

# TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

FROM: Natalia Ponebshek Project Manager  
Water Rights Permitting Team

DATE: November 16, 2022

SUBJECT: Wiggs Land and Cattle, LLC  
ADJ 2878  
CN605963511, RN103980462  
Application No. 12-2878A to Amend Certificate of Adjudication 12-2878  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Leon River, Brazos River Basin  
Hamilton County

The application and partial fees were received on April 22, 2022. Additional fees were received on November 2, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on November 16, 2022. Mailed notice to the interjacent water right holders of record in the Brazos River Basin is required pursuant to Title 30 Texas Administrative Code § 295.158(c)(3)(C).

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

*Natalia Ponebshek*

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

**OCC Mailed Notice Required**  **YES**

**NO**

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 16, 2022

Mr. Richard George  
Environmental Consultant  
Enviro-Ag. Engineering, Inc.  
9855 FM 847  
Dublin, TX 76446

VIA E-MAIL

RE: Wiggs Land and Cattle, LLC  
ADJ 2878  
CN605963511, RN103980462  
Application No. 12-2878A to Amend Certificate of Adjudication 12-2878  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Leon River, Brazos River Basin  
Hamilton County

Dear Mr. George:

This acknowledges receipt on November 2, 2022 of fees in the amount of \$33.82 (Receipt nos. M302432A and M302432B, copies attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on November 16, 2022. Staff will continue processing the application for consideration by the Executive Director.

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

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

Sincerely,

*Natalia Ponebshek*

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

Attachments

# TCEQ Interoffice Memorandum

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**From:** Natalia Ponebshek  
Water Rights Permitting Team

**Date:** November 16, 2022

**Subject:** Wiggs Land and Cattle, LLC  
Application No. 12-2878A to Amend Certificate of Adjudication  
No. 12-2878  
Leon River, Brazos River Basin  
Hamilton County

On June 9, 2006, the Texas Supreme Court issued an opinion in the case of *Marshall v Uncertain*.<sup>1</sup> The Supreme Court in that opinion considered the Commission's practices regarding notice and hearing for applications to amend a water right under Texas Water Code (TWC) § 11.122(b). The Court held that it could not determine under the record in that case whether notice and a hearing would be required. The Court remanded the case to the Commission.

The court in *Marshall* held that when reviewing the type of notice required for an amendment to a water right, the Commission must determine whether there could be an adverse impact from the application on other water rights or the environment beyond or irrespective of the full use assumption, explained below. The court also held that the Commission must determine if the application could have an adverse impact on the public interest criteria: beneficial use, public welfare, groundwater effects, consistency with the state and regional water plan, compliance with administrative requirements, and conservation.

The types of amendments that come within the *Marshall* decision are those 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. These amendments include changes in use, changes in place of use, or non-substantive changes in a water right.

The purpose of this memo is to discuss the public notice that should be given in the above referenced application by Wiggs Land and Cattle, LLC in light of agency rules and the Court's decision in the case of *Marshall*.

## **Current Permit and Application for Amendment**

Certificate of Adjudication No. 12-2878 was originally issued to D.C and Willie Nadine Marshall and authorized the diversion and use of not to exceed 37 acre-feet of water per year from one point on Farnash Creek, tributary of the Leon River and two points on the Leon River, Brazos River Basin, at a maximum combined diversion rate of 1.56 cfs (700 gpm), for agricultural purposes to irrigate a

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<sup>1</sup> City of Marshall et. al. v. City of Uncertain et. al., No. 03-1111 (Tx. June 9, 2006).

maximum of 100 acres of land out of a 255.33-acre tract out of 287 acres of land in Hamilton County. The time priority of the right is December 31, 1957.

Wiggs Land and Cattle, LLC (Owner/Applicant) acquired Certificate of Adjudication No. 12-2878 and seeks to amend Certificate of Adjudication No. 12-2878 to add diversion points on the Leon River, add a place of use for agricultural purposes to irrigate an additional 1,026.91 acres out of multiple adjacent tracts of land in Hamilton County, and add an off-channel reservoir to store the diverted water for subsequent agricultural purposes.

## **Rules Related to Notice**

### *Adding Diversion Points*

The Commission has rules concerning what notice is required for applications to amend a water right in 30 Texas Administrative Code § 295.158. New diversion points are governed by a specific rule. 30 TAC § 295.158(c)(3)(D) requires mailed notice to interjacent water rights holders of record when amending a water right to add diversion points when the existing rate of diversion will not be increased. This rule will be applied to the request to add diversion points on the Leon River. In this application, there are interjacent water right holders of record in the watershed between the authorized and proposed diversion points, therefore, notice will be given. Because there is a specific rule that addresses a request to add a diversion point, the request is not governed by the *City of Marshall* case and the notice requirements will not be discussed any further in this memo.

### *Adding a Place of Use*

Under 30 TAC § 295.158(c)(2)(B), no notice is required, except to the record holder, to change a place of use if the new place of use is located in the same river basin as the original place of use. This application falls under that rule and does not require notice except to the record holder.

There are no additional owners of Certificate of Adjudication No. 12-2878; therefore, no notice will be provided.

### *Adding an Off-Channel Reservoir*

The Commission has rules concerning what notice is required for applications to amend a water right in 30 TAC § 295.158. There are no rules that specifically provide notice for the storage in an off-channel reservoir. Under 30 TAC § 295.158(c)(1), no notice is required if no additional consumptive use is contemplated, no increase in diversion rate or period will be granted, and in the judgment of the Commission there is no potential for harming another water right. This application falls under that rule and does not require notice for the reasons set out below.

The notice recommendation for the Applicant's request to add off-channel storage will be discussed below.

## **Texas Water Code**

This application for an amendment to an existing water right is governed by TWC § 11.122. TWC § 11.122(a) requires a water right holder, except as discussed above, to obtain a water right amendment if the holder is going to change the place of use, purpose of use, point of diversion, rate of diversion, or “otherwise alter a water right.”

TWC § 11.122(b) sets out the scope of the Commission’s authority in reviewing applications to amend a water right. Staff notes that the Applicant is not asking for either an increase in the amount of water authorized for diversion, or an increase in the rate of diversion. With that understanding of the application, it then becomes a duty of the Commission to approve the application “*if the requested change will not cause adverse impact on other water right holders or the environment on the stream of greater magnitude than under circumstances in which the permit . . . that is sought to be amended was fully exercised according to its terms and conditions as they existed before the requested amendment,*” and the application meets, “*all other applicable requirements,*” of Chapter 11 of the Texas Water Code. The clause that requires the Commission to compare the requested amendment to the existing permit as if the existing permit was fully exercised is often referred to as the “full use assumption.”

### **Adverse Impact on Water Right Holders and the Environment**

Under the *City of Marshall* opinion, the Commission must evaluate whether an amendment can adversely impact other water rights or the environment both under and beyond the full use assumption.

Under the full use assumption, adding off-channel storage can have no greater impact on other water right holders or the environment than the impacts to those interests under the existing Certificate because adding off-channel storage will not increase the amount of water authorized for diversion by the Certificate. Both before and after the amendment, the maximum amount of water diverted (37 acre-feet of water per year) will be the same. The Applicant, under the existing Certificate and the proposed amended Certificate, could take all of that water in the first part of the year, or take all of that water in later parts of the year, subject to a maximum combined diversion rate of 1.56 cfs (700 gpm). In other words, there are no special conditions in the Certificate that restrict the water right holder to a particular pattern of use, or that spreads out the diversion of the 37 acre-feet of water to specific amounts over the course of the year. Because there is no specific pattern of use in the Certificate, the full use assumption requires the Commission to consider the existing Certificate and the proposed amended Certificate as potentially exercised under all lawful patterns of use.

It makes no difference to other water right holders or the environment, whether the water right holder is diverting its 37 acre-feet of water for agricultural purposes or storing the diverted water in an off-channel reservoir. The effect on streamflow, and therefore water available for downstream water right holders or the downstream aquatic environment will be the same: there will be 37 acre-feet of

water per year less after the diversion. Therefore, with the full use assumption, the proposed addition of off-channel storage does not cause adverse impact to other water right holders or the environment.

The Executive Director has determined that there are no impacts to water rights or the environment beyond the full use assumption. This amendment requests to add off-channel storage for the authorized water. This application does not change a non-consumptive use to a consumptive use. Also, there is no specific pattern of use required in the existing Certificate that will be changed. Unless the existing Certificate requires a specific pattern of use, the Executive Director has determined that this is not a proper factor to consider on notice because patterns of use change due to weather, time of use, and needs of the Applicant.

Another issue is whether the Executive Director should consider the Applicant's use of all of the water authorized in the existing water right. The Executive Director has determined that this is not a proper factor to consider because it would discourage conservation and future water planning.

### **Other Applicable Requirements**

Under TWC § 11.122(b) the proposed amendment must also satisfy all other applicable requirements of TWC Chapter 11. The Supreme Court in the *Marshall* case itemized those other requirements, which are discussed below.

### **Administrative Requirements**

Staff reviewed the application and has found that it meets all administrative requirements of TWC Chapter 11. The application was declared administratively complete and filed with the Office of the Chief Clerk on XXXX xx, 2022.

### **Beneficial Use**

Proposed appropriations of state water must be for a beneficial use. Beneficial use is defined in TWC § 11.002(4) as "the use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water." The authorized use in the Certificate is agricultural which is recognized as a beneficial use by TWC § 11.023(a)(2) and was already found to be a beneficial use when the Commission issued the Certificate. The request to add off-channel storage does not change the authorized use in the Certificate.

One question to consider is whether the Applicant should only be allowed to add off-channel storage for water that is being used. The Executive Director has determined that limiting the authorization for off-channel storage to the amount of water currently being used is inappropriate. The fact that the Applicant may not be using all of their appropriated water does not mean that there has not been or will

not be a beneficial use for the water. In addition, this factor would discourage conservation and future water planning.

The Executive Director is aware of no other facts that would make adding off-channel storage non-beneficial.

### ***Detriment to Public Welfare***

A proposed appropriation of state water must not be detrimental to the public welfare. No definition of "detriment to public welfare" is provided in the law. Therefore, the Commission has wide discretion in determining benefits or detriments to the public welfare. The Applicant seeks to add off-channel storage. There are no specific facts known to the Executive Director that would indicate that this is detrimental to the public welfare.

The Executive Director has determined that limiting the addition of off-channel storage to the amount of water currently being used is inappropriate for the reasons stated above.

The Executive Director's opinion is that nothing in the application raises an issue on detriment to the public welfare by granting this application.

### ***Groundwater Effects***

A proposed appropriation of state water must consider effects of the proposed permit on groundwater or groundwater recharge. The Commission's Water Availability Model (WAM) is used to evaluate the availability of unappropriated water for new appropriations and takes into account both contribution to river flow caused by groundwater coming to the surface in the river (springs) and decreases in river flow caused by the river flowing over recharge features and losing surface water to groundwater recharge. The WAM contains channel loss factors that account for the gain or loss of river flow. These channel loss factors were developed by the expert engineering contractors hired by the Commission to develop the WAMs.

