

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 4, 2008

Ms. LaDonna Castañuela
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 JAN -4 AM 8:48
CHIEF CLERKS OFFICE

**Re: IESI TX Landfill LP
TCEQ Proposed Permit No. 2332
TCEQ Docket No. 2007-1302-MSW**

Dear Ms. Castañuela:

Enclosed for filing is the original Executive Director's Response to Hearing Requests and Requests for Reconsideration, for the above referenced matter. Please file stamp the original and 11 copies. Please return 2 copies to our office.

If you have any questions or comments, please call me at (512) 239-0608. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink that reads "RON" followed by a stylized surname.

Ron Olson, Staff Attorney
Environmental Law Division, MC 173

Cc: attached service list

TCEQ PROPOSED PERMIT NO. 2332
TCEQ DOCKET NO. 2007-1302-MSW

APPLICATION BY
IESI TX LANDFILL LP
FOR MSW PERMIT NO. 2332

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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2008 JAN -4 AM 8:48
CHIEF CLERK'S OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS &
REQUESTS FOR RECONSIDERATION

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or the Commission) files this response to the hearing requests filed by State Senator Craig Estes, M. Brad Dixon, Roger and Kathy Pruitt, Tommy Aslin, Gloria Sprencel, James Henderson, James Thompson and Linda Henderson Thompson, BJ and Shelly Haffly, Marisa Perales (representing Two Bush Community Action Group – TBCAG), and the Jack County Commissioners Court.

Attached for Commission consideration are the following:

Attachment A -	Draft Permit
Attachment B -	Technical Summary and Executive Summary
Attachment C -	Compliance History of the Applicant
Attachment D -	Executive Director's Response to Public Comments (RTC)
Attachment E -	Map of the Proposed Facility Site and Vicinity

Copies were also provided to all parties. The RTC was previously mailed by the Office of the Chief Clerk to all persons on the mailing list.

II. Description of the Facility

The proposed Jacksboro Landfill is located in Jack County, approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156. The proposed landfill is a Type I municipal solid waste landfill, with a total disposal capacity (waste and daily cover) of approximately 50,000,000 cubic yards or 42,500,000 cubic yards of waste. The total area within the permit boundary is approximately 274.64 acres. Approximately 202 acres will be used for actual waste disposal operations. The facility will consist of a site entrance with appropriate security fencing, an asphalt-paved entrance road for the first ¼ mile from the connection with SH 199, all-weather access roads, gatehouse, scales, a maintenance building, an office building, soil stockpiles, and the solid waste disposal area. Structures for surface drainage and storm water

run-on/runoff controls include a perimeter drainage system to convey storm water runoff around the site, berms, ditches, detention ponds, and associated drainage structures.

III. Procedural Background

This permit application is for a new permit. The permit application was received on April 5, 2005, and declared administratively complete on April 29, 2005. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit was published on May 13 and 17, 2005, in the *Jacksboro Gazette-News* and *Jack County Herald*. The TCEQ held a public meeting for the application on October 18, 2005 in Jacksboro, Texas. The TCEQ Executive Director completed the technical review of the application on October 25, 2006. The Notice of Application and the Preliminary Decision was published on December 22 and 26, 2006, in the *Jack County Herald* and *Jacksboro Gazette-News*. The public comment period ended on January 25, 2007. The Executive Director's Response to Public Comment (RTC) was filed on July 5, 2007. The RTC was mailed by the Office of the Chief Clerk on July 11, 2007, and the time period for requesting a contested case hearing or reconsideration ended on August 11, 2007. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).¹

IV. Legal Authority for Review of Hearing Requests

House Bill 801 (76th Legislature, 1999) established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented HB 801 by adopting procedural rules in Title 30, Texas Administrative Code ("TAC") Chapters 39, 50, and 55. IESI's application was declared administratively complete on April 29, 2005, and it is therefore subject to the procedural requirements of HB 801.

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets the requirements found in 30 TAC § 55.201. A hearing request must be in writing; filed no later than 30 days after the Chief Clerk mails the Executive Director's response to public comments; and substantially comply with the following:

¹ TEX. WATER CODE §§ 5.551-5.557.

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the Commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the Executive Director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

See 30 TAC § 55.201(a), (c) and (d).

In order to grant a hearing, the commission must next determine whether a requestor is an "affected person." An "affected person" is defined as anyone who "has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest." See 30 TAC § 55.203(a). Governmental agencies and entities "with authority under state law over issues raised by the application may be considered affected persons." See 30 TAC § 55.203(b). The Commission must evaluate a number of factors when determining whether a person is an "affected person" under HB 801 and the Commission rules implementing it. The factors that must be considered include the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;

- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

See 30 TAC § 55.203(c).

If the Commission determines that the requestor has met the requirements for requesting a hearing, the Commission may grant the request and “shall issue an order specifying the number and scope of the issues to be referred to” the State Office of Administrative Hearings (SOAH). See TEX. WATER CODE § 5.556(e) and 30 TAC § 50.115(b). The Commission may refer an issue to SOAH if the issue:

- (1) involves a disputed question of fact;
- (2) was raised during the public comment period; and
- (3) is relevant and material to the decision on the application.

See TEX. WATER CODE § 5.556(d) and 30 TAC § 50.115(c).

Pursuant to Section 55.209 of the Commission rules, a response to a hearing request must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's RTC;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

See 30 TAC § 55.209(e).

As stated by the Commission in adopting the rules implementing HB 801, the specific determination of what is “relevant and material” will vary from case to case to reflect the facts of the particular permit at issue and the statutes and rules applicable to that permit.

Although the TCEQ’s rules lack specific guidance regarding whether an issue is relevant and material to the Commission’s decision, the Executive Director finds that other sources are useful in defining the terms. Relevance is defined in Black’s Legal Dictionary as “applying to the matter in question.” Rule 401 of the Texas Rules of Evidence defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” While these definitions are somewhat helpful, better guidance on what is relevant can be found in case law. In *Sunshine Gas Company v. U.S. Dept. of Energy*, 524 F. Supp. 834 (N.D. Tex. 1981), the court stated that relevancy is tied to the purpose of the action -

‘Relevance’ simply cannot be determined in the absence of defined ‘purpose,’ whether that purpose be as sharply defined as in a criminal trial, less precisely delineated as in a civil proceeding, or more generally defined as in a grand jury inquiry or in an administrative agency investigation as here. In all situations, purpose in some degree must be defined . . . and relevance thereafter may be assessed.

Id. at 838 [quoting *F.T.C. v. Texaco, Inc.*, 555 F.2d 862, 905 (D.C. Cir. 1977)]. See also, *United States v. Powell*, 379 U.S. 48, 58 (1964) (holding that the purpose for an administrative investigation must first be determined and then issues of inquiry must be found relevant to that purpose).

Therefore, in determining the relevancy of an issue raised by an affected person, the Commission should first determine the purpose of its decision on the application. The decision on the application to be made by the Commission is whether the particular application at issue meets the requirements in the applicable statutes and rules, and whether the permit should be issued as drafted or with revisions to the conditions in the permit.

V. Evaluation/Analysis of the Hearing Requests

The TCEQ received timely filed hearing requests from M. Brad Dixon, Roger and Kathy Pruitt, Tommy Aslin, Gloria Sprencel, James Henderson, James Thompson and Linda Henderson Thompson, BJ and Shelly Haffly, and Marisa Perales (representing Two Bush Community Action Group – TBCAG). The TCEQ also received hearing requests from State Senator Craig Estes and the Jack County Commissioners Court after the time period for requesting a contested case hearing ended.

A. Hearing Requests - Whether the Requestors Complied with 30 TAC §§ 55.201(c) and (d)

The Chief Clerk received a total of ten hearing requests on this application.²

State Senator Craig Estes filed a hearing request on November 15, 2007. The time period for requesting a contested case hearing ended on August 11, 2007. The Executive Director recommends that the Honorable Craig Estes' request be denied as untimely. See 30 TAC § 55.201(a).

M. Brad Dixon filed two hearing requests with the Office of the Chief Clerk. The first request was timely and was received on January 22, 2007; the second was received after the deadline for hearing requests on August 13, 2007. Both requests provided sufficient contact information; identified the applicant and the permit number; listed disputed issues of concern; and requested a contested case hearing.

The Executive Director responded to the issues raised in Mr. Dixon's requests in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

Roger and Kathy Pruitt filed a timely hearing request in a letter dated January 21, 2007 and filed with the Office of the Chief Clerk on January 25, 2007. The letter provided adequate contact information; identified the permit number; requested a contested case hearing; and listed disputed issues of concern.

The Executive Director responded to the issues raised in Roger and Kathy Pruitt's request in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

Tommy Aslin filed a timely hearing request with the Office of the Chief Clerk. The request dated October 18, 2005 was received on October 20, 2005. The request provided sufficient contact information; identified the applicant and the permit number; listed disputed issues of concern; and requested a contested case hearing.

The Executive Director responded to the issues raised in Mr. Aslin's requests in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

Gloria Sprencel filed a timely hearing request. The request was filed with the Office of the Chief Clerk on November 14, 2005. The letter provided adequate contact information; identified the applicant and the permit number; requested a hearing; and listed disputed issues of concern.

² Some of the requestors submitted multiple hearing requests. James Henderson submitted two hearing requests – both were timely; and M. Brad Dixon submitted two hearing requests – One timely and one received after the August 11, 2007 deadline.

The Executive Director responded to the issues raised in Ms. Sprenzel's request in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

James Henderson filed two timely hearing requests with the Office of the Chief Clerk. The first request was received on January 18, 2007 and the second was received on August 6, 2007. Both letters provided adequate contact information; identified the applicant and the permit number; requested a contested case hearing; and listed disputed issues of concern.

The Executive Director responded to the issues raised in Dr. Henderson's request in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

James Thompson and Linda Henderson Thompson filed a timely hearing request in a letter received by the Office of the Chief Clerk on October 20, 2005. The letter provided adequate contact information; identified the permit number; requested a contested case hearing; and listed disputed issues of concern.

The Executive Director addressed the issues raised in James and Linda Thompson's letter in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

BJ and Shelly Haffly filed a timely hearing request with the Office of the Chief Clerk on August 8, 2007. The request provided sufficient contact information; identified the applicant and the permit number; requested a contested case hearing; and listed disputed issues of concern.

The Executive Director responded to the issues raised in BJ and Shelly Haffly's request in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

Marisa Perales, on behalf of **TBCAG**, filed a timely hearing request in a letter dated August 3, 2007 and filed with the Office of the Chief Clerk on the same day. The letter provided adequate contact information; identified the applicant and the permit number; requested a contested case hearing; and listed disputed issues of concern. The request stated that the interests TBCAG seeks to protect are germane to the purposes of the organization. The request identified **James Henderson, Danny Blankenship, and J. C. Benson** as TBCAG members who own land adjacent to, or in the immediate vicinity of, the proposed landfill site.

The Executive Director responded to the issues raised in Ms. Perales' request in the RTC filed with the Office of the Chief Clerk on July 5, 2007.

Jack County Commissioners Court filed an untimely hearing request in a letter dated October 29, 2007 and filed with the Office of the Chief Clerk on the same day. The time period for requesting a contested case hearing ended on August 11, 2007. The Executive Director recommends that the Jack County Commissioners Court's request be denied as untimely. See 30 TAC § 55.201(a).

The Executive Director concludes that M. Brad Dixon, Roger and Kathy Pruitt, Tommy Aslin, Gloria Sprencel, James Henderson, James Thompson and Linda Henderson Thompson, BJ and Shelly Haffly, and Marisa Perales (representing TBCAG) substantially complied with Sections 55.201(c) and (d) of the Commission rules. The Executive Director further concludes that Senator Estes' and the Jack County Commissioners Court's untimely hearing request did not comply with Section 55.201(c) of the Commission rules.

B. Affected Person Status

1) M. Brad Dixon

Mr. Dixon's hearing request dated August 10, 2007 indicated that he owns property two and a half miles north of the intersection of Texas Highway 199 and FM 1156, less than four miles from the proposed facility. Mr. Dixon stated in his requests that he will be affected by the proposed landfill in the following ways:

- The proposed landfill would adversely affect the shallow aquifer in the area and his private water well. He fears that, through leaching and surface run-off from the proposed landfill, contamination of his water well is a virtual certainty.
- The liner used in the landfill will eventually leak.
- The proposed location for the landfill is not appropriate because of the sandy soil; and would be subject to major run-off since it is in one of the highest areas in the county.

The interests asserted by Mr. Dixon include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. Due to the remoteness of the location of Mr. Dixon's property relative to the proposed landfill site, it is unlikely that his expressed interests will be impeded by the landfill.

The Executive Director concludes that M. Brad Dixon is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) - (4).

2) Roger and Kathy Pruitt

Roger and Kathy Pruitt's hearing request did not provide any indication of the location of their property or the distance and direction of their property from the facility. Judging by their address on the hearing request, it appears they reside or own property in Perrin, Texas. Their hearing request stated that the proposed location of the landfill will adversely affect the groundwater that they depend upon for household and livestock use. They are also worried about air pollution in the area.

The interests asserted by Roger and Kathy Pruitt include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. However, they have not articulated a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that will be affected by the proposed landfill.

Their groundwater and air pollution concerns are general concerns which are common to the general public. Furthermore, Roger and Kathy Pruitt only provided a P.O. Box for their address. Without additional information, the Executive Director cannot determine the distance between their property and the proposed landfill site.

The Executive Director concludes that Roger and Kathy Pruitt are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (4).

3) Tommy Aslin

Mr. Aslin's hearing request did not provide any indication of the location, distance and direction of his property from the facility. Judging by his address on the hearing request, it appears Mr. Aslin resides or owns property in Mineral Wells, Texas. Mr. Aslin stated in his request that he is concerned about the amount of rainfall that could cause the proposed landfill site to overflow and contaminate the surrounding areas. He also stated that the application provides for a twenty-five year rainfall of just over seven inches in a twenty-four hour period and nine inches for a one hundred year event. He is concerned that this rainfall data is inaccurate and the landfill will not be capable of controlling the drainage. Mr. Aslin stated that there was recently a fourteen inch rain event in the area where the proposed landfill is planned.

Mr. Aslin's concern about the amount of rainfall that could overflow from the landfill and contaminate the surrounding area is a general concern which is common to the general public. Mr. Aslin has not articulated a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that will be affected by the proposed landfill. Furthermore, Mr. Aslin only provided a P.O. Box for his address. Without additional information, the Executive Director cannot determine the distance between his property and the proposed landfill site.

The Executive Director concludes that Tommy Aslin is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (4).

4) Gloria Sprencel

Ms. Sprencel stated in her hearing request that her land borders the proposed landfill site. She also stated in her request that she will be adversely affected by the proposed landfill and raised the following issues:

- The proposed landfill will displace wildlife and replace trees and plant life with barren mounds of dirt.
- Less than one percent of the trash at the proposed landfill would be from the City of Jacksboro.
- The proposed landfill will endanger her water. Ms. Sprencel states that there are natural springs in the area and a shallow water table. The water is used for ranching and domestic use.

- The proposed landfill will cause noise, light, and air pollution.
- Ms. Sprenzel suggests that the land use would be more suitable as a display to Indian lifestyle, leadership camp for troubled teens, or as a retreat camp for executives.

The interests asserted by Ms. Sprenzel include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. A reasonable relationship exists between her interests and the facility due to the proximity of the site to her property.

The Executive Director concludes that Ms. Sprenzel is an affected person under 30 TAC §§ 55.203(a) and (c)(1) – (5).

5) James H. Henderson

Dr. Henderson stated in his request that his farm adjoins the proposed landfill site. He is a member of TBCAG and TBCAG has identified him as one of the members who independently met the standing requirements to maintain an organizational status. Dr. Henderson stated in his request that he will be adversely affected by the proposed landfill and raised the following issues:

- Dr. Henderson states that the groundwater hydraulic gradient indicates the flow of subsurface fresh water within the Trinity Aquifer from beneath the landfill site to a position under his farm. He is concerned that because his farm is topographically lower than the elevation of the landfill site, his three water wells are particularly vulnerable to contamination from the substances that will be introduced into the landfill.
- The location of the landfill is unsuitable because of the very porous subsurface beneath the proposed site.
- The rainfall data used to calculate surface drainage was not accurate for the proposed landfill location. Dr. Henderson states that there is a greater amount of rainfall at the proposed site; thus requiring the containment ponds to be much further away from Jasper Creek in order to prevent contamination from draining to the creek.
- Dr. Henderson raised issues regarding the clay and plastic liners that the landfill intends to use. He indicated that clay and plastic liners deteriorate over time.
- The proposed landfill could adversely affect the future development of oil and gas and deprive the mineral owners of their rights to production.
- The proposed landfill will generate gases that will pollute the air and cause unwanted odors.
- The proposed landfill is incompatible with the high residential growth trends in the area.
- The proposed landfill will result in increase of traffic and other safety hazards which will adversely affect the surrounding landowners, residents, and other individuals.
- Dr. Henderson suggests that a performance bond should be required of IESI to ensure that the landfill be satisfactorily closed and funds be available to satisfy claims in case of damage to the environment.

The interests asserted by Dr. Henderson include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. A reasonable relationship exists between his interests and the facility due to the proximity of the site to his property.

The Executive Director concludes that the information provided in Dr. Henderson's request demonstrates that he qualifies as an affected person under 30 TAC §§ 55.203(a) and (c)(1)-(5).

6) James Thompson and Linda Henderson Thompson

James and Linda Thompson's hearing request stated that they own land in Jack County in close proximity to the Northeast of the proposed landfill site. However, they did not provide the address of their land or the specific distance from the proposed landfill site to their property. They stated in their request that they will be adversely affected by the proposed landfill and raised the following issues:

- The geologic soil characteristics are unsuitable because the soils are sandy and there are no protective underlayers of clay or other impenetrable features to provide protection to the groundwater. This water is consumed by people and livestock.
- The land tends to be unstable and highly prone to erosion. Any loss of surface containment, by over-flooding or seepage, would send contaminants down Jasper Creek and into Lake Bridgeport. Lake Bridgeport is a major source of drinking water.
- The proposed landfill will generate gases that will pollute the air and cause unpleasant odors.
- The proposed landfill site is elevated relative to the surrounding countryside and would be visually distasteful.
- Since the proposed landfill site is elevated above its surroundings, it will be susceptible to windblown dispersal of wastes that could pollute the groundwater and creeks.
- The rural location of the landfill means that the site will not benefit from fire fighting and emergency response capabilities that are available in more urban areas.

The interests asserted by James Thompson and Linda Henderson Thompson include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. Their request raised issues which are common to the general public and failed to demonstrate a personal justiciable interest which would be affected by the proposed landfill. Furthermore, the proximity of their property from the proposed landfill site is unclear. Without additional information, the Executive Director cannot determine the distance between their property and the proposed landfill site.

The Executive Director concludes that James Thompson and Linda Henderson Thompson are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (4).

7) BJ and Shelly Haffly

BJ and Shelly Haffly stated in their August 6, 2007 hearing request that they are a large land owner within a five mile radius, southeast of the proposed landfill. According to the Executive Director's landowner map, their property is located approximately 3.6 miles from the proposed landfill site. BJ and Shelly Haffly stated in their request that they will be adversely affected by the proposed landfill and raised the following issues:

- BJ and Shelly Haffly state that the rules prior to March 27, 2006 should not have been used.
- Notice to only property owners within a half mile of the proposed landfill is not a fair and widespread notification in a rural area where property owners are usually further apart than a half mile.
- The proposed landfill will not be able to contain the odors from the trash.
- The proposed landfill will not be able to contain flood waters resulting from heavy rainfall events. The proposed landfill site is on the highest elevation in the area which will result in the trash flowing downhill contaminating the adjacent ponds.
- The small county area volunteer fire fighting staff does not have the training or equipment to respond to a fire if one occurs.
- The proposed landfill will result in the increase of traffic and cause an increase in traffic fatalities and wrecks.
- BJ and Shelly Haffly state that they have a water well that could be affected by the landfill placing its contaminated water into the ground.
- The proposed landfill cannot guarantee that there will be no seepage into the local water aquifer.
- There are other locations that are more suitable for the proposed landfill.

The interests asserted by BJ and Shelly Haffly include issues that are protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. Due to the remoteness of the location of their property relative to the proposed landfill site, it is unlikely that their expressed interests will be impeded by the proposed landfill.

The Executive Director concludes that BJ and Shelly Haffly are not affected persons under 30 TAC §§ 55.203(c)(2) – (4).

8) Two Bush Community Action Group (TBCAG)

Marisa Perales, representing the TBCAG, indicates that the TBCAG was organized for the express purpose of protecting the public health, the environment, and property interests of its members who generally live or own property in the area of the proposed landfill. The request also states that the interest TBCAG seeks to protect are germane to the purposes of the organization and there is no need for participation by individual members since the relief sought by TBCAG is the same as its members. See 30 TAC § 55.205(a).

