

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF HEARING

WILLIAM D. CARROLL & MARY L. CARROLL

SOAH Docket No. 582-17-3837

TCEQ Docket No. 2011-0086-WR

Application No. 5161C

APPLICATION.

William D. Carroll & Mary L. Carroll, 3450 Highway 2247, Comanche, Texas 74642, Applicants or Permittees, have applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to a Water Use Permit pursuant to Texas Water Code § 11.122 and TCEQ Rules Title 30 Texas Administrative Code (TAC) § 295.159, *et seq.*

William D. Carroll & Mary L. Carroll have applied to amend Water Use Permit No. 5161 to extend or delete the expiration date of the permit to maintain an exempt reservoir (Reservoir 1) on an unnamed tributary of Copperas (Rush) Creek, Brazos River Basin and an off-channel reservoir (Reservoir 2) and to divert and use 54 acre-feet of water per year from Reservoir 1 for agricultural purposes to irrigate in Comanche County.

Water Use Permit No. 5161 authorizes the Permittees to maintain an exempt reservoir (Reservoir 1) with a capacity of 97.7 acre-feet on an unnamed tributary of Copperas (Rush) Creek, tributary of the Leon River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin and an off-channel reservoir (Reservoir 2) with a capacity of 52.7 acre-feet. The permit further authorizes the Permittees to divert and use 54 acre-feet of water per year from Reservoir 1 at a maximum diversion rate of 2.2 cfs (1,000 gpm) for agricultural purposes to irrigate 150 acres of land out of a 336.704-acre tract in Comanche County. The term permit expired on December 31, 2009.

Applicants seek to amend Water Use Permit No. 5161 to extend or delete the expiration date. Applicants indicate the reservoirs and diversion point are located within zip code 76442.

The application and a portion of the required fees were received on October 23, 2009. Additional information and fees were received on February 18, and March 17, 2010. The application was declared administratively complete and filed with the Office of the Chief Clerk on March 19, 2010.

The Executive Director has completed the technical review of the application and based on the results of the water availability analysis, neither unappropriated water nor appropriated but unused water is available in the Brazos River Basin to support the Applicants' request. Staff therefore recommends that the application be denied. Staff notes that the existing on-channel reservoir can be maintained for domestic and livestock use, at a capacity at or below 200 acre-

feet on average within any twelve month period, with no right of diversion for agricultural use. The application and technical memoranda are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F., Austin, TX 78753.

CONTESTED CASE HEARING.

SOAH will conduct a preliminary hearing on this application at:

**10:00 a.m. – June 5, 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 Texas Administrative Code (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 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: May 1, 2017



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