The Brazos WAM includes the Leon River at which the diversions under this Certificate occur. The Water Availability Reports for the Brazos River Basin do not include channel loss factors for the Leon River at the Applicant's location.<sup>2</sup>

Concerning use of the Texas Water Development Board Groundwater Availability Models (GAMs) and information from the University of Texas, Bureau of Economic Geology (BEG) to assess groundwater impact from the proposed amendment, predictive simulations using the GAMs do not account for streamflow changes

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<sup>2</sup> Water Availability Modeling for the Brazos/San-Jacinto Coastal Basin. Prepared by HDR Engineering Inc. for the Texas Natural Resource Conservation Commission. December 2001.. and Final Report Water Availability Model Update Brazos River Basin. Prepared by Freese and Nichols, Inc. for the Texas Commission on Environmental Quality. August 2021.

associated with permitted surface water withdrawals or return flows. GAMs were not originally designed to address groundwater-surface water interaction and there are issues with using these models for that purpose.<sup>3</sup> The GAMs are regional in nature and are not able to simulate groundwater-surface water interaction in detail.<sup>4</sup> The BEG provides information about aquifer recharge rates.<sup>5</sup>

Both the WAMs and the GAMs have issues related to quantifying groundwater-surface water interaction; however, the WAMs were developed as a tool for surface water permitting. In general, recharge rates, where quantified, are applicable to aquifers or portions of aquifers. As such they do not provide sufficient detail to determine interaction between surface and groundwater at discrete points. Therefore, the ED concludes that neither the GAMS nor aquifer recharge rates should be used to assess groundwater/surface water interaction for water right applications.

Concerning information available from groundwater conservation districts and the Regional Water Plan, the application is not located in a Groundwater Conservation District<sup>6</sup>, and the Region G Regional Water Planning Area.<sup>7</sup> The Regional Water Plan for Region G<sup>8</sup> did not contain additional information related to effects on groundwater or groundwater recharge in the area of the application.

The amount of water diverted by the Applicants will be the same (37 acre-feet per year) whether that water is drawn from Leon River for agricultural use or for storage in off-channel reservoirs. Thus, the storage of the diverted water in an off-channel reservoir will have no greater impact on groundwater resources or groundwater recharge than the diversion of the full authorized volume of water for agricultural use. Therefore, the Executive Director concludes that there is no potential groundwater issue involved with this application.

### ***Consistency with Regional and State Plans***

Pursuant to TWC §11.134 (b)(3)(E), water right applications are only granted if the application addresses a water supply need in a manner that is consistent with the state water plan and the relevant regional water plan, unless the Commission determines that conditions warrant a waiver of this requirement. The purpose of the state and regional water plans is to assess the likely future use of water and to develop strategies for meeting water supply shortfalls. The state and regional water plans generally do not address every possible change in individual water rights. The Executive Director concludes that the requested amendment is consistent with the relevant regional water plan and the state water plan because

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<sup>3</sup> Bureau of Economic Geology. 2005. Groundwater-Surface Water Interactions in Texas. August 2005.

<sup>4</sup> Mace, R., Austin, B. Angle, E. and R. Batchelder. 2007. Surface Water and Ground Water Together Again. Paper presented at State Bar of Texas 8th Annual Changing Face of Water Rights in Texas. San Antonio, Texas.

<sup>5</sup> Scanlon, B., Dutton, A. and M. Sophocleous. 2002. Groundwater Recharge in Texas. Water Research Fund Grant Contract No. 2000-483-340.

<sup>6</sup> <https://www.tceq.texas.gov/downloads/groundwater/maps/gcd-map.pdf>

<sup>7</sup> <http://www.twdb.texas.gov/waterplanning/rwp/regions/g/index.asp>

<sup>8</sup> 2021 Brazos G Regional Water Plan. Prepared by Region G Water Planning Group and others for the Texas Water Development Board. October 2020.



there is nothing in the state and regional water plans that conflict with issuing this amendment.

### ***Avoidance of Waste and Achievement of Water Conservation***

The Commission has adopted rules in 30 TAC §295.9(4) that specify which applications to amend existing water rights require the submittal of water conservation plans. The Applicant is requesting to change the place of use to add a tract of land adjacent to the existing authorization and adding off-channel storage for the authorized water and is not increasing the amount of the appropriation. Pursuant to 30 TAC §295.9, an application requesting to change the place of use to expand the amount of acreage to be irrigated to an adjacent tract of land and to add off-channel storage does not require the submittal of a water conservation plan.

### **Conclusion**

The Applicant's request to add off-channel storage requires no notice pursuant to Commission rules. The request does not seek to increase either the amount of water diverted or the rate of diversion. Under the full use assumption, the request to add off-channel storage will not have an adverse impact on other water right holders and the environment, and there are no negative impacts to other water rights and the environment beyond the full use assumption. Adding off-channel storage does not raise any issues of beneficial use, detriment to the public welfare, groundwater effects, consistency with the state and regional water plans, compliance with administrative requirements, or avoidance of waste and achievement of water conservation. As such, Commission rules, statutes, and case law allow the request for adding off-channel storage to be processed with no notice.

The Applicant's request to add a place of use requires no notice, except to the record holder. There are no additional owners of Certificate of Adjudication No. 12-2878; therefore, no notice will be provided.

The Applicant's request to add diversion points requires mailed notice to the interjacent water right holders of record pursuant to Commission rules. Therefore, mailed notice will be sent to the interjacent water right holders of record for this application.



02-NOV-22 10:20 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M302431A	1250		BS00098335	02-NOV-22	-\$25.00
	WUP	ADJ122879	110222	N	D3800451		
WATER USE PERMITS		WIGGS LAND AND CATTLE LLC	VHERNAND	CK			
	WUP	M302432A	1249		BS00098335	02-NOV-22	-\$25.00
	WUP	ADJ122878	110222	N	D3800451		
WATER USE PERMITS		WIGGS LAND AND CATTLE LLC	VHERNAND	CK			
Total (Fee Code):							-\$50.00

RECEIVED  
NOV 03 2022  
Water Availability Division



## **Natalia Ponebshek**

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**From:** Natalia Ponebshek  
**Sent:** Tuesday, October 25, 2022 2:08 PM  
**To:** Richard George  
**Subject:** Wiggs Land and Cattle, LLC App No. 12-2878A RFI  
**Attachments:** Wiggs\_Land\_and\_Cattle\_12-2878A\_RFI\_1\_Sent\_10.25.2022.pdf

Please find the attached request for information for the abovementioned application. A response is due by November 24, 2022.

Thank you,

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

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 25, 2022

Mr. Richard George  
Environmental Consultant  
Enviro-Ag. Engineering, Inc.  
9855 FM 847  
Dublin, TX 76446

VIA E-MAIL

RE: Wiggs Land and Cattle, LLC  
ADJ 2878  
CN605963511, RN103980462  
Application No. 12-2878A to Amend Certificate of Adjudication 12-2878  
Texas Water Code § 11.122, Requiring Limited Mailed Notice  
Leon River, Brazos River Basin  
Hamilton County

Dear Mr. George:

This acknowledges receipt, on April 22, 2022, of the referenced application and partial fees in the amount of \$112.50 (Receipt No. M216441B, copy attached).

Additional fees are required before the application can be declared administratively complete. Remit fees in the amount of **\$33.82** as described below. Please make check payable to the Texas Commission on Environmental Quality or the TCEQ.

Filing Fee	\$ 100.00
Recording Fee	\$ 12.50
Storage Fee (\$0.50 x 50 acre-feet)	\$ 25.00
<u>Notice Fee (\$2.94 x 3 WR holders)</u>	<u>\$ 8.82</u>
TOTAL FEES	\$ 146.32
<u>FEES RECEIVED</u>	<u>\$ 112.50</u>
TOTAL FEES DUE	\$ 33.82

Please provide the requested information and fees by November 24, 2022, or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

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

Sincerely,

*Natalia Ponebshek*

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

Attachment

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • [tceq.texas.gov](http://tceq.texas.gov)

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printed on recycled paper



26-APR-22 10:04 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M216441A	1133		BS00094417	26-APR-22	-\$112.50
	WUP	2833	042522	N	D2802561		
WATER USE PERMITS	WIGGS LAND AND CATTLE LLC		VACRUZ	CK			
	WUP	M216441B	1133		BS00094417	26-APR-22	-\$112.50
	WUP	2878	042522	N	D2802561		
WATER USE PERMITS	WIGGS LAND AND CATTLE LLC		VACRUZ	CK			
	WUP	M216441C	1133		BS00094417	26-APR-22	-\$112.50
	WUP	2879	042522	N	D2802561		
WATER USE PERMITS	WIGGS LAND AND CATTLE LLC		VACRUZ	CK			
Total (Fee Code):							-\$337.50

RECEIVED

APR 27 2022

Water Availability Division



Corporate Office:  
3404 Airway Blvd.  
Amarillo TX 79118

Central Texas:  
9855 FM 847  
Dublin TX 76446

New Mexico:  
203 East Main Street  
Artesia NM 88210

4/20/2022

TCEQ  
Water Availability Division (MC-160)  
P.O. Box 13087  
Austin, TX 78711-3087

**RECEIVED**

APR 22 2022

Water Availability Division

Re: Wiggs Land & Cattle, LLC (CN 605963511)  
App. to Amend COA 12-2833, 12-2878 & 12-2879

To Whom It May Concern,

Enclosed please find the Amendment Applications for the above referenced permits. A check for \$337.50 is enclosed for the required filing & recording fees (\$112.50 for each application x3). Please call me if you have any questions 254-233-9948. Please submit all correspondence regarding this application to me at the Central Texas Office addressed at the top of the page.

Sincerely,

*Richard George*

Richard George  
Environmental Consultant  
Enviro-Ag. Engineering, Inc.

# 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): Wiggs Land & Cattle, LLC

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

Y/N

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

Y/N

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

**For Commission Use Only:**

Proposed/Current Water Right Number: \_\_\_\_\_

Basin: \_\_\_\_\_ Watermaster area Y/N: \_\_\_\_\_



# ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

New Appropriation of State Water

Amendment to a Water Right \*

Bed and Banks

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

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

Wiggs Land & Cattle, LLC owns 37 acre-feet of water in COA 12-2878. This amendment

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application is to add adjacent places of use (1,026.91 acres total), add off-channel storage and

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change the two current diversion points on the Leon River to a diversion reach (B-B'). The

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applicant is not proposing any changes to the current diversion point on Farnash Creek and

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wishes to leave it as it is currently authorized.

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## 2. APPLICANT INFORMATION (Instructions, Page. 6 )

### a. Applicant

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

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

Wiggs Land & Cattle, LLC

*(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 : 605963511 (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: Brett Wiggs

Title: Director

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

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

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

Name: Wiggs Land & Cattle, LLC

Mailing Address: 2000 Stanolind Ave.

City: Midland

State: TX

ZIP Code: 79705

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 32052117226 SOS Charter (filing) Number: 0801859284

### 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: Richard George

Title: Environmental Consultant

Organization Name: Enviro-Ag. Engineering, Inc.

