

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 8, 2025

TO: Persons on the attached mailing list.

RE: 130 Environmental Park, LLC
TCEQ Docket No. 2023-1559-MSW; SOAH Docket No. 582-24-13241
MSW Permit No. 2383

Decision of the Commission on Application.

The Texas Commission on Environmental Quality ("TCEQ" or "Commission") has made a decision to grant the above-referenced application. Enclosed with this letter is a copy of the Commission's order. Unless a Motion for Rehearing ("MFR" or "motion") is timely filed with the chief clerk, this action of the Commission will become final. A MFR is a request for the Commission to review its decision on the matter. Any motion must explain why the Commission should review the decision.

Deadline for Filing Motion for Rehearing.

A MFR must be received by the chief clerk's office no later than the 25th day after the date that the Commission's order on this application is signed. The date of signature is indicated on the last page of the enclosed order.

Motions may be filed in accordance with the requirements in Senate Bill 1267 (84th Regular Session, effective September 1, 2015) and Texas Government Code § 2001.146 with the chief clerk electronically at www.tceq.texas.gov/goto/efilings or by filing an original with the Chief Clerk at the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/239-3311

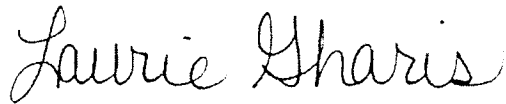
In addition, a copy of the motion must be sent on the same day to each of the individuals on the attached mailing list as indicated by an asterisk (*). A certificate of service stating that copies of the motion were sent to those on the mailing list must also be sent to the chief clerk. The procedures for filing and serving a MFR and responses are located in 30 TAC § 80.272, Texas Governmental Code § 2001.146 as revised by Senate Bill 1267 (84th Regular Session, effective September 1, 2015), and 30 TAC §§ 1.10 and 1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC § 1.10(h).

The written motion must contain (1) the name and representative capacity of the person filing the motion; (2) the style and official docket number assigned by SOAH and official docket number assigned by the Commission; (3) the date of the order; (4) the particular findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous; and (5) the legal and factual basis for the claimed error.

Unless the time for the Commission to act on the MFR is extended, the MFR is overruled by operation of law at 5:00 p.m. on the 55th day after the date that the Commission's order on this matter is signed.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis". The signature is written in black ink and is positioned above the printed name and title.

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

Brooke T. Paup, *Presidenta*
Bobby Janecka, *Comisionado*
Catarina R. Gonzales, *Comisionada*
Kelly Keel, *Directora Ejecutiva*



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas Reduciendo y Previniendo la Contaminación

8 de agosto de 2025

PARA: Personas en la lista de correo adjunta.

RE: 130 Environmental Park, LLC
TCEQ Expediente N.º 2023-1559-MSW; SOAH Expediente N.º 582-24-13241
MSW Permiso N.º 2383

Decisión de la Comisión sobre la Solicitud.

La Comisión de Calidad Ambiental de Texas ("TCEQ" o "Comisión") ha tomado la decisión de conceder la solicitud de permiso mencionada anteriormente. Adjunta a esta carta una copia de la orden de la Comisión. A menos que se presente oportunamente una Moción de Nueva Audiencia ("MFR" o "moción") ante el secretario oficial, esta acción de la Comisión será definitiva. Una MFR es una solicitud para que la Comisión revise su decisión al respecto. Cualquier moción debe explicar por qué la Comisión debe revisar la decisión.

Fecha Límite para Presentar una Moción de Nueva Audiencia.

Una MFR debe ser recibida por la oficina del secretario oficial a más tardar 25 días después de la fecha en que se firme la orden de la Comisión sobre esta solicitud. La fecha de la firma se indica en la última página del pedido adjunto.

Las mociones se pueden presentar ante el secretario oficial electrónicamente en www.tceq.texas.gov/goto/efilings o presentando un original ante el secretario oficial en la siguiente dirección:

Laurie Gharis, Secretaria Oficial
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/239-3311

Además, se debe enviar una copia de la moción el mismo día a cada una de las personas en la lista de correo adjunta como se indica con un asterisco (*). Un certificado de entrega que indique que se enviaron copias de la moción a cada parte en este asunto también debe adjuntarse a la moción que se envía al secretario oficial. Los procedimientos para presentar y entregar una MFR y respuestas se encuentran en 30 TAC § 80.272, Código Gubernamental de Texas § 2001.146 según revisado por el Proyecto de Ley del Senado 1267 (84ª Sesión Regular, vigente a partir del 1 de

septiembre del 2015), y 30 TAC §§ 1.10 y 1.11. El Asesor Jurídico renuncia al requisito de presentación de copias impresas de conformidad con 30 TAC § 1.10(h).

La moción escrita debe contener (1) el nombre y la capacidad de representación de la persona que presenta la moción; (2) el estilo y el número de expediente oficial asignado por SOAH (si se refiere a SOAH) y el número de expediente oficial asignado por la Comisión; (3) la fecha del pedido; (4) las determinaciones particulares de hecho o conclusiones de derecho que son objeto de la queja y cualquier fallo probatorio o legal que se alegue que es erróneo; y (5) la base legal y fáctica del error reclamado.

