

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



DOCKET NO. 98-1094-WR
AMENDMENT TO CERTIFICATE
OF ADJUDICATION

APPLICATION NO. 14-5434C CERTIFICATE NO. 14-5434C TYPE: §11.122 & 11.085

OWNER: Garwood Irrigation Company Address: P.O. Box 428
 (Garwood's Remaining Right) Garwood, Texas 77442

Accepted July 22, 1998 Granted: October 7, 1998
for Filing:

Purposes: Irrigation, Municipal and Counties: Colorado, Wharton, Travis,
 Industrial Bastrop, Fayette, and
 Matagorda

Watercourse: Colorado River Basins: Colorado, Lavaca, Guadalupe,
 and Brazos River Basins, and
 Colorado-Lavaca and Brazos-
 Colorado Coastal Basins

WHEREAS, by final decree of the 264th Judicial District Court of Bell County, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987, a right was recognized under Certified Filing 398, as amended, authorizing the Garwood Irrigation Company to appropriate waters of the State of Texas as set forth in Certificate of Adjudication No. 14-5434; and

WHEREAS, Certificate of Adjudication No. 14-5434, as issued to Garwood Irrigation Company, provides that the Certificate Owner has the right to divert and use 168,000 acre-feet of water per year from the Colorado River at a maximum diversion rate of 750 cubic feet per second for the irrigation of 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties, both in the Colorado River Basin and outside the Colorado River Basin, in the Lavaca River Basin (the "Garwood Service Area"), with a priority date of November 1, 1900; and

WHEREAS, as set forth in Certificate of Adjudication No. 14-5434, Owner also has the right to maintain a small dam and reservoir on the Colorado River; and

WHEREAS, Certificate of Adjudication No. 14-5434 was amended by issuance of Certificate of Adjudication No. 14-5434A on March 18, 1993, which provides that 35,000 acre-feet of water per year, out of the 168,000 acre-foot per year annual authorization, is authorized to be used for

irrigation, municipal and industrial purposes within the Garwood Service Area (which is located both within the Colorado River Basin and outside the Colorado River Basin) in addition to irrigation; and

WHEREAS, Certificate of Adjudication No. 14-5434, as amended, already authorizes an interbasin transfer of water out of the Colorado River Basin; and

WHEREAS, Certificate of Adjudication No. 14-5434, as amended by Certificate of Adjudication No. 14-5434A, is referred to as "Garwood's Right"; and

WHEREAS, by instrument entitled "Division of Water Right" dated as of January 30, 1997, Owner divided Garwood's Right into two separate and distinct portions, referred to as (1) "Corpus Christi's Right" and (2) "Garwood's Remaining Right"; and

WHEREAS, under Corpus Christi's Right, Owner is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cubic feet per second; and

WHEREAS, under Garwood's Remaining Right, Owner is authorized to divert and use 133,000 acre-feet of water per year from the Colorado River for irrigation at a rate of diversion not to exceed 600 cubic feet per second, and to maintain the small dam and reservoir on the Colorado River; and

WHEREAS, pursuant to the aforesaid "Division of Water Right," Garwood submitted an application to the Commission on July 22, 1998, requesting that the Commission amend the "Garwood's Remaining Right" portion of Certificate No. 14-5434, as amended, to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 133,000 acre-feet of water per annum authorized to be diverted from the Colorado River under "Garwood's Remaining Right":

- a. is also authorized to be used for municipal and industrial purposes in any year, but only to the extent that the water is not needed for irrigation within the Garwood Service Area in that year, in accordance with the special conditions set forth in the application; and
- b. is also authorized to be used outside Garwood's service area in any year, anywhere within Travis, Bastrop, Fayette, Colorado, Wharton and Matagorda Counties, but only to the extent that the water is not needed for irrigation within the Garwood Service Area in that year, in accordance with the special conditions set forth in the application; and

WHEREAS, Garwood further requests that the Commission confirm that "Garwood's Remaining Right," if so amended, would retain the November 1, 1900 priority date of Certificate No. 14-5434, but that "Corpus Christi's Right" be subordinate, in time priority and all other respects, to Garwood's Remaining Right; and

WHEREAS, in order to facilitate the Commission's administration of water rights, Corpus Christi's Right, as amended, should be assigned a priority date of November 2, 1900; and

WHEREAS, assigning a priority date of November 2, 1900 to Corpus Christi's Right, as amended, would confirm both the early priority of Corpus Christi's Right, as amended, and the subordination of Corpus Christi's Right to Garwood's Remaining Right, as requested by Garwood; and

WHEREAS, the Executive Director's Instream Uses technical review has indicated that potential impacts resulting from the additional authorizations requested include the possible introduction of exogenous species into areas outside the Colorado River Basin; and

WHEREAS, the Executive Director recommends that in order to minimize the potential of incidental transfer of exogenous organisms into areas outside the Colorado River Basin, the method of conveyance from the Colorado River Basin for use in areas outside the Colorado River Basin, other than for irrigation in areas within the Lavaca River Basin or the Brazos-Colorado or Colorado-Lavaca Coastal Basins, should be restricted to an enclosed pipeline or similar device from the diversion point on the Colorado River to the intended water treatment facilities, including any intermediate storage, pumping, or other transportation devices, isolated from natural drainage, or other similar conveyance system; and

WHEREAS, Garwood and the Lower Colorado River Authority ("LCRA") entered into an agreement, dated as of July 20, 1998 (the "LCRA Purchase Agreement"), whereby Garwood agrees to sell to LCRA, and LCRA agrees to purchase, certain of Garwood's assets, generally consisting of the Garwood Canal System and Garwood's Remaining Right; and

WHEREAS, as set forth in Section 7.08 of the LCRA Purchase Agreement, Garwood has conditioned its sale to LCRA upon LCRA making numerous commitments that protect the interests of landowners and irrigators within the Garwood Service Area; and

WHEREAS, the LCRA Purchase Agreement provides that, from and after transfer of this Certificate No. 14-5434C to LCRA, LCRA shall comply, and cause any other person that uses, supplies, or is supplied water under this Certificate to comply, with the conditions and commitments set forth in Section 7.08 of the LCRA Purchase Agreement; and

WHEREAS, Owner has applied for amendments to both Corpus Christi's Right and Garwood's Remaining Right; and

WHEREAS, this Certificate of Adjudication No. 14-5434C is Garwood's Remaining Right, amended as requested by Owner; and

WHEREAS, Certificate of Adjudication No. 14-5434B, issued contemporaneously with this Certificate, is Corpus Christi's Right, amended as requested by Owner; and

WHEREAS, the Texas Natural Resource Conservation Commission finds that jurisdiction over the application is established.

NOW THEREFORE, this Certificate of Adjudication No. 14-5434C (Garwood's Remaining Right, as amended) is issued to the Garwood Irrigation Company, subject to the following terms and conditions:

1. IMPOUNDMENT

Owner is authorized to maintain an overflow type structure (low water dam) and reservoir on the Colorado River and temporarily impound therein not to exceed 86 acre-feet of water. The dam is located adjacent to the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

2. USE AND PLACE OF USE

- a. Under this Certificate No. 14-5434C, Owner is authorized to divert and use not to exceed 133,000 acre-feet of water per annum from the Colorado River for irrigation of up to 32,000 acres of land in any year within the boundaries of Owner's service area in Colorado and Wharton Counties, both in the Colorado River Basin and outside the Colorado River Basin, in the Lavaca River Basin (the "Garwood Service Area").
- b. Under this Certificate No. 14-5434C, Owner is also authorized to use the water authorized under Paragraph 2.a., above, for municipal and industrial purposes.
- c. Under this Certificate No. 14-5434C, Owner is also authorized to use the water authorized under Paragraph 2.a., above, outside the boundaries of the Garwood Service Area, anywhere within Travis, Bastrop, Fayette, Colorado, Wharton and Matagorda Counties.

3. DIVERSION

- a. Location: At a point on the west bank of the Colorado River in the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.
- b. Maximum rate: 600.00 cfs (269,400 gpm).
- c. Transport of water under this Certificate for use in areas outside the Colorado River Basin, other than for irrigation in areas within the Lavaca River Basin or the Brazos-Colorado or Colorado-Lavaca Coastal Basins, is restricted to an enclosed pipeline or similar device from the diversion point on the

Colorado River to the intended water treatment facilities, including any intermediate storage, pumping, or other transportation devices, isolated from natural drainage.

4. PRIORITY

The time priority of Owner's right under this Certificate No. 14-5434C is November 1, 1900.

5. WATER CONSERVATION

Certificate Owner shall maintain a water conservation plan that shall provide for the utilization of those practices, techniques and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plan shall include a requirement in every wholesale water supply contract entered into, on or after the issue date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement water conservation measures. If the customer intends to resell the water, then the contract for the resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.

6. ADDITIONAL SPECIAL CONDITIONS

- a. Owner shall maintain a suitable outlet in the aforesaid small dam on the Colorado River authorized herein to allow the free passage of water that owner is not entitled to divert or impound.
- b. If the Owner of this Certificate of Adjudication No. 14-5434C should ever determine that it is no longer necessary or desirable for Certificate Owner to continue to maintain the small dam on the Colorado River authorized under this Certificate, then the owner of this Certificate shall give notice of such determination to the owner of Certificate of Adjudication No. 14-5434B. The owner of Certificate of Adjudication No. 14-5434B will be authorized to maintain the dam at that time if, but only if: (i) the owner of Certificate of Adjudication No. 14-5434B has the right at that time to divert water under that Certificate at a point on the reservoir created by the dam, and (ii) the Commission enters an order authorizing the owner of Certificate of Adjudication No. 14-5434B to maintain the dam.

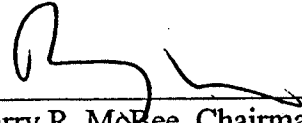
Owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Natural Resource Conservation Commission and to the right of continuing supervision of State water resources exercised by the Commission.

Date Issued: **OCT 13 1998**

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION



Barry R. McBee, Chairman

COPY

PURCHASE AGREEMENT

by and between

Garwood Irrigation Company,

as Seller,

and

Lower Colorado River Authority,

as Buyer

Dated July 20, 1998

72807

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PURCHASE AGREEMENT

This PURCHASE AGREEMENT (this "*Agreement*"), dated July 20, 1998 (the "*Execution Date*"), is by and between Garwood Irrigation Company, a Texas corporation ("*Garwood*"); and the Lower Colorado River Authority, a conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code ("*LCRA*"). Garwood and LCRA are sometimes collectively referred to herein as the "*Parties*" or, individually, as a "*Party*."

RECITALS

LCRA desires to purchase from Garwood, and Garwood desires to sell to LCRA, upon the terms and conditions contained herein, the Assets at the Closing.

NOW, THEREFORE, in consideration of the recitals, agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and in reliance upon the mutual representations and warranties contained herein, Garwood and LCRA agree, upon the terms and subject to the conditions contained herein, as follows:

ARTICLE 1

Definitions

1.01 Defined Terms. Capitalized terms used herein shall have the meaning ascribed to them in Schedule 1.01 unless such terms are defined elsewhere in this Agreement.

1.02 Other Definitional Provisions; Construction. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms. Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine and neuter; (b) references to Articles and Sections refer to Articles and Sections of this Agreement; (c) references to Schedules or Exhibits refer to the Schedules and Exhibits attached to this Agreement, each of which is made a part hereof for all purposes; (d) references to Laws refer to such Laws as are in effect from time to time prior to the Closing Date; (e) references to money refer to legal currency of the United States of America; and (f) the word "including" means "including, without limitation."

ARTICLE 2

Purchase and Sale

2.01 Sale of Assets.

(a) Upon the terms and subject to the conditions of this Agreement, at the Closing, Garwood shall sell, assign, convey, transfer and deliver to LCRA the following assets (collectively, the "Assets"):

(i) Garwood's Remaining Right, as amended by the TNRCC in response to Garwood's Application;

(ii) the real property owned in fee by Garwood and described on Schedule 2.01(a)(ii) (collectively, the "Fee Property");

(iii) the system comprised of Garwood's main pumping plant on the Colorado River (the "Pumping Plant"), the small dam on the Colorado River (the "Colorado Dam"), and all other dams, pumps, canals, laterals, ditches and other facilities, as such may currently exist or be modified in the future, that are owned by Garwood and used for the purpose of supplying water within Garwood's Service Area, all as more fully shown on the map attached hereto as Schedule 2.01(a)(iii) (collectively, the "Canal System");

(iv) to the extent assignable, the easements, rights-of-way and other enforceable legal rights of access and use that are described on Schedule 2.01(a)(iv) (collectively, the "Easements");

(v) to the extent assignable, the contracts and agreements described on Schedule 2.01(a)(v) (collectively, the "Contracts"); and

(vi) to the extent assignable, the governmental permits, licenses, orders and approvals described on Schedule 2.01(a)(vi) (collectively, the "Permits").

(b) Notwithstanding anything in this Agreement to the contrary, the assets listed on Schedule 2.01(b) (the "Excluded Assets") shall be (i) excluded from the sale hereunder, (ii) retained by Garwood and (iii) deemed not to constitute any portion of the "Assets" (or any of the other terms that are defined in Section 2.01(a)). The Excluded Assets shall include the LCRA Agreement, Corpus Christi's Right (whether or not the Corpus Christi Agreement is terminated), the Corpus Christi Agreement (to the extent it is not terminated), and all rights arising out of, and any assets subject to, the Corpus Christi Agreement.

2.02 Purchase Price. (a) Subject to the terms and conditions of this Agreement, the consideration to be paid by LCRA to Garwood for the Assets shall be \$75,000,000, less the total of all payments paid by LCRA pursuant to Sections 2.03 and 2.04 (the "Purchase Price").

(b) If this Agreement is terminated prior to Closing for any reason, Garwood shall be entitled to retain or collect, as applicable, all amounts paid or payable prior to termination under Sections 2.03 and 2.04.

2.03 Initial Payment. Simultaneously with the execution of this Agreement, LCRA shall pay Garwood the product of \$600,000 multiplied by a fraction, the numerator of which shall be the number of days during the period from February 6, 1998 through the last day of the month in which this Agreement is executed, inclusive, and the denominator of which shall be 365.

2.04 Monthly Payments.

(a) LCRA shall pay Garwood \$50,000 per calendar month until Closing. Each such payment shall be due and payable on the first day of each calendar month beginning the first day of the calendar month following the calendar month in which this Agreement is executed.

(b) If LCRA fails to pay when due and payable all or any portion of a payment required to be made under this Section 2.04, then LCRA shall be liable for a late payment charge (the "*Late Payment Charge*"). The Late Payment Charge shall be equal to an additional 18% of the amount due and not timely paid. Garwood may give written notice to LCRA stating both the amount due and not timely paid and the Late Payment Charge. If LCRA fails to pay within 20 days after receipt of such notice both the amount due and not timely paid and the Late Payment Charge, Garwood may, in addition to all other remedies available under law, terminate this Agreement without recourse. LCRA shall be liable for reasonable attorneys fees and other costs of collection or litigation incurred by Garwood in seeking payment of amounts due under this Section 2.04.

ARTICLE 3

Closing

3.01 Time and Place of Closing. Subject to the conditions stated in this Agreement, the closing of the purchase and sale of the Assets (the "*Closing*") shall occur sixty (60) days following the satisfaction or waiver of the conditions set forth in Article 8, (except for the payment of the Purchase Price by LCRA) in accordance with the applicable provisions of such Article, or on such other date as may be mutually agreed upon by the parties to this Agreement. The date Closing actually occurs is herein called the "*Closing Date*." The Closing shall be held at the offices of Garwood's legal counsel in Houston, Texas, or at such other location as may be mutually agreed upon by Garwood and LCRA.

3.02 Deliveries by Garwood.

(a) Delivery of Documents by Garwood. At Closing, Garwood shall deliver to LCRA:

(i) A Water Right Deed, and a Deed, General Conveyance and Assignment, in the forms attached hereto as Exhibit A, conveying the Assets to LCRA; and

(ii) All other documents, instruments, and writings required to be delivered by Garwood at Closing pursuant to the provisions of Section 8.02.

(b) Delivery of Certain Records. On the Closing Date (or as soon thereafter as practicable), Garwood will deliver to LCRA at Garwood's offices in Garwood, Texas, the originals of all Deliverable Records.

3.03 Deliveries by LCRA. At or prior to Closing:

(a) LCRA shall deliver to Garwood the Purchase Price.

(b) LCRA shall deliver to Garwood all documents, instruments and writings required to be delivered by LCRA at Closing pursuant to the provisions of Section 8.01.

(c) LCRA shall deliver to Garwood copies of all data, analyses, evaluations, reports, and other information acquired or developed by or on behalf of LCRA in connection with any inspections or tests of the Assets, either before the Execution Date or from the Execution Date through the Closing Date, either pursuant to Section 6.01 or otherwise.

ARTICLE 4

Representations and Warranties of Garwood

Garwood represents and warrants to LCRA as follows:

4.01 Corporate Existence and Qualification. Garwood is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Texas.

4.02 Authority, Approval and Enforceability. Garwood has all requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. The execution and delivery of this Agreement by Garwood and the performance of the transactions contemplated hereby by Garwood have been duly and validly approved by such action, if any, necessary on behalf of Garwood. This Agreement has been duly executed and delivered on behalf of Garwood and constitutes the legal, valid and binding obligation of Garwood, enforceable against Garwood in accordance with its terms, subject to Creditor's Rights. At the Closing, all documents required hereunder to be executed and delivered by Garwood will have been duly authorized, executed and delivered by Garwood and will constitute legal, valid and binding obligations of Garwood enforceable in accordance with their terms, subject to Creditor's Rights.

4.03 No Default or Consents. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated herein will:

(a) entitle any Person to exercise any preferential purchase right, option to purchase or similar right with respect to any material Asset; or

(b) result in the creation of any lien, charge or other encumbrance upon any material Asset;

which, with respect to the matters specified in each of clauses (a) and (b), above, would have a Material Adverse Effect.

4.04 Contracts. Garwood is not in default under, nor has any event occurred that with the giving of notice or the passage of time or both would constitute such a default under, any Contracts, other than exceptions to the foregoing that would not have a Material Adverse Effect.

4.05 Title. Garwood has good and marketable title to Garwood's Remaining Right and to the Fee Property, free and clear of all liens and mortgages, except as disclosed on Schedule 2.01(a)(ii).

4.06 Proceedings. Schedule 4.06 contains a true and complete list of all pending Proceedings filed against Garwood with respect to any of the Assets as of the date seven days prior to the Execution Date or, to the Knowledge of the executive officers of Garwood, threatened to be filed against Garwood with respect to any of the Assets as of the date seven days prior to the Execution Date, in either case that, if adversely determined, could have a Material Adverse Effect.

4.07 Compliance With Laws. Except as disclosed in Schedule 4.07, during the ten-year period immediately preceding the Execution Date, Garwood has not received any order, notice, or other written communication from any Governmental Authority alleging any actual or potential violation of or failure to comply with any Environmental Law with respect to any of the Assets.

4.08 Permits. Garwood holds the Permits.

4.09 Property Taxes. Except for filings and payments of assessments the failure of which to file or pay will not have a Material Adverse Effect, all Property Taxes that have become or will become due with respect to Assets for the period ending on the Closing Date, have been or will be timely paid in full.

4.10 Brokers or Finders. Garwood and its agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders fees or agent's commissions or similar payment in connection with the transactions contemplated by this Agreement.

4.11 Employees. Attached hereto as Schedule 4.11 is a complete and accurate list of the following information for each employee of Garwood who is also listed on Schedule 7.10(a), including each such listed employee on leave of absence or layoff status: job title; current compensation paid or payable and changes in compensation since December 31, 1997; vacation accrued; sick leave accrued; vesting and eligibility for Garwood's employee benefit plans; and claims pending or threatened by any such listed employee against Garwood.

4.12 NO LIABILITY FOR REPRESENTATIONS AND WARRANTIES. REGARDLESS OF WHETHER THE CLOSING OCCURS, NEITHER GARWOOD NOR ANY GARWOOD PARTY SHALL HAVE ANY LIABILITY UNDER THIS AGREEMENT

(PRIOR TO, AT OR AFTER THE CLOSING) FOR ANY BREACH OF GARWOOD'S REPRESENTATIONS OR WARRANTIES CONTAINED IN THIS AGREEMENT, OR IN ANY CERTIFICATE OR OTHER INSTRUMENT REQUIRED TO BE DELIVERED BY OR ON BEHALF OF GARWOOD PURSUANT TO THIS AGREEMENT.

ARTICLE 5

Representations and Warranties of LCRA

LCRA represents and warrants to Garwood as follows:

5.01 Existence and Qualification of LCRA. LCRA is a duly formed and validly existing conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code. LCRA has all requisite power and authority to own, operate and lease its properties and to carry on its business as presently conducted.

5.02 Authority, Approval and Enforceability With Respect to LCRA. LCRA has all requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. The execution and delivery of this Agreement by LCRA and the performance of the transactions contemplated hereby by LCRA have been duly and validly approved by the Board of Directors of LCRA and by any other action necessary on behalf of LCRA. This Agreement has been duly executed and delivered on behalf of LCRA and constitutes the legal, valid and binding obligation of LCRA enforceable in accordance with its terms. At the Closing, all documents required hereunder to be executed and delivered by LCRA will have been duly authorized, executed and delivered and will constitute legal, valid and binding obligations of LCRA, enforceable in accordance with their terms.

5.03 No Default or Consents With Respect to LCRA. Neither the execution and delivery of this Agreement nor the consummation by LCRA of the transactions contemplated herein will:

- (a) conflict with or result in a breach, default or violation of the organizational documents of LCRA or any Law applicable to LCRA;
- (b) conflict with or result in a breach, default or violation of any agreement, document, instrument, judgment, decree, order, governmental permit, certificate or license to which LCRA is a party or to which LCRA is subject or by which its property is bound; or
- (c) require LCRA to obtain or make any waiver, consent, action, approval, clearance or authorization of, or registration, declaration or filing with, any Governmental Authority (other than the approvals required by the terms of this Agreement);

which, with respect to the matters specified in each of clauses (b) and (c) above, would have an LCRA Material Adverse Effect.

ARTICLE 6

Covenants of Garwood

6.01 Access to Certain Records and Inspections. From the Execution Date through the Closing Date, Garwood shall permit LCRA and its authorized employees, agents, accountants, legal counsel, and other representatives to have reasonable access, at LCRA's sole expense, risk and cost, during normal business hours, to the Deliverable Records. From the Execution Date through the Closing Date, LCRA shall have the right to elect to perform or have performed, at LCRA's sole expense, risk and cost, one or more inspections and tests of the Assets; provided, however, that such inspections or tests (a) shall be conducted during Garwood's normal business hours, (b) shall not be disruptive of Garwood's normal business operations, and (c) shall not cause damage to any of the Assets or Excluded Assets; and provided further, however, that no employee, agent or other representative of LCRA shall enter upon or perform any inspection or test of any of the Assets unless LCRA first gives Garwood written notice of the proposed entry, inspection or test at least 24 hours in advance of such entry, inspection or test. Garwood shall have the right to have one or more of its employees, agents or other representatives accompany LCRA's representatives at all times during any entry upon or inspection or test of any of the Assets, and Garwood shall have the further right to have any sample taken by LCRA split, one-half being under the control of LCRA and one-half being under the control of Garwood. All data, analyses, evaluations, reports, and other information acquired or developed by or on behalf of LCRA in connection with any inspections or tests of the Assets, either before the Execution Date or from the Execution Date through the Closing Date, either pursuant to this Section 6.01 or otherwise, shall be subject to the provisions of Sections 3.03(c) and 7.06.

6.02 Reasonable Efforts. From the Execution Date through the Closing Date, Garwood will use its Reasonable Efforts to obtain the satisfaction of the conditions to Closing set forth in Section 8.02.

6.03 LCRA's Application. From the Execution Date through the Closing Date and except as set forth in this Agreement, Garwood shall support in all respects the application attached hereto as Exhibit B ("*LCRA's Application*"), requesting authorization from the TNRCC for LCRA to use for irrigation purposes water under Garwood's Remaining Right, as may be required pursuant to Section 2(u) of the Lower Colorado River Authority Act.

6.04 LCRA's Bond Application. From the Execution Date through the Closing Date and except as set forth in this Agreement, Garwood shall support in all respects (a) LCRA's Bond Application (as defined in Section 7.07(a)), and (b) if applicable, the Bond Validation Suit (as defined in Section 7.07(a)).

6.05 Garwood's Application. Immediately following the execution of this Agreement, Garwood shall file with the TNRCC the application attached hereto as Exhibit C ("*Garwood's Application*"). From the Execution Date through the Closing Date and except as set forth in this Agreement, Garwood shall pursue Garwood's Application diligently and to seek final action by the TNRCC regarding such application at the earliest practicable date.

6.06 NO LIABILITY FOR PRE-CLOSING COVENANTS. REGARDLESS OF WHETHER THE CLOSING OCCURS, NEITHER GARWOOD NOR ANY GARWOOD PARTY SHALL HAVE ANY LIABILITY UNDER THIS AGREEMENT (PRIOR TO, AT OR AFTER THE CLOSING) FOR ANY FAILURE OF GARWOOD TO HAVE PERFORMED ANY OF ITS COVENANTS AND AGREEMENTS UNDER THIS AGREEMENT (INCLUDING UNDER THIS ARTICLE 6 AND ARTICLE 10) PRIOR TO THE CLOSING; provided, however, that this Section 6.06 shall not impair any rights that LCRA may have under Section 13.08 to enforce specific performance by Garwood of any such covenant or agreement.

ARTICLE 7

Covenants of LCRA

7.01 Reasonable Efforts. LCRA shall use its Reasonable Efforts to obtain the satisfaction of the conditions to Closing for which it is responsible as set forth in Section 8.01.

7.02 Corpus Christi Application. LCRA agrees to file, immediately upon the execution of this Agreement, with the TNRCC a letter in the form attached hereto as Exhibit D, by which LCRA withdraws all opposition to the Corpus Christi Application and LCRA's request for a public hearing on such application. From and after the Execution Date, (a) LCRA shall not oppose the Corpus Christi Application in any way, directly or indirectly, publicly or privately, and (b) LCRA's publicly-stated position with respect to such application shall be that it does not oppose such application.

7.03 Garwood's Application. From the Execution Date through the Closing Date, LCRA shall support Garwood's Application in all respects. If and to the extent requested to do so by Garwood, LCRA shall assume all responsibility to pursue Garwood's Application or any portion thereof.

7.04 LCRA's Application. Immediately following the execution of this Agreement, LCRA shall file with the TNRCC LCRA's Application. From the Execution Date through the Closing Date, LCRA shall pursue LCRA's Application diligently and seek final action by the TNRCC at the earliest possible date.

7.05 Consolidation and Other Actions.

(a) From and after the Execution Date, Garwood, in its sole discretion, may request that the TNRCC consolidate proceedings on the Corpus Christi Application and Garwood's Application. LCRA shall support any such request in all respects.

(b) From and after the Execution Date, LCRA, in its sole discretion, may request that the TNRCC consolidate proceedings on Garwood's Application and LCRA's Application, and that the TNRCC issue one notice of the consolidated proceedings. Garwood shall support any such request in all respects.

(c) From and after the Execution Date, Garwood, in its sole discretion, may take any and all actions with respect to the Application to Amend Garwood's Remaining Right that Garwood determines to be necessary or desirable, consistent with the limitation set forth in the second proviso in Section 10.01. LCRA shall support any request by Garwood to the TNRCC to abate further processing and consideration of the Application to Amend Garwood's Remaining Right until Garwood gives notice that it desires proceedings on the Application to go forward.

7.06 Confidentiality. The provisions of this Section 7.06 shall apply to the Deliverable Records and any other information, books, records and files regarding Garwood obtained by LCRA or its representatives pursuant to this Agreement or otherwise in connection with this Agreement or the transactions contemplated hereby or previously contemplated by the Parties (collectively, "*Confidential Information*").

(a) From and after the Execution Date, unless the Closing occurs, in which case from the Execution Date through the Closing Date, LCRA shall, and shall cause its representatives to, (i) maintain all Confidential Information in strict confidence, (ii) not divulge or disclose any Confidential Information to any other Person, and (iii) not use the Confidential Information in any manner that would be adverse or prejudicial to Garwood or any of the Garwood Parties or any of the Third-Party Beneficiaries.

(b) From and after the Closing, LCRA shall, and shall cause its representatives to, not use the Confidential Information in any manner that would be adverse or prejudicial to Garwood or any of the Garwood Parties or any of the Third-Party Beneficiaries.

The provisions of this Section 7.06 are subject to the following exceptions: (A) information that is, or may become, public knowledge (other than through (I) a breach of this Section 7.06, or (II) a breach by another Person of a confidentiality obligation if LCRA is aware of such breach by such other Person); (B) disclosures or uses that may be required by Laws, provided, however, that before making any disclosure or use described in this clause (B), LCRA shall give Garwood reasonable advance notice and take such reasonable actions as Garwood may propose to minimize the required disclosure or to seek confidential treatment thereof; and (C) disclosures and uses that may be required for LCRA to enforce its rights under this Agreement.

7.07 LCRA's Bonds.

(a) Immediately following the execution of this Agreement, LCRA shall file with the Texas Attorney General the application attached hereto as Exhibit E ("*LCRA's Bond Application*"), requesting preliminary approval from the Texas Attorney General for LCRA to issue and sell its bonds or other securities in an aggregate amount sufficient to finance its payment of the Purchase Price ("*LCRA's Bonds*"). From the Execution Date through the Closing Date, LCRA shall pursue LCRA's Bond Application diligently and seek the preliminary approval of the Texas Attorney General at the earliest possible date. If the Texas Attorney General does not deliver a letter granting such preliminary approval within 90 days after the Execution Date, (i) LCRA shall immediately file, in a court of competent jurisdiction, a bond validation suit seeking judicial approval of LCRA's Bonds (the "*Bond Validation Suit*"); and (ii) from the filing of the Bond Validation Suit through the

Closing Date, LCRA shall pursue the Bond Validation Suit diligently and seek final action by such court at the earliest possible date.

(b) After receiving the preliminary approval of the Attorney General or a final and nonappealable judgment in the Bond Validation Suit, and through the Closing Date, LCRA shall authorize, and pursue diligently the issuance and sale, of LCRA's Bonds so that it will have the proceeds of LCRA's Bonds available on or before the Closing Date to pay the Purchase Price.

7.08 Protection of Landowners and Irrigators Within Garwood's Service Area. From and after the Closing, LCRA shall comply, and cause any other Person that uses, supplies, or is supplied water under Garwood's Remaining Right to comply, with the following provisions of this Section 7.08.

(a) Garwood's Remaining Right shall be divided into two distinct portions at any time, the Reserved Portion (hereinafter defined), and the Surplus Portion (hereinafter defined). The "*Reserved Portion*" of Garwood's Remaining Right at any time shall be that portion of the total amount of water authorized to be used annually under Garwood's Remaining Right at that time equal to the Reserved Amount (hereinafter defined) in effect at that time. The "*Surplus Portion*" of Garwood's Remaining Right at any time shall be that portion of the total amount of water authorized to be used annually under Garwood's Remaining Right at that time in excess of the Reserved Portion at that time. The Reserved Portion of Garwood's Remaining Right shall authorize the diversion of all of the water authorized to be used annually under such portion at the existing point of diversion on the Colorado River (the "*Point of Diversion*") at a rate of diversion of 600 cfs for the irrigation of up to 32,000 acres of land in any year within Garwood's Service Area with a priority date of November 1, 1900. The Surplus Portion of Garwood's Remaining Right may also authorize the diversion of all of the water authorized under such portion at a rate of diversion of 600 cfs with a priority date of November 1, 1900; provided, however, that the combined rate of diversion at any time under the Reserved Portion and the Surplus Portion may never exceed 600 cfs; and provided further, however, that the priority of the Surplus Portion shall be subordinate in time priority and all other respects to the Reserved Portion. The Reserved Portion of Garwood's Remaining Right shall not be amended at any time: (i) to reduce the amount of water authorized to be diverted at the Point of Diversion and used for irrigation within Garwood's Service Area in any year below the Reserved Amount in effect for that year; (ii) to remove any lands from Garwood's Service Area unless such lands had not been irrigated at all at any time during the Historical Period (hereinafter defined) in effect at that time, or the owner of such lands first authorizes such removal in writing; (iii) to reduce the number of acres authorized to be irrigated in any year within Garwood's Service Area below 32,000 acres, or below the total number of acres in Garwood's Service Area at that time, whichever is less; (iv) to reduce the authorized rate of diversion at the Point of Diversion below 600 cfs; (v) to impair in any way the November 1, 1900 priority of the right to divert water at the Point of Diversion for use for irrigation within Garwood's Service Area; or (vi) to impair in any way the relative seniority and superiority of the Reserved Portion over the Surplus Portion. The "*Reserved Amount*" in effect for any calendar year shall be the maximum amount of water used for irrigation within Garwood's Service Area during any one calendar year within the Historical Period in effect at that time as measured at the Point of Diversion, inclusive of all evapotranspiration, seepage and other losses incurred after diversion; provided, however, that the Reserved Amount in effect for every year during the period consisting of the calendar year in which Closing occurs and the ten calendar years

immediately following that year shall be 100,000 acre-feet; and provided further, however, that the Reserved Amount in effect for any year shall never exceed the Reserved Amount in effect for the previous year. The “*Historical Period*” in effect for any calendar year shall be the period consisting of the ten calendar years immediately preceding that year.

(b) From and after the Closing, LCRA shall maintain, repair and replace the Pumping Plant, the Colorado Dam, and all other dams, pumps, canals, laterals, ditches and other facilities comprising the Canal System, as it exists on the Execution Date, as necessary and keep all such facilities operable in conditions at least as good and at capacities at least as great as those that exist on the Execution Date.

(c) The December 10, 1987 agreement between LCRA and Garwood (the “*LCRA Agreement*”), a copy of which is attached as Exhibit F, shall remain in full force and effect, and LCRA shall continue to honor the terms of the LCRA Agreement. Pursuant to the terms of the LCRA Agreement, LCRA shall supply stored water from the Highland Lakes as may be necessary at any time to firm up and supplement the supply of run-of-river water available under the Reserved Portion of Garwood’s Remaining Right at that time, for use for irrigation within Garwood’s Service Area, with no charges for stored water to any landowner or irrigator within Garwood’s Service Area. The supply of stored water for irrigation within Garwood’s Service Area shall be interruptible, but only if and to the extent provided in the LCRA Agreement, and then only under assumptions and criteria that are at least as favorable to landowners and irrigators within Garwood’s Service Area as those assumptions and criteria used by LCRA in its proposed Water Management Plan (as such proposed Water Management Plan is defined by filings submitted by LCRA to the TNRC dated as of and prior to December 29, 1997), as discussed and illustrated in the excerpt of such proposed Water Management Plan attached as Exhibit G. As set forth in Subsection (b), above, LCRA is now responsible for maintaining the Colorado Dam, which is identified in the LCRA Agreement as “Garwood’s low water dam.”

(d) The demand for water for irrigation within Garwood’s Service Area at all times from and after the Closing Date, up to the Reserved Amount in effect for each year, shall be satisfied by diversions of water from the Colorado River at the Point of Diversion by use of the Pumping Plant, and then by distribution and supply of that water via the Canal System. Except to the extent provided otherwise below in this subsection (d) and in subsection (e), below, the demand at any time may be satisfied by diversions of water available in the Colorado River at the Point of Diversion at that time under any right or combination of rights and from any source or combination of sources available at that time, so long as the amount of water available for diversion from the Colorado River for irrigation within Garwood’s Service Area from the alternative supply at any time is equal to or greater than the amount that would be available at that time under the Reserved Portion of Garwood’s Remaining Right and the LCRA Agreement, assuming no other uses of water under the Reserved Portion. To the extent that the alternative supply does not provide the required amount of water at any time, the demand shall be satisfied from the supply available under the Reserved Portion of Garwood’s Remaining Right and the LCRA Agreement.

(e) In any calendar year during the period consisting of the calendar year in which Closing occurs and the ten calendar years immediately following that year, the demand for water for irrigation within Garwood’s Service Area, up to the Reserved Amount for that year, shall be satisfied

entirely from the supply available under the Reserved Portion of Garwood's Remaining Right and the LCRA Agreement. During this period of time, no water may be used under the Reserved Portion for any use other than irrigation within Garwood's Service Area.

(f) At any time that the demand for water for irrigation within Garwood's Service Area is required to be satisfied from the supply available in the Colorado River under the Reserved Portion of Garwood's Remaining Right and the LCRA Agreement, the demand will be satisfied first from the supply of run-of-river water available at the Point of Diversion under the Reserved Portion of Garwood's Remaining Right at that time based on a priority date of November 1, 1900, and all other uses of water under the Reserved Portion, if any, shall cease to the extent required to satisfy such demand. Any diversion and use of water under the Surplus Portion of Garwood's Remaining Right, or under the Corpus Christi Right, shall be subordinate, in time priority and all other respects, to the diversion and use under the Reserved Portion of Garwood's Remaining Right of water for irrigation within Garwood's Service Area. If the demand for water for irrigation within Garwood's Service Area at any time is not fully satisfied from the supply of run-of-river water available under the Reserved Portion of Garwood's Remaining Right as set forth above in this subsection (f), the supply shall be firmed up and supplemented by releases of stored water from the Highland Lakes to the extent provided in the LCRA Agreement.

(g) The rates charged for the supply of water for irrigation within Garwood's Service Area in every year during the period consisting of the calendar year in which Closing occurs and the five calendar years immediately following that year shall not exceed the rates last established by Garwood as of December 31, 1997. The rates charged after the five-year period shall not exceed rates based on the reasonable cost of service for the supply of water via the Canal System for irrigation within Garwood's Service Area for that year. The cost of service for water supplied via the Canal System for irrigation within Garwood's Service Area for any year shall not include any charges or costs attributable in any way to payment of any amount of money to Garwood pursuant to this Agreement, or payment of any amount of money for any subsequent transfer of ownership of Garwood's Remaining Right or any portion thereof or the Canal System or any portion thereof, or any debt service charges for or attributable to any facilities comprising the Canal System or any other facilities, or any charges whatsoever for maintaining, repairing, modifying or replacing the Colorado Dam, or any charges whatsoever for any additional pumps, canal extensions or other facilities not part of the Canal System as it exists on the Execution Date, or any charges for the installation of any meters or any modifications that improve the efficiency of the system, or any charges for any water supplied to the Point of Diversion for the Canal System including any run-of-river water supplied under the Reserved Portion of Garwood's Remaining Right, any water supplied from storage in the Highland Lakes, and any water supplied under any other right or from any other source other than the Reserved Portion of Garwood's Remaining Right and the Highland Lakes. The cost of service for water supplied via the Canal System for irrigation within Garwood's Service Area for any year may include costs of keeping the Pumping Plant and all dams (other than the Colorado Dam), pumps, canals, laterals, ditches and other facilities comprising the Canal System, as it exists on the Execution Date, maintained, repaired and replaced as necessary and operable in conditions as good and at capacities as great as those that exist on the Execution Date, and the costs of operating those facilities, to the extent they are used to supply water for irrigation within Garwood's Service Area; provided, however, if such facilities are also used to supply water for municipal or industrial purposes, then the cost of service for water supplied via the Canal System for irrigation within

Garwood's Service Area shall be limited to the incremental costs of maintenance, repair, replacement, and operation of such facilities in excess of the costs needed to supply the water used for municipal and industrial purposes.

(h) No fees, assessments or other charges of any kind shall be made upon any landowner or irrigator within Garwood's Service Area for any meters, improvements to the system, or other modifications to improve the efficiency of the system or that otherwise results in less water being needed per acre irrigated.

(i) Any contract or other commitment to supply water under the Surplus Portion of Garwood's Remaining Right, and any contract or other commitment to supply water under the Reserved Portion of Garwood's Remaining Right for purposes other than irrigation within Garwood's Service Area, and any contract for the conveyance of or instrument conveying Garwood's Remaining Right or any portion thereof or the Canal System or any portion thereof, shall be subject to the commitments and conditions set forth in this Section 7.08 and to all terms, provisions and special conditions contained within the amendment to Garwood's Remaining Right pursuant to the TNRCC's order granting Garwood's Application. Each such contract or other commitment, and each such conveyance instrument, shall contain the following provision:

"This [Contract/Agreement/Conveyance/etc.] is subject to the commitments and conditions set forth in Section 7.08 of that certain Purchase Agreement, dated July 20, 1998, between Garwood Irrigation Company, as seller, and the Lower Colorado River Authority, as buyer (the "LCRA Purchase Agreement"), and is further subject to all terms, provisions and special conditions contained within that certain water right identified as Certificate of Adjudication No. 14-5434 __, issued to Garwood by the Texas Natural Resource Conservation Commission ("TNRCC") on _____, __, __, a copy of which is attached hereto as Exhibit __ (such water right is referred to herein as "Garwood's Remaining Right, as Amended"). Garwood's Remaining Right, as Amended, is described in the LCRA Purchase Agreement as "Garwood's Remaining Right" (as defined in the LCRA Purchase Agreement), as amended by the TNRCC in response to that certain application to amend defined in the LCRA Purchase Agreement as "Garwood's Application." By executing this [Contract/Agreement/etc.], or by accepting this [Conveyance/etc.], [Purchaser/Buyer/etc.] hereby acknowledges receipt of copies of the LCRA Purchase Agreement and Garwood's Remaining Right, as amended."

(j) No action may be taken, even if such action is otherwise permitted by the other provisions of this Section 7.08, if such action would result in landowners and irrigators within either the Gulf Coast Service Area or the Lakeside Service Area being treated, or being perceived as being treated, more favorably at any time than those within Garwood's Service Area with respect to any matter relating to amendments of the underlying water right or rights for that service area, including amendments to reduce the amount of water authorized to be used for irrigation within the service area or remove lands from the service area or reduce the number of acres within the service area that may be irrigated in any one year, the amounts and firmness of water reserved for supply, the supply of that water, or the rates charged for the supply of that water. Without in any way limiting the generality of the foregoing provision of this Subsection (j), Garwood's Remaining Right may not be

amended to reduce the amount of water authorized to be used for irrigation within Garwood's Service Area or remove lands from Garwood's Service Area or reduce the number of acres within Garwood's Service Area that may be irrigated in any one year, unless the underlying water rights for both the Gulf Coast Service Area and the Lakeside Service Area are also amended using the same criteria used as a basis for, and to the same extent as, the amendment to Garwood's Remaining Right. If, notwithstanding full compliance with the foregoing provisions of this subsection (j) and the other commitments and conditions set forth in this Section 7.08, landowners and irrigators within either the Gulf Coast Service Area or the Lakeside Service Area are being treated more favorably at any time than those within Garwood's Service Area with respect to any such matter, then LCRA agrees to take whatever actions may be necessary to improve the position of landowners and irrigators within Garwood's Service Area so that they are treated at least as favorably as landowners and irrigators within the Gulf Coast and Lakeside Service Areas.

(k) Garwood shall be provided a copy of each of the following:

(i) each contract or other commitment to supply water under the Surplus Portion of Garwood's Remaining Right;

(ii) each contract or other commitment to supply water under the Reserved Portion of Garwood's Remaining Right for purposes other than irrigation within Garwood's Service Area;

(iii) each contract for the conveyance of, and each instrument conveying, Garwood's Remaining Right or any portion thereof or the Canal System or any portion thereof; and

(iv) each application to amend Garwood's Remaining Right, any of the underlying water rights for the Gulf Coast Service Area, and any of the underlying water rights for the Lakeside Service Area;

within 10 days after any such contract or other commitment is entered into by the parties, any such conveyance instrument is delivered to the transferee, or any such application is filed with the TNRCC.

(l) The commitments and conditions set forth in this Section 7.08 shall remain in effect for so long as the Canal System is used to supply any water for any purpose of use.

7.09 Surplus Water. Nothing in this Agreement shall be construed as requiring LCRA to reserve or supply any water under the Surplus Portion of Garwood's Remaining Right for irrigation, or for use within Garwood's Service Area.

7.10 Garwood's Employees.

(a) LCRA to Hire Garwood's Employees. From and after the Closing, LCRA shall hire the employees of Garwood listed on Schedule 7.10(a) to operate the Canal System if such employees are legally authorized to work in the United States.

(b) LCRA's Salaries and Benefits. From and after the Closing, employees of Garwood who are hired by LCRA shall receive at any time salaries and other taxable compensation comparable to the greater of (i) the salaries and other taxable compensation being paid to that employee by Garwood immediately prior to Closing (not to exceed 110% of the salaries and other taxable compensation of such employee as of December 31, 1997 as shown in Schedule 4.11) or (ii) the salaries and other taxable compensation then being paid to LCRA's employees with similar responsibilities at LCRA's other irrigation operations. Each employee hired by LCRA also shall receive standard employee benefits of LCRA and shall be subject to LCRA's standard employment conditions, practices and terms for employees. For all purposes relating to any employee benefits provided by LCRA, except for accrual of benefits under LCRA's Retirement Plan, but including determining eligibility to participate in LCRA's Retirement Plan and determining a Participant's Vested interest in his or her Accrued Retirement Benefit under LCRA's Retirement Plan, as those terms are defined in such Plan, a former employee of Garwood who is hired by LCRA shall be given credit for service while employed by Garwood.

ARTICLE 8

Conditions to Closing

8.01 Conditions to Obligations of Garwood. The obligations of Garwood to proceed with the Closing are subject to the satisfaction at or prior to Closing of all of the following conditions, any one or more of which may be waived in writing in whole or in part by Garwood (which waiver shall be deemed to constitute a waiver of any liability LCRA may have under this Agreement with respect to the event or condition causing such condition not to be satisfied at Closing). Nothing in this Section 8.01 shall limit any of Garwood's rights under Article 11.

(a) Compliance. LCRA shall have complied in all material respects with its covenants and agreements contained herein, and LCRA's representations and warranties contained herein, or in any certificate or similar instrument required to be delivered by or on behalf of LCRA pursuant hereto, shall be true and correct in all material respects on and as of the Closing Date, with the same effect as though made at such time; provided, however, that Section 8.01(h), rather than this Section 8.01(a), shall exclusively govern the failure of any of LCRA's representations and warranties to be true and correct on and as of the Closing Date, or any breach by LCRA of any of its covenants or agreements in this Agreement, in each case as a result of any event occurring, or any matter arising, between the Execution Date and the Closing Date.

(b) Certificate. Garwood shall have received a certificate or certificates dated as of the Closing Date and signed by LCRA's Secretary or the Assistant Secretary, certifying the accuracy and completeness of the copies of, as well as the current effectiveness of, the resolutions to be attached thereto of the appropriate authorizing authority (or any committee thereof) of LCRA authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein, as well as to the incumbency of the officers executing this Agreement on behalf of LCRA and any documents to be executed and delivered by LCRA at Closing.

(c) No Orders. No order, writ, injunction or decree shall have been entered and be in effect by Governmental Authority, and no Law shall have been promulgated or enacted and be in effect, that restrains, enjoins or invalidates the transactions contemplated hereby.

(d) No Proceedings. No Proceeding shall be pending or threatened by any Person (other than a Garwood Party) seeking substantial damages against any of the Garwood Parties in connection with the transactions contemplated by this Agreement, unless LCRA shall have agreed in writing to indemnify, defend, protect, hold harmless and release the Garwood Parties from and against any and all Losses arising out of, resulting from, or related to such Proceeding.

(e) Corpus Christi Application. The TNRCC shall have issued such orders granting the Corpus Christi Application as deemed necessary by Garwood, whether or not the Corpus Christi Agreement is in effect at that time, and such orders shall have become final and nonappealable.

(f) Garwood's Application. The TNRCC shall have issued such orders granting Garwood's Application as deemed necessary by Garwood, including, without limitation, an order directing issuance of an amendment to Garwood's Remaining Right containing all terms, provisions and special conditions as requested in Garwood's Application.

(g) LCRA's Application. The TNRCC shall have issued such orders granting LCRA's Application as deemed necessary by Garwood, and such orders shall have become final and nonappealable.

(h) Material Adverse Change.

(i) No event shall have occurred, or matter arisen, between the Execution Date and the Closing Date that shall have a Material Adverse Effect, including any such event or matter that would (A) cause any representation or warranty of LCRA not to be true and correct on and as of the Closing Date, or (B) constitute a breach by LCRA of any of its covenants or agreements in this Agreement. Before relying on the provisions of this Section 8.01(h), however, Garwood shall first notify LCRA of the event or matter that it believes has a Material Adverse Effect. LCRA shall have a reasonable period (not to exceed 10 days in the case of the case of a failure to pay money, or 30 days in the case of any other failure) in which to attempt (I) to cure such event or matter or (II) to cause it not to have a Material Adverse Effect. If LCRA is successful in its efforts, then the closing condition in this Section 8.01(h) shall be deemed satisfied with respect to such event or matter. If LCRA is unsuccessful in its efforts, then the closing condition in this Section 8.01(h) shall not be deemed satisfied with respect to such event or matter, and Garwood may terminate this Agreement pursuant to Section 11.01(a)(vii) and exercise the rights of Garwood under Article 11 with respect thereto. Except for the closing conditions in Section 8.01(b) through (g), this Section 8.01(h) shall constitute the exclusive closing condition for any event occurring, or matters arising, between the Execution Date and the Closing Date (including any such event or matter that would (x) cause any representation or warranty of LCRA not to be true and correct on and as of the Closing Date, or (y) constitute a breach by LCRA of any of its covenants or agreements in this Agreement).

(ii) To ensure consistency with the provisions of Section 11.01, (A) an uncured breach by LCRA of its covenants in Section 2.03, 2.04, 7.02, 7.03, 7.04, 7.05, 7.06 or 7.07 shall be conclusively deemed to have a Material Adverse Effect for purposes of such Section 8.01(h)(i); and (B) the requirements in Section 8.01(h)(i) that Garwood notify LCRA of a breach, and afford them an opportunity to cure the breach, shall not apply in the case of a breach by LCRA of its covenants in Section 7.02.

