

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR A TEMPORARY WATER USE PERMIT

APPLICATION NO. 13916

Michael Durrett seeks a temporary water use permit to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Michael Durrett, Applicant, 276 PR 2002, Gonzales, TX 78629-5508, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Temporary Water Use Permit pursuant to Texas Water Code § 11.138 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being mailed to the downstream water right holders of record in the Guadalupe River Basin pursuant to Title 30 TAC § 295.154(a).

Michael Durrett seeks a temporary water use permit to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County.

The water will be diverted from a point on Alligator Creek located at Latitude 29.373606° N, Longitude 97.584301° W in Gonzales County, ZIP Code 78629.

The application and partial fees were received on May 8, 2023. Additional information and fees were received on August 8, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 15, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: at

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

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

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by February 4, 2025. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by February 4, 2025 . The Executive Director may approve the application unless a written request for a contested case hearing is filed by February 4, 2025.

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 WRTTP 13916 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: January 17, 2025

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEMPORARY WATER USE PERMIT

PERMIT NO. 13916

TYPE § 11.138

Permittee: Michael Durrett

Address: 276 PR 2002
Gonzales, TX 78629-5508

Received: May 8, 2023

Granted:

Watercourse: Alligator Creek

County: Gonzales

Watershed: Guadalupe River Basin

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

FINDINGS OF FACT

1. The application is in proper form and accompanied by all necessary fees.
2. Sufficient water is available at the proposed diversion point to satisfy the requested diversion and use of not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin, for mining purposes in Gonzales County.
3. The water will be diverted at a maximum diversion rate of 4.01 cfs (1,800 gpm) from a point located at Latitude 29.373606° N, Longitude 97.584301° W in Gonzales County.
4. Notice of this application was mailed to the downstream water right holders of record.

CONCLUSIONS OF LAW

- A. Jurisdiction is vested to consider this application under Texas Water Code § 11.138 and Title 30 Texas Administrative Code §§ 295.174 and 297.13.
- B. Applicant has complied with the particular requirements of the Texas Commission on Environmental Quality.
- C. The Executive Director recommends that special conditions be included.

NOW, THEREFORE, Temporary Water Use Permit No. 13916 is issued to Michael Durrett, subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, Guadalupe River Basin, for mining purposes in Gonzales County.

2. DIVERSION

Permittee is authorized to divert:

- A. From a point on Alligator Creek located at Latitude 29.373606° N, Longitude 97.584301° W in Gonzales County.
- B. At a maximum diversion rate of 4.01 cfs (1,800 gpm).

3. SPECIAL CONDITIONS

- A. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any diversion structure(s).
- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08175000 – Sandies Creek near Westhoff TX, as set forth in Paragraphs 3.C – 3.F below.

Season	Subsistence	Base
Winter	4 cfs	12 cfs
Spring	1 cfs	9 cfs
Summer	1 cfs	4 cfs
Fall	2 cfs	9 cfs

cfs = cubic feet per second

- C. Seasons are defined as follows: Winter (January through March), Spring (April through June), Summer (July through September), and Fall (October through December).

Subsistence Flow Special Conditions and 50% Rule

- D. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the South Texas Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.

- E. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek at Westhoff, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

Base Flow Special Condition

- F. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is greater than the applicable baseflow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.
- G. This temporary water use permit is junior in priority to all existing water rights in the Guadalupe River Basin.
- H. Upon diversion and use of the water authorized herein, this temporary water use permit shall expire and be of no further force and effect.
- I. This temporary water use permit shall expire and become null and void one year from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- J. No diversion of water shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- K. Permittee shall install and maintain a measuring device or method which accounts for, within 5% accuracy, the quantity of water diverted from the point authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- L. Permittee shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- M. Permittee shall contact the South Texas Watermaster prior to diversion of water authorized by this permit.
- N. The issuance of this temporary water use permit does not grant to the permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

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

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

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

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

DATE ISSUED:

For the Commission

Hal Bailey

From: [REDACTED]
Sent: Tuesday, January 14, 2025 9:49 AM
To: Hal Bailey
Subject: Re: Michael Durrett Draft Temporary Permit No. 13916 Applicant Review

Looks good, no comments. Sorry for the delay.

Thanks again,
Michael Durrett

On 2024-12-30 3:53 pm, Hal Bailey wrote:

> Good afternoon Mr. Durrett,
>
> Electronic copies of the drafts of the public notice and proposed
> Temporary Water Use Permit no. 13916 are attached.
>
> Also attached are copies of the related technical memoranda. Please
> review the draft documents and provide any comments by COB on
> 01/13/2025.
>
> If you have any questions, please let me know.
>
> Thank you,
>
> Hal E. Bailey, Jr.
>
> Natural Resources Specialist IV
>
> Water Rights Permitting Team
>
> Water Rights Permitting and Availability Section
>
> Phone: 512-239-4615

Hal Bailey

From: Hal Bailey
Sent: Monday, December 30, 2024 3:53 PM
To: [REDACTED]
Cc: Humberto Galvan; Chris Kozlowski
Subject: Michael Durrett Draft Temporary Permit No. 13916 Applicant Review
Attachments: Michael_Durrett_13916_Draft_Permit_Package_12.30.2024.pdf

Good afternoon Mr. Durrett,

Electronic copies of the drafts of the public notice and proposed Temporary Water Use Permit no. 13916 are attached.

Also attached are copies of the related technical memoranda. Please review the draft documents and provide any comments by COB on 01/13/2025.

If you have any questions, please let me know.

Thank you,

Hal E. Bailey, Jr.
Natural Resources Specialist IV
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Phone: 512-239-4615

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 30, 2024

Mr. Michael Durrett
276 PR 2002
Gonzales, TX 78629-5508

VIA E-MAIL

RE: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Requiring Limited Mailed Notice
Alligator Creek, Guadalupe River Basin
Gonzales County

Dear Mr. Durrett:

Drafts, subject to revision, of the public notice, proposed Temporary Water Use Permit No. 13916, and the related technical memoranda are attached.

