

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1189A

Roger Bernard Glass seeks to amend Certificate of Adjudication No. 14-1189 to authorize the maintenance of a dam and 2.8-acre-foot capacity reservoir located on the North Concho River, Colorado River Basin for recreational purposes in Tom Green County. The application does not request a new appropriation of water. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Roger Bernard Glass, 10001 W. Grape Creek Road, San Angelo, Texas 76901, Applicant/Potential Owner, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) § 11.122 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 §§ 295.152 and 295.153.

A portion of Certificate of Adjudication No. 14-1189 authorizes Tommy Matthew Tomerlin and Alton Cary Tomerlin, III (Owners) to divert and use not to exceed 9.92 acre-feet of water per year from a point on the North Concho River, Colorado River Basin, at a maximum combined diversion rate of 3.56 cfs (1,600 gpm) for agricultural purposes to irrigate 17.64 acres out of a 44-acre tract in Tom Green County.

The time priority for this water right is December 31, 1935.

Roger Bernard Glass (Applicant) seeks to amend Certificate of Adjudication No. 14-1189 (Certificate) to authorize the maintenance of a dam and reservoir, with a capacity of 2.8-acre-feet of water, located on the North Concho River, Colorado River Basin for recreational purposes in Tom Green County.

A point on the centerline of the dam is located on the North Concho River at Latitude 31.622803° N, Longitude 100.687011° W in ZIP Code 76934.

Applicant has provided a *Letter Agreement* from Owners which entitles Applicant to amend and purchase Owners' portion of the Certificate.

Applicant indicates that the 9.92 acre-foot-portion of the water right currently authorized for diversion by Certificate of Adjudication No. 14-1189 will be used to maintain the reservoir.

A portion of the property inundated by the dam and reservoir, and owned by Roger Glass, is evidenced by an *Assumption Warranty Deed* dated January 30, 2017, recorded as Document No. 201701142, pages 1-3 filed with the Official Public Records of Tom Green County.

Ownership of the remaining property inundated by the reservoir is evidenced by a *Partition Agreement* dated January 8, 2018, recorded as Document No. 201800288, pages 1-3 filed with the Official Public Records of Tom Green County, and those landowners have provided consent to the application.

Within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass must be submitted to

the Executive Director.

The application was received on March 11, 2020. Additional information and fees were received on March 31, June 22, and September 11, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 25, 2020.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to providing a means, approved by the Executive Director, to pass inflows downstream of the reservoir when water levels in the North Concho River fall below the top of the constructed dam. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at:

www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. 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.

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Issued: April 05, 2022

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1189A	TYPE § 11.122
Owner: Roger Bernard Glass	Address: 10001 W. Grape Creek Road San Angelo, Texas 76901
Filed: September 25, 2020	Granted:
Purpose: Recreation	County: Tom Green
Watercourse: North Concho River	Watershed: Colorado River Basin

WHEREAS, a portion of Certificate of Adjudication No. 14-1189 authorizes Tommy Matthew Tomerlin and Alton Cary Tomerlin, III. to divert and use not to exceed 9.92 acre-feet of water per year from a point on the North Concho River, Colorado River Basin, at a maximum combined diversion rate of 3.56 cfs (1,600 gpm) for agricultural purposes to irrigate 17.64 acres out of a 44-acre tract in Tom Green County; and

WHEREAS, the time priority for this water right is December 31, 1935; and

WHEREAS, Roger Bernard Glass (Applicant) seeks to amend Certificate of Adjudication No. 14-1189 (Certificate) to authorize the maintenance of a dam and reservoir, with a capacity of 2.8acre-feet of water, located on the North Concho River, Colorado River Basin for recreational purposes in Tom Green County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 31.622803° N, Longitude 100.687011° W; and

WHEREAS, Applicant has provided a *Letter Agreement* from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III. which entitles Applicant to amend and subsequently purchase a portion of the Certificate; and

WHEREAS, Applicant indicates that the 9.92 acre-foot-portion of the water right currently authorized for diversion by the Certificate will be used to maintain the reservoir; and

WHEREAS, a portion of the property inundated by the dam and reservoir, and owned by Roger Glass, is evidenced by an *Assumption Warranty Deed* dated January 30, 2017, recorded as Document No. 201701142, pages 1-3 filed with the Official Public Records of Tom Green County; and

WHEREAS, ownership of the remaining property inundated by the reservoir is evidenced by a *Partition Agreement* dated January 8, 2018, recorded as Document No. 201800288, pages 1-3 filed with the Official Public Records of Tom Green County, and those landowners have provided consent to the application; and

WHEREAS, within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass must be submitted to the Executive Director.; and

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

WHEREAS, this amendment, if granted, is subject to requirements and orders of the Concho Watermaster; and

WHEREAS, the Executive Director recommends 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. 14-1189, designated Certificate of Adjudication No. 14-1189A, is issued to Roger Bernard Glass, subject to the following terms and conditions:

1. IMPOUNDMENT

- A. Owner is authorized to maintain a dam and reservoir, with a capacity of 2.8 acre-feet of water, located on the North Concho River, Colorado River Basin, with the point on the centerline of the dam located at Latitude 31.622803° N, Longitude 100.687011° W in Tom Green County.
- B. A portion of the property inundated by the dam and reservoir, and owned by Roger Glass, is evidenced by an *Assumption Warranty Deed* dated January 30, 2017, recorded as Document No. 201701142, pages 1-3 filed with the Official Public Records of Tom Green County.
- C. Ownership of the remaining property inundated by the reservoir is evidenced by a *Partition Agreement* dated January 8, 2018, recorded as Document No. 201800288, pages 1-3 filed with the Official Public Records of Tom Green County, and those landowners have provided consent to the application.

2. USE

In lieu of previous authorizations for the 9.92 acre-feet of water, Owner is authorized to maintain the reservoir described in PARAGRAPH 1. IMPOUNDMENT for recreational purposes in Tom Green County, with no right of diversion.

3. TIME PRIORITY

- A. The time priority for 9.92 acre-feet of water per year is December 31, 1935.
- B. The time priority for the right to maintain the 2.8-acre-foot reservoir for recreational purposes is September 25, 2020.

4. SPECIAL CONDITIONS

- A. Owner shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when water levels in the North Concho River fall below the top of the constructed dam.
- B. Within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass shall be submitted to the Executive Director. If the finalized Change of Ownership is not submitted, the commission may begin proceedings to cancel this amendment.
- C. Upon issuance of this amendment, and completion of the Change of Ownership required by Paragraph 4.B., Owner shall not utilize the 9.92 acre-feet of diversion rights authorized by this portion of the certificate.
- D. Owner shall allow representatives of the Concho Watermaster reasonable access to the property.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 14-1189, except as specifically amended herein.

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

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

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

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

For the Commission

Date Issued:

Hal Bailey

From: Chuck Brown [REDACTED] >
Sent: Tuesday, March 29, 2022 1:52 PM
To: Brooke McGregor
Cc: Chris Kozlowski; Hal Bailey
Subject: Re: FW: Roger Bernard Glass ADJ 14-1189A Draft Notice

Brooke,

Yes, please proceed to notice.

Thanks
Chuck

On Tue, Mar 29, 2022 at 9:13 AM Brooke McGregor <brooke.mcgregor@tceq.texas.gov> wrote:

Hi Chuck,

Thanks for talking this morning. I'm sending this along again, please respond to let us know if we can proceed.

Thanks,

Brooke McGregor

From: Brooke McGregor
Sent: Monday, March 21, 2022 5:04 PM
To: [REDACTED]
Cc: Hal Bailey <Hal.Bailey@tceq.texas.gov>
Subject: Roger Bernard Glass ADJ 14-1189A Draft Notice

Hi Chuck,

Thanks for talking with me this afternoon. As per our discussion, please review the attached draft notice. If you do not have any other comments, we will proceed to public notice.

Thank you,



Brooke McGregor

Manager

Water Rights Permitting and Availability Section

Water Availability Division

(512) 239-2025

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Chuck Brown

President/CEO

Hydro Corporation LLC

(325) 234-8017



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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Issued:

DRAFT

Hal Bailey

From: Chuck Brown [REDACTED] >
Sent: Monday, March 7, 2022 3:11 PM
To: Hal Bailey; Humberto Galvan
Cc: Chris Kozlowski; rglass
Subject: Re: Roger Bernard Glass ADJ 14-1189A Draft Amendment/Notice Applicant Review

Hal,

I will provide a deed of conveyance template to the Tomerlins and Mr. Glass in the next few days and run it by you and Bert once I have their approval and signatures.

Chuck

On Fri, Mar 4, 2022 at 8:45 AM Hal Bailey <Hal.Bailey@tceq.texas.gov> wrote:

Good morning Chuck,

Roger Bernard Glass is not currently one of the owners of record of Certificate of Adjudication No. 14-1189. The applicant must finalize a Change of Ownership

for the portion of the water right he is requesting to amend within 30 days of the amendment being issued. This is separate from the Certificate amendment.

If you have questions regarding the Change of Ownership process, please contact Mr. Bert Galvan of the TCEQ Water Rights Compliance and Assurance Team

at 512-239-4013 or Humberto.Galvan@tceq.texas.gov. If you do not have any other comments regarding the draft amendment, we will proceed to public notice.

Thank you,

Hal E. Bailey, Jr.

Natural Resources Specialist III

Water Rights Permitting Team

Water Availability Division

Texas Commission on Environmental Quality

From: Chuck Brown [REDACTED] >
Sent: Thursday, March 3, 2022 11:06 AM
To: Hal Bailey <Hal.Bailey@tceq.texas.gov>; rglass <[REDACTED]>
Subject: Re: Roger Bernard Glass ADJ 14-1189A Draft Amendment/Notice Applicant Review

Hal,

Thank you for your timely response. We have reviewed the draft amendment and concur with the document and its provisions. I do have one question. On page 2, second paragraph of the notice of application to amend certificate of adjudication 14-1189A it states:

"Within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass must be submitted to the Executive Director."

I assume that is an internal (TCEQ) submission to the ED and not something that is required on our end. Please clarify. Other than that, we are agreeable to the provisions stated in the amendment.

Chuck

On Mon, Feb 28, 2022 at 1:47 PM Hal Bailey <Hal.Bailey@tceq.texas.gov> wrote:

Good afternoon Chuck,

Attached is the draft amendment/notice for Roger Bernard Glass, application no. 14-1189A, and related technical memoranda.

Please review the draft documents and provide any comments and/or edits by COB on 03/14/2022.