A menos que se extienda el tiempo para que la Comisión actúe sobre la MFR, la MFR queda anulado por ministerio de la ley a las 5:00 p.m. del día 55 después de la fecha en que se firme la orden de la Comisión sobre este asunto.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, sin cargo, al 1-800-687-4040.

Atentamente,

A handwritten signature in black ink that reads "Laurie Gharis". The script is cursive and fluid.

Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

MAILING LIST/LISTA DE CORREO
130 Environmental Park, LLC
TCEQ Docket No./TCEQ Expediente N.º 2023-1559-MSW
SOAH Docket No./SOAH Expediente N.º 582-24-13241
MSW Permit No./MSW Permiso N.º 2383

FOR THE APPLICANT/PARA EL
SOLICITANTE:

* Brent Ryan, Attorney
McElroy, Sullivan, Miller & Weber, LLP
P.O. Box 12127
Austin, Texas 78711

Charles Appleby, Vice President
130 Environmental Park, LLC
5200 North US Highway 183
Lockhart, Texas 78664

INTERESTED PERSON(S)/PERSONA(S)
INTERESADA(S):

See attached list. / Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR/PARA
EL DIRECTOR EJECUTIVO
via electronic mail/vía correo electrónico:

* Anthony Tatu, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Megan Henson, Technical Staff
Texas Commission on Environmental
Quality
Waste Permits Division
MSW Permits Section MC- 124
P.O. Box 13087
Austin, Texas 78711-3087

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

* Pranjali M. Mehta, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS/PARA LA
OFICINA ESTATAL DE AUDIENCIAS
ADMINISTRATIVAS
via eFileTexas/vía eFileTexas:

The Honorable Katerina DeAngelo
Administrative Law Judge
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings/vía eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

AGUILAR , HECTOR
5930 MIDDLE FISKVILLE RD
AUSTIN TX 78752-4341

* ALLMON , ERIC
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

ALVEY , BRIAN
PO BOX 539
LOCKHART TX 78644-0539

ARCINIEGA JR , PEDRO
STE 10
2000 W SAN ANTONIO ST
LOCKHART TX 78644-2580

AVILES , JENNIFER
1600 HOMANNVILLE TRL
LOCKHART TX 78644-4501

BROWN , CLAUDIA & ROBERT
1882 FM 1185
LOCKHART TX 78644-4485

CASTILLO , PEDRO G
808 E WALNUT ST
LOCKHART TX 78644-2127

CUELLAR , JESSICA
1314 MONTE VISTA DR
LOCKHART TX 78644-1939

DAVILA , MARY
1515 HOMANNVILLE TRL
LOCKHART TX 78644-2270

DAVILA-FLORES , SOMER
111 SUNSET DR
LOCKHART TX 78644-3934

DAVIS , TRAVIS
PO BOX 2120
SAN MARCOS TX 78667-2120

DIAZ , ENRIQUE
1875 HOMANNVILLE TRL
LOCKHART TX 78644-4935

ESTRADA , ALAURA E
520 NECHES ST
LOCKHART TX 78644-2863

ESTRADA , ASHLEY
818 FM 713
LOCKHART TX 78644-4234

FORD , CHARLA TAIT
18565 SCENIC HIGHWAY 98
FAIRHOPE AL 36532-6882

FRIEDRICH , BYRON CHRISTOPHER
PO BOX 454
LOCKHART TX 78644-0454

FRIEDRICH , BYRON CHRISTOPHER
2353 FM 1185
LOCKHART TX 78644-2263

GOMEZ , RICARDO
2215 HOMANNVILLE TRL
LOCKHART TX 78644-2271

HADEN , HOPPY
RM 201
110 S MAIN ST
LOCKHART TX 78644-2701

HERNANDEZ , ANTHONY
948 SUTTON LN
LULING TX 78648-4009

HOEKZEMA , ANDREW
CAPITAL AREA COUNCIL OF GOVERNMENTS
BLDG 310, STE 165
6800 BURLESON RD
AUSTIN TX 78744-2306

HOLDER , LESLIE
575 COMANCHE WAY
DALE TX 78616-3347

HOMANN JOHNSON , CINDY
802 HOMANN RD
LOCKHART TX 78644-2280

KING , PATTON S
22834 MOUNTAIN CREEK CT
KATY TX 77450-3680

LANE , MS SUSAN ELIZABETH
GARDENSCAPES
1334 HOMANNVILLE TRL
LOCKHART TX 78644-2078

LOPEZ GALVAN , ALEJO
1705 HOMANNVILLE TRL
LOCKHART TX 78644-2394

MALDONADO , SAMUEL
316 ALAMO DR
LOCKHART TX 78644-1571

MOORE , BRYAN J
STE 1420
98 SAN JACINTO BLVD
AUSTIN TX 78701-4082

NEUMANN , DAVID
1138 HOMANNVILLE TRL
LOCKHART TX 78644-3698

ORTIZ III , VINCENT
1004 N COMMERCE ST
LOCKHART TX 78644-1810

* PERALES , MARISA ATTORNEY
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