Staff is recommending that the referenced application be granted in accordance with the attached drafts. Please review the drafts and contact me no later than January 13, 2025 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note this application requires a 15-day comment period and once the comment period has closed, the proposed Temporary Water Use Permit No. 13916 may be issued as drafted given no hearing requests are received.

If you have any questions concerning this matter, please contact me via email at hal.bailey@tceq.texas.gov or by telephone at (512) 239-4615.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Bailey, Jr.".

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION FOR A TEMPORARY WATER USE PERMIT

APPLICATION NO. 13916

Michael Durrett seeks a temporary water use permit to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Michael Durrett, Applicant, 276 PR 2002, Gonzales, TX 78629-5508, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Temporary Water Use Permit pursuant to Texas Water Code § 11.138 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, et seq. Notice is being mailed to the downstream water right holders of record in the Guadalupe River Basin pursuant to Title 30 TAC § 295.154(a).

Michael Durrett seeks a temporary water use permit to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County.

The water will be diverted from a point on Alligator Creek located at Latitude 29.373606° N, Longitude 97.584301° W in Gonzales County, ZIP Code 78629.

The application and partial fees were received on May 8, 2023. Additional information and fees were received on August 8, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 15, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: at

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

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

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

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

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

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

INFORMATION. Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTTP 13916 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:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEMPORARY WATER USE PERMIT

PERMIT NO. 13916

TYPE § 11.138

Permittee: Michael Durrett

Address: 276 PR 2002
Gonzales, TX 78629-5508

Received: May 8, 2023

Granted:

Watercourse: Alligator Creek

County: Gonzales

Watershed: Guadalupe River Basin

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

FINDINGS OF FACT

1. The application is in proper form and accompanied by all necessary fees.
2. Sufficient water is available at the proposed diversion point to satisfy the requested diversion and use of not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin, for mining purposes in Gonzales County.
3. The water will be diverted at a maximum diversion rate of 4.01 cfs (1,800 gpm) from a point located at Latitude 29.373606' N, Longitude 97.584301' W in Gonzales County.
4. Notice of this application was mailed to the downstream water right holders of record.

CONCLUSIONS OF LAW

- A. Jurisdiction is vested to consider this application under Texas Water Code § 11.138 and Title 30 Texas Administrative Code §§ 295.174 and 297.13.
- B. Applicant has complied with the particular requirements of the Texas Commission on Environmental Quality.
- C. The Executive Director recommends that special conditions be included.

NOW, THEREFORE, Temporary Water Use Permit No. 13916 is issued to Michael Durrett, subject to the following terms and conditions:

1. USE

Permittee is authorized to divert and use not to exceed 100 acre-feet of water, within a period of one year, from a point on Alligator Creek, Guadalupe River Basin, for mining purposes in Gonzales County.

2. DIVERSION

Permittee is authorized to divert:

- A. From a point on Alligator Creek located at Latitude 29.373606° N, Longitude 97.584301° W in Gonzales County.
- B. At a maximum diversion rate of 4.01 cfs (1,800 gpm).

3. SPECIAL CONDITIONS

- A. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any diversion structure(s).
- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08175000 – Sandies Creek near Westhoff TX, as set forth in Paragraphs 3.C – 3.F below.

Season	Subsistence	Base
Winter	4 cfs	12 cfs
Spring	1 cfs	9 cfs
Summer	1 cfs	4 cfs
Fall	2 cfs	9 cfs

cfs = cubic feet per second

- C. Seasons are defined as follows: Winter (January through March), Spring (April through June), Summer (July through September), and Fall (October through December).

Subsistence Flow Special Conditions and 50% Rule

- D. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the South Texas Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.

- E. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek at Westhoff, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

Base Flow Special Condition

- F. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is greater than the applicable baseflow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.
- G. This temporary water use permit is junior in priority to all existing water rights in the Guadalupe River Basin.
- H. Upon diversion and use of the water authorized herein, this temporary water use permit shall expire and be of no further force and effect.
- I. This temporary water use permit shall expire and become null and void one year from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- J. No diversion of water shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- K. Permittee shall install and maintain a measuring device or method which accounts for, within 5% accuracy, the quantity of water diverted from the point authorized above in Paragraph 2. DIVERSION and maintain measurement records.
- L. Permittee shall allow representatives of the South Texas Watermaster reasonable access to the property to inspect the measuring device and records.
- M. Permittee shall contact the South Texas Watermaster prior to diversion of water authorized by this permit.
- N. The issuance of this temporary water use permit does not grant to the permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

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

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

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

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

DATE ISSUED:

For the Commission

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Hal Bailey, Project Manager
Water Rights Permitting Team

Date: October 7, 2024

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

TG Trent Gay, Team Leader
Surface Water Availability Team

From: Andrew Maria, Hydrologist
Surface Water Availability Team

Subject: Michael Durrett
WRTP 13916
CN604915173
Alligator Creek, Guadalupe River Basin
Gonzales County

HYDROLOGY REVIEW

Application Summary

Michael Durrett (Applicant) requests a temporary water use permit to divert a maximum of 100 acre-feet of water within a one-year period from a point on Alligator Creek, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County.

The application was declared administratively complete on August 15, 2023.

Hydrology Review

Pursuant to 30 Texas Administrative Code (TAC) §298 Subchapter E, Resource Protection staff recommends the application be subject to instream flow requirements. Specific instream flow requirements are included in Resource Protection Staff's October 7, 2024 memorandum.

Staff reviewed current conditions in the Guadalupe River Basin to determine whether surplus water is available for this request. Staff notes that the most recent Drought Monitor (October 1, 2024) indicates that the portion of Gonzales County, where the application is located, is experiencing abnormally dry conditions.

