

last test or the date of the last adjustment to correct registration, whichever is later, not to exceed forty-five (45) days.

4. If, for any reason, the measuring equipment is out of service or out of repair and the amount of water diverted cannot be ascertained or computed by the reading thereof, water diverted during the period shall be estimated and agreed upon by the parties hereto on the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check measuring equipment of the Authority.

#### ARTICLE VII

##### TITLE TO AND RESPONSIBILITY FOR WATER

1. Title to, possession and control of water shall remain in the Authority to the point of delivery, as that term is defined herein, where title to, possession and control shall pass to City.

2. As between the parties hereto, the Authority shall be in exclusive control and possession of the water deliverable hereunder and solely responsible for any damage or injury caused thereby until the same shall have been delivered to City at the point of delivery, at which point City shall be in exclusive control and possession thereof and solely responsible for any injury or damage caused thereby. Each party respectively shall save and hold the other party harmless from any and all claims, demands and causes of action which may arise while said water is under its respective control and ownership.

#### ARTICLE VIII

##### POINT OF DELIVERY

The point of delivery for water delivered and taken under this Agreement shall be agreed upon by and between the parties and shall be located at or near the intersection of the Sabine River with the Swinging Bridge Road in Gregg County, Texas, Sabine River Mile No. 357.3, according to the United States Geological Survey Map.

## ARTICLE IX

TERM

1. This Agreement shall be in force and effect from and after the date of execution hereof and shall expire on January 1, 2006.

2. It is expressly understood and agreed that the provisions of this Agreement are subject to the continuing jurisdiction of the Texas Water Rights Commission as the same relates to the establishment of rates and compensations for the use of the services and resources of the Authority.

3. Upon the expiration of the term of this Agreement, the Authority grants to the City the right to continue the purchase of water on such terms and at such rates as shall be agreed upon between the parties based upon the rates then prevailing for the sale by the Authority of similar quantities of water from the Lake Fork Project and any other dam and reservoir projects owned and operated by the Authority in the vicinity of the Lake Fork Dam and Reservoir Project at such time.

## ARTICLE X

SPECIFICATIONS AND USE

The Authority makes no warranty, express or implied, as to the suitability or quality of water to be diverted under the terms hereof and assumes no responsibility in respect thereto other than those set forth in Article XI 3 hereof. It is understood and agreed that the Authority reserves the right to furnish water to City under the terms of this Agreement from reservoirs in the Sabine River Basin other than Iron Bridge Dam and Reservoir and Lake Fork Dam and Reservoir. City assumes full responsibility with respect to the treatment of the water prior to its distribution for human consumption.

ARTICLE XI

PERFORMANCE BY AUTHORITY

1. The Authority covenants and agrees that it will not contract for the sale of water to other users to such an extent or for such quantities as to impair the Authority's ability to perform fully and punctually its obligations to City under this Agreement.

2. This Agreement contemplates the furnishing of all water provided for under the terms hereof from the Iron Bridge Dam and Reservoir Project and the Lake Fork Dam and Reservoir Project. The Authority does however reserve the right to meet its obligations under the terms and provisions hereof from any source of comparable quality and dependability.

3. The Authority agrees to take such steps as shall be required to correct any condition which affects the normal quality of the water to the extent that it is authorized to do so under the laws of the State of Texas.

ARTICLE XII

FORCE MAJEURE

In the event of either party being rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, other than the obligations to make payments of amounts accrued and due hereunder at the time thereof, it is agreed that on such party giving notice and full particulars of such force majeure in writing or by telegraph to the other party within a reasonable time after the occurrence of the cause relied upon, then the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall so far as possible be remedied with all responsible dispatch. The term "force majeure" as employed herein shall mean interferences not reasonably within the control of the party

claiming force majeure, arising out of acts of God, governmental action, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests and restraint of government and people, civil disturbances, explosions, major breakage or accident to machinery, conduits, and/or pipelines, partial or entire failure of the supply of water, extreme and unforeseeable delays in transportation, and any other causes, whether of the kind enumerated or otherwise, not reasonably within the control of the party claiming suspension.

#### ARTICLE XIII

##### TECHNICAL COMMITTEE

The Authority and the City shall establish a Technical Committee composed of two representatives appointed by the Authority and two representatives appointed by the City. The Technical Committee shall:

1. Determine the amount, times and procedures for releases of water from the Iron Bridge Reservoir and the Lake Fork Reservoir;

2. Establish procedures relating to the record gauging station on Big Sandy Creek which is referred to in Article XVII hereof.

3. Review the operations and maintenance expenses submitted by the Authority to the City for the purpose of making rate adjustment and make such recommendations to the City and to the Authority in regard to such rate adjustments as it shall deem appropriate.

4. Make such determinations regarding technical matters and procedures relating to this Agreement which may be from time to time required.

#### ARTICLE XIV

##### ARBITRATION

1. Any dispute arising out of the provisions of this Agreement shall be promptly submitted to an arbitrator mutually agreed by the Authority and the City. Such arbitrator shall

proceed to resolve the disputes presented to him pursuant to the terms of this Article if the parties hereto can agree on a single arbitrator.

2. If the parties hereto cannot agree on a single arbitrator as provided in Section 1 of this Article XIV, such dispute shall be submitted to arbitration in Longview, Texas, by a board of three arbitrators upon the written request of the Authority or the City, which request shall name one arbitrator. The party receiving such notice shall within ten (10) days thereafter, by notice to the other, name the second arbitrator, or, failing to do so, the second arbitrator shall be appointed by the Chief Judge of the United States District Court for the Eastern District of Texas on request of the party requesting arbitration in the first instance. The two arbitrators so appointed shall name the third, failing to do so within ten (10) days after appointment of the second arbitrator, the third arbitrator may be appointed by said Chief Judge upon request of either party.

3. The arbitrators so appointed shall promptly hear and determine the question submitted pursuant to the procedures established by the Texas General Arbitration Act and shall render their decision with all reasonable speed and dispatch but in no event later than thirty (30) days after the conclusion of evidence. If within said period a decision is not rendered by the board or a majority thereof, new arbitrators may be named and shall act hereunder at the election of either the Authority or the City in like manner as if none had been previously named.

4. The decision of the arbitrators or of the majority thereof shall be final and binding upon parties hereto as to the questions submitted and a judgment upon an award rendered in such arbitration proceedings may be entered in any court of competent jurisdiction. The expenses of arbitration, including

reasonable compensation to the arbitrators, shall be borne equally by both parties.

5. Pursuant to Article 224 of Vernon's Texas Civil Statutes, the signature of counsel for each party of this Agreement as subscribed hereto is evidence that this Agreement was concluded upon the advice of such counsel.

#### ARTICLE XV

##### AVAILABILITY OF ADDITIONAL WATER

1. In the event any party to whom the Authority is furnishing water from the Iron Bridge Dam and Reservoir Project releases to the Authority all or any portion of such water, the City shall have the option to purchase not more than seventy-five per cent (75%) of the water so released as may be available under the terms of Texas Water Rights Commission Permit No. 1792 at the rate of 5¢ per thousand gallons. In the event of such release, the Authority agrees to give notice to the City of such release within sixty (60) days thereof; City shall thereafter give notice to the Authority within one hundred fifty (150) days of such notice of City's intention to purchase such water. All matters relating to the quantity of water, rate of diversion, reservation charges and any other terms shall be agreed upon by the Authority and City within thirty (30) days from the date of notice by City to the Authority of its intention to purchase such water. In the event City shall fail to give notice of its intention to purchase such water within one hundred fifty (150) days from the date of the notice by the Authority to City of the availability of such water or in the event of the failure by the Authority and City to agree upon satisfactory terms of the agreement within thirty (30) days from the date of the notice by City to the Authority, City's option shall terminate and the Authority may thereafter sell or dispose of such water to any person, firm or governmental body, at such price and upon such terms as it may determine.

2. Any quantity of water purchased by City from the Authority in accordance with this Article XV shall be in addition to the minimum monthly quantity applicable for each calendar year.

#### ARTICLE XVI

##### CITY'S FUTURE REQUIREMENTS

The Authority agrees to use its best efforts from henceforth to make available such water as the City shall require for subsequent treatment for its future municipal, domestic and industrial purposes. The City agrees to purchase all water which it may from time to time require to meet its municipal, domestic and industrial purposes only from the Authority, provided the Authority is able to supply such water and further provided the Authority and the City are able to agree upon the price and terms of the purchase of such water. Nothing contained in this Article XVI shall affect in any manner the right of the City to take and divert water from the present Cherokee Lake.

#### ARTICLE XVII

##### EXISTING PERMITS

1. It is hereby understood that City presently holds Permit No. 100 issued by the Texas Water Rights Commission for the diversion of 1088 acre feet of water per year from the Sabine River. So long as the City shall validly hold Permit No. 100 as it now exists during the term of this Agreement, the City shall be entitled to credit for all water actually taken by the City from the Sabine River under Permit No. 100, over and above the minimum monthly quantity specified in Exhibit "A" for the applicable calendar year, and no charge shall be made by the Authority for such water taken by the City under Permit No. 100; provided, however, that such credit shall not exceed twenty-eight million gallons in any calendar month, reduced by any quantity of water taken by any party purchasing water from the City under the terms of Permit No. 100.

2. It is further understood that City presently holds Permits Nos. 1228A and 1228B issued by the Texas Water Rights Commission for the diversion of 5600 acre feet of water per year from Big Sandy Creek near its confluence with the Sabine River. Beginning January 1, 1982, and so long as the City shall validly hold Permits No. 1228A and 1228B as they now exist during the term of this Agreement, the City shall be entitled to credit for all water actually taken by the City from the Sabine River or from Big Sandy Creek under Permits No. 1228A and 1228B over and above the minimum monthly quantity specified in Exhibit "A" for the applicable calendar year and no charge shall be made by the Authority for such water taken by the City under Permits No. 1228A and 1228B; provided, however, that such credit shall not exceed ninety per cent (90%) of the measured flow of Big Sandy Creek up to a total of one hundred fifty million gallons per month reduced by any quantity of water taken by the City of White Oak, Texas, or any other party purchasing water from the City under the terms of Permits No. 1228A and 1228B.

