

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1330E

Veribest Cattle Feeders, Inc. (Owner/Applicant) seeks an amendment to Certificate of Adjudication No. 14-1330 to add a diversion point and place of use for agricultural purposes to irrigate 233 acres of land out of two tracts of land totaling 633.03 acres in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Veribest Cattle Feeders, Inc., 3913 Veribest Park Rd, Miles Texas 76861, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) § 11.122 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, et seq. Limited mailed notice is required to co-owners pursuant to Title 30 TAC § 295.158(c)(2)(B), and to interjacent water right holders of record in the Colorado River Basin pursuant to Title 30 TAC § 295.158(c)(3)(D).

A portion of Certificate of Adjudication No. 14-1330 authorizes Veribest Cattle Feeders, Inc. (Owner/Applicant) to divert and use not to exceed 295 acre-feet of water per year from two points on the Concho River, tributary of the Colorado River, Colorado River Basin, at a maximum combined diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes to irrigate up to 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County. The time priority of this water right is 1955 and Applicant's portion is junior to the following ten Certificates of Adjudication: 14-1330B, 14-1331, 14-1332, 14-1333, 14-1334, 14-1335, 14-1336, 14-1337, 14-1338, and 14-1339.

Applicant has entered into an agreement with Outlier Dairy, LLC to irrigate the land and use the diversion point currently authorized under Certificate of Adjudication No. 14-1345.

Pursuant to the agreement, Applicant seeks to amend Certificate of Adjudication No. 14-1330, as amended, to add a place of use for agricultural purposes to irrigate a maximum of 233 acres of land out of a 683.033-acre tract in Tom Green County.

Pursuant to the agreement, Applicant also seeks to amend Certificate of Adjudication No. 14-1330, as amended, to authorize the diversion of 283 acre-feet of water per year out of the 295-acre feet of water authorized under Certificate of Adjudication No. 14-1330 from a point authorized under Certificate of Adjudication No. 14-1345, being a point on the Concho River, located at Latitude 31.533329° N, Longitude 100.250966° W, in Tom Green County, at a maximum rate of 2.67 cfs (1200 gpm), in Tom Green County, in ZIP Code 76861.

The application was received on June 24, 2022. Additional fees were received on September 29, 2022, and additional information was received on October 1 and October 13, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 24, 2022.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, streamflow restrictions. The application, technical memoranda, and

Executive Director's draft amendment are available for viewing on the TCEQ web page at: www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

PUBLIC COMMENT / PUBLIC MEETING. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by April 9, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by April 9, 2025. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by April 9, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and amendment 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 to the requested amendment 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 amendment and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 1330 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued: March 7, 2025

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1330E	TYPE § 11.122
Owner: Veribest Cattle Feeders, Inc.	Address: 3913 Veribest Park Rd Miles, Texas 76861
Filed: October 24, 2022	Granted:
Purpose: Agricultural	County: Tom Green
Watercourse: Concho River	Watershed: Colorado River Basin

WHEREAS, a portion of Certificate of Adjudication No. 14-1330, as amended, authorizes Veribest Cattle Feeders, Inc. (Owner/ Applicant) to divert and use not to exceed 295 acre-feet of water per year from two points on the Concho River, tributary of the Colorado River, Colorado River Basin, at a maximum combined diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes to irrigate up to 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County; and

WHEREAS, the time priority of this water right is 1955; and

WHEREAS, Certificate of Adjudication No. 14-1345 authorizes Outlier Dairy, LLC to divert from a point on the south bank of the Concho River and to irrigate 233 acres of land out of two tracts, being 94 acres of land out of a tract located in Christian Buschel Survey 143, Abstract 88, and 139 acres of land out of a 633.033-acre tract in the Heirs of C. Buschel, Survey 143, Abstract No. 88 in Tom Green County; and

WHEREAS, Applicant has entered into an agreement with Outlier Dairy, LLC to irrigate the land and use the diversion point currently authorized under Certificate of Adjudication No. 14-1345; and

WHEREAS, pursuant to the agreement, Applicant seeks to amend Certificate of Adjudication No. 14-1330, as amended, to add a place of use for agricultural purposes to irrigate a maximum of 233 acres of land out of a 683.033-acre tract in Tom Green County; and

WHEREAS, pursuant to the agreement, Applicant also seeks amend Certificate of Adjudication No. 14-1330, as amended, to authorize the diversion of 283 acre-feet of water per year out of the 295-acre feet of water authorized under Certificate of Adjudication No. 14-1330 from a point authorized under Certificate of Adjudication No. 14-1345, being a point on the Concho River, located at Latitude 31.533329° N, Longitude 100.250966° W, in Tom Green

County, at a maximum rate of 2.67 cfs (1200 gpm); and

WHEREAS, pursuant to the agreement, Applicant also seeks to amend Certificate of Adjudication No. 14-1330, as amended, to authorize the diversion of 2831 acre-feet of water per year out of the 295-acre feet of water authorized under Certificate of Adjudication No. 14-1330, from a point authorized under Certificate of Adjudication No. 14-1345, being a add a diversion point on the Concho River, Colorado River Basin, located at Latitude 31.533329° N, Longitude 100.250966° W, in Tom Green County, to divert at a maximum combined rate of 2.67 cfs (1200 gpm) 1.565 cfs (700 gpm); and

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

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

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 14-1330, designated Certificate of Adjudication No. 14-1330E, is issued to Veribest Cattle Feeders, Inc. subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized to divert and use 283 acre-feet of water per year out of the currently authorized 295 acre-feet of water from the Concho River for agricultural purposes to irrigate an additional 233 acres out of a 633.03-acre-tract of land in Tom Green County.

2. DIVERSION

A. In addition to previous authorizations, Owner is authorized to divert from an existing point on the Concho River authorized in Certificate of Adjudication No. 14-1345 and located at Latitude 31.533329° N, Longitude 100.250966° W.

B. At a maximum diversion rate of 2.67 cfs (1200 gpm).

3. CONSERVATION

Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

4. PRIORITY

- A. The time priority of the owner's rights, as amended under this amendment, shall be junior to the following 10 certificates of adjudication: 14-1330B, 14-1331, 14-1332, 14-1334, 14-1335, 14-1336, 14-1337, 14-1338, 14-1339.
- B. The time priority of the owner's rights with respect to all other water rights in the Colorado River Basin shall be 1955.

5. SPECIAL CONDITION

- A. Owner shall not divert water at the new diversion point unless streamflow exceeds 1 cfs as measured at USGS Gage No. 08136500 - Concho River at Paint Rock, TX.
- B. The authorizations described in Paragraphs 1. USE and 2. DIVERSION are subject to the continued maintenance of the agreement between Veribest Cattle Feeders, Inc. and Outlier Dairy, LLC, as such agreement may be extended or amended from time to time. Should the agreement be amended in such a manner as to change the amount of water or the type or location of use of the water, Owner shall submit an application to amend this certificate to conform to the terms of the amended agreement. Upon expiration of the agreement, Owners shall immediately apply to amend the certificate with a new agreement, or voluntarily forfeit the amendment. Owners shall immediately notify the Executive Director upon amendment or expiration of the agreement and provide copies of appropriate documents effectuating such change.
- C. Owner shall contact the Concho Watermaster prior to the diversion of water authorized by this amendment.

This amendment is not appurtenant to the above described two tracts of land authorized in Certificate of Adjudication No. 14-1345.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 14-1330, as amended, except as specifically amended herein.

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

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

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

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

For the Commission

Date Issued:

Jeremy Walker-Lee

From: Shane, Karen & Bryce Johnson [REDACTED]
Sent: Monday, February 24, 2025 3:49 PM
To: Jeremy Walker-Lee
Cc: Chris Kozlowski; Humberto Galvan
Subject: Re: Veribest Cattle Feeders No. 14-1330E

Thank you for the notification. It appears everything is in order. We are excited to get this approved.

Thanks again

Shane

On Tue, Feb 11, 2025 at 10:29 AM Jeremy Walker-Lee <Jeremy.Walker-Lee@tceq.texas.gov> wrote:

Mr. Johnson,

Please review the draft amendment for Veribest Cattle Feeders 14-1330E and provide any comments by 2/25/2025.

If you have any questions, please let me know.

Thanks,

Jeremy Walker-Lee, Project Manager

Water Rights Permitting Team

Water Rights Permitting and Availability Section

512-239-0637

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 11, 2025

Mr. Michael Shane Johnson, Manager/Partner
Veribest Cattle Feeders, Inc.
P.O. Box 522
Veribest, TX 76886-0522

VIA E-MAIL

RE: Veribest Cattle Feeders, INC.
ADJ 1330
CN600788574, RN102703303
Application No. 14-1330E to Amend Certificate of Adjudication No. 14-1330
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Concho River, Colorado River Basin
Tom Green County

Dear Mr. Johnson:

Drafts, subject to revision, of the public notice, proposed amendment to Certificate of Adjudication No. 14-1330, and the related technical memoranda are attached.

Staff is recommending that the referenced application be granted in accordance with the enclosed drafts. Please review the drafts and contact me no later than February 25, 2025 with any comments or questions as the notice will be forwarded to the Office of the Chief Clerk for mailing after that date.

Please note, this application requires a two-week comment period, and once the comment period has closed, the proposed amendment to Certificate of Adjudication No. 14-1330 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 jeremy.walker-lee@tceq.texas.gov or by telephone at (512) 239-0637.

Sincerely,

A handwritten signature in cursive script that reads "Jeremy Walker-Lee".

Jeremy Walker-Lee, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section

Attachments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF AN APPLICATION TO AMEND A CERTIFICATE OF ADJUDICATION

APPLICATION NO. 14-1330E

Veribest Cattle Feeders, Inc. (Owner/Applicant) seeks an amendment to Certificate of Adjudication No. 14-1330 to add a diversion point and place of use for agricultural purposes to irrigate 233 acres of land out of two tracts of land totaling 633.03 acres in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345. More information on the application and how to participate in the permitting process is given below.

APPLICATION. Veribest Cattle Feeders, Inc., 3913 Veribest Park Rd, Miles Texas 76861, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Certificate of Adjudication pursuant to Texas Water Code (TWC) § 11.122 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.1, et seq. Limited mailed notice is required to co-owners pursuant to Title 30 TAC § 295.158(c)(2)(B), and to interjacent water right holders of record in the Colorado River Basin pursuant to Title 30 TAC § 295.158(c)(3)(D).

A portion of Certificate of Adjudication No. 14-1330 authorizes Veribest Cattle Feeders, Inc. (Owner/Applicant) to divert and use not to exceed 295 acre-feet of water per year from two points on the Concho River, tributary of the Colorado River, Colorado River Basin, at a maximum combined diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes to irrigate up to 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County. The time priority of this water right is 1955 and Applicant's portion is junior to the following ten Certificates of Adjudication: 14-1330B, 14-1331, 14-1332, 14-1333, 14-1334, 14-1335, 14-1336, 14-1337, 14-1338, and 14-1339.

Applicant has entered into an agreement with Outlier Dairy, LLC to irrigate the land and use the diversion point currently authorized under Certificate of Adjudication No. 14-1345.

Pursuant to the agreement, Applicant seeks to amend Certificate of Adjudication No. 14-1330, as amended, to add a place of use for agricultural purposes to irrigate a maximum of 233 acres of land out of a 683.033-acre tract in Tom Green County.

Pursuant to the agreement, Applicant also seeks amend Certificate of Adjudication No. 14-1330, as amended, to authorize the diversion of 283 acre-feet of water per year out of the 295-acre feet of water authorized under Certificate of Adjudication No. 14-1330 from a point authorized under Certificate of Adjudication No. 14-1345, being a point on the Concho River, located at Latitude 31.533329° N, Longitude 100.250966° W, in Tom Green County, at a maximum rate of 2.67 cfs (1200 gpm), in Tom Green County, in ZIP Code 76861.

The application was received on June 24, 2022. Additional fees were received on September 29, 2022, and additional information was received on October 1 and October 13, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 24, 2022.

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

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

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

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and amendment 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 to the requested amendment 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 amendment and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

INFORMATION. Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 1330 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en Español, puede llamar al 1-800-687-4040 o por el internet al <http://www.tceq.texas.gov>.

Issued:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

CERTIFICATE NO. 14-1330E	TYPE § 11.122
Owner: Veribest Cattle Feeders, Inc.	Address: 3913 Veribest Park Rd Miles, Texas 76861
Filed: October 24, 2022	Granted:
Purpose: Agricultural	County: Tom Green
Watercourse: Concho River	Watershed: Colorado River Basin

WHEREAS, a portion of Certificate of Adjudication No. 14-1330, as amended, authorizes Veribest Cattle Feeders, Inc. (Owner/ Applicant) to divert and use not to exceed 295 acre-feet of water per year from two points on the Concho River, tributary of the Colorado River, Colorado River Basin, at a maximum combined diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes to irrigate up to 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County; and

WHEREAS, the time priority of this water right is 1955; and

WHEREAS, Certificate of Adjudication No. 14-1345 authorizes Outlier Dairy, LLC to divert from a point on the south bank of the Concho River and to irrigate 233 acres of land out of two tracts, being 94 acres of land out of a tract located in Christian Buschel Survey 143, Abstract 88, and 139 acres of land out of a 633.033-acre tract in the Heirs of C. Buschel, Survey 143, Abstract No. 88 in Tom Green County; and

WHEREAS, Applicant has entered into an agreement with Outlier Dairy, LLC to irrigate the land and use the diversion point currently authorized under Certificate of Adjudication No. 14-1345; and

WHEREAS, pursuant to the agreement, Applicant seeks to amend Certificate of Adjudication No. 14-1330, as amended, to add a place of use for agricultural purposes to irrigate a maximum of 233 acres of land out of a 683.033-acre tract in Tom Green County; and

WHEREAS, pursuant to the agreement, Applicant also seeks amend Certificate of Adjudication No. 14-1330, as amended, to authorize the diversion of 283 acre-feet of water per year out of the 295-acre feet of water authorized under Certificate of Adjudication No. 14-1330 from a point authorized under Certificate of Adjudication No. 14-1345, being a point on the

Concho River, located at Latitude 31.533329° N, Longitude 100.250966° W, in Tom Green County, at a maximum rate of 2.67 cfs (1200 gpm) ; and

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

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

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

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

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 14-1330, designated Certificate of Adjudication No. 14-1330E, is issued to Veribest Cattle Feeders, Inc. subject to the following terms and conditions:

1. USE

In addition to previous authorizations, Owner is authorized to divert and use 283 acre-feet of water per year out of the currently authorized 295 acre feet of water from the Concho River for agricultural purposes to irrigate an additional 233 acres out of a 633.03-acre-tract of land in Tom Green County.

2. DIVERSION

A. In addition to previous authorizations, Owner is authorized to divert from an existing point on the Concho River authorized in Certificate of Adjudication No. 14-1345 and located at Latitude 31.533329° N, Longitude 100.250966° W, .

B. At a maximum diversion rate of 2.67 cfs (1200 gpm).

3. CONSERVATION

Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

4. PRIORITY

A. The time priority of the owner's rights, as amended under this amendment, shall be junior to the following 10 certificates of adjudication: 14-1330B, 14-1331, 14-1332, 14-1334, 14-1335, 14-1336, 14-1337, 14-1338, 14-1339.

- B. The time priority of the owner's rights with respect to all other water rights in the Colorado River Basin shall be 1955.

5. SPECIAL CONDITION

- A. Owner shall not divert water at the new diversion point unless streamflow exceeds 1 cfs as measured at USGS Gage No. 08136500 - Concho River at Paint Rock, TX.
- B. The authorizations described in Paragraphs 1. USE and 2. DIVERSION are subject to the continued maintenance of the agreement between Veribest Cattle Feeders, Inc. and Outlier Dairy, LLC, as such agreement may be extended or amended from time to time. Should the agreement be amended in such a manner as to change the amount of water or the type or location of use of the water, Owner shall submit an application to amend this certificate to conform to the terms of the amended agreement. Upon expiration of the agreement, Owners shall immediately apply to amend the certificate with a new agreement, or voluntarily forfeit the amendment. Owners shall immediately notify the Executive Director upon amendment or expiration of the agreement and provide copies of appropriate documents effectuating such change
- C. Owner shall contact the Concho Watermaster prior to the diversion of water authorized by this amendment.

This amendment is not appurtenant to the above described two tracts of land authorized in Certificate of Adjudication No. 14-1345.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 14-1330, as amended, except as specifically amended herein.