The application was evaluated in accordance with 30 TAC § 298.380(a) to determine whether the new appropriation of water requested in the application would cause or contribute to an impairment of inflow regimes as described in that subsection. Results of the analysis indicate no impairment of the inflow regime under the rule.

The diversion requested in the application is for a short period of time (1 year). The temporary permit will be junior to all existing water rights and subject to

suspension if water is needed for those water rights. Staff's opinion is that existing water rights will not be affected by this short-term permit.

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

Conclusion

Hydrology staff can support granting the application provided the permit includes Resource Protection Staff's recommendations.

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

A handwritten signature in black ink that reads "Andrew Maria". The signature is written in a cursive, flowing style.


Andrew Maria, Hydrologist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Hal Bailey, Project Manager
Water Rights Permitting Team

Date: • • • • • 7/20/2012 • •

Through: Leslie Patterson, Team Leader 
Resource Protection Team

From: Richard Schmoyer, Aquatic Scientist
Resource Protection Team

Subject: Michael Durrett
WRTP 13916
CN604915173
Alligator Creek, Guadalupe River Basin
Gonzales County

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

APPLICATION SUMMARY

Michael Durrett (Applicant) requests a temporary water use permit to divert a maximum of 100 acre-feet of water within a one-year period from a point on Alligator Creek, Guadalupe River Basin, at a maximum diversion rate of 4.01 cfs (1,800 gpm), for mining purposes in Gonzales County.

ENVIRONMENTAL ANALYSIS

On August 8, 2012, the TCEQ adopted environmental flow standards for the Guadalupe, San Antonio, Mission, and Aransas Rivers, and Mission, Copano, Aransas, and San Antonio Bays (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter E). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC § 298.360).

The Applicant is requesting the use of surplus water which would be subject to the adopted standards. This review is conducted in accordance with §11.147(e-3) of the TWC and Title 30 TAC Chapter 298 Subchapter E (Guadalupe, San Antonio, Mission, and Aransas Rivers, and Mission, Copano, Aransas, and San Antonio Bays). In Title 30 TAC § 298.380, environmental flow standards were established at United States Geological Survey (USGS) Gage No. 08175000 – Sandies Creek near Westhoff, Texas, and the applicable environmental flow standards are shown in Table 1.

Table 1. Environmental Flow Standards at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX

Season	Subsistence	Base
Winter	4 cfs	12 cfs
Spring	1 cfs	9 cfs
Summer	1 cfs	4 cfs
Fall	2 cfs	9 cfs

cfs = cubic feet per second

Subsistence and base flow standards vary depending on the season. Seasons are defined in Title 30 TAC § 298.355 as follows: Winter (January through March), Spring (April through June), Summer (July through September), and Fall (October through December).

No special conditions for high flow pulses are required because the proposed maximum diversion rate, 4.01 cfs, is less than 20% of the applicable pulse trigger level requirements of an applicable high flow pulse, as described in Title 30 TAC § 298.380(c).

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

RECOMMENDATIONS

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

1. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens on any diversion structure(s).
2. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08175000 – Sandies Creek Near Westhoff, TX, as set forth in Special Conditions 3-6 below.

Season	Subsistence	Base
Winter	4 cfs	12 cfs
Spring	1 cfs	9 cfs
Summer	1 cfs	4 cfs
Fall	2 cfs	9 cfs

3. Seasons are defined as follows: Winter (January through March), Spring (April through June), Summer (July through September), and Fall (October through December).

Subsistence Flow Special Conditions and 50% Rule

4. Permittee shall not divert water if the average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is less than or equal to the applicable subsistence flow. The “average adjusted streamflow” at the gage is the average of adjusted streamflows measured at the gage for the previous 24 hours. The “adjusted streamflow” at the gage at any time is the measured streamflow that would occur at the gage at that time in the absence of any diversions by Permittee. Unless informed otherwise by the South Texas Watermaster, Permittee may assume that under all conditions, measured streamflow plus the rate at which water is being diverted at that time by Permittee under this water right equals adjusted streamflow.
5. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek at Westhoff, TX is greater than the applicable subsistence flow but less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow plus 50% of the difference between average adjusted streamflow at the gage and the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

Base Flow Special Condition

6. If average adjusted streamflow at USGS Gage No. 08175000 – Sandies Creek near Westhoff, TX is greater than the applicable baseflow, Permittee shall not divert in excess of the rate that would reduce average streamflow at

the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

Richard Schmoyer

Richard Schmoyer, Aquatic Scientist
Resource Protection Team

Hal Bailey

From: Hal Bailey
Sent: Friday, February 16, 2024 1:49 PM
To: [REDACTED]
Subject: RE: Michael Durrett Application No. 13916 Administratively Complete

Good afternoon Mr. Durrett,

The application is currently in technical review.

Thank you,

Hal E. Bailey, Jr.
Natural Resources Specialist III
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
512-239-4615 Hal.Bailey@tceq.texas.gov

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

From: [REDACTED]
Sent: Friday, February 16, 2024 1:45 PM
To: Hal Bailey <Hal.Bailey@tceq.texas.gov>
Subject: Re: Michael Durrett Application No. 13916 Administratively Complete

Just wanted to check the status on application no. 13916, we didn't receive an approval letter yet.

Thank you,
Michael Durrett

On 2023-08-15 3:54 pm, Hal Bailey wrote:

> Good afternoon Mr. Durrett,
>
> Temporary Water Use Permit application no. 13916 was declared
> administratively complete and filed with the TCEQ Office of the Chief
> Clerk today.
>
> The application will now enter technical review. Attached is an
> electronic copy of the administrative completeness letter. Please let
> me know if you have any questions.
>
> Thank you,
>
> _Hal E. Bailey, Jr._

>
> _Natural Resources Specialist III_
>
> _Water Rights Permitting Team_
>
> _Water Availability Division_
>
> _Texas Commission on Environmental Quality_
>
> _512-239-4615 __Hal.Bailey@tceq.texas.gov__ _

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team

DATE: August 15, 2023

SUBJECT: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Limited Mailed Notice Required
Alligator Creek, Guadalupe River Basin
Gonzales County

The application and fees were received on May 8, 2023. Additional information and fees were received on August 8, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on August 15, 2023. Limited mailed notice to the downstream water right holders of record in the Guadalupe River Basin is required pursuant to Title 30 Texas Administrative Code § 295.154(a).