RINCON , LISA
1905 HOMANNVILLE TRL
LOCKHART TX 78644-2498

RODRIGUEZ , PAULA
202 W CHINA ST
LOCKHART TX 78644-1766

RODRIGUEZ , TERESA
110 S MAIN ST
LOCKHART TX 78644-2701

ROLAND , THE HONORABLE JOE IVAN COMM PCT
4
CALDWELL COUNTY COMMISSION
110 S MAIN ST
LOCKHART TX 78644-2701

RUIZ , BEVERLY
APT A
205 S MAIN ST
LOCKHART TX 78644-2746

RUIZ , RENATO
400 FALL ASTER DR
KYLE TX 78640-2662

SHELTON , BARBARA
110 S MAIN ST
LOCKHART TX 78644-2701

SIFUENTES , BLANCA
905 LEE LN
LOCKHART TX 78644-3522

SIFUENTES , BRANDE
606 INDIAN BLANKET
LOCKHART TX 78644-3185

SIFUENTES , ELIZABETH
108 W OLIVE ST
LOCKHART TX 78644-1729

SUAREZ , ARMANDO
1525 HOMANNVILLE TRL
LOCKHART TX 78644-2270

SUGHRUE , FRANK L
5118 BARTH RD
LOCKHART TX 78644-2258

THERIOT , ED
CALDWELL COUNTY
110 S MAIN ST
LOCKHART TX 78644-2701

TORRES , ALFONSO
1643 HOMANNVILLE TRL
LOCKHART TX 78644-4516

TORRES , ANGELICA M
1855 HOMANNVILLE TRL
LOCKHART TX 78644-4935

TREJO , DORA GUDINO
1475 HOMANNVILLE TRL
LOCKHART TX 78644-3196

VEES , RICK
PO BOX 772
LOCKHART TX 78644-0772

VOIGHTS , BETTY
BLDG 310, STE 165
6800 BURLESON RD
AUSTIN TX 78744-2306

VORA , PARIND
119 E SAN ANTONIO ST
LOCKHART TX 78644-2131

WESTMORELAND , B J
110 S MAIN ST
LOCKHART TX 78644-2701

ZUNIGA , JAIME
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

GRANTING THE APPLICATION BY 130 ENVIRONMENTAL PARK, LLC FOR A LIMITED-SCOPE AMENDMENT TO MSW PERMIT NO. 2383 IN CALDWELL COUNTY, TEXAS; SOAH DOCKET NO. 582-24-13241; TCEQ DOCKET NO. 2023-1559-MSW

On July 23, 2025, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the application of 130 Environmental Park, LLC (Applicant) for a limited-scope amendment to its Municipal Solid Waste (MSW) Permit No. 2383 to authorize expansion of facility hours at its MSW landfill facility (Landfill) located in Caldwell County, Texas. A Proposal for Decision (PFD) was issued by Katerina DeAngelo, Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH) and considered by the Commission.

After considering the PFD, the Commission makes the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

Application, Landfill, and Draft Permit

1. Applicant owns and operates a MSW landfill in Caldwell County, Texas.
2. Applicant holds MSW Permit No. 2383 (Permit) for the Landfill, which authorizes the Landfill to accept MSW resulting from, or incidental to, municipal, community, commercial, institutional, recreational, and industrial activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, construction waste, demolition waste, and yard waste. The Landfill is also authorized to accept Class 2 industrial solid waste, Class 3 industrial solid waste, and certain special waste, such as asbestos.
3. MSW is brought to the Landfill in personal vehicles, trash truck front-loaders, pickup trucks with

trailers, and 18-wheeler dump trucks. Approximately 220 vehicles come to the Landfill daily.

4. For daily operations, the Landfill uses a compactor, a motor grader, a dozer, and an excavator, all generally operating at the same time.
5. The Landfill's current waste acceptance hours are 7:00 a.m. to 7:00 p.m., Monday through Friday.
6. The Landfill's current operating hours are 5:00 a.m. to 9:00 p.m., Monday through Friday.
7. In December 2021, Applicant submitted to TCEQ an application (Application) for a limited-scope major amendment to the Permit to expand authorized operating and waste acceptance hours at the Landfill.
8. On January 31 and September 6, 2022, Applicant submitted revisions to the Application.
9. Applicant seeks to expand the waste acceptance hours to 5:00 a.m. to 7:00 p.m. Monday through Friday and 6:00 a.m. to 5:00 p.m. on Saturdays.
10. Applicant seeks to expand the operating hours to 5:00 a.m. to 9:00 p.m. Monday through Friday and 6:00 a.m. to 6:00 p.m. on Saturday.
11. Applicant provided the following reason for the hours expansion: "The 130 Environmental Park provides waste disposal for individuals, businesses, and communities in Caldwell County and the surrounding counties. The service area for the facility is a wide area with significant haul distances from some of the serviced communities. To better serve those communities, business, and customers, expanded operating hours will allow for more efficient waste collection and disposal outside typical working hours and peak traffic times, and reduce traffic and other impacts to infrastructure. The addition of Saturday operating hours will provide available weekend disposal, including for individuals who, for work or other reasons, may be unable to get to the landfill on weekdays, and for businesses (restaurants, grocery stores, etc.) needing waste collection and disposal services on Saturday. Authorizing waste acceptance hours to begin at 5 a.m. (6 a.m. on Saturday) will allow vehicles collecting waste in the very early morning hours to get their first loads of the day to the landfill and return to their collection routes before the peak morning traffic times for persons travelling to work, students travelling to schools, and others travelling on area roadways, thereby reducing peak hour traffic on roadways providing access to the landfill."
12. TCEQ's Executive Director (ED) declared the Application administratively complete on March 7, 2022, and technically complete on May 25, 2022.
13. The ED prepared a draft permit (Draft Permit) based on the Application and made the Draft Permit available for public review and comment.
14. The Draft Permit contains the following provision: Description of Change: The limited-scope amendment expands waste acceptance hours to 5:00 a.m. to 7:00 p.m., Monday through Friday,

