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November 12, 2025

VIA TCEQ HAND DELIVERY

Ms. Laurie Gharis
Office of Chief Clerk (MC-105)
Texas Commission on Environmental Quality
Building F
12100 Park 35 Circle
Austin, Texas 78753

Re: Lake Conroe Association's Motion to Overturn the Executive Director's Decision to Issue an Amendment to Certificate of Adjudication No. 10-4963, Designated as Certificate of Adjudication No. 10-4963B, to Applicants, the San Jacinto River Authority and the City of Houston.

Dear Ms. Gharis:

Enclosed for filing in the above-referenced matter is *Lake Conroe Association's Motion to Overturn the Executive Director's Decision to Issue an Amendment to Certificate of Adjudication No. 10-4963, Designated as Certificate of Adjudication No. 10-4963B, to Applicants, the San Jacinto River Authority and the City of Houston*. Please file this document on behalf of the Lake Conroe Association. Based on verbal instructions from the Chief Clerk's office, one copy of the *Motion to Overturn* is being filed.

Pursuant to the Chief Clerk's letter dated October 20, 2025, this *Motion to Overturn* is being served on attorney for Applicants, attorney for the Executive Director, and the Office of Public Interest Counsel, as shown on the Certificate of Service via U.S. Mail, certified mail, return receipt requested, and email. If you have any questions, please telephone me at the above number.

Sincerely,



Erich M. Birch
Attorney for the Lake Conroe Association

ENCLOSURE

cc: Service List

TCEQ DOCKET NO. _____

IN THE MATTER OF THE	§	BEFORE THE
EXECUTIVE DIRECTOR'S	§	
DECISION TO ISSUE AN	§	
AMENDMENT TO CERTIFICATE	§	
OF ADJUDICATION NO. 10-4963,	§	TEXAS COMMISSION ON
DESIGNATED AS CERTIFICATE	§	
OF ADJUDICATION NO. 10-4963B,	§	
TO APPLICANTS, THE SAN JACINTO	§	
RIVER AUTHORITY AND THE	§	
CITY OF HOUSTON	§	ENVIRONMENTAL QUALITY

**LAKE CONROE ASSOCIATION'S MOTION TO OVERTURN
THE EXECUTIVE DIRECTOR'S DECISION TO ISSUE AN AMENDMENT
TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS
CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS,
THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW the Lake Conroe Association ("LCA") and pursuant to Texas Administrative Code Title 30, Section 50.139 files this, its *Motion to Overturn the Executive Director's Decision to Issue an Amendment to Certificate of Adjudication No. 10-4963, Designated as Certificate of Adjudication No. 10-4963B, to Applicants, the San Jacinto River Authority and the City of Houston*. LCA timely moves for the Commissioners of the Texas Commission on Environmental Quality ("TCEQ" or the "Commission") to overturn the decision of the Executive Director to approve the amended Certificate of Adjudication No. 10-4963B, as issued to the San Jacinto River Authority ("SJRA") and the City of Houston (collectively, "Applicants") on October 15, 2025, and deny Applicants' request to amend Certification of Adjudication No. 10-4963. In the alternative, if the Commission determines that additional review is needed, LCA requests that the Commission remand Applicants' Amendment Application back to the Executive Director to be reviewed in light of the facts set out in this *Motion to Overturn* regarding

Houston’s long-term misrepresentation of its diversion of water from Lake Conroe, with such review to be followed by a public notice period allowing an opportunity for interested persons to request a public hearing, as should be required by Texas Water Code Section 11.132 and 30 TEX. ADMIN. CODE Section 295.158(b). LCA respectfully presents the following:

I. PROCEDURAL BACKGROUND

On July 17, 2025, Applicants filed a joint application (the “Amendment Application”) for an amendment to Certificate of Adjudication No. 10-4963 (the “Certificate”). The Amendment Application requested to increase the diversion rate authorized by the Certificate from 700 cubic feet per second (cfs) to 2,000 cfs.¹ As noted in the Amendment Application, the Certificate authorizes Applicants

to maintain a dam and reservoir on the West Fork San Jacinto River, Lake Conroe, and to impound not to exceed 430,260 acre-feet of water and to divert and use not to exceed 100,000 acre-feet of water per year at a maximum diversion rate of 700 cubic feet per second (“cfs”) *for municipal, industrial, mining, and agricultural purposes* within Applicants’ service areas in the San Jacinto River Basin.²

In the Amendment Application, Applicants claim that the requested increased diversion rate “will allow Applicants to divert from Lake Conroe with additional flexibility, accounting for downstream water needs and operational optimization of the lake.”³ It is important to note that in the Amendment Application, Applicants identify that “TCEQ may grant an application only if

¹ TCEQ Application to Amend Certificate of Adjudication 10-4963, SJRA & Houston, at Tab 4, “Summary of Request” (July 2025) [hereinafter “Amendment Application”].

² *Id.* (emphasis added).

³ *Id.*

‘the proposed appropriation...is intended for a beneficial use,’”⁴ citing Texas Water Code Section 11.134(b)(3)(A). As will be discussed below, Houston has been diverting water from Lake Conroe for purposes that are not authorized by the Certificate and that do not meet TCEQ’s definition of “beneficial use,” and thus, contrary to Applicants’ claim, the Amendment Application cannot meet the requirement of Texas Water Code Section 11.134(b)(3)(A).

As part of the Amendment Application, Applicants were required to respond “yes” or “no” to the following statement on the “Technical Information Report, Water Rights Permitting”: “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?”⁵ Applicants responded “N/A,” noting “Exempt existing reservoir diversion rate increase under 30 TAC 295.158(c)(3)(E).”⁶ Applicants provided similar “N/A” responses to other questions on the Amendment Application that referred to the diversion, each time including the “exempt” reference to 30 TEX. ADMIN. CODE Section 295.158(c)(3)(E).⁷ This rule is the basis for Applicants’ claim that public notice is not required:

In light of the limited scope of the Applicant and the provisions of 30 TAC 295.158(c)(3)(E) (“to increase the rate or period for diversion from a storage reservoir”), neither mailed nor published notice should be required. By merely increasing the diversion rate from Lake Conroe – an existing storage reservoir – there is no negative impact on existing water rights holders.⁸

⁴ *Id.* at Tab 10, “Worksheet 1.2 – Marshall Criteria, Application to Amend Certificate of Adjudication 10-4963A” at § B.

⁵ *Id.* at “Technical Information Report, Water Rights Permitting,” TCEQ-10214C at Item No. 1.b. at 1 [hereinafter “Application Form”].

⁶ *Id.*

⁷ *See, e.g., id.* at Application Form, Item No. 2.a. at 2; *see id.* at Tab 3, Worksheet 3.0, “Diversion Point (or Diversion Reach) Information” at Item 1.d. at 13.

⁸ *Id.* at Tab 4, “Summary of Request.”

Via TCEQ Interoffice Memorandum dated July 25, 2025, Jenna Rollins, Program Support Coordinator in TCEQ’s Water Rights Permitting and Availability Section, notified TCEQ’s Office of the Chief Clerk that “[n]o notice is required pursuant to Title 30 Texas Administrative Code § 295.158(c)(3)(E).”⁹ No basis for the “no required notice” decision was identified in the Interoffice Memorandum.¹⁰ The “Amendment to a Certificate of Adjudication, Certificate No. 10-4963B” was granted on October 15, 2025, increasing the maximum diversion rate to 2,000 cfs.¹¹ Notice was never published or mailed.

Due to the long history of Houston’s diversions of water from Lake Conroe for uses that fail to meet the statutory definition of “beneficial use,” and because Applicants continued to rely on the inaccurate representation of Houston’s diversions of water from Lake Conroe throughout the Amendment Application, LCA requests that the Commissioners overturn the decision of the Executive Director to issue the amended Certificate of Adjudication No. 10-4963B.

II. SUMMARY OF THE ARGUMENT

LCA is challenging issuance of the Amended Certificate because its approval was based on a long-term intentional and fundamental mischaracterization of how Applicants—specifically Houston—are using the water diverted from Lake Conroe pursuant to the Certificate. The request

⁹ TCEQ Interoffice Memorandum from Jenna Rollins, Program Support Coordinator, Water Rights Permitting & Availability Section, TCEQ, to Office of the Chief Clerk, TCEQ (July 25, 2025).

¹⁰ The Interoffice Memorandum did not identify how the decision to not require notice was reached when considering the “Marshall Criteria.” See Section E, *infra*.

¹¹ TCEQ, Amendment to a Certificate of Adjudication, Certificate No. 10-4963B, issued to Owners SJRA & Houston (Oct. 15, 2025).

to increase the diversion rate is based on that same mischaracterization of the intended use of the water.

As will be addressed in detail below, the Certificate allows SJRA and the City to “*divert or release and use* not to exceed 100,000 acre-feet of water per year for *municipal, industrial, mining, and agricultural purposes*.”¹² LCA has no issue with this provision in the Certificate and respects the right of Applicants to use their water rights in Lake Conroe pursuant to these authorized beneficial uses.

The overwhelming evidence, though, is that Houston has not been utilizing the water it has diverted from Lake Conroe over the past seven years for any of the purposes defined in the Certificate. Instead, the City has called for more than 50 billion gallons of Lake Conroe water over that timeframe, none of which has been diverted for a beneficial use and instead has been wasted to the Gulf. While Houston has repeatedly reported to TCEQ via its annual Water Use Reports (“WURs”) that it has diverted and used the Lake Conroe water for municipal purposes, available data shows this to be patently untrue. The water is being diverted from Lake Conroe as part of the SJRA/Houston “anticipatory flood management” policy of pre-releasing water from Lake Conroe during certain times of year. Neither flood management nor flood control are included in the beneficial uses specifically identified in the Certificate, nor is flood management/control a “municipal use,” as that term is defined by state law and TCEQ rules.

¹² TCEQ, Amendment to a Certificate of Adjudication, Certificate No. 10-4963A issued to Owners SJRA & Houston § 1.A at 2 (July 20, 2010) (emphasis added) [hereinafter “Certificate No. 10-4963A”), available at https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.viewdocument&doc_name=Cert%2E%2010%2D4963A%2Epdf&doc_id=442317412010203&format_cd=pdf_

Over the past five years, LCA has filed multiple complaints with TCEQ regarding the City's ongoing waste of Lake Conroe water, each time arguing that "flood management/control" is not an authorized use pursuant to the Certificate and demonstrating, based on diversion data from both Lake Conroe and Lake Houston, that the Lake Conroe water is not being used for municipal purposes.¹³ Instead, the entire goal of the SJRA/Houston policy is to drain and lower Lake Conroe seasonally purportedly to reduce downstream flooding during times of intense rainfall, the result of which is to divert these waters directly to the Gulf. TCEQ technical staff has not provided any analysis, legal or regulatory, to identify why they are accepting Houston's mischaracterization of its water use on WUR after WUR through the years. It is obvious that TCEQ is relying solely on Houston's WURs, even though evidence shows that Houston diverts water from Lake Conroe to Lake Houston *at the same time* that it is releasing water from Lake Houston into the Gulf. It is simply nonsensical for Houston to claim that it is diverting Lake Conroe water for municipal purposes when in fact Lake Houston is so full that it must release water to the Gulf.

Earlier this year, Kathy Alexander, Deputy Director of TCEQ's Water Availability Division, wrote a memorandum to other TCEQ technical staff, finally acknowledging that Houston was releasing water from Lake Conroe as part of the lake lowering strategy:

[T]he City reported releases for seasonal lake lowering under the municipal use authorization in the Lake Conroe water right. The City owns downstream Lake Houston and has several water rights in Lake Houston; therefore, any water released

¹³ See Letter from Erich M. Birch, Birch, Becker & Moorman, LLP, to Toby Baker, Executive Director, TCEQ (June 30, 2020); Letter from Erich M. Birch, Birch, Becker & Moorman, LLP, to Toby Baker, Executive Director, Texas Commission on Environmental Quality (July 29, 2020); Letter from Erich M. Birch, Birch, Becker & Moorman, LLP, to Toby Baker, Executive Director, TCEQ (Dec. 28, 2020); Letter from Erich M. Birch, Birch, Becker & Moorman, LLP, to Kelly Keel, Executive Director, TCEQ (July 25, 2025). The four complaints just referenced and the attachments thereto are incorporated into this *Motion to Overturn* for all purposes.

from Lake Conroe and charged to municipal use *could be* beneficially used by the City downstream at Lake Houston.”¹⁴

At best this seems like Houston and TCEQ technical staff are playing a “shell game” with the precious resource of water. Simply because Houston also has water rights in Lake Houston downstream of Lake Conroe, “any water released from Lake Conroe . . . *could be* beneficially used by the City at Lake Houston.”¹⁵ The “could be beneficially used” phrase is important because apparently TCEQ technical staff is taking the position that as long as the water *might be* used for beneficial purposes, the intentional diversion of billions of gallons that is wasted is acceptable.¹⁶ That is clearly not the standard set out in the Certificate, TCEQ rules, or state law.

LCA has presented data, and TCEQ has access to similar information through its own records, reviews, and investigations, demonstrating that Houston is calling for water from Lake Conroe while simultaneously releasing water from Lake Houston to “make room” for the Lake Conroe water. The Certificate of Adjudication issued to Houston for water rights in Lake Houston also does not include a beneficial purpose of “flood management” or “flood control.” Houston is mischaracterizing its use—actually, its waste—of billions of gallons of water from Lake Conroe, and TCEQ has allowed it to continue without any supporting technical basis or approval for pre-release in violation of the Certificate and state law.

¹⁴ Email from Kathy Alexander, Ph.D., Policy & Technical Analyst, Water Availability Division, TCEQ, to Cari-Michel La Caille, Laurie Fleet, & Kim Nygren (Mar. 10, 2025, 1:36:33 p.m.) (emphasis added), attached hereto as Attachment A.

