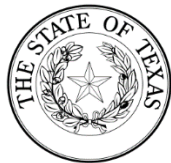


# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. 13730

Select Energy Services, LLC seeks authorization to use the bed and banks of the Pecos River, Rio Grande Basin to convey up to 8,688 acre-feet per year of groundwater-based return flows for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Select Energy Services, LLC, 1820 I-35 Frontage Rd., Gainesville, Tx. 76240, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code § 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, *et seq.* Notice is being mailed to water right holders of record downstream of the diversion reach in the Rio Grande Basin and to Texas Parks and Wildlife Department and the Public Interest Counsel pursuant to Title 30 TAC §§ 295.161(a), (c), and (f).

Select Energy Services, LLC (Applicant/Permittee) seeks authorization to use the bed and banks of the Pecos River, Rio Grande Basin to convey up to 8,688 acre-feet of groundwater-based return flows per year for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties.

The groundwater-based return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit (TPDES) No. TXRO5DF05, with use based on an agreement between the Applicant and PBM.

The groundwater-based return flows are discharged, at a maximum rate of 12 cfs (5,385 gpm), at a point on the Pecos River at Latitude 31.283283° N Longitude 102.791836° W in Ward County, ZIP Code 79742.

Applicant seeks to divert the 8,688 acre-feet of groundwater-based return flows per year from a reach on the Pecos River, located upstream of the discharge point, at a maximum combined diversion rate of 12 cfs (5,385 gpm), with the upper limit of the diversion reach located at Latitude 31.421309° N, Longitude 103.290978° W and the lower limit of the diversion reach located at Latitude 31.283283° N, Longitude 102.791836° W in Ward County, ZIP Code 79719.

Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows.

The application and partial fees were received on April 13, 2020. Additional fees were received on September 4, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 17, 2020.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions including, but not limited to streamflow restrictions and maintaining an accounting plan. The application,

technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by June 06, 2022. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by June 06, 2022. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by June 06, 2022.

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

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

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13730 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

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

Issued: May 03, 2022

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## WATER USE PERMIT

PERMIT NO.	13730	TYPE §	11.042
Permittee:	Select Energy Services, LLC	Address:	1820 I-35 Frontage Rd. Gainesville, Tx. 76240
Filed:	September 17, 2020	Granted:	
Purposes:	Industrial and Mining	Counties:	Pecos, Reeves, and Ward
Watercourse:	Pecos River	Watershed:	Rio Grande Basin

WHEREAS, Select Energy Services, LLC (Applicant/Permittee) seeks authorization to use the bed and banks of the Pecos River, Rio Grande Basin to convey up to 8,688 acre-feet of groundwater-based return flows per year for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties; and

WHEREAS, the groundwater-based return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit (TPDES) No. TXRO5DF05, with use based on an agreement between the Applicant and PBM; and

WHEREAS, the groundwater-based return flows are discharged, at a maximum rate of 12 cfs (5,385 gpm), at a point on the Pecos River at Latitude 31.283283° N Longitude 102.791836° W in Ward County; and

WHEREAS, Applicant seeks to divert the 8,688 acre-feet of groundwater-based return flows per year from a reach on the Pecos River, located upstream of the discharge point, at a maximum combined diversion rate of 12 cfs (5,385 gpm), with the upper limit of the diversion reach located at Latitude 31.421309° N, Longitude 103.290978° W and the lower limit of the diversion reach located at Latitude 31.283283° N, Longitude 102.791836° W in Ward County; and

WHEREAS, Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows; and

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

WHEREAS, the Applicant has provided and the Executive Director has approved *Select Energy's Pecos River Diversion Accounting Plan*; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; 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 permit;

NOW, THEREFORE, this permit, designated Water Use Permit No. 13730, is issued to Select Energy Services, LLC, subject to the following terms and conditions:

1. USE

- A. Permittee is authorized to use the bed and banks of the Pecos River to convey up to 8,688 acre-feet of groundwater-based return flows per year, authorized under TPDES Permit No. TXR05DF05, for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties.

2. DISCHARGE

Groundwater-based return flows will be discharged:

- A. At a point on the Pecos River in Ward County located at Latitude 31.283283° N, Longitude 102.791836° W.
- B. At a maximum discharge rate of 12 cfs (5,385 gpm).

3. DIVERSION

Permittee is authorized to divert from a reach on the Pecos River in Ward County between the following two points:

- A. The upper limit of the diversion reach is located at Latitude 31.421309° N, Longitude 103.290978° W.
- B. The lower limit of the diversion reach is located at Latitude 31.283283° N, Longitude 102.791836° W.
- C. At a maximum combined diversion rate: 12 cfs (5,385 gpm).

4. TIME PRIORITY

The groundwater-based return flows authorized to be conveyed via the bed and banks of a State watercourse in this permit do not have a priority date and are not subject to priority calls from senior water rights.

5. SPECIAL CONDITIONS

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

- B. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX, as set forth in Paragraphs C.-F. below.

<b>Season</b>	<b>Subsistence</b>	<b>Base</b>
Winter	6.8 cfs	17 cfs
Spring	5.3 cfs	11 cfs
Fall	4.9 cfs	10 cfs

cfs = cubic feet per second

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

**Subsistence Flow Special Conditions**

- D. Permittee shall not divert water if the average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is less than or equal to the applicable subsistence flow in Paragraph B. The “average streamflow” at the gage is the average of measured streamflows at the gage for the previous 24 hours.
- E. If average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is greater than the applicable subsistence flow but is less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

**Base Flow Special Conditions**

- F. If average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is greater than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.
- G. Diversions authorized under this permit are dependent upon potentially interruptible return flows or discharges and are conditioned on the availability of those discharges. The right to divert the discharged return flows is subject to revocation if discharges become permanently unavailable for diversion and may be subject to reduction if the return flows are not available in quantities and qualities sufficient to fully satisfy the permit. Should the discharges become permanently unavailable for diversion, Permittee shall immediately cease diversions from the Pecos River authorized by this permit and either apply to amend the permit, or voluntarily forfeit the permit. If Permittee does not amend the permit or forfeit the permit, the Commission may begin proceedings to cancel this permit.
- H. Permittee’s diversions from the Pecos River are limited to the amount of daily groundwater-based return flows that are actually discharged, as documented in *Select Energy’s Pecos River Diversion Accounting Plan*.
- I. Permittee shall contact Red Bluff Water Power Control District, owner of Certificate of Adjudication No. 23-5438 on a daily basis prior to initiating diversions from the Pecos River, in accordance with *Select Energy’s Pecos River Diversion Accounting Plan*.



- J. Permittee shall only divert and use water from the Pecos River pursuant to Paragraph 1. USE and Paragraph 3. DIVERSION in accordance with the most recently approved accounting plan (*Select Energy's Pecos River Diversion Accounting Plan*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification to the accounting plan that changes the permit terms must be in the form of an amendment to the Permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease diversions from the Pecos River under this permit, and either apply to amend the permit, or voluntarily forfeit the permit. If Permittee fails to amend the accounting plan or forfeit the permit, the Commission may begin proceedings to cancel the permit. Permittee shall immediately notify the Executive Director upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.
- K. Prior to diversions from the Pecos River authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain measuring device(s), at any authorized discharge point and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.
- L. Permittee shall allow representatives of the Texas Commission on Environmental Quality reasonable access to the property to inspect the measuring device and records.

This permit is issued subject to all senior and superior water rights in the Rio Grande Basin.

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

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

This water use permit 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:

**From:** [Justin Duke](#)  
**To:** [Sam Sewell](#)  
**Subject:** Re: Select Energy Services App No. 13730 Draft Permit Applicant Review  
**Date:** Thursday, April 21, 2022 6:35:05 PM  
**Attachments:** [Select Energy Services, LLC 13730 Draft Notice.pdf](#)  
[Select Energy Services, LLC 13730 Draft Permit.pdf](#)  
[Select Energy Services, LLC 13730 Conservation.pdf](#)  
[Select Energy Services, LLC 13730 Hydro.pdf](#)  
[Select Energy Services, LLC 13730 Instream.pdf](#)  
[Select Energy Services, LLC 13730 Draft Cover Letter.pdf](#)

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We approve and are ready to move forward with notice.