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

Hal E. Bailey, Jr.

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

OCC Mailed Notice Required

☒ YES

☐ NO

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 15, 2023

Mr. Michael Durrett
276 PR 2002
Gonzales, TX 78629

VIA E-MAIL

RE: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Requiring Limited Mailed Notice
Alligator Creek, Guadalupe River Basin
Gonzales County

Dear Mr. Durrett:

This acknowledges receipt, on August 8, 2023, of additional information and fees in the amount of \$17.86 (Receipt No. M319637, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on August 15, 2023. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning the application, please contact me via e-mail at hal.bailey@tceq.texas.gov or at (512) 239-4615.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Bailey, Jr.".

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



Basis2 Receipt Report by Endorsement Number

AUG-14-23 02:26 PM

<u>Acct. #:</u>	<u>PTGE</u>	<u>Account Name:</u>	<u>NOTICE FEES</u>	<u>EMG-TEMP/EMERG</u>	<u>USE</u>	<u>PMT</u>				
<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>	
ALLIGATOR	M319637		DURRETT,	CK	██████		BS00104543	14-AUG-23	\$17.86	
CREEK/GAUDALUPE RVR			MICHAEL/HOLLI N							
BASIN										

Hal Bailey

From: [REDACTED]
Sent: Tuesday, August 8, 2023 10:25 PM
To: Hal Bailey
Subject: Re: Michael Durrett WRTP 13916 Follow-Up Request for Information
Attachments: tceq map and deed.pdf

1. yes, reservoir was constructed and is currently used solely for domestic and livestock purposes 2. yes, water will be diverted from Alligator Creek 3. yes, coordinates of the diversion point is correct 4. map attached 5. we will use 1/4" perforated suction hoses when diverting water to ensure aquatic organisms will not be affected by the extraction of water 6. deed attached 7. am mailing in check for 17.86

Is this okay to answer these questions by email, or do I need to mail in?

Thank you


On 2023-07-12 11:00 am, Hal Bailey wrote:


> Good morning Mr. Durrett,
>
> As we discussed in our telephone call yesterday, attached is a
> follow-up Request for Information (RFI) letter for application no.
> 13916. Please provide the requested additional
>
> information and fees by COB on 08/10/2023.
>
> If you have any questions regarding the letter, please let me know.
>
> Thank you,
>
> _Hal E. Bailey, Jr._
>
> _Natural Resources Specialist III_
>
> _Water Rights Permitting Team_
>
> _Water Availability Division_
>
> _Texas Commission on Environmental Quality_
>
> _512-239-4615 Hal.Bailey@tceq.texas.gov _

Untitled Map

Write a description for your map.

Legend

 29.373606N, 97.584301W

 29.373606N, 97.584301W

Google Earth

N

1000 ft

Warranty Deed with Vendor's Lien With Mineral Reservations

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: September 22 2020

Grantor: Frank A. Vana and Pauline Vana Revocable Living Trust as to 1/2 Interest and Victor Vana as to 1/2 Interest

Grantor's Mailing Address: ~~P.O. Box 867, Elgin, Texas 78821~~ / P.O. Box 927, Manor, Tx 786
Grantee: Michael Lee Durrett and Holli Nicole Durrett 505 S. Center St, Weimar, Tx 7896

Grantee's Mailing Address: 276 PR 2002, Gonzales, Texas 78629

Consideration:

Cash and other good and valuable consideration along with a note dated September 22, 2020 executed by Grantee and payable to the order of Texas Farm Credit Services, FLCA in the principal amount of \$1,614,300.00 (One Million Six Hundred Fourteen Thousand Three Hundred and 00/100 Dollars). The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of Texas Farm Credit Services, FLCA and by a first-lien deed of trust dated September 22, 2020 from Grantee to Mark A. Miller, trustee

Property (including any improvements):

BEING ALL THAT CERTAIN TRACT OF 515.155 ACRES OF LAND, MORE OR LESS, LYING AND BEING SITUATED IN GONZALES COUNTY, TEXAS, BEING PART OF THE GEORGE W. BARNETTE LEAGUE, ABSTRACT NO. 110, MORE PARTICULARLY BEING ALL OF TRACT ONE AND ALL OF TRACT TWO IN TRUSTEE'S SPECIAL WARRANTY DEED DATED NOVEMBER 14, 2003, EXECUTED BY MILES CARLTON KING TO FRANKIE VANA, RECORDED IN VOLUME 898, PAGE 336, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, HEREIN CALLED TRACT ONE AND TRACT TWO RESPECTIVELY, INTENDED TO BE DESCRIBED BY METES AND BOUNDS, WITH BEARING BASIS GPS GRID NORTH, AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD SET (ALL IRON RODS SET WITH RED PLASTIC CAP MARKED GONZALES FIRST SHOT SURV) AT THE NORTH CORNER OF SAID TRACT ONE, AND AT AN EAST CORNER OF A 582 ACRE TRACT OF LAND DESCRIBED IN DEED OF GIFT DATED JUNE 7, 2011, EXECUTED BY ELMO A. SAMPLE AND JEANNINE M. SAMPLE TO JOHN A. SAMPLE, ET AL., RECORDED IN