If you have any questions, please feel free to 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

--

Chuck Brown

President/CEO

Hydro Corporation LLC

(325) 234-8017

[REDACTED]

--

Chuck Brown

President/CEO

Hydro Corporation LLC

(325) 234-8017

[REDACTED]

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

February 28, 2022

Mr. Chuck Brown, CEO
Hydro Corporation, LLC
2320 W Avenue L
San Angelo, Texas 76901

VIA E-MAIL

RE: Roger Bernard Glass
ADJ 1189
CN605769900, RN102818952
Application No. 14-1189A to Amend Certificate of Adjudication No. 14-1189
Texas Water Code § 11.122, Requiring Mailed and Published Notice
North Concho River, Colorado River Basin
Tom Green County

Dear Mr. Brown:

Drafts, subject to revision, of the public notice, proposed amendment to Certificate of Adjudication No. 14-1189, 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 March 14, 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, the proposed amendment to Certificate of Adjudication No. 14-1189 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 TO AMEND A CERTIFICATE OF ADJUDICATION

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DRAFT

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Filed: September 25, 2020	Granted:
Purpose: Recreation	County: Tom Green
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WHEREAS, Roger Bernard Glass (Applicant) seeks to amend Certificate of Adjudication No. 14-1189 (Certificate) to authorize the maintenance of a dam and reservoir, with a capacity of 2.8acre-feet of water, located on the North Concho River, Colorado River Basin for recreational purposes in Tom Green County; and

WHEREAS, a point on the centerline of the dam is located at Latitude 31.622803° N, Longitude 100.687011° W; and

WHEREAS, Applicant has provided a *Letter Agreement* from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III. which entitles Applicant to amend and subsequently purchase a portion of the Certificate; and

WHEREAS, Applicant indicates that the 9.92 acre-foot-portion of the water right currently authorized for diversion by the Certificate will be used to maintain the reservoir; and

WHEREAS, a portion of the property inundated by the dam and reservoir, and owned by Roger Glass, is evidenced by an *Assumption Warranty Deed* dated January 30, 2017, recorded as Document No. 201701142, pages 1-3 filed with the Official Public Records of Tom Green County; and

WHEREAS, ownership of the remaining property inundated by the reservoir is evidenced by a *Partition Agreement* dated January 8, 2018, recorded as Document No. 201800288, pages 1-3 filed with the Official Public Records of Tom Green County, and those landowners have provided consent to the application; and

WHEREAS, within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass must be submitted to the Executive Director.; and

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

WHEREAS, this amendment, if granted, is subject to requirements and orders of the Concho Watermaster; and

WHEREAS, the Executive Director recommends 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. 14-1189, designated Certificate of Adjudication No. 14-1189A, is issued to Roger Bernard Glass, subject to the following terms and conditions:

1. IMPOUNDMENT

- A. Owner is authorized to maintain a dam and reservoir, with a capacity of 2.8 acre-feet of water, located on the North Concho River, Colorado River Basin, with the point on the centerline of the dam located at Latitude 31.622803° N, Longitude 100.687011° W in Tom Green County.
- B. A portion of the property inundated by the dam and reservoir, and owned by Roger Glass, is evidenced by an *Assumption Warranty Deed* dated January 30, 2017, recorded as Document No. 201701142, pages 1-3 filed with the Official Public Records of Tom Green County.
- C. Ownership of the remaining property inundated by the reservoir is evidenced by a *Partition Agreement* dated January 8, 2018, recorded as Document No. 201800288, pages 1-3 filed with the Official Public Records of Tom Green County, and those landowners have provided consent to the application.

2. USE

In lieu of previous authorizations for the 9.92 acre-feet of water, Owner is authorized to maintain the reservoir described in PARAGRAPH 1. IMPOUNDMENT for recreational purposes in Tom Green County, with no right of diversion.

3. TIME PRIORITY

- A. The time priority for 9.92 acre-feet of water per year is December 31, 1935.
- B. The time priority for the right to maintain the 2.8-acre-foot reservoir for recreational purposes is September 25, 2020.

4. SPECIAL CONDITIONS

- A. Owner shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when water levels in the North Concho River fall below the top of the constructed dam.
- B. Within 30 days of issuance of this amendment, a finalized Change of Ownership from Tommy Matthew Tomerlin and Alton Cary Tomerlin, III to Roger Bernard Glass shall be submitted to the Executive Director. If the finalized Change of Ownership is not submitted, the commission may begin proceedings to cancel this amendment.
- C. Upon issuance of this amendment, and completion of the Change of Ownership required by Paragraph 4.B., Owner shall not utilize the 9.92 acre-feet of diversion rights authorized by this portion of the certificate.
- D. Owner shall allow representatives of the Concho Watermaster reasonable access to the property.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 14-1189, except as specifically amended herein.

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

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

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

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

For the Commission

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Hal Bailey, Project Manager
Water Rights Permitting Team

Date: January 7, 2022

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

From: ^{TG} Trent Gay, Team Leader
Surface Water Availability Team

Subject: Roger Bernard Glass
ADJ 1189
CN60576900
North Concho River, Colorado River Basin
Tom Green County

Water Availability Review

Application Summary

Certificate of Adjudication No. 14-1189 (Certificate) authorizes Roger Bernard Glass (Applicant) to divert 9.92 acre-feet of water per year from the North Concho River, Colorado River Basin for agricultural purposes to irrigate 17.64 acres of land out of a 44-acre tract in Tom Green County.

Applicant requests to amend the Certificate to authorize a reservoir impounding 2.8 acre-feet of water on the North Concho River for recreational purposes in Tom Green County. The Applicant requests authorization to maintain the reservoir with the 9.92 acre-feet of water authorized for diversion.

The application was declared administratively complete on September 25, 2020.

Water Availability Review

Resource Protection staff did not recommend instream flow requirements for the application. See Resource Protection staff's September 16, 2021 memorandum.

The application does not request a new appropriation of water; therefore, a water availability analysis is not necessary. However, the application must be reviewed to ensure that the request does not affect other water rights.

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, channel losses, 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.

The application was modeled using the Full Authorization simulation of the Colorado River WAM, where all basin rights use their maximum authorized amount and return flows are not included. The period of record for the Colorado River WAM is 1940 to 2016. Staff first compared the pre- and post-application volume reliability for all basin water rights if the diversion rights (9.92 acre-feet with a priority date of December 31, 1935) were moved to the location of the reservoir. Staff found that there were no impacts to other basin water rights.

Next, Staff compared the pre- and post- application volume reliability for all basin water rights if the 9.92 acre-feet of diversion rights were converted to a storage based right for the reservoir. Staff modeled the reservoir at a priority date of December 31, 1935, which is the priority date of Certificate 14-1189. Staff compared the pre- and post- application volume reliabilities of all water rights in the Colorado River Basin and found no impacts to any water rights. Simulation results indicate that the reservoir is 100% full during 13% of the months of the record and 50% full during 20% of the months of the period of record.

In addition, this application is subject to the requirements and order of the Concho River Watermaster. The Watermaster actively manages water rights on a daily basis and protects senior water rights in times of shortage. Therefore, there should be no effect on other basin water rights as a result of this application.

Conclusion

Staff can support granting the application provided the amendment includes the following special condition to ensure that only 9.92 acre-feet of water will be used to support the reservoir:

1. Owner shall provide a means, approved by the Executive Director, to pass inflows downstream of the reservoir when water levels in the North Concho River fall below the top of the constructed dam.

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

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Hal Bailey, Project Manager
Water Rights Permitting Team

Date: September 16, 2021

Through: Jason Godeaux, Team Leader
Resource Protection Team

JG
Jennifer Allis, Senior Water Conservation Specialist
Resource Protection Team

JA
From: Kristin Wang, Senior Water Conservation Specialist
Resource Protection Team

K.W.

Subject: Roger Bernard Glass
ADJ 1189A
CN605769900
North Concho River, Colorado River Basin
Tom Green County

APPLICATION SUMMARY

Certificate of Adjudication No. 14-1189 (Certificate) authorizes Roger Bernard Glass (Applicant) to divert 9.92 acre-feet of water per year from the North Concho River, Colorado River Basin for agricultural purposes to irrigate 17.64 acres of land out of a 44-acre tract in Tom Green County.

Applicant requests to amend the Certificate to authorize a reservoir impounding 2.8 acre-feet of water on the North Concho River for recreational purposes in Tom Green County. The Applicant requests authorization to maintain the reservoir with the 9.92 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 use are exempt from submitting a water conservation plan.

The application is consistent with the 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: Humberto Galvan, Project Manager
Water Rights Permitting Team

Date: September 16, 2021

Through:  Jason Godeaux, Team Leader
Resource Protection Team

From:  Jade Rutledge, Aquatic Scientist
Resource Protection Team

Subject: Roger Bernard Glass
ADJ 1189
CN60576900
North Concho River, Colorado River Basin
Tom Green 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

Certificate of Adjudication No. 14-1189 (Certificate) authorizes Roger Bernard Glass (Applicant) to divert 9.92 acre-feet of water per year from the North Concho River, Colorado River Basin for agricultural purposes to irrigate 17.64 acres of land out of a 44-acre tract in Tom Green County.

Applicant requests to amend the Certificate to authorize a reservoir impounding 2.8 acre-feet of water on the North Concho River for recreational purposes in Tom Green County. The Applicant requests authorization to maintain the reservoir with the 9.92 acre-feet of water authorized for diversion.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitats: The Applicant's proposed project is located on North Concho River, intermittent with perennial pools, in the Red Prairie ecoregion (Griffith et. al. 2004).

The checklist for the Colorado River Basin identified 54 species of ichthyofauna occurring within Tom Green County (Hendrickson and Cohen 2015). The Guadalupe bass (*Micropterus treculii*), Texas pimpleback (*Quadrula petrina*), Texas fatmucket

(*Lampsilis bracteata*), Texas fawnsfoot (*Truncilla macrodon*), and Concho water snake (*Nerodia paucimaculata*), high interest aquatic species, are known to occur in Tom Green County (TPWD 2015). This amendment is not expected to have an effect on any high interest aquatic species because no additional state water will be taken.

On August 8, 2012, the TCEQ adopted environmental flow standards for the Colorado and Lavaca River, 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 stored, taken, or diverted; therefore, the environmental flow standards do not apply.

Although the Applicant is requesting to convert a run-of-river right to a storage right, Resource Protection staff does not recommend a streamflow restriction because the location of the proposed project is on a portion of North Concho River that is intermittent with perennial pools and the existing reservoir is very small. The Applicant's request is not expected to adversely impact aquatic and riparian habitats in the area.

Recreational Uses: North Concho River has a presumed primary contact recreation 1 use (TCEQ 2018). The Applicant's request should not adversely impact recreational uses.