¹⁵ *Id.*

¹⁶ Would TCEQ’s analysis have been different if Lake Houston didn’t lie downstream from Lake Conroe? Would seasonal releases for flood control purposes still be a “municipal use” if the water didn’t pass through Lake Houston on the way to the Gulf?

Applicants’ lake lowering policy—their ongoing plans to seasonally divert – and waste – Lake Conroe water—leads directly to this Amendment Application. TCEQ, through its investigation of LCA’s complaints, found that Applicants had violated the maximum diversion rate on two occasions in their haste to drain water from Lake Conroe. The purpose of this Amendment Application, while stating it is for operational flexibility and solely for beneficial use, is to increase the diversion rate, so there are no future diversion rate violations as Applicants continue to waste water under the premise of “active storm management”—Houston’s new moniker for seasonal lake lowering.¹⁷ It is even more disturbing that the waste of water only provides the appearance of protecting downstream landowners from flooding. As will be addressed below, Applicants have not provided any technical studies or evidence demonstrating that lowering Lake Conroe actually prevents flooding. In fact, the available engineering studies, completed prior to implementation of the original lake lowering policy, showed no meaningful reduction in flooding and even found

¹⁷ Comments made by SJRA’s General Manager, Aubrey Spear, at the September 25, 2025 meeting of SJRA’s Board of Directors make clear that the purpose of the Amendment Application is to support the lake lowering Protocol:

I’ve only been here 20 months, so I’ve not been at all the meetings, but over the past many years, focusing on pre-releasing water from the lake prior to major storm events. Various protocols have been used with limited success. However, all interested parties, including the City of Houston, who is co-applicant on this permit, previously agreed that it would be helpful to increase the maximum diversion rate, making it possible to move of [*sic*] substantial volume of water between Lake Conroe and Lake Houston because they do work together jointly as in the conjunctive way for operations

Transcript of SJRA Board of Directors Meeting (Sept. 25, 2025), comments by Aubrey Spear, General Manger, SJRA (transcribed from an audio/video recording of the meeting using a Word application), attached hereto as Attachment B.

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR’S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

that pre-releasing water from Lake Conroe can actually increase flooding.¹⁸ Further, Applicants have provided no technical or scientific evidence demonstrating that an almost 300% increase in the maximum diversion rate would not cause harm to Lake Conroe, property owners along the lake, the dam itself, or downstream landowners.

In short, the Certificate is conditioned upon *using* the water and adherence to state law. Therefore, it seems that TCEQ technical staff should be endeavoring to determine whether the City is actually using the Lake Conroe water in compliance with the Certificate and state law instead of working to construe the City’s diversions as a proper use of state water. TCEQ and its “could be”-beneficially-used interpretation is assisting Applicants in their waste of water at a time when water is recognized as a scarce resource across the state.

¹⁸ Applicants’ lake lowering policy does not provide the perceived protection from future flooding. This has been confirmed by several engineering studies. SJRA’s own 2018 Freese and Nichols reports determined the lake lowering policy would provide minimal flood reduction: “The benefits to those downstream, though the water surfaces are reduced by a foot or more in places, are generally not enough to be considered wholesale improvements to the flood hazard and show minimal differences in spatial extent.” Freese & Nichols, Inc., Technical Memorandum from Jeremy D. Dixon, P.E., CFM, to Michael V. Reedy, P.E. (Apr. 10, 2018) [hereinafter “F&N Flooding Report”]; *see also* Freese & Nichols, Inc., Technical Memorandum from Philip I. Taucer, P.E., to Michael V. Reedy, P.E. (Apr. 9, 2018). The “foot or more” reduction in flood levels was measured against flood waters that were already eight feet above the river channel banks for a 100-year flood and 12 feet above the banks for a 500-year flood. *See* F&N Flooding Report, *supra* note 18, § 6.00 at 11. One of the Freese and Nichols reports also concluded that for a rainfall event greater than the 500-year event—*i.e.*, another Hurricane Harvey-type storm—Lake Conroe, artificially lowered by the lake lowering policy, “could potentially increase the flood hazard downstream.” *Id.* § 6.00 at 11 (“For storm events larger than a 500-year event, it is anticipated that the addition of extra flood capacity will likely yield no additional benefit upstream and could potentially increase the flood hazard downstream of the dam . . .”).

Similarly, the 2018 Harris County Flood Control Harvey Summary report and the 2020 Bleyl Engineering study, both found the benefits of lowering Lake Conroe to be negligible. *See* Memorandum from Jeff Lindner, Director of Hydrologic Operations/Meteorologist, & Steve Fitzgerald, Chief Engineer, Harris County Flood Control District, to HCFCD Flood Watch/Partners (June 4, 2018) (finding that Lake Conroe releases contributed only 16% of the total water flow into the Lake Houston basin), *available at* <https://www.hcfd.org/Portals/62/Harvey/immediate-flood-report-final-hurricane-harvey-2017.pdf>; *see also* Letter from Ryan Londeen, PE, Bleyl Engineering, to Kevin Lacy, LCA (Feb. 14, 2020). The Bleyl Study determined that lowering Lake Conroe by two feet could result in a maximum reduction in floodwaters in the Lake Houston area of three inches at a point where the floodwaters were already 17 feet high (a less than 1.5% reduction in the height of the flood waters). *Id.* at 5.

In addition to the substantive issues with the Amendment Application, TCEQ approved the Amended Certificate without any public involvement. The diversion and use of Lake Conroe water is a high-profile issue in Montgomery County,¹⁹ and LCA had repeatedly approached TCEQ regarding the flaws in the Amendment Application and its underlying purpose of furthering the practice of lowering Lake Conroe. LCA has attempted to work with Applicants on the lake lowering issues for several years, and Lake Conroe area residents and municipal entities have a vested interest in any change to the diversion rate. TCEQ is well aware of LCA's high concern (there have been three significant complaints filed) and should have ensured that public notice was required, so agency staff could make a fully informed decision after receiving input from the public regarding how they and their property could be affected and whether the increased diversion rate could result in environmental and property impacts unanticipated by TCEQ. State law and TCEQ rules rely on the "Marshall Criteria" to determine when public notice is necessary for applications such as this one. Here, Applicants provided only conclusory, unsupported statements in an attempt

¹⁹ See, e.g., Letter from The Honorable Will Metcalf, Texas House of Representatives, District 16, to Kelly Keel, Executive Director, TCEQ (Oct. 14, 2025), attached hereto as Attachment C. Representative Metcalf's letter was filed with TCEQ immediately before the Amended Certificate was issued. In his letter, Representative Metcalf stated:

Based on the data shared with my office and the LCA, there appears to be no operational necessity for such a dramatic increase to meet municipal water demand. Rather, this proposal raises serious concerns about potential water loss, the precedent it sets for future misuse, and the apparent lack of transparency surrounding the review process.

Given the highly charged public history of the Lake Conroe lowering program and the promises made to my constituents that these practices would be temporary, I strongly urge the TCEQ to ensure any consideration of new diversion requests or permit amendments occurs through a fully public process with adequate notice and opportunity for stakeholder participation. The residents of Montgomery County deserve nothing less than full transparency in decisions that impact their homes, property values, and long-term water supply.

Id. at 2.

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR'S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

to summarily address the “Marshall Criteria,” but as discussed below, the criteria were not met and public notice should have been provided.

For all of these reasons, LCA requests that the Commissioners overturn the Executive Director’s issuance of Certificate No. 10-4963B.

III. FACTUAL BACKGROUND

A. *LCA Has a Demonstrated Interest in Lake Conroe and Any Amendments to the Certificate that Could Negatively Affect Water Levels in Lake Conroe.*

LCA is a non-profit organization made up of area residents and businesses that are concerned with issues affecting their use and enjoyment of Lake Conroe, a water supply reservoir located on the West Fork of the San Jacinto River. Originally formed in 1977 to control and eliminate a hydrilla infestation in Lake Conroe, LCA’s goals are safe water levels, water conservation, resolving vegetation problems, and improving the overall quality of life around Lake Conroe.²⁰ Challenging the Executive Director’s decision to issue the Amended Certificate is necessary because the requested increase in diversion rate is just one piece of a much larger puzzle (which is largely undocumented and conducted out of the eyes of the public) through which Applicants are consistently and knowingly violating the Certificate by misrepresenting Houston’s use of the Lake Conroe water. Unfortunately, Houston’s ruse is being aided by TCEQ’s technical staff, who appear to turn a blind eye to Houston’s misrepresentations. By claiming that the increased diversion rate is in furtherance of Houston’s beneficial use of the Lake Conroe water,

²⁰ Lake Conroe Assoc., “About LCA,” at <https://lcatx.com/>.

Applicants are again misrepresenting the facts regarding the actual use of the water, and for unknown reasons, TCEQ continues to facilitate these misrepresentations and ongoing waste of state water.

It is difficult to understand how TCEQ can accept Houston's claims that it is beneficially using Lake Conroe water. All indications are that Houston has only used Lake Conroe water for municipal purposes during one period in the entire fifty-year history of the lake. After the record seven-year drought of the 1950s, Lake Conroe was conceived and built to serve as a backup source of water for Houston to prevent a repeat of the water shortages experienced during the drought,²¹ and it actually served this purpose during the drought of 2011.²² Otherwise, Houston has an overabundance of water from the Trinity River. Nevertheless, it diverts Lake Conroe water for municipal purposes whenever the weather forecast is, ironically, calling for heavy rains.

As will be addressed in detail in the next section, Houston's repeated actions diverting water from Lake Conroe in violation of the Certificate pose a serious threat to Lake Conroe, which provides one of the primary water supplies for Montgomery County and the backup water supply for the greater Houston metropolitan area.

B. Houston Has Been Diverting Water from Lake Conroe in Violation of the Certificate for Seven Years.

Starting in 2018, Applicants adopted the Seasonal Lake Lowering Program ("SLLP") (now referred to as "Active Storm Management"), a policy of diverting, or discharging, water from Lake Conroe to lower the level of the lake during several months in the spring and late summer on a

²¹ SJRA, "History of Lake Conroe," at <https://www.sjra.net/lakeconroe/history/>.

²² See, e.g., Roden, Howard, "Lake Conroe: Goodbye, water," THE COURIER OF MONTGOMERY COUNTY (Aug. 15, 2011), at <https://www.yourconroenews.com/neighborhood/moco/news/article/Lake-Conroe-Goodbye-water-9265350.php>.

temporary basis while dredging of the West Fork of the San Jacinto River was in progress to reduce potential flooding.²³ In 2020, Applicants took official action to continue a modified version of the SLLP for at least three additional years, and possibly longer.²⁴

The normal conservation pool of Lake Conroe is 201 feet above mean sea level (msl), with a flood easement of up to 207' above msl.²⁵ In order to achieve the SLLP's goal of reducing lake levels below 201' above msl for additional flood control storage (to levels as low as 199' above msl), water must be released from the conservation pool of Lake Conroe.²⁶

²³ The SLLP had the stated purpose of preventing flooding in areas downstream of Lake Conroe, primarily in the Kingwood, Atascocita, and surrounding areas of Lake Houston. These areas are approximately twenty-nine linear miles, or thirty-four river miles, south of the Lake Conroe dam. Texas Parks & Wildlife Dept., "San Jacinto River, West Fork," in *An Analysis of Texas Waterways: A Report on the Physical Characteristics of Rivers, Streams and Bayous in Texas*, (Sept. 1974), available at https://tpwd.texas.gov/publications/pwdpubs/pwd_rp_t3200_1047/09_e_tx_san_jacinto_trinity_elm.phtml.

²⁴ See Letter from Dave Martin, Mayor *Pro Tem*, Houston, to Board of Directors, SJRA (Feb. 24, 2020). The version of the SLLP adopted in February 2020 included the following provisions:

- Spring strategy: Beginning April 1, release only an amount of water from Lake Conroe to create a one-foot capacity to catch rainfall and storm runoff (from 201' msl to 200' msl). Recapture of lake level beginning June 1.
- Fall strategy: Beginning on August 1, release only an amount of water from Lake Conroe to create a one-foot capacity to catch rainfall and storm runoff (from 201' msl to 200' msl). After September 1, increase capacity an additional six inches (from 200' msl to 199.5' msl). If a named storm is predicted to impact the region, Houston could initiate an additional release of six inches (to 199' msl) by notifying SJRA in writing of its call for release. Recapture beginning October 1.
- All releases came from Houston's 2/3 share of permitted water supply in Lake Conroe. SJRA staff was to coordinate with Houston staff on the details and timing of any releases.
- If the lake level of Lake Conroe had already dropped to the target elevation due to natural evaporation, no releases were to be made.

See Press Release, SJRA, "SJRA Board of Directors Recommends Renewing Flood Mitigation Strategy" at 1 (Feb. 25, 2020), available at <https://www.sjra.net/wp-content/uploads/2020/02/02-25-2020-Press-Release-Board-Recommendation-Lake-Conroe.pdf>.

²⁵ See SJRA, *Self Evaluation Report*, submitted to the Sunset Advisory Comm'n, at 40 (Sept. 2019), available at <https://www.sunset.texas.gov/public/uploads/files/reports/San%20Jacinto%20River%20Authority%20SER.pdf>.

²⁶ See Letter from Carlos Rubinstein, Principal, & Herman R. Settemeyer, P.E., Partner, RSAH₂O, to Erich Birch, Birch, Becker & Moorman, LLP, at 2 (June 29, 2020) [hereinafter "Rubinstein & Settemeyer Letter"], attached hereto as Attachment D.