3. In order to determine the credits to be allowed under the provisions of this Paragraph 2 of Article XVII, City shall cause to be established and maintained a Texas Water Development Board/United States Geological Survey continuous record gauging station on Big Sandy Creek near its confluence with the Sabine River and City shall pay all necessary cooperative agreement local costs for such gauging stations as determined by the Texas Water Development Board and the United States Geological Survey.

4. City shall prior to January 1, 1978, take such action as shall be required to obtain authority from the Texas Water Rights Commission to change the points of delivery of Permits No. 100, 1228A and 1228B to the same point of delivery as specified in Article VIII hereof. The Authority agrees to support actively City's application for the relocation of such



HIB/

points of delivery. The City shall not be entitled to credit for any waters taken or diverted under the terms of Permits No. 100, 1228A and 1228B except those legally diverted at the point of delivery.

5. The total credit to be allowed the City under the terms of Sections 1 and 2 of this Article XVII is one hundred seventy eight million gallons per month reduced by the quantity of water taken by any party purchasing water from the City under the terms of Permits No. 100, 1228A and 1228B. For the purposes of this Article XVII, a month is defined as 365 days divided by 12.

#### ARTICLE XVIII

##### ASSIGNMENT

This agreement shall be binding upon and inure to the benefit of the respective parties hereto and their legal successors, but the same shall not otherwise be assignable, in whole or in part, by either party without first obtaining the written consent of the other.

#### ARTICLE XIX

##### APPLICABLE LAWS

The Constitution and Laws of the State of Texas and the decisions of its courts shall govern with respect to any question or controversy which may arise hereunder. Notwithstanding any other provision herein, this contract shall be deemed to have been entered in contemplation of the Statutes governing and creating the Sabine River Authority of Texas, and as to any repugnancy between the provisions hereof and said Statutes, the latter shall control, the same as if set forth in length herein as special conditions hereof, and such repugnancy, if any, shall not void such provisions of this Agreement as may be lawfully authorized under the terms and provisions of said Statutes.

## ARTICLE XX

NOTICES

Any notice, request or other communication under this Agreement shall be given in writing and shall be deemed to have been given by any party to the other party upon either of the following dates:

1. The date of the mailing thereof, as shown by a Post Office receipt if mailed to the other party hereto by registered or certified mail at the latest address specified for such other party in writing; or
2. The date of the receipt thereof by such other party if not so mailed by registered or certified mail.

## ARTICLE XXI

FINANCING OF WATER TREATMENT FACILITIES

In the event City shall require the financing of any water treatment and related facilities, the Authority agrees to use its best effort to provide for the financing of such facilities through the sale of revenue bonds.

## ARTICLE XXII

RESALE OF WATER

City agrees not to resell any raw untreated water delivered under the terms of this Agreement except with the written consent of the Authority.

## ARTICLE XXIII

MISCELLANEOUS

1. All headings of the Articles and particular Sections of this agreement have been inserted for convenience of reference only and are not to be considered a part of this agreement and in no way shall they affect the interpretation of any of the provisions of this agreement.

2. City and the Authority agree to protect, indemnify and hold harmless the other party from any and all claims, damages and losses, including reasonable attorney's fees, arising at any time out of its negligent conduct.

3. In case any one or more of the articles, sections, provisions, clauses, or words of this Agreement, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other articles, sections, provisions, clauses, or words of this agreement, or the application thereof to any other situation or circumstance, and it is intended that this agreement shall be severable and shall be construed and applied as if any such invalid or unconstitutional article, section, provision, clause, or word had not been included herein.

4. A waiver by either party of any default by the other hereunder shall not be deemed a waiver by such party of any default by the other which may thereafter occur.

IN WITNESS WHEREOF, the parties hereto have executed this contract in duplicate originals on this 5TH day of MARCH, 1975.

SABINE RIVER AUTHORITY OF TEXAS

BY A. A. Meek  
President of the Board of  
Directors

APPROVED:

John W. Simmons  
John W. Simmons, Executive Vice  
President and General Manager

ATTEST:

Ann Cowser  
Secretary of the Board of  
Directors

ARTICLE XIV HEREOF IS SPECIFICALLY APPROVED AND OTHERWISE  
THIS CONTRACT IS APPROVED AS TO FORM:

J. D. Flann  
Counsel for Sabine River  
Authority of Texas.

CITY OF LONGVIEW, TEXAS

BY Jack Reeves  
Jack Reeves, Mayor

APPROVED:

H. G. Mosley  
H. G. Mosley, City Manager

ATTEST:

J. H. Summers  
City Secretary

ARTICLE XIV HEREOF IS SPECIFICALLY APPROVED AND OTHERWISE  
THIS CONTRACT IS APPROVED AS TO FORM:

Emilia D  
Counsel for City of Longview,  
Texas

SCHEDULE A  
TABLE OF SCHEDULES FOR WATER SUPPLY CONTRACT  
BETWEEN SARINE RIVER AUTHORITY AND CITY OF LONGVIEW

Calendar Year	Minimum Monthly Quantity In Million Gallons	Maximum Monthly Quantity In Million Gallons	Maximum Diversion Rate Gallons-Per Minute	Rate in Cents Per 1000 Gallons	Minimum Monthly Cost
1978	60.83	304	3,480	5.0	\$ 3,041.50
1979	76.04	304	4,340	5.0	3,802.00
1980	91.25	304	5,210	5.0	4,562.50
1981	121.67	304	6,950	5.0	6,063.50
1982	152.08	541.42	8,680	7.0	10,645.60
1983	152.08	541.42	8,680	7.0	10,645.60
1984	152.08	541.42	8,680	7.0	10,645.60
1985	152.08	541.42	8,680	7.0	10,645.60
1986	182.50	541.42	10,420	7.0	12,775.00
1987	182.50	541.42	10,420	7.0	12,775.00
1988	212.92	541.42	12,160	7.0	14,904.40
1989	212.92	541.42	12,160	7.0	14,904.40
1990	243.33	541.42	13,890	7.0	17,033.10
1991	243.33	541.42	13,890	7.0	17,033.10
1992	273.75	541.42	15,630	7.0	19,162.50
1993	273.75	541.42	15,630	7.0	19,162.50
1994	304.17	541.42	17,370	7.0	21,291.90
1995	304.17	541.42	17,370	7.0	21,291.90
1996	334.58	541.42	19,100	7.0	23,420.60
1997	334.58	541.42	19,100	7.0	23,420.60
1998	365.00	541.42	20,840	7.0	25,550.00
1999	365.00	541.42	20,840	7.0	25,550.00
2000	395.42	541.42	22,570	7.0	27,679.40
2001	395.42	541.42	22,570	7.0	27,679.40
2002	425.83	541.42	24,310	7.0	29,808.10
2003	425.83	541.42	24,310	7.0	29,808.10
2004	456.25	541.42	26,050	7.0	31,937.50
2005	456.25	541.42	26,050	7.0	31,937.50

**FIRST SUPPLEMENT TO  
WATER SUPPLY CONTRACT AND CONVEYANCE**

STATE OF TEXAS

COUNTIES OF WOOD, RAINS,  
AND HOPKINS§  
§  
§  
§

KNOW ALL MEN BY THESE PRESENTS:

This First Supplement to the Water Supply Contract and Conveyance (hereinafter called "First Supplement") by and between the parties hereinafter named, is made as of the 30 day of July, 1986, by and between the City of Dallas, Texas (hereinafter called the "City"), the Sabine River Authority of Texas (hereinafter called the "Authority"), and Texas Utilities Electric Company, a Texas corporation (hereinafter called "TUEC").

**RECITALS**

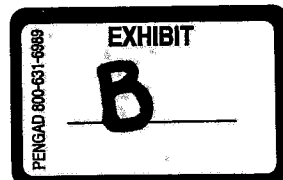
A. The Authority and Dallas Power & Light Company, Texas Electric Service Company, and Texas Power & Light Company (the latter three companies hereinafter called "the Corporations", acting by and through Texas Utilities Generating Company as their agent), entered into a Water Supply Facilities Agreement as of February 12, 1974 (hereinafter called "Facilities Agreement"), relating to Lake Fork Reservoir (hereinafter called "Lake Fork").

B. The City, the Authority and the Corporations entered into a Water Supply Contract and Conveyance as of October 1, 1981 (hereinafter called "Water Supply Contract and Conveyance"), relating to Lake Fork.

C. Effective January 1, 1984, the Corporations merged with Texas Utilities Electric Company, the surviving corporation being Texas Utilities Electric Company.

D. On August 13, 1985, the Texas Water Commission (hereinafter called "the Commission") accepted for filing Application No. 3234B for an Amendment to Permits No. 2948, 2948A and the Certificate of Adjudication for the Upper Sabine River Basin (hereinafter referred to as the "Lake Fork Permits") requesting approval of an increase in the authorized appropriation and use from Lake Fork Reservoir from the presently authorized 164,940 acre feet of Water per annum to the actual yield of 190,360 acre feet of Water per annum. A copy of such application is attached as Exhibit "A". No action has been taken to date on Application No. 3234B.

E. On May 21, 1986, the Commission accepted for filing Application No. 3234C for an amendment to the Lake Fork Permits requesting authorization to operate Lake Fork and Lake Tawakoni on a joint use basis. A copy of such application is attached hereto as Exhibit "B". No action has been taken to date on Application No. 3234C.



F. On May 21, 1986, the Commission accepted for filing Application No. 1933D (as amended) for an Amendment to Permits No. 1792, 1792A, 1792B and the Certificate of Adjudication for the Upper Sabine River Basin (hereinafter referred to as the "Tawakoni Permits") requesting authorization to operate Lake Tawakoni and Lake Fork on a joint use basis, and requesting authorization of a transfer of water not to exceed 28,396 acre feet per year from the Sabine River Basin to the Trinity River Basin pursuant to Section 11.085 of the Texas Water Code and Subchapter B, Section 297.18 of the Rules of the Commission, in addition to the amount originally authorized to be transferred out of the Sabine River Basin by Permit No. 1792. A copy of such amendment is attached hereto as Exhibit "C". No action has been taken to date on Application No. 1933D.

IN CONSIDERATION OF THE PREMISES, and of the mutual covenants and agreements herein contained, the parties hereby agree as follows:

I.

