

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Friday, March 15, 2024 4:11 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015738001
Attachments: Plum Creek Caldwell - GBRA Request for Contested Case Hearing.pdf

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Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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www.tceq.texas.gov/customersurvey

From: jadkins@gbra.org <jadkins@gbra.org>
Sent: Friday, March 15, 2024 10:00 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015738001

REGULATED ENTY NAME CHERRYVILLE WWTP

RN NUMBER: RN110534898

PERMIT NUMBER: WQ0015738001

DOCKET NUMBER:

COUNTY: CALDWELL

PRINCIPAL NAME: PLUM CREEK CALDWELL LP

CN NUMBER: CN606050938

NAME: MR Justin Adkins

EMAIL: jadkins@gbra.org

COMPANY: Guadalupe-Blanco River Authority

ADDRESS: 2225 E COMMON ST
NEW BRAUNFELS TX 78130-3157

PHONE: 8303795822

FAX:

COMMENTS: Please see attached letter requesting a contested case hearing on this proposed permit.



Your Trusted
Water Resource

2115 N. Commons Street
Waco, Texas 76790
817-770-5372

GBRA.ORG

March 15, 2024

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,

The Guadalupe-Blanco River Authority ("GBRA") provides these comments consistent with its directive as a Conservation and Reclamation District created by the State of Texas with the obligation to control, store, and preserve, within or adjoining the boundaries of the district, the waters of any rivers and streams, including the Guadalupe and Blanco Rivers and their tributaries, for all useful purposes.

Water Quality

On March 23, 2023, Applicant filed an application for a major amendment of existing TPDES permit No. WQ0015738001, seeking approval to increase the discharge of treated domestic wastewater and approval to build a new wastewater plant located in Caldwell County, Texas (the "Application"). Under the proposed permit, Applicant seeks to construct the Caldwell County MUD #1 Wastewater Treatment Facility ("Cherryville WWTP"), which would discharge treated effluent from the plant to Dickerson Creek, then to Segment 1808 of the Lower San Marcos River of the Guadalupe River Basin. The effluent limitations proposed in the Application are not sufficiently protective of water quality.¹ The addition of a total phosphorous effluent limit of one mg/l is needed to preserve the integrity of the water quality in this area and associated stream segments.

The TCEQ's 2022 Texas Integrated Report of Surface Water Quality for Clean Water Act Sections 305(b) and 303(b) ("IR") currently provides a listing of concern for bacteria for a portion

¹ Specifically, while GBRA has no concerns with Applicant's proposed effluent limits for all phases of 5 mg/l Biochemical Oxygen Demand (CBOD₅), 5 mg/l Total Suspended Solids (TSS), and 2 mg/l Ammonia Nitrogen (NH₃-N), the proposed permit is not sufficiently protective of water quality in the receiving waters due to the lack of a limit for Total Phosphorous (TP).

of Segment 1808, downstream from Applicants' proposed point of discharge, located between the confluence of the Lower San Marcos River with the Guadalupe River upstream of the confluence with Mule Creek.

In order to avoid further impairments in Segment 1808 and avoid nutrient loading, a treatment standard of one mg/l TP should be required in the Applicant's permit. Nutrient loading occurring as a result of an elevated phosphorous level may promote growth of harmful algal blooms, as well as growth of *Hydrilla verticillata*, a non-native species, the presence of which can have a number of deleterious effects on the river. These include the removal of dissolved oxygen in the water when algae dies and resulting death of fish and other aquatic life, the restriction of native plant growth, and an obstacle to irrigation and recreational activities. Implementing an appropriate TP treatment limit will mitigate the negative impacts from both harmful algal blooms and excessive growth of *Hydrilla verticillata*.