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR'S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

Since 2020, Houston has continued to divert surface water from Lake Conroe, most recently in May and June of 2024. In April 2024, Applicants adopted a revised lake lowering policy now known as the “2024 Active Storm Management Protocols for Lake Conroe and Lake Houston”²⁷ (the “Protocol” or “Active Storm Management”), again in violation of the Certificate and state law.

While steadfastly objecting to the SLLP and the Protocol, LCA has attempted to work with Applicants to at least place some reasonable limitations on their wasting of Lake Conroe water, but LCA’s efforts have been frustrated at every turn. The 2024 diversions were ostensibly made pursuant to the Protocol (although still in violation of the Certificate and state law), but by calling for releases from Lake Conroe in June 2024 Houston proceeded to ignore and violate the terms of the very Protocol it and SJRA had just recently adopted.

The Protocol defines Applicants’ current policy for lowering the level of Lake Conroe as a means of achieving anticipatory flood control. It provides:

Spring

- Beginning April 1 through June 1, the City of Houston may request diversions to lower Lake Conroe from normal pool of 201' [feet] msl [mean sea level] to create up to six inches of storage capacity for forecasted storm event inflows (to 200.5' msl). The decision of when, how, and whether to initiate diversions will be guided by climate conditions, weather patterns and available water supply.
- Resume normal recapturing after each storm event that triggered any diversion between April 1 and June 1.
- In the event a major rainfall is forecasted to impact our region, active storm management protocols of the City of Houston could initiate a diversion to create up to an additional six inches of storage capacity for storm inflows

²⁷ SJRA, “Active Storm Management Protocols” in *San Jacinto River Authority Latest News for April 2024* at 2, available at <https://www.sjra.net/wp-content/uploads/2024/06/SJRA-Latest-News-April-2024.pdf> [hereinafter the “Protocol”], attached hereto as Attachment E; *see also* SJRA, Board of Directors, Minutes of Regular Meeting at Item 6.d. at 4 (Apr. 25, 2024).

(to 200.0' msl). It is acknowledged that under extraordinary weather circumstances, additional diversions to create capacity below 200.0' msl could occur.

Fall

- Beginning on August 1 through October 1, the City of Houston may request diversions to lower Lake Conroe if actual lake levels are at normal pool of 201 msl to create up to six inches of storage capacity for storm inflows (to 200.5' msl). After Labor Day, storage capacity may be increased an additional six inches (to 200.0' msl). Diversion volumes requested to reach intended levels will be dependent on the actual lake levels. The decision of when, how, and whether to initiate diversions will be guided by climate conditions, weather patterns, and available water supply.
- Resume normal recapturing after each storm event that triggered any diversion between August 1 and October 1.
- If a named storm is predicted to impact our region, active storm water management protocols of the City of Houston could initiate a diversion to create up to an additional six inches of storage capacity for storm inflows (to 199.5' msl). It is acknowledged that under extraordinary weather circumstances, additional diversions to create capacity below 199.5' msl could occur.²⁸

The Protocol also includes provisions to initiate diversions/releases from Lake Houston prior to forecasted rainfall events.²⁹

While Lake Conroe is the backup municipal water supply for Houston, the City is not using it for those purposes. One would expect Houston to call for water during drought conditions, but instead, Houston absurdly only diverts water from Lake Conroe when there is rain in the forecast.

Pursuant to the Protocol, and previously pursuant to the SLLP, at Houston's call water is diverted, or released, from the conservation pool of Lake Conroe (*i.e.*, from water allocated for beneficial use under the Certificate) through the dam on the south end of the lake during specific months in the spring and fall for no identified "beneficial use," as that term is defined in the Texas

²⁸ Protocol, *supra* note 27.

²⁹ *See id.*

Water Code. Once diverted, the water flows from Lake Conroe downstream in the San Jacinto River to Lake Houston and then flows over the spillway or through the dam gates from Lake Houston to Galveston Bay and the Gulf.³⁰ Due to the physical design of facilities at Lake Houston, whenever water flows over the spillway or through the dam gates—the resulting action when Lake Conroe water has been released pursuant to the Protocol or SLLP—it is impossible to sequester or divert the Lake Conroe water for any beneficial use. Instead, it simply passes through Lake Houston and is wasted, as opposed to being used for “municipal use” as reported by Houston on its WURs. In 2024 alone, the City called for the diversion of almost 2.5 billion gallons of Lake Conroe water for the sole purpose of lowering the water levels in Lake Conroe in support of its policy of anticipatory flood control.³¹ As will be discussed below, “anticipatory flood control” is not a “municipal use,” nor is it a “beneficial use” as authorized by the Certificate, as those terms are defined in the Texas Water Code. Thus, the diversion of water from Lake Conroe is in violation of the Certificate and state law and undermines the very purpose of a drinking water reservoir like Lake Conroe and the responsibilities and duties of drinking water providers such as Applicants.

³⁰ Attached are two slides from the presentation made by LCA during its April 8, 2025 meeting with TCEQ Executive Staff. These slides graphically demonstrate how Houston diverts water from Lake Conroe over the spillway or through the dam gates at Lake Houston, simply wasting that water to the Gulf. *See* Slides 13 & 14 from PowerPoint Presentation “Lake Conroe, Texas, Lake Conroe Association, Meeting with TCEQ, April 8, 2025” (Apr. 8, 2025), attached hereto as Attachment F.

³¹ The spring component of the Protocol is of particular concern and is the most baffling part of the policy. The efficacy of the spring reduction was not evaluated, and there is no technical support for it. There has never been a spring flooding event associated with Lake Conroe. The spring release results in the most damage to Lake Conroe, artificially lowering the level of the lake heading into the hot, dry summer season. The spring rains have historically filled the lake to full pool, but now the lake lowering program wastes virtually all of this replenishing water, resulting in a potential year-round reduction in the volume of water available in the Lake Conroe reservoir.

IV. ARGUMENT AND AUTHORITIES

A. *LCA's Motion to Overturn Is Timely.*

Texas Administrative Code Title 30, Section 50.139 states, in relevant part:

(a) The applicant, public interest counsel or other person may file with the chief clerk a motion to overturn the executive director's action on an application or water quality management plan (WQMP) update certification. . . .

(b) A motion to overturn must be filed no later than 23 days after the date the agency mails notice of the signed permit, approval, or other action of the executive director to the applicant and persons on any required mailing list for the action.³²

TCEQ's Office of the Chief Clerk mailed notice of the Executive Director's issuance of the Amended Certificate on October 20, 2025, so pursuant to Section 50.139(b), a motion to overturn must be filed by November 12, 2025. As such, LCA's *Motion to Overturn* is timely filed.

B. *The Increased Diversion Rate Requested by SJRA and the City Is Not Necessary to Address the City's Needs.*

To start, it is important to note that Houston does not use any of the Lake Conroe water that it owns for municipal purposes, other than as a backup supply during drought conditions. Water currently treated and used by Houston for municipal purposes comes from the Trinity River (through Lake Livingston) or from groundwater. As identified above, only once during the over fifty-year history of Lake Conroe has Houston used Lake Conroe water for municipal purposes during the drought of 2011.

Applicants' stated reasons for increasing the diversion rate are misleading, disingenuous, and preposterous. Houston does not currently need or use any Lake Conroe water.

³² 30 TEX. ADMIN. CODE 50.139(a)&(b).

Further, available data shows that if Houston needed the water for a legitimate purpose, *e.g.*, during a drought, the previously authorized diversion rate of 700 cfs is more than sufficient to satisfy current or reasonably anticipated future water demands of Houston. If Applicants had provided this information to TCEQ it would be clear that there is no legitimate basis for the requested amendment—specifically, 2,000 cfs could not be used for municipal purposes by the City. The actual reason Applicants requested the increased diversion rate of 2,000 cfs is simply to enable Houston to waste 1.2 billion gallons of Lake Conroe water in a single day.

LCA has attempted to negotiate with Applicants regarding the Protocol and the SLLP for the last several years. Any support that LCA has voiced in the past for a higher release rate was predicated on several factors: first, that Applicants would obtain a technical study that demonstrated “pre-releases” would actually and meaningfully mitigate downstream flooding; second, that diversions for flood mitigation would be based on such a study, well-defined emergency protocols, and there would be no increased diversion rate unless a better near-term weather forecasting system was utilized, so the higher release rates would not result in the waste of water; third, that Applicants would obtain approval from TCEQ for diversions for flood mitigation based on such a study; and fourth, that Houston would expeditiously move forward with projects that will significantly reduce flooding, in particular, expanding the dam discharge capacity of Lake Houston. Applicants have not taken any of these actions. Instead, they filed the subject Amendment Application with no scientific or engineering basis as support.

C. *Houston’s Diversions of Water from Lake Conroe Pursuant to the Protocol Violate the Certificate and State Law Because They Are Not for an Authorized Beneficial Use.*

Texas’ appropriative water rights permitting system provides for “precisely defined water rights, authorizing the use of water in a specific amount, by diversion at a definite location (diversion point(s) or reach(es)), for a particular purpose, and for use in a defined area.”³³ When surface water is appropriated, the right to use state water “is limited not only to the amount specifically appropriated *but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation.*”³⁴ Water that is not being beneficially used for the purposes specified in the appropriation is considered to be not appropriated.³⁵ The term “beneficial use” is defined 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.”³⁶

Lake Conroe was constructed as a “water supply reservoir.”³⁷ Lake Conroe’s use as a water supply reservoir is supported by the original permit issued to SJRA for the appropriation of state waters.³⁸ Permit No. 1962 stated:

NOW, THEREFORE, THE BOARD OF WATER ENGINEERS OF THE STATE
OF TEXAS DOES BY THESE PRESENTS GRANT THIS PERMIT
unto the said San Jacinto River Authority to *appropriate, divert, and use* certain
public waters of the State to consist of the storm, flood, and unappropriated public

³³ Maxwell, Susan M., & Doug Caroom, “Surface Water Rights Permitting,” ESSENTIALS OF TEXAS WATER RESOURCES ch. 10, § 10.1 at 10-1 (8th ed. 2024) [hereinafter “Maxwell & Caroom”].

³⁴ TEX. WATER CODE § 11.025 (emphasis added).

³⁵ *Id.*

³⁶ *Id.* § 11.002(4).

³⁷ “History of Lake Conroe,” *supra* note 21; *see also* Texas Water Development Board, “Volumetric and Sedimentation Survey of Lake Conroe: June – August 2010 Survey” at 1 (July 2012).

³⁸ Texas Board of Water Engineers, Permit to Appropriate Public Waters of the State of Texas, Permit No. 1962, Issued to SJRA (June 9, 1960).

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR’S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

waters of the West Fork of the San Jacinto River, a tributary of the San Jacinto River, in Montgomery County, Texas, not to exceed one hundred thousand (100,000) acre feet as follows: not to exceed sixty-six thousand (66,000) acre feet of water per annum for the purpose of municipal use, twenty-eight thousand five hundred (28,500) acre feet of water per annum for the purpose of industrial use, and five thousand five hundred (5500) acre feet of water per annum for the purpose of mining use, or so much thereof as may be necessary when beneficially used for the enumerated purposes.³⁹

These defined uses were again identified in the surface water rights appropriated to Applicants pursuant to the Certificate, which states:

In lieu of the previous authorization to divert or release and use not to exceed 100,000 acre-feet of water per year for municipal purposes (66,000 acre-feet), industrial purposes (28,500 acre-feet), and mining purposes (5,500 acre-feet), Owners are now authorized to *divert or release **and use*** not to exceed 100,000 acre-feet of water per year for municipal, industrial, mining, and agricultural purposes.⁴⁰

In addition, the Certificate provides: “Owners are also authorized to use the impounded water for recreation purposes.”⁴¹ The Certificate makes clear that Applicants are bound to its terms, including the following provisions:

- “Owners *agree to be bound* by the terms, conditions and provisions contained herein and *such agreement is a condition precedent to the granting of this amendment.*”⁴²
- “This amendment is issued *subject to the Rules of the Texas Commission on Environmental Quality* and to the *right of continuing supervision of State water resources* exercised by the Commission.”⁴³

³⁹ *Id.* at 1.

⁴⁰ Certificate No. 10-4963A, *supra* note 12, § 1.A at 2 (emphasis added).

⁴¹ *Id.* ¶ 1.C. at 2.

⁴² *Id.* at 3 (emphasis added).

⁴³ *Id.* (emphasis added).

In summary, Applicants are only authorized to divert or release *and* use water from Lake Conroe for municipal, industrial, mining, and agricultural purposes. Any other use of surface water from Lake Conroe is not authorized by the Certificate, and thus, is a violation of the Certificate and state law.

Texas Water Code Section 11.023 defines the purposes for which surface water may be appropriated, diverted, or stored:

- domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- mining and recovery of minerals;
- recreation and pleasure.⁴⁴

With regard to the uses of appropriated water, Section 11.023 continues:

The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 11.024 of this code. The commission may authorize appropriation of a single amount or volume of water for more than one purpose of use. In the event that a single amount or volume of water is appropriated for more than one purpose of use, the total amount of water actually diverted for all of the authorized purposes may not exceed the total amount of water appropriated.⁴⁵

State law prioritizes uses of surface water, stating that that it is “the public policy of this state that in appropriating state water preference shall be given to the following uses in the order named:

- (1) domestic and municipal uses . . . ;
- (2) agricultural and industrial uses . . . ;
- (3) mining and recovery of minerals;
- (4) hydroelectric power;
- (5) navigation;

⁴⁴ TEX. WATER CODE § 11.023(a)(1)-(3)&(6).

⁴⁵ *Id.* § 11.023(e).

