

TCEQ DOCKET NO. 2025-1320-MWD

**APPLICATION BY PLUM CREEK
CALDWELL, LP FOR
TPDES PERMIT NO.
WQ0015738001**

§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

Ben O Corp Reply on Hearing Requests

As noted by the Office of Public Interest Council (OPIC) in its response to hearing requests, Ben O Corp through Michael Ohlendorf raised several material issues that are proper for the Texas Commission on Environmental Quality (TCEQ) to refer to the State Office of Administrative Hearings (SOAH) for a contested case matter. The issues that TCEQ should refer are:

1. Whether the Facility and draft permit comply with the Texas Surface Water Quality Standards and are adequately protective of water quality.
2. Whether the Facility and draft permit are adequately protective of human health and animal life.
3. Whether the draft permit is adequately protective of requestor's use and enjoyment of property, including recreational use of Dickinson Creek and livestock watering.
4. Whether the discharge route is properly characterized in the application and draft permit and, as an operational feature of the Facility, will function properly.

The issues identified above were timely raised and not withdrawn by Ben O Corp during the comment period for this application and each of the issues embody considerations that are material to TCEQ's decision whether to approve the application and grant the draft permit. To summarize Ben O Corp's non-water quality related concerns with the draft permit as "issues with flooding" as the Applicant does, artificially narrows the issues raised by Ben O Corp and denies Ben O Corp the opportunity to be heard before SOAH on material issues related to the flow of treated effluent through Dickerson Creek raised during the comment period.

Additionally, while the issues recommended to be referred by the Executive Director are similar to those recommended by OPIC, Ben O Corp requests TCEQ refer the issues as articulated by OPIC as they hew more closely to the issues and concerns raised by Ben O Corp

during the comment period by allowing broader consideration of the Texas Surface Water Quality Standards located at 30 TAC Chapter 307 rather than limiting consideration to water quality standards related only to aquatic life, livestock, and existing uses.

For the reasons set out here and in Ben O Corp's hearing request, Ben O Corp respectfully requests that TCEQ refer this matter to SOAH for a contested case hearing on the issues listed in the reply.

Respectfully Submitted,

Michael W. Ohlendorf

CERTIFICATE OF SERVICE

I certify that on October 9, 2025, the above document was filed with the TCEQ Chief Clerk and sent to the permit's mailing list via electronic mail.

FOR THE APPLICANT
via electronic mail:

Helen S. Gilbert
Barton Benson Jones PLLC
7000 North MoPac Expressway, Suite 200
Austin, Texas 78731
hgilbert@bartonbensonjones.com

Shannon Livingston
Plum Creek Caldwell, LP
1909 Woodall Rodgers Freeway, Suite 300
Dallas, Texas 75201
slivingston@rreaf.com

Chris Vela, P.E.
Kimley-Horn and Associates
801 Cherry Street, Suite 1300, Unit 11
Fort Worth, Texas 76102
chris.vela@kimley-horn.com

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Harrison Cole Malley, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-0600 Fax: 512/239-0606
harrison.malley@tceq.texas.gov

Sonia Bhuiya, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-1205 Fax: 512/239-4430
sonia.bhuiya@tceq.texas.gov

Ryan Vise, Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-4000 Fax: 512/239-5678
pep@tceq.texas.gov

FOR ALTERNATIVE DISPUTE RESOLUTION
via electronic mail:

Kyle Lucas, Attorney
Texas Commission on Environmental Quality
Alternative Dispute Resolution MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-0687 Fax: 512/239-4015
kyle.lucas@tceq.texas.gov

FOR THE CHIEF CLERK
via eFiling:

Docket Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-3300 Fax: 512/239-3311

<https://www14.tceq.texas.gov/epic/eFiling/>