

**DOCKET NO. 2023-1563-MWD**

<b>APPLICATION BY GREENWOOD</b>	§	<b>BEFORE THE TEXAS COMMISSION</b>
<b>VENTURES GROUP, LLC FOR NEW</b>	§	
<b>TEXAS POLLUTION DISCHARGE</b>	§	<b>ON ENVIRONMENTAL QUALITY</b>
<b>ELIMINATION SYSTEM PERMIT NO.</b>	§	
<b>WQ0016148001</b>	§	

---

**SAN MARCOS RIVER FOUNDATION’S REPLY ON CONTESTED CASE HEARING  
REQUESTS FOR PROPOSED TPDES WQ0016148001**

---

**I. INTRODUCTION**

The San Marcos River Foundation (SMRF) files this reply to respond to the arguments against granting SMRF’s contested case hearing request for Greenwood Ventures Group, LLC’s new proposed TPDES Permit No. WQ0016148001 in the Executive Director’s Response to Hearing Requests, the Office of Public Interest Counsel’s Response to Requests for Hearing, and Greenwood Ventures Group, LLC’s (the Applicant) Response to Hearing Requests.

**II. FACTUAL BACKGROUND**

The Applicant has applied for a new TPDES permit no. WQ0016148001 (“the draft permit”) to authorize discharge of 975,000 gallons per day of wastewater into an unnamed tributary, thence to another unnamed tributary, thence to West Fork Plum Creek, thence to Plum Creek in Segment 1810 of the Guadalupe River Basin.

**A. Procedural Background**

SMRF filed timely comments on the application and draft permit that raised relevant and material issues that were not sufficiently addressed by the TCEQ Executive Director’s (ED) Response to Comments. SMRF then filed a timely Request for Contested Case Hearing on the Application and draft permit of Greenwood Ventures Group, LLC for Proposed TPDES Permit No. WQ0016148001 (“Contested Case Hearing Request”) that contained facts establishing SMRF as an affected person so that SMRF’s concerns regarding the impacts of draft permit on nearby surface in light of the environmental factors at play in the nearby area can be addressed and resolved through the contested case hearing process.

In response to SMRF’s timely Contested Case Hearing Request, the ED filed the Executive Director’s Response to Hearing Requests (ED’s RHR) and recommended that the TCEQ Commissioners find that SMRF is not an affected person. The ED’s sole reason for the recommendation was the distance of individual SMRF members from the outfall location. The Office of Public Interest (OPIC) also filed a response to SMRF’s Contested Case Hearing Request and recommended that SMRF’s contested case hearing request be denied for the same reason as the ED. OPIC’s Response to Hearing Request in the above-entitled matter at 9 (OPIC’s RHR). The Applicant also filed Greenwood Ventures Group, LLC’s Response to Hearing Requests (Applicant’s RHR) disputing SMRF’s contested case request and provided copies of

the response to requestors via electronic mail rather than the required transmission to the addresses on the mailing list provided in the Agenda Setting Letter.