and 6:00 a.m. to 5:00 p.m. on Saturday. It expands operating hours to 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday.

Notice and Jurisdiction

15. The final revised Notice of Application and Preliminary Decision (NAPD) was published on October 12, 2022, in the *Austin American-Statesman* and on October 13, 2022, in the *Lockhart Post-Register*.
16. The revised Spanish NAPD was published on October 13, 2022, in *El Mundo*, in Caldwell County, Texas.
17. The comment period for the Application ended on November 14, 2022.
18. On August 24, 2023, the ED preliminarily determined that the Application met the requirements of applicable law.
19. On August 17, 2023, the ED filed a Response to Public Comment as required by 30 Texas Administrative Code section 55.156.
20. The 30-day period to request a contested case hearing or reconsideration of the ED's decision ended September 25, 2023.
21. On December 13, 2023, the Commission considered during an open meeting all requests for hearing and/or reconsideration concerning the Application.
22. The Commission determined that Environmental Protection in the Interest of Caldwell County, Patton King on behalf of the King Family Trust, Susan Elizabeth Lane, Frank Sughrue, Claudia Shroyer Brown and Robert Brown, and Dora Gudino Trejo are affected persons under applicable law; and that their hearing requests should be granted. The remaining hearing requests and requests for reconsideration were denied.
23. By Interim Order, dated December 21, 2023, TCEQ referred the Application to the State Office of Administrative Hearings (SOAH) to consider one issue: whether Applicant has provided an adequate justification for expanding its facility hours beyond those established in 30 Texas Administrative Code section 330.135.
24. [Deleted]
25. The Notice of Hearing was issued April 12, 2024, and mailed to the appropriate recipients under 30 Texas Administrative Code section 39.501(f)(3).
26. The Notice of Hearing was published in newspapers under the requirements of 30 Texas Administrative Code section 39.501(f)(2).

Procedural History

27. On May 30, 2024, a preliminary hearing was convened via videoconference by SOAH ALJ DeAngelo. The following appeared and were admitted as parties: Applicant, Environmental Protection in the Interest of Caldwell County, Patton King on behalf of the King Family Trust, Frank Sughrue, Susan Elizabeth Lane, and Claudia Shroyer Brown and Robert Brown (collectively, Protestants), the ED, and the TCEQ Office of Public Interest Counsel (OPIC).
28. Jurisdiction was noted by ALJ DeAngelo, and the administrative record was admitted.
29. By agreement of the parties, with the approval of the ALJ, the deadline for issuance of the PFD was extended beyond 180 days from the preliminary hearing, until April 21, 2025.
30. No party requested that the ALJ consider, pursuant to Government Code section 2003.047(f) and 30 Texas Administrative Code section 80.4(c)(15), any issue beyond the one referred.
31. On January 14-15, 2025, ALJ DeAngelo convened a hearing on the merits.
32. At the merits hearing, Applicant was represented by attorney Brent W. Ryan. The ED was represented by attorneys Anthony Tatu and Caroline Catchings. OPIC was represented by attorneys Josiah Mercer and Pranjal Mehta. Protestants were represented by attorneys Marisa Perales and Eric Allmon.
33. The record closed after submission of replies to closing briefs on February 19, 2025.

Odors and Noise

34. The Landfill's odor management plan identifies sources of odors at the facility, includes general instructions for the control of odors or sources of odors at the facility, and discusses wastes that require special attention due to potential odors.
- 34A. The Applicant's limited-scope amendment Application did not seek to amend the Landfill's odor management plan.
- 34B. During the review of the Application, the Executive Director did not request any information regarding odors, noise, access roads, nuisance conditions, or land use compatibility.
35. [Deleted].
36. [Deleted]
37. [Deleted]
38. [Deleted]
39. [Deleted]

