

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF HEARING

B.N. HUDDLESTON
SOAH Docket No. 582-17-3409
TCEQ Docket No. 2016-0370-WR
Application No. 12-3575D

APPLICATION.

B.N. Huddleston, a.k.a Bobby N. Huddleston, P.O. Box 109, DeLeon, Texas, 76444, Applicant, seeks to amend Certificate of Adjudication No. 12-3575 pursuant to Texas Water Code § 11.122 and Texas Commission on Environmental Quality (TCEQ) Rules 30 Texas Administrative Code (TAC) § 295.1, *et seq.*

B.N. Huddleston has applied for an amendment to Certificate of Adjudication No. 12-3575 to extend or delete the expiration date of December 31, 2009 to divert and use water from three reservoirs on unnamed tributaries of Copperas (Rush) Creek, Brazos River Basin in Comanche County.

Certificate of Adjudication No. 12-3575 authorizes the Owner to maintain three existing, exempt reservoirs on two unnamed tributaries of Copperas (Rush) Creek, tributary of the Leon River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, which have a combined capacity of 244 acre-feet of water in Comanche County. The Applicant indicated that these reservoirs are located in zip code 76454.

Certificate of Adjudication No. 12-3575 also authorizes the Owner to divert and use not to exceed 70 acre-feet of water per year from the three exempt reservoirs mentioned above for agricultural purposes to irrigate 85 acres out of a 469.5-acre tract of land in Comanche County and to divert and use not to exceed 60 acre-feet of water per year from the exempt reservoirs for agricultural purposes to irrigate 80 acres out of a 160-acre tract of land in Comanche County.

Certificate of Adjudication No. 12-3575C contains a special condition which states "In lieu of Special Condition 1.a., the authorization to divert and use water shall expire and become null and void on December 31, 2009...". This special condition applies to the above 130 acre-feet of water. Other special conditions apply.

Certificate of Adjudication No. 12-3575 also includes a perpetual authorization to divert and use not to exceed 16 acre-feet of water per year from Copperas (Rush) Creek for agricultural purposes to irrigate 31 acres of land out of a 469.5-acre tract of land in Comanche County.

Applicant seeks to amend Certificate of Adjudication No. 12-3575C to extend or delete the expiration date of December 31, 2009.

The application and a portion of the fees were received on January 12, 2009. Additional information and fees were received on March 9 and 17, 2009. The application was accepted for filing and declared administratively complete on March 19, 2009.

The TCEQ Executive Director is recommending denial of this application after completion of technical review on June 1, 2015, because staff's water availability analysis indicates that neither appropriated but unused water nor unappropriated water is available to support the Applicant's request.

DIRECT REFERRAL.

The Notice of Application was published on May 7, 2009. On March 21, 2017, the Executive Director filed a request for direct referral to the State Office of Administrative Hearings (SOAH). Therefore, the chief clerk has referred this application directly to SOAH for a hearing on whether sufficient water exists in the Brazos River Basin, and whether all applicable statutory and regulatory requirements have been met, to warrant issuing the requested amendment.

CONTESTED CASE HEARING.

This application is being directly referred to SOAH under 30 Texas Administrative Code Section 55.254(g). SOAH will conduct a preliminary hearing on this application at:

**10:00 a.m. – May 22, 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 address disputed issues of fact concerning this application.

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.

In accordance with 1 Tex. Admin. Code § 155.401(a), Notice of Hearing, “Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH.”

INFORMATION.

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at 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: April 10, 2017

A handwritten signature in cursive script that reads "Bridget C. Bohac".

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