Mailing Address: 9855 FM 847

City: Dublin

State: TX

ZIP Code: 76446

Phone No.: 254-233-9948

Extension:

Fax No.:

E-mail Address:



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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:



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

Applicant:

I, Brett Wiggs for Wiggs Land & Cattle, LLC (Director)

(Typed or printed name)

(Title)

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

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

Signature: [Handwritten Signature]  
(Use blue ink)

Date: 4/6/22

Subscribed and Sworn to before me by the said

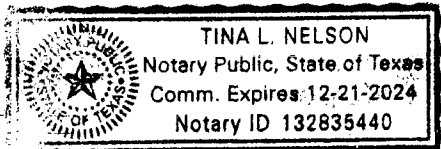
on this 6<sup>th</sup> day of April, 20 22.

My commission expires on the 21<sup>st</sup> day of December, 20 24.

[Handwritten Signature]

Notary Public

Midland  
County, Texas



SEAL

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

# Public Information Report

Public Information Report  
WIGGS LAND AND CATTLE, LLC  
Report Year :2021

Information on this site is obtained from the most recent Public Information Report (PIR) processed by the Secretary of State (SOS). PIRs filed with annual franchise tax reports are forwarded to the SOS. After processing, the SOS sends the Comptroller an electronic copy of the information, which is displayed on this web site. The information will be updated as changes are received from the SOS.

You may order a copy of a Public Information Report from [open.records@cpa.texas.gov](mailto:open.records@cpa.texas.gov) or Comptroller of Public Accounts, Open Records Section, PO Box 13528, Austin, Texas 78711.

<b>Title</b>	<b>Name and Address</b>
DIRECTOR	<b>BRETT WIGGS</b> 2000 STANOLIND AVE MIDLAND, TX 79705
MANAGER	<b>BRETT WIGGS</b> 2000 STANOLIND AVE MIDLAND, TX 79705
DIRECTOR	<b>ORIBI INVESTMENT LP</b> 2000 STANDOLIND AVE MIDLAND, TX 79705
MANAGER	<b>ORIBI INVESTMENT LP</b> 2000 STANDOLIND AVE MIDLAND, TX 79705



## Office of the Secretary of State

### CERTIFICATE OF FILING OF

WIGGS LAND AND CATTLE, LLC  
File Number: 801859284

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 10/01/2013

Effective: 10/01/2013



A handwritten signature in black ink, appearing to read "John Steen".

John Steen  
Secretary of State



Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709



Filed in the Office of the  
Secretary of State of Texas  
Filing #: 801859284 10/01/2013  
Document #: 506728760004  
Image Generated Electronically  
for Web Filing

Filing Fee: \$300

**Certificate of Formation  
Limited Liability Company**

**Article 1 - Entity Name and Type**

The filing entity being formed is a limited liability company. The name of the entity is:

**WIGGS LAND AND CATTLE, LLC**

**Article 2 - Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

**BRETT R WIGGS**

C. The business address of the registered agent and the registered office address is:

Street Address:

**2709 Purdue Ave Dallas TX 75225**

**Consent of Registered Agent**

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

**Article 3 - Governing Authority**

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Manager 1: **ALESIA C WIGGS**

Title: **Manager**

Address: **2709 Purdue Ave Dallas TX, USA 75225**

Manager 2: **BRETT R WIGGS**

Title: **Manager**

Address: **2709 Purdue Ave Dallas TX, USA 75225**

**Article 4 - Purpose**

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**LLC ADDITIONAL ARTICLES FOR FILING W- SEC OF STATE.pdf**

**Organizer**

The name and address of the organizer are set forth below.

**Gary Jordan      103 York Avenue, Weatherford, TX 76086**

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

**OR**

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

**Gary Jordan**

Signature of Organizer

**FILING OFFICE COPY**

## ARTICLE 5

The limited liability company will not commence business until it has received for the issuance of its membership interests consideration consisting of money, labor done, promissory notes, or property received.

## ARTICLE 6

On each matter on which the membership interest is entitled to vote, a member will have one vote or a fraction of one vote per one percent of membership interest or fraction of membership interest owned by the member. Cumulative voting is not allowed. Preemptive rights do not exist.

## ARTICLE 7

The membership interests of the limited liability company will be subject to restrictions on its transferability as set out in the Company Agreement of the limited liability company, which Company Agreement will be kept with the records of the limited liability company. The limited liability company will provide a copy of the Company Agreement without charge to any record holder of a membership interest upon written request addressed to the limited liability company at its principal business office or its registered agent's address.

## ARTICLE 8

The limited liability company shall indemnify any person who was, is, or is threatened to be made a named defendant or respondent in a proceeding (as hereinafter defined) because the person (a) is or was a member or officer of the limited liability company or (b) while a member or officer of the limited liability company, is or was serving at the request of the limited liability company as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, limited liability company, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, to the fullest extent that a limited liability company may grant indemnification to a person serving in such capacity under the Texas Limited Liability Company Law, as the same exists or may hereafter be amended.

Such right shall be a contract right and shall include the right to be paid by the limited liability company for all expenses incurred in defending any such proceeding in advance of its final disposition to the maximum extent permitted under the Texas Limited Liability Company Law, as the same exists or may hereafter be amended. If a claim for indemnification or advancement of expenses hereunder is not paid in full by the limited liability company within 90 days after a written claim has been received by the limited liability company, the claimant may at any time thereafter bring suit against the limited liability company to recover the unpaid amount of the claim, and if successful in whole or in part, the claimant shall be entitled to be paid also the expenses of prosecuting such claim. It shall be a defense to any such action that such indemnification or advancement of costs of defense are not permitted under the Texas Limited Liability Company Law, but the burden of proving such defense shall be on the limited liability company. Neither the failure of the limited liability company (including its members or any committee thereof or special legal counsel) to have made its determination prior to the commencement of such action that indemnification of, or advancement of costs of defense to, the claimant is permissible in the circumstances nor an actual determination by the company

(including its members or any committee thereof or special legal counsel) that such indemnification or advancement is not permissible, shall be a defense to the action or create a presumption that such indemnification or advancement is not permissible.

The limited liability company may additionally indemnify any person covered by the grant of mandatory indemnification contained above to such further extent as is permitted by law and may indemnify any other person to the fullest extent permitted by law.

As used herein, the term "proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

#### ARTICLE 9

A member of the limited liability company shall not be liable to the limited liability company or its other members for monetary damages for an act or omission in the member's capacity as member, except that this Article 9 does not eliminate or limit the liability of a member, to the extent the member is found liable, for:

- (a) a breach of a member's duty of loyalty to the limited liability company or its other members;
- (b) an act or omission not in good faith that constitutes a breach of duty of the member to the limited liability company or an act or omission that involves intentional misconduct or a knowing violation of the law;
- (c) a transaction from which a member received an improper benefit, Whether or not the benefit resulted from an action taken within the scope of the member's office; or
- (d) an act or omission for which the liability of a member is expressly provided by an applicable statute.

Neither the amendment nor repeal of this Article, nor the adoption of any provisions of these Articles of Organization inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit, or claim that, but for this Article, would accrue or arise, prior to such amendment, repeal, or adoption of any inconsistent provision. If the Texas Limited Liability Company Law or any successor act thereto is amended to authorize limited liability company action further eliminating or limiting the personal liability of members, then the liability of a member of the limited liability company shall be eliminated or limited to the fullest extent permitted by the Texas Limited Liability Company Law, or any successor act thereto, as so amended from time to time.

#### ARTICLE 10

This Certificate of Formation may be amended, modified, supplemented, or restated in any manner permitted by applicable law and approved by the majority vote of the members of the limited liability company.

# TECHNICAL INFORMATION REPORT

## WATER RIGHTS PERMITTING

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

**Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4691 to schedule a meeting.** Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N  (If yes, date : 12/21/2021).

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

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

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

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

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

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

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

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

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

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

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

Water Right (Certificate or Permit) number you are requesting to amend: 12-2878

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

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

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

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

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

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

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

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

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

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

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

***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) 239-4691 to discuss.*

***Additionally, all amendments require:***

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

**3. Bed and Banks. TWC § 11.042 (Instructions, Page 13) N/A**

- 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/A

*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/A

*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/A

*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/A

*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/A

*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 state and regional water plans generally do not address every possible change in

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individual water rights. The application is consistent with the 2021 Region G Water

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Plan and the 2017 State Water Plan because there is nothing in the plans that conflict

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the application.

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

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

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

Attachment A



# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

### 1. New Authorizations (Instructions, Page. 16) N/A

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

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

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

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

1. Location Information Regarding the Lands to be Irrigated

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

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

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

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

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

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

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

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
COA 12-2878 (37 Ac. Ft.)	Agricultural Irrigation	Agricultural Irrigation, Off-Channel Storage	Hamilton County	1,026.91 Acres in Hamilton County

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- i) Applicant proposes to irrigate a total of 1,026.91 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 Hamilton County, TX.
  - ii) Location of land to be irrigated: In the Attachment B Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.  
***A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.*** Attachment C  
***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***
- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

# WORKSHEET 1.1

## INTERBASIN TRANSFERS, TWC § 11.085 N/A

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

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

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

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

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

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

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

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

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

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

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

## WORKSHEET 1.2 NOTICE. “THE MARSHALL CRITERIA”

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

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

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

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

Submit responses on a supplemental attachment titled “Marshall Criteria” in a manner that conforms to the paragraphs (a) – (g) below: Attachment D

- 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 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: less than 50 acre-feet.
- c. The impoundment is on-channel \_\_\_\_\_ or off-channel  (mark one)
  1. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4691? Y / N **N**
  2. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? Y / N **N/A**
- d. Is the impoundment structure already constructed? Y / N **N**
  - i. For already constructed **on-channel** structures:
    1. Date of Construction: N/A
    2. Was it constructed to be an exempt structure under TWC § 11.142? Y / N
      - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? Y / N
      - b. If No, has the structure been issued a notice of violation by TCEQ? Y / N
    3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? Y / N
      - a. If yes, provide the Site No. \_\_\_\_\_ and watershed project name \_\_\_\_\_;
      - b. Authorization to close "ports" in the service spillway requested? Y / N
  - ii. For **any** proposed new structures or modifications to structures:
    1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? Y / N **Y**  
Provide the date and the name of the Staff Person Kyle Hodges (Region 4-DFW) 4/5/2022
    2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
      - a. No additional dam safety documents required with the Application. Y / N
      - b. Plans (with engineer's seal) for the structure required. Y / N
      - c. Engineer's signed and sealed hazard classification required. Y / N
      - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. Y / N

See Attachment E

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: N/A.
2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option.  
Applicant has calculated the drainage area. **Y/N**  
If yes, the drainage area is \_\_\_\_\_ sq. miles.  
*(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4691).*

## 2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): N/A
- b. Zip Code: 76531
- c. In the C. Farnash Original Survey No. \_\_\_\_\_, Abstract No. 254, Hamilton 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: Coordinates below are the proposed approximate location of the center of the storage reservoir.  
Latitude 31.681481° °N, Longitude -97.974870° °W.  
***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): GPS
- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. **Y / N Y**

Attachment A



## 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. \_\_\_\_\_ Diversion Point No.
2.  \_\_\_\_\_ Upstream Limit of Diversion Reach No.   B
3. \_\_\_\_\_ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point**<sup>1.56</sup> \_\_\_\_\_ cfs (cubic feet per second) or <sup>700</sup> \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / NY**  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches*<sup>1.56</sup> \_\_\_\_\_ cfs or <sup>700</sup> \_\_\_\_\_ gpm

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

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

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

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

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. **Y / NN**

If yes, the drainage area is \_\_\_\_\_ sq. miles.  
*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)*

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

- a. On watercourse (USGS name): Leon River
- b. Zip Code: 76538
- c. Location of point: In the C Farnash Original Survey No. \_\_\_\_\_, Abstract No. 254, Hamilton County, Texas.