- (6) recreation and pleasure; and
- (7) other beneficial uses.”⁴⁶

“Municipal use” is defined in TCEQ rules as:

- (A) The use of potable water within a community or municipality and its environs for domestic, recreational, commercial, or industrial purposes or for the watering of golf courses, parks and parkways, other public or recreational spaces; or
- (B) the use of reclaimed water in lieu of potable water for the preceding purposes; or
- (C) the use of return flows authorized pursuant to Texas Water Code, § 11.042, in lieu of potable water for the preceding purposes. Return flows used for human consumption as defined in § 290.38(34) of this title (relating to Definitions) must be of a quality suitable for the authorized beneficial use as may be required by applicable commission rules; or
- (D) the application of municipal sewage effluent on land, under a Texas Water Code, Chapter 26, permit where:
 - (i) the application site is land owned or leased by the Chapter 26 permit holder; or
 - (ii) the application site is within an area for which the commission has adopted a no-discharge rule.⁴⁷

This is the same definition relied upon by Applicants when they amended the Certificate in 2009.⁴⁸

That application led to the issuance of the current Certificate,⁴⁹ allowing Applicants to divert 100,000 acre-feet from Lake Conroe for multiple purposes of use, but limited to industrial, mining, municipal, and agricultural. There was no mention in the 2009 amendment application of flood management or flood control purposes as municipal (or any other) use at the time the Certificate

⁴⁶ *Id.* § 11.024.

⁴⁷ 30 TEX. ADMIN. CODE § 297.1(34).

⁴⁸ Application for Amendment to a Water Right, SJRA and City of Houston. Supplement to Application to Amend Certificate of Adjudication No. 10-4963 Pursuant to Texas Water Code § 11.122(b) at 3 (Mar. 3, 2009).

⁴⁹ *See* Certificate No. 10-4963A, *supra* note 12.

was issued. Additionally, SJRA has repeatedly acknowledged that Lake Conroe “is designed to be a water-supply reservoir, not a flood-control reservoir.”⁵⁰

As far back as 1962, the State authorized first SJRA, and then SJRA and Houston, to do three things with the water: (1) set water aside; (2) divert the water; and (3) use the water. Over the last five years, Houston has abandoned “use the water” and replaced it with “waste the water.” As described above, the Protocol, and the SLLP before it, does not result in the diversion of water from Lake Conroe for municipal, industrial, mining, or agricultural purposes. Instead, water is simply discharged from Lake Conroe and sent downstream through Lake Houston and finally to the Gulf. State law does not contemplate the diversion of water for flood control purposes as a municipal, agricultural, industrial, mining, or recreation purpose, and the Certificate does not authorize the diversion of state water from Lake Conroe for flood control purposes. As identified by two recognized water rights experts in Texas, Carlos Rubinstein and Herman R. Settemeyer: “Release of water from the conservation pool strictly for flood control purposes, with no documented beneficial use downstream constitutes an unauthorized use of water as per the terms and conditions of the water right.”⁵¹

As previously argued by LCA in its most recent complaint, filed with TCEQ on July 25, 2025, Applicants’ implementation of the lake lowering program has resulted in the following violations of state law, TCEQ rules, and the Certificate:

⁵⁰ See, e.g., Defendant SJRA’s Plea to the Jurisdiction, *Nancy Daniels, et al. v. San Jacinto River Auth.*, Cause No. 1140382, Harris County, County Civ Ct. at Law No. 3 at 5 (Mar. 11, 2020).

⁵¹ Rubinstein & Settemeyer Letter, *supra* note 26, at 1. Mr. Rubinstein and Mr. Settemeyer also note that the process of lowering and refilling Lake Conroe seasonally is a process “that could subject the lake and potentially the bays to potential environmental impacts.” *Id.* at 3. They continue: “This change in operation has not been subject to a TCEQ environmental review approval process as would be required by any permit amendment.” *Id.*

- (1) Houston's and SJRA's releases from Lake Conroe are not for municipal, industrial, mining, or agricultural purposes in violation of Section 1.A. of the Amended Certificate;
- (2) Houston and SJRA are failing to prevent the loss or waste of water in violation of Section 2 of the Amended Certificate;
- (3) Houston's and SJRA's releases from Lake Conroe have not been for the appropriated purposes identified in the Amended Certificate in violation of Texas Water Code Section 11.023(e).
- (4) Houston's and SJRA's releases have not been beneficially used for the purposes specified in the Amended Certificate in violation of Texas Water Code Section 11.025.
- (5) Diverting or appropriating state water for any purpose not in compliance with Chapter 11 of the Texas Water Code is a violation of Texas Water Code Section 11.081;
- (6) Intentionally or knowingly making or causing to be made false material statements or representations in a submittal to TCEQ, *e.g.*, Houston's representations on WURs, is a violation of Texas Penal Code Section 37.10; and
- (7) Releases from Lake Conroe are a waste of water in violation of Texas Administrative Code Title 30, Section 297.48(a).

It is unclear why, in light of the violations cited above, and all of the supporting information provided by LCA in its prior three Complaints--addressing the violations of the Certificate, TCEQ's rules, and the Texas Water Code—TCEQ has not initiated enforcement to stop the waste of state water and the flaunting disdain of Texas water laws. Inexplicably, TCEQ instead granted the Amended Certificate and supported Applicants' efforts, whereby they can now waste state waters even more quickly.

D. The City Is Purposefully Mischaracterizing the Nature of Its Diversions from Lake Conroe to TCEQ.

TCEQ requires water rights holders to submit annual WURs", identifying which one of five different categories of beneficial use water was diverted: agriculture (agriculture – irrigation); municipal/domestic; other (recreation); industrial (industrial, industrial – power generation);

and mining.⁵² On its 2018 and 2019 WURs, Houston categorized the use for the releases from Lake Conroe as “municipal/domestic.”⁵³ In May and June 2024, Houston again directed SJRA to release 818 and 6,791 acre-feet of water, respectively. Houston represented on the WUR submitted to TCEQ that those releases were also for municipal use.⁵⁴

However, this is a mischaracterization of the use of the water diverted from Lake Conroe. The definition of “municipal use,”⁵⁵ as explained above, clearly would not include a “seasonal release” nor a “pre-storm release” for flood control purposes pursuant to TCEQ rules or state law. Instead, as is made clear by the Protocol, the releases were strictly for flood control:

Houston may request diversions to lower Lake Conroe from normal pool of 201' msl to create up to six inches of storage capacity for forecasted storm event inflows (to 200.5' msl). The decision of when, how, and whether to initiate diversions will be guided by climate conditions, weather patterns, and available water supply.⁵⁶

The Protocol specifically refers to “active storm management protocols” as the reason to “initiate a diversion” to create storage capacity in Lake Conroe.⁵⁷

⁵² See, e.g., “Texas Commission on Environmental Quality Report of Surface Water Used for the Year Ending 2019,” filed by Houston, Water Right No. 4963 (Feb. 28, 2020) [hereinafter “Houston 4963 2019 WUR”], attached hereto as Attachment G.

⁵³ “Texas Commission on Environmental Quality Report of Surface Used for the Year Ending 2018,” filed by Houston, Water Right No. 4963, at WUR USE: Municipal/Domestic (Mar. 12, 2019) [hereinafter “Houston 4963 2018 WUR”]; see also Houston 4963 2019 WUR, *supra* note 53. Similarly, Houston categorized pre-storm releases from Lake Houston for flood control purposes as a “municipal/domestic” use. See Letter from Veronica R. Osegueda, Div. Mgr., Water Resources, Houston Water Planning, to Kathy Alexander, Water Availability Div., TCEQ (Mar. 13, 2019). For example, in 2018, pre-storm releases from Lake Houston totaled 117,644 acre-feet. *Id.*

⁵⁴ See Email from Ray Keaton, TCEQ, to Crystal Bolden, Birch, Becker & Moorman, LLP (Mar. 22, 2025, 3:24 p.m.) (TCEQ Official Response PIR – 101984).

⁵⁵ 30 TEX. ADMIN. CODE § 297.1(34).

⁵⁶ Protocol, *supra* note 27.

⁵⁷ *Id.*

The WURs do not contain any information identifying that the seasonal releases were subsequently used for a permitted beneficial use. It is difficult not to conclude that Houston made intentional and knowingly false statements on its WURs when it claimed the water was diverted for “municipal/domestic” purposes. Houston categorized the use for those releases as “municipal/domestic,”⁵⁸ but as discussed, state law and TCEQ rules do not include flood management as a municipal/domestic use. Intentionally or knowingly making or causing to be made false material statements or representations in a submittal to TCEQ, *e.g.*, Houston’s representations on WURs, is a violation of Texas Penal Code Section 37.10.⁵⁹

There is a process in place whereby Applicants could claim anticipatory flood control as a beneficial use. They could amend the Certificate to add flood control as a beneficial use, but they haven’t done that. Instead, they have relied on calling anticipatory flood control a municipal use, which it clearly is not under state law. They would need to file an amendment application and prove their case that the discharge of this water downstream for anticipatory flood control purposes is an actual beneficial use. They have not done that.

It is noteworthy that Houston would sacrifice the integrity and security of its water supply in Lake Conroe for, at best, a perceived level of flood protection in only certain limited areas of

⁵⁸ Houston 4963 2018 WUR, *supra* note 54; Houston 4963 2019 WUR, *supra* note 53.

⁵⁹ Texas Penal Code Section 37.10 provides, in relevant part:

(a) A person commits an offense if he:

(1) knowingly makes a false entry in, or false alteration of, a governmental record;
(2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record.

* * *

(5) makes, presents, or uses a governmental record with knowledge of its falsity

TEX. PEN. CODE § 37.10(a)(1), (2), & (5).

the City. Other entities, *e.g.*, Harris County and Montgomery County, have a broader regional authority for addressing flooding. Notably, after Hurricane Harvey the Harris County Flood Control District (“HCFCD”) conducted a broader study that concluded with sixteen recommendations for minimizing flooding in the areas around Lake Houston.⁶⁰ “Lowering Lake Conroe” was not a recommendation or mentioned as a strategy.

E. The Amendment Application Does Not Demonstrate Compliance with the “Marshall Criteria.”

The procedural notice provision applicable to the Amendment Application, 30 TEX. ADMIN. CODE Section 295.158(c)(3)(E), makes clear that the application “*may not* require additional notice.”⁶¹ But if notice “*may not*” be required, it also may *be required*. The Texas Supreme Court’s decision in *City of Marshall v. City of Uncertain* “suggests that even minor amendments to water rights may, under certain circumstances, require notice and the opportunity for contested case hearing.”⁶²

As part of the Amendment Application, Applicants completed Worksheet 1.2, “Notice. ‘The Marshall Criteria.’”⁶³ An applicant’s responses and TCEQ’s evaluation of those responses

⁶⁰ See Halff Assoc., Inc. & Freese & Nichols, Inc., San Jacinto Regional Watershed Master Drainage Plan Report (Dec. 2020), available at <https://hctxdnndev.blob.core.windows.net/hcfcfd/01%20-%20San%20Jacinto%20River%20Master%20Drainage%20Plan%20Report.pdf?sv=2017-04-17&sr=b&si=DNNFileManagerPolicy&sig=gUmzt0XEXUhmMZhlG1%2FF%2BwiJPWxYzzqk2p33ptBvFuk%3D>.

⁶¹ 30 TEX. ADMIN. CODE § 295.158(c)(3)(E).

⁶² Vassar, Nathan, & Lora Naismith, “Meeting Water Supply Needs: Planning, Permitting, and Implementation,” ESSENTIALS OF TEXAS WATER RESOURCES ch. 3 § 3.14:1 at 3-12 (8th ed. 2024) (citing *City of Marshall v. City of Uncertain*, 206 S.W.3d 97, 110-11 (Tex. 2006) (“requiring the TCEQ to consider the impact of several limited public interest criteria when determining whether to issue notice of a water right amendment application, including whether the application is intended for a beneficial use, whether it will harm the public welfare, and any impacts on groundwater”).

⁶³ See Amendment Application, *supra* note 1, at Worksheet 1.2, “Notice: ‘The Marshall Criteria’” at 9-10; *see id.* at Tab 10.

regarding the “Marshall Criteria” assist the TCEQ in determining whether public notice regarding an amendment application is required.⁶⁴ Worksheet 1.2 notes: “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.” Pursuant to Texas Water Code Section 11.122(b), often called the “Four Corners Rule,” TCEQ staff determine, based on the terms of the existing water right (*i.e.*, within the “four corners” of the document) and the nature of the requested amendment, whether there is any potential for adverse impacts and thus whether public notice is required.⁶⁵ The “Marshall Criteria” are “designed to assist TCEQ staff in assessing the potential impacts under limited public interest criteria *and notice requirements* for each application.”⁶⁶

The “Marshall Criteria” address: (1) administrative requirements and fees; (2) beneficial use; (3) public welfare; (4) groundwater effects; (5) the State Water Plan; (6) waste avoidance; and (7) impacts on water rights or on-stream environment.⁶⁷ An evaluation of the Amendment Application in light of Houston’s historical actions (as addressed above) and the complete lack of scientific and technical support for the requested nearly 300% increase in the diversion rate, provides more than adequate reason to require notice for this Amendment Application.

Clearly, the increased diversion rate is not a beneficial use as stated in the Amendment Application. As noted above, Houston mischaracterizes its anticipatory flood control discharges from Lake Conroe as a “municipal/domestic” use—a position that is a violation of state law and

⁶⁴ The “Marshall Criteria” grew out of *City of Marshall v. City of Uncertain*, 206 S.W.3d 97, 105-06 (Tex. 2006).

⁶⁵ Maxwell & Caroom, *supra* note 34, § 10.9 at 10-15.

⁶⁶ *Id.*

⁶⁷ See Amendment Application, *supra* note 1, at Worksheet 1.2 at 9-10.

TCEQ rules. The Amendment Application is equally clear: “Applicants do not request a change in purpose of use; thus, TCEQ’s prior determination that the water is appropriate for a beneficial use is applicable to the Application.”⁶⁸ Since Applicants have not sought to change the beneficial uses approved in the Certificate, they must only use diverted water for those purposes, and those approved beneficial uses do not include “anticipatory flood control.”