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

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

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

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


For the Commission

Date Issued:

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jeremy Walker-Lee, Project Manager **Date:** October 18, 2024
Water Rights Permitting Team

Through: Leslie Patterson, Team Leader 
Resource Protection Team

From: Trent Jennings, Water Conservation Specialist
Resource Protection Team

Subject: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574
Concho River, Colorado River Basin
Tom Green County

APPLICATION SUMMARY

Certificate of Adjudication No. 14-1330 (Certificate) authorizes, among other things, Veribest Cattle Feeders, Inc. (Applicant) to divert 295 acre-feet of water per year from two points on the Concho River, Colorado River Basin, at a maximum diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes to irrigate 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County.

Applicant requests to amend the Certificate to add a diversion point and place of use for agricultural purposes to irrigate 233 acres of land out of 683.033-acre tract in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345.

WATER CONSERVATION REVIEW

Pursuant to Title 30 Texas Administrative Code (TAC) §295.9(4), applications requesting to change the place of use require the submittal of a water conservation plan.

The water conservation plan for agricultural use was reviewed by Resource Protection staff and found to be administratively complete per 30 TAC §288.4.

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

RECOMMENDATIONS

The following water conservation language should be included in the proposed amendment, if granted:

Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, and prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every water supply contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water shall have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures.

Trent Jennings


Trent Jennings, Water Conservation Specialist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jeremy Walker-Lee, Project Manager
Water Rights Permitting Team

Date: October 18, 2024

Through: Leslie Patterson, Team Leader 
Resource Protection Team

From: Richard Schmoyer, Aquatic Scientist
Resource Protection Team

Subject: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574
Concho River, Colorado River Basin
Tom Green County

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

APPLICATION SUMMARY

Certificate of Adjudication No. 14-1330 (Certificate) authorizes, among other things, Veribest Cattle Feeders, Inc. (Applicant) to divert 295 acre-feet of water per year from two points on the Concho River, Colorado River Basin, at a maximum diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes in Tom Green County.

Applicant requests to amend the Certificate to add a diversion point and place of use for agricultural purposes in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345.

ENVIRONMENTAL ANALYSIS

Aquatic and Riparian Habitats: The Applicant's proposed diversion is located on the Concho River, a perennial stream, situated in the Red Prairie ecoregion (Griffith et al. 2007).

The checklist for the Colorado River Basin identified 39 species of ichthyofauna occurring within Concho hydrologic unit (United States Geologic Survey [USGS] code 12090105) (Hendrickson and Cohen 2022). The Texas fatmucket (*Lampsilis bracteata*) and Texas pimpleback (*Cyclonaias petrina*), federally-listed endangered

species; and the Guadalupe bass (*Micropterus treculii*), Brazos water snake (*Nerodia harteri*), Concho water snake (*Nerodia paucimaculata*), and Texas fawnsfoot (*Truncilla macrodon*), high interest aquatic or aquatic-dependent species, are known to occur in Tom Green County (TPWD 2024). This amendment is not expected to have an effect on any federally-listed, high interest aquatic or aquatic-dependent species, because no additional state water will be taken and no increase in diversion rate or amount is being requested.

On August 8, 2012, the TCEQ adopted environmental flow standards for the Colorado and Lavaca Rivers, and Matagorda and Lavaca Bays (Title 30 Texas Administrative Code (TAC) Chapter 298 Subchapter D). These environmental flow standards are considered adequate to support a sound ecological environment (Title 30 TAC § 298.310). The Applicant does not request a new appropriation of water or an amendment that increases the amount of water stored, taken, or diverted. Resource Protection staff recommend a streamflow restriction for this addition of a downstream diversion point. Resource Protection staff utilized the subsistence environmental flow standards (Title 30 TAC § 298.330(e)(5) established at USGS Gage No. 08136500 – Concho River at Paint Rock, TX for the streamflow restriction as shown in Table 1.

Table 1. Environmental Flow Values at USGS Gage No. 08136500 – Concho River at Paint Rock, TX

Season	Subsistence
Winter	1 cfs
Spring	1 cfs
Summer	1 cfs
Fall	1 cfs

cfs = cubic foot per second

Seasons are defined in Title 30 TAC § 298.305 as follows: Winter (November through February), Spring (March through June), Summer (July through August), and Fall (September through October). Staff recommend that diversion of water under this proposed amendment should be limited to comply with a 1 cfs streamflow restriction.

Recreational Uses: Concho River (Segment 1421) has a designated primary contact recreation 1 use (TCEQ 2018). The Applicant’s request should not adversely impact recreational uses.

Water Quality: Concho River (Segment 1421) has a designated high aquatic life and public water supply use (TCEQ 2022a). Segment 1421 from the confluence of an unnamed tributary near Chandler Road upstream to the confluence of Red Creek, was identified in the *Texas Integrated Report*, with a concern for screening levels for depressed dissolved oxygen in water. The Applicant's request should not adversely impact water quality (TCEQ 2022b).

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

RECOMMENDATIONS

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

Owner shall not divert water at the new diversion point unless streamflow exceeds 1 cfs as measured at USGS Gage No. 08136500 – Concho River at Paint Rock, TX.

LITERATURE CITED

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

Hendrickson, DA, Cohen AE. 2022. Fishes of Texas Project Database [Internet]. Texas Advanced Computing Center, University of Texas at Austin. [cited 2024 Sep 24]; Version 3.0. Available from <http://doi.org/10.17603/C3WC70>.

TCEQ. 2022a. Texas Surface Water Quality Standards §§307.1-307.10. Austin (TX): Texas Commission on Environmental Quality.

TCEQ. 2022b. Texas Integrated Report of Surface Water Quality. Austin (TX): Texas Commission on Environmental Quality.

TPWD. 2024. TPWD County Lists of Texas Protected Species and Species of Greatest Conservation Need [Internet]. Austin (TX): Tom Green County, revised August 22, 2024. [cited 2024 Oct 7]. Available from <http://tpwd.texas.gov/gis/rtest/>.

Veribest Cattle Feeders, Inc., 14-1330E
Concho River, Colorado River Basin
Page 4 of 4

Richard Schmoyer
Richard Schmoyer, Aquatic Scientist

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Jeremy Walker-Lee, Project Manager Date: December 16, 2024
Water Rights Permitting Team

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

TG Trent Gay, Team Leader
Surface Water Availability Team

From: Lauren Simmons, Hydrologist
Surface Water Availability Team

Subject: Veribest Cattle Feeders, Inc.
ADJ 1330E
CN600788574
Concho River, Colorado River Basin
Tom Green County

WATER AVAILABILITY REVIEW

Application Summary

Certificate of Adjudication No. 14-1330 (Certificate) authorizes, among other things, Veribest Cattle Feeders, Inc. (Applicant) to divert 295 acre-feet of water per year from two points on the Concho River, Colorado River Basin, at a maximum diversion rate of 3.57 cfs (1,600 gpm), for agricultural purposes in Tom Green County.

Applicant requests to amend the Certificate to add a diversion point and place of use for agricultural purposes to irrigate 233 acres of land out of a 683.033-acre tract in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345.

The application was declared administratively complete on October 24, 2022.

Water Availability Review

Resource Protection staff recommended instream flow requirements for this application. See Resource Protection memo dated October 18, 2024.

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.

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

Staff used the Full Authorization simulation of the Colorado WAM to evaluate impacts on other water rights as a result of the application. The period of record for the Colorado WAM is 1940 through 2016. Staff modeled the application with a diversion of the authorized 281 acre-feet of water at a priority date of December 31, 1955, at the requested diversion point. Staff compared the pre- and post-application volume reliabilities of all water rights in the Colorado River Basin and found very small negative impacts to three water rights, although the effects were minimal (<1%). Because the impacts are small, Staff is of the opinion that this amendment does not constitute a practical impact on other water rights in the basin.

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

Conclusion

Staff can support granting the application.

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



Lauren Simmons, Hydrologist

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

FROM: Natalia Ponebshek Project Manager
Water Rights Permitting Team

DATE: October 24, 2022

SUBJECT: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574, RN102703303
Application No. 14-1330E to Amend Certificate of Adjudication No. 14-1330
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Concho River, Colorado River Basin
Tom Green County

The application was received on June 24, 2022. Additional fees were received on September 29, 2022, and additional information was received on October 1 and October 13, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 24, 2022. Mailed notice to co-owners is required pursuant to Title 30 TAC § 295.158(c)(2)(B), and notice to the interjacent water right holders of record in the Colorado River Basin is required pursuant to Title 30 Texas Administrative Code (TAC) § 295.158(c)(3)(D).

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

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

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

October 24, 2022

Mr. Michael Shane Johnson, Manager/Partner
Veribest Cattle Feeders, Inc.
3913 Veribest Park Rd.
Miles, TX 76861

VIA E-MAIL

RE: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574, RN102703303
Application No. 14-1330E to Amend Certificate of Adjudication No. 14-1330
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Concho River, Colorado River Basin
Tom Green County

Dear Mr. Johnson:

This acknowledges receipt on September 29, 2022 of fees in the amount of \$230.10 (Receipt no. M300735, copy attached), and on October 1 and October 13, 2022 of additional information.

The application was declared administratively complete and filed with the Office of the Chief Clerk on October 24, 2022. Staff will continue processing the application for consideration by the Executive Director.

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

If you have any questions concerning the application, please contact me via email at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

Attachment

Natalia Ponebshek

From: Shane, Karen & Bryce Johnson [REDACTED] >
Sent: Thursday, October 13, 2022 10:32 AM
To: Natalia Ponebshek
Subject: Re: Veribest Cattle Feeders, Inc. App No. 14-1330E RFI Extension
Attachments: 10.13.22 TCEQ APP CHANGES.pdf

Morning,
Here are the pages that were requested

Shane

On Sat, Oct 1, 2022 at 3:43 PM Shane, Karen & Bryce Johnson [REDACTED] wrote:
Hello Natalia,

Attached are the documents requested. A check was mailed into the TECQ office last week for the fees. Look forward to getting this completed.

Thank you!
Shane

On Wed, Sep 14, 2022 at 12:31 PM Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov> wrote:
Please find the attached extension letter for a request for information for the abovementioned application. A response is due by October 3, 2022.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

- Worksheet 4.0 – Discharge Information Worksheet (for each discharge point)
- Worksheet 5.0 – Environmental Information Worksheet
- Worksheet 6.0 – Water Conservation Information Worksheet
- Worksheet 7.0 – Accounting Plan Information Worksheet
- Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34
- Maps – See instructions Page. 15.
- Additional Documents and Worksheets may be required (see within).

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

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

We are asking to utilize water from water right 14-1330 at the diversion point of water right 14-1345.

14-1330 has 281 af of water available while 14-1345 only has 183 af. 14-1345 has nearly twice as many acres available to irrigate through sprinkler irrigation than 14-1330. This makes water usage at 14-1345 diversion point more efficient than at 14-1330.

The use of these water rights are consistent with state and regional water plans in accordance with Texas admin code 295.16. The rights are used within the Concho River and the application is also consistent with the 2021 Region X Water Plan and the 2022 State Water Plan.

No other changes apply with the use of the water rights.

- 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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
281	AGRICULTURE IRRIGATION	AGRICULTURE IRRIGATION	14-1330	14-1330 14-1345

**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:
- Applicant proposes to irrigate a total of 233 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 633.03 acres in TOM GREEN County, TX.
 - Location of land to be irrigated: In the Heirs of C Buschel Original Survey No. 143, Abstract No. 88.

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.

- Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- See Worksheet 1.2, Marshall Criteria, and submit if required.
- See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

WORKSHEET 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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. 2 Diversion Point No.
2. _____ Upstream Limit of Diversion Reach No.
3. _____ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or 700 _____ 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* _____ cfs or 1200 _____ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N N

*** 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 (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed):

Check one		Write: Existing or Proposed
<input checked="" type="checkbox"/>	Directly from stream	PROPOSED
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	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 _____

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Describe the device(s) and/or method(s) used to measure and account for the amount of water diverted from the supply source, and verify the accuracy is within plus or minus 5%.
3. Each diversion point has a saddle mounted McCrometer brand flowmeter. They read in gallons times 100.
4. Provide specific, quantified 5-year and 10-year targets for water savings including, where appropriate, quantitative goals for irrigation water use efficiency and a pollution abatement and prevention plan below in 3(a) and 3(b). Water savings may be represented in acre-feet or in water use efficiency. If you are not planning to change your irrigation system in the next five or ten years, then you may use your existing efficiencies or savings as your 5-year and /or 10-year goals. Please provide an explanation in the space provided below if you plan to use your existing efficiencies or savings.

Diversion point 14-1330 has approximately 281 acre feet of water available annually but only has 120 acres. Diversion point 14-1345 has approximately 180 acre feet of water available annually and has 240 acres. More crops could be grown at 14-1345 if more water is available. Therefore, it is advantageous to utilize some of the water from 14-1330 at 14-1345 as needed.

Quantified 5-year and 10-year targets for water savings:

a. 5-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %

b. 10-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %

(Examples of Typical Efficiencies for Various Types of Irrigation Systems - Surface: 50-80%; Sprinkler: 70-85%; LEPA: 80-90%; Micro-irrigation: 85-95%)

5. If there is an existing irrigation system, have any system evaluations been performed on the efficiency of the system?

Yes No

If yes, please provide the date of the evaluation, evaluator's name and the results of the evaluation:

D. Conservation practices

1. Describe any water conserving irrigation equipment, application system or method in the irrigation system (e.g., surge irrigation, low pressure sprinkler, drip irrigation, nonleaking pipe).

We are using low pressure sprinklers with built in regulators to conserve and balance water evenly across each acre.

2. Describe any methods that will be used for water loss control and leak detection and repair.

There is a pump shut off device at the diversion points in the case that the sprinkler loses electricity or its ability to move.



McPropeller

Series:

MCPROPELLER

USD Price:

Contact McCrometer

Trusted by Irrigators since 1955

Best Selling Propeller Meter in the U.S.

McCrometer has set the standard for ease-of-use and value in the agricultural, municipal, industrial and turf markets since 1955.

Our leading-edge propeller flow meters offer economical and versatile water flow measurement, especially suited to dirty water flows, municipal and other high-volume water applications.

Unlike traditional types of water meters, the Mc Propeller uses a flexible drive-train and sealed ball bearings. Its unique design makes it easy to service in the field and requires no external power or batteries. Standard features include an instantaneous flow rate indicator and six-digit totalizer. There are no tight tolerances in the Mc Propeller. It handles solids suspended in water without clogging. With its high accuracy, this flow meter is also a water management tool, helping to reduce water costs, preventing over-irrigation and reducing leaching of chemicals and fertilizers into the ground.

- Optional electronic digital register available
- Unique magnetic coupling system, isolates register from flow
- Straightening vanes to generate optimum flow profiles
- AWWA approved for cold water use

Specifications

Accuracy:	±2%
Body material:	Epoxy-coated carbon steel body; all stainless available
Calibration:	Pre-calibrated, corrosion-resistant polymer impeller
Head Loss:	Very low permanent headloss
Line size:	2" - 96"
Options:	Impeller: high temperature resistant; acid and caustic resistant
	Register: forward/reverse flow; test hand/index wheel; anti-reverse totalizer; custom scale; extended digit totalizer
Repeatability:	±0.25%

**Texas Commission on Environmental Quality
TELEPHONE MEMO TO THE FILE**

Call to: Shane Johnson	Call from: TECQ Staff Natalia Ponebshek, Chris Kozlowski, Trent Gay, Leslie Patterson, Kristin Wang, Jenny Torres, Richard Schmoyer
Date: 10/13/2022	Applicant: (app name and #) Veribest Cattle Feeders, Inc. 14-1330E

Information for File follows:

In the conference call, the applicant confirmed that they are not planning on discharging any water as part of this application.

Signed *Natalia Ponebshek*

Natalia Ponebshek

From: Shane, Karen & Bryce Johnson [REDACTED] >
Sent: Saturday, October 1, 2022 3:43 PM
To: Natalia Ponebshek
Subject: Re: Veribest Cattle Feeders, Inc. App No. 14-1330E RFI Extension
Attachments: 09.30.22 10238 TCEQ WCP.docx; 06.14.22 TCEQ Technical Report and Worksheet.pdf; 09.30.22 Agreement Outlier Dairy & Veribest Cattle Feeders Water.pdf

Hello Natalia,

Attached are the documents requested. A check was mailed into the TECQ office last week for the fees. Look forward to getting this completed.

Thank you!
Shane

On Wed, Sep 14, 2022 at 12:31 PM Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov> wrote:

Please find the attached extension letter for a request for information for the abovementioned application. A response is due by October 3, 2022.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641



Texas Commission on Environmental Quality
Water Availability Division
MC-160, P.O. Box 13087 Austin, Texas 78711-3087
Telephone (512) 239-4600, FAX (512) 239-2214

**System Inventory and Water Conservation Plan
for Individually-Operated Irrigation Systems**

This form is provided to assist entities in developing a water conservation plan for individually-operated irrigation systems. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4600.

Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.

Contact Information

Name: Shane Johnson/ Outlier Dairy/Veribest Cattle Feeders
Address: 3913 Veribest Park Road, Miles, Texas 76861
Telephone Number: (806) 626-9216 Fax: ()
Form Completed By: Shane Johnson
Title: Partner/Manager
Signature: _____ Date: 09/30/2022

A water conservation plan for agriculture use (individual irrigation user) must include the following requirements (as detailed in 30 TAC Section 288.4). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

I. BACKGROUND DATA

A. Water Use

1. Annual diversion appropriated or requested (in acre-feet): 306
2. In the table below, list the amount of water (in acre-feet) that is or will be diverted monthly for irrigation during the year.

January	February	March	April
30	30	45	45
May	June	July	August
30	30	36	0
September	October	November	December
0	0	30	30
Total All Months			306

3. In the table below, list the type of crop(s), growing season, and acres irrigated per year.

<i>Type of crop</i>	<i>Growing Season (Months)</i>	<i>Acres irrigated/year</i>
WHEAT	5	240
MILO	4	240
Total acres irrigated		480

4. Are crops rotated seasonally or annually? Yes No

If yes, please describe: Milo will follow Wheat each year.

5. Describe soil type (including permeability characteristics, if applicable).

B. Sandy loam

C. Irrigation system information

1. Describe the existing irrigation method or system and associated equipment including pumps, flow rates, plans, and/or sketches of system the layout. Include the rate (in gallons per minute or cubic feet per second) that water is diverted from the source of supply. If this WCP is submitted as part of a water right application, verify that the diversion volumes and rates are consistent with those in the application.

There are 2 120-acre circle that are irrigated with center pivot sprinkler irrigation on each. Each pivot has a usage of 700 gpm maximum but can be reduced to 500 gpm with the proper valving.

2. Describe the device(s) and/or method(s) used to measure and account for the amount of water diverted from the supply source, and verify the accuracy is within plus or minus 5%.
3. Each diversion point has a saddle mounted McCrometer brand flowmeter. They read in gallons times 100.
4. Provide specific, quantified 5-year and 10-year targets for water savings including, where appropriate, quantitative goals for irrigation water use efficiency and a pollution abatement and prevention plan below in 3(a) and 3(b). Water savings may be represented in acre-feet or in water use efficiency. If you are not planning to change your irrigation system in the next five or ten years, then you may use your existing efficiencies or savings as your 5-year and /or 10-year goals. Please provide an explanation in the space provided below if you plan to use your existing efficiencies or savings.

Diversion point 14-1330 has approximately 280 acre feet of water available annually but only has 120 acres. Diversion point 14-1345 has approximately 180 acre feet of water available annually and has 240 acres. More crops could be grown at 14-1345 if more water is available. Therefore it is advantageous to utilize some of the water from 14-1330 at 14-1345 as needed.

Quantified 5-year and 10-year targets for water savings:

- a. 5-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %
- b. 10-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %

(Examples of Typical Efficiencies for Various Types of Irrigation Systems - Surface: 50-80%; Sprinkler: 70-85%; LEPA: 80-90%; Micro-irrigation: 85-95%)

5. If there is an existing irrigation system, have any system evaluations been performed on the efficiency of the system?

Yes No

If yes, please provide the date of the evaluation, evaluator's name and the results of the evaluation:

D. Conservation practices

1. Describe any water conserving irrigation equipment, application system or method in the irrigation system (e.g., surge irrigation, low pressure sprinkler, drip irrigation, nonleaking pipe).

We are using low pressure sprinklers with built in regulators to conserve and balance water evenly across each acre.

2. Describe any methods that will be used for water loss control and leak detection and repair.

There is a pump shut off device at the diversion points in the case that the sprinkler loses electricity or it's ability to move.

3. Describe any water-saving scheduling or practices to be used in the application of water (e.g., irrigation only in early morning, late evening or night hours and/or during lower temperatures and winds) and methods to measure the amount of water applied (e.g. soil-moisture monitoring).

A growing crop requires 1 inch of water per acre per week. If rainfall is providing this use of water at the diversion point will not be required.

4. Describe any water-saving land improvements or plans to be incorporated into the irrigation practices for retaining or reducing runoff and increasing infiltration of rain and irrigation water (e.g., land leveling, conservation tillage, furrow diking, weed control, terracing, etc.).

Land has recently been laser levelled to reduce slope causing water to run off prematurely.

5. Describe any methods for recovery and reuse of tail water runoff.

No tail water runoff will be available. All water is utilized through the sprinkler system.

6. Describe any other water conservation practices, methods, or techniques for preventing waste and achieving conservation.

Continuing to monitor and replace any equipment that is worn and no longer water efficient.

II. WATER CONSERVATION PLANS SUBMITTED WITH A WATER RIGHT APPLICATION FOR NEW OR ADDITIONAL STATE WATER

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

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 REQUIRED 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 contact the Water Availability Division at (512) 239-4600 or WRPT@tceq.texas.gov to schedule a meeting.

Date of pre-application meeting: 6/7/22

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

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

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? **Y / N** 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** Y (If yes, indicate the Certificate or Permit number: 14-1330)

*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** N*

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? **Y / N** N (If yes, indicate the Term Certificate or Permit number: 14-1330)

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

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

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

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

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

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. ***If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. If the application does not contain consent from the current owner to make the requested amendment, TCEQ will not begin processing the amendment application until the Change of Ownership has been completed and will consider the Received Date for the application to be the date the Change of Ownership is completed. See instructions page. 6.***

Water Right (Certificate or Permit) number you are requesting to amend: 14-1330

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N 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 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 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 Y
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 Y
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)
- **Worksheet 5.0 - Environmental Information** (Required for any new diversion points that are not already authorized in a water right)

- e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? Y / N 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) 239-4600 to discuss.*

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)

- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

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

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

We are asking to utilize water from water right 14-1330 at discharge location of water right 14-1345.

14-1330 has 281 af of water available while 14-1345 only has 183 af. 14-1345 has nearly twice as many acres available to irrigate through sprinkler irrigation than 14-1330. This makes water usage at 14-1345 diversion point more efficient than at 14-1330.

- 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_____

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

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

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
283	AGRICULTURE IRRIGATION	AGRICULTURE IRRIGATION	14-1330	14-1330 14-1345

**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 233 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 633.03 acres in TOM GREEN County, TX.
 - ii. Location of land to be irrigated: In the Heirs of C Buschel Original Survey No. 143, Abstract No. 88.

A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.

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

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N_____

1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin. _____
- b. Provide the quantity of water to be transferred (acre-feet). _____
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:

2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N__
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N__
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N__
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N__

3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer":

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost);

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following:
 - (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;
 - (ii) the amount and purposes of use in the receiving basin for which water is needed;
 - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;
 - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;
 - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and
 - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;
- f. proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- g. the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought.

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 amendments 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.
- 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 the 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

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)
 - i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? **Y / N** _____
 - ii. 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) 239-4600).

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***

- i. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program):_____
- ii. 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

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. 2 Diversion Point No.
 - 2. Upstream Limit of Diversion Reach No.
 - 3. Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** _____ cfs (cubic feet per second)
or 700 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* _____ cfs or 1400 gpm
- d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N N

*** 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 (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
<input checked="" type="checkbox"/>	Directly from stream	PROPOSED
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	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

If yes, the drainage area is _____ sq. miles.
(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): CONCHO RIVER
- b. Zip Code: 76861
- c. Location of point: In the Heirs C Buschel 143 Original Survey No. 143, Abstract No. 88, TOM GREEN 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 31.533329 °N, Longitude -100.250966 °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 MAPS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- 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.

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 Agricultural irrigation.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 0 (% or amount) and explain the method of calculation: _____
- c. Is the source of the discharged water return flows? **Y / N** N If yes, provide the following information:
 1. The TPDES Permit Number(s). _____ (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? **Y / N** _____

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, 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, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- d. Is the source of the water being discharged groundwater? **Y / N** _____ If yes, provide the following information:
 1. Source aquifer(s) from which water will be pumped: _____
 2. 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/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers _____.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
 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.
 - di. Is the source of the water being discharged a surface water supply contract? **Y / N** _____ If yes, provide the signed contract(s).
 - dii. Identify any other source of the water _____

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 306 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 _____ cfs or 700 gpm.
- c. Name of Watercourse as shown on Official USGS maps: Concho River
- d. Zip Code 76861
- e. Location of point: In the Heirs of C Buschel Original Survey No. 143, Abstract No. 88, Tom Green County, Texas.
- f. Point is at:
Latitude 31.533329 °N, Longitude -100.250966 °W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): Google Maps

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

WORKSHEET 5.0

ENVIRONMENTAL INFORMATION

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 28.**

We are adding a diversion point that is already authorized in 14-1345.

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

This section is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins and in all basins for requests to change a diversion point. **Instructions, Page 30.**

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: _____

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

d. Waterbody Recreational Uses

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

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

e. 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 maps submitted with the application indicating the location of the photograph and the direction of the shot.
2. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
 - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

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

This section is required for applications using an alternate source of water and bed and banks applications in any basins. **Instructions, page 31.**

- a. For all bed and banks applications:
 - i. Submit 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.
- b. For all alternate source applications:
 - i. If the alternate source is treated return flows, provide the TPDES permit number _____
 - ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

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

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

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

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 512-239-4600, or e-mail 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. X 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____

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 Y

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

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 512-239-4600 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

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

	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u> a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00	
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50c x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 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) 239-4600.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

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

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		\$

Outlier Dairy LLC
3913 Veribest Park Road
Miles, TX 76861

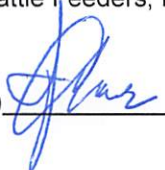
September 30, 2022

This agreement gives Outlier Dairy the right to use Concho River water right 14-1330 at the diversion point for Concho River water right 14-1345. Veribest Cattle Feeders, owner of water right 14-1330, will retain ownership of the water right, but will allow Outlier Dairy to utilize some of the 14-1330 allocation at diversion point 14-1345. No formal request from Outlier Dairy will be needed. Outlier Dairy can utilize this water right at anytime.

Outlier Dairy, LLC

(Signature)  Date 9/30/2022

Veribest Cattle Feeders, LLC

(Signature)  Date 9-30-2022





29-SEP-22 10:25 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u>	<u>Account#</u>	<u>Ref#1</u>	<u>Check Number</u>	<u>CC Type</u>	<u>Slip Key</u>	<u>Tran Date</u>	<u>Tran Amount</u>
<u>Fee Description</u>	<u>Account Name</u>	<u>Ref#2</u>	<u>Card Auth.</u>	<u>Tran Code</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>	
<u>Account Name</u>	<u>Ref#1</u>	<u>Paid In By</u>	<u>User Data</u>	<u>Rec Code</u>	<u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>	
WTR USE PERMITS	WUP	M300735	1037	N	BS00097571	29-SEP-22	-\$230.10	
	WUP	ADJ14330	092822	N	D3800147			
WATER USE PERMITS		JOHNSON,	VHERNAND	CK				
		MICHAEL S						

Total (Fee Code): -\$230.10

Grand Total: -\$117,978.85

Natalia Ponebshek

From: Natalia Ponebshek
Sent: Wednesday, September 14, 2022 12:31 PM
To: Shane, Karen & Bryce Johnson
Subject: Veribest Cattle Feeders, Inc. App No. 14-1330E RFI Extension
Attachments: Veribest_Cattle_Feeders_14-1330E_RFI_1_Ext_Letter_9.14.2022.pdf;
Veribest_Cattle_Feeders_14-1330E_RFI_1_Sent_8.3.2022.pdf

Please find the attached extension letter for a request for information for the abovementioned application. A response is due by October 3, 2022.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

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 14, 2022

Mr. Michael Shane Johnson, Manager/Partner
Veribest Cattle Feeders, Inc.
3913 Veribest Park Rd.
Miles, TX 76861

VIA E-MAIL

RE: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574, RN102703303
Application No. 14-1330E to Amend Certificate of Adjudication No. 14-1330
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Concho River, Colorado River Basin
Tom Green County

Dear Mr. Johnson:

This acknowledges receipt, on September 13, 2022, of the applicant's request for an additional extension of time to respond to the Texas Commission on Environmental Quality's request for information, dated August 3, 2022.

An extension is granted until October 3, 2022, and after that date the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

If you have any questions concerning this matter, please contact Ms. Natalia Ponebshek via e-mail at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

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

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

BM/np

Natalia Ponebshek

From: Shane, Karen & Bryce Johnson [REDACTED]
Sent: Tuesday, September 13, 2022 8:01 AM
To: Natalia Ponebshek
Subject: Re: Veribest Cattle Feeders, Inc. App No. 14-1330E RFI

Natalia,

We would like an extension to continue gathering the information required.

Shane

On Wed, Aug 3, 2022 at 1:39 PM Natalia Ponebshek <Natalia.Ponebshek@tceq.texas.gov> wrote:

Please find the attached request for information for the abovementioned application. A response is due by September 2, 2022.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

Natalia Ponebshek

From: Natalia Ponebshek
Sent: Wednesday, August 3, 2022 1:39 PM
To: Shane, Karen & Bryce Johnson
Subject: Veribest Cattle Feeders, Inc. App No. 14-1330E RFI
Attachments: Veribest_Cattle_Feeders_14-1330E_RFI_1_Sent_8.3.2022.pdf

Please find the attached request for information for the abovementioned application. A response is due by September 2, 2022.

Thank you,

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
(512) 239-4641

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 3, 2022

Mr. Michael Shane Johnson, Manager/Partner
Veribest Cattle Feeders, Inc.
3913 Veribest Park Rd.
Miles, TX 76861

VIA E-MAIL

RE: Veribest Cattle Feeders, Inc.
ADJ 1330
CN600788574, RN102703303
Application No. 14-1330E to Amend Certificate of Adjudication No. 14-1330
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Concho River, Colorado River Basin
Tom Green County

Dear Mr. Johnson:

This acknowledges receipt, on June 24, 2022, of the referenced application.

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

1. Provide the maximum combined rate for the diversion point, complete Items 1.b. - 1.d. on WORKSHEET 3.0.
2. Provide a completed Water Conservation Plan for Agricultural Use (TCEQ Form-10238) as referenced in WORKSHEET 6.0 Water Conservation/Drought Contingency Plans.
3. Provide additional information regarding how the application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan (Section 4.a. of the Technical Information Report). For examples, see page 15 of the Instructions for Completing the Water Right Permitting Application (Form TCEQ-10214A-inst).
4. Provide proper consent:
 - a. for the additional land to be irrigated, authorized by COA No. 14-1345, pursuant to Title 30 Texas Administrative Code (TAC) § 295.32(a)(5); which states, if the application includes agricultural use of any land not owned by applicant, a consent agreement from the landowner, stating that the landowner recognizes that the permit will be owned by applicant and will not become appurtenant to the land.
 - b. for the additional diversion point, authorized by COA No. 14-1345, pursuant to Title 30 TAC § 295.10; which states, if the applicant does not have the power of condemnation and proposes to inundate or to place any installation upon the land of another, the name(s) and address(es) of such landowner(s) shall be given. A copy of a duly acknowledged written easement, consent, or license from the landowner(s) or of a written lease or other evidence of agreement between the landowner(s) and the applicant shall be filed with the application.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey

printed on recycled paper

Mr. Michael Shane Johnson
Veribest Cattle Feeders
Application No. 14-1330E
August 3, 2022
Page 2 of 2

5. Remit fees in the amount of **\$230.10** as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Filing Fee (Amendment)	\$ 100.00
Recording Fee	\$ 12.50
<u>Notice Fee (\$2.94 x 40 WR Holders)</u>	<u>\$ 117.60</u>
TOTAL FEES	\$ 230.10
<u>FEES RECEIVED</u>	<u>\$ 00.00</u>
TOTAL FEES DUE	\$ 230.10

Please provide the requested information and fees by September 2, 2022 or the application may be returned pursuant to Title 30 TAC § 281.18.

If you have any questions concerning this matter, please contact me via e-mail at Natalia.Ponebshek@tceq.texas.gov or by telephone at (512) 239-4641.

Sincerely,

Natalia Ponebshek

Natalia Ponebshek, Project Manager
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality

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): Veribest Cattle Feeders

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).

