reservoir impounding 8 acre-feet of water on Maynard Creek, tributary of the North Llano River, Colorado River Basin and to divert and use not to exceed 22.8126 acre-feet of water per year from the reservoir, at a maximum diversion rate of 1.34 cfs (600 gpm), for agricultural purposes to irrigate 34.54 acres of land out of a 140.591-acre tract in Kimble County; and

WHEREAS, the time priority of the Owners' right is 1898; and

WHEREAS, Applicants seek to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water for recreational purposes in Kimble County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W; and

WHEREAS, Applicants will maintain the reservoir with their portion of the water currently authorized in Certificate of Adjudication No. 14-1496; and

WHEREAS, ownership of the land to be inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County; and

WHEREAS, written consent was provided by Judith Ann Gardner for Applicants to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application; and

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

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No.14-1496, designated Certificate of Adjudication No. 14-1496A is issued to Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson subject to the following terms and conditions:

1. IMPOUNDMENT

In addition to previous authorizations, Owners are authorized to maintain an existing dam and reservoir on Maynard Creek, tributary of the North Llano River, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water:

- A. A point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W in Kimble County.
- B. Ownership of the land inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County.
- C. Written consent was provided by Judith Ann Gardner for Owners to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application.

2. USE

In addition to previous authorizations, Owners are authorized to maintain the reservoir described in Paragraph 1. IMPOUNDMENT for recreational purposes in Kimble County.

3. TIME PRIORITY

- A. The time priority to maintain the eight-acre-foot capacity reservoir and for the 22.8126 acre-feet of water is 1898
- B. The time priority for the right to maintain the reservoir authorized in this amendment is October 12, 2017.

4. SPECIAL CONDITIONS

- A. Owners shall not impound water unless streamflow exceeds the following environmental flow values at USGS Gage No. 08151500 - Llano River at Llano, TX, subject to the requirements of Paragraphs 4.B. - 4.F. below.

Season	Hydrologic Condition	Subsistence	Base
Winter	Severe	44 cfs	100 cfs
Winter	Dry	N/A	100 cfs
Winter	Average	N/A	150 cfs
Winter	Wet	N/A	190 cfs
Spring	Severe	35 cfs	100 cfs
Spring	Dry	N/A	100 cfs
Spring	Average	N/A	150 cfs
Spring	Wet	N/A	190 cfs
Summer	Severe	3 cfs	67 cfs
Summer	Dry	N/A	67 cfs
Summer	Average	N/A	92 cfs
Summer	Wet	N/A	130 cfs
Fall	Severe	20 cfs	87 cfs
Fall	Dry	N/A	87 cfs
Fall	Average	N/A	120 cfs
Fall	Wet	N/A	190 cfs

cfs = cubic feet per second
N/A = not applicable

- B. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through August), and Fall (September through October).
- C. Owners shall determine the hydrologic condition once per season. The conditions present on the last day of the month of the preceding season shall determine the hydrologic conditions for the following season. Owners shall calculate cumulative streamflow for the previous twelve months at USGS Gage No. 08151500 (Llano River near Llano, TX) on the last day of the preceding season to determine the applicable hydrologic condition. The cumulative streamflow values for determining the hydrologic condition are as follows:

MEASUREMENT POINT	Cumulative Streamflow (acre-feet)			
	SEVERE	DRY	AVERAGE	WET
Llano River at Llano, TX	Less than 90,810	90,810 - 145,660	145,660 - 364,540	Greater than 364,540

Subsistence Flow

- D. Owners shall not impound water if streamflow at USGS Gage No. 08151500 is below the applicable subsistence flow value for a season.
- E. If streamflow at USGS Gage No. 08151500 is above the applicable subsistence flow value for a season but below the applicable dry condition base flow value for a season, Owners may only impound water during severe hydrologic conditions if streamflow does not fall below the applicable subsistence flow value.

Base Flow

- F. Owners may impound water if the flow at USGS Gage No. 08151500 is above the applicable base flow standard for that hydrologic condition and season so long as streamflow at USGS Gage No. 08151500 does not fall below the applicable base flow value for that hydrologic condition.
- G. Owners shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when required to meet the needs of downstream senior water rights or comply with the environmental flow requirements in this amendment.
- H. Owners shall maintain a record of the calculated hydrologic condition, based on the measured streamflow at USGS Gage No. 08151500 (Llano River near Llano, TX) and the amount of water passed through the reservoir to meet the environmental flow requirements.
- I. Upon issuance of this amendment, Owners shall not utilize 12 acre-feet of its 22.8126 acre-feet of diversion rights authorized by this certificate.
- J. Owners shall allow representatives of the Texas Commission on Environmental Quality reasonable access to the property.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No 14-1496, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

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

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

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

For the Commission

DATE ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1496A

Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson have applied to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin, impounding 6.7 acre-feet of water for recreational purposes in Kimble County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson, P.O. Box 207, Junction, TX 76849, Applicants, have applied to the Texas Commission on Environmental Quality (TCEQ) to amend their portion of Certificate of Adjudication No. 14-1496 pursuant to Texas Water Code (TWC) § 11.122 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 Colorado River Basin pursuant to Title 30 TAC § 295.158(b)(2).

A portion of Certificate of Adjudication No. 14-1496 authorizes Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson (Owners/Applicants) to maintain a reservoir impounding 8 acre-feet of water on Maynard Creek, tributary of the North Llano River, Colorado River Basin and to divert and use not to exceed 22.8126 acre-feet of water per year from the reservoir, at a maximum diversion rate of 1.34 cfs (600 gpm), for agricultural purposes to irrigate 34.54 acres of land out of a 140.591-acre tract in Kimble County. The time priority of this water right is 1898.

Applicants seek to amend their portion of Certificate of Adjudication No. 14-1496 to authorize the maintenance of a dam and reservoir on Maynard Creek, Colorado River Basin and impound therein not to exceed 6.7 acre-feet of water for recreational purposes in Kimble County.

A point on the centerline of the dam is located at Latitude 30.473800° N, Longitude 100.065200° W in ZIP Code 76874.

Applicants will maintain the reservoir with their portion of the water currently authorized in Certificate of Adjudication No. 14-1496.

Ownership of the land to be inundated is evidenced by an *Assumption General Warranty Deed* recorded in Volume 133, Pages 169-175 on February 1, 1996 in the Official Public Records of Kimble County.

Written consent was provided by Judith Ann Gardner for Applicants to maintain a dam and reservoir, which inundates a portion of her property, for recreational purposes and was submitted with the application.

The application and partial fees were received on June 9, 2014. Additional information and fees were received on June 11, June 16, July 16, and August 20, 2014, July 10, 2015, February 3, February 10, March 9, and March 10, 2016, July 25, 2017, and July 12, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on October 12, 2017.

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

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

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

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested 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 1496 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:

DRAFT

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Lillian Beerman, Project Manager
Water Rights Permitting Team

Date: November 18, 2021

Through: Leslie Patterson, Team Leader
Resource Protection Team

From: George Gable, Aquatic Scientist
Resource Protection Team

Subject: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145
Maynard Creek, Colorado River Basin
Kimble 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 review can vary according to the type and the location of the authorization requested.

APPLICATION SUMMARY

Certificate of Adjudication No. 14-1496 (Certificate) authorizes Gardner Family Trust; Jack Garner Gardner, Jr.; Gina Gay Gardner, and Lou Zane Gardner Burleson (Applicants) to maintain a reservoir and impound eight acre-feet of water on Maynard Creek, Colorado River Basin and to divert 28.8126 acre-feet of water per year from the reservoir at a maximum combined diversion rate of 1.34 cfs (600 gpm) for agricultural purposes in Kimble County.

Applicants request to amend the Certificate to authorize an additional on-channel reservoir impounding 6.7 acre-feet of water on Maynard Creek for recreational use in Kimble County. Applicants request authorization to maintain the reservoir with a portion of the 28.8126 acre-feet of water authorized for diversion.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitat: The Applicant's reservoir is located on Maynard Creek. Maynard Creek is perennial and located in the Edwards Plateau Woodland ecoregion. (Griffith *et al.* 2007).

The checklist for the Colorado River basin identified 36 species of ichthyofauna occurring within Kimble County (Hendrickson and Cohen 2015). The Guadalupe Bass (*Micropterus treculii*), *Marstonia comalensis*, Texas fatmucket (*Lampsilis bracteata*), Texas fawnsfoot (*Truncilla macrodon*), Texas pimpleback (*Quadrula petrina*), plateau loosestrife (*Lythrum ovalifolium*), and springrun whitehead (*Shinnersia rivularis*) high interest aquatic species, has been determined to occur in Kimble County (TPWD 2015). This amendment is not expected to have an effect on any high interest aquatic species because Resource Protection staff are recommending that diversions be subject to streamflow restrictions.

On August 8, 2012, the Texas Commission on Environmental Quality adopted environmental flow standards for the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter D). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC §298.310). The Applicant does not request a new appropriation of water or an amendment that increases the amount of water to be stored, taken, or diverted. Resource Protection staff recommend streamflow restrictions for the addition of an upstream reservoir. Resource Protection staff utilized the subsistence and base environmental flow standards (Title 30 TAC §298.330(e)(9)) established at United States Geological Survey (USGS) Gage No. 08151500 – Llano River at Llano, TX for the streamflow restriction as shown in Table 1.

Table 1: Environmental Flow Standards at USGS Gage No. 08151500 –Llano River near Llano, TX.

Season	Hydrologic Condition	Subsistence	Base
Winter	Severe	44 cfs	100 cfs
Winter	Dry	N/A	100 cfs
Winter	Average	N/A	150 cfs
Winter	Wet	N/A	190 cfs
Spring	Severe	35 cfs	100 cfs
Spring	Dry	N/A	100 cfs
Spring	Average	N/A	150 cfs
Spring	Wet	N/A	190 cfs
Summer	Severe	3 cfs	67 cfs
Summer	Dry	N/A	67 cfs
Summer	Average	N/A	92 cfs
Summer	Wet	N/A	130 cfs
Fall	Severe	20 cfs	87 cfs
Fall	Dry	N/A	87 cfs
Fall	Average	N/A	120 cfs
Fall	Wet	N/A	190 cfs

cfs = cubic feet per second
 N/A = not applicable

The applicable subsistence flow varies depending on the seasons and base flow varies depending on the seasons and hydrologic conditions. Hydrologic conditions will be addressed in the water availability analysis for this application. Seasons are defined in 30 TAC §298.305, as follows: Winter (November through February), Spring (March through June), Summer (July through August), and Fall (September through October). Resource Protection staff recommend that impoundment of water under this proposed amendment should be limited to comply with the applicable subsistence and base environmental flow values.

Recreational Uses: Maynard Creek and the Applicant’s reservoir have a presumed primary contact recreation 1 use (TCEQ 2018). The Applicant’s request should not adversely impact recreational uses.

Water Quality: Maynard Creek and the Applicant’s reservoir have a presumed high aquatic life use (TCEQ 2018). The Applicant’s request should not adversely impact water quality.

Freshwater Inflows: Freshwater inflows are critical for maintaining the historical productivity of bays and estuaries along the Gulf Coast. The proposed project is located more than 200 river miles from the Gulf of Mexico. The application does not request a new appropriation of water. Therefore, the Applicant’s request should not have any impact to Matagorda Bay.

RECOMMENDATIONS

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

1. Owner shall not impound water unless streamflow exceeds the following environmental flow values at USGS Gage No. 08151500 – Llano River at Llano, TX, subject to the requirements of Special Conditions 2-5 below.

Season	Hydrologic Condition	Subsistence	Base
Winter	Severe	44 cfs	100 cfs
Winter	Dry	N/A	100 cfs
Winter	Average	N/A	150 cfs
Winter	Wet	N/A	190 cfs
Spring	Severe	35 cfs	100 cfs
Spring	Dry	N/A	100 cfs
Spring	Average	N/A	150 cfs
Spring	Wet	N/A	190 cfs
Summer	Severe	3 cfs	67 cfs
Summer	Dry	N/A	67 cfs
Summer	Average	N/A	92 cfs
Summer	Wet	N/A	130 cfs
Fall	Severe	20 cfs	87 cfs
Fall	Dry	N/A	87 cfs
Fall	Average	N/A	120 cfs
Fall	Wet	N/A	190 cfs

cfs = cubic feet per second
 N/A = not applicable

2. Seasons are defined as follows: Winter (November through February), Spring (March through June), Summer (July through August), and Fall (September through October).

Subsistence Flow

3. Owner shall not impound water if streamflow at USGS Gage No. 08151500 is below the applicable subsistence flow value for a season.
4. If streamflow at USGS Gage No. 08151500 is above the applicable subsistence flow value for a season but below the applicable dry condition base flow value for a season, Owner may only impound water during severe hydrologic conditions if streamflow does not fall below the applicable subsistence flow value.

Base Flow

5. Owner may impound water if the flow at USGS Gage No. 08151500 is above the applicable base flow standard for that hydrologic condition and season so long as streamflow at USGS Gage No. 08151500 does not fall below the applicable base flow standard for that hydrologic condition.

LITERATURE CITED

Griffith GE, Bryce SA, Omernik JM, Rogers AC. 2007. Ecoregions of Texas - Project Report to Texas Commission on Environmental Quality. Reston (VA): U.S. Geological Survey. Report No.: AS-199. Map scale 1:2,500,000.

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [2021 November 15]; Version 2.0. Available from <http://www.fishesoftexas.org/home/> doi:10.17603/C3WC70

TCEQ. 2018. Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2015. TPWD County Lists of Texas Protected Species and Species of Greatest Conservation Need [Internet]. Austin (TX): Kimble County, revised October 1, 2021. [2021 November 15]. Available from <http://tpwd.texas.gov/gis/rtest/>.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Lillian Beerman Project Manager Date: February 15, 2022
Water Rights Permitting Team

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

TA Trent Gay, Team Leader
Surface Water Availability Team

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

Subject: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496A
CN604395129, CN604395079, CN604395152, CN604395145
Maynard Creek, Colorado River Basin
Kimble County

Water Availability Review

Application Summary

Certificate of Adjudication No. 14-1496 (Certificate) authorizes Gardner Family Trust; Jack Garner Gardner, Jr.; Gina Gay Gardner, and Lou Zane Gardner Burleson (Applicants) to maintain a reservoir and impound eight acre-feet of water on Maynard Creek, Colorado River Basin and to divert 22.8126 acre-feet of water per year from the reservoir at a maximum combined diversion rate of 1.34 cfs (600 gpm) for agricultural purposes to irrigate 34.54 acres of land in Kimble County.

Applicants request to amend the Certificate to authorize an additional on-channel reservoir impounding 6.7 acre-feet of water on Maynard Creek for recreational use in Kimble County. Applicants request authorization to maintain the reservoir with a portion of the 22.8126 acre-feet of water authorized for diversion.

The application was declared administratively complete on October 12, 2017.

Water Availability Review

Resource protection Staff recommended flow requirements for this application. See the Resource Protection Memo dated July 13, 2021.

The application does not require a water availability analysis because the request is not for a new appropriation of water. The application indicates that the diversion rights under Certificate of Adjudication 14-1496 will be used to support the reservoir. However, the application must be reviewed to ensure that no water rights are affected by the request.

The Water Rights Analysis Package (WRAP) simulates management of the water resources of a river basin. TCEQ uses WRAP in the evaluation of water right permit applications using priority-based water allocations. WRAP is a generalized simulation model for application to any river basin, and input datasets must be developed for the particular river basin of concern. The TCEQ developed water availability models (WAMs) for Texas river basins that include geographical information, water right information, naturalized flows, evaporation rates, and specific management assumptions. Hydrology staff operates WRAP to evaluate water rights applications to determine water availability and to ensure that senior water rights are protected.

Staff used the Full Authorization simulation of the Colorado WAM to evaluate impacts on other water rights as a result of the application. The period of record for the Colorado WAM is 1940 through 2016. Staff first compared the pre- and post-application volume reliability for all basin water rights if the diversion rights (22.8125 acre-feet with a priority date of December 31, 1898) were moved to the location of the reservoir. Staff found that 8 water rights were affected as a result of moving the diversion right to the location of the reservoir, although the impacts were minimal.

Next, staff compared the pre- and post- application volume reliability for all basin water rights if the junior diversion rights were converted to a storage based right for the reservoir. Resource Protection staff's recommended environmental flow requirements were applied during this simulation, including the applicable hydrologic condition. Staff calculated the applicable hydrologic condition in accordance with 30 Texas Administrative Code (TAC) §298.320(e). Staff generated regulated flows at USGS Gage No. 08151500 (Llano River near Llano, Tx) and calculated the accumulated streamflow for the preceding twelve months for each month of the period of record. Staff then calculated the 5th percentile (severe conditions), 25th percentile (dry conditions), 50th percentile (average conditions), and 75th percentile (wet conditions) for the years 1941 through 2016; adjusted these values to comply with the rule, and used these values to determine which condition applied to each month in the period of record. Staff assumed average conditions for 1940.

Staff performed an iterative simulation to determine the volume of diversion rights that would be needed to support the reservoir. Staff determined that at least 12 acre-feet of the diversion rights would be needed to support the reservoir. Staff then compared the pre- and post- application volume reliability for all basin water rights if 12 acre-feet of the diversion rights were converted to reservoir storage. Staff found that 23 water rights were negatively affected as a result of converting the diversion right to storage, although the effects were minimal. The simulation

results indicate that the reservoir the reservoir is 100% full during 58% of the months of the period of record and 75% full during 67% of the months of the period of record.

