

TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader
Water Rights Permitting Team

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

DATE: February 8, 2024

SUBJECT: Timothy D. Icenhower and Elizabeth Ann Icenhower
WRPERM 13960
CN606191070, CN606224970, RN111892949
Application No. 13960 for a Water Use Permit
Texas Water Code § 11.121, Requiring Published and Mailed Notice
Unnamed Tributary of Eightmile Creek, Sabine River Basin
Harrison County

The application was received on January 30, 2024, and fees were received on January 31, 2024. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on February 8, 2024. Published and mailed notice to water right holders of record in the Sabine River Basin is required pursuant to Title 30 TAC §§ 295.152(a) and 295.153(b).

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

Hal E. Bailey, Jr.

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

OCC Mailed Notice Required

YES

NO

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 8, 2024

Mr. Steve Reed
Reed and Associates Environmental Consulting
1529 County Road 101
Carthage, Texas 75633-5654

VIA E-MAIL

RE: Timothy D. Icenhower and Elizabeth Ann Icenhower
WRPERM 13960
CN606191070, CN606224970, RN111892949
Application No. 13960 for a Water Use Permit
Texas Water Code § 11.121, Requiring Published and Mailed Notice
Unnamed Tributary of Eightmile Creek, Sabine River Basin
Harrison County

Dear Mr. Reed:

This acknowledges receipt, on January 30, 2024, of the referenced application, and on January 31, 2024, of fees in the amount of \$813.56 (Receipt No. M411576, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on February 8, 2024. Staff will continue processing the application for consideration by the Executive Director.

Be aware that this Water Use Permit, if granted, may result in annual Water Use Assessment Fees (WUF). For more detailed information on these fees, see the attached *Water Use Assessment Fee: The Annual Fee Associated with Water Rights Permits* fact sheet or contact the Water Quality Monitoring & Assessment Section at (512) 239-3838.

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

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

Sincerely,

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

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

Attachments



Basis2 Receipt Report by Endorsement Number

FEB-08-24 10:04 AM

Acct. #: WUP

Account Name: WATER USE PERMITS

<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>
	M411576		REED & ASSOCIATES ENVIRONMENTAL STEVE REED	CK	████		BS00107698	31-JAN-24	\$813.56

Water Use Assessment Fee (WUF): The Annual Fee Associated with Water Rights Permits

How can this affect me?

You are receiving this notice if you are the owner of a water right permit and you have recently changed your permit. Any change to your permit, including adding an authorized use, changing a diversion point, or a change of ownership, would cause the Water Use Fee assessor to review your permit for billable uses and may (depending on the change) result in you receiving a bill when you previously did not.

What is this fee?

The Water Use Assessment Fee is a fee that is assessed annually on applicable water rights permits. Texas Water Code, Sections 26.0135 & 26.0291 authorizes the TCEQ to establish fees to recover the reasonable costs of water quality assessment programs from wastewater and water right permit holders. TCEQ rules, 30 Texas Administrative Code (TAC), Sections 21.1-21.4, set out the methodology for assessing water use fees, described below.

Why are you billed?

If you hold a water right and do not fall under an exemption, then you are subject to the Water Use Assessment Fee. Unless the water right is amended to fall under an exemption, you will be billed for this water right on an annual basis.

Amendments can make a water right that was not previously billed now billable. For example, if you amend your water right to add an authorized use you could receive a bill in the year following your amendment.

What are reasons for exemption?

Exemptions are listed in 30 TAC, Section 21.3(c). Exemptions from the Water Use Assessment Fee include: municipal/domestic or industrial water rights directly associated with a facility that is assessed a Consolidated Water Quality Fee; agriculture (irrigation) water rights; non-priority hydroelectric water rights for a facility with a capacity of less than 2 megawatts; consumptive authorization less than 250 acre-feet; and non-consumptive authorization less than 2,500 acre-feet. If you can provide proof of these exemptions, please contact us using the information at the end of this document.

How is the fee assessed?

Fees are based on the annual authorization in the water right, not actual use. The total fee is the sum of the separate fees for each authorized use in each of the following categories for each permit.

The fee rate of **\$0.385** per acre-foot per year applies to authorized consumptive use (municipal/domestic, industrial, or mining purposes) if the specified limit is more than 250 acre-feet per year.

The fee rate of **\$0.021** per acre-foot per year applies to authorized non-consumptive use (including hydroelectric and some recreation) if the specified limit is more than 2,500 acre-feet per year.

The maximum water use fee for a single permit is \$115,000, which may be adjusted annually using the latest Consumer Price Index.

How are diversion amounts distributed amongst uses?

For permits with multiple uses that do not specify the amount per use, the total authorized amount is divided equally among all uses.