- 40. [Deleted]
- 41. [Deleted]
- 42. [Deleted]
- 43. There are no noise limit requirements specifically applicable to the Landfill.
- 44. [Deleted]
- 45. [Deleted]
- 46. [Deleted]
- 47. [Deleted]
- 48. [Deleted]
- 49. Applicant presented credible evidence supporting its justification for the extended hours.
- 49A. Allowing trash trucks to enter the landfill earlier in the morning would improve landfill operations by reducing the truck traffic that currently waits outside of the landfill's gates approximately one hour before the landfill opens. One of the benefits of the extended facility hours is for the trash trucks to get back on the roadways ahead of peak traffic hours to reduce the traffic strain on other drivers. Truck traffic currently enters the landfill when it opens at 7:00 a.m., drop off their loads, and then exit the landfill during peak traffic times. The amount of truck traffic could be the same with the extended hours and would allow for the trucks to be spread out earlier in the morning making it easier to manage waste acceptance and landfill traffic.
- 49B. The Landfill's operations manager, Mr. Lozano, received many comments from residents in Caldwell County asking for Saturday facility hours because they work Monday through Friday and cannot make it to the landfill to drop off their trash during the weekdays. Mr. Butler, the Landfill's general manager, explained that Saturday facility hours would provide residents and other landfill customers with an option for disposal that they would not otherwise be able to take advantage of during the weekdays.
- 49C. The Caldwell County Commissioners Court adopted Resolution 41-2022 that concluded that it would be beneficial to and in the best interest of the County and its residents to support the Applicant's Application for extended hours. The County's resolution states that extended waste acceptance hours will allow vehicles collecting waste in the very early morning to get their first loads of the day to the landfill and return to their collection routes before the peak morning traffic times for person travelling to work, students traveling to school, and other travelling on area roadways, thereby reducing peak hour traffic on roadways providing access to the landfill. The County's resolution finds that the addition

of Saturday operating hours of the landfill will provide available weekend disposal, including for individuals who, for work or other reasons, may be unable to get to the landfill on weekdays, and for business (restaurants, grocery stores, etc.) needing waste collection and disposal services on Saturday.

49D. The Protestants did not provide any evidence specifically related to the justification for extended hours that was included in Applicant's limited-scope amendment Application.

50. [Deleted]

51. [Deleted]

52. [Deleted]

53. [Deleted]

Transcription Costs

54. Reporting and transcription of the hearing on the merits was warranted because the hearing lasted two days.

55. No evidence was presented as to the amount of the reporting and transcription costs.

56. Applicant and Protestants were the primary participants at the hearing; and they both benefited from the transcript and frequently cited to the transcript in their closing arguments, proposed findings of fact, and reply arguments.

57. There is no direct evidence concerning the respective financial abilities of Applicant and Protestants to pay the transcript cost. Applicant, however, as a business operating the Landfill, is more likely to have the ability to pay than Protestants, who are a non-profit and several individuals. Applicant has demonstrated more financial ability to pay the costs, because it retained experts and presented expert testimony.

58. Applicant is the party seeking a benefit—a permit amendment for the Landfill.

II. CONCLUSIONS OF LAW

1. TCEQ has jurisdiction over this matter. Tex. Water Code ch. 5 and Tex. Health & Safety Code § 361.061.
2. SOAH has jurisdiction to conduct a hearing and to prepare a proposal for decision in contested cases referred by the Commission under Texas Government Code section 2003.047.
3. Notice was provided in accordance with the applicable requirements in Tex. Health & Safety Code Chapter 361; Texas Government Code sections 2001.051 and 2001.052; and 30 Texas

Administrative Code sections 39.405 and 39.501.

4. The Application is subject to the requirements in Senate Bill 709, effective September 1, 2015. Tex. Gov't Code § 2003.047(i-1)-(i-3).
5. Applicant's filing of the administrative record established a *prima facie* demonstration that: (1) the Draft Permit meets all state and federal legal and technical requirements; and (2) a permit, if issued consistent with the Draft Permit, would protect human health and safety, the environment, and physical property. Tex. Gov't Code § 2003.047(i-1); 30 Tex. Admin. Code §§ 80.17(c)(1), .117(c)(1), .127(h).
6. Applicant has the burden of proof on the issue referred by the Commission. 30 Tex. Admin. Code § 80.17(a). However, the admission of the administrative record into evidence met Applicant's burden of proof, subject to rebuttal. 30 Tex. Admin. Code § 80.117(b).
7. To rebut the *prima facie* demonstration established by the administrative record, a party must present evidence that: (1) relates to one of the referred issues; and (2) demonstrates, as compared to the administrative record, that one or more provisions in the Draft Permit violates a specifically applicable state or federal requirement. *See* Tex. Gov't Code § 2003.047(i-2); 30 Tex. Admin. Code §§ 80.17(c)(2), .117(c)(3).
8. Even if the *prima facie* demonstration established by the administrative record is rebutted, Applicant or the ED may present additional evidence to be considered in determining whether Applicant met its burden of proof. *See* Tex. Gov't Code § 2003.047(i-3); 30 Tex. Admin. Code §§ 80.17(c)(3), .117(c)(3).
9. The standard of proof is by a preponderance of the evidence. *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
10. TCEQ is authorized to manage the disposal of MSW and adopt rules to establish minimum standards of operation for facilities that dispose of MSW.
11. TCEQ operational standards for MSW landfill facilities require that waste acceptance hours may be any time between 7:00 a.m. and 7:00 p.m. Monday through Friday, and material transport and heavy equipment operation must not be conducted between 9:00 p.m. and 5:00 a.m. unless otherwise approved in the authorization for the facility. 30 Tex. Admin. Code § 330.135(a).
12. Applicants may request expansion of operating hours beyond those specified hours, through a limited-scope amendment. 30 Tex. Admin. Code § 305.62(j)(2)(B).
13. An application for any such amendment must describe the reason for the requested changes. Tex. Admin. Code § 305.62(b).
- 13A. As required by 30 TAC § 305.62(b), the limited-scope permit amendment narrative in the Application includes a statement describing the reasons for the requested changes to the Permit.