8.02 Conditions to Obligations of LCRA. The obligations of LCRA to proceed with the Closing are subject to the satisfaction at or prior to Closing of all of the conditions set forth in this Section 8.02, any one or more of which may be waived in writing in whole or in part by LCRA (which waiver shall be deemed to constitute a waiver of any liability Garwood may have under this Agreement with respect to the event or condition causing such condition not to be satisfied at Closing). Nothing in this Section 8.02 shall limit any of LCRA's rights under Article 11.

(a) Compliance. Garwood shall have complied in all material respects with its covenants and agreements contained herein, and Garwood's representations and warranties contained herein, or in any certificate or similar instrument required to be delivered by or on behalf of Garwood pursuant hereto, shall be true and correct in all material respects on and as of the Closing Date, with the same effect as though made at such time; and provided, that Section 8.02(g), rather than this Section 8.02(a), shall exclusively govern the failure of any of Garwood's representations and warranties to be true and correct on and as of the Closing Date, or any breach by Garwood of any of its covenants or agreements in this Agreement, in each case as a result of any event occurring, or any matter arising, between the Execution Date and the Closing Date.

(b) Certificates. LCRA shall have received a certificate or certificates dated as of the Closing Date and signed by Garwood's Secretary or Assistant Secretary (i) certifying the accuracy and completeness of the copies of, as well as the current effectiveness of the resolutions to be attached thereto of the Board of Directors (or any committee thereof) of Garwood authorizing the execution, delivery and performance of this Agreement and the consummating of the transactions contemplated herein; and (ii) certifying to the incumbency of the officers executing this Agreement on behalf of Garwood and any documents to be executed and delivered by Garwood at Closing.

(c) No Orders. No order, writ, injunction or decree shall have been entered and be in effect by any Governmental Authority, and no Law shall have been promulgated or enacted and be in effect, that restrains, enjoins or invalidates the transactions contemplated hereby.

(d) LCRA's Application. The TNRCC shall have issued such orders granting LCRA's Application as deemed necessary by LCRA, and such orders shall have become final and nonappealable.

(e) Garwood's Application. The TNRCC shall have issued such orders granting Garwood's Application as deemed necessary by LCRA, and such orders shall have become final and nonappealable.

(f) LCRA's Bonds.

(i) The Texas Attorney General shall have approved the issuance of LCRA's Bonds in accordance with the provisions of Article 717k-8 or Article 717q, Vernon's Annotated Texas Civil Statutes; or, if the Bond Validation Suit is filed, a court of competent jurisdiction shall have issued a judgment approving LCRA's Bonds, and such judgment shall have become final and nonappealable.

(ii) LCRA shall have issued and sold LCRA's Bonds.

(g) Material Adverse Change.

(i) No event shall have occurred, or matter arisen, between the Execution Date and the Closing Date that shall have a Material Adverse Effect, including any such event or matter that would (A) cause any representation or warranty of Garwood not to be true and correct on and as of the Closing Date, or (B) constitute a breach by Garwood of any of its covenants or agreements in this Agreement. Before relying on the provisions of this Section 8.02(g), however, LCRA shall first notify Garwood of the event or matter that it believe has a Material Adverse Effect. Garwood shall have a reasonable period (not to exceed 10 days in the case of the case of a failure to pay money, or 30 days in the case of any other failure) in which to attempt (I) to cure such event or matter or (II) to cause it not to have a Material Adverse Effect. If Garwood is successful in its efforts, then the closing condition in this Section 8.02(g) shall be deemed satisfied with respect to such event or matter. If Garwood is unsuccessful in its efforts, then the closing condition in this Section 8.02(g) shall not be deemed satisfied with respect to such event or matter, and LCRA may terminate this Agreement pursuant to Section 11.01(a)(viii) and exercise its rights under Article 11 with respect thereto. Except for the closing conditions in Sections 8.02(b) through (f), this Section 8.02(g) shall constitute the exclusive closing condition for any event occurring, or matters arising, between the Execution Date and the Closing Date (including any such event or matter described in clauses (A) or (B) of the first sentence of this Section 8.02(g)(i)).

(ii) To ensure consistency with the provisions of Section 11.01, an uncured breach by Garwood of its covenants in Section 6.03, 6.04 or 6.05 shall be conclusively deemed to have a Material Adverse Effect for purposes of Section 8.02(g)(i).

ARTICLE 9

Additional Agreements of LCRA and Garwood

9.01 Preservation of Books and Records; Access. For a period of seven years after the Closing Date, LCRA shall (a) preserve and retain the Deliverable Records and all other information, books, records and files of Garwood within the possession of LCRA relating to the ownership or operation of the Assets prior to the Closing Date and (b) permit Garwood and its authorized representatives to have access thereto, during normal business hours, and to meet with employees of LCRA on a mutually-convenient basis in order to obtain additional information and explanations

with respect to such books and records. Notwithstanding the foregoing, during such seven-year period, LCRA may dispose of any such Deliverable Records or other materials that are offered in writing to, but not accepted by, Garwood. Notwithstanding any provision of this Agreement to the contrary, no Party waives the attorney-client privilege and shall not be required to release or disclose information protected thereby.

9.02 Further Assurances. From and after the Closing, Garwood and LCRA shall take all appropriate action and execute any documents, instruments or conveyances of any kind that may be reasonably necessary to effectuate the intent of this Agreement.

9.03 Indemnification Regarding Certain Covenants.

(a) Subject to the remaining provisions of this Section 9.03, LCRA shall indemnify, defend, protect, hold harmless and release Garwood, its Affiliates and its and their respective directors, officers, shareholders, partners, members, employees, successors, assigns permitted under this Agreement and representatives, if any, and all landowners and irrigators within the Garwood Service Area (collectively, the "*Garwood Parties*") from and against any and all Losses arising out of, resulting from, or related to any one or more of the following: (i) a breach of any of LCRA's representations or warranties in this Agreement; (ii) the failure of LCRA to perform any of its covenants or agreements under this Agreement; and (iii) the failure of LCRA to comply with any term, condition or special condition set forth in Garwood's Remaining Right, as amended.

(b) Subject to the other provisions of this Section 9.03, a Person that is indemnified under this Section 9.03 may submit to LCRA a claim for Losses, specifying the amount thereof and setting forth in reasonable detail the basis for such claim (a "*Claim*"). Any Claim (or portion thereof) that LCRA agrees to is hereinafter referred to as an "*Approved Claim*." Any Claim (or portion thereof) that LCRA objects to is hereinafter referred to as an "*Unapproved Claim*." With respect to any Unapproved Claim, LCRA shall deliver to the Person seeking indemnification, as soon as reasonably practicable, a written notice detailing LCRA's reasons for objecting to such Unapproved Claim. If LCRA and the Person seeking indemnification are unable to resolve such dispute, either may seek resolution thereof through a Proceeding brought in a court of competent jurisdiction in the venue selected in Section 13.05. Any final and nonappealable judgment by such court of competent jurisdiction shall conclusively determine whether such Unapproved Claim should or should not become an Approved Claim. If a Claim becomes an Approved Claim pursuant to this 9.03(b), LCRA shall, within 20 days thereof, pay the indemnified Person the amount of such Approved Claim, subject to the other provisions of this Section 9.03.

ARTICLE 10

Operations of the Assets Prior To Closing

10.01 Amendments to Garwood's Right. Notwithstanding anything in this Agreement to the contrary, LCRA agrees that, except to the extent provided below in this Section 10.01, nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Remaining Right or Corpus Christi's Right that Garwood may desire; provided, however, that until either Garwood or LCRA gives notice of termination of this Agreement

pursuant to any of the provisions of Section 11.01(a), Garwood will not, without first obtaining LCRA's written consent (which consent shall not be unreasonably withheld), amend or withdraw Garwood's Application in any way; and provided further, however, that until the earlier to occur of (a) Independence Day, or (b) either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), Garwood will not, without first obtaining LCRA's written consent (which consent shall not be unreasonably withheld), amend the Application to Amend Garwood's Remaining Right to seek a reduction in any current authorization under that right, or file any additional separate application to amend Garwood's Remaining Right, seeking a reduction in any current authorization under that right.

10.02 No Solicitation. Until the earlier to occur of (a) Independence Day, or (b) either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), Garwood will not, and will cause each of their representatives, attorneys and agents, not to, directly or indirectly, solicit from or make to any Person, any offer to buy or sell the Assets (other than in the Ordinary Course of Business), or any offer relating to merger, consolidation, business combination, or similar transaction involving Garwood.

10.03 No Assignment of Rights Under LCRA Agreement. Until the earlier to occur of (a) Independence Day, or (b) either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), Garwood will not enter into any agreement, or amend or take any discretionary action pursuant to any existing agreement, that would assign to any Person or Persons any of Garwood's rights under the LCRA Agreement.

10.04 No Contracts for Diversion or Delivery of Water. Until the earlier to occur of (a) Independence Day, or (b) either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), Garwood will not enter into any agreement, or amend or take any discretionary action pursuant to any existing agreement, that would commit Garwood to divert or deliver any water via the Canal System for a term in excess of one year.

10.05 Effect of Occurrence of Independence Day. In addition to any other applicable provisions of this Agreement, the following provisions shall apply in the event of the occurrence of Independence Day, whether or not Garwood or LCRA give notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a):

(a) Upon the occurrence of Independence Day, whether or not Garwood or LCRA also gives notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), the restriction set forth in Section 10.02 shall be removed, and Garwood and its representatives, attorneys and agents shall be free to immediately solicit from and make to any Person, offers relating to any transaction involving the sale of the Assets, or any merger, consolidation, business combination, or similar transaction involving Garwood.

(b) Upon the occurrence of Independence Day, whether or not Garwood or LCRA also gives notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), the restriction set forth in the second proviso in Section 10.01 shall be removed, and Garwood shall be free to immediately amend the Application to Amend Garwood's Remaining Right to seek a reduction in any current authorization under that right

that Garwood may desire, and to immediately file any separate application to amend Garwood's Remaining Right seeking a reduction in any current authorization under that right that Garwood may desire.

(c) Upon the occurrence of Independence Day, whether or not Garwood or LCRA also gives notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), the restriction set forth in Section 10.03 shall be removed, and Garwood shall be free to immediately enter into any agreement, or amend or take any action pursuant to any existing agreement, that would assign to any Person or Persons any of Garwood's rights under the LCRA Agreement as may be desired by Garwood.

(d) Upon the occurrence of Independence Day, whether or not Garwood or LCRA also gives notice of termination of this Agreement pursuant to any of the provisions of Section 11.01(a), the restriction set forth in Section 10.04 shall be removed, and Garwood shall be free to immediately enter into any agreement, or amend or take any action pursuant to any existing agreement, that would commit Garwood to divert or deliver any water via the Canal System, as may be desired by Garwood.

10.06 Litigation. Garwood will give written notice to LCRA within 10 days of the date of receipt of any of the following: (i) service of any Proceeding filed by or against Garwood with respect to any of the Assets, accompanied by copies of the pleadings and (ii) Knowledge by Garwood of any threatened Proceeding against Garwood with respect to any of the Assets.

10.07 No Material Rate Reduction. Garwood will not reduce its rates for irrigation water below the rates or change the methodology for determining such rates in effect on December 31, 1997.

ARTICLE 11

Termination

11.01 Termination.

(a) This Agreement and the transactions contemplated hereby may be terminated:

(i) at any time prior to Closing, by mutual consent of Garwood and LCRA;

(ii) at any time prior to Closing, by Garwood, or by LCRA, if the Closing shall not have occurred on or before July 4, 2000 ("*Independence Day*");

(iii) at any time prior to Closing, by Garwood, if LCRA fails to comply with the provisions of Sections 2.03, 2.04, 7.03, 7.04, 7.05, 7.06 or 7.07; subject, however, to the provisions of Section 11.01(b);

(iv) at any time prior to Closing, by Garwood, if LCRA fails to comply with the provisions of Section 7.02;

(v) at any time prior to Closing, by LCRA, if Garwood fails to comply with the provisions of Section 6.03, 6.04 or 6.05; subject, however, to the provisions of Section 11.01(b);

(vi) at any time prior to Closing, by Garwood, if LCRA shall not have obtained the preliminary approval of the Attorney General or a final and nonappealable judgment in the Bond Validation Suit, as described in Section 7.07, on or before the 270th day after the Execution Date;

(vii) at any time prior to Closing, by Garwood, if termination is permitted under Section 8.01(h);

(viii) at any time prior to Closing, by LCRA, if termination is permitted under Section 8.02(g);

(ix) at any time prior to Closing, by Garwood, if the TNRCC sets either Garwood's Application or LCRA's Application for the TNRCC's consideration and action for a date or time earlier than the date or time for which it sets the Corpus Christi Application for its consideration and action;

(x) at any time prior to Closing, by Garwood, if the TNRCC acts on either Garwood's Application or LCRA's Application before it acts on the Corpus Christi Application;

(xi) at any time prior to Closing, by Garwood, if the TNRCC enters an order denying or dismissing, in whole or in part, the Corpus Christi Application, whether or not the Corpus Christi Agreement is in effect at that time;

(xii) at any time prior to Closing, by Garwood, if the TNRCC sets the Application to Amend Garwood's Remaining Right for the TNRCC's consideration and action without Garwood requesting that it do so, or for a date or time earlier than the date or time requested by Garwood;

(xiii) at any time prior to Closing, by Garwood, if the TNRCC acts on the Application to Amend Garwood's Remaining Right without Garwood requesting that it do so, or on a date or time earlier than the date or time requested by Garwood;

(xiv) at any time prior to Closing, by Garwood, if any one or more of the provisions contained in this Agreement or in any document delivered pursuant hereto shall, for any reason, be held to be invalid, illegal or unenforceable in any material respect; or

(xv) at any time prior to Closing, by LCRA, if LCRA is not satisfied with the results of any investigation or test of any of the Assets performed after the Execution Date pursuant to Section 6.01; provided, however, in recognition of the fact that LCRA has had access to the Assets for a substantial period of time prior to the Execution Date, LCRA agrees to pay Garwood a termination fee of \$1,000,000 if LCRA terminates for such reason,

unless LCRA demonstrates at that time that there was a material adverse change in condition of the Assets after the Execution Date and that the results of the investigation or test in question would have been substantially more favorable had the change in condition not occurred.

(b) Termination by either Party pursuant to any of the provisions set forth above in Subsection (a) shall be effective immediately upon that Party giving written notice of termination to the other Party. Before relying on the provisions of Section 11.01(a)(iii) or (v), however, the Party desiring to terminate this Agreement shall first notify the other Party of the event or matter that it believes constitutes a failure to comply with a provision listed in such Section 11.01(a)(iii) or (v). The other Party shall have a reasonable period (not to exceed 10 days in the case of the case of a failure to pay money, or 30 days in the case of any other failure) in which to attempt to cure such failure. If such Party is successful in its efforts, then termination shall not be permitted under such Section 11.01(a)(iii) or (v) with respect to such failure. If such Party is unsuccessful in its efforts, then the other Party may exercise its right to terminate this Agreement under Section 11(a)(iii) or (v) with respect to such failure.

11.02 Effect of Termination. In addition to any other applicable provisions of this Agreement, the following provisions shall apply in the event of Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), whether or not the other Party agrees that this Agreement is thereby terminated:

(a) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), Garwood shall be free to enjoy immediately all rights of ownership of the Assets and to sell, transfer, encumber and otherwise dispose of the Assets to any Person without any restriction under this Agreement.

(b) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), the restriction set forth in Section 10.02 shall be removed (unless such restriction had previously been removed pursuant to Section 10.05(a)), and Garwood and each of its representatives, attorneys and agents shall be free to immediately solicit from and make to any Person, offers relating to any transaction involving the sale of the Assets, or any merger, consolidation, business combination, or similar transaction involving Garwood.

(c) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), the restriction set forth in the first proviso in Section 10.01 shall be removed, and Garwood shall be free to immediately amend or withdraw Garwood's Application in any way that Garwood may desire.

(d) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), the restriction set forth in the second proviso in Section 10.01 shall be removed (unless such restriction had previously been removed pursuant to Section 10.05(b)), and Garwood shall be free to

immediately file any separate application to amend Garwood's Remaining Right seeking a reduction in any current authorization under that right that Garwood may desire.

(e) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), the restriction set forth in Section 10.03 shall be removed (unless such restriction had previously been removed pursuant to Section 10.05(c)), and Garwood shall be free to immediately enter into any agreement, or amend or take any action pursuant to any existing agreement, that would assign to any Person or Persons any of Garwood's rights under the LCRA Agreement as may be desired by Garwood.

(f) Upon either Garwood or LCRA giving notice of termination of this Agreement pursuant to any of the provisions set forth in Section 11.01(a), the restriction set forth in Section 10.04 shall be removed (unless such restriction had previously been removed pursuant to Section 10.05(d)), and Garwood shall be free to immediately enter into any agreement, or amend or take any action pursuant to any existing agreement, that would commit Garwood to divert or deliver any water via the Canal System, as may be desired by Garwood.

(g) Garwood and LCRA hereby agree that the provisions of this Section 11.02 and Sections 2.02(b), 7.02, 7.05, 7.06, 13.01, and 13.02 shall survive any termination of this Agreement pursuant to this Article 11.

ARTICLE 12

Scope of Representations; Limitations

12.01 Independent Investigation. LCRA acknowledges and affirms that: (a) prior to the Execution Date, it has had access to the Assets, Deliverable Records, personnel, officers, professional advisors, and operations of Garwood; (b) from the Execution Date through the Closing Date, it will continue to have access to the Assets, Deliverable Records, personnel, officers, professional advisors, and operations of Garwood; and (c) in making its decision to enter into this Agreement and its decision to consummate the transactions contemplated hereby, it has relied on the representations, warranties, covenants and agreements of Garwood set forth in this Agreement but, other than such reliance, it has relied solely on its own independent investigation, testing, analysis and evaluation of the Assets, information that is of public record or otherwise public knowledge, and information in LCRA's own files or otherwise available to LCRA.

12.02 Scope of Representations. Except to the extent expressly set forth in this Agreement, Garwood makes no representations or warranties whatsoever and disclaims all liability and responsibility for any other representation, warranty, statement or information made or communicated (orally or in writing) to LCRA. Without limiting the generality of the foregoing, except as expressly set forth in this Agreement, Garwood makes no representation or warranty of any type as to the Assets (even as to the return of any portion of the Purchase Price) and **GARWOOD EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY**

OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, AND OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS.

ARTICLE 13

Miscellaneous

13.01 Brokers. Regardless of whether the Closing shall occur, (a) Garwood shall indemnify, defend, protect, hold harmless and release the LCRA Parties from and against any and all Losses, including brokers' or finders' fees, arising out of, resulting from, or related to any brokers or finders retained or engaged by Garwood in respect of the transactions contemplated by this Agreement, and (b) LCRA shall indemnify, defend, protect, hold harmless and release the Garwood Parties from and against any and all Losses, including brokers' or finders' fees, arising out of, resulting from, or related to any brokers or finders retained or engaged by LCRA or any of its Affiliates in respect of the transactions contemplated by this Agreement.

13.02 Expenses. Except as specifically provided herein, each Party shall pay all legal and other costs and expenses incurred by such Party or any of its Affiliates in connection with this Agreement and the transactions contemplated hereby.

13.03 Notices. Any notice, request, instruction, correspondence or other communication to be given or made hereunder by either Party to the other (herein collectively called "*Notice*") shall be in writing and (a) delivered by hand, (b) mailed by certified mail, postage prepaid and return receipt requested, (c) sent by facsimile transmission, or (d) sent by Express Mail, Federal Express, or other express delivery service, as follows:

If to Garwood, addressed to:

Garwood Irrigation Company
Attn: William N. Lehrer
P.O. Box 428
Garwood, Texas 77442
Fax Number: (409) 758-3844

If to LCRA:

Lower Colorado River Authority
Attn: General Manager
3701 Lake Austin Blvd.
Austin, Texas 78703
Fax Number: (512) 473-3551

Notice given by hand, Express Mail, Federal Express or other express delivery service or by mail shall be effective upon actual receipt. Notice given by facsimile transmission shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if not received during the recipient's normal business

hours. All Notices by facsimile transmission shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any Party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

13.04 GOVERNING LAW. THE PROVISIONS OF THIS AGREEMENT, THE SCHEDULES AND EXHIBITS HERETO, AND THE DOCUMENTS DELIVERED PURSUANT HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF TEXAS (EXCLUDING ANY CONFLICTS-OF-LAW RULE OR PRINCIPLE THAT MIGHT REFER SUCH MATTERS TO THE LAWS OF ANOTHER JURISDICTION), EXCEPT TO THE EXTENT THAT SUCH MATTERS ARE MANDATORILY SUBJECT TO THE LAWS OF ANOTHER JURISDICTION PURSUANT TO THE LAWS OF SUCH OTHER JURISDICTION.

13.05 Venue.

(a) The obligations of LCRA under Sections 7.08 and 9.03 shall be performed, or deemed to be performed, in Colorado County, Texas. If and to the extent a Proceeding involving any such obligations brought by a Party to this Agreement, or by any landowner or irrigator within Garwood's Service Area, may be brought in Colorado County, Texas, the Proceeding shall be brought only in Colorado County, Texas.

(b) The obligations of LCRA under Section 7.09 shall be performed, or deemed to be performed, in Colorado County, Texas. If and to the extent a Proceeding involving any such obligations brought by a Party to this Agreement, or by any employee of Garwood as of the Closing Date, may be brought in Colorado County, Texas, the Proceeding shall be brought only in Colorado County, Texas.

(c) The obligations of LCRA under Section 7.02 shall be performed, or deemed to be performed, in Nueces County, Texas. If and to the extent a Proceeding involving any such obligations brought by a Party to this Agreement, or by Corpus Christi, may be brought in Nueces County, Texas, the Proceeding shall be brought only in Nueces County, Texas.

(d) Except as provided otherwise in Sections 13.05(a), (b) and (c), the obligations of the Parties under this Agreement shall be performed, or deemed to be performed, in Travis County, Texas. Except as provided otherwise in Sections 13.05(a), (b) and (c), if and to the extent a Proceeding involving any such obligations may be brought in Travis County, Texas, the Proceeding shall be brought only in Travis County, Texas.

13.06 Entire Agreement; Amendments and Waivers. This Agreement, together with all Schedules and Exhibits hereto, constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (regardless of whether similar), nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

13.07 Binding Effect, Assignment and Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. Neither this Agreement nor any of the rights, benefits or obligations hereunder shall be assigned, by operation of law or otherwise, by either Party prior to the Closing without the prior written consent of the other Party.

(a) Nothing in this Agreement is intended to confer upon any Person other than the parties hereto and their respective permitted successors and assigns, any rights, benefits or obligations hereunder, except for the following third-party beneficiaries of certain rights under this Agreement:

(i) from and after the Closing, landowners and irrigators within Garwood's Service Area shall have the right to enforce the obligations of LCRA set forth in Section 7.08;

(ii) from and after the Closing, Garwood's employees as of the Closing Date shall have the right to enforce the obligations of LCRA set forth in Section 7.10;

(iii) from and after the Closing, any of the Garwood Parties shall have the right to enforce the obligations of LCRA set forth in Section 9.03.

(iv) Garwood shall have the right and option, in its sole, unilateral discretion to be exercised by written addendum to this Agreement (the "*Optional Beneficiary Notice*"), signed by Garwood and delivered to LCRA, to add Corpus Christi as a third-party beneficiary, with the right, from and after delivery of the *Optional Beneficiary Notice*, to enforce the obligations of LCRA set forth in Section 7.02

As used herein, the term "*Third-Party Beneficiary*" means (A) the third-party beneficiaries named in Section 13.07(a)(i), (ii), and (iii); and (B) if Garwood delivers the *Optional Beneficiary Notice* in accordance with Section 13.07(a)(iv), Corpus Christi.

(b) The Third-Party Beneficiaries may exercise their respective rights under this Agreement without the necessity of joining any Party (other than the Party against whom such rights are being exercised) or any other Third-Party Beneficiary or Person. Each Party hereby waives any provision of applicable law that may require a Third-Party Beneficiary to accept, or consent to, the provisions of this Agreement, such acceptance and consent hereby being deemed to have occurred.

(c) There are no third-party beneficiaries or other Persons entitled to rely upon this Agreement except the Parties and the Third-Party Beneficiaries.

13.08 Specific Performance. Because of the unique nature of the Assets and the difficulty of calculating damages for breach of this Agreement, each Party and each Third-Party Beneficiary shall have the right to enforce specific performance by the other Party of its obligations under this Agreement.

13.09 Severability. If any one or more of the provisions contained in this Agreement or in any other document delivered pursuant hereto shall, for any reason, be held to be invalid, illegal or unenforceable in any material respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such document.

13.10 Headings, Schedules and Exhibits. The headings of the several Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The Schedules and Exhibits referred to herein are attached hereto and incorporated herein by this reference. Garwood may revise or supplement the Schedules at any time prior to Closing.

13.11 Holidays. In the event that the time for any payment or performance under this Agreement shall fall on a Saturday, Sunday or legal holiday of the State of Texas, the time for such payment or performance shall be extended until the next day that is not a Saturday, Sunday or legal holiday.

EXECUTED on the Execution Date.

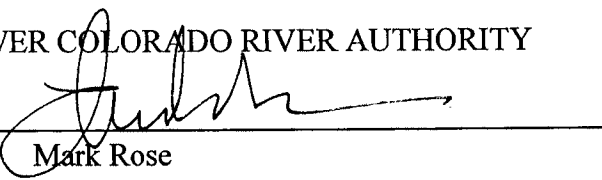
GARWOOD:

GARWOOD IRRIGATION COMPANY

By: 
William N. Lehrer
Chairman and Chief Executive Officer

LCRA:

LOWER COLORADO RIVER AUTHORITY

By: 
Mark Rose
General Manager

SCHEDULE 1.01

Defined Terms

"*acre-foot*" shall mean the volume of water covering one acre when the water is one foot deep.

"*Affiliate*" shall mean, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. The term "*control*" as used in the preceding sentence means, with respect to a corporation, the right to exercise, directly or indirectly, 50% or more of the voting rights attributable to the shares of the controlled corporation, or with respect to any Person other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person.

"*Application to Amend Garwood's Remaining Right*" shall mean that certain application to amend Garwood's Remaining Right filed by Garwood with the TNRCC on August 29, 1997, a copy of which is attached as Exhibit H.

"*Business Day*" shall mean any day other than a Saturday, a Sunday or a United States federal or Texas state banking holiday.

"*cfs*" shall mean cubic feet per second.

"*Corpus Christi*" shall mean the City of Corpus Christi, Texas, a municipal corporation, acting by and through its Mayor and City Council. In no event shall the term "*Corpus Christi*" mean any citizen, taxpayer or ratepayer of the City of Corpus Christi.

"*Corpus Christi Agreement*" shall mean that certain agreement dated as of September 22, 1992 by and between the Corpus Christi and Garwood, a copy of which is attached as Exhibit I, as amended by that certain agreement dated as of February 22, 1994 by and between the Corpus Christi and Garwood, a copy of which is attached as Exhibit J, as such agreement may be further amended from time to time in the future.

"*Corpus Christi Application*" shall mean that certain application to amend Corpus Christi's Right, a copy of which is attached as Exhibit K.

"*Corpus Christi's Right*" shall mean that portion of Garwood's Right, defined by the Division of Water Right, pursuant to which Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs, with a priority date of November 1, 1900; provided, however, that Corpus Christi's Right is subordinate, in time priority and all other respects, to Garwood's Remaining Right.

"*Creditor's Rights*" shall mean applicable bankruptcy, insolvency or other similar laws relating to or affecting the enforcement of creditor's rights generally and to general principles of equity.

"*Deliverable Records*" shall mean all of the following records of Garwood that relate to the Assets: deeds, leases, grants of rights-of-way and easements; the Contracts; the Permits; any contracts in Garwood's possession on the Execution Date for the supply of water for the irrigation of lands within Garwood's Service Area for any year during the ten-year period immediately preceding the Execution Date; and any orders, notices, or other written communications received from any Governmental Authority during the ten-year period immediately preceding the Execution Date alleging any actual or potential violation of or failure to comply with any Environmental Law with respect to any of the Assets; provided, however, that the term "*Deliverable Records*" shall not include any Non-Disclosable Records.

"*Division of Water Right*" shall mean that certain instrument dated as of January 30, 1997, a copy of which (with exhibits omitted) is attached as Exhibit L, by which Garwood divided Garwood's Right into two separate and distinct portions: (a) Corpus Christi's Right; and (b) Garwood's Remaining Right.

"*Environmental Laws*" shall mean all Laws having for their purpose the safety of persons or property or the protection of health or the environment.

"*Garwood's Right*" shall mean the water right identified as Certificate of Adjudication No. 14-5434 issued by the TWC on June 28, 1989, a copy of which is attached as Exhibit M, as amended by Certificate of Adjudication No. 14-5434A issued by the TWC on March 18, 1993, a copy of which is attached as Exhibit N. Garwood's Right is further described in both the Corpus Christi Application and Garwood's Application.

"*Garwood's Remaining Right*" shall mean that portion of Garwood's Right, defined by the Division of Water Right, pursuant to which Garwood is authorized to divert and use 133,000 acre-feet of water per year from the Colorado River for irrigation of lands within Garwood's Service Area, at a rate of diversion not to exceed 600 cfs, with a priority date of November 1, 1900; provided, however, that Corpus Christi's Right is subordinate, in time priority and all other respects, to Garwood's Remaining Right.

"*Garwood's Service Area*" shall mean that certain area in Colorado and Wharton Counties, consisting of approximately 155,000 acres of land, comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment.

"*Governmental Authority*" shall mean any governmental, quasi-governmental, state, county, city or other political subdivision of the United States or any other country, or any court, agency, commission, instrumentality or other statutory or regulatory body thereof.

"Gulf Coast Service Area" shall mean that certain area in Wharton and Matagorda Counties consisting of approximately 225,000 acres of land as more fully defined in the April 20, 1988, Final Judgment and Decree in Cause No. 115,414-A-1, 264th Judicial District Court of Bell County, Texas.

"Knowledge" with respect to any Person, shall mean the current actual knowledge of such Person, with no obligation to conduct any investigation to confirm the accuracy of such knowledge, and with no knowledge being deemed of imputed to such Person as a result of matters that might be disclosed by such investigation.

"Lakeside Service Area" shall mean that certain area in Colorado and Wharton Counties consisting of approximately 125,000 acres of land as more fully defined in the April 20, 1988, Final Judgment and Decree in Cause No. 115,414-A-1 264th Judicial District Court of Bell County, Texas.

"Law" shall mean any law, statute, code, ordinance, order, rule, regulation, judgment, decree, injunction, franchise, permit, certificate, license, authorization, or other directional requirement (including, without limitation, any of the foregoing that relates to environmental standards or controls, energy regulations and occupational, safety and health standards or controls, including those arising under Environmental Laws) of any Governmental Authority.

"LCRA Material Adverse Effect" shall mean (a) a material adverse effect on the business, financial condition, results of operation or assets of LCRA taken as a whole; or (b) solely for purposes of Sections 8.01(h) and 8.02(g), a material adverse effect on the ability of the parties to consummate the transactions contemplated hereby.

"Material Adverse Effect" shall mean (a) a material adverse effect on the Assets taken as a whole; or (b) solely for purposes of Sections 8.01(h) and 8.02(g), a material adverse effect on the ability of the parties to consummate the transactions contemplated hereby.

"Non-Disclosable Records" shall mean all records (a) that relate to the negotiation of this Agreement or otherwise to the transactions contemplated hereby; (b) that relate to any other proposed or contemplated sale of the Assets or the capital shares of Garwood, including offers received from prospective purchasers of the Assets or the capital shares of Garwood and any information relating to such offers; (c) that are protected by the attorney-client privilege, the attorney work product doctrine or other legal privilege; (d) the disclosure or delivery of which would violate the terms of any agreement to which Garwood is bound or any applicable Law; (e) that are not owned by Garwood, including personal materials of the shareholders, directors, officers or employees of Garwood; or (f) that do not relate to the Assets.

"Ordinary Course of Business," with respect to any action of Garwood, shall mean that such action is consistent with the past practices of Garwood and is taken in the ordinary course of the operations of Garwood.

“Person” shall mean an individual, partnership, corporation, limited liability company, joint venture, trust, estate, Governmental Authority, or an unincorporated organization or association or other legal entity.

“Proceeding” shall mean any lawsuit, litigation, investigation or other legal proceeding that is conducted by or before a court or other Governmental Authority.

“Reasonable Efforts” shall mean the taking by a Party of such action as would be in accordance with reasonable commercial practices as applied to the particular matter in question; provided, however, that such action shall not include the incurrence of unreasonable expense.

“TNRCC” shall mean the Texas Natural Resource Conservation Commission.

“TWC” shall mean the Texas Water Commission.

**GARWOOD IRRIGATION COMPANY
FEE PROPERTY**

SCHEDULE 2.01(a)(ii)

12.34 acres, more or less, out of 19.34 acres in Samuel Kennelly League in Colorado County, Texas, recorded in Deed records of Colorado County, Texas, Book 104, Pages 492-501 on April 19, 1939.

6.39 acres of land, the east corner of the called 129.082 acre tract of land Warranty Deeded (Vol. 425, Pages 236-240) February 12, 1981, By John Foster Cranz, Gus E. Cranz III, and Cullen Bank and Trust, as Trustee of the Lynn Foster Cranz Trust to Alberto Banuet of Mexico, part of the Joseph Grant Survey, Abstract No. 233, Colorado County, Texas.

26.9 acres of land, being part of the L. P. Bunge 1856 acres of land in the Whiting and Osborne League, consisting of a strip of land 150 feet in width, measured 75 feet on either side of and perpendicular to the center line of said strip, recorded in the Deed Records of Colorado County, Texas, in Book No. 104 on Pages 269-270, dated March 3, 1939.

THE FOLLOWING ACREAGES ARE CANALS:

6.17 acres of land, I.&G.N. 11 Survey, Abstract 297, Volume 55, Pages 269-270, Colorado County, Texas.

24.00 acres of land, I.&G.N. 5 Survey, Abstract 313, Volume 55, Pages 517-518, Colorado County, Texas.

18.10 acres of land, I.&G.N. 10 Survey, Abstract 316, Volume 55, Pages 269-270, Colorado County, Texas.

6.33 acres of land, I.&G.N. 12 Survey, Abstract 317, Volume 55,
Pages 268-270, Colorado County, Texas.

16.03 acres of land, S.A.&M.G.19 Survey, Abstract 535, Volume 111,
Pages 274-275, Colorado County, Texas.

33.00 acres of land, Johnson and Stafford (B.B.B.&C. 2) Survey,
Abstract 716, Volume 91, Pages 615-616, Colorado County, Texas.

.014547R (83.00) acres of land, Miller, Lavine Hester (S.A.&M.G.10)
Survey, Abstract W#1E, Volume 56, Pages 88-90, Colorado County, Texas.

.004518R (350.35) acres of land, Pinchback, Corinne Gu.
(S.A.&M.G.10) Survey, Abstract W#1E, Volume 56, Pages 88-90, Colorado
County, Texas.

4.24 acres of land, W. S. Delaney 4 (S.A.&M.G.4) Survey, Abstract
895, Volume 125, Pages 472-473 and Volume 75, Pages 396-397, Colorado
County, Texas.

5.35 acres of land, Johnson and Stafford 2 (H.T.&B. 2) Survey,
Abstract 721, Volume 79, Pages 272-274, Colorado County, Texas.

12.07 acres of land, Johnson and Stafford 10 (S.A.&M.G.10) Survey,
Abstract 718, Volume 56, Pages 88-90, Colorado County, Texas.

BURDENS ON FEE PROPERTY

The Fee Property is subject to the following burdens:

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Contract with B & B Gravel Company for a Right Of Way and Easement to construct, maintain and operate one elevated conveyor belt, for sand and gravel, crossing main irrigation canal at a location between the river pump station and Highway 71 and situated on and above the following described land situated in Colorado County, Texas, as recorded in Volume 267, Pages 612-618, dated June 11, 1998, as follows:

Canal crossing is located in the Joseph Grant Survey, Abstract No. 233, Deed records of Colorado County, Texas. Location reference point of beginning is the southwest corner, at the east right of way line of S.H. 71, of a 6.39 acre tract described in Vol. 537 Page 348, Deed records of Colorado County, Texas. From this reference point, using a reference bearing of N 31 degrees 26' 00" W along S.H. 71, proceed n 70 degrees 47' 27" E 4971.56 feet to a ½" rod set on the south levee of the canal. This point marks the centerline of the 60 foot wide easement. Crossing of the canal and adjoining roadway will be approximately perpendicular to the canal at a bearing of N 53 degrees 43' 40" E with canal reference bearing of N 45 degrees 07' 05" W. Attached to and made part of this easement is a plat dated January 8, 1998 by Robert A. Zajicek, P. E. , which shows the location of the easement.

Oil and Gas Lease with Everest Minerals Corporation on the following described properties:

33.64 acres of land, more or less, out of the S.A.&M.G. Ry. Survey No. 10, A-718 and the S.A.&M.G. Survey No. 9, A-528, Colorado County, Texas and being the same land described in Five tracts in Deed from I. G. Wallace to Garwood Irrigation Company dated February 12, 1914 and recorded in Volume 56, Pages 88-90 of the Deed Records , Colorado County, Texas.

0.23 acres of land, more or less, out of the S.E. corner of the West half of the I.&G. R. R. Co. Survey No. 12, A-317 Colorado County, Texas, and being the same land described as Tract No. 2 in the Deed dated November 24, 1913 from Frank Brinkley, Trustee to Garwood Irrigation Company, recorded in Vol. 55, Pages 269-270 of the Deed records of Colorado County, Texas.

6.10 acres of land, more or less, out of the I.&G.N.R.R. Co. Survey No. 12, A-317 Colorado County, Texas, and being the same land described in the Deed dated November 24, 1913 from Frank Brinkley, Trustee to Garwood Irrigation Co., recorded in Vol. 55, Pages 268-269 of the Deed records of Colorado County, Texas.

Oil and Gas Lease with Black & Gold Resources on the following described Property:

19.34 acres out of the N.E. James Alexander 160 acres out of the Samuel Kennelly League, Abstract 30, Colorado County, Texas and 26.9 acres out of the L. P. Bunge 1865 acres of the Whiting and Osborne Survey, Abstract 48, Colorado County, Texas.

Easement and Right Of Way with power of ingress and egress on the river plant road consisting of 26.9 acres in the Whiting and Osborne Survey for L. P. Bunge , his Heirs and Assigns.

Easement and Right Of Way with power of ingress and egress on the river plant road consisting of 26.9 acres in the Whiting and Osborne Survey and part of 6.39 acres in the Joseph Grant Survey for the Shareholders of Garwood.

Easement and Right Of Way with power of ingress and egress on the river plant road consisting of 26.9 acres in the Whiting and Osborne Survey and part of 6.39 acres in the Joseph Grant Survey for the City Of Corpus Christi, Texas.

Easement and Right Of Way for New Cheyenne Companies, Inc. for pipeline under canal located in Survey I.R.R. 21, Abstract A-411, Wharton County, Texas, dated August 11, 1997.

Easement and Right Of Way for Shell Western E & P, Inc. for pipeline under canal located in the East half of Survey I.&G.N.R.R. 1, Abstract 287, Colorado County, Texas, dated November 20, 1996.

Easement and Right Of Way for Shell Western E & P Inc. , for pipeline under canal located West half of Johnson & Stafford Survey, Abstract 717, Colorado County, Texas , dated November 20, 1996.

Easement and Right Of Way for Shell Western E & P Inc., for pipeline under canal located in the Preston Gilbert Survey, Abstract 25, Colorado County, Texas, dated November 20, 1996.

Easement and Right Of Way for Shell Western E & P Inc., for pipeline under canal located in the Samuel Kennelly League, Abstract 30, Colorado County, Texas, dated November 20, 1996.

Easement and Right Of Way for Amoco Production Company for pipeline over canal located in the S.A.M.G. 17 Survey, Abstract 341, Wharton County, Texas, dated March 9, 1972.

Easement and Right Of Way for Atlantic Refining Company for pipeline over canal located in the S.A.M.G. 9 Survey, Abstract 528, Colorado County, Texas, dated March 25, 1960.

Easement and Right Of Way for Geodominion Petroleum for pipeline over canal located in the W.C.R.R. 3 Survey, Abstract 390, Wharton County, Texas, dated March 23, 1987.

Easement and Right Of Way for Central Power & Light Company for power lines over canal located in the Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated August 5, 1982.

Easement and Right Of Way for Central Power & Light Company for power lines over canal located in the Preston Gilbert League Survey, Abstract 25, Colorado County, Texas, dated March 8, 1972.

Easement and Right Of Way for Central Power & Light Company for power lines over canal located in the S.A.M.G 8 Survey, Abstract 722, Colorado County, Texas, dated December 24, 1970.

Easement and Right Of Way for Haber Oil Company, Inc. for pipeline over canal located in the S.A.M.G. 17 Survey, Abstract 539, Colorado County, Texas, dated August 4, 1987.

Easement and Right Of Way for Chapman Oil Company for pipeline over canal located in the I.&G.N. Survey, Volume 55, Page 269, Colorado County, Texas, dated August 30, 1984.

Easement and Right Of Way for H.J. Chavanne, Trustee, for pipeline over canal located Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated November 25, 1953.

Easement and Right Of Way for Crescent Oil & Gas Corp. for pipeline over canal located in the I.&G.N. 48 Survey, Abstract 305, Colorado County, Texas, dated September 19, 1963.

Easement and Right Of Way for Crescent Carbon Corporation for pipeline over canal located Naham Mixon Survey, Abstract 402, Colorado County, Texas, dated January 21, 1960.

Easement and Right Of Way for Delhi Gas Pipeline Corporation for pipeline over canal located in the S.A.&M.G. 4 Survey, Abstract 895, Colorado County, Texas, dated August 31, 1973.

Easement and Right Of Way for Dow Chemical Company for pipeline over canal located in the W.C.R.R. 13 Survey, Abstract 643, Colorado County, Texas, dated November 14, 1960.

Easement and Right Of Way for Everest Minerals Corporation for pipeline over canal located in the Johnson & Stafford Survey, Colorado County, Texas, dated November 27, 1984.

Easement and Right Of Way for Geodominion Petroleum for pipeline over canal located in the W.C.R.R. 11 Survey, Abstract 890, Colorado County, Texas, dated February 28, 1986.

Easement and Right Of Way for Goldenrod Pipeline Company for pipeline over canal located in the W.C.R.R. 14 Survey, Abstract 815, Colorado County, Texas, dated November 16, 1981.

Easement and Right Of Way for Goldking Production Co. for pipeline on and above canal located in the I.&G.N. 45 Survey, Abstract 288, Colorado County, Texas, dated September 9, 1975.

Easement and Right Of Way for Haber Oil Company for pipeline over and through canal located on S.A.&M.G. 17 Survey, Abstract 539, Colorado County, Texas, dated February 17, 1988.

Easement and Right Of Way for Michael T. Halbouty for pipeline over and through canal located in the I.&G.N. 18 Survey, Colorado County, Texas, dated February 21, 1961.

Easement and Right Of Way for Houston Pipeline Company for pipeline over and through canal located on the following easements:

Easement #1 - Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated February 2, 1960.

Easement #2 - Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated February 2, 1960.

Easement #3 - A.B.&M. Survey, Abstract 72, Colorado County, Texas, dated February 2, 1960.

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Easement #4 - W.S. Delaney Survey, Abstract 895, Colorado County, Texas, dated February 2, 1960.

Easement #5 - W.S. Delaney Survey, Abstract 895, Colorado County, Texas, dated February 2, 1960.

Easement and Right Of Way for HGI Corporation for pipeline on and above canal located on the I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated March 15, 1989.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline on and above canal located in the Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated February 17, 1982.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline on and above canal located in the I.&G.N. 13 Survey, Abstract 319, Colorado County, Texas, dated August 3, 1976.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline on and above canal located in the I.&G.N. 10 Survey, Abstract 316, Colorado County, Texas, dated November 7, 1975.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline on and above canal located in the I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated September 8, 1975.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline over and through canal located in the B.B.B.&C.R.R. Company - Johnson & Stafford 2 Survey, Abstract 716, Colorado County, Texas, dated September 8, 1975.

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Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline over and through canal located in the Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated September 8, 1975.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline over and through canal located in the I.&G.N. 8 Survey, Abstract 299, Colorado County, Texas, dated September 8, 1975.

Easement and Right Of Way for Hydrocarbon Gathering, Inc. for pipeline on and above canal located in the I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated September 8, 1975.

Easement and Right Of Way for Marathon Oil Company for pipeline over and through canal located in the Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated October 21, 1964.

Easement and Right Of Way for Milton V. Spencer for pipeline over and through canal located in the S.A.&M.G. 11 Survey, Abstract 527, Colorado County, Texas, dated February 23, 1956.

Easement and Right Of Way for Charles Kallina, Sr. Estate for pipeline on and above canal located in the I.&G.N. 45 Survey, Abstract 288, Colorado County, Texas, dated June 6, 1995.

Easement and Right Of Way for Lomak Production Company for pipeline over and above canal located in the I.&G.N. 47 Survey, Volume 98, Page 592-593, Colorado County, Texas, dated March 3, 1998.

Easement and Right Of Way for Robert Mosbacher for pipeline over and through canal located in the S.A.&M.G.17 Survey, Abstract 539, Colorado County, Texas, dated November 6, 1953.

Easement and Right Of Way for Ohio Oil Company for two pipelines over and through canal located in the Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated December 2, 1953.

Easement and Right Of Way for Owl Petroleum Company for pipeline over and through canal located in the I.&G.N. 1 Survey, Abstract 287, Colorado County, Texas, dated January 3, 1979.

Easement and Right Of Way for Owl Petroleum Company for pipeline on and above canal located in the S.A.&M.G. Survey, Abstract 532, Colorado County, Texas, dated January 3, 1979.

Easement and Right Of Way for Lomak Production Company for pipeline over and above canal located in the I.&G.N. 47 Survey, Volume 98, Pages 592-593, Colorado County, Texas, dated March 3, 1998.

Easement and Right Of Way for Robert Mosbacher for pipeline over and through canal located in the S.A.&M.G. 17 Survey, Abstract 539, Colorado County, Texas, dated November 6, 1953.

Easement and Right Of Way for Ohio Oil Company for two pipelines over and through canal located in the Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated December 2, 1953.

Easement and Right Of Way for Owl Petroleum Company for pipeline over and through canal located in the I.&G.N. 1 Survey, Abstract 287, Colorado County, Texas, dated January 3, 1979.

Easement and Right Of Way for Owl Petroleum Company for pipeline on and above canal located in the S.A.&M.G. Survey, Abstract 532, Colorado County, Texas, dated January 3, 1979.

Easement and Right Of Way for Pacific Enterprises Oil Company for pipeline over and through canal located in the W.C.R.R. 11 Survey, Abstract 890, Colorado County, Texas, dated December 12, 1990.

Easement and Right Of Way for Patterson Petroleum for pipeline under canal located in the Andrew H. Bellinger Survey, Abstract 417, Wharton County, Texas, dated March 5, 1996.

Easement and Right Of Way for Prairie Producing Company for pipeline over and through canal located in the S.A.&M.G. 4 Survey, Abstract 895, Colorado County, Texas, dated February 16, 1977.

Easement and Right Of Way for Petrorep, Inc. for pipeline over and through canal located in the G.&B.N. Survey, Abstract 912, Colorado County, Texas, dated January 14, 1988.

Easement and Right Of Way for Products Pipe Line Company for pipeline over and through canal located on the following easements:

Easement #1 - W.C.R.R. 14 Survey, Abstract 829, Colorado and Wharton Counties, Texas, dated January 13, 1955.

Easement #2 - W.C.R.R. 15 Survey, Abstract 946, Colorado and Wharton Counties, Texas, dated January 13, 1955.

Easement #3 - W.C.R.R. 16 Survey, Abstract 902, Colorado County, Texas, dated January 13, 1955.

Easement #4 - G.C.&S.F. 22 Survey, Abstract 858, Colorado County, Texas, dated January 13, 1955.

Easement #5 - G.C.&S.F. 22 Survey, Abstract 858, Colorado County, Texas, dated January 13, 1955.

Easement #6 - I.R.R. 20 Survey, Abstract 505, Wharton County, Texas, dated January 13, 1955.

Easement and Right Of Way for Petrorep, Inc. for pipeline over and through canal located in the G.&B.N. 6 Survey, Abstract 912, Colorado County, Texas, dated January 14, 1988.

Easement and Right Of Way for Ross Production Company for pipeline under canal located in the W.C.R.R. 4 Survey, Abstract 815, Wharton County, Texas, dated September 10, 1992.

Easement and Right Of Way for Otis Russell for pipeline over and through canal located in the I.&G.N. 50 Survey, Abstract 307, and G.B.&N. 6 Survey, Abstract 912, Colorado County, Texas, dated July 18, 1966.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the North side of W.C.R.R. 11 Survey, Abstract 890, Colorado County, Texas, dated November 27, 1965.

Easement and Right Of Way for Shell Pipeline Corporation for pipeline over and through canal located in the North side of W.C.R.R. 11 Survey, Abstract 890, Colorado County, Texas, dated July 18, 1964.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the W.C.R.R. 15 Survey, Abstract 946, Colorado County, Texas, dated June 19, 1964.

Easement and Right Of Way for Shell Pipeline Corporation for air patrol marker located in the I.&G.N. 10 Survey, Abstract 316, Colorado County, Texas, dated October 8, 1963.