Example: 10,000 ac-ft for irrigation, municipal, industrial, and mining
 $10,000/4 = 2,500$ ac-ft per use
Irrigation is exempt; municipal/domestic not billed because wastewater treatment plant that uses the water already pays the Consolidated Water Quality Fee; industrial is billed \$962.50 at the consumptive rate for 2,500 ac-ft; mining billed \$962.50 at the consumptive rate for 2,500 ac-ft.

Where Do I Get More Information?

For copies of the fee rules (30 TAC, Sections 21.1-21.4), refer to the TCEQ rules from the Texas Administrative Code on the Secretary of State's web site at www.sos.state.tx.us. To learn more about the fee, please visit:

<http://www.tceq.state.tx.us/agency/drought/waterfees.html>

For billing and account balance information, call the TCEQ's Financial Administration Division, Revenue Section at (512) 239-0344.

If you have any questions about the Water Use Assessment Fee or the rates for your water right, contact the Water Quality Monitoring & Assessment Section at (512) 239-3838, or via email at wateruse@tceq.texas.gov, or write to:

Texas Commission on Environmental Quality
Water Quality Planning Division, MC 234
Water Use Fees
P.O. Box 13087
Austin, TX 78711-3087

Hal Bailey

From: Steve Reed <[REDACTED]>
Sent: Tuesday, January 30, 2024 4:06 PM
To: WRPT
Cc: Hal Bailey
Subject: Water Right Application for Icenhower Lake
Attachments: Icenhower Lake Water Right.pdf

Dear WRPT,

The following documentation is respectfully submitted in consideration for a new Water Right appropriation for the Icenhower Lake, located on an unnamed tributary of the Eightmile Creek within the Sabine River Basin in Harrison County, Texas. Please find the following documents included;

- Administrative Report
- Technical Report
- Applicable Regional Water Plan documentation (2 pg.)
- Co-applicant signature pages
- Required maps (location, project summary, & topo)
- Icenhower Property Deed
- Mining Water Conservation Plan
- Public Involvement Plan Form

In addition, a check in the amount of \$813.56, as well as a copy of the fee calculation worksheet (Worksheet 8.0), has been mailed to the TCEQ Financial Administration Division in payment of the fees associated with this application.

Please contact me as listed below with any questions.

Thank you

S Reed



Steve Reed
Reed & Associates Environmental Consulting
1529 CR 101 - Carthage, TX 75633
[REDACTED]



January 30, 2024

Texas Commission on Environmental Quality Water Availability Division
MC-160
P.O. Box 13087
Austin, TX 78711-3087
Attn: Chris Kozlowski

RECEIVED

By Eddie Valencia at 4:24 pm, Jan 30, 2024

Re: Water Right Permit Application for Timothy D. Icenhower & Elizabeth Ann Icenhower

Mr. Kozlowski,

As per our previous conversations, the following documentation is respectfully submitted for consideration for a new Water Right appropriation for the Icenhower Lake, located on an unnamed tributary of the Eightmile Creek within the Sabin River Basin in Harrison County, Texas. Please find the following documents included;

- Administrative Report
- Technical Report
- Applicable Regional Water Plan documentation (2 pg.)
- Co-applicant signature pages
- Required maps (location, project summary, & topo)
- Icenhower Property Deed
- Mining Water Conservation Plan
- Public Involvement Plan Form

In addition, a check in the amount of \$813.56, as well as a copy of the fee calculation worksheet (Worksheet 8.0), has been mailed to the TCEQ Financial Administration Division in payment of the fees associated with this application.

Please contact me as listed below if you have any questions. Thank you for your assistance.

Sincerely,

Steve Reed
Reed & Assoc. Env. Consulting

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): Timothy D. Icenhower and Elizabeth Ann Icenhower

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>N</u> Additional W.S. 3.0 for each Point
<u>Y</u> Additional Co-Applicant Signature Pages	<u>Y</u> Recorded Deeds for Diversion Points
<u>N</u> Written Evidence of Signature Authority	<u>N</u> Consent for Diversion Access
<u>Y</u> Technical Information Report	<u>Y</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>N</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>Y</u> Worksheet 4.1
<u>N</u> Recorded Deeds for Irrigated Land	<u>Y</u> Worksheet 5.0
<u>N</u> Consent for Irrigated Land	<u>N</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>N</u> Drought Contingency Plan(s)
<u>Y</u> Worksheet 2.0	<u>N</u> Documentation of Adoption
<u>N</u> Additional W.S. 2.0 for Each Reservoir	<u>N</u> Worksheet 7.0
<u>N</u> Dam Safety Documents	<u>N</u> Accounting Plan
<u>N</u> Notice(s) to Governing Bodies	<u>Y</u> Worksheet 8.0
<u>Y</u> Recorded Deeds for Inundated Land	<u>Y</u> Fees
<u>N</u> Consent for Inundated Land	<u>N</u> Public Involvement Plan