<u>Y</u>	Administrative Information Report	<u>Y</u>	Worksheet 3.0
<u>N</u>	Additional Co-Applicant Information	<u>Y</u>	Additional W.S 3.0 for each Point
<u>N</u>	Additional Co-Applicant Signature Pages	<u>Y</u>	Recorded Deeds for Diversion Points
<u>Y</u>	Written Evidence of Signature Authority	<u>Y</u>	Consent For Diversion Access
<u>Y</u>	Technical Information Report	<u>N</u>	Worksheet 4.0
<u>Y</u>	USGS Map (or equivalent)	<u>N</u>	TPDES Permit(s)
<u>Y</u>	Map Showing Project Details	<u>N</u>	WWTP Discharge Data
<u>Y</u>	Original Photographs	<u>N</u>	Groundwater Well Permit
<u>N</u>	Water Availability Analysis	<u>N</u>	Signed Water Supply Contract
<u>Y</u>	Worksheet 1.0	<u>N</u>	Worksheet 4.1
<u>Y</u>	Recorded Deeds for Irrigated Land	<u>Y</u>	Worksheet 5.0
<u>Y</u>	Consent For Irrigation Land	<u>Y</u>	Addendum to Worksheet 5.0
<u>N</u>	Worksheet 1.1	<u>Y</u>	Worksheet 6.0
<u>N</u>	Addendum to Worksheet 1.1	<u>Y</u>	Water Conservation Plan(s)
<u>N</u>	Worksheet 1.2	<u>Y</u>	Drought Contingency Plan(s)
<u>N</u>	Additional W.S 2.0 for Each Reservoir	<u>Y</u>	Documentation of Adoption
<u>N</u>	Dam Safety Documents	<u>N</u>	Worksheet 7.0
<u>N</u>	Notice(s) to Governing Bodies	<u>N</u>	Accounting Plan
<u>N</u>	Recorded Deeds for Inundated Land	<u>Y</u>	Worksheet 8.0
<u>N</u>	Consent For Inundation Land	<u>Y</u>	Fees

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) 239-4600.**

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."

We are requesting to amend COA 14-1330 to add a place of use and diversion point currently authorized under COA 14-1345

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?

Veribest Cattle Feeders

(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 : 1345-601-06 (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: Michael Shane Johnson

Title: Manager/Partner

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

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: Veribest Cattle Feeders

Mailing Address: 3913 Veribest Park Rd

City: Miles State: TX ZIP Code: 76861

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: _____ 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: Michael Shane Johnson

Title: Manager/Partner

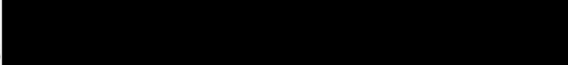
Organization Name: Veribest Cattle Feeders

Mailing Address: 3913 Veribest Park Rd

City: Miles State: TX ZIP Code: 76861

Phone Number: 806-626-9216

Fax Number: 806-553-1135

E-mail Address: 

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

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

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

First and Last Name: _____

Title: _____

Organization Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP Code: _____

Phone Number: _____

Fax Number: _____

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) 239-4600, prior to submitting your application.

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

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

Account number: _____ Amount past due: _____

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

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

Enforcement order number: _____ Amount past due: _____

b. If the Applicant is a taxable entity (corporation or limited partnership), the Applicant must be in good standing with the Comptroller or the right of the entity to transact business in the State may be forfeited. See Texas Tax Code, Subchapter F. Applicants 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** Yes

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). Applicants should check survey status on the TWDB website prior to filing:

https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus_PriorThreeYears

Applicant has submitted all required TWDB surveys of groundwater and surface water?

Yes / No Yes

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Shane Johnson Managing partner.
(Typed or printed name) (Title)

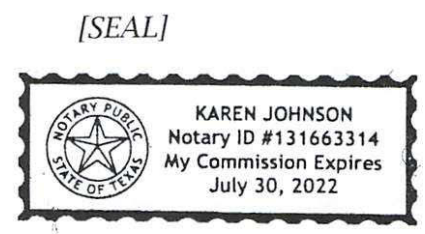
certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the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

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

Signature: [Handwritten Signature] Date: 4/30/2022
(Use blue ink)

Subscribed and Sworn to before me by the said
on this 30 day of April, 20 22.
My commission expires on the 30 day of July, 20 22.

Notary Public
Karen Johnson
County, Texas
Dallas



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

TECHNICAL INFORMATION REPORT

WATER RIGHTS PERMITTING

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

Applicants are REQUIRED 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 contact the Water Availability Division at (512) 239-4600 or WRPT@tceq.texas.gov to schedule a meeting.

Date of pre-application meeting: 6/7/22

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

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

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? **Y / N** 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** Y (If yes, indicate the Certificate or Permit number: 14-1330)

*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** N*

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? **Y / N** N (If yes, indicate the Term Certificate or Permit number: 14-1330)

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

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

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

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

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

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. *If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. If the application does not contain consent from the current owner to make the requested amendment, TCEQ will not begin processing the amendment application until the Change of Ownership has been completed and will consider the Received Date for the application to be the date the Change of Ownership is completed. See instructions page. 6.*

Water Right (Certificate or Permit) number you are requesting to amend: 14-1330

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N 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 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 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 Y
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 Y
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)
- **Worksheet 5.0 - Environmental Information** (Required for any new diversion points that are not already authorized in a water right)

e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? Y / N 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) 239-4600 to discuss.*

Additionally, all amendments require:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)

- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

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

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

We are asking to utilize water from water right 14-1330 at discharge location of water right 14-1345.

14-1330 has 281 af of water available while 14-1345 only has 183 af. 14-1345 has nearly twice as many acres available to irrigate through sprinkler irrigation than 14-1330. This makes water usage at 14-1345 diversion point more efficient than at 14-1330.

- 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

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. New Authorizations (Instructions, Page. 16)

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

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

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

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

a. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

Quantity (acre- feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
283	AGRICULTURE IRRIGATION	AGRICULTURE IRRIGATION	14-1330	14-1330 14-1345

**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 233 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 633.03 acres in TOM GREEN County, TX.
 - ii. Location of land to be irrigated: In the Heirs of C Buschel Original Survey No. 143, Abstract No. 88.

A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.

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

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N_____

1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin. _____
- b. Provide the quantity of water to be transferred (acre-feet). _____
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:

2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N__
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N_____
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N__
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N__

3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer":

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost);

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following:
 - (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;
 - (ii) the amount and purposes of use in the receiving basin for which water is needed;
 - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;
 - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;
 - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and
 - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;
- f. proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- g. the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought.

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 amendments 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.
- 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 the 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

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)
 - i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? Y / N _____
 - ii. 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) 239-4600).

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***

- i. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program):_____
- ii. 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

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. 2 Diversion Point No.
 2. Upstream Limit of Diversion Reach No.
 3. Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** cfs (cubic feet per second)
or 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* cfs or gpm
- d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N

*** 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 (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
<input checked="" type="checkbox"/>	Directly from stream	PROPOSED
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	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

If yes, the drainage area is sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): CONCHO RIVER
- b. Zip Code: 76861
- c. Location of point: In the Heirs C Buschel 143 Original Survey No. 143, Abstract No. 88, TOM GREEN 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 31.533329 °N, Longitude -100.250966 °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 MAPS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- 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.

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_____.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses_____(% or amount) and explain the method of calculation:_____
- c. Is the source of the discharged water return flows? Y / N_____If yes, provide the following information:
 1. The TPDES Permit Number(s)_____ (attach a copy of the **current** TPDES permit(s))
 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N_____

PLEASE NOTE: If Applicant is not the discharger of the return flows, or the Applicant is not the water right owner of the underlying surface water right, or the Applicant does not have a contract with the discharger, 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, the surface water right holder, or the contract holder, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater_____, surface water_____?
 5. If any percentage is surface water, provide the base water right number(s)_____.
- d. Is the source of the water being discharged groundwater? Y / N___ If yes, provide the following information:
 1. Source aquifer(s) from which water will be pumped:_____
 2. 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/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers_____.
 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
 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.
 - di. Is the source of the water being discharged a surface water supply contract? Y / N_____ If yes, provide the signed contract(s).
 - dii. Identify any other source of the water_____

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 _____ 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 _____ cfs or _____ gpm.
- c. Name of Watercourse as shown on Official USGS maps: _____
- d. Zip Code _____
- e. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.
- f. Point is at:
Latitude _____ °N, Longitude _____ °W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): _____

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

WORKSHEET 5.0

ENVIRONMENTAL INFORMATION

1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 28.**

We are adding a diversion point that is already authorized in 14-1345.

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

This section is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins and in all basins for requests to change a diversion point. **Instructions, Page 30.**

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: _____

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

d. Waterbody Recreational Uses

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

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

e. 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 maps submitted with the application indicating the location of the photograph and the direction of the shot.
2. If the application includes a proposed reservoir, also include:
 - i. A brief description of the area that will be inundated by the reservoir.
 - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
 - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

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

This section is required for applications using an alternate source of water and bed and banks applications in any basins. **Instructions, page 31.**

- a. For all bed and banks applications:
 - i. Submit 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.

b. For all alternate source applications:

- i. If the alternate source is treated return flows, provide the TPDES permit number _____
- ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

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

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

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

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 512-239-4600, or e-mail 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____**

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____

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____

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 512-239-4600 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

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

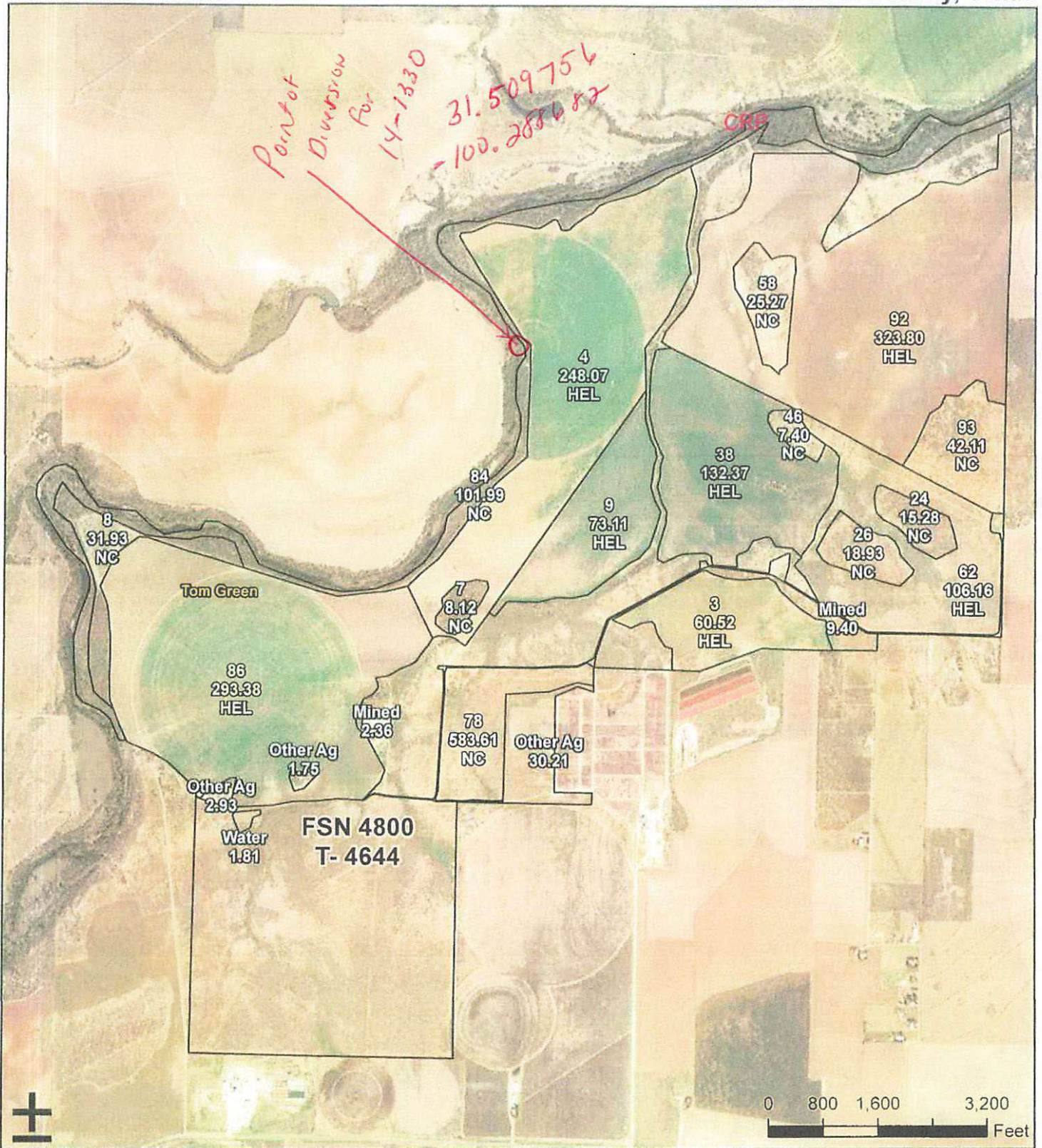
	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u> a. Less than 100 \$100.00 b. 100 - 5,000 \$250.00 c. 5,001 - 10,000 \$500.00 d. 10,001 - 250,000 \$1,000.00 e. More than 250,000 \$2,000.00	
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

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

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		\$



Farm: 4800
Tract: 4644

Wetland Determination Identifiers

- ✖ Restricted Use
- ✖ Limited Restrictions
-) Exempt from Conservation Compliance Provisions

2022 Program Year

Map Created May 06, 2022

Image Acquisition Year - 2018

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or the National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS). USDA is an equal opportunity employer, lender and provider.

31.533329, -100.250966

*Diversow
 point
 14-1345*



Common Land Unit
 Cropland Non-cropland CRP

2020 Crop Year

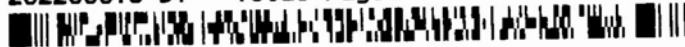
Farm 3527
 Tract 3055

Wetland Determination Identifiers
 ● Restricted Use
 ▼ Limited Restrictions
 ■ Exempt from Conservation Compliance Provisions



Tract 1 of 2

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

Terms

Date: December 30, 2021 to be effective December 31, 2021

Grantor: Veribest Cattle Feeders, Inc. a Texas Corporation

Grantor's Mailing Address: 9502 FM 380 San Angelo, Texas 76905

Trustee: James A. Boyd, Jr.

Trustee's Mailing Address: 515 W. Harris, Suite 100, San Angelo, Tom Green County, Texas 76903

Lender: Michael Ted Weatherford, Russell L. Weatherford, Deborah L. Weatherford and Austin B. Weatherford, together with their successors, participants, assigns, and any subsequent holder of the promissory notes described herein

Lender's Mailing Address: Michael Ted Weatherford 7464 Spillway Road, San Angelo, Tom Green County, Texas 76904; Russell L. Weatherford P.O. Box 462, Veribest, Texas 76886, Tom Green County, Texas 76886; Deborah L. Weatherford 7464 Spillway Road, San Angelo, Tom Green County, Texas 76904; Austin B Weatherford 7464 Spillway Road, San Angelo, Tom Green County, Texas 76904

Obligations: The payment and performance of the Notes, this deed of trust, and all other Loan Documents and all future advances from Lender to Borrower or other future obligations of Borrower to Lender under any note, contract or other evidence of debt existing now or executed after this deed of trust, whether or not this deed of trust is specifically referenced and regardless of 1. whether such future advance is similar or unrelated in nature of purpose; or 2. the nature of Grantor's liability thereon, whether direct or indirect, primary or secondary, absolute or contingent, joint or several; or 3. Grantor's capacity thereon, whether as principal, surety, guarantor, accommodation party, endorser or otherwise; or 4. whether such future advance is or may be evidenced by any note, open account, overdraft, endorsement, surety agreement, guaranty, loan agreement, letter of credit or

otherwise; or 5. the presence or absence of other collateral securing such future advance, or 6. the time or manner in which the future advance, or the evidence thereof, if any, may have been created, acquired, owned, or held by Lender; or 7. the identity of the person or entity to whom such future advance may have originally been due, owing and payable. Until this deed of trust is released of record, the reduction of, or payment in full of, any or all such future advance owed by Grantor to Lender at or during any particular period or periods of time shall not affect the continuing validity and effect of this deed of trust as to subsequent future advances to Grantor. Borrower agrees that this deed of trust will secure all future advances and future obligations that are given to or incurred by Borrower, and all such future advances and future obligations are secured as if made on the date of this deed of trust even though all or part may not yet be advanced or incurred. Nothing in this deed of trust shall constitute an agreement to make additional or future loans or advances in any amount.