This First Supplement shall not be construed as a termination or rescission of any existing contract or agreement by and among the parties relating to Lake Fork; and except as expressly modified by the terms of this First Supplement, all such agreements shall remain in full force and effect and shall apply to the additional yield allocated pursuant to Sections 2.02 and 2.03.

II.

2.01 The City, the Authority and TUEC hereby mutually agree that the provision prohibiting the withdrawal of water from Lake Fork if such withdrawal would cause the surface level of Lake Fork to be lower than 372 feet above mean sea level contained in Section 3.05 of the Facilities Agreement, in Sections 2.03 and 5.14 of the Water Supply Contract and Conveyance, and in Section 2.06 of the Water Purchase Agreement by and between the Authority and the Corporations executed as of October 1, 1981, shall not apply as among themselves, and they hereby individually release each other from any obligation to operate the Reservoir subject to any such limitation on drawdown.

2.02 If the Commission shall determine that there is additional yield in Lake Fork calculated using the normal pool level at elevation 403.0 feet above mean sea level and the limitation on withdrawal of water referred to in Section 2.01 above, in accordance with Authority's Application No. 3234B, and issue appropriate amendments to the Lake Fork Permits, all such additional yield and rights thereto shall belong to the Authority.

2.03 If the Commission shall determine that there is additional yield in Lake Fork as a result of the release of the limitation on withdrawal of water contained in Section 2.01 above, in accordance with Authority's Application No. 3234B, and issue appropriate amendments to the Lake Fork Permits, such additional yield and the rights thereto shall belong one-half to the Authority and one-half to the City.

2.04 The Authority's rights in the additional yield determined pursuant to Section 2.03 of this First Supplement shall be in addition to its rights in the Water which is the subject of the Facilities Agreement. The Authority shall have the right to store, divert and use such additional yield without any obligation to make payments from the proceeds of sales of such Water to the Debt Service Fund as provided in the Facilities Agreement.

2.05 The City's rights in the additional yield determined pursuant to Section 2.03 of this First Supplement shall be in addition to its rights in the Water which is the subject of the Water Supply Contract and Conveyance. The City shall have the right to store, divert and use such additional yield during the initial terms of the Water Supply Contract and Conveyance and any renewal terms thereof, and such rights shall survive the termination of the Water Supply Contract and Conveyance. The City shall be entitled to such rights in such additional yield without payment of any compensation to the Authority.

### III.

3.01 Lake Tawakoni and Lake Fork may be operated on a joint use basis, subject to the approval of the Texas Water Commission, and further subject to the issuance of appropriate amendments to the Tawakoni Permits and the Lake Fork Permits, which amendments shall provide, and the parties hereto agree, that in no event shall:

A. Authority withdraw from Lake Tawakoni more than (1) twenty percent (20%) of the permitted firm annual yield of Lake Tawakoni, as that yield is established from time to time by the Commission, plus (2) any water transported by the Authority from Lake Fork to Lake Tawakoni by means of pipe line, canal or otherwise;

B. City withdraw from Lake Tawakoni more than (1) eighty percent (80%) of the permitted firm annual yield of Lake Tawakoni, as that yield is established from time to time by the Commission, plus (2) any water transported by Dallas from Lake Fork to Lake Tawakoni, by means of pipe line, canal or otherwise;

C. Authority withdraw from Lake Fork more than (1) the amount of water that it is authorized to withdraw from Lake Fork by virtue of the Lake Fork Permits, as amended, and the terms and conditions of the Facilities Agreement, the Water Supply Contract and Conveyance, and this First Supplement thereto (hereinafter referred to as the "Lake Fork Contracts"), plus (2) any water transported by the Authority from Lake Tawakoni to Lake Fork by means of pipe line, canal or otherwise.

D. City withdraw from Lake Fork more than (1) the amount of water that it is authorized to withdraw from Lake Fork by virtue of the Lake Fork Contracts, plus (2) any water transported by Dallas from Lake Tawakoni to Lake Fork by means of pipe line, canal or otherwise.



E. The diversion rate from either Lake Fork or Tawakoni exceed the total authorized diversion rates for both Lake Fork and Tawakoni.

3.02 As used herein, the term "joint use basis" shall mean that method of operation of the two reservoirs by which either party hereto may sell, deliver or withdraw from one reservoir water which has been authorized by permit to be diverted from either reservoir regardless whether such party has the physical means to transport water from one reservoir to the other, subject to the conditions and restrictions of Section 3.01 above.

3.03 In the event that the City wishes to sell any part of its Water in Lake Fork, including any additional yield in Lake Fork which may be authorized by the Commission, for withdrawal out of Lake Tawakoni on a joint use basis pursuant to Application No. 3234C and Application No. 1933D, the provisions of Sections 7.01(c) and (f) of the Water Supply Contract and Conveyance shall apply to any such sales within the Sabine River Basin.

3.04 In the event that the Authority wishes to sell any part of its Water in Lake Fork, including any additional yield in Lake Fork which may be authorized by the Commission, for withdrawal out of Lake Tawakoni on a joint use basis pursuant to Application No. 3234C and Application No. 1933D, the provisions of the Lake Fork Contracts shall apply to any such sales.

#### IV.

4.01 The Commission's approval shall also contain a provision substantially to the effect that no customer of the Authority shall have any right or entitlement to any portion of City's 80% share of Lake Tawakoni water or City's water in Lake Fork pursuant to the Water Supply Contract and Conveyance and this First Supplement thereto.

4.02 In addition, Authority agrees that its contracts for the sale and/or delivery of water from Lake Tawakoni, other than its existing contracts, shall contain a provision to the effect that if the Authority has insufficient water in Lake Tawakoni to supply the needs of its customers other than City, the Authority's obligations under such contracts shall be interruptible, and the Authority agrees that it will prorate the water available for customers, other than the water committed to City, among such customers. The Authority will not be required to prorate if prohibited by the laws of the State of Texas, a final order of the Texas Water Commission, or any successor, or a final judgment of a court of competent jurisdiction. The term "existing contracts" as used above shall include the contracts listed in Exhibit "D" attached hereto and none other, but shall not include City's rights under the several Memoranda of Agreement including the Fifth Supplement relating to Lake Tawakoni.

V.

Article 5 of the Water Supply Contract and Conveyance is hereby deleted in its entirety, and the following provisions are substituted therefore:

"V. TUEC'S OPTION

"5.01 The City grants to TUEC the option to purchase up to and including 17,000 acre-feet of Water per annum from the City's Water conveyed under Article II hereinabove, to be withdrawn by TUEC from the Reservoir on the terms and under the conditions hereinafter stated.

"5.02 TUEC shall have the right to exercise this option until September 1, 2009. TUEC may exercise the option as to all or any part of such 17,000 acre-feet of Water by giving written notice to City prior to September 1, 2009, which notice shall state the number of acre-feet of Water annually as to which TUEC is exercising its option to purchase. TUEC may exercise such option one time only, at which time the number of acre feet of Water annually which TUEC agrees to purchase becomes fixed, but the City shall not be required to commence deliveries of such Water to TUEC until five (5) years after the date of the exercise of said option or the date which TUEC specifies in said notice for the commencement of deliveries of water (which date shall not be later than September 1, 2014), whichever is later (the "Commencement Date"); provided, however, City may at its election, if requested by TUEC, commence deliveries earlier.

"5.03 If TUEC fails to exercise this option as to all or any part of such 17,000 acre-feet of Water on or before September 1, 2009, or if TUEC shall give written notice to the City of its intention to relinquish the option herein granted, then this option grant shall terminate effective as of September 1, 2009, or the date of such written notice, whichever is earlier, as the case may be.

"5.04 In consideration of this option, TUEC agrees to pay to the City annually 17/132 of the Service Charges the City is obligated to pay the Authority, until the Commencement Date hereunder.

"5.05 If TUEC exercises its option, the sale of such Water as provided below shall continue for a period of forty (40) years from the Commencement Date, at which time such sales shall terminate unless TUEC shall negotiate with the City a renewal of its right to purchase Water for a period of time not to exceed twenty (20) years under reasonable terms and conditions. Price of Water after the initial term shall be the City's charge for untreated raw Water, established from time to time by the Dallas City Council, based upon periodic cost of service studies, unless a different price structure is agreed upon by the City and TUEC at the time of renewal.

"5.06 Except as hereinafter provided in Section 5.14, the Water sold by the City hereunder to TUEC is sold on a "take or pay" basis. TUEC agrees to pay in advance, semi-annually on the first day of January, and July, one-half of the annual purchase price for all acre-feet of Water on which it may have exercised its option, whether or not it actually takes such Water during such period. During the initial forty year term, the annual purchase price TUEC will pay the City shall be the City's charge for untreated raw Water, established from time to time by the Dallas City Council, based upon periodic cost of service studies.

"5.07 If TUEC elects to exercise its option for all or any part of such 17,000 acre feet of Water annually, measured at TUEC's Point of Delivery or as provided in Section 5.11 hereof, with the Commencement Date being on any day other than the first day of the calendar year, then TUEC shall pay as the purchase price for Water in such year the amount determined in accordance with section 5.06 above multiplied by a fraction, the numerator of which is the number of days remaining in the calendar year after the Commencement Date and the denominator of which is 365. If the Commencement Date is prior to the first day of July, TUEC shall pay in advance one-half of the purchase price for the first year on the Commencement Date, and one-half on the first day of July. If the Commencement Date is after the first day of July, TUEC shall pay in advance the entire purchase price for the first year on the Commencement Date.

"5.08 The Water purchased by TUEC hereunder may be released or withdrawn from the Reservoir, and the amount of Water so released or withdrawn, measured at the Reservoir, shall be deemed to have been purchased by TUEC. However, the Water purchased under this option shall not be resold. Other than to a subsidiary corporation substantially owned by Texas Utilities Company, TUEC shall not assign or sell this option, or its right to purchase Water hereunder without the consent of the City. No assignment, sale or transfer shall in any way change or affect the obligations of TUEC under the terms of this Agreement. Where consent for a proposed assignment or sale of this option or the Water purchased pursuant to same has been denied by the City, TUEC may release back to the City its option and right to purchase the Water, and thereby be relieved of any further payment obligation to the City with respect to same.