- 13B. Pursuant to 30 TAC § 305.62(j)(2) and (3), the Executive Director's review of the Application and any hearing or proceeding on the limited-scope amendment shall be limited to the proposed changes to the permit and additional information requested by the Executive Director.
- 13C. The Draft Permit provision authorizing the extended waste acceptance and operating hours, if incorporated into an amended permit, would not violate 30 TAC § 330.135(a).
- 14. [Deleted]
- 15. [Deleted]
- 16. [Deleted]
- 16A. Because the odors, nuisance prevention, and land use compatibility portions of Applicant's municipal solid waste permit were not requested to be changed in this limited-scope amendment Application, and the Executive Director did not request information regarding those matters during review of the Application, evidence regarding those matters is outside the scope of this limited-scope amendment and not relevant to this proceeding. 30 Tex. Admin. Code § 305.62(j)(2).
- 16B. Neither Tex. Health & Safety Code Chapter 361 nor TCEQ's municipal solid waste regulations establish noise limit requirements specifically applicable to landfills.
- 16C. The Protestants did not present evidence rebutting the Applicant's justification for extended hours provided in the Application and, therefore, did not present evidence that relates to the issue referred for hearing. Tex. Gov't Code § 2003.047(i-2)(1).
- 16D. The Protestants did not demonstrate that one or more provisions in the Draft Permit violate a specifically applicable state or federal requirement. Tex. Gov't Code § 2003.047(i-2)(2).
- 16E. The Protestants did not legally rebut the *prima facie* demonstration established by the administrative record. Tex. Gov't Code § 2003.047(i-1) and (i-2)
- 17. Applicant provided an adequate justification for expanding its facility hours beyond those established in 30 Texas Administrative Code section 330.135.
- 17A. The Draft Permit meets all state and federal legal and technical requirements.
- 17B. A permit consistent with the Draft Permit will protect human health and safety, the environment, and physical property.
- 18. No transcript costs may be assessed against the ED or OPIC because the TCEQ's rules prohibit the assessment of any cost to a statutory party who is precluded by law from appealing any ruling, decision, or other act of the Commission. 30 Tex. Admin. Code § 80.23(d)(2).

19. Applicant shall bear 100% of the reporting and transcription costs, after consideration of the following factors: the party who requested the transcript; the financial ability of the party to pay the costs; the extent to which the party participated in the hearing; the relative benefits to the various parties of having a transcript; the budgetary constraints of a state or federal administrative agency participating in the proceeding; and any other factor which is relevant to a just and reasonable assessment of the costs. 30 Tex. Admin. Code § 80.23(d)(1).

III. EXPLANATION OF CHANGES

1. In Finding of Fact (FOF) No. 11, the ALJ's proposed order quotes only a small portion of the justification for extended facility hours that was included in the Applicant's limited-scope amendment (LSA) Application. The Commission amended FOF No. 11 to include the complete justification as described in the LSA Application.
2. The Commission amended FOF Nos. 15 and 19 to correct the dates that the revised Notice of Application and Preliminary Decision was published in the *Lockhart Post-Register* and when the Executive Director (ED) filed her Response to Comments with the Office of the Chief Clerk, respectively.
3. The Commission finds that although FOF No. 24 is labeled as a finding of fact, the proposed order substantively treated it as a conclusion of law, a statement that expresses a legal duty or result. Chairman Niermann's statement at the December 13, 2023, Agenda was simply an acknowledgement that the Protestants have an opportunity to rebut the justification provided by the Applicant in its Application. Chairman Niermann's statement was not an authorization to expand what can be considered under the LSA application rules established in 30 Tex. Admin. Code § 305.62(j)(2). Section 305.62(j)(2) states that "any hearing or proceeding on a major amendment subject to this rule shall be limited to the proposed changes." The only change proposed in the Applicant's LSA Application is for the expansion of facility hours. Therefore, in this matter, issues such as odor and noise are outside the scope of this Application and cannot be used as rebuttal evidence in this matter. Accordingly, the Commission concluded that FOF No. 24 should be deleted because it is clearly erroneous in light of applicable rules for this LSA Application.
4. The Commission amended FOF Nos. 25 and 26 to correct the citations for the notice of hearing. The applicable rules are located in Chapter 39, rather than Chapter 38, of the TCEQ rules.
5. Pursuant to 30 Tex. Admin. Code § 305.62(j)(2) and (3), the ED's review of the application and any hearing or proceeding on the limited-scope amendment shall be limited to the proposed changes to the permit and any additional information requested by the ED. The Commission added new FOF Nos. 34A and 34B to address the scope of the Application under the LSA rules and to reflect that the evidence in the record demonstrates that the Applicant's LSA Application did not seek to amend the facility's odor management plan and, during the review of the Application, the ED did not request any information regarding odors, noise, access roads, nuisance conditions, or land use compatibility.