James Henderson, Danny Blankenship, and J.C. Benson own properties that are adjacent to the proposed landfill site. Other members of the TBCAG own property adjacent to, or in the immediate vicinity of the proposed landfill. The three individuals identified in the hearing request meet the standing requirements contained in Section 55.205 of the Commission rules. Accordingly, as an organization, TBCAG complied with the affected person requirements of 30 TAC § 55.205(a). TBCAG stated in its request that its members will be adversely affected by the proposed landfill and raised the following issues:

- The application was not properly submitted in accordance with TCEQ rules. There were excessive Notices of Deficiency, the applicant was given special treatment, and the technical review period exceeded 75 working days.
- The transfer of the application to a new applicant should have restarted both the administrative and the technical review process, and thus, new public notice.
- The proposed permit is not adequate to prevent groundwater contamination given the site conditions and the application.
- The proposed site location is on a recharge zone for the Twin Mountains formation.
- The system of sand, clay, and silt that creates the aquifer has not been adequately evaluated.
- In some areas there are no confining layers between the landfill and the groundwater, and leaks from the landfills could result in contamination of the groundwater.
- The proposed landfill will be deeper than shallow perched groundwater, groundwater that has not been identified or characterized, and thus, has not been considered in the design of the landfill.
- The protective measures necessary to prevent damage to the liner have not been proposed in the application or required in the permit.
- The proposed groundwater monitoring system does not meet the requirements for the proper number and location of wells, depths, and/or locations of screens to collect representative samples of the groundwater at various levels in the aquifer.
- The groundwater system is not properly designed to detect releases of contaminated water from the landfill and is not designed on adequate site data.
- The landfill application does not properly identify up gradient and down gradient wells or point of compliance.
- The application does not propose adequate procedures for collecting background data on the groundwater.
- The requestor states that the applicant has not qualified for any alternative design under Section 330.231(c) or other rule.
- The surface water controls are inadequate to prevent contamination of storm waters by waste, leachate or spills of fuels or other materials at the landfill.
- The designs for the channels and ponds are not adequate in regards to size, configuration, and location.
- Drainage controls have not been designed to assure historic levels of run-off and to protect surrounding properties.
- The changes to the drainage pattern will result in damage to property off site including increased erosion and loss of water supplies.

- Rainfall rates provided in the application and for the TCEQ evaluation are inaccurate.
- The application does not consider the presence of mineral development.
- The evaluation of endangered species is inadequate.
- The information on geology and hydrology is inadequate.
- The application does not contain adequate information on existing surface water, groundwater, oil, gas, exploration and water wells, faults, fractures, caves, sinkholes, and unstable areas.
- The application does not adequately describe the regional or site specific geology and the regional aquifers.
- The application does not adequately describe the vertical and horizontal flow characteristics of the groundwater or of the leachate that will leak from the landfill.
- The application does not properly characterize the soils.
- The application does not properly evaluate the availability of water and soils at the site needed for construction of liners, for cover material, and for dust suppression.
- The proposed landfill is not properly designed with proper quality control for liners.
- The geotechnical evaluation for the design of the landfill is inadequate; the slopes and materials for the sidewalls will not assure long-term stability.
- The design and operating provisions will not protect the liner from puncture during construction or filling or from leaks at seams.
- The applicant has not proposed an adequate dewatering system.
- The application does not present adequate transportation information.
- The proposed landfill is not compatible with the Regional Solid Waste Plan prepared by the regional council of governments.
- The proposed buffer and screening are inadequate, with insufficient green belts, trees, and wind breaks to protect surrounding land uses.
- The proposed financial assurance is inadequate. The type and amount of money proposed for closure and post-closure care are not based on reasonable worst case scenarios.
- The application does not demonstrate adequate proof of property interests, including adequate interests in the site to protect against inconsistent future uses, such as mineral development.
- The applicant has not provided adequate details and enforceable requirements to guide day to day operations.
- The site operating plan (SOP) does not provide the detail required for training and procedures to allow the employees to use the plans.
- The SOP will not prevent or minimize the acceptance of lead acid batteries, used motor oil, used oil filters, whole scrap tires, items containing chlorinated fluorocarbons, liquid waste, hazardous waste, radioactive wastes or polychlorinated biphenyls.
- The application provides no assurance that the disposal of toxic waste from oil field drilling will not affect the drinking water.
- The SOP does not prevent or assure proper identification and response to fires and other safety or health hazards.

- The SOP does not prevent or minimize access to the landfill by vectors that could carry diseases off-site.
- The SOP does not prevent or minimize litter or windblown waste or provide for timely clean-up on site or nearby private property.
- The SOP does not prevent or minimize windblown dusts, and run-off of soils from the site.
- The SOP does not prevent or minimize the ponding of water on the landfill.
- The SOP does not prevent or minimize odors.
- The SOP does not provide adequate emergency response and contingency plans for fires.
- The SOP does not assure that the landfill site will have adequate controls over access by unauthorized persons.
- The SOP does not provide for adequate control of animal or human scavenging.
- The applicant has a history of poor compliance at this or other facilities.
- The application includes inadequate information and thus, inadequate evaluation of the potential problems associated with risk of flooding, existence of wetlands, types of soils at the site, the size and extent of the design storms, and other site-specific issues requiring special considerations.
- The proposed permit is inadequate because the applicant has not presented sufficient justification for the permit term of the life of the landfill and many of the permit conditions are vague and unenforceable.
- There was not proper notice of the application.
- The issuance of the permit would be inconsistent with state policies, including legislative and regulatory directives.
- The proposed landfill will be incompatible with surrounding land uses and will interfere with the use and enjoyment of the surrounding lands for residential, agricultural, and other rural land purposes.
- The proposed landfill will not be compatible with the current projected growth and development trends in the area.
- The proposed permit does not comply with agency rules or adequately address health hazards, nuisances and other adverse effects to the public and environment.
- The archeological investigation is inadequate. A commenter stated that the area contains Indian paraphernalia that should be preserved.
- The proposed landfill will negatively affect the value of their properties.
- The location of the proposed landfill is inappropriate. The landfill should be located in an industrial area not only because of its nature but also because of the other industrial activities that will be attracted to the area with the landfill.

The interests asserted by TBCAG include interests protected by the Texas Solid Waste Disposal Act and the TCEQ's MSW rules. A reasonable relationship exists between TBCAG's interests and the proposed landfill due to the proximity of the site to the property of the members of TBCAG identified in the request for hearing.

The Executive Director concludes that the information provided in the request filed on behalf of TBCAG demonstrates that TBCAG qualifies as an affected person under 30 TAC §§ 55.203(a) and c(1)-(5); and 55.205(a).

C. Issues Raised

The Executive Director has identified the following issues in the hearing requests submitted by the affected persons:

1. Whether the landfill application was properly submitted and reviewed under TCEQ rules.
2. Whether the Chapter 330 rules, prior to March 27, 2006, should have been applied when reviewing the applicant's application.
3. Whether there was proper notice of the landfill application (including publication of notice, notice in Spanish, accurate information in the notice, and notice to property owners and residents within ½ mile).
4. Whether the permit conditions and the representations in the application are vague and unenforceable.
5. Whether the fire protection measures are adequate for the proposed landfill.
6. Whether the applicant prepared an adequate boring plan for the proposed landfill.
7. Whether the issuance of the permit is inconsistent with state policies.
8. Whether the operation of the landfill will adversely affect the health of the requestors and the requestors' families.
9. Whether the proposed landfill is compatible with surrounding land uses.
10. Whether there are other, more suitable, locations for the proposed landfill.
11. Whether the operation of the landfill will adversely interfere with the use and enjoyment of the surrounding lands and homes.
12. Whether the operation of the landfill will adversely affect the property value of the surrounding lands and homes.
13. Whether the proposed buffer zone and screening is adequate.
14. Whether the proposed landfill is compatible with the residential growth trends in the area.

15. Whether the application included adequate transportation information (including information regarding the design and location of access to the landfill, increase in traffic, and whether existing roads in the area are adequate to handle such increase in traffic).
16. Whether the application must identify the source of water used for landfill operations.
17. Whether the operation of the proposed landfill will result in water pollution.
18. Whether the applicant properly evaluated or presented information on the vertical and horizontal flow characteristics of the groundwater.
19. Whether the proposed groundwater monitoring system includes the proper number and location of wells, screened at the proper depths, for adequate monitoring.
20. Whether the liner and leachate system are adequate to protect against groundwater contamination.
21. Whether the geotechnical evaluation is adequate to ensure the stability of the slopes and materials used for sidewalls.
22. Whether the proposed landfill is compatible with the Regional Solid Waste Management Plan.
23. Whether the landfill application provided adequate geologic and hydrologic information.
24. Whether the application included the required information on soils.
25. Whether the applicant provided adequate information in the application regarding the proposed surface water controls, flood plains, drainage route runoff from the facility, and off-site storm water contamination, including Jasper Creek.
26. Whether the appropriate rainfall data was used in the calculation of surface drainage.
27. Whether the proposed landfill is located in a wetland, or an area with faults and fractures.
28. Whether the applicant adequately provided closure and post closure plans to monitor the facility upon expiration of the proposed permit term.
29. Whether the applicant proposed adequate financial assurance.
30. Whether the applicant adequately evaluated the presence of, and potential adverse effects of the landfill on endangered species.

31. Whether the proposed landfill will create noise pollution as a result of the waste management activities and the number of waste management vehicles.
32. Whether the proposed site operating plan is adequate to guide the day-to-day operations of the facility.
33. Whether the proposed site operating plan is adequate to control odors (odor nuisance).
34. Whether the proposed site operating plan is adequate to control vectors, scavengers, birds, animals and rodents.
35. Whether the working face of the proposed landfill will be maintained to control windblown solid waste.
36. Whether the site operating plan contained adequate procedures for the detection and prevention of the disposal of prohibited wastes, including hazardous wastes, polychlorinated biphenyls, radioactive wastes, and others.
37. Whether the site operating plan adequately prevents or minimizes the ponding of water on the landfill.
38. Whether the site operating plan adequately identifies the training requirements for employees.
39. Whether the site operating plan adequately controls the unauthorized access to the landfill.
40. Whether the site operating plan provides adequate control of scavenging.
41. Whether the applicant's compliance history at other facilities warrants a close scrutiny of the instant landfill application.
42. Whether the operation of the landfill will result in harmful gases that will pollute the air (insomuch as the issue relates to methane and air concerns that are specifically regulated by the Municipal Solid Waste rules and regulations).
43. Whether the application included an adequate proof of property interest.
44. Whether the application adequately identifies all springs, water wells, oil and gas wells, homes, churches, and other site specific issues requiring special consideration under Commission rules.
45. Whether the application adequately describes any site specific conditions requiring special design considerations.

46. Whether the application evaluated mineral development and mineral owner's rights.
47. Whether the permit term should be for the life of the facility.
48. Whether the applicant adequately evaluated the abandoned and/or capped water wells and oil and gas wells.
49. Whether there should be restrictions on the acceptance of waste from certain areas.

D. Whether Issues raised are Referable to SOAH for a Contested Case Hearing

1. Whether the landfill application was properly submitted and reviewed under TCEQ rules.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 3). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: 30 TAC § 305.43(b) states that if a facility is owned by one person and operated by another, it is the duty of the operator to submit the application for a permit. 30 TAC § 281.19(a) states that after a solid waste permit has been declared administratively complete, the Executive Director must commence a technical review. The technical review period should not exceed 75 working days.

The application received on April 5, 2005 and declared administratively complete on April 29, 2005, was submitted by the City of Jacksboro as the applicant, and identified IESI TX Landfill LP (IESI) as the operator. The technical review and the first technical notice of deficiency (NOD) were completed within 54 days of the application being declared administratively complete, meeting the 75-day timeframe. Among the issues identified in the first technical NOD was that the application was not submitted in accordance with Section 305.43(b), which requires that when a facility is owned by one party and operated by another, the application must be submitted by the operator. Formatting and other issues related to changing the name of the applicant resulted in changes to the application being submitted separately from revisions to address other technical NOD issues. Concurrently, and at the request of the MSW Permits Section, revisions to the Site Operating Plan (SOP) were being processed through separate NODs. At the time the application was undergoing technical review, the MSW Permits Section was conducting an SOP call-in for all MSW facilities. The SOPs (Part IV of the permit application) were being reviewed in conjunction with that of operating MSW landfills to better ensure consistency. Together with the revisions to Part I-III of the application referenced above, these factors resulted in a greater-than-usual number of both NODs and revisions to the application. MSW regulations do not limit the number of revisions that can be submitted during the application process. Notice of the changes was provided in the Notice of Application and

Preliminary Decision mailed by the Agency on December 7, 2006, and published in *The Jack County Herald* and *Jacksboro Gazette-News* on December 22, and December 26, 2006, respectively.

The Executive Director has determined that the application has been properly submitted and reviewed under the TCEQ rules. However, if evidence is presented which shows that the application was not properly submitted, the applicant could be required to properly submit the application in accordance with TCEQ rules. As a result, the Executive Director considers this issue to be relevant and material to the commission's decision on this application.

The Executive Director concludes that this issue is **appropriate** for referral to SOAH.

2. **Whether the Chapter 330 rules, prior to March 27, 2006, should have been applied when reviewing the applicant's application.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised in a request for hearing and was not raised during the public comment period.

Question of Fact: This issue raises a question of law and does not involve a specific disputed question of fact.

Relevant and Material: A permit that was declared administratively complete on or before March 26, 2006 must use the Chapter 330 rules that were in effect at that time. This application was declared administratively complete on April 29, 2005; therefore, this application was correctly reviewed under the Chapter 330 rules that were in effect on or before March 26, 2006.

The Executive Director concludes that this issue is **not appropriate** for referral to SOAH in that it was not raised during the public comment period and does not raise a specific disputed issue of fact.

3. **Whether there was proper notice of the landfill application (including publication of notice, notice in Spanish, accurate information in the notice, and notice to property owners and residents within ½ mile).**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 1 & 2). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 361.0665 of the Solid Waste Disposal Act and the TCEQ's notice requirements at 30 TAC §§ 39.405, 39.413 and 39.501 require that notice be

published in the paper of largest general circulation in the county and provided to the adjacent property owners identified in the permit application. Here, the original applicant (City of Jacksboro) published the Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit on May 13, 2005 and May 17, 2005 in the *Jacksboro Gazette-News* and *Jack County Herald*. The current applicant (IESI TX Landfill LP) published the Notice of Application and Preliminary Decision on December 22, 2006 and December 26, 2006, in the *Jack County Herald* and *Jacksboro Gazette-News*. The applicant also provided notice to the adjacent property owners identified in the application and to interested persons on the mailing list maintained by the TCEQ Office of the Chief Clerk. The notice of change in the applicant is satisfied by the Notice of Application and Preliminary Decision.

Section 39.405(h)(1) of the TCEQ rules requires notice to be published in an alternative language for certain applications. This requirement applies to municipal solid waste permit applications that are filed on or after November 30, 2005. This permit application was filed on April 5, 2005, and therefore not subject to the alternative language notice newspaper publication requirements.

Section 39.411 of the TCEQ rules provides the type of information that should be included in the text of the public notice.

Section 39.501(f)(3)(A) of the TCEQ rules requires that notice be provided to all addresses and property owners within ½ mile of a new solid waste disposal site; however, the requirement only applies to the notice of hearing, not the notice of receipt of application or the notice of preliminary decision.

The Executive Director has determined that the applicant has complied with all relevant notice requirements. However, if evidence is presented which demonstrates that the public notice was deficient, additional evaluation and/or notices may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

4. Whether the permit conditions and the representations in the application are vague and unenforceable.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 23). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue does not involve a specific disputed question of fact. The Executive Director notes that the Commissioners declined to refer this issue to SOAH in the application by Regional Land Management Services for MSW Permit No. 2286; TCEQ Docket No. 2003-0729-MSW.

The Executive Director concludes that this issue is not appropriate for referral to SOAH.

5. Whether the fire protection measures are adequate for the proposed landfill.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 9 & 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: This issue is addressed by the substantive law governing this application. The TCEQ rules require that the applicant's site operating plan include a fire protection plan which identifies the fire protection standards to be used at the facility and the training of personnel in fire-fighting techniques. 30 TAC § 330.115. In addition, 30 TAC § 330.115 requires that owners or operators of MSW facilities institute specific fire protection measures at the site. The TCEQ's rules also prohibit the operation of a solid waste disposal facility in such a manner so as to cause the endangerment of the human health and welfare or the environment. 30 TAC § 330.5(a)(3). The applicant provided the fire protection plan in Part IV of the application.

Based on the information provide in the application, the Executive Director has determined that the applicant has complied with the applicable fire protection requirements. However, if evidence is presented which shows that the applicant's fire protection plans are insufficient, the applicant could be required to implement additional fire protection measures. As a result, the Executive Director considers this issue to be relevant and material to the commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

6. Whether the applicant prepared an adequate boring plan for the proposed landfill.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 17). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.56(d)(5) of the MSW regulations requires that a sufficient number of borings be drilled to a sufficient depth to establish the subsurface stratigraphy and to identify the uppermost aquifer and any underlying hydraulically interconnected aquifers.

The applicant has represented that 26 soil borings were advanced at the proposed landfill site, and the locations of the soil borings are shown on Figure 4B2 in Part III, Attachment 4 of the application. Seventeen of the soil borings were advanced to depths at least 30 feet deeper than the elevation of the deepest excavation (EDE), and nine soil borings were advanced to a depth of at least 5 feet deeper than the EDE. The soil borings complied with the Soil Boring Plan dated February 25, 2004, and approved by TCEQ on March 8, 2004, in compliance with 30 TAC §330.56(d)(5)(A)(ii).

Based on the information provided by the applicant, the Executive Director concluded that the applicant's Soil Boring Plan complied with section 330.56(d)(5) of the MSW regulations. However, if evidence is presented which shows that the site geology is substantially different from the representations made in the application, additional permit provisions could be required. Therefore, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

7. Whether the issuance of the permit is inconsistent with state policies.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 28). The issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue raises a general policy concern and does not involve a specific disputed question of fact. The Executive Director notes that the Commission declined to refer a similar issue to SOAH in the application by Regional Land Management Services for MSW Permit No. 2286; TCEQ Docket No. 2003-0729-MSW.

The Executive Director concludes that this issue is not appropriate for referral to SOAH in that it does not raise a specific disputed issue of fact.

8. Whether the operation of the landfill will adversely affect the health of the requestors and the requestors' families.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 32). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.53(b)(8) of the MSW Rules, states that a "primary concern is that the use of any land for an MSW site not adversely impact human health or the environment." The Executive Director determined that the proposed landfill was designed in compliance with the Texas Solid Waste Disposal Act (TSWDA) and the MSW rules developed

to protect human health and the environment. If the proposed landfill is constructed and operated as shown in the application and as required by the regulations, the Executive Director expects human health and the environment to be protected. However, if additional evidence is presented to the contrary, additional permit provisions might be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

9. Whether the proposed landfill is compatible with surrounding land uses.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 26). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.53(b)(8) of the Commission rules provides that the impact of an MSW site "upon a city, community, group of property owners, or individuals must be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest." To assist the Executive Director in determining potential adverse impact, the applicant is required to submit information regarding zoning at the site and in the vicinity; character of surrounding land uses within one mile of the proposed facility; growth trends of the nearest community with directions of major development; proximity to residences and other uses, such as schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality; the approximate number of residences and business establishments within one mile of the proposed facility and distances and directions to the nearest residences and businesses; and a description and discussion of all known wells within 500 feet of the proposed site.

The Executive Director evaluated the land use information provided by the applicant and determined that the proposed landfill is compatible with existing land use in the surrounding community. However, if additional evidence is presented which shows that the information provided in the application does not adequately address the land use issue, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

10. Whether there are other, more suitable, locations for the proposed landfill.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 27). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Apart from the land use compatibility requirements and the location restrictions in the MSW rules, the TCEQ has no authority over the location selected by the applicant. Therefore, the Executive Director concludes that this issue is not relevant or material to the Commission's decision on this application.

The Executive Director concludes that this issue is **not appropriate** for referral to SOAH.

11. Whether the operation of the landfill will adversely interfere with the use and enjoyment of the surrounding lands and homes.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 26 & 40). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 305.122(c) of the Commission rules provides that the "issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations." Section 330.5(a)(2) prohibits the owner or operator of a MSW facility from operating the facility in a manner that causes "the creation and maintenance of a nuisance." Section 330.121(b) requires a minimum separating distance of 50 feet between solid waste processing and disposal activities and the boundary of the site to decrease the likelihood of nuisance noise.

The Executive Director determined that the landfill application complied with the rules and that there are remedies available in law if the operation of the facility violates the personal or property rights of the affected persons. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is **appropriate** for referral to SOAH.

12. Whether the operation of the landfill will adversely affect the property value of the surrounding lands and homes.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 24).

This issue was not raised solely in a comment which has been withdrawn.

The Executive Director has no authority under the Texas Solid Waste Disposal Act to consider property values when reviewing MSW permit applications. Accordingly, the Executive Director determined that property value is not relevant or material to the Commission's decision on this application.

The Executive Director concludes that this issue is not appropriate for referral to SOAH.

13. Whether the proposed buffer zone and screening is adequate.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 25). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.138 of the MSW rules states that "where the executive director determines that screening is necessary or where permit or design requirements so dictate" the operator of a MSW facility is required to provide "visual screening of deposited waste materials. . . ." Visibility must be minimized by vegetation around the waste footprint; application of daily, intermediate, and final cover; buffer zones; and landfill development patterns that will minimize exposure. The applicant states in Part IV of the application that existing topography and vegetation provide natural screening of deposited waste, there are no residences within 2,000 feet of the permit boundary, and visual screening of deposited waste will be provided as part of normal waste disposal operations and sequence of development.

Section 330.121(b) requires that a minimum separating distance of 50 feet be maintained between solid waste processing and disposal activities and the boundary of the site. The applicant states in Part IV of the application that the buffer zones vary around the perimeter of the site but in no case are they less than 200 feet. The buffer zones are shown in Part III, Attachment 1B, in the application.

The Executive Director has determined that the proposed buffer zone meets the regulatory requirements if the landfill is constructed and operated as shown in the application and as required by regulation. However, if additional evidence is presented which shows that the information in the application does not provide for adequate buffer zones and screening, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

14. **Whether the proposed landfill is compatible with the residential growth trends in the area.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 26 & 39). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.53(b)(8)(C) requires the applicant to provide information regarding "growth trends of the nearest community with directions of major development" to assist the Executive Director in evaluating the impact the proposed landfill may have on the surrounding community.