Additionally, it must be noted that even if the Commission takes the position that “anticipatory flood control” is a “municipal use,” the rate of diversion requested by Applicants is so high that it, in and of itself, cannot meet the definition of “beneficial use”: “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.”⁶⁹ Based on historical records of Houston’s usage of Lake Conroe water, the only calls for water over the last several years have been in furtherance of the lake lowering Protocol. The amount of water diverted at this higher rate is clearly not economically necessary for the City “when reasonable intelligence and reasonable diligence are used” to evaluate not just the very limited information Applicants included in the Amendment Application but also the totality of their actions with regard to Lake Conroe water over the past seven years.

Similarly, the public welfare would not be served by the requested increased diversion rate. In fact, the public welfare would likely be harmed. With regard to the “public welfare” analysis, the Amendment Application simply states: “The TCEQ determined the appropriation was not detrimental to the public welfare when ADJ 10-4963A was issued, and the proposed amendment

⁶⁸ *Id.* at Tab 10 § B.

⁶⁹ TEX. WATER CODE § 11.002(4).

does not seek any changes that would negatively impact the public welfare.”⁷⁰ But that is a self-serving conclusory statement for which no supporting information was included in the Amendment Application.

Applicants, and apparently also TCEQ, fail to comprehend the potential public welfare impacts of the requested increase in diversion rate. As previously cited, the Application states: “In light of the limited scope of the Applicant and the provisions of 30 TAC 295.158(c)(3)(E) (“to increase the rate or period for diversion from a storage reservoir”), neither mailed nor published notice should be required.” There is no “standard” storage reservoir, and Lake Conroe is no ordinary storage reservoir. For example, whereas the Lake Travis reservoir has lake level elevation swings of well over sixty feet, the average depth of the Lake Conroe reservoir is only twenty feet.⁷¹ The lowest recorded level of Lake Conroe was over eight feet below full pool during the drought of 2011.⁷² Applicants’ plans to lower the lake by two feet or more during a storm, therefore, has a huge impact on the reservoir. Further, whereas other storage reservoirs in the state have few or no riparian residents, there are over 36,000 people living on and near Lake Conroe.⁷³

The rule gives TCEQ discretion on notice requirements, and where there are no residents on a reservoir it might be reasonable to determine that no notice is required for an increase in diversion rate. But accordingly, if there is a request to increase the diversion rate from a lake with

⁷⁰ Amendment Application, *supra* note 1, at Tab 10, § C.

⁷¹ See History of Lake Conroe, *supra* note 21.

⁷² See Sidney, David, Lake Conroe Division, SJRA, “Coming Full Circle,” DOCK LINE MAGAZINE – LAKE CONROE EDITION at 1 (Apr. 2017), (noting the record low lake level was 192.68 feet during the summer of 2011, 8.32 feet below full conservation pool), available at <https://www.sjra.net/wp-content/uploads/2015/01/image12106.pdf>.

⁷³ The Property Joes Group, “Lake Conroe,” (noting that based on data from the U.S. Census Bureau, “36,835 people call Lake Conroe home”), at <https://thepropertyjoesgroup.com/neighborhoods/lake-conroe>.

150 miles of shoreline, and perhaps more riparian residents than any other lake in the State of Texas, and the increased diversion could, within days, lower the lake to a quarter of the lowest level in the history of the shallow lake, it would be an abuse of discretion to fail to give notice to the public.

Upon learning of the increased diversion rates riparian owners on Lake Conroe became concerned about the property-related impacts of such a rapid drawdown of lake water. The vast majority of properties on Lake Conroe are bulkheaded, and if the lake water drops as quickly as it will with the increased diversion rate, the groundwater behind the bulkheads will not have time to drain. Never in the history of Lake Conroe has the lake level dropped this rapidly, and the pressure imbalance due to groundwater will no doubt lead to premature failure of bulkhead components and entire bulkheading systems, especially with older bulkheads. So, have Applicants investigated these impacts? Have they alerted the public that drawdowns that formerly took two weeks can now be accomplished in only days? Have they notified construction barges, boat owners, and other water vessels that they could be stranded due to a rapid drawdown of lake water? Have they explained that a rapid drawdown followed by a drought could result in those vessels being stranded, perhaps for years? Have they explained the new possibility of flooding to downstream riparian owners? What information did Applicants provide to demonstrate that increasing the diversion rate almost 300% would not be otherwise detrimental to the public welfare? The answer is an unequivocal “none.” And importantly, did TCEQ consider these issues when it decided that no public notice was required, and that it would instead keep the public in the dark? Did TCEQ consider these issues as it determined that affected parties around and downstream from Lake Conroe would not have the opportunity to bring their concerns to the attention of the Commission?

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR’S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

While Applicants identify that there will be no negative impacts as a result of the Amendment Application, SJRA’s “Flood Management 10-Year Project Plan, FY 2026 – FY 2035”⁷⁴ tells a different story. The Flood Management 10-Year Plan includes a project titled “Lake Conroe – Lake Houston Joint Reservoir Operations Study.”⁷⁵ One of the purposes of the study is to

[e]valuate the feasibility and effectiveness of pre-releases at either or both reservoirs with the addition of spillway improvements at Lake Houston. The evaluation will consider the impacts, benefits, and risks during different weather scenarios, to ensure that special considerations are made for unique situations such as storm surge during tropical events. Impacts on water supply resulting from pre-releases will also be evaluated.⁷⁶

SJRA made similar statements in a September 2020 Fund Infrastructure Fund application submitted to the Texas Water Development Board (“TWDB”).⁷⁷ SJRA identified one of the primary elements of work included in the proposed study as:

Determine the impacts on water supply resulting from any-release operations. [City of Houston] owns 2/3 of the water rights in Lake Conroe. The legal aspects of pre-releases from either reservoir, as related to water rights permits, must be evaluated to ensure there are no detrimental impacts to water supply.⁷⁸

In short, Applicants are implementing a multi-year pre-release strategy without having first evaluated its impact on, among other things, water supply. They did not consider that, for example, faster lowering of water levels in Lake Conroe is harmful to adjacent landowners and residents,

⁷⁴ SJRA, “Flood Management 10-Year Project Plan, FY 2026 – FY 2035 (Mar. 3, 2025), *available* at www.sjra.net/wp-content/uploads/2025/08/FINAL_Flood-Management-10-Year-Project-Plan-2026-2035_One-Page.pdf.

⁷⁵ *See id.* at 6.

⁷⁶ *Id.*

⁷⁷ TWDB, Flood Protection Planning for Watersheds – Category 1, application filed by SJRA, TWDB-0174 (Sept. 18, 2020).

⁷⁸ *Id.* at 4.

and the increased flow downstream could be detrimental to downstream property owners, potentially even resulting in short-term flooding. They did not evaluate potential impacts of a more rapid drawdown on the dam or on the lake itself. Applicants provided no technical documentation to demonstrate that the increase from 700 cfs to 2,000 cfs would not be detrimental to the public interest, and thus, fail to meet this metric of the “Marshall Criteria.”

And, finally, there is the criteria of “waste avoidance.” The Amendment Application states: “Applicants will continue to use reasonable diligence to avoid waste and achieve water conservation. Although Applicants are not required to provide water conservation plans and drought contingency plans for this Application, copies can be made available, upon request.”⁷⁹ Ironically, Applicants’ Water Conservation Plans include provisions that require the buyers of treated water to adopt and implement water conservation and drought contingency measures even though Applicants have wasted *over 50 billion* of gallons of water from Lake Conroe with no end in sight. Simple adoption of a Water Conservation Plan is not enough. Applicants cannot have adopted and implemented programs, *i.e.*, first the SLLP and now the Protocol, which have affirmatively diverted billions of gallons of state water each year for no beneficial use in violation of the Certificate and still claim compliance with the statutory conservation requirements. Similarly, it is laughable that Applicants can claim to comply with a “waste avoidance” criteria when they know they are wasting water from Lake Conroe, through Lake Houston, and directly to the Gulf, never to serve a beneficial use for Texans.

⁷⁹ Amendment Application, *supra* note 1, at Tab 10 § F.

City of Marshall mandated that water rights applications include sufficient information to allow TCEQ to determine whether notice and hearing are required on the amendment's potential adverse effects.⁸⁰ Applicants did not provide sufficient information because, in large part, they did not provide any information. They relied on conclusory, unsupported statements—not facts, not science, not technical reports. The overall brevity and lack of detail in the Amendment Application, especially considering no notice was given to the public, begs the question of why such an unmistakably vague application was submitted and then summarily approved by TCEQ.

Based on an analysis of the “Marshall Criteria” and the complete absence of information in support of the requested amendment, if the Commission remands the Amendment Application back to the Executive Director for further review (instead of denying the Amendment Application outright), it should require that notice and the opportunity for public hearing be provided to protect the water resources of the State.

V. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, the Lake Conroe Association respectfully requests that the Executive Director's decision to issue Certificate of Adjudication No. 10-4963B be overturned by the Commission, denying Applicants' request to amend Certification of Adjudication No. 10-4963. LCA has presented sufficient evidence that the increased rate of diversion is not in support of a beneficial use as required by state law. In the alternative, if the Commission determines that additional review is needed, LCA requests that the Commission

⁸⁰ See McCarthy, Edmond R., Jr., Lynn Ray Sherman & Derek Seal, “Surface Water Rights Transactions,” ESSENTIALS OF TEXAS WATER RESOURCES ch. 15 § 15.4:3 at 15-8 (8th ed. 2024).

remand Applicants' Amendment Application back to the Executive Director to be reviewed in light of the facts set out in this *Motion to Overturn* regarding Houston's long-term misrepresentation of its diversion of water from Lake Conroe, with such review to be followed by a public notice period allowing an opportunity for interested persons to request a public hearing. LCA also respectfully requests that the Commission specifically instruct the Executive Director to fully investigate Applicants' release of water from Lake Conroe and Lake Houston to the Gulf and whether such a release can be deemed a "municipal use," and thus a "beneficial use," pursuant to the Certificate and state law.

Respectfully submitted,

BIRCH, BECKER & MOORMAN, LLP


1000 Heritage Center Circle, Suite 146

Round Rock, Texas 78664

(512) 349-9300

(512) 349-9303 (Fax)

By:



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**ATTORNEYS FOR THE LAKE CONROE
ASSOCIATION**


MOTION TO OVERTURN THE EXECUTIVE DIRECTOR'S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed with the Office of the Chief Clerk via hand delivery. I also certify that a true and correct copy of the foregoing document has been served upon the following individuals via e-mail transmission, facsimile, U.S. mail, certified mail return receipt requested, Federal Express overnight delivery, or hand-delivery addressed to:

<p>Laurie Gharis Chief Clerk Office of the Chief Clerk (MC 105) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087</p>	<p><i>For the Office of the Chief Clerk of the Texas Commission on Environmental Quality</i></p>
<p>Nathan E. Vassar Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Avenue, Suite 1900 Austin, Texas 78701 <i>nvassar@lglawfirm.com</i></p>	<p><i>For Applicants, San Jacinto River Authority and the City of Houston</i></p>
<p>Todd Galiga Senior Attorney Environmental Law Division (MC 173) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 <i>Todd.Galiga@tceq.texas.gov</i></p>	<p><i>For the Executive Director of the Texas Commission on Environmental Quality</i></p>
<p>Garrett T. Arthur Attorney Public Interest Counsel (MC 103) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 <i>garrett.arthur@tceq.texas.gov</i></p>	<p><i>For the Office of Public Interest Counsel of the Texas Commission on Environmental Quality</i></p>

On this the 12th day of November, 2025


 ERICH M. BIRCH

MOTION TO OVERTURN THE EXECUTIVE DIRECTOR’S DECISION TO ISSUE AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 10-4963, DESIGNATED AS CERTIFICATE OF ADJUDICATION NO. 10-4963B, TO APPLICANTS, THE SAN JACINTO RIVER AUTHORITY AND THE CITY OF HOUSTON

Attachment A

From: [Kathy Alexander](#)
To: [Cari-Michel Lacaille](#); [Laurie Fleet](#); [Kim Nygren](#)
Subject: Lake Conroe
Date: Monday, March 10, 2025 1:36:33 PM
Attachments: [image001.jpg](#)
[image003.jpg](#)

San Jacinto River Authority (SJRA) and City of Houston (City) own [Certificate of Adjudication No. 10-4963](#) which authorizes Lake Conroe and diversions from Lake Conroe. The Certificate authorizes diversion of 100,000 acre-feet of water which can be diverted from the lake or released from the lake for municipal, agricultural, industrial, and mining use at a maximum rate of 700 cfs.

In response to flooding events from Hurricane Harvey, SJRA initiated a seasonal strategy to temporarily lower Lake Conroe in 2018 to provide flood mitigation benefits downstream of the lake. At the same time, dredging activities were occurring downstream. While dredging activities were occurring, TCEQ exercised enforcement discretion if SJRA's lake lowering activities resulted in exceedance of the maximum annual amount or maximum diversion rate authorized in the water right.

The lake lowering activities continued for several years after dredging activities were completed. During that time, the City reported releases for seasonal lake lowering under the municipal use authorization in the Lake Conroe water right. The City owns downstream Lake Houston and has several water rights in Lake Houston; therefore, any water released from Lake Conroe and charged to municipal use could be beneficially used by the City downstream at Lake Houston.

TCEQ received several complaints about the lake lowering activities. TCEQ investigated the complaints and found that the lake lowering activities were not a violation of the terms of the Certificate and that the authorized annual amount of 100,000 acre-feet was not exceeded. However, in two instances, the maximum diversion rate was exceeded, and the violation was noted and resolved.

