

TCEQ DOCKET NO. 2025-1320-MWD

APPLICATION BY PLUM CREEK CALDWELL, LP FOR AMENDMENT TO TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. WQ0015738001	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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PLUM CREEK CALDWELL, LP’S RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSIONERS:

COMES NOW, Applicant Plum Creek Caldwell, LP (Plum Creek or Applicant) and files this Response to Hearing Requests relating to the issuance of proposed major amendment to existing Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015738001, and would respectfully show the following:

I. SUMMARY OF RESPONSE

The Texas Commission on Environmental Quality (TCEQ or Commission) received timely hearing requests from the Guadalupe-Blanco River Authority (GBRA) and one individual party, Michael Ohlendorf on behalf of his family farm “Ben O Corp” (Ben O Corp). On September 12, 2025, after the parties settled their disputes, GBRA withdrew its hearing request.¹ Thus, only the Ben O Corp request should be considered in this docket. Further, as an adjacent downstream landowner and prior litigant in the permit proceeding on the original underlying permit, Applicant does not contest Ben O Corp’s standing as an affected party. Should the Commission refer this case to the State Office of Administrative Hearings (SOAH) for hearing, it should limit the issue to the sole relevant and material issue raised by Ben O Corp set forth below and direct that the proceeding not exceed 180 days consistent with section 2003.047(e-2)(1) of the Texas Government Code.

II. BACKGROUND

Applicant seeks to amend TPDES permit issued in April 2021. The major amendment would authorize a higher average flow of 0.50 million gallons per day (MGD) in the Interim I

¹ **Exhibit A**, GBRA September 9, 2025 withdrawal of hearing request.

phase, 1.5 MGD in the Interim II Phase and 3.08 MGD in the Final Phase. The Draft Permit proposes effluent limitations in all phases of 5 mg/L carbonaceous biochemical oxygen demand five-day (CBOD₅), 5 mg/L total suspended solids (TSS), 2 mg/L ammonia-nitrogen (NH₃-N), 1.0 mg/L total phosphorus (TP), 10 mg/L total nitrogen (TN), 126 colony forming units (CFU) of *E. coli* per 100 ml, and 4.0 mg/L minimum dissolved oxygen (DO)² which is more stringent than the original permit. The amendment would also add whole effluent toxicity or biomonitoring requirements after the discharge of 1.0 MGD.

III. RELEVANT AND MATERIAL ISSUE

As Applicant concedes Ben O Corp is an affected person under title 30 Tex. Admin. Code § 55.203, the only remaining consideration is what relevant and material issues should be referred to SOAH that were raised during the comment period.³ At first blush, while it appears Ben O Corp has raised five discrete issues, except for one issue, they are either repetitive or outside the Commission's jurisdiction. For example, while Ben O Corp states they are concerned that the discharge route shown in the original application is inaccurate, their elaboration on page two of their hearing request makes it clear that the concern actually relates to flooding – which is described as their property becoming “marshy.”⁴ Flooding is outside the jurisdiction of the Commission.

Ben O Corp also raises the enforceability of a private settlement agreement it reached with the prior permittee, Cherryville GP, Inc. and Cherryville #5, Ltd. relating to the original permit application where the prior permittee has no affiliation to Applicant. The Commission does not have the legal authority to construe contracts between private parties and such settlement agreement has no relation to its administrative purposes or public interest in protecting human health or the environment.⁵ That leaves the remaining issue relating to water quality. There, Ben O Corp has raised concerns that water quality – which will actually be improved under more

² October 9, 2023, ED's Statement of Basis/Technical Summary and Executive Director's Preliminary Decision at 2-3 (revised September 19, 2025).

³ 30 TAC 55.201(c).

⁴ March 26, 2024 letter of Michael Ohlendorf to Laurie Gharis at 2.

⁵ Tex. Const. art. I, § 16; *See also*, *Texas Water Comm'n v. City of Fort Worth*, 875 SW2d 332 (Tex. App. – Austin 1994).

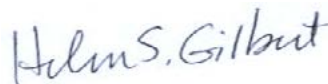
stringent effluent limitations than the original permit – will impact recreation and cattle. This concern should be condensed into one referred issue, as follows:

Whether the draft permit is adequately protective of water quality, including the protection of surface water, aquatic life and wildlife in accordance with the Texas Surface Water Quality Standards, 30 TAC Chapter 307.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully prays that if the Commission grants Ben O Corp's hearing request, that the case be referred on the sole issue identified above for no longer than 180 days.

Respectfully submitted,



By: _____

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**ATTORNEY FOR PLUM CREEK
CALDWELL LP**

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on this 26th day of September 2025:

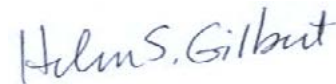
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By:



Helen S. Gilbert

September 12, 2025

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

Re: Request for Contested Case Hearing and Comments on proposed Texas Commission on Environmental Quality ("TCEQ") TPDES Permit No. WQ0015738001, Plum Creek Caldwell, L.P. ("Applicant")

Dear Ms. Gharis,

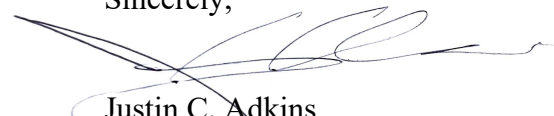
On March 15, 2024, the Guadalupe-Blanco River Authority ("GBRA") timely filed comments and its request for a contested case hearing pertaining to Plum Creek Caldwell's pending application for a major amendment of existing TPDES permit No. WQ0015738001. In addition to regionalization concerns, GBRA expressed concern that the proposed permit effluent limits in the application, particularly the lack of a Total Phosphorous ("TP") limit for all phases, would not sufficiently protect water quality in the area of the proposed discharge.

Following discussions regarding the application's lack of a proposed TP limit, GBRA and Applicant have come to an agreement regarding the addition of a daily average TP limit of 1.0 mg/L for all phases. Applicant has represented to GBRA that it will request that the TCEQ add this limit to the permit. GBRA respectfully requests confirmation of this addition and a copy of the draft permit showing that the proposed permit will contain the one mg/l TP limit.

In light of GBRA's and Applicant's agreement, GBRA's concerns regarding the proposed permit amendment have been addressed. Therefore, GBRA respectfully withdraws its comments and request for a contested case hearing relating to this proposed amendment.

Thank you for your time and attention to this matter.

Sincerely,



Justin C. Adkins
Assistant General Counsel
Guadalupe-Blanco River Authority