Water Quality: North Concho River has a presumed limited aquatic life use (TCEQ 2018). North Concho River from lower end of water body to Sterling County line was also identified in the Texas Integrated Report with a concern for screening levels for chlorophyll-a (TCEQ 2020). 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 have no recommendations regarding this proposed amendment, if granted.

LITERATURE CITED

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

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [2021 Mar 26]; 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.

TCEQ. 2020. Texas Integrated Report of Surface Water Quality §§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): Tom Green County, revised March 5 2021. [2021 Mar 26]. Available from <http://tpwd.texas.gov/gis/rtest/>.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Bert Galvan
Water Rights Permitting Team

Date: May 15, 2020

Thru:

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

Subject: Roger Glass, Application to amend Certificate of Adjudication No. 14-1189 to maintain an existing reservoir, North Concho River, Colorado River Basin, Tom Green County.

The applicant seeks authorization to maintain an existing reservoir and dam in Tom Green County. The dam impounds 2.8 acre-feet and has a surface area of 1.1 acres.

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

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Bert Galvan, Work Leader
Water Rights Permitting Team

DATE: September 25, 2020

SUBJECT: Roger Bernard Glass
ADJ 1189
CN605769900, RN102818952
Application No. 14-1189A to Amend Certificate of Adjudication No. 14-1189
Texas Water Code § 11.122, Requiring Mailed and Published Notice
North Concho River, Colorado River Basin
Tom Green County

The application was received on March 11, 2020. Additional information and fees were received on March 31, June 22, and September 11, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 25, 2020. Notice is required to published and mailed to the water right holders of record in the Colorado River Basin pursuant to Title 30 Texas Administrative Code § 295.151.

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

H Galvan

Bert Galvan, Work Leader
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*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 25, 2020

Mr. Chuck Brown
Hydro Corporation LLC
2320 W Avenue L
San Angelo, TX 76901-4254

VIA-EMAIL

RE: Roger Bernard Glass
ADJ 1189
CN605769900, RN102818952
Application No. 14-1189A to Amend Certificate of Adjudication No. 14-1189
Texas Water Code § 11.122, Requiring Mailed and Published Notice
North Concho River, Colorado River Basin
Tom Green County

Dear Mr. Brown:

This acknowledges receipt of additional information on September 11, 2020.

The application was declared administratively complete and filed with the Office of the Chief Clerk on September 25, 2020. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning this matter please contact me via email at humberto.galvan@tceq.texas.gov or by telephone at (512) 239-4013.

Sincerely,

H Galvan

Bert Galvan, Work Leader
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Humberto Galvan

From: Chuck Brown [REDACTED]
Sent: Friday, September 11, 2020 1:53 PM
To: Humberto Galvan
Subject: Re: Roger Glass App No. 14-1189A RFI #2 Extension Letter
Attachments: Glass and Turner deeds.pdf; glass topo map reservoir.pdf; Leslie D Turner Consent Letter.pdf; North Concho River dam topographic survey.jpg; 14_1189A request letter TCEQ.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Bert,

Attached is additional information which provides copies of the (1) Tom Green County deed records of the landowners of record on the North Concho River where the unpermitted dam and inundation areas are located and (2) a consent letter from Mr. Leslie D Turner approving of the water right amendment and inundation of water along his property.

I believe this covers all the requested information for completion of the water rights amendment 14-1189A but please contact me if there is additional information required. Thank you for all your quick responses and assistance in this matter.

Kind regards,

Chuck

On Wed, Aug 26, 2020 at 8:12 AM Humberto Galvan <Humberto.Galvan@tceq.texas.gov> wrote:

Mr. Brown,

-

-

Attached is the extension letter you requested for Roger Bernard Glass application No. 14-1189A.

-

-

Thank you,

Bert Galvan, Work Leader

Water Rights Permitting Team

Water Rights Permitting and Availability Section

(512) 239-4013

--

Chuck Brown

President/CEO

Hydro Corporation LLC

(325) 234-8017



ASSUMPTION WARRANTY DEED

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: January 30, 2017

GRANTOR (including mailing address):

CHARLES or ROGER GLASS PARTNERSHIP, a Texas general partnership composed of Charles Glass and Roger Glass
10422 Glass Road
San Angelo, Tom Green County, Texas 76901

GRANTEE (including mailing address):

ROGER GLASS, a married man
10001 W. Grape Creek Road
San Angelo, Tom Green County, Texas 76901

CONSIDERATION:

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to the undersigned paid by the Grantee herein named the receipt of which is herein acknowledged, in furtherance of the dissolution of the Charles or Roger Glass Partnership, and for the further consideration that Grantee hereby assumes and promises to pay, according to the terms thereof, all principal and interest now remaining unpaid upon that one certain promissory note in the original principal sum of \$405,000.00, dated December 6, 2012, executed by the Charles or Roger Glass Partnership payable to the order of Texas State Bank, San Angelo, Texas. The note is secured by an express vendor's lien and superior title retained in a Warranty Deed with Vendor's Lien from Nan Louise Kirkpatrick, et al to Roger or Charles Glass Partnership recorded in Instrument 728314, Official Public Records of Real Property of Tom Green County, Texas and further secured by a Deed of Trust of even date therewith recorded in Instrument 728315, Official Public Records of Real Property of Tom Green County, Texas, and Grantee hereby assumes and promises to keep and perform all of the covenants and obligations of the Grantor named in said Deed of Trust and to indemnify, defend, and hold Grantor harmless from any loss, attorney's fees, expenses, or claims attributable to a breach or default of any provision of this assumption by Grantee.

PROPERTY (including any improvements):

All of Block 278 (207.368 acres), Mason-Perry Co. Subdivision No. 1 of the Collyns Ranch, Tom Green County, Texas.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the property; minerals

reserved in that one Warranty Deed with Vendor's Lien from Nan Louise Kirkpatrick, et al to Roger or Charles Glass Partnership recorded in Instrument 728314, Official Public Records of Real Property of Tom Green County, Texas; reservation regarding water rights in that one Warranty Deed with Vendor's Lien from Nan Louise Kirkpatrick, et al to Roger or Charles Glass Partnership recorded in Instrument 728314, Official Public Records of Real Property of Tom Green County, Texas; and taxes for 2017, the payment of which Grantee assumes.

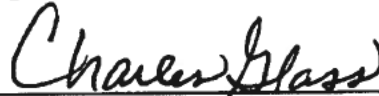
Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and its successors to warrant and forever defend all and singular the Property to Grantee and Grantee's 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 warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

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

GRANTOR:

CHARLES OR ROGER GLASS PARTNERSHIP, a Texas general partnership composed of Charles Glass and Roger Glass



CHARLES GLASS, Partner



ROGER GLASS, Partner

ROGER GLASS, Grantee accepts the foregoing Deed and agrees to the obligations imposed by Grantee by the terms of the Deed.

GRANTEE:



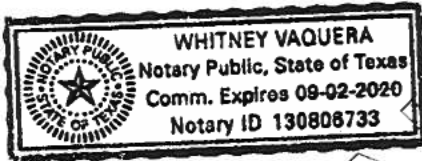
ROGER GLASS

THE STATE OF TEXAS
COUNTY OF TOM GREEN

§
§
§

Before me the undersigned Notary Public on this day personally appeared **CHARLES GLASS, Partner of CHARLES OR ROGER GLASS PARTNERSHIP**, a Texas general partnership composed of Charles Glass and Roger Glass, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this 30th day of January, A.D., 2017.

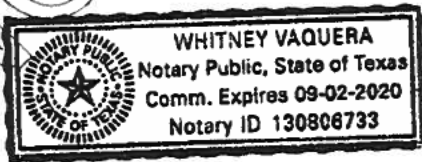


Whitney Vaquera
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF TOM GREEN

Before me the undersigned Notary Public on this day personally appeared **ROGER GLASS, Individually and as Partner of CHARLES OR ROGER GLASS PARTNERSHIP**, a Texas general partnership composed of Charles Glass and Roger Glass, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this 30th day of January, A.D., 2017.



Whitney Vaquera
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

PREPARED IN THE LAW OFFICE OF:

MASSEY BALENTINE, P.C.
202 West Twohig, Suite 200
San Angelo, Texas 76903

CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Elizabeth McGill

Elizabeth McGill County Clerk
Tom Green County, Texas
01/30/2017 01:38 PM
Fee: \$34.00
201701142 DE



THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTIES OF TOM GREEN

PARTITION AGREEMENT

THIS Partition Agreement is made by and between ROSCOE L. TURNER, whose mailing address is 2456 Raney, San Angelo, Tom Green County, Texas 76901, and LESLIE D. TURNER, whose mailing address is P. O. Box 337, Carlsbad, Tom Green County, Texas 76934; and, who, for and in consideration of the premises and the mutual promises, covenants and agreements herein set forth, have agreed and do agree as follows:

I.

The surface estate in the subject lands covered by this agreement are situated in Tom Green County, Texas, and described as follows:

Ranch, containing 2,049.65 acres, more or less, which is owned equally by both parties and being:

- Tract No. 1 - 155.900 acres, Abstract A-8102, Survey No. 62, H. TURNER, Tom Green County, Texas;
- Tract No. 2 - 508.00 acres, Abstract A-8104, Survey No. 60, W. TURNER, Tom Green County, Texas;
- Tract No. 3 - 600.00 acres, Abstract A-8553, Survey No. 58, H. SHORT, Tom Green County, Texas;
- Tract No. 4 - 28.300 acres, Abstract A-8628, Survey No. 64, S. TURNER, Tom Green County, Texas;
- Tract No. 5 - 64.000 acres, Abstract A-4363, Survey No. 1121, TYLER TAP RR Co., Tom Green County, Texas;
- Tract No. 6 - 365.00 acres, Abstract A-0899, Survey No. 59, H & TC RR Co., Tom Green County, Texas;
- Tract No. 7 - 143.000, Abstract A-0900, Survey No. 61, H & TC RR Co., Tom Green County, Texas;
- Tract No. 8 - 186.350 acres, Abstract A-0901, Survey No. 63, H & TX RR Co., Tom Green County, Texas; and

The above tracts numbered 1 through 8 being that part of said surveys described in Partition Deed to Barbara L. Turner and Beatrice Turner recorded in Volume 633, Page 684, Deed Records of Tom Green County, Texas, SAVE AND EXCEPT that part of said surveys conveyed to Robert C. Lacy, et ux, in deed dated January 16, 1997, recorded in Volume 563,

Page 533, Official Public Records of Real Property of Tom Green County, Texas.