Easement and Right Of Way for Shell Pipeline Corporation for pipeline over and through canal located in the S.A.&M.G. 2 Survey, Abstract 717, Colorado County, Texas, dated October 8, 1963.

Easement and Right Of Way for Shell Pipeline Corporation for pipeline over and through canal located on the following easements:

Easement #1 - I.&G.N. 10 Survey, Abstract 316, Colorado County, Texas, dated September 27, 1963.

Easement #2 - I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated September 27, 1963.

Easement #3 - I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated September 27, 1963.

Easement and Right Of Way for Shell Pipeline Corporation for pipeline over and through canal located in the I.&G.N. 13 Survey, Abstract 319, Colorado County, Texas, dated September 27, 1963.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the S.A.&M.G. 2 Survey, Abstract 717, Colorado County, Texas, dated May 13, 1963.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the I.&G.N. 1 Survey, Abstract 287, Colorado County, Texas, dated May 13, 1963.

Easement and Right Of Way for Shell Oil Company for pipeline across canal located in the Sam Kennelly Survey, Abstract 30, Colorado County, Texas, dated May 1, 1963.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located on the following easements:

Easement #1 - Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated April 20, 1963.

Easement #2 - N. Whiting and Wm. Osborn League Survey, Abstract 48, Colorado County, Texas, dated April 20, 1963.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated January 13, 1955.

Easement and Right Of Way for Shell Oil Company for pipeline over and through canal located in the Samuel Kennelly League Survey, Abstract 30, Colorado County, Texas, dated December 27, 1947.

Easement and Right Of Way for Shell Pipeline Corporation for pipeline over and through canal located in the W.C.R.R. 15 Survey, Abstract 946, Colorado County, Texas, dated November 8, 1949.

Easement and Right Of Way for Skelly Oil Company for pipeline over and through canal located in the Sam Kennelly League Survey, Abstract 30, Colorado County, Texas, dated August 3, 1955.

Easement and Right Of Way for Sunray DX Oil Company for pipeline over and through canal located in the W.C.R.R. 4 Survey, Abstract 815, Wharton County, Texas, dated December 8, 1964.

Easement and Right Of Way for TECO Industrial Gas Company for pipeline under canal located in the W.C.R.R. 15 Survey, Abstract 946, Colorado County, Texas, dated March 5, 1996.

Easement and Right Of Way for TECO Industrial Gas Company for pipeline under canal located in the Susan Parks Survey, Abstract 939, Colorado County, Texas, dated March 5, 1996.

Easement and Right Of Way for TECO Industrial Gas Company for pipeline under canal located in the W.C.R.R. 15 Survey, Abstract 946, Colorado County, Texas, dated March 5, 1996.

Easement and Right Of Way for Tennessee Gas Pipeline Company for pipeline over and through canal located in the A.B.&M. 792 Survey, Abstract 720, Colorado County, Texas, dated March 7, 1977.

Easement and Right Of Way for Tennessee Gas Transmission Company for pipeline over and through the following easements:

Easement #1 - I.&G.N. 6 Survey, Abstract 314, Colorado County, Texas, dated May 16, 1960.

Easement #2 - I.&G.N. 10 Survey, Abstract 316, Colorado County, Texas, dated May 16, 1960.

Easement and Right Of Way for Tennessee Gas Transmission Company for pipeline over and through canal located on the following easements:

Easement #1 - I.R.R. 23 Survey, Abstract 720, Colorado County, Texas, dated October 7, 1953.

Easement #2 - B.F. Stafford 792 Survey, Abstract 720, Colorado County, Texas, dated October 7, 1953.

Easement #3 - Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated October 7, 1953.

Easement #4 - Natham Mixon Survey, Abstract 402, Colorado County, Texas, dated October 7, 1953.

Easement and Right Of Way for Texas Eastern Transmission Corporation for pipeline over and through canal located in the W.S. Delaney Survey, Abstract 895, Colorado County, Texas, dated February 23, 1963.

Easement and Right Of Way for Texas Eastern Transmission Corporation for pipeline over and through canal located in the S.A.&M.G. 19 Survey, Colorado County, Texas, dated October 5, 1953.

Easement and Right Of Way for Texas Eastern Transmission Corporation for pipeline over and through canal located in the W.C.R.R. 15 Survey, Abstract 946, Colorado County, Texas, dated November 8, 1949.

Easement and Right Of Way for TXO Production Corporation for pipeline over and through canal located in the P. B. Scoggins 6 Survey, Abstract 814, Wharton County, Texas, dated May 14, 1984.

Easement and Right Of Way for TXO Production Corporation for pipeline on and above canal located in the Joseph Grant Survey, Abstract 233, Colorado County, Texas, dated June 16, 1982.

Easement and Right Of Way for Texas Oil and Gas Corporation for pipeline on and above canal located in the S.A.&M.G. 17 Survey, Abstract 539, Colorado County, Texas, dated September 11, 1979.

Easement and Right Of Way for Texas Oil and Gas Corporation for pipeline on and above canal located in the A.B.&M. 792 Survey, Abstract 720, Colorado County, Texas, dated June 14, 1977.

Easement and Right Of Way for Tejas Production Company for pipeline on and above canal located in the Joseph Grant Survey, Colorado County, Texas, dated September 8, 1979.

Easement and Right Of Way for Thorstenberg Materials Co. for pipeline over and across canal located in the S.A.&M.G. 7 & 8 Surveys, Colorado County, Texas, dated June 17, 1967.

Easement and Right Of Way for Trafalgar House Oil and Gas, Inc. for pipeline over and through canal located in the W.C.R.R. 19 Survey, Abstract 360, Wharton County, Texas, dated April 27, 1987.

Easement and Right Of Way for A. H. Wadsworth, Jr. For pipeline over and through canal located in the Indianola R.R. 24, Abstract 855, Colorado County, Texas, dated April 21, 1964.

Easement and Right Of Way for Valero Transmission Company for pipeline over and through canal located on the following easements:

Easement #1 - Anton Malik Survey, Abstract 829, Colorado County, Texas, dated August 5, 1982.

Easement #2 - W. E. Rickard Survey, Abstract 902, Colorado County, Texas, dated August 5, 1982.

Easement #3 - Lee Dillon Survey, Abstract 901, Colorado County, Texas, dated August 5, 1982.

Easement and Right Of Way for Valero Transmission Company for pipeline over and through canal located in the W. S. Delaney Survey, Abstract 505, Wharton County, Texas, dated August 5, 1982.

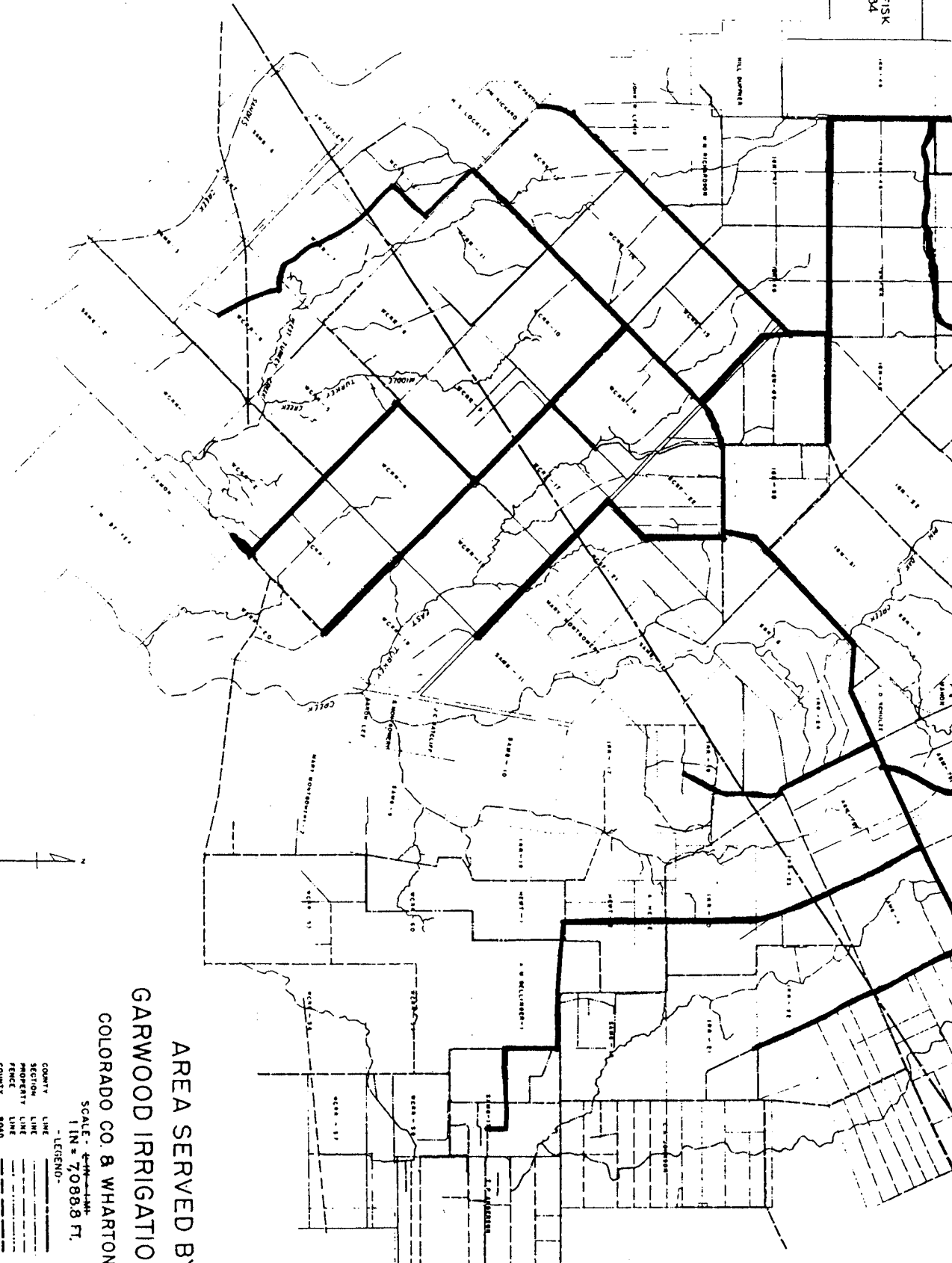
Easement and Right Of Way for Wharton County Electric Co-Operative, Inc. for power line located in the W. S. Delaney Survey, Abstract 895, Colorado County, Texas, dated June 30, 1981.

Easement and Right Of Way for Wharton County Electric Co-Operative, Inc. for power line located in the N. Whiting and W. Osborne Survey, Abstract 48, Colorado County, Texas, dated October 10, 1974.

Easement and Right Of Way for Wharton County Electric Co-Operative, Inc. for stub pole and two anchors located in the I.&G.N. 50 Survey, Abstract 307, Colorado County, Texas, dated January 22, 1970.

Easement and Right Of Way for Garwood Implement & Supply Company for pipeline located in the I.&G.N. Survey 5-Abstract 313, B.B.B.&C.R.R. Survey 2-Abstract 716, B.B.B.&C.R.R. Survey 1-Abstract

125, and Preston Gilbert Survey - Abstract 25, Colorado County, Texas,
dated July 6, 1998.



AREA SERVED BY
GARWOOD IRRIGATION CO.

COLORADO CO. & WHARTON CO.

SCALE: 1 IN = 7088.8 FT.

LEGEND-

| | |
|------------------|-------|
| COUNTY LINE | ..... |
| SECTION LINE | ..... |
| PROPERTY LINE | ..... |
| FENCE LINE | ..... |
| COUNTY ROAD | ..... |
| FIELD ROAD | ..... |
| DRAIN | ..... |
| OTCH | ..... |
| CANAL | ..... |
| LATERAL | ..... |
| CANAL STRUCTURES | |
| BRIDGE | |
| CHECK | |
| DRAIN | |
| SYMION | |
| GATE | |
| GAGE | |

72807

GARWOOD IRRIGATION COMPANY

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| 59. | Board of Water Eng. | Garwood Irrigation Co. | Permit | 213 391 |
| 73. | R. H. Hancock | Garwood Irrigation Co. | Deed | 224 190 |
| 75. | Joe A. Wilson etal | Garwood Irrigation Co. | Deed | 228 31 |
| 79. | Garwood Irr. Co. | Tennessee GT Co | Easement | 263 549 |
| 84. | R. H. Hancock Extr | Garwood Irrigation Co | Conf. | 269 359 |
| 86. | Garwood Irrigation Co | Products PL Co | Easement | 276 220 |
| 92. | Certificate of Ingram Abstract Company dated June 26 1953 7 A.M. and numbered 16,880. | | | |

**GARWOOD IRRIGATION COMPANY
CONTRACTS**

SCHEDULE 2.01(a)(v)

None

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GARWOOD IRRIGATION COMPANY

PERMITS

SCHEDULE 2.01(a)(vi)

Permit No. 13370 issued to Garwood Irrigation Company by the U.S. Army, Corps of Engineers, by letter dated September 6, 1979 from the Chief, Permit Branch, Galveston District, as amended by letter dated January 25, 1980.

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**GARWOOD IRRIGATION COMPANY
EXCLUDED ASSETS**

SCHEDULE 2.01(b)

ALL ACCOUNTS RECEIVABLE

LAND

7 acres, more or less, out of 19.34 acre tract, in Whiting & Osborne Survey, North of the River Plant

Interest in all lands in Out Lot 2, 3, 4, 15, 16 (Main Office Complex)

WATER RIGHTS, AGREEMENTS AND APPLICATIONS

The LCRA Agreement

Corpus Christi's Right (whether or not the Corpus Christi Agreement is terminated)

The Corpus Christi Agreement (to the extent it is not terminated)

All rights arising out of, and any assets subject to, the Corpus Christi Agreement

Application to Amend Garwood's Remaining Right

Corpus Christi Application

EASEMENTS AND RIGHTS OF WAY

Easement and Right of Way with powers of ingress and egress on the river plant road consisting of 26.9 acres in the Whiting & Osborne Survey and part of 6.39 acres in Joseph Grant Survey for Shareholders of Garwood and the City of Corpus Christi

Easement and Right of Way with powers of ingress and egress on the river plant road consisting of 26.9 acres in the Whiting & Osborne Survey for L.P. Bunge, his heirs and assigns

ROADS

All roads adjacent to canals on the Lehrer and Lewis properties are excluded, however, they may be used by the purchaser in the ordinary course of business

BUILDINGS AND EQUIPMENT

Truck Shed and Carpenter Shop in Out Lot 3 & 4

Interest in all Buildings in Out Lot 2, 3, 4, 15, 16 (Main Office Complex)

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**GARWOOD IRRIGATION COMPANY
PROCEEDINGS**

SCHEDULE 4.06

None

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**GARWOOD IRRIGATION COMPANY
NOTICES REGARDING LAWS**

SCHEDULE 4.07

None

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**GARWOOD IRRIGATION COMPANY
EMPLOYEES**

SCHEDULE 4.11

| EMPLOYEE NAME | JOB TITLE | BIRTH DATE | HIRE DATE | HOURLY RATE | CHRISTMAS BONUS | ESTIMATED YEARLY SALARY INCLUDING BONUS | WAGE CHANGE SINCE 12/31/97 | ELIGIBLE VACATION DAYS FOR 1998 | ELIGIBLE SICK LEAVE FOR 1998 | VESTING % PROFIT SHARING |
|-----------------|--------------------|------------|-----------|-------------|-----------------|---|----------------------------|---------------------------------|------------------------------|--------------------------|
| DAVID BAIRD | **MANAGER | 03-01-56 | 05-04-81 | | \$3,000.00 | \$39,000.00 | PER MONTH \$292 | 10 DAYS | 10 WEEKS | 100% |
| PATRICK GOLD | SURVEYING DEPT. | 02-03-65 | 03-22-95 | SEM-MONTHLY | \$2,204.00 | \$26,652.00 | | 10 DAYS | 2 WEEKS | 20% |
| J. D. WIED | PUMPER | 05-15-40 | 03-05-79 | 9.10 | \$1,724.00 | \$24,735.00 | | 10 DAYS | 10 WEEKS | 100% |
| FRANK BOWEN | PUMPER | 09-28-35 | 02-09-81 | 9.10 | \$1,724.00 | \$24,921.00 | | 10 DAYS | 10 WEEKS | 100% |
| ALLAN LABAY | PUMPER | 01-22-58 | 08-04-97 | 8.75 | \$280.00 | \$24,500.00 | | 10 DAYS | 1 WEEK | 0% |
| EDWARD WIED | PUMPER | 08-20-28 | 09-15-48 | 9.10 | \$1,724.00 | \$23,315.00 | | 10 DAYS | 10 WEEKS | 100% |
| JOE SKUCA, JR. | MAINT./PUMPER | 04-02-56 | 03-01-98 | 8.25 | \$0.00 | \$24,500.00 | PER HOUR \$.20 | 10 DAYS | 0 WEEKS | 0% |
| JAMES TILL | CANAL RIDER/PUMPER | 06-25-53 | 02-29-88 | 9.50 | \$1,724.00 | \$30,000.00 | PER HOUR \$.50 | 10 DAYS | 6 WEEKS | 100% |
| JEFF WIED | LEAD CANAL RIDER | 12-16-59 | 02-29-88 | 10.00 | \$1,800.00 | \$32,000.00 | | 10 DAYS | 6 WEEKS | 100% |
| PATRICK KORENEK | MAINT./CANAL RIDER | 01-09-59 | 03-01-98 | 8.25 | \$0.00 | \$24,500.00 | | 0 DAYS | 0 WEEKS | 0% |
| TOTALS | | | | | | ===== | | | | |

NOTES:
**MANAGER - DAVID BAIRD was promoted and given salary increase.

CHRISTMAS BONUS paid as follows: 1st year, 1/3 of a month salary
2nd year, 2/3 of a month salary
3rd year and after, 1 month salary

VACATION policy is ten working days per year, no accrual allowed.

SICK LEAVE policy is as follows: 0 - 3 Months No Sick Leave
No accrual allowed
3 Mo - 1 Yr 1 Week
1 Yr - 3 Yr 2 Weeks
3 Yr - 5 Yr 3 Weeks
5 Yr - 10 Yr 5 Weeks
10 Yr - 15 Yr 6 Weeks
15 Yr - Above 10 Weeks

HEALTH INSURANCE and DISABILITY INSURANCE benefits after 90 Days.
Employer pays 100% of employee Medical Insurance and Employee pays 100% of dependant insurance.
Employee pays \$1.00 per week of Disability Insurance and Employer pays balance of premium.
HOLIDAYS - Memorial Day, July 4th, Labor Day, Thanksgiving, Friday After Thanksgiving,
Christmas Day, New Year's Day

FORMER EMPLOYEES RECEIVING HEALTH INSURANCE UNDER COBRA
PREMIUM PAID 100% BY FORMER EMPLOYEES:
Lawrence Labay
Jerome Zbrank

CLAIMS PENDING OR THREATENED BY SUCH EMPLOYEES AGAINST GARWOOD:
None

**GARWOOD IRRIGATION COMPANY
EMPLOYEES TO BE RETAINED**

SCHEDULE 7.10(a)

| EMPLOYEE NAME | JOB TITLE |
|--------------------------|----------------------|
| DAVID BAIRD | MANAGER |
| PATRICK GOLD | SURVEYING DEPT. |
| J. D. WIED | PUMPER |
| FRANK BOWEN | PUMPER |
| ALLAN LABAY | PUMPER |
| JOE SKUCA, JR. | MAINT./PUMPER |
| JAMES TILL | CANAL RIDER/PUMPER |
| JEFF WIED | LEAD CANAL RIDER |
| PATRICK KORENEK | MAINT./CANAL RIDER |

EXHIBIT A

WATER RIGHT DEED

THE STATE OF TEXAS §
COUNTIES OF COLORADO §
AND WHARTON §

This WATER RIGHT DEED (this "Deed"), dated _____, _____, is made by GARWOOD IRRIGATION COMPANY, a Texas corporation ("Garwood"), whose mailing address is P.O. Box 428, Garwood, Texas 77442, in favor of the LOWER COLORADO RIVER AUTHORITY, a conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code ("LCRA"), whose address is 3701 Lake Austin Blvd., Austin, Texas 78703.

For and in consideration of the premises and mutual advantages and benefits accruing to the parties hereunder, and for Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Garwood does hereby GRANT, SELL, CONVEY, ASSIGN, TRANSFER and DELIVER to LCRA, all of Garwood's right, title and interest in and to that certain water right identified as Certificate of Adjudication No. 14-5434 __, issued to Garwood by the Texas Natural Resource Conservation Commission ("TNRCC") on _____, _____, a copy of which is attached hereto as Exhibit A (such water right is referred to herein as "Garwood's Remaining Right, as Amended").

TO HAVE AND TO HOLD Garwood's Remaining Right, as Amended, unto LCRA, its successors and assigns, forever.

THIS DEED IS MADE WITHOUT REPRESENTATION, WARRANTY OR RIGHT OF RECOURSE OF ANY KIND WHATSOEVER, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION, WARRANTY OR RIGHT OF RECOURSE WITH RESPECT TO MERCHANTABILITY; FITNESS FOR A PARTICULAR PURPOSE; FREEDOM FROM DEFECTS; QUALITY; VALUE; CONDITION (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL CONDITION); COMPLIANCE WITH LAWS (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS); OR TITLE (INCLUDING, WITHOUT LIMITATION, THE IMPLIED COVENANT OF TITLE UNDER SECTION 5.023 OF THE TEXAS PROPERTY CODE, WHICH IS HEREBY EXPRESSLY NEGATED, DISCLAIMED AND WAIVED. GARWOOD HEREBY NEGATES AND DISCLAIMS, AND LCRA HEREBY WAIVES, ANY SUCH REPRESENTATIONS, WARRANTIES OR RIGHTS OF RECOURSE. GARWOOD'S REMAINING RIGHT, AS AMENDED, IS SOLD "AS-IS," "WHERE-IS," WITH ALL FAULTS, AND LCRA HEREBY ACCEPTS THIS DEED AND GARWOOD'S

This Deed is executed pursuant to the terms of that certain Purchase Agreement, dated July 20, 1998, between Garwood, as seller, and LCRA, as buyer (the "Purchase Agreement"). Garwood's Remaining Right, as Amended, is described in the Purchase Agreement as "Garwood's Remaining Right" (as defined in the Purchase Agreement), as amended by the TNRCC in response to that certain application to amend defined in the Purchase Agreement as "Garwood's Application." This Deed is subject to all commitments and conditions of LCRA set forth in the Purchase Agreement, including, without limitation, Section 7.08 of the Purchase Agreement. This Deed is further subject to all terms, provisions and special conditions contained within Garwood's Remaining Right, as Amended.

This Deed may be executed in any number of counterparts, each of which shall be valid and binding with respect to the signatories thereto.

This Deed shall bind and inure to the benefit of and be binding upon Garwood and LCRA and their respective successors and assigns.

IN WITNESS WHEREOF, this Deed has been executed by Garwood and LCRA as of the date first set forth above.

GARWOOD IRRIGATION COMPANY

By: _____
Name: _____
Title: _____

LOWER COLORADO RIVER AUTHORITY

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, _____ by _____, _____ of GARWOOD IRRIGATION COMPANY, a Texas corporation, on behalf of said corporation.

Notary Public in and for
The State of Texas

Printed Name of Notary Public:

My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, _____ by _____, _____ of the LOWER COLORADO RIVER AUTHORITY, a conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code, on behalf of said conservation and reclamation district and river authority.

Notary Public in and for
The State of Texas

Printed Name of Notary Public:

My Commission Expires:

DEED, GENERAL CONVEYANCE AND ASSIGNMENT

THE STATE OF TEXAS §
 §
COUNTIES OF COLORADO §
 §
 AND WHARTON

This DEED, GENERAL CONVEYANCE AND ASSIGNMENT (this "*Deed*"), dated _____, _____, is made by GARWOOD IRRIGATION COMPANY, a Texas corporation ("*Garwood*"), whose mailing address is P.O. Box 428, Garwood, Texas 77442, in favor of the LOWER COLORADO RIVER AUTHORITY, a conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code ("*LCRA*"), whose address is 3701 Lake Austin Blvd., Austin, Texas 78703.

For and in consideration of the premises and mutual advantages and benefits accruing to the parties hereunder, and for Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Garwood does hereby GRANT, SELL, CONVEY, ASSIGN, TRANSFER and DELIVER to LCRA, all of Garwood's right, title and interest in and to the following assets (the "*Assets*"):

- (a) the real property owned in fee by Garwood and described on Exhibit A;
- (b) the canal system (the "*Garwood Canal System*") comprised of Garwood's main pumping plant on the Colorado River, the small dam on the Colorado River, and all other dams, pumps, canals, laterals, ditches and other facilities, as such may currently exist or be modified in the future, that are owned by Garwood and used for the purpose of supplying water within Garwood's Service Area (as defined on Exhibit B), all as more fully shown on the map attached hereto as Exhibit C;
- (c) to the extent assignable, the easements, rights-of-way and other enforceable legal rights of access and use that are described on Exhibit D;
- (d) to the extent assignable, the contracts and agreements described on Exhibit E; and
- (e) to the extent assignable, the governmental permits, licenses, orders and approvals described on Exhibit F.

Notwithstanding anything in this Deed to the contrary, the assets listed on Exhibit G (the "*Excluded Assets*") shall be (i) excluded from the sale hereunder, (ii) retained by Garwood and (iii)

deemed not to constitute any portion of the "Assets." The Excluded Assets shall include the LCRA Agreement, Corpus Christi's Right (whether or not the Corpus Christi Agreement is terminated), the Corpus Christi Agreement (to the extent it is not terminated), and all rights arising out of, and any assets subject to, the Corpus Christi Agreement (with each such capitalized term having the meaning given in the Purchase Agreement).

TO HAVE AND TO HOLD the Assets unto LCRA, its successors and assigns, forever.

THIS DEED IS MADE WITHOUT REPRESENTATION, WARRANTY OR RIGHT OF RECOURSE OF ANY KIND WHATSOEVER, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION, WARRANTY OR RIGHT OF RECOURSE WITH RESPECT TO MERCHANTABILITY; FITNESS FOR A PARTICULAR PURPOSE; FREEDOM FROM DEFECTS; QUALITY; VALUE; CONDITION (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL CONDITION); COMPLIANCE WITH LAWS (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS); OR TITLE (INCLUDING, WITHOUT LIMITATION, THE IMPLIED COVENANT OF TITLE UNDER SECTION 5.023 OF THE TEXAS PROPERTY CODE, WHICH IS HEREBY EXPRESSLY NEGATED, DISCLAIMED AND WAIVED). GARWOOD HEREBY NEGATES AND DISCLAIMS, AND LCRA HEREBY WAIVES, ANY SUCH REPRESENTATIONS, WARRANTIES OR RIGHTS OF RECOURSE. THE ASSETS ARE SOLD "AS-IS," "WHERE-IS," WITH ALL FAULTS, AND LCRA HEREBY ACCEPTS THIS DEED AND THE ASSETS ON THAT BASIS.

This Deed is executed pursuant to the terms of that certain Purchase Agreement, dated July __, 1998, between Garwood, as seller, and LCRA, as buyer (the "Purchase Agreement"). This Deed is subject to all commitments and conditions of LCRA set forth in the Purchase Agreement, including, without limitation, Section 7.08 of the Purchase Agreement. This Deed is further subject to all terms, provisions and special conditions contained within that certain water right defined as "Garwood's Remaining Right, as Amended" in the Water Right Deed granted to LCRA by Garwood contemporaneously with the granting of this Deed, which Water Right Deed is also granted pursuant to the Purchase Agreement.

This Deed may be executed in any number of counterparts, each of which shall be valid and binding with respect to the signatories thereto.

This Deed shall bind and inure to the benefit of and be binding upon Garwood and LCRA and their respective successors and assigns.

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, _____ by _____, _____ of GARWOOD IRRIGATION COMPANY, a Texas corporation, on behalf of said corporation.

Notary Public in and for
The State of Texas

Printed Name of Notary Public:

My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, _____ by _____, _____ of the LOWER COLORADO RIVER AUTHORITY, a conservation and reclamation district created pursuant to Article 16, Section 59 of the Texas Constitution and a river authority, as that term is defined in Section 30.003 of the Texas Water Code, on behalf of said conservation and reclamation district and river authority.

Notary Public in and for
The State of Texas

Printed Name of Notary Public:

My Commission Expires:

72807
72807



July 20, 1998

Chairman Barry R. McBee
Commissioner Ralph Marquez
Commissioner John Baker
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

RE: "LCRA's Application" Requesting TNRCC Approval for LCRA to Use Water Under "Garwood's Remaining Right" for Irrigation Purposes. Section 2(u) LCRA Act

Dear Chairman McBee and Commissioners Marquez and Baker:

In accordance with that certain Purchase Agreement by and between Garwood Irrigation Company ("Garwood") and the Lower Colorado River Authority ("LCRA") dated July 20, 1998, LCRA respectfully submits this Application.

As set forth in the Purchase Agreement, LCRA is acquiring certain assets of Garwood including "Garwood's Remaining Right" under Certificate 14-5434A.

Section 2 (u) of the LCRA Act provides in part that LCRA shall not be permitted to use for irrigation purposes any water under any permit or permits acquired from any other company or person unless expressly authorized by and granted to LCRA by the TNRCC.

Please accept this letter as "LCRA's Application" (as defined in the Purchase Agreement) requesting TNRCC's approval granting LCRA the right to use for irrigation purposes water under "Garwood's Remaining Right" as may be required pursuant to Section 2 (u) of the LCRA Act.

LCRA requests that the TNRCC consolidate this "LCRA's Application" with the application filed by Garwood contemporaneously with this application seeking several amendments to "Garwood's Remaining Right." Both applications are significantly related and should be considered at the same time by the Commission if at all possible.

EXHIBIT B

72807

Our power is distributed to you through our partnership with the following cities and rural electric cooperatives:

City of Bastrop • Bandera Electric Cooperative, Inc. • Bluebonnet Electric Cooperative, Inc. • City of Burnet • City of Bellville • City of Boerne • City of Brenham • Central Texas Electric Cooperative, Inc. • City of Cuero • DeWitt Electric Cooperative, Inc. • Fayette Electric Cooperative, Inc. • City of Flatonia • City of Fredericksburg • City of Georgetown • City of Giddings • City of Goldthwaite • City of Gonzales • Guadalupe Valley Electric Cooperative, Inc. • City of Hallettsville • Hamilton County Electric Cooperative, Inc. • City of Hempstead • Kimble Electric Cooperative, Inc. • Kerrville Public Utility Board • City of La Grange • City of Lampasas • City of Lexington • City of Llano • City of Lockhart • City of Luling • City of Mason • McCulloch Electric Cooperative, Inc. • City of Moulton • New Braunfels Utilities • Pedernales Electric Cooperative • City of San Saba • San Bernard Electric Cooperative, Inc. • City of Schulenburg • City of Seguin • City of Shiner • San Marcos Electric Utility • City of Smithville • City of Waelder • City of Weimar • City of Yoakum

Chairman Barry R. McBee
Commissioner Ralph Marquez
Commissioner John Baker
July 20, 1998
Page 2

Should you have any questions feel free to contact Mr. Joe Beal at 473-3586 or Mr. Bruce Wasinger at 473-3287. Thank you for your consideration.

Yours truly,

Mark Rose
General Manager

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

P.O. Box 13087
Austin, Texas 78711-3087
Telephone No. 512/463-8218 FAX (512)239-4444

APPLICATION FOR AMENDMENT TO A WATER RIGHT

- REQUIRING MAILED AND PUBLISHED NOTICE
NOT REQUIRING MAILED AND PUBLISHED NOTICE

1. Name: Garwood Irrigation Company
Address: P.O. Box 428
Garwood, Texas 77442

Telephone: Home: Office: (409) 758-3221
Social Security or Federal ID. No.:

Permit Certified Filing or Adjudication Cert. No.: 14-5434A

2. Stream Colorado River Watersheds Colorado River Basin and Lavaca River Basin
Reservoir (present condition, if one exists): small reservoir on the Colorado River created by Garwood's low water dam
Counties: Colorado and Wharton

3. Proposed Changes to Water Right Authorizations: Amend "Garwood's Remaining Right," and grant such other authorizations, as set forth in the attached Supplement.

4. I understand that the Agency may require additional information in regard to the requested amendment before considering my application.

5. I have submitted the required fees herewith. (Sections 295.131-295-139)

Witness (my) hand at Garwood, Texas, this day of 19 98.

William N. Lehrer, Chairman and Chief Executive Officer

Subscribed and sworn to as being true and correct before me the day of 19 98.

Notary Public, State of Texas

**SUPPLEMENT TO THE
APPLICATION OF GARWOOD IRRIGATION
COMPANY TO AMEND
“GARWOOD’S REMAINING RIGHT”**

GARWOOD'S WATER RIGHT

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A. After diversion, the water is conveyed via Garwood's extensive canal system (the "Garwood Canal System").

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within the Garwood Service Area (hereinafter defined) in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within the Garwood Service Area.

Garwood's Right further authorizes the interbasin transfer of water, from the Colorado River Basin to the Lavaca River Basin. Under Garwood's Right, the water is authorized to be used anywhere within the Garwood Service Area. The TWC determined that the "Garwood Service Area" is comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment. The Garwood Service Area consists of over 155,000 acres of land, most of which lies within the Lavaca River Basin. A map showing the boundaries of the Garwood Service Area in relation to the Lavaca River Basin is attached as Attachment No. 3.

The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

AGREEMENT WITH THE CITY OF CORPUS CHRISTI

Garwood and the City of Corpus Christi (the "City") entered into an agreement, dated as of September 22, 1992, whereby the City secured an option to purchase up to a 35,000 acre-foot-per-year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this application, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

The Corpus Agreement further provides that the application to amend Corpus Christi's Right shall, to the extent necessary, seek to amend Corpus Christi's Right to: (1) authorize the use of such water for municipal and industrial purposes; (2) authorize the diversion of such water from an undefined point of diversion within certain defined segments of the Colorado River; (3) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within the City of Corpus Christi's ten-county service area; and (4) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Corpus Christi service area consists of the following twelve counties: Aransas, Atascosa, Bee, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, San Patricio, and Willacy. These twelve counties lie in whole or in part within the following named River Basins or Coastal Basins: San Antonio River Basin; San Antonio-Nueces Coastal Basin; Nueces River Basin; and Nueces-Rio Grande Coastal Basin. To provide maximum flexibility, the area in which the water should be authorized to be used should consist of the above-named River Basins and Coastal Basins, as well as those through which the water might pass as it is conveyed to the above-named Basins.

**NOTICE BY CORPUS CHRISTI DIRECTING
GARWOOD TO SUBMIT THE APPLICATION
TO AMEND "CORPUS CHRISTI'S RIGHT"**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit the application to amend Corpus Christi's Right. A copy of such letter is attached hereto as Attachment No. 6.

**DIVISION OF GARWOOD'S WATER RIGHT INTO TWO
SEPARATE AND DISTINCT PORTIONS: (1) "CORPUS
CHRISTI'S RIGHT," AND (2) "GARWOOD'S REMAINING RIGHT"**

Pursuant to the Corpus Agreement, Garwood, by instrument entitled "Division of Water Right" dated as of January 30, 1997, has divided Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right. A copy of such instrument is attached hereto as Attachment No. 7.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of such division, Corpus Christi's Right has been and it now is subordinate, in time priority and all other respects, to Garwood's Remaining Right.

THE APPLICATION TO AMEND "CORPUS CHRISTI'S RIGHT"

By separate application filed on January 30, 1997 (the "Application to Amend Corpus Christi's Right"), Garwood is requesting that the Commission amend Corpus Christi's Right to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 35,000 acre-feet of water per year authorized to be diverted from the Colorado River under Corpus Christi's Right:

- (a) is authorized to be used for municipal and industrial purposes;
- (b) is authorized to be diverted from an undefined point of diversion on the west bank of the Colorado River within either Segment "A", Segment "B" or Segment "C" on the Colorado River (as shown on Exhibits 8, 9 and 10 of that application); and

- (c) is authorized to be diverted from the Colorado River Basin and transferred for use anywhere within the Lavaca, Guadalupe, San Antonio, and Nueces River Basins, and the Colorado-Lavaca, Lavaca-Guadalupe, San Antonio-Nueces, and Nueces-Rio Grande Coastal Basins.

Garwood further requests that the Commission confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

A copy of the Application to Amend Corpus Christi's Right is attached hereto as Attachment No. 8.

The Commission has issued notice of the Application to Amend Corpus Christi's Right, and such notice has been mailed and published as required by law. A copy of the notice is attached hereto as Attachment No. 9.

AGREEMENT WITH THE LOWER COLORADO RIVER AUTHORITY

Garwood and the Lower Colorado River Authority entered into an agreement, dated as of July __, 1998, whereby Garwood agrees to sell to LCRA, and LCRA agrees to purchase, certain of Garwood's assets, generally consisting of the Garwood Canal System and Garwood's Remaining Right. That agreement is hereinafter referred to as the "LCRA Purchase Agreement." A copy of the LCRA Purchase Agreement is attached hereto as Attachment No. 10.

As a condition of its purchase, LCRA is requiring that Garwood first seek and obtain from the Commission an amendment to Garwood's Remaining Right to provide certain additional authorizations. The specific requests are set forth below in this application.

As set forth in the LCRA Purchase Agreement, Garwood has conditioned its sale to LCRA upon LCRA making numerous commitments that protect the interests of landowners and irrigators within the Garwood Service Area. This application is conditioned upon those commitments being included as special conditions in the amendment to Garwood's Remaining Right issued by the Commission in response to this application. The specific special conditions are set forth below in this application. The special conditions would take effect upon transfer of Garwood's Remaining Right, as amended, to LCRA.

Additionally, as set forth in the LCRA Purchase Agreement, Garwood has conditioned its sale to LCRA, and this application is conditioned, upon the Commission's granting, in whole, the Application to Amend Corpus Christi's Right, and upon the Commission taking such action before, or contemporaneously with, its action on this application.

Finally, as set forth in the LCRA Purchase Agreement, the sale to LCRA is also conditioned, and this application is conditioned, upon the Commission's granting LCRA whatever authorization

may be required pursuant to Section 2(u) of the LCRA Act to allow LCRA to use for irrigation purposes water under Garwood's Remaining Right. LCRA has requested such approval by separate application ("LCRA's Application") filed contemporaneously with this application.

THIS APPLICATION TO AMEND "GARWOOD'S REMAINING RIGHT"

By this application, Garwood is requesting that the Commission amend Garwood's Remaining Right to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 133,000 acre-feet of water per year authorized to be diverted from the Colorado River under Garwood's Remaining Right:

- (a) is also authorized to be used for municipal and industrial purposes in any year, **but only to the extent that the water is not needed for irrigation within the Garwood Service Area in that year, in accordance with the special conditions set forth below;** and
- (b) is also authorized to be used outside Garwood's service area in any year, anywhere within Travis, Bastrop, Fayette, Colorado, Wharton and Matagorda Counties, **but only to the extent that the water is not needed for irrigation within the Garwood Service Area in that year, in accordance with the special conditions set forth below.**

Garwood further requests that the Commission confirm that Garwood's Remaining Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

SPECIAL CONDITIONS FOR PROTECTION OF LANDOWNERS AND IRRIGATORS WITHIN THE GARWOOD SERVICE AREA

Garwood requests that the Commission include the following special conditions in the amendment to Garwood's Remaining Right issued by the Commission in response to this application. This application is conditioned on the inclusion of such conditions in the amendment.

"SPECIAL CONDITIONS

From and after transfer of this Certificate (Garwood's Remaining Right, as amended pursuant to the LCRA Purchase Agreement) to LCRA, LCRA shall comply, and cause any other person that uses, supplies, or is supplied water under this Certificate to comply, with the conditions and commitments set forth in Section 7.08 of the LCRA Purchase Agreement. In addition, independent of the conditions and commitments set forth in Section 7.08 of the LCRA Purchase Agreement, from and after transfer of this Certificate to LCRA, LCRA shall

comply, and cause any other person that uses, supplies, or is supplied water under this Certificate to comply, with the following special conditions:

(a) This Certificate shall be divided into two distinct portions at any time, the Reserved Portion (hereinafter defined), and the Surplus Portion (hereinafter defined). The "Reserved Portion" of this Certificate at any time shall be that portion of the total amount of water authorized to be used annually under this Certificate at that time equal to the Reserved Amount (hereinafter defined) in effect at that time. The "Surplus Portion" of this Certificate at any time shall be that portion of the total amount of water authorized to be used annually under this Certificate at that time in excess of the Reserved Portion at that time. The Reserved Portion of this Certificate shall authorize the diversion of all of the water authorized to be used annually under such portion at the existing point of diversion on the Colorado River for the Garwood Canal System (the "Point of Diversion") at a rate of diversion of 600 cfs for the irrigation of up to 32,000 acres of land in any year within Seller's Service Area with a priority date of November 1, 1900. The Surplus Portion of this Certificate may also authorize the diversion of all of the water authorized under such portion at a rate of diversion of 600 cfs with a priority date of November 1, 1900; provided, however, that the combined rate of diversion at any time under the Reserved Portion and the Surplus Portion may never exceed 600 cfs; and provided further, however, that the priority of the Surplus Portion shall be subordinate in time priority and all other respects to the Reserved Portion. The Reserved Portion of this Certificate shall not be amended at any time: (i) to reduce the amount of water authorized to be diverted at the Point of Diversion and used for irrigation within the Garwood Service Area in any year below the Reserved Amount in effect for that year; (ii) to remove any lands from the Garwood Service Area unless such lands had not been irrigated at all at any time during the Historical Period (hereinafter defined) in effect at that time, or the owner of such lands first authorizes such removal in writing; (iii) to reduce the number of acres authorized to be irrigated in any year within the Garwood Service Area below 32,000 acres, or below the total number of acres in the Garwood Service Area at that time, whichever is less; (iv) to reduce the authorized rate of diversion at the Point of Diversion below 600 cfs; (v) to impair in any way the November 1, 1900 priority of the right to divert water at the Point of Diversion for use for irrigation within the Garwood Service Area; or (vi) to impair in any way the relative seniority and superiority of the Reserved Portion over the Surplus Portion. The "Reserved Amount" in effect for any calendar year shall be the maximum amount of water used for irrigation within the Garwood Service Area during any one calendar year within the Historical Period in effect at that time as measured at the Point of Diversion, inclusive of all evapotranspiration, seepage and other losses incurred after diversion; provided, however, that the Reserved Amount in effect for every year during the period consisting of the calendar year in which Closing occurs and the ten calendar years immediately following that year shall be 100,000 acre-feet; and provided further, however, that the Reserved Amount in effect for any year shall

never exceed the Reserved Amount in effect for the previous year. The "Historical Period" in effect for any calendar year shall be the period consisting of the ten calendar years immediately preceding that year.

(b) From and after transfer of this Certificate to LCRA, LCRA shall maintain, repair and replace the main pumping plant on the Colorado River (the "Pumping Plant"), the low water dam on the Colorado River (the "Colorado Dam"), and all other dams, pumps, canals, laterals, ditches and other facilities comprising the Garwood Canal System, as it existed on _____, 1998 (the "Execution Date," as defined in the LCRA Purchase Agreement), as necessary and keep all such facilities operable in conditions at least as good and at capacities at least as great as those that existed on that date.

(c) The December 10, 1987 agreement between LCRA and Garwood (the "LCRA Agreement"), a copy of which is attached as Exhibit F to the LCRA Purchase Agreement, shall remain in full force and effect, and LCRA shall continue to honor the terms of the LCRA Agreement. Pursuant to the terms of the LCRA Agreement, LCRA shall supply stored water from the Highland Lakes as may be necessary at any time to firm up and supplement the supply of run-of-river water available under the Reserved Portion of this Certificate at that time, for use for irrigation within the Garwood Service Area, with no charges for stored water to any landowner or irrigator within the Garwood Service Area. The supply of stored water for irrigation within the Garwood Service Area shall be interruptible, but only if and to the extent provided in the LCRA Agreement, and then only under assumptions and criteria that are at least as favorable to landowners and irrigators within the Garwood Service Area as those assumptions and criteria used by LCRA in its proposed Water Management Plan (as such proposed Water Management Plan is defined by filings submitted by LCRA to the TNRCC dated as of and prior to December 29, 1997), as discussed and illustrated in the excerpt of such proposed Management Plan attached as Exhibit G to the LCRA Purchase Agreement. As set forth in special condition (b), above, LCRA is now responsible for maintaining the Colorado Dam, which is identified in the LCRA Agreement as "Garwood's low water dam."

(d) The demand for water for irrigation within the Garwood Service Area at all times from and after the date of transfer of this Certificate to LCRA, up to the Reserved Amount in effect for each year, shall be satisfied by diversions of water from the Colorado River at the Point of Diversion by use of the Pumping Plant, and then by distribution and supply of that water via the Garwood Canal System. Except to the extent provided otherwise below in this special condition (d) and in special condition (e), below, the demand at any time may be satisfied by diversions of water available in the Colorado River at the Point of Diversion at that time under any right or combination of rights and from any source or combination of sources available to LCRA at that time, so long as the amount of water available for diversion from the

Colorado River for irrigation within the Garwood Service Area from the alternative supply at any time is equal to or greater than the amount that would be available at that time under the Reserved Portion of this Certificate and the LCRA Agreement, assuming no other uses of water under the Reserved Portion. To the extent that the alternative supply does not provide the required amount of water at any time, the demand shall be satisfied from the supply available under the Reserved Portion of this Certificate and the LCRA Agreement.

(e) In any calendar year during the period consisting of the calendar year in which this Certificate is transferred to LCRA and the ten calendar years immediately following that year, the demand for water for irrigation within the Garwood Service Area, up to the Reserved Amount for that year, shall be satisfied entirely from the supply available under the Reserved Portion of this Certificate and the LCRA Agreement. During this period of time, no water may be used under the Reserved Portion for any use other than irrigation within Seller's Service Area.

(f) At any time that the demand for water for irrigation within the Garwood Service Area is required to be satisfied from the supply available in the Colorado River under the Reserved Portion of this Certificate and the LCRA Agreement, the demand will be satisfied first from the supply of run-of-river water available at the Point of Diversion under the Reserved Portion of this Certificate at that time based on a priority date of November 1, 1900, and all other uses of water under the Reserved Portion, if any, shall cease to the extent required to satisfy such demand. Any diversion and use of water under the Surplus Portion of this Certificate, or under the Corpus Christi Right, shall be subordinate, in time priority and all other respects, to the diversion and use under the Reserved Portion of this Certificate of water for irrigation within the Garwood Service Area. If the demand for water for irrigation within the Garwood Service Area at any time is not fully satisfied from the supply of run-of-river water available under the Reserved Portion of this Certificate as set forth above in this special condition (f), the supply shall be firmed up and supplemented by releases of stored water from the Highland Lakes to the extent provided in the LCRA Agreement.

(g) The rates charged for the supply of water for irrigation within the Garwood Service Area in every year during the period consisting of the calendar year in which this Certificate is transferred to LCRA and the five calendar years immediately following that year shall not exceed the rates last established by Garwood as of December 31, 1997. The rates charged after the five-year period shall not exceed rates based on the reasonable cost of service for the supply of water via the Garwood Canal System for irrigation within the Garwood Service Area for that year. The cost of service for water supplied via the Garwood Canal System for irrigation within the Garwood Service Area for any year shall not include any charges or costs attributable in any way to payment of any amount of money to Garwood

pursuant to the LCRA Purchase Agreement, or payment of any amount of money for any subsequent transfer of ownership of this Certificate or any portion thereof or the Garwood Canal System or any portion thereof, or any debt service charges for or attributable to any facilities comprising the Garwood Canal System or any other facilities, or any charges whatsoever for maintaining, repairing, modifying or replacing the Colorado Dam, or any charges whatsoever for any additional pumps, canal extensions or other facilities not part of the Garwood Canal System as it exists on the Execution Date, or any charges for the installation of any meters or any modifications that improve the efficiency of the system, or any charges for any water supplied to the Point of Diversion for the Garwood Canal System including any run-of-river water supplied under the Reserved Portion of this Certificate, any water supplied from storage in the Highland Lakes, and any water supplied under any other right or from any other source other than the Reserved Portion of this Certificate and the Highland Lakes. The cost of service for water supplied via the Garwood Canal System for irrigation within the Garwood Service Area for any year may include costs of keeping the Pumping Plant and all dams (other than the Colorado Dam), pumps, canals, laterals, ditches and other facilities comprising the Garwood Canal System, as it exists on the Execution Date, maintained, repaired and replaced as necessary and operable in conditions as good and at capacities as great as those that exist on the Execution Date, and the costs of operating those facilities, to the extent they are used to supply water for irrigation within the Garwood Service Area; provided, however, if such facilities are also used to supply water for municipal or industrial purposes, then the cost of service for water supplied via the Garwood Canal System for irrigation within the Garwood Service Area shall be limited to the incremental costs of maintenance, repair, replacement, and operation of such facilities in excess of the costs needed to supply the water used for municipal and industrial purposes.

(h) No fees, assessments or other charges of any kind shall be made upon any landowner or irrigator within the Garwood Service Area for any meters, improvements to the system, or other modifications to improve the efficiency of the system or that otherwise results in less water being needed per acre irrigated.