**Justin Duke**

**Director – Water Solutions**

1000 Central Parkway N, STE 270 | San Antonio, TX 78232

432-232-3066



On Apr 12, 2022, at 3:16 PM, Sam Sewell <[Sam.Sewell@tceq.texas.gov](mailto:Sam.Sewell@tceq.texas.gov)> wrote:

**External Email:** Use caution with links & attachments. The sender of this email is [sam.sewell@tceq.texas.gov](mailto:sam.sewell@tceq.texas.gov)

Mr. Justin Duke,

Attached is the draft permit, notice, cover letter and technical memos for Select Energy Services App No. 13730, please review and make comments by COB 4/26/22.

*Samuel Alan Sewell MSc.*

*Project Manager, Water Rights Permitting*


*Water Availability Division MC-160*

Texas Commission on Environmental Quality

12100 Park 35 Circle, Bldg. F, 3<sup>rd</sup> Floor

Austin, Texas 78753

[Sam.Sewell@Tceq.Texas.Gov](mailto:Sam.Sewell@Tceq.Texas.Gov)

: (512) 239-4008



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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 12, 2022

Mr. Justin Duke  
Select Energy Services  
7904 W Highway 80  
Midland, TX 79706-2825

VIA-EMAIL

RE: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Ward County

Dear Mr. Duke:

Drafts, subject to revision, of the public notice, proposed Water Use Permit No. 13730, 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 April 26, 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 Water Use Permit No. 13730 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 [sam.sewell@tceq.texas.gov](mailto:sam.sewell@tceq.texas.gov) or by telephone at (512) 239-4008.

Sincerely,

*Sam Sewell*

Sam Sewell, Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachments

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## WATER USE PERMIT

PERMIT NO.	13730	TYPE §	11.042
Permittee:	Select Energy Services, LLC	Address:	1820 I-35 Frontage Rd. Gainesville, Tx. 76240
Filed:	September 17, 2020	Granted:	
Purposes:	Industrial and Mining	Counties:	Pecos, Reeves, and Ward
Watercourse:	Pecos River	Watershed:	Rio Grande Basin

WHEREAS, Select Energy Services, LLC (Applicant/Permittee) seeks authorization to use the bed and banks of the Pecos River, Rio Grande Basin to convey up to 8,688 acre-feet of groundwater-based return flows per year for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties; and

WHEREAS, the groundwater-based return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit (TPDES) No. TXRO5DF05, with use based on an agreement between the Applicant and PBM; and

WHEREAS, the groundwater-based return flows are discharged, at a maximum rate of 12 cfs (5,385 gpm), at a point on the Pecos River at Latitude 31.283283° N Longitude 102.791836° W in Ward County; and

WHEREAS, Applicant seeks to divert the 8,688 acre-feet of groundwater-based return flows per year from a reach on the Pecos River, located upstream of the discharge point, at a maximum combined diversion rate of 12 cfs (5,385 gpm), with the upper limit of the diversion reach located at Latitude 31.421309° N, Longitude 103.290978° W and the lower limit of the diversion reach located at Latitude 31.283283° N, Longitude 102.791836° W in Ward County; and

WHEREAS, Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows; and

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

WHEREAS, the Applicant has provided and the Executive Director has approved *Select Energy's Pecos River Diversion Accounting Plan*; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; 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 permit;

NOW, THEREFORE, this permit, designated Water Use Permit No. 13730, is issued to Select Energy Services, LLC, subject to the following terms and conditions:

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- L. Permittee shall allow representatives of the Texas Commission on Environmental Quality reasonable access to the property to inspect the measuring device and records.

This permit is issued subject to all senior and superior water rights in the Rio Grande Basin.

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

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

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

For the Commission

DATE ISSUED:



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## NOTICE OF AN APPLICATION FOR A WATER USE PERMIT

APPLICATION NO. 13730

Select Energy Services, LLC seeks authorization to use the bed and banks of the Pecos River, Rio Grande Basin to convey up to 8,688 acre-feet per year of groundwater-based return flows for subsequent diversion and use for industrial and mining purposes in Pecos, Reeves and Ward counties. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Select Energy Services, LLC, 1820 I-35 Frontage Rd., Gainesville, Tx. 76240, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code § 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§ 295.1, *et seq.* Notice is being mailed to water right holders of record downstream of the diversion reach in the Rio Grande Basin and to Texas Parks and Wildlife Department and the Public Interest Counsel pursuant to Title 30 TAC §§ 295.161(a), (c), and (f).

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**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by \_\_\_\_\_ 2022. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by \_\_\_\_\_ 2022. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by \_\_\_\_\_ 2022.

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

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

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13730 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

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


Issued:


# Texas Commission on Environmental Quality


## INTEROFFICE MEMORANDUM

**To:** Sam Sewell, Project Manager  
Water Rights Permitting Team

**Date:** November 23, 2021

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


Jennifer Allis, Senior Water Conservation Specialist  
Resource Protection Team  


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


**Subject:** Select Energy Services, LLC  
WRPERM 13730  
CN603611161  
Pecos River, Rio Grande Basin  
Ward County

### APPLICATION SUMMARY

Select Energy Services, LLC (Applicant) requests authorization to use the bed and banks of the Pecos River, Rio Grande Basin, to convey 8,688 acre-feet of groundwater-based return flows. The return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit No. TXRO5DF05, with use based on an agreement between the Applicant and PBM. The return flows are discharged at a maximum rate of 12 cfs. Applicant also requests authorization to divert 8,688 acre-feet of water from a diversion reach on the Pecos River, at a maximum combined rate of 12 cfs (5,385 gpm), for industrial and mining purposes in Pecos, Reeves, and Ward counties. The requested diversion reach is located upstream of the discharge point and the Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows.

### WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code § 295.9, a water conservation plan is not required to be submitted for this application for only groundwater-based return flows.

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 permit.

## **RECOMMENDATIONS**

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

# Texas Commission on Environmental Quality



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## INTEROFFICE MEMORANDUM

To: Sam Sewell, Project Manager  
Water Rights Permitting Team

Date: November 24, 2021

Through: Leslie Patterson, Team Leader  
Resource Protection Team

From:  Kenneth Coonrod, Aquatic Scientist  
 Resource Protection Team

Subject: Select Energy Services, LLC  
WRPERM 13730  
CN603611161  
Pecos River, Rio Grande Basin  
Pecos, Reeves, and Ward counties

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

Select Energy Services, LLC (Applicant) requests authorization to use the bed and banks of the Pecos River, Rio Grande Basin, to convey 8,688 acre-feet of groundwater-based return flows. The return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit No. TXR05DF05, with use based on an agreement between the Applicant and PBM. The return flows are discharged at a maximum rate of 12 cfs. Applicant also requests authorization to divert 8,688 acre-feet of water from a diversion reach on the Pecos River, at a maximum combined rate of 12 cfs (5,385 gpm), for industrial and mining purposes in Pecos, Reeves, and Ward counties. The requested diversion reach is located upstream of the discharge point and the Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows.

### ENVIRONMENTAL ANALYSIS

**Aquatic and Riparian Habitats:** The Pecos River is a perennial stream located in the Chihuahuan Plains and Deserts ecoregion (Griffith et al. 2007).