ADMINISTRATIVE INFORMATION REPORT

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

*****Applicants are REQUIRED 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."

This 'Icenhower Lake' authorization request is for the initial appropriation of a preexisting impoundment which has been enlarged to provide additional capacity. This impoundment (RN111826848) is located in Harrison County on an unnamed tributary of Eightmile Creek, a tributary of the Sabine River within the Sabine River Basin, approximately six (6) miles South Southeast of Marshall TX. at 416 Julius Davis Lane (32.514 N, & 94.246 W). The following appropriations are being sought for this impoundment;

A) - The applicant is seeking authorization for the impoundment (with a capacity of 125 acre feet) for recreational use at the location described above in Harrison County.

B) - The applicant is also seeking authorization to divert 250 acre feet per year from the impoundment for use in mining production (sale to oil & gas production companies for use in hydraulic fracturing) within Harrison County.

2. APPLICANT INFORMATION (Instructions, Page. 6)

a. Applicant

Indicate the number of Applicants/Co-Applicants 2
(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?

Timothy D. Icenhower and Elizabeth Ann Icenhower

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

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?

You may search for your CN on the TCEQ website at

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

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

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

First/Last Name: Timothy D. Icenhower & Elizabeth Ann Icenhower

Title: Owners

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

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: Timothy D. Icenhower & Elizabeth Ann Icenhower

Mailing Address: 416 Julius Davis Lane

City: Marshall State: Texas ZIP Code: 75672

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: Steve Reed

Title: Consultant

Organization Name: _____

Mailing Address: 1529 County Road 101

City: Carthage State: Texas ZIP Code: 75633

Phone Number: 903-692-1276

Fax Number: _____

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: Timothy D. Icenhower

Title: Owner

Organization Name: _____

Mailing Address: 416 Julius Davis Lane

City: Marshall State: Texas ZIP Code: 75672

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** N

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

Account number: _____ Amount past due: _____

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

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

Enforcement order number: _____ Amount past due: _____

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

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

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Timothy D. Icenhower Owner
(Typed or printed name) (Title)

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

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

Signature: _____ Date: _____
(Use blue ink)

Subscribed and Sworn to before me by the said

on this _____ day of _____, 20____.

My commission expires on the _____ day of _____, 20____.

Notary Public

[SEAL]

County, Texas

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Elizabeth Ann Icenhower

Owner

(Typed or printed name)

(Title)

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

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

Signature: Elizabeth Ann Icenhower Date: 1/22/2024
(Use blue ink)

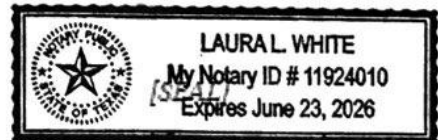
Subscribed and Sworn to before me by the said

on this January day of 22ND 2024

My commission expires on the 26th day of June 2026

Laura L. White
Notary Public

Harrison
County, Texas



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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Timothy D. Icenhower
(Typed or printed name)

Owner
(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: Timothy D Icenhower Date: 1-22-24
(Use blue ink)

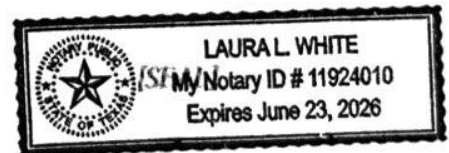
Subscribed and Sworn to before me by the said

on this January day of 22ND, 2024

My commission expires on the 23 day of June, 2026.

Laura L White
Notary Public

Harrison
County, Texas



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

2011-000005822

DO NOT REMOVE THIS PAGE - IT IS A PART OF THIS INSTRUMENT

DEED

5 Pages

FILED AND RECORDED - OPR	CLERKS NOTES
<p>On: <u>05/20/2011 03:50 PM</u></p> <p>Document Number: <u>2011-000005822</u></p> <p>Receipt No: <u>[REDACTED]</u></p> <p>Amount: \$ <u>28.00</u></p> <p>By: <u>Lori Hightower</u>, Deputy</p> <p>Patsy Cox, County Clerk Harrison County, Texas</p>	



STATE OF TEXAS
COUNTY OF HARRISON

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public Records of Harrison County, Texas.