(i) Any contract or other commitment to supply water under the Surplus Portion of this Certificate, and any contract or other commitment to supply water under the Reserved Portion of this Certificate for purposes other than irrigation within the Garwood Service Area, and any contract for the conveyance of or instrument conveying this Certificate or any portion thereof or the Garwood Canal System or any portion thereof, shall be subject to the commitments and conditions set forth in Section 7.08 of the LCRA Purchase Agreement and to all terms, provisions and special conditions contained within this Certificate. Each such contract or other commitment, and each such conveyance instrument, shall contain the following provision:

“This [Contract/Agreement/Conveyance/etc.] is subject to the commitments and conditions set forth in Section 7.08 of that certain Purchase Agreement, dated July 20, 1998, between Garwood Irrigation Company, as seller, and the Lower Colorado River Authority, as buyer (the “LCRA Purchase Agreement”), and is further subject to all terms, provisions and special conditions contained within that certain water right identified as Certificate of Adjudication No. 14-5434 __, issued to Garwood by the Texas Natural Resource Conservation Commission (“TNRCC”) on _____, _____, a copy of which is attached hereto as Exhibit __ (such water right is referred to herein as “Garwood’s Remaining Right, as Amended”). Garwood’s Remaining Right, as Amended, is described in the LCRA Purchase Agreement as “Garwood’s Remaining Right” (as defined in the LCRA Purchase Agreement), as amended by the TNRCC in response to that certain application to amend defined in the LCRA Purchase Agreement as “Garwood’s Application.” By executing this [Contract/Agreement/etc.], or by accepting this [Conveyance/etc.], [Purchaser/Buyer/etc.] hereby acknowledges receipt of copies of the LCRA Purchase Agreement and Garwood’s Remaining Right, as Amended.”

(j) No action may be taken, even if such action is otherwise permitted by the other provisions of Section 7.08 of the LCRA Purchase Agreement and the other terms, provisions and special conditions of this Certificate, if such action would result in landowners and irrigators within either the Gulf Coast Service Area or the Lakeside Service Area being treated, or being perceived as being treated, more favorably at any time than those within the Garwood Service Area with respect to any matter relating to amendments of the underlying water right or rights for that service area, including amendments to reduce the amount of water authorized to be used for irrigation within the service area or remove lands from the service area or reduce the number of acres within the service area that may be irrigated in any one year, the amounts and firmness of water reserved for supply, the supply of that water, or the rates charged for the supply of that water. Without in any way limiting the generality of the foregoing provision of this special condition (j), this Certificate may not be amended to reduce the amount of water authorized to be used for irrigation within the Garwood Service Area or remove lands from the Garwood Service Area or reduce the number of acres within the Garwood Service Area that may be irrigated in any one year, unless the underlying water rights for both the Gulf Coast Service Area and the Lakeside Service Area are also amended using the same criteria used as a basis for, and to the same extent as, the amendment to this Certificate. If, notwithstanding full compliance with the foregoing provisions of this special condition (j) and the other commitments and conditions set forth in Section 7.08 of the LCRA Purchase Agreement and the other terms, provisions and special conditions of this Certificate,

landowners and irrigators within either the Gulf Coast Service Area or the Lakeside Service Area are being treated more favorably at any time than those within the Garwood Service Area with respect to any such matter, then LCRA shall take whatever actions may be necessary to improve the position of landowners and irrigators within the Garwood Service Area so that they are treated at least as favorably as landowners and irrigators within the Gulf Coast and Lakeside Service Areas.

- (k) Garwood shall be provided a copy of each of the following:
- (i) each contract or other commitment to supply water under the Surplus Portion of this Certificate;
 - (ii) each contract or other commitment to supply water under the Reserved Portion of this Certificate for purposes other than irrigation within the Garwood Service Area;
 - (iii) each contract for the conveyance of, and each instrument conveying, this Certificate or any portion thereof or the Garwood Canal System or any portion thereof; and
 - (iv) each application to amend this Certificate, any of the underlying water rights for the Gulf Coast Service Area, and any of the underlying water rights for the Lakeside Service Area;

within 10 days after any such contract or other commitment is entered into by the parties, any such conveyance instrument is delivered to the transferee, or any such application is filed with the TNRCC.

(l) The special conditions set forth above in this Certificate shall remain in effect for so long as the Garwood Canal System is used to supply any water for any purpose of use.

As set forth in Section 7.09 of the LCRA Purchase Agreement, nothing in the conditions and commitments set forth in Section 7.08 of the LCRA Purchase Agreement, and nothing in the special conditions set forth above, shall be construed as requiring LCRA to reserve or supply any water under the Surplus Portion of this Certificate for irrigation, or for use within the Garwood Service Area.”

NOTICE

For various reasons, including the following, the Commission may consider and grant this Application without requiring issuance of any notice:

- (a) Change of purpose of use of water under Garwood's Right does not require notice. (See 31 TAC § 295.158(b) and (c));
- (b) The currently authorized rate of diversion will not be increased. (See 31 TAC § 295.158(c)(2)(E) and (F)); and
- (c) The water is already authorized to be diverted from the Colorado River Basin for use in another named River Basin (the Lavaca River Basin). Thus, Garwood is merely seeking a modification to an existing interbasin transfer authorization, and not a new interbasin transfer authorization. The modification would merely add additional receiving basins. As a matter of law, no water right holder or other person or entity in the basin of origin is entitled to notice of an application for such a modification. Moreover, there is no proposed "point of introduction" in the additional receiving basins (within the meaning of 31 TAC § 155), below which users of record are entitled to notice. By this Application, Garwood is not requesting any authorization to use the bed and banks of any watercourse for the conveyance of such water.

In any event, to the extent that the Commission desires to issue notice of this Application, Garwood requests that such notice be issued expeditiously.

RESERVATION OF RIGHT TO AMEND OR WITHDRAW

Garwood reserves the right to amend this application at any time and from time to time, and to withdraw this application at any time.



July 20, 1998

Chairman Barry R. McBee
Commissioner Ralph Marquez
Commissioner John Baker
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

RE: Application No. 14-5434B of Garwood Irrigation Co.

Dear Chairman McBee and Commissioners Marquez and Baker:

The Lower Colorado River Authority hereby withdraws all opposition to the above-referenced application and further withdraws its request for a public hearing on such application.

Yours truly,

Mark Rose
General Manager

EXHIBIT D

72807

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P.O. Box 220 • Austin, TX 78767-0220 • (512) 473-3200 • (512) 473-3298 FAX

EXHIBIT E

Mr. Jim Thomassen, Chief
The Attorney General of Texas
Public Finance Division
3 Price Daniel Building
209 West 14th Street, 6th Floor
Austin, Texas 78701

Re: Lower Colorado River Authority
Purchase of Certain Assets of Garwood Irrigation Company

Dear Jim:

We are writing to inform your office of a proposed transaction of the Lower Colorado River Authority ("LCRA") and to request your review and preliminary approval, pursuant to the terms of the contract relating to the transaction.

As you have seen in the news reports and as we have discussed on several occasions, LCRA has agreed to purchase certain assets, including a portion of the water rights, of the Garwood Irrigation Company ("Garwood"). The agreement to purchase such assets are set forth in the attached Purchase Agreement dated July 20, 1998, between LCRA and Garwood (the "Agreement"). The Garwood assets are all located in the LCRA boundaries and Garwood's water rights all relate to water in the Colorado River. LCRA is acquiring these assets to secure a long term water supply in the LCRA boundaries and intends to hold this water for sale in the LCRA boundaries pursuant to the Act (hereinafter defined).

Among the numerous conditions to the transfer of title to the assets is a requirement, spelled out in Section 7.07(a) of the Agreement, that LCRA submit a request to your office seeking your preliminary approval for LCRA to issue and sell its bonds to finance the cost of the purchase price. This letter is the request required by the Agreement.

It is currently contemplated, and please assume for your analysis, that the bonds issued to finance this purchase would be issued on a parity with other obligations of LCRA and that the resolution authorizing such bonds would generally conform to resolutions previously approved by your office. Presuming that LCRA can meet any applicable additional bonds tests established for the benefit of outstanding bonds and notes, we request that you write a letter to us or to LCRA to the

effect that, after reviewing the Agreement and the provisions of the State Constitution and laws relating to LCRA's ability to enter into contracts and issue bonds or other securities, you believe that LCRA possesses the legal power to issue its bonds to finance the cost of the purchase price owed under the Agreement. Your preliminary approval will obviously have to be conditioned upon LCRA being in compliance with its outstanding covenants, being able to project the ability to meet all of its debt obligations and no changes in law.

LCRA is a river authority operating under Article 16, Section 59 of the State Constitution, and Chapter 74, Acts of the 64th Legislature, Regular Session, 1975, as amended (the "Act"). Section 1 of the Act states in part that "the creation of such district is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas, including the control, storing, preservation and distribution of the waters of the Colorado River and its tributaries within the boundaries of the district for irrigation, generation of electric energy and power and other useful purposes, ... and the conservation and development of the forests, water and electric power in the State of Texas." Section 2 of the Act grants to the LCRA all of the powers, rights, privileges and functions conferred by general law upon any district or districts created pursuant to Section 59 of Article 16 of the Constitution and then enumerates a number of specific powers and duties of LCRA . The first of such powers and duties is set out in subsection (a) of Section 2 and states:

"(a) to control, store and preserve, within the boundaries of the district, the waters of the Colorado River and its tributaries and the lands of the district for any useful purpose, and to use, distribute and sell the same, within the boundaries of the district, or within the boundaries of the watershed that contributes inflow to the Colorado River below the intersection of Coleman, Brown, and McCulloch counties, for any such purpose."

Subsection (b) further grants to LCRA the power and duty to develop and generate water power within its boundaries. Subsection (c) authorizes LCRA to acquire and to maintain, use and operate any and all property of any kind, real, personal or mixed necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the Act. In the proviso following subsection (u) of the Act it is expressly recognizes that LCRA may acquire water rights and imposes several requirements on the use of the water under such permits. The Agreement contemplates that LCRA will comply with such conditions. Section 11 of the Act then authorizes LCRA to issue bonds for any purpose authorized by the Act.

In addition, as a river authority, LCRA is granted the authority by Article 717q, Vernon's Texas Civil Statutes, to issue obligations to finance the cost of the assets being purchased. The LCRA water and electric system constitutes a "public utility" and this acquisition constitutes an "eligible project" within the meaning of Article 717q. The definition of eligible project includes the acquisition of improvements, additions and extensions of a public utility. This acquisition will be an improvement, addition and extension of LCRA's existing water system.

We realize that we are submitting this request to you much earlier than we normally would in our bond financings. Through the negotiations of the parties, however, it was agreed that your

preliminary approval should be obtained early in the process, for a number of reasons unique to this transaction. For example, both parties will likely incur significant costs and expenses to accomplish the many conditions to closing, such as obtaining certain approvals from the Texas Natural Resource Conservation Commission. The parties desire to obtain your preliminary approval prior to incurring such significant costs and expenses. In addition, it is possible that a significant time may pass before such regulatory approvals are obtained, the other closing conditions are satisfied, and the bonds are finally issued to finance the purchase price. Reasons such as these led the parties to conclude that your assistance and preliminary approval should be sought promptly after the contract was signed, even though this process is different than the one normally followed in bond financings. We strongly believe that LCRA possesses the power to finance the cost of the purchase price and are not aware of any legal issues raised by this purchase or its financing.

Recognizing the novel nature of this request and not wishing to burden your office with more work than necessary, we are not submitting to your office anything but this letter and the attached Agreement. If you desire, we will prepare a bond resolution and the appropriate supporting papers for your review. In addition, should you wish for us to provide you with any additional legal research or analysis please let us know.

Thank you for your attention to this matter. Your office has been very helpful and accommodating to the LCRA in the past and it is appreciated.

Very truly yours,

McCALL, PARKHURST & HORTON L.L.P.

By:

Rick Porter

Enc
RCP/ky



Lower Colorado River Authority

Post Office Box 220 Austin, Texas 78767 AC 512 473-3200

AGREEMENT BETWEEN THE LOWER COLORADO RIVER AUTHORITY AND GARWOOD IRRIGATION COMPANY

This Agreement is entered into as of the 10th day of December, 1987, by and between the Lower Colorado River Authority ("LCRA") and Garwood Irrigation Company ("Garwood").

W I T N E S S E T H

Garwood holds rights to use the waters of the Colorado River under Certified Filing No. 398, as amended ("C.F. 398"), as reflected in the Final Determination entered by the Texas Water Commission (the "Commission") on July 29, 1985 in the Adjudication of the Lower Colorado River Segment of the Colorado River Basin (the "Adjudication"). Garwood has the independent right under C.F. 398 to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second for the irrigation of 32,000 acres of land within areas T-2000 and T-2010 (as such areas are defined in the Final Determination), with a priority date of November 1, 1900. LCRA holds rights to the Highland Lakes, including rights to Lakes Buchanan and Travis under Permit Nos. 1259 and 1260, respectively. LCRA also holds other rights to use the waters of the Colorado River and its tributaries downstream of the Highland Lakes.

LCRA, Garwood, Lakeside Irrigation Company ("Lakeside") and Gulf Coast Water Company ("Gulf Coast") entered into an agreement in 1937 (the "1937 Contract") regarding their respective water rights. LCRA and Garwood subsequently entered into other agreements, which have expired under their own terms. Pursuant to the 1937 Contract, Garwood obtained from the Texas Board of Water Engineers, predecessor to the Commission, Permit No. 1506, providing for the supply of stored water by LCRA. Garwood also obtained Permit No. 1790, amending Permit No. 1506. Permits Nos. 1506 and 1790 have been renumbered to Certified Filings Nos. 398A and 398B, respectively.

By Interim Agreement dated as of February 27, 1986 (the "Interim Agreement"), Garwood and LCRA agreed to suspend the 1937 Contract. Prior to the Interim Agreement, Garwood paid LCRA a cumulative total of more than \$2,000,000 pursuant to the 1937 Contract.

The facts and circumstances upon which the 1937 Contract was based have changed significantly, and certain assumptions upon which such Contract was based have been shown to be incorrect. For example, the Commission has issued its Final determination in the Adjudication, and it is now clear that Garwood's C.F. 398 has the earliest priority date of all significant water rights in the Colorado River Basin. Additionally, Lakeside and Gulf Coast have been acquired by LCRA, and are now referred to as LCRA's Lakeside and Gulf Coast Divisions. Moreover, others holding water rights similar to Garwood's have never entered into similar contracts with LCRA, as contemplated by the parties to the 1937 Contract. And, Garwood has at a cost to itself of approximately \$1,000,000 built a low water dam on the river just downstream of Garwood's diversion point. Such low water dam is authorized under Certified Filing No. 398D. Garwood's low water dam makes it possible to operate the river more efficiently, for the benefit of LCRA and others in the Colorado River Basin.

LCRA and Garwood now wish to redefine their relationship to take into consideration the benefits provided by Garwood's low water dam, the previous payments made by Garwood to LCRA, and the facts and circumstances as they exist today. To the extent that Garwood may need stored water from Lakes Travis and Buchanan to firm up the supply of water available under C.F. 398, LCRA desires to provide such water on a non-firm, interruptible basis. Garwood is willing to be provided stored water on that basis, subject to conditions that assure Garwood that any reduction in supply of stored water to Garwood will be fair, reasonable and non-discriminatory. However, LCRA is not able to make a commitment to supply stored water on a non-firm, interruptible basis until it is assured that it has the necessary rights to supply water from Lakes Travis and Buchanan on that basis. Such rights are presently being determined in the proceeding styled In re: The Exceptions of the Lower Colorado River Authority and the City of Austin to the Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin, Cause No. 115,414-A-1 in the District Court of Bell County, Texas, 264th Judicial District ("Cause No. 115,414-A-1").

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, Garwood and LCRA hereby agree as follows:

1. The Interim Agreement shall remain in effect until the Effective Date (hereinafter defined), and shall terminate on such date. The 1937 Contract also shall terminate on the Effective Date. Promptly after the Effective Date, Garwood agrees to submit Permits Nos. 1506 and 1790 (Certified Filing Nos. 398A and 398B, respectively) to the Commission for cancellation; provided, however, that such cancellation shall not in any way affect Garwood's independent rights to the run-of-river flow of

the Colorado River, as set forth above. The "Effective Date" is the date that the Court enters an LCRA Judgment (hereinafter defined) in Cause No. 115,414-A-1, or the date which LCRA by written notice to Garwood deems to be the Effective Date, whichever occurs first. An "LCRA Judgment" is any final judgment, partial or otherwise, entered in Cause No. 115,414A-1, which reflects that LCRA is authorized to use a maximum aggregate amount of water from Lakes Travis and Buchanan in peak-use years of not less than 1,500,000 acre-feet for purposes other than the generation of hydroelectric power.

2. Based on the information currently available, it appears that Garwood's demands for water may be able to be satisfied, to the full extent of the limits of C.F. 398, entirely from the run-of-river supply available under C.F. 398. In that regard, LCRA acknowledges that inflows must be allowed to pass through the Highland Lakes to the extent necessary to satisfy demands under C.F. 398. The extent to which run-of-river water is available under C.F. 398 at any given time ultimately will be determined by the Commission.

3. To the extent that stored water from Lakes Travis and Buchanan under Permits Nos. 1260 and 1259 may be required to firm up the supply of water available under C.F. 398 to satisfy demands under C.F. 398, LCRA agrees to release stored water, at Garwood's request, at such times and rates as may be necessary to allow Garwood to divert the amounts required, within the limits of C.F. 398, utilizing Garwood's diversion facilities; provided, however, that LCRA's commitment under this Agreement to supply stored water under Permits Nos. 1260 and 1259 shall not take effect until the Effective Date.

4. The amount of stored water that LCRA must release from Lakes Travis and Buchanan for Garwood and all other users of stored water supplied by LCRA is reduced because of Garwood's low water dam. Based upon current information available, LCRA agrees that, on the average over time, the amount of stored water required to firm up the supply of water available under C.F. 398 will not exceed the amount of stored water saved because of Garwood's low water dam. Additionally, Garwood has paid LCRA significant amounts of money pursuant to the 1937 Contract for water diverted and used by Garwood prior to the Interim Agreement, and others who were supplied stored water by LCRA prior to such time were not charged for such water. Accordingly, LCRA agrees not to charge Garwood for any stored water that may be needed to firm up the supply of water available under C.F. 398 within the limits of C.F. 398, for so long as Garwood maintains its low water dam.

5. LCRA's commitment under this Agreement to supply stored water under Permits Nos. 1260 and 1259 is subject to interruption or curtailment on the basis set forth below. LCRA may supply Garwood less stored water in any year than Garwood's Unrestricted Demand (hereinafter defined) for that year only if LCRA also restricts and reduces the supply of stored water to all users of water for irrigation, including LCRA's Lakeside Division and LCRA's Gulf Coast Division, and to all users of water under all non-firm, interruptible commitments of LCRA for irrigation other than LCRA's commitment hereunder. If LCRA does reduce the supply of stored water to Garwood in any year below Garwood's Unrestricted Demand for that year, then the percentage that Garwood's Unrestricted Demand is reduced, and the timing, notification and other procedures applicable to such reduction, shall be at least as favorable to Garwood as the percentage and procedures applied by LCRA to any user of water for irrigation, including LCRA's Lakeside Division or LCRA's Gulf Coast Division, or to any user of water under any non-firm, interruptible commitment of LCRA for irrigation other than LCRA's commitment hereunder. "Garwood's Unrestricted Demand" for any year is the amount of stored water needed that year to firm up the supply of water available under C.F. 398 during that year to the extent necessary to satisfy Garwood's unrestricted demand for that year.

6. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto.

7. Nothing herein shall in any way be considered as a waiver or abandonment by either of the parties of any of their respective water rights, or their respective rights, remedies and positions in the Adjudication process.

8. The parties may by mutual agreement modify this Agreement from time to time in the future based on their evaluation of the facts and circumstances as they exist at the time.

9. LCRA and Garwood agree to file jointly a copy of this Agreement with the Executive Director of the Texas Water Commission, P. O. Box 13087, Capitol Station, Austin, Texas 78711, it being fully recognized by LCRA and Garwood that the effectiveness of this contract is dependent upon compliance with the Rules of the Texas Water Commission.

IN WITNESS WHEREOF, this Agreement is executed on behalf of LCRA and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

LOWER COLORADO RIVER AUTHORITY

By *S. David Freeman*
S. David Freeman
General Manager

ATTEST:

Marsha E. Fulton

GARWOOD IRRIGATION COMPANY

By *William N. Lehrer*
William N. Lehrer
President

ATTEST:

James P. Christensen

72807

WATER MANAGEMENT PLAN
FOR THE
LOWER COLORADO RIVER BASIN

Prepared By
The Lower Colorado River Authority

~~June 29, 1993~~
~~MARK-UP DATED MAY 28, 1997~~

Exhibit G

72807

E. WATER CURTAILMENT POLICIES

1. Curtailement of Interruptible Water Demands

Given the large demand for interruptible water for rice production, there will likely be a shortage of interruptible stored water at some time during the next decade. The curtailment policies considered in the DMP focus primarily on the reduction in interruptible stored water supplies through the annual contracting process. The impact of reducing supplies in the annual contracts is far less than forcing a curtailment or total cutoff during the year after the rice farmers have made economic commitments based on the assumed availability of the water.

As provided in Finding 25 of the September 7, 1989 Order of the Texas Water Commission approving LCRA's Water Management Plan, "the priority allocation and terms governing the interruption of supply of stored water for Garwood are based upon a contract between Garwood and LCRA."

LCRA has negotiated a contract with Pierce Ranch governing the interruption of the supply of stored water to Pierce Ranch. Interruption of the supply of stored water for other commitments similarly would be governed by contract or LCRA Board resolution.

There are many ways in which interruptible stored water demands may be curtailed through the annual contracts. The two most likely are a gradual curtailment with reductions indexed against beginning of year storage in the Highland Lakes; or an abrupt total cutoff policy where the full demands are supplied if the beginning of year storage level in the Lakes was above a specific level, otherwise totally stop interruptible stored water sales for the next year.

The largest use for interruptible stored water is rice production. Rice producers must plan their crops for the next season based upon the projected interruptible stored water supply, even though more supply may actually be available in future months. The advantages of the gradual approach of curtailment are that the rice industry could use the water allocated to achieve the greatest benefit. Water could be used in first crop on the hope that conditions in the spring would refill the river and lakes. The disadvantage is that some curtailment would occur when it was not really necessary in years when the critical drought was not repeated. The Highland.

Lakes would refill and spill because the drought ends before conditions become as severe as the critical Drought of Record.

The advantages of the "all or nothing" approach are that there would be more years when the full demands would be met and minor droughts would not affect available supplies. Disadvantages would be that in some years there would be no stored water and most rice producers would risk substantial or total loss of their crops if sufficient run-of-river water was not available throughout the growing season.

In years when there is not sufficient projected stored water available to meet all irrigation needs, the interruptible stored water will be allocated to the irrigation operations so that all operations have the same percentage shortage in their total stored water demand. The calculation of the annual demand of interruptible stored water will be based on a projection of relatively dry weather and low streamflow conditions in the next year. The following example of the distribution procedure illustrates how the process would work.

Example of the Distribution Procedure

To illustrate how the procedure would work in practice, consider the following situation when dry weather conditions are assumed for the next year, and the water demands are for the full projected year 2000 acreage and water usage levels. The dry weather conditions used in this example would be expected to occur approximately one year out of every five. As noted previously, the actual water curtailments may differ from the values in this example depending on the conditions specified in contracts between LCRA and each water user.

■ ASSUMPTIONS:

- 200,000 acre-feet of interruptible stored water is available for the coming year based on January 1 storage in the reservoirs.

- Dry weather diversion demands for the operations for both rice crops are:

- Gulf Coast = 182,000 acre-feet
- Lakeside = 126,000 acre-feet
- Garwood = 135,000 acre-feet
- Pierce = 40,000 acre-feet
- Total = 483,000 acre-feet

- Dry weather run-of-river water available for each operation for both rice crops is:

- Gulf Coast = 48,000 acre-feet
- Lakeside = 28,000 acre-feet
- Garwood = 98,000 acre-feet
- Pierce = 8,000 acre-feet
- Total = 182,000 acre-feet

- CALCULATIONS

- Dry weather interruptible stored water diversion demands for each operation for both rice crops are:

- Gulf Coast = 134,000 acre-feet
- Lakeside = 98,000 acre-feet
- Garwood = 37,000 acre-feet
- Pierce = 32,000 acre-feet
- Total = 301,000 acre-feet

- The portion of interruptible stored water available, as a percentage of the maximum stored water demand is about 66%.

- Dry weather interruptible stored water supply available for each operation for both rice crops is 66% of each operation's total stored water demand:

- Gulf Coast = 89,000 acre-feet
- Lakeside = 65,100 acre-feet
- Garwood = 24,600 acre-feet
- Pierce = 21,300 acre-feet
- Total = 200,000 acre-feet

- Calculated dry weather water shortages for each operation for both rice crops are:

| | | | | |
|---|---------------|---|---------------|------------------|
| ■ | Gulf Coast | = | 45,000 | acre-feet |
| ■ | Lakeside | = | 32,900 | acre-feet |
| ■ | Garwood | = | 12,400 | acre-feet |
| ■ | <u>Pierce</u> | = | <u>10,700</u> | <u>acre-feet</u> |
| ■ | Total | = | 101,000 | acre-feet |

The water shortages are clearly not equal volumes for all operations. However, the shortages in stored water are an equal percentage (34%) of each operation's interruptible stored water demand.

To further illustrate the allocation procedure, consider the Gulf Coast Division water allocation in the above example.

- Dry weather demand for the Division for both rice crops is 182,000 acre-feet.
- Dry weather run-of-river water available is 48,000 acre-feet.
- Dry weather interruptible stored water demand is 134,000 acre-feet.
- Dry weather interruptible stored water supply available is 89,000 acre-feet, or 66% of the interruptible stored demand for the Division.
- Calculated dry weather water shortage is 45,000 acre-feet or 34% of the total stored water demand for the Division.

2. Recommended Interruptible Water Demand Curtailment Policy

LCRA staff examined a number of alternative management policies for the Highland Lakes to meet interruptible water demands. Overall, the recommended alternative best balances the economic benefit to the rice producers, while protecting all firm demands. The principal benefit of this plan is that it protects the full demand for first crop rice in all years of the critical drought. This assurance of supply for full first crop is obtained at the price of reducing supplies of stored water earlier in the critical drought period than other management alternatives.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

P.O. Box 13087

Austin, Texas 78711-3087

Telephone No. 512/463-8218 FAX (512)239-4444

APPLICATION FOR AMENDMENT TO A WATER RIGHT

REQUIRING MAILED AND PUBLISHED NOTICE
See Texas Administrative Code Section 295.158(b); or

NOT REQUIRING MAILED AND PUBLISHED NOTICE
See Texas Administrative Code Section 295.158(c)

1. Name: Garwood Irrigation Company
Address: P.O. Box 428
Garwood, Texas 77442
(City) (State) (Zip Code)

Telephone: Home: Office: (409) 758-3221

Social Security or Federal ID. No.:

Permit Certified Filing or Adjudication Cert. No.: 14-5434A

2. Stream Colorado River Watersheds Colorado River Basin and Lavaca River Basin
Reservoir (present condition, if one exists): small reservoir on the Colorado River created by Garwood's low water dam

Counties: Colorado and Wharton

3. Proposed Changes to Water Right Authorizations: Amend "Garwood's Remaining Right," and grant such other authorizations, as set forth in the attached Supplement.
(attach additional statement if necessary; also attach map/plot depicting project location, diversion point, place of use, and other pertinent data)

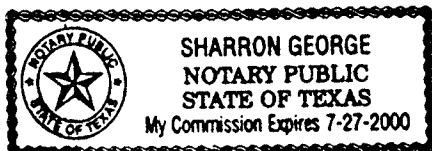
4. I understand that the Agency may require additional information in regard to the requested amendment before considering my application.

5. I have submitted the required fees herewith. (Sections 295.131-295-139)

Witness (my) hand at Garwood, Texas, this 28th day of August, 19 97.

William N. Lehrer, Chairman and Chief Executive Officer

Subscribed and sworn to as being true and correct before me the 28th day of August, 19 97.



Sharon George
Notary Public, State of Texas

**SUPPLEMENT TO THE
APPLICATION OF GARWOOD IRRIGATION
COMPANY TO AMEND
"GARWOOD'S REMAINING RIGHT"**

GARWOOD'S WATER RIGHT

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A.

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within Garwood's service area in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within Garwood's service area.

Garwood's Right further authorizes the interbasin transfer of water, from the Colorado River Basin to the Lavaca River Basin. Under Garwood's Right, the water is authorized to be used anywhere within Garwood's service area. The TWC determined that Garwood's service area is comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment. This service area consists of over 155,000 acres of land, most of which lies within the Lavaca River Basin. A map showing the boundaries of Garwood's service area in relation to the Lavaca River Basin is attached as Attachment No. 3.

The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

AGREEMENT WITH THE CITY OF CORPUS CHRISTI

Garwood and the City of Corpus Christi (the "City") entered into an agreement, dated as of September 22, 1992, whereby the City secured an option to purchase up to a 35,000 acre-foot-per-year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this application, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

The Corpus Agreement further provides that the application to amend Corpus Christi's Right shall, to the extent necessary, seek to amend Corpus Christi's Right to: (1) authorize the use of such water for municipal and industrial purposes; (2) authorize the diversion of such water from an undefined point of diversion within certain defined segments of the Colorado River; (3) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within the City of Corpus Christi's ten-county service area; and (4) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Corpus Christi service area consists of the following twelve counties: Aransas, Atascosa, Bee, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, San Patricio, and Willacy. These twelve counties lie in whole or in part within the following named River Basins or Coastal Basins: San Antonio River Basin; San Antonio-Nueces Coastal Basin; Nueces River Basin; and Nueces-Rio Grande Coastal Basin. To provide maximum flexibility, the area in which the water should be authorized to be used should consist of the above-named River Basins and Coastal Basins, as well as those through which the water might pass as it is conveyed to the above-named Basins.

**NOTICE BY CORPUS CHRISTI DIRECTING
GARWOOD TO SUBMIT THE APPLICATION
TO AMEND "CORPUS CHRISTI'S RIGHT"**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit the application to amend Corpus Christi's Right. A copy of such letter is attached hereto as Attachment No. 6.

**DIVISION OF GARWOOD'S WATER RIGHT INTO TWO
SEPARATE AND DISTINCT PORTIONS: (1) "CORPUS
CHRISTI'S RIGHT," AND (2) "GARWOOD'S REMAINING RIGHT"**

Pursuant to the Corpus Agreement, Garwood, by instrument entitled "Division of Water Right" dated as of January 30, 1997, has divided Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right. A copy of such instrument is attached hereto as Attachment No. 7.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of such division, Corpus Christi's Right has been and it now is subordinate, in time priority and all other respects, to Garwood's Remaining Right.

THE APPLICATION TO AMEND "CORPUS CHRISTI'S RIGHT"

By separate application, Garwood is requesting that the Commission amend Corpus Christi's Right to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 35,000 acre-feet of water per year authorized to be diverted from the Colorado River under Corpus Christi's Right:

- (a) is authorized to be used for municipal and industrial purposes;
- (b) is authorized to be diverted from an undefined point of diversion on the west bank of the Colorado River within either Segment "A", Segment "B" or Segment "C" on the Colorado River (as shown on Exhibits 8, 9 and 10 of that application); and

- (c) is authorized to be diverted from the Colorado River Basin and transferred for use anywhere within the Lavaca, Guadalupe, San Antonio, and Nueces River Basins, and the Colorado-Lavaca, Lavaca-Guadalupe, San Antonio-Nueces, and Nueces-Rio Grande Coastal Basins.

Garwood further requests that the Commission confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

THIS APPLICATION TO AMEND "GARWOOD'S REMAINING RIGHT"

It appears to Garwood that there is a tremendous immediate need for additional water for municipal and industrial purposes in the region, particularly to the west of Garwood's current service area. To the extent that water under Garwood's Remaining Right is not needed for irrigation within Garwood's service area in a given year, that water could and should be made available for supply to satisfy, at least partially, needs in that year for water for municipal and industrial purposes. Water that is not needed for irrigation in a given year possibly could be supplied for municipal and industrial purposes through Garwood's extensive canal system, thereby helping to keep the system operations viable, and irrigation water rates reasonable, if irrigation demands were to drop below levels that would otherwise be critical.

Garwood anticipates that a substantial portion of the 133,000 acre-feet of water authorized to be used each year under Garwood's Remaining Right will not be needed for irrigation within Garwood's service area in most years. In the future, it is likely that rice acreage will vary substantially from year to year, largely because of changes in market conditions and governmental controls and/or subsidies. Many are predicting that rice acreage generally will decline over time.

Accordingly, by this Application, Garwood is requesting that the Commission amend Garwood's Remaining Right to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 133,000 acre-feet of water per year authorized to be diverted from the Colorado River under Garwood's Remaining Right:

- (a) is also authorized to be used for municipal and industrial purposes in any year, **but only to the extent that the water is not needed for irrigation within Garwood's service area in that year;** and
- (b) is also authorized to be used outside Garwood's service area in any year, anywhere within the following areas:
 - (1) Colorado, Wharton and Matagorda Counties;

- (2) the Colorado, Lavaca, Guadalupe, San Antonio, and Nueces River Basins; and
- (3) the Colorado-Lavaca, Lavaca-Guadalupe, San Antonio-Nueces, and Nueces-Rio Grande Coastal Basins,

but only to the extent that the water is not needed for irrigation within Garwood's service area in that year.

Garwood further requests that the Commission confirm that Garwood's Remaining Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

NOTICE

For various reasons, including the following, the Commission may consider and grant this Application without requiring issuance of any notice:

- (a) Change of purpose of use of water under Garwood's Right does not require notice. (See 31 TAC § 295.158(b) and (c)); and
- (b) The water is already authorized to be diverted from the Colorado River Basin for use in another named River Basin (the Lavaca River Basin). Thus, Garwood is merely seeking a modification to an existing interbasin transfer authorization, and not a new interbasin transfer authorization. The modification would merely add additional receiving basins. As a matter of law, no water right holder or other person or entity in the basin of origin is entitled to notice of an application for such a modification. Moreover, there is no proposed "point of introduction" in the additional receiving basins (within the meaning of 31 TAC § 155), below which users of record are entitled to notice. By this Application, Garwood is not requesting any authorization to use the bed and banks of any watercourse for the conveyance of such water.

In any event, to the extent that the Commission desires to issue notice of this Application, Garwood requests that such notice be issued expeditiously.

72807

CERTIFICATE OF ADJUDICATION

| | |
|--------------------------------------|---|
| CERTIFICATE OF ADJUDICATION: 14-3434 | OWNER: Garwood Irrigation Company P.O. Box 428 Garwood, Texas 77442 |
| COUNTIES: Colorado and Wharton | PRIORITY DATE: November 1, 1900 |
| WATERCOURSE: Colorado River | BASIN: Colorado River |

WHEREAS, by final decree of the 264th Judicial District Court of Bell County, in Cause No. 113,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987, a right was recognized under Certified Filing 398, as amended, authorizing the Garwood Irrigation Company to appropriate waters of the State of Texas as set forth below:

WHEREAS, subsequent to the entry of such final judgment and decree, Garwood entered into an agreement with the Lower Colorado River Authority ("LCRA") dated as of December 10, 1987 (the "Agreement") whereby LCRA agrees to provide to Garwood under certain terms and conditions water stored in Lakes Buchanan and Travis authorized by Certificates of Adjudication Nos. 14-3478 and 14-3482;

WHEREAS, the Agreement further provides that Garwood will submit Permits Nos. 1506 and 1790 (Certified Filings Nos. 398A and 398B, respectively), to the Commission for cancellation; provided, however, that such cancellation shall not in any way affect Garwood's rights to the run-of-river flow of the Colorado River under Certified Filing No. 398, as amended;

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

1. IMPOUNDMENT

Owner is authorized to maintain an overflow type structure (low water dam) and reservoir on the Colorado River and temporarily impound therein not to exceed 86 acre-feet of water. The dam is located adjacent to the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

2. USE

Owner is authorized to divert and use not to exceed 168,000 acre-feet of water per annum from the Colorado River to irrigate a maximum of 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties.

Certificate of Adjudication 14-3434

3. DIVERSION

A. Location:

At a point on the west bank of the Colorado River in the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

B. Maximum rate: 750.00 cfs (337,500 gpm).

4. PRIORITY

The time priority of owner's right is November 1, 1900.

5. SPECIAL CONDITIONS

A. Owner shall maintain a suitable outlet in the aforesaid dam authorized herein to allow the free passage of water that owner is not entitled to divert or impound.

B. The amount of water which the Garwood Irrigation Company is authorized to divert and use shall not exceed two acre-feet on any acre of land actually irrigated for crops other than rice.

The location of pertinent features related to this certificate are shown on Page 15 of the Lower Colorado River Segment Certificates of Adjudication Maps, copies of which are located in the office of the Texas Water Commission, Austin, Texas.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 264th Judicial District Court of Bell County, Texas, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1967 and modified by Order dated November 24, 1967 and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to senior and superior water rights in the Colorado River Basin.

THE STATE OF TEXAS. |

COUNTY OF COLORADO. |

I, DARLENE HAYEK, Clerk of the
County Court, in and for Colorado County, Texas, do hereby
certify that the above and foregoing is a true and correct copy
of a Certificate of Adjudication from

Texas Water Commission to Garwood Irrigation Company
as the same appears of record in Volume 578 , pages 199-202.
Deed Records, Colorado County, Texas.

WITNESS my hand and seal of office, at office in Columbus
Texas, on this the 11th day of August A. D. 1989 .

Darlene Hayek, County Clerk
Colorado County, Texas.

By *Sammie Teague*
Sammie Teague, Deputy

vx 578 mx 202

7513

FILED FOR RECORD
day of Aug 1989
at 10:25 o'clock A M
DARLENE HAYEK
CLERK COUNTY COURT, COLLEGE ST. TEX
By Sammie Teague
Deputy
SAMMIE TEAGUE

Attn: John Rubin
Wingate, Dallas
400 West 4th St
W. 4th Street
Austin, Texas 78701-2076
1/2 Edward Livingston S.
P.O. Box 428
Harwood, Texas
77042

Just Amos

Recorded the 8 day of Aug. A.D. 1989 at 10:25 o'clock A . M.
DARLENE HAYEK, County Clerk By Sammie Teague, Deputy.

72807

TEXAS WATER COMMISSION



AMENDMENT TO CERTIFICATE OF ADJUDICATION

| | | |
|--|-----------|--|
| CERTIFICATE NO. 14-5434A | PRIORITY | : November 1, 1900 |
| Name : Garwood Irrigation Company | Address | : P.O. Box 428 Garwood, Texas 77442 |
| Filed : October 26, 1992 | Granted | : March 3, 1993 |
| Purpose : Irrigation, Municipal and Industrial | Counties | : Colorado and Wharton |
| Watercourse: Colorado River | Watershed | : Colorado River Basin |

WHEREAS, Certificate of Adjudication No. 14-5434, as issued to Garwood Irrigation Company authorizes certificate owner the right to divert and use 168,000 acre-feet of water per annum from the Colorado River to irrigate 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties, Texas; and

WHEREAS, Garwood Irrigation Company is requesting additional authorization for municipal and industrial purposes for 35,000 acre-feet of water per annum out of the 168,000 acre-foot annual irrigation water right; and

WHEREAS, the Texas Water Commission finds that jurisdiction over the application is established.

NOW THEREFORE, this Certificate No. 14-5434A is issued to Garwood Irrigation Company subject to the following terms and conditions:

1. USE

In addition to the authorization in Paragraph 2. USE, of Certificate No. 14-5434, certificate owner is authorized to divert and use not to exceed 35,000 acre-feet per annum from the Colorado River, out of the 168,000 acre-foot annual irrigation authorization, for municipal and industrial purposes within the boundaries of owner's service area in Colorado and Wharton Counties, Texas.

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ATTACHMENT NO. 2

2. DIVERSION

Certificate owner is authorized to divert water for all purposes of use authorized by this Certificate No. 14-5434A at the point of diversion authorized in Certificate No. 14-5434.

3. WATER CONSERVATION

- a. Certificate owner shall utilize water conservation practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.
- b. Prior to the use or sale of any water for municipal or industrial use, certificate owner shall file a water conservation plan for such purpose of use with the Commission in accordance with Commission Rules and guidelines, and it shall obtain a Commission Order approving such plan or amending this Certificate.
- c. If Certificate owner does not file a water conservation plan for the sale or use of water for municipal and industrial uses, within 10 years after the date of issuance of this amendment, then the 35,000 acre-feet of water per year authorized to be used for such purposes shall, upon the expiration of such 10-year period and without the Commission taking any further action, thereafter be authorized for irrigation only.

4. SPECIAL CONDITIONS

Nothing herein shall be construed to be a determination by the Commission that it will grant any future application by certificate owner, or by any other water right holder, to amend any water right to change the place of use, purposes of use, point of diversion, annual diversion or rate of diversion authorized under the water right as it exists at that time. All issues that may be relevant to any such proposed amendment and the impact of such amendment on other water right holders, including priority dates, shall be considered by the Commission at that time. Notice of any such application shall be given by the Commission to any affected person that gives the Commission a written request for such notices.

5. PRIORITY

The priority of this amendment is November 1, 1900.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 14-5434, except as specifically amended by this Certificate No. 14-5434A.

This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

Certificate owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION

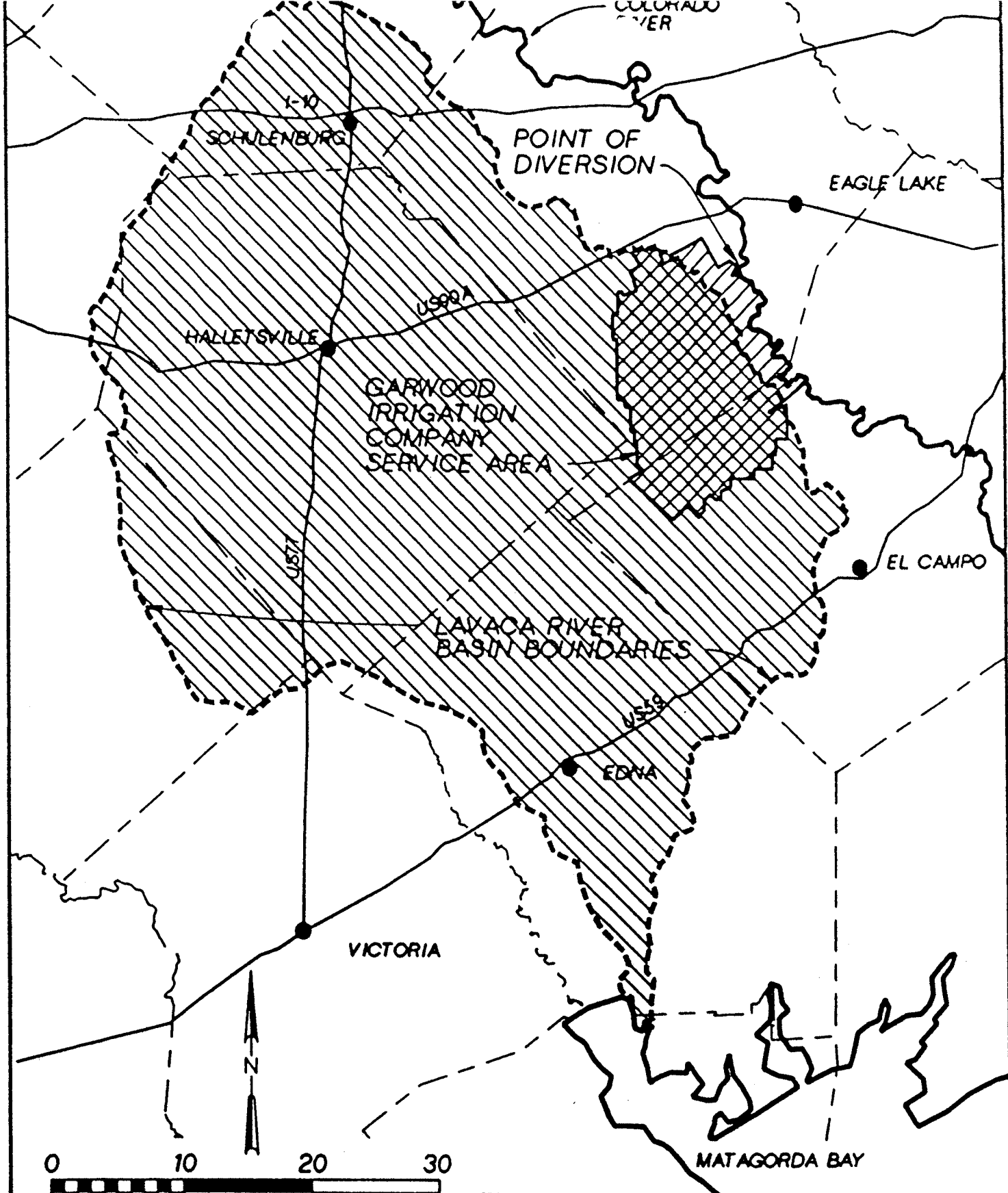

John Hall, Chairman

Date Issued: MAR 18 1993



ATTEST:

for Mamie M. Black
Gloria A. Vasquez, Chief Clerk

72807



Scale In Miles

- KEY:**
-  GARWOOD IRRIGATION COMPANY SERVICE AREA
 -  LAVACA RIVER BASIN BOUNDARIES

GARWOOD IRRIGATION COMPANY SERVICE AREA

**AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY**

This Agreement is entered into as of the 22nd day of September, 1992, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City is a home rule city, organized and existing pursuant to the Constitution and laws of the State of Texas. Garwood is a Texas corporation.

The City has concluded that substantial additional supplies of water are needed to satisfy projected demands for water for municipal and industrial purposes within the City and its service area. The City is seeking to identify potential additional supplies, secure options to acquire those supplies, and then, during the option period, study the feasibility of acquisition and development of those supplies.

In pursuit of its goals, the City has recently acquired an option agreement originally entered into by and between the Port of Corpus Christi Authority and the Lavaca-Navidad River Authority ("LNRA") to purchase water from Lake Texana supplied by LNRA under Certificate of Adjudication No. 16-2095, as amended. The City also desires to investigate the potential for obtaining additional supplies of water from the Colorado River, either as an independent source of supply for the City, or as a source of supply to supplement or increase the amount of water that can be provided from Lake Texana. In furtherance of those desires, the City contacted Garwood to determine whether and to what extent Garwood may be able to assist.

Garwood holds rights to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434 ("Garwood's Right"), under which Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second for the irrigation of 32,000 acres of land within a much larger service area, with a priority date of November 1, 1900. Garwood's Right has the earliest priority date of all significant water rights in the Colorado River Basin. A substantial portion of Garwood's service area lies outside the Colorado River Basin.

Garwood's system as it presently exists has the capacity, and it has been used historically, to divert and use in excess of 130,000 acre-feet of water per year for irrigation purposes. For various reasons, Garwood has not yet fully developed its pumping facilities and canal system to facilitate the diversion and use of 168,000 acre-feet of water per year, as authorized under Garwood's Right. Most importantly, a long-standing dispute with the Lower

Colorado River Authority ("LCRA") placed the nature and extent of Garwood's independent water rights under a cloud for many years, effectively preventing expansion. That cloud has recently been removed by the conclusion of the adjudication and the recent issuance on June 28, 1989 by the Texas Water Commission (the "Commission") of Garwood's Certificate of Adjudication No. 14-5434, and by Garwood and LCRA entering into an agreement dated as of December 10, 1987 (the "LCRA Agreement"). In the LCRA Agreement, LCRA, among other things, recognizes Garwood's independent water right and agrees to firm up that right, on an interruptible basis, with stored water from Lakes Travis and Buchanan. LCRA further agrees not to charge Garwood for any stored water that may be needed to firm up the supply of water available under Garwood's Right, for so long as Garwood maintains the low water dam that is authorized under Garwood's Right. The LCRA Agreement is not a part of this Agreement.

Accordingly, Garwood is now free to pursue full development of its pumping facilities and canal system for irrigation purposes. Although the market for rice is not nearly as favorable today as it was years ago, when Garwood wanted to expand but was prevented from doing so, Garwood has nevertheless received several recent inquiries regarding expansion to supply water for rice irrigation. Additionally, increased use of water for other crops may also be feasible today.

Before Garwood pursues full development of its pumping facilities, canal system and irrigation alternatives, the City desires to evaluate the use of a portion of Garwood's Right for municipal and industrial purposes. The City desires to secure by option the price and terms for purchase by the City of a portion of Garwood's Right, and to evaluate during the option period the feasibility of utilizing such right to supply additional water to the Corpus Christi area for municipal and industrial purposes. Garwood believes that the use of such water for such purposes would be in the public interest, that the sale of a relatively small portion of Garwood's Right at this time would not have any adverse impact on the farmers on Garwood's system, and that the sale of such a portion of Garwood's Right would in fact provide substantial benefits to Garwood's farmers. Accordingly, Garwood is willing to grant an option to the City to purchase such a portion of Garwood's Right and, during the option period, not commit in excess of the remaining portion of its right on a long-term basis for the irrigation of rice or other crops.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree as follows:

1. Grant of Option. Garwood hereby grants to the City an option (the "Option") to purchase up to a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The City may purchase the entire 35,000 acre-foot-per-year portion or any

portion thereof; provided, however, that if the City purchases any portion of Garwood's Right, then the amount purchased shall be at least a 20,000 acre-foot-per-year portion. The priority of the portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided proportionately (Garwood's Remaining Right + 168,000 for Garwood, and Corpus Christi's Right + 168,000 for the City).

2. Purchase Price. The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of \$400.00 per acre-foot times the number of acre-feet specified by the City, in its written notice pursuant to Paragraph 5 or 6, below, as comprising the Corpus Christi Right.

3. Term of Option. The Option and this Agreement shall terminate without notice on March 1, 1994, unless the City before that date gives Garwood written notice to submit an application to amend Corpus Christi's right pursuant to Paragraph 6, below.