The checklist for the Rio Grande Basin identified 26 species of ichthyofauna occurring within the Lower Pecos – Red Bluff Reservoir hydrologic unit (United States Geologic Survey [USGS] code 13070001) (Hendrickson and Cohen 2015). The roundnose minnow (*Dionda episcopa*), the headwater catfish (*Ictalurus lupus*), the Tamaulipas shiner (*Notropis braytoni*), the Proserpine shiner (*Cyprinella proserpina*), the speckled chub (*Macrhybopsis aestivalis*), the Pecos pupfish (*Cyprinodon pecosensis*), the Rio Grande river cooter (*Pseudemys gorzugi*), and the Balmorhea saddle-case caddisfly (*Protophila balmorhea*), high-interest, aquatic species, are all known to occur in Pecos, Reeves, and Ward counties (TCEQ 2010, TPWD 2015). This permit is not expected to have an effect on any high-interest aquatic species, because no additional state water is being requested.

Applicant has agreed to install screens with a mesh size of 0.25 inches on any new diversion structures in order to minimize entrainment and impingement of aquatic organisms. Applicant’s request is not expected to adversely impact aquatic and riparian habitats in the area.

The TCEQ regulates bed and banks authorizations to convey groundwater and surface water-based treated effluent under the authority of Texas Water Code (TWC) §11.042. That provision allows the commission to place special conditions in the authorization to “maintain instream uses and freshwater inflows to bays and estuaries.” On February 12, 2014, the TCEQ adopted environmental flow standards for the Rio Grande, Rio Grande Estuary, and Lower Laguna Madre (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter H). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC § 298.510). This review is conducted in accordance with §11.042 of the TWC and, although this is not a new appropriation of water, technical review will utilize TCEQ administrative rules which include Title 30 TAC Chapter 298 Subchapter H to provide consistency in water rights administration. The Applicant is requesting authorization to divert surface water from the Pecos River upstream of the return flow discharge point and use the bed and banks of the Pecos River to convey groundwater-based return flows. The volume of water being requested for diversion will not exceed the volume of return flows being discharged downstream. Resource Protection staff recommend a streamflow restriction for diversions from the Pecos River. Resource Protection staff utilized the subsistence and dry base environmental flow standards (Title 30 TAC § 298.530(3)) established at USGS Gage No. 08446500 – Pecos River near Girvin, TX for the streamflow restriction as shown in Table 1.

**Table 1. Environmental Flow Values at USGS Gage No. 08446500 – Pecos River near Girvin, TX.**

Season	Hydrologic Condition	Subsistence	Base
Winter	Subsistence	8.7 cfs	22 cfs
Winter	Dry	N/A	22 cfs
Winter	Average	N/A	27 cfs

Winter	Wet	N/A	32 cfs
Spring	Subsistence	6.8 cfs	14 cfs
Spring	Dry	N/A	14 cfs
Spring	Average	N/A	19 cfs
Spring	Wet	N/A	25 cfs
Fall	Subsistence	6.3 cfs	13 cfs
Fall	Dry	N/A	13 cfs
Fall	Average	N/A	18 cfs
Fall	Wet	N/A	27 cfs

cfs = cubic feet per second

N/A = not applicable

Applicant has requested that compliance with the adopted environmental flow standards be measured at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX. Applicant further requested that compliance with the adopted environmental flow standards for subsistence and base flows utilize a drainage area ratio to determine the flows that must pass the gage. Applicant translated the adopted subsistence and base flow standards using a drainage area ratio from the drainage area of USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX to the drainage area of USGS Gage No. 08446500 – Pecos River near Girvin, TX. Resource Protection staff reviewed the information submitted by the Applicant and the translated values and agrees that using the translated values for subsistence and base flows and applying those values at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX would protect the adopted standards. Resource Protection Staff’s recommendations are shown in Table 2.

<b>Season</b>	<b>Subsistence</b>	<b>Base</b>
Winter	6.8 cfs	17 cfs
Spring	5.3 cfs	11 cfs
Fall	4.9 cfs	10 cfs

The applicable subsistence and base flow values depend on the seasons. Seasons are defined in Title 30 TAC § 298.505 as follows: Winter (November through February), Spring (March through June), and Fall (July through October). Resource Protection Staff recommend that diversion of water under this proposed permit should be limited to comply with the applicable subsistence and base flow values.

**Recreational Uses:** The Upper Pecos River (Segment 2311) has a designated primary contact recreation 1 use (TCEQ 2018). Applicant’s request should not adversely impact recreational uses.

**Water Quality:** The Upper Pecos River (Segment 2311) has a designated limited aquatic life use (TCEQ 2018). Assessment Unit 2311\_03 is identified in the *Texas Integrated Report* with a use concern for bacteria in water and as non-supporting for depressed dissolved oxygen in water, and Assessment Unit 2311\_04 is listed with a concern for screening levels for chlorophyll-*a* in



water (TCEQ 2020). 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, Applicant's request should not have any impact to the Rio Grande Estuary.

### RECOMMENDATIONS

Resource Protection staff recommends the following Special Conditions be included in the permit, if granted:

1. Permittee shall implement reasonable measures in order to reduce impacts to aquatic resources due to entrainment or impingement. Such measures shall include, but shall not be limited to, the installation of screens at the diversion structure.
2. Diversions shall be restricted based on the following streamflows at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX, as set forth in Special Conditions 3-6 below.

Season	Subsistence	Base
Winter	6.8 cfs	17 cfs
Spring	5.3 cfs	11 cfs
Fall	4.9 cfs	10 cfs

cfs = cubic feet per second

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

### **Subsistence Flow Special Conditions**

4. Permittee shall not divert water if the average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is less than or equal to the applicable subsistence flow in Special Condition A. The "average streamflow" at the gage is the average of measured streamflows at the gage for the previous 24 hours.
5. If average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is greater than the applicable subsistence flow but is less than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable subsistence flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

### **Base Flow Special Conditions**

6. If average streamflow at USGS Gage No. 08437710 – Pecos River at RR 1776 near Grandfalls, TX is greater than the applicable base flow, Permittee shall not divert in excess of the rate that would reduce average streamflow at the gage to the applicable base flow; provided, however, Permittee is not required to adjust its diversion rate more frequently than once every 24 hours.

### **LITERATURE CITED**

Griffith GE, Bryce SA, Omernik JM, Rogers AC. 2007. Ecoregions of Texas - Project Report to Texas Commission on Environmental Quality. Reston (VA): U.S. Geological Survey. Report No.: AS-199. 125p.

Hendrickson DA, Cohen AE. 2015. Fishes of Texas Project Database [Internet]. [cited 2020 Oct 29]; Version 2.0. Available from <http://www.fishesoftexas.org/home/> doi:10.17603/C3WC70

TCEQ. 2020. Texas Integrated Report of Surface Water Quality §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

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

TCEQ. 2010. Procedures to Implement the Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2015. Rare, Threatened, and Endangered Species of Texas by County [Internet]. Austin (TX): Pecos, Reeves, and Ward counties, revised August 25, 2020. [cited 2020 Oct 29]. Available from <http://tpwd.texas.gov/gis/rtest/>.

**Texas Commission on Environmental Quality**

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INTEROFFICE MEMORANDUM

To: Sam Sewell, Project Manager  
Water Rights Permitting Team

Date: March 22, 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: Select Energy Services, LLC  
WRPERM 13730  
CN603611161  
Pecos River, Rio Grande Basin  
Pecos, Reeves, and Ward County

**Hydrology Review**

**Application Summary**

Select Energy Services, LLC (Applicant) requests authorization to use the bed and banks of the Pecos River, Rio Grande Basin, to convey 8,688 acre-feet of groundwater-based return flows. The return flows originate from a mining operation owned by Permian Basin Materials (PBM), authorized by Texas Pollutant Discharge Elimination System Permit No. TXR05DF05, with use based on an agreement between the Applicant and PBM. The return flows are discharged at a maximum rate of 12 cfs. Applicant also requests authorization to divert 8,688 acre-feet of water from a diversion reach on the Pecos River, at a maximum combined rate of 12 cfs (5,385 gpm), for industrial and mining purposes in Pecos, Reeves, and Ward counties. The requested diversion reach is located upstream of the discharge point and the Applicant indicates that upstream diversions will not exceed the amount of discharged groundwater-based return flows.

Select Energy, LLC submitted an accounting plan (*Select Energy's Pecos River Diversion Accounting Plan*) on February 26, 2021. The accounting plan was subsequently revised on July 19, 2021.

The application was declared administratively complete on September 17, 2020.

## Hydrology Review

Resource protection Staff recommended that the application be subject to instream flow requirements. See the Resource Protection Memo dated November 14, 2021.

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 no water rights are affected by the request. Regarding the request to use the bed and banks of the Pecos River to convey groundwater-based return flows, the application included the information required in 30 Texas Administrative Code (TAC) 295.112.

The Applicant indicated diversions would occur upstream of the discharges and, as a result, the discharges would not have any associated carriage losses. However, the Applicant included an operation plan describing how the Applicant will ensure that any diversions would be offset by discharged groundwater-based return flows.

The Applicant submitted an accounting plan (*Select Energy's Pecos River Diversion Accounting Plan*) that tracks the amount of discharged groundwater-based return flows, diversions, and instream flow requirements to demonstrate that diversions from the Pecos River will be limited to 8,688 acre-feet per year. There is one water right holder, Red Bluff Water Power Control District (RBWPCD), with authorized diversions between the discharge point and the requested diversion reach. The accounting plan considers whether RBWPCD will be diverting water from the requested diversion reach. If RBWPCD indicates that it will divert water, the amount of water available for the Applicant will be set to zero.

Staff believes that maintenance of the approved accounting plan will ensure that diversion in excess of the discharge will not occur, environmental flow requirements will be met, and no impacts to other water rights in the basin will occur.

## Conclusion

TWC 11.042(b) specifically allows for the use of a state watercourse for the conveyance of groundwater-based return flows. The Applicant's groundwater-based return flows would not be considered to be part of the natural flow of the Pecos River. Pursuant to TWC 11.042(b), the only limitations on the amount of return flows the Applicant could reuse are losses, environmental interests, and protection of any water rights that were

granted based on the use or availability of those return flows. Therefore, staff can support granting the Applicant's request to reuse its groundwater-based return flows.

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

1. Diversions authorized under this permit are dependent upon potentially interruptible return flows or discharges and are conditioned on the availability of those discharges. The right to divert the discharged return flows is subject to revocation if discharges become permanently unavailable for diversion and may be subject to reduction if the return flows are not available in quantities and qualities sufficient to fully satisfy the permit. Should the discharges become permanently unavailable for diversion, Permittee shall immediately cease diversions from the Pecos River authorized by this permit and either apply to amend the permit, or voluntarily forfeit the permit. If Permittee does not amend the permit or forfeit the permit, the Commission may begin proceedings to cancel this permit.
2. Permittee's diversions from the Pecos River are limited to the amount of daily ground water-based return flows that are actually discharged, as documented in *Select Energy's Pecos River Diversion Accounting Plan*.
3. Permittee shall contact Red Bluff Water Power Control District, owner of Certificate of Adjudication No. 23-5438 on a daily basis prior to initiating diversions from the Pecos River, in accordance with *Select Energy's Pecos River Diversion Accounting Plan*.
4. Permittee shall only divert and use water from the Pecos River pursuant to Paragraph 1. USE and Paragraph 2. DIVERSION in accordance with the most recently approved accounting plan (*Select Energy's Pecos River Diversion Accounting Plan*). Any modifications to the accounting plan shall be approved by the Executive Director. Any modification to the accounting plan that changes the permit terms must be in the form of an amendment to the Permit. Should Permittee fail to maintain the accounting plan or notify the Executive Director of any modifications to the plan, Permittee shall immediately cease diversions from the Pecos River under this permit, and either apply to amend the permit, or voluntarily forfeit the permit. If Permittee fails to amend the

accounting plan or forfeit the permit, the Commission may begin proceedings to cancel the permit. Permittee shall immediately notify the Executive Director upon modification of the accounting plan and provide copies of the appropriate documents effectuating such changes.

5. Prior to diversions from the Pecos River authorized herein, if sufficiently accurate measuring devices are not available, Permittee shall install and maintain measuring device(s), at any authorized discharge point and at any authorized diversion point, capable of measuring within plus or minus 5% accuracy.



**From:** [Kirk Kennedy](#)  
**To:** [Humberto Galvan](#)  
**Cc:** [Justin Duke](#)  
**Subject:** RE: Select Energy Services App No. 13730 Tech RFI #3 Sent  
**Date:** Monday, July 19, 2021 1:28:06 PM  
**Attachments:** [Select Accounting Plan-07192021.xlsx](#)  
[SELECT ENERGY ACCOUNTING PLAN-07192021.docx](#)

---

Bert,

Attached to the email is (1) a revised accounting plan for Select Energy's WRPERM 13730 and (2) a narrative document addressing the deficiencies your letter of June 17, 2021 detailed.

Please let me know if you have any questions.

Kirk Kennedy, P.G.  
Kennedy Resource Company  
1443 CR 204  
Burnet, Texas 78611  
OFFICE: (512) 843-5109  
CELL: (512) 589-5109  
FAX: (720) 262-7775  
EMAIL: [REDACTED]

Begin forwarded message:

**From:** Humberto Galvan <[Humberto.Galvan@tceq.texas.gov](mailto:Humberto.Galvan@tceq.texas.gov)>  
**Date:** June 17, 2021 at 12:17:07 PM CDT  
**To:** Justin Duke [REDACTED]  
**Subject:** Select Energy Services App No. 13730 Tech RFI #3 Sent

**External Email:** Use caution with links & attachments. The sender of this email is [humberto.galvan@tceq.texas.gov](mailto:humberto.galvan@tceq.texas.gov)

Mr. Duke,

Please see the attached request for information letter for the Select Energy Services application No. 13730.

Thank you,  
Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4013

**Select Energy Services LLC**  
**Water Use Permit No. 13730**

July 19, 2021

Accounting Plan with text file available upon request

Contact Mr. Chris Kozlowski at (512) 239-1801

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 17, 2021

Mr. Justin Duke  
Select Energy Services  
7904 W Highway 80  
Midland, TX 79706-2825

VIA-EMAIL

RE: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Pecos, Reeves, and Ward counties

Dear Mr. Duke:

Staff reviewed the draft accounting plan, (*Select Energy's Pecos River Diversion Accounting Plan*), dated February 26, 2021, and determined that the accounting plan will need to be revised, as discussed below, before staff can complete technical review. Note, anytime a change is made within the accounting plan or text, the change should be reflected throughout both documents.

1. Provide a text file containing a detailed description of the *Select Energy's Pecos River Diversion Accounting Plan* submitted February 26, 2021, including a summary of all authorizations under the proposed water right, a summary of the accounting plan, a narrative explanation of each table and of each column (including the name and number of the column as it appears in the table), the source(s) of the data, and explanations of the calculations.
2. Correct the worksheets in the accounting plan Excel File as follows:
  - a. Revise the accounting plan to include a daily accounting of the amount of water diverted and discharged. The accounting plan should also include a calculation demonstrating that the amount of groundwater discharged is sufficient to account for all diversions after considering accounting for the amount needed to meet the environmental flow requirements.
  - b. Revise the accounting plan to demonstrate that daily diversions under this application do not reduce streamflows below the applicable environmental flow requirement based on the gage flow for a given day. The calculations of available flow in the *Daily Detail* tab do not demonstrate that diversions will be limited by the environmental flow requirements.
  - c. Replace "2011" with "2021" in Item 5 under *Download USGS Flows* in the Instructions Tab.

Mr. Justin Duke  
Application No. 13730  
June 17, 2021  
Page 2 of 2

Please provide the requested information by July 19, 2021 or the application may be returned pursuant to 30 Texas Administrative Code § 281.19. Alternatively, you may have the question of the necessity of the requested data (or the sufficiency of the information already submitted) referred to the commission for a decision. To be considered, a request for a referral must be provided by July 19, 2021.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Bert Galvan". The signature is fluid and cursive, with the first name "Bert" and last name "Galvan" clearly distinguishable.