Note:

Date: Of even date herewith to be effective December 31, 2021

Original principal amount: \$7,400,000.00 Promissory Note

Borrower: Emilio Chavez

Lender: Michael Ted Weatherford, Russell J. Weatherford, Deborah L. Weatherford and Austin B Weatherford

Maturity date: February 1, 2027

Relation of Grantor and Lenders and Condition for Notes. The Borrower is the owner of all of the issued and outstanding capital stock of Grantor and accordingly benefits directly from the credit extended by Lenders. It is agreed by Grantor, Borrower and each of the Lenders that a material part of the consideration given in connection with and as an inducement to the extension of credit and execution and delivery of the promissory note by the Lenders was the obligation of Grantor to enter into this Deed of Trust and to grant a lien against the Property as described herein and Lenders are unwilling to extend and maintain the note described herein unless Grantor enters into this Deed of Trust and grants a lien against the Property.

Loan Documents: The Notes, this deed of trust, and all other documents related to any of the foregoing or any of the Obligations, including without limitation, all amendments, modifications, renewals and extensions of any of the foregoing, and all other notes given in substitution therefor or in modification, increase, renewal or extension of the Notes, in whole or in part.

Property (including any improvements): (1) The real property described on Exhibit A, Exhibit B and Exhibit C, each attached hereto and made a part hereof (the "Land") together with (a) all the buildings and other improvements now on or hereafter located thereon; (b) all materials, equipment, fixtures or other property whatsoever now or hereafter attached or affixed to or installed in said buildings and other improvements, including, but not limited to, all appliances, heating, plumbing, wiring, lighting, water heating, cooking, laundry, refrigerating, incinerating, ventilating and air conditioning equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and apparatus, utility lines and equipment (whether owned individually or jointly with others), sprinkler systems, fire extinguishing apparatus and equipment, water tanks, engines, machines, elevators, motors, cabinets, shades, blinds, partitions, window screens, screen doors, storm windows, awnings, drapes, and rugs and other floor coverings, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all of which materials, equipment, fixtures and other property are hereby declared to be permanent fixtures and accessions to the freehold and part of the realty conveyed herein as security for the indebtedness herein mentioned; (c) all easements and rights of way now and at any time hereafter used in connection with any of the foregoing property or as a means of ingress to or egress from said property or for utilities to said property; (d) all interests of Grantor in and to any streets, ways, alleys and/or strips of land adjoining said land or any part thereof; (e) all royalties, bonuses, delay rentals, subsurface and/or mineral rights, oil and gas rights, crops, timber, all diversion payments, government payments, conservation reserve payments, production flexibility contract payments, or other third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock, now owned or after-acquired, and (f) all rights, estates, accessions, powers and privileges appurtenant or incident to the foregoing; and

(2) All of Grantor's other property, whether now owned or hereafter acquired, used in connection with operation of the buildings or other improvements now erected or hereafter to be erected on the Land, or located on or used in and about the building(s) or other improvements now erected or hereafter to be erected on the Land, or otherwise located on said Land, including without limitation, goods, consumer goods, raw materials, equipment, inventory, furnishings, furniture, chattels and personal property of whatever nature, and all fixtures, accessions and appurtenances thereto, and all renewals or replacements of or substitutions for any of the foregoing, all lumber supplies, building materials and equipment now or hereafter delivered to said premises and intended to be installed therein, all security deposits (whether cash, one or more letters of credit, bonds or other form of security), additional contingent consideration (including, without limitation, stock warrants), and advance rentals under lease agreements now or at any time hereafter covering or affecting any of the Property, all monetary deposits which Grantor has been required to give to any public or private utility, all rents and other amounts from and under leases of all or any part of the Property, all issues, profits and proceeds from all or any part of the Property, all proceeds (including premium refunds) of each policy of insurance relating to the Property, all proceeds from the taking of the Property or any part thereof or any interest therein or right or estate appurtenant thereto by eminent domain or by purchase in lieu thereof, all amounts deposited in escrow for the payment of ad valorem taxes, assessments and charges and/or premiums for policies of insurance with respect to the Property, all contracts related to the

Property, all money, funds, accounts (including tax/insurance reserve accounts, capital improvement reserves, tenant improvement reserves, and leasing commission reserves), deposit accounts, investment property, instruments, documents, general intangibles (including trademarks, trade names and symbols used in connection therewith), all notes or chattel paper arising from or related to the Property, all permits, approvals, entitlements, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property, all marketing materials, all plans, specifications, maps, surveys, reports, construction contracts, architectural contracts, engineering contracts, management contracts, development contracts or consulting contracts, all subcontracts, books of account, insurance policies and other documents, of whatever kind or character, relating to the construction upon, use, occupancy, leasing, marketing, sale or operation of the Property, all proceeds and other amounts paid or owing to Grantor under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Property, all oil, gas and other hydrocarbons and other minerals produced from or allocated to the Property and all products processed or obtained therefrom, the proceeds thereof, and all accounts and general intangibles under which such proceeds may arise, together with any sums of money that may now or at any time hereafter become due and payable to Grantor by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and future oil, gas and mining leases covering the Property or any part thereof; and

(3) All renewals or replacements of or substitutions for any of the foregoing and all proceeds of the foregoing.

(All terms defined in Chapter 9 of the Texas Business and Commerce Code, as said title and chapter now exist or may be hereafter amended or succeeded (the "UCC"), and used herein shall have the meanings given to them in the UCC).

Other Exceptions to Conveyance and Warranty: Any and all other validly existing easements, rights-of-way, and prescriptive rights, or matters apparent on the Property, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, water interests, mineral interests and other instruments, other than conveyances of the Property, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts or shortages in area or boundary lines; any encroachments or overlapping of improvements; and all zoning laws, regulations and ordinances of municipal and/or other governmental authorities

For value received and to secure payment and performance of the Obligations, Grantor GRANTS, BARGAINS, SELLS, and CONVEYS the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property, subject to the Other Exceptions to Conveyance and Warranty. On payment and performance of the Obligations and all other amounts secured by this deed of trust, this deed of trust will have no further effect, and Lender will release it at Grantor's expense.

In addition to creating a deed-of-trust lien on all the real and other property described above, for value received and to secure payment and performance of the Obligations, Grantor also GRANTS to Lender a security interest in the Property pursuant to and to the extent permitted by the Texas Uniform Commercial Code.

Some of the items of the Property described herein are goods that are or are to become fixtures related to the land described herein, and it is intended that, as to those goods, this deed of trust will be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Land is situated. Information concerning the security interest created by this deed of trust may be obtained from Lender, as secured party, at the address of Lender stated on the first page hereof. The mailing address of Grantor, as debtor, is as stated on the first page hereof. All awnings, door and window screens, storm windows and doors, mantels, cabinets, rugs, carpeting, linoleum, stoves, shades, draperies, blinds, water heaters, plumbing, heating equipment, lighting fixtures, appliances, cooking, air-conditioning and refrigerating apparatus and equipment, and all other goods, chattels and personal property which are or shall be attached to the improvements by nails, screws, bolts, pipe connections, masonry or any other manner, and all additions thereto and replacements thereof, and such built-in equipment as shown by plans and specifications, are and shall be deemed to be fixtures and accessions to the Property, being hereby agreed to be unremovable and a part of the real property as between the parties hereto, and shall be deemed to be part of the Property.

Clauses and Covenants

A. Grantor's Obligations

Grantor agrees to—

1. keep the Property in good repair and condition;
2. pay all taxes and assessments on the Property before delinquency;
3. defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve Lender's first priority lien and security interest in the Property;
4. maintain, at Grantor's expense, such insurance coverage as Lender may reasonably require (the "Required Insurance Coverages"), in a form acceptable to Lender, which shall include without limitation, the following —
 - a. liability insurance and worker's compensation insurance covering Grantor, the Property, and the operations on the Property against claims for bodily injury, death, or property damage on or around the Property;
 - b. property insurance against loss or damage by fire, storm, gas (if gas is used on the Property), and all other hazards under a standard all-risk extended coverage endorsement for an amount equal to the original amount of the Notes and other debt secured by this deed of trust or

the full insurable value of the Property, whichever is less, and also insuring against other risks including flood, if the Property is in a flood hazard area, and earthquake and mud slide, if requested by Lender; the insurance will also cover loss of rents from the Property or other loss due to business interruption on the Property for the time that the Property is unavailable because of any casualty, if requested by Lender; and

c. each policy shall protect Lender with a standard mortgagee or loss payee clause and shall provide that no less than 30 days' prior written notice will be given to Lender concerning material alteration, cancellation, non-renewal or expiration of the coverage contained in such policy.

5. deliver the insurance policies to Lender within ten days of the date of the deed of trust and deliver renewals to Lender at least fifteen days before expiration;

6. obey all laws, ordinances, and restrictive covenants applicable to the Property;

7. keep any buildings occupied as required by the Required Insurance Coverages;

8. if the lien of this deed of trust is not a first lien, pay or cause to be paid all prior lien notes and abide by or cause to be abided by all prior lien instruments; and

9. notify Lender of any change of address or Grantor's name.

B. Lender's Rights

1. Lender or Lender's mortgage services may appoint in writing one or more substitute trustees, succeeding to all rights and responsibilities of Trustee.

2. If the proceeds of the Obligations are used to pay any debt secured by prior liens, Lender is subrogated to all the rights and liens of the holders of any debt so paid.

3. Grantor shall pay to Lender all proceeds received under the property insurance policies covering the Property and Lender, at Lender's sole discretion, may apply any such proceeds either to reduce the Obligations or to repair or replace damaged or destroyed improvements covered by the policy.

4. Notwithstanding the terms of the Notes or any Loan Document to the contrary, and unless applicable law prohibits, all payments received by Lender from Grantor with respect to the Obligations or this deed of trust may, at Lender's discretion, be applied first to amounts payable under this deed of trust and then to amounts due and payable to Lender with respect to the Obligations, to be applied to late charges, principal, or interest in the order Lender in its discretion determines.

5. If Grantor fails to perform any of Grantor's obligations, Lender may perform those obligations and be reimbursed by Grantor on demand for any amounts so paid, including attorney's fees, plus interest on those amounts from the dates of payment at the rate stated in the Notes for matured, unpaid amounts. The amount to be reimbursed will be secured by this deed of trust.

6. If a default exists under the Obligations or if Grantor fails to perform any of Grantor's obligations under any Loan Document, and the default continues after any required notice of the default and the time allowed to cure, Lender may—

- a. declare the unpaid principal balance and earned interest on the Obligations immediately due;
- b. direct Trustee to foreclose this lien, in which case Lender or Lender's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code as then in effect; and
- c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Obligations.

7. It is agreed that Lender, in any action to foreclose, will be entitled to the appointment of a receiver of the rents and profits of the Property, including the proceeds of any sale of the Property, as a matter of right and without notice, with power to sell and collect the rents, issues and profits of the Property due and coming due during the pendency of such foreclosure suit, without regard to the value of the Property or the solvency of any person or persons liable for the payment of the Indebtedness involved in said suit. Borrower, for itself and any subsequent owner or owners, waives any and all defenses to the application for a receiver as above provided, and specifically consents to such appointment without notice; but nothing herein contained is to be construed to deprive Lender of any other right, remedy or privilege it may have under the law to have a receiver appointed. The provision for the appointment of a receiver of the rents and profits is made an express condition upon which the loan is made.

8. Lender may remedy any default without waiving it and may waive any default without waiving any prior or subsequent default. No delay or omission in exercising or enforcing the rights and powers herein granted shall be construed as a waiver of such rights and powers, and likewise no exercise or enforcement of any rights or powers hereunder shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time. Neither Grantor nor any other person now or hereafter obligated for the payment of all or any part of the Obligations shall be relieved of such obligations by reason of the failure of Lender or Trustee to comply with any request of Grantor, or of any other person so obligated, to take action to foreclose this deed of trust or otherwise enforce any of the provisions of this deed of trust or of any obligations secured by this deed of trust, or by reason of the release, regardless of consideration, of all or any part of the security held for the Obligations, or by reason of the subordination in whole or in part by Lender of the lien, security interest or rights evidenced

hereby, or by reason of any agreement or stipulation with any subsequent owner or owners of the Property extending the time of payment or modifying the terms of the Obligations or this deed of trust without first having obtained the consent of Grantor or such other person, and, in the latter event, Grantor and all such other persons shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by Lender. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien or security interest on the Property, Lender may release the obligation of anyone at any time liable for any of the Obligations or any part of the security held for the Obligations and may extend the time of payment or otherwise modify the terms of the Obligations and/or this deed of trust without, as to the security or the remainder thereof, in any way impairing or affecting the lien or security interest of this deed of trust or the priority of such lien or security interest, as security for the payment of the Obligations as it may be so extended or modified over any subordinate lien or security interest. The holder of any subordinate lien or security interest does not have the right, and will not be granted the right, to terminate any lease affecting the Property whether or not such lease be subordinate to this deed of trust. Lender may resort for the payment of the Obligations to any security therefor held by Lender in such order and manner as Lender may elect in its sole discretion.

9. Notwithstanding the foregoing remedies available to Lender set forth in this Deed of Trust, if an event of default shall occur, then, prior to pursuing any remedy set forth above, Lender shall first provide Grantor with written notice of default and shall provide Grantor with an opportunity to cure such default. If a default arises under the terms, covenants or conditions of this Deed of Trust or under the terms of the Obligations, and such default shall continue for ten (10) days after written notice to Grantor from Lender, in the case of any such default which can be cured by the payment of a sum of money, or for thirty (30) days after written notice to Grantor from Lender in the case of any other such default; provided, however, that if such non-monetary default is susceptible of cure but cannot reasonably be cured within such 30-day period, and provided further that Grantor shall have commenced to cure such default within such 30-day period shall and thereafter diligently and expeditiously proceed to cure the same, such 30-day period shall be extended for such time as is reasonably necessary for Grantor in the exercise of due diligence to cure such default, such additional period not to exceed sixty (60) days.

C. Trustee's Rights and Duties

If directed by Lender to foreclose this lien or security interest, Trustee will—

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;
2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general warranty binding Grantor, subject to the Other Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

3. from the proceeds of the sale, pay, in this order—
 - a. expenses of foreclosure, including a reasonable commission to Trustee;
 - b. to Lender, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
 - c. any amounts required by law to be paid before payment to Grantor; and
 - d. to Grantor, any balance; and

4. **NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY TRUSTEE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING THE TRUSTEE'S NEGLIGENCE AND/OR STRICT LIABILITY), EXCEPT FOR TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** Trustee will have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee will be under no liability for interest on any moneys received by it hereunder. **GRANTOR SHALL REIMBURSE TRUSTEE FOR, AND INDEMNIFY AND SAVE IT HARMLESS AGAINST, ANY AND ALL LIABILITY AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) WHICH MAY BE INCURRED BY IT IN THE PERFORMANCE OF ITS DUTIES HEREUNDER (INCLUDING ANY LIABILITY AND EXPENSES RESULTING FROM TRUSTEE'S OWN NEGLIGENCE AND/OR STRICT LIABILITY).** The foregoing indemnity will not terminate upon release, foreclosure or other termination of this Deed of Trust.

In the alternative, such notice and sale may be accomplished in such manner as permitted or required by Chapter 9 of the UCC, or by any other present or subsequent laws or regulations relating to same.

D. General Provisions

1. If any of the Property is sold under this deed of trust, Grantor must immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any trustee's deed conveying the Property will be presumed to be true.

3. Proceeding under this deed of trust (including the assignment of Leases and Rents herein), filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

4. This lien and security interest will remain superior to liens and security interests later created even if the time of payment of all or part of the Obligations is extended or part of the Property is released.

5. If any portion of the Obligations cannot be lawfully secured by this deed of trust, payments will be applied first to discharge that portion.

6. Grantor assigns to Lender all amounts payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Lender, at Lender's sole discretion, will either release any remaining amounts to Grantor or apply such amounts to reduce the Obligations. Lender will not be liable for failure to collect or to exercise diligence in collecting any such amounts. Grantor will immediately give Lender notice of any actual or threatened proceedings for condemnation of all or part of the Property.

7. In order to provide a source of future payment of the Obligations, Grantor does hereby absolutely and unconditionally assign, transfer and set over to Lender all rents, revenues, issues and profits now or hereafter accruing to the benefit of Grantor, pertaining to or arising from the Property, including, without limitation, all rights to payment from credit/charge card organizations and all the records and books of account now or hereafter maintained by Grantor in connection with the operation of the Property and buildings, income, proceeds, profits, security and other benefits paid or payable by parties for the use, lease, license, operation or other enjoyment of the Property (collectively, the "Rents"), TO HAVE AND TO HOLD unto Lender forever, and Grantor does hereby bind Grantor, its successors and assigns, to warrant and forever defend the title to the Rents unto Lender against every person whomsoever lawfully claiming or to claim the same, or any part thereof. Until receipt from Lender of notice of the occurrence of a default under the Notes or any other Loan Document (a "Notice of Default"), each tenant under a lease of all or a portion of the Property shall pay Rents directly to Grantor and Grantor shall have the right to receive such Rents provided that Grantor shall hold such Rents as a trust fund to be applied first to the satisfaction and discharge of the Obligations, second to the payment of all taxes, insurance premiums, utility charges, maintenance and repair costs, replacement reserves and other operating, management and maintenance expenses of the Property, as same become due, and finally, Grantor may use the balance of the Rents collected in any manner not inconsistent with the Loan Documents. Upon the delivery of a Notice of Default, without further consent of Grantor, Grantor hereby authorizes any and all tenants to make future payments of Rents to Lender. Thereafter, Lender will have the exclusive right, power and authority to collect the Rents, regardless of whether a foreclosure sale of any or all of the Property has occurred under this deed of trust, or whether Lender has taken possession of any or all of the Property or attempted to do any of the same. In no event will the assignment of Rents in this deed of trust

reduce the indebtedness under the Obligations, except to the extent, if any, that Rents are actually received by Lender and applied upon or after said receipt to such indebtedness. As between Lender and Grantor, and any person claiming through or under Grantor other than any tenant under a lease of the Property who has not received a Notice of Default pursuant hereto, this assignment of Rents is intended to be absolute, unconditional and presently effective, and the provisions hereof for notification of tenants under a lease upon the occurrence of an event of default are intended solely for the benefit of each such tenant and shall never inure to the benefit of Grantor or any person claiming through or under Grantor, other than a tenant who has not received such notice. It shall never be necessary for Lender to institute legal proceedings of any kind whatsoever to enforce the provisions of this assignment. Neither the acceptance by Lender of this assignment of Rents, nor the granting of any other right, power, privilege or authority herein concerning the Rents, nor the exercise of any of the aforesaid, will (i) prior to the actual taking of physical possession and operational control of the Property by Lender, be deemed to constitute Lender as a "mortgagee in possession" or (ii) at any time thereafter, obligate Lender (A) to appear in or defend any action or proceeding relating to the Rents or the Property, (B) to take any action hereunder, (C) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to any lease, (D) to assume any obligation or responsibility for any tenant deposits which are not physically delivered to Lender, or (E) to assume any obligation or responsibility for any injury or damage to person or property sustained in or about the Property. This assignment of Rents will terminate upon the release of this deed of trust but no tenant under a lease will be required to take notice of such termination until a copy of a release of this deed of trust has been delivered to such tenant.

8. Interest on the debt secured by this deed of trust will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

9. In no event may this deed of trust secure payment of any debt that may not lawfully be secured by a lien on real estate or create a lien or security interest otherwise prohibited by law.

10. Except as otherwise provided herein, if Grantor sells, disposes of, encumbers or otherwise transfers any part of the Property without Lender's prior written consent, Lender may declare the Obligations immediately payable and invoke any remedies provided in this deed of trust for default. Grantor may not sell, dispose of, encumber or otherwise transfer any part of the Property, whether voluntarily or by operation of law, without the prior written consent of Lender. If granted, consent may be conditioned upon (a) the grantee's integrity, reputation, character, creditworthiness, and management ability being satisfactory to Lender; and (b) the grantee's executing, before such sale, transfer, or other disposition, a written assumption agreement

containing any terms Lender may require, such as a principal pay down on the Obligations, an increase in the rate of interest payable with respect to the Obligations, a transfer fee, or any other modification of the Notes, this deed of trust, or any other instruments evidencing or securing the Obligations.

Grantor may not cause or permit any Property to be encumbered by any liens, security interests, or encumbrances other than the liens and security interests securing the Obligations and the liens securing ad valorem taxes not yet due and payable without the prior written consent of Lender. If granted, consent may be conditioned upon Grantor's executing, before granting such lien, a written modification agreement containing any terms Lender may require, such as a principal pay down on the Obligations, an increase in the rate of interest payable with respect to the Obligations, an approval fee, or any other modification of the Notes, this deed of trust, or any other instruments evidencing or securing the Obligations.

Grantor may not grant any lien, security interest, or other encumbrance (a "Subordinate Instrument") covering the Property that is subordinate to the liens and security interests created by this deed of trust without the prior written consent of Lender. If granted, consent may be conditioned upon the Subordinate Instrument's containing express covenants to the effect that—

- a. the Subordinate Instrument is unconditionally subordinate to this deed of trust;
- b. if any action is instituted to foreclose or otherwise enforce the Subordinate Instrument, no action may be taken that would terminate any occupancy or tenancy without the prior written consent of Lender, and that consent, if granted, may be conditioned in any manner Lender determines;
- c. rents, if collected by or for the holder of the Subordinate Instrument, will be applied first to the payment of the Obligations then due and to expenses incurred in the ownership, operation, and maintenance of the Property in any order Lender may determine, before being applied to any indebtedness secured by the Subordinate Instrument;
- d. written notice of default under the Subordinate Instrument and written notice of the commencement of any action to foreclose or otherwise enforce the Subordinate Instrument must be given to Lender concurrently with or immediately after the occurrence of any such default or commencement; and
- e. in the event of the bankruptcy of Grantor, all amounts due on or with respect to the Obligations and this deed of trust will be payable in full before any payments on the indebtedness secured by the Subordinate Instrument.

If an involuntary encumbrance is filed against the Property, Grantor agrees, within thirty days, to either remove the involuntary encumbrance or provide a bond acceptable to Lender against the involuntary encumbrance.

Except as otherwise provided herein, Grantor may not cause or permit any of the following events to occur without the prior written consent of Lender: if Grantor is (a) a corporation, the dissolution of the corporation or the sale, pledge, encumbrance, or assignment of any shares of its stock; (b) a limited liability company, the dissolution of the company or the sale, pledge, encumbrance, or assignment of any of its membership interests; (c) a general partnership or joint venture, the dissolution of the partnership or venture or the sale, pledge, encumbrance, or assignment of any of its partnership or joint venture interests, or the withdrawal from or admission into it of any general partner or joint venturer; or (d) a limited partnership, (1) the dissolution of the partnership, (2) the sale, pledge, encumbrance, or assignment of any of its general partnership interests, or the withdrawal from or admission into it of any general partner, (3) the sale, pledge, encumbrance, or assignment of a controlling portion of its limited partnership interests, or (4) the withdrawal from or admission into it of any controlling limited partner or partners. If granted, consent may be conditioned upon (a) the integrity, reputation, character, creditworthiness, and management ability of the person succeeding to the ownership interest in Grantor (or security interest in such ownership) being satisfactory to Lender; and (b) the execution, before such event, by the person succeeding to the interest of Grantor in the Property or ownership interest in Grantor (or security interest in such ownership) of a written modification or assumption agreement containing such terms as Lender may require, such as a principal pay down on the Obligations, an increase in the rate of interest payable with respect to the Obligations, a transfer fee, or any other modification of the Notes, this deed of trust, or any other instruments evidencing or securing the Obligations.

11. Grantor and each surety, endorser, and guarantor of the Obligations waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law. To the extent that Grantor may lawfully do so, Grantor hereby expressly waives any right pertaining to the marshaling of assets, the administration of estates of decedents, or other matters to defeat, reduce or affect (a) the right of Lender to sell all or any part of the Property for the collection of the Obligations (without any prior or different resort for collection), or (b) the right of Lender to the payment of the Obligations out of the proceeds of the sale of all or any part of the Property in preference to every other person and claimant.

12. Grantor agrees to pay reasonable attorney's fees, trustee's fees, and court and other costs of enforcing Lender's rights under this deed of trust if this deed of trust is placed in the hands of an attorney for enforcement.

13. Grantor represents that this deed of trust and the Note are given for the following purposes: this deed of trust is given to secure the Note which was given for payment of the purchase price of one hundred percent (100%) of the capital stock of Veribest Cattle Feeders, Inc., purchased by Emilio Chavez, (Borrower and owner of Grantor) from Lender pursuant to that certain Stock Purchase Agreement of even date.

14. The debt evidenced by the Note is in payment of the purchase price of 100% of the capital stock of Veribest Cattle Feeders, Inc.

15. Upon notice of demand from Lender, Grantor will make an initial deposit in a reasonable amount to be determined by Lender and then make monthly payments to a fund for taxes and insurance premiums on the Property. Monthly payments will be made on the payment dates specified in the Notes, and each payment will be one-twelfth of the amount that Lender estimates will be required annually for payment of taxes and insurance premiums. The fund will accrue no interest, and Lender will hold it without bond in escrow and use it to pay the taxes and insurance premiums. If Grantor has complied with the requirements of this paragraph, Lender must pay taxes before delinquency. Grantor agrees to make additional deposits on demand if the fund is ever insufficient for its purpose. If an excess accumulates in the fund, Lender may either credit it to future monthly deposits until the excess is exhausted or refund it to Grantor. When Grantor makes the final payment on the Notes, Lender will credit to that payment the whole amount then in the fund or, at Lender's option, refund it after the Notes are paid. If this deed of trust is foreclosed, any balance in the fund over that needed to pay taxes, including taxes accruing but not yet payable, and to pay insurance premiums will be paid under part C, "Trustee's Rights and Duties." If the Property is transferred, any balance then in the fund will still be subject to the provisions of this paragraph and will inure to the benefit of the transferee. Deposits to the fund described in this paragraph are in addition to the monthly payments provided for in the Notes. Until a notice of demand is given by Lender, Grantor will pay all taxes and insurance directly.

16. If the Property is transferred by foreclosure, the transferee will acquire title to all insurance policies on the Property, including all paid but unearned premiums.

17. Grantor agrees to allow Lender or Lender's agents to enter the Property at reasonable times and inspect it and any personal property in which Lender is granted a security interest by this deed of trust.

18. Grantor hereby irrevocably authorizes Lender at any time and from time to time to file, without the signature of Grantor, in any jurisdiction, any amendments to existing financing statements and any initial financing statements and amendments thereto that indicate the Property as "all assets of Grantor, whether now owned or hereafter acquired, all supporting obligations and proceeds thereof, and all rights and privileges with respect thereto" or words of similar effect. In the event of a foreclosure sale under this deed of trust, Grantor agrees that all the Property may be sold as a whole at Lender's option and that the Property need not be present at the place of sale.

19. Grantor agrees to (a) keep at Grantor's address, or such other place as Lender may approve, accounts and records reflecting the operation of the Property and copies of all written contracts, leases, and other instruments that affect the Property; (b) prepare financial accounting records and tax returns; and (c), at Lender's request from time to time, permit Lender to examine and make copies of such books, records, tax returns, contracts, leases, and other instruments at any reasonable time.

20. Grantor agrees to execute, acknowledge, and deliver to Lender any document

requested by Lender, at Lender's request from time to time, to (a) correct any defect, error, omission, or ambiguity in this deed of trust or in any other document executed in connection with the Notes or this deed of trust; (b) effectuate this deed of trust or comply with Grantor's obligations under this deed of trust and other Loan Documents; (c) subject to and perfect the liens and security interests of this deed of trust and other documents any property intended to be covered thereby; and (d) protect, perfect, or preserve the liens and the security interests of this deed of trust and other documents against third persons or make any recordings, file any notices, or obtain any consents requested by Lender in connection therewith. Grantor agrees to pay all costs of the foregoing.

21. Grantor warrants to Lender and agrees that the proceeds of the Notes will be used primarily for business or commercial purposes and not primarily for personal, family, or household purposes.

22. Grantor shall protect, defend, indemnify, reimburse and hold Lender harmless from any and all claims, demands, liabilities, losses, damages, causes of action, judgments, penalties, fines, costs and expenses (including without limitation, reasonable fees and expenses of attorneys and other professional consultants and experts, and of the investigation and defense of any claim, whether or not such claim is ultimately defeated, and the settlement of any claim or judgment including all value paid or given in settlement) (SPECIFICALLY INCLUDING ANY LENDER'S NEGLIGENCE AND/OR STRICT LIABILITY) of every kind, known or unknown, foreseeable or unforeseeable, which may be imposed upon, asserted against or incurred or paid by a Lender at any time and from time to time, whenever imposed, asserted or incurred, because of, resulting from, in connection with, or arising out of any transaction, act, omission, event or circumstance in any way connected with the Property, the Leases, or the Obligations or any document related thereto, including disbursement of the loan proceeds, the condition of the Property, any bodily injury or death or property damage occurring in or upon or within the sidewalks or streets adjacent to the Property through any cause whatsoever, the exercise of Lender's remedies, any act performed or omitted to be performed hereunder or under any related document, any failure by Grantor to perform its obligations under any construction agreement or license, any event of default, and the direct or indirect result of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or any Hazardous Materials Contamination or arising out of or resulting from the environmental condition of the Property or the applicability of any Governmental Requirements relating to Hazardous Materials, except to the extent such arise from such Lender's gross negligence or intentional misconduct. For the purposes of this Section, the term "Lender" shall include (a) all subsequent owners or holders of any Obligations secured by this deed of trust; (b) all directors, officers, employees, and agents of such entity; (c) any persons or entities owned or controlled by or affiliated with Lender, and its or their directors, officers, employees, and agents; and (d) any party who may hereafter purchase all or any portion of the Property at foreclosure, or from any beneficiary under this deed of trust after foreclosure or deed in lieu of foreclosure. This Section 23 shall survive the payment of the Obligations and the release of this deed of trust, and shall continue to be fully enforceable thereafter.

23. If any provision of this deed of trust is determined to be invalid or unenforceable, the validity or enforceability of any other provision will not be affected.

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

25. The term *Notes* includes all extensions, modifications, and renewals of the Notes and all amounts secured by this deed of trust.

26. If Grantor and Borrower are not the same person, the term *Grantor* includes Borrower.

27. The term *Lender* includes any mortgage servicer for Lender.

28. This deed of trust binds, benefits, and may be enforced by the successors in interest of all parties.

29. Each Grantor is jointly and severally responsible for all obligations represented by this deed of trust.

30. All notices, demands, requests, and other communications required or permitted hereunder or under any Loan Document shall be in writing and shall be deemed to have been received when delivered personally or deposited in a regularly maintained receptacle for the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to Grantor or Lender, as the case may be, at the respective addresses set forth herein, or such other address as Grantor or Lender may from time to time designate by written notice to the other as herein required.

31. Further Assurances: Upon request of Lender, Grantor shall duly execute and deliver, or cause to be duly executed and delivered, to Lender, such further instruments, documents, certificates, financing and continuation statements, and do and cause to be done such further acts that may be reasonably necessary or advisable in the reasonable opinion of Lender to carry out more effectively the provisions and purposes of the Loan Documents.³²

32. THIS WRITTEN AGREEMENT AND THE NOTES REPRESENT THE FINAL AGREEMENT BETWEEN GRANTOR AND LENDER AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN GRANTOR AND LENDER.

[signature page follows]

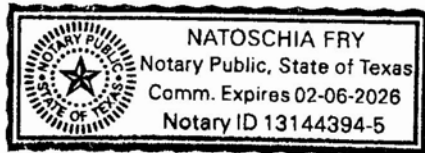
Veribest Cattle Feeders, Inc.

By: _____
Name: Emilio Chavez
Title: President.

THE STATE OF TEXAS §

COUNTY OF TOM GREEN §

This instrument was acknowledged before me on December 30, 2021, by Emilio Chavez, President of Veribest Cattle Feeders, Inc., on behalf of such corporation.



Natoschia Fry
Notary Public, State of Texas

SURFACE ESTATE AND interest in and to oil, gas and minerals:
under the hereinafter described lands located in Tom Green County, Texas:

Part of Survey 151, A-190, MARIA FELLER, 382.88 Acres

Part of Survey 150, A-194, JOHANN FALTERMIER, 320.39 Acres

Survey 149, A-191, MARIA FELLER, 319.530 Acres

Survey 148, A-1871, JACOB SCHNEIDER, 359.60 Acres

Survey 147, A-234, JACOB GEMBLER, 332.34 Acres

Survey 146, A-197, JOHANN FISSLER, 343.60 Acres

Survey 145, A-1558, PHILLIP KELLERMAN, 335.95 Acres

All more particularly described by metes and bounds in attached Exhibit A:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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the hereinafter describe lands (which hereinafter described lands are thereafter referred to as "said lands") located in Tom Green County, to-wit:

Survey	Abstract	Original Grantee	Acres
Part 151	190	Marie Feller	382.88
Part 150	194	Johann Faltermaier	320.39
149	191	Marie Feller	319.530
148	1871	Jacob Schneider	359.69
147	234	Jacob Gembler	332.34
146	197	Johann Fissler	343.60
145	1558	Philip Kellerman	335.95

The part of Survey 151 hereby described is all that portion of said survey lying north of the North right-of-way line of the San Angelo Veribest Highway, also known as Texas Farm-to-Market Road 380.