SJRA would like to meet with the water rights program to discuss a potential Emergency Order for SJRA and the City that would temporarily amend the certificate to allow the diversion rate to be exceeded. They would also like for TCEQ to affirm in the order that seasonal lake lowering is not a waste of water. SJRA also indicated that they are working with the City on a permanent amendment to the water right to allow for an increased diversion rate.

Kathy Alexander, PhD
Policy & Technical Analyst
Water Availability Division
512-239-0778

Attachment B

Transcript of SJRA GM Aubrey Spear's Comments from SJRA Board Meeting Sept. 25

Actually, uh were related to what you (referring to Kevin Lacy) just discussed.

Um I'd like to make uh just a few comments relating to the uh action that was taken at the May 2025 board meeting related to the amendment to the Lake Conroe water rights permit after receiving public comments and having an open discussion and board discussion.

Regarding the intent to request an increase to the authorized maximum diversion rate from 700 cubic feet per second to 2000 cubic feet per second, the board approved the submission of the application to the Texas Commission on Environmental Quality, or TCEQ.

The application was submitted on July 17th of this year. A few important factors and backgrounds related to this decision include:

One, before submitting the application to increase the maximum diversion rate, SJRA staff met multiple times with TCEQ staff and made it very clear what our goals are for the potential amendment. TCEQ had no concerns with our approach and stated purpose for this amendment.

Number two, water right permit holders around the state often ask for changes in their maximum diversion rates. The rules applicable to this type of permit, it's called a minor amendment application make it clear there are no public notices because there is no negative impact to any of the water right holders in the basin.

Number three, SJRA's water right permit for Lake Conroe authorizes a maximum use of 100,000 acre feet per year. However, in a typical year, the amount we've used is far less than that. We have never used all 100,000-acre feet that is set as a maximum by the permit.

Four, very similarly, the maximum diversion rate if we increase it, we may never use it, but we have that as a tool in case there is a need.

Next, numerous meetings have been held. Obviously, I've only been here 20 months, so I've not been at all the meetings, but over the past many years, focusing on pre-releasing water from the lake prior to major storm events. Various protocols have been used with limited success. However, all interested parties, including the City of Houston, who is co-applicant on this permit, previously agreed that it would be helpful to increase the maximum diversion rate, making it possible to move of substantial volume of water between Lake Conroe and Lake Houston because they do work together jointly as in the conjunctive way for operations and that we do that so that the closer we can get to a major storm event relying on weather forecasts two to three days in advance of a storm instead of over a week out before a storm.

This is significant as this can significantly reduce the likelihood of releasing water when it turns out to be unnecessary. That's what we want to avoid.

Next, a joint operations study recently was approved pertaining to Lake Conroe and Lake Houston and it's in progress at this time. All that we're doing is helping manage the project. All the funds are either coming from state, federal, or from the city of Houston. But an important part of this study includes a thorough evaluation of pre-release effectiveness during major storm events. The pre-release evaluation should be completed by the end of 2026 and will be very valuable. Three public meetings will be held during the study to present the goals and results of the study for all interested parties regarding the pre-release and its effectiveness.

Next SJRA is very protective of the water rights in Lake Conroe and recognizes their criticality in future water supply planning. Our goal is to ensure that the water is used to provide regional residents with drinking water for decades to come.

At the same time, SJRA is also very conscientious about protecting the integrity of this dam and operating it according to engineered protocol and consistent with TCEQ requirements. However, we also are committed to optimizing flood mitigation during major storm events that can reduce flood impact to properties both upstream and downstream of the dam that Mother Nature could otherwise deliver, making flooding even worse.

So, with that background, I just wanted to, for the public to understand why we're doing what we're doing with our application and we're using we have another tool in our toolbox that could be helpful but may never be used and I think that's an important point.

Attachment C



STATE OF TEXAS
HOUSE OF REPRESENTATIVES

WILL METCALF

District 16

October 14, 2025

Kelly Keel
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: San Jacinto River Authority Permit Request – Lake Conroe Diversion Rate

Dear Director Keel,

I am writing to express serious concern regarding the San Jacinto River Authority's (SJRA) most recent request to amend its existing water diversion permit for Lake Conroe, as well as to inquire about the status of the Lake Conroe Association's (LCA) complaint filed with your agency on June 30, 2025.

As you know, I have been directly involved in this issue for many years and have consistently opposed the continued "temporary" seasonal lowering of Lake Conroe. What was originally presented as a short-term measure nearly a decade ago to provide peace of mind to downstream residents has evolved into an abused and indefinite practice that wastes billions of gallons of valuable water while offering no measurable flood-mitigation benefit.

At the April 8, 2025 meeting attended by my office, the LCA provided evidence that approximately 2.2 billion gallons of water were released from Lake Conroe in June 2024 under the label of "Active Storm Management." This program—unproven in its effectiveness for flood control and never authorized under the SJRA's existing water permit—appears to be in direct violation of the conditions set forth by the TCEQ. Even more troubling, the City of Houston subsequently reported the diverted water as "beneficially used," which seems highly implausible given both the flow rates into Lake Houston at that time and the city's inability to segregate source flows within its facilities.

Now, reports indicate that the SJRA and City of Houston have submitted a request to the TCEQ to increase Lake Conroe's authorized diversion rate from 700 cubic feet per second (cfs) to 2,000 cfs.



STATE OF TEXAS
HOUSE OF REPRESENTATIVES

WILL METCALF

District 16

Based on the data shared with my office and the LCA, there appears to be no operational necessity for such a dramatic increase to meet municipal water demand. Rather, this proposal raises serious concerns about potential water loss, the precedent it sets for future misuse, and the apparent lack of transparency surrounding the review process.

Given the highly charged public history of the Lake Conroe lowering program and the promises made to my constituents that these practices would be temporary, I strongly urge the TCEQ to ensure any consideration of new diversion requests or permit amendments occurs through a fully public process with adequate notice and opportunity for stakeholder participation. The residents of Montgomery County deserve nothing less than full transparency in decisions that impact their homes, property values, and long-term water supply.

I respectfully request an update on the status of the June 30, 2025 complaint and any pending actions related to the SJRA's permit modification request. Thank you for your attention to this matter and for your continued service to the people of Texas.

Sincerely,

A handwritten signature in black ink that reads "Will Metcalf". The signature is written in a cursive style and is followed by a horizontal line that extends to the right.

Will Metcalf

State Representative, House District 16

Attachment D



June 29, 2020

Erich Birch
Birch, Becker & Moorman, LLP
4705 Spicewood Springs Rd., Suite 200
Austin, Texas 78759-7814

Dear Mr. Birch:

Re: Release of Water from Lake Conroe by the San Jacinto River Authority and City of Houston

RSAH2O, LLC (RSAH2O) was requested to provide consulting assistance with respect to a practice by the San Jacinto River Authority (SJRA) and the City of Houston (CoH) of lowering Lake Conroe for flood control purposes. We have been asked whether this practice is authorized under the water rights permit issued by the Texas Commission on Environmental Quality ("TCEQ") or whether there might be other authority that would allow this practice. We have also been asked for our views on whether lowering of Lake Conroe could provide flood control benefits based on our experience with rivers, reservoirs and flood control structures. Finally, we were asked to identify whether there would be impacts to water supply and whether this practice is consistent with the state of Texas' water policy. RSAH2O has reviewed available documentation, including documents that you provided in response to public information requests, and offers the following opinions.

Certificate of Adjudication No. 10-4963, as amended, authorizes the SJRA and CoH to maintain an existing dam and reservoir (Lake Conroe) on the West Fork San Jacinto River and impound therein not to exceed 430,260 acre-feet of water. Owners are authorized to divert or release and use not to exceed 100,000 acre-feet per year for municipal, industrial, mining, and agricultural purposes. Owners are required to implement water conservation plans as specified by the water right and state requirements.

Owners of this certificate are subject to the Rules of the Texas Commission on Environmental Quality and its continuing right of supervision of the State water resources consistent with the Texas Water Code.

The SJRA and CoH, since Hurricane Harvey, have implemented a strategy to lower Lake Conroe by one foot below its normal pool level for the period April 1 through May 31, and again from August 1 through August 31 to lower the lake below its normal pool level by one foot, and then lower it an additional six inches from September 1 through September 30 – irrespective of whether an imminent threat of property damaging flooding or storm events exist at those times. The normal conservation level of Lake Conroe is 201msl, with a flood easement up to 207 msl. Thus, to achieve a reduction for flood control in storage below 201 msl, water must be released from the conservation pool of Lake Conroe.

Any release of water from the conservation pool must be in accordance with the authorized water right. Release of water from the conservation pool strictly for flood control purposes, with no documented beneficial use downstream constitutes an unauthorized use of water as per the terms and conditions of the water right. Additionally, it is contrary to the water supply conservation requirements of the water right. Studies provided to and reviewed by RSAH2O have shown that such a release has a detrimental impact on the firm-yield water supply of the reservoir and subsequently the reservoirs water supply contracts and obligations. The TCEQ used the reservoir's full firm yield when evaluating whether to grant the water right. Furthermore, the State's water planning process uses the existing firm-yield water supply to determine the region's further water supplies, availability, reliability and needs.

Perhaps there was a need to take proactive measures to mitigate flooding during a significant or imminent storm event. Although studies reviewed demonstrate that during Hurricane Harvey type events, the benefits of such lake level lowering are minimal at best. When there is no such threat, any release of water not subsequently used per the terms of the water right is an inappropriate and unauthorized use of the permitted water supply of Lake Conroe.

The lake lowering strategy was initially supported by a letter dated June 15, 2018 from the TCEQ. This letter specifically notes lake lowering to facilitate downstream dredging operations. The letter states that *"if flood mitigation releases made under these conditions result in an exceedance of the annual permitted amounts authorized for diversion or release by SJRA or the COH, the TCEQ Executive Director will exercise enforcement discretion with respect to such exceedance."* We interpret this enforcement discretion letter as being limited in time *"while the San Jacinto River will be dredged..."*, and not an authorization to use water outside of the four corners stipulations and conditions included in the permit, or to cause a waste of water.

RSAH2O has reviewed the Water Use Reports, including associated documents, relative to the water releases from Lake Conroe. The documents indicate there was a pre-release in 2018 of 18,265 acre-feet from Lake Conroe. All of this water was accounted for as municipal use. For 2019, there was a pre-release from Lake Conroe of 66,167 acre-feet. All of this water was accounted for as municipal use as well. The documents describe the releases as pre-storm releases. A pre-storm release of water is not a municipal use of water.

The Texas Administrative Code 30 TAC 297.1 provides the following:

(34) Municipal use--

(A) The use of potable water within a community or municipality and its environs for domestic, recreational, commercial, or industrial purposes or for the watering of golf courses, parks and parkways, other public or recreational spaces; or

(B) the use of reclaimed water in lieu of potable water for the preceding purposes; or

(C) the use of return flows authorized pursuant to Texas Water Code, §11.042, in lieu of potable water for the preceding purposes. Return flows used for human consumption as defined in §290.38(34) of this title (relating to Definitions) must be of a quality suitable for the authorized beneficial use as may be required by applicable commission rules; or

(D) the application of municipal sewage effluent on land, under a Texas Water Code, Chapter 26, permit where:

(i) the application site is land owned or leased by the Chapter 26 permit holder; or

(ii) the application site is within an area for which the commission has adopted a no-discharge rule.

The review of documents reveals that water from Lake Conroe was released as a pre-storm event and wrongfully classified as used for municipal purposes. There is no documentation to indicate that the water was subsequently used for a permitted beneficial use. The only intended use was the desire to lower the lake level at Lake Conroe for flood control purposes. Such use of this water is not authorized by the water right and constitutes a waste of a valuable resource.

The TCEQ, to determine compliance with the water right, must ensure that water released from Lake Conroe is for a documented need of one of the specific authorized uses; is made by the rightful owners of the water under the water right; and that the actual downstream diversion and use must corresponded with the amount of water released minus accepted conveyance losses. The TCEQ must identify the volume of water released from Lake Conroe that went unused or used outside the terms of the water right (flood control designations).

Additionally, the continuation of the recent and arbitrary process of lowering Lake Conroe seasonally is something that could subject the lake and potentially the bays to potential environmental impacts. This change in operation has not been subject to a TCEQ environmental review approval process as would be required by any permit amendment.

In summary, the seasonal fluctuations of the conservation pool at Lake Conroe by the SJRA and CoH does not appear to be authorized under the water rights permit. Further, any use of water outside the current permit would require an amendment authorization to the Lake Conroe water right. Instead, the current practice will impact the region's future water supply, appears to constitute a waste of water, and is a violation of the water right when no authorized use is made

Mr. Erich Birch
June 29, 2020
Page 4 of 4

of the releases. Additionally, any environmental impacts remain unaccounted for as no analysis with public review has been completed by the TCEQ.

RSAH2O stands ready to answer any questions you may have.

Sincerely,



Carlos Rubinstein
Principal, RSAH2O



Herman R. Settemeyer, P. E.
Partner, RSAH2O

Attachment E



San Jacinto River Authority Latest News for April 2024

SJRA Takes Home Multiple Awards at Texas Water Conference 2024



SJRA's Utility Enterprise Manager, Chris Meeks, receives the Sidney L. Allison award for making significant contributions to the operation and maintenance of wastewater collection and pumping stations.



SJRA Project Manager, Nabeel Khan, wins the Texas Section - AWWA Young Professionals Maverick Award and the AWWA Five Under 35 Award.



SJRA's Public Communications Department wins a Texas Watermark Award for excellence in Public Communications efforts in creating an educational one-pager.

SJRA's GRP Division places in the top three for the best tasting drinking water in Texas.