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

- d. Point is at:  
Latitude 31.686662° °N, Longitude -97.981213° °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): GPS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- 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 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. \_\_\_\_\_ Diversion Point No.
2. \_\_\_\_\_ Upstream Limit of Diversion Reach No.
3.  \_\_\_\_\_ Downstream Limit of Diversion Reach No. B'

b. Maximum Rate of Diversion for **this new point** <sup>1.56</sup> \_\_\_\_\_ cfs (cubic feet per second)  
or <sup>700</sup> \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / NY**  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* <sup>1.56</sup> \_\_\_\_\_ cfs or <sup>700</sup> \_\_\_\_\_ gpm

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

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

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

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

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. **Y / NN**

If yes, the drainage area is \_\_\_\_\_ sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)*

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

- a. On watercourse (USGS name): Leon River
- b. Zip Code: 76538
- c. Location of point: In the I. Standifer Original Survey No. \_\_\_\_\_, Abstract No. 763, Hamilton County, Texas.

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

- d. Point is at:  
Latitude 31.674729° °N, Longitude -97.954608° °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): GPS
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- 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

N/A

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

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

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, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

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) \_\_\_\_\_.
- c. 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. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers \_\_\_\_\_.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? **Y / N**  
If yes, provide the signed contract(s).
- cii. Identify any other source of the water \_\_\_\_\_

**WORKSHEET 4.1**  
**DISCHARGE POINT INFORMATION**      N/A

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g. maps).  
**Instructions, Page 27.**

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

- a. The amount of water that will be discharged at this point is \_\_\_\_\_ acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of \_\_\_\_\_ cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: \_\_\_\_\_
- d. Zip Code: \_\_\_\_\_
- f. Location of point: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.
- g. Point is at:
  - Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.
  - \*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): \_\_\_\_\_

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

# WORKSHEET 5.0

## ENVIRONMENTAL INFORMATION

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: \_\_\_\_\_

Other, specify: River

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

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

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the map submitted with the application indicating the location of the photograph and the direction of the shot. Attachment F
2. Measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure). 1/4" Mesh Screens.
3. If the application includes a proposed reservoir, also include:
  - i. A brief description of the area that will be inundated by the reservoir. The proposed reservoir will be constructed in the corner area of an improved pasture.
  - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager. N/A
  - 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. N/A

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

For all bed and banks applications: N/A

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



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

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

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

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

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

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

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

# WORKSHEET 6.0

## Water Conservation/Drought Contingency Plans

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

**Instructions, Page 31.**

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

### 1. Water Conservation Plans N/A

- 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 N

## 2. **Drought Contingency Plans**    N/A

- 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 512-239-4691 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

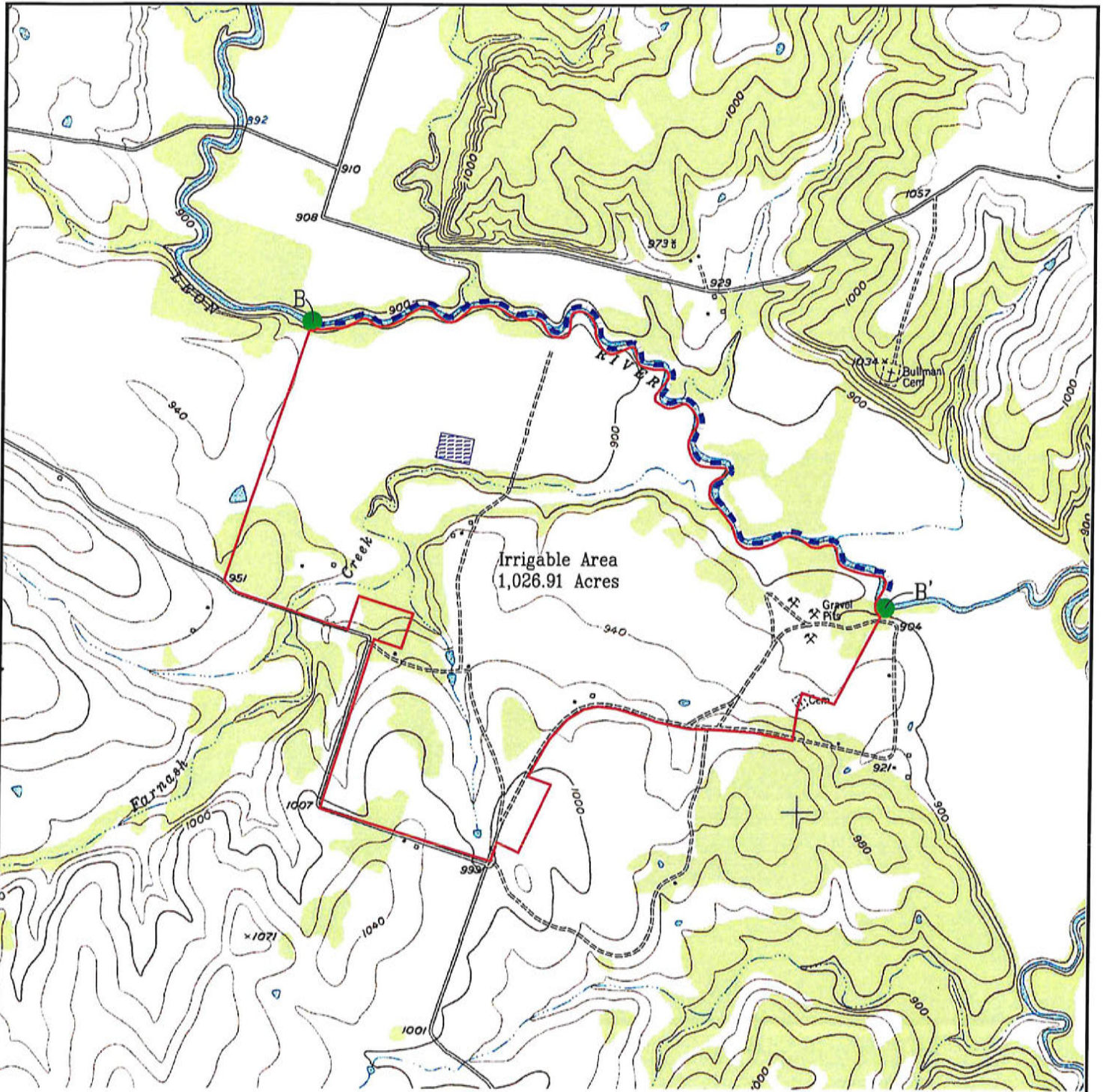
	Description	Amount (\$)
<b>Filing Fee</b>	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under <b>Amount (\$)</b> . <u>In Acre-Feet</u>	
	a. Less than 100	\$100.00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

### 2. AMENDMENT OR SEVER AND COMBINE

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

### 3. BED AND BANKS

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



Map Revised 4/5/2022

**LEGEND:**

- Denotes Irrigable Acreage Boundary
- - - Denotes Diversion Reach B-B'
- Denotes Diversion Reach Upper & Lower Boundaries
- Denotes Proposed Off-Channel Storage Reservoir



SCALED AS SHOWN

Source: USDA-NRCS. Geospatial Data Gateway. Available at: <http://datagateway.nrcs.usda.gov/>. Digital Raster Graphic County Mosaic by NRCS - Accessed March 2015.

Wiggs Land & Cattle, LLC  
Whiteway, Texas  
Hamilton County

Attachment A  
Site Map  
COA 12-2878



Enviro-Ag Engineering, Inc.  
ENGINEERING CONSULTANTS  
3404 Airway Blvd.  
AMARILLO, TEXAS 79118  
TEL (806) 353-6123 FAX (806) 353-4132

Attachment B


TCEQ Form 10214C Pg. 6 Section 2(b)ii

Location of land to be irrigated:

(1,026.91 Acres) In the the Charles Farnash Survey, Abstract 254, Isaac Standifer Survey, Abstract No. 763, and E.P. Pulliam Survey, Abstract No. 676, G. M. Lee Survey, Abstract Number 485, Hamilton County, TX – Brazos River Basin.

Attachment C

20180538 B: RP V: 533 P: 269 WD  
03/28/2018 02:16 PM Total Pages: 9 Fee: 54.00  
Kiesha Bagwell, County Clerk- Hamilton County, Texas



WARRANTY DEED

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

DATE: March 23rd, 2018

GRANTOR: Brett Wiggs and Alesia Wiggs

GRANTOR'S MAILING ADDRESS:

2000 Stanolind Ave.  
Midland, Texas 79705  
Midland County, Texas

GRANTEE: Wiggs Land & Cattle, LLC

GRANTEE'S MAILING ADDRESSES:

2000 Stanolind Ave.  
Midland, Texas 79705  
Midland County, Texas

CONSIDERATION: TEN DOLLARS (\$10.00) and other good and valuable consideration.

PROPERTY (including any improvements):

TRACT ONE: All that certain piece, parcel or tract of land being 273.27 acres of land situated in Hamilton County, Texas out of the Charles Farnash Survey, Abstract 254, Isaac Standifer Survey, Abstract No. 763, and E. P. Pulliam Survey Abstract No. 676, being that same property described in Deed from Larry Alan Anglin and Robin Anglin to Brett Wiggs and Alesia Wiggs dated September 6, 2013 and recorded in volume 476, page 504 of the

PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION

WARRANTY DEED - 1  
WIGGS TO WIGGS LAND & CATTLE, LLC



Real Property Records of Hamilton County, Texas and more particularly described in the attached Exhibit A.

TRACT TWO: All that certain piece, parcel or tract of land being 498.31 acres of land situated in Hamilton County, Texas out of the G. M. Lee Survey, Abstract Number 485 and the Charles Farnash Survey, Abstract Number 254 being that same property described in Deed from Floyd W. McGilvray and Joyce McGilvray to Brett Wiggs and Alesia Wiggs dated July 30, 2004 and recorded in volume 374, page 827 of the Real Property Records of Hamilton County, Texas and more particularly described in the attached Exhibit B.

**RESERVATIONS FROM CONVEYANCE AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:**

Easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the Property including but not limited to the following:

AS TO TRACT ONE:

1. The Perpetual Right of Way and Ingress and Egress Easement dated April 28, 1989 from Elmer L. Geeslin and Cletys Geraldine Geeslin to Hamilton National Bank recorded in Volume 273, Page 385 of the Deed Records of Hamilton County, Texas.
2. The Perpetual Right of Way and Easement dated September 29, 1994 from Elmer L. Geeslin and Cletys Geraldine Geeslin to Dedric Baxter dated September 29, 1994 and recorded in Volume 289, Page 903 of the Deed Records of Hamilton County, Texas.
3. Any rights of ingress and egress possessed by third parties in connection with the Heblin/Hibdon Cemetery located along and inside of the property's Eastern border.

**PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION**

WARRANTY DEED - 2  
WIGGS TO WIGGS LAND & CATTLE, LLC

4. The Easement Agreement for Access dated September 5, 2013 from Brett Wiggs and Alesia Wiggs to Larry Anglin and Robin Anglin recorded in Volume 476, Page 508 of the Real Property Records of Hamilton County, Texas.
5. The Easement Agreement for Access dated September 5, 2013 from Larry Alan Anglin and Robin Anglin to Brett Wiggs and Alesia Wiggs recorded in Volume 476, Page 517 of the Real Property Records of Hamilton County, Texas.
6. The Easement Agreement for Access dated September 4, 2013 from Kathryn Ann Watford and William L. Henderson to Larry Anglin, Robin Anglin, Brett Wiggs, and Alesia Wiggs recorded as Volume 476, Page 488 in the Real Property Records of Hamilton County, Texas.
7. Any and all utility easements disclosed on survey performed by Bret Polk, Registered Professional Land Surveyor dated August 9, 2013.

AS TO TRACT TWO:

1. Utility Easement to Hamilton County Electric Cooperative Association recorded February 24, 1994 in Volume 291, Page 428 of the Deed Records of Hamilton County, Texas.
2. Pecan Lease to McCasland Farms, Inc. dated February 1, 1999 and recorded as Volume 315, Page 439 of the Real Property Records of Hamilton County, Texas.

**PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION**

WARRANTY DEED - 3  
WIGGS TO WIGGS LAND & CATTLE, LLC

Mineral Interests previously conveyed and recorded of record with the Real Property Records of Hamilton County, Texas including but not limited to:

AS TO TRACT ONE:

1. An undivided 75% interest in all oil, gas, and other minerals in and under and that may be produced from the property reserved unto Larry Alan Anglin and Robin Anglin as described in a General Warranty Deed recorded September 6, 2013 in Volume 476, Page 504 of the Real Property Records of Hamilton County, Texas.
2. An undivided  $\frac{1}{8}$  of the usual  $\frac{1}{8}$  royalty in any and all oil, gas, or other minerals in and under or that may be produced from the property for a term as stated in a Correction Warranty Deed with Vendor's Lien dated April 16, 2001 from Cletys Geraldine Geeslin, a widow, to Larry Alan Anglin and Robin Anglin recorded in Volume 381, Page 889 of the Real Property Records of Hamilton County, Texas.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions of conveyance and warranty.

**PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION**

WARRANTY DEED - 4  
WIGGS TO WIGGS LAND & CATTLE, LLC



**EXHIBIT A: LEGAL DESCRIPTION TRACT ONE**

Property (including any improvements): All that certain 273.27 acre tract out of the Charles Farnash Survey Abstract No. 254, Isaac Standifer Survey Abstract No. 763, and E.P. Pulliam Survey Abstract No. 676, in Hamilton County, Texas, being part of the remainder of a 931.0 acre tract described in a deed from Cletys Geraldine Geeslin to Larry Alan Anglin, et ux, dated April 16, 2001 and recorded in Volume 335, Page 613 of the Deed Records of Hamilton County, Texas, and described as follows:

Beginning at a point at the most Westerly SW corner of said 931.0 acre tract and the most Westerly NW corner of a 517.0 acre tract described as Tract Two in a deed from William L. Henderson to Kathryn Ann Watford, dated September 26, 2012 and recorded in Volume 465, Page 371 of the Deed Records of Hamilton County, Texas, being the SE corner of a 140.0 acre tract described as First Tract and the most Easterly NE corner of a 75.0 acre tract described as Third Tract in a deed from Johnny O. Harper, et ux to Paul F. McClinton, dated June 5, 1995 and recorded in Volume 292, Page 630 of the Deed Records of Hamilton County, Texas, for the SW corner of this tract:

Thence N 18° 45' 29" E, along the West line of said 931.0 acre tract and the East line of said 140.0 acre tract, at 9.55' pass a ½" iron rod found at the most Northerly corner of the remainder of said 140.0 acre tract, being a corner of a 498.91 acre tract described in a deed from Floyd W. McGilvray and Joyce McGilvray to Brett Wiggs and Alesia Wiggs, dated July 30, 2004 and recorded in Volume 374, Page 827 of the Deed Records of Hamilton County, Texas, continuing generally along a fence along the East line of said 498.91 acre tract in all, 2222.32' to a ½" iron rod found at a fence corner, being a corner of said 498.91 acre tract, for a corner of this tract:

Thence N 65° 49' 07" E, generally along a fence along the East line of said 498.91 acre tract, 94.75' to a ½" iron rod found at a fence corner, being a corner of said 498.91 acre tract, for a corner of this tract:

Thence N 23° 18' 43" E, generally along a fence along the East line of said 498.91 acre tract, 2789.36' to a ½" iron rod found at a fence corner, being an interior corner of said 498.91 acre tract, for the most Westerly NW corner of this tract:

Thence S 82° 08' 09" E, along the South line of said 498.91 acre tract, 1277.99' to a ½" iron rod found at fence corner, being a corner of said 498.91 acre tract, for an interior corner of this tract:

Thence N 23° 55' 02" E, generally along a fence along the East line of said 498.91 acre tract, at 72.28' pass a ½" iron rod found, continuing across a branch and pasture in all, 319.13' to a point in the center of the Leon River, for the most Northerly NW corner of this tract:

Thence down along the center of the Leon River, as follows: S 35° 36' 12" E, 146.38', S 68° 32' 07" E, 111.79', S 29° 14' 04" E, 70.81', S 12° 31' 12" E, 318.48', S 56° 07' 01" E, 149.65', N 88° 43' 33" E, 235.03', N 67° 36' 02" E, 449.51', S 68° 47' 08" E, 198.81', S 58° 13' 12" E, 196.97', N 80° 22' 41" E, 283.02', S 26° 30' 17" E, 154.69', S 02° 07' 20" E, 181.53', S 70° 54' 47" E, 431.16', S 78° 31' 13" E, 255.94', S 10° 01' 49" E, 148.59', S 25° 35' 35" W, 349.26', S 35° 20' 58" E, 58.28', and N 83° 42' 29" E, 31.66' to a point for the NE corner of this tract:

Thence S 33° 40' 43" W, leaving said river along the West line of a 200.00 acre tract described as Tract One in a deed from Bradford W. Boyar and John Anah Pinter to Ruben Hope, et ux, dated January 15, 1996 and recorded in Volume 294, Page 927 of the Deed Records of Hamilton County, Texas, at 59.25' pass a 3/8" iron rod found at the base of a 30" Bur Oak, continuing generally along a fence in all, 1553.36' to a 3/8" iron rod found at a fence corner at the SW

corner of said 200.00 acre tract, being a corner in the North line of a 349.877 acre tract described as Tract One in a deed from R W. Hope, Jr., et ux to Hope Family Limited Partnership, dated May 14, 1998 and recorded in Volume 321, Page 121 of the Deed Records of Hamilton County, Texas, for a corner of this tract:

Thence N 71° 46' 19" W, generally along a fence along the North line of said 349.877 acre tract, 357.00' to an 8" cedar post fence corner, being a corner of said 349.877 acre tract, for an interior corner of this tract:

Thence S 31° 47' 02" W, 16.92' to a capped 3/8" iron rod set at a corner of said 349.877 acre tract, for a corner of this tract:

Thence S 07° 30' 48" E, along the West line of said 349.877 acre tract, at 7.98' pass a capped 3/8" iron rod set at the NE corner of the Hoblin/Hibdon Cemetery, continuing generally along a fence along the East line of said cemetery, 149.99' to a 2" pipe post fence corner at an interior corner of said 349.877 acre tract and the SE corner of said cemetery, for a corner of this tract:

Thence S 67° 21' 51" W, generally along a fence along the North line of said 349.877 acre tract and the South line of said cemetery, 123.13' to a 2" pipe post fence corner at a corner of said 349.877 acre tract and the SW corner of said cemetery, for a corner of this tract:

Thence S 23° 58' 23" W, generally along a fence and the extension thereof, along the West line of said 349.877 acre tract, at 398.67' pass a bridge nail found at the most westerly SW corner of said 349.877 acre tract, continuing across a pasture all, 446.63' to a cotton gin spike set in the center of a gravel road, being the centerline of a 30' easement described as Tract Two in said deed to Hope Family Limited Partnership, recorded in Volume 321, Page 121 of the Deed Records of Hamilton County, Texas, for the most Easterly SE corner of this tract:

Thence generally along said gravel road, along the centerline of said 30' easement to a cotton gin spikes set, as follows: N 80° 26' 30" W, 249.28', N 82° 40' 26" W, 615.65', N 88° 13' 31" W, 198.23', and N 83° 48' 51" W, 313.79' to a cotton gin spike set at an intersection of a 30' centerline easement described as Tract Two in said deed to Ruben Hope, et ux, recorded in Volume 294, Page 927 of the Deed Records of Hamilton County, Texas, for a corner of this tract:

Thence generally along said gravel road, being along the centerline of said 30' easements, to cotton gin spikes set as follows: N 75° 20' 09" W, 775.10', N 79° 52' 09" W, 597.70', S 79° 25' 51" W, 274.70', S 53° 47' 51" W, 272.40', S 37° 45' 51" W, 347.30', and S 31° 55' 51" W, 555.50' to a cotton gin spike set, for an interior corner of this tract:

Thence S 71° 04' 41" E, across a pasture, 356.49' to a 3" pipe post fence corner at an occupied interior corner of said 931.0 acre tract and the occupied most Northerly NW corner of said 517.0 acre tract, for a corner of this tract:

Thence S 26° 07' 49" W, generally along a fence along the occupied East line of said 931.0 acre tract and the occupied West line of said 517.0 acre tract, 1113.22' to a 3" pipe post fence corner at an occupied exterior corner of said 931.0 acre tract and an occupied interior corner of said 517.0 acre tract, for the most Southerly SE corner of this tract:

Thence N 62° 31' 57" W, generally along a fence and the extension thereof, along the occupied South line of said 931.0 acre tract and the occupied North line of said 517.0 acre tract, at 347.23' pass a 4" pipe post fence corner, continuing across a road in all, 377.49' to the Point of Beginning and containing 273.27 acres of land, of which 230.23 acres are in the Famash Survey, 23.04 acres are in the Standifer Survey, and 20.00 acres are in the Pulliam Survey, including 0.42 acres in the Hoblin/Hibdon Cemetery.