4. Option Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement, and the Monthly Payment (hereinafter defined) each month thereafter, each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which the Option and this Agreement are terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it conditionally exercising the Option pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to the Final Commission Date as defined in Paragraph 7, below, and \$5,000 for each payment due and payable thereafter.

5. Exercise of Option. At any time prior to termination of the Option and this Agreement, the City may exercise the Option by giving Garwood written notice of such exercise. The City shall pay Garwood the Amount Due within ninety (90) days after the date it so exercises the Option, or within ninety (90) days after the date it is deemed to exercise the Option pursuant to Paragraph 7, below. If the City has not previously given Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, then the City, in its written notice of exercise of the Option, shall specify the number of acre-feet per year that comprises Corpus Christi's Right. The Amount Due at any time shall be the sum of the Purchase Price, plus all accrued

interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of the Option and this Agreement, but in no event later than February 28, 1994, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). In that notice, the City shall specify the number of acre-feet per year comprising Corpus Christi's Right. Upon receipt of such notice, or upon receipt of the City's written notice of exercise of the Option pursuant to Paragraph 5, above, whichever first occurs, Garwood shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before February 28, 1994, then it shall also give to Garwood together with such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Conditional Exercise of Option. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Conditional Exercise the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order") and to have conditionally exercised the Option. If the Option and this Agreement are not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Commission or any court, then the City shall be deemed to exercise the Option on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Conditional Exercise" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of the Administrative Procedure and Texas Register Act, art. 6252-13a, V.T.C.S. ("APTRA"); (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 19(b) of APTRA; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City fully exercises the Option by paying the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of APTRA; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Option. The City may terminate the Option and this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Conditional Exercise with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long

as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Conditional Exercise, then the City may not thereafter terminate this Option and this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then

the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Option and this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option and this Agreement upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after three years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of the Option and this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate the Option and this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to fully exercise the Option by giving Garwood written notice of such exercise pursuant to Paragraph 5, above. If the City does give Garwood such written notice of exercise, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written notice of exercise within such thirty-day period, the Option and this Agreement shall terminate in its entirety. The City shall not object to withdrawal

of the Application by Garwood if the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement.

If the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit 1 (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. Notwithstanding anything herein to the contrary, under no circumstances

shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, the Option and this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump

station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1996, or the date the Option and this Agreement are terminated, or the Date of Conditional Exercise for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

11. Amendment of Corpus Christi's Right. Upon Garwood's receipt from the City of both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall seek to amend Corpus Christi's Right to:

(a) authorize the use of such water for municipal and industrial purposes;

(b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;

(c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and

(d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to testify in support of the Application, and to otherwise support the Application, and to seek intervention in any appeal from an

Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights and obligations to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or

will be lawfully available to make the payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
City Manager
City of Corpus Christi
City Hall
1201 Leopard
Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Arnold Chas
City Secretary

By Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Nancy G Boyd
Secretary

By William N. Lehrer
William N. Lehrer
Chairman and
Chief Executive Officer

Approved as to legal form:

J. R. Bray
James R. Bray Jr., City Attorney
9-22-92

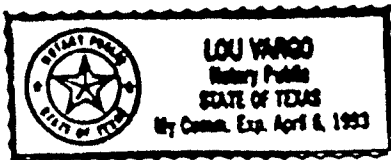
Resolution 21995 AUTHORIZED
BY COUNCIL 9/22/92
ALCOK
SECRETARY

STATE OF TEXAS §
§
COUNTY OF NUECES §

vk 32 ¹¹¹¹ 71

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 24th day of September, 1992.



Lou Varco

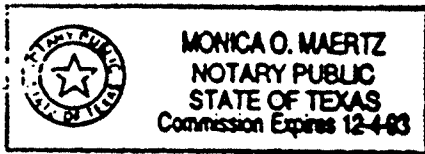
NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY
My Commission Expires _____

STATE OF TEXAS §
§
COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 18th day of September, 1992.



Monica O. Maertz

NOTARY PUBLIC STATE OF TEXAS

Monica O. Maertz
PRINTED NAME OF NOTARY
My Commission Expires 12-4-93

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the ____ day of September, 1992 (the "Agreement"). Pursuant to the terms of the Agreement, by notice dated _____, 19__, Grantee specified that Corpus Christi's Right (as defined in the Agreement) consisted of a [Acre-Foot Specified] acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). The number of acre-feet-per-year so specified in the notice is hereinafter referred to as the "Acre-Foot Specified." Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989. A copy of that Certificate of Adjudication is attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use [Acre-Foot Specified] acre-feet of water per year from the Colorado

River for irrigation, at a rate of diversion not to exceed [Acre-Foot Specified + 168,000 x 750] cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use [168,000 - Acre-Foot Specified, but in any event not less than 133,000] acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Foot Remaining") from the Colorado River for irrigation, at a rate of diversion not to exceed [Acre-Foot Remaining + 168,000 x 750] cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [\$400.00 x Acre-Foot Specified], the date that Grantee exercised, or was deemed to have exercised, the Option (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$ _____], [\$ _____], and [\$ _____], respectively.]

[Pursuant to the terms of the Agreement and the _____, 19__ notice given by the City of Corpus Christi, Garwood submitted to the Texas Water Commission an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Water Commission, or was [granted or denied or dismissed] [in whole or in part] by the Water Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as specified by Grantee by its notice dated _____, 19__, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the

Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:
 - a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
 - b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right; and

- c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

72807

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

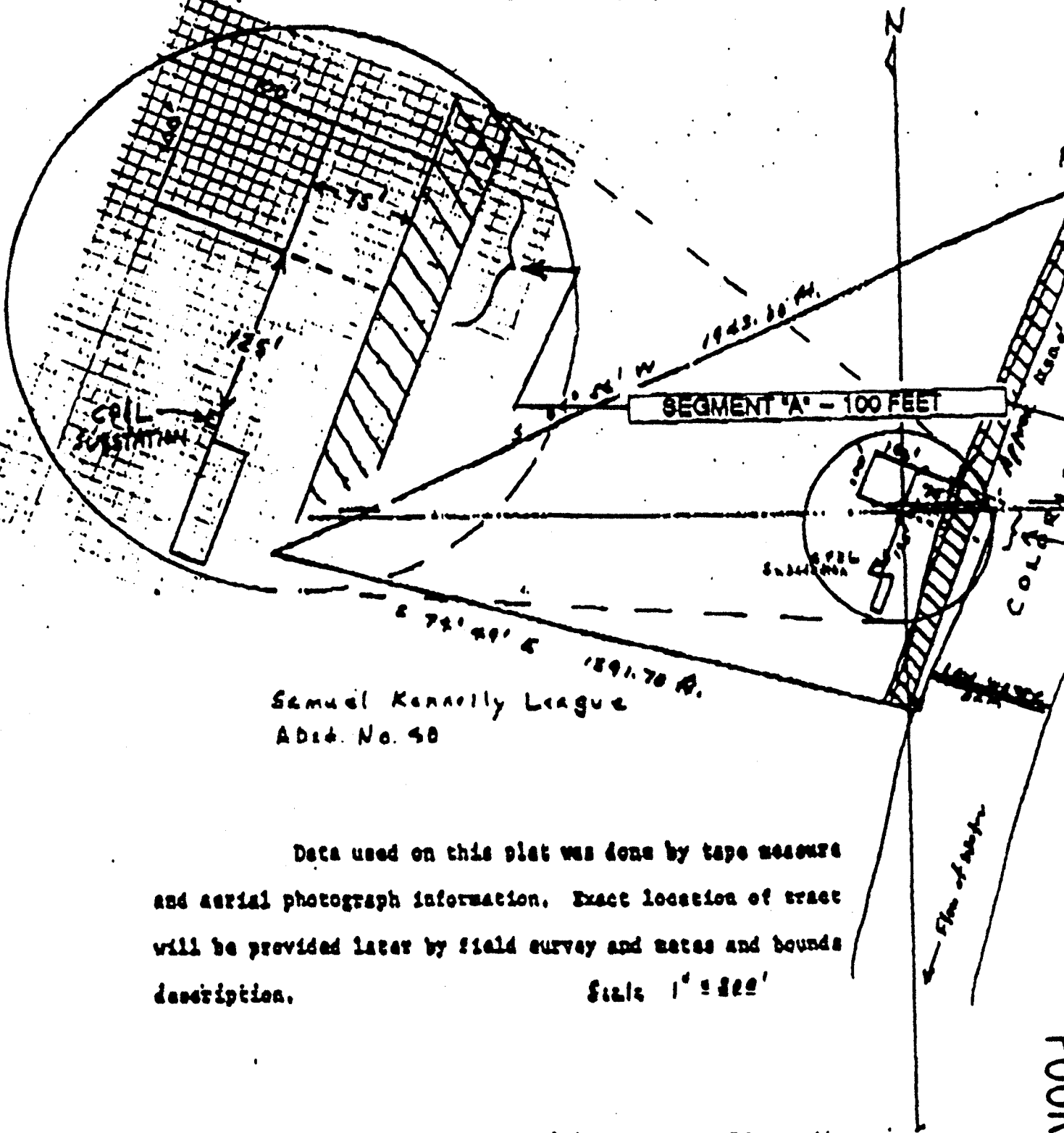
BEFORE ME, the undersigned authority, on this day personally appeared _____ of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 19__.

NOTARY PUBLIC STATE OF _____

PRINTED NAME OF NOTARY
My Commission Expires _____

A plat defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



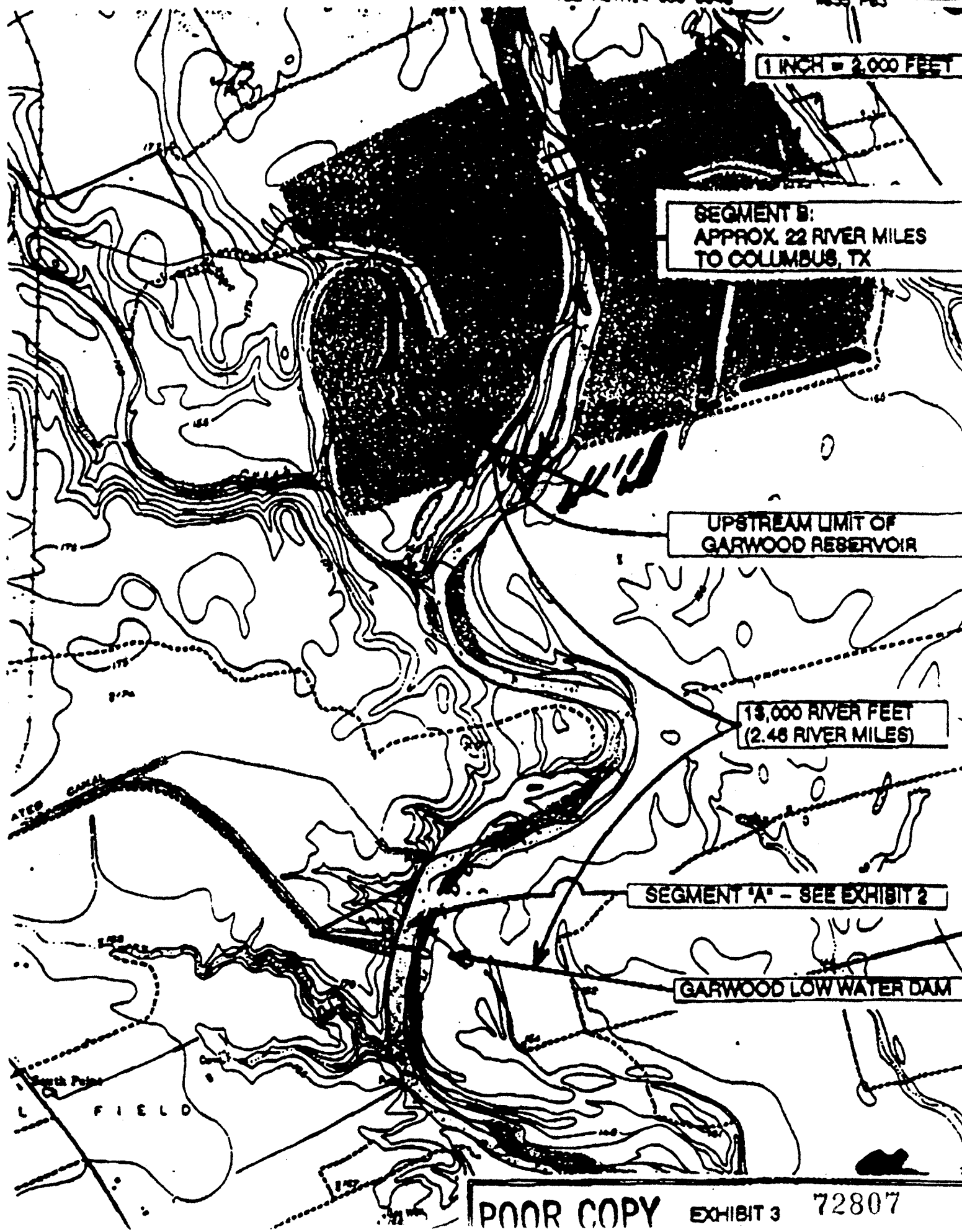
Samuel Kennelly League
Abit. No. 50

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and notes and bounds description.

Scale 1" = 200'

72807

TUVN 0011



1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

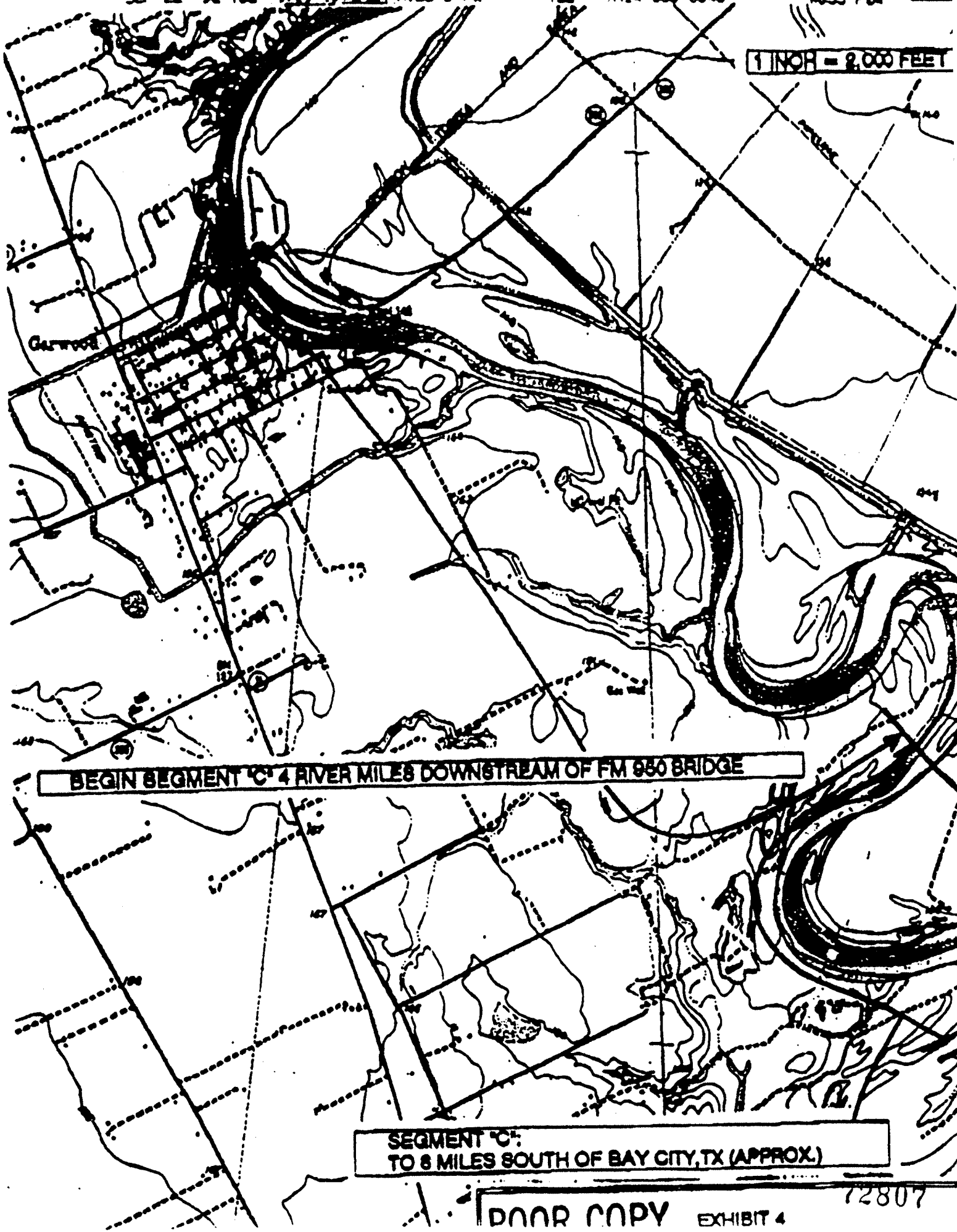
UPSTREAM LIMIT OF
GARWOOD RESERVOIR

13,000 RIVER FEET
(2.48 RIVER MILES)

SEGMENT 'A' - SEE EXHIBIT 2

GARWOOD LOW WATER DAM

1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT 'C':
TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)

COMPAREN

238777

vol 32 PAGE 82

FILED FOR RECORD

3 day of Oct. 1992
at 7:50 o'clock P. M.

DARLENE HAYEK

CLERK COUNTY COURT, COLORADO CO., TEX

By *Helen Hammack*
Deputy

HELEN HAMMACK

William H. Fisher
P.O. Box 428
Barwood, TX. 77442

454.00

City of Corpus Christi

STATE OF TEXAS
COUNTY OF COLORADO
I hereby certify that this instrument was FILED on the
date and at the time affixed hereon by me and was duly
RECORDED in the Volume and Page of the *Official*
Records of Colorado County, Texas as stamped hereon by me.

OCT 7 1992



Darlene Hayek
DARLENE HAYEK
COLORADO COUNTY, TEXAS

72807

**EXERCISE OF OPTION
AND AMENDMENT TO
AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY**

This Exercise of Option and Amendment to Agreement is entered into as of the 22 day of February, 1994, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City and Garwood entered into the Agreement as of the 22nd day of September, 1992. Since that time, the City has exercised its option with the Lavaca-Navidad River Authority ("LNRA") for the purchase of up to 41,840 acre-feet of water per year from Lake Texana. The City now desires to exercise its option with Garwood for the purchase of the full 35,000 acre-foot-per-year portion of Garwood's right to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434, as amended by Certificate of Adjudication No. 14-5434A ("Garwood's Right"). The City also desires certain modifications to the Agreement to allow the City to delay further in requesting Garwood to submit the necessary application to the Texas Natural Resources Conservation Commission, if the City should determine that further delay is necessary or desirable.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree that the Agreement is amended in its entirety to read as follows:

1. **Sale of Water Right.** Subject to the terms of this Agreement, Garwood agrees to sell to the City, and the City agrees to purchase from Garwood, a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The priority of the 35,000 acre-foot-per-year portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the 133,000 acre-foot-per-year portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided as follows: 600 cfs for Garwood's Remaining Right and 150 cfs for Corpus Christi's Right.

2. **Purchase Price.** The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of the Per-Acre-Foot Price (hereinafter defined) times 35,000 acre-feet per year. The "Per-Acre-Foot Price" shall depend upon the time period during which the City gives Garwood written notice either to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, whichever is earlier (the "First Notice"), as set forth in the following table:

| <u>Time Period During Which City Gives Garwood First Notice</u> | <u>Per-Acre-Foot Price</u> |
|---|----------------------------|
| after September 21, 1992 and before July 1, 1994 | \$400 |
| after June 30, 1994 and before January 1, 1995 | \$410 |
| after December 31, 1994 and before July 1, 1995 | \$420 |
| after June 30, 1995 and before January 1, 1996 | \$430 |
| after December 31, 1995 and before July 1, 1996 | \$440 |
| after June 30, 1996 and before January 1, 1997 | \$450 |

3. Term of Agreement. This Agreement shall terminate without notice on January 1, 1997, unless the City before that date gives Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below.

4. Monthly Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement as of September 22, 1992, and an amount each month thereafter (the "Monthly Payment"), each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which this Agreement is terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it accepting any Commission Order pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to February 1, 1994, and \$25,000 for each payment due and payable thereafter.

5. Notice of Purchase. At any time prior to termination of this Agreement, the City may give Garwood written notice of purchase of Corpus Christi's Right ("Notice of Purchase"). The City shall pay Garwood the Amount Due within ninety (90) days after the date it gives Garwood such notice, or within ninety (90) days after the date it is deemed to have given Garwood such notice pursuant to Paragraph 7, below. The Amount Due at any time shall be

the sum of the Purchase Price, plus all accrued interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of this Agreement, but in no event later than December 31, 1996, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). Upon the City giving such notice, or upon the City giving Notice of Purchase pursuant to Paragraph 5, above, whichever first occurs, Garwood, if it has not already done so before that time, shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before December 31, 1996, then it shall also give to Garwood within 30 days after such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Acceptance of Order. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Acceptance the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order"). If this Agreement is not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Texas Natural Resources Conservation Commission or its successor (the "Commission") or any court, then the City shall be deemed to have given Garwood Notice of Purchase under Paragraph 5, above, on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Acceptance" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 2001.176, Texas Government Code; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City pays the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Agreement. The City may terminate this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Acceptance with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Acceptance, then the City may not thereafter terminate this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this

Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after three years from the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives written notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to give Garwood written Notice of Purchase pursuant to Paragraph 5, above. If the City does give Garwood such written Notice of Purchase, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written Notice of Purchase within such thirty-day period, this Agreement shall terminate in its entirety. The City shall not object to withdrawal of the Application by Garwood if this Agreement is terminated by either party pursuant to the terms of this Agreement.

If this Agreement is terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by and paid to Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by and paid to Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or otherwise, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit I (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam.

Notwithstanding anything herein to the contrary, under no circumstances shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1998, or the date this Agreement is terminated, or the Date of Acceptance for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado

River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

If Garwood conveys Corpus Christi's Right to the City pursuant to Paragraph 9, above, then the City shall determine, by not later than the date five years after the date of conveyance, whether it needs the full maximum rate of diversion conveyed as part of the right. Promptly after that date, the City shall convey back to Garwood any excess portion of the maximum rate of diversion conveyed to the City, as set forth below. If the City by such date does not submit plans for the pump station to the Commission for its approval, then the City shall convey back to Garwood any portion of the maximum rate of diversion conveyed to the City in excess of 100 cfs. If the City by such date does submit such plans for Commission approval, and if such plans reflect that the pump station will have a maximum rate of diversion less than the full maximum rate of diversion conveyed, then the City shall convey that excess back to Garwood.

11. Amendment of Corpus Christi's Right. Upon the City giving Garwood both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall, to the extent necessary, seek to amend Corpus Christi's Right to:

- (a) authorize the use of such water for municipal and industrial purposes;
- (b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;
- (c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and
- (d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to prepare and file as part of or in

conjunction with the Application a water conservation plan by the City in accordance with Commission Rules and guidelines if approval of such plan is needed for approval of the Application or if the filing of such plan is requested by the Commission or its staff, to testify in support of the Application and any water conservation plan that may be filed, and to otherwise support the Application, and to seek intervention in any appeal from an Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights or obligations under this Agreement to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or will be lawfully available to make the

payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
City Manager
City of Corpus Christi
City Hall
1201 Leopard
Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Amador Chaga
City Secretary

By

Juan Garza
Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Secretary

By

William N. Lehrer
Chairman and
Chief Executive Officer

Approved 2-22-94
J. R. Bray
City Attorney

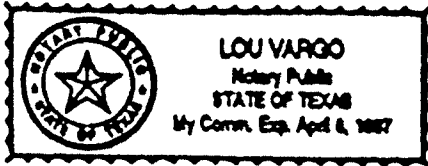
021872 AUTHORIZED
BY COUNCIL 2/22/94
ALSKK
SECRETARY

STATE OF TEXAS §

COUNTY OF NUECES §

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 23rd day of February, 1994.



Lou Vargo
NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

72807

STATE OF TEXAS §

COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 1994.

NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

EXHIBITS

- Exhibit 1 Form of conveyance conveying Corpus Christi's Right to the City.
- Exhibit 2 Map defining Segment "A" of the Colorado River, on the reservoir created by Garwood's low water dam.
- Exhibit 3 Map defining Segment "B" of the Colorado River, upstream of the reservoir created by Garwood's low water dam.
- Exhibit 4 Map defining Segment "C" of the Colorado River, downstream of Garwood's low water dam.

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §
 §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the 22nd day of September, 1992, as amended by Exercise of Option and Amendment of Agreement entered into as of the _____ day of _____, 1994 (such Agreement as so amended is hereafter referred to as the "Agreement"). Pursuant to the terms of the Agreement, Corpus Christi's Right (as defined in the Agreement) consisted of a 35,000 acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989, as amended by Certificate of Adjudication No. 14-5434A, issued by the Texas Water Commission on March 18, 1993. A copy of those Certificates of Adjudication are attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use

35,000 acre-feet of water per year from the Colorado River for authorized purpose or purposes of use, at a rate of diversion not to exceed 150 cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Foot Remaining") from the Colorado River for authorized purpose or purposes of use, at a rate of diversion not to exceed 600 cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [35,000 acre-feet x the Per-Acre-Foot Price (as defined in the Agreement)], the date that Grantee gave, or was deemed to have given, the Notice of Purchase (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$____], [\$____], and [\$____], respectively.]

[Pursuant to the terms of the Agreement and the notice given on _____, 19__ by the City of Corpus Christi, Garwood submitted to the Commission (as defined in the

Agreement) an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Commission, or was [granted or denied or dismissed] [in whole or in part] by the Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as defined in the Agreement, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:
 - a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
 - b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right; and
 - c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

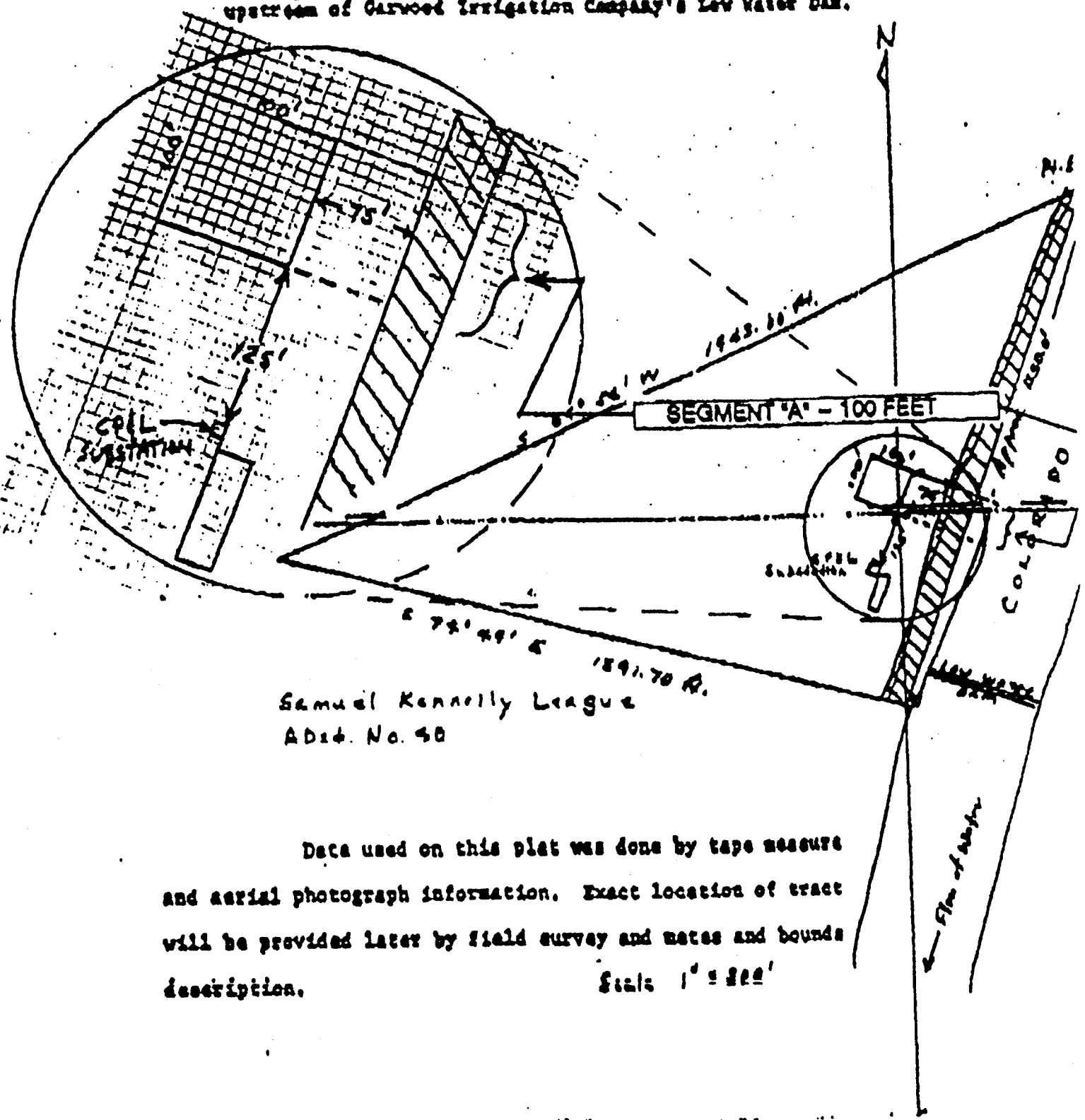
Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

A plat defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



Samuel Kennelly League
Adst. No. 40

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and notes and bounds description.

Scale 1" = 200'

1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

UPSTREAM LIMIT OF
GARWOOD RESERVOIR

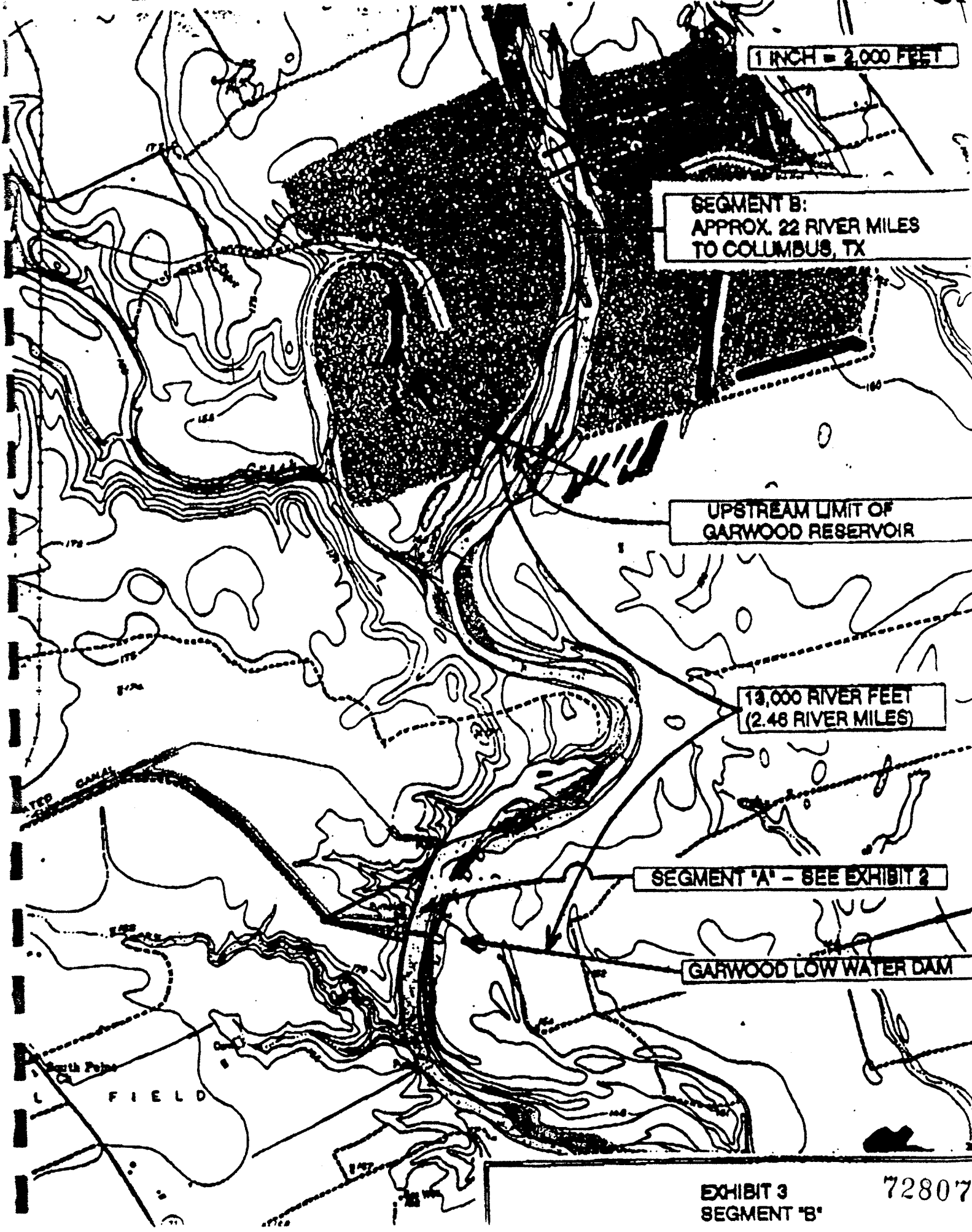
13,000 RIVER FEET
(2.48 RIVER MILES)

SEGMENT 'A' - SEE EXHIBIT 2

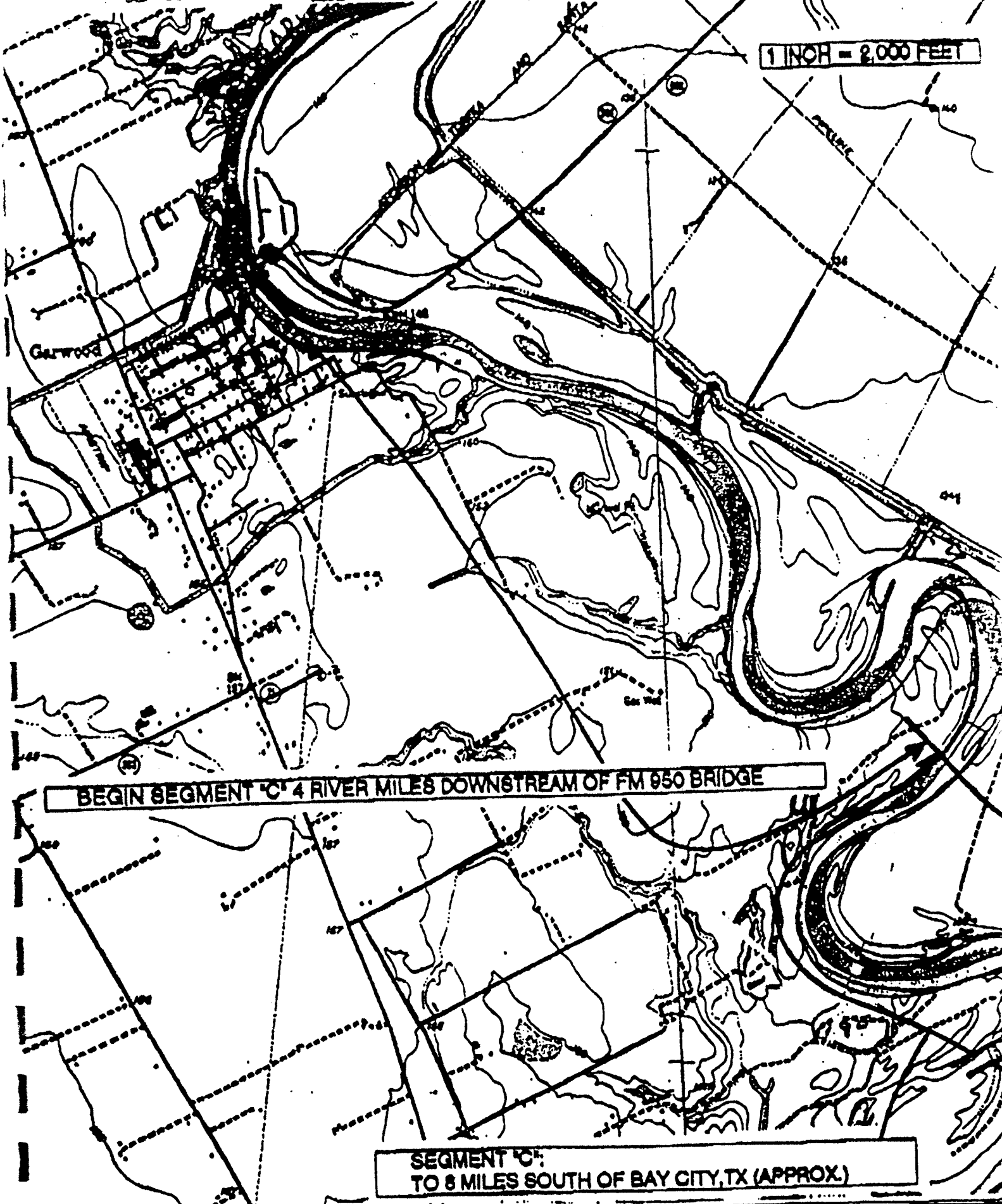
GARWOOD LOW WATER DAM

EXHIBIT 3
SEGMENT 'B'

72807



1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT 'C':
TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)



City of
Corpus
Christi

November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P.O. Box 428
Garwood, Texas 77442

Dear Mr. Lehrer:

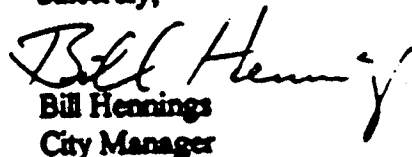
Pursuant to resolution of the Corpus Christi City Council of November 26, 1996, the City hereby gives to the Garwood Irrigation Company its Notice to Submit Application pursuant to Section 6 of the "Exercise of Option and Amendment to Agreement Between the City of Corpus Christi and Garwood Irrigation Company" dated February 22, 1994.

I am also submitting the Required Evidence pursuant to Section 6, which consists of this letter and the following attached documents: 1) a letter directed to you from Mr. Jim Seal, with M. E. Allison & Co., Inc., the City's Financial Advisor, 2) a copy of the City's adopted 1997-2001 Capital Improvement Plan, 3) a copy of the City's Comprehensive Annual Financial Report for the year ended July 31, 1995, and 4) a copy of the City Charter. Under its charter and the powers of home rule cities under State law, the City is authorized to purchase Corpus Christi's Right.

It is my present intention to recommend to the City Council that the purchase of Corpus Christi's Right under the contract be paid for out of revenue bonds. That is the plan presently reflected in the City's FY 1996-97 Capital Improvement Budget. The revenue bonds for Corpus Christi's Right would be issued without an election, as the outstanding bonds referenced in Mr. Seal's letter have been, and would be on a parity with the outstanding bonds. As Mr. Seal's letter indicates, however, the City does have additional sources of money on hand which the City Council could choose to use for the Purchase Price. The City for several years has budgeted this purchase among its capital improvement projects, and has the financial ability to complete the purchase.

Thank you very much for your assistance and cooperation. We look forward to working with you to complete the permitting and the acquisition.

Sincerely,


Bill Hennings
City Manager

cc: Mr. Roger Nevola

ATTACHMENT NO. 6

M. E. Allison & Co., Inc.

INVESTMENT BANKERS

112 East Pecan, Twelfth Floor

San Antonio, Texas 78205-1529

November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Re: Agreement Between the City of Corpus Christi, Texas and Garwood
Irrigation Company (the "Garwood Contract")

Dear Mr. Lehrer:

This firm represents the City of Corpus Christi, Texas (the "City") in the capacity of Financial Advisor. We have acted in this capacity for over thirty-five years.

Under the terms of the Agreement Between the City and Garwood Irrigation Company ("Garwood"), upon conditional exercise by the City of the option agreement "the City is required to give Garwood within 30 days after such notice evidence satisfactory to Garwood ("the Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations the City will or may incur by its failure to give Garwood written notice of termination under Paragraph 8, below, the Date of Acceptance". The obligation the City would incur is approximately \$15,000,000.

In anticipation of exercising the Garwood option the City has budgeted \$15,000,000 in its FY 1996-1997 Capital Improvement Budget to be financed with revenue bonds.

Revenue bonds are a routine and customary method of municipal finance. The City's existing revenue bonds are summarized on Attachment A hereto. Revenue bonds can routinely be sold within 90 days of the City Council issuing its notice of intent to sell, and can be sold within 45 days on an expedited basis. The City's bond counsel, McCall, Parkhurst & Horton, has informed me that the City has the legal authority to issue revenue bonds without an election for the purpose of financing water rights acquisition. Based upon the City's most recent Capital Improvement Plan as adopted by the City Council for the next five years, and our knowledge of the City's Combined Utility System, it is our opinion that the City has and during that time

Continued

72807

November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company

Page 2

period will have the financial ability to meet all obligations which may be incurred under the conditional exercise provision of the City's option under the Garwood Contract.

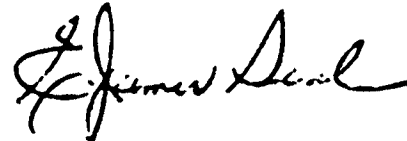
In addition to revenue bonds, the City presently has the following additional sources of funds from which any obligations under the Garwood Contract could be paid in cash:

- A. The Unreserved Utility System Fund Balance has an approximate balance as of July 31, 1996 in the amount of ~~\$29,116,000~~ ^{25,518,688}. (The City's annual audit is in process and will shortly confirm the exact amount.)
- B. The Choke Canyon Reserve Fund Balance has a balance as of July 31, 1996 in the amount of \$26,699,114.34.

Also, due to Congressional action in H.R. 3910, the U. S. Government has deferred all principal and interest payments without penalty or accrued interest for the next five year period on the contract between the City and U. S. Government relating to the Choke Canyon project. Under this legislation, the City commits to use the funds thus made available exclusively for the acquisition of or construction of facilities related to alternative sources of water supply. These deferred payments amount to approximately \$22,834,000. This source of funds would be available to the City on an annual basis and, while not sufficient at this time to make a full cash payment in connection with the Garwood Contract, these funds could be used to pay annual debt service on any revenue bonds issued for that purpose or reimbursement to any fund that advanced the funds for that purpose.

It is our opinion that the City has the financial ability to perform all obligations pursuant to the Garwood Contract as set forth above. Our opinion is based on the accuracy of the above fund balances and other factual information furnished to us by the City. This opinion is based upon the information provided as of the date hereof.

Sincerely,



E. James Seal
Executive Vice President

EJS:tp

Attachment A

City of Corpus Christi, Texas
Utility System Revenue Bonds

Schedule of Outstanding Bonds
As of August 1, 1996

| <u>Priority Bonds</u> | <u>Amount Outstanding</u> |
|---------------------------|-------------------------------|
| Series 1990 Bonds | \$ 51,440,000 |
| Series 1994 Bonds | 10,445,000 |
| Series 1994-A Bonds | 7,960,000 |
| Series 1995 Bonds | 14,305,000 |
| Series 1995-A Bonds | <u>26,820,000</u> |
| Total | <u>\$110,970,000</u> |

DIVISION OF WATER RIGHT

This Division of Water Right (this "Division") is made as of the 30th day of January, 1997, by Garwood Irrigation Company ("Garwood"), as follows:

Garwood's Water Right

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A.

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within Garwood's service area in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within Garwood's service area.

Garwood's Right further authorizes the interbasin transfer of water, from the Colorado River Basin to the Lavaca River Basin. Under Garwood's Right, the water is authorized to be used anywhere within Garwood's service area. The TWC determined that Garwood's service area is comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment. This service area consists of over 155,000 acres of land, most of which lies within the Lavaca River Basin. A map showing the boundaries of Garwood's service area in relation to the Lavaca River Basin is attached as Attachment No. 3.

The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

Agreement with the City of Corpus Christi

Garwood and the City of Corpus Christi (the "City") entered into an agreement, dated as of September 22, 1992, whereby the City secured an option to purchase up to a 35,000 acre-foot-per-

year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this Division, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

**Notice by Corpus Christi Directing
Garwood to Submit the Application**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit the Application. A copy of such letter is attached hereto as Attachment No. 6.

**Division of Garwood's Water Right into Two
Separate and Distinct Portions: (1) "Corpus
Christi's Right," and (2) "Garwood's Remaining Right"**

NOW, THEREFORE, pursuant to the Corpus Agreement, Garwood hereby divides Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of this Division, Corpus Christi's Right is and it shall be subordinate, in time priority and all other respects, to Garwood's Remaining Right.

Executed as of the date first set forth above.

GARWOOD IRRIGATION COMPANY

By: William N. Lehrer
William N. Lehrer, Chairman and
Chief Executive Officer

ATTEST:

Ralph A. Larson

STATE OF TEXAS

§

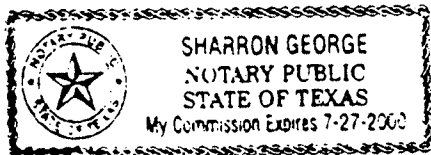
§

COUNTY OF COLORADO

§

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 30th day of January, 1997.



Sharron George
NOTARY PUBLIC STATE OF TEXAS

Sharron George
PRINTED NAME OF NOTARY

My Commission Expires: 7-27-2000

AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY

This Agreement is entered into as of the 22nd day of September, 1992, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City is a home rule city, organized and existing pursuant to the Constitution and laws of the State of Texas. Garwood is a Texas corporation.

The City has concluded that substantial additional supplies of water are needed to satisfy projected demands for water for municipal and industrial purposes within the City and its service area. The City is seeking to identify potential additional supplies, secure options to acquire those supplies, and then, during the option period, study the feasibility of acquisition and development of those supplies.

In pursuit of its goals, the City has recently acquired an option agreement originally entered into by and between the Port of Corpus Christi Authority and the Lavaca-Navidad River Authority ("LNRA") to purchase water from Lake Texana supplied by LNRA under Certificate of Adjudication No. 16-2095, as amended. The City also desires to investigate the potential for obtaining additional supplies of water from the Colorado River, either as an independent source of supply for the City, or as a source of supply to supplement or increase the amount of water that can be provided from Lake Texana. In furtherance of those desires, the City contacted Garwood to determine whether and to what extent Garwood may be able to assist.

Garwood holds rights to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434 ("Garwood's Right"), under which Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second for the irrigation of 32,000 acres of land within a much larger service area, with a priority date of November 1, 1900. Garwood's Right has the earliest priority date of all significant water rights in the Colorado River Basin. A substantial portion of Garwood's service area lies outside the Colorado River Basin.

Garwood's system as it presently exists has the capacity, and it has been used historically, to divert and use in excess of 130,000 acre-feet of water per year for irrigation purposes. For various reasons, Garwood has not yet fully developed its pumping facilities and canal system to facilitate the diversion and use of 168,000 acre-feet of water per year, as authorized under Garwood's Right. Most importantly, a long-standing dispute with the Lower

Colorado River Authority ("LCRA") placed the nature and extent of Garwood's independent water rights under a cloud for many years, effectively preventing expansion. That cloud has recently been removed by the conclusion of the adjudication and the recent issuance on June 28, 1989 by the Texas Water Commission (the "Commission") of Garwood's Certificate of Adjudication No. 14-5434, and by Garwood and LCRA entering into an agreement dated as of December 10, 1987 (the "LCRA Agreement"). In the LCRA Agreement, LCRA, among other things, recognizes Garwood's independent water right and agrees to firm up that right, on an interruptible basis, with stored water from Lakes Travis and Buchanan. LCRA further agrees not to charge Garwood for any stored water that may be needed to firm up the supply of water available under Garwood's Right, for so long as Garwood maintains the low water dam that is authorized under Garwood's Right. The LCRA Agreement is not a part of this Agreement.

Accordingly, Garwood is now free to pursue full development of its pumping facilities and canal system for irrigation purposes. Although the market for rice is not nearly as favorable today as it was years ago, when Garwood wanted to expand but was prevented from doing so, Garwood has nevertheless received several recent inquiries regarding expansion to supply water for rice irrigation. Additionally, increased use of water for other crops may also be feasible today.

Before Garwood pursues full development of its pumping facilities, canal system and irrigation alternatives, the City desires to evaluate the use of a portion of Garwood's Right for municipal and industrial purposes. The City desires to secure by option the price and terms for purchase by the City of a portion of Garwood's Right, and to evaluate during the option period the feasibility of utilizing such right to supply additional water to the Corpus Christi area for municipal and industrial purposes. Garwood believes that the use of such water for such purposes would be in the public interest, that the sale of a relatively small portion of Garwood's Right at this time would not have any adverse impact on the farmers on Garwood's system, and that the sale of such a portion of Garwood's Right would in fact provide substantial benefits to Garwood's farmers. Accordingly, Garwood is willing to grant an option to the City to purchase such a portion of Garwood's Right and, during the option period, not commit in excess of the remaining portion of its right on a long-term basis for the irrigation of rice or other crops.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree as follows:

1. Grant of Option. Garwood hereby grants to the City an option (the "Option") to purchase up to a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The City may purchase the entire 35,000 acre-foot-per-year portion or any

portion thereof; provided, however, that if the City purchases any portion of Garwood's Right, then the amount purchased shall be at least a 20,000 acre-foot-per-year portion. The priority of the portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided proportionately (Garwood's Remaining Right + 168,000 for Garwood, and Corpus Christi's Right + 168,000 for the City).

2. Purchase Price. The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of \$400.00 per acre-foot times the number of acre-feet specified by the City, in its written notice pursuant to Paragraph 5 or 6, below, as comprising the Corpus Christi Right.

3. Term of Option. The Option and this Agreement shall terminate without notice on March 1, 1994, unless the City before that date gives Garwood written notice to submit an application to amend Corpus Christi's right pursuant to Paragraph 6, below.