River Tract, which is owned by Roscoe L. Turner, and being:

The Surface Estate only in and to 115.47 acres of land, more or less, referred to as the "West 100.00 acres," said 115.47 acres being described by metes and bounds in Deed Recorded in Volume 783, Page 84, of Deed Records of Tom Green County, Texas, also referred to as Block 231B of the MASON & PERRY SUBDIVISION No. 1 of the Collyns Ranch, Tom Green County, Texas.

II.

The parties hereto have agreed to a partition of the surface to the subject lands as follows: Roscoe L. Turner will convey to Leslie D. Turner all of his interest in the River Tract. Leslie D. Turner will convey to Roscoe L. Turner all of his undivided interest in the Ranch.

Simultaneously with the execution of this agreement, the parties will execute and deliver deeds to the respective tracts.

III.

It is stipulated between the parties that each party shall pay the ad valorem taxes assessed for the calendar year 2018.

VIII.

It is agreed that this Agreement may be executed in multiple counterpart on different dates, and the combined counterparts shall have the same effect as a single instrument executed by all of the parties; provided, that this Agreement shall not be effective nor binding until executed by all parties hereto.

AGREED TO:



LESLIE D. TURNER



ROSCOE L. TURNER

THE STATE OF TEXAS

COUNTY OF TOM GREEN

THIS instrument was acknowledged before me on the 8 day of January, 2018 by Roscoe L. Turner.

Deborah Kellogg
Notary Public - State of Texas



STATE OF TEXAS

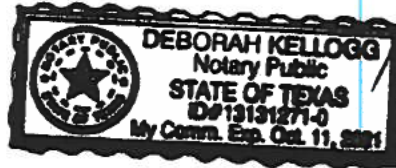
§

COUNTY OF TOM GREEN

§

This instrument was acknowledged before me on the 8 January, 2018, by Leslie D. Turner.

Deborah Kellogg
Notary Public, State of Texas



UNOFFICIAL

CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Elizabeth McGill

Elizabeth McGill County Clerk
Tom Green County, Texas
01/08/2018 02:42 PM
Fee: \$34.00
201800288 AG

To whom it may concern,

I, Leslie D Turner, a resident of Tom Green County with a mailing address of P O Box 337 Carlsbad, TX 76934, am the sole landowner of property that abuts the North Concho River ("River Tract" in the official deed) across the river from Roger Bernard Glass. I do hereby authorize consent for the inundation of water from the unpermitted impoundment dam which abuts my property and subsequent water right permit amendment which will preserve and protect the North Concho River.

If you have any questions concerning this matter, please contact me using the information provided below.





Leslie D Turner
PO Box 337
Carlsbad, TX 76934
(325) 465-4988

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



ROGER - LANDOWNERS?
TGCAD DEED

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 27, 2020

Mr. Chuck Brown
Hydro Corporation LLC
2320 W Avenue L
San Angelo, TX 76901-4254

VIA-EMAIL

RE: Roger Bernard Glass
ADJ 1189
CN605769900, RN102818952
Application No. 14-1189A to Amend Certificate of Adjudication No. 14-1189
Texas Water Code § 11.122, Requiring Mailed and Published Notice
North Concho River, Colorado River Basin
Tom Green County

Dear Mr. Brown:

This acknowledges receipt, on June 22, 2020, of additional information and fees in the amount to \$1,268.22 (Receipt No. M021423, copy attached).

Before the application can be declared administratively complete, provide information from WORKHEET 2 Impoundment/Dam Information 2.(c) of the Technical Information Report (TCEQ Form No. 10214C). Provide a copy of all the deeds for the lands inundated by the existing reservoir, with the recording information including volume, page, and date recorded from the County Clerk. Please note that the application must be in the names(s) of the entities who own the land as shown on the deed(s); -OR- a letter of consent must be obtained from all landowners not joining the application, as per Title 30 Texas Administrative Code (TAC) §§ 295.10 - 295.11.

For further instructions, please see page 23 and 24 of the *INSTRUCTIONS FOR COMPLETING THE WATER RIGHTS PERMITTING APPLICATION* (TCEQ Form No. 10214A).

Please provide the requested information by August 26, 2020 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 humberto.galvan@tceq.texas.gov or by telephone at (512) 239-4013.

Sincerely,

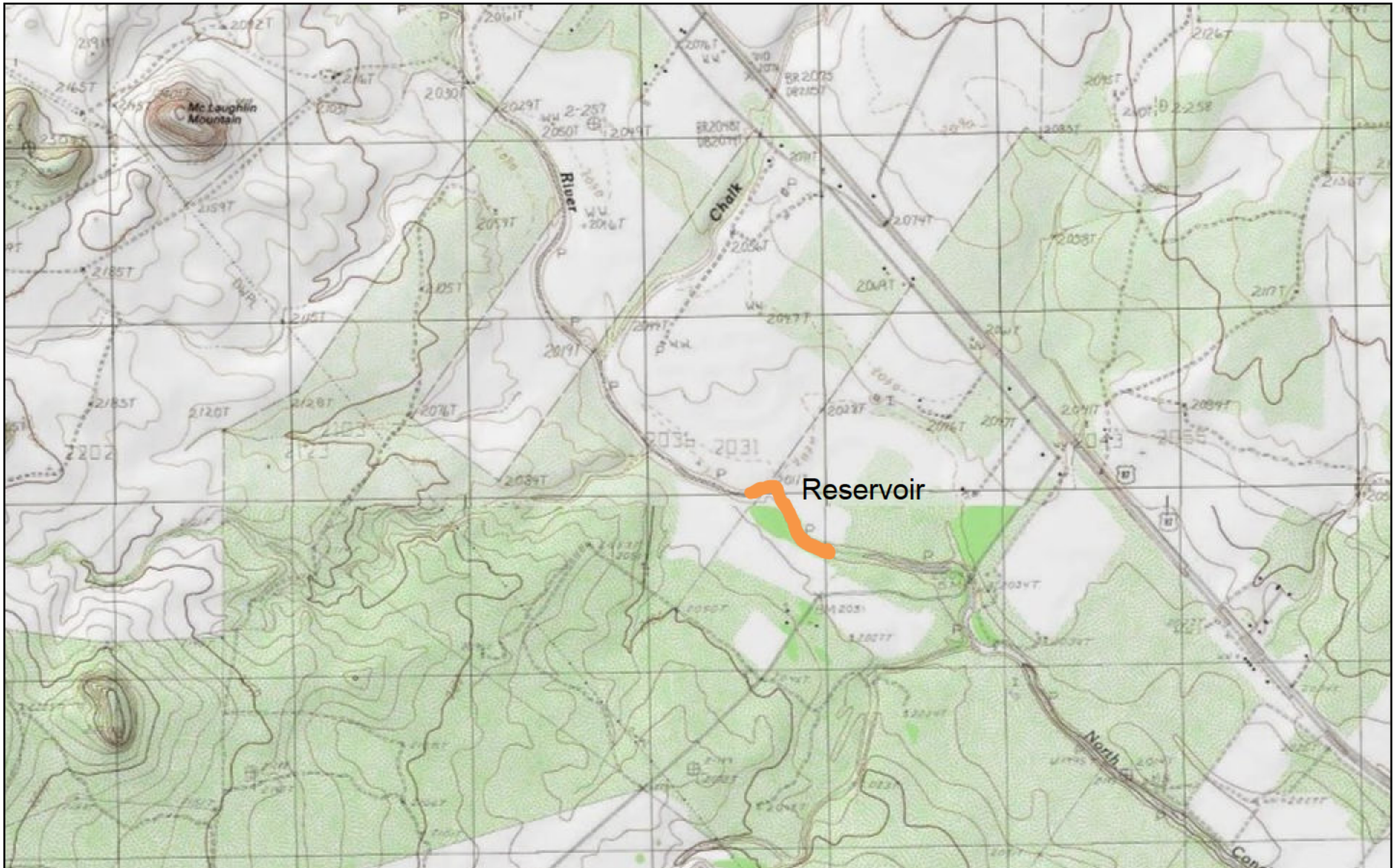
H Galvan

Bert Galvan, Work Leader
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment

DEEDS NEEDED TGCAD
CONSENT LESLIE TURNER

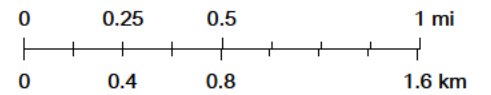
ArcGIS Web Map



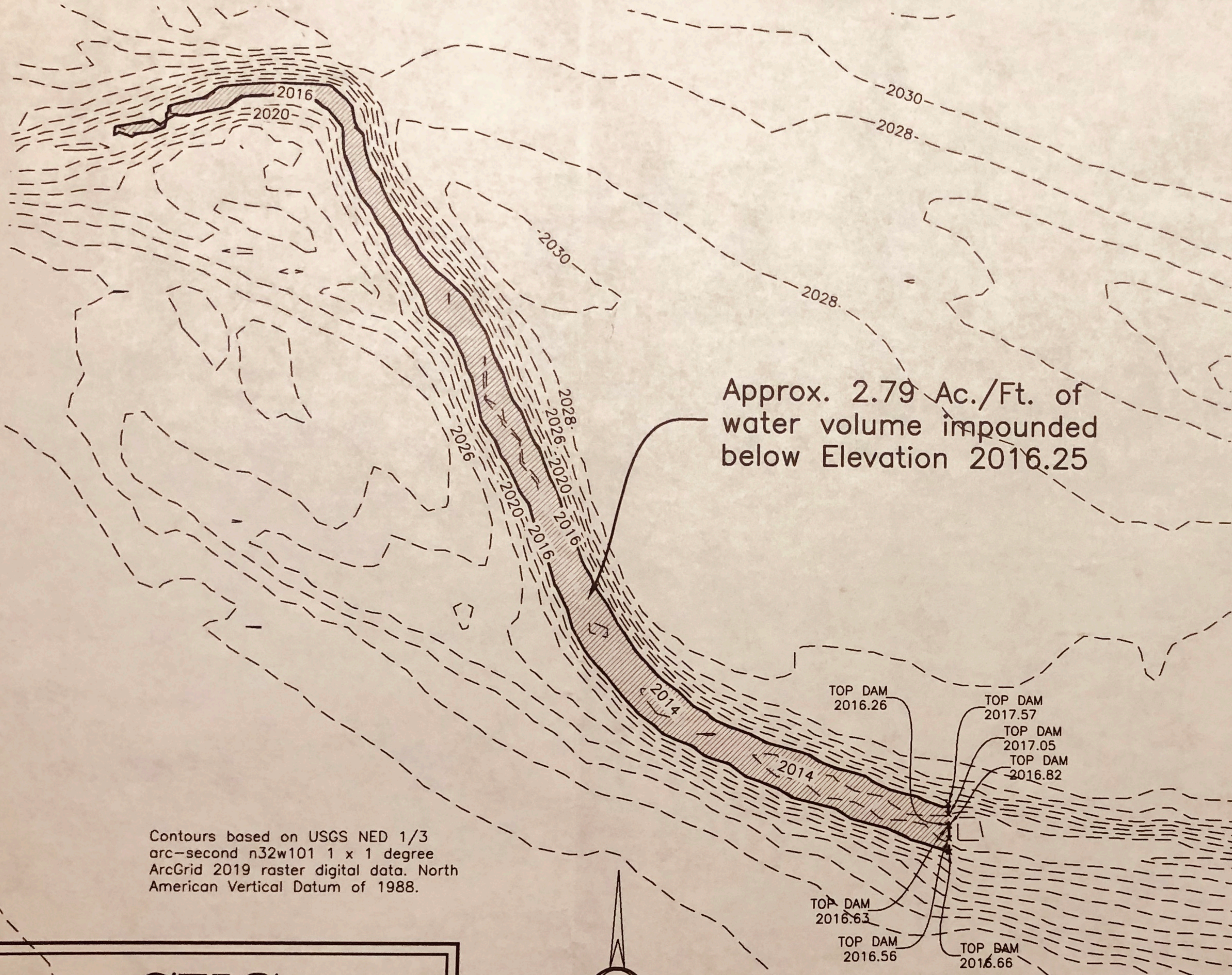
6/22/2020 6:39:13 AM

Parcel popups

1:36,112



Copyright:© 2013 National Geographic Society, i-cubed



Approx. 2.79 Ac./Ft. of water volume impounded below Elevation 2016.25

Contours based on USGS NED 1/3 arc-second n32w101 1 x 1 degree ArcGrid 2019 raster digital data. North American Vertical Datum of 1988.

Volume Summary:

Base Surface USGS
 Comparison Surface 2016.25 Elevation
 Impounded volume 4510 Cu. Yd.

LEGEND

- x 2017.57 SPOT ELEVATION
- 2020--- CONTOUR LINE

12925 GRASTON ROAD

PLAT SHOWING A TOPOGRAPHIC SURVEY OF THE TOP OF A DAM CROSSING THE NORTH CONCHO RIVER, OUT OF BLOCK 278, MASON-PERRY CO. SUBDIVISION NO. 1 OF THE COLLYNS RANCH, TOM GREEN COUNTY, TEXAS.

Certification is hereby made that a survey was made on the ground under my supervision in accordance with generally accepted practices and procedures for topographic surveys.

Surveyed on the ground January 31, 2020.

Russell T. Gully

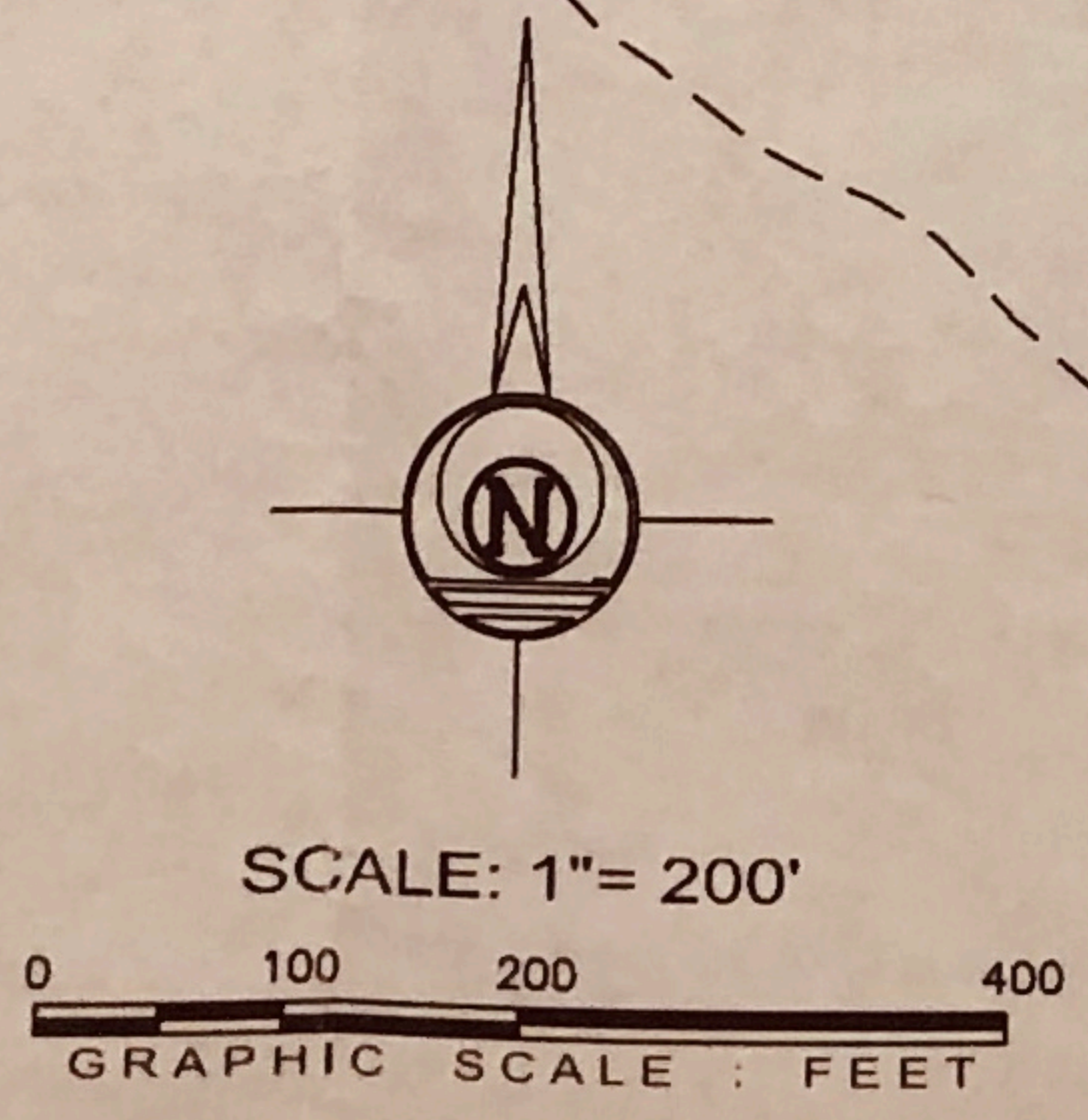
RUSSELL T. GULLY
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5636



SKG
ENGINEERING, LLC
 SURVEYING • ENVIRONMENTAL • LAB/CMT

706 SOUTH ABE STREET PHONE: 325.655.1288
 SAN ANGELO, TEXAS 76903 FAX: 325.657.8189

FIRM No.: 10102400
 www.skge.com



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

August 26, 2020

Mr. Chuck Brown
Hydro Corporation LLC
2320 W Avenue L
San Angelo, TX 76901-4254

VIA-EMAIL

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CN605769900, RN102818952
Application No. 14-1189A to Amend Certificate of Adjudication No. 14-1189
Texas Water Code § 11.122, Requiring Mailed and Published Notice
North Concho River, Colorado River Basin
Tom Green County

Dear Mr. Brown:

This acknowledges receipt, on August 24, 2020, of the applicant's request for an extension of time to respond to the Texas Commission on Environmental Quality request for information letter, dated July 27, 2020.

A 30-day extension is granted until September 25, 2020, and after that date the application will 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 this matter, please contact Mr. Bert Galvan via email at humberto.galvan@tceq.texas.gov or by telephone at (512) 239-4013.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim Nygren".

Kim Nygren, Director
Water Availability Division

KN/bg

Humberto Galvan

To: Humberto Galvan
Subject: FW: Roger Glass App No. 14-1189A RFI Sent

From: Chuck Brown [REDACTED]
Sent: Monday, August 24, 2020 10:29 AM
To: Humberto Galvan <Humberto.Galvan@tceq.texas.gov>
Subject: Re: Roger Glass App No. 14-1189A RFI Sent

Bert,

I anticipate completing this additional information and sending it to you in an email by COB tomorrow. Just in case I am unable to get the requested information in a timely fashion from the Tom Green County Appraisal District, I would ask you give me a 30 day extension on the application info.

Thanks,

Chuck

On Thu, May 21, 2020 at 10:30 AM Humberto Galvan <Humberto.Galvan@tceq.texas.gov> wrote:

Mr. Brown,

Attached is a request for information letter in regards to your application for Roger Bernard Glass application No. 14-1189A. Please review and provide a response by 6/22/2020.

Thank you,

Bert Galvan, Work Leader

Water Rights Permitting Team

Water Rights Permitting and Availability Section

(512) 239-4013

Chuck Brown
President/CEO
Hydro Corporation LLC
(325) 234-8017
[REDACTED]

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

July 27, 2020

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Hydro Corporation LLC
2320 W Avenue L
San Angelo, TX 76901-4254

VIA-EMAIL

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ADJ 1189
CN605769900, RN102818952
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Please provide the requested information by August 26, 2020 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 humberto.galvan@tceq.texas.gov or by telephone at (512) 239-4013.

Sincerely,

H Galvan

Bert Galvan, Work Leader
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachment



29-JUN-20 09:07 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>	
WTR USE PERMITS	WUP	M021422	5110063441		BS00081208	29-JUN-20	-\$212.50	
	WUP	ADJ141026	062520	N	D0805484			
WATER USE PERMITS		US CONCRETE	VHERNAND	CK				
		INC						
	WUP	M021423	1536		BS00081208	29-JUN-20	-\$1,268.22	
	WUP	ADJ141189A	062520	N	D0805484			
WATER USE PERMITS		GLASS,	VHERNAND	CK				
		ROGER						
Total (Fee Code):								-\$1,480.72
Grand Total:								-\$2,594.22

RECEIVED

2020 JUL -1 A 9:45

WATER AVAILABILITY DIV.

RECEIVED
JUL 01 2020
Water Availability Division

Humberto Galvan

From: Chuck Brown <[REDACTED]>
Sent: Monday, June 22, 2020 9:02 AM
To: Humberto Galvan
Subject: 14-1189 additional information
Attachments: 14.1189 Glass info to TCEQ 062220.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Bert,

Document with images attached. I am sending this entire document in hopes it goes through your email system. I will call you shortly.

Chuck

--

Chuck Brown
President/CEO
Hydro Corporation LLC
(325) 234-8017
[REDACTED]

Mr. Galvan,

This document and accompanying attachments supply the additional information requested in the Roger Bernard Glass application No. 14-1189A which would amend Certificate of Adjudication No. 14-1189.