Regionalization

The construction of a wastewater treatment plant in Applicant's proposed location runs counter to the State of Texas' and TCEQ's policies regarding the regionalization of wastewater systems in the state. As provided in the Texas Water Code ("TWC"), the state's regionalization policy is to "encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state."² In considering the issuance of a wastewater discharge permit, TCEQ may deny or alter the terms and conditions of the proposed permit based on the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems.³

As proposed by Applicant, the intended location of the Cherryville WWTP is situated at the midpoint of five operational or proposed WWTPs, all of which are located less than four miles from the proposed location.

Specifically, Tack Redwood Partners has applied for TPDES permit No. WQ0016220001, for approval to build a WWTP approximately 3.7 miles northeast of the proposed Cherryville WWTP.

South Central Water Company has applied for TPDES permit No. WQ0016385001, for approval to build the Lockhart 1290 WWTP approximately two miles northeast of the Cherryville WWTP.

Walton Texas, LP has applied for TPDES permit WQ0015918001, for approval to build the Cotton Center Martindale WWTP approximately 3.5 miles northwest of the Cherryville WWTP.

² TWC §§ 26.003, 26.081(a).

³ See TWC § 26.0282.

BL 12 Holdings LLC has applied for TPDES permit WQ0016297001, for approval to build the JK Ranch WWTP approximately 3.1 miles southeast of the Cherryville WWTP.

The Staples Subdivision WWTP, which is operated by Austin Mark Ventures, LLC and has already been approved by the TCEQ, is located approximately 3.5 miles to the southwest of the Cherryville WWTP.

Attached as **Exhibit A** to this letter is a depiction of the location of these five WWTPs in relation to the proposed Cherryville WWTP, as shown in the TCEQ's Wastewater Outfall Viewer.

One or more of these plants may be able to provide treatment and disposal services. Applicant should be required to connect to one of these nearby systems, or engage in an alternative arrangement other than constructing a new WWTP. This will bring with it the numerous benefits of regionalization in the proposed area, including efficiencies of planning, management, and regulatory compliance, as well as potentially decreased wastewater processing costs, which may then be passed onto customers.

Request for a Contested Case Hearing

GBRA is an affected person with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the Application. GBRA's interest is not common to the members of the general public. The proposed WWTP and discharge are located within GBRA's ten-county statutory district, which includes Kendall, Comal, Hays, Caldwell, Guadalupe, Gonzales, DeWitt, Victoria, Calhoun, and Refugio counties.⁴

GBRA has an interest in protecting, and the authority to protect, the water quality in the rivers and streams within its district. GBRA's enabling legislation grants GBRA the authority to preserve the waters of any rivers and streams within or adjoining the boundaries of the district.⁵ Additionally, TWC § 26.171 authorizes GBRA to inspect the public water in its statutory area to determine if the quality of the water meets state water quality standards, to determine if the persons discharging effluent into the public water have obtained permits, and to determine if those permit holders are complying with the requirements of the permits. Granting a discharge permit that fails to sufficiently protect water quality adversely affects GBRA and thwarts its legislative directive to preserve the water within its district. GBRA's authority to protect and preserve the water quality within its district confers it with a personal justiciable interest affected by the application.

Correspondence regarding the application and GBRA's comments and request for a contested case hearing should be directed to the following:

⁴ See Act Approved October 23, 1933, 43d Leg., 1st C.S., ch. 75 § 1, 1933 Tex. Gen. Laws 198; Act of October 17, 1935, 44th Leg., 1st C.S., ch. 410, § 1, 1935 Tex. Gen. Laws 1615; Act of June 2, 1969, 61st Leg., R.S., ch. 432 § 1, 1969 Tex. Gen. Laws 1465; Act of June 19, 1975, 64th Leg., R.S., ch. 433, § 1, 1975 Tex. Gen. Laws 1149.