6. The Commission did not agree with the ALJ's determination that the Applicant's justification for extended facility hours must be evaluated considering the impact on the surrounding community. In accordance with 30 Tex. Admin. Code § 305.62(j)(2), the hearing shall be limited to the proposed change to the permit. The only provision being changed in the Applicant's permit is the expansion of the facility hours. However, during the hearing, the Protestants presented evidence exclusively about issues concerning odor and noise, which are not the subject of the proposed changes to the permit. In landfill applications, odor issues are addressed through the facility's odor management plan, which is not being changed in this Application and, therefore, is not a relevant issue that can be considered in the hearing under the LSA rules. Noise is not a relevant and material issue that the Commission would consider in this matter because TCEQ does not have any noise regulations specifically applicable to landfills.

In the Proposal for Decision (PFD), the ALJ does not cite any legal authority that would allow her to expand the issues that can be considered under the LSA application rules. Instead, the ALJ incorrectly bases her recommendation to deny the Application on language in the 2006 municipal solid waste (MSW) rules preamble. However, that language does not establish any requirements that must be followed and were published before the LSA rules were adopted in 2008. The Commission's discussion in the LSA preamble supersedes discussion in the 2006 preamble and makes clear that any hearing for an LSA application is limited to only the portions of the permit and attachments to which changes are being proposed. Therefore, since the odor, nuisance prevention, and land use compatibility portions of the Applicant's MSW permit were not requested to be changed in this LSA Application, and the ED did not request information regarding those matters during review of the Application, evidence regarding those matters is outside the scope of this LSA and not relevant to this proceeding. Accordingly, the Commission deleted FOF Nos. 35-42, 44-48, and 50-53. Those facts are irrelevant and immaterial to the Commission's decision in this matter under the LSA rules and, as such, must be excluded pursuant to TCEQ rules and applicable rules of evidence. See 30 Tex. Admin. Code § 80.127 and Texas Rules of Evidence 402. The Commission also added new Conclusion of Law (COL) Nos. 16A and 16B to explain the Commission's interpretation of the applicable law regarding the scope of the LSA Application and acknowledge that neither Tex. Health & Safety Code Chapter 361 nor TCEQ's municipal solid waste regulations establish noise limit requirements specifically applicable to landfills.

7. The purpose of referring this matter to SOAH under the issue "[w]hether 130 Environmental Park has provided an adequate justification for expanding its facility hours beyond those established in 30 TAC § 330.135" was to allow the Protestants an opportunity to rebut the justification provided by the Applicant in its LSA Application. However, the Protestants failed to present any relevant evidence during the hearing rebutting the Applicant's justification for extended hours that was included in the Application. Therefore, the Protestants did not present evidence that relates to the issue that the Commission referred for hearing. Pursuant to Texas Gov't Code § 2003.047(i-1) and (i-2), the un rebutted *prima facie* demonstration established by the filing of the administrative record is sufficient to carry the Applicant's burden of proof to demonstrate that the Draft Permit meets all state and federal legal and technical requirements and is protective of human health and safety, the environment, and physical property. In addition to the information provided in the Application, the Applicant's witnesses' testimony and the Caldwell County Commissioners

Court resolution—all admitted into evidence—regarding the justification for the extended hours were uncontroverted by the evidence in the record. Consequently, based on the relevant evidence in the record, the great weight of the evidence supports the justification for extended hours provided in the Applicant's LSA Application. Accordingly, the Commission amended FOF No. 49 to reflect that the record establishes that the Applicant provided sufficient justification supporting the extended hours. The Commission also added new FOF Nos. 49A, 49B, and 49C, to include the facts admitted into the record supporting the justification for extended landfill hours because those facts were not included in the ALJ's proposed order. The Commission added new FOF No. 49D to emphasize that the Protestants did not provide any evidence specifically related to the justification for extended hours that was included in the Applicant's LSA Application. Finally, the Commission added new COL No. 16C to apply relevant evidence to the applicable legal standards, finding that the evidentiary record demonstrates that the Protestants did not present evidence that relates to the issue referred for hearing in accordance with Tex. Gov't Code § 2003.047(i-2)(1).

8. The Commission amended COL Nos. 1 and 3 to correct the citations applicable to the Commission's jurisdiction and notice in this matter, respectively. The Commission replaced the statutory and regulatory citations regarding a water quality application with the requirements applicable to an MSW application.
9. The Commission added new COL No. 13A to acknowledge that the Applicant's LSA Application included a statement describing the reasons for the requested change to the permit in accordance with 30 Tex. Admin. Code § 305.62(b).
10. The Commission added new COL No. 13B to include the applicable legal requirements for the Commission's review of an LSA application. Pursuant to 30 Tex. Admin. Code § 305.62(j)(2) and (3), the ED's review of the Application and any hearing or proceeding on the limited-scope amendment shall be limited to the proposed changes to the permit and additional information requested by the ED.
11. The Commission did not agree with the ALJ's interpretation that, in an LSA application, the 2006 MSW rules preamble creates a specific legal requirement that the Applicant's justification for extended facility hours must be evaluated considering the impact on the surrounding community. The language in the preamble cannot be read to create a new standard that is not in the rule itself. Additionally, the Commission determined that the 2006 MSW preamble applies to the MSW permitting rules that were in place before the Commission adopted the process for LSA applications in 2008 and, therefore, applies to broader permit amendments, where the entire permit is opened for consideration—and not limited-scope amendments. The Commission emphasized that the purpose of an LSA application is to provide for a much narrower review for several types of discrete amendments. Therefore, the Commission determined that the ALJ applied an incorrect standard for evaluating facility hours in this matter. There is no evidence in the record that demonstrates that a provision in the Draft Permit violates a specifically applicable state or federal requirement, including 30 Tex. Admin. Code § 330.135. The Commission determined that the Draft Permit is consistent with § 330.135. Accordingly, the Commission added new COL No. 13C to state that the Draft Permit, if incorporated into the amended permit, would not violate 30 Tex. Admin. Code § 330.135. The Commission also deleted COL Nos. 14-16