The part of Survey 150 hereby designated is all of said survey SAVE AND EXCEPT the South 12.655 acres conveyed by Ruth J. Gordon to San Angelo By-Products, Inc. by deed dated November 30, 1970, recorded in Volume 578, Page 396 of the Deed Records of Tom Green County, Texas.

Said lands being more fully described by that one certain Warranty Deed With Vendor's Lien from Ruth G. McGill et al. to Veribest Cattle Feeders, Inc., dated August 5, 1985, and duly recorded in Volume 837, Page 120, of the Deed Records of Tom Green County, Texas, reference to which deed and its record is hereby made for all purposes, and by metes and bounds as follows:

The surface estate and the oil, gas and other minerals in a 2,393.655 acre tract of land, more or less, consisting of Survey 145, Abstract 1558; Survey 146, Abstract 197; Survey 147, Abstract 234; Survey 148, Abstract 1871; Survey 149, Abstract 191; the part of Survey 151, Abstract 190 lying north of the San Angelo to Veribest Highway; and all of Survey 150, Abstract 194 save and except the south 12.655 acres conveyed by deed from Ruth J. Gordon to San Angelo By-Products, Inc. dated November 30, 1970, recorded in Volume 578, Page 396, Tom Green County Deed Records; and being more particularly described in a deed from Ruth G. McGill, et al. to the Mortgagor dated August 5, 1985, recorded in Volume 837, Pages 120-137, Tom Green County Deed Records, and the metes and bounds of said tract being:

Beginning at a point on the south bank of the Concho River for the NE corner of said Survey 145 and NW corner of Casper Spauring Survey 144, Tom Green County, Texas;

Thence S. 0°21'38" W. with the west line of said Survey 144 and the east line of said Survey 145, 7883.60 feet to the SE corner of said survey 145 and a NE corner of George D. Ball survey 5, Tom Green County, Texas;

Thence N. 89°32'20" W. with the south line of said Survey 145 and a north line of said Survey 5, 1970.17 feet to a point in the east line of said Survey 146 for the SW corner of said Survey 145 and a NW corner of said Survey 5;

Thence S. 0°49'35" W. with the east line of said Survey 146 and a west line of said Survey 5, 248.55 feet to the SE corner of said Survey 146 and a re-entrant corner of said Survey 5;

Thence N. 89°25'55" W. with the south line of said Survey 146 and a north line of said Survey 5, 1963.59 feet to a point in the east line of said Survey 147 for the SW corner of said Survey 146 and a NW corner of said Survey 5;

Thence S. 0°15'15" W. with the east line of said Survey 147 and a west line of said Survey 5, 326.14 feet to the SE corner of said Survey 147 and a re-entrant corner of said Survey 5;

Thence S. 89°53'06" W. with the south line of said Survey 147 and a north line of said Survey 5 to and with the north line of F. Salinas Survey 147 1/2, to and with a north line of John Guthrie Survey 8, all in Tom Green County, Texas, 2009.93 feet to a point in the east line of said Survey 148 for the SW corner of said Survey 147 and a NW corner of said Survey 8;

Thence S. $0^{\circ}18'57''$ W. with the east line of said Survey 148 and a west line of said Survey 8, 1963.72 feet to the SE corner of said Survey 148 and a re-entrant corner of said Survey 8;

Thence N. $89^{\circ}40'32''$ W. with the south line of said Survey 148 and a north line of said Survey 8, 1955.84 feet to a point in the east line of said Survey 149 for the SW corner of said Survey 148 and a NW corner of said Survey 8;

Thence S. $0^{\circ}22'02''$ W. with the east line of said Survey 149 and a west line of said Survey 8, 3705.69 feet to the SE corner of said Survey 149 and a re-entrant corner of said Survey 8;

Thence N. $89^{\circ}38'52''$ W. with the south line of said Survey 149, 1949.10 feet to a point in the east line of said Survey 150 for the NE corner of said 12.655 acre tract, the SW corner of said Survey 149 and a NW corner of said Survey 8;

Thence N. $89^{\circ}43'09''$ W. with the north line of said 12.655 acre tract, 1913.57 feet to a $3/4''$ iron pipe found in the west line of said Survey 150 and the east line of said Survey 151 for the NW corner of said 12.655 acre tract;

Thence S. $0^{\circ}18'30''$ W. with the east line of said Survey 151 and the west line of said Survey 150 to and with a west line of said Survey 8, 1144.94 feet to a point in the northerly right-of-way of said F.M. Highway 380;

Thence southwesterly with said northerly right-of-way being a curve to the left having a central angle of $2^{\circ}58'38''$, a radius of 1970.10 feet, an arc length of 102.37 feet and a long chord of S. $84^{\circ}36'04''$ W. 102.36 feet to a point of compound curvature;

Thence continuing with said northerly right-of-way being a curve to the left having a central angle of $23^{\circ}00'00''$, a radius of 1492.70 feet, an arc length of 599.21 feet and a long chord of S. $71^{\circ}36'45''$ W. 595.19 feet to a point of compound curvature;

Thence continuing with said northerly right-of-way being a curve to the left having a central angle of $7^{\circ}00'00''$, a radius of 1970.10 feet, an arc length of 240.69 feet and a long chord of S. $56^{\circ}36'45''$ W. 240.54 feet to a point of tangency;

Thence continuing with said northerly right-of-way S. $53^{\circ}06'45''$ W. 849.62 feet to a point of curvature;

Thence continuing with said northerly right-of-way being a curve to the right having a central angle of $1^{\circ}52'58''$, a radius of 2486.60 feet, an arc length of 81.71 and a long chord of S. $54^{\circ}03'15''$ W. 81.70 feet to a point in the south line of said Survey 151 and a north line of J.R. Duncan Survey 14 1/2, Tom Green County, Texas;

Thence N. $89^{\circ}39'15''$ W. with the south line of said Survey 151 and said north line of Survey 14 1/2, 373.80 feet to the SW corner of said Survey 151 and a NW corner of said Survey 14 1/2 in the east line of Mathias Suerth Survey 152, Tom Green County, Texas;

Thence N. $0^{\circ}23'44''$ E. with the west line of said Survey 151 and the east line of said Survey 152, 4870.14 feet to a point on the south bank of the Concho River for the NW corner of said Survey 151 and the NE corner of Survey 152;

Thence downstream with the Concho River and its south bank meanders to the place of beginning.

Exhibit A Continued

Page 4 of 5

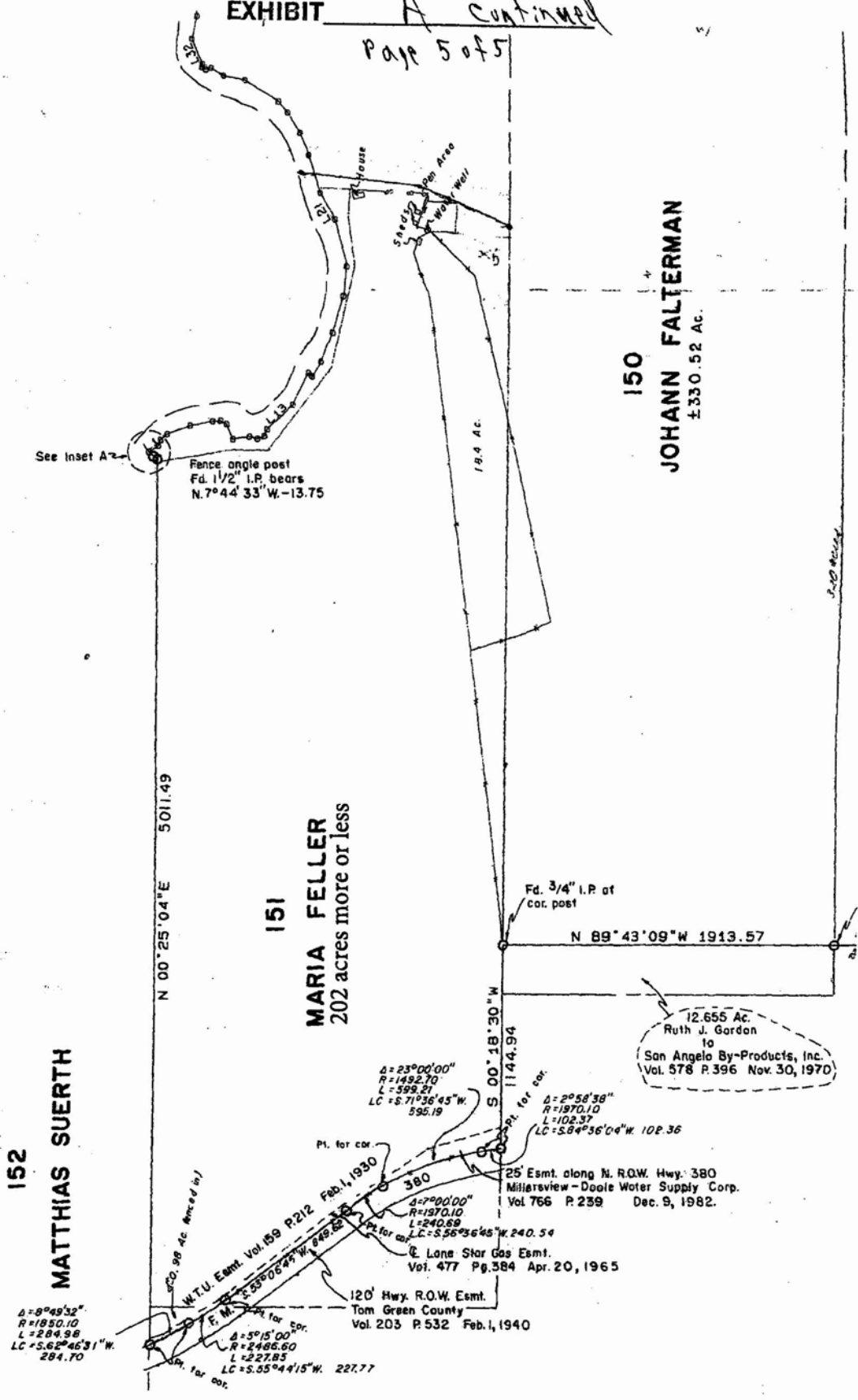
SAVE AND EXCEPT, the

202 acres, more or less, out of that part of Survey 151, Abstract 190, Original Grantee Maria Feller, lying North of the North right-of-way line of the San Angelo Veribest Highway, also known as Texas Farm to Market Road 380, located as shown on Exhibit A-1 attached hereto and incorporated herein

152
 MATTHIAS SUERTH

151
 MARIA FELLER
 202 acres more or less

150
 JOHANN FALTERMAN
 ± 330.52 Ac.



LEGAL DESCRIPTION OF REAL PROPERTY

All that real property, consisting of two tracts, totaling 119.04 acres, more or less, situated in Tom Green County, Texas, and described as follows:

TRACT ONE: 88 acres of land in Tom Green County, Texas, being 62.35 acres out of Survey No. 5, Abstract No. 8059, in the name of George D. Bell, and 25.65 acres out of Survey No. 147-1/2, Abstract No. 7893, in the name of Francisco Salinas, described by metes and bounds as follows:

BEGINNING at old corner post, in old stone mound, the Southwest corner of Survey No. 146, John Fisher, and located in the East line of Survey No. 147, Jacob Gemblar, 117 varas North of the Southeast corner of said Survey No. 147. The most Northerly Northwest corner of this Survey;

THENCE S. 89° 48' 50" E. 277.10 varas to a 1" G.I.P., the Northeast corner of this Survey. The same being located N. 89° 48' 50" W. 184.90 varas from the original Northeast corner of the West One-fourth of Survey No. 5, George D. Bell;

THENCE S. 0° 11' 30" W. 437.18 varas to a 1" G.I.P., a Southeast corner of this tract;

THENCE S. 68° 46' 30" W. 620.88 varas to a 1" G.I.P., an inner Northwest corner of this tract;

THENCE S. 0° 21' E. 504.1 varas to a 1" G.I.P., an ell corner of this tract;

THENCE S. 89° 39' W. at 65.30 varas cross the West line of said Survey No. 5, George D. Bell and the East line of said Survey No. 147-1/2, Francisco Salinas, in all 169.60 varas to a 1" G.I.P. Another ell corner of this tract, located at the Northeast corner of a lane 40 feet in width;

THENCE with the East line of said lane, S. 0° 21' E. 1425.1 varas to a 1" G.I.P. under the new North R.O.W. line of the San Angelo-Veribest Road. The Southeast corner of this tract;

THENCE with said R.O.W. line, N. 80° 30' W. 14.6 varas, the Southwest corner of this tract. Said point being located in the West line of said Survey No. 147-1/2;

EXHIBIT

B continued

Page 2 of 2

THENCE with the West line of said Survey No. 147-1/2, N. 0° 21' W. 2469.71 varas to a point in an East and West fence line, the Northwest corner of this tract; The same being also the Northwest corner of said Survey No. 147-1/2;

THENCE N. 89° 31' 26" E. at 119.34 varas pass the Northeast corner of said Survey No. 147-1/2, in all 490.34 varas to the Southeast corner of Survey No. 147, Jacob Gemblar;

THENCE North 117.0 varas to the place of BEGINNING, and being the same land described in a deed from Jessie Spencer et vir to Gene Newman by deed dated August 1, 1963, recorded in Volume 452, Page 600, Deed Records, Tom Green County, Texas, to which reference is here made.

TRACT TWO: Being 31.04 acres of land out of the North part of Survey No. 8, J. F. Guthrie and Survey No. 147 1/2, F. Salinas, Tom Green County, Texas, and being the most Northerly 31.04 acres of land out of that 306.64 acre tract out of said Surveys as conveyed from H. E. Halfmann and wife, to Robert Vidler by Warranty Deed dated March 18, 1954, and recorded in Vol. 345, at page 42 of the Deed Records of said Tom Green County; and said 31.04 acres being described by metes and bounds as follows:

BEGINNING at a corner post for the most Northerly N.W. corner of said 306.64 acre tract and the N.W. corner of this tract also being the most Northerly N.W. corner of said Survey 8 and the S.W. corner of Jacob Gemblar Survey 147;

THENCE with the South line of said Survey 147, the most Northerly North line of said Survey 8 and the North line of said Survey 147 1/2 and with fence, N. 89° 52' 52" E. 233.78 varas to a fence corner for the N.E. corner of this tract and the N.E. corner of said 306.64 acre tract;

THENCE following general course of fence line, with the East line of said 306.64 acre tract, South 846.60 varas to a fence corner for the S.E. corner of this tract;

THENCE with fence line, N. 49° 41' 34" W. 308.83 varas to a fence corner for the S.W. corner of this tract in the West (most Northerly) line of said Survey 8 the most Northerly West line of said 306.64 acre tract and the East line of J. Schneider Survey 148;

THENCE with the West line of said Survey 8, the most Northerly West line of said 306.64 acre tract and the East line of said Survey 148 and with fence, N. 0° 09' 12" E. 646.34 varas to the place of BEGINNING, and containing 31.04 acres of land.

Being 165.077 acres of land out of C. Spauring Survey 144, Tom Green County, Texas and being part of that 164.787 acre tract described in deed from Gladys M. Lewis to Louise G. Jones dated December 16, 1982 and recorded in Volume 761 at page 587 of the Deed Records of Tom Green County, Texas and part of that 4.290 acre tract described in deed from Gladys M. Lewis to Louise G. Jones dated December 16, 1982 and recorded in Volume 761 at page 584 of said Deed Records, said 165.077 acres being described by metes and bounds as follows:

Beginning at a 1" iron pipe found for the S.W. corner of said 164.787 acre tract and of this tract from which a fence corner post bears N.0°03'25"E. 2.17 feet.

Thence with a fence and the West line of said 164.787 acre tract, N.0°06'35"W. 4073.78 feet to a 1" iron pipe found for the N.W. corner of said 164.787 acre tract and of this tract.

Thence with the North line of said 164.787 acre tract, N.89°53'25"E. 1547.07 feet to a 1" iron pipe found for the most northerly N.E. corner of said 164.787 acre tract and of this tract.

Thence with an East line of said 164.787 acre tract, S.0°06'35"E. at 1608.94 feet a 3/4" iron pipe found for the N.W. corner of a 30 foot wide road easement recorded in Volume 761 at page 591 of said Deed Records, at 1638.94 feet a 3/4" iron pipe found for S.W. corner of said road easement, in all 3277.43 feet to an iron pipe corner post found for a re-entrant corner of said 164.787 acre tract and of this tract.

Thence with a North line of said 164.787 acre tract, S.89°46'12"E. 907.48 feet to a point for a N.E. corner of this tract and the N.W. corner of a 4.000 acre tract from which a found 1/2" iron pipe bears N.74°30'33"W. 0.34 feet.