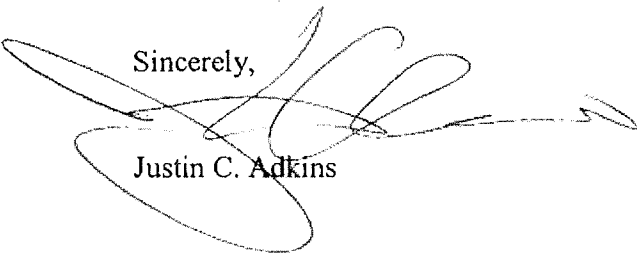
⁵ Act of June 19, 1975, 64th Leg., R.S., ch. 433, § 2, 1975 Tex. Gen. Laws 1149.

Justin C. Adkins
Guadalupe-Blanco River Authority
2225 E. Common St.
New Braunfels, Texas 78130

Issues to be Referred to SOAH

In light of the issues raised by GBRA in its comments above, GBRA requests that this matter be referred to the State Office of Administrative Hearings for a contested case hearing in order to address the disputed issues of fact and law.

Sincerely,



Justin C. Adkins

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Wednesday, March 27, 2024 4:21 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015738001
Attachments: CommentsFromBenOCorpReAmendedPermit-WQ00157380012.pdf

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Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: mwohlendorf1@gmail.com <mwohlendorf1@gmail.com>
Sent: Tuesday, March 26, 2024 5:26 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015738001

REGULATED ENTY NAME CHERRYVILLE WWTP

RN NUMBER: RN110534898

PERMIT NUMBER: WQ0015738001

DOCKET NUMBER:

COUNTY: CALDWELL

PRINCIPAL NAME: PLUM CREEK CALDWELL LP

CN NUMBER: CN606050938

NAME: Michael W Ohlendorf

EMAIL: mwohlendorf1@gmail.com

COMPANY: Ben O Corp

ADDRESS: 1845 FM 1977
MARTINDALE TX 78655-3974

PHONE: 5125170733

FAX:

COMMENTS: See attached PDF.

Ben O Corp

1845 FM 1977
Mobil: 512.517.0733

Martindale, Texas 78655
Email: mwohlendorf1@gmail.com

March 26, 2024

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087 – MC 105
Austin, Texas 787011 – 3087

Via: Online Submission Form

RE: Comments on the Application and Draft Permit of Plum Creek Caldwell, LP for the Major Amendment to TPDES Permit No. WQ0015738001.

Dear Ms. Gharis:

Our family farm, in the name of Ben O Corp, was purchased by my parents in 1943. It is now owned by our 3 daughters, our nephew, and me. Our land is the first property on Dickerson Creek that is downstream from the discharge point of the proposed wastewater treatment plant (WWTP) for Plum Creek Caldwell, LP.

If the proposed wastewater treatment plant is allowed to be built and the plant discharges 3 million gallons of treated wastewater on a daily basis into Dickerson Creek, we will no longer be able to use our pastureland like we have since the 1940's. This presents a serious problem to us.

We have five areas of primary concern that affect our property if the amended wastewater treatment plant permit is approved:

1. The route of Dickerson Creek as shown in the original application is inaccurate.
2. Our pasture grazing and agricultural operations will be adversely affected by the continuous water flow in the creek.
3. Our family use of the creek for recreation will be impaired by the proposed wastewater discharge quality and quantity.
4. If the quality of water in the creek is diminished, it may be harmful to the cattle that now drink from the creek.
5. Finally, and very important to us, we want to ensure that Plum Creek Caldwell, LP abides by all of the terms in the settlement agreement between Cherryville and us that was signed by all parties on January 26, 2021.

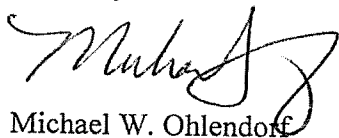
A more detailed description of each concern follows.