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

## Humberto Galvan

---

**From:** Kirk Kennedy [REDACTED]  
**Sent:** Friday, February 26, 2021 4:19 PM  
**To:** Humberto Galvan  
**Cc:** Justin Duke  
**Subject:** RE: Select Energy Services App No. 13730 RFI Sent  
**Attachments:** Select Accounting Plan-02262021.xlsx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Bert,

Pursuant to your letter of January 29, 2021, attached is an electronic copy of the accounting plan Select Energy Services proposes to use to determine when Pecos River water is available for diversion by the proposed water right permit. Note that the first tab in the Excel file is named "overview", which explains the overall process of the accounting plan, and is followed by a tab named "instructions" which prescribe that exact actions required of the user to (a) enter the necessary information and (b) interact with the various other tabs in the spreadsheet to accomplish the accounting.

Feel free to give me or Justin Duke a call if you have any questions.

Thanks

Kirk Kennedy, P.G.  
Kennedy Resource Company  
1443 CR 204  
Burnet, Texas 78611  
OFFICE: (512) 843-5109  
CELL: (512) 589-5109  
FAX: (720) 262-7775  
EMAIL: [REDACTED]

---

**From:** Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Sent:** Tuesday, February 23, 2021 3:11 PM  
**To:** Kirk Kennedy [REDACTED] >  
**Cc:** Justin Duke [REDACTED] >  
**Subject:** RE: Select Energy Services App No. 13730 RFI Sent

Email would be best.

---

**From:** Kirk Kennedy [REDACTED]  
**Sent:** Tuesday, February 23, 2021 3:06 PM  
**To:** Humberto Galvan <[Humberto.Galvan@tceq.texas.gov](mailto:Humberto.Galvan@tceq.texas.gov)>  
**Cc:** Justin Duke [REDACTED]  
**Subject:** RE: Select Energy Services App No. 13730 RFI Sent

Bert,

With regard to your request for the accounting plan, can we email the plan to you (excel file) along with a copy of our response letter; or, do we need to physically mail everything to you to be responsive to the your request?

Thanks.

Kirk Kennedy, P.G.  
Kennedy Resource Company  
1443 CR 204  
Burnet, Texas 78611  
OFFICE: (512) 843-5109  
CELL: (512) 589-5109  
FAX: (720) 262-7775  
EMAIL: [REDACTED]

Begin forwarded message:

**From:** Humberto Galvan <[Humberto.Galvan@tceq.texas.gov](mailto:Humberto.Galvan@tceq.texas.gov)>  
**Date:** January 29, 2021 at 10:58:32 AM CST  
**To:** Justin Duke [REDACTED]  
**Subject:** Select Energy Services App No. 13730 RFI Sent

**External Email:** Use caution with links & attachments. The sender of this email is [humberto.galvan@tceq.texas.gov](mailto:humberto.galvan@tceq.texas.gov)

Mr. Duke,

Please see the attached request for information letter for the Select Energy Services application No. 13730.

Thank you,  
Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4013

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*

January 29, 2021

Mr. Justin Duke  
Select Energy Services  
7904 W Highway 80  
Midland, TX 79706-2825

VIA-EMAIL

RE: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Pecos, Reeves, and Ward counties

Dear Mr. Duke:

Before we can continue to process the referenced application, provide the accounting plan described on pages 2 and 3 of the "Summary of Proposed Bed and Banks Water Right Application for Select Energy Services - Pecos River, Rio Grande Basin" submitted April 13, 2020.

Please provide the requested information by March 1, 2021 or the application may be returned pursuant to 30 Texas Administrative Code § 281.19. Alternatively, you may have the question of the necessity of the requested data (or the sufficiency of the information already submitted) referred to the commission for a decision. To be considered, a request for a referral must be provided by March 1, 2021.

If you have any questions concerning this matter please contact me via e-mail at [humberto.galvan@tceq.texas.gov](mailto: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

**Select Energy Services LLC**

**Water Use Permit No. 13730**

February 26, 2021

Accounting Plan with text file available upon request

Contact Mr. Chris Kozlowski at (512) 239-1801



**From:** [Humberto Galvan](#)  
**To:** [Justin Duke](#)  
**Subject:** RE: Select Energy Services App No. 13730 RFI Sent  
**Date:** Thursday, December 17, 2020 8:54:00 AM  
**Attachments:** [Select\\_Energy\\_Services\\_LLC\\_13730\\_tech\\_RFI\\_Sent\\_12.15.2020.pdf](#)

---

Mr. Duke,

TCEQ staff has determined that we should have not sent the attached request for information letter. Please disregard our request, and please accept my apologies for any inconvenience.

Thank you,  
Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4013

---

**From:** Justin Duke [REDACTED] >  
**Sent:** Tuesday, December 15, 2020 11:41 AM  
**To:** Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** RE: Select Energy Services App No. 13730 RFI Sent

Received. I'll hit you back ASAP on this.

Thanks,  
Justin

---

**From:** Humberto Galvan [<mailto:Humberto.Galvan@tceq.texas.gov>]  
**Sent:** Tuesday, December 15, 2020 10:39 AM  
**To:** Justin Duke [REDACTED]  
**Subject:** Select Energy Services App No. 13730 RFI Sent

**External Email:** Use caution with links & attachments. The sender of this email is [humberto.galvan@tceq.texas.gov](mailto:humberto.galvan@tceq.texas.gov)

Mr. Duke,

Please see the attached request for information letter for the Select Energy Services application No. 13730.

Thank you,  
Bert Galvan, Work Leader  
Water Rights Permitting Team

Water Rights Permitting and Availability Section  
(512) 239-4013

**From:** [Humberto Galvan](#)  
**To:** [REDACTED]  
**Subject:** Select Energy Services App No. 13730 RFI Sent  
**Date:** Tuesday, December 15, 2020 10:38:00 AM  
**Attachments:** [Select Energy Services LLC 13730 tech RFI Sent 12.15.2020.pdf](#)

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Mr. Duke,

Please see the attached request for information letter for the Select Energy Services application No. 13730.

Thank you,  
Bert Galvan, Work Leader  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section  
(512) 239-4013

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*

December 15, 2020

Mr. Justin Duke  
Select Energy Services  
7904 W Highway 80  
Midland, TX 79706-2825

VIA-EMAIL

RE: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Ward County

Dear Mr. Duke:

Before we can continue to process the referenced application, confirm the drainage areas for United States Geological Survey (USGS) Gage Nos. 08446500 - Pecos River near Girvin, TX and 08437710 - Pecos River at RR 1776 near Grandfalls, TX, used for the drainage area ratio in the *Environmental Flow Considerations* portion of the application. Staff calculated a drainage area ratio of 0.93 using the drainage areas for both USGS Gage Nos. 08446500 and 08437710.

Please provide the requested information by January 14, 2021 or the application may be returned pursuant to 30 Texas Administrative Code § 281.19. Alternatively, you may have the question of the necessity of the requested data (or the sufficiency of the information already submitted) referred to the commission for a decision. To be considered, a request for a referral must be provided by January 14, 2021.

If you have any questions concerning this matter please contact me via e-mail at [humberto.galvan@tceq.texas.gov](mailto: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

# TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

FROM: Bert Galvan, Work Leader  
Water Rights Permitting Team

DATE: September 17, 2020

SUBJECT: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Ward County

The application and partial fees were received on April 13, 2020. Additional fees were received on September 4, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on September 17, 2020. Limited mailed notice to the downstream water right holders of record in the Rio Grande Basin is required pursuant to Title 30 Texas Administrative Code §§ 295.161(a), 295.161(f).