EXHIBIT B: LEGAL DESCRIPTION TRACT TWO

THE STATE OF TEXAS:  
COUNTY OF HAMILTON:

498.31 ACRE TRACT

Being 498.31 acres of land, situated in Hamilton County, Texas, of which 152.23 acres is out of the G. M. LEE SURVEY, ABSTRACT NUMBER 465, and the remaining 346.08 acres is out of the CHARLES FARNASH SURVEY, ABSTRACT NUMBER 254, and being all of a 498.329 acre tract of land that is described in a deed from Paul F. McClinton and Carol McClinton to Rattikin & Rattikin, P. C. recorded in Volume 311 at Page 272, Deed Records of Hamilton County, Texas, and more particularly described as follows:

BEGINNING, at a 1/4 inch iron rod found in a fence corner at the Northwest corner of the E. P. Pulliam Survey, A 678, and being the Northeast corner of the G. M. Lee Survey, and being in the South line of the Charles Farnash Survey, and being in the West line of a 586.4 acre tract of land that is described in Volume 335 at Page 613, said Deed Records, and being a corner of said 498.329 acre tract, for a corner of this tract;

THENCE, N 18° 46' 13" W 2212.84 feet, with a fence, to a 1/4 inch iron rod found, S 86° 15' 41" W 18.42 feet, with a fence, to a 1/4 inch iron rod found, S 18° 20' 21" W 229.89 feet, with a fence to a 4 inch pipe post, and S 19° 47' 50" W 20.10 feet, to a 1/4 inch iron rod set in the center of Hamilton County Road Number 303, and being the Southeast corner of said 498.329 acre tract, for the Southeast corner of this tract;

THENCE, N 71° 38' 09" W 2567.18 feet, along the center of said County Road 303, to a 1/4 inch iron rod found at the Southwest corner of said 498.329 acre tract, for the Southwest corner of this tract.

THENCE, N 18° 17' 45" E 2591.05 feet, along the center of said County Road 303, to a 1/4 inch iron rod set at a corner of said 498.329 acre tract, and being in the South line of a 287 acre tract of land that is described in Volume 280 at Page 442, said Deed Records, for a corner of this tract;

THENCE, S 68° 29' 29" E 420.67 feet, to a 3/8 inch iron rod found in a fence corner at a corner of said 498.329 acre tract and being the Southeast corner of said 287 acre tract, for a corner of this tract;

THENCE, with a fence along the West line of said 498.329 acre tract and the East line of said 287 acre tract, as follows, N 18° 19' 38" E 2734.05 feet, with a fence, to a 1/4 inch iron rod found, N 79° 38' 07" W 411.78 feet, with a fence, to a 1/4 inch iron rod found, N 18° 35' 12" E 2062.29 feet, to a 1/4 inch iron rod found, and N 18° 35' 12" E 122.14 feet, part way with a fence, to a point in the centerline of the Leon River, from which a reference spike found in a 14 inch Elm Tree bears S 33° 39' 19" W 31.16 feet, for the Northwest corner of this tract;

THENCE, down the stream along the centerline of the Leon River, as follows, N 85° 17' 15" E 212.45 feet, S 61° 43' 05" E 167.01 feet, S 60° 51' 41" E 200.64 feet, N 87° 10' 02" E 184.00 feet, S 66° 05' 54" E 177.18 feet, S 39° 41' 01" E 231.07 feet, N 87° 52' 58" E 215.66 feet, N 11° 58' 01" E 204.34 feet, N 38° 29' 47" E 140.45 feet, S 78° 29' 13" E 209.72 feet, S 11° 52' 43" E 152.06 feet, S 18° 02' 10" E 170.01 feet, S 52° 26' 21" E 71.14 feet, S 89° 18' 31" E 116.75 feet, N 68° 10' 29" E 166.86 feet, S 67° 21' 21" E 126.87 feet, S 14° 44' 46" E 236.81 feet, S 78° 14' 06" E 154.01 feet, S 89° 51' 37" E 12.88 feet, S 58° 21' 55" E 179.85 feet, S 08° 49' 00" W 174.31 feet, S 24° 32' 12" W 212.93 feet, S 55° 07' 43" E 186.86 feet, N 64° 11' 13" E 120.05 feet, N 66° 32' 18" E 119.19 feet, S 44° 53' 07" E 222.94 feet, S 21° 22' 10" E 126.42 feet, S 06° 42' 59" W 107.85 feet, S 39° 48' 19" E 145.05 feet, S 02° 31' 21" E 200.27 feet, S 55° 51' 19" E 111.00 feet, S 80° 47' 34" E 359.65 feet, S 26° 28' 18" W 460.45 feet, and S 26° 42' 14" E 131.14 feet, to the Northeast corner of said 498.329 acre tract, and being the Northwest corner of said 586.4 acre tract, from which a reference 1/4 inch iron rod found bears S 23° 50' 27" W 293.55 feet, for the Northeast corner of this tract;

THENCE, with the East line of said 498.329 acre tract, as follows, S 23° 50' 27" W 293.55 feet, part way along a fence, to a 1/4 inch iron rod found, N 87° 08' 29" W 1278.19 feet, with a fence, to a 1/4 inch iron rod found, S 23° 19' 09" W 2289.36 feet, with a fence, to a 1/4 inch iron rod found, and S 65° 49' 47" W 94.71 feet, with a fence, to the point of beginning and containing 498.31 acres of land.

## FILED and RECORDED

Instrument Number: 20180536 B: RP V: 533 P: 269

Filing and Recording Date: 03/28/2018 02:16:27 PM Recording Fee: 54.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the REAL PROPERTY RECORDS of Hamilton County, Texas.



*Kiesha Bagwell*

---

Kiesha Bagwell, County Clerk  
Hamilton County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.



**WARRANTY DEED**

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

**DATE:** September 3, 2021

**GRANTORS:** Edgar R. Brooks and Martha G. Brooks, Co-Trustees of the E. Richard Brooks 2012 Irrevocable Trust (50%); Stephanie G. Mangels, Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Stephanie Grace Mangels (25%); and Richard G. Brooks, Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Richard Gregory Brooks (25%)

**GRANTORS' MAILING ADDRESS:**

3919 Crescent Drive  
Granbury, Texas 76049  
Hood County, Texas

**GRANTEE:** Wiggs Land and Cattle, LLC

**GRANTEE'S MAILING ADDRESS:**

2000 Stanolind Ave.  
Midland, Texas 79705  
Midland County, Texas

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

**PROPERTY (including any improvements):** All that certain tract or parcel of land being 255.33 acre tract or parcel of land, situated in Hamilton County, Texas out of the Charles Famash Survey, Abstract No. 254 and more particularly described in the attached Exhibit A.

Being the same land described in a deed dated March 21, 2016, from Patricia Laird, Lisa Laird Martin, and Chris Laird to Edgar R. Brooks, Co-Trustee and Martha G. Brooks, Co-Trustee for the E. Richard Brooks 2012 Irrevocable Trust (50%); Stephanie G. Mangels (25%), Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Stephanie Grace Mangels(25%); and Richard G. Brooks, Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Richard Gregory Brooks (25%), recorded in Volume 507, Page 127, of the Real Property Records of Hamilton County, Texas.

**MINERAL INTERESTS RESERVED BY GRANTORS:**

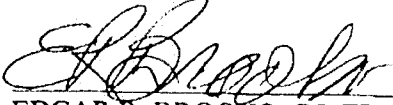
Grantors reserve to themselves 50.00% of the mineral estate owned by all of the Grantors at the time of this deed; however, Grantors waive any and all rights they might have to the use of the surface for development of said mineral estate.

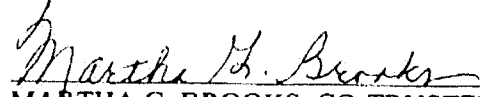
**EXCEPTIONS TO CONVEYANCE AND WARRANTY:** Easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the Property including but not limited to the following:

- a. Exception is taken to the rights of adjoining owners in any walls and fences situated on a common boundary.
- b. Exception is taken to all leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
- c. Exception is taken to the undivided mineral reservation found in a Warranty Deed dated March 21, 2016, of record in Volume 507, Page 127, of the Real Property Records of Hamilton County, Texas.
- d. Exception is taken to the Electric lines shown on the Survey Plat dated March 3, 2016, by Scott Huddleston, a Registered Professional Land Surveyor in the State of Texas, No. 6334.

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

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

  
EDGAR R. BROOKS, CO-TRUSTEE  
OF THE E. RICHARD BROOKS 2012  
IRREVOCABLE TRUST

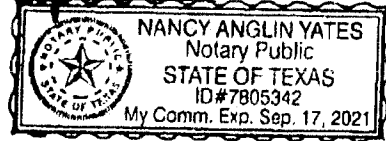
  
MARTHA G. BROOKS, CO-TRUSTEE  
OF THE E. RICHARD BROOKS 2012  
IRREVOCABLE TRUST

STEPHANIE G. MANGELS, TRUSTEE OF  
THE MARTHA G. BROOKS 2012  
IRREVOCABLE TRUST F/B/O STEPHANIE  
GRACE MANGELS

RICHARD G. BROOKS, TRUSTEE OF  
THE MARTHA G. BROOKS 2012  
IRREVOCABLE TRUST F/B/O RICHARD  
GREGORY BROOKS

STATE OF TEXAS §  
§  
COUNTY OF HAMILTON §

Before me, on this day personally appeared Edgar R. Brooks and Martha G. Brooks, Co-Trustees of the E. Richard Brooks 2012 Irrevocable Trust, known to me/~~proved to me through~~ \_\_\_\_\_ to be the people whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this 2 day of Sept, 2021.



  
NOTARY PUBLIC STATE OF TEXAS

STATE OF TEXAS §  
§  
COUNTY OF HAMILTON §

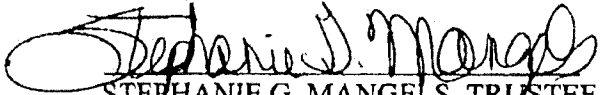
Before me, on this day personally appeared Stephanie G. Mangels, Co-Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Stephanie Grace Mangels, known to me/~~proved to me through~~ \_\_\_\_\_ to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

NOTARY PUBLIC STATE OF TEXAS

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

EDGAR R. BROOKS, CO-TRUSTEE  
OF THE E. RICHARD BROOKS 2012  
IRREVOCABLE TRUST

MARTHA G. BROOKS, CO-TRUSTEE  
OF THE E. RICHARD BROOKS 2012  
IRREVOCABLE TRUST



STEPHANIE G. MANGELS, TRUSTEE OF  
THE MARTHA G. BROOKS 2012  
IRREVOCABLE TRUST F/B/O STEPHANIE  
GRACE MANGELS

RICHARD G. BROOKS, TRUSTEE OF  
THE MARTHA G. BROOKS 2012  
IRREVOCABLE TRUST F/B/O RICHARD  
GREGORY BROOKS

STATE OF TEXAS §  
§  
COUNTY OF HAMILTON §

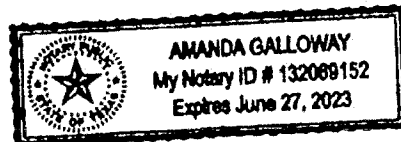
Before me, on this day personally appeared Edgar R. Brooks and Martha G. Brooks, Co-Trustees of the E. Richard Brooks 2012 Irrevocable Trust, known to me/proved to me through \_\_\_\_\_ to be the people whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

NOTARY PUBLIC STATE OF TEXAS

STATE OF TEXAS §  
§  
COUNTY OF HAMILTON §

Before me, on this day personally appeared Stephanie G. Mangels, Co-Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Stephanie Grace Mangels, known to me/proved to me through TXDL to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this 2nd day of September, 2021.