Conclusion

Hydrology staff can support granting the application provided the permit includes the following special conditions:

1. Owner shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when required to meet the needs of downstream senior water rights or comply with the environmental flow requirements in this amendment.
2. Owner shall determine the hydrologic condition once per season. The conditions present on the last day of the month of the preceding season shall determine the hydrologic conditions for the following season. Owner shall calculate cumulative streamflow for the previous twelve months at USGS Gage No. 08151500 (Llano River near Llano, Tx) on the last day of the preceding season to determine the applicable hydrologic condition. The cumulative streamflow values for determining the hydrologic condition are as follows:

MEASUREMENT POINT	Cumulative Streamflow (acre-feet)			
	SEVERE	DRY	AVERAGE	WET
Llano River near Llano, Tx	Less than 90,810	90,810 – 145,660	145,660 – 364,540	Greater than 364,540

3. Owner shall maintain a record of the calculated hydrologic condition, based on the measured streamflow at USGS Gage No. 08151500 (Llano River near Llano, Tx) and the amount of water passed through the reservoir to meet the environmental flow requirements.
4. Upon issuance of this amendment, Owner shall not utilize 12 acre-feet of its 22.8126 acre-feet of diversion rights authorized by this certificate.



Jenny M Torres
Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Lillian Beerman, Project Manager **Date:** July 13, 2021
Water Rights Permitting Team

Through: Jason Godeaux, Team Leader
Resource Protection Team

 Jennifer Allis, Senior Water Conservation Specialist
Resource Protection Team

From:  Trent Jennings, Water Conservation Specialist
Resource Protection Team

Subject: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burluson
ADJ 1496A
CN604395129, CN604395079, CN604395152, CN604395145
Maynard Creek, Colorado River Basin
Kimble County

APPLICATION SUMMARY

Certificate of Adjudication No. 14-1496 (Certificate) authorizes Gardner Family Trust; Jack Garner Gardner, Jr.; Gina Gay Gardner, and Lou Zane Gardner Burluson (Applicants) to maintain a reservoir and impound eight acre-feet of water on Maynard Creek, Colorado River Basin and to divert 22.8126 acre-feet of water per year from the reservoir at a maximum combined diversion rate of 1.34 cfs (600 gpm) for agricultural purposes to irrigate 34.54 acres of land in Kimble County.

Applicants request to amend the Certificate to authorize an additional on-channel reservoir and impounding 6.7 acre-feet of water on Maynard Creek for recreational use in Kimble County. Applicants request authorization to maintain the reservoir with a portion of the 22.8126 acre-feet of water authorized for diversion.

WATER CONSERVATION REVIEW

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

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

RECOMMENDATIONS

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

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Russell Bond
Water Rights Permitting Team

Date: August 19, 2014

Thru:

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

Subject: Judith A. Gardner, Trustee, et. al., Application to amend Certificate of Adjudication No. 14-1496 to add an existing reservoir and dam, Maynard Creek, Colorado River Basin, Kimble County.

The applicant seeks authorization to amend Certificate of Adjudication No. 14-1496 to add an existing reservoir and dam in Kimble County. The dam impounds 6.7 acre-feet.

An investigation was conducted on June 25, 2013, of the dam by staff from the San Angelo Regional Office. The dam was found to be 2.95 feet high.

The dam for the reservoir is not within the jurisdiction of 30 Texas Administrative Code, Chapter 299, §299.1.

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



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

RE: Consent signed by Judith Ann Gardner

Keaton Blackburn <[REDACTED]>

Fri 2/18/2022 2:08 PM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Ms. Beerman, thanks for the update. Keaton Blackburn.

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Sent: Friday, February 18, 2022 1:23 PM

To: Keaton Blackburn <[REDACTED]>

Subject: Re: Consent signed by Judith Ann Gardner

Mr. Blackburn,

The draft amendment/notice is in Section Review. Once I receive Section comments, I will forward the draft to you to share with the Gardner Family Trust for comments. It should be very soon.

Thank you,

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

From: Keaton Blackburn <[REDACTED]>

Sent: Friday, February 18, 2022 1:11 PM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Subject: RE: Consent signed by Judith Ann Gardner

Ms. Beerman, can you give me an update on the status of the amendment of the Certificate of Adjudication?

Thank you, Keaton Blackburn.

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Sent: Monday, October 4, 2021 5:59 PM

To: Keaton Blackburn <[REDACTED]>

Cc: Judy Gardner <[REDACTED]> Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Subject: Re: Consent signed by Judith Ann Gardner

Mr. Blackburn and Mrs. Gardner,

I have added Mrs. Gardner's consent to the file.

Much appreciated.

Thank you both.

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

Consent signed by Judith Ann Gardner

Keaton Blackburn [REDACTED]

Mon 10/4/2021 3:10 PM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 1 attachments (136 KB)

2021, September 29-Consent by Judith Ann Gardner.PDF;

Ms. Beerman, I have attached the Consent signed by Judith Ann Gardner in Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496. Thank you, William Keaton Blackburn.

William Keaton Blackburn
Attorney at Law
101 North 6th Street
Post Office Box 446
Junction, Texas 76849
Phone: 325-446-3336
Fax: 325-446-3337

NOTICE TO RECIPIENT: THIS E-MAIL (AND ANY ATTACHMENTS) IS MEANT FOR ONLY THE INTENDED RECIPIENT OF THE TRANSMISSION, AND MAY BE A COMMUNICATION PRIVILEGED BY LAW. IF YOU RECEIVED THIS E-MAIL IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS E-MAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY ME IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU IN ADVANCE FOR YOUR COOPERATION.

CONSENT

My name is Judith Ann Gardner. I am a co-owner of a tract of land located in Kimble County in the Ernest Francke Original Survey No. 529, Abstract No. 123 (the "Tract"). The other owners of the Tract are: Judith Ann Gardner, Trustee, Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson. I do not own any portion of Certificate of Adjudication No. 14-1496.

I consent to the location of the dam and reservoir on the Tract and the impoundment of water in the reservoir for recreational use by Judith Ann Gardner, Trustee, Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson as authorized in Certificate of Adjudication No. 14-1496.



Judith Ann Gardner

Signed on September 29, 2021

Gardner_Family_Trust_COA_14-1496A_Consent_to_Inundate

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Mon 9/27/2021 10:03 AM

To: Keaton Blackburn [REDACTED]
Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Mr. Blackburn,

Below is the email I sent to Mrs. Gardner. CONSENT can be sent and signed electronically. It does not need to notarized.

Mrs. Judith Gardner,

Below is an example language of consent language. It is just an example. Tailor consent to match your situation: your property, your water right, and your application. There is no one way to provide consent, except to include the word "consent," the water right, the parcel of land, the name of the individuals they are providing consent to, and the signature of the individual providing consent.

I used an example from a family with shared parcels of land and a reservoir similar to your family. I filled in the location of your reservoir. Please share with your attorney.

My name is [*name of property owner*]. I am a [*co-*] owner of a tract of land located in Kimble County in the Ernest Francke Original Survey No. 529, Abstract No. 123 (the "Tract"). The other owners of the Tract are [*property owners with water right*]. I do not own any portion of Certificate of Adjudication No. 14-1496.

I consent to the location of the dam and reservoir on the Tract and the impoundment of water in the reservoir for recreational use by Judith Ann Gardner, Trustee, Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson as authorized in Certificate of Adjudication No. 14-1496.

Signature

Printed Name

If you have any questions or concerns, do not hesitate to contact me.

Your assistance is much appreciated.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

PHONE MEMO

From: Lillian E. Beerman	TO: William Keaton Blackburn
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: September 27, 2021	RE: Consent

Requested consent from Judy Gardner to inundate property that she owns.
Followed up with an email and example.

Lillian E. Beerman, Ph.D. September 27 2021

Re: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Wed 7/21/2021 1:39 PM

To: Keaton Blackburn <[REDACTED]>

great

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Keaton Blackburn <[REDACTED]>
Sent: Wednesday, July 21, 2021 1:38 PM
To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Subject: RE: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Yes, we received it from the post office. Keaton Blackburn.

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Sent: Wednesday, July 21, 2021 11:00 AM
To: Keaton Blackburn <[REDACTED]>
Subject: Re: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Mr. Blackburn,
Please inform me whether or not you received the receipt for the Certified Mail. If you have not, I will have our assistant contact the TCEQ mailroom which is responsible for returning certified mail receipts.
Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Sent: Friday, July 16, 2021 11:26 AM
To: Keaton Blackburn <[REDACTED]>
Subject: Re: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Mr. Blackburn,

My apologies for not responding sooner. Yes I did receive your response to our Request for Information and I circulated it amongst our technical and administrative staff for review. Technical review of the application has resumed. I will keep you informed of the application's progress.

Your prompt response to our request is appreciated.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Keaton Blackburn [REDACTED]
Sent: Friday, July 16, 2021 10:34 AM
To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Subject: RE: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Ms. Beerman, I mailed to you last week, by certified mail, return receipt requested, the Gardner's Response to the TCEQ Request for Information. The Response is due the 19th. I trust by now you have received the mailed Response. Thank you, Keaton

Re: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 7/16/2021 11:26 AM

To: Keaton Blackburn [REDACTED]

Mr. Blackburn,

My apologies for not responding sooner. Yes I did receive your response to our Request for Information and I circulated it amongst our technical and administrative staff for review. Technical review of the application has resumed. I will keep you informed of the application's progress.

Your prompt response to our request is appreciated.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Keaton Blackburn [REDACTED]

Sent: Friday, July 16, 2021 10:34 AM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Subject: RE: Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Ms. Beerman, I mailed to you last week, by certified mail, return receipt requested, the Gardner's Response to the TCEQ Request for Information. The Response is due the 19th. I trust by now you have received the mailed Response. Thank you, Keaton Blackburn.

WILLIAM KEATON BLACKBURN
Attorney at Law
101 North 6th Street
Post Office Box 446
Junction, Texas 76849-0446

Telephone No.: 325-446-3336

Telecopier No.: 325-446-3337

Email address: 

July 7, 2021

RECEIVED

JUL 12 2021

Water Availability Division

Ms. Lillian E. Beerman, Ph.D.
Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission On Environmental Quality
Post Office Box 13087
Austin, Texas 78711-3087

Re: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code §11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Beerman:

This is the reply to the letter dated April 16, 2021, sent by TCEQ to Ms. Caroline Runge, requesting certain information pertaining to Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496. After discussing the April 16th letter with the Applicants and reviewing the requested information therein, the Applicants state:

1 The co-owners of the Certificate, Bonnie B. Gardner and Shannon Gardner, **are not** co-applicants with their respective diversion rights and appurtenant land to be considered part of the Application.

2. A recorded copy of the deed for the property where the proposed dam and reservoir are located is herewith furnished. The deed includes the metes and bounds description of the land. The deed is recorded in Volume 133, Page 169 of the Deed Records of Kimble County, Texas.

The reservoir **does not** inundate any property not owned by the Applicants.

Please let me know if the Applicants need to furnish any additional information.

Yours truly,

A handwritten signature in black ink, appearing to read "William Keaton Blackburn". The signature is written in a cursive style with a large, prominent initial "W".

William Keaton Blackburn

wkb
enc.
sent certified mail, return receipt requested

INDEXED

29105

ASSUMPTION GENERAL WARRANTY DEED

DATE: January 18, 1996

GRANTORS: JACK GARNER GARDNER, JR. and wife, ROBIN GARDNER

GRANTORS' MAILING ADDRESS (INCLUDING COUNTY): 2110 North Main Street, Junction, Texas 76849 (Kimble County)

GRANTEES: JACK G. GARDNER AND WIFE, JUDY K. GARDNER

GRANTEES' MAILING ADDRESS (INCLUDING COUNTY): HC 87, Box 59, Junction, Texas 76849 (Kimble County)

CONSIDERATION: TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid by the Grantees to the Grantors, the receipt and sufficiency of which is hereby acknowledged by the Grantor, and for the further consideration of the agreement by the Grantees to assume and pay that one certain promissory note in the original principal sum of \$338,100.00, dated December 20, 1995, executed by Jack G. Gardner and wife, Judy K. Gardner, and Gary Gardner (also being the same person as Jack Garner Gardner, Jr.) and wife, Robin Gardner, and payable to the order of the Farm Credit Bank of Texas, as therein provided, and which promissory note is secured by a Deed of Trust Lien retained in a Deed of Trust dated December 20, 1995, executed by Jack G. Gardner and wife, Judy K. Gardner, and Gary Gardner and wife, Robin Gardner, to Arnold R. Henson, Trustee, recorded in Volume 81, Page 371 of the Deed of Trust Records of Kimble County, Texas, and Grantees also agree to keep and perform all of the covenants and obligations contained in the Deed of Trust

PROPERTY (INCLUDING ANY IMPROVEMENTS):

FIRST TRACT: Being all that certain tract of parcel of land lying and being situated in the County of Kimble, State of Texas, comprising a total of 216.30 acres of land, more or less, being approximately 140.59 acres out of Survey No. 529, E. Francke, Abstract No. 123 and approximately 75.71 acres out of Survey No. 528, H. Warnke, Abstract No. 733. The said 216.30 acres being out of lands described as 278 acres in the Last Will and Testament of Mrs. Joe M. (Bonnie) Gardner bequeathed to Shannon Gardner and recorded in Volume 29, Page 865 of the Probate Records of Kimble County, Texas. The said 216.30 acres being further described by metes and bounds as follows:

BEGINNING at a 5/8" iron stake found in the southeast line of said Survey No. 529 marking the most easterly north corner of a certain 362.82 acre tract described in a Deed of Gift to Joseph Conrad Robbins executed April 18, 1978 and recorded in Volume 93, Page 947 of the Deed Records of Kimble County, Texas and being N 45 deg. 58' E, 4617.54 feet from a 2-way fence corner post taken as the south corner of said Survey No. 529;

THENCE S 45 deg. 36' W along fence with the northwest line of a certain 251.22 acre tract this day surveyed a distance of 969.19 feet to a 5/8" iron stake found by fence corner;

Deed 133/160

THENCE S 46 deg. 30' W with said northwest line a distance of 568.89 feet to a 1/2" set iron stake;

THENCE S 46 deg. 30' W with the northwest line of a certain 120.60 acre tract this day surveyed a distance of 675.72 feet to a found 5/8" iron stake;

THENCE N 44 deg. 39' W with the northeast line of said 120.60 acre tract a distance of 1292.76 feet to a 1/4" iron stake found marking the most westerly north corner of aforesaid 362.82 acre tract and being in the southeast line of a certain 194.8 acre tract (Vol. 122 Pg. 388);

THENCE along fence with the southeast line of said 194.8 acre tract as follows:

N 44 deg. 58' E, 701.27 feet;
 N 43 deg. 16' E, 340.83 feet; 19" Sycamore
 N 29 deg. 45' E, 33.24 feet; 20" Bur Oak and
 N 14 deg. 42' E, 36.62 feet; Cedar post against bluff

THENCE generally along bluff on the northwest side of Maynard Creek and said southeast line of said 194.8 acre tract as follows:

N 29 deg. 43' E, 118.38 feet;
 N 13 deg. 08' E, 98.11 feet;
 N 37 deg. 01' E, 977.55 feet;
 N 48 deg. 11' E, 860.64 feet;
 N 59 deg. 33' E, 127.57 feet;
 N 58 deg. 59' E, 266.95 feet;
 N 63 deg. 40' E, 312.03 feet; and
 N 9 deg. 25' E, 99.03 feet to a large dead cedar fence corner tree being the W.N.W. corner of a certain 23.89 acre tract (Vol. 94 Pg. 57);

THENCE S 21 deg. 29' E crossing Maynard Creek with the west line of said 23.89 acre tract a distance of 320.33 feet to a fence corner post;

THENCE along fence line with the south line of said 23.89 acre tract as follows:

N 62 deg. 28' E, 213.73 feet;
 S 80 deg. 04' E, 481.46 feet;
 N 87 deg. 25' E, 142.80 feet; and
 S 70 deg. 33' E, 660.07 feet to a fence corner post;

THENCE N 46 deg. 17' E with the southeast line of said 23.89 acre tract a distance of 559.66 feet to a fence corner post;

THENCE N 45 deg. 21' E along fence with the southeast line of said 23.89 acre tract a distance of 587.19 feet to a concrete right of way marker in the south line of Interstate No. 10;

THENCE N 82 deg. 45' E with said south line of said highway a distance of 54.70 feet to a concrete right of way marker;

THENCE along fence with the west line of a certain 49.345 acre tract (Vol. 93 Pg. 350) as follows:

S 44 deg. 47' W, 436.20 feet;
 S 30 deg. 57' W, 310.41 feet;
 S 6 deg. 03' W, 120.46 feet;
 S 6 deg. 16' E, 1539.18 feet to a fence corner post;

THENCE S 46 deg. 13' W along fence with the northwest line of a certain sixth tract (Vol. 79 Pg. 155) a distance of 1751.36 feet to a fence corner post;

THENCE N 47 deg. 55' W with the northeast line of aforesaid 362.82 acre tract a distance of 1405.40 feet to the place of BEGINNING, containing 217.30 acres of land.