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

*B 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 17, 2020

Mr. Justin Duke  
Select Energy Services  
7904 W Highway 80  
Midland, TX 79706-2825

**VIA-EMAIL**

RE: Select Energy Services, LLC  
WRPERM 13730  
CN603611161, RN111025581  
Application No. 13730 for a Water Use Permit  
Texas Water Code § 11.042, Requiring Limited Mailed Notice  
Pecos River, Rio Grande Basin  
Ward County

Dear Mr. Duke:

This acknowledges receipt, on September 4, 2020, of additional fees in the amount of \$817.80 (Receipt No. M100248, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on September 17, 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](mailto: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



04-SEP-20 11:58 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>
NOTICE FEES-WUP- WATER USE PERM	PTGU PTGU	M100248 13730	205311 090320		BS00082569 D1800145	04-SEP-20	-\$817.80
	NOTICE FEES WUP WATER USE PERMITS	SELECT ENERGY SERVICES LLC	VHERNAND	CK			
						Total (Fee Code):	-\$817.80
						Grand Total:	-\$967.80

RECEIVED  
SEP 07 2020  
Water Availability Division



16-APR-20 04:23 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>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	M018061	195069		BS00079994	16-APR-20	-\$112.50
	WUP		041620	N	D0804582		
WATER USE PERMITS		SELECT	KKOBANE	CK			
		ENERGY					
		SERVICES					
		LLC					
						Total (Fee Code):	-\$112.50
						Grand Total:	-\$112.50

RECEIVED  
APR 17 2020  
Water Availability Division



**TO:** Amy Settemeyer, Section Manager, Water Rights Permitting  
Texas Commission on Environmental Quality  
amy.settemeyer@tceq.texas.gov

**DATE:** April 13, 2020

**SUBJECT:** New Water Right Application

**APPLICANT:** Select Energy Services, LLC

Dear Amy,

Enclosed are the completed forms for an application for a new water right requesting bed and bank authorization under TWC 11.042(c) to divert water from the Pecos River in Reeves, Ward, and Pecos counties for industrial and mining purposes. The applicant is proposing to divert water from a large reach of the Pecos River in Reeves, Ward, and Pecos counties with such diversion being offset with private groundwater based return flows discharged into the Pecos River downstream of the proposed diversion reach. The applicant proposes to develop an accounting plan which will specify and monitor the necessary inputs to ensure diversions from the Pecos River do not impact intervening water rights or environmental flow needs.

In support of the application, the following appendices are included:

- Application Summary
- Appendix A: TCEQ Form 10214b, completed for portions that apply to this application.
- Appendix B: TCEQ Form 10214c, completed for portions that apply to this application.
- Appendix C: Maps of Diversion Reach.
- Appendix D: Permian Basin Material's Existing Discharge Permit.
- Appendix E: Environmental Flow Considerations.

Consistent with direction provided by the TCEQ during the current corona virus crisis, a check for \$112.50, to cover the fees associated with the application, have been mailed to TCEQ's mailing address at P.O. Box 13087, MC-160, Austin, Texas 78711.

Please feel free to give me a call if you have any questions.



Kirk Kennedy  
Kennedy Resource Company  
1443 CR 204  
Burnet, TX 78611  
(512) 589-5109



# 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): SELECT ENERGY SERVICES, LLC

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 **Administrative Information Report**
- N Additional Co-Applicant Information
- N Additional Co-Applicant Signature Pages
- Y Written Evidence of Signature Authority
- Y **Technical Information Report**
- N USGS Map (or equivalent)
- Y Map Showing Project Details
- N Original Photographs
- N Water Availability Analysis
- Y **Worksheet 1.0**
- N Recorded Deeds for Irrigated Land
- N Consent For Irrigation Land
- N **Worksheet 1.1**
- N Addendum to Worksheet 1.1
- Y **Worksheet 1.2**
- N Addendum to Worksheet 1.2
- Y **Worksheet 2.0**
- N Additional W.S 2.0 for Each Reservoir
- N Dam Safety Documents
- N Notice(s) to Governing Bodies
- N Recorded Deeds for Inundated Land
- N Consent For Inundation Land

Y/N

- Y **Worksheet 3.0**
- N Additional W.S 3.0 for each Point
- N Recorded Deeds for Diversion Points
- N Consent For Diversion Access
- Y **Worksheet 4.0**
- Y TPDES Permit(s)
- N WWTP Discharge Data
- N 24-hour Pump Test
- N Groundwater Well Permit
- N Signed Water Supply Contract
- Y **Worksheet 4.1**
- Y **Worksheet 5.0**
- N Addendum to Worksheet 5.0
- Y **Worksheet 6.0**
- N Water Conservation Plan(s)
- N Drought Contingency Plan(s)
- N Documentation of Adoption
- Y **Worksheet 7.0**
- N Accounting Plan
- Y **Worksheet 8.0**
- Y Fees

**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."

Select Energy (applicant) proposes to divert waters from a large reach of the Pecos River

upstream of the location in which Permian Basin Material (PBM) will discharge groundwater

under their recently issued TPDES discharge permit number TX505DF05. This discharge

is from groundwater sources associated with dewatering operations of their sand and gravel

mining operations at their Grisham pit near Grandfalls, Texas. The quantity of water proposed

to be diverted by the applicant from the Pecos River will be equal to or less than the quantity of

groundwater discharged into the Pecos River by PBM and an accounting plan will be developed

so that Pecos River water is bypassed for intervening water rights and environmental needs.

## 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?

Select Energy, LLC, Gainesville, Texas

*(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 : 603611161 (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: **Brandon Prill**

Title: **Business Unit Vice Presider**

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

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: **Select Energy LLC**

Mailing Address: **1820 I-35 Frontage Rd**

City: **Gainesville**

State: **Texas**

ZIP Code: **76240**

Indicate an X next to the type of Applicant:

Individual

Sole Proprietorship-D.B.A.

Partnership

Corporation

Trust

Estate

Federal Government

State Government

County Government

City Government

Other Government

Other \_\_\_\_\_

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 26-3006209 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: Justin Duke

Title: Senior Director

Organization Name: Select Energy Services

Mailing Address: 7904 W. Highway 80

City: Midland

State: Texas

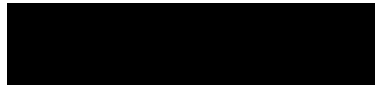
ZIP Code: 79706

Phone No.: 432-232-3066

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: NA

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 N**

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 N**

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 Y**

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 Y**



**6. SIGNATURE PAGE (Instructions, Page. 11)**

Applicant:

I, Brandon Prill

(Typed or printed name)

Business Unit VP

(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: 

(Use blue ink)

Date: 4/13/2020

Subscribed and Sworn to before me by the said

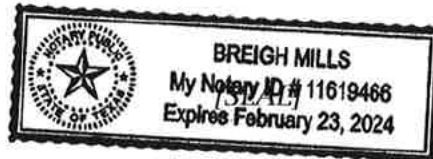
on this 13th day of APRIL, 20 20.

My commission expires on the 23rd day of FEBRUARY, 20 24.

Notary Public

Breigh Mills

COOKE  
County, Texas



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



Adam R. Law  
Senior Vice President, General Counsel  
& Corporate Secretary  
1233 West Loop South, Suite 1400  
Houston, TX 77027  
Direct: 713.296.1018  
Email: [REDACTED]  
www.selectenergyservices.com

February 18, 2020

Attention: Texas Commission on Environmental Quality

Dear Sir/Madame,

This letter is to provide confirmation that Brandon Prill, Business Unit President – Water Sourcing, is authorized on behalf of Select Energy Services, LLC, and its affiliates (collectively, the “Company”), to obtain permits relating to the Company and its operations. If you have any questions, please contact me at the address provided above.

Sincerely,

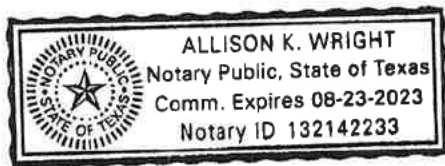
Select Energy Services, Inc.

By: \_\_\_\_\_

Adam R. Law

State of Texas  
County of Harris

I Certify that Adam Law appeared before me on the 8<sup>th</sup> of April 2020.