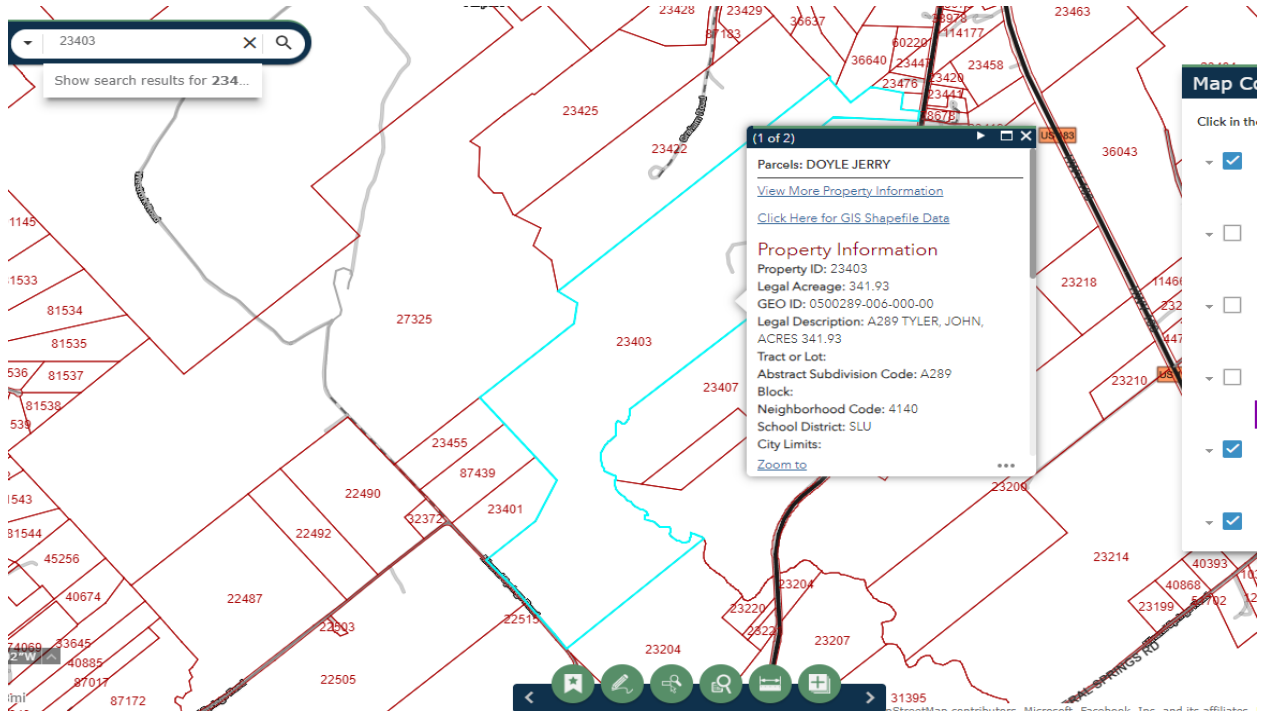
## **B. SMRF and Its Members**

As set out in SMRF's Contested Case hearing request, SMRF is a non-profit organization that was established to protect public access to and to preserve the San Marcos River and its tributaries. To carry out this mission, SMRF works to protect the flow of aquifer fed springs into the San Marcos River, improve the water quality of the river, protect the beauty of the river and nearby parks, and protect streams that flow into the San Marcos River. A large part of SMRF's work involves water quality monitoring and scientific studies aimed at improving the quality of effluent discharged from wastewater facilities, and SMRF regularly participates in the wastewater permitting process. SMRF's work and mission directly encompass protecting the receiving waters for the draft permit since the receiving waters for the draft permit flow into the San Marcos River, and the issuance of the draft permit will harm SMRF's interest in the protection of water quality, aquatic life, property values, recreation, conservation, and aesthetic beauty of the San Marcos River and Plum Creek.