"5.09 TUEC may designate, subject to the City's and Authority's approval, which approval shall not be unreasonably withheld, the point or points on the Reservoir at which TUEC wishes to withdraw Water. TUEC shall also have the right to discharge Water withdrawn from the Reservoir, back into the Reservoir at a point or points designated by them, also subject to City's and Authority's approval, which approval shall not

unreasonably withheld, provided that, except to the extent allowed by State and/or Federal permits, such Water has not been additionally polluted or contaminated.

"5.10 TUEC shall, at its own expense, acquire, construct, and provide all necessary facilities for withdrawal and discharge of Water, pursuant to this option. The City and TUEC each agree to provide easements to each other, at no cost, over and across each of their lands for the construction of each other's facilities, including pumping, discharging, dikes and canals, power lines, roads, pipelines and appurtenances, but no such facilities shall interfere with facilities constructed by the party granting the easements.

"5.11 The amount of Water sold to TUEC will include Water deemed lost to the Reservoir through forced evaporation, if TUEC uses the Reservoir for cooling, and for which TUEC will pay in the same manner as for other Water actually withdrawn and used. Water utilized by TUEC strictly for cooling will not be considered a "use" thereof for purposes of this Article to the extent such Water is returned to the Reservoir. Therefore, the amount of Water TUEC may be entitled to annually will be reduced by the amount of Water calculated to have been lost to the Reservoir through such forced evaporation. The amount of Water consumed by forced evaporation by generating facilities located on the Reservoir shall be calculated as follows, or in such other fashion as may be mutually acceptable:

$$\begin{array}{l} \text{Water consumed} \\ \text{(in gallons/KWH)} \end{array} = \frac{0.56 \text{ gal./KWH} \times \text{rate (BTU/KWH)}}{10,000 \text{ BTU/KWH}} - 0.23 \text{ gal./KWH}$$

TUEC shall furnish to the City and to the Authority annually the calculated forced evaporation figures and will make available to the City and to the Authority such related data as may be reasonably requested to verify such calculation.

"5.12 TUEC, at its own cost and expense, shall furnish, install, operate and maintain at the point or points of delivery, measuring equipment, properly equipped with meters and devices of standard types for measuring accurately the quantity of Water withdrawn under this option for any use other than by forced evaporation, with a capacity to measure, within generally accepted industry standards for accuracy, or as established by the American Water Works Association, the quantity of Water diverted. Such meters shall be calibrated annually. TUEC shall notify the City and the Authority in advance of the annual meter calibration, and the City and the Authority shall have the right to be present and witness such calibration. Such measuring equipment shall be approved by the City and the Authority and TUEC, but shall remain the property of TUEC.

"5.13 During any reasonable hours, the City and the Authority shall have access to such measuring equipment so installed. Either the City or the Authority may, at its option and expense, install and maintain such measuring equipment as it deems proper to check and determine the accuracy of TUEC's measuring equipment.

"5.14 During periods of shortages, the City may, upon approval by the Texas Water Commission, reasonably restrict TUEC's withdrawals of Water pursuant to this Article V where the available Water is needed for the City's municipal use. No such restrictions shall be imposed by the City upon withdrawals of Water from the Reservoir with respect to any user unless the City has imposed restrictions upon withdrawals as to all users similarly situated, and if any such restrictions are imposed, Water shall be allocated pro rata. In such event, the amount to be paid to the City under Section 5.06 hereof shall be reduced in proportion to the reduction in the number of acre-feet of Water annually to which TUEC was entitled.

"5.15 The City shall have no duty or responsibility with respect to the treatment, quality or suitability of the Water for TUEC's purposes, and such Water shall be taken "as is", with no warranties, express or implied. Upon withdrawal of same by TUEC at the points of delivery, it shall be in exclusive control and possession thereof and solely responsible for any injuries or damages caused by its use of such Water.

"5.16 The City and TUEC will review periodically the need for Water resources and will cooperate in long range planning.

"5.17 TUEC agrees and covenants that, in the event it exercises its option to purchase Water herein, TUEC will violate no law, state or federal, relating to pollution or contamination of the Lake Fork environs, and especially the Water impounded in Lake Fork Reservoir. In the event of any final judgment finding such violation or violations, TUEC shall be strictly liable for any damages caused thereby to the property or estate of the City, including the City's interest in the Water."

## VI.

6.01 The Authority shall have no obligation to pay any Service Charges with respect to the water to which the Authority is entitled under Section 2.02 of this First Supplement.

6.02 Until the Authority commences actual deliveries of the water allocated to it under Section 2.03 of this First Supplement (hereinafter referred to as "Section 2.03 Water"), Section 6.04 of the Facilities Agreement and Section 3.05(b) of the Water Supply Contract and Conveyance shall govern payment of the Service Charges.

6.03 At such time as the Authority commences actual deliveries of Section 2.03 Water, the Authority shall pay a proportionate part of the Service Charges for each fiscal year (September 1 through August 31) in the ratio of the sum of (1) the volume of Water on which the Authority is required to pay the Service Charges as determined by the Water Supply Contract and Conveyance and (2) the volume of Section 2.03 Water actually delivered by the Authority to the sum of (1) 175,000 acre feet and (2) the volume of Section 2.03 Water actually delivered by the Authority.

VII.

7.01 Section 7.01(d) of the Water Supply Contract and Conveyance shall be of no further force and effect.

7.02 The City, Authority and TUEC agree:

A. Subject to the provisions of the Bond Resolutions, one hundred percent (100%) of the revenue from the sale of the Water referred to in Section 3.07 of the Facilities Agreement shall be retained by the Authority to use in any manner, subject to Section 3.05(b) of the Water Supply Contract and Conveyance, wherein the Authority agrees to pay from the proceeds of sales of, or rights to take, such Water a proportionate part of the Service Charge in the ratio that the volume of such Water so sold bears to 163,000 acre feet, and further subject to Section 6.03 above.

B. Notwithstanding the foregoing, in the event the Authority or TUEC sells any portion of the 20,000 acre feet of Water which is the subject of the Option for the Purchase of Water of even date herewith by and between the Authority and TUEC, a copy of which is attached hereto as Exhibit "E", other than the 7,000 acre feet of water which Authority may request to be released by TUEC pursuant to Section 12.01 of said Option, to any entity other than TUEC or a successor corporation resulting from merger or consolidation, by direct sale, resale, assignment or otherwise, during the term of said Option or thereafter, then the provisions of Section 3.07 of the Facilities Agreement shall apply to the Authority's proceeds derived from the sale of such portion of such Water, and the Authority, in addition to paying from its proceeds the proportionate part of the Service Charge, shall also pay seventy-five percent (75%) of the remaining proceeds to the credit of the Debt Service Fund, to reduce to the extent thereof, the amount of Semi-Annual Facilities Charges that the City would otherwise be required to deposit therein.

C. If, at the request of the Authority pursuant to Section 12.01 of said Option, TUEC releases any portion of the 7,000 acre feet of Water which Authority may request to be released by TUEC, the Authority will pay the Service Charges on the quantity of water released. One hundred percent of the revenue from any sale of such water subsequent to such release shall be retained by Authority to use in any manner, subject to Section 3.05(b) of the Water Supply Contract and Conveyance, and further subject to Section 6.03 above.

7.03 Section 7.01(e) of the Water Supply Contract and Conveyance shall be of no further force and effect.

VIII.

8.01 The Authority shall be responsible for making and supporting the appropriate applications for amended permits and obtaining all Texas Water Commission approvals necessary to effectuate this First Supplement and the Fifth Supplemental Memorandum of

Agreement of even date herewith, by and between the Authority and City; City and TUEC agree to support such applications. Should the amended permits contemplated by the First Supplement not be issued by the Commission to the satisfaction of the parties hereto, or not be issued by September 1, 1987, this First Supplement may be terminated at the option of any party.

8.02 In the event that the Texas Water Commission denies Application No. 1933C, No. 1933D, No. 3234B or No. 3234C, this First Supplement may be terminated at the option of any party.

8.03 In the event that any party elects to exercise its right to terminate this First Supplement pursuant to Section 8.01 because the amended permits contemplated hereby are not issued by the Commission to the satisfaction of such party, or by September 1, 1987, or pursuant to Section 8.02 because of the denial by the Commission of Application No. 1933C, No. 1933D, No. 3234B or No. 3234C, such party shall give written notice of termination to the other parties not more than sixty (60) days after the action of the Commission in issuing the permits or denying the applications, as the case may be, such termination to be effective not more than thirty (30) days after the date of such written notice but in any case not later than December 31, 1987.

8.04 If either City or Authority exercises its right to terminate the Fifth Supplemental Memorandum of Agreement by and between City and Authority pursuant to Article V thereof, the other non-terminating party to said Fifth Supplemental Memorandum of Agreement shall have the right to terminate this First Supplement by giving written notice of such termination to the other parties not more than thirty (30) days after receipt of notice of termination of the Fifth Supplement, such termination to be effective not more than thirty (30) days after the date of such written notice but in any case not later than January 31, 1988.

8.05 Until one hundred twenty (120) days after the date of issuance of the amended Lake Fork Permits, or until this First Supplement is terminated pursuant to Section 8.03 or 8.04 above, whichever shall first occur, each party shall continue to perform all duties and obligations, and be entitled to the same rights and privileges, as were provided in the Facilities Agreement and the Water Supply Contract and Conveyance prior to the execution of this First Supplement, except to the extent that this First Supplement imposes duties and obligations necessary to effectuate the same. In the event that this First Supplement is not terminated, beginning on the one hundred twenty-first (121st) day following the date of issuance of the amended Lake Fork Permits, the duties and obligations, and the rights and privileges of each party, shall be determined by the Lake Fork Contracts.

8.06 In the event of termination of this First Supplement, all of the original provisions of the Water Supply Contract and Conveyance shall continue in full force and effect, as if this First Supplement had never been executed.

IX.

This First Supplement shall be subject to the approval and continuing jurisdiction of the Texas Water Commission, or its successor agency, and to its rules and regulations.

EXECUTED as of the 30 day of July, 1986.