4. Option Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement, and the Monthly Payment (hereinafter defined) each month thereafter, each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which the Option and this Agreement are terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it conditionally exercising the Option pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to the Final Commission Date as defined in Paragraph 7, below, and \$5,000 for each payment due and payable thereafter.

5. Exercise of Option. At any time prior to termination of the Option and this Agreement, the City may exercise the Option by giving Garwood written notice of such exercise. The City shall pay Garwood the Amount Due within ninety (90) days after the date it so exercises the Option, or within ninety (90) days after the date it is deemed to exercise the Option pursuant to Paragraph 7, below. If the City has not previously given Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, then the City, in its written notice of exercise of the Option, shall specify the number of acre-feet per year that comprises Corpus Christi's Right. The Amount Due at any time shall be the sum of the Purchase Price, plus all accrued

interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of the Option and this Agreement, but in no event later than February 28, 1994, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). In that notice, the City shall specify the number of acre-feet per year comprising Corpus Christi's Right. Upon receipt of such notice, or upon receipt of the City's written notice of exercise of the Option pursuant to Paragraph 5, above, whichever first occurs, Garwood shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before February 28, 1994, then it shall also give to Garwood together with such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Conditional Exercise of Option. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Conditional Exercise the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order") and to have conditionally exercised the Option. If the Option and this Agreement are not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Commission or any court, then the City shall be deemed to exercise the Option on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Conditional Exercise" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of the Administrative Procedure and Texas Register Act, art. 6252-13a, V.T.C.S. ("APTRA"); (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 19(b) of APTRA; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City fully exercises the Option by paying the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of APTRA; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Option. The City may terminate the Option and this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Conditional Exercise with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long

as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Conditional Exercise, then the City may not thereafter terminate this Option and this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then

the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Option and this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option and this Agreement upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after three years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of the Option and this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate the Option and this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to fully exercise the Option by giving Garwood written notice of such exercise pursuant to Paragraph 5, above. If the City does give Garwood such written notice of exercise, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written notice of exercise within such thirty-day period, the Option and this Agreement shall terminate in its entirety. The City shall not object to withdrawal

of the Application by Garwood if the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement.

If the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit 1 (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. Notwithstanding anything herein to the contrary, under no circumstances

shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, the Option and this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump

station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1996, or the date the Option and this Agreement are terminated, or the Date of Conditional Exercise for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

11. Amendment of Corpus Christi's Right. Upon Garwood's receipt from the City of both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall seek to amend Corpus Christi's Right to:

(a) authorize the use of such water for municipal and industrial purposes;

(b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;

(c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and

(d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to testify in support of the Application, and to otherwise support the Application, and to seek intervention in any appeal from an

Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights and obligations to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or

will be lawfully available to make the payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
City Manager
City of Corpus Christi
City Hall
1201 Leopard
Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Arnold Chaz
City Secretary

By

Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Nancy L Boyd
Secretary

By

William N. Lehrer
William N. Lehrer
Chairman and
Chief Executive Officer

Approved as to legal form:

J. R. Bray
James R. Bray Jr., City Attorney
9-22-92

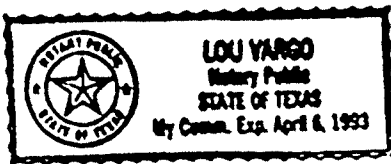
Resolution 21495 AUTHORIZED
BY COUNCIL 9/22/92
ACSK
SECRETARY

STATE OF TEXAS §
§
COUNTY OF NUECES §

vk 32 PAGE 71

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 24th day of September, 1992.



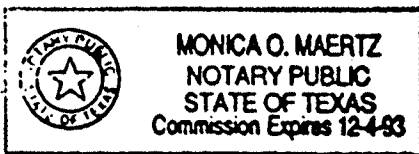
Lou Yargo
NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY
My Commission Expires _____

STATE OF TEXAS §
§
COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 18th day of September, 1992.



Monica O. Maertz
NOTARY PUBLIC STATE OF TEXAS

Monica O. Maertz
PRINTED NAME OF NOTARY
My Commission Expires 12-4-93

EXHIBITS

VOL 32 PAGE 72

- Exhibit 1 Form of conveyance conveying Corpus Christi's Right to the City.
- Exhibit 2 Map defining Segment "A" of the Colorado River, on the reservoir created by Garwood's low water dam.
- Exhibit 3 Map defining Segment "B" of the Colorado River, upstream of the reservoir created by Garwood's low water dam.
- Exhibit 4 Map defining Segment "C" of the Colorado River, downstream of Garwood's low water dam.

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the ____ day of September, 1992 (the "Agreement"). Pursuant to the terms of the Agreement, by notice dated _____, 19__, Grantee specified that Corpus Christi's Right (as defined in the Agreement) consisted of a [Acre-Feet Specified] acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). The number of acre-feet-per-year so specified in the notice is hereinafter referred to as the "Acre-Feet Specified." Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989. A copy of that Certificate of Adjudication is attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use [Acre-Feet Specified] acre-feet of water per year from the Colorado

River for irrigation, at a rate of diversion not to exceed [Acre-Feet Specified + 168,000 x 750] cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use [168,000 - Acre-Feet Specified, but in any event not less than 133,000] acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Feet Remaining") from the Colorado River for irrigation, at a rate of diversion not to exceed [Acre-Feet Remaining + 168,000 x 750] cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [\$400.00 x Acre-Feet Specified], the date that Grantee exercised, or was deemed to have exercised, the Option (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$_____], [\$_____], and [\$_____], respectively.]

[Pursuant to the terms of the Agreement and the _____, 19__ notice given by the City of Corpus Christi, Garwood submitted to the Texas Water Commission an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Water Commission, or was [granted or denied or dismissed] [in whole or in part] by the Water Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as specified by Grantee by its notice dated _____, 19__, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the

Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:
 - a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
 - b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right; and

- c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

72807

STATE OF TEXAS §
COUNTY OF COLORADO §

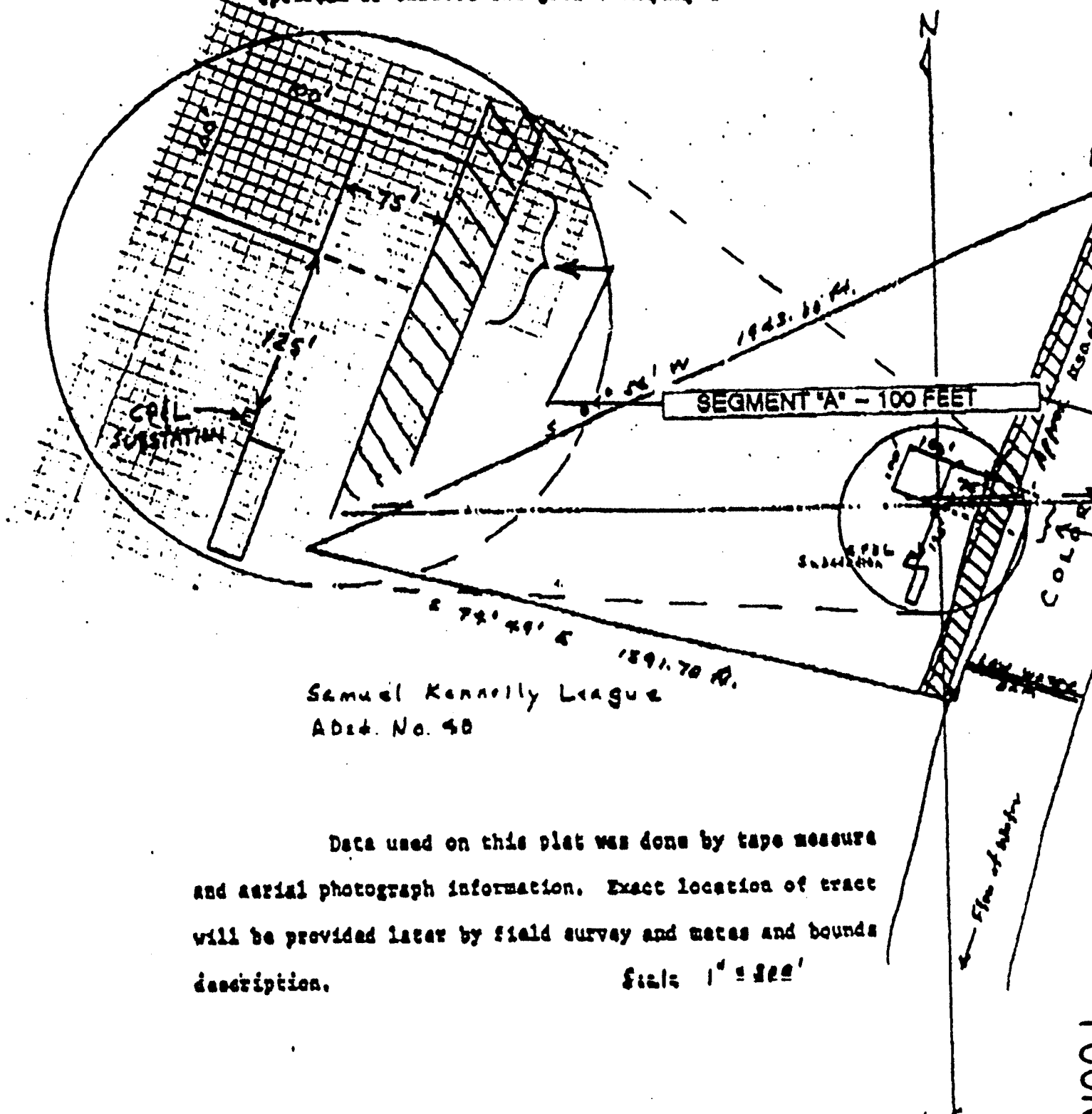
BEFORE ME, the undersigned authority, on this day personally appeared _____ of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 19__.

NOTARY PUBLIC STATE OF _____

PRINTED NAME OF NOTARY
My Commission Expires _____

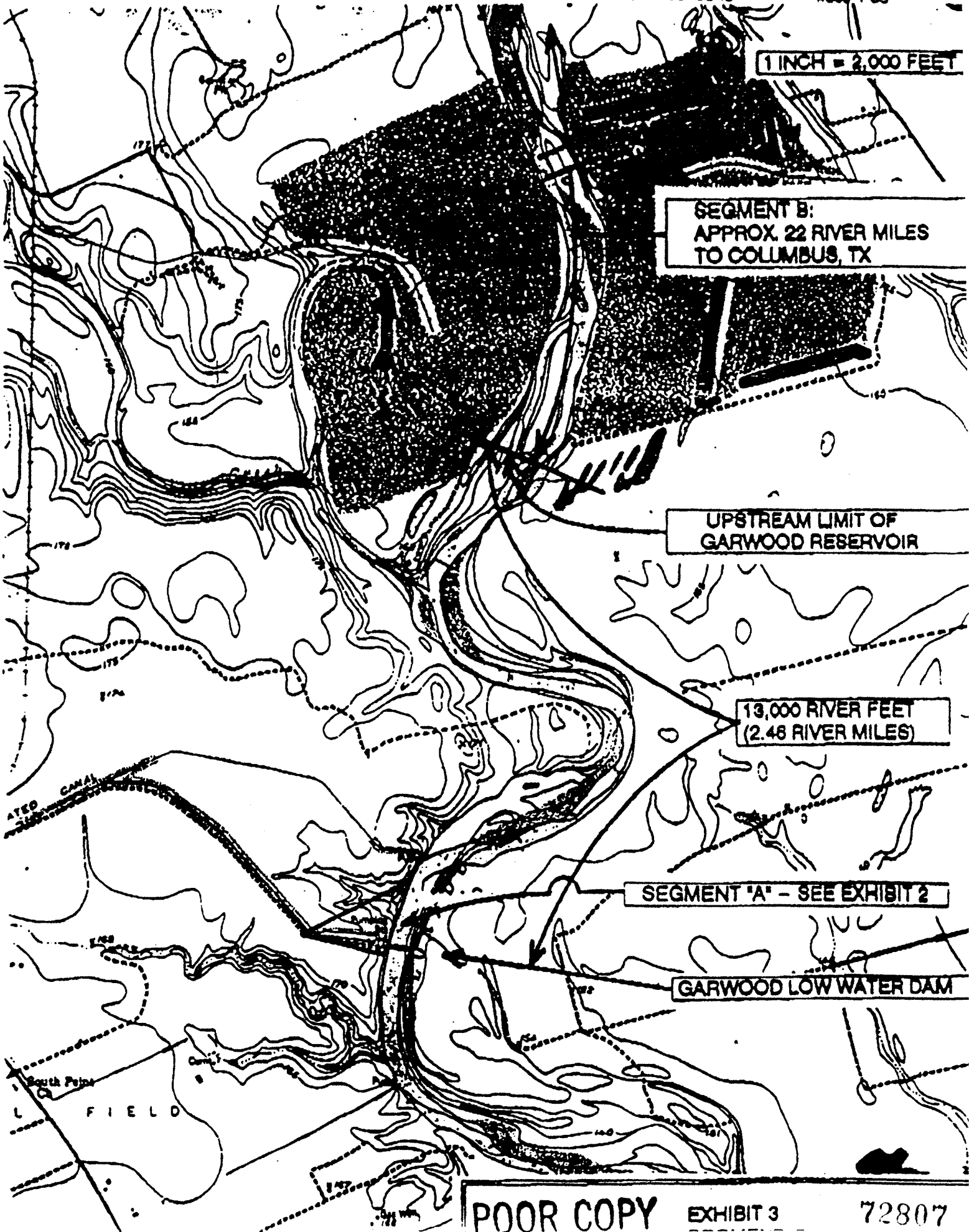
A plat defining Segment "A" of the Colorado River
upstream of Garwood Irrigation Company's Low Water Dam.



Samuel Kennolly League
A Det. No. 40

Data used on this plat was done by tape measure
and aerial photograph information. Exact location of tract
will be provided later by field survey and metes and bounds
description.

Scale: 1" = 100'



1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

UPSTREAM LIMIT OF
GARWOOD RESERVOIR

13,000 RIVER FEET
(2.48 RIVER MILES)

SEGMENT 'A' - SEE EXHIBIT 2

GARWOOD LOW WATER DAM

POOR COPY

EXHIBIT 3

72807

1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT 'C': TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)

COMPARED

23877

VOL 32 PAGE 82

FILED FOR RECORD

2 day of Oct. 1992
at 7:30 o'clock P. M.

DARLENE HAYEK

CLERK COUNTY COURT, COLORADO CO., TEX

By *Helen Hammack*
Deputy

HELEN HAMMACK

William H. Scherer
P.O. Box 428
Barrow, TX. 77442

454.00

City of Corpus Christi

STATE OF TEXAS
COUNTY OF COLORADO

I hereby certify that this instrument was FILED on the
date and at the time affixed hereon by me and was duly
RECORDED in the Volume and Page of the *Special*
Records of Colorado County, Texas as stamped hereon by me.

OCT 7 1992



Darlene Hayek
DARLENE HAYEK
COLORADO COUNTY, TEXAS

72807

**EXERCISE OF OPTION
AND AMENDMENT TO
AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY**

This Exercise of Option and Amendment to Agreement is entered into as of the 22 day of February, 1994, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City and Garwood entered into the Agreement as of the 22nd day of September, 1992. Since that time, the City has exercised its option with the Lavaca-Navidad River Authority ("LNRA") for the purchase of up to 41,840 acre-feet of water per year from Lake Texana. The City now desires to exercise its option with Garwood for the purchase of the full 35,000 acre-foot-per-year portion of Garwood's right to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434, as amended by Certificate of Adjudication No. 14-5434A ("Garwood's Right"). The City also desires certain modifications to the Agreement to allow the City to delay further in requesting Garwood to submit the necessary application to the Texas Natural Resources Conservation Commission, if the City should determine that further delay is necessary or desirable.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree that the Agreement is amended in its entirety to read as follows:

1. **Sale of Water Right.** Subject to the terms of this Agreement, Garwood agrees to sell to the City, and the City agrees to purchase from Garwood, a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The priority of the 35,000 acre-foot-per-year portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the 133,000 acre-foot-per-year portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided as follows: 600 cfs for Garwood's Remaining Right and 150 cfs for Corpus Christi's Right.

2. **Purchase Price.** The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of the Per-Acre-Foot Price (hereinafter defined) times 35,000 acre-feet per year. The "Per-Acre-Foot Price" shall depend upon the time period during which the City gives Garwood written notice either to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, whichever is earlier (the "First Notice"), as set forth in the following table:

| <u>Time Period During Which City Gives Garwood First Notice</u> | <u>Per-Acre-Foot Price</u> |
|---|----------------------------|
| after September 21, 1992 and before July 1, 1994 | \$400 |
| after June 30, 1994 and before January 1, 1995 | \$410 |
| after December 31, 1994 and before July 1, 1995 | \$420 |
| after June 30, 1995 and before January 1, 1996 | \$430 |
| after December 31, 1995 and before July 1, 1996 | \$440 |
| after June 30, 1996 and before January 1, 1997 | \$450 |

3. Term of Agreement. This Agreement shall terminate without notice on January 1, 1997, unless the City before that date gives Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below.

4. Monthly Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement as of September 22, 1992, and an amount each month thereafter (the "Monthly Payment"), each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which this Agreement is terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it accepting any Commission Order pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to February 1, 1994, and \$25,000 for each payment due and payable thereafter.

5. Notice of Purchase. At any time prior to termination of this Agreement, the City may give Garwood written notice of purchase of Corpus Christi's Right ("Notice of Purchase"). The City shall pay Garwood the Amount Due within ninety (90) days after the date it gives Garwood such notice, or within ninety (90) days after the date it is deemed to have given Garwood such notice pursuant to Paragraph 7, below. The Amount Due at any time shall be

the sum of the Purchase Price, plus all accrued interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of this Agreement, but in no event later than December 31, 1996, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). Upon the City giving such notice, or upon the City giving Notice of Purchase pursuant to Paragraph 5, above, whichever first occurs, Garwood, if it has not already done so before that time, shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before December 31, 1996, then it shall also give to Garwood within 30 days after such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Acceptance of Order. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Acceptance the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order"). If this Agreement is not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Texas Natural Resources Conservation Commission or its successor (the "Commission") or any court, then the City shall be deemed to have given Garwood Notice of Purchase under Paragraph 5, above, on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Acceptance" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 2001.176, Texas Government Code; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

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Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City pays the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Agreement. The City may terminate this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Acceptance with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Acceptance, then the City may not thereafter terminate this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this

Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after three years from the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives written notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to give Garwood written Notice of Purchase pursuant to Paragraph 5, above. If the City does give Garwood such written Notice of Purchase, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written Notice of Purchase within such thirty-day period, this Agreement shall terminate in its entirety. The City shall not object to withdrawal of the Application by Garwood if this Agreement is terminated by either party pursuant to the terms of this Agreement.

If this Agreement is terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by and paid to Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by and paid to Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or otherwise, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit 1 (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam.

Notwithstanding anything herein to the contrary, under no circumstances shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1998, or the date this Agreement is terminated, or the Date of Acceptance for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado

River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

If Garwood conveys Corpus Christi's Right to the City pursuant to Paragraph 9, above, then the City shall determine, by not later than the date five years after the date of conveyance, whether it needs the full maximum rate of diversion conveyed as part of the right. Promptly after that date, the City shall convey back to Garwood any excess portion of the maximum rate of diversion conveyed to the City, as set forth below. If the City by such date does not submit plans for the pump station to the Commission for its approval, then the City shall convey back to Garwood any portion of the maximum rate of diversion conveyed to the City in excess of 100 cfs. If the City by such date does submit such plans for Commission approval, and if such plans reflect that the pump station will have a maximum rate of diversion less than the full maximum rate of diversion conveyed, then the City shall convey that excess back to Garwood.

11. Amendment of Corpus Christi's Right. Upon the City giving Garwood both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall, to the extent necessary, seek to amend Corpus Christi's Right to:

- (a) authorize the use of such water for municipal and industrial purposes;
- (b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;
- (c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and
- (d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to prepare and file as part of or in

conjunction with the Application a water conservation plan by the City in accordance with Commission Rules and guidelines if approval of such plan is needed for approval of the Application or if the filing of such plan is requested by the Commission or its staff, to testify in support of the Application and any water conservation plan that may be filed, and to otherwise support the Application, and to seek intervention in any appeal from an Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights or obligations under this Agreement to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or will be lawfully available to make the

payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
City Manager
City of Corpus Christi
City Hall
1201 Leopard
Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Amund Chavez
City Secretary

By

Juan Garza
Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Secretary

By

William N. Lehrer
Chairman and
Chief Executive Officer

Approved 2-22-94
J. R. Bray
City Attorney

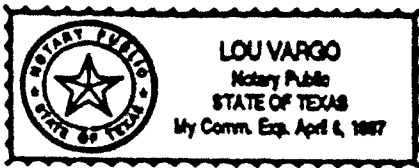
021872 AUTHORIZED
BY COUNCIL 2/22/94
ALSKK
SECRETARY

STATE OF TEXAS §

COUNTY OF NUECES §

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 23rd day of February, 1994.



Lou Vargo
NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

72807

STATE OF TEXAS §

COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 1994.

NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

72807

EXHIBITS

- Exhibit 1 Form of conveyance conveying Corpus Christi's Right to the City.
- Exhibit 2 Map defining Segment "A" of the Colorado River, on the reservoir created by Garwood's low water dam.
- Exhibit 3 Map defining Segment "B" of the Colorado River, upstream of the reservoir created by Garwood's low water dam.
- Exhibit 4 Map defining Segment "C" of the Colorado River, downstream of Garwood's low water dam.

72807

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the 22nd day of September, 1992, as amended by Exercise of Option and Amendment of Agreement entered into as of the _____ day of _____, 1994 (such Agreement as so amended is hereafter referred to as the "Agreement"). Pursuant to the terms of the Agreement, Corpus Christi's Right (as defined in the Agreement) consisted of a 35,000 acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989, as amended by Certificate of Adjudication No. 14-5434A, issued by the Texas Water Commission on March 18, 1993. A copy of those Certificates of Adjudication are attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use

35,000 acre-feet of water per year from the Colorado River for [authorized purpose or purposes of use], at a rate of diversion not to exceed 150 cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Foot Remaining") from the Colorado River for [authorized purpose or purposes of use], at a rate of diversion not to exceed 600 cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [35,000 acre-feet x the Per-Acre-Foot Price (as defined in the Agreement)], the date that Grantee gave, or was deemed to have given, the Notice of Purchase (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$____], [\$____], and [\$____], respectively.]

[Pursuant to the terms of the Agreement and the notice given on _____, 19__ by the City of Corpus Christi, Garwood submitted to the Commission (as defined in the

Agreement) an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Commission, or was [granted or denied or dismissed] [in whole or in part] by the Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as defined in the Agreement, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:
- a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
 - b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right;
and
 - c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

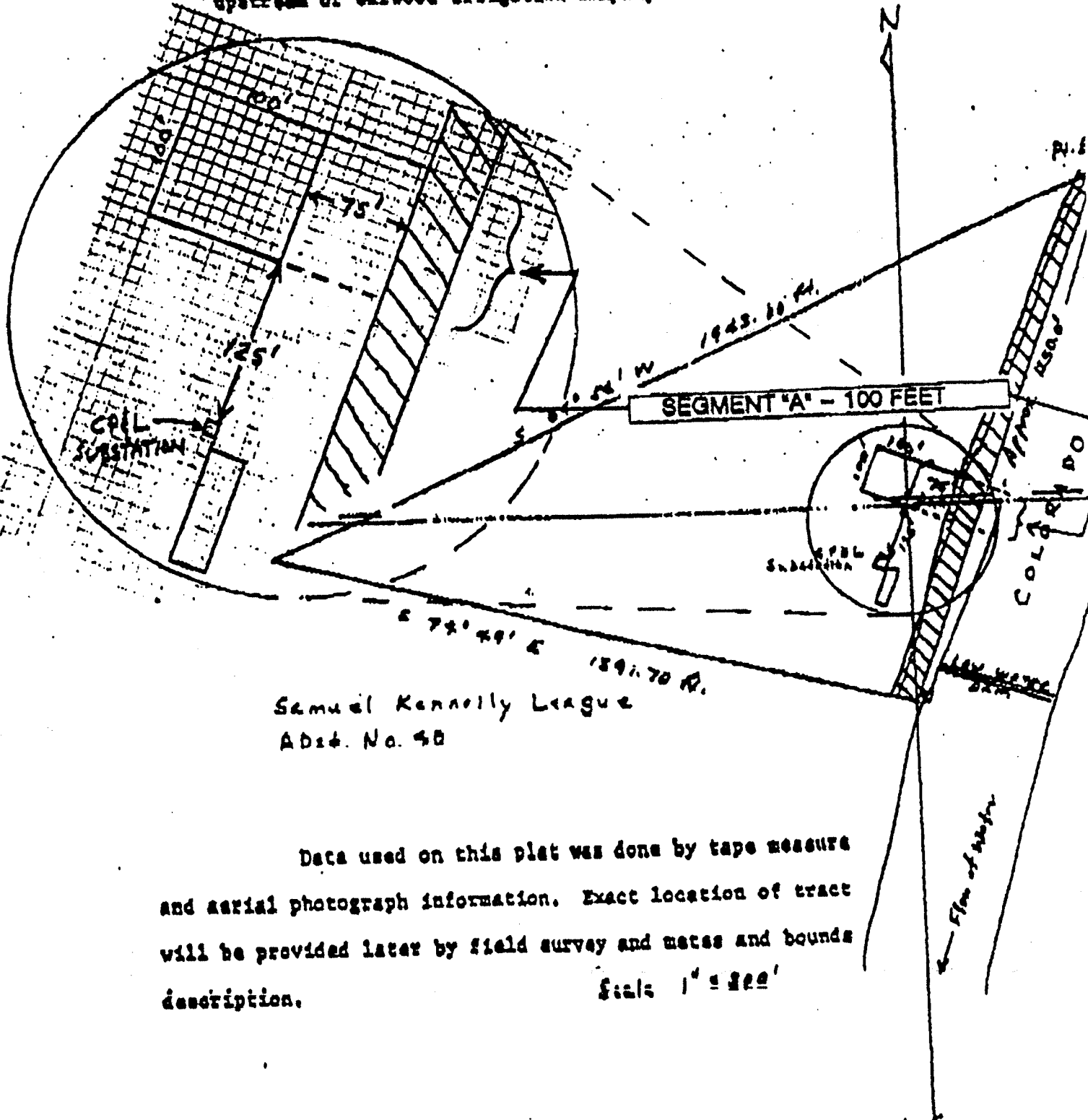
Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

A plat defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



Samuel Kennolly League
Adst. No. 40

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and metes and bounds description.

Scale: 1" = 300'

1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

UPSTREAM LIMIT OF
GARWOOD RESERVOIR

13,000 RIVER FEET
(2.48 RIVER MILES)

SEGMENT 'A' - SEE EXHIBIT 2

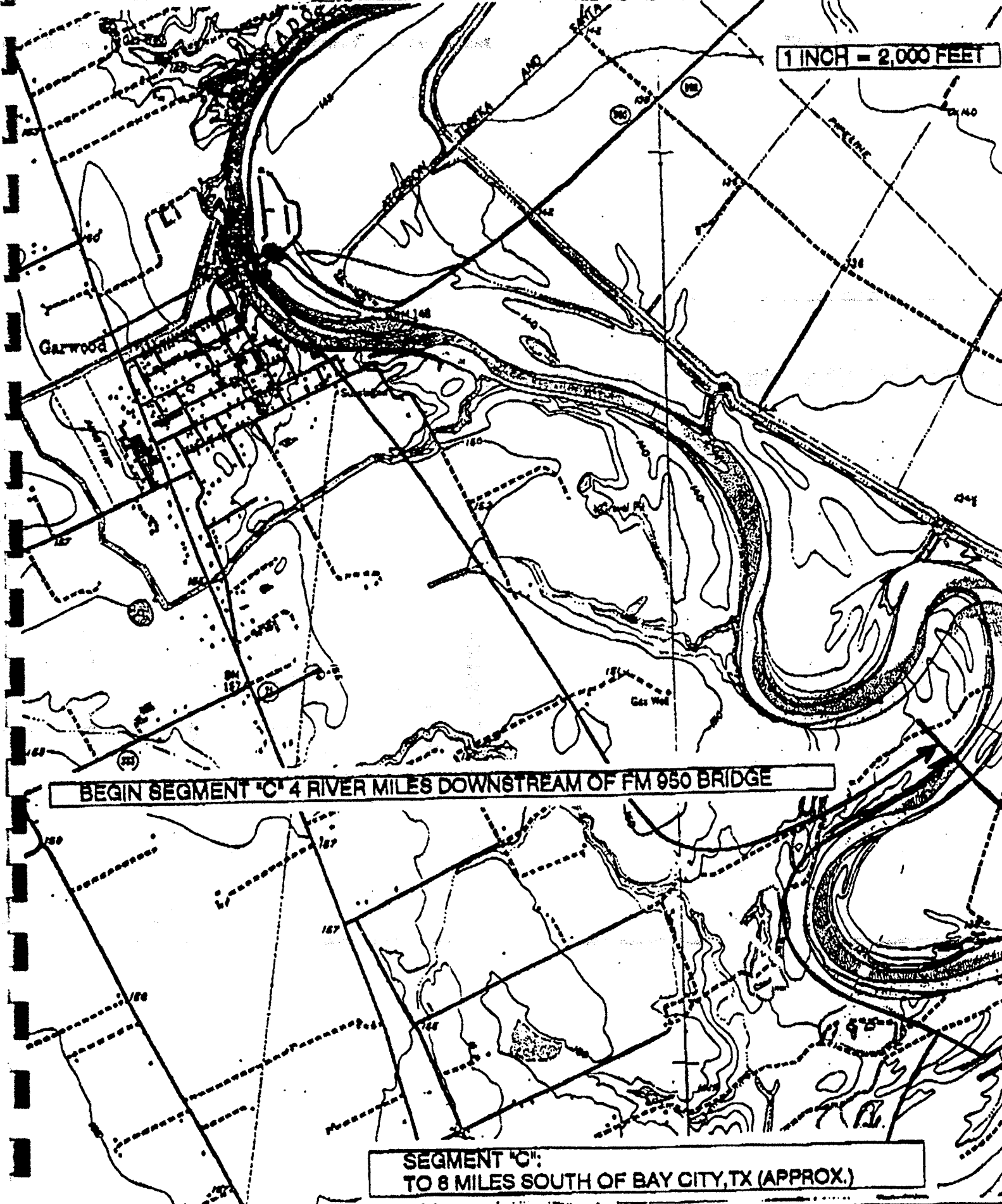
GARWOOD LOW WATER DAM

ATED CANAL

South Point

FIELD

1 INCH = 2,000 FEET



BEGIN SEGMENT "C" 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT "C": TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)

5. PRIORITY

The priority of this amendment is November 1, 1900.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 14-5434, except as specifically amended by this Certificate No. 14-5434A.

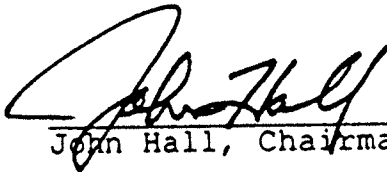
This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

Certificate owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

TEXAS WATER COMMISSION


John Hall, Chairman

Date Issued: MAR 18 1993

ATTEST:

for Mamie M. Black
Gloria A. Vasquez, Chief Clerk

72807

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

P.O. Box 13087

Austin, Texas 78711-3087

Telephone No. 512/463-8218 FAX (512)239-4444

APPLICATION FOR AMENDMENT TO A WATER RIGHT

REQUIRING MAILED AND PUBLISHED NOTICE
See Texas Administrative Code Section 295.158(b); or

NOT REQUIRING MAILED AND PUBLISHED NOTICE
See Texas Administrative Code Section 295.158(c)

1. Name: Garwood Irrigation Company
Address: P.O. Box 428
Garwood, Texas 77442
(City) (State) (Zip Code)

Telephone: Home: _____ Office: (409) 758-3221

Social Security or Federal ID. No.: _____

Permit Certified Filing or Adjudication Cert. No.: 14-5434A

2. Stream Colorado River Watersheds Colorado River Basin and Lavaca River Basin
Reservoir (present condition, if one exists): small reservoir on the Colorado River created by Garwood's low water dam

Counties: Colorado and Wharton

3. Proposed Changes to Water Right Authorizations: Amend "Corpus Christi's Right," and grant such other authorizations, as set forth in the attached Supplement.
(attach additional statement if necessary, also attach map/plan depicting project location, diversion point, place of use, and other pertinent data)

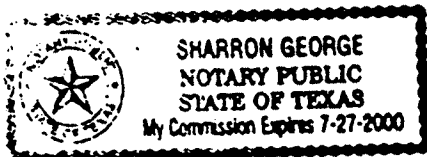
4. I understand that the Agency may require additional information in regard to the requested amendment before considering my application.

5. I have submitted the required fees herewith. (Sections 295.131-295-139)

Witness (my) hand at Garwood, Texas, this 30th day of January, 19 97.

William N. Lehrer
William N. Lehrer, Chairman and
Chief Executive Officer

Subscribed and sworn to as being true and correct before me the 30th day of January, 19 97.



Sharon George
Notary Public, State of Texas

**SUPPLEMENT TO THE
APPLICATION OF GARWOOD IRRIGATION
COMPANY TO AMEND
"CORPUS CHRISTI'S RIGHT"**

GARWOOD'S WATER RIGHT

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A.

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within Garwood's service area in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within Garwood's service area.

Garwood's Right further authorizes the interbasin transfer of water, from the Colorado River Basin to the Lavaca River Basin. Under Garwood's Right, the water is authorized to be used anywhere within Garwood's service area. The TWC determined that Garwood's service area is comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment. This service area consists of over 155,000 acres of land, most of which lies within the Lavaca River Basin. A map showing the boundaries of Garwood's service area in relation to the Lavaca River Basin is attached as Attachment No. 3.

The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

AGREEMENT WITH THE CITY OF CORPUS CHRISTI

Garwood and the City of Corpus Christi (the "City") entered into an agreement, dated as of September 22, 1992, whereby the City secured an option to purchase up to a 35,000 acre-foot-per-year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this application, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

The Corpus Agreement further provides that the application to amend Corpus Christi's Right (hereinafter referred to as this "Application") shall, to the extent necessary, seek to amend Corpus Christi's Right to: (1) authorize the use of such water for municipal and industrial purposes; (2) authorize the diversion of such water from an undefined point of diversion within certain defined segments of the Colorado River; (3) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within the Corpus Christi service area; and (4) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Corpus Christi service area consists of the following twelve counties: Aransas, Atascosa, Bee, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, San Patricio, and Willacy. These twelve counties lie in whole or in part within the following named River Basins or Coastal Basins: San Antonio River Basin; San Antonio-Nueces Coastal Basin; Nueces River Basin; and Nueces-Rio Grande Coastal Basin. To provide maximum flexibility, the area in which the water should be authorized to be used should consist of the above-named River Basins and Coastal Basins, as well as those through which the water might pass as it is conveyed to the above-named Basins.

**NOTICE BY CORPUS CHRISTI DIRECTING
GARWOOD TO SUBMIT THIS APPLICATION**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit this Application. A copy of such letter is attached hereto as Attachment No. 6.

**DIVISION OF GARWOOD'S WATER RIGHT INTO TWO
SEPARATE AND DISTINCT PORTIONS: (1) "CORPUS
CHRISTI'S RIGHT," AND (2) "GARWOOD'S REMAINING RIGHT"**

Pursuant to the Corpus Agreement, Garwood, by instrument entitled "Division of Water Right" dated as of January 30, 1997, has divided Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right. A copy of such instrument is attached hereto as Attachment No. 7.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of such division, Corpus Christi's Right has been and it now is subordinate, in time priority and all other respects, to Garwood's Remaining Right.

THIS APPLICATION TO AMEND "CORPUS CHRISTI'S RIGHT"

Accordingly, by this Application, Garwood is requesting that the Commission amend Corpus Christi's Right to the extent necessary, and that it grant such authorizations as may be necessary, pursuant to any provision of the Texas Water Code that may be applicable including, without limitation, Sections 11.122 and 11.085, so that the 35,000 acre-feet of water per year authorized to be diverted from the Colorado River under Corpus Christi's Right:

- (a) is authorized to be used for municipal and industrial purposes;
- (b) is authorized to be diverted from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Attachment No. 8, Segment "B" on the Colorado River as shown on Attachment No. 9, or Segment "C" on the Colorado River as shown on Attachment No. 10; and
- (c) is authorized to be diverted from the Colorado River Basin and transferred for use anywhere within the Lavaca,

Guadalupe, San Antonio, and Nueces River Basins, and the Colorado-Lavaca, Lavaca-Guadalupe, San Antonio-Nueces, and Nueces-Rio Grande Coastal Basins.

Garwood further requests that the Commission confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

NOTICE

The Commission may consider and grant this Application without requiring issuance of any notice, except to holders of interjacent water rights (those water rights under which water is authorized to be diverted or impounded within the segment of the Colorado River between the most upstream point of Segment B and the most downstream point of Segment C, as such Segments are defined above) (see 31 TAC §295.158(c) (2)(E) and (F)). The reasons that only limited notice is required by law include the following:

- (a) The 35,000 acre-feet-per-year of water is already authorized to be used for municipal and industrial purposes and, even if it were not, change of purpose of use of water under Garwood's Right does not require notice. (See 31 TAC § 295.158(b) and (c));
- (b) The currently authorized rate of diversion will not be increased. (See 31 TAC § 295.158(c)(2)(E) and (F)); and
- (c) The water is already authorized to be diverted from the Colorado River Basin for use in another named River Basin (the Lavaca River Basin). Thus, Garwood is merely seeking a modification to an existing interbasin transfer authorization, and not a new interbasin transfer authorization. The modification would merely add additional receiving basins. As a matter of law, no water right holder or other person or entity in the basin of origin is entitled to notice of an application for such a modification. Moreover, there is no proposed "point of introduction" in the additional receiving basins (within the meaning of 31 TAC § 155), below which users of record are entitled to notice. By this Application, Garwood is not requesting any authorization to use the bed and banks of any watercourse for the conveyance of such water.

In any event, to the extent that the Commission desires to issue notice of this Application, Garwood requests that such notice be issued expeditiously.

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 14-5434 OWNER: Garwood Irrigation Company
P.O. Box 428
Garwood, Texas 77442
COUNTIES: Colorado and Wharton PRIORITY DATE: November 1, 1900
WATERCOURSE: Colorado River BASIN: Colorado River

WHEREAS, by final decree of the 264th Judicial District Court of Bell County, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987, a right was recognized under Certified Filing 398, as amended, authorizing the Garwood Irrigation Company to appropriate waters of the State of Texas as set forth below:

WHEREAS, subsequent to the entry of such final judgment and decree, Garwood entered into an agreement with the Lower Colorado River Authority ("LCRA") dated as of December 10, 1987 (the "Agreement") whereby LCRA agrees to provide to Garwood under certain terms and conditions water stored in Lakes Buchanan and Travis authorized by Certificates of Adjudication Nos. 14-5478 and 14-5482;

WHEREAS, the Agreement further provides that Garwood will submit Permits Nos. 1506 and 1790 (Certified Filings Nos. 398A and 398B, respectively), to the Commission for cancellation; provided, however, that such cancellation shall not in any way affect Garwood's rights to the run-of-river flow of the Colorado River under Certified Filing No. 398, as amended;

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

1. IMPOUNDMENT

Owner is authorized to maintain an overflow type structure (low water dam) and reservoir on the Colorado River and temporarily impound therein not to exceed 86 acre-feet of water. The dam is located adjacent to the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

2. USE

Owner is authorized to divert and use not to exceed 168,000 acre-feet of water per annum from the Colorado River to irrigate a maximum of 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties.

Certificate of Adjudication 14-5434

3. DIVERSION

- A. Location:
At a point on the west bank of the Colorado River in the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.
- B. Maximum rate: 750.00 cfs (337,500 gpm).

4. PRIORITY

The time priority of owner's right is November 1, 1900.

5. SPECIAL CONDITIONS

- A. Owner shall maintain a suitable outlet in the aforesaid dam authorized herein to allow the free passage of water that owner is not entitled to divert or impound.
- B. The amount of water which the Garwood Irrigation Company is authorized to divert and use shall not exceed two acre-feet on any acre of land actually irrigated for crops other than rice.

The location of pertinent features related to this certificate are shown on Page 13 of the Lower Colorado River Segment Certificates of Adjudication Maps, copies of which are located in the office of the Texas Water Commission, Austin, Texas.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 264th Judicial District Court of Bell County, Texas, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987 and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to senior and superior water rights in the Colorado River Basin.

72807

THE STATE OF TEXAS, |
COUNTY OF COLORADO. | I, DARLENE HAYEK, Clerk of the
County Court, in and for Colorado County, Texas, do hereby
certify that the above and foregoing is a true and correct copy
of a Certificate of Adjudication from
Texas Water Commission to Garwood Irrigation Company
as the same appears of record in Volume 578, pages 199-202,
Deed Records, Colorado County, Texas.

WITNESS my hand and seal of office, at office in Columbus
Texas, on this the 11th day of August A. D. 1989.

Darlene Hayek, County Clerk
Colorado County, Texas.

By Sammie Teague
Sammie Teague, Deputy

7513

FILED FOR RECORD
1 day of Aug 8 1989
at 10:25 o'clock A.M.
DARLENE HAYEK
CLERK COUNTY COURT, COLORADO CO., TEX
By *Jammie Teague*
Deputy
SAMMIE TEAGUE

Blum to *John Paul*
1800 State St, Suite
816, Austin, TX 78701-2096
42 St. Howard Disposition Q.
P. O. Box 428
Howard, Texas
77042

Rec'd On 11/2

Recorded the 8 day of Aug. A.D. 1989 at 10:25 o'clock A.M.
DARLENE HAYEK, County Clerk By *Jammie Teague*, Deputy.

TEXAS WATER COMMISSION



AMENDMENT TO
CERTIFICATE OF ADJUDICATION

| | | | |
|-----------------|--|-----------|--|
| CERTIFICATE NO. | 14-5434A | PRIORITY | : November 1, 1900 |
| Name | : Garwood Irrigation Company | Address | : P.O. Box 428 Garwood, Texas 77442 |
| Filed | : October 26, 1992 | Granted | : March 3, 1993 |
| Purpose | : Irrigation, Municipal and Industrial | Counties | : Colorado and Wharton |
| Watercourse: | Colorado River | Watershed | : Colorado River Basin |

WHEREAS, Certificate of Adjudication No. 14-5434, as issued to Garwood Irrigation Company authorizes certificate owner the right to divert and use 168,000 acre-feet of water per annum from the Colorado River to irrigate 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties, Texas; and

WHEREAS, Garwood Irrigation Company is requesting additional authorization for municipal and industrial purposes for 35,000 acre-feet of water per annum out of the 168,000 acre-foot annual irrigation water right; and

WHEREAS, the Texas Water Commission finds that jurisdiction over the application is established.

NOW THEREFORE, this Certificate No. 14-5434A is issued to Garwood Irrigation Company subject to the following terms and conditions:

1. USE

In addition to the authorization in Paragraph 2. USE, of Certificate No. 14-5434, certificate owner is authorized to divert and use not to exceed 35,000 acre-feet per annum from the Colorado River, out of the 168,000 acre-foot annual irrigation authorization, for municipal and industrial purposes within the boundaries of owner's service area in Colorado and Wharton Counties, Texas.

2. DIVERSION

Certificate owner is authorized to divert water for all purposes of use authorized by this Certificate No. 14-5434A at the point of diversion authorized in Certificate No. 14-5434.

3. WATER CONSERVATION

- a. Certificate owner shall utilize water conservation practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.
- b. Prior to the use or sale of any water for municipal or industrial use, certificate owner shall file a water conservation plan for such purpose of use with the Commission in accordance with Commission Rules and guidelines, and it shall obtain a Commission Order approving such plan or amending this Certificate.
- c. If Certificate owner does not file a water conservation plan for the sale or use of water for municipal and industrial uses, within 10 years after the date of issuance of this amendment, then the 35,000 acre-feet of water per year authorized to be used for such purposes shall, upon the expiration of such 10-year period and without the Commission taking any further action, thereafter be authorized for irrigation only.

4. SPECIAL CONDITIONS

Nothing herein shall be construed to be a determination by the Commission that it will grant any future application by certificate owner, or by any other water right holder, to amend any water right to change the place of use, purposes of use, point of diversion, annual diversion or rate of diversion authorized under the water right as it exists at that time. All issues that may be relevant to any such proposed amendment and the impact of such amendment on other water right holders, including priority dates, shall be considered by the Commission at that time. Notice of any such application shall be given by the Commission to any affected person that gives the Commission a written request for such notices.

5. PRIORITY

The priority of this amendment is November 1, 1900.

This amendment is issued subject to all terms, conditions and provisions contained in Certificate No. 14-5434, except as specifically amended by this Certificate No. 14-5434A.

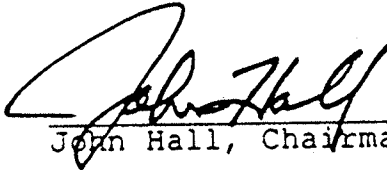
This amendment is issued subject to all superior and senior water rights in the Colorado River Basin.

Certificate owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Water Commission and to the right of continuing supervision of State water resources exercised by the Commission.

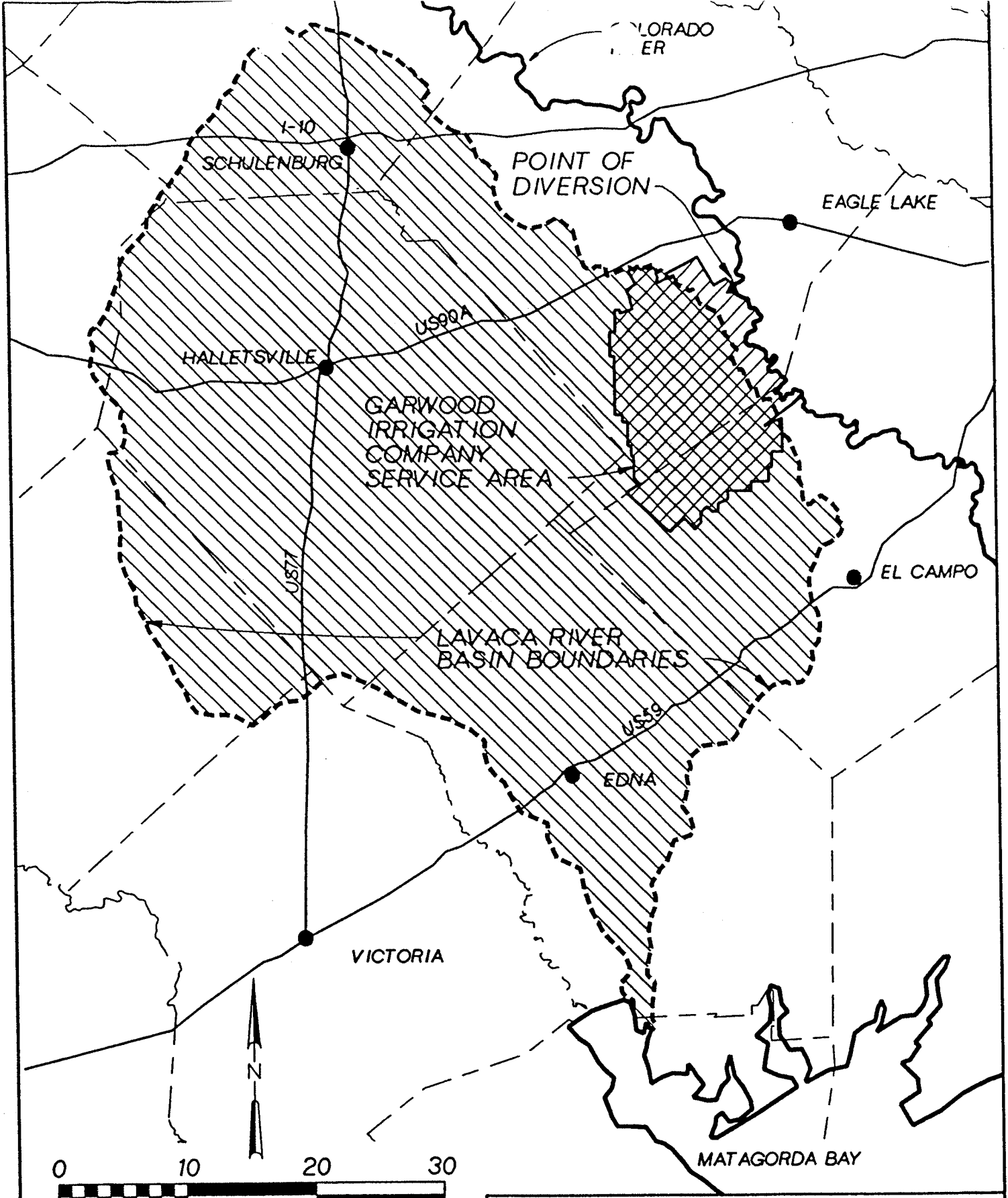
TEXAS WATER COMMISSION


John Hall, Chairman

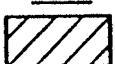
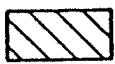
Date Issued: MAR 18 1993

ATTEST:

Mamie M. Black
for Gloria A. Vasquez, Chief Clerk



GARWOOD IRRIGATION COMPANY SERVICE AREA

- KEY:**
-  GARWOOD IRRIGATION COMPANY SERVICE AREA
 -  LAVACA RIVER BASIN BOUNDARIES

AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY

This Agreement is entered into as of the 22nd day of September, 1992, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City is a home rule city, organized and existing pursuant to the Constitution and laws of the State of Texas. Garwood is a Texas corporation.