SAVE AND EXCEPT from the above described tract a certain 1.0 acre tract described in Volume 5, Page 143 of the Private Survey Records of Kimble County, Texas and being further described by metes and bounds as follows:

BEGINNING at a 2-1/2" iron pipe post marking the southwest corner of a said 1.0 acre tract and being N 45 deg. 56' E, 5705.77 feet and S 77 deg. 30' E 98.67 feet from the west corner of Survey No. 528, H. Warnke;

THENCE S 12 deg. 53' W, 208.76 feet to a 2-1/2" iron pipe post;

THENCE S 77 deg. 40' E, 208.76 feet to a 2-1/2" iron pipe post;

THENCE N 12 deg. 53' E, 208.76 feet to a point;

THENCE N 70 deg. 40' W, 208.76 feet to the place of BEGINNING.

The above described property in FIRST TRACT is the same property described in a Deed from Shannon Gardner, a widow, to Jack Garner Gardner, Jr. and wife, Robin Gardner, dated December 5, 1995, recorded in Volume 132, Page 753 of the Deed Records of Kimble County, Texas.

SECOND TRACT: Being all that certain tract or parcel of land lying and being situated in the County of Kimble, State of Texas, comprising a total of 241.22 acres of land, more or less, being approximately 199.02 acres out of Survey No. 528, H. Warnke, Abstract No. 733, approximately 12.9 acres out of Survey No. 35, H. Cooper, Abstract No. 1116 and approximately 29.3 acres out of the W.T. Gardner Survey SF 16057, Abstract No. 2220. The said 241.22 acres being part of a certain 362.82 acre tract described in a Deed of Gift to Joseph Conrad Robbins executed April 18, 1978 and recorded in Volume 93, Page 947 of the Deed Records of Kimble County, Texas. The said 241.22 acres being further described by metes and bounds as follows:

BEGINNING at a 5/8" iron stake found marking the most easterly north corner of said 362.82 acre tract and being N 45 deg. 58' W, 4617.54 feet from a 2-way fence corner post taken as the south corner of Survey No. 529, E. Francke, Abstract No. 123;

THENCE S 45 deg. 36' W along fence with the southeast line of a certain 216.30 acre tract a distance of 969.19 feet to a 5/8" iron stake found by fence corner;

THENCE S 46 deg. 30' W with said southeast line of said 216.30 acre tract a distance of 568.89 feet to a set 1/2" iron stake;

THENCE S 25 deg. 28' E over and across said 362.82 acre tract along the top of bluff a distance of 1475.00 feet to a set 1/2" iron stake;

THENCE S 51 deg. 34' W over and across said 362.82 acre tract a distance of 1689.64 feet to a 1/2" iron stake set in fence and northeast line of a certain 154.20 acre tract (Vol. 98 Pg. 36);

THENCE S 45 deg. 45' E along fence and northeast line of said 154.20 acre tract a distance of 279.45 feet to a set 1/2" iron stake;

THENCE S 45 deg. 14' E with the northeast line of said 154.20 acre tract and southwest line of said Survey No. 528 a distance of 1518.66 feet to a fence corner post taken as the south corner of said Survey No. 528;

THENCE N 89 deg. 56' E along fence and north line of a certain 52.6 acre tract (Vol. 40 Pg. 569) a distance of 1908.80 feet to a point being 14 feet north of a 1/2" iron stake set by fence corner post;

THENCE N 0 deg. 02' E along fence and west line of a certain 320 acre tract (Vol. 98 Pg. 36) a distance of 1911.96 feet to a fence corner post taken as the northwest corner of Survey No. 5, G.H. & S.A. Ry. Co., Abstract No. 159;

THENCE N 44 deg. 42' E with the northwest line of said 320 acre tract, at 3.35 feet pass set 1/2" iron stake by fence angle post and continue in all a distance of 1028.35 feet to a fence corner post;

THENCE N 43 deg. 34' W along fence a distance of 1558.25 feet to a fence corner post;

THENCE N 47 deg. 55' W with the southwest line of aforesaid 216.30 acre tract a distance of 1405.40 feet to the place of BEGINNING, and being the same property partitioned to Julie Robbins Wick and Ananda Gordon Robbins in a Partition Deed dated November 24, 1995, recorded in Volume 132, Page 744 of the Deed Records of Kimble County, Texas, and being the same property described in a Deed from Julie Robbins Wick to Jack Garner Gardner, Jr. and wife, Robin Gardner, dated December 5, 1995, recorded in Volume 132, Page 758 of the Deed Records of Kimble County, Texas, and being the same property described in a Deed from Ananda Gordon Robbins, a single man, to Jack Garner Gardner, Jr. and wife, Robin Gardner, dated December 5, 1995, recorded in Volume 132, Page 762 of the Deed Records of Kimble County, Texas.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. Easement Agreement by and between Shannon Gardner and Joseph Conrad Robbins, dated October 17, 1995, recorded in Volume 132, Page 721 of the Deed Records of Kimble County, Texas.

2. Easement Agreement by and between Julie Robbins Wick and husband, Gerald L. Wick, Ananda Gordon Robbins, and Joseph Conrad Robbins and wife, Laura Robbins, in a Partition Deed, dated November 24, 1995, recorded in Volume 132, Page 744 of the Deed Records of Kimble County, Texas.

3. Telephone easement from Joe M. Gardner and wife, Bonnie B. Gardner, to James P. Rieck, dated November 19, 1948, recorded in Volume 56, Page 306 of the Deed Records of Kimble County, Texas.
4. Electric Easement from Joe M. Gardner and wife, Bonnie B. Gardner, to Kimble Electric Cooperative, Inc., dated December 1, 1941, recorded in Volume 78, Page 282 of the Deed Records of Kimble County, Texas.
5. A cemetery located on a 1.0 acre tract described in Volume 5, Page 143 of the Private Survey Records of Kimble County, Texas, and subject to the present and future use of the cemetery and easement rights on, over and across the land for free uninterrupted access to and from the cemetery and regulation hereof by any state or federal laws.
6. Telephone Easement from Bonnie B. Gardner, to General Telephone Company, dated September 13, 1976, recorded in Volume 91, Page 257 of the Deed Records of Kimble County, Texas.
7. Road easement from Jack Gardner, executor of the Estate of Bonnie B. Gardner, deceased, to Jack Gardner, Zane G. Holland, Shannon Gardner, Rufe Cole Holland, Gina Gardner, Gary Gardner and Lou Zane Gardner Burleson, dated May 23, 1990, recorded in Volume 118, Page 494 of the Deed Records of Kimble County, Texas.
8. Certificate of Adjudication No. 14-1496 authorizing Bonnie B. Gardner to appropriate water as set forth in a document dated August 15, 1980, recorded in Volume 3, Page 216 of the Water Rights Records of Kimble County, Texas.
9. Subject to the past and future action of Maynard Creek by means of accretion, erosion or avulsion.
10. Reservation by the State of Texas of one-eighth (1/8) of the oil, gas and other minerals from Survey SF 16057 in a patent for 195.9 acres of land to Wilburn Thaddeus Gardner, dated February 21, 1961, recorded in Volume 4, Page 434 of the Patent Records of Kimble County, Texas.
11. Subject to the past and future action of Maynard Creek by means of accretion, erosion or avulsion.
12. County road KC 276 traversing the property and all rights the public has for travel thereon and any use thereof by the public.
13. Order adopting rules of Kimble County, Texas, for private sewage facilities, recorded in Volume 6, Page 580 of the Commissioners Court Minutes of Kimble County, Texas, Order amending rules of Kimble County, Texas, for on-site sewage facilities, recorded in Volume 7, Page 64 of the Commissioners Court Minutes of Kimble County, Texas, and revision of rules by the Commissioner Court, recorded in Volume 7, Page 95 of the Commissioners Court Minutes of Kimble County, Texas.
14. Any excess acreage in any survey which contains more acreage than the patented amount for that survey and for which the State of Texas has not been paid.

15. Active or inactive quarry or pit for caliche, limestone materials or other earthen materials existing on the property subject to regulation by the Texas Railroad Commission under the Texas Natural Resources Code, Section 133, et seq., Quarry Safety Act, Vernon's Texas Civil Code Annotated.

16. Subject to rights and claims of co-tenants in the minerals and to the rights of anyone claiming under them, including but not limited to rights of partition, claims for improvement, claims for reimbursement, creditor's claims, owelty of partition, and agreements between co-tenants.

17. Rights or claims of adjoining property owners in and to that portion of the property, if any, which lies inside record title boundary but outside fences, and inside fences but outside record title boundary.

18. Any land lying within the confines of any public roadway which the public might have acquired by fee simple title or by prescription, dedication or otherwise, and subject to the rights of the public therein.

19. Any and all easements and rights-of-way visible and apparent upon the ground, yet unrecorded.

Grantors, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, GRANT, SELL, AND CONVEY to Grantees the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantees, Grantees' heirs, executors, administrators, successors, or assigns forever. Grantors bind Grantors and Grantors's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantees and Grantees' heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

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

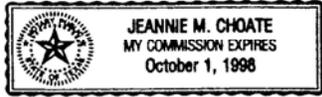
Jack H. Gardner Jr.
JACK GARNER GARDNER, JR.

Robin Gardner
ROBIN GARDNER

THE STATE OF TEXAS *
*
COUNTY OF KIMBLE *

This instrument was acknowledged before me on the

22nd day of January, 1996, by JACK GARNER GARDNER, JR. and wife, ROBIN GARDNER.



Jeannie M. Choate
Notary Public, State of Texas
Name printed or stamped:

My commission expires: _____

FILED FOR RECORD

THE 1st DAY OF Feb.
A.D., 19 96
AT 2:20 O'CLOCK P. M.

STATE OF TEXAS - **29105**
COUNTY OF KIMBLE

I hereby certify that this instrument was FILED FOR RECORD on the date and at the time entered hereon by me and was duly RECORDED in the Volume and Page of the _____ Records of Kimble County, Texas.

ELAINE CARPENTER
COUNTY CLERK, KIMBLE COUNTY, TEXAS.



Elaine Carpenter
County Clerk, Kimble County, Texas

BY Haydee Torres
HAYDEE TORRES, DEPUTY
NICOLE NEWBURY, DEPUTY

VOL. _____ PAGE _____
RECORDED _____

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

Prepared by:

William Keaton Blackburn
Attorney at Law
Post Office Box 446
Junction, Texas 76849

Gardner Family Trust_COA No. 14-1496A_Post ADC RFI_Extension

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Tue 6/22/2021 6:31 PM

To: Keaton Blackburn <[REDACTED]> Judy Gardner <[REDACTED]>

Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>; [REDACTED]
[REDACTED]

 1 attachments (318 KB)

Gardner_14-1496A_Post_ADC_RFI_Ext_Letter_06.22.2021.pdf;

Mr. W. Keaton Blackburn,

An extension for Gardner Family Trust's Response to TCEQ Request for Information has been approved. The new due date is July 19, 2021.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you,

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

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

June 22, 2021

William Keaton Blackburn, Attorney at Law
101 North 6th Street
Junction, TX 76849

VIA EMAIL

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner
and Lou Zane Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Mr. Blackburn:

This acknowledges the request, on June 21, 2021, of the applicants' request for an extension of time to respond to the Texas Commission on Environmental Quality (TCEQ) request for additional information, letters dated April 16, 2021 and May 21, 2021.

A 30-day extension is granted until July 19, 2021, and after that date the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18. No further extensions will be granted associated with this request for information.

If you have any questions concerning the application, please contact Lillian Beerman via email at lillian.beerman@tceq.texas.gov or by telephone at (512) 239-4019.

Sincerely,

A handwritten signature in cursive script that reads "J. Brooke McGregor".

Brooke McGregor, Manager
Water Rights Permitting and Availability Section
Water Availability Division

cc. Judith A. Gardner, Trustee, Gardner Family Trust - Via Email
Tami Russell, Manager, Menard County Underground Water District - Via Email

RE: Gardner_Family_Trust_COA No. 14-1496A

Keaton Blackburn · [REDACTED]

Mon 6/21/2021 8:45 AM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Ms. Beerman:

1. Yes, I am representing the Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, J.R., Gina Gay Gardner, and Lou Zane Gardner Burleson in their application to amend Certificate of Adjudication No. 14-1496

2. I hereby request a 30-day extension to respond to the Request For Information.

Thank you, William Keaton Blackburn, Attorney at Law, State Bar No. 02387500, 101 North 6th Street, Post Office Box 446, Junction, TX 76849, phone: 325-446-3336 and fax: 325-446-3337.

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Sent: Tuesday, June 15, 2021 4:17 PM

To: [REDACTED]

Cc: Judy Gardner <[REDACTED]>

Subject: Gardner_Family_Trust_COA No. 14-1496A

Mr. Keaton Blackburn,

As we discussed, please submit via email:

1. A statement that you will be representing Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, J.R., Gina Gay Gardner, and Lou Zane Gardner Burleson in their application to amend Certificate of Adjudication No. 14-1496; and
2. A request for a 30-day extension to respond to the Request for Information.

Mrs. Judith Gardner has requested an extension, however, I recommend that you again request an extension alongside your statement that you will representing the Applicants. If you have any questions, please do not hesitate to contact me.

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

PHONE MEMO

From: Judith Gardner	TO: Lillian E. Beerman
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: June 16, 2021	RE: Response to Post ADC RFI

Received a call from Judith Gardner, Trustee, Gardner Family Trust.

Explained that I spoke with Mr. Blackburn and understood that he would be representing her. He will send a request for an extension.

Had called her office number and spoke with her secretary.

Lillian E. Beerman, Ph.D. June 16, 2021

Gardner Family Trust_COA No. 14-1496A

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Tue 6/15/2021 5:39 PM

To: Judy Gardner <[REDACTED]>
Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Mrs. Judith Gardner,

My apologies for not getting in touch with you sooner. I spoke with Mr. Blackburn on Friday and explained the requirements for the Request for Information.

I spoke briefly with him this afternoon as well, giving him instructions. I asked Mr. Blackburn to send us an email stating that he will act as your contact for the application to amend COA 14-1496 and to request an extension.

I received your extension request and it was fine, but my supervisor recommended that Mr. Blackburn also request it in the same letter in which he states that he act as your contact.

I believe the new due date for the extension will be July 17, 2021.

Please if you have any questions or concerns, do not hesitate to contact me. I will reach out to you tomorrow morning.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

[↶ Reply all](#) [✕](#) [🗑 Delete](#) [🚫 Junk](#) [Block](#) [⋮](#)

Gardner_Family_Trust_COA No. 14-1496A

LB

Lillian Beerman

Tue 6/15/2021 4:16 PM

To: [REDACTED]

Cc: Judy Gardner <[REDACTED]>



Gardner_Family_Trust_14-149...

1 MB

Mr. Keaton Blackburn,

As we discussed, please submit via email:

1. A statement that you will be representing Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, J.R., Gina Gay Gardner, and Lou Zane Gardner Burleson in their application to amend Certificate of Adjudication No. 14-1496; and
2. A request for a 30-day extension to respond to the Request for Information.

Mrs. Judith Gardner has requested an extension, however, I recommend that you again request an extension alongside your statement that you will representing the Applicants.

If you have any questions, please do not hesitate to contact me.

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

[Reply](#) | [Reply all](#) | [Forward](#)

PHONE MEMO

From: Keaton Blackburn	TO: Lillian E. Beerman
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: June 15, 2021	RE: Response to Post ADC RFI

Call to Keaton Blackburn, applicant contact for Judith Gardner, Trustee, Gardner Family Trust.

Asked Mr. Blackburn to send an email stating that he will be acting as their contact and requesting an extension. Also sent an email.

Lillian E. Beerman, Ph.D. June 15, 2021

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

April 16, 2021

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

VIA EMAIL

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Bursleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Caroline Runge:

During technical review of the above referenced application, it has been determined that additional information is required to complete the analysis.

Our records indicate that the Application to amend the Certificate of Adjudication No. 14-1496 (Certificate), submitted June 10, 2014, states that Applicants, Gardner Family Trust (trustee, Judith Ann Gardner), Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Bursleson, own the entire 35-acre-foot diversion right and appurtenant land authorized by the Certificate.

However, a Change of Ownership was completed on March 5, 2014, stating that Applicants acquired only a portion of the Certificate, authorizing the impoundment of eight acre-feet of water in an existing reservoir and the diversion of 22.8126 acre-feet of water per year to irrigate 34.54 acres of land out of a 140.591-acre tract. The Memorandum also indicates that the remaining portion of the Certificate is owned by Bonnie B. Gardner, retaining 10.01 acre-feet of water per year to irrigate 15.16 acres of land out of a 68.581-acre tract, and Shannon Gardner, retaining 2.18 acre-feet of water per year to irrigate 3.30 acres of land out of a 13.528-acre-tract (see attached records).

Before we can continue to process the application, please provide the following information:

1. Confirm whether or not co-owners of the Certificate, Bonnie B. Gardner and Shannon Gardner, are co-applicants, with their respective diversion rights and appurtenant land to be considered part of the Application.

2. Provide a recorded copy of the deed(s) for the property where the proposed dam and reservoir are located. The deed(s) should include the legal description of the land (metes and bounds). Please note that the application must be in the name(s) of all landowners as shown on the deeds; otherwise, proper consent of the application must be provided pursuant to Title 30 Texas Administrative Code § 295.10.