Active Storm Management Protocols

On April 25th, SJRA Board of Directors approved the 2024 Active Storm Management Protocols for Lake Conroe and Lake Houston. The updated protocols formalize SJRA and the City of Houston's shift from Seasonal Lake Lowering to Active Storm Management. Each weather event has its own set of circumstances and its own footprint. Active Storm Management allows for the flexibility needed to assess each event's potential impact to Lake Conroe. Lake Conroe is managed to a pool level of 201 mean sea level (msl).

A summary of the updated protocols can be found below:

Protocol – Lake Conroe

Spring

- Beginning April 1 through June 1, the City of Houston may request diversions to lower Lake Conroe from normal pool of 201' msl to create up to six inches of storage capacity for forecasted storm event inflows (to 200.5' msl). The decision of when, how, and whether to initiate diversions will be guided by climate conditions, weather patterns, and available water supply.
- Resume normal recapturing after each storm event that triggered any diversion between April 1 and June 1.
- In the event a major rainfall is forecasted to impact our region, active storm management protocols of the City of Houston could initiate a diversion to create up to an additional six inches of storage capacity for storm inflows (to 200.0' msl). It is acknowledged that under extraordinary weather circumstances, additional diversions to create capacity below 200.0' msl could occur.

Fall

- Beginning August 1 through October 1, the City of Houston may request diversions to lower Lake Conroe if actual lake levels are at normal pool of 201 msl to create up to six inches of storage capacity for storm inflows (to 200.5' msl). After Labor Day, storage capacity may be increased an additional six inches (to 200.0' msl). Diversion volumes requested to reach intended levels will be dependent on the actual lake levels. The decision of when, how, and whether to initiate diversions will be guided by climate conditions, weather patterns, and available water supply.
- Resume normal recapturing after each storm event that triggered any diversion between August 1 and October 1.
- If a named storm is predicted to impact our region, active storm management protocols of the City of Houston could initiate a diversion to create up to an additional six inches of storage capacity for storm inflows (to 199.5' msl). It is acknowledged that under extraordinary weather circumstances, additional diversions to create capacity below 199.5' msl could occur.

Flood Management Project Updates

Lake Conroe - Lake Houston Joint Reservoir Operations Study

The City of Houston is currently performing a project to add additional spillway gates to increase the controlled release capacity of the Lake Houston dam. This study is planned to develop a joint reservoir operations and communications strategy for both Lake Conroe and Lake Houston, with the goal of determining the most efficient and safe operation of the two reservoirs in series. The study is planned to include evaluation of synced operations protocols, joint notification protocols and public communication strategies, and pre-releases and related impacts on water supply, as well as development of a forecasting tool for Lake Houston. The cost of the study is estimated at \$1,000,000. City of Houston and City of Humble (the Partners) have each agreed to fund a portion of the fifty percent local match (\$500,000) required by the Texas Water Development Board (TWDB) grant SJRA has received for the study. SJRA will perform in-kind services in an effort to reduce the local match amount to be funded by the Partners. The remaining fifty percent (\$500,000) of the study cost will be funded by grant funds.



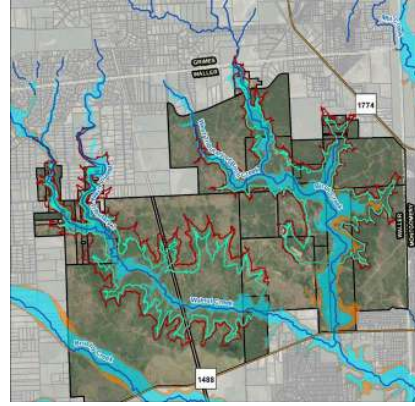
Sediment Removal and Sand Trap Study

House Bill 1824, approved by the 86th Texas Legislature, allows SJRA and Harris County Flood Control District (HCFCD) to remove material from the San Jacinto River and its tributaries to restore, maintain, or expand storm flow capacity without the need for state permitting or a royalty payment to the state. SJRA is working with HCFCD and City of Houston to plan, design, and construct one or more “sand traps” along the West Fork of the San Jacinto River to reduce future sedimentation accumulation with the goal of reducing the risk of flooding. A major component of the project is coordinating with Aggregate Production Operations (APOs) along the river in an attempt to establish a public/private partnership which would provide for operation and maintenance of the proposed sand trap(s). A conceptual design effort to select the most feasible site(s) for installation of sand trap(s) has been completed, and preliminary design is anticipated to begin in the near future.

Spring Creek Flood Control Dams Feasibility Study

This ongoing study is a continuation of the Spring Creek Siting Study, a sub-task of the San Jacinto Regional Watershed Master Drainage Plan project (SJMDP) led by Harris County Flood Control District (HCFCD) with SJRA as one of multiple partners. The Spring Creek Siting Study explored multiple

alternative projects and detention siting locations to provide flood mitigation benefits to the Spring Creek watershed. Two of the more cost-effective alternatives identified in the Spring Creek watershed – dams on Walnut Creek and Birch Creek – were recommended for implementation in the SJMDP. This study includes a conceptual-level design for each of the dams, as well as definition of benefits and costs for each dam and a combination of the two. The outcome of this study will allow project sponsors to determine the most feasible and economical alternative(s) for design and construction. The cost of the study is estimated at \$1,000,000. City of Humble, HCFCD, and five (5) Municipal Utility Districts (the Partners) have each agreed to fund a portion of the fifty percent local match (\$500,000) required by the Texas Water Development Board (TWDB) grant SJRA has received for the study. SJRA is performing in-kind services in an effort to reduce the local match amount to be funded by the Partners. The remaining fifty percent (\$500,000) of the study cost is being funded by grant funds.



Upper San Jacinto River Basin Regional Sedimentation Study

This ongoing study will provide an evaluation of sedimentation in the Upper San Jacinto River Basin, including identification of which sub-watersheds in the basin produce and store the most sediment, prioritization of individual watersheds/locations for improvements, and development of conceptual sedimentation solutions. Conceptual solutions could include future infrastructure projects or non-construction best management practices, with the ultimate goal of mitigating the loss of floodway conveyance in the basin. The cost of the study is estimated at \$750,000. City of Houston, City of Humble, and Harris County Flood Control District (the Partners) have each agreed to fund a portion of the fifty percent local match (\$375,000) required by the Texas Water Development Board grant SJRA has received for the study. SJRA is performing in-kind services in an effort to reduce the local match amount to be funded by the Partners. The remaining fifty percent (\$375,000) of the study cost is being funded by grant funds.

[#BestWaterInTexas](#)



Industrial customers in East Harris County depend on the SJRA to maintain 27 miles of canal that help push water to places that provide our region with energy, jobs and a vibrant economy! The Best Water in Texas helps keep the Texas energy industry strong!



June is the beginning of hurricane season, so now is the time to know how to be weather aware in case of a storm event. It is very important to pay attention to the forecast, become familiar with your location in the watershed, and know where to get quick but accurate information.

Be on the lookout for our SJRA Weather Aware Resource Guide article in [Dock Line Magazine](#).

SJRA is Recruiting!



Check out open positions [here](#).

SJRA.net QR Code

Scan the QR code to get information on Lake Conroe, all five operational divisions, and how We work for *your* Water!



SJRA Board of Directors Meeting
 1577 Dam Site Road
 Conroe, Texas



SJRA GRP Review Committee Meeting
 1577 Dam Site Road
 Conroe, Texas



Live Streaming Coverage of SJRA Meetings

If you are unable to attend the monthly SJRA Board of Director and GRP Review Committee Meetings, you can still stay up to date by watching the live streaming coverage on the SJRA website.

Click [HERE](#) to visit www.sjra.net to watch SJRA meetings live.

Scroll down to the embedded video box and click the appropriate tab and link.

To request a tour of any operational facility, visit [SJRA's Tour Request Form](#) page on sjra.net.



Tell Us How We're Doing!

SJRA values your opinions and thoughts.

We would love to hear from you on how we are doing. Please submit questions, concerns, or other feedback here.

[Contact Us](#)

The San Jacinto River Authority (SJRA) receives no money from the state, nor does it collect any type of taxes.

SJRA's mission is to develop, conserve, and protect the water resources of the San Jacinto River basin. Covering all or part of seven counties, the organization's jurisdiction includes the entire San Jacinto River watershed, excluding Harris County. The SJRA is one of two dozen river authorities in the State of Texas, and like other river authorities, its primary purpose is to implement long-term, regional projects related to water supply and wastewater treatment.

If you would like to know more about SJRA, what we do, and how we work for the community, check out our website www.sjra.net and follow us on social media [@SanJacintoRiverAuthority](#), [@SJRA_1937](#), [@sanjacintoriverauthoritysjra](#), [@San Jacinto River Authority](#).



San Jacinto River Authority | PO Box 329 | Conroe, TX 77305 US

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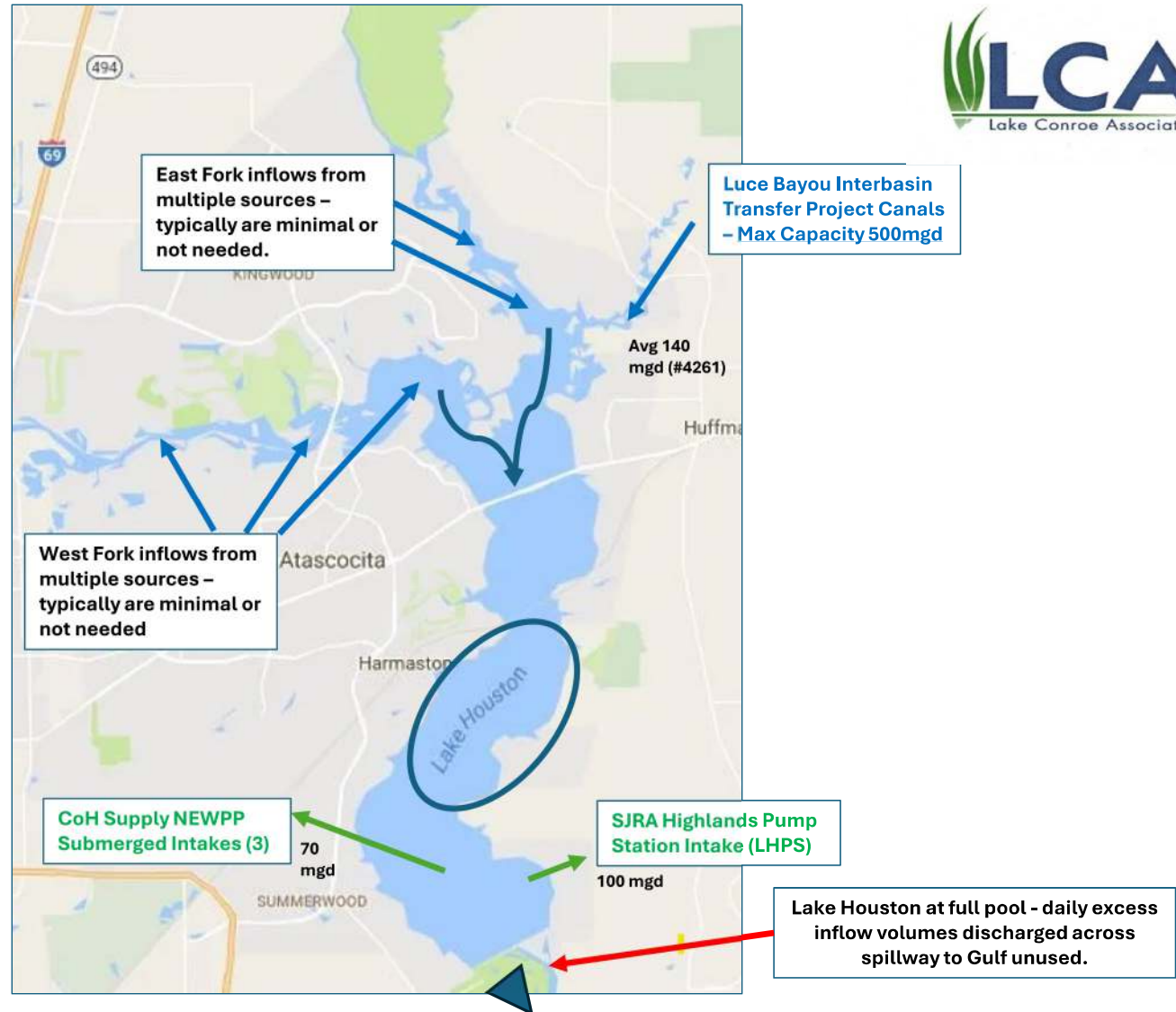
Attachment F

**Lake Houston
daily normal inflows and
typical volumes used as
permitted.**

Lake Conroe water supply diverted to Lake Houston was intended as a supplemental supply and built pre-Luce Bayou.

City of Houston has only called upon Lake Conroe once in 50 years for water supply due the 2011 drought.

All other inflows to Lake Houston are uncontrolled and usually account for 65-95% of the storm inflows depending on watershed rainfall.



City of Houston Diversion call on Lake Conroe water permit showing TCEQ permitted rates.

Permitted CoH Call for diversion from Lake Conroe 700 cfs for *beneficial use* - max permitted diversion rate = 420mgd

Lake Conroe – Water Use Permit

The San Jacinto River Authority and City of Houston are joint permittees under Certificate 10-4963 for impounding up to 430,260 acre-feet of state waters, and annual use of up to 100,000 acre-ft for municipal, industrial, and mining purposes, with a maximum diversion rate of 700 cfs, and use of all impounded water for recreational purposes.

Flood risk reduction is not an authorized use per the TCEQ permit.