VOLUME 1055, PAGE 771, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, AND IN THE SOUTHWEST LINE OF COUNTY ROAD NO. 119, THE SAME BEING THE NORTHEAST LINE OF SAID GEORGE W. BARNETT LEAGUE, AND THE SOUTHWEST LINE OF THE CLARISSA SHERRILL 1280 ACRE SURVEY, ABSTRACT NO. 432, FOR THE NORTH CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE SOUTH 40°48' 30" EAST ALONG THE NORTHEAST LINE OF SAID TRACT ONE AND SAID GEORGE W. BARNETT SURVEY, AND THE SOUTHWEST LINE OF SAID COUNTY ROAD NO. 119 AND SAID CLARISSA SHERRILL SURVEY, AT 1993.98 FEET, CROSSING THE EAST CORNER OF SAID TRACT ONE AND THE NORTH CORNER OF SAID TRACT TWO, AND CONTINUING ALONG THE NORTHEAST LINE OF SAID TRACT TWO, AT 2331.19 FEET, CROSSING THE WEST CORNER OF A 47.235 ACRE TRACT OF LAND DESCRIBED AS FIRST: SECOND TRACT IN PARTITION DEED DATED NOVEMBER 17, 1987, EXECUTED BY AND BETWEEN MARY H. DAWE, ET AL., TO THOMAS S. DAWE, RECORDED IN VOLUME 610, PAGE 731, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, AND LEAVING SAID COUNTY ROAD NO. 119 AND CONTINUING ALONG THE SOUTHWEST LINE OF SAID DAWES TRACT, IN ALL A DISTANCE OF 4722.31 FEET TO A 5 /8 INCH IRON ROD FOUND 0.2 FOOT ABOVE GROUND AT THE EAST CORNER OF SAID TRACT TWO, AND A NORTH CORNER OF A 196.253 ACRE TRACT OF LAND DESCRIBED IN GENERAL WARRANTY DEED DATED FEBRUARY 25, 2005, EXECUTED BY MAYME A. GLEGHORN TO J. B. LESTER, RECORDED IN VOLUME 919, PAGE 540, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, FOR THE EAST CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE SOUTH 48°52' 16" WEST ALONG THE SOUTHEAST LINE OF SAID TRACT TWO AND A NORTHWEST LINE OF SAID LESTER TRACT, AT 2415.04 FEET, CROSSING A TIPPERARY GATHERING PIPELINE, RECORDED IN VOLUME 474, PAGE 505, OF THE GONZALES COUNTY DEED RECORDS, IN ALL A DISTANCE OF 3065.57 FEET TO A 5/8 INCH IRON ROD FOUND 0.5 FOOT ABOVE GROUND AT THE SOUTH CORNER OF SAID TRACT TWO AND A WEST CORNER OF SAID LESTER TRACT, AND IN THE NORTHEAST LINE OF A 498.27 ACRE TRACT OF LAND DESCRIBED AS THIRD TRACT IN SPECIAL WARRANTY DEED DATED DECEMBER 29, 2011, EXECUTED BY GEORGE GREGORY GRIFFIN, JR. TO JOAN YVONNE GRIFFIN, TRUSTEE, RECORDED IN VOLUME 1074, PAGE 45, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, FOR A SOUTH CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE NORTH 41°07' 44" WEST 2724.18 FEET ALONG THE SOUTHWEST LINE OF SAID TRACT TWO AND A NORTHEAST LINE OF AID GRIFFIN TRACT, TO A 5 /8 INCH IRON ROD SET AT THE WEST CORNER OF SAID TRACT TWO, AND AT A NORTH

CORNER OF SAID GRIFFIN TRACT, AND IN THE SOUTHEAST LINE OF SAID TRACT ONE, FOR AN INTERIOR CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE SOUTH 48°52' 16" WEST ALONG THE SOUTHEAST LINE OF SAID TRACT ONE AND A NORTHWEST LINE OF SAID GRIFFIN TRACT, AT 3860.19 FEET, CROSSING A 5/8 INCH IRON ROD FOUND 0.2 FOOT ABOVE GROUND AT A WEST CORNER OF SAID GRIFFIN TRACT, AND AT A NORTH CORNER OF A 1156.587 ACRE TRACT OF LAND DESCRIBED IN DEED DATED JANUARY 9, 1991, EXECUTED BY JERROLD LEE BARNETT TO MRS. JOHN R. BARNETT SR., RECORDED IN VOLUME 778, PAGE 311, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, AND CONTINUING ALONG A NORTHWEST LINE OF SAID BARNETT TRACT, IN ALL A DISTANCE OF 3915.38 FEET TO A 5/8 INCH IRON ROD SET AT THE SOUTH CORNER OF SAID TRACT ONE AND AT AN EAST CORNER OF A 891.15 ACRE TRACT OF LAND DESCRIBED AS THIRD TRACT "HOUSTON RANCH" IN CASH WARRANTY DEED DATED MAY 26, 1993, EXECUTED BY JAMES ROBERT TINSLEY, JR. TO TINSLEY/LAWLEY PARTNERSHIP, LTD, RECORDED IN VOLUME 723, PAGE 158, OF THE OFFICIAL RECORDS OF GONZALES COUNTY, FOR A SOUTH CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE NORTH 40°55' 48" WEST 2022.40 FEET ALONG THE SOUTHWEST LINE OF SAID TRACT ONE AND A NORTHEAST LINE OF SAID TINSLEY/LAWLEY TRACT, TO A 5/8 INCH IRON ROD SET AT THE WEST CORNER OF SAID TRACT ONE, AND AT A SOUTH CORNER OF SAID SAMPLE TRACT, FOR THE WEST CORNER OF THIS TRACT OR PARCEL OF LAND HEREBY INTENDED TO BE DESCRIBED;

THENCE NORTH 49°04' 12" EAST 7000.40 FEET ALONG THE NORTHWEST LINE OF SAID TRACT ONE AND A SOUTHEAST LINE OF SAID SAMPLE TRACT, TO THE PLACE OF BEGINNING.