The Executive Director evaluated the growth trends provided by the applicant and determined that the proposed landfill is compatible with the growth trends. However, if additional evidence is presented which shows that the information provided in the application does not adequately address the growth trends of the nearest surrounding community, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

15. **Whether the application included adequate transportation information (including information regarding the design and location of access to the landfill, increase in traffic, and whether existing roads in the area are adequate to handle such increase in traffic).**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 19, 26, & 39). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.51(b)(6)(C) of the MSW rules requires the applicant to "submit documentation of coordination with the . . . Texas Department of Transportation [TxDOT] for traffic and location restrictions." Section 330.53(b)(9) requires the applicant to include the following information in the application: data on the availability and the adequacy of roads; data on the volume of vehicular traffic on access roads within one mile of the proposed facility; and projected volume of traffic expected to be generated by the proposed landfill on access roads within one mile of the facility.

The TCEQ received a response letter from TxDOT indicating that they had no objection

to the proposed application. TxDOT also stated in its letter that the design and capacity of the existing and proposed roadways in the area are adequate to accommodate a possible increase in traffic generated by the proposed landfill. The applicant submitted a traffic study in Parts I/II of the application. If there is a change in the predicted traffic patterns, the applicant will be required to submit a permit modification reflecting such changes to the Executive Director for approval.

The Executive Director has determined that the transportation information in the application is adequate and meets the regulatory requirements. However, if additional evidence is presented which shows that the transportation study is inadequate, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is **appropriate** for referral to SOAH.

16. Whether the application must identify the source of water used for landfill operations.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 7). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of law, as opposed to a question of fact. Neither the Texas Solid Waste Disposal Act nor the Commission's MSW rules require an applicant to provide information on the source of water for landfill operations.

Relevant and Material: Neither the Texas Solid Waste Disposal Act nor the Commission's MSW rules require an applicant to identify sources of water to operate the landfill. Therefore, the Executive Director concludes that this issue is not relevant or material to the Commission's decision on this application.

The Executive Director concludes that this issue is **not appropriate** for referral to SOAH.

17. Whether the operation of the proposed landfill will result in water pollution.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 6, 29, & 35). The issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Sections 330.56(f) and (o) of the MSW rules require the applicant to provide Site Development Plan information regarding groundwater and surface

water protection plan, drainage plan, and a plan for the collection, storage, treatment and disposal of contaminated water.

Section 330.200 sets forth the design criteria for leachate collection treatment for the protection of groundwater. The landfill will be constructed with a composite liner consisting of a minimum two feet of compacted clay overlain by a 60-mil geomembrane and two feet of protective cover soil and leachate collection system meeting the groundwater protection criteria in Section 330.200(a)(2).

Sections 330.55(b)(1)(A) and (B) prohibit MSW facilities from discharging untreated contaminated water from the site. Leachate, condensate, and storm water that has come into contact with solid waste, leachate or condensate is considered to be contaminated water. All discharges of storm water must be in accordance with the National Pollutant Discharge Elimination System (NPDES), or the Texas Pollutant Discharge Elimination System (TPDES) requirements as applicable. If the permit is issued and there are unauthorized discharges from the landfill, the applicant will be subject to enforcement.

In accordance with Sections 330.55(b)(7)(A) and (B), the site must be protected from the 100-year flood and provide at least a three-foot freeboard above this flood elevation.

The Executive Director has determined that the proposed groundwater monitoring system and liner will provide adequate groundwater protection. If the facility is constructed and operated as shown in the application and as required by the referenced rules, human health and the environment will be protected. However, if evidence is provided which demonstrates that the groundwater monitoring systems, the leachate system, and the surface and groundwater controls are inadequate to control water pollution, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

18. Whether the applicant properly evaluated or presented information on the vertical and horizontal flow characteristics of the groundwater.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 17). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.56(e) requires the applicant to provide a groundwater characterization report in Attachment 5 of the application. This report shall include, among other required information, information identifying groundwater flow direction and rate.

The Executive Director concluded that the information provided by the applicant in Attachment 5 is sufficient to characterize groundwater flow direction and to satisfy the requirements of the rules. However, if evidence is presented which shows groundwater flow to be other than as the applicant has represented, additional permit provisions could be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

19. **Whether the proposed groundwater monitoring system includes the proper number and location of wells, screened at the proper depths, for adequate monitoring.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 13). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.231(a) requires that the groundwater monitoring system consist of sufficient wells, installed at appropriate locations and depths, to yield representative groundwater samples from the uppermost aquifer. The design of the groundwater monitoring system has been certified by a qualified groundwater scientist. The groundwater monitoring system is designed so as to detect release of leachate from the facility. The applicant has submitted a Groundwater Sampling and Analysis Plan in Part III, Attachment 11, of the application, which addresses the procedures for collecting background water samples. Furthermore, a groundwater characterization was performed and the application provides for a groundwater monitoring system design based upon site conditions to detect a release should one occur.

The Executive Director has determined that the proposed groundwater monitoring system will provide adequate groundwater monitoring. However, if evidence is presented which shows that the system is not adequately protective, additional measures may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

20. **Whether the liner and leachate system are adequate to protect against groundwater contamination.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 5, 6, 18, 28, & 31). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: The liner design proposed in the application is a “composite liner.” This liner system consists of a minimum 24-inch-thick compacted clay liner with a hydraulic conductivity of no more than 1×10^{-7} centimeters/second (cm/sec), overlain by a 60-mill high density polyethylene (HDPE) geomembrane liner, a leachate collection system drainage geocomposite layer, and a minimum 24-inch-thick soil protective cover layer. The Leachate Collection System (LCS) is designed to meet the requirements of 30 TAC §§ 330.56(o) and 330.201. The liner system information is provided in Part III of the application. It is anticipated that the liner will function for the life of the site and during the post-closure period.

Under Sections 330.56(j) and 330.205 of the MSW rules, the application must include a soil and liner quality control plan (SLQCP). The SLQCP establishes the construction quality assurance and testing procedures for liner installation of soil and geosynthetic liner system components, including geomembrane seam welding. The applicant addressed the issues of liner construction below the water table in the SLQCP in Part III, Attachment 4, of the application. In addition, the SLQCP includes the proposed dewatering system plans. The SLQCP is provided in Part III of the application.

Based on the information provided in the application, the Executive Director determined that if the facility is constructed and operated as shown in the application and as required by the MSW rules, the liner and leachate system will be adequate to protect groundwater contamination. However, if additional evidence is presented which shows that the information in the application does not adequately address groundwater protection as it relates to the liner and leachate system, additional evaluation and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission’s decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

21. Whether the geotechnical evaluation is adequate to ensure the stability of the slopes and materials used for sidewalls.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director’s RTC, Comment No. 18). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: The slope stability analysis was prepared and sealed by a professional engineer to ensure the accuracy of the analysis and calculations. The slope stability analysis is in the Geotechnical Report of Part III, Attachment 4, of the application.

Based on the information provided in the application, the Executive Director determined that the geotechnical evaluation complied with the requirements established by the MSW rules. However, if additional evidence is presented which shows that the information in the geotechnical report is not adequate to ensure the stability of the sidewalls, additional evaluation and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

22. Whether the proposed landfill is compatible with the Regional Solid Waste Management Plan.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 33). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.51(b)(10) of the MSW rules requires the applicant to submit a "demonstration of compliance with regional solid waste plan." The applicant provided information demonstrating the proposed facility conforms to the Regional Solid Waste Management Plan of the Nortex Regional Planning Commission. The TCEQ has also received documentation of conformance from the Nortex Regional Planning Commission in response to the agency review letter.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements. However, if evidence is presented which shows that the applicant did not submit accurate information regarding compliance with Regional Solid Waste Management Plan, additional information may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

23. Whether the landfill application provided adequate geologic and hydrologic information.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 17 & 22). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: The applicant is required to provide the following geologic and hydrologic information:

- (1) information regarding all known wells within 500 feet of the proposed site (30 TAC §§330.52(b)(4)(A)(ii) and 330.53(b)(8)(E));
- (2) general geology and soils statement (30 TAC § 330.53(b)(10));
- (3) identifying and providing data on any faults located within the site (30 TAC § 330.53(b)(10)(B));
- (4) information on seismic impact zones (30 TAC § 330.53(b)(10)(C));
- (5) information regarding the potential for unstable areas (30 TAC § 330.53(b)(10)(D));
- (6) groundwater statement (30 TAC § 330.53(b)(11)(A));
- (7) geology report (30 TAC § 330.56(d));
- (8) a discussion of the regional physiography and topography in the vicinity of the facility (30 TAC § 330.56(d)(1));
- (9) a description of the regional geology in the area (30 TAC § 330.56(d)(2));
- (10) a geologic map of the region with text describing the stratigraphy and lithology (30 TAC § 330.56(d)(2)(A));
- (11) a description of the generalized stratigraphic column in the facility area (30 TAC § 330.56(d)(2)(B));
- (12) identification of any faults and subsidence in the vicinity of the landfill, as well as the potential for subsidence (30 TAC § 330.56(d)(3)(A));
- (13) a discussion of the potential for erosion at the site (30 TAC § 330.56(d)(3)(B));
- (14) identification of wetlands located within the facility boundary (30 TAC § 330.56(d)(3)(C));
- (15) a description of the regional aquifers in the vicinity of the facility including the information required under 30 TAC §§ 330.56(d)(4)(A) through (J);

- (16) the results of the subsurface investigation conducted at the site (30 TAC §§ 330.56(d)(5)(A)(i) through (ix));
- (17) a geotechnical report, including the results of required soils testing (30 TAC § 330.56(d)(5)(B));
- (18) a groundwater investigation report which includes records of water-level measurements collected at the site and a description of the proposed groundwater monitoring system and analysis of the most likely contaminant pathway (30 TAC §§ 330.56(d)(5)(C)(i) through (iv));
- (19) a description of existing or proposed monitoring system, engineering drawings of a typical monitoring well, and a table of data for all proposed wells (30 TAC § 330.56(d)(6));
- (20) groundwater characterization report (30 TAC § 330.56(e));
- (21) a tabulation of all relevant groundwater monitoring data from wells on site (30 TAC § 330.56(e)(1));
- (22) identification of the uppermost aquifer at the site, as well as any lower, hydraulically connected aquifers (30 TAC § 330.56(e)(2));
- (23) a topographic map that identifies the locations of the monitoring wells, the waste management unit boundaries, and the proposed point of compliance for the groundwater monitoring system (30 TAC § 330.56(e)(3));
- (24) a description of any plume of contamination detected by the existing groundwater monitoring system (30 TAC §§ 330.56(e)(4) through (8));
- (25) a soil and liner quality control plan (30 TAC § 330.56(j));
- (26) a demonstration that the soil and liner quality control plan meets the requirements of 30 TAC § 330.205 regarding the construction requirements for such plans; and
- (27) a groundwater sampling and analysis plan (30 TAC § 330.56(k)).

Based on the information provided in the application, the Executive Director determined that the applicant complied with the relevant geology and hydrology regulatory requirements. However, if evidence is presented which demonstrates that the information submitted was inaccurate, or inadequately addressed the geologic or hydrologic issues, additional evidence and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

24. Whether the application included the required information on soils.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 17 & 22). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.54 of the MSW rules provides that applicants must submit information regarding soil conditions. The Geotechnical Report in Part III, Attachment 4, contains documentation for the geotechnical testing and description of the subsurface soil materials, including the suitability of the soils excavated from all layers for use as operational and protective cover, and the suitability of the surface soils for use as the final cover system erosion layer.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant's soil information was not adequate, additional evaluation may be required to make that determination. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

25. Whether the applicant provided adequate information in the application regarding the proposed surface water controls, flood plains, drainage route runoff from the facility, and off-site storm water contamination, including Jasper Creek.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 6, 14, 22, & 37). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Under Section 330.56(f)(4)(A)(iv) of the MSW rules, a MSW application must include a discussion, analyses and demonstration that "natural drainage patterns will not be significantly altered as a result of the proposed landfill development." The applicant provided a drainage analysis in Part III, Attachment 6 of the application.

Under Sections 330.55(b)(1)(A) and (B) of the rules, MSW facilities are prohibited from discharging untreated contaminated water from their sites. All discharges of storm water must be in accordance with the requirement of the NPDES, or the TPDES. If the permit is issued and

there are unauthorized discharges of storm water from the facility, the permittee will be subject to enforcement.

Sections 330.55(b)(7)(A) and (B) require the site to be protected from the 100-year flood and to provide at least a three-foot freeboard above this flood elevation. The application contains the design to prevent flooding from the required 100-year flood event, including the southeast corner of the landfill near Jasper Creek. In addition, storm water will be conveyed through perimeter ditches into detention ponds. All debris from the landfill will be detained in the ponds.

Based on the information provided in the application, the Executive Director determined that the surface water controls are adequate to protect surrounding land uses, the 100-year floodplain, and control storm water runoff. However, if additional evidence is presented which shows that the information in the application does not adequately address surface water controls, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

26. Whether the appropriate rainfall data was used in the calculation of surface drainage.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 11). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: The applicant stated that the rainfall data used in all of the surface water drainage calculations in Part III, Attachment 6, was taken from the National Weather Service (NWS) Technical Paper 40 (TP-40) (NWS, 1961) and from Hydro 35 (NWS, 1977) for Jack County, Texas. The applicant also stated that synthetic precipitation data for Abilene, Texas was used in the Hydrologic Evaluation of Landfill Performance (HELP) model included in Part III, Attachment 15, and Abilene was selected from the list of U.S. cities because it is the closest city with similar characteristics to Jacksboro provided by the HELP model. In addition, the applicant stated that the design of the leachate collection system provided in Part III, Attachment 15, is consistent with TCEQ rules and regulations and exceeds the minimum capacity requirements necessary based on the leachate generation rate that is predicted by the HELP model.

Based on the information provided in the application, the Executive Director determined that the applicant used the appropriate rainfall data to calculate the surface drainage. However, if evidence is presented which demonstrates that the rainfall data submitted was inaccurate, additional evaluation and/or permit provisions may be required. As a result, the Executive

Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

27. Whether the proposed landfill is located in a wetland, or an area with faults and fractures.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 17 & 22). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.302 of the MSW rules provides that a new MSW unit "shall not be located in wetlands, unless the owner or operator" demonstrates to the Executive Director in the permit application that there is no practicable alternative site that does not involve wetlands; construction and operation of the proposed landfill will not violate state water quality standards, toxic effluent standard or prohibition under the Clean Water Act, and jeopardize the "existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat,"; the MSW unit will not cause or contribute to significant degradation of wetlands; and the applicant has taken steps to achieve no net loss of wetlands. The documentation for wetlands, including the location restriction demonstrations, is contained in Part II of the application.

Section 330.303(a) prohibits the location of a new MSW unit within 200 feet of a fault that has had displacement in Holocene time, unless the applicant demonstrates to the Executive Director that a proposed offset is adequate to protect the integrity of the waste unit and protect human health and the environment.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements relating to wetlands, faults and subsidence. However, if additional evidence is presented which shows that the information in the application does not adequately address wetlands, faults and subsidence, additional permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

28. Whether the applicant adequately provided closure and post closure plans to monitor the facility upon expiration of the proposed permit term.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 31). This

issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Under Section 330.253(d) of the MSW rules, the owner or operator of a MSW site must prepare and submit a "written final closure plan to the executive director . . . that describes the steps necessary to close . . . [the] MSW site at any point during the active life of the unit or MSW site in accordance with §330.254(a) or (b)." Section 330.254(b) provides for post-closure care and maintenance requirements. Unless reduced by the Executive Director, "the owner or operator of a MSW site shall conduct post-closure care maintenance for the unit or facility for 30 years." Finally, Section 330.256 requires the owner or operator of a MSW site to "submit to the executive director for review and approval a documented certification, signed by an independent registered professional engineer, verifying that post-closure care maintenance has been completed in accordance with the approved post-closure plan."

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements of the MSW rules relating to post closure care and maintenance. However, if evidence is presented which demonstrates that the information submitted did not adequately address post closure requirements, additional evidence and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

29. Whether the applicant proposed adequate financial assurance.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 31). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.56(h) of the MSW rules provides that permit applicants must submit a cost estimate for closure and post closure care costs in accordance with section 330.280 - 330.284 of the MSW rules. Section 330.281(a) requires that owners or operators of MSW facilities provide a detailed written cost estimate, in current dollars, showing the cost of hiring a third party to close the largest area of the landfill ever requiring a final closure anytime during the active life of the unit. Section 330.283(a) requires that applicants provide a detailed written cost estimate, in current dollars, showing the cost of hiring a third party to conduct post closure care activities.

The applicant proposed \$904,796.00 in closure costs and \$963,316.00 in post closure care costs. The Executive Director has reviewed the cost estimates for closure and post closure care

in the application, and determined that this information complies with the requirements of section 330.56(h). However, if evidence is presented which shows that the applicant's financial assurance estimates do not comply with the MSW rules, the amounts may have to be adjusted. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

30. Whether the applicant adequately evaluated the presence of, and potential adverse effects of the landfill on endangered species.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 16). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Sections 330.51(b)(8), 330.53(b)(13), and 330.302 of the MSW rules require the applicant to demonstrate compliance with both state and federal Endangered Species laws. Section 330.53(b)(13)(B) of the MSW rules provides that the Commission must consider the impact of a solid waste disposal facility upon endangered or threatened species. In addition, the facility and the operation of the facility may not result in the destruction or adverse modification of the critical habitat of an endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

The applicant communicated with and obtained information from the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service regarding potential impacts. The application states that the results of the on-site investigations conducted by a qualified biologist, indicate that there are no threatened or endangered species found on the site. The application also states that with the exception of the Texas horned lizard and the timber rattlesnake, potential habitat for federal or state listed threatened or endangered species is absent on the site. The application further states that results also indicate the project area may contain preferred habitat, but there were no timber rattlesnakes or suitable den habitats observed, and there were no Texas horned lizards observed. A detailed avoidance and minimization plan for the timber rattlesnake and Texas horned lizard is in Part IV of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements relating to endangered or threatened species and their habitats. However, if additional evidence is presented which shows that the information in the application does not adequately address the presence of endangered species or adverse impact on their habitat, additional evaluation may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

31. **Whether the proposed landfill will create noise pollution as a result of the waste management activities and the number of waste management vehicles.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 40). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.5(a)(2) of the MSW rules prohibits the owner or operator of an MSW facility from operating the facility in a manner that causes "the creation and maintenance of a nuisance." To decrease the likelihood of nuisance noise, Section 330.121(b) requires a minimum separating distance of 50 feet between solid waste processing and disposal activities and the boundary of the site. As illustrated in Part III, Attachment 1B, of the application, the buffer between the landfill boundary and the waste footprint, within which most waste activity will be performed, is at least 200 feet.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements of the MSW rules. However, if evidence is presented which demonstrates that the applicant does not meet the buffer requirement to minimize noise pollution, additional information may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

32. **Whether the proposed site operating plan is adequate to guide the day-to-day operations of the facility.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Sections 330.51(a)(4) and 330.57 of the MSW rules require that MSW permit applications include a site operating plan which contains the information required by section 330.114. Section 330.114 specifies that site operating plans must provide operating procedures for the site management and site operating personnel in sufficient detail to enable them to conduct the day-to-day operations of the facility. The plans are required to include specific guidance, procedures, instructions, and schedules on several topics, including, but not limited to: functions for each category of personnel to be employed at the facility; the equipment

to be used at the facility; and the procedures that the operating personnel shall follow concerning the operational requirements of Subchapter G of the MSW rules.