Thence with the West line of said 4.000 acre tract, SOUTH 417.42 feet to point for a re-entrant corner of this tract and the S.W. corner of said 4.000 acre tract from which a found 1/2" iron pipe bears N.64°10'24"W. 0.17 feet.

Thence with the South line of said 4.000 acre tract, S.89°46'12"E. at 183.32 feet the West line of said 4.290 acre tract and an East line of said 164.787 acre tract, in all 417.42

Description
165.077 acre tract

feet to a point in the East line of said 4.290 acre tract for the S.E. corner of said 4.000 acre tract and a N.E. corner of this tract from which a 1/2" iron pipe found in fence bears N.89°14'39"W. 22.40 feet.

Thence with said East line of 4.290 acre tract, SOUTH 380.35 feet to a point for the S.E. corner of said 4.290 acre tract and of this tract from which a 1" iron pipe found at a fence corner bears N.89°55'29"W. 23.14 feet.

Thence with the South line of said 4.290 acre tract and to and with the South line of said 164.787 acre tract, N.89°55'29"W. at 233.37 feet the S.W. corner of said 4.290 acre tract and the S.E. corner of said 164.787 acre tract, in all 2870.43 feet to the place of beginning and containing 165.077 acres of land.

This 30th day of December, 1987.

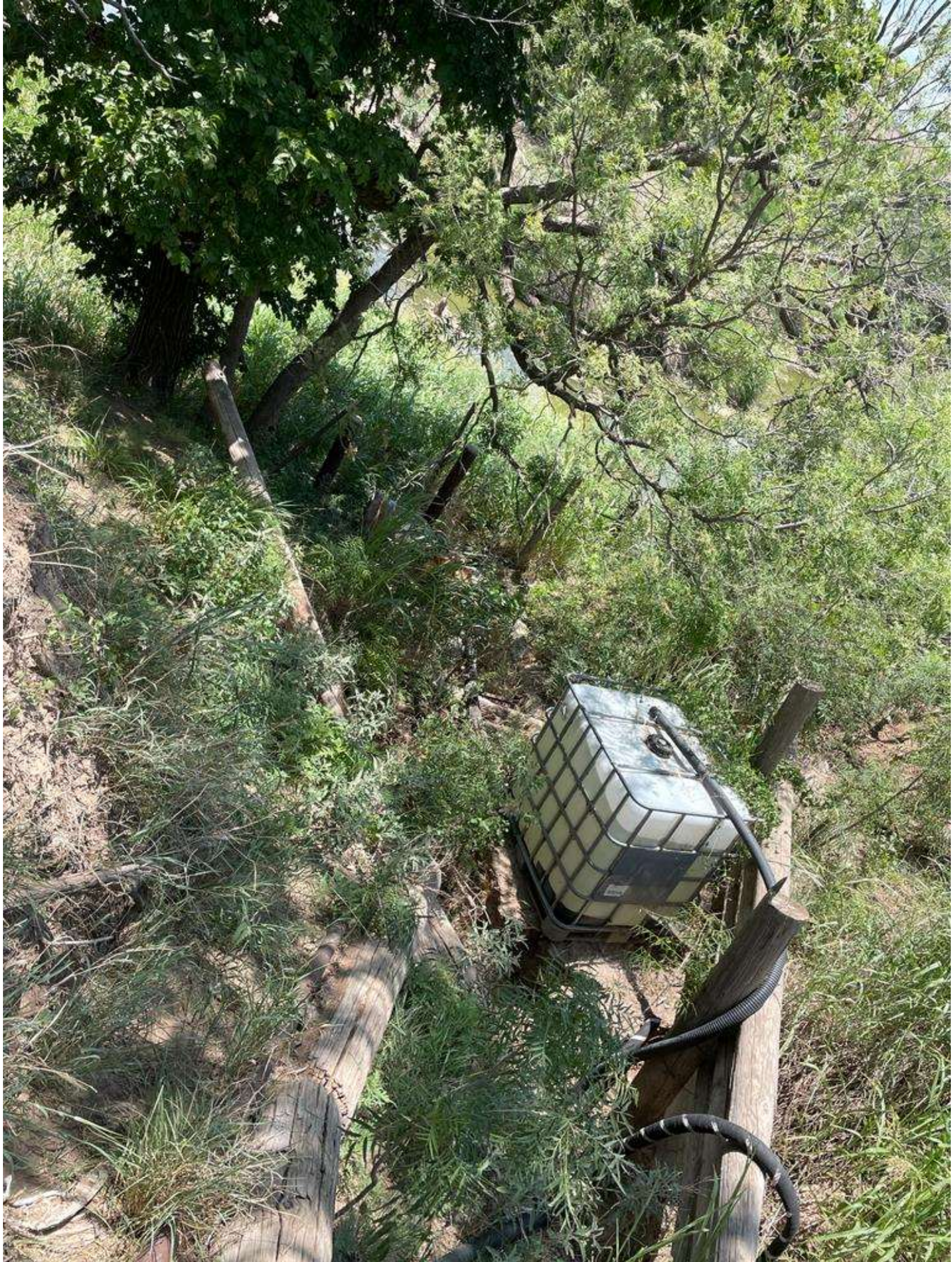


Thomas J. Houston
Thomas J. Houston
Registered Public Surveyor No. 4261
San Angelo, Texas

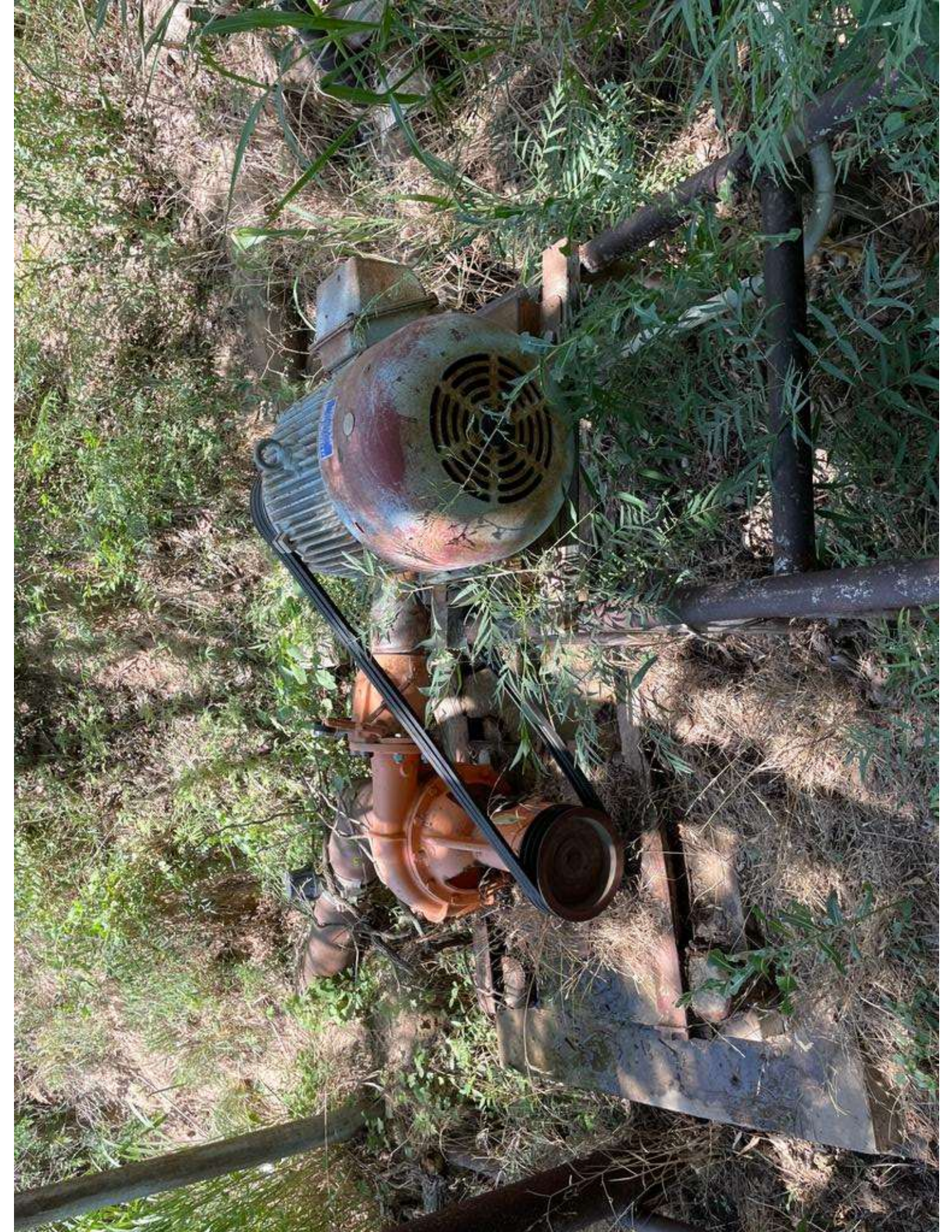
CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Christina Ubando
Christina Ubando County Clerk
Tom Green County, Texas
01/03/2022 02:58 PM
Fee: \$126.00
202200076 DT







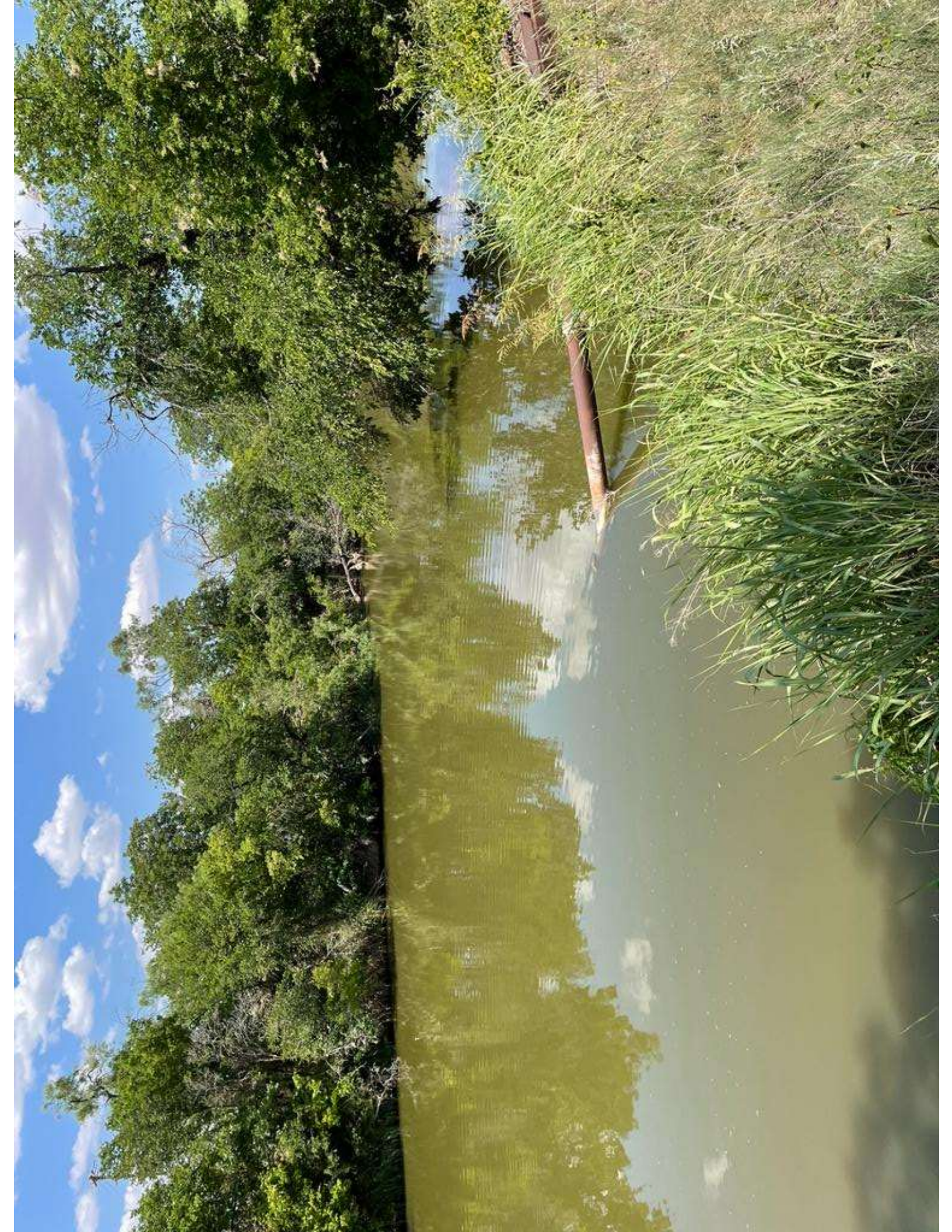


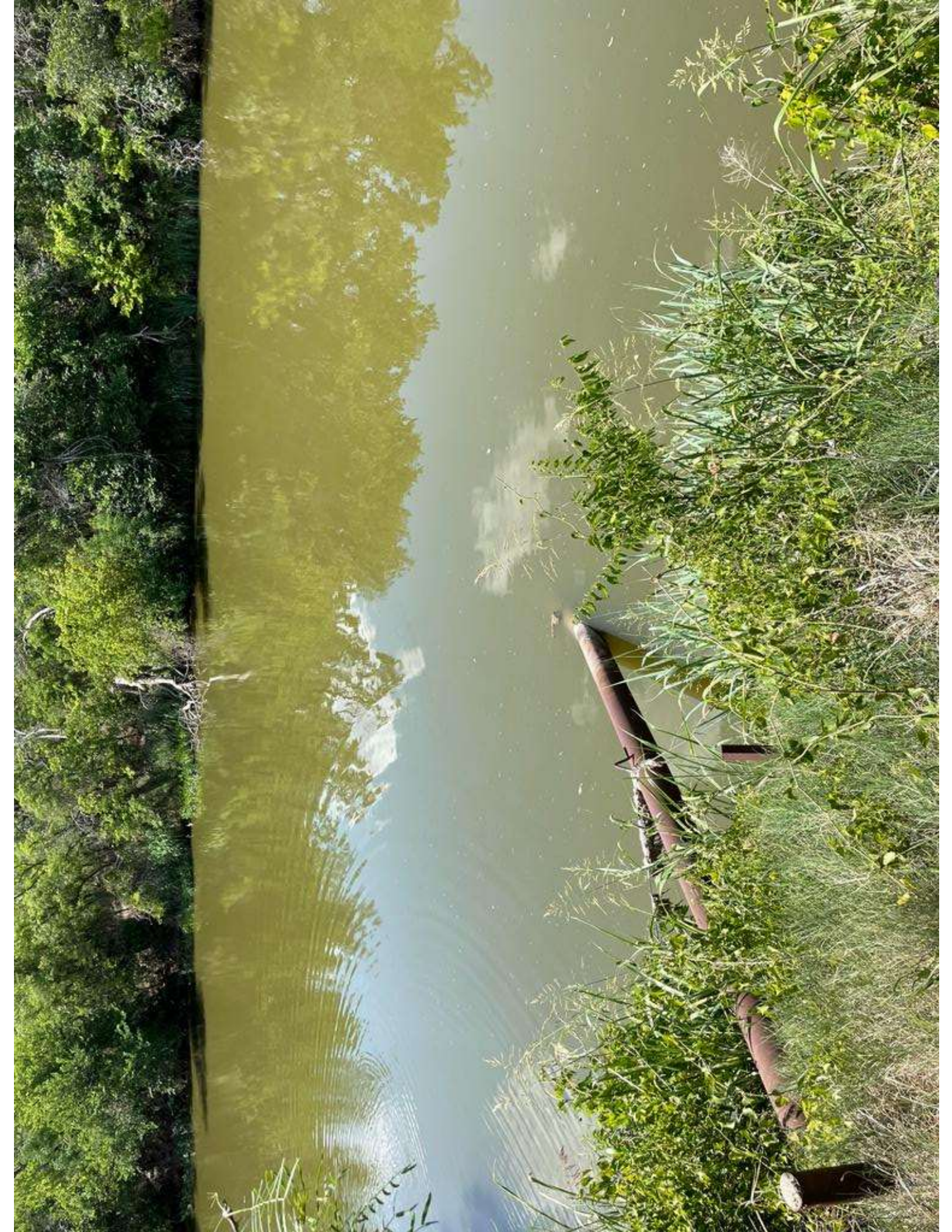










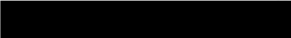







To Whom it May Concern,

This letter authorizes Michael S. Johnson to sign and communicate for Veribest Cattle Feeders, Inc and Outlie Dairy LLC.

If you have any questions, please contact us 806-478-1427 or email us at 

Sincerely,



Emilio Chavez
Member - Outlier Dairy LLC
Member - Veribest Cattle Feeders, Inc