  
NOTARY PUBLIC STATE OF TEXAS

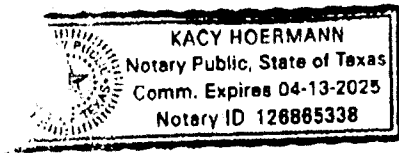




STATE OF TEXAS  
*COLLIN*  
COUNTY OF ~~HAMILTON~~

§  
§  
§

Before me, on this day personally appeared Richard G. Brooks, Trustee of the Martha G. Brooks 2012 Irrevocable Trust f/b/o Richard Gregory Brooks, known to me/proved to me through *drivers license* to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this *7th* day of *September*, 2021.



*Kg*  
\_\_\_\_\_  
NOTARY PUBLIC STATE OF TEXAS

**EXHIBIT A**

Being all that certain **255.33 acre tract** or parcel of land, situated in Hamilton County, Texas out of the **Charles Farnash Survey, Abstract Number 254**, and being out of a 287 acre tract of land that is described in a deed from O. C. Marshall, et ux, to Patricia A. Laird, recorded in Volume 280 at page 442, Deed Records of Hamilton County, Texas, and being out of a 287 acre tract of land that is described in a deed from Patricia A. Laird, to Lisa Laird-Martin, recorded in Volume 444 at Page 430, of Real Property Records of Hamilton County, Texas. included with this conveyance is the Certificate of Adjudication Number 12-2878 with a priority date of December 31, 1957.

**BEGINNING**, at a 3 inch pipe post found in the North line of Hamilton County Road Number 303, and being the occupied Southwest corner of said 287 acre Laird Tract, for the Southwest corner of this tract;

**THENCE: N. 17° 20' 41" E., 3880.99 feet**, with a fence, along the West line of said 287 acre Laird Tract, and the West line of said 287 acre Martin Tract, to a point in the center of the Leon River, and being the Northwest corner of said 287 acre Martin Tract, from which a reference 1/2 inch iron rod set bears, S. 17° 20' 41" W., 35.00 feet, for the Northwest corner of this tract;

**THENCE: downstream with the center of the Leon River, as follows, S. 73° 08' 54" E., 93.10 feet**, to a point, S. 85° 43' 15" E., 311.27 feet, to a point, N. 83 ° 14' 16" E., 134.84 feet, to a point, N. 62° 09' 23" E., 239.10 feet, to a point, N. 81° 32' 25" E., 96.05 feet, to a point, S. 65° 18' 38" E., 256.57 feet, to a point, N. 73° 05' 30" E., 292.61 feet, to a point, N. 55° 04' 30" E., 223.96 feet, to a point, N. 59° 49' 33" E., 95.63 feet, to a point, N. 80° 12' 59" E., 92.28 feet, to a point, S. 81° 12' 26" E., 109.02 feet, to a point, S. 46° 21' 16" E., 235.43 feet, to a point, S. 58° 23' 28" E., 38.32 feet, to a point, S. 88° 50' 43" E., 90.31 feet, to a point, N. 55° 02' 37" E., 178.68 feet, to a point, N. 39° 38' 33" E., 32.89 feet, to a point, N. 60° 44' 04" E., 124.70 feet, to a point, and N. 87° 57' 04" E., 133.86 feet, to a point, and being the Northeast corner of said 287 acre Martin Tract, and being the Northwest corner of a 498.31 acre tract of land that is described in a deed to Brett Wiggs and Alesia Wiggs, recorded in Volume 374 at Page 827 of the Real Property Records of Hamilton County, Texas, from which a reference spike found in a 28 inch Elm tree bears, S. 15° 28' 05" W., 31.18 feet, for the Northeast corner of this tract;

**THENCE: with the East line of said 287 acre Martin Tract, and the West line of said 498.31 acre tract, as follows, S. 15° 28' 05" W., 325.05 feet**, to a 1/2 inch iron rod found, S. 17° 22' 28" W., 2062.08 feet, to a 1/2 inch iron rod found, S. 80° 49' 36" E., 411.36 feet, to a 1/2 inch iron rod found, and S. 17° 26' 25" W., 2189.95 feet, to a 1/2 inch iron rod set at the calculated Northeast corner of a 10.00 acre tract of land that is described in a deed to Claghbourn G. Laird, et ux, recorded in Volume 248 at Page 736, said Deed Records, for the Southeast corner of this tract;

**THENCE: N. 71° 06' 25" W., 800 feet**, to a 1/2 inch iron rod set at the calculated Northwest corner of said 10.00 acre tract, for a corner of this tract;

**THENCE: S. 17° 26' 25" W., 544.50 feet**, to a 1/2 inch iron rod set in the North line of Hamilton County Road Number 303, and being the calculated Southwest corner of said 10.00 acre tract, for a corner of this tract;

**THENCE: with a fence, along the North line of Hamilton County Road Number 303, as follows, N. 72° 07' 22" W., 289.96 feet**, to a 3 inch pipe post, and **N. 70° 12' 10" W., 343.17 feet**, to a 1/2 inch iron rod set in the North line of a 0.252 acre tract of land that is described in a deed to The County of Hamilton, Texas, recorded in Volume 340 at Page 394, of the Real Property Records of Hamilton County, for a corner of this tract;

**THENCE: with the North line of said 0.252 acre tract, as follows, N. 62° 53' 17" W., 130.57 feet**, to a 1/2 inch iron rod found, **N. 70° 37' 37" W., 300.03 feet**, to a 1/2 inch iron rod found, and **N. 79° 22' 08" W., 151.85 feet**, to a 1/2 inch iron rod found in the North line of Hamilton County Road Number 303, and being the West corner of said 0.252 acre tract, for a corner of this tract;

**THENCE: with a fence, along the North line of Hamilton County Road Number 303, as follows, N. 70° 00' 34" W., 506.47 feet**, to a 3 inch pipe post, and **N. 46° 29' 12" W., 251.04 feet**, to the **Point of Beginning and containing 255.33 acres of land.**



## FILED and RECORDED

Instrument Number: 20212489 B: RP V: 593 P: 469

Filing and Recording Date: 09/08/2021 03:47:40 PM Recording Fee: 54.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the REAL PROPERTY RECORDS of Hamilton County, Texas.



A handwritten signature in cursive script, reading "Cynthia K. Puff", is written over a horizontal line.

Cynthia K. Puff, County Clerk  
Hamilton County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

Attachment D

**Marshall Criteria**

**a.** This application meets the administrative code requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 TAC Ch. 281, 295, and 297.

**b.** The specific proposed uses of water in this amendment application are for agricultural crop irrigation & off-channel storage. Beneficial use is defined in TWC §11.002 #4 as, "...use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water (TWC§11.002 #4)."

For agricultural crop irrigation, the submitted application meets the following criteria outlined in TWC Section 11 as beneficial use: TWC §11.023 #2 clearly identifies agricultural use as a purpose for which water may be, "appropriated, stored or diverted," if the water has not been set aside, or needed to meet freshwater and downstream instream flow needs (TWC §11.023 #2). Agricultural use is defined in TWC §11.002 #12 (A) as, "cultivating the soil to produce crops for human food, animal feed..." which is the applicant's proposed purpose (TWC §11.002 #12 A). Off-Channel storage in the proposed application would be for subsequent agricultural use as well.

**c.** No detrimental effects are anticipated to public welfare, including the well-being of humans and the environment, as a result of the proposed amendment.

**d.** No effects are anticipated as a result of the proposed amendment on groundwater or groundwater recharge.

**e.** Wiggs Land & Cattle, LLC is located within the Region G Planning Group (Brazos). The proposed amendment addresses a water supply need that is consistent with state and regional water plan management strategies pertaining to irrigation.

Conservation practices are implemented to reduce evaporation and eliminate runoff during times when the irrigation systems are run. The irrigation systems used are typically operated in the early morning or late evening hours when the temperature is lower to reduce evaporation. Irrigation is closely monitored on site and the systems are shut down when or before the soil reaches its water holding capacity. This conservation practice prevents over-watering of the field and eliminates wasteful runoff.

Brush/weed control is also practiced aiding in water conservation. Weeds and invasive species are killed or removed to reduce unwanted water consumption, thus leaving more irrigation water in the soil to be utilized by the production crop as intended.

Land leveling is also utilized on cultivated land to increase water infiltration into the soil and eliminate water runoff when irrigating.

\*Conservation/management strategies (BMPs) can be located in the 2021 Brazos G Regional Water Plan Volume II-Irrigation Water Conservation Section-pgs. 2-24 & 12-25.

**f.** A Water Conservation is not required with this application (per TCEQ staff), however, conservation efforts listed in item e. above will be practiced to avoid waste by the applicant. A

Drought Contingency Plan is not required with this application.

**g.** The proposed amendment adds a new diversion reach, increases the irrigable acreage for the total water allotted in the permit and adds off-channel storage. No additional allocations of state water or diversion rate are being requested. As a result of the proposed amendment, no impact on water right holders or the environment is anticipated.

Attachment E

TCEQ Form 10214C Worksheet 2.0 Pg. 11 Section 1(d)ii.2

Per Worksheet 2.0 (pg. 11, Section 1(d)ii.1), Kyle Hodges with the TCEQ Region 4 Dam Safety Section was contacted on 4/5/2022 regarding the proposed structure. The proposed off-channel storage reservoir is still in the preliminary development phase and no final design plans have been created. As discussed with Mr. Hodges, the preliminary proposed capacity (less than 50 acre-feet) and dam height (less than 25'), will exclude the reservoir/dam from Texas Dam Safety regulations as described in 30 TAC §299.1. The dam will, however, be subject to the Hazard Classification Criteria in 30 TAC §299.14. Per the phone conversation with Mr. Hodges, once the design plans of the reservoir are finalized, they will be submitted to the Dam Safety Section for review so a Hazard Classification can be determined. A current projected date of plans and construction are not set, but Wiggs Land & Cattle, LLC wanted to add off-channel storage to the current amendment application so the permit does not have to be amended again for this authorization. Wiggs Land & Cattle, LLC is requesting that a provision be added to this permit amendment which states that prior to reservoir construction, plans will be submitted to the TCEQ Dam Safety Section for review and a Hazard Classification determination.

## Attachment F

Note: All photos in Attachment F were taken on the bank directly adjacent to the upstream and downstream diversion limit locations (1 photo facing upstream and 1 photo facing downstream.) All photos correspond with the upstream and downstream limits as noted in the application map (Attachment A Site Map – limits marked as green dots.)