The Executive Director concluded that the site operating plan submitted by the applicant is adequate. However, if evidence is presented which shows that the site operating plan does not comply with the MSW rules, the plan may have to be modified. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

33. Whether the proposed site operating plan is adequate to control odors (odor nuisance).

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 21, 26, & 41). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.5(a)(2) requires that the proposed facility be operated in a way that prevents the occurrence of nuisance odor conditions. Section 330.125(b) requires the facility's site operating plan to include an odor management plan that addresses the sources of odors and includes general instructions to control odors and sources of odors. The SOP must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals and leachate. The facility odor management plan is provided in Section 8.10.2 of Part IV of the application. Various features of the proposed site operation, including daily covering of waste and prevention of ponded water, should control the development of odor conditions. If objectionable odors occur, the owner or operator must initiate appropriate measures to alleviate the condition.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the applicable requirements of the MSW rules. However, if evidence is presented which demonstrates that the information submitted in the site operating plan inadequately addresses odor control measures, additional evidence and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

34. Whether the proposed site operating plan is adequate to control vectors, scavengers, birds, animals and rodents.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 21 & 30). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.126 of the MSW rules provides that the site operator must take appropriate steps to prevent and control on-site populations of disease vectors and scavengers using proper compaction and daily cover procedures, and the use of other approved methods when needed. Information regarding control of vectors and disease has been provided in Section 8.11 of Part IV of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of Section 330.126. However, if evidence is presented which demonstrates that the information submitted was inaccurate or inadequately addresses vector control, additional evidence and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

35. Whether the working face of the proposed landfill will be maintained to control windblown solid waste.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 21 & 42). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.120 of the MSW rules provides that the "working face must be maintained and operated in a manner to control windblown solid waste." "Windblown waste and litter at the working face must be controlled by using engineering methods or measures, including portable panels, temporary fencing, and perimeter fencing or comparable engineering controls." 30 TAC § 330.120. In addition, "litter scattered throughout the site, along fences and access roads, and at the gate must be picked up once a day on the days the facility is in operation and properly managed." Id. The site operating plan must specify the means for complying with these requirements. The applicant provided adequate information regarding control of windblown waste and litter in Section 8.5 of Part IV of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided adequate measures for the control of windblown waste and litter, additional evaluation and/or permit provisions may be required. As

a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

36. **Whether the site operating plan contained adequate procedures for the detection and prevention of the disposal of prohibited wastes, including hazardous wastes, polychlorinated biphenyls, radioactive wastes, and others.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.114(5) of the MSW rules provides that the site operating plan must include procedures for the detection and prevention of the disposal of prohibited wastes. The detection and prevention program must include procedures to be used by the owner or operator to control the receipt of prohibited waste, records of all inspections, training for appropriate facility personnel responsible for inspecting or observing loads to recognize prohibited waste, notification to the executive director of any incident involving the receipt or disposal of regulated hazardous waste at the landfill, and provisions for the remediation of the incident. The applicant provided adequate information regarding the detection and prevention of prohibited waste in Section 5 of Part IV of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided adequate procedures for the detection and prevention of disposal of prohibited wastes in the landfill, additional evaluation and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

37. **Whether the site operating plan adequately prevents or minimizes the ponding of water on the landfill.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.134 of the MSW rules provides that the ponding of water over waste on a landfill must be prevented. "A ponding prevention plan must be provided in the site operating plan that identifies techniques to be used at the landfill to prevent the ponding of water over waste, an inspection schedule to identify potential ponding sites, corrective actions to remove ponded water, and general instructions to manage water that has been in contact with waste." 30 TAC § 330.134. The applicant provided adequate information regarding the prevention of ponding water in Part IV, Section 8, of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided adequate procedures for the prevention of ponded water, additional evaluation and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

38. Whether the site operating plan adequately identifies the training requirements for employees.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.114(4) of the MSW rules states that the site operating plan must include the "identification of applicable training requirements under §335.586(a) and (c) (relating to Personnel Training) which shall be followed." The applicant provided adequate information regarding the general instructions, details, and procedures for personnel training in Part IV, Section 3, of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided adequate detail of procedures for personnel training, additional permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

39. Whether the site operating plan adequately controls the unauthorized access to the landfill.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 5 & 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.116 of the MSW rules states that "[p]ublic access to all municipal solid waste facilities must be controlled by means of artificial barriers, natural barriers, or a combination of both, appropriate to protect human health and safety and the environment. Uncontrolled access to other operations located at a municipal solid waste facility must be prevented." The applicant provided adequate information regarding access control for the landfill in Part IV, Section 8, of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided an access control plan that will adequately control the unauthorized access to the facility, additional permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

40. Whether the site operating plan provides adequate control of scavenging.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 21). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.128 of the MSW rules states that scavenging must not be allowed. The applicant provided adequate information regarding the control of scavenging in Part IV, Section 8, of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the requirements of the MSW rules. However, if evidence is presented which shows that the applicant has not provided adequate control of scavenging, additional permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application

The Executive Director concludes that this issue is appropriate for referral to SOAH.

41. Whether the applicant's compliance history at other facilities warrants a close scrutiny of the instant landfill application.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 34). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 60.1(a)(1)(A) of the Commission rules requires the Commission to utilize compliance history when making decisions on permit issuance or amendment. Section 60.1(b) requires a review of the compliance history for the company and the site for the five-year period prior to the date the permit application was received by the Executive Director. Under Section 60.1(c), the compliance history includes a review of the following multimedia compliance-related components: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance.

Based on the available compliance history information, the Executive Director concluded that for the required compliance review period, IESI TX Landfill, LP received a score of "average" for facility operations in Texas based upon the TCEQ compliance history database. However, if contradictory compliance history information is presented for the same period, this may warrant additional review or scrutiny. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

42. **Whether the operation of the landfill will result in harmful gases that will pollute the air (insomuch as the issue relates to methane and air concerns that are specifically regulated by the Municipal Solid Waste rules and regulations).**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 29). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Sections 330.56(n) of the MSW rules require the applicant to provide a landfill gas management plan and implement a routine methane monitoring program. The applicant has provided information regarding the proposed landfill gas monitoring system, monitoring program, action plan, remediation plan, and landfill gas control system. This information is found in Part III, Attachment 14, of the application.

Based on the information provided in the application, the Executive Director determined that if the facility is constructed and operated as shown in the application and as required by the

regulations, human health and the environment will be protected. However, if evidence is provided which demonstrates that the landfill gas monitoring systems and the landfill gas control systems are inadequate, additional permit provisions may be required. Accordingly, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

43. Whether the application included an adequate proof of property interest.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 20). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.62(a) of the MSW rules provides that it is the responsibility of the owner or operator to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued. The property legal description and property owner affidavit are in Part I of the application as required by Sections 330.52(b)(6) and 330.52(b)(7) respectively.

Based on the information provided in the application, the Executive Director determined that the applicant possesses the required interest in the property to be used for the proposed facility. However, if evidence is presented which demonstrates otherwise, additional proof of property interest may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

44. Whether the application adequately identifies all springs, water wells, oil and gas wells, homes, churches, and other site specific issues requiring special consideration under Commission rules.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 13, 15, 17, & 22). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.52(b)(4) of the MSW rules requires that a permit applicant include a map that identifies all known water wells within 500 feet of the proposed permit boundary; all structures and inhabitable buildings within 500 feet of the proposed permit boundary; the schools, licensed day care facilities, churches, hospitals, cemeteries, ponds, lakes,

and residential, commercial, and recreational areas within one mile of the site; and archeological and historical sites and sites with exceptional aesthetic qualities adjacent to the landfill.

Section 330.53(b)(8)(E) of the MSW rules requires the applicant to include a "description and discussion of all known wells within 500 feet of the proposed site" in the application. Under Section 330.53(b)(8)(D), the application should include information regarding the proximity or residences, schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, and sites having exceptional aesthetic quality. The applicant is required to provide information on the number of residences and business establishments within one mile of the proposed site including distances and directions to the nearest residences and businesses.

The applicant provided results of the water well and oil and gas well inventories on Figures IA.3 and IID.1 in Parts I/II of the application. The applicant also coordinated an investigation of archeological and historic sites with Archaeological and Environmental Consulting and the Texas Historical Commission, Division of Archaeology. The applicant reports that a detailed survey of cultural resources was performed for the site. The survey report was submitted to the State Historic Preservation Officer, who concluded that the project would have no effect on National-register eligible or listed properties or State Archaeological Landmarks and that the project may proceed. The archeological survey is in Part II of the application.

Based on the information provided in the application, the Executive Director determined that the applicant complied with the relevant site specific requirements. The information provided in the application adequately addressed the site-specific issues of concern. However, if evidence is presented which demonstrates that the information submitted was inaccurate, or failed to adequately address the site-specific issues, additional evidence and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

45. Whether the application adequately describes any site specific conditions requiring special design considerations.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 17). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.51(b)(3) state that permit applicants are responsible for determining and reporting to the Executive Director any site-specific conditions that require special design consideration.

The applicant included a description of the geology and the regional aquifer in Attachment 4 of the application. The Executive Director concluded that the permit application complied with all relevant requirements. However, if evidence is presented which establishes the existence of a site specific condition that requires special design consideration, the draft permit may have to be modified to address the condition. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue **is appropriate** for referral to the SOAH.

46. **Whether the application evaluated mineral development and mineral owner's rights.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment Nos. 9, 15, & 20). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.62(a) of the MSW rules provides that it is the "responsibility of the owner or operator to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued. . ." The granting of a MSW permit does not "convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued." 30 TAC § 330.62.

The TCEQ rules do not require the applicant to evaluate potential impacts from mineral development or provide proof of mineral development interests. Accordingly, the Commission does not have the authority to require the applicant to provide proof of mineral interest or to evaluate the site for the exploitation of mineral rights. As a result, the issue of mineral interests is not relevant or material to the Commission's decision on this application.

The Executive Director concludes that this issue is **not appropriate** for referral to SOAH.

47. **Whether the permit term should be for the life of the facility.**

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 23). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.63 of the MSW rules states that a permit is usually issued for the life of the site. However, a permit may be issued for a specific period when deemed appropriate by the Executive Director.

Based on the information supplied in the application, the Executive Director determined that a term limit was not required for this application. However, evidence may be presented which shows that a limited permit term is appropriate. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

48. Whether the applicant adequately evaluated the abandoned and/or capped water wells and oil and gas wells.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 15). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of fact.

Relevant and Material: Section 330.131 of the MSW rules requires the facility operator to provide written notification to the Executive Director of the location of any and all existing or abandoned water wells, crude oil or natural gas wells, and any other type of wells within the facility upon discovery during the course of facility development. Within 30 days of such discovery, the facility operator must provide the Executive Director with notification that such wells have been capped, plugged, and closed according to all applicable rules and regulation of the TCEQ or other state agency.

The applicant has included the results of the water well and oil and gas well inventories on Figures IA.3 and IID.1 in Parts I/II of the application. All information provided was signed and sealed by a Licensed Professional Engineer to ensure that all information is accurate.

Based on the information provided in the application, the Executive Director determined that the applicant adequately evaluated the water and oil and gas wells. However, if evidence is presented which demonstrates that the applicant did not adequately evaluate the abandoned and/or capped water and oil and gas wells, additional evaluation and/or permit provisions may be required. As a result, the Executive Director considers this issue to be relevant and material to the Commission's decision on this application.

The Executive Director concludes that this issue is appropriate for referral to SOAH.

49. Whether there should be restrictions on the acceptance of waste from certain areas.

Raised During Comment Period and Not Based on Withdrawn Comment: This issue was raised during the public comment period. (Executive Director's RTC, Comment No. 35). This issue was not raised solely in a comment which has been withdrawn.

Question of Fact: This issue involves a question of law, as opposed to a question of fact. The TCEQ does not have the authority to place waste acceptance area restrictions in the permit for authorized wastes identified in the permit.

Relevant and Material: The application states that the facility will serve a population of 171,000 people, within a service area that includes the City of Jacksboro, Jack County, and surrounding areas. There is no restriction to the permit as to waste acceptance areas for authorized wastes identified in the permit. The TCEQ has no authority to place such restrictions in the draft permit. Therefore, the Executive Director concludes that this issue is not relevant or material to the Commission's decision on this application.

The Executive Director concludes that this issue is not appropriate for referral to SOAH.

VI. Executive Director's Response to Requests for Reconsideration

The Executive Director files this response to the timely requests for reconsideration filed by M. Brad Dixon and James H. Henderson. The requests identified the following issues which were previously addressed in the Executive Director's Response to Public Comment filed on July 5, 2007: (1) the effect of the landfill on the shallow aquifer in the area; (2) surface water controls; (3) integrity of the landfill liner; (4) impact of the proposed landfill on traffic in the area; (5) compatibility with residential growth trends; (6) the accurateness of rainfall data used to calculate surface drainage; (7) whether the location of the landfill is compatible with surrounding land uses; (8) whether there is adequate financial assurance; and (9) the effect of the landfill on mineral development. A request for reconsideration is not necessary with a SOAH referral.

The requests for reconsideration did not raise any new issues; as such, the Executive Director concludes that the requests should be denied.

VII. Executive Director's Recommendations

The Executive Director recommends that the Commission deny the requests for reconsideration filed by M. Brad Dixon and James H. Henderson.

The Executive Director further recommends that the Commissioners determine that Gloria Sprenkel, James H. Henderson, and TBCAG qualify as affected persons.

The Executive Director recommends that the Commissioners find that Senator Craig

Estes, M. Brad Dixon, Roger and Kathy Pruitt, Tommy Aslin, James and Linda Thompson, BJ and Shelly Haffly, and the Jack County Commissioners Court are not affected persons.

The Executive Director also recommends that the Commissioners find that the following disputed issues of fact were raised during the comment period and are relevant and material to the Commission's decision on the proposed landfill permit application:

1. Whether the landfill application was properly submitted and reviewed under TCEQ rules.
2. Whether there was proper notice of the landfill application (including publication of notice, notice in Spanish, accurate information in the notice, and notice to property owners and residents within ½ mile).
3. Whether the fire protection measures are adequate for the proposed landfill.
4. Whether the applicant prepared an adequate boring plan for the proposed landfill.
5. Whether the operation of the landfill will adversely affect the health of the requestors and the requestors' families.
6. Whether the proposed landfill is compatible with surrounding land uses.
7. Whether the operation of the landfill will adversely interfere with the use and enjoyment of the surrounding lands and homes.
8. Whether the proposed buffer zone and screening is adequate.
9. Whether the proposed landfill is compatible with the residential growth trends in the area.
10. Whether the application included adequate transportation information (including information regarding the design and location of access to the landfill, increase in traffic, and whether existing roads in the area are adequate to handle such increase in traffic).
11. Whether the operation of the proposed landfill will result in water pollution.
12. Whether the applicant properly evaluated or presented information on the vertical and horizontal flow characteristics of the groundwater.
13. Whether the proposed groundwater monitoring system includes the proper number and location of wells, screened at the proper depths, for adequate monitoring.
14. Whether the liner and leachate system are adequate to protect against groundwater contamination.

15. Whether the geotechnical evaluation is adequate to ensure the stability of the slopes and materials used for sidewalls.
16. Whether the proposed landfill is compatible with the Regional Solid Waste Management Plan.
17. Whether the landfill application provided adequate geologic and hydrologic information.
18. Whether the application included the required information on soils.
19. Whether the applicant provided adequate information in the application regarding the proposed surface water controls, flood plains, drainage route runoff from the facility, and off-site storm water contamination, including Jasper Creek.
20. Whether the appropriate rainfall data was used in the calculation of surface drainage.
21. Whether the proposed landfill is located in a wetland, or an area with faults and fractures.
22. Whether the applicant adequately provided closure and post closure plans to monitor the facility upon expiration of the proposed permit term.
23. Whether the applicant proposed adequate financial assurance.
24. Whether the applicant adequately evaluated the presence of, and potential adverse effects of the landfill on endangered species.
25. Whether the proposed landfill will create noise pollution as a result of the waste management activities and the number of waste management vehicles.
26. Whether the proposed site operating plan is adequate to guide the day-to-day operations of the facility.
27. Whether the proposed site operating plan is adequate to control odors (odor nuisance).
28. Whether the proposed site operating plan is adequate to control vectors, scavengers, birds, animals and rodents.
29. Whether the working face of the proposed landfill will be maintained to control windblown solid waste.
30. Whether the site operating plan contained adequate procedures for the detection and prevention of the disposal of prohibited wastes, including hazardous wastes, polychlorinated biphenyls, radioactive wastes, and others.

31. Whether the site operating plan adequately prevents or minimizes the ponding of water on the landfill.
32. Whether the site operating plan adequately identifies the training requirements for employees:
33. Whether the site operating plan adequately controls the unauthorized access to the landfill.
34. Whether the site operating plan provides adequate control of scavenging.
35. Whether the applicant's compliance history at other facilities warrants a close scrutiny of the instant landfill application.
36. Whether the operation of the landfill will result in harmful gases that will pollute the air (insomuch as the issue relates to methane and air concerns that are specifically regulated by the Municipal Solid Waste rules and regulations).
37. Whether the application included an adequate proof of property interest.
38. Whether the application adequately identifies all springs, water wells, oil and gas wells, homes, churches, and other site specific issues requiring special consideration under Commission rules.
39. Whether the application adequately describes any site specific conditions requiring special design considerations.
40. Whether the permit term should be for the life of the facility.
41. Whether the applicant adequately evaluated the abandoned and/or capped water wells and oil and gas wells.

If the Commission makes these findings, thereby limiting the scope of the contested case hearing to these issues only, the Executive Director recommends that the maximum expected duration of the hearing be nine months from the preliminary hearing to the issuance of the judge's Proposal For Decision.

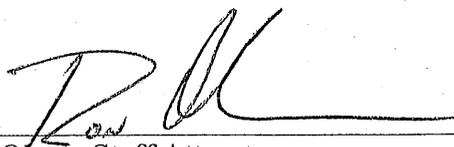
Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle, Executive Director

Stephanie Bergeron Perdue, Deputy Director

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By 

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REPRESENTING THE
EXECUTIVE DIRECTOR OF
THE COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on January 4, 2008, the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for MSW Permit No. 2332 was filed with the Office of the Chief Clerk, Texas Commission on Environmental Quality; and copies mailed to the attached mailing list.



Ron Olson, Staff Attorney
Environmental Law Division
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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CHIEF CLERKS OFFICE

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FOR
IESI TX LANDFILL LP
PROPOSED PERMIT NO. 2332

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PROPOSED PERMIT NO. 2332

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FOR THE REQUESTERS:

The Honorable Craig Estes
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Attachment A
Draft Permit



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT FACILITY
issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

MSW Permit No.: 2332

Name of Permittee: IESI TX Landfill LP
and 2301 Eagle Parkway, Suite 200
Site Owner: Fort Worth, Texas 76177

Facility Name: Jacksboro Landfill

Classification of Site: Type I Municipal Solid Waste Management Facility

The permittee is authorized to store, process, and dispose of wastes in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and orders of the Commission and laws of the State of Texas and it replaces any previously issued permit. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality. This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is completely filled or rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with Title 30 Texas Administrative Code Chapter 330 as in effect prior to March 27, 2006.

ISSUED DATE:

Executive Director
Texas Commission on Environmental Quality

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Jack County
Jacksboro Landfill
MSW Permit No. 2332

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I. Size and Location of Facility

- A. The Jacksboro Landfill is located in Jack County, Texas, approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156.
- B. The legal description is contained in Part I of the application found in Attachment A of this permit.
- C. Coordinates and Elevation of Permanent Site Benchmark:
- | | |
|------------|---|
| Latitude: | N 33° 04' 31.5163" |
| Longitude: | W 97° 59' 30.0283" |
| Elevation: | 1161.00 feet above mean sea level (msl) |

II. Incorporated Application Materials

This permit is based on and the permittee shall follow Parts I through IV of the permit application submittals which are hereby approved subject to the terms of this permit and any other orders of the Texas Commission on Environmental Quality (TCEQ). These materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these application materials shall become conditions of this permit upon the date of approval by the Commission.

Part V of the permit application shall be submitted upon completion of construction of the facility. The permittee shall maintain Parts I through V of the application as described in 30 TAC §330.51(a) at the facility and make them available for inspection by TCEQ personnel. [Chapter 330 rule citations here and forward in this permit were those in effect before the March 27, 2006 revisions.]

III. Facilities and Operations Authorized

- A. Days and Hours of Operation and Waste Acceptance

The facility is authorized to operate and accept waste 24 hours per day and seven days per week.

- B. Wastes Authorized at This Facility

The permittee is authorized to dispose of municipal solid waste resulting from, or incidental to, residential, commercial, institutional, municipal, manufacturing, industrial, recreational, and construction sources, including paper, food wastes, glass, aluminum, metals, plastics, grass clippings, other organic wastes, wood wastes, textiles, bricks, construction-demolition waste, and other inert materials. Class 2 and Class 3 non-hazardous industrial solid waste that are identified in Part IV found in

Attachment A of this permit may be accepted at this facility in accordance with Title 30 of the Texas Administrative Code (30 TAC) Section (§) 330.137. Certain special wastes that are identified in Part IV found in Attachment A of this permit may be accepted contingent upon such waste being handled in accordance with 30 TAC §330.136, including dead animals, slaughterhouse wastes, non-regulated asbestos containing material (non-RACM), empty containers, municipal water and wastewater treatment plant sludges, and grease or grit trap waste.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.5(e). Class 1 non-hazardous industrial solid wastes, regulated hazardous wastes, liquid wastes, radioactive wastes, bulk liquids, PCB wastes, infectious medical wastes, and any other waste not identified in Section III.B. of this permit shall not be accepted at this facility.

D. Waste Acceptance Rate

Authorized solid waste may be accepted for disposal at this site at the initial rate of approximately 156,000 tons-per-year (approximately 500 tons per day based on 312 days-per-year of operation) and increasing to a maximum acceptance rate of approximately 947,000 tons-per-year (approximately 3,035 tons-per-day based on 312 days-per-year of operation). The actual yearly waste acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance.

E. Waste Volume Available for Disposal

The total waste disposal capacity of the landfill is based upon the information contained in Appendix IIIA (Site Life Calculations) of Part III found in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type I municipal solid waste landfill that utilizes a combination of a sector below-grade-excavation fill and aerial fill of the municipal solid waste landfill subject to the limitations contained herein. All waste disposal activities subject to permitting are to be confined to the following facilities, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, detention ponds, landfill gas management system, contaminated water management system, final cover, groundwater monitoring system, landfill liner system, and other improvements.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with the Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapters 305 and 330.

IV. Facility Design, Construction, and Operation

- A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including 30 TAC §§330.51 through 330.58, 330.62 through 330.64, 330.111 through 330.139, 330.200 through 330.206, 330.230 through 330.242, 330.250 through 330.256, 330.280 through 330.284, and 330.300 through 330.305; special provisions contained in this permit; and Parts I through IV of the application found in Attachment A of this permit, and shall be managed in a manner to protect human health and the environment.
- B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.2 and to prevent inundation or discharge from the areas surrounding the facility components. Each receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
1. Preclude the release of any contaminated runoff, spills, or precipitation;
 2. Prevent washout of any waste by a 100-year storm; and
 3. Prevent run-on into the disposal areas from off-site areas.
- C. The site shall be designed and operated so as not to cause a violation of:
1. The requirements of §26.121 of the Texas Water Code;
 2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
 3. The requirements under §404 of the Federal Clean Water Act, as amended; and
 4. Any requirement of an area wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, as amended.