APPROVED AS TO FORM  
ANALESLIE MUNCY, City Attorney

CITY OF DALLAS  
CHARLES S. ANDERSON, City Manager

By: *C. Merrill Bierfeld*  
C. MERRILL BIERFELD  
Assistant City Attorney

By: *[Signature]*

CMS

APPROVED AS TO FORM

SABINE RIVER AUTHORITY

*[Signature]*  
EARL ROBERTS, JR.  
Attorney for Sabine River  
Authority

By: *[Signature]*  
Executive Vice President and  
General Manager

TEXAS UTILITIES ELECTRIC COMPANY

By: *[Signature]*  
Senior Vice President



ACKNOWLEDGEMENTS

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on July 31,  
1988, by Don Hart, Assistant City Manager of the City of  
Dallas.

Charlton E. Edson  
Notary Public, State of Texas

My Commission Expires:

9-1-89

STATE OF TEXAS

COUNTY OF Tarrant

This instrument was acknowledged before me on August 4,  
1988, by Sam E. Collins, EXECUTIVE VICA - PRESIDENT & GENERAL MANAGER of the Sabine  
River Authority.

Mary Ann Hepler  
Notary Public, State of Texas  
MARY ANN HEPLER

My Commission Expires:

10-31-88

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on July 30,  
1988, by E. L. Watson, Senior Vice President of  
Texas Utilities Electric Company, a Texas corporation, on behalf of said corporation.

Sharon Hambrick  
Notary Public, State of Texas

My Commission Expires:  
SHARON HAMBRICK  
NOTARY PUBLIC STATE OF TEXAS  
COMMISSION EXPIRES 10-16-88

EXHIBIT A

323413

TEXAS DEPARTMENT OF WATER RESOURCES  
P. O. Box 13087  
Austin, Texas 78711

Telephone No. 512/475-4311

APPLICATION FOR AMENDMENT TO A WATER RIGHT  
REQUIRING A PUBLIC HEARING  
(Department Rule 156.04.10)

Application No. \_\_\_\_\_ Date Received \_\_\_\_\_  
Hearing Date \_\_\_\_\_ Disposition \_\_\_\_\_  
-----

I.

A. The name, address and telephone number of the Applicant  
is:

Sabine River Authority of Texas  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

B. The name, position, address and telephone number of the  
person authorized to execute this application on behalf of  
Applicant is:

Sam F. Collins  
Executive Vice President and General Manager  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

II.

The permits proposed to be changed are Permits No. 2948 and  
2948A, and the Final Determination of Claims of Water Rights in  
the Upper Sabine River Segment and Certificate of Adjudication  
with respect to the water rights in the Upper Sabine River Segment.

III.

A. Lake Fork Reservoir is located on Lake Fork Creek, a  
tributary of the Sabine River in the Sabine River Watershed.

B. Lake Fork Reservoir, operated by the Sabine River  
Authority of Texas ("the Authority") is a reservoir located  
approximately 5.1 miles west of Quitman, Texas, the county seat  
of Wood County, Texas.

C. Lake Fork Reservoir presently has a storage capacity of  
675,819 acre-feet at elevation 403.0 feet above mean sea level.

IV.

The proposed changes in Permits No. 2948 and 2948A and the

Final Determination of Claims of Water Rights in the Upper Sabine River Segment and Certificate of Adjudication with respect to the water rights in the Upper Sabine River Segment are as follows:

A. On September 26, 1974 the Texas Water Rights Commission issued Permit No. 2948 to the Sabine River Authority of Texas providing for the appropriation of water, and authorizing the Authority to construct a reservoir to be known as Lake Fork Creek Reservoir ("the Reservoir") and to divert therefrom 44,940 acre-feet per annum for municipal use and 120,000 acre-feet per annum for industrial use.

B. On February 18, 1974, the Authority and the Corporations entered into a Water Supply Facilities Agreement which provided for the sale to Dallas Power & Light Company, Texas Electric Service Company and Texas Power & Light Company ("the Corporations") by the Authority of an amount of water equal to 49% of the yield of water from the Reservoir, not to exceed 80,000 acre-feet per annum, and further provided an option to the Corporations to purchase an additional 25% of the yield of water from the Reservoir not to exceed 40,000 acre-feet per annum, all such water to be used for industrial purposes, which option was subsequently exercised by the Corporations.

C. The Agreement provided that the surface level of water in the Reservoir would be maintained at not less than 372 feet above mean sea level and also that the firm yield of the Reservoir as authorized by Permit No. 2948 was based upon maintaining the level of the Reservoir at not less than 372 feet above mean sea level.

D. Permit No. 2948 was amended by Permit No. 2948A which authorized (1) a change in the amount of water authorized for each purpose of use; (2) the transbasin diversion of up to 120,000 acre-feet of water from the Sabine River Basin for use by the City of Dallas in the Trinity River Basin; (3) a diversion rate of 334.4 cubic feet per second of water sold to the City of Dallas pursuant to a contract among the Authority, the Corporations

and the City of Dallas; and (4) to authorize the Authority to provide information to the Department on diversions from the Reservoir.

E. Hydrologic computations recently completed by the Authority indicate that the Reservoir will in fact provide a dependable yield which will support the diversion and use of 166,200 acre-feet of water per annum if the surface level of water in the Reservoir is maintained at not less than 372 feet above mean sea level.

F. These computations indicate that the Reservoir will in fact provide a dependable yield which will support the diversion and use of 190,360 acre-feet of water per annum based on a total draw-down of the Reservoir rather than maintaining a minimum level of 372 feet above mean sea level.

G. It is the purpose of this application for amendment to obtain the Commission's approval of an increase in the authorized appropriation and use from the presently authorized 164,940 acre-feet of water per annum to the actual available yield of 190,360 acre-feet of water per annum based on total drawn-down.

H. There is presently and will continue to be a need for all of the increased yield which is requested by this application within the Upper Sabine River Segment of the Sabine River Basin.

I. All of the increased appropriation should be allocated to municipal use.

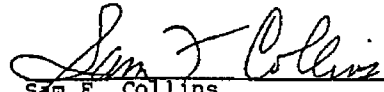
V.

Applicant understands that the department may require additional information in regard to the requested amendment before considering this application.

VI.

Applicant has submitted the required fees herein.

EXECUTED at Orange, Texas this 16th day of April, 1985.



Sam F. Collins  
Executive Vice President and  
General Manager

THE STATE OF TEXAS

§

COUNTY OF GREGG  
~~ORANGE~~

§

SUBSCRIBED AND SWORN TO as being true and correct before me  
on the 12th day of April, 1985.

Charlene Weyenberg  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:

10/5/85

3234C

EXHIBIT B

TEXAS WATER COMMISSION  
P. O. Box 13087  
Austin, Texas 78711

Telephone Number 512/463-7898

APPLICATION FOR AMENDMENT TO A WATER RIGHT  
NOT REQUIRING A PUBLIC HEARING

Application No. \_\_\_\_\_ Date Received \_\_\_\_\_  
Hearing Date \_\_\_\_\_ Disposition \_\_\_\_\_

I.

A. The name, address and telephone number of the Applicant  
is:

Sabine River Authority of Texas  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

B. The name, position, address and telephone number of the  
person authorized to execute this application on behalf of Appli-  
cant is:

Sam F. Collins  
Executive Vice President and General Manager  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

II.

The permits proposed to be changed are Permits No. 2948,  
2948A, and the Certificate of Adjudication with respect to the Lake  
Fork Reservoir ("Lake Fork") which will subsequently be issued in  
accordance with the Final Determination of Claims of Water Rights  
in the Upper Sabine River Segment.

III.

A. Lake Fork is located on Lake Fork Creek approximately 5.1  
miles west of Quitman, Texas, the county seat of Wood County,  
Texas. Lake Fork Creek is a tributary of the Sabine River in the  
Sabine River Watershed.

B. Lake Fork presently has a storage capacity of 675,819 acre feet at elevation of 403.0 feet above mean sea level.

C. On August 13, 1985, the Texas Water Commission ("Commission") accepted for filing the Applicant's Application for Amendment to a Water Right (Application No. 3234B) requesting approval of an increase in the authorized appropriation and use from Lake Fork from the presently authorized 164,940 acre feet of water per annum to the actual available yield of 190,360 acre feet of water per annum. No action has been taken to date on that application.

#### IV.

Depending upon the action by the Commission on the application by Applicant referred to in Paragraphs III-C hereof, Applicant will be authorized to divert and use not to exceed a quantity of water of up to 190,360 acre-feet from Lake Fork, subject to the terms and provisions of the permits and the following agreements:

A. Water Supply Facilities Agreement between the Applicant and Texas Utilities Generating Company dated February 18, 1974.

B. Water Supply Contract and Conveyance among the Applicant, Texas Utilities Generating Company and the City of Dallas dated October 1, 1981.

C. Water Purchase Agreement entered into between the Applicant and Texas Utilities Generating Company dated October 1, 1981, relating to Lake Fork.

D. All agreements contemplated to be executed among the Applicant, the City of Dallas and Texas Utilities Generating Company relating to Lake Fork, regulating the division of adjusted yield in Lake Fork, the division of water below 372 mean sea level in Lake Fork, the joint use concept for Lake Tawakoni ("Tawakoni") and Lake Fork and related matters.

#### V.

There is presently a need for water to be supplied to municipalities, water districts and other entities in the vicinity of Tawakoni. The permitted annual yield of Tawakoni is not now and will not be adequate to meet those needs. Water to meet most of

those needs will be available from the Applicant's water in Lake Fork.

VI.

Applicant proposes that, in the interest of prudent water conservation in the Upper Sabine River Basin, Applicant be authorized to operate Lake Fork and Tawakoni on a joint use basis and that all the water which Applicant is now or will in the future be entitled to divert and use from both reservoirs may be diverted from either Tawakoni or Lake Fork; provided, however, that in no event should:

A. Applicant withdraw from Lake Fork more than the amount Applicant is authorized to withdraw from Lake Fork by virtue of Permits No. 2948 and 2948A, and the Certificate of Adjudication with respect to Lake Fork to be issued by the Commission, and the amended permit or permits contemplated to be issued by the Commission relating to Lake Fork, and those agreements set forth in this Application.

B. Dallas withdraw from Lake Fork more than the amount the City of Dallas is authorized to withdraw from Lake Fork by virtue of those agreements set forth in this Application.

C. The division rate from either Lake Fork or Tawakoni exceed the total authorized division rates for both Lake Fork and Tawakoni.

VII.