1. This application DOES request authorization for a reservoir on the North Concho River and the application requests that the diversion rights authorized under Certificate of Adjudication 14-1189 and that 100 percent of this water will be converted to storage to maintain the reservoir for recreational purposes in Tom Green County.
2. An ArcGIS USGS topographic map with elevations, pertinent geographic information, watersheds, public and private transportation right of ways along with the reservoir area on the North Concho River superimposed in orange. This map is attachment 2 to this document.
3. Worksheet 5.0 has been completed and 4 photos of the dam with upstream and downstream imagery has been updated and is attachment 3.
4. None of this land in the proposed area will be irrigated or inundated. The amendment is strictly to comply with the unpermitted dam and to sustain native pecan trees along the river and provide water for wildlife. The low head dam will not inundate any land above the elevation of the natural river channel. There is a concrete flume built into the top of the dam that allows natural flow of the river to discharge downstream during times of flow. In 2012, a portion of the original land (owned by Tomerlin) was sold but water right 14-1189 was not transferred with the sale of that portion of the property. Additionally, this original water right was divided proportionally when it was originally sold to three different landowners in the area as shown below.

1189	ADJ	1.0	1189	03/12/1980	ELLIOTT, LEWIS	29.67	AGRICULTURE - IRRIGATION	12/31/1935
1189	ADJ	2.0	1189	03/12/1980	TOMERLIN, ALTON CARY III	9.92	AGRICULTURE - IRRIGATION	12/31/1935
1189	ADJ	3.0	1189	03/12/1980	TOMERLIN, TOMMY MATTHEW WESE, BENJAMIN F IV	5.41	AGRICULTURE - IRRIGATION	12/31/1935

The bill of sale of the portion of Tomerlin land is recorded in the Tom Green County Appraisal District. The deed date was July 6, 2012 and the instrument number 721283 and 721282; that portion of the property was sold to James M. Jones.

5. A copy of the check for the fees associated with this permit amendment is provided as attachment 5.

A copy of this information provided has been emailed to Humberto Galvan, Work Leader, WRPT. A hard copy of the aforementioned information is in the mail. Please contact me if there is further clarification needed during TCEQ's administrative review.

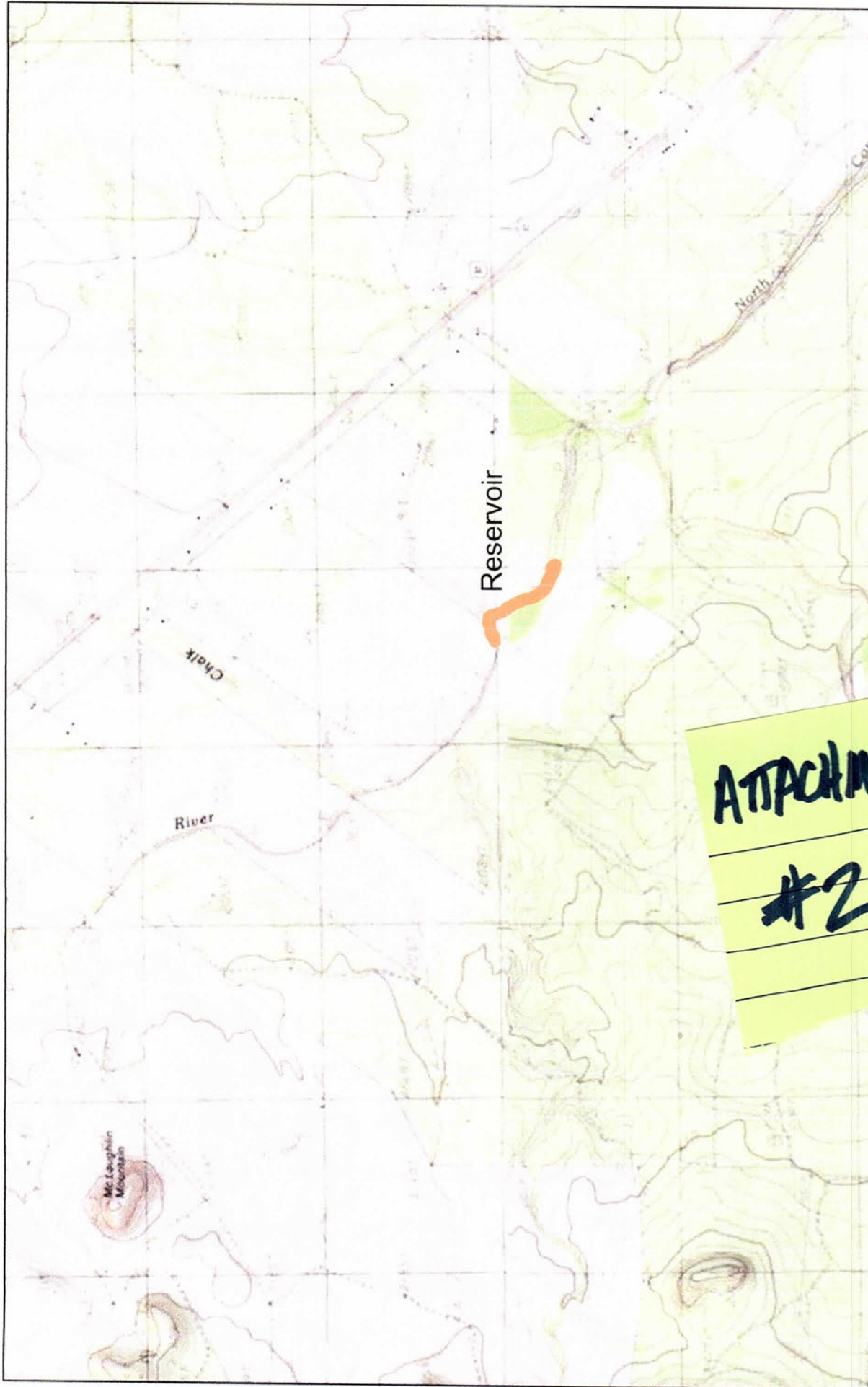
Sincerely,

Chuck Brown



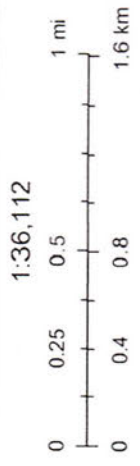
Chuck Brown
President/CEO
Hydro Corporation LLC
2320 W Ave L
San Angelo TX 76901
(325) 234-8017
[REDACTED]

ArcGIS Web Map



6/22/2020 6:39:13 AM

Parcel popups



Copyright © 2013 National Geographic Society, i-cubed

Web AppBuilder for ArcGIS
COSA GIS | COSA GIS Division | Copyright © 2013 National Geographic Society, i-cubed |

WORKSHEET 5.0

ENVIRONMENTAL INFORMATION

This worksheet is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins. The worksheet is also required in all basins for: requests to change a diversion point, applications using an alternate source of water, and bed and banks applications. **Instructions, Page 28.**

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: 3.0 FEET

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

ATTACHMENT

#3

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

d. Waterbody Recreational Uses

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

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

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

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

2. Alternate Sources of Water and/or Bed and Banks Applications

For all bed and banks applications:

- a. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).

- b. An assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

If the alternate source is treated return flows, provide the TPDES permit number _____

If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:

- a. Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L					
Chloride, mg/L					
Total Dissolved Solids, mg/L					
pH, standard units					
Temperature*, degrees Celsius					

* Temperature must be measured onsite at the time the groundwater sample is collected.

- b. If groundwater will be used, provide the depth of the well _____ and the name of the aquifer from which water is withdrawn _____.

Select a location highlighted in blue to enter Street View.

#1

DAM AND UPSTREAM RESERVOIR
AREA ALONG NORTH LOUISIANA RIVER



100%

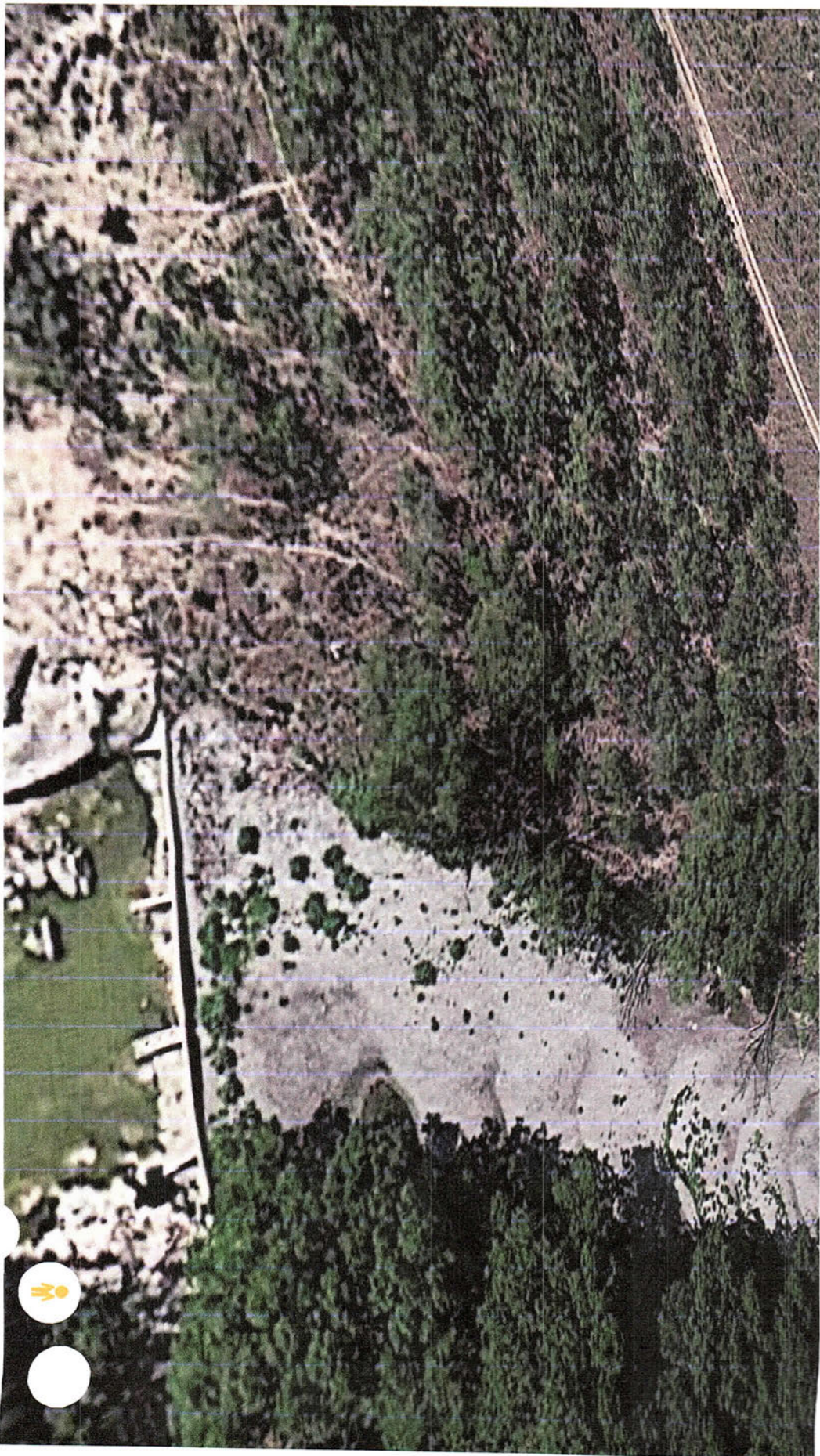
IM 61

Camera 79.9m 51.57 22.71 100.41 13.74

918 m

Select a location highlighted in blue to enter Street View.