- D. Contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §330.55(b)(6), 30 TAC §330.56(o), and Part III, Attachment 15 found in Attachment A of this permit. Other methods may be considered for approval as a modification to this permit.
- E. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III Attachment 13 found in Attachment A of this permit.
- F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §§330.55(b)(3) and 330.133(b), and as described in Part III found in Attachment A of this permit.
- G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. The permittee shall comply with 30 TAC §330.52(b)(9) and as described in Part I found in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV found in Attachment A of this permit. All facility employees and other persons involved in facility operations shall obtain the appropriate level of operator certification as required by recent changes in the statute and applicable regulations.
- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

V. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330, Subchapter K and 30 TAC Chapter 37.
- B. Within 60 days prior to the acceptance of waste, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in accordance with 30 TAC §§330.253(d)(6) and 330.281. The closure cost estimate of \$904,795.63 (2005 dollars) is based on estimates as described in Part III Attachments 8 and 12 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2005.

- C. Within 60 days prior to the acceptance of waste, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of \$963,316.20 (2005 dollars) is based on estimates as described in Part III Attachments 8 and 13 found in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2005.
- D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §§330.281 and 330.283, as applicable.
- E. If the facility's closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.253(d)(6), 330.254(b)(3)(D), 330.281, and 330.283, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit, shall be initiated as a modification within 30 days after the effective date of the new regulation.

VI. Facility Closure

Closure of the facility shall commence:

- A. Upon completion of the disposal operations and the site is completely filled or rendered unusable in accordance with Part III Attachment 7 found in Attachment A of this permit;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in accordance with §§ 5.501 and 5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;
- C. Upon abandonment of the site;
- D. For failure to secure and maintain an adequate bond or other financial assurance as required; or

- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate at any time prior to the site being completely filled to capacity.

VII. Site Completion and Closure

The landfill shall be completed and closed in accordance with 30 TAC §330.250 and the applicable portions of 30 TAC §§330.253 through 330.256. Upon closure, the permittee shall submit to the Executive Director documentation of closure as set out in 30 TAC §330.253. Post-closure care and maintenance shall be conducted in accordance with Part III Attachment 13 found in Attachment A of this permit, for a period of 30 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(b).

VIII. Standard Permit Conditions

- A. Parts I through IV, as described in 30 TAC §330.51(a), which comprise the Permit Application for MSW Permit No. 2332 are hereby made a part of this permit as Attachment A. The permittee shall maintain Parts I through IV and Part V, as described in 30 TAC §330.51(a), at the facility and make them available for inspection by TCEQ personnel. The contents of Part III of Attachment A of this permit shall be known as the "Approved Site Development Plan," in accordance with 30 TAC §§330.54 and 330.55. The contents of Part IV of Attachment A of this permit shall be known as the "Approved Site Operating Plan," in accordance with 30 TAC §§330.57 and 330.114.
- B. Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- C. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act, and is grounds for an enforcement action, revocation, or suspension.
- D. A pre-construction conference shall be held pursuant to 30 TAC §330.64(c) prior to beginning any construction within the permit boundary to ensure that all aspects of this permit, construction activities, and inspections are met. Additional pre-construction conferences may be held prior to the opening of the facility.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.64(d).
- F. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.

- G. The tracking of mud off-site onto any public right-of-way shall be minimized.
- H. In accordance with 30 TAC §330.7(a), the permittee shall record in the deed records of Jack County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.7(b).
- I. Daily cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.133(c) and 305.70. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which contains waste.
- J. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- K. In complying with the requirements of 30 TAC §330.123, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 60 days prior to the acceptance of waste.
- L. The permittee shall retain the right of entry onto the site until the end of the post-closure care period as required by 30 TAC §330.62(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the post-closure care period as required by §361.032 of the Texas Health and Safety Code.
- N. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and as required by local, state, and federal laws or ordinances.

- P. If differences exist between permit provisions, application materials (incorporated as Parts I through IV of Attachment A of this permit), and the rules under 30 TAC Chapter 330, then the permit provisions and the rules shall hold precedence over the application materials.
- Q. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116.
- R. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements, as applicable.

IX. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 37, 281, 305, and 330 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

X. Special Provisions

None.

Attachment A

Parts I through IV of the permit application effective with the date on the permit.

Attachment B

Minor amendments, corrections, and modifications may be issued for MSW Permit No. 2332.

The minor amendment, modification, or correction document prepared and executed with an approval date shall be attached to this attachment. There is no limitation on the number of these documents that may be included in Attachment B of this permit.

Attachment B
Technical Summary and Executive Summary

**TECHNICAL SUMMARY
of the**

**JACKSBORO LANDFILL
MSW PERMIT APPLICATION
No. 2332**

**Type I
Municipal Solid Waste Facility
Jack County, Texas**

Applicant:
IESI TX Landfill LP

Date Prepared: October 2006
Date Revised: November 2006

Prepared and Issued by the
Texas Commission on Environmental Quality (TCEQ)
Office of Permitting, Remediation and Registration
Waste Permits Division
Municipal Solid Waste (MSW) Permits Section

This summary was prepared in accordance with 30 Texas Administrative Code Section 281.21(c). The Information contained in this summary is based upon the permit application. Not all of the information contained in this summary has been independently verified.

Name of Applicant: IESI TX Landfill LP
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177

Name of Facility: Jacksboro Landfill

Contact Person: John Gustafson
Vice President
IESI TX GP Corporation
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177
817-632-4000

Consulting Engineers: Kenneth J. Welch, P.E.
Biggs & Mathews Environmental, Inc.
1700 Robert Road
Mansfield, Texas 76063
817-563-1144

Type of Facility: 274.64 acres Type I Municipal Solid Waste Landfill Facility

1. GENERAL.

1.1 Purpose:

This permit application, submitted by IESI TX Landfill LP, is to authorize a new Type I MSW landfill in Jack County, Texas. This permit application was reviewed under the rules in effect prior to March 27, 2006 (Title 30 of the Texas Administrative Code, Chapter 330). The total permitted facility will include 274.64 acres of land of which approximately 202 acres will be used for waste disposal. The final elevation of the waste fill and final cover material will be 1,444.0 feet (msl). The site will be authorized to accept the waste streams as listed below.

1.2 Wastes to be Accepted:

Solid waste to be disposed of will primarily consist of municipal solid waste generated from residential, commercial, institutional, municipal, manufacturing, industrial, recreational, and construction sources within the Jacksboro Landfill service area, including paper, food wastes, glass, aluminum, metals, plastics, grass clippings, other organic wastes, wood wastes, textiles, bricks, and other inert materials. Class 2 and Class 3 nonhazardous industrial solid waste may be accepted at this facility in accordance with 30 TAC§330.137. Construction and demolition waste as defined in 30 TAC§330.2 may be accepted. Some special wastes may be accepted and handled in accordance with 30 TAC§330.136, including dead animals, slaughterhouse wastes, non-regulated asbestos containing material (non-RACM), empty containers, municipal water and wastewater treatment plant sludges, and grease or grit trap waste.

1.3 Wastes Not Authorized to be Accepted:

Class 1 nonhazardous industrial solid wastes, regulated hazardous wastes, liquid wastes, radioactive wastes, bulk liquids, PCB wastes, infectious medical wastes, or other waste which is prohibited or not authorized may not be accepted for disposal.

1.4 Waste Acceptance Rate:

Authorized wastes will be accepted at an anticipated initial rate of approximately 500 tons-per-day which results in an estimated life of approximately 60 years.

2. LOCATION AND SIZE

2.1 Location:

The proposed Jacksboro Landfill is located in Jack County, Texas, approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156. Refer to the County Highway Map, Attachment 1 to this Technical Summary.

2.2 Elevation and Coordinates of Permanent Site Benchmark:

Latitude: N 33° 04' 31.5163"
Longitude: W 97° 59' 30.0283"
Elevation: 1161.00 feet above mean sea level (msl)

2.3 Size:

The total area within the permit boundary under the proposed permit is 274.64 acres.

3. FACILITY DESIGN, CONSTRUCTION, AND OPERATIONS

3.1 Facilities Authorized:

The permittee will be authorized to operate the facility subject to the limitations contained in the permit. All waste disposal operations will be limited to the units and other features identified in the Site Development Plan and the Site Operating Plan as follows:

3.1.1 A Type I municipal solid waste landfill facility with a disposal footprint of approximately 202 acres to be developed in four sectors. The maximum permitted depth of excavation will be at 1,098.8 feet above mean sea level (msl) and the maximum permitted height of the landfill will be at 1,444.0 feet msl. The proposed permitted capacity will be 50 million cubic yards (including waste and cover) or 42.5 million cubic yards of waste. The site

life will be approximately 60 years. The proposed facility will contain a gatehouse, scales, a maintenance building, an office building, perimeter drainage channels, detention ponds, 11 groundwater monitoring well and 16 gas monitoring probes phased in by sector development, and a composite liner system and leachate collection system.

- 3.1.2 Access roads, temporary and permanent drainage features, disposal trenches, all appurtenances, and other improvements shall be built, operated, and/or maintained in accordance with the conditions of the permit, Part I - IV of the permit application, and commission regulations. The facility shall be managed in a manner to protect human health and the environment.

4. LAND USE

- 4.1 The site is located in Jack County approximately 13 miles southeast of the City of Jacksboro, Texas. The site is approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm-to-Market (FM) Road 1156.
- 4.2 The proposed facility will be located in Jack County, outside of the corporate limits of any city and is therefore not subject to any known city zoning ordinances. Jack County does not exercise zoning authority in the vicinity of the site.
- 4.3 The surrounding land is used primarily for agricultural (mostly pasture with some cultivation) with some rural residential. There are no industrial/commercial facilities located within one mile radius of the proposed landfill. There are some producing oil and gas wells and abandoned oil producing sites within the 1-mile radius of the site. There is no active oil or gas drilling within the 1-mile radius of the site.
- 4.4 Structures located within the 1 mile boundary of the site consist of approximately 25 rural residences. There are no known commercial/industrial facilities, schools, licensed daycare facilities, churches, cemeteries, or archaeologically significant sites within one mile of the permit boundary.

5. TRANSPORTATION AND ACCESS

- 5.1 The primary access route to the site is SH 199. Landfill traffic will access the proposed facility from both directions along SH 199. Farm-to-Market Road 1156 will be used for small volumes of facility related traffic.
- 5.2 Direct access to the site is from SH 199. State Highway 199 is a two-lane asphalt-surfaced roadway with a 42-foot cross-section, consisting of one 13-foot travel lane and one 8-foot shoulder in each direction with widening to provide eastbound and westbound passing/climbing lanes near the intersection of FM 1156. The cross-section at the intersection of FM 1156 consists of two 13-foot

through lanes, two 12-foot passing/climbing lanes with a shoulder four feet in width on either side. Based on information obtained from the Texas Department of Transportation (TxDOT) the December 2004 daily traffic volume for SH 199 West was 2,550 vehicles, SH 199 East was 2,348 vehicles, and FM 1156 was 439 vehicles. The proposed landfill is expected to account for about 3.4 percent of the total traffic east on SH 199, about 0.8 percent of traffic west on SH 199, and about 3.7 percent of the total traffic on FM 1156, based on projected 2005 traffic volumes. The proposed landfill is expected to account for about 6.2 percent of the total traffic east on SH 199, about 1.3 percent of the total traffic west on SH 199, and 6.7 percent of the total traffic on North FM 1156, based on the 2070 projected volumes.

- 5.3 The nearest public use airport is the Jacksboro Municipal Airport, which is located about nine-miles northwest of the proposed site. The distance restrictions set fourth in 30 TAC §330.300 require that land disposal sites not be located closer than 10,000 feet to any runway used by turbojet aircraft or closer than 5,000 feet to any public use runway used by piston-engine aircraft. Accordingly, the rule does not impose any restrictions on locating the Jacksboro Landfill at the proposed site.

6. SURFACE WATER PROTECTION

6.1 Floodplain:

The landfill disposal footprint is not located in a 100-year floodplain.

6.2 Stormwater:

Site topography and surface drainage of the site is separated into the Little Beans Creek and Jasper Creek drainage basins. A ridge that intersects the property in a north-south direction on the western third of the property separates the two drainage basins. The headwater of Little Beans Creek on the western portion of the property is a very small unnamed intermittent creek flowing south to north. Surface water exits the proposed permit boundary at two locations on the west permit boundary, entering the tributary to Little Beans Creek. The main branch of Jasper Creek crosses and drains the southeastern portion of the site. The eastern portion of the property slopes toward Jasper Creek. There are a number of small unnamed tributaries that transect the site, generally from west to east. There are several other drainages that exit the site to the south. Each of these unnamed tributaries eventually flow into Jasper Creek. The 100-year flood plain of Jasper Creek crosses the site in the southeast corner. This information is contained in the application and indicates that run-on/runoff stormwater controls have been designed for a 24-hour 25-year storm event.

6.3 Contaminated Water:

Stormwater which comes in contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be properly contained and managed. No contaminated water will be discharged from the site.

7. GROUNDWATER PROTECTION

7.1 Groundwater Protection:

The final cover of fill areas will be covered, from the top down, with an erosion layer consisting of a minimum 24 inches of soil with the top 6 inches capable of sustaining native plant growth, a drainage layer consisting of a geotextile on top slopes and a geocomposite on side slopes, a 40-mil LLDPE or 60-mil HDPE geomembrane, an infiltration layer consisting of a minimum of 18 inches of compacted soil with a coefficient of permeability less than or equal to 1×10^{-5} centimeters/second (cm/s), and a minimum 12-inch intermediate cover layer. The bottom and sides of the landfill will be lined with a minimum of 24 inches of compacted soil with a coefficient of permeability less than or equal to 1×10^{-7} cm/s, overlain by a 60-mil smooth HDPE geomembrane on the floor and textured geomembrane on the side slopes, a drainage layer consisting of a single-sided geocomposite on the floor and double-sided geocomposite on the side slopes, and a minimum of 24-inches of general earth fill as protective cover, respectively from bottom to top. The liner system will also incorporate a leachate collection and removal system.

7.2 Monitoring Wells:

The groundwater monitoring system will consist of a total of 11 monitor wells, two upgradient wells and nine downgradient wells. The installation of the downgradient wells will be phased in during each sector development. The groundwater monitoring network will be sampled, analyzed, and monitored in accordance with the procedures in the Groundwater Sampling and Analysis Plan (Attachment 11 of the Permit Application), which is part of the facility permit.

8. CONTROL OF METHANE

8.1 The design and construction of the liner system as described in Section 7.1 of this Technical Summary inhibits migration of methane gas. The minimum frequency of gas monitoring will be quarterly in accordance with 30 TAC §330.56(n)(2)(B).

8.2 Landfill gas migration will be monitored around the perimeter of the facility utilizing a total of 16 permanent landfill gas monitoring probes (LGMP). Permanent LGMP will be installed to monitor the soil strata above the higher of either the lowest measured groundwater level at the monitoring point or the lowest current or planned future elevation of waste within 1,000 feet of the

monitoring point. The LGMP will be screened from approximately 1 foot above the bottom of the borehole to within approximately 5 feet of the ground surface. The installation of the LGMP will be phased in during each sector development and will be located such that the maximum spacing between the LGMP does not exceed 1,000 feet.

9. SITE DEVELOPMENT AND OPERATION

The Site Development Plan (SDP) is Part III of the permit application and sets forth the engineering design and other technical aspects of the facility. The Site Operating Plan (SOP) is Part IV of the permit application. The SOP provides operating procedures for the site management and the site operating personnel for the daily operation of the facility. The SOP also provides guidance to maintain the facility in compliance with the engineering design and applicable regulatory requirements. These documents become part of the permit.

10. PROTECTION OF ENDANGERED SPECIES

There are no threatened or endangered species found on the site based on site visits conducted by a qualified biologist. With the exception of the Texas horned lizard and the timber rattlesnake, potential habitat for federal or state listed threatened or endangered species is absent on the site. A detailed avoidance and minimization plan for the timber rattlesnake and Texas horned lizard has been prepared and is included in Part IV, Site Operating Plan, of the permit application. This information is contained in the application and indicates that development of the landfill shall be conducted in accordance with the plan to avoid and minimize potential impacts to these two state listed threatened species.

11. PROTECTION OF WETLANDS

The proposed Jacksboro Landfill will impact approximately 0.32 acres of jurisdictional waters of the United States. The proposed Jacksboro Landfill will be developed consistent with the requirements of the U.S. Army Corps of Engineers Nationwide 39, Section 404 Permit, issued September 30, 2004, and subsequently modified December 3, 2004. A copy of this modified document is included in the application.

12. FINANCIAL ASSURANCE

Authorization to operate this facility is contingent upon the maintenance of financial assurance in accordance with 30 TAC Chapters 330 and 37, Financial Assurance, and the provisions contained in the permit.

13. ATTACHMENTS

Attachments from the permit application which provide illustrations of the site location, nearby land use, and site development include the following:

<u>Attachment</u>	<u>Description</u>	<u>Location in Permit Application</u>
#1	County Highway Map	Part I, Figure IA.1
#2	General Site Plan	Part III, Attachment 1, Attachment 1A
#3	Land Use Map	Part I, Figure IA.3
#4	Sector Sequencing Plan	Part III, Attachment 1, Attachment 1C
#5	Final Contour Plan	Part III, Attachment 12, Attachment 12.1

14. ADDITIONAL INFORMATION

For information concerning the regulations covering this application, contact the Texas Commission on Environmental Quality:

Mr. Jeff Davis, P.G.
Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711
(512) 239-6228

For more specific detailed technical information concerning any aspect of this application or to request a copy of the Site Development Plan, please contact the Applicant's Agent or the Applicant at the address provided at the beginning of this summary.

15. PUBLICATION PARTICIPATION PROCESS

The process through which the public is allowed to participate in the final decision on the issuance of a permit is outlined as follows.

- 15.1 The TCEQ will hold a public meeting if the Executive Director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the Commission accepts formal comments on the application. There is also an informal question and answer period.
- 15.2 Technical review of the application is completed, a final draft permit is prepared, and the application is declared technically complete. Information for the application, the draft permit, the notice, and summaries are sent to the Chief Clerk's office for processing.
- 15.3 The "Notice of Application" is sent to the applicant and published in the newspaper. This notice provides a 30-day period, from the date of publication, for the public to make comment(s) about the application or draft permit. The notice also allows the public to request a public meeting for the proposed facility.
- 15.4 After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The

RTC is then sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a public hearing.

- 15.5 After the 30-day period to request a hearing is complete, the matter is placed on an agenda meeting for the TCEQ Commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a public hearing.
- 15.6 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant(s) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ Commissioners for consideration of issuance or denial of a permit.
- 15.7 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 20 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the Commission, or allowed to expire by operation of law.
- 15.8 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the Executive Director's signature docket and a permit is issued. Any motion to overturn the Executive Director's decision must be filed no later than 23 days after the agency mails notice of the signed permit.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

EXECUTIVE SUMMARY

DESCRIPTION OF APPLICATION

Applicant: IESI TX Landfill LP

MSW Permit Application No. 2332

Type: Type I Municipal Solid Waste Landfill Facility

Request: To issue a municipal solid waste permit, No. 2332, for a new municipal solid waste Type I landfill facility, and to operate this facility in accordance with the application.

Authority: Texas Commission on Environmental Quality rules, 30 TAC Chapter 330.

STAFF RECOMMENDATION

Issue permit as requested.

TECHNICAL INFORMATION

General: The proposed Jacksboro Landfill is located in Jack County, Texas, outside the corporate limits of any city and is therefore not subject to any known city zoning ordinances. Jack County does not exercise zoning authority in the vicinity of the proposed facility. The proposed facility will be located approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156. The surrounding land is used primarily for agricultural (mostly pasture with some cultivation) with some rural residential. Structures located within the one mile boundary of the proposed facility consist of approximately 25 rural residences. There are no known commercial/industrial facilities, schools, licensed daycare facilities, churches, cemeteries, or archaeologically significant sites within one mile of the proposed permit boundary. The waste acceptance rate into the landfill will be an initial rate of approximately 500 tons-per-day (tpd) (based on 312 days-per-year of operation), and increasing to a maximum acceptance rate of approximately 3,035 tpd (based on 312 days-per-year of operation), consisting of household solid waste, commercial solid waste, rubbish, yard waste, construction/demolition wastes, Class 2 and Class 3 non-hazardous industrial solid waste, and certain special wastes. The permit application meets the requirements of the Commission's rules and provides the proper safeguards to protect the public health and safety, and the environment.

Conditions: Conditions of the permit are set forth in the final permit. Detailed information about the facility and its operation are contained in the Technical Summary.

COMPLIANCE HISTORY

See attached.

CONTACT Jeff Davis at (512) 239-6228
MSW Permits Section

Attachment C
Compliance History

Compliance History
Prepared Under 30 Texas Administrative Code Chapter 60

Customer/Respondent/Owner-Operator: IESI TX Landfill LP
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177

Regulated Entity: Jacksboro Landfill
Proposed MSW Permit Number 2332
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177

Location: Approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156 in Jack County.