Patsy Cox, Harrison County Clerk

Record and Return To:



TIMOTHY D ICENHOWER
430 ODEN

WASKOM, TX 75692

AFTER RECORDING RETURN TO:
TIMOTHY D. ICENHOWER
430 ODEN
WASKOM, TEXAS 75692
CTC GF#2115815 NRH

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

WARRANTY DEED

DATE: MAY 19, 2011

GRANTOR: BETTY DEAN EMERY, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF MIKE WADE EMERY, DECEASED, BETTY DEAN EMERY AS TRUSTEE OF THE EMERY MARITAL TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED, AND BETTY DEAN EMERY AS TRUSTEE OF THE EMERY FAMILY TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED

GRANTOR'S MAILING ADDRESS:

P.O. BOX 550, SCOTTSVILLE, TEXAS 75688

GRANTEE: TIMOTHY D. ICENHOWER AND ELIZABETH ANN ICENHOWER

GRANTEE'S MAILING ADDRESS:

430 ODEN WASKOM, TEXAS 75692

CONSIDERATION:

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration

PROPERTY (including any improvements):

TRACT 1:

All that certain lot, tract, or parcel of land situated in Harrison County, Texas, about 8 miles from the Courthouse in the City of Marshall, being 29.854 acres of land, a part of the JAS. ADAMS SURVEY, A-33, and the HIRAM BLOSSOM SURVEY, A-1, and being a part of Lot 13 and all of Lots 14 Thru 17 of Cross Creek Ranch Subdivision, an unrecorded subdivision, being a part of that same 27.642 acre tract of land described in deed from Kenneth Q. Carlile and wife, Celia C. Carlile to Mike Emery and wife, Betty Emery, dated November 15, 1996, recorded in Volume 1620, Page 11 of the Harrison County Public Records, and being a part of Lot 18 of said Cross Creek Ranch Subdivision, an unrecorded subdivision, being a part of the same 6.798 acre tract of land described in deed from Kenneth Q. Carlile and wife, Celia C. Carlile to Mike Emery and wife, Betty Emery, dated November 15, 1996, recorded in Volume 1620, Page 7 of said Public Records, said 29.854 acres being more particularly described as follows:

Beginning at a 1/2" iron rod found for corner, being the Northwest corner of said Lot 18, and said 6.798 acre tract, being the Northeast corner of Lot 19 of said Subdivision, a 7.340 acre tract described in deed to Bryan Beavers, recorded in Volume 1776, Page 38 of said Public Records, being on the South line of Lot 4 of said Subdivision, an 18.068 acre tract described in deed to Bryan Beavers, et ux, recorded in Volume 3434, Page 77 of said Public Records;

Thence in a Southeasterly direction with the North line of said 6.798 acre tract and said 27.642 acre tract the following courses: (1) South $72^{\circ} 29' 15''$ East, passing the Southeast corner of said 18.068 acre tract and the Southwest corner of Lot 5 of said Subdivision, a 29.247 acre tract described in deed to Haywood Moseley, IV, recorded in Volume 2776, Page 245 of said Public Records, 585.26 feet to a 1/2" iron rod found for corner, and (2) South $80^{\circ} 27' 26''$ East, passing the Southeast corner of said Lot 5, being the Southwest corner of Lot 7 of said Subdivision, a 13.299 tract of land described in deed to Robert Clayton Allen, et ux, recorded in Volume 1673, Page 281 of said Public Records, 902.54 feet to a 1/2" iron rod with surveyor's cap set for corner, being the Northwest corner of a 3.888 acre tract of land surveyed this date;

Thence South $00^{\circ} 37' 02''$ West, along the West line of said 3.888 acre tract, 780.31 feet to a 1/2" iron rod with surveyor's cap set for corner on the South line of Lot 13 and of said 27.642 acre tract, being the Southwest corner of said 3.888 acre tract, and being on the North margin Julius Davis Lane (County Road #1010);

Thence along the North margin of said Julius Davis Road, and the South line of said 27.642 acre tract, and the South line of said 6.798 acre tract, (1) South $89^{\circ} 41' 44''$ West - 257.29 feet to a 1/2" iron rod found, (2) North $89^{\circ} 44' 53''$ West - 926.20 feet to a 1/2" iron rod found, and (3) North $89^{\circ} 13' 47''$ West - 185.08 feet to a 1/2" iron rod with surveyor's cap set for corner, being the Southeast corner of a 0.698 acre tract surveyed this date;

Thence North $05^{\circ} 51' 31''$ West, along the East line of said 0.698 acre tract, 736.67 feet to a 1/2" iron rod with surveyor's cap set for corner, being on the West line of said Lot 18 and said 6.798 acre tract, the East line of said Lot 19 and said 7.340 acre tract, and being the North corner of said 0.698 acre tract;

Thence North $00^{\circ} 37' 02''$ East, with the West line of said Lot 18 and the East line of said Lot 19, 368.01 feet to the place of beginning and containing 29.854 acres of land.

"Note: The Company does not represent that the acreage or square footage calculations are correct."