If the reservoir inundates property not owned by the Applicants, provide a letter of consent from all landowners not joining the application, stating that the landowner is aware that the permit will be owned by the Applicants and will not become appurtenant to their land.

Please provide the requested information by May 17, 2021 or the application may be returned pursuant to Title 30 TAC § 281.19.

If you have questions concerning this application, please do not hesitate to contact me at lillian.beerman@tceq.texas.gov or by phone at (512) 239-4019.

Sincerely,

Lillian E. Beerman, Ph.D.

Lillian E. Beerman, Ph.D., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Ms. Judith A. Gardner, Trustee
Gardner Family Trust
P.O. Box 207
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication No. 14-1496

Dear Ms. Gardner:

Based on the receipt of the *General Warranty Deed* dated December 5, 1995, the *Assumption General Warranty Deed* dated January 18, 1996, the *Assumption General Warranty Deed* dated January 18, 1996, the *Last Will and Testament, Probate Order and Inventory List for the Estate of Jack G. Gardner* dated August 31, 2005, the *Independent Executrix's Distribution Deed* dated on December 16, 2005, the *Gift Deed* dated December 26, 2012, the *Change of Ownership Form*, and the \$100 change of ownership fee we are changing our records to reflect the Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Lou Zane Gardner Burleson, and Gina Gay Gardner, as part owners of Certificate of Adjudication 14-1496.

Certificate of Adjudication No. 14-1496 authorizes the Gardner Family Trust and Jack G. Gardner, Jr., et al. each a 50% undivided right to:

1. Maintain an existing on-channel dam and reservoir, and impound therein not to exceed eight acre-feet of water on Maynard Creek.
2. Divert and use 11.406 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 17.272 acres out of a 140.59 acre tract in Abstract No. 123, Ernst Francke Survey No. 529 in Kimble County.

Staff will continue to process the concurrent amendment application No. 14-1496A to authorize an additional on-channel reservoir and impound 6.7 acre-feet of water for recreational purposes in Kimble County.

If you have any questions concerning this matter please contact me at (512) 239-0321 or via e-mail at russell.bond@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Shannon Gardner
1003 Eagle Drive
Lyons, Colorado 80540

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Shannon Gardner:

This letter is to reflect an error we made on June 23, 1993 in our ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed you as the sole owner of the Certificate; however, Bonnie M. Gardner only conveyed 154 acres of her ownership of the water right to Shannon Gardner based on the document submitted at that time. Shannon conveyed only 140.591 acres of the 154 acre tract to Jack G. Gardner, Jr. and wife, Robin Gardner. The remaining 2.18 acre-feet of water for irrigation of 3.295 acres remains appurtenant to the remaining 13.528-acre tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Shannon Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Bonnie B. Gardner
(aka Mrs. Joe M. Gardner)
Route 87, Box 57
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Bonnie B. Gardner:

This letter is to reflect an error on June 23, 1993, made in ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed Shannon Gardner as the sole owner of the Certificate; however, only 154 of the 215.7 acres appurtenant to the water right were conveyed to Shannon Gardner based upon the document submitted at that time. The remaining 10.01 acre-feet of water for irrigation of 15.16 acres remains appurtenant to the remaining 61.581 acre-tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Bonnie B. Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Jimmy D. Goodall
P.O. Box 34
Roosevelt, Texas 76874

RE: Change of Ownership
A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 2.18-acre-feet of water per year from the reservoir for agricultural purposes to irrigate 3.3 acres out of a 13.528-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Goodall:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land. Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. _____ Certificate-of-Adjudication-No. _____

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this **"Change of Ownership" form** together with the following:

- (1) **Certified** and/or **recorded** copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of **deeds and other such conveyances** or, in case of an inheritance, the (a) **will**, (b) **probate order** and (c) **will inventory**.
- (2) **\$100 fee** for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name: _____

Address: _____

Telephone No(s) : Home: _____ Office: _____ Fax: _____

Email Address: _____

Customer Reference Number (if issued):CN _____

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this _____ day of _____, 201__

Notary Public, State of Texas

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Herman T. Hunt, Jr.
~~P.O. Box 928~~
Junction, Texas 76849

RE: Change of Ownership
A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 10.01 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 15.16 acres out of a 61.581-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Hunt:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land. Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. _____ Certificate of Adjudication No. _____

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this **"Change of Ownership" form** together with the following:

- (1) **Certified and/or recorded** copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of **deeds and other such conveyances or**, in case of an inheritance, the (a) **will**, (b) **probate order** and (c) **will inventory**.
- (2) **\$100 fee** for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name: _____

Address: _____

Telephone No(s) : Home: _____ Office: _____ Fax: _____

Email Address: _____

Customer Reference Number (if issued): CN _____

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this _____ day of _____, 201__

Notary Public, State of Texas

Through a series of conveyances, Judith Ann Gardner and Jack G. Gardner acquired 140.59 acres. Jack passed away leaving his 50% interest to the Gardner Family Trust. Judith, individually, gifted her 50% portion of the land, undivided, to: Jack Garner Gardner, Jr.; Lou Zane Gardner Burleson; and Gina Gay Gardner.

Ownership of water right is as follows:

1.	Bonnie B. Gardner	10.01 ac/ft for irr of 15.16 ac out of 61.581 ac tr
2.	Shannon Gardner	2.18 ac/ft for irr of 3.30 ac out of 13.528 ac tr
3-4.	Undivided 50% interest: Gardner Family Trust	22.8126 ac/ft for irr of 34.54 ac out of 140.591 ac tr & 8 ac/ft impoundment
	Undivided 50% interest: Jack G. Gardner, Jr., et al.	<hr/> 35 ac/ft for irr of 53 ac out of 215.7 ac tr 8.0 ac/ft impoundment



Change Initiated

Data Entry Made

PHONE MEMO

From: Keaton Blackburn	TO: Lillian E. Beerman
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: June 11, 2021	RE: Response to Post ADC RFI

Returned call to Keaton Blackburn, applicant contact for Judith Gardner, Trustee, Gardner Family Trust.

Mr. Blackburn will be acting as their contact.

I explained the requirements of the RFI – portion of the water right and owners of the property to be inundated. Consent if necessary.

Lillian E. Beerman, Ph.D. June 15, 2021

Fw: Gardner_Family_Trust_14-1496A_Consent

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Tue 6/1/2021 3:55 PM

To: Judy Gardner [REDACTED]**Cc:** [REDACTED]; Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov> 1 attachments (26 KB)

Consent.docx;

Mrs. Gardner,

I sent the message below and the attached example of consent to your granddaughter Ms. Jessica Gardner. I discussed the extension with my supervisor. Your email was just fine and sufficient for an extension of a Request for Information. My supervisor wants me to wait until you have had the opportunity to discuss your application with Mr. Blackburn. We will need to know whether we send future correspondence to Mr. Blackburn or Ms. Runge or both. I will continue to include you and Jessica Gardner on all correspondence. The date that I send the letter has no bearing on the timeframe for your response. If after meeting with your attorney, you decide you still need an extension, your response will be due one month from the current June 17th deadline, which is July 17, 2021. Please let me know if you have any questions or concerns. Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>**Sent:** Friday, May 28, 2021 5:48 PM**To:** Jessica [REDACTED]**Cc:** Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>**Subject:** Gardner_Family_Trust_14-1496A_Consent

Ms. Jessica Gardner,

I spoke with your grandmother this morning. After she discusses the application we will likely proceed with an extension after she meets with her attorney, Mr. Blackburn, on June 10th. I am forwarding an email with an example of how you obtain consent from co-owners of property where the dam and the reservoir is located. If you have any questions or concerns, please do not hesitate to contact me. Thank you,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team

Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Sent: Friday, May 28, 2021 5:37 PM
To: Judy Gardner <[REDACTED]>
Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Subject: Re: Gardner Water Rights

Mrs. Gardner,
I am sending example language for consent as an attachment to this email. I will send to your granddaughter Jessica as well. I hope it is helpful.
Please let me know when you have met with your attorney. We will process your request for an extension after your meeting. At such time, please let us know whether he will be acting as your attorney in your interaction with TCEQ on your application to amend COA 14-1496.
I wish you the best over your Memorial Day weekend.
Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Judy Gardner <[REDACTED]>
Sent: Friday, May 28, 2021 11:07 AM
To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>
Subject: Gardner Water Rights

As per our discussion this date, I have made an appointment with Keaton Blackburn attorney, June 10th. I am asking for an extension in regards to the information I need to obtain .
Thank you so much for your help. I appreciate. Judy Gardner
Sent from my iPhone

Judy Gardner - water rights

Judy Gardner < >

Tue 6/1/2021 3:34 PM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Did you receive e-mail asking for an extended time? Thanks

Sent from my iPhone

Gardner_Family_Trust_14-1496A_Consent

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 5/28/2021 5:48 PM

To: Jessica [REDACTED]
Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 1 attachments (26 KB)

Consent.docx;

Ms. Jessica Gardner,

I spoke with your grandmother this morning. After she discusses the application we will likely proceed with an extension after she meets with her attorney, Mr. Blackburn, on June 10th.

I am forwarding an email with an example of how you obtain consent from co-owners of property where the dam and the reservoir is located.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

From: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Sent: Friday, May 28, 2021 5:37 PM

To: Judy Gardner [REDACTED]

Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Subject: Re: Gardner Water Rights

Mrs. Gardner,

I am sending example language for consent as an attachment to this email. I will send to your granddaughter Jessica as well. I hope it is helpful.

Please let me know when you have met with your attorney. We will process your request for an extension after your meeting. At such time, please let us know whether he will be acting as your attorney in your interaction with TCEQ on your application to amend COA 14-1496.

I wish you the best over your Memorial Day weekend.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

Re: Gardner Water Rights

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 5/28/2021 1:37 PM

To: Judy Gardner [REDACTED]

Mrs. Gardner,

Thank you for your email. I will draft an extension request for approval from TCEQ managers this afternoon. I am glad that you got an appointment with your attorney. Please if you, or your counsel, have any questions, contact me. If I cannot answer it, I will find someone who can.

Thank You,

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

Gardner Water Rights

Judy Gardner < >

Fri 5/28/2021 11:07 AM

To: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

As per our discussion this date, I have made an appointment with Keaton Blackburn attorney, June 10th. I am asking for an extension in regards to the information I need to obtain .

Thank you so much for your help. I appreciate. Judy Gardner

Sent from my iPhone

PHONE MEMO

From: Judith Gardner	TO: Lillian E. Beerman
Phone: [REDACTED] [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: May 28, 2021	RE: Response to Post ADC RFI

Received a call from Judith Gardner, Trustee, Gardner Family Trust.

Mrs. Gardner received the RFI. She had several questions and I tried to help her.

I did learn that the application is in the four names listed on the application and does not include Bonnie or Shannon Gardner. Both of who are deceased.

She says the 22 a-f would then be correct.

She does have some questions about the ownership of the land to be inundated. Also, it was unclear, but one of the applicants may be deceased.

Mrs. Gardner wanted to discuss with her estate attorney, Mr. Blackburn before responding. I concurred. She has formally requested an extension in an email.

She did clarify that the dam has been on family property for over 100 years.

Lillian E. Beerman, Ph.D. May 28, 2021

Re: Gardner Water Rights

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 5/28/2021 5:37 PM

To: Judy Gardner [REDACTED]
Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 1 attachments (26 KB)

Consent.docx;

Mrs. Gardner,

I am sending example language for consent as an attachment to this email. I will send to your granddaughter Jessica as well. I hope it is helpful.

Please let me know when you have met with your attorney. We will process your request for an extension after your meeting. At such time, please let us know whether he will be acting as your attorney in your interaction with TCEQ on your application to amend COA 14-1496.

I wish you the best over your Memorial Day weekend.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

Mrs. Judith Gardner,

Below is an example language of consent language. It is just an example. Tailor consent to match your situation: your property, your water right, and your application. There is no one way to provide consent, except to include the word "consent," the water right, the parcel of land, the name of the individuals they are providing consent to, and the signature of the individual providing consent.

I used an example from a family with shared parcels of land and a reservoir similar to your family. The consent was notarized. I filled in the location of your reservoir. Please share with your attorney.

My name is [*name of property owner*]. I am a [*co-*] owner of a tract of land located in Kimble County in the Ernest Francke Original Survey No. 529, Abstract No. 123 (the "Tract"). The other owners of the Tract are [*property owners with water right*]. I do not own any portion of Certificate of Adjudication No. 14-1496.

I consent to the location of the dam and reservoir on the Tract and the impoundment of water in the reservoir for recreational use by Judith Ann Gardner, Trustee, Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Burleson as authorized in Certificate of Adjudication No. 14-1496.

Signature

Printed Name

NOTARIZED

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

May 21, 2021

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

VIA EMAIL

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane
Gardner Burluson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Caroline Runge:

This is a follow-up to our previous letter dated April 16, 2021 requesting additional information for the referenced application (copy attached).

To date, a response has not been received.

Please submit the information requested by June 17, 2021 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 email at lillian.beerman@tceq.texas.gov or by telephone at (512) 239-4019.

Sincerely,

Lillian E. Beerman, Ph.D.

Lillian E. Beerman, Ph.D., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

cc. Judith A. Gardner, Trustee, Gardner Family Trust - Via Email
Tami Russell, Manager, Menard County Underground Water District - Via Email

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

April 16, 2021

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

VIA EMAIL

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Bursleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Caroline Runge:

During technical review of the above referenced application, it has been determined that additional information is required to complete the analysis.

Our records indicate that the Application to amend the Certificate of Adjudication No. 14-1496 (Certificate), submitted June 10, 2014, states that Applicants, Gardner Family Trust (trustee, Judith Ann Gardner), Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Bursleson, own the entire 35-acre-foot diversion right and appurtenant land authorized by the Certificate.

However, a Change of Ownership was completed on March 5, 2014, stating that Applicants acquired only a portion of the Certificate, authorizing the impoundment of eight acre-feet of water in an existing reservoir and the diversion of 22.8126 acre-feet of water per year to irrigate 34.54 acres of land out of a 140.591-acre tract. The Memorandum also indicates that the remaining portion of the Certificate is owned by Bonnie B. Gardner, retaining 10.01 acre-feet of water per year to irrigate 15.16 acres of land out of a 68.581-acre tract, and Shannon Gardner, retaining 2.18 acre-feet of water per year to irrigate 3.30 acres of land out of a 13.528-acre-tract (see attached records).

Before we can continue to process the application, please provide the following information:

1. Confirm whether or not co-owners of the Certificate, Bonnie B. Gardner and Shannon Gardner, are co-applicants, with their respective diversion rights and appurtenant land to be considered part of the Application.

2. Provide a recorded copy of the deed(s) for the property where the proposed dam and reservoir are located. The deed(s) should include the legal description of the land (metes and bounds). Please note that the application must be in the name(s) of all landowners as shown on the deeds; otherwise, proper consent of the application must be provided pursuant to Title 30 Texas Administrative Code § 295.10.

If the reservoir inundates property not owned by the Applicants, provide a letter of consent from all landowners not joining the application, stating that the landowner is aware that the permit will be owned by the Applicants and will not become appurtenant to their land.

Please provide the requested information by May 17, 2021 or the application may be returned pursuant to Title 30 TAC § 281.19.

If you have questions concerning this application, please do not hesitate to contact me at lillian.beerman@tceq.texas.gov or by phone at (512) 239-4019.

Sincerely,

Lillian E. Beerman, Ph.D.

Lillian E. Beerman, Ph.D., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Ms. Judith A. Gardner, Trustee
Gardner Family Trust
P.O. Box 207
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication No. 14-1496

Dear Ms. Gardner:

Based on the receipt of the *General Warranty Deed* dated December 5, 1995, the *Assumption General Warranty Deed* dated January 18, 1996, the *Assumption General Warranty Deed* dated January 18, 1996, the *Last Will and Testament, Probate Order and Inventory List for the Estate of Jack G. Gardner* dated August 31, 2005, the *Independent Executrix's Distribution Deed* dated on December 16, 2005, the *Gift Deed* dated December 26, 2012, the *Change of Ownership Form*, and the \$100 change of ownership fee we are changing our records to reflect the Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Lou Zane Gardner Burleson, and Gina Gay Gardner, as part owners of Certificate of Adjudication 14-1496.

Certificate of Adjudication No.14-1496 authorizes the Gardner Family Trust and Jack G. Gardner, Jr., et al. each a 50% undivided right to:

1. Maintain an existing on-channel dam and reservoir, and impound therein not to exceed eight acre-feet of water on Maynard Creek.
2. Divert and use 11.406 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 17.272 acres out of a 140.59 acre tract in Abstract No. 123, Ernst Francke Survey No. 529 in Kimble County.

Staff will continue to process the concurrent amendment application No. 14-1496A to authorize an additional on-channel reservoir and impound 6.7 acre-feet of water for recreational purposes in Kimble County.