Reservations from Conveyance:

SAVE AND EXCEPT, AND THERE IS HEREBY RESERVED TO GRANTOR and Grantor's heirs, successors and assigns, title to 75% of the oil, gas and other minerals in, under and that may be produced or extracted from the Property by whatever method, and any royalty, bonus, delay rental, income, lease payment or payment of any kind under any existing or future agreement or lease covering any party of the Property, and all production and drilling rights, and all rights, privileges and immunities relating thereto. Grantor does not hereby retain any right to use or occupy the surface of the Property for any purpose, including drilling wells, or exploration for, or development, production, transmission or storage of oil, gas or other minerals, nor the right to place any fixtures, equipment, buildings or structures of any kind on the surface of the Property. Grantor does not hereby waive, release or relinquish any right, title or interest to exploit, develop or produce oil, gas or other minerals with wells drilled at surface locations off the Property by directional drilling or any other method that does not require use of the surface

of the Property.

Exceptions to Conveyance and Warranty:

Terms, conditions and stipulations of that certain Oil and Gas Lease dated March 5, 1976, executed by Thomas E. Hinton and wife, Mary C. Hinton, to Tom Frank Worsham, recorded in Volume 414, Page 464 of the Deed Records of Gonzales County, Texas covering subject property for a primary term of 5 year(s).

Easement for pipe line and appurtenance purposes dated November 6, 1980, executed by Thomas E. Hinton and wife, Mary Hinton, to Tipperary Gathering, Ltd., recorded in Volume 474, Page 505, of the Deed Records of Gonzales County, Texas, together with all the terms and provisions thereof.

Terms and conditions evidenced by the recorded Memorandum of Ground Lease Contract and Lease for Ground Water dated August 18, 2006, executed by Frankie Vana and Victor Vana, to Gonzales County Water Supply Corporation, recorded in Volume 949, Page 482, of the Official Records of Gonzales County, Texas, and subject to the terms and conditions of the Ground Lease Contract and Lease for Ground Water referenced therein.

Sanitation Maintenance Agreement dated September 8, 2006, by and between Frankie Vana and Victor Vana, recorded in Volume 950, Page 660, of the Official Records of Gonzales County, Texas, reference to which instrument is hereby made for all purposes. Title to said interest not researched subsequent to the date of aforesaid instrument.

Terms, conditions and stipulations of that certain Oil and Gas Lease dated October 15, 2008, executed by Frankie Vana, to Griffith Land Services, Inc., recorded in Volume 993, Page 304, of the Official Records of Gonzales County, Texas, covering subject property for a primary term of 3 years.

Terms, conditions and stipulations of that certain Oil and Gas Lease dated October 15, 2008, executed by Victor Vana, to Griffith Land Services, Inc., recorded in Volume 993, Page 339, of the Official Records of Gonzales County, Texas, covering subject property for a primary term of 3 years.

Oil and Gas Lease Extension Agreement recorded in Volume 1076, Page 304, of the Official Records of Gonzales County, Texas.

Oil and Gas Lease Extension Agreement recorded in Volume 1076, Page 322, of the Official Records of Gonzales County, Texas.

Unit Designation forming the Tinsley-Vana No. 1H Oil Unit filed for record July 25, 2012, recorded in Volume 1094, Page 521, of the Official Records of Gonzales County, Texas.

Unit Designation forming the Tinsley No. 1H Oil Unit filed for record October 5, 2012, recorded in Volume 1103, Page 382, of the Official Records of Gonzales County, Texas.

Unit Designation forming the Sample-Vana No. 1H Oil Unit filed for record November 5, 2012, recorded in Volume 1106, Page 352, of the Official Records of Gonzales County, Texas.

Production Gathering, Treating and Processing Agreement dated May 3, 2013, by and between HPIP Gonzales Holdings, LLC and Forest Oil Corporation, recorded in Volume 1125, Page 7, of the Official Records of Gonzales County, Texas, reference to which instrument is hereby made for all purposes. Title to said interest not researched subsequent to the date of aforesaid instrument.

Amended Unit Designation of the Tinsley-Vana No. 1H Oil Unit filed for record September 5, 2014, recorded in Volume 1175, Page 388, of the Official Records of Gonzales County, Texas.

Grantor, for the Consideration, and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds and to hold it to Grantee and Grantee's heirs, successors, and assigns to warranty and forever defend all and singular the Property to Grantee and Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

Texas Farm Credit Services, FLCA, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of Texas Farm Credit Services, FLCA without recourse against Grantor.

The Vendor's Lien against and Superior Title to the Property are retained until the Note described is fully paid according to its terms, at which time this Deed will become absolute. The Vendor's Lien and Superior Title herein retained are hereby transferred, assigned, sold, and conveyed to the payee of the Note, and the successors and assigns of the payee.

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

EXECUTED this 22 day of September, 2020.

Beatrice M. Stoever, Dolores A. Stoever, and Victor V. Vana, Successor Co-Trustees of the Frank A. Vana and Pauline Vana Revocable Living Trust dated September 14, 1998, and any amendments thereto

By:

Beatrice M. Stoever
Beatrice M. Stoever, Successor Co-Trustee

By:

Dolores A. Stoever
Dolores A. Stoever, Successor Co-Trustee

By:

Victor V. Vana
Victor V. Vana, individually and as Successor Co-Trustee

Hal Bailey

From: Hal Bailey
Sent: Wednesday, July 12, 2023 11:01 AM
To: [REDACTED]
Cc: Chris Kozlowski; Humberto Galvan
Subject: Michael Durrett WRTP 13916 Follow-Up Request for Information
Attachments: Michael_Durrett_13916_Follow-Up_RFI_Sent_07.12.2023.pdf

Good morning Mr. Durrett,

As we discussed in our telephone call yesterday, attached is a follow-up Request for Information (RFI) letter for application no. 13916. Please provide the requested additional information and fees by COB on 08/10/2023.