Allison K. Wright

## 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: **2/5/2020 and again on 3/26/2020**).

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

#### **NOT APPLICABLE**

**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)

### NOT APPLICABLE

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: \_\_\_\_\_

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 **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 **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 **Y**

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 **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 **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. Maps are contained in APPENDIX C.**
- **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":

The water will be used for industrial and mining purposes associated with oil and gas production, such use not being inconsistent with the Region F Regional Water Supply Plan.

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

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

- c. Does the application include required Maps? (Instructions **Page. 15**) Y / N **Y, see APPENDIX C.**



# 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-foot) <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>
<b>8,688</b>	<b>Pecos River, Rio Grande Basin</b>	<b>Mining and Industrial</b>	<b>Reeves, Ward, and Pecos counties</b>

**8,688** 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: **NOT APPLICABLE**

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)**

**NOT APPLICABLE**

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**

\* 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. **Not Required.**
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.



## WORKSHEET 1.2 NOTICE. "THE MARSHALL CRITERIA"

This worksheet assists the Commission in determining notice required for certain **amendments** that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. The worksheet provides information that Applicant **is required** to submit for such amendments which include changes in use, changes in place of use, or other non-substantive changes in a water right (such as certain amendments to special conditions or changes to off-channel storage). These criteria address whether the proposed amendment will impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

*This worksheet is not required for Applications in the Rio Grande Basin requesting changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir. See 30 TAC § 303.42.*

*This worksheet is not required for amendments which are only changing or adding diversion points, or request only a bed and banks authorization or an IBT authorization. However, Applicants may wish to submit the Marshall Criteria to ensure that the administrative record includes information supporting each of these criteria.*

### 1. The "Marshall Criteria" (Instructions, Page. 21)

Submit responses on a supplemental attachment titled "Marshall Criteria" in a manner that conforms to the paragraphs (a) - (g) below:

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.

**NA**

- b. Beneficial Use. Discuss how proposed amendment is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. Identify the specific proposed use of the water (e.g., road construction, hydrostatic testing, etc.) for which the amendment is requested.
- c. Public Welfare. Explain how proposed amendment is not detrimental to the public welfare. Consider any public welfare matters that might be relevant to a decision on the application. Examples could include concerns related to the well-being of humans and the environment.
- d. Groundwater Effects. Discuss effects of proposed amendment on groundwater or groundwater recharge.
- e. State Water Plan. Describe how proposed amendment 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. The state and regional water plans are available for download at:  
<http://www.twdb.texas.gov/waterplanning/swp/index.asp>.

- f. Waste Avoidance. Provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined in TWC § 11.002. Examples of evidence could include, but are not limited to, a water conservation plan or, if required, a drought contingency plan, meeting the requirements of 30 TAC Chapter 288.
- g. Impacts on Water Rights or On-stream Environment. Explain how proposed amendment will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

## WORKSHEET 2.0

### Impoundment/Dam Information - **NA**

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:
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: \_\_\_\_\_.
- 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: \_\_\_\_\_
    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**
      - 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: \_\_\_\_\_.
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**  
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): \_\_\_\_\_
- b. Zip Code: \_\_\_\_\_
- c. In the \_\_\_\_\_ Original Survey No. \_\_\_\_, Abstract No. \_\_\_\_\_,  
\_\_\_\_\_ 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 \_\_\_\_\_°N, Longitude \_\_\_\_\_°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): \_\_\_\_\_
- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. **Y / N**

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

### (UPSTREAM LIMIT OF DIVERSION REACH)

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

#### 1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
  1. \_\_\_ Diversion Point No.
  2. **X** Upstream Limit of Diversion Reach No.
  3. \_\_\_ Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** **12.0** cfs (cubic feet per second) or **5,385** gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? **Y / N Y**  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches 12.0 cfs or 5,385 gpm*
- d. For amendments, is Applicant seeking to increase combined diversion rate? **Y / N NA**  
*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*
- e. Check (x) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
<b>X</b>	Directly from stream	<b>Proposed</b>
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

- f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you 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 at (512) 239-4691 prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): **Pecos River, Rio Grande Basin.**
- b. Zip Code: **79719 (Barstow, TX)**
- c. Location of point: In the **H&TC RR** Original Survey No. **Section 28, Block 33**, Abstract No. **19**, **Ward** County, Texas.

*A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure. For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.*

- d. Point is at:  
Latitude **31.421309** °N, Longitude **-103.290978** °W.  
*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): **Google Earth map software**
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38. **See APPENDIX C.**
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion. **NA**

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

### (DOWNSTREAM LIMIT OF DIVERSION REACH)

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

#### 1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
  1. \_\_\_ Diversion Point No.
  2. \_\_\_ Upstream Limit of Diversion Reach No.
  3. X Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** 12.0 cfs (cubic feet per second) or 5,385 gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? **Y / N Y**  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches 12.0 cfs or 5,385 gpm*
- d. For amendments, is Applicant seeking to increase combined diversion rate? **Y / N NA**  
*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*
- e. Check (x) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
<b>x</b>	Directly from stream	<b>Proposed</b>
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

- f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you 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 at (512) 239-4691 prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): **Pecos River, Rio Grande Basin.**
- b. Zip Code: **79742 (Grandfalls, TX)**
- c. Location of point: In the **H&TC RR** Original Survey No. **Section 32, Block 1**, Abstract No. **475**, **Ward** County, Texas.

*A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure. For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.*

- d. Point is at:  
Latitude **31.283283** °N, Longitude **-102.791836** °W.  
*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): **Google Earth map software**
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38. **See APPENDIX C.**
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion. **NA**



## WORKSHEET 4.0 DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be for industrial and mining purposes.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0.0 % and explain the method of calculation:

The applicant proposes to divert Pecos River water, when available, upstream of the location where groundwater will be discharged to the Pecos River under TXDES Permit # TXR05DF05. Therefore, the water being diverted by the applicant will not be water actually discharged into the Pecos River under TXDES Permit # TXR05DF05 and therefore no conveyance losses are associated with the applicant's proposed diversion from the Pecos River.

Is the source of the discharged water return flows? Y / N **Y** If yes, provide the following information:

1. The TPDES Permit Number(s). TX R05DF05 (attach a copy of the **current** TPDES permit(s)) Attached as Appendix D
2. Applicant is the owner/holder of each TPDES permit listed above? Y / N **N**

*PLEASE NOTE: If Applicant is not the discharger of the return flows, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

Select Energy has an agreement for water supply, access, and surface use of real property with Rick Gregory and Associates which has a similar agreement with PBM, the owner of record of TPDES permit# TXR05DF05.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0"). The subject groundwater discharge began in February 2017. Since this time, groundwater has been continuously discharged to the Pecos River at a rate of 12 cfs.
  4. The percentage of return flows from groundwater 100%, surface water 0% ?
  5. If any percentage is surface water, provide the base water right number(s) NA
- c. Is the source of the water being discharged groundwater? Y / N **Y** If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: The groundwater associated with the discharge authorized by TPDES R05DF05 comes from an unknown shallow aquifer underlying and adjacent to the area being mined for sand and gravel. Wells are not used to pump the groundwater; instead, the subject groundwater migrates into excavated pits within the active mining area. As mining progresses and the shallow groundwater accumulates in the pits, portable pumps transfer the groundwater to a main holding pond where it is

- discharged into the Pecos River on a continuous basis. Other than direct rainfall, there are no identifiable sources of surface water that contribute to the water accumulated in the pits.
2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbrrpt.asp>. Additionally, provide well numbers or identifiers. **NA**
  3. Indicate how the groundwater will be conveyed to the stream or reservoir. **Groundwater is conveyed by a 8 inch pipe, which directly discharges into the Pecos River.**
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required. **NA**
- ci. Is the source of the water being discharged a surface water supply contract? **Y / N N**  
If yes, provide the signed contract(s).
- cii. Identify any other source of the water: **None**

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g. maps).