TRACT 2:

All that certain lot, tract, or parcel of land situated in Harrison County, Texas, about 8 miles from the Courthouse in the City of Marshall, being 3.888 acres of land, a part of the JAS. ADAMS SURVEY, A-33 and being a part of Lots 13 Thru 17 of Cross Creek Ranch Subdivision, an unrecorded subdivision, being that same 27.642 acre tract of land described in deed from Kenneth Q. Carlile and wife, Celia C. Carlile to Mike Emery and wife, Betty Emery, dated November 15, 1996, recorded in Volume 1620, Page 11 of the Harrison County Official Public Records, said 3.888 acres being more particularly described as follows:

Beginning at a 1/2" iron rod found for corner, being the Southeast corner of said Lot 13, being the Southwest corner of Lot 12 of said Subdivision, being a 4.422 acre tract described in deed to Lewis Cromer and wife, Stacy Cromer, recorded in Volume 3959, Page 10 of said Public Records, and being on the North margin of Julius Davis Lane (County Road #1010);

Thence South $89^{\circ} 41' 44''$ West, with the South line of said Lot 13, being the North margin of said Julius Davis Lane, 223.34 feet to a 1/2" iron rod with surveyor's cap set for corner;

Thence North $00^{\circ} 37' 02''$ East - 780.31 feet to a 1/2" iron rod with surveyor's cap set for corner, being on the North line of said Lot 13 and being on the South line of Lot 7 of said Subdivision, being a 13.299 acre

tract described in deed to Robert Clayton Allen, et ux, recorded in Volume 1673, Page 281 of said Public Records;

Thence in a Easterly direction with the North line of said Lot 13 the following courses: (1) South 80° 27' 26" East - 141.79 feet to a 1/2" iron rod found for corner, being the Southeast corner of said 13.299 acre tract, and being on the West line of Lot 8 of said Subdivision, being a 7.759 acre tract described in deed to David P. Umling, et ux, recorded in Volume 1894, Page 98 of said Public Records, (2) South 00° 35' 23" East - 13.97 feet to a 1/2" iron rod found for corner, being the Southwest corner of said 7.759 acre tract, (3) East - 82.95 feet to a 1/2" iron rod found for corner, being the Northeast corner of said Lot 13 and being the Northwest corner of said Lot 12;

Thence South 00° 37' 02" West, with the East line of said Lot 13 and the West line of said Lot 12, 741.65 feet to the place of beginning and containing 3.888 acres of land.

"Note: The Company does not represent that the acreage or square footage calculations are correct."

RESERVATIONS FROM CONVEYANCE:

None

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Liens described as part of the Consideration and any other liens described in this deed as being either assumed by Grantee or subject to which title is taken by Grantee; validly existing restrictive covenants common to the platted subdivision in which the Property is located; standby fees, taxes, and assessments by any taxing authority for the year 2011, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership; homestead or community property or survivorship rights, if any, of any spouse of Grantee; and any validly existing titles or rights asserted by anyone, including but not limited to persons, the public, corporations, governments, or other entities, to (a) tidelands or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs, or oceans, (b) lands beyond the line of the harbor or bulkhead lines as established or changed by any government, (c) filled in lands or artificial islands, (d) statutory water rights, including riparian rights, or (e) the area extending from the line of mean low tide to the line of vegetation or the right of access to that area or easement along and across that area.

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

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

BETTY DEAN EMERY, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF MIKE WADE EMERY, DECEASED, BETTY DEAN EMERY AS TRUSTEE OF THE EMERY MARITAL TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED, AND BETTY DEAN EMERY AS TRUSTEE OF THE EMERY FAMILY TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED

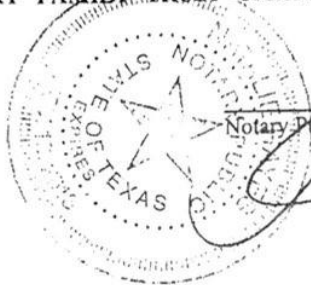
Betty Dean Emery
BY BETTY DEAN EMERY

STATE OF TEXAS

§
§
§

COUNTY OF HARRISON

This instrument was acknowledged before me on this the 10 day of May, 2011, by BETTY DEAN EMERY, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF MIKE WADE EMERY, DECEASED, BETTY DEAN EMERY AS TRUSTEE OF THE EMERY MARITAL TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED, AND BETTY DEAN EMERY AS TRUSTEE OF THE EMERY FAMILY TRUST CREATED UNDER THE WILL OF MIKE WADE EMERY, DECEASED.