If you have any questions regarding the letter, please let me know.

Thank you,

*Hal E. Bailey, Jr.
Natural Resources Specialist III
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
512-239-4615 Hal.Bailey@tceq.texas.gov*

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2023

Mr. Michael Durrett
276 PR 2002
Gonzales, TX 78629

VIA E-MAIL

RE: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Requiring Limited Mailed Notice
Alligator Creek, Guadalupe River Basin
Gonzales County

Dear Mr. Durrett:

This is a follow-up to our previous letter dated June 8, 2023 (copy attached) requesting additional information for the referenced application. To date, a response has not been received.

Please submit the information requested by **August 10, 2023**, or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter, please contact me via email at hal.bailey@tceq.texas.gov or by telephone at (512) 239-4615.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Bailey, Jr.".

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 8, 2023

Mr. Michael Durrett
276 PR 2002
Gonzales, TX 78629

VIA E-MAIL

RE: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Requiring Limited Mailed Notice
Alligator Creek, Guadalupe River Basin
Gonzales County

Dear Mr. Durrett:

This acknowledges receipt, on May 8, 2023, of the referenced application and fees in the amount of \$351.25 (Receipt No. M316507, copy attached).

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

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

1. Confirm that the reservoir was constructed and is currently used solely for domestic and livestock purposes.
2. Confirm water will be diverted from Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin.
3. Confirm the coordinates of the diversion point. Staff has calculated the coordinates of the diversion point to be Latitude 29.373606 °N and Longitude 97.584301 °W.
4. Provide a USGS 7.5-minute topographic map (or equivalent) with the location of the diversion point clearly marked.
5. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). Refer to pages 28-29 from the *Instructions for Completing the Water Right Permitting Application* (Form TCEQ-10214A-inst) for assistance in developing your response.

Mr. Michael Durrett
Application No. 13916
June 8, 2023
Page 2 of 2

6. Provide recorded copies of legal documents establishing ownership of the proposed diversion point or a copy of a duly acknowledged written easement, consent, or license from the landowner(s) whose land is associated with the proposed diversion point, pursuant to Title 30 Texas Administrative Code (TAC) § 295.10.
7. Remit fees in the amount of \$17.86 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Greater than 10 acre-feet)	\$ 250.00
Recording Fee (\$1.25 x 1 page)	\$ 1.25
Use Fee (\$1.00 x 100 acre-feet)	\$ 100.00
Notice Fee (\$0.94 x 19 WR Holders)	\$ 17.86
Total Fees	\$ 369.11
Fees Received	\$ 351.25
Fees Due	\$ 17.86

Please provide the requested information and fees by July 10, 2023, or the application may be returned pursuant to Title 30 TAC § 281.18.

If you have any questions concerning this matter, please contact me via email at hal.bailey@tceq.texas.gov or by telephone at (512) 239-4615.

Sincerely,

Hal E. Bailey, Jr.

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



Basis2 Receipt Report by Endorsement Number

MAY-15-23 08:06 AM

<u>Acct. #:</u> EMG	<u>Account Name:</u> TEMPORARY/EMERGENCY WTR USE PERMIT ISSUE								
<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>
MICHAEL DURRETT POND/GUADALUPE RIVER	M316507		DURRETT, MICHAEL/HOLLI N	CK	██████		BS00102985	12-MAY-23	\$351.25

Texas Commission on Environmental Quality
TELEPHONE MEMO TO THE FILE

Call to: Michael Durrett	Call from: Hal E. Bailey, Jr.
Date: July 11, 2023	Project No: WRTP 13916
<p><i>Information for File follows:</i></p> <p>I telephoned Mr. Durrett to follow up on the RFI emailed to him on 06/08/2023. Due date to provide additional information was 07/10/2023, and to date no response has been received. I left him a voicemail message requesting a return phone call. (9:22 AM)</p> <p>Mr. Durrett returned my call and stated that he is working on getting the information together and would send it as soon as possible. (1:35 PM) I informed him that we will be sending him a follow-up RFI letter.</p>	
<p>Signed: <i>Hal E. Bailey, Jr.</i></p>	

Hal Bailey

From: [REDACTED]
Sent: Tuesday, July 11, 2023 12:52 PM
To: Hal Bailey
Subject: Re: Michael Durrett WRTP 13916 Request for Information

Sorry this email slipped by us. Yes, we will get that info to you asap.

Thanks,
Holli Durrett

On 2023-06-08 10:24 am, Hal Bailey wrote:

> Good morning Mr. Durrett,
>
> Attached is a Request for Information (RFI) letter for application no.
> 13916. Please provide the requested additional information and fees
> by COB on 07/10/2023.
>
> If you have any questions regarding the letter, please let me know.
>
> Thank you,
>
> _Hal E. Bailey, Jr._
>
> _Natural Resources Specialist III_
>
> _Water Rights Permitting Team_
>
> _Water Availability Division_
>
> _Texas Commission on Environmental Quality_
>
> _512-239-4615 __Hal.Bailey@tceq.texas.gov__ _

Hal Bailey

From: Hal Bailey
Sent: Thursday, June 8, 2023 10:24 AM
To: [REDACTED]
Subject: Michael Durrett WRTP 13916 Request for Information
Attachments: Michael_Durrett_13916_RFI_Sent_06.08.2023.pdf

Good morning Mr. Durrett,

Attached is a Request for Information (RFI) letter for application no. 13916. Please provide the requested additional information and fees by COB on 07/10/2023.

If you have any questions regarding the letter, please let me know.