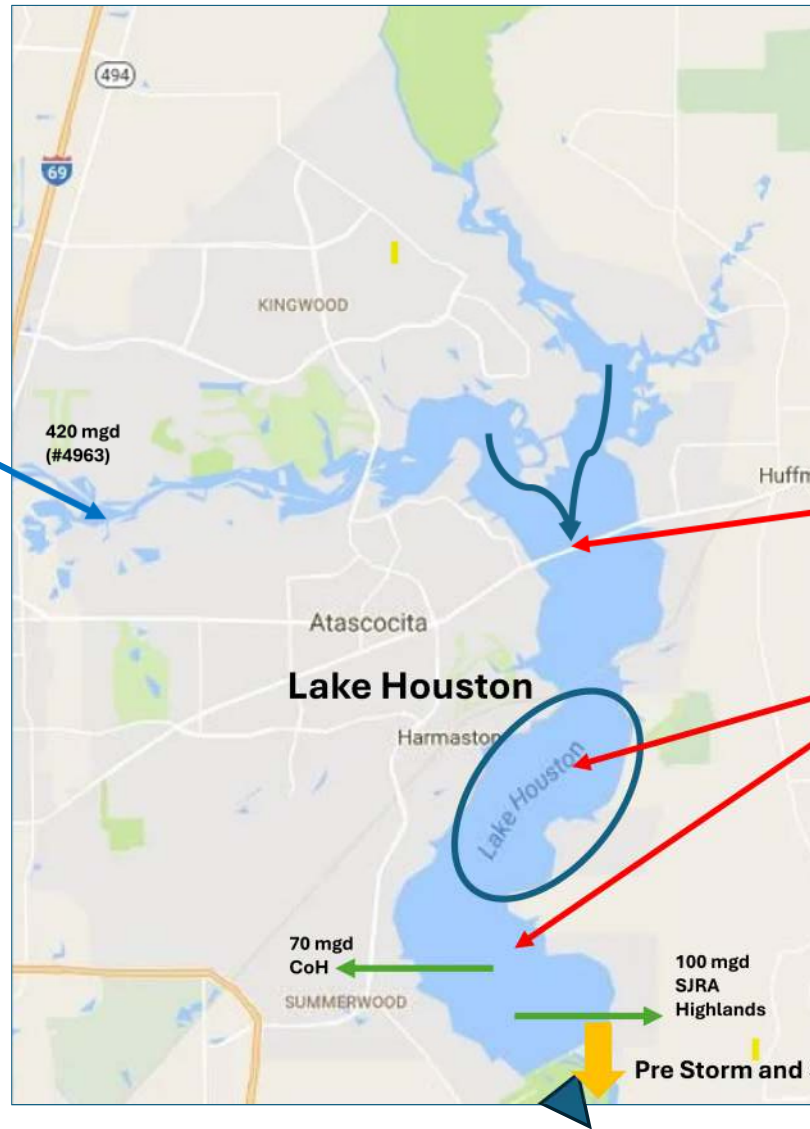


TCEQ Permit #4963 does not allow for a CoH rain event-based call for LC water diversions

No means to segregate or divert the specific Lake Conroe volumes from other incoming volumes which are often 2X to 12X times greater.

Lake Conroe max permitted diversion rate of 420 mgd *significantly exceeds (by 2.5X)* CoH and SJRA daily needed beneficial use volumes.

All excess water exits and is wasted via Lake Houston Spillway / Dam to Gulf.



Pre Storm and Storm Release Mode 950-5400 mgd unused

Attachment G

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REPORT OF SURFACE WATER USED FOR THE YEAR ENDING 2019

for
Certificate of Adjudication

WATER RIGHT NO:4963
B 10

WUR USE: AGRICULTURE
AUTH USE: AGRICULTURE - IRRIGATION

I am reporting water used for the water right holder(s) listed below.
CN600128995 City of Houston
Additional water right holders may be listed on the back.
 Please check the box if you have a change in name, address or ownership and indicate the changes on the back of this form.

CITY OF HOUSTON
ATTN WATER RESOURCES GRP - DEPT OF PUBLIC WORKS
611 WALKER ST FL 18
HOUSTON, TX 77002-4903

Instructions for completing the form are enclosed. 1 Acre-Foot = 325,851 Gallons

If you are receiving this Water Use Report form, you must complete, sign, and return this form to TCEQ. Even if your water use is zero, indicate that on this form, provide a reason or explanation in the comment field, and submit the form to TCEQ. Please coordinate your water use reporting with all holders of this Water Right in order to avoid duplicative reporting.

Complete the table below by entering the amount of water that you diverted (even if zero). **EXCLUDE GROUNDWATER and WATER THAT YOU PURCHASED UNDER A CONTRACT.**

USE	AGRICULTURE	
	Irrigation	Wildlife, Aquaculture, Stockraising and/or Other Agriculture
Month	Diverted Amount (acre-feet)	Diverted Amount (acre-feet)
Jan	-0-	-0-
Feb		
Mar		
Apr		
May		
Jun		
Jul		
Aug		
Sept		
Oct		
Nov		
Dec		
Total:	-0-	-0-
	Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM) -0-	Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM) -0-

Please answer the following questions.

If you have a permitted on-channel impoundment or reservoir, what is the condition of your dam?
Good
(eg, Good, Fair, Poor)

Do you have working low flow outlet(s) on your impoundment(s)? Yes No

Comments: _____

A water right holder who fails to file a completed form by the due date is liable for a penalty for each day past the due date in an amount not to exceed: (1) \$100 per day for a water right authorization of 5,000 acre-feet or less per year; or (2) \$500 per day for a water right authorizing more than 5,000 acre-feet per year.

Signature: Veronica R. Osegueda Date: 2/28/2020
Contact Name: Veronica R. Osegueda (832) 395-3080
Print Name Telephone Number

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REPORT OF SURFACE WATER USED FOR THE YEAR ENDING 2019

for
Certificate of Adjudication

WATER RIGHT NO:4963
B 10

WUR USE: MUNICIPAL/DOMESTIC
AUTH USE: MUNICIPAL/DOMESTIC

I am reporting water used for the water right holder(s) listed below.
CN600128995 City of Houston
Additional water right holders may be listed on the back.
 Please check the box if you have a change in name, address or ownership and indicate the changes on the back of this form.

CITY OF HOUSTON
ATTN WATER RESOURCES GRP - DEPT OF PUBLIC WORKS
611 WALKER ST FL 18
HOUSTON, TX 77002-4903

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Complete the table below by entering the amount of water that you diverted (even if zero). **EXCLUDE GROUNDWATER and WATER THAT YOU PURCHASED UNDER A CONTRACT.**

USE: MUNICIPAL/DOMESTIC	
Month	Diverted Amount (acre-feet)
Jan	e
Feb	e
Mar	e
Apr	23,825
May	25,244
Jun	e
Jul	e
Aug	17,098
Sept	e
Oct	e
Nov	e
Dec	e
Total:	69,167
Maximum Diversion Rate (Specify <input checked="" type="checkbox"/> CFS or <input type="checkbox"/> GPM)	
1593	

Please answer the following questions.

If you have a permitted on-channel impoundment or reservoir, what is the condition of your dam?
Good
(e.g., Good, Fair, Poor)

Do you have working low flow outlet(s) on your impoundment(s)? Yes No

Comments: _____

A water right holder who fails to file a completed form by the due date is liable for a penalty for each day past the due date in an amount not to exceed: (1) \$100 per day for a water right authorization of 5,000 acre-feet or less per year; or (2) \$500 per day for a water right authorizing more than 5,000 acre-feet per year.

Signature: Veronica R. Dequedea Date: 2/28/2020
 Contact Name: Veronica R. Dequedea (832) 395-3080
Print Name Telephone Number

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REPORT OF SURFACE WATER USED FOR THE YEAR ENDING 2019

for
Certificate of Adjudication

WATER RIGHT NO:4963
B 10

WUR USE: OTHER
AUTH USE: RECREATION

I am reporting water used for the water right holder(s) listed below.
CN600128995 City of Houston
Additional water right holders may be listed on the back.
 Please check the box if you have a change in name, address or ownership and indicate the changes on the back of this form.

CITY OF HOUSTON
ATTN WATER RESOURCES GRP - DEPT OF PUBLIC WORKS
611 WALKER ST FL 18
HOUSTON, TX 77002-4903

Instructions for completing the form are enclosed. 1 Acre-Foot = 325,851 Gallons

If you are receiving this Water Use Report form, you must complete, sign, and return this form to TCEQ. Even if your water use is zero, indicate that on this form, provide a reason or explanation in the comment field, and submit this form to TCEQ. Please coordinate your water use reporting with all owners of this Water Right in order to avoid duplicative reporting.

Please answer the following questions. When answering all questions below and completing the table on the right, **EXCLUDE GROUNDWATER and WATER THAT YOU PURCHASED UNDER A CONTRACT.**

1. If you have a permitted on-channel impoundment or reservoir, what is the condition of your dam? Good
(eg, Good, Fair, Poor)
- Do you have working low flow outlet(s) on your impoundment(s)? Yes No
2. Did you divert any permitted water from a watercourse (i.e., a stream and/or on-channel reservoir)? Yes No (If No, skip to question 3 below) If Yes, Complete the Diverted Column in the table on the right by entering the total amount of water diverted (even if zero).
Check all uses for which water was diverted:
 Recreation Instream Wetlands Public Parks Game Preserves
 Hydroelectric Flood Control Navigation Water Quality Other
3. Did you allow permitted water to remain in the watercourse under the terms of your permit?
 Yes No
If Yes, Complete the Used Column in the table on the right by entering the total amount of water used (even if zero).
Check all uses for which water was used:
 Recreation Instream Wetlands Public Parks Game Preserves
 Hydroelectric Flood Control Navigation Water Quality Other

Complete the Diverted column below if you answered 'Yes' to question 2.
Complete the Used column below if you answered 'Yes' to question 3.

Month	Diverted (acre-feet)	Used (acre-feet)
Jan	-0-	-0-
Feb		
Mar		
Apr		
May		
Jun		
Jul		
Aug		
Sept		
Oct		
Nov		
Dec		
Total:	-0-	-0-
Maximum Diversion Rate <small>(Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM)</small>		
	-0-	

Comments: _____

A water right holder who fails to file a completed form by the due date is liable for a penalty for each day past the due date in an amount not to exceed: (1) \$100 per day for a water right authorization of 5,000 acre-feet or less per year; or (2) \$500 per day for a water right authorizing more than 5,000 acre-feet per year.

Signature: Veronica R. Osaguena Date: 2/28/2020
Contact Name: Veronica R. Osaguena (832) 395-3080
Print Name Telephone Number

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REPORT OF SURFACE WATER USED FOR THE YEAR ENDING 2019

for
Certificate of Adjudication

WATER RIGHT NO: 4963
B 10

WUR USE: INDUSTRIAL
AUTH USE: INDUSTRIAL, INDUSTRIAL - POWER
GENERATION

I am reporting water used for the water right holder(s) listed below.
CN600128995 City of Houston
Additional water right holders may be listed on the back.
 Please check the box if you have a change in name, address or ownership and indicate the changes on the back of this form.

CITY OF HOUSTON
ATTN WATER RESOURCES GRP - DEPT OF PUBLIC WORKS
611 WALKER ST FL 18
HOUSTON, TX 77002-4903

Instructions for completing the form are enclosed. 1 Acre-Foot = 325,851 Gallons

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Complete the table below by entering the amount of water that you diverted and consumed (even if zero). **EXCLUDE GROUNDWATER and WATER THAT YOU PURCHASED UNDER A CONTRACT.**

USE: INDUSTRIAL		
Month	Diverted Amount (acre-feet)	Consumed Amount (acre-feet)
Jan	- 0 -	- 0 -
Feb		
Mar		
Apr		
May		
Jun		
Jul		
Aug		
Sept		
Oct		
Nov		
Dec		
Total:	- 0 -	- 0 -
	Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM)	
	- 0 -	

Please answer the following questions.

If you have a permitted on-channel Impoundment or reservoir, what is the condition of your dam?
Good
(e.g., Good, Fair, Poor)

Do you have working low flow outlet(s) on your Impoundment(s)? Yes No

Comments: _____

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Signature: Veronica R. Osegueda Date: 2/28/2020
 Contact Name: Veronica R. Osegueda (832) 395-3080
Print Name Telephone Number

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REPORT OF SURFACE WATER USED FOR THE YEAR ENDING 2019

for
Certificate of Adjudication

WATER RIGHT NO: 4963
B 10

WUR USE: MINING
AUTH USE: MINING

I am reporting water used for the water right holder(s) listed below.
CN600128995 City of Houston
Additional water right holders may be listed on the back.
 Please check the box if you have a change in name, address or ownership and indicate the changes on the back of this form.

CITY OF HOUSTON
ATTN WATER RESOURCES GRP - DEPT OF PUBLIC WORKS
611 WALKER ST FL 18
HOUSTON, TX 77002-4903

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Complete the table below by entering the amount of water that you diverted and consumed (even if zero). **EXCLUDE GROUNDWATER and WATER THAT YOU PURCHASED UNDER A CONTRACT.**

USE: MINING				
Month	Diverted Amount (acre-feet)	Consumed Amount (acre-feet)		
Jan	-0-	-0-		
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sept				
Oct				
Nov				
Dec				
Total:	-0-	-0-		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;"> Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM) </td> <td style="width: 70%; text-align: center; padding: 5px;"> -0- </td> </tr> </table>			Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM)	-0-
Maximum Diversion Rate (Specify <input type="checkbox"/> CFS or <input type="checkbox"/> GPM)	-0-			

Please answer the following questions.

If you have a permitted on-channel impoundment or reservoir, what is the condition of your dam?
Good
(eg., Good, Fair, Poor)

Do you have working low flow outlet(s) on your impoundment(s)? Yes No

Comments: _____

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Signature: Veronica R. Osegueda Date: 2/28/2020
 Contact Name: Veronica R. Osegueda (832) 395-3080
Print Name Telephone Number