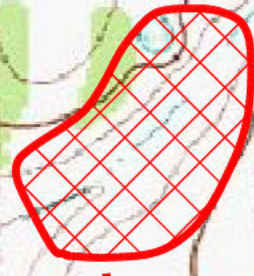
[Signature]
Notary Public, State of Texas

N

US 80 E

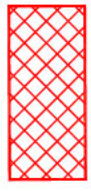
Drains NW to Unnamed
Tributary of Eightmile Ck, then to
Eightmile Ck, & Sabine River (0505)

Icenhower Lake
(32.514N, 94.246W)





Icenhower Lake
 32.514N, 94.246W



Project Area



**REED & ASSOCIATES
 ENVIRONMENTAL**

1529 County Road 101
 Carthage, Texas 75633

Location Map

Tim D Icenhower
 Icenhower Lake
 416 Julius Davis Lane
 Marshall, Texas 75670

Figure 1

January

Google Earth



Water Pump

32.514N, 94.247W


X

4116 Julius Davis Ln

Icenhower Lake

1010

LEGEND

	Water Storage
---	---------------

Not Drawn to Scale



**REED & ASSOCIATES
ENVIRONMENTAL**

1529 County Road 101
Carthage, Texas 75633
903/692-1276

Site Map

Tim D Icenhower
Icenhower Lake
416 Julius Davis Lane
Marshall, Texas 75672
SWPPP

Fig

Jan 20

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: 1-24-2024

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 Y
- 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 N (If yes, indicate the Certificate or Permit number: N/A)

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: N/A)

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: N/A

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
N/A	

- 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 N

If yes, submit:

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

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

If yes, submit:

- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)
- **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 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 N

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

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

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

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

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

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

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

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

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

Worksheets and information:

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

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

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

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

The Icenhower Lake is located within the Region D Regional Water Planning Group. Based on projections listed in the 2021 Region D RWP (pg. 5-69 & 5-70 included), this impoundment will have no negative impact on the regional water plan.

The application is consistent with state and regional water plans because there is nothing in the plan that conflicts with the application.

- 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>
125	Sabine River Basin	Recreation	Harrison Co. w/n the Sabine River Basin
250	Sabine River Basin	Mining	Harrison Co. w/n the Sabine River Basin

375 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 N/A 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.

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 N

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

- a. Provide the Basin of Origin. N/A
- b. Provide the quantity of water to be transferred (acre-feet). N/A
- 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 N
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N 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 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 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: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 125.
- c. The impoundment is on-channel x 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_Y
 - 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_Y
- d. Is the impoundment structure already constructed? Y / N_Y
 - i. For already constructed **on-channel** structures:
 1. Date of Construction: Possibly 1998 or 1999 but prior to current ownership thirteen (13) years ago
 2. Was it constructed to be an exempt structure under TWC § 11.142? Y / N_Y
 - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? Y / N_Y
 - b. If No, has the structure been issued a notice of violation by TCEQ? Y / N_N
 3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? Y / N_N
 - a. If yes, provide the Site No. _____ and watershed project name _____;
 - b. Authorization to close "ports" in the service spillway requested? Y / N_Y
 - 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_Y
Provide the date and the name of the Staff Person Ryan Jaecks
 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_Y
 - b. Plans (with engineer's seal) for the structure required. Y / N_N
 - c. Engineer's signed and sealed hazard classification required. Y / N_N
 - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. Y / N_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 N

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

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level: 12.
2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option. Applicant has calculated the drainage area. Y/N N
If yes, the drainage area is _____ sq. miles.
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).

2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): Unnamed Tributary of Eightmile Creek
- b. Zip Code: 75672
- c. In the JAS. ADAMS Original Survey No. _____, Abstract No. 34,
Harrison 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 32.514458 °N, Longitude 94.247083 °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): Google Earth Image & TCEQ Location Mapper Program
- ii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. Y / N Y

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. 1 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 55 gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N N
*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 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 type="checkbox"/>	Directly from stream	
<input checked="" type="checkbox"/>	From an on-channel reservoir	Proposed
<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 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): Unnamed Tributary of Eightmile Creek
- b. Zip Code: 75672
- c. Location of point: In the JAS. ADAMS Original Survey No. _____, Abstract No. 34, Harrison 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 32.514458 °N, Longitude 94.247083 °W.
Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google Earth Image & TCEQ Location Mapper Program
- 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 N/A.
- 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.