1. The route of Dickerson Creek as shown in the original permit application is inaccurate. Since TXDOT attempted to reroute the creek in the early 1970's, the water in the creek no longer flows in the channel as shown in the application, but instead fans out at the end of the channel (or pool) that TXDOT dug and eventually rejoins the old Dickerson Creek channel near the southern boundary of our property. Consequently, when we get enough rain to cause Dickerson Creek to flow, the water spreads out at the end of the pool and causes several acres of our land to become marshy. During these wet times, it is impossible to drive our vehicles (other than a tractor) across the marshy land to get from one side of our pasture to the other. Furthermore, no grass will grow there for the cows to eat when it is marshy. Attached is a drawing that shows the correct route that the water now takes after it crosses under the Hwy 80 bridge.
2. If the plant is built and discharges 3 million gallons or more of treated wastewater into Dickerson Creek on a daily basis, the marshy conditions described in the preceding paragraph, which have only been a problem for us on a very intermittent basis, will become a year-round problem. The continuous flow of water in Dickerson Creek will adversely and permanently affect our ability to effectively use our pastureland.
3. For over 75 years, Dickerson Creek has been used for family recreation. As a child, I and my extended family played and fished in the creek. We seined for perch and played in the water. The children of each generation have used the creek for fishing and playing. Now my grandchildren have gone to the creek to catch perch. It is important to my family that the water quality in the creek remains good enough to allow our traditions to continue for future generations. If the treatment plant is built, it is imperative that the effluent released into Dickerson Creek be treated to a level that does not adversely affect the quality of the water.
4. We have leased the pastureland around Dickerson Creek to Curtis and Ross Ohlendorf, operating as Rocking O Longhorns, for their cattle operation. They currently have approximately 85 head of registered Longhorn cattle on the land, and the cattle drink out of Dickerson Creek daily. If you go to the website for Rocking O Longhorns, <https://www.rockingolonghorns.com/>, you will see that their cattle are premium Longhorns that command high prices when they are sold. They (Ross and Curtis) and I are concerned about harmful effects on their cattle from drinking out of the creek when most, if not all, of the flow in the creek will be wastewater from the treatment facility that is released into the creek only a short distance upstream from where the creek enters our property.
5. On January 26, 2021 we (the San Marcos River Foundation, the Texas Rivers Protection Association and our family) entered into a settlement agreement with Cherryville to resolve most of the issues that we had for which a contested case hearing had been granted. There were several key items included in the Terms of Agreement that convinced us to agree to the settlement: (1) Improved treatment levels of the effluent (Paragraphs 2, 3 and 6); (2) Reuse of 75% of the effluent on an annual basis (Paragraph 4); and (3) Channel improvements to our property in the "marshy" areas to allow us to cross Dickerson Creek at times when the creek is flowing, since it will be flowing year-round when the wastewater treatment plant is operational (Paragraph 5). We fully expect

the provisions of the agreement to remain in place for Plum Creek Caldwell, LP as stated in Paragraph 21 of the agreement. We are concerned, however, about their intent to do so because we were not notified by Cherryville when the permit was transferred to Plum Creek Caldwell, LP as required by Paragraph 20 of the agreement.

Our land is within one mile of the proposed discharge point of the WWTP. We respectfully request that a contested case hearing on the **Plum Creek Caldwell, LP Major Amendment to TPDES Permit No. WQ0015738001** be granted.

Sincerely,

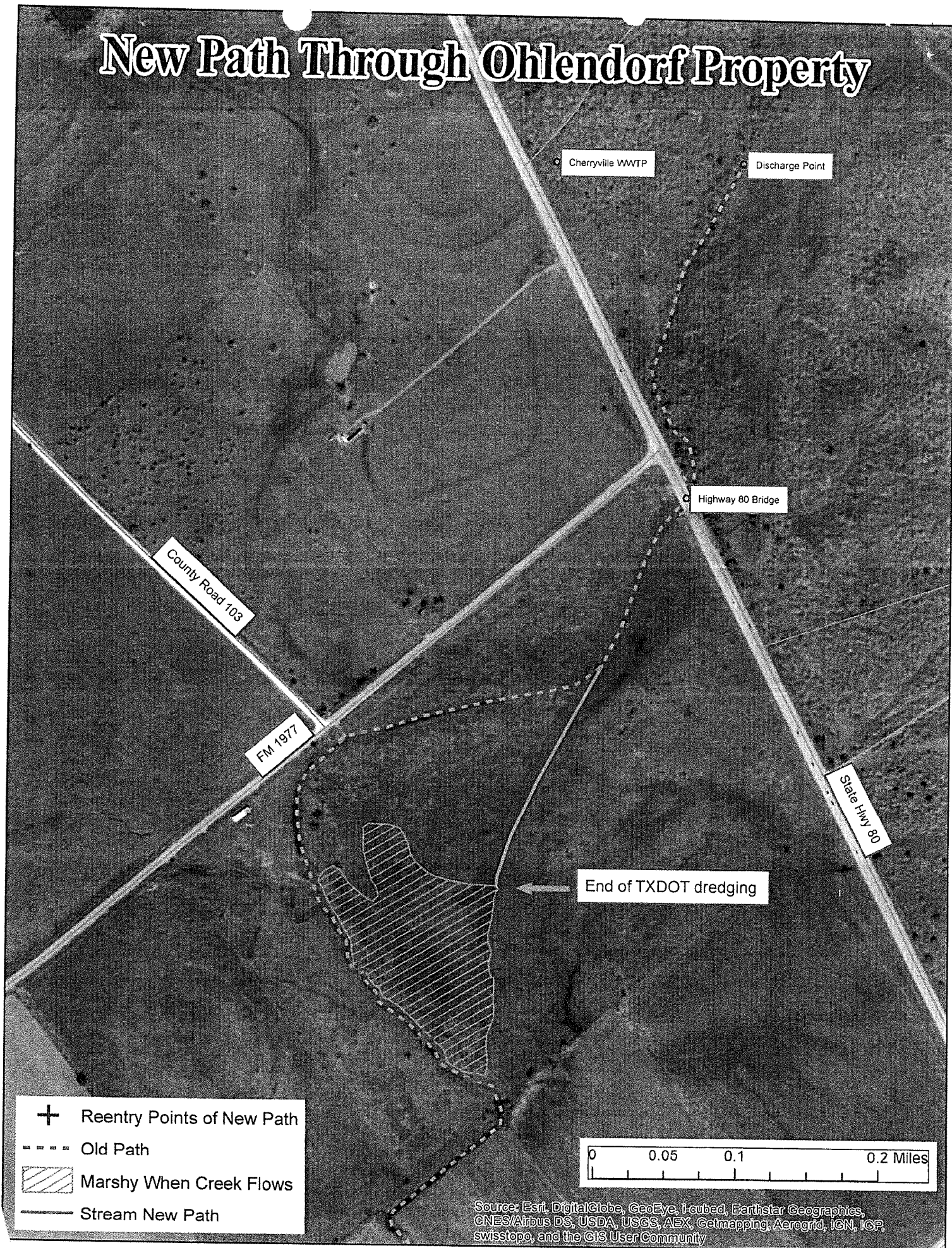


Michael W. Ohlendorf
Treasurer

Attachment:

- (1) Map of correct route of Dickerson Creek through our property

New Path Through Ohlendorf Property



2

TCEQ Registration Form

March 26, 2024

PLUM CREEK CALDWELL, LP
Amendment - Water Quality Permit Number
WQ0015738001

PLEASE PRINT

Name: Michael Ohlendorf

Mailing Address: 1845 FM 1977

Physical Address (if different): _____

City/State: Martindale TX Zip: 78655

****This information is subject to public disclosure under the Texas Public Information Act****

Email: mwohlendorf1@gmail.com

Phone Number: (512) 517-0733

- Are you here today representing a municipality, legislator, agency, or group? ☐ Yes ☒ No

If yes, which one? _____

☒ Please add me to the mailing list.

☒ I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

☐ I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.