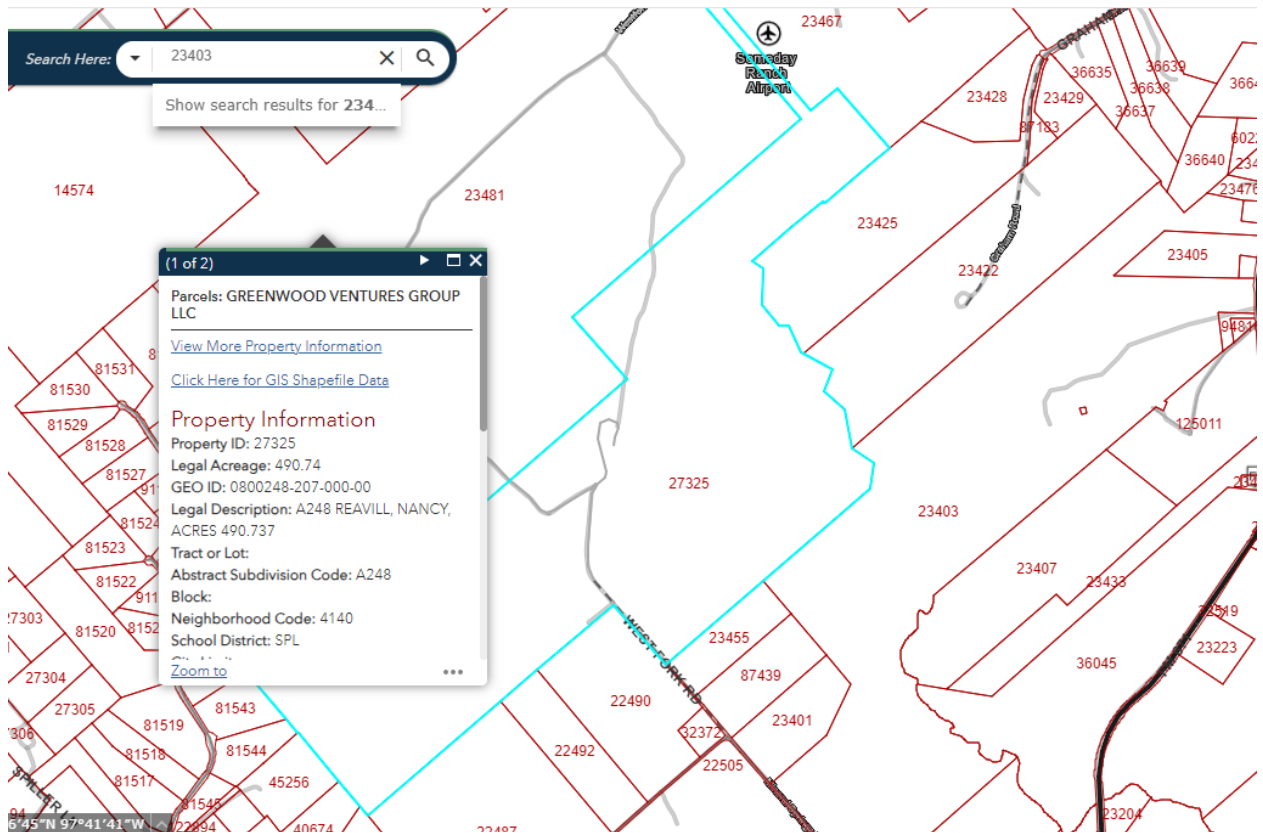
Jerry Doyle is a SMRF member who owns real property and lives at 832 FM 671, Lockhart TX 78644 which is .75 miles from the discharge point, outfall, for the draft permit. Mr. Doyle's economic, property, aesthetic, recreation, and personal health and safety interests will be harmed by the draft permit. And 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. Mr. Doyle is also concerned that with 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. LCRA also regularly uses the creek crossing on Mr. Doyle's property. Mr. Doyle's phone number is 512-213-7267, and his email is [jldoyle\\_1969@yahoo.com](mailto:jldoyle_1969@yahoo.com).

## **III. ARGUMENT**

The property of SMRF member Jerry Doyle is larger than a single GPS point on a map. Mr. Doyle's property shares a fence line with the Applicant's property, and Mr. Doyle's property also encompasses an area that is .75 miles downstream of the discharge path for the outfall. The proximity of Mr. Doyle's property to the Applicant's property and the outfall can be seen in the maps in Figure 1 and Figure 2. Figure 1 shows Mr. Doyle's property highlighted in blue, parcel 23403, and Figure 2 shows the Applicant's property highlighted in blue, parcel 27325.