#2 CLOSE UP OF DAM
LOOKING UPSTREAM



100% (NESI)

Current: 658 m 41°37'29"N 100°41'14"W 678 ft

Select a location highlighted in blue to enter Street View.

#3 PICTURE OF LEFT BANK
OF RIVER WITH WATER
DOWNSTREAM
BELOW DAM



74%

Data SIO, NOAA, U.S. Navy, NGA, GEBCO, Imagery Landsat / Copernicus

Camera 642 m 31.9772°N 100.4113°W 515 m

Select a location highlighted in blue to enter Street View.

#4 PICTURE OF RIGHT BANK OF RIVER WITH WATER DOWNSTREAM BELOW DAM.



100% INEGI

Camera: 45° N, 31° 37' 21" N, 100° 41' 12" W, 6/14/00

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



DUE
6/22/20

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 21, 2020

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

1. Confirm that the application requests authorization for a reservoir on the North Concho River and that the application also requests that a portion of the diversion rights authorized under Certificate of Adjudication No. 14-1189 be converted to storage to maintain the reservoir for recreational purposes in Tom Green County.
2. Provide a USGS 7.5 minute topographic map (or equivalent) with the location of the reservoir clearly marked. Staff acknowledges receipt of a map in the original application; however, the map does not show the reservoir location.
3. Provide a completed *Worksheet 5.0 Environmental Information*.
4. Provide a copy of all the deeds for the land to be irrigated and inundated, with the recording information including volume, page, and date recorded from the County Clerk. Please note that the application must be in the names(s) of the entities who own the land as shown on the deeds; -OR- a letter of consent must be obtained from all landowners not joining the application, as per Title 30 Texas Administrative Code (TAC) § 295.11.

Mr. Chuck Brown
Application No. 14-1189A
May 21, 2020
Page 2 of 2

5. Remit fees in the amount of \$ 1,268.22 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$	100.00
Recording Fee	\$	12.50
Notice Fee (Full Basin Notice)	\$	1,154.32
<u>Storage Fee (\$0.50 x 2.8 acft)</u>	\$	<u>1.40</u>
TOTAL FEES	\$	1,268.22
<u>FEES RECEIVED</u>	\$	<u>00.00</u>
BALANCE DUE	\$	1,268.22

Please provide the requested information and fees by June 22, 2020 or the application may be returned pursuant to Title 30 TAC § 281.18.

Staff notes that an initial review of the Tom Green County Appraisal District data finds that the land appurtenant to the 9.92 acre-feet of water referenced in your application is no longer owned by Mr. Tommy Mathew Tomerlin and Mr. Alton Cary Tomerlin. Conveyance of any of the appurtenant land automatically carries a proportionate share of the water rights to the new owner unless specifically reserved under the conveyance.

If you have any questions concerning this matter, please contact me via email at humberto.galvan@tceq.texas.gov or by telephone at (512) 239-4013.

Sincerely,

HGalvan

Bert Galvan, Work Leader
Water Rights Permitting Team
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Sincerely,

HGalvan

Bert Galvan, Work Leader
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Letter Agreement

To Whom It May Concern:

We, Tommy Matthew Tomerlin and Alton Cray Tomerlin III, currently own a water right on the North Concho River: being water right number 14-1189; 9.92-acre feet of surface water with a priority date of December 31, 1935.

This agreement entitles Roger Bernard Glass to purchase this water right from us as well as permission to amend this water right permit to the segment of the North Concho River above an unpermitted dam which abuts his property.

X Tommy Matthew Tomerlin X 3-15-2020
Tommy Matthew Tomerlin Date

X Alton Cray Tomerlin III X 3-15-20
Alton Cray Tomerlin III Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ WATER RIGHTS PERMITTING APPLICATION

ADMINISTRATIVE INFORMATION CHECKLIST

Complete and submit this checklist for each application. See Instructions Page. 5.

APPLICANT(S): ROGER BERNARD GLASS

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

Y/N

Y/N

Administrative Information Report

Worksheet 3.0

Additional Co-Applicant Information

Additional W.S 3.0 for each Point

Additional Co-Applicant Signature Pages

Recorded Deeds for Diversion Points

Written Evidence of Signature Authority

Consent For Diversion Access

Technical Information Report

Worksheet 4.0

USGS Map (or equivalent)

TPDES Permit(s)

Map Showing Project Details

WWTP Discharge Data

Original Photographs

24-hour Pump Test

Water Availability Analysis

Groundwater Well Permit

Worksheet 1.0

Signed Water Supply Contract

Recorded Deeds for Irrigated Land

Worksheet 4.1

Consent For Irrigation Land

Worksheet 5.0

Worksheet 1.1

Addendum to Worksheet 5.0

Addendum to Worksheet 1.1

Worksheet 6.0

Worksheet 1.2

Water Conservation Plan(s)

Addendum to Worksheet 1.2

Drought Contingency Plan(s)

Worksheet 2.0

Documentation of Adoption

Additional W.S 2.0 for Each Reservoir

Worksheet 7.0

Dam Safety Documents

Accounting Plan

Notice(s) to Governing Bodies

Worksheet 8.0

Recorded Deeds for Inundated Land

Fees

Consent For Inundation Land

RECEIVED

MAR 11 2020

Water Availability Division

For Commission Use Only:

Proposed/Current Water Right Number: _____

Basin: _____ Watermaster area Y/N: _____

ADMINISTRATIVE INFORMATION REPORT

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

*****Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4691.**

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

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

New Appropriation of State Water

Amendment to a Water Right *

Bed and Banks

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

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

MAINTAIN RESERVOIR BY ACQUIRING A WATER RIGHT

WHICH WILL BE ALLOCATED TO WATER UPSTREAM OF DAM.

WATER RIGHT TO BE ACQUIRED:

14-1189

9.92 ACRE FEET

TOMMY MATTHEW TOMERLIN

ALTON CRAY TOMERLIN III

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

Indicate the number of Applicants/Co-Applicants 1
(Include a copy of this section for each Co-Applicant, if any)

What is the Full Legal Name of the individual or entity (applicant) applying for this permit?

(If the Applicant is an entity, the legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal documents forming the entity.)

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?
You may search for your CN on the TCEQ website at

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : _____ (leave blank if you do not yet have a CN).

What is the name and title of the person or persons signing the application? Unless an application is signed by an individual applicant, the person or persons must submit written evidence that they meet the signatory requirements in 30 TAC § 295.14.

First/Last Name: _____

Title:

Have you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application?

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

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

Name: ROGER BERNARD GLASS

Mailing Address: 10001 W. GRAPE CREEK ROAD

City: SAN ANGELO State: TEXAS ZIP Code: 76901

Indicate an X next to the type of Applicant:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Individual | <input type="checkbox"/> Sole Proprietorship-D.B.A. |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation |
| <input type="checkbox"/> Trust | <input type="checkbox"/> Estate |
| <input type="checkbox"/> Federal Government | <input type="checkbox"/> State Government |
| <input type="checkbox"/> County Government | <input type="checkbox"/> City Government |
| <input type="checkbox"/> Other Government | <input type="checkbox"/> Other _____ |

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: _____ SOS Charter (filing) Number: _____

3. APPLICATION CONTACT INFORMATION (Instructions, Page. 9)

If the TCEQ needs additional information during the review of the application, who should be contacted? Applicant may submit their own contact information if Applicant wishes to be the point of contact.

First and Last Name: **CHUCK BROWN**
Title: **PRESIDENT CEO**
Organization Name: **HYDRO CORPORATION LLC**
Mailing Address: **2320 W. AVE L**
City: **SAN ANGELO** State: **TEXAS** ZIP Code: **76901**
Phone No.: **(325) 234 8017** Extension:
Fax No.: E-mail Address: 

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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

a. The application will not be processed unless all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol by all applicants/co-applicants. If you need assistance determining whether you owe delinquent penalties or fees, please call the Water Rights Permitting Team at (512) 239-4691, prior to submitting your application.

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

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

Account number:

Amount past due:

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

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

Enforcement order number:

Amount past due:

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

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

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

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Roger Bernard Glass Owner
(Typed or printed name) (Title)

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

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

Signature: [Signature] Date: 2-24-2020
(Use blue ink)

Subscribed and Sworn to before me by the said

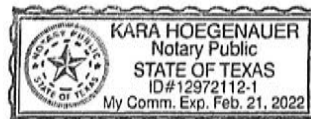
on this 24th day of February, 2020.

My commission expires on the 21st day of February, 2022.

Notary Public

Kara Hoegenauer

[SEAL]



Tom Green
County, Texas

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

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

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

Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4691 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N (If yes, date : JANUARY 9, 2020).

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

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

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

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

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N (If yes, indicate the Term Certificate or Permit number: _____)

If Applicant answered yes to (a), (b) or (c), the following worksheets and documents are required:

- **Worksheet 1.0 - Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir requested in the application)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point and/or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach requested in the application)
- **Worksheet 5.0 - Environmental Information Worksheet**
- **Worksheet 6.0 - Water Conservation Information Worksheet**
- **Worksheet 7.0 - Accounting Plan Information Worksheet**
- **Worksheet 8.0 - Calculation of Fees**
- **Fees calculated on Worksheet 8.0 - see instructions Page. 34.**
- **Maps - See instructions Page. 15.**
- **Photographs - See instructions Page. 30.**

Additionally, if Applicant wishes to submit an alternate source of water for the project/authorization, see Section 3, Page 3 for Bed and Banks Authorizations (Alternate sources may include groundwater, imported water, contract water or other sources).

Additional Documents and Worksheets may be required (see within).