If you have any questions concerning this matter please contact me at (512) 239-0321 or via e-mail at russell.bond@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Shannon Gardner
1003 Eagle Drive
Lyons, Colorado 80540

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Shannon Gardner:

This letter is to reflect an error we made on June 23, 1993 in our ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed you as the sole owner of the Certificate; however, Bonnie M. Gardner only conveyed 154 acres of her ownership of the water right to Shannon Gardner based on the document submitted at that time. Shannon conveyed only 140.591 acres of the 154 acre tract to Jack G. Gardner, Jr. and wife, Robin Gardner. The remaining 2.18 acre-feet of water for irrigation of 3.295 acres remains appurtenant to the remaining 13.528-acre tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Shannon Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Bonnie B. Gardner
(aka Mrs. Joe M. Gardner)
Route 87, Box 57
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Bonnie B. Gardner:

This letter is to reflect an error on June 23, 1993, made in ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed Shannon Gardner as the sole owner of the Certificate; however, only 154 of the 215.7 acres appurtenant to the water right were conveyed to Shannon Gardner based upon the document submitted at that time. The remaining 10.01 acre-feet of water for irrigation of 15.16 acres remains appurtenant to the remaining 61.581 acre-tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Bonnie B. Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Jimmy D. Goodall
~~P.O. Box 34~~
Roosevelt, Texas 76874

RE: Change of Ownership

A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 2.18-acre-feet of water per year from the reservoir for agricultural purposes to irrigate 3.3 acres out of a 13.528-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Goodall:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land. Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. Certificate of Adjudication No.

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this "Change of Ownership" form together with the following:

- (1) Certified and/or recorded copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of deeds and other such conveyances or, in case of an inheritance, the (a) will, (b) probate order and (c) will inventory.
(2) \$100 fee for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name:

Address:

Telephone No(s) : Home: Office: Fax:

Email Address:

Customer Reference Number (if issued):CN

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this day of, 201

Notary Public, State of Texas

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Herman T. Hunt, Jr.
~~P.O. Box 928~~
Junction, Texas 76849

RE: Change of Ownership

A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 10.01 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 15.16 acres out of a 61.581-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Hunt:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land.

Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. Certificate of Adjudication No.

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this "Change of Ownership" form together with the following:

- (1) Certified and/or recorded copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of deeds and other such conveyances or, in case of an inheritance, the (a) will, (b) probate order and (c) will inventory.
(2) \$100 fee for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name:

Address:

Telephone No(s) : Home: Office: Fax:

Email Address:

Customer Reference Number (if issued):CN

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this day of, 201

Notary Public, State of Texas

Through a series of conveyances, Judith Ann Gardner and Jack G. Gardner acquired 140.59 acres. Jack passed away leaving his 50% interest to the Gardner Family Trust. Judith, individually, gifted her 50% portion of the land, undivided, to: Jack Garner Gardner, Jr.; Lou Zane Gardner Burleson; and Gina Gay Gardner.

Ownership of water right is as follows:

1.	Bonnie B. Gardner	10.01 ac/ft for irr of 15.16 ac out of 61.581 ac tr
2.	Shannon Gardner	2.18 ac/ft for irr of 3.30 ac out of 13.528 ac tr
3-4.	Undivided 50% interest: Gardner Family Trust	22.8126 ac/ft for irr of 34.54 ac out of 140.591 ac tr & 8 ac/ft impoundment
	Undivided 50% interest: Jack G. Gardner, Jr., et al.	<hr/> 35 ac/ft for irr of 53 ac out of 215.7 ac tr 8.0 ac/ft impoundment



Change Initiated

Data Entry Made

Gardner_Family_Trust_14-1496A_Post_ADC_Followup_RFI

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 5/21/2021 5:20 PM

To:

Cc:

<r [REDACTED] Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 2 attachments (1 MB)

Gardener_14-1496A_Post_ADC_Followup_RFI_05.21.2021.pdf; Gardener_14-1496A_Post_ADC_RFI_05.21.2021.pdf;

Ms. Caroline Runge,

The due date to respond to the Request for Information for Gardner Family Trust's Application No. 14-1496A to amend Certificate of Adjudication No. 14-1496 was been extended. The revised due date is now June 17, 2021.

Please review the attached correspondence. If you have ANY questions, please do not hesitate to contact me.

I have shared the Request for Information with Applicant contact, Judith A. Gardner, Trustee, Gardner Family Trust and Tami Russell, manager, Menard County UWD.

Thank You,

Lillian E. Beerman, Ph.D.
Water Rights Permitting Team
Water Availability Division
512-239-4019
lillian.beerman@tceq.texas.gov

PHONE MEMO

From: Judith Gardner	TO: Lillian E. Beerman
Phone: [REDACTED] [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: May 20, 2021	RE: Response to Post ADC RFI

Received a call from Judith Gardner, Trustee, Gardner Family Trust. Mrs. Gardner provided a history of the water right and the application. I informed her that she would have to provide the response to the request for information, because, at the moment, her counsel was unavailable. She said she had a copy of the deed. She was upset that the water rights process had been fraught with controversy.

Mrs. Gardner agreed to provide the information. She asked that I contact her through her granddaughter Jessica.

Two calls to Jessie Gardner to locate Judith Gardner. Could not reach her. Jessie Gardner, granddaughter of Judith Gardner, Trustee for Gardner Family Trust, agreed to be the go-between for contact with Judith Gardner as needed to complete their response to the Post ADC RFI.

Lillian E. Beerman, Ph.D. May 27, 2021

PHONE MEMO

From: Lillian E. Beerman	TO: Jessie Gardner
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: May 20, 2021	RE: Response to Post ADC RFI

Two calls to Jessie Gardner to locate Judith Gardner. Could not reach her. Jessie Gardner, granddaughter of Judith Gardner, Trustee for Gardner Family Trust, agreed to be the go-between for contact with Judith Gardner as needed to complete their response to the Post ADC RFI.

Lillian E. Beerman, Ph.D. May 24, 2021

PHONE MEMO

From: Lillian E. Beerman	TO: Tami Russell
Phone: [REDACTED]	Document: COA No. 14-1496A Gardner Family Trust
Date: May 20, 2021	RE: Response to Post ADC RFI

Ms. Russell agreed to help with the response on the Post ADC RFI for Gardner Family Trust . Given Ms. Runge's absence, she will be helpful as a go between TCEQ, Judith Gardner, and Caroline Runge.

Lillian E. Beerman, Ph.D. May 24, 2021

Gardner_Family_Trust_14-1496A_Post_ADC_RFI

Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

Fri 4/16/2021 3:31 PM

To:



Cc: Lillian Beerman <Lillian.Beerman@Tceq.Texas.Gov>

 1 attachments (1 MB)

Gardner_Family_Trust_14-1496_RFI_Post_ADC_Sent_04.16.2021.pdf;

Ms. Caroline Runge,

Attached is the RFI for Gardner Family Trust, Application No. 14-1496A to amend COA No. 14-1496.

Response is due COB Monday, May 17, 2021.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you,

Lillian E. Beerman, Ph.D.

Water Rights Permitting Team

Water Availability Division

512-239-4019

lillian.beerman@tceq.texas.gov

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

April 16, 2021

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

VIA EMAIL

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Bursleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Caroline Runge:

During technical review of the above referenced application, it has been determined that additional information is required to complete the analysis.

Our records indicate that the Application to amend the Certificate of Adjudication No. 14-1496 (Certificate), submitted June 10, 2014, states that Applicants, Gardner Family Trust (trustee, Judith Ann Gardner), Jack Garner Gardner, Jr., Gina Gay Gardner, and Lou Zane Gardner Bursleson, own the entire 35-acre-foot diversion right and appurtenant land authorized by the Certificate.

However, a Change of Ownership was completed on March 5, 2014, stating that Applicants acquired only a portion of the Certificate, authorizing the impoundment of eight acre-feet of water in an existing reservoir and the diversion of 22.8126 acre-feet of water per year to irrigate 34.54 acres of land out of a 140.591-acre tract. The Memorandum also indicates that the remaining portion of the Certificate is owned by Bonnie B. Gardner, retaining 10.01 acre-feet of water per year to irrigate 15.16 acres of land out of a 68.581-acre tract, and Shannon Gardner, retaining 2.18 acre-feet of water per year to irrigate 3.30 acres of land out of a 13.528-acre-tract (see attached records).

Before we can continue to process the application, please provide the following information:

1. Confirm whether or not co-owners of the Certificate, Bonnie B. Gardner and Shannon Gardner, are co-applicants, with their respective diversion rights and appurtenant land to be considered part of the Application.

2. Provide a recorded copy of the deed(s) for the property where the proposed dam and reservoir are located. The deed(s) should include the legal description of the land (metes and bounds). Please note that the application must be in the name(s) of all landowners as shown on the deeds; otherwise, proper consent of the application must be provided pursuant to Title 30 Texas Administrative Code § 295.10.

If the reservoir inundates property not owned by the Applicants, provide a letter of consent from all landowners not joining the application, stating that the landowner is aware that the permit will be owned by the Applicants and will not become appurtenant to their land.

Please provide the requested information by May 17, 2021 or the application may be returned pursuant to Title 30 TAC § 281.19.

If you have questions concerning this application, please do not hesitate to contact me at lillian.beerman@tceq.texas.gov or by phone at (512) 239-4019.

Sincerely,

Lillian E. Beerman, Ph.D.

Lillian E. Beerman, Ph.D., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Ms. Judith A. Gardner, Trustee
Gardner Family Trust
P.O. Box 207
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication No. 14-1496

Dear Ms. Gardner:

Based on the receipt of the *General Warranty Deed* dated December 5, 1995, the *Assumption General Warranty Deed* dated January 18, 1996, the *Assumption General Warranty Deed* dated January 18, 1996, the *Last Will and Testament, Probate Order and Inventory List for the Estate of Jack G. Gardner* dated August 31, 2005, the *Independent Executrix's Distribution Deed* dated on December 16, 2005, the *Gift Deed* dated December 26, 2012, the *Change of Ownership Form*, and the \$100 change of ownership fee we are changing our records to reflect the Gardner Family Trust, Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Lou Zane Gardner Burleson, and Gina Gay Gardner, as part owners of Certificate of Adjudication 14-1496.

Certificate of Adjudication No.14-1496 authorizes the Gardner Family Trust and Jack G. Gardner, Jr., et al. each a 50% undivided right to:

1. Maintain an existing on-channel dam and reservoir, and impound therein not to exceed eight acre-feet of water on Maynard Creek.
2. Divert and use 11.406 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 17.272 acres out of a 140.59 acre tract in Abstract No. 123, Ernst Francke Survey No. 529 in Kimble County.

Staff will continue to process the concurrent amendment application No. 14-1496A to authorize an additional on-channel reservoir and impound 6.7 acre-feet of water for recreational purposes in Kimble County.

If you have any questions concerning this matter please contact me at (512) 239-0321 or via e-mail at russell.bond@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Shannon Gardner
1003 Eagle Drive
Lyons, Colorado 80540

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Shannon Gardner:

This letter is to reflect an error we made on June 23, 1993 in our ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed you as the sole owner of the Certificate; however, Bonnie M. Gardner only conveyed 154 acres of her ownership of the water right to Shannon Gardner based on the document submitted at that time. Shannon conveyed only 140.591 acres of the 154 acre tract to Jack G. Gardner, Jr. and wife, Robin Gardner. The remaining 2.18 acre-feet of water for irrigation of 3.295 acres remains appurtenant to the remaining 13.528-acre tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Shannon Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script, appearing to read "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

The Estate of Bonnie B. Gardner
(aka Mrs. Joe M. Gardner)
Route 87, Box 57
Junction, Texas 76849

RE: Change of Ownership
Certificate of Adjudication 14-1496

To The Executor or Executrix of the Estate of Bonnie B. Gardner:

This letter is to reflect an error on June 23, 1993, made in ownership records transferring ownership of Certificate of Adjudication (Certificate) No. 14-1496. We erroneously listed Shannon Gardner as the sole owner of the Certificate; however, only 154 of the 215.7 acres appurtenant to the water right were conveyed to Shannon Gardner based upon the document submitted at that time. The remaining 10.01 acre-feet of water for irrigation of 15.16 acres remains appurtenant to the remaining 61.581 acre-tract unless conveyed otherwise; therefore, we have updated our records to show the Estate of Bonnie B. Gardner as the owner of that portion of this Certificate.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Jimmy D. Goodall
P.O. Box 34
Roosevelt, Texas 76874

RE: Change of Ownership
A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 2.18-acre-feet of water per year from the reservoir for agricultural purposes to irrigate 3.3 acres out of a 13.528-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Goodall:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land. Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. Certificate of Adjudication No.

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this "Change of Ownership" form together with the following:

- (1) Certified and/or recorded copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of deeds and other such conveyances or, in case of an inheritance, the (a) will, (b) probate order and (c) will inventory.
(2) \$100 fee for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name:

Address:

Telephone No(s) : Home: Office: Fax:

Email Address:

Customer Reference Number (if issued):CN

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this day of, 201

Notary Public, State of Texas

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 5, 2015

Mr. Herman T. Hunt, Jr.
~~P.O. Box 928~~
Junction, Texas 76849

RE: Change of Ownership
A portion of Certificate of Adjudication No. 14-1496 authorizes the diversion and use of 10.01 acre-feet of water per year from the reservoir for agricultural purposes to irrigate 15.16 acres out of a 61.581-acre tract; located in the Ernst Francke Survey No. 529, Abstract No. 123, Kimble County.

Dear Mr. Hunt:

According to the Kimble County Appraisal District, you appear to be an owner of a portion of the above referenced land and therefore possibly the water rights appurtenant to that land. Pursuant to Title 30 Texas Administrative Code (TAC) §§ 297.81-297.83, Relating to Conveyances of Land and Water Rights, before a change of ownership can be completed, please provide the following:

1. A completed *Change of Ownership Form* (enclosed).
2. **Recorded** copies of legal documents establishing a complete chain of title from the owner of record, Bonnie B. Gardner, to you. These documents usually consist of deeds and other such conveyances or, in case of inheritance, the (a) will, (b) probate order and (c) will inventory. Please include a copy of the metes and bounds (legal description of the land) and plat map.
3. The \$100 fee for changing the ownership records of the Certificate of Adjudication. Make your remittance payable to Texas Commission on Environmental Quality or TCEQ.

Pursuant to Title 30 TAC § 281.18, please submit the requested information and fee by December 29, 2014. In the event you are no longer the owner of the above referenced land, please provide any ownership information you may have.

If you have any questions concerning this matter please contact me via e-mail at Russell.Bond@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in black ink that reads "Russell Bond".

Russell Bond, Project Manager
Water Rights Permits Team
Water Availability Division, MC-160

Enclosure



Texas Commission on Environmental Quality

PO Box 13088, MC-160
Austin, Texas 78711-3088
Telephone (512) 239-4691, FAX (512) 239-4770

CHANGE OF OWNERSHIP FORM

Request for Transfer of

Permit No. _____ Certificate of Adjudication No. _____

Pursuant to TAC 297.81-297.83 relating to Conveyances of Land and Water Rights, the owners must provide the completed copy of this **"Change of Ownership" form** together with the following:

- (1) **Certified and/or recorded** copies of legal documents establishing a complete chain of title from the owner of record to the current owner. These documents usually consist of **deeds and other such conveyances or**, in case of an inheritance, the (a) **will**, (b) **probate order** and (c) **will inventory**.
- (2) **\$100 fee** for changing the ownership records of the permit/certificate of adjudication. Make your remittance payable to Texas Commission on Environmental Quality.

New Owner's Name: _____

Address: _____

Telephone No(s) : Home: _____ Office: _____ Fax: _____

Email Address: _____

Customer Reference Number (if issued): CN _____

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

Name (sign)

Name (sign)

Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this _____ day of _____, 201__

Notary Public, State of Texas

Through a series of conveyances, Judith Ann Gardner and Jack G. Gardner acquired 140.59 acres. Jack passed away leaving his 50% interest to the Gardner Family Trust. Judith, individually, gifted her 50% portion of the land, undivided, to: Jack Garner Gardner, Jr.; Lou Zane Gardner Burleson; and Gina Gay Gardner.

Ownership of water right is as follows:

1.	Bonnie B. Gardner	10.01 ac/ft for irr of 15.16 ac out of 61.581 ac tr
2.	Shannon Gardner	2.18 ac/ft for irr of 3.30 ac out of 13.528 ac tr
3-4.	Undivided 50% interest: Gardner Family Trust	22.8126 ac/ft for irr of 34.54 ac out of 140.591 ac tr & 8 ac/ft impoundment
	Undivided 50% interest: Jack G. Gardner, Jr., et al.	<hr/> 35 ac/ft for irr of 53 ac out of 215.7 ac tr 8.0 ac/ft impoundment



Change Initiated

Data Entry Made

TCEQ Interoffice Memorandum

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

Thru: *CK* Chris Kozlowski, Team Leader
Water Rights Permitting Team

From: Brent Rougeau, Project Manager
Water Rights Permitting Team

Date: October 12, 2017

Subject: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

The application and partial fees were received on June 9, 2014. Additional information and fees were received on June 11, June 16, July 16, August 20, 2014, July 10, 2015, February 3, February 10, March 9, March 10, 2016 and July 25, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on October 12, 2017. Mailed and published notice is required pursuant to Title 30 Texas Administrative Code § 295.158(b)(2).

Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Burleson have applied for an amendment to Certificate of Adjudication No. 14-1496 to authorize an additional reservoir on Maynard Creek, Colorado River Basin for recreational purposes in Kimble County.