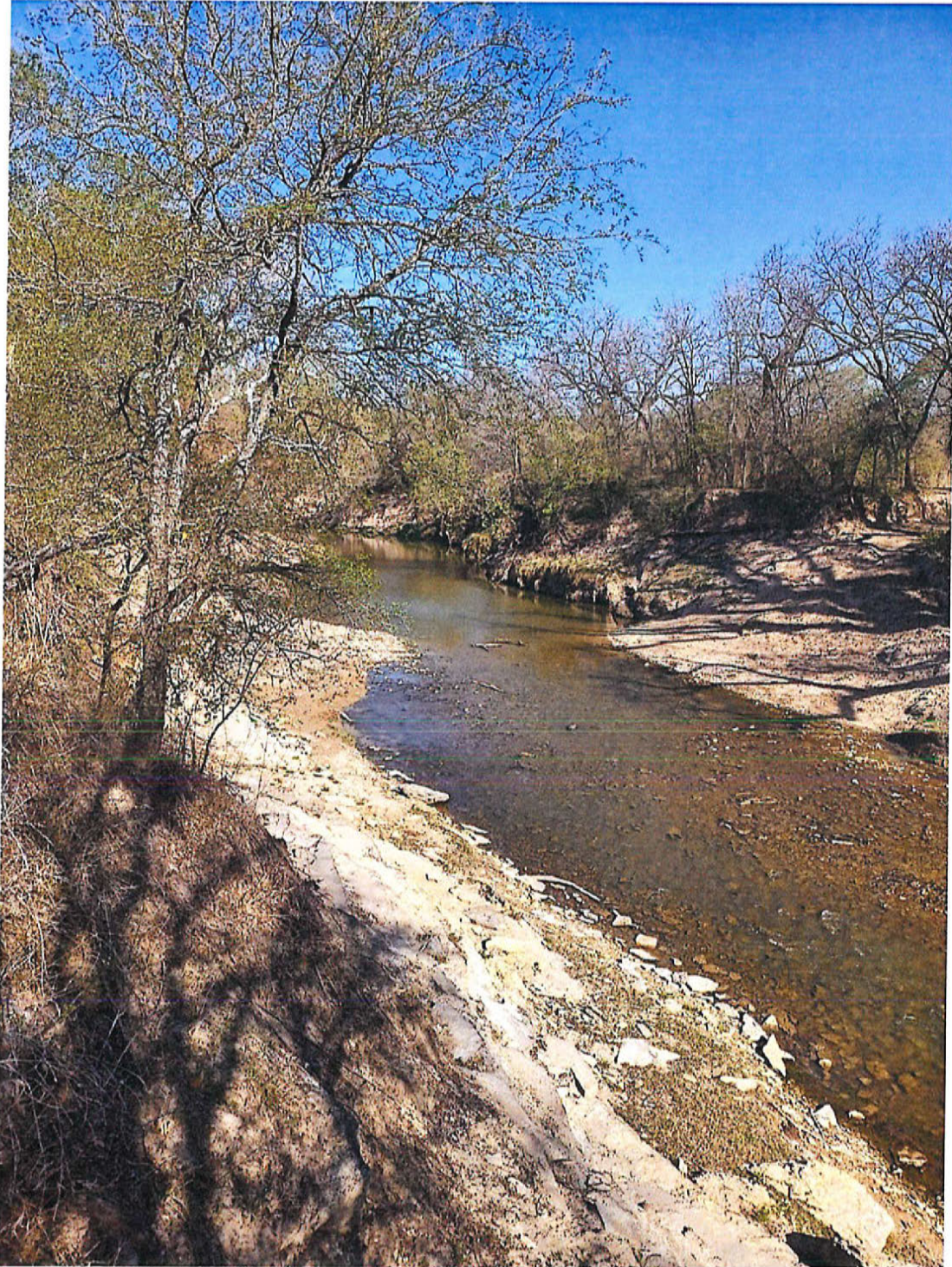


Photo 1: (Reach B-B') Upstream Limit B Looking Upstream

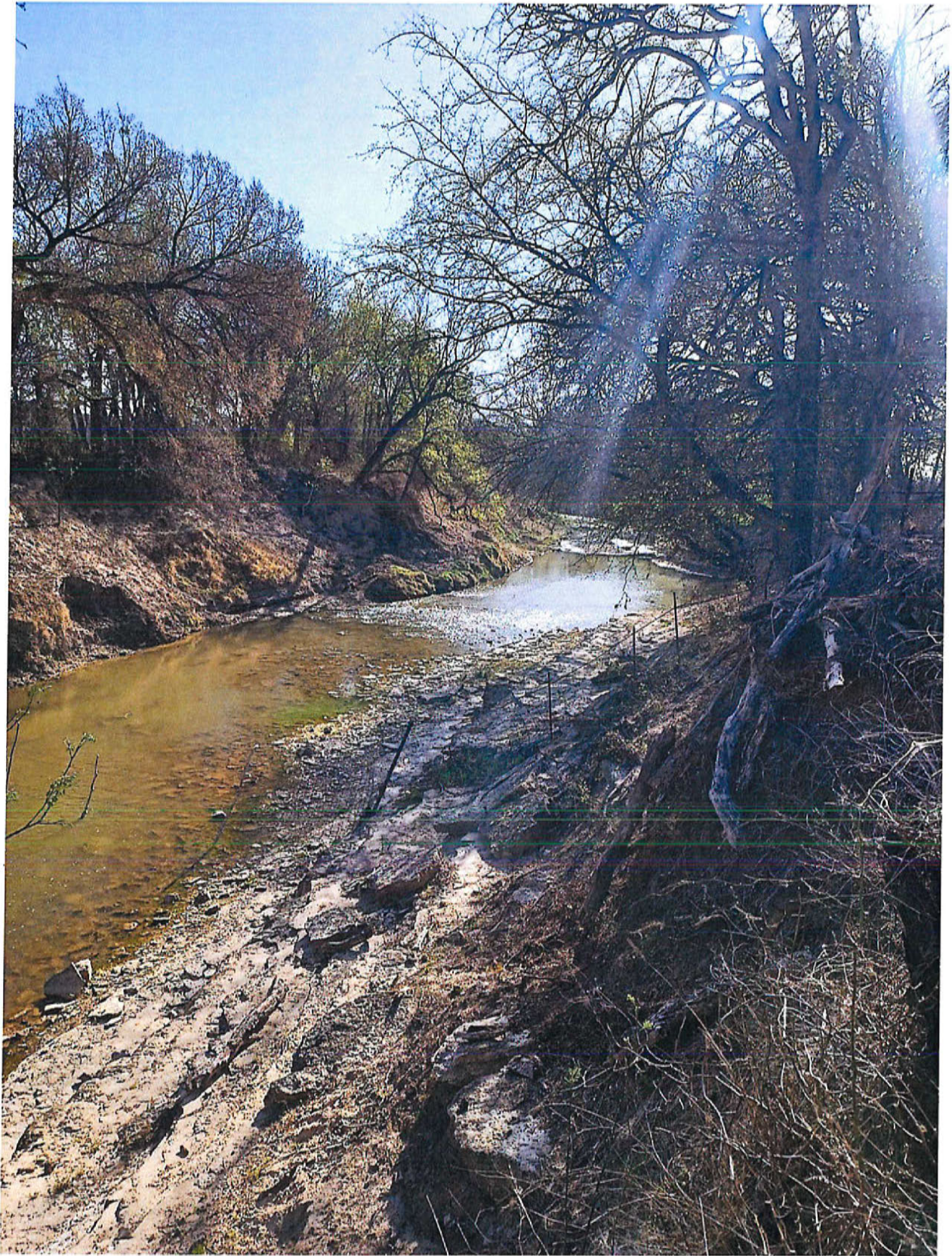


Photo 2: (Reach B-B') Upstream Limit B Looking Downstream



Photo 3: (Reach B-B') Downstream Limit B' Looking Upstream

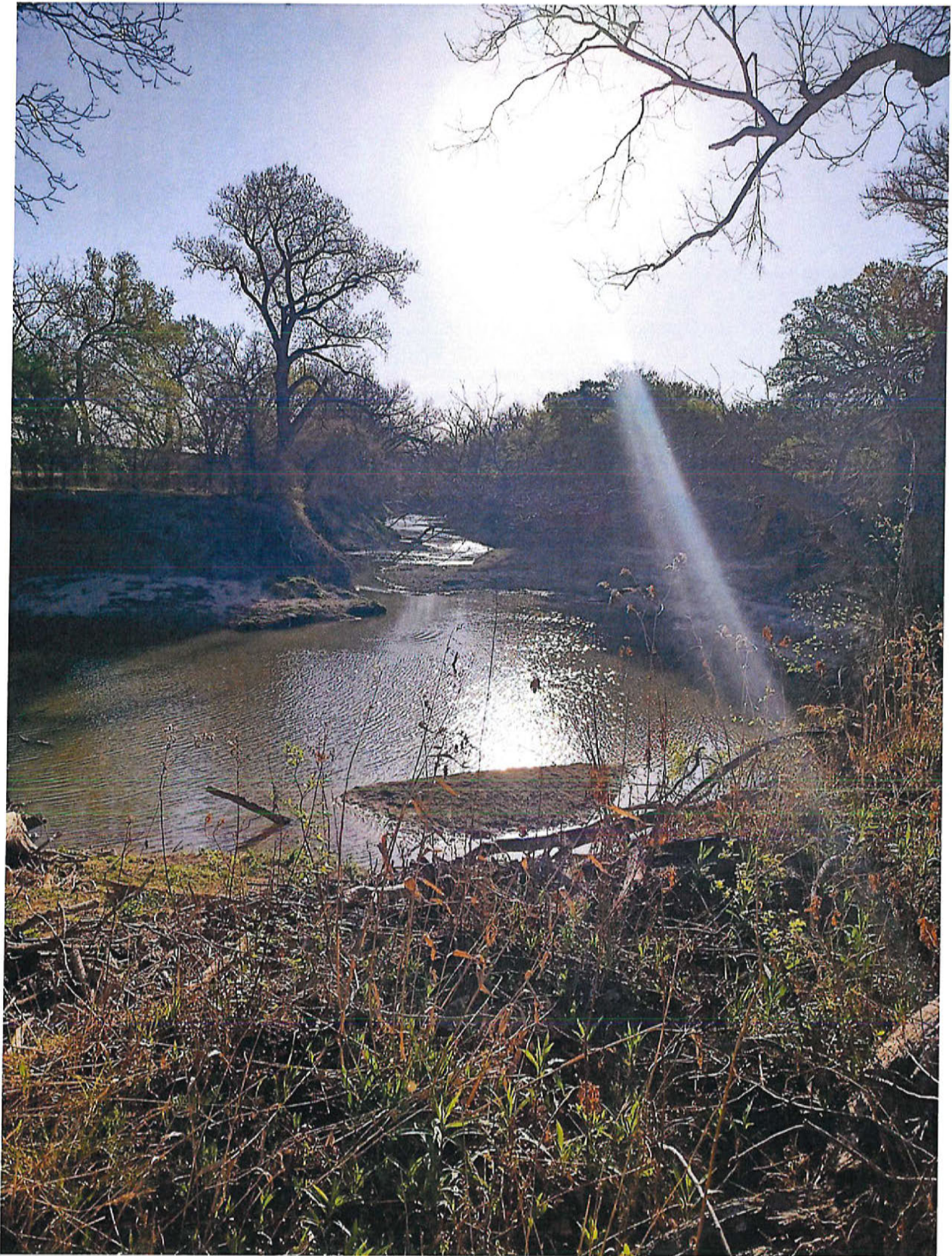


Photo 4: (Reach B-B') Downstream Limit B' Looking Downstream