Date Compliance History Prepared: September 28, 2006

Agency Decision Requiring Compliance History (Mark One)

- the issuance, renewal, amendment, modification, denial suspension or revocation of a permit
- enforcement
- the use of announced investigations
- participation in innovation programs

Compliance Period: September 1, 2001 through August 31, 2006

TCEQ staff person to contact for additional information regarding this compliance history is:

Name: Bobbie Rogans
Phone Number: (512) 239-6197

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN100213214	IESI BUFFALO CREEK LANDFILL	Classification:	Site Rating:
ID Number(s):	AIR OPERATING PERMITS	PERMIT		2403
	AIR OPERATING PERMITS	ACCOUNT NUMBER		WH10181V
	AIR NEW SOURCE PERMITS	PERMIT		46550
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		WH10181V
	AIR NEW SOURCE PERMITS	AFS.NUM		0046
	PETROLEUM STORAGE TANK	REGISTRATION		75186
	REGISTRATION			
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT		1571A
	WASTEWATER	PERMIT		TXR05M929
Location:	1499 W SMITH AVE, IOWA PARK, TX, 76367		Rating Date:	9/1/2006 Repeal Violator: NO
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 07/18/2003 | (141944) |
| 2 | 07/10/2003 | (134178) |
| 3 | 10/15/2005 | (431394) |
| 4 | 04/14/2006 | (460582) |
| 5 | 02/18/2003 | (23025) |
| 6 | 06/30/2005 | (394113) |
| 7 | 04/06/2004 | (264107) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

Date: 06/28/2005 (394113)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.122

Description: Failure to have buffer zone markers

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.114(1)

Description: Failure to describe all operations in the Site Operation Plan. Disposal of wastes

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN100612993 IESI GREENVILLE	Classification:	Site Rating:
ID Number(s):	STORMWATER PERMIT		TXR05M141
Location:	4618 ED RUTHERFORD RD, GREENVILLE, TX, 75402	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN101288272 IESI TRAVIS COUNTY LANDFILL	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1841
	PETROLEUM STORAGE TANK	REGISTRATION	73205
	REGISTRATION		
	STORMWATER	PERMIT	TXR05K774
	STORMWATER	PERMIT	TXR150968
Location:	9600 FM 812, AUSTIN, TX, 78719	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigallons. (CCEDS Inv. Track. No.)
 - 1 03/07/2006 (455542)
 - 2 06/30/2005 (395851)
 - 3 08/07/2002 (7348)
 - 4 07/25/2003 (144886)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN101288777 IESI WICHITA COUNTY C & D LANDFILL	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT	1827B	
Location:	STORMWATER PERMIT	TXR05P320	
TCEQ Region:	1499 SMITH ST, WICHITA FALLS, TX, 76301		
Date Compliance History Prepared:	REGION 03 - ABILENE		
Agency Decision Requiring Compliance History:	September 28, 2006		
Compliance Period:	Enforcement		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History	September 01, 2001 to August 31, 2006		

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 12/17/2002 (19241)
 - 2 10/22/2003 (251264)
 - 3 06/09/2005 (394112)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN101478790 IESI FORT WORTH C AND D LANDFILL	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT STORMWATER PERMIT		1983B TXR05N201
Location:	4144 DICK PRICE RD, FORT WORTH, TX, 76140	Rating Date:	9/1/2006 Repeal Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3: If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/19/2003	(25622)
2	05/16/2003	(38038)
3	07/31/2002	(6391)
4	12/21/2004	(338496)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN101479160 IESI BOWIE TRANSFER STATION	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING STORMWATER	PERMIT PERMIT	2295 TXR05P454
Location:	1201 EAST ROACH RD #4, BOWIE, TX, 76230	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 11/25/2002 | (15682) |
| 2 | 03/30/2006 | (456321) |
| 3 | 03/21/2003 | (28138) |
| 4 | 08/28/2003 | (145278) |
| 5 | 03/18/2003 | (27816) |
| 6 | 04/20/2004 | (266613) |
| 7 | 09/01/2005 | (404536) |
| 8 | 12/19/2003 | (255310) |
| 9 | 04/19/2005 | (374660) |
| 10 | 07/15/2005 | (397780) |
| 11 | 04/29/2005 | (379332) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/20/2005 (374660)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter G 330.152(a)

Description: Failure to wash the tipping floor down twice weekly.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.114(1)

Description: Failure to conduct random screenings once per week, per the site operation plan.

Date: 01/21/2004 (259394)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter G 330.150(1)

Description: IESI has deviated from the Site Operation Plan (SOP). The following deviations

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102042330 IESI JUSTIN	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT	TXR05N224
Location:	415 TOPEKA, JUSTIN, TX, 76247	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102289634	MINGUS TRANSFER STATION	Classification:	Site Rating:
ID Number(s):				
Location:	1 MILE NW OF INTERSECTION OF INTERSTATE 20 W AND STATE HIGHWAY 108			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CEEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102379815	EAST TEXAS REGIONAL LANDFILL	Classification:	Site Rating:
<hr/>				
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	74372	
	REGISTRATION			
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1249	
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1249A	
	STORMWATER	PERMIT	TXR05K771	
<hr/>				
Location:	5155 FM 2867 E, HENDERSON, TX, 75654		Rating Date: 9/1/2006 Repeat Violator: NO	
<hr/>				
TCEQ Region:	REGION 05 - TYLER			
<hr/>				
Date Compliance History Prepared:	September 28, 2006			
<hr/>				
Agency Decision Requiring Compliance History:	Enforcement			
<hr/>				
Compliance Period:	September 01, 2001 to August 31, 2006			
<hr/>				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/11/2005	(378821)
2	08/12/2005	(400412)
3	03/05/2003	(26750)
4	02/09/2006	(449903)
5	02/10/2003	(23792)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/12/2003	(23792)	
Self Report?	NO		Classification: Minor
Citation:	TWC Chapter 26 26.121(a)(1)		
Rqmt Prov:	OP IA		
Description:	Failure to maintain written documentation of employee training.		
Self Report?	NO		Classification: Minor
Citation:	TWC Chapter 26 26.121(a)(1)		
Rqmt Prov:	OP IA		
Description:	Failure to keep records of employee education for those employees who are not responsible for managing the facility's storm water pollution prevention plan.		

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102560174	IESI BLANCO COUNTY TRANSFER STATION	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT		40007
	STORMWATER	PERMIT		TXR05N485
	MUNICIPAL SOLID WASTE PROCESSING	PERMIT		2300
	MUNICIPAL SOLID WASTE PROCESSING	PERMIT		2300
	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION		40007
Location:	ON 2 MILES SE OF THE INTERSECTION OF US HIGHWAY 281 AND FM 2766		Rating Date: 9/1/2006	Repeal Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Blanco County
4. If Yes, who was/were the prior owner(s)? IESI Tx Landfill LP
IESI TX Corporation
5. When did the change(s) in ownership occur? 09/17/2003

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/13/2005	(350779)
2	10/03/2002	(11651)
3	07/16/2002	(2761)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/18/2002	(2761)
Self Report?	NO	
Citation:	30 TAC Chapter 330, SubChapter G 330.150(7)	
Description:	The hours of operation can not be read when the facility is open.	
Classification:	Minor	
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102711603	SANITARY LANDFILL	Classification:	Site Rating:
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	PC0057A	
Location:	4 M SW OF	Rating Date: 9/1/2006 Repeat Violator: NO		
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>City of Weatherford</u> |
| 5. When did the change(s) in ownership occur? | <u>07/11/2003</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102959368	IESI TRANSFER STATION	Classification:	Site Rating:
<hr/>				
ID Number(s):				
Location:	1499 W SMITH AVE, IOWA PARK, TX, 76367			
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? IESI Tx Landfill LP
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/17/2002	(19377)
2	03/25/2003	(28238)
- E. Written notices of violations (NOV). (CCEDS' Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN102996451 IESI TRANSPORT FACILITY	Classification:	Site Rating:
ID Number(s):	STORMWATER PERMIT INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # TRANSPORTATION (SWR)		TXR05M897 86690
Location:	2107 STATE HIGHWAY 135 N, KILGORE, TX, 75682	Rating Date:	9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|---|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u>
<u>Merritt Tool Company, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>IESI Tx Landfill LP</u>
<u>IESI TX Corporation</u> |
| 5. When did the change(s) in ownership occur? | <u>09/16/2003</u>
<u>09/17/2003</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 05/05/2005 | (378730) |
| 2 | 04/10/2003 | (31816) |
| 3 | 02/10/2003 | (23343) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|---------|--------------------------|
| Date: | 02/12/2003 | (23343) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | TWC Chapter 26 26.121(a)(1) | | |
| Rqmt Prov: | OP IA | | |
| Description: | Failure to complete the required site evaluation for non-storm water discharges which also resulted in a failure to include the signed certification for such in the storm water pollution prevention plan. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | TWC Chapter 26 26.121(a)(1) | | |
| Rqmt Prov: | OP IA | | |
| Description: | Failure to complete the required quarterly site inspections and document these inspections using a written checklist as specified in the TPDES permit. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | TWC Chapter 26 26.121(a)(1) | | |
| Rqmt Prov: | OP IA | | |
| Description: | Failure to conduct the required quarterly visual monitoring of the storm water | | |

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103759643 IESI HARDIN COUNTY LANDFILL	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	2214A
	USED OIL	REGISTRATION	C81870
	PETROLEUM STORAGE TANK NON REGISTERED	ID NUMBER	61362
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	75943
	STORMWATER	PERMIT	TXR05Q196
Location:	2525 FM 770 RD, KOUNTZE, TX, 77625		Rating Date: 9/1/2006 Repeal Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u>
<u>Hardin County</u>
<u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 08/28/2003 | (145298) |
| 2 | 03/14/2005 | (350662) |
| 3 | 04/26/2004 | (264765) |
| 4 | 02/14/2006 | (438356) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|-----------------------|
| Date: | 02/14/2006 | (438356) | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.111(a) | | |
| Rqmt Prov: | OP IA | | |
| Description: | Failure to comply with site operation and recordkeeping requirements. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.123 | | |
| Description: | Failure to pick-up litter along access route. | | |
- F. Environmental audits.
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103945754	CITY OF BOWIE HAULING FACILITY	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT		TXR05M904
Location:	900 HIGHWAY 59 N, BOWIE, TX, 76230		Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104361860 CITY OF BOWIE IESI BOWIE TRANSFER STATION	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT	TXR05P454
Location:	RR 4 BOX 1204, BOWIE, TX, 76230	Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>City of Bowie</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104400601	IESI WEATHERFOD LANDFILL	Classification:	Site Rating:
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	76458
Location:	3131 OLD BROCK RD, WEATHERFORD, TX, 76087		Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104417944	IESI MINGUS HAULING FACILITY	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT		TXR05M886
Location:	2700 MCALISTER RD, MINGUS, TX, 76463		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104542600 IESI WEATHERFORD LANDFILL	Classification:	Site Rating:
ID Number(s):	STORMWATER PERMIT		TXR05Q431
Location:	3131 OLD BROCK RD, WEATHERFORD, TX, 76087	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104543152 IESI TX LANDFILL TAYLOR PROPERTY	Classification:	Site Rating:
ID Number(s):	STORMWATER PERMIT		TXR15N122
Location:	201 WEAVER LN, WEATHERFORD, TX, 76087	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 04/29/2005 (375743)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104575436 JACKSBORO LANDFILL	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT		2332
Location:	APPROX 13 MILES SE OF JACKSBORO AND ABOUT 200 FT NW OF THE INTERSECTION OF SH 199 AND FM 1156 IN JACK COUNTY.	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>City of Jacksboro</u>
<u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104818638	IESI BOWIE TRANSFER STATION	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING PERMIT		2295	
Location:	1201 E ROACH RD, BOWIE, TX, 76230		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104920814 SPILL AT 1012 N MATTHEWS BOWIE	Classification:	Site Rating:
ID Number(s):	_____		
Location:	1012 N MATTHEWS ST, BOWIE, TX, 76230		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104926399 IESI WACO HAULING FACILITY	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT	TXR05N000
Location:	1910 S HIGHWAY 317, MCGREGOR, TX, 76657		Rating Date: 9/1/2006 Repeal Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN104973557 IESI WEATHERFORD LANDFILL FERREL PROPERTY	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT	TXR15CD59
Location:	3306 OLD BROCK RD, WEATHERFORD, TX, 76087	Rating Date: 9/1/2006	Repeal Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103019592	IESI MINNIS DRIVE TRANSFER STATION	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION		40159
	MUNICIPAL SOLID WASTE PROCESSING	PERMIT		2306
	STORMWATER	PERMIT		TXR05M020
Location:	2120 MINNIS DR, HALTOM CITY, TX, 76117		Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>City of Haltom City</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>IESI Tx Landfill LP</u> |
| 5. When did the change(s) in ownership occur? | <u>09/16/2003</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/15/2005	(396846)
2	08/26/2003	(151896)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103207254	IESI HEARNE	Classification:	Site Rating:
ID Number(s):				
Location:	110 CEDAR ST, HEARNE, TX, 77859		Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Eagle Disposal Company, Inc.
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103207437 IESI VERNON HAULING FACILITY	Classification:	Site Rating:
ID Number(s):	STORMWATER PETROLEUM STORAGE TANK REGISTRATION	PERMIT REGISTRATION	TXR05L996 75187
Location:	201 US HIGHWAY 287 E, VERNON, TX, 76384	Rating Date: 9/1/2006 Repeal Violator: NO	
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|------------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI TX Corporation</u> |
| | <u>IESI Tx Landfill LP</u> |
| | <u>Haigood & Campbell, LLC</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>IESI Tx Landfill LP</u> |
| 5. When did the change(s) in ownership occur? | <u>09/16/2003</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103208831 IESI WICHITA FALLS	Classification:	Site Rating:
ID Number(s):	STORMWATER PERMIT		TXR05O060
	STORMWATER PERMIT		TXR05M929
Location:	1201 W SMITH AVE, IOWA PARK, TX, 76367	Rating Date:	9/1/2006 Repeal Violator: NO
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI TX Corporation</u> |
| | <u>IESI Tx Landfill LP</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>IESI Tx Landfill LP</u> |
| 5. When did the change(s) in ownership occur? | <u>09/16/2003</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486	IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103211298	IESI DALLAS	Classification:	Site Rating:
ID Number(s):	STORMWATER	PERMIT		TXR05N360
Location:	2500 W BRUTON RD, BALCH SPRINGS, TX, 75180		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 01, 2001 to August 31, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI TX Corporation</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN601668486 IESI Tx Landfill LP	Classification:	Rating:
Regulated Entity:	RN103368692 IESI AUSTIN	Classification:	Site Rating:
<hr/>			
ID Number(s):			
Location:	9709 SWANSONS RANCH RD, AUSTIN, TX, 78748		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	September 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2001 to August 31, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: BOBBIE ROGANS Phone: 239-6197

Site Compliance History Components

- | | |
|--|----------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>IESI TX Corporation</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

Attachment D

Executive Director's Response to Public Comment

TCEQ PROPOSED PERMIT NO. 2332

APPLICATION BY IESI TX LANDFILL LP FOR MSW PERMIT NO. 2332 § § § BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHIEF CLERK OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response or RTC) on the permit application by IESI TX Landfill LP, for the Jacksboro Landfill for Permit No. 2332. As required by Title 30 TEX. ADMIN. CODE §55.156 [30 TAC §55.156] (Rule), before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comment letters and comments at the Public Meeting of October 18, 2005, see Commenters List. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The proposed Jacksboro Landfill is located in Jack County, approximately 13 miles southeast of the City of Jacksboro and approximately 1.25 miles south of the intersection of State Highway (SH) 199 and Farm to Market (FM) Road 1156. The proposed landfill is a Type I municipal solid waste landfill, with a total disposal capacity (waste and daily cover) of approximately 50,000,000 cubic yards or 42,500,000 cubic yards of waste. The total area within the permit boundary is approximately 274.64 acres. Approximately 202 acres will be used for actual waste disposal operations. The facility will consist of a site entrance with appropriate security fencing, an asphalt-paved entrance road for the first ¼ mile from the connection with SH 199, all-weather access roads, gatehouse, scales, a maintenance building, an office building, soil stockpiles, and the solid waste disposal area. Structures for surface drainage and storm water run-on/runoff controls include a perimeter drainage system to convey storm water runoff around the site, berms, ditches, detention ponds, and associated drainage structures.

Procedural Background

This permit application is for a new permit. The permit application was received on April 5,

2005, and declared administratively complete on April 29, 2005. The Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit was published on May 13 and 17, 2005, in the *Jacksboro Gazette-News* and *Jack County Herald*. The TCEQ held a public meeting for the application on October 18, 2005 in Jacksboro, Texas. The application was declared technically complete on October 25, 2006. The Notice of Application and the Preliminary Decision was published on December 22 and 26, 2006, in the *Jack County Herald* and *Jacksboro Gazette-News*. The public comment period ended on January 25, 2007. The ED has reviewed the application and found that it meets the required regulations and has issued a draft permit.

Access to Rules, Laws and Records

The permit application was reviewed under the 30 TAC Chapter 330 rules effective prior to March 27, 2006. All references to 30 TAC Chapter 330 rules are those in effect prior to March 27, 2006. These rules may be located at the following web link:

http://www.tceq.state.tx.us/permitting/waste_permits/msw_permits/msw_330rules_old.html

Secretary of State website: www.sos.state.tx.us

TCEQ Website: www.tceq.state.tx.us

Commission records on the IESI TX Landfill LP, Jacksboro Landfill are available for viewing and copying and are located at TCEQ Main Office in Austin, Park 35 Circle, Building E, Room 103 and at the TCEQ's Region 3 Office, 1977 Industrial Blvd., Abilene, Texas 79602-7833.

If you would like to file a complaint, you may contact the Commission at 888-777-3186 or you may contact the Regional office at the above-mentioned location, phone number 325-698-9674. If the facility is found to be out of compliance it will be subject to enforcement action.

Commenters List:

1. Adams, Jerry (former Jack County Commissioner, Precinct 2)
2. Aslin, Tommy
3. Autry, Gene (Two Bush Community Action Group)
4. Benson, J. C.
5. Blankenship, Danny (Two Bush Community Action Group)
6. Bodine, Cecelia (Two Bush Community Action Group)
7. Bodine, Stephen (Two Bush Community Action Group)
8. Bowen, Peggy Edwards (Two Bush Community Action Group)
9. Cameron, Jean
10. Curze, Maureen M. (Two Bush Community Action Group)
11. Dixon, M. Brad
12. Dodson Bonnie

13. Estes, Craig (State Senator)
14. Farris, Maudie
15. Faulkner, Martha Franks
16. Franks, Ruth H. (Two Bush Community Action Group)
17. Hardcastle, Richard L. "Rick" (State House of Representatives)
18. Henderson, James H. (Two Bush Community Action Group)
19. Hunter, Kenneth R.
20. Mason, Kit
21. McGrath, Kevin (Mitchell Resort and RV Park)
22. Moore, Rosalee
23. Moxley, Lanna W.
24. Patterson, Joan
25. Perales, Marisa (Lowerre & Frederick Attorneys at Law,
Counsel for Two Bush Community Action Group)
26. Pruitt, Kathy and Roger Pruitt
27. Reed, Doris (Mitchell Resort and RV Park)
28. Richards, Lori
29. Sewell, Bryson K. (Jack County Commissioner, Precinct 2)
30. Shields, Larry
31. Sprencel, Gloria
32. Sprencel, Mark
33. Thompson, James R. and Linda Henderson
34. Willingham, Erna (Two Bush Community Action Group)

Outline of Comments

1. **Permit Process**
 - A. Notice
 - B. Administrative Review and Technical Review
 - C. Request for a Contested Case Hearing and a Second Public Meeting
2. **The Application**
 - A. General Permit Application Questions
 - B. Validity of Investigations
 - C. Inadequacies
3. **Land Use**
 - A. Property Values
 - B. Buffer Zone and Screening
 - C. Incompatible Land Use
 - D. Alternative Location for Landfill
4. **Groundwater**

5. Gas
6. Vectors
7. Financial Assurance
8. Health Concerns
9. Nortex Regional Planning Commission
10. Miscellaneous
 - A. General Questions and Comments
 - B. Local and Elected Officials

Comments and Responses

1. Permit Process
 - A. Notice

COMMENT No. 1:

J. C. Benson, Danny Blankenship and Bryson K. Sewell commented that IESI revised the application on several occasions during the last 18 months without notice that the revisions had been submitted, and that the public was unaware of the changes and deprived of the opportunity for meaningful participation. Marisa Perales commented that the transfer of the application to a new applicant requires a restart of both the administrative and the technical review process and, therefore, a new public notice.

RESPONSE No. 1:

The TCEQ's notice requirements at 30 TAC §§39.405, 39.413 and 39.501 require that notice be published in the paper of largest general circulation in the county and provided to the adjacent property owners identified in the permit application. Here, the original Applicant (City of Jacksboro) published the Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit on May 13 and 17, 2005, in the *Jacksboro Gazette News* and *Jack County Herald*. The current Applicant (IESI TX Landfill LP) published the Notice of Application and Preliminary Decision on December 22 and 26, 2006, in the *Jack County Herald* and *Jacksboro Gazette-News*. The Applicant also provided notice to the adjacent property owners identified in the application and to interested persons on the mailing list maintained by the TCEQ Office of the Chief Clerk.

The ED notes that the Texas Solid Waste Disposal Act and the TCEQ's rules require that notice be provided to all addresses and property owners within ½ mile of a new solid waste disposal site; however, this requirement only applies to the notice of hearing, not the notice of receipt of application or the notice of preliminary decision. The ED also notes that notice is not required for minor changes made during the technical review. The notice of the change in the Applicant is satisfied by the Notice of Application and Preliminary Decision.

The permit application, statement of basis/technical summary, the ED's preliminary decision, and the draft permit are available for viewing and copying at the Gladys Johnson - Ritchie Public Library, 626 College Street, Jacksboro, Texas 76458-1655. Further information may also be obtained by calling John Gustafson, Vice President, IESI TX GP Corporation (General Partner) at (817) 632-4000.

COMMENT No. 2:

Marisa Perales commented that there was not proper notice of the application. Ms. Perales also commented that there was not: (A) notice in Spanish; (B) accurate information in the notice; (C) proper notice to property and mineral interest owners and residents within ½ mile; and (D) notice published in accordance with the law.