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

Brent Rougeau

Brent Rougeau, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

CHIEF CLERKS OFFICE

2017 OCT 12 PM 1:44

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

OCC Mailed Notice Required YES NO

 Share  Copy link  Download  Delete  Copy to  Version history   Previous 8

From: Brent Rougeau
Sent on: Thursday, October 12, 2017 7:04:39 PM
To: Caroline Runge <[REDACTED]>
Subject: GARDNER FAMILY TRUST 14-1496
Attachments: Admin Complete Letter Gardner 14-1496A.pdf (79.17 KB)

Good Afternoon Caroline,

The Gardner Family Trust Application, 14-1496, has been declared administratively complete today.

Thank you
Brent Rougeau
512-239-0321

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 12, 2017

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane
Gardner Burluson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Runge:

This acknowledges receipt of the requested additional information on July 25, 2017.

The application was declared administratively complete and filed with the Office of the Chief Clerk on October 12, 2017. 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 at Brent.Rougeau@tceq.texas.gov or by phone at (512) 239-0321.

Sincerely,

Brent Rougeau, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section



16-MAR-16 10:18 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Paid In By</u>	<u>Check Number</u>	<u>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>
NOTICE FEES-WUP-	PTGU			M623017B			1156				N		B500048735		16-MAR-16	-\$1,154.32
WATER USE PERM	PTGU			141496A			031416						D6804304			
			NOTICE FEES WUP WATER USE PERMITS	GARDNER, JUDY			SPREDEAV				CK					
Total (Fee Code) :																-\$1,154.32



16-MAR-16 10:18 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Paid In By</u>	<u>Check Number</u>	<u>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			M623016			5358				N		B800048735		16-MAR-16	-\$100.00
	WUP			ADJ123755			031416				N		D6804304			
	WUP			WINTERROWD			SPREDEAU				CK					
	WUP			FARM												
	WUP			M623017A			1156				N		B800048735		16-MAR-16	-\$107.95
	WUP			141496A			031416				N		D6804304			
	WUP			GARDNER,			SPREDEAU				CK					
	WUP			JUDY												

Total (Fee Code) : -\$207.95

Grand Total : -\$1,962.27

**MENARD COUNTY WATER
CONTROL AND IMPROVEMENT DISTRICT NO. 1
P. O. Box 1215
Menard, Texas 76859**

Menard County Courthouse
2nd Floor
206 E. San Saba Street

Telephone: 325-396-3670
Fax : 325-396-3921
e-mail: [REDACTED]

24 July 2017

Mr. Brent Rougeau, Project Manager
Texas Commission on Environmental Quality
Water Rights Permitting Team- MC 160
P. O. Box 13087
Austin, TX 78711-13087

Re: Judith Ann Gardner, Trustee, Jack Gardner, Jr., Gina Gay Gardner
and Lou Zane Gardner Burlison
ADJ 1496
Application No. 1496A to Amend Certificate of Adjudication No. 1496

Dear Mr. Rougeau:

In response to your letter dated July 7, 2017, requesting additional information concerning the above-referenced application, the landowners confirm the following:

1. That the alternate source of water for the reservoir will be from Certificate of Adjudication No. 14-1496.
2. That there is no alternate source of water for the reservoir from any groundwater wells.

Please let me know if you need any additional information.

Thank you,

Sincerely yours,

Caroline R. Runge
Manager

RECEIVED
2017 JUL 25 A 8:24
WATER AVAILABILITY DIV.



From: Caroline Runge <[REDACTED]>
Sent on: Monday, July 24, 2017 9:13:51 PM
To: Brent Rougeau <Brent.Rougeau@Tceq.Texas.Gov>
Subject: Re: Gardner 14-1496 Follow Up RFI
Attachments: TCEQ- WR- 14-1496 -Gardner 7-24-2017.doc (29 KB)

Good Afternoon Brent-

I put in the mail today a hard copy of the attached letter regarding the Gardners WR 14-1496 application.

I appreciate your bringing it to my attention - I don't know how I missed responding to your first letter. Apologies.

Thank you,
Caroline

-----Original Message-----

From: Brent Rougeau
Sent: Friday, July 07, 2017 11:27 AM
To: mcuwd (mcuwd@wcc.net)
Subject: Gardner 14-1496 Follow Up RFI

Good Morning Caroline,

Please find a follow up RFI attached for the Gardner 14-1496 application.
Please respond by 7/24/17.

Thank you,
Brent Rougeau
512-239-0321

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

**MENARD COUNTY WATER
CONTROL AND IMPROVEMENT DISTRICT NO. 1
P. O. Box 1215
Menard, Texas 76859**

Menard County Courthouse
2nd Floor
206 E. San Saba Street

Telephone: 325-396-3670
Fax : 325-396-3921
e-mail: [REDACTED]

24 July 2017

Mr. Brent Rougeau, Project Manager
Texas Commission on Environmental Quality
Water Rights Permitting Team- MC 160
P. O. Box 13087
Austin, TX 78711-13087

Re: Judith Ann Gardner, Trustee, Jack Gardner, Jr., Gina Gay Gardner
and Lou Zane Gardner Burlison
ADJ 1496
Application No. 1496A to Amend Certificate of Adjudication No. 1496

Dear Mr. Rougeau:

In response to your letter dated July 7, 2017, requesting additional information concerning the above-referenced application, the landowners confirm the following:

1. That the alternate source of water for the reservoir will be from Certificate of Adjudication No. 14-1496.
2. That there is no alternate source of water for the reservoir from any groundwater wells.

Please let me know if you need any additional information.

Thank you,

Sincerely yours,

Caroline R. Runge
Manager

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 7, 2017

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

CERTIFIED MAIL

9489 0090 0027 6009 4090 79

RE: Gardner Family Trust, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane
Gardner Burleson
ADJ 1496
CN604395129, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Runge:

This is a follow-up to our previous letter dated May 23, 2017 (copy enclosed) requesting additional information for the referenced application. To date, a response has not been received.

Please submit the information requested by **July 24, 2017** 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 email at brent.rougeau@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script that reads "Brent Rougeau".

Brent Rougeau, Project Manager
Water Rights Permitting Team
Water Rights Permitting & Availability Section

Enclosure

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 23, 2017

Ms. Caroline Runge
Menard County Water Control and Improvement District No. 1
P.O. Box 1215
Menard, TX 76859

CERTIFIED MAIL

9489 0090 0027 6009 4094 51

RE: Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496
CN604368126, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 14-1496A to Amend Certificate of Adjudication No. 14-1496
Texas Water Code § 11.122, Requiring Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County

Dear Ms. Runge:

This acknowledges receipt, on March 8 and March 10, 2016 of additional information and fees in the amount of \$1,262.27 (Receipt Nos. M623017A and M623017B, enclosed).

The March 8, 2016 response requested TCEQ to confirm that seven acre-feet of water would be sufficient to permit the reservoir. Any permit issued for the impoundment would include provisions to protect other water rights and the environment. Texas Water Code 11.122(b) requires that any amendment issued must be conditioned so there is no greater impact on other water rights or the environment than there would be if the impoundment was not there. Any amendment granted by TCEQ would include provisions requiring that water be passed downstream to more senior water rights if needed by those water rights.

Staff notes that the priority date of Certificate of Adjudication 14-1496 is 1898. In general, if a more senior water right is used, the water right would be available more often to compensate for any impacts associated with the impoundment.

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

1. Confirm that the alternate source of water for the reservoir will be from Certificate of Adjudication No. 14-1496. The March 8, 2016 response indicates Certificate of Adjudication 14-1928.

Judith A. Gardner Trustee
Application No. 14-1496A
May 23, 2017
Page 2 of 2

2. Provide the following information on any groundwater well or wells to be used as an alternate source including but not limited to: the depth of well, the name of the aquifer and formation from which the water is withdrawn, a 24-hour pump test, and water quality information. Water quality information should include, but not be limited to, the following: chloride, sulfate, total dissolved solids (TDS), pH, and temperature. Temperature must be measured on site at the time the groundwater sample is collected. If data for on-site wells are unavailable, historical data collected from similar sized wells drawing water from the same aquifer may be provided.

Please provide the requested information and fees by **June 22, 2017** 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 email at brent.rougeau@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,



Brent Rougeau, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Enclosures

 Share  Copy link  Download  Delete  Copy to  Version history   Previous 1

From: Caroline Runge <[REDACTED]>
Sent on: Wednesday, March 9, 2016 12:43:05 AM
To: Brent Rougeau <Brent.Rougeau@Tceq.Texas.Gov>
Subject: Amendment for COA 1496- Gardner
Attachments: TCEQ- WR- 14-1496 -Gardner 3-8-2016.doc (28.5 KB)

Mr. Rougeau:

The attached letter regarding the permit for the Gardner's dam in Kimble County was mailed to you today, together with a check for fees and a USGS topo map.

I will try to contact you by telephone tomorrow.

Thank you,

Caroline Runge

Caroline R. Runge, Manager
Menard County Water Control and Improvement District No. 1
P. O. Box 1215
Menard, TX 76859
Telephone; 325-396-3670
Fax: 325-396-3921
e-mail: [REDACTED]



This email has been checked for viruses by Avast antivirus software.
www.avast.com

**MENARD COUNTY WATER
CONTROL AND IMPROVEMENT DISTRICT NO. 1
P. O. Box 1215
Menard, Texas 76859**

Menard County Courthouse
2nd Floor
206 E. San Saba Street

Telephone: 325-396-3670
Fax : 325-396-3921
e-mail: [REDACTED]

8 March 2016

Mr. Brent Rogeau, Project Manager
Texas Commission on Environmental Quality
Water Rights Permitting Team- MC 160
P. O. Box 13087
Austin, TX 78711-13087

CERTIFIED MAIL
and e-mail

Re: Judith Ann Gardner, Trustee, Jack Gardner, Jr., Gina Gay Gardner
and Lou Zane Gardner Burleson
ADJ 1496
Application No. 1496A to Amend Certificate of Adjudication No. 1496

Dear Mr. Rogeau:

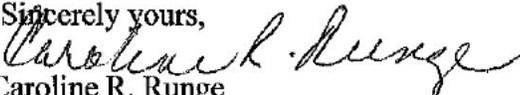
The Gardner family has requested my help with getting their dam permitted and have passed on to me your letter dated January 13, 2016. Their attorney, Keaton Blackburn, has also furnished me with some, but not all, of the documents relating to their application.

It is my understanding that the Gardners are owners of Certificate of Adjudication 1928 authorizing 35 acre-feet of irrigation on Maynard Creek. I have recommended that they apply to amend that COA to add recreational use for the water necessary to permit the dam. Before I file the additional amendment please confirm whether the addition of 7 acre-feet of recreation use will be sufficient.

1. In response to your request for additional information, I have mailed separately a USGS 7.5 minute topographic map with the location of the subject dam marked. There are no other reservoirs on the Gardner property. A copy of a partial section of the Roosevelt, TX USGS topographic map is attached to this letter with the dam site marked.
2. Applicants inform me that the names of all the persons or entities who own the property on which the dam is located are on the application which has been submitted.
3. A check in the amount of \$1262.27 has been mailed with the USGS topo map.

I will call you to determine what additional information you require.

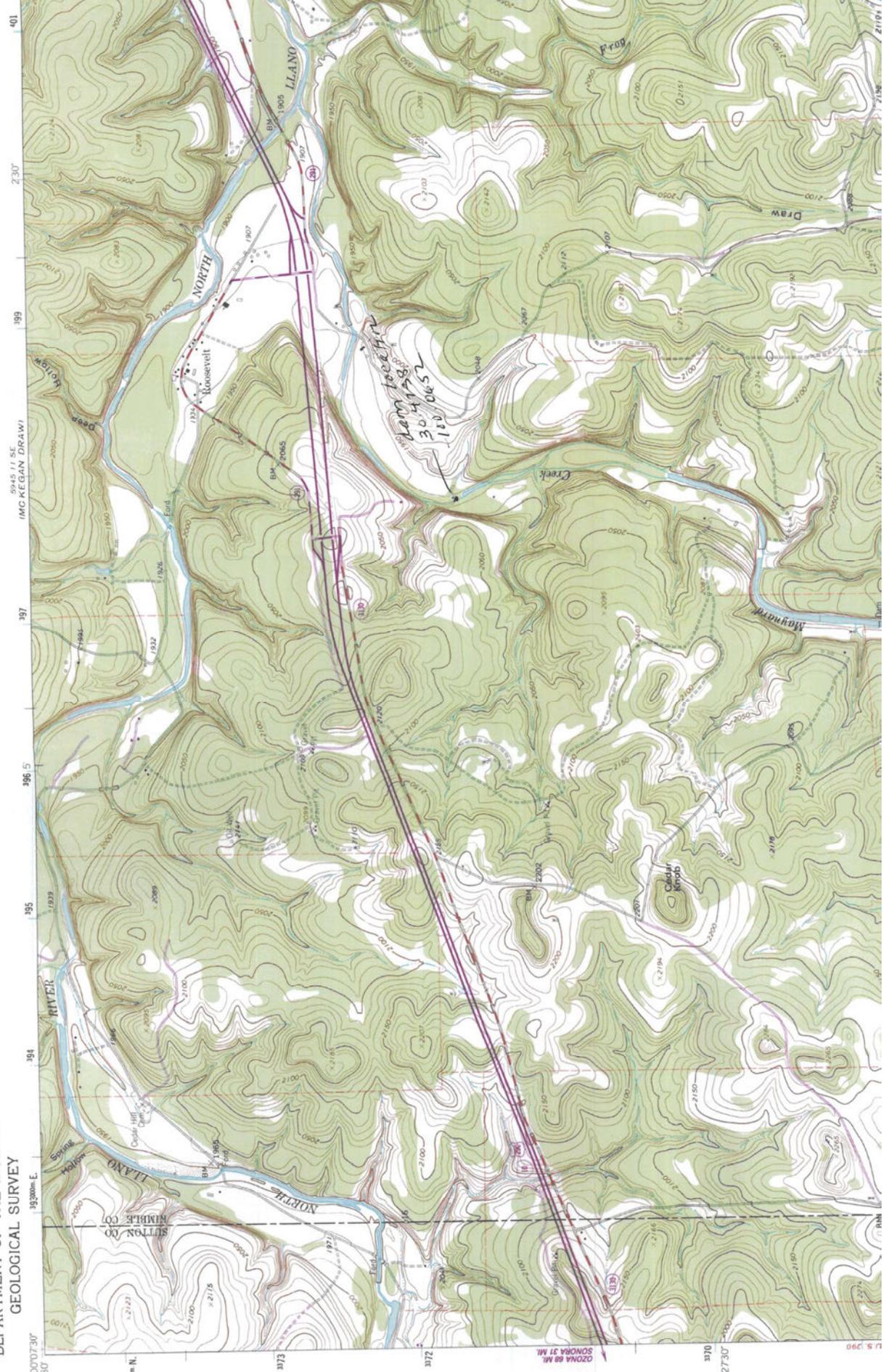
Thank you for your consideration of this application.

Sincerely yours,

Caroline R. Runge
Manager

10-MAR-16 PM 4:01

896 ft SW
(PROKLEG MTN)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



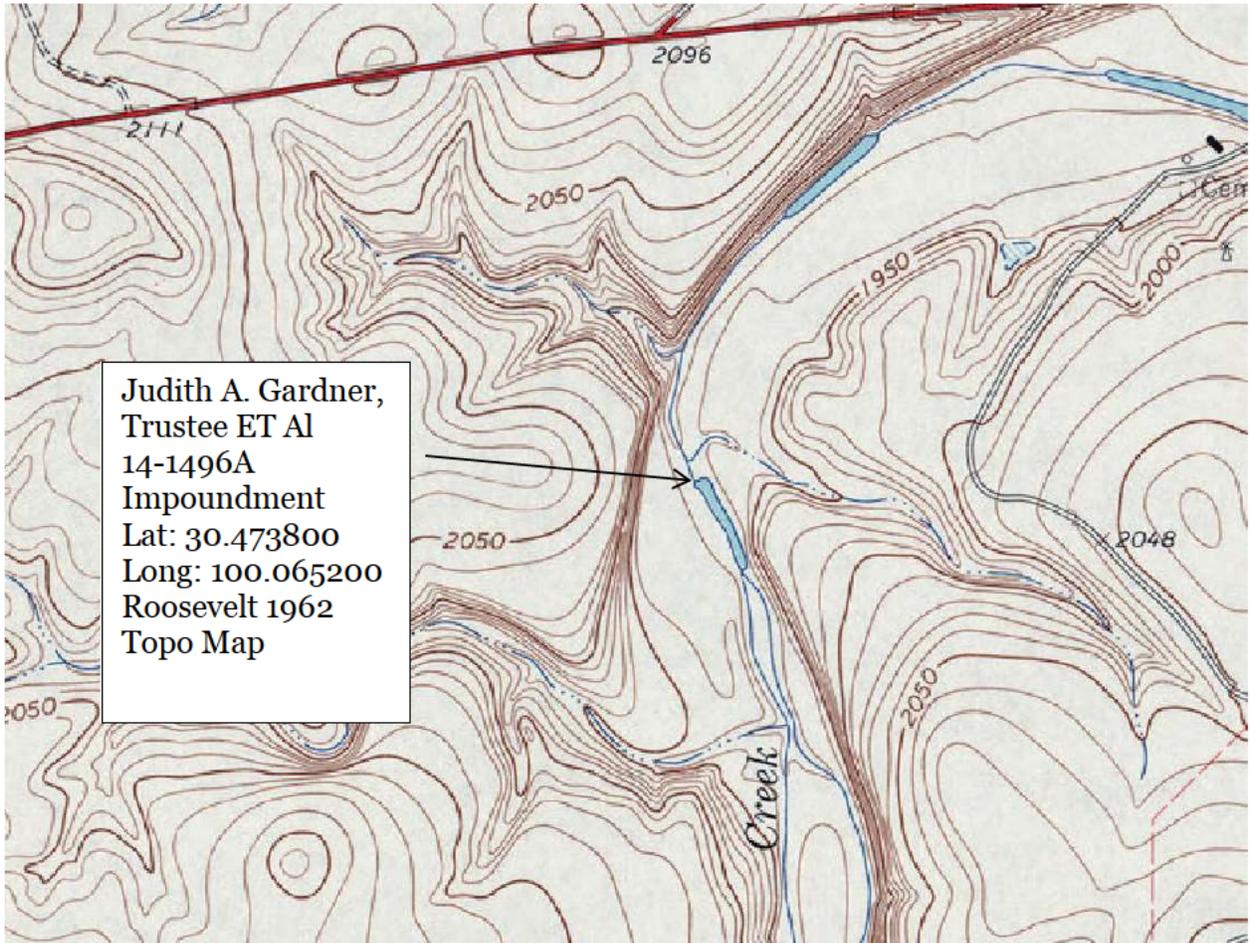
5945 1/2 SE
(MC KEGAN DRAW)

100°07'30" 30' 50" 1930m E 194 195 196 5' 197 199 230' 401

3173 3172 3170 27'30" 3170 3171 3172 3173

SONORA 88 MI
SONORA 31 MI

U.S. 1990



Judith A. Gardner,
Trustee ET Al
14-1496A
Impoundment
Lat: 30.473800
Long: 100.065200
Roosevelt 1962
Topo Map

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 8, 2016

Ms. Judith A. Gardner, Trustee
P.O. Box 207
Junction, Texas 76849

CERTIFIED MAIL

RE: Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496
CN604368126, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 1496A to Amend Certificate of Adjudication No. 1496
Texas Water Code §11.122, Requiring Full Basin Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County, Texas

Dear Ms. Gardner:

This acknowledges receipt, on February 8, 2016, of the applicants' request for an extension of time to respond to the Texas Commission on Environmental Quality (TCEQ) request for additional information letter, dated January 13, 2016.