Applicant further seeks the right to transfer water from Tawakoni to Lake Fork, not to exceed the total amount of water per annum to which Applicant shall be entitled by virtue of permits issued by the Commission and contracts between Applicant, the City of Dallas and Texas Utilities Generating Company.

VIII.

The diversion point for withdrawal of water from Lake Fork in accordance with this application shall be on the perimeter of Lake Fork.

IX.

Applicant understands that the Commission may require additional information in regard to the requested amendment before considering this application.



X.

Applicant has submitted the required fees herein.

EXECUTED at Orange, Texas, this the \_\_\_\_ day of April, 1986.

\_\_\_\_\_  
SAM F. COLLINS, Executive  
Vice President and General Manager

THE STATE OF TEXAS                    §  
COUNTY OF GREGG                    §

SUBSCRIBED AND SWORN TO as being true and correct before me on  
the \_\_\_\_ day of April, 1986.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:  
\_\_\_\_\_

1933D  
TEXAS WATER COMMISSION  
P. O. Box 13087  
Austin, Texas 78711

**EXHIBIT C**

Telephone Number 512/463-7898

**APPLICATION FOR AMENDMENT TO A WATER RIGHT  
NOT REQUIRING A PUBLIC HEARING**

Application No. \_\_\_\_\_ Date Received \_\_\_\_\_  
Hearing Date \_\_\_\_\_ Disposition \_\_\_\_\_

**I.**

A. The name, address and telephone number of the Applicant is:

Sabine River Authority of Texas  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

B. The name, position, address and telephone number of the person authorized to execute this application on behalf of Applicant is:

Sam F. Collins  
Executive Vice President and General Manager  
P. O. Box 579  
Orange, Texas 77631-0579  
409/883-9334

**II.**

The permits proposed to be changed are Permits No. 1792, 1792a and 1792b, and the Certificate of Adjudication with respect to Lake Tawakoni ("Tawakoni") which will be subsequently issued in accordance with the Final Determination of Claims of Water Rights in the Upper Sabine River Segment.

**III.**

A. Tawakoni is an existing channel reservoir located on the Sabine River in the Sabine River Watershed, the dams site of which is located in the J. Terry Survey, Abstract No. 852, Van Zandt County, Texas.

B. Tawakoni had an original design capacity of 936,200 acre feet at the maximum conservation operating elevation of 437.5 feet

above mean sea level, although Permit No. 1792 authorizes only 926,000 acre feet capacity. The estimated 1984 capacity of Lake Tawakoni is 927,440 acre feet.

C. The surface area of Tawakoni is 36,153 acres.

D. On August 13, 1985, the Commission accepted for filing the Applicant's Application for Amendment to a Water Right (Application No. 1933C) requesting approval of an increase in the authorized appropriation and use from Tawakoni from the presently authorized 230,750 acre feet of water per annum to the actual available yield of 248,470 acre feet of water per annum and for an increase of capacity from 926,000 acre feet to 927,440 acre feet. No action has been taken to date on that application.

#### IV.

Depending upon the action by the Commission on the application by Applicant referred to in Paragraphs V-D hereof, Applicant will be authorized to divert and use a quantity of water to exceed 248,470 acre-feet from Tawakoni, subject to the terms and provisions of the permits and the Agreement between the Applicant and the City of Dallas dated July 14, 1956, relating to Tawakoni along with the First Supplemental Memorandum of Agreement dated March 4, 1957, the Second Supplemental Memorandum of Agreement dated June 24, 1957, the Third Supplemental Memorandum of Agreement dated July 8, 1957, and the Fourth Supplemental Memorandum of Agreement dated December 11, 1961, all between the same parties and all agreements contemplated to be executed between the Applicant and the City of Dallas relating to the joint use concept for Tawakoni and Lake Fork Reservoir ("Lake Fork") and related matters.

#### V.

There is presently a need for water to be supplied to municipalities, water districts and other entities in the vicinity of Tawakoni. The permitted annual yield of Tawakoni is not now and will not be adequate to meet those needs. Water to meet most of those needs will be available from the Applicant's water in the Lake Fork Reservoir ("Lake Fork"), from which Applicant is authorized to divert water for such purpose.

VI.

Applicant proposes that, in the interest of prudent water conservation in the Upper Sabine River Basin, Applicant be authorized to operate Lake Fork and Tawakoni on a joint use basis and that all the water which Applicant is now or will in the future be entitled to divert and use from both reservoirs may be diverted from either Tawakoni or Lake Fork; provided, however, that in no event should:

A. Applicant withdraw from Tawakoni more than twenty percent (20%) of the permitted firm annual yield of Tawakoni, as that yield is established from time to time by the Commission, plus water transported by the Applicant from Lake Fork to Tawakoni by means of pipe line, canal or otherwise;

B. The City of Dallas withdraw from Tawakoni more than eighty percent (80%) of the permitted firm annual yield of Tawakoni, as that yield is established from time to time by the Commission, plus water transported by the City of Dallas from Lake Fork to Tawakoni, by means of pipe line, canal or otherwise;

C. The <sup>in</sup>division rate from either Lake Fork or Tawakoni exceed the total authorized division rates for both Lake Fork and Tawakoni.


VII.

Applicant further seeks the right to transfer water from Lake Fork to Tawakoni, not to exceed the total amount of water per annum to which Applicant shall be entitled by virtue of permits issued by the Commission and contracts between Applicant, the City of Dallas and Texas Utilities Generating Company.

VIII.

The diversion point for withdrawal of water from Tawakoni in accordance with this application shall be on the perimeter of Tawakoni.

IX.

 Applicant understands that the Commission may require additional information in regard to the requested amendment before considering this application.

X.

Applicant has submitted the required fees herein.

EXECUTED at Orange, Texas, this the \_\_\_\_ day of April, 1986.

SAM F. COLLINS, Executive  
Vice President and General Manager

THE STATE OF TEXAS

\$

COUNTY OF GREGG

\$

SUBSCRIBED AND SWORN TO as being true and correct before me on  
the \_\_\_\_ day of April, 1986.

NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT B**  
**LAKE TAWAKONI WATER SUPPLY CONTRACTS**

Name of Purchaser	Effective Date of Contract	Expiration Date of Contract	Maximum. Amount Committed (Ac-Ft/Yr)
City of Dallas -	7-14-56	(1)	184,600.000
City of Point	3-01-63	02-28-2003	224.028
City of Greenville	7-01-76	06-30-2006	15,680.767 (2)
City of Wills Point	7-01-65	06-30-1996	2,240.285
City of Terrell	1-01-76	12-31-2005	10,090.489
City of Emory	5-01-72	04-30-2032	1,120.142
Cash WSC	6-01-76	05-31-2016	1,679.293
City of West Tawakoni	7-01-73	06-30-2003	1,120.285
Commerce WD	8-01-77	07-31-2027	8,396.465
Eastman Kodak Company	9-01-81	08-30-1986	<u>3,500.000</u>
TOTAL			228,651.73

(1) Dallas has permanent right to 80% of the yield of Lake Tawakoni.

(2) Does not include 5,601.328 acre-feet/year which was released by the City for the period 7/1/81 through 6/30/86 for temporary water supply for industrial uses.

**EXHIBIT B**

**OPTION FOR THE PURCHASE OF WATER**

STATE OF TEXAS

§

COUNTIES OF WOOD, RAINS  
AND HOPKINS

§

§

§

KNOW ALL MEN BY THESE PRESENTS:

This Water Purchase Agreement is made as of the day and year hereinafter set forth by and between the SABINE RIVER AUTHORITY OF TEXAS (hereinafter called the "Authority"), and TEXAS UTILITIES ELECTRIC COMPANY (hereinafter called "TUEC")

**WITNESSETH:**

**RECITALS**

A. The Authority is an agency and political subdivision of the State of Texas, being a conservation and reclamation district created and governed by Vernon's Article 8280-133, as amended (the "Act"), pursuant to Article 16, Section 59, of the Texas Constitution.

B. Texas Utilities Electric Company is a Texas corporation.

C. Pursuant to the Water Supply Facilities Agreement dated February 18, 1974, the Authority has acquired and constructed certain water supply facilities hereinafter defined consisting of a dam, reservoir, and related facilities on Lake Fork Creek in Wood, Rains and Hopkins Counties, Texas.

**I. DEFINITIONS**

1.01. Agreement: This Option for the Purchase of Water.

1.02. Article: Any subdivision of this Agreement designated with a roman numeral.

1.03. Bond Amortization Contract: A contract executed and dated February 18, 1974, which agreement provides for payments of Semi-Annual Facilities Charges by the Corporations to amortize the Bonds.

1.04. Bond Resolution: Any resolution of the Authority's Board of Directors authorizing the issuance of Bonds.

1.05. Bonds: Any revenue bonds of the Authority authorized, issued, and delivered to finance the acquisition and construction of any portion of the Facilities pursuant to the terms of the Bond Amortization Contract and this Agreement, including initial issues or series of bonds and completion bonds, and any bonds issued to repair, enlarge, extend, or otherwise improve the Facilities, together with any bonds issued to refund any of the foregoing bonds.

1.06. Facilities: The water supply facilities consisting of the lands, easements, rights-of-way, dam, reservoir, and related facilities to be or presently acquired, constructed, and owned by the Authority on or adjacent to Lake Fork Creek, a tributary of the Sabine River, in Wood, Rains, and Hopkins Counties, Texas, such facilities constructed

substantially in accordance with the plan and report prepared for presentation at public hearing before the Texas Water Rights Commission, entitled "Lake Fork Dam and Reservoir on Lake Fork Creek, Sabine River Basin," dated June, 1974, by URS, Inc., Consulting Engineers, Dallas, Texas, and any amendments or supplements thereto.

1.07. Facilities Agreement: The Water Supply Facilities Agreement entered into by and between the Authority, Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, and Texas Utilities Generating Company dated February 18, 1974.

1.08. Lake Fork Contracts: The Facilities Agreement and the Water Supply Contract and Conveyance.

1.09. Points of Delivery: The points on the Reservoir to be agreed upon between the parties where TUEC will withdraw water. TUEC shall provide all works and structures at the Points of Delivery for withdrawing Water from the the Reservoir, and shall be entitled to withdraw such Water in the amounts specified in this Agreement, and in the Water Supply Contract and Conveyance.

1.10. Reservoir: The Lake Fork Reservoir, including all lands and flowage and floodage easements acquired in connection therewith.

1.11. Section: Any subdivision of this Agreement designated by arabic numerals.

1.12. Water: Untreated water from the Reservoir.

1.13. Water Supply Contract and Conveyance: The agreement entered into by and between the Authority, Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, and the City of Dallas as of October 1, 1981, and the First Supplement thereto dated the \_\_\_\_\_ day of \_\_\_\_\_, 1986.

## II. OPTION TO PURCHASE

2.01. Subject to the provisions of Section 6.01 hereof, the Authority hereby grants to TUEC an option to purchase not to exceed 20,000 acre feet of Water per year for a period of forty (40) years at a price which shall be determined by the parties.

2.02. TUEC may exercise such option one or more times in increments of one thousand (1000) acre feet per year by giving written notice thereof to Authority not less than six (6) months prior to the date on which TUEC will commence use of such water. Such notice shall state the number of acre feet as to which TUEC is exercising its option, but TUEC shall not have the right to partially exercise its option more often than annually.

2.03. TUEC may designate, subject to the Authority's approval, which approval shall not be unreasonably withheld, the point or points on the Reservoir at which TUEC wishes to withdraw Water, or such Water, measured at the Reservoir, may be released or



withdrawn from the Reservoir for their use in connection with the operation of electric generating facilities located elsewhere. TUEC shall also have the right to discharge Water withdrawn from the Reservoir back into the Reservoir at a point or points designated by it, also subject to the Authority's approval, which approval shall not be unreasonably withheld, provided that, except to the extent allowed by State and/or Federal permits, such Water has not been additionally polluted or contaminated, and further provided that any such discharge shall not cause the Water in the Reservoir to exceed the standards of water quality established for the Reservoir from time to time by the Texas Water Commission.

2.04. TUEC shall, at its own expense, acquire, construct, and provide all necessary facilities for withdrawal and discharge of Water, pursuant to this Agreement. The Authority and TUEC each agree to provide easements to each other, at no cost, over and across each of their lands for the construction of each other's facilities, including pumping, discharging, dikes and canals, power lines, roads, pipelines and appurtenances, but no such facilities shall interfere with facilities constructed by the party granting easements. The location of all facilities for withdrawal of Water, the easements and other facilities described in this paragraph shall be subject to the approval of the party granting such easements.

2.05. The Authority has no duty, and makes no warranty, express or implied, as to the quality of the Water or of its suitability for TUEC's purposes.

### III. RATES AND COMPENSATION

3.01. TUEC agrees to pay to the Authority, at the times and in the manner prescribed, the sum of Five Hundred Fifty Thousand Dollars (\$550,000.00) during each year, beginning on the date of this Agreement, until it exercises the option granted in Section 2.01. The said sum of \$550,000 per year shall be payable in twelve (12) equal monthly installments of Forty-Five Thousand Eight Hundred Thirty-Three and 33/100 Dollars (\$45,833.33), the first installment being due and payable on the first day of the month following the date of this Agreement, and a like installment being due and payable on the first day of each month thereafter (except that the monthly installment due on the first day of the last month of each year shall be Forty-Five Thousand Eight Hundred Thirty-Three and 37/100 (\$45,833.37)).

3.02. If TUEC shall exercise its option hereunder, TUEC agrees to pay to the Authority, beginning on the first day of the first month in which TUEC will commence use of water (as set forth in the notice provided in Section 2.03), one-twelfth of the amount of TUEC's annual obligation for the purchase of water, as determined by the parties pursuant to Section 2.01, with respect to the amount of water for which TUEC exercises its option.

At such time as TUEC's payments under this Section 3.02 commence, or each time TUEC's payments under this Section 3.02 commence if TUEC shall exercise its option more than once, TUEC's payments under Section 3.01 shall be reduced by an amount equal to \$27.50 times the number of acre feet of water as to which TUEC exercises its option. If any such purchase of Water is effective on any day other than the anniversary date of this Agreement, then the reduction in payments shall be made beginning with the calendar month following the date on which such purchase becomes effective and shall be prorated for the month during which such purchase becomes effective.

3.03. In addition, TUEC agrees to pay to the Authority annually a proportionate part of the Service Charge, as determined in accordance with the Lake Fork Contracts, which shall be calculated by multiplying the amount of the Service Charge by a fraction, the numerator of which shall be the number of acre feet of water then covered by this Option, and the denominator of which shall be 163,000, subject, however, to Section 6.03 of the First Supplement to the Water Supply Contract and Conveyance. Payments by TUEC to the Authority for such proportionate part of the Service Charge shall be made monthly, in addition to, but on the same date as, the payments provided for in Section 3.01.

#### IV. MEASURING EQUIPMENT

4.01. TUEC, at its own expense, shall furnish, install, operate and maintain at the point or points of delivery, measuring equipment, properly equipped with meters and devices of standard types for measuring accurately the quantity of Water diverted under this Agreement, with a capacity to measure the quantity of water diverted within generally accepted industry standards for accuracy, or as established by the American Waterworks Association. Said meter shall be calibrated annually. TUEC shall notify the Authority in advance of the annual meter calibration, and the Authority shall have the right to be present and witness such calibration. Such measuring equipment shall be approved by the Authority and TUEC, but shall remain the property of TUEC.

4.02. During any reasonable hours, the Authority shall have access to such measuring equipment so installed. The Authority may, at its option and expense, install and maintain such measuring equipment as it deems proper to check and determine the accuracy of TUEC's measuring equipment.

#### V. TITLE TO AND RESPONSIBILITY FOR WATER

5.01. Title to, and possession and control of, Water shall remain in the Authority to the point or points of delivery, where title to, possession and control shall pass to TUEC.

5.02. As between the parties hereto, the Authority shall be in exclusive control and possession of the Water and solely responsible for any damages or injuries caused thereby

until the same shall have been delivered to TUEC at the point or points of delivery, at which point TUEC shall be in exclusive control and possession thereof and sole responsible for any injuries or damages caused thereby.

#### VI. TERM

6.01. Unless sooner terminated as hereinafter provided, TUEC's option to purchase Water hereunder shall expire January 1, 2014.

#### VII. FORCE MAJEURE

7.01. If, by reason of force majeure, any party hereto shall be rendered unable wholly or partially to carry out any obligations it may have under this Agreement, other than the obligation of TUEC to make the payments required to be made under the provisions of this Agreement, then if such party shall give notice as soon as practicable and full details thereafter in writing of such force majeure to each affected party within a reasonable time after the occurrence of the event or cause relied on, the obligations of the party giving such notice, so far as such obligations are affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

7.02. The term "force majeure" as employed herein, shall mean acts of God; strikes, lockouts, and other industrial disturbances; acts of the public enemy; orders or any kind of the government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraints of government and people; civil disturbances; explosions; breakages or accidents to machinery, pipelines or canals; partial or entire failure of water supply; or inability on the part of any party hereto to carry out its obligation under this Agreement on account of any other cause or causes not reasonably within the control of such party. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

#### VIII. COMPLIANCE WITH LAWS

8.01. The parties hereto agree to discharge their respective obligations under this Agreement in compliance with all applicable laws, ordinances, governmental rules, and regulations, and subject thereto.

## IX. NOTICES

9.01. Any notice, request, or other communication under this Agreement shall be given in writing and shall be deemed to have been given by either party to the other party upon the date of the mailing thereof, as shown by the post office receipt if mailed hereto by registered or certified mail to the following address or any address which may hereafter be specified in writing:

(a) If to the Authority:

Sabine River Authority  
P.O. Box 579  
Orange, Texas 77630  
Attn: Executive Vice President & General Manager

(b) If to TUEC:

Texas Utilities Electric Company  
2001 Bryan Tower  
Dallas, Texas 75201  
Attn: President

## X. ASSIGNMENT

10.01. TUEC may assign this Agreement and its rights hereunder to any successor in interest, or to any other subsidiary of Texas Utilities Company, without the consent of the Authority, but will not resell the Water to a third party without the express written consent of the Authority.

10.02. No assignment or transfer of this Agreement shall in any way change or affect the obligations of Texas Utilities Electric Company under the terms of this Agreement or the Bond Amortization Contract.

## XI. TERMINATION

11.01. In the event of the termination of the First Supplement to the Water Supply Contract and Conveyance pursuant to Article VIII thereof, this Agreement shall likewise be terminated without further action by Authority or TUEC, and if so terminated, same shall become null and void, and of no force and effect. If this Agreement is hereafter terminated pursuant to this Section 11.01, all payments made hereunder shall be deemed sufficient to continue the Water Purchase Agreement dated October 1, 1981, by and between the parties, in full force and effect.

11.02. In the event TUEC shall fail to make any payment required to be made under the terms of this Agreement when due, the Authority shall have the right, but shall not be obligated, if such failure shall continue for a period of thirty (30) days after written notice to TUEC, to suspend delivery of Water hereunder, cancel and terminate this Agreement without prejudice to any other remedy available to it, or to continue the delivery of Water to TUEC and to charge interest on the unpaid installments from the date when due until paid at the highest rate of interest allowed by applicable law.

## **XII. RELEASE OF WATER**

12.01. The Authority shall have the right to request the release of and sell, and TUEC agrees to release and relinquish to the Authority for sale, up to and including 7,000 acre feet of Water annually out of the quantity agreed to be sold to TUEC under the terms of Section 2.01 hereof. The Authority may exercise such right as to all or any part of said 7,000 acre feet of Water in one or more increments; provided, however, such right must be exercised as to 3,500 acre feet prior to January 1, 1990, and as to the remaining 3,500 acre feet prior to January 1, 1994. Such right shall be subject to the terms of Sections 12.02 and 12.03 hereof.

12.02 Any such sale may be made upon such terms and conditions as may be determined to be appropriate by the Authority.

12.03. The Authority may, at any time, make its written request to TUEC to release such Water, specifying the quantity to be released, and the release shall be effective thirty (30) days after the date of such written request. In such event, the annual payments for Water under the terms of Section 3.01 of this Agreement shall be reduced by an amount equal to \$27.50 times the number of acre feet which the Authority requests TUEC to release. If any such release of Water is effective on any day other than the anniversary date of this Agreement, then the reduction in payments shall be made beginning with the calendar month following the date on which such release becomes effective and shall be prorated for the month during which such release becomes effective.