RESPONSE No. 2:

The TCEQ adopted amendments to 30 TAC Chapter 39, Public Notice, requiring notice in an alternative language for certain applications. Municipal solid waste permit and registration applications filed on or after November 30, 2005, are subject to the alternative language notice newspaper publication requirements. This permit application was filed on April 5, 2005, and therefore not subject to the alternative language notice newspaper publication requirements.

Ms. Perales did not provide specific comments regarding inaccuracies in the notice, and how proper notice was not provided to property owners, mineral interest owners, and residence within ½ mile. The ED is therefore unable to respond.

B. Administrative Review and Technical Review

COMMENT No. 3:

Marisa Perales commented: (A) the application was not properly submitted in accordance with TCEQ rules; (B) TCEQ previously has allowed no more than 2 notice-of-deficiencies (NODs); (C) TCEQ rules provide that the technical review period should not exceed 75 working days; (D) the applicant has been allowed to make too many revisions to the permit; and (E) the "piecemeal" application is inconsistent with the manner in which other landfill applications have been reviewed.

RESPONSE No. 3:

The application received on April 5, 2005 and declared administratively complete on April 29, 2005, was submitted by the City of Jacksboro as the applicant, and identified IESI TX Landfill LP (IESI) as the operator. The technical review and the first technical notice of deficiency (NOD) were completed within 54 days of the application being declared administratively complete, meeting the 75-day timeframe. Among the issues identified in the first technical NOD was that the application was not submitted in accordance with §305.43(b), which requires that when a facility is owned by one party and operated by another, the application must be submitted by the operator. Formatting and other issues related to changing the name of the applicant resulted in changes to the application being submitted separately from revisions to address other technical NOD issues. Concurrently, and at the request of the MSW Permits Section, revisions to the Site Operating Plan (SOP) were being processed through separate NODs. At the time the application was undergoing technical review, the MSW Permits Section was conducting an SOP call-in for all MSW facilities. The SOPs (Part IV of the permit application) were being reviewed in conjunction with that of operating MSW landfills to better ensure consistency. Together with the revisions to Part I-III of the application referenced above, these factors resulted in a greater-than-usual number of both NODs and revisions to the application. MSW regulations do not limit the number of revisions that can be submitted during the application process. Notice of the changes was provided in the Notice of Application and Preliminary Decision mailed by the Agency on December 7, 2006, and published in The Jack County Herald and Jacksboro Gazette-News on December 22, and December 26, 2006, respectively.

C. Request for a Contested Case Hearing and a Second Public Meeting

COMMENT No. 4:

M. Brad Dixon, James H. Henderson, Roger and Kathy Pruitt, Gloria Sprencel, and James R. and Linda Henderson Thompson, requested a contested case hearing. Mr. Dixon also requested that TCEQ hold a second public meeting.

RESPONSE No. 4:

To request a contested case hearing, you must include the following items in your request: Your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and, the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why

the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the ED will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

In order to be granted a second public meeting, the ED must determine if there is "substantial public interest," as defined under 30 TAC §39.501. Substantial public interest is demonstrated if a request is filed by: A local governmental entity with jurisdiction over the location at which the facility is proposed to be located by formal resolution of the entity's governing body; A council of governments with jurisdiction over the location at which the facility is proposed to be located by formal request of either the council's solid waste advisory committee, executive committee, or governing board; A homeowners' or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is proposed to be located; or A group of ten or more local residents, property owners, or businesses located in the general area in which the facility is proposed to be located.

The ED has determined that there has not been "substantial public interest," as defined under 30 TAC §39.501, to hold a second public meeting.

2. The Application

A. General Permit Application Questions

COMMENT No. 5:

Lanna W. Moxley asked the following questions: (A) will a barrier be erected all around the landfill; (B) what will be done about the smells that envelope the area; (C) what will happen to the water supply under the landfill when the liner starts to decay; and (D) what is the liability for the owner when contamination occurs?

RESPONSE No. 5:

(A) Pursuant to 30 TAC §330.116, public access to all municipal solid waste facilities must be controlled by means of artificial barriers, natural barriers, or a combination of both, appropriate to protect human health and safety and the environment. The Applicant complied with these regulatory requirements, and the information is in Parts III/IV of the application.

Access will be limited at the permit boundary by a barbed-wire fence. A site entrance gate will be located approximately ¼ mile from the State Highway 199 connection.

(B) Pursuant to 30 TAC §330.125, the Site Operating Plan must have an odor management plan that addresses the sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention. The Applicant complied with these regulatory requirements, and the odor management plan is in Part IV of the application.

(C) Pursuant to 30 TAC §330.55, the Site Development Plan must provide information required for drinking water protection in accordance with §§330.200-330.206. The proposed liner system consists of a minimum 24-inch-thick compacted clay liner with a hydraulic conductivity of no more than 1×10^{-7} centimeters/second (cm/sec), overlain by a 60-mill high density polyethylene (HDPE) geomembrane liner, a leachate collection system drainage geocomposite layer, and a minimum 24-inch-thick soil protective cover layer. The Applicant complied with these regulatory requirements, and the information is provided in Part III of the application. It is anticipated that the liner will function for the life of the site and during the post-closure period.

(D) The Applicant must comply with TCEQ rules, operate in a manner that will prevent an unauthorized release, and is responsible for any corrective action and subject to enforcement should contamination occur.

COMMENT No. 6:

Gloria Sprencel and Rosalee Moore commented on how the landfill will affect the water.

RESPONSE No. 6:

The landfill will be constructed with a composite liner and leachate collection system meeting the groundwater protection design criteria as stated in 30 TAC § 330.200(a)(2). The liner system will incorporate a Leachate Collection System (LCS) designed to meet the requirements of 30 TAC §§ 330.56(o) and §330.201.

As defined in 30 TAC § 330.56(o), contaminated water is water which has come into contact with waste, leachate, or gas condensate. Storm water which comes into contact with solid waste will be considered contaminated water. Contaminated storm water at the working face will be contained by run-on/run-off berms. Contaminated surface water and groundwater may not be placed in or on the landfill. Untreated contaminated water may not be discharged from the site.

If the landfill is constructed as designed, it is not anticipated to have adverse effects and unauthorized discharge to surface or groundwater.

COMMENT No. 7:

Joan M. Patterson asked where the Applicant will get its water to operate the landfill.

RESPONSE No. 7:

The TCEQ rules do not require the Applicant to identify sources of water to operate the landfill.

COMMENT No. 8:

Lori Richards asked what assurances they have that the disposal of toxic waste from oil field drilling will not affect drinking water.

RESPONSE No. 8:

The application and draft permit excludes the acceptance of Class 1 nonhazardous industrial waste, hazardous wastes, PCB wastes, radioactive wastes, liquid wastes, infectious medical waste, and other waste prohibited by TCEQ regulations.

COMMENT No. 9:

James R. Thompson and Linda Henderson Thompson question: (A) the adequacy of the plan for firefighting; (B) if the Applicant has evaluated the possible consequences of active mineral development upon the hydrology underlying the site; and (C) if the Applicant has evaluated the consequences of a breach in containment and whether the Applicant has presented a feasible plan for dealing with such an event.

RESPONSE No. 9:

(A) Pursuant to 30 TAC §330.115, the Site Operating Plan must contain a fire protection plan that identifies the fire protection standards to be used at the facility and how personnel are trained. The Applicant complied with these regulatory requirements, and the fire protection plan is in Part IV of the application.

(B) The TCEQ rules do not require the Applicant to evaluate potential impacts from mineral development.

(C) See Response Nos. 5(C) and 6. General Permit Application Questions.

COMMENT No. 10:

Mark Sprencel asked how the waste company will monitor toxic waste, pesticides, and needles from being put in the garbage. James H. Henderson commented that oilfield hazards are a

sufficient reason for the TCEQ to deny the application. Lori Richards commented about disposal of toxic waste from oil field drilling.

RESPONSE No. 10:

Pursuant to 30 TAC §330.136(b)(6), the landfill is prohibited from accepting hazardous or toxic waste, except for municipal hazardous waste from a conditionally exempt small quantity generator (CESQG). Municipal hazardous waste from a CESQG may be accepted at a Type I municipal solid waste landfill without further approval from the ED provided the amount of waste does not exceed 220 pounds (100 kilograms) per month per generator, and provided the landfill owner or operator authorizes acceptance of the waste. The Applicant complied with these regulatory requirements, and the disposal of CESQG is in Part IV of the application. Needle disposal by households is not prohibited. Treated medical waste may be managed as routine municipal solid waste. Treated medical waste that contains whole nonencapsulated hypodermic needles or syringes or intact red bags must be manifested to ensure proper disposal.

Special waste from health care related facilities, which have been treated, may be accepted. Other special waste may also be accepted for disposal as stipulated in 30 TAC §330.136. *See also*, Response Nos. 8. General Permit Application Questions, and Response No. 21. Inadequacies.

The MSW rules do not require addressing oilfield hazards. The Commission makes the determination of whether to issue or deny the required permits.

B. Validity of Investigations

COMMENT No. 11:

Commenters stated that rainfall data used for surface drainage was from Abilene, Texas, which results in the drainage calculations being invalid. Marisa Perales and other commenters asked why local rainfall data was not used.

RESPONSE No. 11:

The Applicant states that the rainfall data used in all of the surface water drainage calculations in Part III (Attachment 6) was taken from the National Weather Service (NWS) Technical Paper 40 (TP-40) (NWS, 1961) and from Hydro 35 (NWS, 1977) for Jack County, Texas. The Applicant also states that synthetic precipitation data for Abilene, Texas was used in the Hydrologic Evaluation of Landfill Performance (HELP) model included in Part III (Attachment 15), and Abilene was selected from the list of U.S. cities because it is the closest city with similar characteristics to Jacksboro provided by the HELP model. The Applicant also states that the design of the leachate collection system provided in Part III (Attachment 15) is consistent with TCEQ rules and regulations and exceeds the minimum capacity requirements necessary based on

the leachate generation rate that is predicted by the HELP model. The ED has determined that the information provided demonstrates compliance with TCEQ rules.

C. Inadequacies

COMMENT No. 12:

Joan M. Patterson commented that the archeological investigation is inadequate and that a serious archeological review should be made that is not within the purview of the TCEQ, and the Texas Historical Society should look into the review. Ms. Patterson also commented that the area contains Indian paraphernalia such as arrowheads and tomahawks and the area should be preserved. Other commenters also expressed concerns about the archaeological investigation.

RESPONSE No. 12:

The Applicant coordinated its investigation of archaeological and historic sites with Archaeological and Environmental Consulting and the Texas Historical Commission, Division of Archaeology. The Applicant reports that a detailed survey of cultural resources was performed for the site. The survey report was submitted to the State Historic Preservation Officer, who concluded that the project would have no effect on National-register eligible or listed properties or State Archaeological Landmarks and that the project may proceed. The ED has determined that the information provided demonstrates compliance with TCEQ rules. The archeological survey is in Part II of the application.

COMMENT No. 13:

Marisa Perales commented that the groundwater monitoring system is inadequate because: (A) the proposed system does not meet the requirements of the proper number and location of wells, depths, and/or locations of screens to collect representative samples of the groundwater at various levels in the aquifer system for the different densities of wastes likely to contaminate the aquifer system; (B) the system is not properly designed to detect releases of contaminated water from the landfill; (C) the system is not designed based on adequate site data; (D) the application does not properly identify up gradient and down gradient wells or the point of compliance; (E) the application does not propose an adequate procedure for collecting background data on the groundwater; (F) the applicant has not qualified for any alternative design under §330.231(c) or other rule.

RESPONSE No. 13:

The design of the groundwater monitoring system has been certified by a qualified groundwater scientist, John Michael Snyder, P.G. (Texas Professional Geoscientist License No. 595). Mr. Snyder has represented in both the Geology and Groundwater Characterization Reports in the permit application that the groundwater monitoring system is designed so as to detect release of

leachate from the facility. Mr. Snyder submitted a Soil Boring Plan to the ED, which obtained the field data on which the groundwater monitoring system was designed. This data also included the measurement of water levels in various piezometers so as to determine a potentiometric surface for groundwater at the site. Additionally, the Applicant has submitted a Groundwater Sampling and Analysis Plan in Part III (Attachment 11), which addresses the procedures for collecting background water samples. The ED has determined that the information provided demonstrates compliance with TCEQ rules.

COMMENT No. 14:

Marisa Perales and other Commenters commented that surface water controls are inadequate because: (A) there are inadequate controls to prevent contamination of storm waters by wastes, leachate, or spills of fuels or other materials at the landfill; (B) the designs for the channels and ponds are not adequate; (C) drainage controls have not been designed to assure historic levels of runoff and to protect surrounding properties; (D) the application shows that there will be significant changes to the drainage patterns at the landfill and off site; (E) the changes to the drainage patterns will result in damage to property off site including increased erosion and loss of water supplies; and (F) the design to avoid flooding of parts of the landfill is not adequate.

RESPONSE No. 14:

The application contains adequate design to prevent flooding from the required 100-year flood event, including the southeast corner of the landfill near Jasper Creek. In addition, stormwater will be conveyed through perimeter ditches into detention ponds. All debris from the landfill will be detained in the ponds. The ED has determined that the information provided demonstrates compliance with TCEQ rules, and the information is in Part III (Attachment 6).

COMMENT No. 15:

Marisa Perales commented that the application does not adequately consider the presence of mineral development because: (A) the application does not evaluate the extent of mineral development, including minerals that would be mined from the surface or oil and gas; (B) there are a number of oil/gas wells near the site and on the site; (C) there is likely mineral development that has not been identified or considered; and (D) there has not been an adequate evaluation of unplugged or poorly plugged oil and gas wells, exploratory wells and water wells.

RESPONSE No. 15:

The TCEQ rules do not require the Applicant to evaluate mineral development (*See also*, Response No. 9(B). General Permit Application Questions). The Applicant has included the results of the water well and oil and gas well inventories on Figures IA.3 and IID.1 in Parts I/II of the application. All information provided was signed and sealed by Kenneth J. Welch, P.E. (Texas Professional Engineer License No. 60773), to ensure that all information is accurate, and

the application meets all of the rule requirements regarding the listed items. The ED has determined that the information provided demonstrates compliance with TCEQ rules.

COMMENT No. 16:

Marisa Perales commented that the evaluation of endangered species is inadequate because: (A) the application does not provide an adequate evaluation of the existence of endangered or threatened species or the risks of landfill activities for such species; (B) the application and site operating plan do not provide adequate plans for protection of such species and habitats; and (C) the application and site operating plan have not identified or considered the ramifications of landfill activities for the unique and rare species of trees in the area.

Commenters stated that the facility would adversely affect wildlife, including endangered species and habitat.

RESPONSE No. 16:

Pursuant to 30 TAC §330.53(b)(13)(B), the Applicant must consider the impact of a solid waste facility upon endangered or threatened species, and "the facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species." In accordance with 30 TAC §§330.51(b)(8), 330.53(b)(13), and 330.302, the Applicant must demonstrate compliance with the Endangered Species Act under state and federal laws. This demonstration is contained in Part II of the application.

The Applicant communicated with and obtained information from both the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service regarding potential impacts. The application states that the results of the on-site investigations conducted by a qualified biologist, indicate that there are no threatened or endangered species found on the site. The application also states that with the exception of the Texas horned lizard and the timber rattlesnake, potential habitat for federal or state listed threatened or endangered species is absent on the site. The application further states that results also indicate the project area may contain preferred habitat, but there were no timber rattlesnakes or suitable den habitats observed, and there were no Texas horned lizards observed.

A detailed avoidance and minimization plan for the timber rattlesnake and Texas horned lizard is in Part IV of the application. The information submitted in the application was determined by the ED to meet the requirements in 30 TAC §§330.51(b)(8) and 330.53(b)(13).

COMMENT No. 17:

Marisa Perales commented that the information on geology and hydrology is inadequate because: (A) There has not been an adequate number of borings at the correct locations and depths for the

evaluation of the geology and groundwater; (B) the application does not contain adequate information on existing surface water, groundwater, oil/gas exploration, water wells, faults, fractures, caves, sinkholes, unstable areas, etc.; (C) the application does not adequately describe the regional or site specific geology and the regional aquifers; (D) the application does not adequately describe the vertical and horizontal flow characteristics of the groundwater or the leachate that will leak from the landfill; (E) the application does not properly characterize the soils; (F) the application does not properly evaluate the availability of water and soils at the site needed for the construction of liner, for cover materials, for dust suppression, etc.

RESPONSE No. 17:

The Applicant has represented that 26 soil borings were advanced at this site, and the locations of the soil borings are shown on Figure 4B2 in Part III (Attachment 4) of the application. Seventeen of the soil borings were advanced to depths at least 30 feet deeper than the elevation of the deepest excavation (EDE), and nine soil borings were advanced to a depth of at least 5 feet deeper than the EDE. The soil borings complied with the Soil Boring Plan dated February 25, 2004, and approved by TCEQ on March 8, 2004, in compliance with 30 TAC §330.56(d)(5)(A)(ii).

The Applicant has also included a description of the site specific geology and the regional aquifer in Attachment 4, as required under 30 TAC §330.56(d). Lithologic descriptions of the subsurface geology and soils are included on the soil boring logs in Attachment 4 (Appendix 4B), and in the text of the Geology Report. In addition, the Applicant has provided the results of the soils tests required under 30 TAC §330.56(d)(5)(B) in Attachment 4 (Appendix 4E). The information submitted in the application was determined by the ED to meet the requirements in 30 TAC, Chapter 330. *See also* Response Nos. 13 and 15. Inadequacies.

COMMENT No. 18:

Marisa Perales commented that the landfill is not properly designed with proper quality control for the liners because: (A) the application and draft permit does not provide for an adequate liner considering the site selected with its shallow water and sandy soils; (B) the geotechnical evaluation for the design of the landfill is inadequate as the slopes and materials for the sidewalls will not assure long-term stability; (C) the design and operating provisions will not protect the liner from puncture during construction or filling or from leaks at seams; (D) the applicant has not proposed an adequate dewatering system; and (E) the applicant does not qualify for alternative designs under Subchapter H. Commenters stated that the liners will eventually leak and also expressed concerns about the proposed liner system.

James H. Henderson requests clarification as to the exact nature and origin of the soil liner and clarification as to how long the synthetic membrane will be functional. Mr. Henderson also asked how the shrinking of the clay liner will be prevented during prolonged droughts.

James R. Thompson and Linda Henderson Thompson commented that the permit does not propose the safety measure of employing double synthetic liner technology which is currently available.

RESPONSE No. 18:

Pursuant to 30 TAC §330.205(a), a landfill must have an approved Soils and Liner Quality Control Plan (SLQCP) prepared under the direction of a licensed professional engineer. The SLQCP is the basis for the type and rate of quality control testing to be recorded during liner construction and reported in the liner evaluation reports. The SLQCP is in Part III (Attachment 10) and was signed and sealed by Gregory W. Adams, P.E. (Texas Professional Engineer License No. 73356), and follows accepted liner construction and testing practice. The SLQCP complies with 30 TAC §330.205, and follows the agency Technical Guidance document for SLQCPs.

The slope stability analysis was prepared and sealed by a licensed professional engineer to ensure accuracy of the analysis and calculations. The slope stability analysis is in the Geotechnical Report of Part III (Attachment 4). The dewatering system design was also prepared and sealed by a licensed professional engineer. The dewatering system design is in the Soil and Liner Quality Control Plan of Part III (Attachment 10).

The liner design proposed in the application is a "composite liner" as defined in 30 TAC §§330.2(24) and 330.200(b), and RCRA Subtitle D. The application does not include an "Alternate Design" under 30 TAC §330.202. The MSW rules do not require installation of a double synthetic liner as part of a composite liner system as defined in the above rules.

The Geotechnical Report in Section 3.10.1 of Part III (Attachment 4), Compacted Soil Liner, states that sandy clay and clay will be available from proposed landfill excavations or on-site borrow sources to provide material for the compacted soil liners. The site stratigraphy is in the Geology Report in Section 2, Subsurface Investigation Report. The average properties of on-site materials are in the Geotechnical Report in Section 3, Table 4-7.

The MSW rules do not stipulate timeframe requirements for functionality of the synthetic membrane, however, it is anticipated that it will function for the life of the site and during the post-closure period. 30 TAC §330.206(e) requires that the surface of a constructed soil liner should be covered with a layer of solid waste within a period of six months.

The information submitted in the application was determined by the ED to meet the requirements in 30 TAC, Chapter 330 Subchapter H.

COMMENT No. 19:

Marisa Perales commented that the application does not present adequate transportation information because there is an inadequate description and inadequate evaluation of: (A) roads;

(B) bridges in the area; (C) weight limits; (D) railroad crossings that will be affected; and (E) the design of the access sites for the landfill to provide adequate offsite parking and maneuvering areas to minimize risks of accidents on and off site and to assure proper access by fire and emergency vehicles during working hours and when the landfill is closed.

Bryson K. Sewell commented that the roads leading to the landfill were not intended for and are not adequate to support the heavy truck traffic. Peggy Edwards Bowen, James H. Henderson, Ruth Henderson Franks, Kit Mason, Marisa Perales, Jean Cameron, Martha Franks Faulkner and Erna Willingham all commented about traffic and/or roads.

RESPONSE No. 19:

TCEQ's consideration of traffic in the MSW permitting process is required by rule. The land use statute in Texas Health and Safety Code (THSC) §361.069, gives TCEQ the authority to consider traffic, and that authority is governed by the following rules:

(A) 30 TAC §330.53(b)(9) requires that applicants provide data on the availability and adequacy of roads that will provide access to the site; the volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the proposed facility; and the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility;

(B) 30 TAC §330.11(b) states that if primary access to a proposed facility is provided by a state maintained highway, the TCEQ must solicit a recommendation from TxDOT regarding the adequacy and design capacity of the roadway to safely accommodate the additional volumes and weights of traffic expected to be generated by the facility; and

(C) 30 TAC §330.51(b)(6)(c) requires that applicants submit documentation of coordination with TxDOT for traffic and location restrictions.