A 30 day extension is granted until March 8, 2016, and after that date the application may be returned pursuant to Title 30 Texas Administrative Code §281.18. No further extensions will be granted associated with this request for information.

If you have any questions concerning the application, please contact Brent Rougeau via e-mail at Brent.Rougeau@tceq.texas.gov or by telephone at (512) 239-0321.

Sincerely,

A handwritten signature in cursive script that reads "Lori Hamilton".

Lori Hamilton, Manager
Water Rights Permitting & Availability Section
Water Availability Division

WILLIAM KEATON BLACKBURN
Attorney at Law
101 North 6th Street
Post Office Box 446
Junction, Texas 76849-0446

Telephone No.: 325-446-3336

Telecopier No.: 325-446-3337

Email address: [REDACTED]

February 8, 2016

Mr. Brent Rougeau
Project Manager
Water Rights Permitting Team
Water Availability Division
Texas Commission On Environmental Quality
Post Office Box 13087
Austin, Texas 78711-3087

Re: Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Burleson
ADJ 1496
CN604368126, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 1496A to Amend Certificate of Adjudication No. 1496
Texas Water Code §11.122, Requiring Full Basin Mailed and Published Notice
Maynard Creek, Colorado Basin
Kimble County, Texas

Dear Mr. Rougeau:

My clients, Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Gina Gay Gardner and Lou Zane Gardner Burleson, received a letter from T.C.E.Q. dated January 12, 2016, requesting certain additional information and payment of fees by February 10, 2016, in order for the application process to proceed.

The application was filed in December, 2013, was on file with T.C.E.Q. for over two years before my clients received the January 12th letter.

My clients are requesting an extension of 30 days from February 10, 2016, in order to obtain and file the requested information and to pay the stated fees.

This request by applicants **is not** made to delay the application process, but only to allow the applicants sufficient time to obtain and file the requested information.

Judith Ann Gardner, Trustee, is also signing this letter requesting the 30 day extension.

Yours truly,



William Keaton Blackburn



Judith Ann Gardner, Trustee



wkb
enc.

Sent by:

- (1) certified mail, return receipt requested, and
- (2) by email to Brent.Rougeau@tceq.texas.gov

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TELEPHONE MEMO TO THE FILE

Please complete with typewriter or black pen.

Call to: Kenton Blackburn

Call from: _____

Date of call: 1-21-16

File no.: _____

Phone no.: () _____

Subject: _____

Information for file: Kenton Blackburn had several questions for the RFI he received. Second paragraph states he needs an alternate source. He is unsure if this applies to him and his clients. Asked if all information is given what would be next step in process. He also asked what to do if he didn't have enough time to reply to the RFI.

Signed Bart R



From: Brent Rougeau
Sent on: Wednesday, January 13, 2016 7:30:24 PM
To: [REDACTED]
Subject: Gardner 14-1496 RFI
Attachments: Gardner RFI.pdf (101.35 KB), R411477.pdf (18.96 KB)

Good afternoon Keaton,

Please find the attached RFI and receipt that was mailed today. Response is due February 10th. Please let me know if you have any questions or concerns.

Thank you,

Brent Rougeau, Project Manager
Water Rights Permits Team
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087/MC-160
Austin, TX 78711-3087
(P)512.239.0321
(F)512.239.4770

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 13, 2016

Ms. Judith A. Gardner, Trustee
P.O. Box 207
Junction, Texas 76849

CERTIFIED MAIL

91 7199 9991 7031 8237 2438

RE: Judith Ann Gardner, Trustee, Jack Garner Gardner, Jr., Gina Gay Gardner and
Lou Zane Gardner Burleson
ADJ 1496
CN604368126, CN604395079, CN604395152, CN604395145, RN102708849
Application No. 1496A to Amend Certificate of Adjudication No. 1496
Texas Water Code §11.122, Requiring Full Basin Mailed and Published Notice
Maynard Creek, Colorado River Basin
Kimble County, Texas

Dear Ms. Gardner:

This acknowledges receipt of the *Change of Ownership* form on December 16, 2013, the referenced amendment application on June 9, 2014, and fees in the amount of \$100.00 on December 18, 2013 (Receipt No. R411477, enclosed).

This area is considered to have limited to no water available for appropriation for either a term or perpetual right. The proposed reservoir might require an alternate water supply source to account for evaporative losses and any diversions from the reservoir. TCEQ would probably be unable to recommend granting the application without an alternate source of water. In addition, TCEQ adopted environmental flow standards for the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays on August 8, 2012. All applications for new appropriations are subject to the adopted standards.

If an alternate source will be included in the application, provide documentation for the alternate source such as a signed water supply contract, a contract for reuse of effluent, or groundwater. If groundwater will be used, provide the following information on any well or wells to be used including, but not limited to: the depth of well, the name of the aquifer and formation from which the water is withdrawn, a 24-hour pump test, and water quality information. Water quality information should include, but not be limited to, the following: chloride, sulfate, total dissolved solids (TDS), pH, and temperature. Temperature must be measured on site at the time the groundwater sample is collected.

If data for on-site wells are unavailable, historical data collected from similar sized wells drawing water from the same aquifer may be provided.

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

1. Provide a USGS 7.5 minute topographic map (or equivalent) with the location of all existing reservoirs clearly marked.
2. Provide an application in the names of all entities named on the deeds for the property on which the proposed diversion point, reservoirs, and land to be irrigated are located pursuant to Title 30 Texas Administrative Code (TAC) §295.11, otherwise, provide the following for all landowners not joining the application:
 - a. a list of the names and address of all landowners;
 - b. a copy of a duly acknowledged written easement, consent, or license from the landowners not joining the application or of a written lease or other evidence of agreement between those landowners and the applicant.
3. Remit fees in the amount of **\$1,262.27**, as described below. Please make check payable to TCEQ or the Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$	100.00
Ownership Fee	\$	100.00
Recording Fee (\$1.25 x 1 page)	\$	1.25
Notice Fee (Colorado River Basin)	\$	1,154.32
Storage (\$1.00 x 6.7 acres)	\$	6.70
TOTAL FEES	\$	1,362.27
FEES RECEIVED	\$	100.00
BALANCE DUE	\$	1,262.27

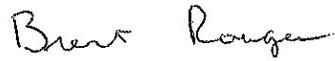
Please submit the requested information and fees by **February 10, 2016** or the application may be returned pursuant to Title 30 TAC §281.18.

Please note that requests to put a dam on and impound water on a navigable stream may require consent from the General Land Office (GLO) pursuant to Title 31 TAC § 13.21. You should contact the GLO to see if they have any requirements that must be met for this project. Please note that this is required because generally the State owns the land beneath navigable streams, and GLO is the state agency that manages state-owned lands. You can contact the GLO at 1.800.998.4GLO (4456) to determine if construction of the dam requires their consent.

Ms. Judith A. Gardner, Trustee
Application No. 14-1496A
January 13, 2016
Page 3 of 3

If you have questions concerning this application, please contact me by e-mail at Brent.Rougeau@tceq.texas.gov or by phone at (512) 239-0321.

Sincerely,



Brent Rougeau, Project Manger
Water Rights Permitting Team
Water Availability Division

Enclosure

cc: William Keaton Blackburn



18-DEC-13 09:36 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Account Name</u>	<u>Ref#1</u>	<u>Ref#2</u>	<u>Paid In By</u>	<u>Check Number</u>	<u>CC Type</u>	<u>Tran Code</u>	<u>Slip Key</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP			R411477			29423				BS00032581	18-DEC-13	-\$100.00
	WUP			ADJ141496			121613	N			D4801885		
			WATER USE PERMITS	R D			RCROWDER	CK					
				KOTHMANN									
				INSURANCE									
				AGENCY									
	WUP			R411478			3287				BS00032581	18-DEC-13	-\$184.69
	WUP						121613	N			D4801885		
			WATER USE PERMITS	JONES HEROY			RCROWDER	CK					
				ASSOCIATES									
				INC									

Total (Fee Code):

-\$284.69

2013 DEC 19 PM 11 18
 RECEIVED
 TCEQ
 WATER SUPPLY DIV.



From: Brent Rougeau
Sent on: Thursday, August 13, 2015 3:40:20 PM
To: [REDACTED]
Subject: Gardner 14-1496
Attachments: Eric Kuehns Maps.pdf (2.63 MB), GLO.PNG (2.85 MB), Google Earth.PNG (2.45 MB), Investigation Report 6-25-2013.pdf (13.67 MB)

Mr. Blackburn,

It appears the TCEQ did an investigation due to a complaint. During the investigation, the investigators found a second impoundment that was not permitted on Maynard Creek. I have attached the Investigative report. I also have attached screenshots from the GLO and Google Earth, in addition a couple of maps from Eric Kuehn. The coordinates for the impoundment under COA 14-1496 are: Lat 30.48022, Long 100.053645. The coordinates for the impoundment not permitted are: Lat 30.473800 and 100.065200.

Please let me know if you need more information.

Brent Rougeau, Project Manager
Water Rights Permitting Team
Water Availability Division
(512) 239-0321
Brent.Rougeau@tceq.texas.gov



From: Russell Bond
Sent on: Wednesday, November 12, 2014 4:52:18 PM
To: James Sallans [REDACTED]
Subject: Navigability of Maynard Creek, Kimble County
Attachments: 201410201006.pdf (1.28 MB)

Good morning Jim,

Please see the attached letter from the GLO stating that based upon their review it appears that Maynard Creek in Kimble County is navigable.

If I can be of any other assistance, please let me know.

Thanks,

Russ

Russell Bond
Project Manager
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
(P) 512-239-0321
(F) 512-239-4770

 Share  Copy link  Download  Delete  Copy to  Version history   Previous 1

From: Mark Neugebauer <[REDACTED]>
Sent on: Monday, October 20, 2014 3:09:57 PM
To: Russell Bond <Russell.Bond@tceq.texas.gov>
Subject: Fwd: Maynard Creek, Kimble County, Tx, letter
Attachments: 201410201006.pdf (1.28 MB)

Good morning Russell,

I am forwarding you a letter regarding Maynard Creek, Kimble County, Texas. If you have any questions please do not hesitate to contact me.

Thanks,

Mark

Mark J. Neugebauer

RPLS, LSLs

Texas General Land Office

Surveying Division

P.O. Box 12873

Austin, Texas 78711-2873

Off. (512) 475-1437

Fax (512) 475-4619

>>> <CC131-[REDACTED]@tceq.texas.gov> 10/20/2014 10:06 AM >>>

This E-mail was sent from "[REDACTED]" (Aficio MP C4502).

Scan Date: 10.20.2014 10:06:08 (-0500)

Queries to: [REDACTED]



From: Russell Bond
Sent on: Thursday, August 28, 2014 8:03:24 PM
To: [REDACTED]
Subject: Navigability of Maynard Creek, Colorado River Basin

Follow up: Follow up
Start date: Monday, September 8, 2014 12:00:00 AM
Due date: Friday, September 12, 2014 12:00:00 AM

Good afternoon Mark,

Can you please provide a navigability determination for the following point on Maynard Creek, Colorado River Basin: being at Latitude 30.473800°N, Longitude 100.065200°W, in Kimble County, Texas.

If you need any further information, please let me know.

Thanks,

Russ

Russell Bond
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
(P) 512-239-0321
(F) 512-239-4770



From: Keaton Blackburn [REDACTED]
Sent on: Tuesday, August 19, 2014 12:38:05 PM
To: Russell Bond <Russell.Bond@tceq.texas.gov>
Subject: RE: Permit Exemptions for Domestic and Livestock Uses (Recreation)

Follow up: Follow up
Follow up status: Completed
Completed on: Monday, August 25, 2014 6:11:00 PM

Mr. Bond, I have not as of yet received the *Request For Information* letter. Will I be receiving it soon? Thank you, Keaton Blackburn.

From: Russell Bond [mailto:Russell.Bond@tceq.texas.gov]
Sent: Thursday, July 17, 2014 3:31 PM
To: [REDACTED]
Subject: Permit Exemptions for Domestic and Livestock Uses (Recreation)

Mr. Blackburn,

Per our conference call on July 16, 2014, please find the following links to:

- TWC Chapter §11.142 – Permit Exemptions
 - <http://www.statutes.legis.state.tx.us/Docs/WA/htm/WA.11.htm>
- TAC Chapter §297.21 – Domestic and Livestock and Wildlife Permit Exemptions
 - [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=30&pt=](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=30&pt=)
- TAC Chapter §297.1 (18)(28)(33) – Definitions
 - [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=30&pt=](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=30&pt=)

Staff will continue preparing a *Request for Information* letter based upon the application and the recently submitted additional information. If you have any questions or concerns, please feel free to contact me via email at Russell.Bond@tceq.texas.gov or by phone at (512) 239-0321.

Regards,

Russell Bond
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TELEPHONE MEMO TO THE FILE

Please complete with typewriter or black pen.

Call to: William Keaton Blackburn

Call from: Russell Bond

Date of call: 06/11/2014

File no.: _____

Phone no.: [REDACTED]

Subject: _____

Information for file: 6/16/2014 Mr. Keaton Blackburn returned Mr. Bond's phone call from 06/11/2014

Mr. Blackburn stated he would like to clarify a typo on the cover letter referencing COA 1928. He stated that number was incorrect and verified the correct COA to be 14-1496. Mr. Blackburn further stated the application for amendment to 14-1496 was only for permitting an existing dam for recreational use only. Mr. Blackburn stated this was an additional ^{existing} dam and that it was not the impoundment authorized in 14-1496.

Signed 

JUDITH ANN GARDNER, TRUSTEE; JACK GARNER GARDNER, JR.; GINA GAY GARDNER, and LU ZANE GARDNER BURLESON

Post Office Box 207

Junction, Texas 76849-0446

Telephone Nos.: [REDACTED]

May 13, 2014

RECEIVED
TCEQ
WATER SUPPLY DIV.
2014 JUN 10 PM 3 34

Texas Commission On Environmental Quality
Water Permitting MC 160
Post Office Box 13088
Austin, Texas 78711-3088

Re: Application For Amendment To Water Right; Supplemental Dam/Reservoir
Information Sheet
Maynard Creek, Kimble County, Texas

Dear Sirs:

Enclosed are the completed TCEQ Application For Amendment To Water Right and Supplemental Dam/Reservoir Information Sheet.

The existing dam structure on Maynard Creek was built approximately 75 years and has been in the same location since that time.

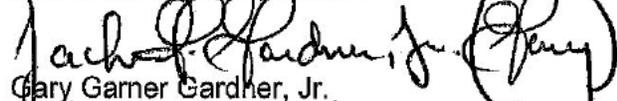
We are requesting the TCEQ issue a permit for the existing dam structure for the impoundment of water on Maynard Creek according to the Application and Supplemental Dam/Reservoir Information Sheet.

We are the owners of Certificate of Adjudication No. 1928 authorizing use to divert and use 35 acre feet of water from Maynard Creek, Kimble County, Texas, for irrigation purposes. Should it necessary to obtain the permit for the dam, we are request you furnish us the necessary forms to complete to apply for transferring a sufficient amount of the irrigation feet of water behind the dam.

