



8th Annual Water Reuse in Texas Conference: Extending Our Water Frontier

Reuse Realities: Federal and State Regulatory Updates Water Rights/Water Quality

Nathan E. Vassar,
Lloyd Gosselink Rochelle & Townsend, P.C.

McAllen, Texas | May 23-24, 2019



Why Reuse?

-Stretch Supplies

-Cost/Effort Required

-More reliable “rain” cycle.

Other Options/Menu Offerings

-New Supply Development

-Contract Water

-Conservation



Testing Reuse Knowledge

“A Water Rights holder is required to discharge certain percentages of water it diverts back into a receiving stream.”

True or False?

Testing Reuse Knowledge

“A Water Rights holder is required to discharge certain percentages of water it diverts/uses back into a receiving stream.”

True or False?

Testing Reuse Knowledge?

“Prior to 1997, there was no statutory basis for ‘bed and banks’ transportation of return flows”

True or False?

Testing Reuse Knowledge

“Prior to 1997, there was no statutory basis for ‘bed and banks’ transportation of return flows”

True or False?

Indirect Reuse: What is a Return Flow?

-No Statutory Definition

-TCEQ Rules include applicable definition.



Indirect Reuse: What is a Return Flow?

-”That portion of state water . . .

-diverted from a water supply and beneficially used

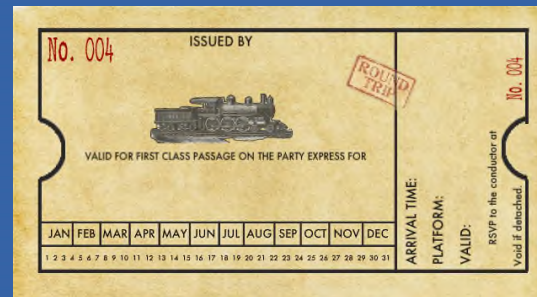
-which is not consumed as a consequence of that use

-and returns to a watercourse. . . .”

30 Tex. Admin. Code § 297.1(44) (emphasis added)

Indirect Reuse: What Do I Need to Permit it?

1) Transportation ticket.



2) Ownership.



Indirect Reuse: What Do I Need to Permit it?


1) Transportation ticket: Bed and Banks Authorization



Indirect Reuse: What Do I Need to Permit it?

- 1) Transportation Ticket
- 2) Ownership

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



WATER USE PERMIT

PERMIT NO. 12810	TYPE 55 11.121, 11.042
Permittee: Daisy Farms, LLC	Address: 4482 Highway 24 Paris, TX 75462
Filed: April 12, 2013	Granted: October 12, 2015
Purpose: Industrial, Agriculture, Livestock, and Recreation	County: Lamar
Watercourses: Unnamed Tributaries of Auda Creek and Auda Creek, Tributary of the Sulphur River	Watershed: Sulphur River Basin

WHEREAS, Daisy Farms, LLC (Applicant or Permittee) seeks a Water Use Permit to construct and maintain three proposed dams and reservoirs (Proposed Ponds 1 & 2, and Williams Pond) and maintain six existing dams and reservoirs (Existing Ponds 1 through 6) and a Sump, on unnamed tributaries of Auda Creek, tributary of the Sulphur River, Sulphur River Basin, Lamar County, for recreational, industrial, agricultural and livestock purposes; and

WHEREAS, Applicant also seeks authorization to divert up to 17,500 acre-feet per year at a maximum diversion rate of 250 cfs (112,250 gpm) from Auda Creek and authorization to use the bed and banks of the Sump and Williams Pond for storage and subsequent diversion and use of 15,000 acre-feet per year for industrial, agricultural, livestock, and recreational purposes; and

WHEREAS, Applicant also seeks authorization to use the bed and banks of Existing Ponds 1 through 6 and Proposed Ponds 1 and 2 to convey 7,000 acre-feet per year of the 15,000 acre-feet of water diverted from the Sump and Williams Pond to Existing Ponds 1 through 6 and Proposed Ponds 1 and 2, for subsequent diversion and use for industrial, agriculture, livestock, and recreational purposes; and

WHEREAS, Applicant also seeks authorization to use the bed and banks of Proposed Ponds 1 and 2 and Existing Ponds 1 through 6 to store, transport and divert up to 4,000 acre-feet of water per year purchased from the City of Paris, for industrial, agricultural, livestock, and recreational purposes; and

WHEREAS, Applicant also seeks authorization to divert and use 245 acre-feet of the combined natural inflows to Existing Ponds 1 through 6 and Proposed Ponds 1 and 2 for industrial, agricultural, livestock, and recreational purposes; and



Indirect Reuse: What Do I Need to Permit it?

