

TCEQ DOCKET NO. 2016-0160-WR

APPLICATION BY CITY OF § BEFORE THE TEXAS COMMISSION
PEARLAND § ON
PERMIT NO. 13071 § ENVIRONMENTAL QUALITY

**NATIONAL WILDLIFE FEDERATION'S REPLY
TO RESPONSES TO HEARING REQUESTS**

The National Wildlife Federation (NWF) files this Reply to the Responses to hearing requests filed on the above-referenced application and would respectfully show the Commissioners the following.

I. Introduction

In this Reply, the National Wildlife Federation supplements the information provided in its timely-filed request for a contested case hearing by providing further relevant information regarding a specific NWF member who individually qualifies as an affected person pursuant to 30 Tex. Admin. Code Section 55.256.

II. Supplemental Information

NWF timely submitted a hearing request pursuant to 30 Tex. Admin. Code Section 55.251 (c), explaining the National Wildlife Federation's specific concerns about the draft permit. Pursuant to Section 55.252 (b) and the request of the Office of Public Interest Counsel, NWF hereby supplements that hearing request with additional information further demonstrating how NWF meets the requirements of Section 55.252 (a), which reads as follows:

"A group of association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case."

In its Response, OPIC agrees that "the interests NWF seeks to protect are germane to the organization's purpose." Neither the ED nor the Applicant claim otherwise. Additionally, none of

the Responses question NWF's compliance with Section 55.252 (a)(3). Neither the claim asserted nor the relief requested requires the participation of individual members in the case. Therefore, NWF provides additional information regarding the requirements of Subsection 55.252 (a)(1).

As noted in its October 12, 2015, hearing request, NWF has many members with property along Clear Creek, Clear Lake and Galveston Bay, who are concerned about fish and wildlife resources downstream of the City of Pearland's requested diversion point.

Evelyn Davis is one such member of NWF who has a personal justiciable interest, not common to the general public, affected by the application. She owns property and lives at 2410 Taylor Lane, Pearland, Texas, 77581. This property adjoins Clear Creek a relatively short distance downstream of the requested diversion point described in Draft Permit 13071. See attached map. Ms. Davis enjoys the aesthetic, recreational, and fish and wildlife habitat values afforded by the flows in Clear Creek, which also contribute to her property values. She is concerned about the potential adverse effects of the proposed application on flows in Clear Creek and the resulting effects on instream uses in the Creek and her use and enjoyment of the Creek. The draft permit would allow flows to be reduced down to as low as .39 cubic-feet-per-second during two seasons of the year, which is only a small fraction of the lowest flow recorded in the last ten years.

Because Ms. Davis meets the test for standing individually and is a member of the National Wildlife Federation, because the issues NWF seeks to protect are germane to the purposes of the National Wildlife Federation, and because participation by individual members is not required, NWF has met the test for a valid hearing request.

III. Conclusion

ACCORDINGLY, the National Wildlife Federation requests that the Commission grant its request for a contested case hearing.

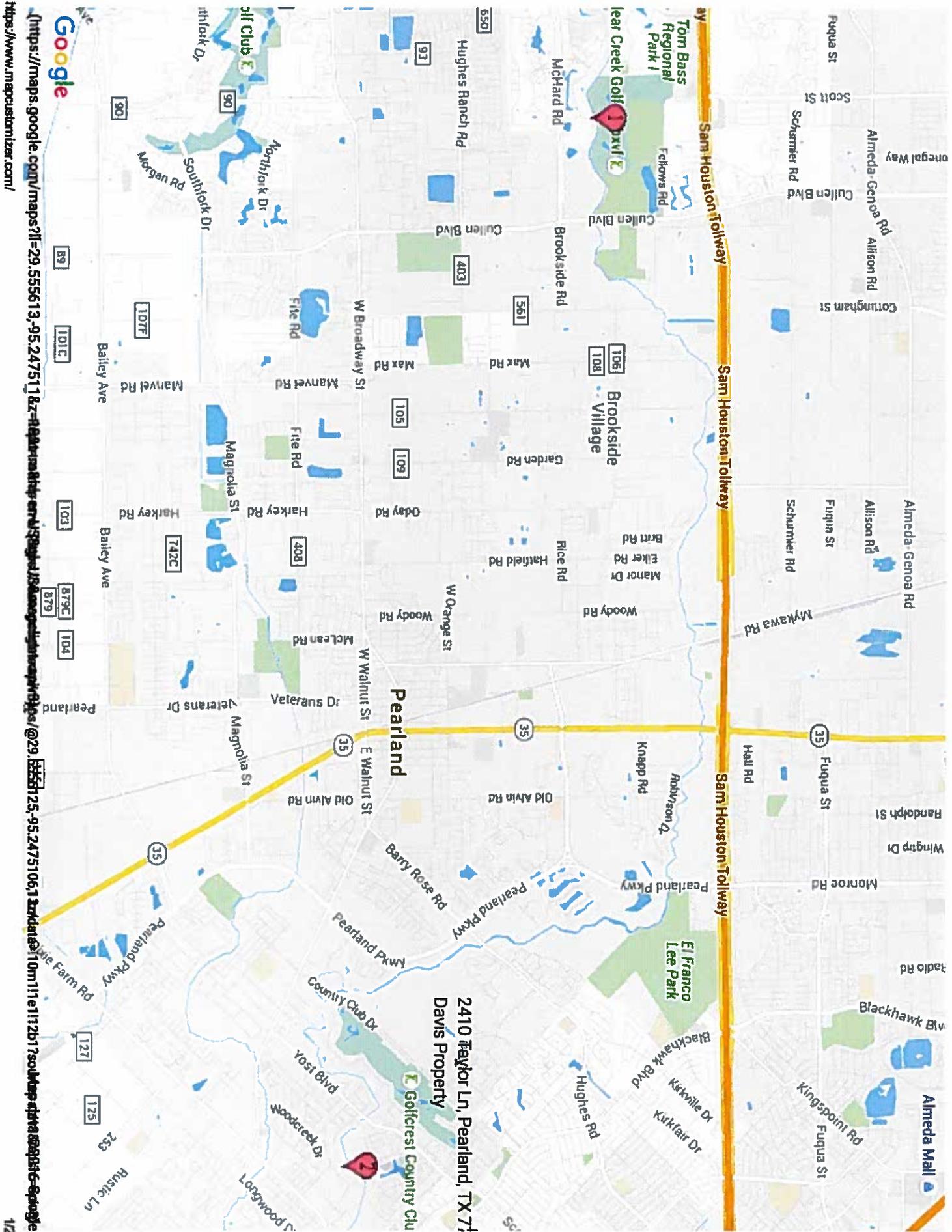
Respectfully submitted,

A handwritten signature in cursive script that reads "Myron J. Hess". The signature is written in black ink and is positioned above a solid horizontal line.

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**COUNSEL FOR NATIONAL WILDLIFE
FEDERATION**

ATTACHMENT A



 Save  Bulk Entry

Location

Address to plot

Description

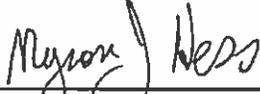
(Optional) enter a description for this location

[Add location to map](#)

	Requested Diversion Point	410 Chickory Wood Ct, Pearland, TX 77584, USA	
	Davis Property	2410 Taylor Ln, Pearland, TX 77581, USA	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent via e-mail to the individuals listed on the following Mailing List on May 27, 2016.



Myron J. Hess

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