## **XIII. MISCELLANEOUS**

13.01. Subject to the provisions of Section 11.01 above, the Water Purchase Agreement by and between the parties shall be of no further force and effect.

13.02. All headings of the Articles and particular Sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part of this Agreement and in no way shall they affect the interpretation of any of the provisions of this Agreement.

13.03. The rights and remedies of the parties set forth in this Agreement shall not be exclusive and are in addition to all other rights and remedies of the parties hereto, except that nothing contained in this Agreement shall impair or in any manner alter the obligations and responsibilities imposed upon TUEC by the terms of the Water Supply Contract and Conveyance and the First Supplement thereto; the Facilities Agreement; the Bond Amortization Contract; the Bond Resolutions; and all Trust Indentures entered into by and between the Authority and the Republic Bank of Dallas, Dallas, Texas, as Trustee, with respect to Bonds issued in accordance with the Bond Amortization Contract.

13.04. This Agreement may be amended or supplemented by mutual agreement of the parties hereto, but in no event shall any such amendment or supplement change or affect the Bond Amortization Contract.

13.05. This Agreement shall be subject to the approval and continuing jurisdiction of the Texas Water Commission, or its successor agency, and to its rules and regulations.

EXECUTED as of the \_\_\_\_\_ day of \_\_\_\_\_, 1986.

APPROVED AS TO FORM

SABINE RIVER AUTHORITY

\_\_\_\_\_  
EARL ROBERTS, JR.  
Attorney for Sabine River  
Authority

By: \_\_\_\_\_  
Executive Vice President and  
General Manager

TEXAS UTILITIES ELECTRIC COMPANY

By: \_\_\_\_\_  
Senior Vice President

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 05-4669

OWNER: Sabine River Authority of  
Texas  
P. O. Box 579  
Orange, Texas 77631-0579

COUNTIES: Wood and Rains

PRIORITY DATES: June 26, 1974;  
February 28, 1983  
and August 13,  
1985

WATERCOURSE: Lake Fork Creek,  
tributary of the  
Sabine River

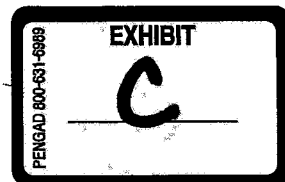
BASIN: Sabine River.

WHEREAS, by final decree of the 188th Judicial District Court of Gregg County, in Cause No. 86-255-A, In Re: The Adjudication of Water Rights in the Upper Sabine River Segment of the Sabine River Basin dated June 9, 1986, a right was recognized under Permit 2948 authorizing the Sabine River Authority of Texas to appropriate waters of the State of Texas as set forth below:

WHEREAS, by an amendment to Permit 2948, issued on August 22, 1983, the Texas Water Commission authorized the Sabine River Authority of Texas to divert and use not to exceed: (1) 24,940 acre-feet of water per annum for municipal purposes within the Sabine River Basin; (2) the transbasin diversion of 120,000 acre-feet of water to the Trinity River Basin for use by the City of Dallas; (3) 20,000 acre-feet of water per annum for industrial purposes; and (4) a diversion rate of 334.4 cfs (150,000 gpm) for water sold to the City of Dallas pursuant to a contract;

WHEREAS, by an amendment to Permit 2948A, issued on May 28, 1987, the Texas Water Commission authorized a change in the diversion and use of water as follows: (1) 36,800 acre-feet of water per annum for municipal purposes within the Sabine River Basin; (2) the use of the bed and banks of Lake Fork Creek and Sabine River to transport water to downstream diversion points; (3) 19,500 acre-feet of water per annum for industrial purposes within the Sabine River Basin; (4) 131,860 acre-feet of water per annum for municipal purposes by the City of Dallas, of which 120,000 acre-feet may be used in the Trinity River Basin; (5) authorized the Authority and the City of Dallas to operate Lake Fork and Lake Tawakoni Reservoirs on a joint use basis; and (6) a diversion rate of 600 cfs (269,300 gpm);

WHEREAS, by an amendment to Permit 2948B, issued on November 2, 1987, the Texas Water Commission authorized a change in the amount of water to be diverted from Lake Fork Reservoir for municipal purposes within the Sabine River Basin from 36,800 acre-feet per annum to 37,300 acre-feet of water per annum;



Certificate of Adjudication 05-4669

NOW, THEREFORE, this certificate of adjudication to appropriate waters of the State of Texas in the Sabine River Basin is issued to Sabine River Authority of Texas, subject to the following terms and conditions:

1. IMPOUNDMENT

Owner is authorized to maintain an existing dam and reservoir on Lake Fork Creek (Lake Fork Reservoir) and impound therein not to exceed 675,819 acre-feet of water. The dam is located in the J. Barfield Survey, Abstract 77; the F. S. Chaney Survey, Abstract 111; the J. J. Gholson Survey, Abstract 246; the G. W. Matthews Survey, Abstract 412 and J. M. Swisher Survey, Abstract 553, Wood County, Texas.

2. USE

- A. Owner is authorized to divert and use not to exceed 37,300 acre-feet of water per annum from the aforesaid reservoir for municipal purposes within the Sabine River Basin. This authorization is inclusive of the 20,000 acre-feet of water per annum which the Sabine River Authority agreed to provide to the City of Longview, Texas, in that "Water Supply Agreement" of March 5, 1975.
- B. Owner is authorized to divert and use not to exceed 131,860 acre-feet of water per annum from the aforesaid reservoir for municipal purposes by the City of Dallas; however, not to exceed 120,000 acre-feet of water per annum may be transferred to the Trinity River Basin. This authorization is specifically made subject to the option of Texas Utilities Electric Company to purchase up to 17,000 acre-feet of water per annum for industrial purposes; said water to be purchased from the City of Dallas pursuant to that certain contract entitled "First Supplement to Water Supply Contract and Conveyance" dated July 30, 1986.

Upon the occurrence of the contingency set out above, the Sabine River Authority of Texas shall promptly notify the Executive Director in writing of such occurrence and shall promptly file the appropriate contract in accordance with special condition contained herein and the authorization for diversion and municipal use by the City of Dallas, set out above, shall be correspondingly reduced, while the appropriate purchaser (Texas Utilities Electric Company) is hereby granted the appropriate industrial authorization.

- C. Owner is authorized to divert and use not to exceed 19,500 acre-feet of water per annum from the aforesaid reservoir for industrial purposes within the Sabine River Basin by Texas Utilities Electric Company. Furthermore, the Texas Utilities



Certificate of Adjudication 05-4669

Electric Company agrees to release and relinquish to the Sabine River Authority up to 7500 acre-feet of water per year for sale by the Authority for municipal use in the Sabine River Basin. Upon the occurrence of such release, the Authority shall promptly notify the Executive Director in writing of such release, and the above authorization for diversion and industrial use by the Texas Utilities Electric Company shall be correspondingly reduced and the Sabine River Authority shall be recognized the appropriate authorization for diversion and municipal use.

- D. The Sabine River Authority of Texas and the City of Dallas are authorized to operate Lake Fork and Lake Tawakoni reservoirs on a joint use basis. As used herein, the term "Joint Use Basis" shall mean that method of operation of the two reservoirs by which either party may sell, deliver or withdraw from one reservoir water which has been authorized to be diverted from either reservoir regardless of whether such party has the physical means to transport water from one reservoir to the other, subject to special conditions contained herein.

3. DIVERSION

- A. Location:  
At any point on the perimeter of the aforesaid Lake Fork Reservoir.
- B. Maximum rate: 600.00 cfs (270,000 gpm).

4. PRIORITY

- A. The time priority of owner's right is June 26, 1974 for the impoundment of water in the aforesaid reservoir and the diversion and use of 164,940 acre-feet of water.
- B. The time priority of owner's right is February 28, 1983 for the transbasin diversion of 120,000 acre-feet of water from the Sabine River Basin to the Trinity River Basin.
- C. The time priority of owner's right is August 13, 1985 for the diversion and use of the remaining 23,720 acre-feet of water.

5. SPECIAL CONDITIONS

- A. Owner will provide the facilities necessary to pass water through the dam at all times. To provide for downstream domestic, livestock, and natural streamline needs, owner will make sufficient releases from the reservoir in a manner approved by the Commission to maintain a minimum flow of 2.00

Certificate of Adjudication 05-4669

cfs at the USGS streamflow gaging station at State Highway 37, 5.0 miles downstream from the dam.

- B. Owner will install and maintain a continuous lake-level measuring station and maintain the following records:

- (1) Reservoir content;
- (2) Discharges through Lake Fork Creek Dam.

All records will be compiled monthly and reported to the Commission annually and at other times as required.

- C. Owner shall pass its proportional part of water required to maintain a minimum flow of the Sabine River at stateline in accordance with the Sabine River Compact.

- D. Owner is authorized to transfer not to exceed 120,000 acre-feet of water per annum from Lake Fork Reservoir in the Sabine River Basin to the Trinity River Basin for municipal use by the City of Dallas. Water transferred to the Trinity River Basin under this authorization may be transported directly to the City of Dallas or may be transported to Lake Tawakoni in the Sabine River Basin and/or Lake Ray Hubbard in the Trinity River Basin for storage and subsequent use by the City of Dallas;

- E. All of the contingent authorizations set out above are expressly conditioned on the Sabine River Authority notifying the Texas Water Commission in writing on the exercise of contractual options by the water purchaser and on the compliance by owner with the provisions of 31 TAC Section 297.101 - 297.108 of Texas Water Commission Rules. Such authorizations shall become null and void upon termination of the contract or contracts and, thereafter, owner shall be authorized to make such use of water hereunder as if such contingent authorizations had not occurred.

- F. The Sabine River Authority of Texas shall not withdraw from Lake Fork Reservoir more than: (1) 56,800 acre-feet of water per annum, plus (2) any water transported to Lake Fork reservoir from Lake Tawakoni by means of pipeline, canal or otherwise.

- G. The City of Dallas shall not withdraw from Lake Fork Reservoir more than: (1) 131,860 acre-feet of water per annum, plus (2) any water transported by the City of Dallas from Lake Tawakoni to Lake Fork Reservoir by means of pipeline, canal or otherwise.