N/A

 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 N/A 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.**

Reasonable measures will be employed in order to avoid impingement and entrainment of aquatic organisms by utilizing a screen device (sieve size unknown at this time) at the suction of the pump which will also utilized a flotation device

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 N/A
 - 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 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 (\$) .	\$250.00	
	<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 ²⁵⁰ _____ Maximum annual diversion of State Water in acre-feet. **	\$250.00	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x ¹²⁵ _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	\$125.00	
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.	\$163.56	
	TOTAL	\$ 813.56	

2. AMENDMENT OR SEVER AND COMBINE

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

3. BED AND BANKS

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



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

Mining Water Conservation Plan

This form is provided to assist entities in developing a water conservation plan for mining water use. 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: Timothy D. & Elizabeth Ann Icenhower
Address: 416 Julius Davis Lane – Marshall, TX 75672
Telephone Number: (903)692-1276 Fax: ()
Form Completed By: S Reed / Reed Env.
Title: Consultant
Signature: _____ Date: / /

A water conservation plan for mining use must include the following requirements (as detailed in 30 TAC Section 288.3). 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):

250

2. Maximum diversion rate (cfs):

0.12254 (~55 gpm)

B. Water Sources

1. Please indicate the maximum or average annual amounts of water currently used and anticipated to be used (in acre-feet) for mining purposes:

<i>Source</i>	<i>Water Right No.(s)</i>	<i>Current Use</i>	<i>Anticipated Use</i>
---------------	---------------------------	--------------------	------------------------

Surface Water	N/A	125	250
Groundwater	N/A	0	0
Purchased	0	0	0
Total	0	125	250

2. How was the surface water data and/or groundwater data provided in B(1) obtained?

Master meter ; Customer meter ; Estimated X ; Other

3. Was purchased water raw or treated? NO

If both, % raw ; % treated ; and Supplier(s)

C. Mining Information

1. Major product(s) or service(s) produced by applicant:

To be sold & pumped off site for use in hydraulic fracturing

2. North American Industry Classification System (NAICS):

213112

II. WATER USE AND CONSERVATION PRACTICES

A. Water Use in Mining Processes

Mining Use	% Groundwater	% Surface Water	% Saline Water	% Treated Water	Water Use (in acre-ft)
Hydraulic Fracturing	0	100	0	0	250
Drilling	0	0	0	0	0
Washing Sand/gravel	0	0	0	0	0
Dust Control	0	0	0	0	0
Oil Field Repressuring	0	0	0	0	0
Other	0	0	0	0	0

<i>Facility Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Pond(s)	0	0	0	0	0
Sanitary & drinking water	0	0	0	0	0
Irrigation & dust control	0	0	0	0	0
Other	0	0	0	0	0

- Was fresh water recirculated at this facility? Yes No
- Provide a detailed description of how the water will be utilized in the mining process.

The water will be sold & pumped off site for use in hydraulic fracturing (pumped down hole under pressure to fracture the target substrate containing hydrocarbon materials)

- Estimate the quantity of water consumed in production and mining processes and is therefore unavailable for reuse, discharge, or other means of disposal.

100%

- Monthly water consumption for previous year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0
May	0	0	0
June	0	0	0
July	0	0	0
August	0	0	0
September	0	0	0
October	0	0	0
November	0	0	0

December	0	0	0
Totals	0	0	0

5. Projected monthly water consumption for next year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0
May	125	0	125
June	0	0	0
July	0	0	0
August	0	0	0
September	0	0	0
October	0	0	0
November	125	0	125
December	0	0	0
Totals	250	0	250

B. Specific and Quantified Conservation Goal

Water conservation goals for the mining sector are generally established either for (1) the amount of water recycled, (2) the amount of water reused, or (3) the amount of water not lost or consumed, and therefore is available for return flow.

1. Water conservation goal (water use efficiency measure)

Type of goal(s):

0 % reused water

0 % of water not consumed and therefore returned

Other (specify)

2. Provide specific, quantified 5-year and 10-year targets for water savings and the basis for development of such goals for this water use/facility.

N/A – (<1000 ac/ft.)

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

- a. 5-year goal: 10%
 - b. 10-year goal: 15%
3. 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%.
In line flow meters which measure within +/- 5%
 4. Provide a description of the leak-detection and repair, and water-loss accounting measures used.
Periodic visual inspection, as well as comparison between discharged & delivered meters
 5. Describe the application of state-of-the-art equipment and/or process modifications used to improve water use efficiency.
All diversions will be accomplished using a portable diesel pump with a floating suction and an in line rotary meter on the discharge line
 6. Describe any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan:
Oil & Gas production is typically reduced over time as the resource is consumed resulting in diminished demand for new production (well installations) and water needed for hydraulic fracturing

III. 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;

Oil & Gas production is typically reduced over time as the resource is consumed which results in diminished demand for new production (well installations). As a result, water needed for hydraulic fracturing also declines.

2. evaluates conservation as an alternative to the proposed appropriation; and

Conservation alone could not provide the volume of water required for hydraulic fracturing procedures, however, as much as possible, conservation efforts will be utilized to ensure that no ill effect is seen by downstream water right holders.

