

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF HEARING

POPEK & SON
SOAH Docket No. 582-17-1123
TCEQ Docket No. 2015-1645-WR
Application No. 12496

APPLICATION.

Popek and Son, 2501 Marguerite Street, Bay City, Texas 77414, Applicant, seeks a Water Use Permit pursuant to Texas Water Code §§ 11.121 and 11.042 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) § 295.1, *et seq.*

Popek and Son has applied for a water use permit to use the bed and banks of an unnamed drainage ditch, tributary of Hardeman Slough, tributary of Caney Creek, Brazos-Colorado Coastal Basin, to convey 200 acre-feet of groundwater per year for subsequent diversion for agricultural purposes in Matagorda County.

Applicant seeks authorization to maintain an existing dam and reservoir on an unnamed drainage ditch, tributary of Hardeman Slough, tributary of Caney Creek, Brazos-Colorado Coastal Basin, for agricultural purposes, and to use the bed and banks of the reservoir to convey 200 acre-feet of groundwater for subsequent diversion for agricultural purposes to irrigate 60 acres out 123.08 acre tract in Matagorda County.

The reservoir has a capacity of 4.2 acre-feet and a surface area of 1.38 acres. A point on the centerline of the dam is N 36.1875°E, bearing N 70°E, 2,230 feet from the southwest corner of the I & G N RR Co. Original Survey No. 3, Lot 10, Abstract No. 252, in Matagorda County, Texas, also being at Latitude 29.065805°N, Longitude 95.942797°W. Applicant indicates the reservoir is located in zip code 77414.

The Applicant proposes to use groundwater from the Chicot Aquifer to maintain the reservoir at a constant elevation in order to pass inflows of state water.

Groundwater will be discharged into the on-channel reservoir. The Discharge Point is at Latitude 29.073903°N and Longitude 95.951802°W, bearing N 8°W, 3,465 feet from the southwest corner of the I & G N RR Co. Original Survey No. 3 approximately 5.91 miles northeast of Bay City, in Matagorda County, Texas. Applicant indicates the discharge point is located in zip code 77414.

The diversion point from the on-channel reservoir is located at Latitude 29.068542°N, Longitude 95.945918°W, bearing N 30°E, 2,081 feet from the southwest corner property marker of the I & G N RR Co. Original Survey No. 3, approximately 5.91 miles northeast of Bay City, in Matagorda County. Water will be diverted at a maximum rate of 1.3368 cfs (600 gpm).

Ownership of the lands to be inundated and irrigated is evidenced in a Warranty Deed with Vendor's Lien, Document No. 080671, as recorded in the Official Public Records of Matagorda County, Texas.

The application was received on September 3, 2009. Additional information and fees were received on November 24, December 4, December 15, 2009, February 18, 2010, and March 17, 2010. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on April 8, 2010.

The Executive Director has prepared a draft permit, which, if approved, would include special conditions including, but not limited to maintenance of an alternate source of water. The application, technical memoranda, and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, TX 78711-3087.

CONTESTED CASE HEARING.

SOAH will conduct a preliminary hearing on this application at:

**10:00 a.m. – January 9, 2017
William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701**

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, allow an opportunity for settlement discussions, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding will be similar to a civil trial in state district court.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 11, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155.

The applicant is automatically a party in this hearing. If anyone else wishes to be a party to the hearing, he or she must attend the hearing and show how he or she would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and any person may request to be a party. Only persons named as parties may participate at the hearing.

INFORMATION.

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at 1-800-687-4040. General information about the TCEQ can be found at <http://www.tceq.texas.gov/>.

Persons with disabilities who need special accommodations at the hearing should call the SOAH Docketing Department at 512-475-3445, at least one week prior to the hearing.

Issued: November 22, 2016

A handwritten signature in black ink that reads "Bridget C. Bohac". The script is cursive and fluid, with the first name "Bridget" being more prominent than the last name "Bohac".

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality