

Jon Niermann, *Chairman*
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Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 29, 2024

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

**Re: Greenwood Ventures Group LLC for New TPDES Permit No. WQ0016148001;
TCEQ Docket No. 2023-1563-MWD**

Dear Ms. Gharis,

I have enclosed for filing the "Executive Director's Response to Hearing Requests."
Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Fernando Salazar Martinez".

Fernando Salazar Martinez
Staff Attorney
Environmental Law Division

Enclosure

CC: Mailing List

TCEQ DOCKET NO. 2023-1563-MWD

APPLICATION BY	§	BEFORE
GREENWOOD VENTURES GROUP LLC	§	THE TEXAS COMMISSION
FOR NEW TPDES PERMIT	§	ON
NO. WQ0016148001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on the application by the Greenwood Ventures Group LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016148001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 325,000 gallons per day (gpd) in the Interim I phase, a daily average flow not to exceed 650,000 gpd in the Interim II phase, and a daily average flow not to exceed 975,000 gpd in the Final phase.

The Office of the Chief Clerk received timely contested case hearing requests from the following entities and individuals: Guadalupe Blanco River Authority, Greater Edwards Aquifer Alliance, San Marcos River Foundation, Martin Edmonson, Larry Lindsey, Colby and Erin Stephens, and Susan Vinklarek.

The Executive Director recommends that the Commission find that Guadalupe Blanco River Authority is an affected person and grant its hearing request. The Executive Director further recommends denying the hearing request for Greater Edwards Aquifer Alliance, San Marcos River Foundation, Martin Edmonson, Larry Lindsey, Colby and Erin Stephens, and Susan Vinklarek.

Attached for Commission consideration is a satellite map of the area showing the locations of the facility and requestors.

II. FACILITY DESCRIPTION

Greenwood Ventures Group, LLC (Greenwood), submitted an application to the TCEQ on April 20, 2022, for a new TPDES Permit No. WQ0016148001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 325,000 gallons per day (gpd) in the Interim I phase, a daily average flow not to exceed 650,000 gpd in the Interim II phase, and a daily average flow not to exceed 975,000 gpd in the Final phase. The proposed wastewater treatment facility will serve the Lockhart Tract Residential Subdivision.

The Lockhart Landing Wastewater Treatment Facility (proposed WWTF) will be an activated sludge process plant operated in the extended aeration mode. Treatment units for the Interim I phase will include one aeration basin, one final clarifier, one sludge digester, and a chlorine contact chamber. Treatment units for the Interim II phase will include two aeration basins, two final clarifiers, two sludge digesters, one chlorine contact chamber and a dechlorination chamber. Treatment units for the Final

phase will include three aeration basins, three final clarifiers, three sludge digesters, a chlorine contact chamber and a dechlorination chamber. The facility has not been constructed.

If this permit is issued, the facility will be located approximately 1.87 miles southwest of the intersection of County Road 214 and U.S. Highway 183, in Caldwell County, Texas 78644.

The treated effluent will be discharged to an unnamed tributary, thence to a second unnamed tributary, thence to West Fork Plum Creek, thence to Plum Creek in Segment No. 1810 of the Guadalupe River Basin. The unclassified receiving water uses are minimal aquatic life for unnamed tributary and limited aquatic life use for West Fork Plum Creek (intermittent with pools), and high aquatic life use for West Fork Plum Creek (perennial). The designated uses for Segment No. 1810 are primary contact recreation, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer but does not apply to this facility's discharge, which is located downstream from these zones. The effluent limitations in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

The effluent limits in the Interim I, Interim II, and Final Phase are 10 mg/L CBOD₅, 15 mg/L TSS, 2 mg/L ammonia nitrogen, 1 mg/L total phosphorus, 126 CFU *E. coli*, and 5.0 mg/L dissolved oxygen.

III. PROCEDURAL BACKGROUND

The TCEQ received the application on April 20, 2022, with additional information received on May 20, 2022. The application was declared administratively complete on June 14, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on June 30, 2022, in the *Lockhart Post-Register* newspaper and in Spanish on June 23, 2022, in the *El Mundo* newspaper. The Executive Director completed its technical review of the application on December 1, 2022, and prepared the draft permit, which if approved, would establish the conditions under which the proposed facility must operate. The Notice of Application and Preliminary Decision (NAPD) was published in English on December 22, 2022, in the *Lockhart Post-Register* newspaper and in Spanish in the *El Mundo* newspaper on December 15, 2022. A public meeting was held in Lockhart on March 28, 2023. At the request of Senator Zaffirini, a second public meeting was held in Lockhart on June 13, 2023. The public comment period ended at the close of the second public meeting. The ED's Response to Public Comment (RTC) was filed on September 6, 2023, and the time for filing Requests for a Hearing or a Request for Reconsideration (RFR) ended on October 13, 2023. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. This application is subject to those changes in the law.

IV. EVALUATION OF HEARING REQUESTS

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. SB 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Requests

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.¹

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) whether issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter by filing a written withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.²

B. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

A request for a contested case hearing by an affected person must be in writing, filed with the chief clerk within the time provided . . . , based only on the requester's timely comments, and not based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment.³

A hearing request must substantially comply with the following:

- (1) give the name, address, telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime

¹ 30 TEXAS ADMINISTRATIVE CODE (TAC) Section (§) 55.209(d).

² 30 TAC § 55.209(e).

³ 30 TAC § 55.201(c).

- telephone number, and where possible, fax number, who is responsible for receiving all official communications and documents for the group;
- (2) identify the person's justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
 - (3) request a contested case hearing;
 - (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
 - (5) provide any other information specified in the public notice of application.⁴

C. Requirement that Requestor be an Affected Person

To grant a contested case hearing, the Commission must determine that a requestor is an "affected person" by conducting the following analysis:

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application, may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;

⁴ 30 TAC § 55.201(d).

- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) whether the requester timely submitted comments on the application which were not withdrawn; and
 - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In making this determination, the commission may also consider, to the extent consistent with case law:
- (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
 - (2) the analysis and opinions of the ED; and
 - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.⁵

Under 30 TAC § 55.205(a), a group or association may request a contested case hearing only if the group or association meets 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.⁶

Additionally, for applications filed on or after September 1, 2015, a hearing request by a group or association for a contested case may not be granted unless all of the following requirements are met:

- (1) comments on the application are timely submitted by the group or association;
- (2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right;
- (3) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (4) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.⁷

⁵ 30 TAC § 55.203(a)-(d).

⁶ 30 TAC § 55.205(a)(1)-(3)

⁷ 30 TAC § 55.205(b)(1)-(4).

D. Referral to the State Office of Administrative Hearings

When the Commission grants a request for a contested case hearing, the Commission shall issue an order specifying the number and scope of the issues to be referred to State Office of Administrative Hearing (SOAH) for a hearing.⁸ The Commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person; and
- (3) is relevant and material to the decision on the application.⁹

V. ANALYSIS OF THE HEARING REQUESTS

For this permit application, the relevant public comment period ended on June 13, 2023, and the time for filing Requests for a Hearing or a Request for Reconsideration (RFR) ended on October 13, 2023. The ED's analyses determined whether the Requests followed TCEQ rules, if the requestors qualify as affected persons, what issues may be referred for a possible hearing, and the length of that hearing.

A. Whether the Request Complied with 30 TAC §§ 55.201(c) and (d), 55.203, and 55.205(b).

1. Parties the Executive Director recommends the Commission find to be Affected Persons

Guadalupe Blanco River Authority (GBRA)

Guadalupe Blanco River Authority (GBRA) submitted timely comments and filed two timely hearing requests on August 16, 2022 and March 28, 2023, which contained the requisite contact information, identified its statutory interest it claims that would be adversely affected in a manner not common to the general public, and articulated several issues in their timely comments to form the basis of its requests as required by 30 TAC §§ 55.201(c), (d), and 55.203(b).

In its Requests, GBRA claimed it is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the Greenwood application and Draft Permit. GRBA stated that it is a conservation and reclamation district with the obligation to control, store, and preserve the waters of any rivers and streams, including the Guadalupe and Blanco Rivers and their tributaries, for all useful purposes. GBRA claimed that its authority derived from its enabling legislation and interest to protect and preserve the water quality in the rivers and streams within its district confers it with a personal justiciable interest adversely affected by the Greenwood application and Draft Permit. GBRA claimed that under

⁸ 30 TAC § 50.115(b).

⁹ 30 TAC § 55.203(d).

TWC § 26.171, it is authorized to inspect the public water in its area to determine if the quality of the water meets state water quality standards, to determine if the persons discharging effluent to the public water have obtained permits, and to determine if those permit holders are complying with the requirements of the permit. GBRA claimed that its interest is not common to the members of the public since the proposed WWTP and discharge are located within GBRA's ten-county statutory district, including Caldwell County. GBRA stated that granting a discharge permit that does not protect the water quality standards as outlined by the Plum Creek Watershed Protection Plan and the Texas Integrated Report, or granting a discharge permit to an entity that cannot comply with the aforementioned standards, adversely affects GBRA and thwarts its legislative directive to preserve the water within its district.

In its comments and Requests, GBRA expressed several issues related to the Draft Permit and proposed discharge as required by 30 TAC § 55.201(d)(4)(B). GBRA stated that the proposed effluent limitations in the Draft Permit are insufficient to protect water quality in the Plum Creek Watershed and in the Guadalupe and Blanco River areas. GBRA is concerned that the Draft Permit is inconsistent with the goals of the Plum Creek Watershed Protection Plan, as well as the recommendations and best management practices established by the Plan to reduce nutrient loading in the watershed. GBRA stated that since 2010, TCEQ has listed portions of Plum Creek as impaired on its Texas Integrated Report of Surface Water Quality in Category 4b. GBRA stated that the 2022 Integrated Report provides concerns for nutrients, including nitrate nitrogen, *E. coli*, ammonia nitrogen, and total phosphorus within the Plum Creek Watershed. GBRA stated that permits containing such lax nutrient limitations, such as the Greenwood Draft Permit, directly contribute to serious and ongoing problems with nutrient levels in portions of Plum Creek and are insufficient to ensure acceptable water quality. GBRA recommended changing the 10 mg/L CBOD₅ and 15 mg/L TSS limits in the draft permit to 5 mg/L CBOD₅ and 5 mg/L TSS.

One of the factors for determining affectedness under 55.203(c) is a governmental entity's statutory authority over or interest in the issues relevant to the application. GBRA's Requests identified its statutory authority over and interest in protecting and preserving the water quality in its district, which are relevant to the Greenwood application. Further, GBRA's Request raised issues related to the Draft Permit's protectiveness of water quality of the receiving waters and the adequacy of the Draft Permit's effluent and nutrient limitations to preserve the water quality of the receiving waters. Therefore, the Executive Director recommends the Commission find that GBRA is an affected person under 30 TAC § 55.203 and grant its request.

2. Parties the Executive Director recommends the Commission not find to be Affected Persons

Greater Edwards Aquifer Alliance (GEAA)

Under 30 TAC § 55.201(d)(4)(B), requests for contested case hearings must list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period. In addition to the requirements of 30 TAC

§ 55.201, groups or organizations requesting a contested case hearing must meet all of the requirements set forth in 30 TAC § 55.205(b). One of these requirements is that the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right.

GEAA submitted timely comments and a timely hearing request on March 28, 2023, which that provided the requisite contact information, raised issues that form the basis of its request in timely comments not withdrawn before the RTC was filed, and requested a hearing. In its request, GEAA articulated several concerns with the draft permit. However, GEAA did not identify a member that would have standing in their own right, which is required under 30 TAC § 55.205(b)(2). Therefore, the ED recommends the Commission find that GEAA did not meet the requirements of 30 TAC § 55.205 for associational standing.

San Marcos River Foundation (SMRF)

Under 30 TAC § 55.201(d)(4)(B), requests for contested case hearings must list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period. In addition to the requirements of 30 TAC § 55.201, groups or organizations requesting a contested case hearing must meet all of the requirements set forth in 30 TAC § 55.205(b). One of these requirements is that the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right.

San Marcos River Foundation (SMRF) submitted timely comments and a timely hearing request on October 4, 2023, which contained the requisite contact information, identified its personal justiciable interest that would be adversely affected in a manner not common to the general public, articulated issues in their timely comments to form the basis of their request, and identified one of its members that would have standing in their own right, as required by 30 TAC §§ 55.201(c), (d), and 55.205. However, the location of its member relative to the proposed facility and discharge route demonstrates that the member is not affected in a manner different from the general public.

According to SMRF's Request, SMRF is a non-profit organization that was established to protect public access to and preserve the San Marcos River. SMRF's interest in the Greenwood application is to protect water quality, aquatic life, property values, recreation, conservation and the aesthetic beauty of the San Marcos River and Plum Creek.

SMRF identified Jerry Doyle as a member that would have standing in his own right to request a contested case hearing. Neither the claims asserted by SMRF, nor the relief requested, require the participation of Mr. Doyle. SMRF's requests also raised issues based on its timely comments to form the basis of its request as required by 30 TAC § 55.201(d)(4)(B). SMRF stated that Mr. Doyle's economic, property, aesthetic, recreation, and personal health and safety interests will be harmed by the Draft Permit.

SMRF stated that Mr. Doyle has concerns about the effect of the Draft Permit on the receiving waters, odor related to the plant, and the impact of the treatment plant on land values. SMRF stated that Mr. Doyle is also concerned that with the increased flow in the creek due to the wastewater discharge, he will no longer be able to get to the other side of his property without significant driving and delay. SMRF stated that LCRA also regularly uses the creek crossing on Mr. Doyle's property.

According to SMRF's Request, Mr. Doyle resides at 832 FM 672, Lockhart, Texas, which SMRF stated is less than a mile from the discharge point for the Draft Permit. According to the GIS map prepared by the Executive Director's staff, Jerry Doyle is Location 3, which is approximately 1.49 miles from the facility and approximately 1.43 miles from the outfall location. Since Mr. Doyle does not reside in proximity to the proposed facility or discharge route, it is not likely that he will be adversely affected by the proposed facility or activity in a manner not common to members of the public.

SMRF's Request also identified Chelsea Collie as one of its members. However, SMRF's Request did not contain any address or contact information for Ms. Collie. SMRF's Request also did not contain any discussion of how Ms. Collie would be affected by the proposed facility or identify any personal justiciable interest. Ms. Collie also did not submit any comments.

SMRF's Request identified Mr. Doyle as one of its members for standing purposes; however, Mr. Doyle does not reside in proximity to the proposed facility or discharge route. Thus, SMRF's Request does not demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated that is likely to be adversely affected in a manner not common to the general public as required by 30 TAC 55.201(c). Because Mr. Doyle would not have standing in his own right, SMRF's Request does not meet the requirements for group or association standing under 30 TAC § 55.205. Therefore, because neither of the individuals SMRF relies on do not have standing in their own right, the Executive Director recommends the Commission find that SMRF did not meet the requirements of 30 TAC § 55.205 for associational standing and deny its requests.

Martin Edmonson

Martin Edmonson submitted timely comments and filed a timely Request on July 25, 2022, which contained the requisite contact information, including the address of his residence. However, his Request did not explain how and why he believes he will be adversely affected in a manner not common to members of the general public as required by 30 TAC § 55.201(d)(2). Also, his location and distance relative to the proposed facility demonstrates that it is not likely he will be adversely affected in a manner not common to members of the general public under 30 TAC § 55.203(c).

Mr. Edmonson's request included his address and stated that he is a resident in the vicinity of the proposed permit. While his Request includes references to common concerns that are beyond the scope of the Greenwood application, it does raise relevant issues related to odors, human health, wildlife, and water quality as required by 30 TAC § 55.201(d)(4)(B). However, his Request lacks a statement that explains how

he personally would be adversely affected in a manner not common to the general public. Instead, his Request states that these concerns would affect “all in the area,” “surrounding residents,” “nearby residents,” and “affected residents.” Also, his Request is almost identical to the form letters submitted by other commenters, except for his contact information and including a request for a hearing.

According to the GIS map prepared by the Executive Director’s staff, Mr. Edmonson is Location 4 and resides 1.71 miles away from the proposed facility and 1.74 away from the proposed outfall location. Since Mr. Edmonson does not reside in proximity to the proposed facility or discharge route, it is unlikely that he will be adversely affected by the proposed facility or activity in a manner not common to members of the public.

Because Mr. Edmonson’s Request did not articulate a personal justiciable interest that would be adversely affected by the proposed facility or activity in a manner not common to the general public, and he does not reside within proximity to the proposed facility or discharge route, his Request does not demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated that is likely to be adversely affected in a manner not common to the general public. Therefore, the Executive Director recommends the Commission find that Martin Edmonson is not an affected person under 30 TAC § 55.203 and deny his request.

Larry Lindsey

Larry Lindsey submitted timely comments and filed a timely Request on October 14, 2022, which contained the requisite contact information, identified his personal justiciable interest that would be adversely affected in a manner not common to the general public, and articulated issues in his timely comments to form the basis of his request as required by 30 TAC § 55.201(d). However, his location and distance relative to the proposed facility demonstrates that it is not likely he will be adversely affected in a manner not common to members of the general public under 30 TAC § 55.203(c).

Mr. Lindsey’s Request raised issues that are relevant and material issues of disputed fact that were based on his timely comments as required by 30 TAC § 55.201(d)(4)(B). Mr. Lindsey’s request raised issues related to the use and enjoyment of his property. impacts to recreational activities on his property, and impact to wildlife on his property that could be affected by the proposed discharge. Mr. Lindsey’s request also identified a personal justiciable interest and contains a statement explaining how and why he believes he will be adversely affected by the facility or activity in a manner not common to members of the public, as required by 30 TAC § 55.201(d)(2). Specifically, Mr. Lindsey stated that he has two ponds on his property to help with water retention and erosion control. Mr. Lindsey stated that he has wildlife on his property where he holds two annual hunts that are auctioned off for charity to raise scholarship money for students in Caldwell County. Mr. Lindsey stated that he offers a youth hunt with Texas Parks and Wildlife through their youth hunting program. Mr. Lindsey stated that the West Fork runs through the middle of his property and has experienced the banks overflowing during heavy rains. Mr. Lindsey

stated that on two occasions he was witnessed floodwaters over 200 yards wide rushing through the proposed future development property and near the proposed WWTP.

According to the GIS map prepared by the Executive Director's staff, Mr. Lindsey is Location 5 and resides 1.19 miles away from the proposed facility and 1.23 miles away from the proposed outfall location. Since Mr. Lindsey does not reside in proximity to the proposed facility or discharge route, it is not likely that Mr. Lindsey will be adversely affected by the proposed facility or activity in a manner not common to members of the public.

Mr. Lindsey's Request raised referable issues and articulated a personal justiciable interest he believes would be affected by the proposed facility or activity. However, Mr. Lindsey does not reside within proximity to the proposed facility or discharge route, and his Request does not demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated that is likely to be adversely affected in a manner not common to the general public. Therefore, the Executive Director recommends that the Commission find that Larry Lindsey is not an affected person under 30 TAC § 55.203 and deny his request.

Colby and Erin Stephens

Colby and Erin Stephens filed a timely Request on October 14, 2022, which contained the requisite contact information, identified their personal justiciable interest that would be adversely affected in a manner not common to the general public, and articulated issues in their timely comments to form the basis of their request.

Mr. and Mrs. Stephens's Request raised issues that are relevant and material issues of disputed fact that were based on his timely comments as required by 30 TAC § 55.201(d)(4)(B). Their request raised issues related to the use and enjoyment of their property, impacts to recreational activities on their property, impact to wildlife, odors, and water quality. Their request also identified a personal justiciable interest and contains a statement explaining how and why they believe they will be adversely affected by the facility or activity in a manner not common to members of the public, as required by 30 TAC § 55.201(d)(2). Specifically, they raised concerns about the proposed discharge and proposed facility affecting their property. In Mrs. Stephens oral comments at the first public meeting, she stated that they care for endangered and threatened species that are extinct in the wild on their property and expressed concerns that the proposed discharge would affect the drinking water of their animals.

According to the GIS map prepared by the Executive Director's staff, Mr. and Mrs. Stephens are Location 6 and reside 1.67 miles away from the proposed facility and 1.69 miles away from the proposed outfall location. Since Mr. and Mrs. Stephens do not reside in proximity to the proposed facility or discharge route, it is not likely that they will be adversely affected by the proposed facility or activity in a manner not common to members of the public.

Mr. and Mrs. Stephens's Request raised referable issues and articulated a personal justiciable interest they believe would be affected by the proposed facility or activity. However, they do not reside within proximity to the proposed facility or discharge route, and their Request does not demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated that is likely to be adversely affected in a manner not common to the general public. Therefore, the Executive Director recommends that the Commission find that Colby and Erin Stephens are not affected persons under 30 TAC § 55.203 and deny their request.

Susan Vinklarek

Susan Vinklarek submitted timely comments and filed a timely hearing request on June 29, 2022, which contained the requisite contact information. However, her Request did not identify or contain a description of a personal justiciable interest explaining why she believes she will be adversely affected by the application in a manner not common to the public as required by 30 TAC 55.201(d).

Ms. Vinklarek's Request contained only brief statements expressing her general opposition to the draft permit, but it did not identify any interest or describe why she believes she personally would be adversely affected in a manner not common to the general public. Further, her Request did not raise any relevant or material issues in her comments to form the basis of her request.

Ms. Vinklarek provided an address located in Fort Worth and her request did not identify any nearby property or other interest. According to the GIS map prepared by the Executive Director's staff, Ms. Vinklarek lives 215.3 miles away from the proposed facility and 215.35 miles away from the proposed outfall location. Since Ms. Vinklarek does not reside in proximity to the proposed facility or the discharge route, it is not likely that she will be adversely affected by the proposed facility or activity in a manner not common to members of the public.

Because Ms. Vinklarek's Request did not articulate a personal justiciable interest that would be adversely affected by the proposed facility or activity in a manner not common to the general public, and she does not reside within proximity to the proposed facility or discharge route, her Request does not demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated that is likely to be adversely affected in a manner not common to the general public. The Executive Director recommends the Commission find that Susan Vinklarek is not an affected person under 30 TAC § 55.203 and deny her request.

B. Whether the Issues the Requestor Raised are Referable to the State Office of Administrative Hearings (SOAH).

The ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the Response to Comments. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment

by a requester whose request is granted may be referred.¹⁰ The issues raised for this application and the ED's analysis and recommendations follow.

Issue 1. Whether the Draft Permit is protective of water quality and the receiving waters in accordance with the applicable regulations, including the Texas Surface Water Quality Standards (RTC Comment 3, 5).

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the ED recommends the Commission refer the issue to SOAH.

Issue 2. Whether the antidegradation review complies with the applicable regulations and the Draft Permit includes adequate nutrient limits (RTC Comment 3, 5).

This issue involves a disputed question of mixed fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. Therefore, the ED recommends the Commission refer the issue to SOAH.

VI. CONTESTED CASE HEARING DURATION

If the Commission grants a hearing on this application, the ED recommends that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a Proposal for Decision to the Commission.

VII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Guadalupe Blanco River Authority is an affected person and grant its hearing request.
2. Deny the hearing request of Greater Edwards Aquifer Alliance, San Marcos River Foundation, Martin Edmonson, Larry Lindsey, Colby and Erin Stephens, and Susan Vinklarek.
3. Should the Commission decide to refer this case to SOAH:
 - a. refer the case to Alternative Dispute Resolution for a reasonable time; and
 - b. refer the identified issues above in Section V. 1.-2. to SOAH for a contested case hearing.

¹⁰ Tex. Govt. Code § 2003.047(e-1); 30 TAC § 55.211(c)(2)(A)(ii).

Respectfully submitted,

Texas Commission on Environmental Quality

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Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VIII. CERTIFICATE OF SERVICE

I certify that on January 29, 2024, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0016148001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



Kathy Humphreys, Staff Attorney
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Attachment A

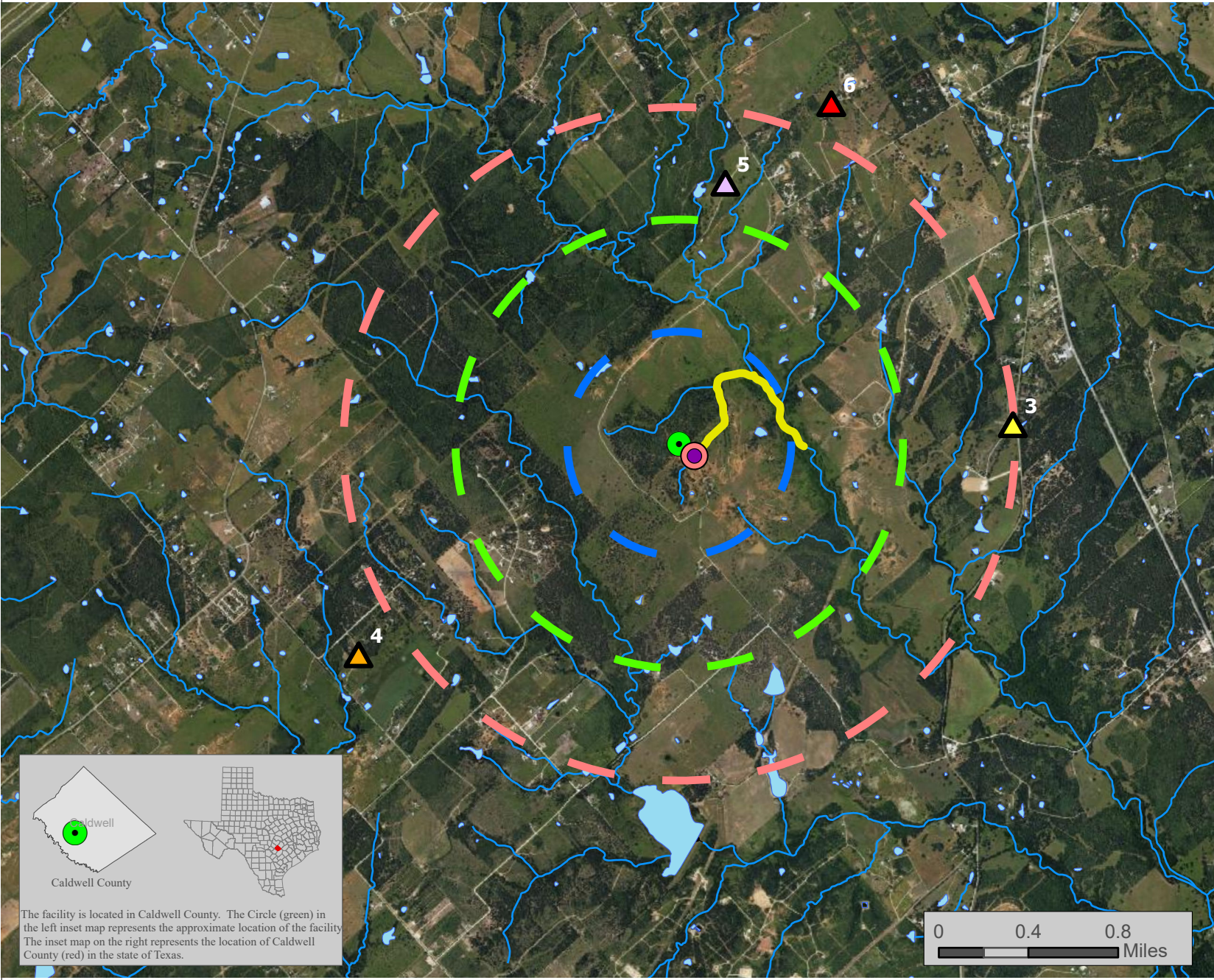
Greenwood Ventures Group LLC - Lockhart Landing Wastewater Treatment Plant (WQ0016148001)



Protecting Texas by
Reducing and
Preventing Pollution

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 11/8/2023
CRF 0096068
Cartographer: MATtoh



Outfall 001

WASTEWATER OUTFALLS

Facility Point

6-Colby and Erin Stephens

5-Larry Lindsey

4-Martin Edmonson

3-Jerry Doyle (San Marcos River Foundation)

Discharge Route

0.5 Mile From Facility Point

1 Mile From Facility Point

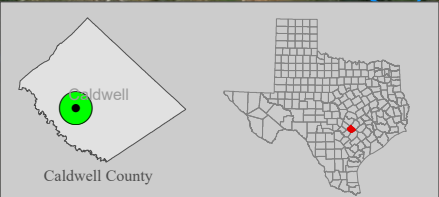
1.5 Miles From Facility Point

Susan Vinklerek (7) not shown on map due to her relative distance 215.35 Miles from facility.

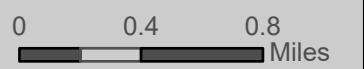
San Marcos River Foundation identified Chelsea Collie as a member, but did not provide her address in their request.

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Caldwell County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Caldwell County (red) in the state of Texas.



Appendix A for Greenwood Ventures Group LLC - Lockhart Landing Wastewater Treatment Plant (WQ0016148001) GIS Map

Name	Lat	Long	State	Distance To Facility Point	Distance To Outfall 001
Guadalupe-Blanco River Authority	29.569	-97.954	TX	21.83 Miles	21.84 Miles
Greater Edwards Aquifer Alliance	29.461	-98.507	TX	53.73 Miles	53.77 Miles
Jerry Doyle (San Marcos River Foundation)	29.797	-97.676	TX	1.49 Miles	1.43 Miles
Martin Edmonson	29.783	-97.725	TX	1.71 Miles	1.74 Miles
Larry Lindsey	29.813	-97.697	TX	1.19 Miles	1.23 Miles
Colby and Erin Stephens	29.818	-97.689	TX	1.67 Miles	1.69 Miles
Susan Vinklarek	32.901	-97.294	TX	215.30 Miles	215.35 Miles
Chelsea Collie	No Information Available	No Information Available	No Information Available	No Information Available	No Information Available

MAILING LIST/LISTA DE CORREO
Greenwood Ventures Group, LLC
TCEQ Docket No./TCEQ Expediente N.º 2023-1563-MWD
Permit No./Permiso N.º WQ0016148001

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