Thank you,

*Hal E. Bailey, Jr.
Natural Resources Specialist III
Water Rights Permitting Team
Water Availability Division
Texas Commission on Environmental Quality
512-239-4615 Hal.Bailey@tceq.texas.gov*

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 8, 2023

Mr. Michael Durrett
276 PR 2002
Gonzales, TX 78629

VIA E-MAIL

RE: Michael Durrett
WRTP 13916
CN604915173, RN111735338
Application No. 13916 for a Temporary Water Use Permit
Texas Water Code § 11.138, Requiring Limited Mailed Notice
Alligator Creek, Guadalupe River Basin
Gonzales County

Dear Mr. Durrett:

This acknowledges receipt, on May 8, 2023, of the referenced application and fees in the amount of \$351.25 (Receipt No. M316507, copy attached).

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

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

1. Confirm that the reservoir was constructed and is currently used solely for domestic and livestock purposes.
2. Confirm water will be diverted from Alligator Creek, tributary of Sugar Creek, tributary of Salty Creek, tributary of Five Mile Creek, tributary of Sandies Creek, tributary of the Guadalupe River, Guadalupe River Basin.
3. Confirm the coordinates of the diversion point. Staff has calculated the coordinates of the diversion point to be Latitude 29.373606 °N and Longitude 97.584301 °W.
4. Provide a USGS 7.5-minute topographic map (or equivalent) with the location of the diversion point clearly marked.
5. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). Refer to pages 28-29 from the *Instructions for Completing the Water Right Permitting Application* (Form TCEQ-10214A-inst) for assistance in developing your response.

Mr. Michael Durrett
Application No. 13916
June 8, 2023
Page 2 of 2

6. Provide recorded copies of legal documents establishing ownership of the proposed diversion point or a copy of a duly acknowledged written easement, consent, or license from the landowner(s) whose land is associated with the proposed diversion point, pursuant to Title 30 Texas Administrative Code (TAC) § 295.10.
7. Remit fees in the amount of \$17.86 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Greater than 10 acre-feet)	\$ 250.00
Recording Fee (\$1.25 x 1 page)	\$ 1.25
Use Fee (\$1.00 x 100 acre-feet)	\$ 100.00
Notice Fee (\$0.94 x 19 WR Holders)	\$ 17.86
Total Fees	\$ 369.11
Fees Received	\$ 351.25
Fees Due	\$ 17.86

Please provide the requested information and fees by July 10, 2023, or the application may be returned pursuant to Title 30 TAC § 281.18.

If you have any questions concerning this matter, please contact me via email at hal.bailey@tceq.texas.gov or by telephone at (512) 239-4615.

Sincerely,

Hal E. Bailey, Jr.

Hal E. Bailey, Jr., Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



Basis2 Receipt Report by Endorsement Number

MAY-15-23 08:06 AM

Acct. #: EMG

Account Name: TEMPORARY/EMERGENCY WTR USE PERMIT ISSUE

<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>
MICHAEL DURRETT POND/GUADALUPE RIVER	M316507		DURRETT, MICHAEL/HOLLI N	CK	██████		BS00102985	12-MAY-23	\$351.25

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

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

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

Notice: This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.

1. **Data on Applicant and Project:** Social Security or Federal ID No. _____
- A. Name: MICHAEL DURRETT
- B. Mailing Address: 276 PR 2002 GONZALES TX 78629
- C. Telephone Number: 830-857-4442 Fax Number: _____ E-mail Address: _____
- D. Applicant owes fees or penalties? ☐ Yes ☒ No
- If yes, provide the amount and the nature of the fee or penalty as well as any identifying number:

- E. Describe Use of Water: SALE FOR MINING PURPOSES
- F. Description of Project (TDH Project No. if applicable) _____
- G. Highway Designation No. HWY 97 County GONZALES TX

2. **Type of Diversion (check one):** ☐ From Stream ☒ From Reservoir
3. **Rate of Diversion:**
- A. Maximum 1800 gpm
(capacity of pump)

4. **Amount and Source of Water:**
- 100 acre-feet of water within a period of 1 YEAR (specify term period not to exceed a three year term). The water is to be obtained from MICHAEL DURRETT POND, tributary of _____, tributary of _____, tributary of _____, GUADALUPE RIVER Basin.

5. **Location of Diversion Point:** Provide Latitude and Longitude in decimal degrees to at least six decimal places, and indicate the method used to calculate the diversion point location.

At Latitude 29.373868° °N, Longitude -97.584345° °W, ((at) or (near) the stream crossing of), (at a reservoir in the vicinity of) 97 (R-O-W) (Highway), located in Zip Code 78629, located 12.5 miles in a SW direction from GONZALES TX (County Seat), GONZALES County, and 1.15 miles in a W direction from WRIGHTSBORO, a nearby town shown on County road map. Note: Distance in straight line miles.

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

6. **Access to Diversion Point (check one):**
- ☐ Public right-of-way
- ☒ Private property
(A letter of permission from landowner is attached)
- ☐ Other (Explain) _____
7. **Fees Enclosed:**
- | | 10 ac-ft or less | greater than 10 ac-ft |
|--|------------------|-----------------------|
| Filing | \$ 100.00 | \$ 250.00 |
| Recording..... | \$ 1.25 | \$ 1.25 |
| Use (\$1.00 per ac-ft or fraction thereof) | \$ _____ | \$ 100.00 |
| (Note: 1 ac-ft = 325,851 gals. Total) | \$ _____ | \$ 351.25 |
| 1 ac-ft = 7758.35 bbls.) | | |

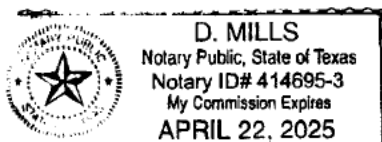
Upon completion of any project for which a temporary water permit is granted, the Permittee is required by law to report the amount of water used. This document must be properly signed and duly notarized before it can be accepted or considered by the Texas Commission on Environmental Quality.

Name (sign) _____

MICHAEL DURRETT

Name (print) _____

Subscribed and sworn to me as being true and correct before me this 17th day of April, 2023



Name (sign) _____
Notary Public, State of Texas

RECEIVED**MAY 08 2023**

Water Availability Division