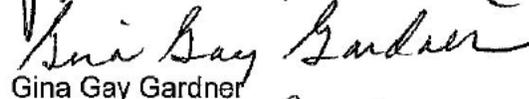
Yours truly,



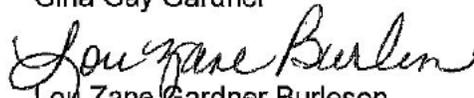
Judith Ann Gardner, Trustee



Gary Garner Gardner, Jr.



Gina Gay Gardner



Lou Zane Gardner Burleson



Texas Commission on Environmental Quality

PO Box 13087, MC-160, Austin, Texas 78711-3087
Telephone (512) 239-4691, FAX (512) 239-4770

NO MONEY

Received and Original Forward to Dept. JUN 9 2014 TCEQ/Revenue Section

APPLICATION FOR AMENDMENT TO A WATER RIGHT

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.

Customer Reference Number (if issued): CN

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

1. Name: Judith Ann Gardner, Trustee; Jack Garner Gardner, Jr.; Gina Gay Gardner and
Address: Post Office Box 207 Lou Zane Gardner Burleson
Junction, Texas 76849

Phone Number: 325-446-2966 Fax Number: 325-446-2664

Email Address: [Redacted]

2. Applicant owes fees or penalties?

[] Yes [X] No

If yes, provide the amount and the nature of the fee or penalty as well as any identifying number.

3. [] Permit No. [] Certificate of Adjudication No.

Stream: Maynard Watershed: North Llano River

Reservoir (present condition, if one exists):

County: Kimble

4. Proposed Changes To Water Right Authorizations:

(Attach additional page as necessary, attach map/piat depicting project location, diversion point, place of use, and other pertinent data).

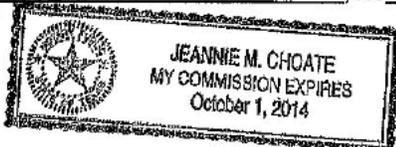
5. I understand the Agency may require additional information in regard to the requested amendment before considering this application.

Judith Ann Gardner (Signature)
Name (sign) Judith Ann Gardner, Trustee
Judith Ann Gardner
Gina Gay Gardner (Signature)
Name (print) Gina Gay Gardner
Gina Gay Gardner

Jack Garner Gardner, Jr. (Signature)
Name (sign) Jack Garner Gardner, Jr.
GARY GARDNER
Lou Zane Burleson (Signature)
Name (print) Lou Zane Gardner Burleson
Lou Zane Burleson

Subscribed and sworn to me as being true and correct before me this 4th day of

June, 2014.



Jeannie M. Choate (Signature)
Notary Public, State of Texas

RECEIVED TCEQ WATER SUPPLY DIV. 2014 JUN 10 PM 3 34

Supplemental Diversion Point Information Sheet

Diversion Point No. NOT APPLICABLE

1) Watercourse: _____

Location of point of diversion at Latitude _____°N, Longitude _____°W, also, bearing _____°, _____ feet (distance) from the _____ corner of the _____ Original Survey No. _____, Abstract No. _____, in

_____ County, Texas. (Provide the latitude and longitude coordinates in decimal degrees, to at least six decimal places. Indicate the method used to calculate the diversion point location).

3) Location from County Seat: _____ miles in a _____ direction from _____ County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____ direction from _____, a nearby town shown on county highway map.

4) Zip Code: _____

5) The diversion will be (check (√) all appropriate boxes and if applicable, indicate whether existing or proposed):

	Existing	Proposed
Directly from stream		
From an on-channel reservoir		
From a stream to an off-channel reservoir		
From a stream to an on-channel reservoir		
From an off-channel reservoir		
Other method (explain fully, use additional sheets if necessary)		

6) Rate of Diversion (Check (√) applicable provision):

___ 1. Diversion Facility:

A. _____ Maximum gpm (gallons per minute)-

- 1) _____ Number of pumps
- 2) _____ Type of pump
- 3) _____ gpm, Pump capacity of each pump
- 4) Portable pump _____ Yes or _____ No

___ 2. If by gravity:

A. _____ Headgate _____ Diversion Dam _____ Maximum gpm

B. _____ Other method (explain fully - use additional sheets if necessary)

7) The drainage area above the diversion point is _____ acres or _____ square miles.

Supplemental Dam/Reservoir Information Sheet

Dam (structure), Reservoir and Watercourse Data

A. Type of Storage Reservoir (indicate by checking (✓) all applicable)

on-channel off-channel existing structure proposed structure* exempt structure**

* Applicant shall provide a copy of the notice that was mailed to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located as well as copies of the certified mailing cards.

** TWC Section 11.143 for uses of water for other than domestic, livestock, or fish and wildlife from an existing, exempt reservoir with a capacity of 200 acre-feet or less. Please complete Paragraph 6 below if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No. _____

1) Watercourse: Maynard Creek

2) Location from County Seat: 17.9 miles in a S 86° 45' W direction from Junction
Kimble County, Texas.

Location from nearby town (if other than County Seat): 1.3 miles in a S 23° 18' W direction from
Roosevelt, a nearby town shown on county highway map.

3) Zip Code: 76874

4) The dam will be/is located in the Ernest Francke Original Survey
No. 529, Abstract No. 123 in Kimble County, Texas.

5) ~~Station XXXXXXXX~~ on the centerline of the dam is S 48° 04' W (bearing), 8147 feet
(distance) from the E or NE corner of Ernest Francke Original
Survey No. 529, Abstract No. 123, in Kimble County, Texas, also
being at Latitude 30.473800 °N, Longitude 100.065200 °W. (Provide the latitude and longitude
coordinates in decimal degrees, to at least six decimal places, indicate the method used to calculate the diversion point location).
hand held Garmin "GPS map 76"

C. Reservoir:

1) Acre-feet of water impounded by structure at normal maximum operating level: 6.7

2) Surface area in acres of reservoir at normal maximum operating level: 1.34

D. The drainage area above the dam is 45,242 acres or 70.7 square miles.

E. Other:

1) If this is a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure, provide the Site No. _____ and watershed project name Not Applicable

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

Yes No

Supplemental Discharge Point Information Sheet

Discharge Point No. or Name: Not Applicable

1) Select the appropriate box for the source of water being discharged:

- Treated effluent
- Groundwater
- Other _____

2) Location of discharge point will be/is at Latitude _____° N, Longitude _____°W,
also bearing _____°, _____ feet from the _____ corner of the _____
Original Survey No. _____, Abstract No. _____, in _____ County, Texas.

Provide the latitude and longitude coordinates in decimal degrees, to at least six decimal places, and indicate the method used to calculate the diversion point location. (i.e., GPS Unit, USGS 7.5 Topographic Map, etc.)

3) Location from County Seat: _____ miles in a _____ direction from _____,
_____ County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____
direction from _____, a nearby town shown on county highway map.

4) Zip Code: _____

5) Water will be discharged into _____ stream/reservoir,
(tributaries) _____
_____ Basin.

6) Water will be discharged at a maximum rate of _____ cfs (_____ gpm).

7) The amount of water that will be discharged is _____ acre-feet per year.

8) The purpose of use for the water being discharged will be _____.

9) Additional information required:

For groundwater

1. Provide water quality analysis and 24 hour pump test for the well if one has been conducted.
2. Locate and label the groundwater well(s) on a USGS 7.5 Minute Topographic Map
3. Provide a copy of the groundwater well permit if it is located in a Groundwater Conservation District.
4. What aquifer the water is being pumped from?

For treated effluent

1. What is the TPDES Permit Number? Provide a copy of the permit.
2. Provide the monthly discharge data for the past 5 years.
3. What % of treated water was groundwater, surface water?
4. If any original water is surface water, provide the base water right number.



TCEQ Core Data Form

TCEQ Use Only

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. Attachments Describe Any Attachments: (ex. Title V Application, Waste Transporter Application, etc.)	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Change of Ownership Form TCEQ-10204
3. Customer Reference Number (if issued)	4. Regulated Entity Reference Number (if issued)
CN	RN

2014 JUN 10 PM 34
RECEIVED
TCEQ
WATER SUPPLY DIV.

SECTION II: Customer Information

5. Effective Date for Customer Information Updates (mm/dd/yyyy)	
6. Customer Role (Proposed or Actual) - as it relates to the Regulated Entity listed on this form. Please check only one of the following:	
<input type="checkbox"/> Owner	<input type="checkbox"/> Operator
<input type="checkbox"/> Occupational Licensee	<input type="checkbox"/> Responsible Party
<input type="checkbox"/> Owner & Operator	<input type="checkbox"/> Voluntary Cleanup Applicant
<input type="checkbox"/> Other: _____	
7. General Customer Information	
<input checked="" type="checkbox"/> New Customer	<input type="checkbox"/> Update to Customer Information
<input type="checkbox"/> Change in Legal Name (Verifiable with the Texas Secretary of State)	<input type="checkbox"/> Change in Regulated Entity Ownership
	<input type="checkbox"/> No Change**
**If "No Change" and Section I is complete, skip to Section III - Regulated Entity Information.	
8. Type of Customer:	
<input type="checkbox"/> Corporation	<input type="checkbox"/> Individual
<input type="checkbox"/> City Government	<input type="checkbox"/> County Government
<input type="checkbox"/> Other Government	<input type="checkbox"/> General Partnership
<input type="checkbox"/> Federal Government	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> State Government	<input checked="" type="checkbox"/> Other: Trust
9. Customer Legal Name (if an individual, print last name first: ex: Doe, John)	
Judith Ann Gardner, Trustee of the Gardner Family Trust; Jack Garner Gardner, Jr.; Lou Zane Gardner; and Gina Gay Gardner	Shannon Gardner
10. Mailing Address:	
Post Office Box 207	
City	Junction
State	TX
ZIP	76849
ZIP + 4	
11. Country Mailing Information (if outside USA)	
12. E-Mail Address (if applicable)	
13. Telephone Number	
([REDACTED])	
14. Extension or Code	
15. Fax Number (if applicable)	
(325) 446-2664	
16. Federal Tax ID (9 digits)	
17. TX State Franchise Tax ID (11 digits)	
18. DUNS Number (if applicable)	
19. TX SOS Filing Number (if applicable)	
20. Number of Employees	
<input checked="" type="checkbox"/> 0-20 <input type="checkbox"/> 21-100 <input type="checkbox"/> 101-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501 and higher	
21. Independently Owned and Operated?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

SECTION III: Regulated Entity Information

22. General Regulated Entity Information (if 'New Regulated Entity' is selected below this form should be accompanied by a permit application)	
<input type="checkbox"/> New Regulated Entity	<input type="checkbox"/> Update to Regulated Entity Name
<input type="checkbox"/> Update to Regulated Entity Information	<input type="checkbox"/> No Change** (See below)
**If "NO CHANGE" is checked and Section I is complete, skip to Section IV, Preparer Information.	
23. Regulated Entity Name (name of the site where the regulated action is taking place)	

24. Street Address of the Regulated Entity: (No P.O. Boxes)							
	City		State		ZIP		ZIP + 4
25. Mailing Address:							
	City		State		ZIP		ZIP + 4
26. E-Mail Address:							
27. Telephone Number	28. Extension or Code		29. Fax Number (if applicable)				
() -			() -				
30. Primary SIC Code (4 digits)	31. Secondary SIC Code (4 digits)	32. Primary NAICS Code (5 or 6 digits)		33. Secondary NAICS Code (5 or 6 digits)			
34. What is the Primary Business of this entity? (Please do not repeat the SIC or NAICS description.)							

Questions 34 – 37 address geographic location. Please refer to the instructions for applicability.

35. Description to Physical Location:							
36. Nearest City	County		State		Nearest ZIP Code		
37. Latitude (N) In Decimal:	38. Longitude (W) In Decimal:						
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds		

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 or the updates may not be made. If your Program is not listed, check other and write it in. 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"/> 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"/> Stormwater	<input type="checkbox"/> Title V – Air	<input type="checkbox"/> Tires	<input type="checkbox"/> Used Oil	<input type="checkbox"/> Utilities
<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:	William Keaton Blackburn		41. Title:	Attorney at Law	
42. Telephone Number	43. Ext./Code	44. Fax Number	45. E-Mail Address		
(325) 446-3336		(325) 446-3337	keaton@blackburncompany.com		

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 9 and/or as required for the updates to the ID numbers identified in field 39.

(See the Core Data Form instructions for more information on who should sign this form.)

Company:			Job Title:		
Name (In Print):	Judith Ann Garnder, Trustee; Jack Garner Gardner, Jr.; Lou Zane Gardner Burleson ; Gina Gay Gardner			Phone:	(325) 446-2966

Signature:

Date:

12-4-2013

- x *Brian Gay Gardner -*
- x *Quinn Ann Gardner*
- x *Jack Langer Gardner, Jr.*
- x *Ameyne Burlem*

RECEIVED
TCEQ
WATER SUPPLY DIV.
2014 JUN 10 PM 3 34



7010 2780 0001 1161 9725



1000

78711

U.S. POSTAGE
PAID
JUNCTION, TX
76849
JUN 05 2014
AMOUNT

\$7.19
00062489-04

RECEIVED

JUN 09 2014

TCEQ MAIL CENTER
MM

WILLIAM KEATON BLACKBURN

Attorney-at-Law
Post Office Box 446
Junction, Texas 76849-0446

TO:

Texas Commission On Environmental Quality
Water Permitting MC 106
Post Office Box 13088
Austin, Texas 78711-3088

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 14-1496 OWNER: Bonnie B. Gardner
(Mrs. Joe M. Gardner)
Fort McKavett Route,
Box 57
Junction, Texas 76849

COUNTY: Kimble PRIORITY DATE: 1898

WATERCOURSE: Maynard Creek, BASIN: Colorado River
tributary of North Llano River,
tributary of Llano River

WHEREAS, by final decree of the 33rd District Court of Llano County, in Cause No. 5,538, In Re: The Adjudication of Water Rights in the Llano River Watershed of the Colorado River Basin, dated September 24, 1979, a right was recognized under Claim 5841 authorizing Mrs. Joe M. Gardner to appropriate waters of the State of Texas as set forth below;

NOW, THEREFORE, this certificate of adjudication to appropriate waters of the State of Texas in the Colorado River Basin is issued to Mrs. Joe M. Gardner, subject to the following terms and conditions:

1. IMPOUNDMENT

Owner is authorized to maintain a dam and reservoir on Maynard Creek and to impound therein not to exceed 8 acre-feet of water. A point on the dam at the center of the stream is N 65° 30' E, 8100 feet from the west corner of the Ernst Francke Survey 529, Abstract 123, Kimble County, Texas.

2. USE

Owner is authorized to divert and use not to exceed 35 acre-feet of water per annum from the above described reservoir located on Maynard Creek to irrigate a maximum of 53 acres of land out of a 215.7 acre tract in the Ernst Francke Survey 529, Abstract 123, Kimble County, Texas, said 215.7 acre tract being described as follows:

- (1) BEGINNING at a stone mound, the South corner of the E. Francke Survey 529;
- (2) THENCE N 45° E, 2540 varas to a stone mound in South line of Survey 529 on the South bank of Maynard Creek;
- (3) THENCE with the meanderings of said creek as follows:
 - a. N 60° 15' W, 145 varas;
 - b. N 75° 45' W, 102.5 varas;
 - c. S 85° 15' W, 50 varas;
 - d. N 85° W, 71 varas;
 - e. N 79° 30' W, 117 varas;
 - f. S 61° 30' W, 77 varas;
- (4) THENCE N 42° W, 86 varas crossing Maynard Creek to a stone mound under a high bluff;
- (5) THENCE S 45° W, 2201 varas to a stone mound in the Southwest line of Survey 529;

(6) TRENCE S 45° E, 511.5 varas to the place of beginning, containing 215.7 acres of land, more or less.

3. DIVERSION

A. Location:

At a point on the east bank of Maynard Creek which is N 58° 15' E, 6750 feet from the west corner of the aforesaid survey.

B. Maximum Rate: 1.34 cfs (600 gpm).

4. PRIORITY

The time priority of the owner's right is 1898.

5. SPECIAL CONDITION

Owner shall maintain a suitable outlet in the dam authorized herein to allow the free passage of water that owner is not entitled to divert or impound.

The locations of pertinent features related to this certificate are shown on Page 2 of the Llano River Watershed Certificates of Adjudication Maps, copies of which are located in the offices of the Texas Department of Water Resources and the office of the County Clerk.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 33rd District Court of Llano County, in Cause No. 5,538, in Re: The Adjudication of Water Rights in the Llano River Watershed of the Colorado River Basin, dated September 24, 1979, and supersedes all rights of the owner or owners asserted in that cause.

This certificate of adjudication is issued subject to senior and superior water rights in the Colorado River Basin.

This certificate of adjudication is issued subject to the Rules of the Texas Department of Water Resources and its continuing right of supervision of State water resources consistent with the public policy of the State as set forth in the Texas Water Code.

This water right is appurtenant to the above-described land within which irrigation is authorized, unless and until severed from the land. A transfer of any portion of the above-described land includes, unless otherwise specified, that portion of the water right which is appurtenant to the transferred land at the time of the transaction.

TEXAS WATER COMMISSION

Felix McDonald
Felix McDonald, Chairman

DATE ISSUED:

AUG 15 1980

ATTEST:

Mary Ann Felner
Mary Ann Felner, Chief Clerk