Avoid Traps:

-Transportation Right alone is insufficient. Water right is the vehicle to permit indirect reuse return flows.

-Due diligence of source water: ownership retained by seller?

Indirect Reuse: Statutory Basis



Texas Water Code §11.042 – Transportation Ticket

Texas Water Code § 11.046 – Surplus Water Discussion

Texas Water Code § § 11.121; 11.122 – Permits/Amendments
Required

Testing Reuse Knowledge

“Surplus Water” is:

- a) All water returned to a state water course after diversion and use.
- b) Only water in excess of beneficial use that is returned to a stream.
- c) Water that results from unexpected rainfall/storms.

Testing Reuse Knowledge

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How Indirect Reuse Requirements Have Changed

Brazos River Authority's "System Operations" Permit ("SysOps")



How Indirect Reuse Requirements Have Changed

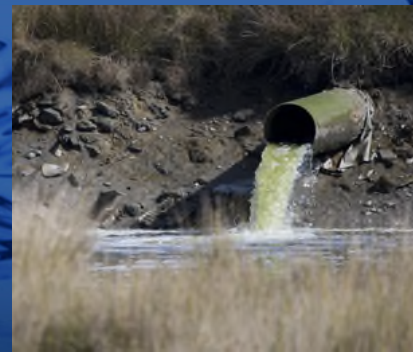
R.E. Janes Gravel Co. v. Tex. Comm'n on Env'tl. Quality, 522 S.W.3d 506 (Tex. App.—Hous. [14th Dist.] Dec. 15, 2016, no pet. h.).



How Indirect Reuse Requirements Have Changed

-Not precluded from seeking return flows after discharges have begun.

-Can still appropriate water discharged by others, but may be interrupted.



Face of Reuse Permits

-Environmental Flow Conditions

-Accounting

-Capturing future return flows

(1) Date	(2) Allowable Diversion With All Losses and With All Commitment Water Accounted For Of MUDA's Effluent Next 24 Hours gallons	(3) Of Huntsville's Effluent Next 24 Hours gallons	(4) Of Huntsville's and MUDA's Effluent Next 24 Hours gallons	(5) Allowable Diversion With All Losses and With Only Huntsville's Commitment Water Accounted For Of MUDA's Effluent Next 24 Hours gallons	(6) Of Huntsville's Effluent Next 24 Hours gallons	(7) Of Huntsville's and MUDA's Effluent Next 24 Hours gallons
12/31/11	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/01/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/02/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/03/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/04/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/05/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/06/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/07/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/08/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/09/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/10/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/11/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/12/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/13/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/14/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/15/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/16/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/17/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/18/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/19/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/20/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/21/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/22/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/23/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/24/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/25/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/26/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/27/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/28/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/29/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/30/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
01/31/12	710,431	2,000,000	2,710,431	899,280	2,000,000	2,899,280
02/01/12	552,558	2,000,000	2,552,558	899,440	2,000,000	2,899,440
02/02/12	552,557	774,484	1,327,042	899,440	774,484	1,473,924

Federal Overlay to Reuse

-Distinctions: Water Quantity left to state regulation

-Several Emerging Trends:

- *Federal interest in reuse
- *PFAS/PFOS developments



Federal Overlay to Reuse

-Federal Interest in Reuse (and reports regarding water cycle and produced water)

-What is “Produced Water”?



Federal Overlay to Reuse

- Federal Interest in Reuse (and reports regarding water cycle and produced water)

- Produced Water focus and next frontiers



Federal Overlay to Reuse

- Clean Water Act Implications
- Other Emerging Contaminants

"Contaminants of Emerging Concern" (CECs) – EPA



Future of Reuse Options

-Water Quality Considerations

-Alternate Sources

-Permitting changes



A decorative graphic of a water splash or wave, rendered in a dark blue color, positioned at the top of the slide.

QUESTIONS?

Nathan E. Vassar

nvassar@lglawfirm.com

(512) 322-5867