because they are based on language in *Texas Register* notices that do not establish any legal requirements applicable to LSA applications and are, therefore, inapplicable in this matter. The Commission added new COL No. 16D to apply relevant evidence to the applicable legal standards, finding that the evidentiary record demonstrates that the Protestants did not demonstrate that one or more provisions in the Draft Permit violate a specifically applicable state or federal requirement. Finally, the Commission amended COL No. 17 to remove the incorrect requirement that the potential impacts to the surrounding community must be considered in an LSA application for extended hours and to reflect the Commission's determination after applying the relevant evidence in the record to the applicable law.

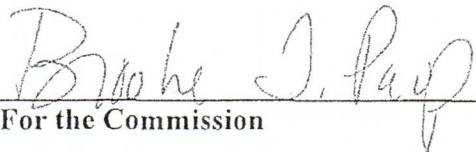
12. Tex. Gov't Code § 2003.047(i-1) and (i-2) states that the filing of the administrative record establishes the *prima facie* demonstration that the draft permit meets all state and federal legal and technical requirements and a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property. An opposing party may rebut that demonstration by presenting evidence that relates to an issue referred for a hearing and demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement. The Commission added new COL No. 16E to reflect the Commission's determination that, because the Protestants failed to present relevant evidence controverting the Applicant's justification provided in the Application, the Protestants did not legally rebut the *prima facie* demonstration established by the administrative record. The Commission also added new COL No. 17A and 17B to reflect the Commission's determination after applying record evidence to the applicable law: that the Draft Permit meets all state and federal legal and technical requirements and a permit consistent with the Draft Permit will protect human health and safety, the environment, and physical property.
13. To effectuate the Commission's decision to grant the permit, the Commission amended the title of the order and Ordering Provision No. 1 to replace "denying" with "granting" and "denied" with "granted," respectively.
14. The Commission amended Ordering Provision No. 3 to clarify that the ED's response to comments is adopted to the extent it does not conflict with the Commission's order.
15. The Commission made other non-substantive grammatical and formatting changes, such as capitalization and punctuation, to improve consistency in and readability of the Final Order. The Office of General Counsel makes these changes to the proposed order consistent with the Commission's Resolution in Docket No. 2009-0059-RES dated February 2, 2009, which gives the General Counsel "authority to make clerical and clarification changes to Orders and documents adopted by the Commission, to effectuate the clear intent of the Commission's action taken."

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

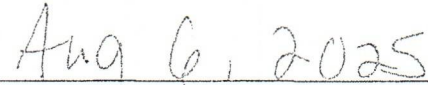
1. The application of 130 Environmental Park, LLC for a limited-scope amendment to MSW Permit No. 2383 is granted.

2. 130 Environmental Park, LLC must pay 100% of the reporting and transcription costs.
3. The Commission adopts the ED's Response to Public Comment in accordance with 30 Texas Administrative Code section 50.117 to the extent it does not conflict with the Commission's order.
4. All other motions, request for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
5. The effective date of this Order is the date the Order is final, as provided by Texas Government Code section 2001.144 and 30 Texas Administrative Code section 80.273.
6. TCEQ's Chief Clerk shall forward a copy of this Order to all parties.
7. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**



For the Commission



Date Signed

Texas Commission on Environmental Quality



Limited-Scope Amendment to Municipal Solid Waste Permit No. 2383 130 Environmental Park

Municipal Solid Waste Permit No. 2383 is hereby amended as follows.

Description of Change:

The limited-scope amendment expands waste acceptance hours to 5:00 am to 7:00 pm, Monday through Friday, and 6:00 am to 5:00 pm on Saturday. It expands operating hours to 5:00 am to 9:00 pm, Monday through Friday, and 6:00 am to 6:00 pm on Saturday.

The details of this permit amendment are contained in the application dated December 22, 2021, and the revisions dated January 31, 2022, and September 6, 2022.

Part of Permit Amended:

Part IV of the Application (Site Operating Plan)

Title page

Table of contents

Pages IV-34 and IV-35

This amendment is a part of Permit No. 2383 and should be attached thereto.

Approved, Issued, and Effective in accordance with Title 30 Texas Administrative Code Chapter 305, Section 305.62(j)(2) and Chapter 330, Section 330.135.

Issue Date:

Aug 6, 2025

A handwritten signature in cursive script, reading "Brooke J. Paup".
For the Commission