2. Amendments to Water Rights. TWC § 11.122 (Instructions, Page. 12)

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. ***If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. See instructions page. 6.***

Water Right (Certificate or Permit) number you are requesting to amend: 14-1189

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

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

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

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

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

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

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

If yes, submit:

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

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

If yes, submit: Worksheet 3.0 - Diversion Point Information Worksheet (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)

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

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

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N *If yes, call the Water Availability Division at (512) 239-4691 to discuss.*

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

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

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

AMEND WATER RIGHT TO CHANGE THE PLACE
OF USE TO MAINTAIN THE RESERVOIR.

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

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

WATER AVAILABILITY COMPLETED & ATTACHED
SHOWS POOL ABOVE DAM CONTENTS = 2.8 ACRE FEET

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

THIS APPLICATION IS NOT IN CONFLICT WITH THE
STATE WATER PLAN.

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

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

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

1. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
9.92	AGRICULTURE	MAINTAIN RESERVOIR	TOM GREEN COUNTY	ATTACHED INFORMATION OF DEEDED LAND ON
				BOTH SIDES OF RIVER THAT ABUTS
				THE DAM

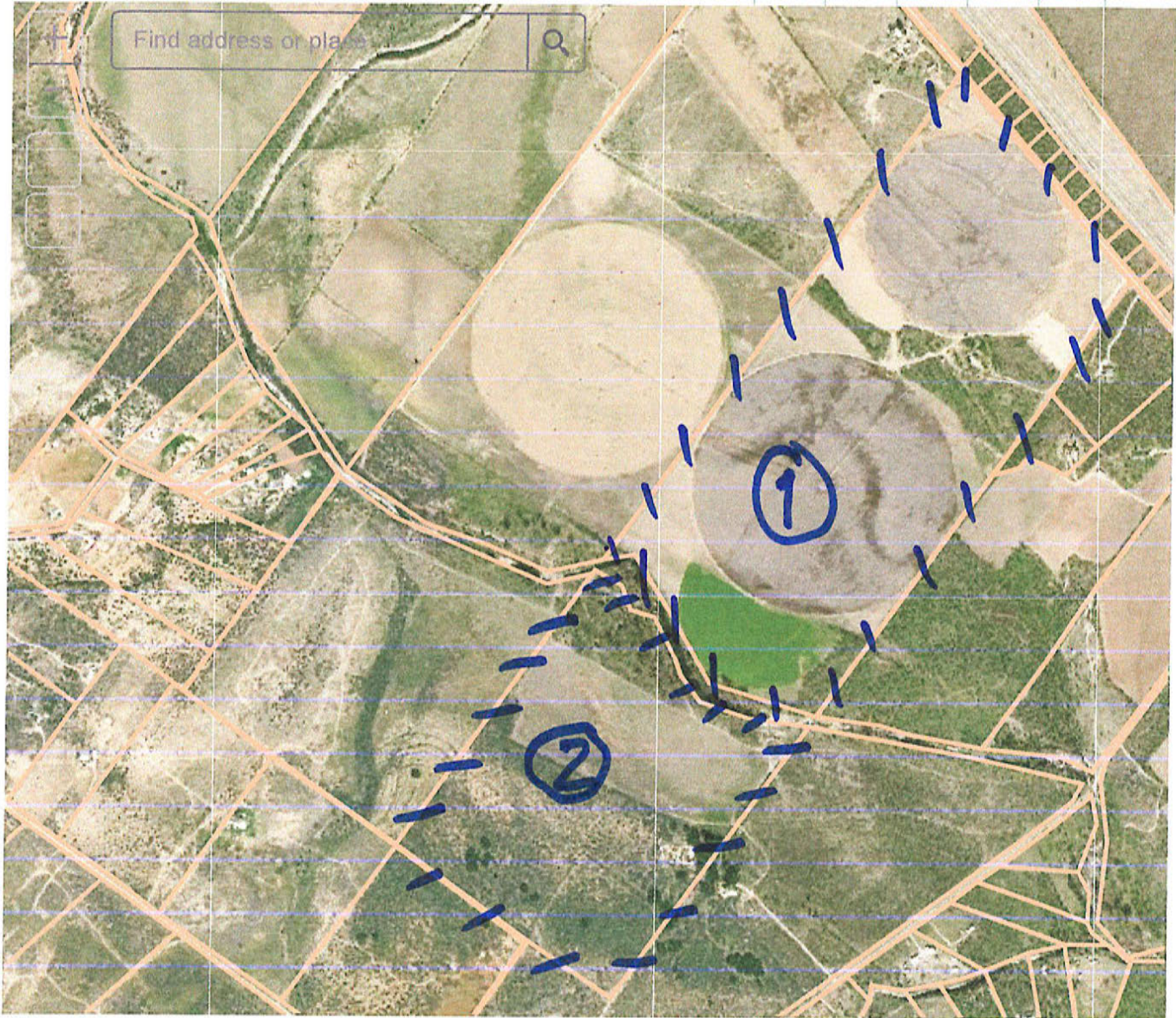
*If the request is to add additional purpose(s) of use, include the existing and new purposes of use under "Proposed Purpose(s) of Use."

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

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

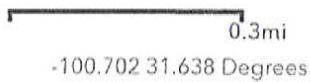
- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- i) Applicant proposes to irrigate a total of _____ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of _____ acres in _____ County, TX.
 - ii) Location of land to be irrigated: In the _____ Original Survey No. _____, Abstract No. _____.
A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.
- Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***
- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
 - d. See Worksheet 1.2, Marshall Criteria, and submit if required.
 - e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

WORKSHEET 1.0 pg 2 ATTACHMENT



1. ROGER GLASS DEED

2. LESLIE TURNER DEED



WORKSHEET 1.0 pg 2 ATTACHMENT

Tract of Land on East Side of North Concho River (Left Bank)

Details	Property ID	Geographic ID	Owner Name	Legal
View Property	R000042367	70-51100-0278-001-00	GLASS ROGER	Acres: 210.000, Blk: 278, Subdivision: MASON & PERRY S/D - NO. 1, 210.0000 ACRES IN BLOCK 278

Tract of Land Deed on East Side of North Concho River (Right Bank)

Details	Property ID	Geographic ID	Owner Name	Legal
View Property	R000042349	70-51100-0231-001-00	TURNER LESLIE D	Acres: 100.600, Blk: 231-B, Subdivision: MASON & PERRY S/D - NO. 1, 100.60 ACRES IN BLOCK 231-B

WORKSHEET 2.0 Impoundment/Dam Information

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

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

1. Storage Information (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 2.8 ACRE FEET
- c. The impoundment is on-channel or off-channel _____ (mark one)
 1. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4691? Y / N
 2. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? Y / N
- d. Is the impoundment structure already constructed? Y / N
 - i. For already constructed **on-channel** structures:
 1. Date of Construction: UNKNOWN, PRIOR TO 1955
 2. Was it constructed to be an exempt structure under TWC § 11.142? Y / N
 - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? Y / N
 - b. If No, has the structure been issued a notice of violation by TCEQ? Y / N
 3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? Y / N POSSIBLY/UNKNOWN
 - a. If yes, provide the Site No. _____ and watershed project name _____
 - b. Authorization to close "ports" in the service spillway requested? Y / N
 - ii. For **any** proposed new structures or modifications to structures:
 1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? Y / N
Provide the date and the name of the Staff Person _____
 2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
 - a. No additional dam safety documents required with the Application. Y / N
 - b. Plans (with engineer's seal) for the structure required. Y / N
 - c. Engineer's signed and sealed hazard classification required. Y / N
 - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. Y / N

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

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

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level: 1.1 ACRES.
2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option.
Applicant has calculated the drainage area. Y/N (N)
If yes, the drainage area is _____ sq. miles.
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4691).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): NORTH CONCHO RIVER
- b. Zip Code: 76934
- c. In the _____ Original Survey No. _____, Abstract No. Block 278 Masan Perry Sub 1 Tom Green County, Texas.

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

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

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

Latitude 31.622803 °N, Longitude 100.689011 °W.

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

- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): GIS MAPPING, GOOGLE EARTH CONFIRMATION

- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. Y / N (N)

WORKSHEET 8.0 CALCULATION OF FEES

This worksheet is for calculating required application fees. Applications are not Administratively Complete until all required fees are received. **Instructions, Page. 34**

1. NEW APPROPRIATION

	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u> a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00	
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4691.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
Filing Fee	Amendment: \$100 OR Sever and Combine: \$100 x ___ of water rights to combine	\$ 100.00
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$ 112.50

To be paid upon Administrative Completion and before Application deemed complete.

3. BED AND BANKS

	Description	Amount (\$)
Filing Fee		\$100.00
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$


Letter Agreement

To Whom It May Concern:

We, Tommy Matthew Tomerlin and Alton Cray Tomerlin III, currently own a water right on the North Concho River: being water right number 14-1189; 9.92-acre feet of surface water with a priority date of December 31, 1935.

This agreement entitles Roger Bernard Glass to purchase this water right from us as well as permission to amend this water right permit to the segment of the North Concho River above an unpermitted dam which abuts his property.

X  3-15-2020
Tommy Matthew Tomerlin Date

X  X 3-15-20
Alton Cray Tomerlin III Date

Chris Kozlowski

From: Chuck Brown [REDACTED]
Sent: Tuesday, March 31, 2020 8:15 AM
To: Amy Settemeyer
Cc: Alisha Multer; Humberto Galvan; Laurie Gharis; Iliana Spaeth; Chris Kozlowski
Subject: Re: North Concho River Water Right Enforcement Case # WR 58808
Attachments: Water Right Letter Agreement 14-1189.pdf

Good Morning All,

Attached is the one page agreement letter signed by both owners of water right 14-1189. The previous documents (10214 B, C) were sent by mail as hard copies due to the size of the files exceeding TCEQ's email server capabilities. Please contact me if there is additional materials needed with the administrative checklist or the technical information final reports I sent Bert earlier in March.

Chuck

On Tue, Mar 31, 2020 at 7:03 AM Amy Settemeyer <amy.settemeyer@tceq.texas.gov> wrote:

Good morning Chuck,

I wanted to provide some feedback to you regarding your e-mail below. My section received the water right amendment application for 14-1189. We did a quick review and at this time, we cannot accept the application for processing since Mr. Glass is not the current owner of record. As discussed in the pre-application meeting held on January 9, 2020, we need an agreement between the current owner(s) of record and Mr. Glass in order to accept the application for processing. We can process an application with an agreement that the sale is contingent on Mr. Glass getting the amendment application processed and issued.

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Regarding the enforcement action, you will need to continue to work with the enforcement division.

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If you have any questions, feel free to reach out to me directly by e-mail or you may call my cell phone at 512-574-3899.

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Thank you.

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Amy Settemeyer

Water Rights Permitting and Availability Section Manager