**Figure 1.** Mr. Doyle’s property highlighted in blue.



**Figure 2.** The Applicant’s property highlighted in blue.

Since the treated municipal sewage from the Applicant's proposed discharge will flow right past Mr. Doyle's property within .75 miles of the outfall and the sewage will impact Mr. Doyle's land values and other interests, Mr. Doyle has a personable justiciable interest in the draft permit that qualifies him as an affected person under 30 T.A.C. § 55.203. Moreover, since SMRF has a member that qualifies as an affected person, SMRF has met all other requirements to be considered an affected person to challenge the draft permit, and the TCEQ rules on affected person status do not require the member of an organization to submit comments or a contested case hearing request that are the same as those filed by the organization in order to confer affected person status to the organization, SMRF qualifies as an affected person under 30 T.A.C. § 55.203 and 30 T.A.C. § 55.205.

#### **IV. CONCLUSION**

For the reasons stated above, SMRF is an affected person, and all issues raised by SMRF should be referred to the SOAH. The ED's, OPIC's, and Applicant's objections to granting SMRF affected person status are inapposite, and as detailed in this reply, failed to explain why SMRF should not be granted affected person status or why the issues raised by SMRF should not be referred to SOAH. Accordingly, SMRF respectfully requests that the TCEQ Commissioners grant SMRF's Contested Case Hearing Request.

Sincerely,  
/s/ Victoria Rose  
Victoria Ann Rose  
State Bar No. 24131088  
victoria@sosalliance.org

Bill Bunch  
State Bar No. 03342520  
bill@sosalliance.org

Save Our Springs Alliance  
4701 Westgate Blvd.  
Bldg. D, Suite 401  
Austin, Texas 78745  
Tel.: 512-477-2320  
Fax: 512-477-6410

*Attorneys for San Marcos River Foundation*

**CERTIFICATE OF SERVICE**

I certify that on February 12, 2024, the “SAN MARCOS RIVER FOUNDATION’S REPLY ON CONTESTED CASE HEARING REQUESTS FOR PROPOSED TPDES WQ0016148001” was filed with the TCEQ’s Office of the Chief Clerk and a copy was sent to the Applicant, TCEQ Executive Director, Public Interest Counsel, and the other requestors at the address specified on the mailing list.

/s/ Victoria Rose  
Victoria Rose

**FOR THE APPLICANT**

Helen Gilbert  
Barton Benson Jones PLLC  
7000 North Mopac Expressway  
Suite 200  
Austin, Texas 78731

Shaun Vembutty  
Greenwood Ventures Group LLC  
101 Parklane Blvd, Suite 102  
Sugar Land, Texas 77478

Lauren Crone, P.E.  
Daniel Ryan, P.E.  
LJA Engineering, Inc.  
7500 Rialto Boulevard  
Building 2, Suite 100  
Austin, Texas 78735

**FOR THE EXECUTIVE DIRECTOR**

Fernando Salazar Martinez  
TCEQ Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711

Sonia Bhuiya  
TCEQ Water Quality Division, MC-148  
P.O. Box 13087  
Austin, Texas 78711

Ryan Vise  
TCEQ Public Education Program, MC-108  
P.O. Box 13087  
Austin, Texas 78711

**FOR OPIC**

Garrett T. Authur  
TCEQ Pubic Interest Counsel  
MC-103  
P.O. Box 13087  
Austin, Texas 78711

**FOR REQUESTORS**

Justin C. Adkins  
GBRA  
2225 E Common St  
New Braunfels, Texas 78130-3157

Mike Clifford  
Nathan Glavy  
Annalisa Peace  
GEAA  
PO Box 15618  
San Antonio, Texas 78212-2616

Martin Edmondson  
Double M Ranch  
162 Paint Brush Trail  
Lockhart, Texas 78644-4565

Larry Lindsey  
1635 Westwood Rd  
Lockhart, Texas 78644-4000

Colby & Erin A Stephens  
680 Westwood Rd  
Lockhart, Texas 78644-4699

Susan Vinklarek  
8901 Brook Hill Lane  
Fort Worth, Texas 76244-7683