The City has concluded that substantial additional supplies of water are needed to satisfy projected demands for water for municipal and industrial purposes within the City and its service area. The City is seeking to identify potential additional supplies, secure options to acquire those supplies, and then, during the option period, study the feasibility of acquisition and development of those supplies.

In pursuit of its goals, the City has recently acquired an option agreement originally entered into by and between the Port of Corpus Christi Authority and the Lavaca-Navidad River Authority ("LNRA") to purchase water from Lake Texana supplied by LNRA under Certificate of Adjudication No. 16-2095, as amended. The City also desires to investigate the potential for obtaining additional supplies of water from the Colorado River, either as an independent source of supply for the City, or as a source of supply to supplement or increase the amount of water that can be provided from Lake Texana. In furtherance of those desires, the City contacted Garwood to determine whether and to what extent Garwood may be able to assist.

Garwood holds rights to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434 ("Garwood's Right"), under which Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second for the irrigation of 32,000 acres of land within a much larger service area, with a priority date of November 1, 1900. Garwood's Right has the earliest priority date of all significant water rights in the Colorado River Basin. A substantial portion of Garwood's service area lies outside the Colorado River Basin.

Garwood's system as it presently exists has the capacity, and it has been used historically, to divert and use in excess of 130,000 acre-feet of water per year for irrigation purposes. For various reasons, Garwood has not yet fully developed its pumping facilities and canal system to facilitate the diversion and use of 168,000 acre-feet of water per year, as authorized under Garwood's Right. Most importantly, a long-standing dispute with the Lower

Colorado River Authority ("LCRA") placed the nature and extent of Garwood's independent water rights under a cloud for many years, effectively preventing expansion. That cloud has recently been removed by the conclusion of the adjudication and the recent issuance on June 28, 1989 by the Texas Water Commission (the "Commission") of Garwood's Certificate of Adjudication No. 14-5434, and by Garwood and LCRA entering into an agreement dated as of December 10, 1987 (the "LCRA Agreement"). In the LCRA Agreement, LCRA, among other things, recognizes Garwood's independent water right and agrees to firm up that right, on an interruptible basis, with stored water from Lakes Travis and Buchanan. LCRA further agrees not to charge Garwood for any stored water that may be needed to firm up the supply of water available under Garwood's Right, for so long as Garwood maintains the low water dam that is authorized under Garwood's Right. The LCRA Agreement is not a part of this Agreement.

Accordingly, Garwood is now free to pursue full development of its pumping facilities and canal system for irrigation purposes. Although the market for rice is not nearly as favorable today as it was years ago, when Garwood wanted to expand but was prevented from doing so, Garwood has nevertheless received several recent inquiries regarding expansion to supply water for rice irrigation. Additionally, increased use of water for other crops may also be feasible today.

Before Garwood pursues full development of its pumping facilities, canal system and irrigation alternatives, the City desires to evaluate the use of a portion of Garwood's Right for municipal and industrial purposes. The City desires to secure by option the price and terms for purchase by the City of a portion of Garwood's Right, and to evaluate during the option period the feasibility of utilizing such right to supply additional water to the Corpus Christi area for municipal and industrial purposes. Garwood believes that the use of such water for such purposes would be in the public interest, that the sale of a relatively small portion of Garwood's Right at this time would not have any adverse impact on the farmers on Garwood's system, and that the sale of such a portion of Garwood's Right would in fact provide substantial benefits to Garwood's farmers. Accordingly, Garwood is willing to grant an option to the City to purchase such a portion of Garwood's Right and, during the option period, not commit in excess of the remaining portion of its right on a long-term basis for the irrigation of rice or other crops.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree as follows:

1. Grant of Option. Garwood hereby grants to the City an option (the "Option") to purchase up to a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The City may purchase the entire 35,000 acre-foot-per-year portion or any

portion thereof; provided, however, that if the City purchases any portion of Garwood's Right, then the amount purchased shall be at least a 20,000 acre-foot-per-year portion. The priority of the portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided proportionately (Garwood's Remaining Right + 168,000 for Garwood, and Corpus Christi's Right + 168,000 for the City).

2. Purchase Price. The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of \$400.00 per acre-foot times the number of acre-feet specified by the City, in its written notice pursuant to Paragraph 5 or 6, below, as comprising the Corpus Christi Right.

3. Term of Option. The Option and this Agreement shall terminate without notice on March 1, 1994, unless the City before that date gives Garwood written notice to submit an application to amend Corpus Christi's right pursuant to Paragraph 6, below.

4. Option Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement, and the Monthly Payment (hereinafter defined) each month thereafter, each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which the Option and this Agreement are terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it conditionally exercising the Option pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to the Final Commission Date as defined in Paragraph 7, below, and \$5,000 for each payment due and payable thereafter.

5. Exercise of Option. At any time prior to termination of the Option and this Agreement, the City may exercise the Option by giving Garwood written notice of such exercise. The City shall pay Garwood the Amount Due within ninety (90) days after the date it so exercises the Option, or within ninety (90) days after the date it is deemed to exercise the Option pursuant to Paragraph 7, below. If the City has not previously given Garwood written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, then the City, in its written notice of exercise of the Option, shall specify the number of acre-feet per year that comprises Corpus Christi's Right. The Amount Due at any time shall be the sum of the Purchase Price, plus all accrued

interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of the Option and this Agreement, but in no event later than February 28, 1994, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). In that notice, the City shall specify the number of acre-feet per year comprising Corpus Christi's Right. Upon receipt of such notice, or upon receipt of the City's written notice of exercise of the Option pursuant to Paragraph 5, above, whichever first occurs, Garwood shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before February 28, 1994, then it shall also give to Garwood together with such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Conditional Exercise of Option. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Conditional Exercise the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order") and to have conditionally exercised the Option. If the Option and this Agreement are not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Commission or any court, then the City shall be deemed to exercise the Option on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Conditional Exercise" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of the Administrative Procedure and Texas Register Act, art. 6252-13a, V.T.C.S. ("APTRA"); (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 19(b) of APTRA; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City fully exercises the Option by paying the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 16(e) of APTRA; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Option. The City may terminate the Option and this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Conditional Exercise with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long

as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Conditional Exercise, then the City may not thereafter terminate this Option and this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. The Option and this Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then

the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Option and this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall automatically be deemed to fully exercise the Option and this Agreement upon the Final Date and the City shall pay Garwood the Amount Due within ninety (90) days after that date.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate the Option and this Agreement, by giving written notice of termination to the City, at any time after three years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of the Option and this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate the Option and this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives the City's notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of the Option and this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to fully exercise the Option by giving Garwood written notice of such exercise pursuant to Paragraph 5, above. If the City does give Garwood such written notice of exercise, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written notice of exercise within such thirty-day period, the Option and this Agreement shall terminate in its entirety. The City shall not object to withdrawal

of the Application by Garwood if the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement.

If the Option and this Agreement are terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit 1 (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. Notwithstanding anything herein to the contrary, under no circumstances

shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, the Option and this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump

station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1996, or the date the Option and this Agreement are terminated, or the Date of Conditional Exercise for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

11. Amendment of Corpus Christi's Right. Upon Garwood's receipt from the City of both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall seek to amend Corpus Christi's Right to:

(a) authorize the use of such water for municipal and industrial purposes;

(b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;

(c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and

(d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to testify in support of the Application, and to otherwise support the Application, and to seek intervention in any appeal from an

Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights and obligations to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or

will be lawfully available to make the payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
 City Manager
 City of Corpus Christi
 City Hall
 1201 Leopard
 Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
 Chairman and Chief Executive Officer
 Garwood Irrigation Company
 P. O. Box 428
 Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Arnold Chaz
City Secretary

By

Juan Garza
Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Nancy G Boyd
Secretary

By

William N. Lehrer
William N. Lehrer
Chairman and
Chief Executive Officer

Approved as to legal form:

J.R. Bray
James R. Bray Jr., City Attorney
9-22-92

Resolution 21995... AUTHORIZED

BY COUNCIL 9/22/92

ACSK
SECRETARY

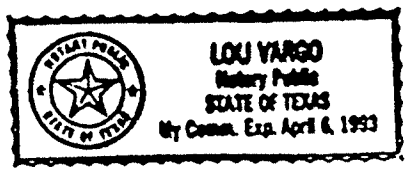
STATE OF TEXAS
COUNTY OF NUECES

§
§
§

vk 32 1158 71

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 24th day of September, 1992.



Lou Yargo
NOTARY PUBLIC STATE OF TEXAS

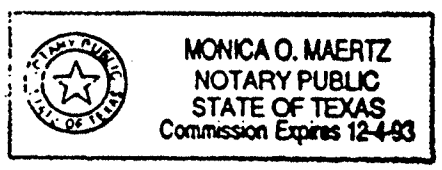
PRINTED NAME OF NOTARY
My Commission Expires _____

STATE OF TEXAS
COUNTY OF COLORADO

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 18th day of September, 1992.



Monica O. Maertz
NOTARY PUBLIC STATE OF TEXAS

Monica O. Maertz
PRINTED NAME OF NOTARY
My Commission Expires 12-4-93

EXHIBITS

VOL 32 PAGE 72

- Exhibit 1 Form of conveyance conveying Corpus Christi's Right to the City.
- Exhibit 2 Map defining Segment "A" of the Colorado River, on the reservoir created by Garwood's low water dam.
- Exhibit 3 Map defining Segment "B" of the Colorado River, upstream of the reservoir created by Garwood's low water dam.
- Exhibit 4 Map defining Segment "C" of the Colorado River, downstream of Garwood's low water dam.

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the ____ day of September, 1992 (the "Agreement"). Pursuant to the terms of the Agreement, by notice dated _____, 19__, Grantee specified that Corpus Christi's Right (as defined in the Agreement) consisted of a [Acre-Foot Specified] acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). The number of acre-feet-per-year so specified in the notice is hereinafter referred to as the "Acre-Foot Specified." Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989. A copy of that Certificate of Adjudication is attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use [Acre-Foot Specified] acre-feet of water per year from the Colorado

River for irrigation, at a rate of diversion not to exceed [Acre-Feet Specified + 168,000 x 750] cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use [168,000 - Acre-Feet Specified, but in any event not less than 133,000] acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Feet Remaining") from the Colorado River for irrigation, at a rate of diversion not to exceed [Acre-Feet Remaining + 168,000 x 750] cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [\$400.00 x Acre-Feet Specified], the date that Grantee exercised, or was deemed to have exercised, the Option (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$ _____], [\$ _____], and [\$ _____], respectively.]

[Pursuant to the terms of the Agreement and the _____, 19__ notice given by the City of Corpus Christi, Garwood submitted to the Texas Water Commission an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Water Commission, or was [granted or denied or dismissed] [in whole or in part] by the Water Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as specified by Grantee by its notice dated _____, 19__, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the

Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:
 - a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
 - b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right; and

- c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

STATE OF TEXAS §
COUNTY OF COLORADO §

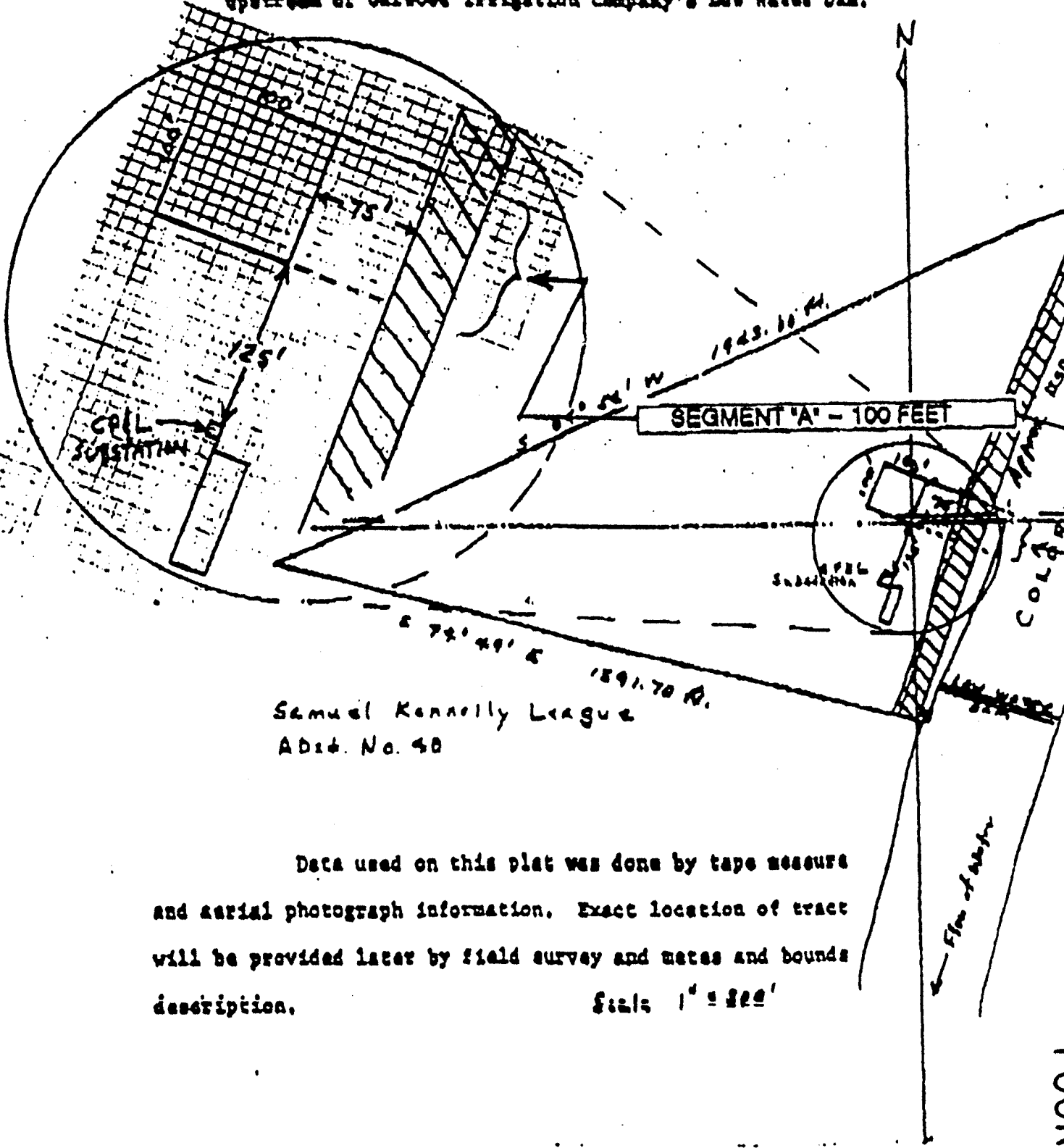
BEFORE ME, the undersigned authority, on this day personally appeared _____ of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 19__.

NOTARY PUBLIC STATE OF _____

PRINTED NAME OF NOTARY
My Commission Expires _____

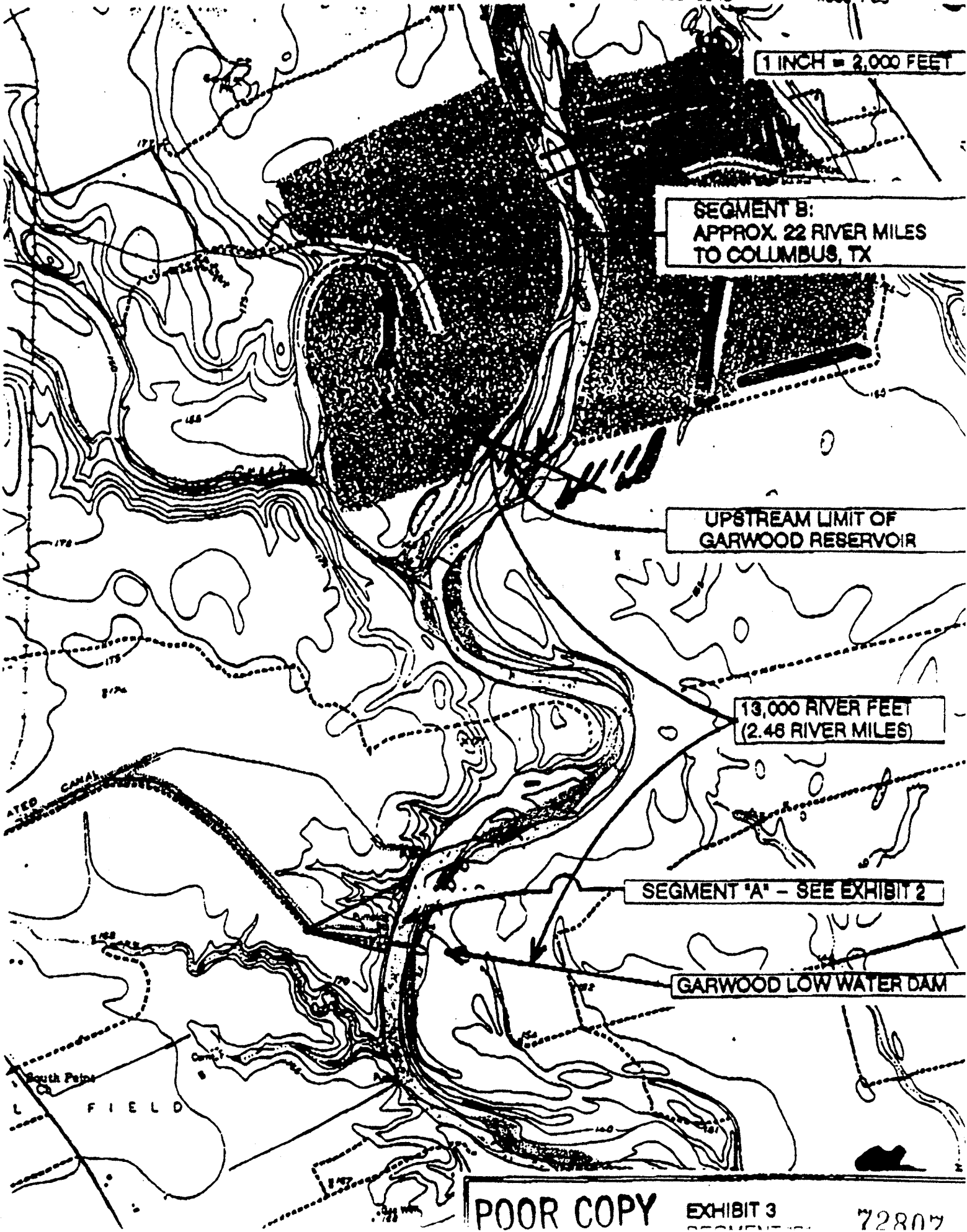
A plan defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



Samuel Kennelly League
A Dist. No. 40

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and metes and bounds description.

Scale 1" = 300'



1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

UPSTREAM LIMIT OF
GARWOOD RESERVOIR

13,000 RIVER FEET
(2.48 RIVER MILES)

SEGMENT 'A' - SEE EXHIBIT 2

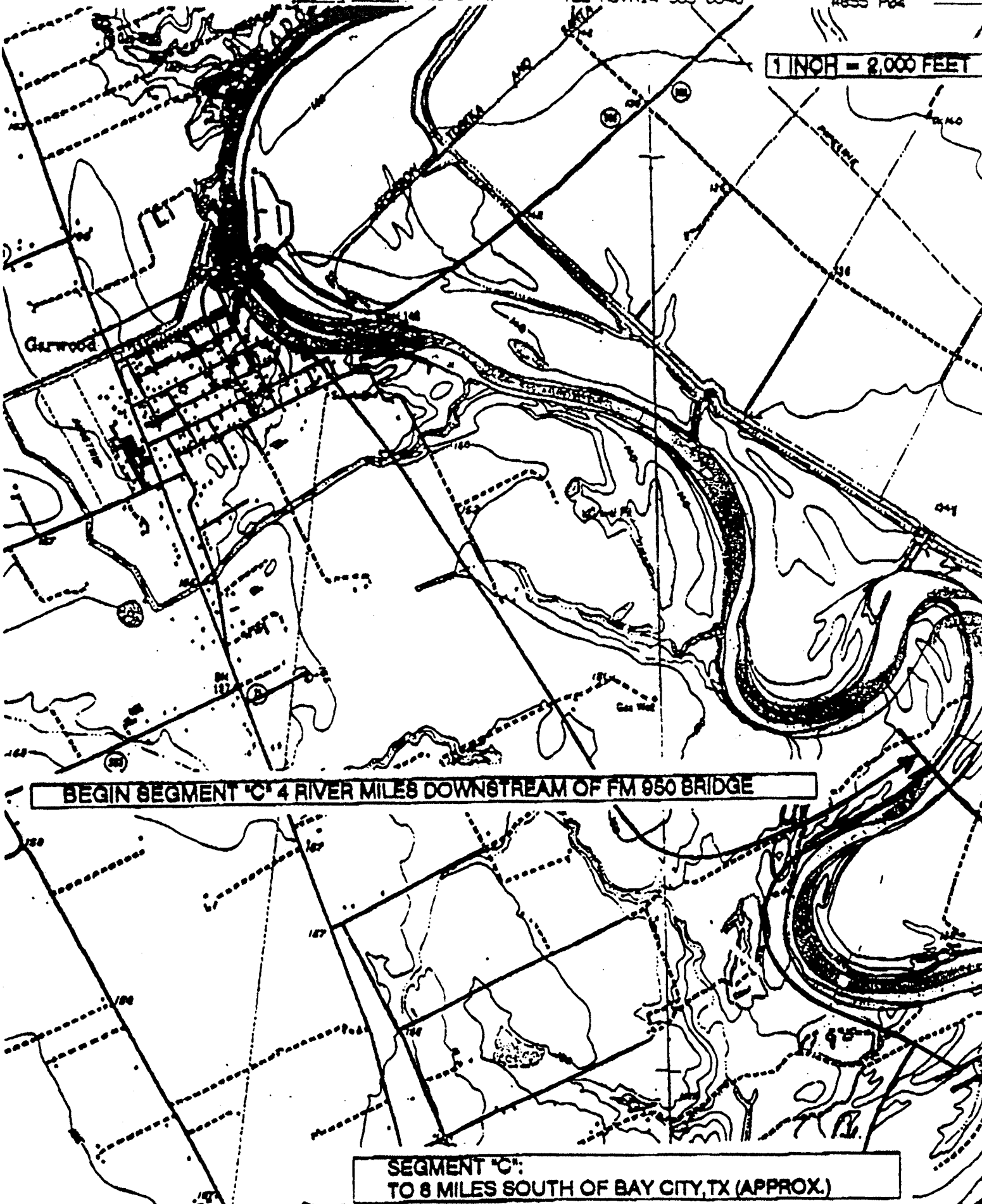
GARWOOD LOW WATER DAM

POOR COPY

EXHIBIT 3

72807

1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT 'C':
TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)

COMPARED

238777

Vol 32 PAGE 82

FILED FOR RECORD

3 day of Oct. 1992
at 7:50 o'clock P. M.

DARLENE HAYEK

CLERK COUNTY COURT, COLORADO CO., TEX

By *Helen Hammack*
Deputy

HELEN HAMMACK

*William H. Lebert
P.O. Box 428
Barrow, TX. 77442*

454.00

City of Corpus Christi

STATE OF TEXAS
COUNTY OF COLORADO

I hereby certify that this instrument was FILED on the
date and at the time aforesaid hereon by me and was duly
RECORDED in the Volume and Page of the *Official*
Records of Colorado County, Texas as stamped hereon by me.

OCT 7 1992



Darlene Hayek
DARLENE HAYEK
COLORADO COUNTY, TEXAS

72807

**EXERCISE OF OPTION
AND AMENDMENT TO
AGREEMENT BETWEEN THE
CITY OF CORPUS CHRISTI AND
GARWOOD IRRIGATION COMPANY**

This Exercise of Option and Amendment to Agreement is entered into as of the 22 day of February, 1994, by and between the City of Corpus Christi, Texas (the "City"), and Garwood Irrigation Company ("Garwood").

The City and Garwood entered into the Agreement as of the 22nd day of September, 1992. Since that time, the City has exercised its option with the Lavaca-Navidad River Authority ("LNRA") for the purchase of up to 41,840 acre-feet of water per year from Lake Texana. The City now desires to exercise its option with Garwood for the purchase of the full 35,000 acre-foot-per-year portion of Garwood's right to use the waters of the Colorado River under Certificate of Adjudication No. 14-5434, as amended by Certificate of Adjudication No. 14-5434A ("Garwood's Right"). The City also desires certain modifications to the Agreement to allow the City to delay further in requesting Garwood to submit the necessary application to the Texas Natural Resources Conservation Commission, if the City should determine that further delay is necessary or desirable.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the City and Garwood hereby agree that the Agreement is amended in its entirety to read as follows:

1. **Sale of Water Right.** Subject to the terms of this Agreement, Garwood agrees to sell to the City, and the City agrees to purchase from Garwood, a 35,000 acre-foot-per-year portion of Garwood's 168,000 acre-foot-per-year right. The priority of the 35,000 acre-foot-per-year portion purchased by the City ("Corpus Christi's Right") shall be subordinate in time priority and all other respects to the 133,000 acre-foot-per-year portion retained by Garwood ("Garwood's Remaining Right"). The maximum authorized diversion rate under Garwood's Right (750 cfs) shall be divided as follows: 600 cfs for Garwood's Remaining Right and 150 cfs for Corpus Christi's Right.

2. **Purchase Price.** The one-time price to be paid by the City to Garwood for the purchase of Corpus Christi's Right (the "Purchase Price") shall be the product of the Per-Acre-Foot Price (hereinafter defined) times 35,000 acre-feet per year. The "Per-Acre-Foot Price" shall depend upon the time period during which the City gives Garwood written notice either to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, whichever is earlier (the "First Notice"), as set forth in the following table:

| <u>Time Period During Which City Gives Garwood First Notice</u> | <u>Per-Acre-Foot Price</u> |
|---|----------------------------|
| after September 21, 1992 and before July 1, 1994 | \$400 |
| after June 30, 1994 and before January 1, 1995 | \$410 |
| after December 31, 1994 and before July 1, 1995 | \$420 |
| after June 30, 1995 and before January 1, 1996 | \$430 |
| after December 31, 1995 and before July 1, 1996 | \$440 |
| after June 30, 1996 and before January 1, 1997 | \$450 |

3. Term of Agreement. This Agreement shall terminate without notice on January 1, 1997, unless the City before that date gives Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below.

4. Monthly Payments. The City shall pay Garwood \$20,000 upon execution of this Agreement as of September 22, 1992, and an amount each month thereafter (the "Monthly Payment"), each Monthly Payment being due and payable on the first day of each month beginning on October 1, 1992, with the final payment due on the earlier of the following dates: (1) the first day of the month during which Garwood receives payment of the Amount Due (hereinafter defined) as provided by Paragraph 5, below; or (2) the first day of the month during which this Agreement is terminated. The City shall not be relieved of its obligation to make any payments under this Paragraph by reason of it giving to Garwood written notice to purchase Corpus Christi's Right pursuant to Paragraph 5, below, or written notice to submit an application to amend Corpus Christi's Right pursuant to Paragraph 6, below, or by it accepting any Commission Order pursuant to Paragraph 7, below, or by the occurrence of the Final Commission Date as defined in Paragraph 7, below. The "Monthly Payment" shall be \$10,000 for each payment due and payable on or prior to February 1, 1994, and \$25,000 for each payment due and payable thereafter.

5. Notice of Purchase. At any time prior to termination of this Agreement, the City may give Garwood written notice of purchase of Corpus Christi's Right ("Notice of Purchase"). The City shall pay Garwood the Amount Due within ninety (90) days after the date it gives Garwood such notice, or within ninety (90) days after the date it is deemed to have given Garwood such notice pursuant to Paragraph 7, below. The Amount Due at any time shall be

the sum of the Purchase Price, plus all accrued interest to that time on the Purchase Price pursuant to Paragraph 7, below, less all amounts paid to Garwood under Paragraph 4, above, less all amounts paid to Garwood as Reimbursable Application Costs under Paragraph 11, below.

6. Notice to Submit Application. At any time prior to termination of this Agreement, but in no event later than December 31, 1996, the City may give Garwood written notice to submit the application to amend Corpus Christi's right as described in Paragraph 11, below (the "Application"). Upon the City giving such notice, or upon the City giving Notice of Purchase pursuant to Paragraph 5, above, whichever first occurs, Garwood, if it has not already done so before that time, shall divide Garwood's Right into two separate and distinct portions: one being Corpus Christi's Right, and the other being Garwood's Remaining Right. From and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

If the City gives Garwood the written notice specified above on or before December 31, 1996, then it shall also give to Garwood within 30 days after such notice evidence satisfactory to Garwood (the "Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations that the City will or may incur by its failure to give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined). Garwood's satisfaction with the evidence submitted by the City shall not be unreasonably withheld.

7. Acceptance of Order. If the City does not give Garwood written notice of termination under Paragraph 8, below, before the Date of Acceptance (hereinafter defined) for any Order (hereinafter defined), then, on that Date of Acceptance the City shall automatically be deemed to have determined that Order to be acceptable to the City ("Acceptable Order"). If this Agreement is not subsequently terminated by Garwood, and if the Acceptable Order remains unchanged by the Texas Natural Resources Conservation Commission or its successor (the "Commission") or any court, then the City shall be deemed to have given Garwood Notice of Purchase under Paragraph 5, above, on the date that such Acceptable Order becomes final, as set forth below in this Paragraph 7. An "Order" is any decision or order of the Commission granting, denying or dismissing the Application in whole or in part. The "Date of Acceptance" for any Order is the tenth day after the date that the City, or its attorney of record in the hearing or other proceeding before the Commission on the Application, is notified of that Order.

The Acceptable Order shall become final within the meaning of this Agreement upon the earliest of the following dates (the "Final Date"): (1) in the absence of a timely motion for rehearing complaining of the Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; (2) in the absence of a timely petition to a District Court of Travis County appealing the Acceptable Order, on the expiration of the period of time for filing such a petition under Section 2001.176, Texas Government Code; or (3) upon entry by any court of competent jurisdiction of a non-appealable judgment or order affirming the Acceptable Order, or upon any such judgment or order becoming non-appealable.

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Commencing on the Final Commission Date (hereinafter defined), interest shall accrue on the Purchase Price at the Interest Rate (hereinafter defined), until such time as the City pays the Amount Due. The "Interest Rate" shall be the rate per annum equal to the lesser of: (1) the Prime Rate (hereinafter defined) of interest as it fluctuates, or (2) the maximum lawful rate which may be contracted for, charged, taken, received or reserved by Garwood in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that it permits Garwood to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all charges made in connection with this Agreement which are treated as interest under applicable law. The "Prime Rate" shall mean the base rate of interest per annum established from time to time by Chemical Banking Corp., New York, New York ("Chemical Bank") and designated as its prime rate. Fluctuations in the Prime Rate shall become effective on the date each such change in such Prime Rate is established by Chemical Bank.

The "Final Commission Date" shall be the earlier of the following dates: (1) in the absence of a timely motion for rehearing complaining of an Acceptable Order, on the expiration of the period of time for filing such a motion for rehearing under Section 2001.146, Texas Government Code; or (2) if a motion for rehearing complaining of an Acceptable Order is filed timely, on the date of rendition of the Commission order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

Nothing herein shall be construed as authorization for the City to delay payment of the Amount Due beyond ninety (90) days after the Final Date.

8. Termination of Agreement. The City may terminate this Agreement, by giving written notice of such termination to Garwood, at any time, except during any period of time beginning on the Date of Acceptance with respect to any Acceptable Order as defined in Paragraph 7, above, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8. If the City does not give Garwood written notice of termination prior to any such Date of Acceptance, then the City may not thereafter terminate this Agreement while that Acceptable Order remains unchanged by the Commission or any court, and if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time, except during any period of time beginning on the Final Commission Date with respect to any Acceptable Order as defined in Paragraph 7, above, with respect to any Acceptable Order, and continuing for so long as such Acceptable Order remains unchanged by the Commission or any court, and except as provided otherwise below in this Paragraph 8, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice.

If any court in an appeal from an Acceptable Order remands the case to the Commission for the Commission to enter a new Order, then, except as provided otherwise below in this

Paragraph 8, the Application shall be considered to be pending before the Commission prior to the Commission's entry of any Order and any Order subsequently entered by the Commission shall be subject to review by the City and Garwood pursuant to Paragraph 7, above.

If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then the City may terminate this Option and this Agreement by giving Garwood written notice of termination within ten days after being notified of such order. If any change is made to an Acceptable Order by the entry of an order by any court in an appeal from that Acceptable Order, and if the court does not remand the case to the Commission for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Option and this Agreement by giving the City written notice of termination before the deadline for Garwood to appeal that order, if Garwood should conclude in good faith at that time that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder. This Agreement shall terminate immediately upon the City's receipt of such notice. If neither party gives the other party notice of termination within the applicable time period for each party, then the Acceptable Order as so revised shall thereafter be deemed to be the Acceptable Order, neither the City nor Garwood may thereafter terminate this Agreement while such Acceptable Order remains unchanged by the Commission or any court and, if that Acceptable Order thereafter becomes final, then the City shall pay Garwood the Amount Due within ninety (90) days after the Final Date.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time if the City fails to make timely payment of any of the payments required by Paragraphs 4, above, and 11, below.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after thirty (30) days after the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the City had not also given Garwood the Required Evidence under Paragraph 6, above.

Garwood may terminate this Agreement, by giving written notice of termination to the City, at any time after three years from the date that the City gives Garwood written notice to submit the Application under Paragraph 6, above, if, prior to that time, the Commission had not entered any Order or, if it had entered an Order, no Final Commission Date with respect to any Acceptable Order had occurred. If a Final Commission Date with respect to an Acceptable Order does occur prior to termination of this Agreement, and if the Acceptable Order is appealed and the case is subsequently remanded to the Commission by any court for the Commission to enter a new Order that will be subject to review by the City and Garwood pursuant to Paragraph 7, above, then Garwood may terminate this Agreement by giving written notice to the City, at any time after five years from the date that Garwood receives written notice to submit the Application under Paragraph 6, above, if, at such time, there is no pending Order or, if there is such a pending Order, the Final Commission Date with respect to that Order has not yet occurred.

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Upon receipt of any notice of termination from Garwood, other than a notice of termination based on Garwood's concluding in good faith that continuation of this Agreement is likely to result in a material, adverse impact on Garwood's Right or the use or supply of water thereunder, the City shall have thirty (30) days to give Garwood written Notice of Purchase pursuant to Paragraph 5, above. If the City does give Garwood such written Notice of Purchase, then the City, pursuant to Paragraph 5, above, shall pay Garwood the Amount Due within ninety (90) days after the date it gives such notice. If Garwood does not receive such written Notice of Purchase within such thirty-day period, this Agreement shall terminate in its entirety. The City shall not object to withdrawal of the Application by Garwood if this Agreement is terminated by either party pursuant to the terms of this Agreement.

If this Agreement is terminated by either party pursuant to the terms of this Agreement, Garwood shall be entitled to retain all amounts paid by the City pursuant to this Agreement prior to such termination, and to recover from the City any amounts not paid but required to be paid pursuant to this Agreement prior to such termination. The City recognizes that the amounts to be retained by and paid to Garwood in the event of termination are in consideration of the extended period of time during which Garwood has agreed to refrain from committing in excess of Garwood's Remaining Right on a long term basis (that extended period of time began several years before the City finally entered into this Agreement, when the City first approached Garwood and requested it to hold a portion of its right in reserve for the City), and in consideration of the City's declining to purchase Corpus Christi's Right until the right is amended to its satisfaction, and in consideration of Garwood's agreeing to seek the amendment without any commitment from the City that it would purchase the right after the Commission acts. The City further recognizes that the amounts retained by and paid to Garwood in the event of termination should be the same regardless of which party terminates, so long as the termination is pursuant to this Agreement.

9. Conveyance of Right by Garwood. Upon receipt of payment of the Amount Due, Garwood shall convey Corpus Christi's Right, as it exists at that time (whether that be as it is created when Garwood divides Garwood's Right into two portions pursuant to Paragraph 6, above, or otherwise, or as it is amended by an Acceptable Order and subsequent court orders, if any, or as it is subject to amendment pursuant to a pending Application), to the City, by written conveyance in the form attached hereto as Exhibit 1 (the "Conveyance Document"), modified and completed as set forth below. The Conveyance Document shall be modified and completed as appropriate to accurately reflect Corpus Christi's Right, and other relevant facts, as they exist at the time. The modifications and completions shall include the following: provisions in the Conveyance Document that are within brackets shall be included as shown, modified, or deleted; numbers, dates or other information indicated as being needed shall be added; and choices indicated as needed to be made shall be made; all as appropriate to accurately reflect the facts as they exist at the time. Corpus Christi's Right, as conveyed to the City, shall prohibit the diversion of water from the point of diversion on the Colorado River authorized under Garwood's Right utilizing Garwood's pumping plant or otherwise, and the use of Garwood's canal system to convey such water, unless Garwood in its absolute discretion should agree otherwise. Corpus Christi's Right, as conveyed to the City, shall not be appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam.

Notwithstanding anything herein to the contrary, under no circumstances shall Garwood be required at any time to convey Corpus Christi's Right to the City if, and to the extent that, the number of acre-feet authorized to be diverted and used annually under Garwood's Remaining Right, as it exists at that time or as it may exist after the conclusion of any administrative or judicial proceeding that is pending at that time, is less than 133,000 acre-feet per year. If Garwood does convey Corpus Christi's Right to the City pursuant to this Paragraph, then, except as provided otherwise in Paragraph 10, below, this Agreement shall terminate upon such conveyance, and upon such termination the foregoing sentence shall have no further force or effect whatsoever.

10. Pump Station and Conveyance Facility. The City presently contemplates that it will construct a separate pump station and pipeline to convey water from the Colorado River to the City of Corpus Christi and its service area, either directly or via Lake Texana. At the present time, the City anticipates that the point of diversion for the pump station will be located on the west bank of the Colorado River, either on the small reservoir created by Garwood's low water dam, on land owned by Garwood, within Segment "A" as shown on Exhibit 2 attached hereto, or upstream of the small reservoir created by Garwood's low water dam, on land owned by third parties, within Segment "B" of the River as shown on Exhibit 3 attached hereto, or downstream of Garwood's low water dam, on land owned by third parties, within Segment "C" of the River as shown on Exhibit 4 attached hereto. Regardless of the location of the pump station, the conveyance of water from the Colorado River and from the pump station shall be by pipeline only, utilizing a route, design, and procedures for construction, operation, maintenance and repair that do not interfere with Garwood's irrigation and other operations. The City shall be responsible for obtaining all lands, easements and other interests in land necessary for such pump station and pipeline.

If the City should decide that it desires to investigate seriously the question of whether it should locate its pump station on the reservoir created by Garwood's low water dam, then it shall so advise Garwood, and both parties agree to negotiate in good faith to determine whether they can agree upon the terms and conditions of an agreement that would allow the City to purchase from Garwood a portion of the land within Segment "A" for a pump station to pump the water available under Corpus Christi's Right. Any such agreement must include terms and conditions adequately addressing all relevant issues, including the following: the size, location, and configuration of the site; the price and other terms for the purchase of the site; the financial and other contributions by the City towards the maintenance, operation, repair, replacement and improvement of the dam; the financial and other contributions by the City towards the maintenance, repair and stabilization of the river banks abutting the small reservoir created by the dam and immediately downstream of the dam; and safeguards to insure that the construction, operation, maintenance and repair of the pump station, the intake to the pump station and the pipeline from the pump station will not interfere with any of Garwood's operations.

The City agrees that, if for whatever reason it and Garwood are unable to reach such an agreement on or before the earliest of January 1, 1998, or the date this Agreement is terminated, or the Date of Acceptance for any Order, then the City shall not construct any pump station, or locate any point of diversion for any pump station, anywhere on either bank of the Colorado

River within a segment of the River upstream of Garwood's low water dam beginning at the dam and extending upstream to the most downstream point within Segment "B."

If Garwood conveys Corpus Christi's Right to the City pursuant to Paragraph 9, above, then the City shall determine, by not later than the date five years after the date of conveyance, whether it needs the full maximum rate of diversion conveyed as part of the right. Promptly after that date, the City shall convey back to Garwood any excess portion of the maximum rate of diversion conveyed to the City, as set forth below. If the City by such date does not submit plans for the pump station to the Commission for its approval, then the City shall convey back to Garwood any portion of the maximum rate of diversion conveyed to the City in excess of 100 cfs. If the City by such date does submit such plans for Commission approval, and if such plans reflect that the pump station will have a maximum rate of diversion less than the full maximum rate of diversion conveyed, then the City shall convey that excess back to Garwood.

11. Amendment of Corpus Christi's Right. Upon the City giving Garwood both the written notice to submit the Application and the Required Evidence under Paragraph 6, above, Garwood, to the extent that it has not already done so before that time, shall promptly prepare and submit the Application to the Commission. Garwood shall thereafter pursue the Application before the Commission and assist the Commission in defending any Acceptable Order against challenges by others in the courts. The Application shall, to the extent necessary, seek to amend Corpus Christi's Right to:

- (a) authorize the use of such water for municipal and industrial purposes;
- (b) authorize the diversion of such water from an undefined point of diversion on the west bank of the Colorado River within either Segment "A" on the Colorado River as shown on Exhibit 2, Segment "B" on the Colorado River as shown on Exhibit 3, or Segment "C" on the Colorado River as shown on Exhibit 4;
- (c) confirm that the right already exists, or grant the right, to divert such water from the Colorado River Basin and transfer it for use within Aransas, Atascosa, Bee, Duval, Jim Wells, Kleberg, Live Oak, McMullen, Nueces and San Patricio Counties; and
- (d) confirm that Corpus Christi's Right, as so amended, retains the November 1, 1900 priority date of Garwood's Right.

The Application shall be reviewed and approved by the City before it is submitted to the Commission.

The City agrees to seek intervention in any hearing or other proceeding on the Application as a party in support of the Application, to make its employees and consultants available to develop or assist in developing the necessary documents to be filed with the Commission as part of the Application or otherwise, to prepare and file as part of or in

conjunction with the Application a water conservation plan by the City in accordance with Commission Rules and guidelines if approval of such plan is needed for approval of the Application or if the filing of such plan is requested by the Commission or its staff, to testify in support of the Application and any water conservation plan that may be filed, and to otherwise support the Application, and to seek intervention in any appeal from an Acceptable Order as a party in support of such order, all at no cost to Garwood. The City shall reimburse Garwood for all reasonable and necessary costs incurred by Garwood in preparing, filing and pursuing such an amendment and in assisting the Commission in defending any Acceptable Order against challenges by others in the courts ("Reimbursable Application Costs"). Such costs shall include all reasonable and necessary costs incurred by Garwood for all legal, engineering and other assistance utilized by Garwood, as well as all expenses incurred by Garwood. Garwood shall submit an itemized bill to the City for all Reimbursable Application Costs on a monthly basis, and the City shall pay each bill within 30 days of receipt. Nothing in this Agreement shall prohibit or restrict Garwood in any way or at any time from seeking whatever amendments to Garwood's Water Right, and whatever modifications to Garwood's pumping facilities, canal system, and low water dam, that Garwood may desire.

12. LCRA Agreement. By this Agreement, Garwood is not granting any option or conveying any interest whatsoever in its LCRA Agreement. No interest in the LCRA Agreement shall be deemed to be appurtenant to Corpus Christi's Right, or shall otherwise be conveyed to the City with Corpus Christi's Right.

13. Tailwater from Garwood's Irrigation Operations. Garwood shall not be required to maintain any flows into Lake Texana from any tailwater, surplus water or return flow water whatsoever from Garwood's irrigation operations, and Garwood reserves the right to maintain control of such waters and to use, reuse and consume them entirely for irrigation purposes prior to their flowing from Garwood's service area, as such service area is defined by Certificate of Adjudication No. 14-5434.

14. Water Quality. Garwood makes no representations whatsoever with respect to the quality of water in the Colorado River, and it shall have no obligation whatsoever with respect to the quality of such waters.

15. No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their successors and assigns.

16. No Assignment. The City may not assign any of its rights or obligations under this Agreement to any other person or entity without first obtaining Garwood's written consent, which Garwood in its absolute discretion may withhold.

17. Source of Funds. Any payment required to be made by the City shall be paid only from lawfully available funds; provided, however, before the City incurs any obligation pursuant to this Agreement to make a particular payment to Garwood, the City shall take all actions necessary to insure that sufficient funds are or will be lawfully available to make the

payment by the date required under this Agreement. No Debt (hereinafter defined) is created by the City by entering into this Agreement, and no Debt can be created by the City pursuant to this Agreement unless and until the City fails to give Garwood written notice of termination under Paragraph 8, below, before the Date of Conditional Exercise for any Order. "Debt" means the term "debt" as such term is used in Art. 11, Sec. 5, Constitution of the State of Texas.

18. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

19. Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

20. Notice. Each notice under this Agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices to the City shall be addressed to:

Juan Garza
City Manager
City of Corpus Christi
City Hall
1201 Leopard
Corpus Christi, Texas 78401

and all notices to Garwood shall be addressed to:

William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Either party may change its address by giving written notice of such change to the other party.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and Garwood by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

Amador Chaga
City Secretary

By

Juan Garza
Juan Garza
City Manager

GARWOOD IRRIGATION COMPANY

ATTEST:

Secretary

By

William N. Lehrer
Chairman and
Chief Executive Officer

Approved 2-22-94
J. R. Bray
City Attorney

021872 AUTHORIZED
BY COUNCIL 2/22/94
ALSKK
SECRETARY

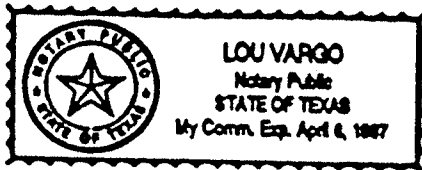
72807

STATE OF TEXAS §

COUNTY OF NUECES §

BEFORE ME, the undersigned authority, on this day personally appeared Juan Garza, City Manager of the City of Corpus Christi, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said City of Corpus Christi, Texas as duly authorized by the City Council of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 23rd day of February, 1994.



Lou Vargo
NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

STATE OF TEXAS §

COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE ____ day of _____, 1994.

NOTARY PUBLIC STATE OF TEXAS

PRINTED NAME OF NOTARY

My Commission Expires: _____

EXHIBITS

- Exhibit 1 Form of conveyance conveying Corpus Christi's Right to the City.
- Exhibit 2 Map defining Segment "A" of the Colorado River, on the reservoir created by Garwood's low water dam.
- Exhibit 3 Map defining Segment "B" of the Colorado River, upstream of the reservoir created by Garwood's low water dam.
- Exhibit 4 Map defining Segment "C" of the Colorado River, downstream of Garwood's low water dam.

CONVEYANCE OF WATER RIGHT

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

This Conveyance of Water Right (this "Conveyance") is made as of _____, 19__, by GARWOOD IRRIGATION COMPANY ("Grantor"), to THE CITY OF CORPUS CHRISTI ("Grantee").

This conveyance (this "Conveyance") is executed pursuant to the terms of that certain Agreement between Grantee and Grantor, entered into as of the 22nd day of September, 1992, as amended by Exercise of Option and Amendment of Agreement entered into as of the _____ day of _____, 1994 (such Agreement as so amended is hereafter referred to as the "Agreement"). Pursuant to the terms of the Agreement, Corpus Christi's Right (as defined in the Agreement) consisted of a 35,000 acre-foot-per-year portion of Garwood's Right (as defined in the Agreement). Garwood's Right, as defined in the Agreement, is reflected by Certificate of Adjudication No. 14-5434, issued by the Texas Water Commission on June 28, 1989, as amended by Certificate of Adjudication No. 14-5434A, issued by the Texas Water Commission on March 18, 1993. A copy of those Certificates of Adjudication are attached hereto as Exhibit A.

Pursuant to the terms of the Agreement, by instrument dated _____, 19__, Grantor divided Garwood's Right into two portions. Under one portion, defined in the Agreement as Corpus Christi's Right, Garwood [is or was] authorized to divert and use

35,000 acre-feet of water per year from the Colorado River for [authorized purpose or purposes of use], at a rate of diversion not to exceed 150 cubic feet per second ("cfs"). Under the other portion, defined in the Agreement as Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year (such number of acre-feet-per-year is hereinafter referred to as the "Acre-Foot Remaining") from the Colorado River for [authorized purpose or purposes of use], at a rate of diversion not to exceed 600 cfs. From and after the date of such division of Garwood's Right, the Portion of Garwood's Right defined as Corpus Christi's Right has been, and it now is, subordinate, in time priority and all other respects, to the portion defined as Garwood's Remaining Right.

Pursuant to the terms of the Agreement, the Purchase Price (as defined in the Agreement) for the purchase of Corpus Christi's Right is [35,000 acre-feet x the Per-Acre-Foot Price (as defined in the Agreement)], the date that Grantee gave, or was deemed to have given, the Notice of Purchase (as defined in the Agreement) was _____, 19__, [the Final Commission Date (as defined in the Agreement) was _____, 19__, and the accrued interest on the Purchase Price from the Final Commission Date to the date of payment of the Amount Due (as defined in the Agreement), the Reimbursable Application Costs (as defined in the Agreement), and the Amount Due, as of the date of this Conveyance, are [\$ _____], [\$ _____], and [\$ _____], respectively.]

[Pursuant to the terms of the Agreement and the notice given on _____, 19__ by the City of Corpus Christi, Garwood submitted to the Commission (as defined in the

Agreement) an application to amend Corpus Christi's Right (defined in the Agreement as the "Application"). The Application [is pending before the Commission, or was [granted or denied or dismissed] [in whole or in part] by the Commission by order dated _____, 19__ (the "Order")]. A copy of the Order is attached hereto as Exhibit B. The Order [became final on _____, 19__, or has not yet become final], as such term is defined in the Agreement.]