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.

The rural location of this impoundment would render recycling and reuse improbable, however, waste prevention and the use of water management practices will be employed to optimize future water availability

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.



Texas Commission on Environmental Quality

Public Involvement Plan Form for Permit and Registration Applications

The Public Involvement Plan is intended to provide applicants and the agency with information about how public outreach will be accomplished for certain types of applications in certain geographical areas of the state. It is intended to apply to new activities; major changes at existing plants, facilities, and processes; and to activities which are likely to have significant interest from the public. This preliminary screening is designed to identify applications that will benefit from an initial assessment of the need for enhanced public outreach.

All applicable sections of this form should be completed and submitted with the permit or registration application. For instructions on how to complete this form, see TCEQ-20960-inst.

Section 1. Preliminary Screening

- New Permit or Registration Application
 New Activity - modification, registration, amendment, facility, etc. (see instructions)

If neither of the above boxes are checked, completion of the form is not required and does not need to be submitted.

Section 2. Secondary Screening

- Requires public notice,
 Considered to have significant public interest, **and**
 Located within any of the following geographical locations:

- Austin
- Dallas
- Fort Worth
- Houston
- San Antonio
- West Texas
- Texas Panhandle
- Along the Texas/Mexico Border
- Other geographical locations should be decided on a case-by-case basis

**If all the above boxes are not checked, a Public Involvement Plan is not necessary.
Stop after Section 2 and submit the form.**

- Public Involvement Plan not applicable to this application. Provide **brief** explanation.

This small impoundment is located in rural East Texas and not considered significant.

Section 3. Application Information

Type of Application (check all that apply):

Air Initial Federal Amendment Standard Permit Title V

Waste Municipal Solid Waste Industrial and Hazardous Waste Scrap Tire
 Radioactive Material Licensing Underground Injection Control

Water Quality

- Texas Pollutant Discharge Elimination System (TPDES)
 - Texas Land Application Permit (TLAP)
 - State Only Concentrated Animal Feeding Operation (CAFO)
 - Water Treatment Plant Residuals Disposal Permit
- Class B Biosolids Land Application Permit
- Domestic Septage Land Application Registration

Water Rights New Permit

- New Appropriation of Water
- New or existing reservoir

Amendment to an Existing Water Right

- Add a New Appropriation of Water
- Add a New or Existing Reservoir
- Major Amendment that could affect other water rights or the environment

Section 4. Plain Language Summary

Provide a brief description of planned activities.

Section 5. Community and Demographic Information

Community information can be found using EPA's EJ Screen, U.S. Census Bureau information, or generally available demographic tools.

Information gathered in this section can assist with the determination of whether alternative language notice is necessary. Please provide the following information.

(City)

(County)

(Census Tract)

Please indicate which of these three is the level used for gathering the following information.

City

County

Census Tract

(a) Percent of people over 25 years of age who at least graduated from high school

(b) Per capita income for population near the specified location

(c) Percent of minority population and percent of population by race within the specified location

(d) Percent of Linguistically Isolated Households by language within the specified location

(e) Languages commonly spoken in area by percentage

(f) Community and/or Stakeholder Groups

(g) Historic public interest or involvement

Section 6. Planned Public Outreach Activities

(a) Is this application subject to the public participation requirements of Title 30 Texas Administrative Code (30 TAC) Chapter 39?

Yes No

(b) If yes, do you intend at this time to provide public outreach other than what is required by rule?

Yes No

If Yes, please describe.

If you answered "yes" that this application is subject to 30 TAC Chapter 39, answering the remaining questions in Section 6 is not required.

(c) Will you provide notice of this application in alternative languages?

Yes No

Please refer to Section 5. If more than 5% of the population potentially affected by your application is Limited English Proficient, then you are required to provide notice in the alternative language.

If yes, how will you provide notice in alternative languages?

- Publish in alternative language newspaper
 Posted on Commissioner's Integrated Database Website
 Mailed by TCEQ's Office of the Chief Clerk
Other (specify)

(d) Is there an opportunity for some type of public meeting, including after notice?

Yes No

(e) If a public meeting is held, will a translator be provided if requested?

Yes No

(f) Hard copies of the application will be available at the following (check all that apply):

- TCEQ Regional Office TCEQ Central Office
 Public Place (specify)

Section 7. Voluntary Submittal

For applicants voluntarily providing this Public Involvement Plan, who are not subject to formal public participation requirements.

Will you provide notice of this application, including notice in alternative languages?

Yes No

What types of notice will be provided?

- Publish in alternative language newspaper
 Posted on Commissioner's Integrated Database Website
 Mailed by TCEQ's Office of the Chief Clerk
 Other (specify)