**Instructions, Page 27.**

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is 8,688 acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of 12.0 cfs or 5,385 gpm.
- c. Name of Watercourse as shown on Official USGS maps: Pecos River
- d. Zip Code: 79742
- f. Location of point: In the H&TC RR Original Survey No. Section 32, Block 1, Abstract No. 475, Ward County, Texas.
- g. Point is at:  
Latitude 31.283283 °N, Longitude -102.791836 °W.  
*\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): Google Earth map software

**Map submitted must clearly identify each discharge point. See instructions Page. 15.**

## 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(s)

Description of the Water Body at each Diversion Point or Dam Location. (Provide an 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

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.

Wilderness: outstanding natural beauty; usually wooded or unpastured 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?

None

- 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. **None required, per direction in pre-app meeting.**
2. Measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).  
**The intake for the pump to be used to divert from the Pecos River will be covered with a 1/4-inch mesh screen to prevent impingement and entrainment of aquatic organisms.**
3. If the application includes a proposed reservoir, also include: **NOT APPLICABLE**
  - 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).  
**The intake for the pump to be used to divert from the Pecos River will be covered with a 1/4-inch mesh screen to prevent impingement and entrainment of aquatic organisms.**
- 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.  
**The proposed diversion will bypass (1) flows needed for water rights located between the proposed diversion location and the location where PBM's groundwater discharges (authorized by TPDES Permit Number TX R05DF05) enter the Pecos River and (2) subsistence and base dry environmental flow requirements as stated in TCEQ's rules for the Pecos River near Girvin after being translated to the Pecos River near RR 1776 near Grandfalls gage location (see Appendix E for more details). Therefore, the remaining flow in the Pecos River after diversion will meet existing instream uses. The proposed diversion will not impact bay and estuary freshwater inflow requirements because all of the water diverted by the proposed water right will be offset by PBM's groundwater discharge entering the river downstream of the applicants specified diversion reach.**

If the alternate source is treated return flows, provide the TPDES permit number: N/A

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. **NA**

Parameter	Average Conc.	Maximum 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   N/A   and the name of the aquifer from which water is withdrawn:                   N/A                  .

## WORKSHEET 6.0

### Water Conservation/Drought Contingency Plans

This form is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plans is required and to specify the requirements for plans.

**Instructions, Page 31.**

*The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plan with pertinent information filled in. For assistance submitting a plan call the Resource Protection Team (Water Conservation staff) at 512-239-4691, or e-mail [wras@tceq.texas.gov](mailto:wras@tceq.texas.gov). The model plans can also be downloaded from the TCEQ webpage. **Please use the most up-to-date plan documents available on the webpage.***

#### 1. Water Conservation Plans

- a. The following applications must include a completed Water Conservation Plan (30 TAC §295.9) for each use specified in 30 TAC, Chapter 288 (municipal, industrial or mining, agriculture - including irrigation, wholesale):
  1. Request for a new appropriation or use of State Water.
  2. Request to amend water right to increase appropriation of State Water.
  3. Request to amend water right to extend a term.
  4. Request to amend water right to change a place of use.  
*\*does not apply to a request to expand irrigation acreage to adjacent tracts.*
  5. Request to amend water right to change the purpose of use.  
*\*applicant need only address new uses.*
  6. Request for bed and banks under TWC § 11.042(c), when the source water is State Water  
*\*including return flows, contract water, or other State Water.*
  
- b. If Applicant is requesting any authorization in section (1)(a) above, indicate each use for which Applicant is submitting a Water Conservation Plan as an attachment:
  1. \_\_\_ Municipal Use. See 30 TAC § 288.2. \*\*
  2. \_\_\_ Industrial or Mining Use. See 30 TAC § 288.3.
  3. \_\_\_ Agricultural Use, including irrigation. See 30 TAC § 288.4.
  4. \_\_\_ Wholesale Water Suppliers. See 30 TAC § 288.5. \*\*

\*\* If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? **Y / N NA**
  
- c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed appropriation; and evaluates any other feasible alternative to new water development. See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? **Y / N NA**

## 2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
1. \_\_\_ Municipal Uses by public water suppliers. See 30 TAC § 288.20.
  2. \_\_\_ Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
  3. \_\_\_ Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc. See 30 TAC § 288.30*) Y /N **NA**



## **WORKSHEET 7.0**

### **ACCOUNTING PLAN INFORMATION WORKSHEET**

The following information provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4691 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

**An Accounting Plan will be submitted after the Application has been reviewed by and discussed with TCEQ Staff.**

#### **1. Is Accounting Plan Required**

Accounting Plans are generally required:

- For applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point;
- For applications for new major water supply reservoirs;
- For applications that amend a water right where an accounting plan is already required, if the amendment would require changes to the accounting plan;
- For applications with complex environmental flow requirements;
- For applications with an alternate source of water where the water is conveyed and diverted; and
- For reuse applications.

#### **2. Accounting Plan Requirements**

- a. A **text file** that includes:
  1. an introduction explaining the water rights and what they authorize;
  2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
  3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
  4. Should provide a summary of all sources of water.
- b. A **spreadsheet** that includes:
  1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
  2. Method for accounting for inflows if needed;
  3. Reporting of all water use from all authorizations, both existing and proposed;
  4. An accounting for all sources of water;
  5. An accounting of water by priority date;
  6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
  7. Accounting for conveyance losses;
  8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
  9. An accounting for spills of other water added to the reservoir; and
  10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

## 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 **NOT APPLICABLE**

	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 <b>Amount (\$)</b> . In Acre-Feet	
	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	Only for those with an Irrigation Use. Multiply 50C x Number of acres that will be irrigated with State Water. **	
Use Fee	Required for all Use Types, <b>excluding Irrigation Use</b> . Multiply \$1.00 x Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	Only for those with Recreational Storage. Multiply \$1.00 x acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	Only for those with Storage, excluding Recreational Storage. Multiply 50C 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 **NOT APPLICABLE**

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

### 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		<b>\$112.50</b>



**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
**Texas Pollutant Discharge Elimination System**  
**Stormwater Multi-Sector General Permit**

The Notice of Intent (NOI) for the facility listed below was received on January 13, 2017. The intent to discharge stormwater associated with industrial activity under the terms and conditions imposed by the Texas Pollutant Discharge Elimination System (TPDES) stormwater multi-sector general permit TXR050000 is acknowledged. Your facility's TPDES multi-sector stormwater general permit authorization number is:

**TXR05DF05**

Coverage Effective: January 13, 2017

Sector: J Primary SIC code: 1422

TCEQ's stormwater multi-sector general permit requires certain stormwater pollution prevention and control measures, possible monitoring and reporting, and periodic inspections. Among the conditions and requirements of this permit, you must have prepared and implemented a stormwater pollution prevention plan (SWP3) that is tailored to your industrial site. As a facility authorized to discharge under the stormwater multi-sector general permit, all terms and conditions must be complied with to maintain coverage and avoid possible penalties.

**Project/Site Information:**

RN107979148

Grisham Pit

On FM 11, Approx. 4.8 Miles Southeast of The Intersection  
of FM 11 & 1St Street In Grandfalls

Grandfalls, TX 79742

Ward County

**Operator:**

CN604874677

Permian Basin Materials, LLC

4001 E 42Nd St

Odessa, TX 79762

This permit expires on August 14, 2021, unless otherwise amended. If you have any questions related to processing, you may contact the Stormwater Processing Center by email at [swpermit@tceq.texas.gov](mailto:swpermit@tceq.texas.gov) or by telephone at (512) 239-3700. For technical issues, you may contact the stormwater technical staff by email at [swgp@tceq.texas.gov](mailto:swgp@tceq.texas.gov) or by telephone at (512) 239-4671. Also, you may obtain information on the TCEQ web site at [http://www2.tceq.texas.gov/wq\\_dpa/index.cfm](http://www2.tceq.texas.gov/wq_dpa/index.cfm). A copy of this document should be kept with your SWP3.

A handwritten signature in black ink, appearing to read "R. Q. A. Hylb".

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FOR THE COMMISSION

Issued Date: January 13, 2017