For and in consideration of the sum of [the Amount Due] and other good and valuable consideration to Grantor paid by Grantee, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and assign unto said Grantee, the Conveyed Water Right (hereinafter defined). The "Conveyed Water Right," as conveyed hereby, is Corpus Christi's Right as defined in the Agreement, [as such right is amended by the Order or as such right may be amended by the Water Commission pursuant to the Application], [as such right was modified by court order and/or is subject to judicial review], [together with all rights and obligations of Grantor in the Application or in any appeals from the Order pending as of the date of this Conveyance], subject to the following limitations, conditions and restrictions:

1. The Conveyed Water Right, and the rights of Grantee and its successors-in-interest in and to the Conveyed Water Right, are, and shall hereafter continue to be, subordinate in time priority and all other respects to Garwood's Remaining Right, and to the rights of Grantor and its successors-in-interest in and to Garwood's Remaining Right.

2. The Conveyed Water Right is not, and shall hereafter continue not to be, appurtenant in any respect to any of the facilities authorized or existing under Garwood's Right including, without limitation, Garwood's pumping facilities, canal system, and low water dam. No interest in any lands or any facility authorized or existing under Garwood's Right is hereby conveyed to Grantee. Unless Grantor in its absolute discretion should agree in writing otherwise, Grantee and its successors-in-interest are, and hereafter shall continue to be, prohibited from:

- a. diverting any water under the Conveyed Water Right from the point of diversion on the Colorado River authorized under Garwood's Right, utilizing Grantor's pumping facilities or otherwise;
- b. utilizing any portion of Grantor's canal system or other facilities to convey any water diverted under the Conveyed Water Right; and
- c. interfering in any way with Garwood's Remaining Right or the use or supply of water thereunder.

TO HAVE AND TO HOLD, the Conveyed Water Right as conveyed herein, together with all and singular the rights and appurtenances thereto in anywise belonging, except that which is reserved to Grantor and except that which is inconsistent in any way with any of the limitations, conditions and restrictions set forth in this Conveyance, unto the Grantee, its successors and assigns forever; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend the title to said Conveyed Water Right unto the said Grantee, its successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, said Grantor.

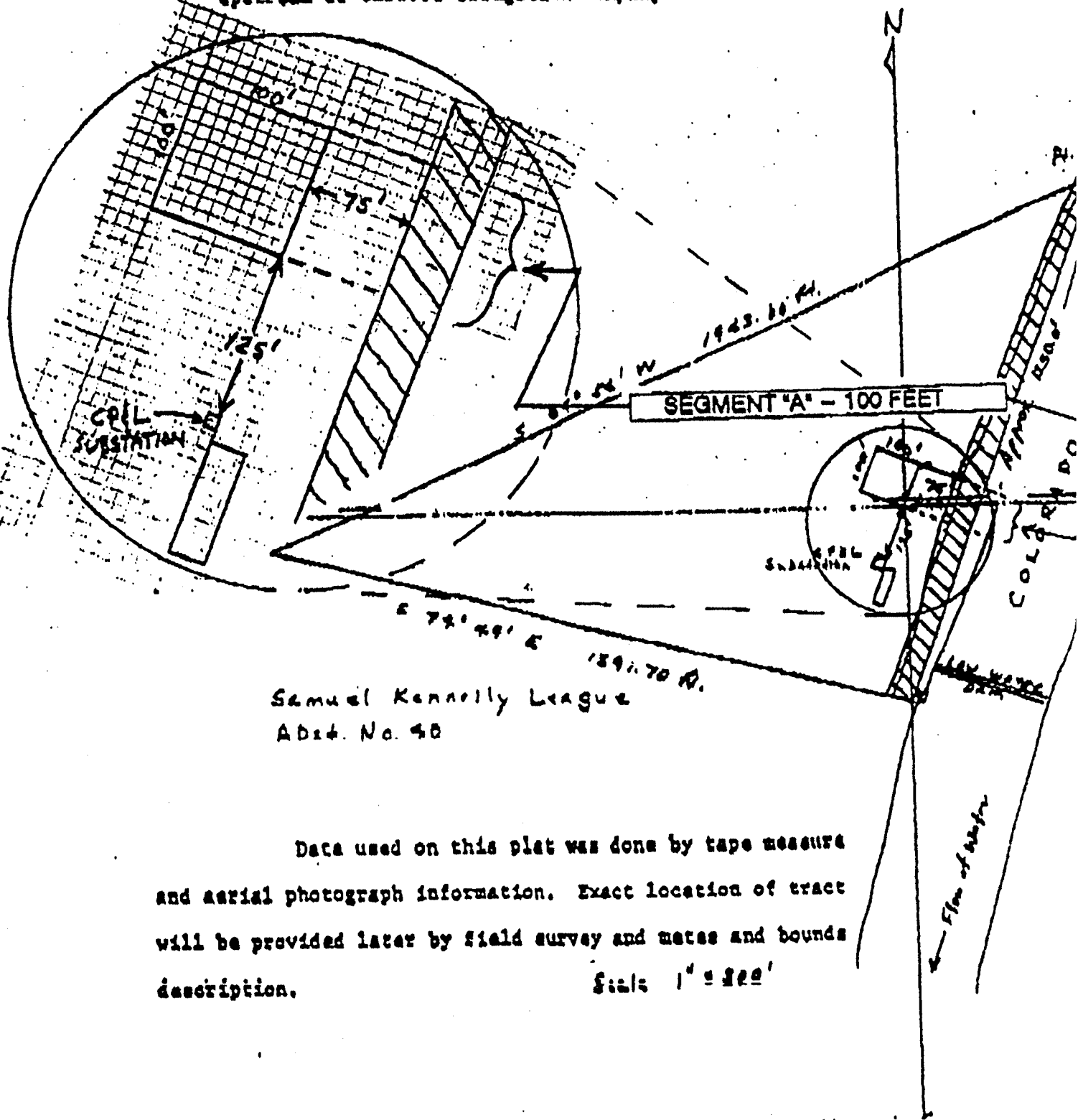
Executed this ____ day of _____, 19__.

GARWOOD IRRIGATION COMPANY

By: _____

ATTEST:

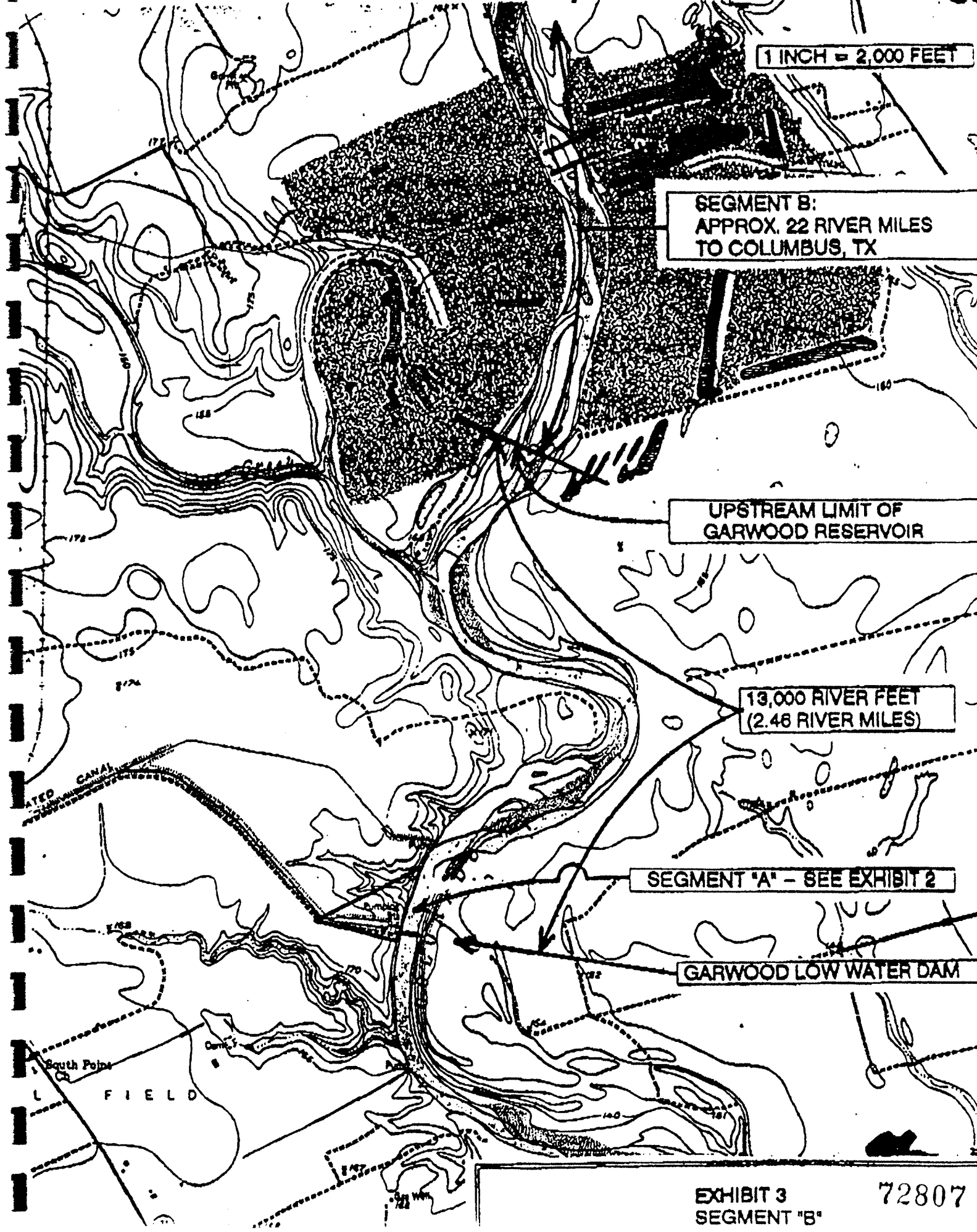
A plat defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



Samuel Kennolly League
Adst. No. 40

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and metes and bounds description.

Scale: 1" = 100'



1 INCH = 2,000 FEET

SEGMENT B:
APPROX. 22 RIVER MILES
TO COLUMBUS, TX

UPSTREAM LIMIT OF
GARWOOD RESERVOIR

13,000 RIVER FEET
(2.48 RIVER MILES)

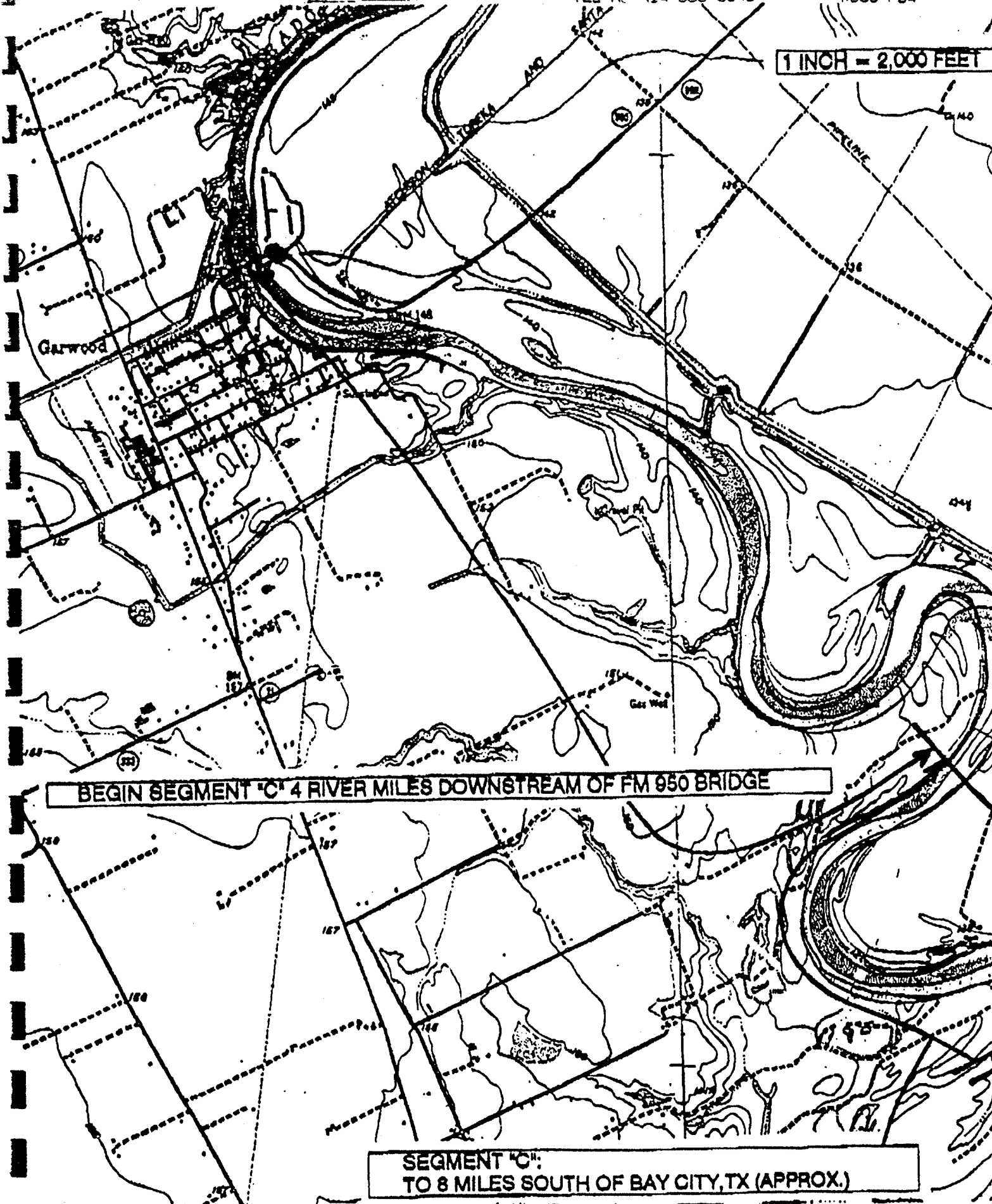
SEGMENT "A" - SEE EXHIBIT 2

GARWOOD LOW WATER DAM

EXHIBIT 3
SEGMENT "B"

72807

1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE

SEGMENT 'C':
TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)



November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P.O. Box 428
Garwood, Texas 77442

Dear Mr. Lehrer:

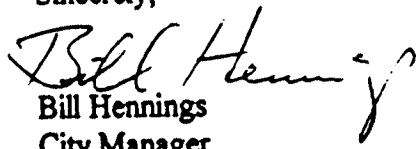
Pursuant to resolution of the Corpus Christi City Council of November 26, 1996, the City hereby gives to the Garwood Irrigation Company its Notice to Submit Application pursuant to Section 6 of the "Exercise of Option and Amendment to Agreement Between the City of Corpus Christi and Garwood Irrigation Company" dated February 22, 1994.

I am also submitting the Required Evidence pursuant to Section 6, which consists of this letter and the following attached documents: 1) a letter directed to you from Mr. Jim Seal, with M. E. Allison & Co., Inc., the City's Financial Advisor, 2) a copy of the City's adopted 1997-2001 Capital Improvement Plan, 3) a copy of the City's Comprehensive Annual Financial Report for the year ended July 31, 1995, and 4) a copy of the City Charter. Under its charter and the powers of home rule cities under State law, the City is authorized to purchase Corpus Christi's Right.

It is my present intention to recommend to the City Council that the purchase of Corpus Christi's Right under the contract be paid for out of revenue bonds. That is the plan presently reflected in the City's FY 1996-97 Capital Improvement Budget. The revenue bonds for Corpus Christi's Right would be issued without an election, as the outstanding bonds referenced in Mr. Seal's letter have been, and would be on a parity with the outstanding bonds. As Mr. Seal's letter indicates, however, the City does have additional sources of money on hand which the City Council could choose to use for the Purchase Price. The City for several years has budgeted this purchase among its capital improvement projects, and has the financial ability to complete the purchase.

Thank you very much for your assistance and cooperation. We look forward to working with you to complete the permitting and the acquisition.

Sincerely,


Bill Hennings
City Manager

cc: Mr. Roger Nevola

ATTACHMENT NO. 6

M. E. Allison & Co., Inc.

INVESTMENT BANKERS

112 East Pecan. Twelfth Floor

San Antonio, Texas 78205-1529

November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company
P. O. Box 428
Garwood, Texas 77442

Re: Agreement Between the City of Corpus Christi, Texas and Garwood
Irrigation Company (the "Garwood Contract")

Dear Mr. Lehrer:

This firm represents the City of Corpus Christi, Texas (the "City") in the capacity of Financial Advisor. We have acted in this capacity for over thirty-five years.

Under the terms of the Agreement Between the City and Garwood Irrigation Company ("Garwood"), upon conditional exercise by the City of the option agreement "the City is required to give Garwood within 30 days after such notice evidence satisfactory to Garwood ("the Required Evidence") that the City has at that time the legal authority and financial ability to perform all obligations that it will or may thereafter incur under this Agreement including, without limitation, all obligations the City will or may incur by its failure to give Garwood written notice of termination under Paragraph 8, below, the Date of Acceptance". The obligation the City would incur is approximately \$15,000,000.

In anticipation of exercising the Garwood option the City has budgeted \$15,000,000 in its FY 1996-1997 Capital Improvement Budget to be financed with revenue bonds.

Revenue bonds are a routine and customary method of municipal finance. The City's existing revenue bonds are summarized on Attachment A hereto. Revenue bonds can routinely be sold within 90 days of the City Council issuing its notice of intent to sell, and can be sold within 45 days on an expedited basis. The City's bond counsel, McCall, Parkhurst & Horton, has informed me that the City has the legal authority to issue revenue bonds without an election for the purpose of financing water rights acquisition. Based upon the City's most recent Capital Improvement Plan as adopted by the City Council for the next five years, and our knowledge of the City's Combined Utility System, it is our opinion that the City has and during that time

Continued

72807

November 26, 1996

Mr. William N. Lehrer
Chairman and Chief Executive Officer
Garwood Irrigation Company

Page 2

period will have the financial ability to meet all obligations which may be incurred under the conditional exercise provision of the City's option under the Garwood Contract.

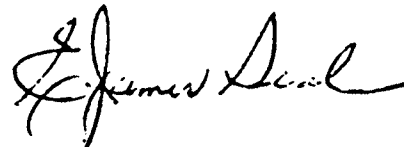
In addition to revenue bonds, the City presently has the following additional sources of funds from which any obligations under the Garwood Contract could be paid in cash:

- A. The Unreserved Utility System Fund Balance has an approximate balance as of July 31, 1996 in the amount of ~~\$29,116,000~~ ^{25,518,688}. (The City's annual audit is in process and will shortly confirm the exact amount.)
- B. The Choke Canyon Reserve Fund Balance has a balance as of July 31, 1996 in the amount of \$26,699,114.34.

Also, due to Congressional action in H.R. 3910, the U. S. Government has deferred all principal and interest payments without penalty or accrued interest for the next five year period on the contract between the City and U. S. Government relating to the Choke Canyon project. Under this legislation, the City commits to use the funds thus made available exclusively for the acquisition of or construction of facilities related to alternative sources of water supply. These deferred payments amount to approximately \$22,834,000. This source of funds would be available to the City on an annual basis and, while not sufficient at this time to make a full cash payment in connection with the Garwood Contract, these funds could be used to pay annual debt service on any revenue bonds issued for that purpose or reimbursement to any fund that advanced the funds for that purpose.

It is our opinion that the City has the financial ability to perform all obligations pursuant to the Garwood Contract as set forth above. Our opinion is based on the accuracy of the above fund balances and other factual information furnished to us by the City. This opinion is based upon the information provided as of the date hereof.

Sincerely,



E. James Seal
Executive Vice President

EJS:tp

72807

Attachment A

City of Corpus Christi, Texas
Utility System Revenue Bonds

Schedule of Outstanding Bonds
As of August 1, 1996

| <u>Priority Bonds</u> | <u>Amount Outstanding</u> |
|-------------------------------|-------------------------------|
| Series 1990 Bonds | \$ 51,440,000 |
| Series 1994 Bonds | 10,445,000 |
| Series 1994-A Bonds | 7,960,000 |
| Series 1995 Bonds | 14,305,000 |
| Series 1995-A Bonds | <u>26,820,000</u> |
| Total | <u>\$110,970,000</u> |

DIVISION OF WATER RIGHT

This Division of Water Right (this "Division") is made as of the ~~30th~~ day of January, 1997, by Garwood Irrigation Company ("Garwood"), as follows:

Garwood's Water Right

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A.

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within Garwood's service area in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within Garwood's service area.

Garwood's Right further authorizes the interbasin transfer of water, from the Colorado River Basin to the Lavaca River Basin. Under Garwood's Right, the water is authorized to be used anywhere within Garwood's service area. The TWC determined that Garwood's service area is comprised of two defined areas, designated by the TWC as "T-2000" and "T-2010" in the TWC's July 29, 1985 Final Determination adjudicating water rights in the Lower Colorado River Segment. This service area consists of over 155,000 acres of land, most of which lies within the Lavaca River Basin. A map showing the boundaries of Garwood's service area in relation to the Lavaca River Basin is attached as Attachment No. 3.

The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

Agreement with the City of Corpus Christi

Garwood and the City of Corpus Christi (the "City") entered into an agreement, dated as of September 22, 1992, whereby the City secured an option to purchase up to a 35,000 acre-foot-per-

year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this Division, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

**Notice by Corpus Christi Directing
Garwood to Submit the Application**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit the Application. A copy of such letter is attached hereto as Attachment No. 6.

**Division of Garwood's Water Right into Two
Separate and Distinct Portions: (1) "Corpus
Christi's Right," and (2) "Garwood's Remaining Right"**

NOW, THEREFORE, pursuant to the Corpus Agreement, Garwood hereby divides Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of this Division, Corpus Christi's Right is and it shall be subordinate, in time priority and all other respects, to Garwood's Remaining Right.

Executed as of the date first set forth above.

GARWOOD IRRIGATION COMPANY

By: William N. Lehrer
William N. Lehrer, Chairman and
Chief Executive Officer

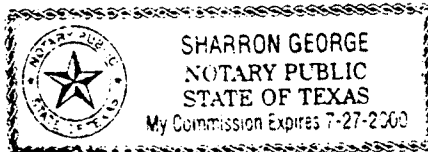
ATTEST:

Ralph A. Larson

STATE OF TEXAS §
 §
COUNTY OF COLORADO §

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 30th day of January, 1997.

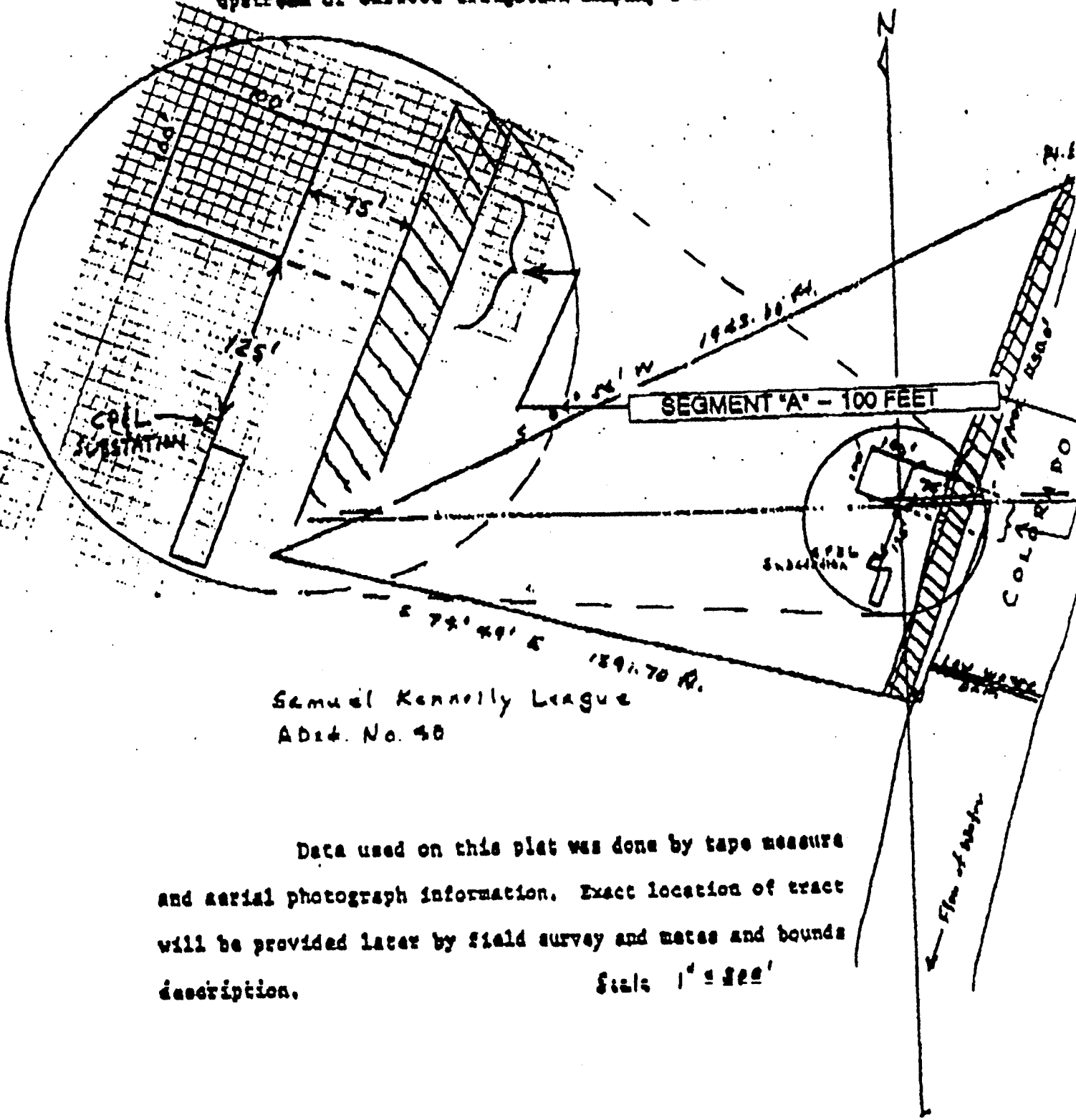


Sharron George
NOTARY PUBLIC STATE OF TEXAS

Sharron George
PRINTED NAME OF NOTARY

My Commission Expires: 7-27-2000

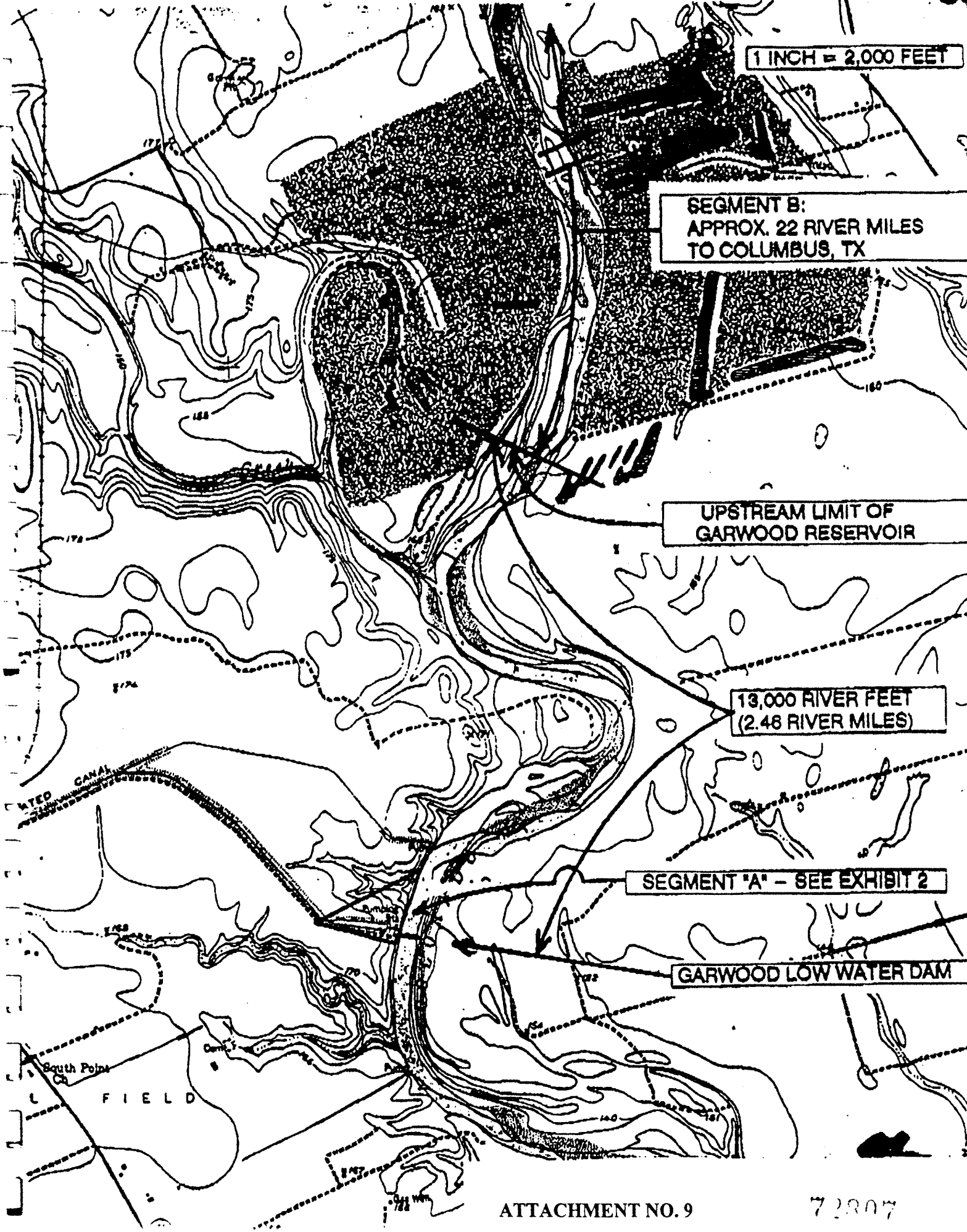
A plat defining Segment "A" of the Colorado River upstream of Garwood Irrigation Company's Low Water Dam.



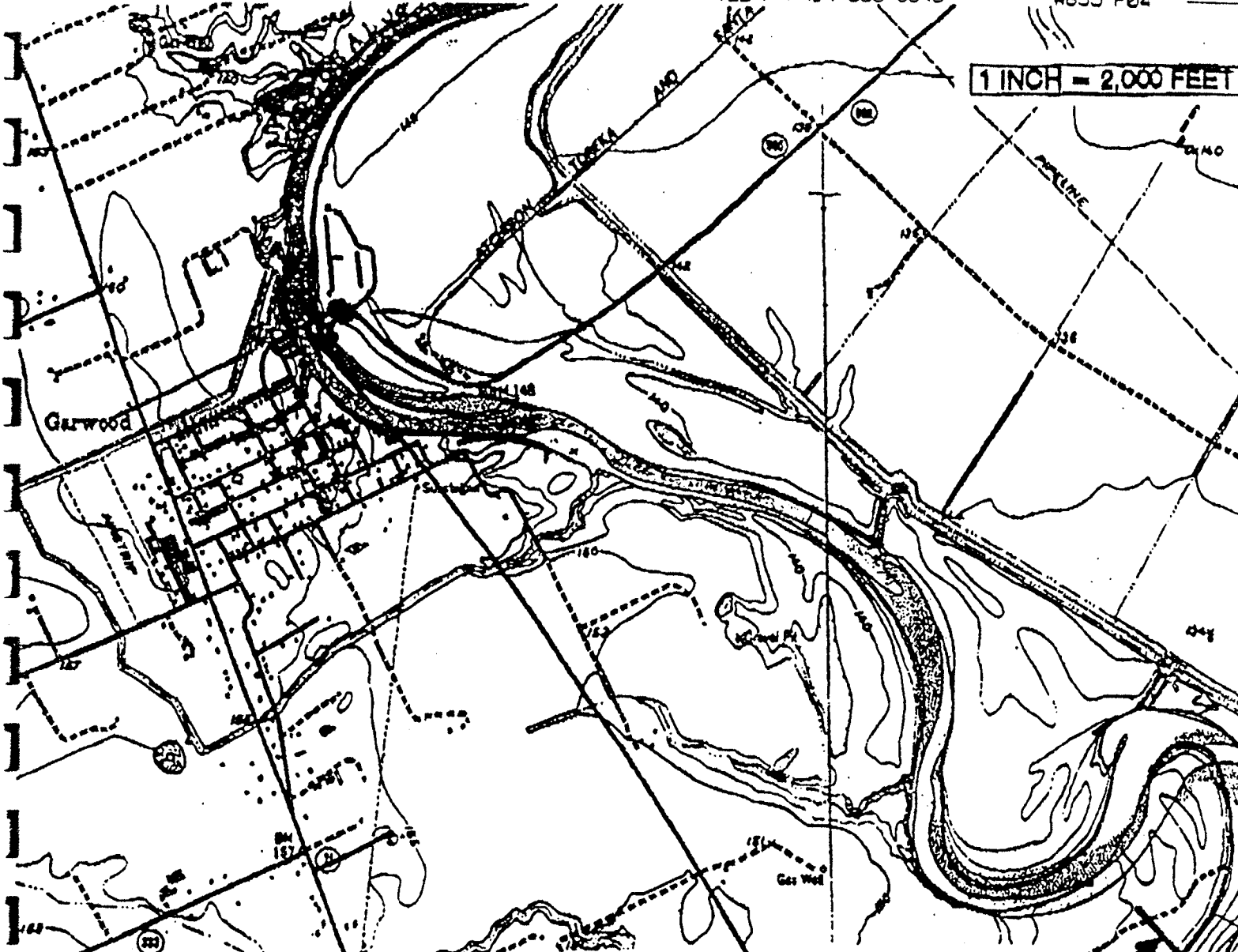
Samuel Kennelly League
Adit. No. 40

Data used on this plat was done by tape measure and aerial photograph information. Exact location of tract will be provided later by field survey and notes and bounds description.

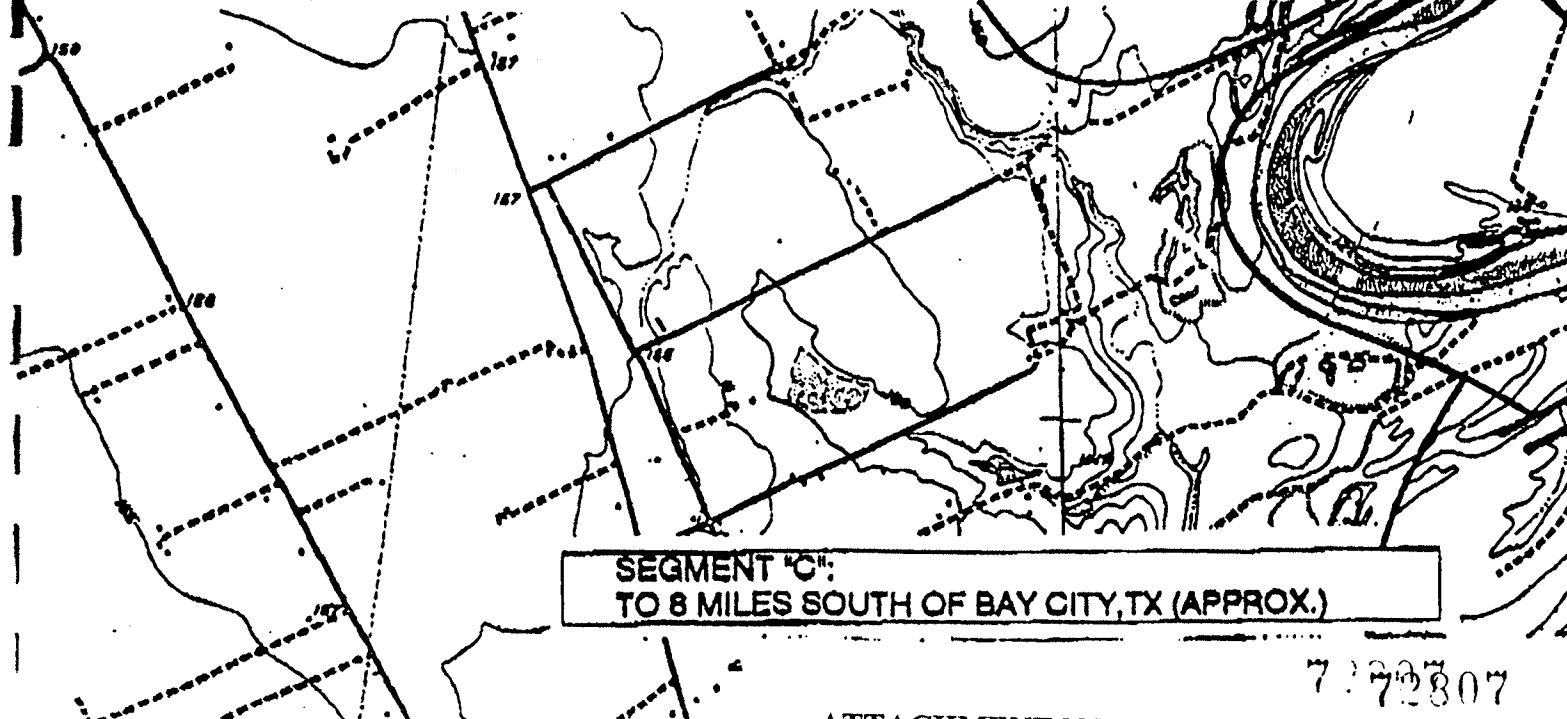
Scale 1" = 100'



1 INCH = 2,000 FEET



BEGIN SEGMENT 'C' 4 RIVER MILES DOWNSTREAM OF FM 950 BRIDGE



SEGMENT 'C':
TO 8 MILES SOUTH OF BAY CITY, TX (APPROX.)

772807

DIVISION OF WATER RIGHT

This Division of Water Right (this "Division") is made as of the 30th day of January, 1997, by Garwood Irrigation Company ("Garwood"), as follows:

Garwood's Water Right

Garwood Irrigation Company ("Garwood") holds Certificate of Adjudication No. 14-5434, as amended by Certificate No. 14-5434A. Certificate of Adjudication No. 14-5434 was issued by the Texas Water Commission (the "TWC"), predecessor of the Texas Natural Resource Conservation Commission ("Commission"), on June 28, 1989. A copy of Certificate No. 14-5434 is attached as Attachment No. 1. Certificate of Adjudication No. 14-5434A was issued by the TWC on March 18, 1993. A copy of Certificate of Adjudication No. 14-5434A is attached hereto as Attachment No. 2. Certificate No. 14-5434, as amended by Certificate No. 14-5434A, is hereinafter referred to as either "Certificate No. 14-5434A" or "Garwood's Right."

Under Garwood's Right, Garwood has the right to divert and use 168,000 acre-feet of water per year of the run-of-river flow of the Colorado River at a maximum diversion rate of 750 cubic feet per second. The authorized diversion point is on the west bank of the Colorado River in Colorado County, on the small reservoir created by Garwood's low water dam authorized under Certificate of Adjudication No. 14-5434A.

The entire 168,000 acre-feet per year is authorized to be used for the irrigation of lands within Garwood's service area in Colorado and Wharton Counties. In addition, 35,000 acre-feet per year, out of the 168,000 acre-feet per year, is authorized to be used for municipal and industrial purposes within Garwood's service area.

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The rights recognized by the TWC under Certificate of Adjudication No. 14-5434A are based on Certified Filing No. 398, which has a priority date of November 1, 1900. All rights under Garwood's Right carry this November 1, 1900 priority date.

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year portion of Garwood's Right. A copy of that agreement is attached as Attachment No. 4. The September 22, 1992 agreement was amended by agreement dated as of February 22, 1994, a copy of which is attached as Attachment No. 5. Pursuant to the February 22, 1994 agreement, entitled "Exercise of Option and Amendment," the City exercised its option to the extent that it decided it would purchase the entire 35,000 acre-foot-per-year portion of Garwood's water right. The September 22, 1992 agreement, as amended by the February 22, 1994 agreement, is hereinafter referred to as the "Corpus Agreement."

Pursuant to the Corpus Agreement, the City had the right, at any time on or before December 31, 1996, to give Garwood written notice to prepare and submit an application for certain amendments to the 35,000 acre-foot-per-year portion of Garwood's Right to be purchased by the City (such portion is referred to in the Corpus Agreement, and in this Division, as "Corpus Christi's Right").

The Corpus Agreement provides that Garwood, upon its receipt of such notice, shall divide Garwood's Right into two separate and distinct portions: One being Corpus Christi's Right, and the other being "Garwood's Remaining Right." The Corpus Agreement provides that from and after the date of such division, Corpus Christi's Right shall be subordinate in time priority and all other respects to Garwood's Remaining Right.

**Notice by Corpus Christi Directing
Garwood to Submit the Application**

By letter dated November 26, 1996, the City gave Garwood the required notice to submit the Application. A copy of such letter is attached hereto as Attachment No. 6.

**Division of Garwood's Water Right into Two
Separate and Distinct Portions: (1) "Corpus
Christi's Right," and (2) "Garwood's Remaining Right"**

NOW, THEREFORE, pursuant to the Corpus Agreement, Garwood hereby divides Garwood's Right into two separate and distinct portions: (1) Corpus Christi's Right; and (2) Garwood's Remaining Right.

Under Corpus Christi's Right, Garwood is authorized to divert and use 35,000 acre-feet of water per year from the Colorado River for irrigation, municipal and industrial purposes, at a rate of diversion not to exceed 150 cfs.

Under Garwood's Remaining Right, Garwood is authorized to divert and use 133,000 acre-feet of water per year for irrigation, at a rate of diversion not to exceed 600 cfs.

From and after the date of this Division, Corpus Christi's Right is and it shall be subordinate, in time priority and all other respects, to Garwood's Remaining Right.

Executed as of the date first set forth above.

GARWOOD IRRIGATION COMPANY

By: William N. Lehrer
William N. Lehrer, Chairman and
Chief Executive Officer

ATTEST:

Ralph A. Larson

STATE OF TEXAS

§

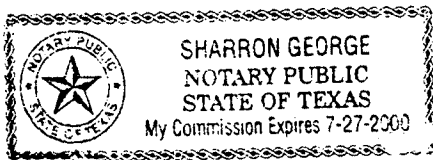
§

COUNTY OF COLORADO

§

BEFORE ME, the undersigned authority, on this day personally appeared William N. Lehrer, Chairman and Chief Executive Officer of Garwood Irrigation Company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, and as the act and deed of said Garwood Irrigation Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 30th day of January, 1997.



Sharron George
NOTARY PUBLIC STATE OF TEXAS

Sharron George
PRINTED NAME OF NOTARY

My Commission Expires: 7-27-2000

CERTIFICATE OF ADJUDICATION

CERTIFICATE OF ADJUDICATION: 14-5434 OWNER: Garwood Irrigation Company
P.O. Box 428
Garwood, Texas 77442

COUNTIES: Colorado and Wharton PRIORITY DATE: November 1, 1900

WATERCOURSE: Colorado River BASIN: Colorado River

WHEREAS, by final decree of the 264th Judicial District Court of Bell County, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987, a right was recognized under Certified Filing 398, as amended, authorizing the Garwood Irrigation Company to appropriate waters of the State of Texas as set forth below:

WHEREAS, subsequent to the entry of such final judgment and decree, Garwood entered into an agreement with the Lower Colorado River Authority ("LCRA") dated as of December 10, 1987 (the "Agreement") whereby LCRA agrees to provide to Garwood under certain terms and conditions water stored in Lakes Buchanan and Travis authorized by Certificates of Adjudication Nos. 14-5478 and 14-5482;

WHEREAS, the Agreement further provides that Garwood will submit Permits Nos. 1506 and 1790 (Certified Filings Nos. 398A and 398B, respectively), to the Commission for cancellation; provided, however, that such cancellation shall not in any way affect Garwood's rights to the run-of-river flow of the Colorado River under Certified Filing No. 398, as amended;

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

1. IMPOUNDMENT

Owner is authorized to maintain an overflow type structure (low water dam) and reservoir on the Colorado River and temporarily impound therein not to exceed 86 acre-feet of water. The dam is located adjacent to the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

2. USE

Owner is authorized to divert and use not to exceed 168,000 acre-feet of water per annum from the Colorado River to irrigate a maximum of 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties.

Certificate of Adjudication 14-5434

3. DIVERSION

A. Location:

At a point on the west bank of the Colorado River in the Samuel Kennelly Grant, Abstract 30, Colorado County, Texas.

B. Maximum rate: 750.00 cfs (337,500 gpm).

4. PRIORITY

The time priority of owner's right is November 1, 1900.

5. SPECIAL CONDITIONS

A. Owner shall maintain a suitable outlet in the aforesaid dam authorized herein to allow the free passage of water that owner is not entitled to divert or impound.

B. The amount of water which the Garwood Irrigation Company is authorized to divert and use shall not exceed two acre-feet on any acre of land actually irrigated for crops other than rice.

The location of pertinent features related to this certificate are shown on Page 15 of the Lower Colorado River Segment Certificates of Adjudication Maps, copies of which are located in the office of the Texas Water Commission, Austin, Texas.

This certificate of adjudication is issued subject to all terms, conditions and provisions in the final decree of the 264th Judicial District Court of Bell County, Texas, in Cause No. 115,414-A, In Re: The Adjudication of Water Rights in the Lower Colorado River Segment of the Colorado River Basin dated September 22, 1987 and modified by Order dated November 24, 1987 and supersedes all rights of the owner asserted in that cause.

This certificate of adjudication is issued subject to senior and superior water rights in the Colorado River Basin.

72807

THE STATE OF TEXAS, |

COUNTY OF COLORADO. |

I, DARLENE HAYEK, Clerk of the
County Court, in and for Colorado County, Texas, do hereby
certify that the above and foregoing is a true and correct copy
of a Certificate of Adjudication from

Texas Water Commission to Garwood Irrigation Company
as the same appears of record in Volume 578 , pages 199-202,
Deed Records, Colorado County, Texas.

WITNESS my hand and seal of office, at office in Columbus
Texas, on this the 11th day of August A. D. 1989 .

Darlene Hayek, County Clerk
Colorado County, Texas.

By *Sammie Teague*
Sammie Teague, Deputy

72807

7513

FILED FOR RECORD
____ day of Aug 1989
at 10:25 o'clock A M
DARLENE HAYEK
CLERK COUNTY COURT, COLORADO CO., TEX
By Sammie Teague
Deputy
SAMMIE TEAGUE

Blum & John P. Pugh
Simon, Ellens
1800 S. 1st St., Suite 100
816 Arapahoe St.
Golden, CO 80601-2096
W. H. Woodward Divulgeton Co.
P.O. Box 428
Harwood, Texas
77042

Red Book

Recorded the 8 day of Aug. A.D. 1989 at 10:25 o'clock A . M.
DARLENE HAYEK, County Clerk By Sammie Teague, Deputy.

TEXAS WATER COMMISSION



AMENDMENT TO CERTIFICATE OF ADJUDICATION

| | |
|--|--|
| CERTIFICATE NO. 14-5434A | PRIORITY : November 1, 1900 |
| Name : Garwood Irrigation Company | Address : P.O. Box 428 Garwood, Texas 77442 |
| Filed : October 26, 1992 | Granted : March 3, 1993 |
| Purpose : Irrigation, Municipal and Industrial | Counties : Colorado and Wharton |
| Watercourse: Colorado River | Watershed : Colorado River Basin |

WHEREAS, Certificate of Adjudication No. 14-5434, as issued to Garwood Irrigation Company authorizes certificate owner the right to divert and use 168,000 acre-feet of water per annum from the Colorado River to irrigate 32,000 acres of land within the boundaries of Owner's service area in Colorado and Wharton Counties, Texas; and

WHEREAS, Garwood Irrigation Company is requesting additional authorization for municipal and industrial purposes for 35,000 acre-feet of water per annum out of the 168,000 acre-foot annual irrigation water right; and

WHEREAS, the Texas Water Commission finds that jurisdiction over the application is established.

NOW THEREFORE, this Certificate No. 14-5434A is issued to Garwood Irrigation Company subject to the following terms and conditions:

1. USE

In addition to the authorization in Paragraph 2. USE, of Certificate No. 14-5434, certificate owner is authorized to divert and use not to exceed 35,000 acre-feet per annum from the Colorado River, out of the 168,000 acre-foot annual irrigation authorization, for municipal and industrial purposes within the boundaries of owner's service area in Colorado and Wharton Counties, Texas.

2. DIVERSION

Certificate owner is authorized to divert water for all purposes of use authorized by this Certificate No. 14-5434A at the point of diversion authorized in Certificate No. 14-5434.

3. WATER CONSERVATION

- a. Certificate owner shall utilize water conservation practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses.
- b. Prior to the use or sale of any water for municipal or industrial use, certificate owner shall file a water conservation plan for such purpose of use with the Commission in accordance with Commission Rules and guidelines, and it shall obtain a Commission Order approving such plan or amending this Certificate.
- c. If Certificate owner does not file a water conservation plan for the sale or use of water for municipal and industrial uses, within 10 years after the date of issuance of this amendment, then the 35,000 acre-feet of water per year authorized to be used for such purposes shall, upon the expiration of such 10-year period and without the Commission taking any further action, thereafter be authorized for irrigation only.

4. SPECIAL CONDITIONS

Nothing herein shall be construed to be a determination by the Commission that it will grant any future application by certificate owner, or by any other water right holder, to amend any water right to change the place of use, purposes of use, point of diversion, annual diversion or rate of diversion authorized under the water right as it exists at that time. All issues that may be relevant to any such proposed amendment and the impact of such amendment on other water right holders, including priority dates, shall be considered by the Commission at that time. Notice of any such application shall be given by the Commission to any affected person that gives the Commission a written request for such notices.