TCEQ and Applicant coordinated with TxDOT during the permit review process by requesting a review of the Applicant's plans. TCEQ received a response from TxDOT indicating that they had no objection to the proposed application.

The Applicant provided a transportation analysis in Part I/II of the application in compliance with 30 TAC Chapter 330. The proposed landfill is expected to account for about 3.4 percent of the total traffic east on SH 199, about 0.8 percent of traffic west on SH 199, and about 3.7 percent of the total traffic on FM 1156, based on projected 2005 traffic volumes. The proposed landfill is expected to account for about 6.2 percent of the total traffic east on SH 199, about 1.3 percent of the total traffic west on SH 199, and 6.7 percent of the total traffic on North FM 1156, based on the 2070 projected volumes. Correspondence from the Texas Department of Transportation states that the design and capacity of the existing and proposed roadways in the area are adequate to accommodate a possible increase in traffic generated by the proposed landfill. The

information submitted in the application was determined by the ED to meet the requirements in 30 TAC, Chapter 330.

COMMENT No. 20:

Marisa Perales commented that the application does not demonstrate adequate proof of property interests, including adequate interests in the site to protect against inconsistent future uses, such as mineral development.

RESPONSE No. 20:

The property legal description and property owner affidavit are in Part I of the application as required by 30 TAC §§330.52(b)(6) and 330.52(b)(7) respectively. Proof of mineral development interests or other property interests are not required by Chapter 330.

COMMENT No. 21:

Marisa Perales commented that the site operating plan is inadequate because: (A) the applicant has not provided adequate details and enforceable requirements to guide day-to-day operations and to allow the enforcement of the SOP; (B) the individual plans are only restatements of the rules or plans to develop plans; (C) the plan does not provide the detail required for training and procedures to allow the employees to use the plans; (D) the operational procedures does not prevent the acceptance of lead acid storage batteries, used motor oil, used oil filters, whole scrap tires, items containing chlorinated fluorocarbons, liquid waste, hazardous waste, radioactive wastes or polychlorinated biphenyls; (E) the plan does not prevent or assure proper response to fires, and other safety or health hazards; (F) the plan does not prevent or minimize rats, insects, birds and other carriers of disease; (G) the plan does not prevent or minimize litter or windblown waste; (H) the plan does not prevent or minimize the ponding of water on the landfill; (I) the plan does not prevent or minimize odors; (J) the plan does not provide adequate emergency response and contingency plans for fires, accidents, injuries spills, and other such conditions; (K) the plan does not assure adequate coordination with local fire and emergency response services or provide for adequate on site equipment, water, soil, and personal equipment for on-site responses; (L) the plan does not assure that the landfill will have adequate controls over access by unauthorized persons; and (M) the plan does not provide for adequate control of animal or human scavenging.

RESPONSE No. 21:

The Site Operating Plan (SOP) is contained in Part IV of the application; the SOP has been carefully reviewed and meets the minimum requirements specified in 30 TAC §§330.111-139. The SOP includes references to the rules in Chapter 330, Subchapter F (Operational Standards For Solid Waste Land Disposal Sites). The SOP provides general instructions, details, and procedures for personnel and training in Section 3. The SOP also provides procedures for detection and prevention of disposal of prohibited wastes in Section 5, general site safety and

preparedness, and prevention measures in Section 6, fire protection plan in Section 7, operational procedures in Section 8 that include, but are not limited to, disease vector control, control of windblown solid waste and litter, ponded water, odor management plan, access control, and salvaging and scavenging. The ED has determined that the application adequately addressed each of the applicable items listed by the commenter.

COMMENT No. 22:

Marisa Perales commented that the application includes inadequate information and thus, inadequate evaluation of the potential problems associated with: (A) the location of the floodplain and the risks of flooding; (B) the existence of wetlands; (C) other site-specific issues requiring special considerations; (D) the types of soils at the site, which are subject to extensive erosion and not adequate for use at the landfill for cover, sidewalls, or fill; and (E) the size and extent of the design storms.

RESPONSE No. 22:

The ED has determined that the application adequately addresses the floodplain and the risks of flooding, wetlands, types of soils at the site, soil erosion, and soil used for landfill cover, sidewalls, or fill in accordance with the requirements in Chapter 330. The documentation for floodplains and wetlands, including the location restriction demonstrations, are contained in Part II. The Surface Water Protection Plan and Drainage Plan, including the 25-year and 100-year storm events, are contained in Part III (Attachment 6). The Geotechnical Report in Part III (Attachment 4) contains documentation for the geotechnical testing and description of the subsurface soil materials, including the suitability of the soils excavated from all layers for use as operational and protective cover, and the suitability of the surface soils for use as the final cover system erosion layer. The comments regarding other site-specific issues and extent of the design storms are vague or nonspecific. The ED is unable to determine from these comments what, if any, particular aspect(s) of landfill design are being addressed and, as a result, cannot provide a substantive response.

COMMENT No. 23:

Marisa Perales commented that the proposed permit is inadequate because: (A) the applicant has not presented sufficient justification for the permit term of the life of the facility; (B) a five year term with provisions for expiration and renewal is justified given the facts; (C) many of the permit conditions and aspects of the application that are incorporated into the permit are vague and unenforceable, including but not limited to the site operating plan; and (D) the representations in the application that are incorporated into the permit are vague and unenforceable.

RESPONSE No. 23:

The application has been processed and reviewed in accordance with TCEQ rules. As part of the review process, the ED determined that the permit application complied with the requirements for solid waste landfill facilities seeking a new permit. According to 30 TAC §330.63, a permit is usually issued for the life of the site. A permit may be issued for a specific period when deemed appropriate by the ED. The ED determined that a term limit was not necessary for this application. The ED considers the terms of the draft permit, which are similar to the other MSW permits issued by the TCEQ, to be enforceable. As a result, and in accordance with the TCEQ rules, the ED has prepared the draft permit and recommended its issuance. A draft permit is subject to revision based on comments received. In this case, the ED is not making or recommending such changes. The draft permit continues to represent and contain the ED's recommendations regarding a permit for the proposed facility.

3. **Land Use**

A. **Property Values**

COMMENT No. 24:

J. C. Benson, Natalie Bernard, Cecelia Bodine, Johnny F. Johnson, Noah P. Campbell, Ruth H. Franks, James H. Henderson, Kenneth R. Hunter, and Russell Robinson commented that the proposed landfill will negatively affect the value of their properties.

RESPONSE No. 24:

The TCEQ has no authority under the Texas Solid Waste Disposal Act to consider property values and devaluation of property in the review of a municipal solid waste permit application. According to 30 TAC §330.53(b)(8), the Commission can consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use in the vicinity, community growth patterns, and other factors associated with the public interest. The ED has concluded that the required information concerning land use compatibility was submitted in the application.

B. **Buffer Zone and Screening**

COMMENT No. 25:

Marisa Perales commented that the proposed buffer and screenings are inadequate, with insufficient green belts, trees, and wind breaks to protect surrounding land uses.

RESPONSE No. 25:

30 TAC §330.121 requires that a minimum separating distance of 50 feet shall be maintained between solid waste processing and disposal activities and the boundary of the site, unless otherwise authorized by the ED, and that the buffer zone shall not be narrower than necessary to provide for safe passage for fire-fighting and other emergency vehicles. The Applicant states in Part IV (Site Operating Plan) of the application that the buffer zones vary around the perimeter of the site but in no case are they less than 200 feet. The buffer zones are shown in Part III (Attachment 1B – Site Layout Plan).

30 TAC §330.138 requires visual screening of deposited waste materials at a municipal solid waste facility must be provided where the ED determines that screening is necessary or where permit or design requirements so dictate. The Applicant states in Part IV of the application that existing topography and vegetation provide natural screening of deposited waste, there are no residences within 2,000 feet of the permit boundary, and visual screening of deposited waste will be provided as part of normal waste disposal operations and sequence of development.

The ED has determined that the technically complete version of the application site operating plan adequately addresses these items.

C. Incompatible Land Use

COMMENT No. 26:

Marissa Perales commented that the proposed facility is not compatible with the surrounding land uses, including but not limited to residential, agricultural, and other rural land uses with projected growth and development because: (A) odors and other nuisance conditions, especially, given the operating hours, will interfere with the normal use and enjoyment of surrounding properties and homes and interfere with growth patterns in the area; (B) the number and routing of trucks is incompatible with roads and railroad crossings in the area; and (C) the landfill should be located in an industrial area not only because of its nature but also because of the other industrial activities that will be attracted to the area with the landfill.

Peggy Edwards Bowen, Bonnie Dodson, Kenneth R. Hunter, Joan M. Patterson, Bryson K. Sewell, Kevin McGrath, Doris Reed and Mark Sprencel also commented about incompatible land use.

RESPONSE No. 26:

According to 30 TAC §330.53(b)(8), the Commission can consider the impact of a site upon a city, community, group of property owners, or individuals in terms of compatibility of land use in the vicinity, community growth patterns, and other factors associated with the public interest. The ED has determined that the information required in 30 TAC §§330.53(b)(8)(A-E)

concerning land use compatibility was submitted in the application.

D. Alternative Location for Landfill

COMMENT No. 27:

Noah P. Campbell, Bonnie Dodson, James H. Henderson, and James R. Thompson commented that there are other properties in Jack County that don't have water and would be more suitable for a landfill.

RESPONSE No. 27:

Apart from the land use compatibility requirements and the location restrictions in the TCEQ's rules, the TCEQ has no authority over the location selected by the Applicant.

4. **Groundwater**

COMMENT No. 28:

Marisa Perales commented that the proposed permit would result in groundwater contamination because: (A) the site location is on a recharge zone for the Twin Mountains formation, a significant region aquifer; (B) there are lenses of sand, clays, and silt in the aquifer, which creates a complex aquifer system, and that system of sands, clays, and silts has not been adequately evaluated or described; (C) in some areas, there are no confining layers between the landfill and the groundwater, and leaks from the landfills, from leachate management areas, and from spills of wastes, fuels or other liquids could result in contamination of the groundwater; (D) no proper evaluation has been done, and no adequate protections have been established in case of spills or leaks; (E) the landfill would be well below the depth of shallow water, and the protective measures necessary to prevent damage to the liner have not been proposed in the application or required in the permit; (F) the risk of such damage by moving groundwater and pressure on the liner has not been properly evaluated; (G) the proposed landfill will be deeper than shallow perched groundwater, groundwater that has not been identified or characterized, and thus, has not been considered in the design of the landfill or in the consideration of necessary safeguards for these conditions.

Commenters have also expressed concerns about the possibility of groundwater contamination resulting from the operation of the proposed facility due to a shallow water table, and stated that the issuance of the permit would be inconsistent with state policies that prohibit discharges and actions that could result in the pollution of state groundwater.

RESPONSE No. 28:

The TCEQ's MSW rules require protective liners and groundwater and gas monitoring systems. Additionally, the Applicant must address any potential liner ballast issues in the SLQCP in Part III (Attachment 10) of the application. The Applicant has addressed the pertinent issues of liner construction below the water table in the SLQCP and Part III, Attachment 4 (Geotechnical Report).

The Applicant reports that lined areas that are below the highest recorded groundwater elevations will be dewatered as needed to relieve hydrostatic pressure on the liner during and after construction by a temporary dewatering system. The temporary dewatering system will consist of prefabricated composite drains encased in sand filled trenches along the side slopes and landfill floor that discharge into open sumps beyond the lined areas or closed sumps beneath lined areas. The groundwater will be pumped as needed from the sumps into the perimeter drainage system. The ballast requirements for each cell will be based on the highest recorded groundwater elevations. Ballast calculations provided in Part III, Attachment 4 (Appendix 4F) show that the landfill components overlying the geomembrane liner will provide sufficient ballast to offset the hydrostatic forces with a minimum factor of safety of 1.5, in compliance with 30 TAC §330.203 (relating to Special Conditions, Liner Design Constraints).

A groundwater characterization was performed and the application provides for a groundwater monitoring system design based upon site conditions to detect a release should one occur. The application meets all requirements in accordance with the MSW rules regarding the landfills design and operation.

See also, Response Nos. 13, 17, and 18. Inadequacies.

5. **Gas**

COMMENT No. 29:

Kenneth R. Hunter commented that landfills are known for creating gas and air pollution problems. J. C. Benson commented that the explosions of methane gases would cause severe damage to trees and harm wildlife. Other commenters also expressed concern about methane gas seepage.

RESPONSE No. 29:

The Applicant has provided adequate information regarding the proposed landfill gas monitoring system, monitoring program, action plan, remediation plan, and landfill gas control system as required by 30 TAC §330.56(n). This information is found in the Landfill Gas Management Plan in Part III (Attachment 14) of the application. The proposed landfill gas monitoring probe locations and details are shown on Figures 14A.1 and 14A.2, respectively, in Appendix 14A of

the Landfill Gas Management Plan. If the proposed landfill is constructed and operated as shown in the application and as required by the regulations, the ED expects human health and the environment to be protected.

6. Vectors

COMMENT No. 30:

Stephen and Cecelia Bodine and J. C. Benson commented that the landfill will attract rats, rodents, flies, mosquitoes, and other animals and insects that might spread diseases. Marisa Perales commented that the site operating plan does not prevent or minimize access by rats, insects, birds and other carriers of disease or the spread of such disease vectors off-site.

RESPONSE No. 30:

30 TAC §330.126 requires the site operator to take the appropriate steps to prevent and control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed. Adequate information regarding control of vectors and disease has been provided in Section 8.11 of Part IV of the application, Disease Vector Control. *See*, Responses to Subsection 3B. Property Values. *See also*, Response No. 21. Inadequacies.

7. Financial Assurance

COMMENT No. 31:

Marisa Perales commented that the types and amounts of money proposed for closure and post-closure care are not based on reasonable worst case scenarios with closure by independent third parties, including contingencies for the need to bring water and dirt to the landfill site, the failure of the liner, the shifting of the landfill, etc.

James H. Henderson commented that it is his opinion a performance bond should be required of BFI/IESI to ensure that the landfill will be satisfactorily closed and that funds be available to satisfy claims in the case of environmental or other damages caused by negligence.

RESPONSE No. 31:

The Applicant is IESI TX Landfill LP. 30 TAC §330.56(h) requires permit applicants to submit a cost estimate for closure and post-closure care cost in accordance with 30 TAC §§330.280 – 330.284. 30 TAC §330.281(a) requires owners or operators of MSW facilities provide a detailed written cost estimate, in current dollars, showing the cost of hiring a third party to close the largest area of the landfill ever requiring a final closure anytime during the active life of the unit. 30 TAC §330.283(a) requires owners or operators provide a detailed written cost estimate, in

current dollars, showing the cost of hiring a third party to conduct post-closure care activities for the municipal solid waste unit, in accordance with the post-closure care plan. Continuous financial assurance coverage for closure must be provided until the site is officially placed under the post-closure maintenance period and all requirements of the final closure plan have been approved as evidenced in writing by the executive director.

The application provides closure and post-closure cost estimates in accordance with 30 TAC §§330.280 – 330.284. The Total Closure Costs is \$904,796, TCEQ administration of contracts and legal fees is \$50,000, contract performance bond is \$12,039, and contingency fee (5% of engineering and construction cost) is \$40,131. The Total Post-Closure Costs is \$963,316 (30 years). The annual post-closure cost is \$32,111 and the TCEQ administration of contracts at post closure (10% of post closure cost) is \$2,919.

8. Health Concerns

COMMENT No. 32:

Marisa Perales commented that the proposed permit does not properly address health hazards, nuisances, and other adverse effects to the public and environment. Joan M. Patterson commented that the gas seepage will cause health concerns regarding asthma. Other commenters also expressed concern about the effects of the proposed landfill on their health, the health of their livestock, and the wildlife in the area.

RESPONSE No. 32:

TCEQ rules state that “a primary concern is that the use of any land for an MSW site not adversely impact human health or the environment. The impact of the site upon a city, community, group of property owners, or individuals must be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.” 30 TAC §330.53(b)(8).

The ED has received no information that shows that the proposed facility presents a threat to human health or the environment. The ED determined that the proposed landfill was designed in compliance with Texas Solid Waste Disposal Act and with the TCEQ’s MSW rules and regulations developed to protect human health and the environment. If the proposed landfill is constructed and operated as shown in the application and as required by the regulations, the ED expects human health and the environment to be protected.

9. Nortex Regional Planning Commission

COMMENT No. 33:

Marisa Perales commented that the proposed facility is not compatible with the Regional Solid

Waste Plan prepared by the regional council of governments because the landfill is not necessary to meet the regional needs and is not limited to protect the needs that exist or prevent unnecessary risks to the local communities.

RESPONSE No. 33:

The TCEQ's MSW rules require that permit applicants submit a demonstration of compliance with the regional solid waste plan as part of the permit application process. By law, the Council of Governments (COGs) has the primary responsibility for the regional planning process, and on the adoption of a regional solid waste management plan by Commission order, public and private solid waste activities and state regulatory activities must conform to that plan. Before the Commission issues a solid waste permit, the Commission must consider whether the solid waste facility and the proposed site for the facility are compatible with the local solid waste management plan. The Applicant provided information demonstrating the proposed facility conforms with the Regional Solid Waste Management Plan of the Nortex Regional Planning Commission. The TCEQ has also received documentation of conformance from the Nortex Regional Planning Commission in response to the agency review letter.

10. **Miscellaneous**

A. **General Questions and Comments**

COMMENT No. 34:

Marissa Perales commented that the applicant has a history of poor compliance at this or other facilities, which requires: (A) denial of the application; (B) close scrutiny of the information in the application; and/or (C) additional conditions and terms in the proposed permit to minimize the likelihood of future violations, such as self reporting of spills, accidents and fires, release of windblown waste.

RESPONSE No. 34:

The permit has not yet been approved by the Commission, therefore, the Applicant does not have a compliance history for this facility.

The Applicant (IESI TX Landfill LP) scored "average" for facility operations in Texas based upon the TCEQ compliance history database compiled during the required period (5 years back from the date of the application).

COMMENT No. 35:

Kenneth R. Hunter commented that the City of Jacksboro will only contribute approximately 3% of the waste for this landfill, and that Fort Worth, which is in Tarrant County, and surrounding

counties, with approximately 100,300 people, will be the prime user as well as independent trucking companies. Mr. Hunter asked why is a small county like Jack County being subjected to the noise, road wear from the extra large truck traffic, air and water pollution, and the people of Jack County will not be allowed to use it?

Gloria Sprencel commented that less than 1% of the trash in the dump would be from the City of Jacksboro.

RESPONSE No. 35:

The application states that the facility will serve a population equivalent of 171,000 people, within a service area that includes the City of Jacksboro, Jack County, and surrounding areas. There is no restriction to the permit as to waste acceptance areas for authorized wastes identified in the permit. TCEQ has no authority to place such restrictions in the draft permit.

COMMENT No. 36:

James H. Henderson requested a tabulation and identification of the compounds that will be analyzed in the monitoring wells, the method of chemical analysis, the laboratory methods used, and the frequency of analysis and the limits of detection.

RESPONSE No. 36:

The proposed background and detection monitoring analytes, laboratory methods, and quantification limits are in Table 11-1 in the Groundwater Sampling and Analysis Plan in Part III (Attachment 11) of the application. The frequency of analysis will be quarterly for background monitoring and semi-annual for detection monitoring. The frequency of analysis is provided in Section 2.6.2 of the Groundwater Sampling and Analysis Plan, Frequency and Constituents. *See also*, Response No. 13. Inadequacies.

COMMENT No. 37:

James H. Henderson requested the water treatment and purification plans for effluent fluids percolating through the landfill, and also requests the TCEQ permit requirements for water which is re-introduced into the public streams.

RESPONSE No. 37:

The MSW rules do not require water treatment and purification plans for effluent fluids percolating through the landfill. The management of leachate has been provided in Section 2 of the Leachate and Contaminated Water Plan in Part III (Attachment 15) of the application. The groundwater and surface water protection plan and drainage plan is in Part III (Attachment 6) of the application.

COMMENT No. 38:

James H. Henderson requested tabulation and identification and the probable concentration of the constituent organic and inorganic compounds that may be introduced into the atmosphere at this site, and further requests the analytical methods that will be used for their detection. Mr. Henderson also requested a copy of the air emissions permit to be issued by the State of Texas.

RESPONSE No. 38:

Air quality impacts of municipal solid waste facilities are subject to regulation under the Clean Air Act and TCEQ air quality rules as implemented by the Air Permits Division. MSW permit applicants must comply with the requirements of the air permit exemption in 30 TAC §106.534 and the general requirements for permits by rule at 30 TAC §106.4. The facility is also subject to the Federal Clean Air Act requirements for Municipal Solid Waste landfill's located at 40 C.F.R. 60.750.

COMMENT No. 39:

James H. Henderson requested the projected growth rate be recomputed based on the observable growth and that a study of traffic flow be conducted.

RESPONSE No. 39:

The Applicant provided a transportation analysis in Part II of the application in compliance with 30 TAC Chapter 330. The information submitted in the application was determined by the ED to meet the requirements in 30 TAC, Chapter 330. *See also*, Response No. 19. Inadequacies.

COMMENT No. 40:

Maude Farris, Kenneth R. Hunter, Gloria Sprencel, Joan M. Patterson, Bonnie Dodson, Stephen and Cecelia Bodine commented about excessive noise and lights will occur at the landfill.

RESPONSE No. 40:

30 TAC §330.5 prohibit the owner or operator of an MSW facility from operating the facility in such a manner as to cause the creation and maintenance of a nuisance. In addition, if the permit is approved, it would not limit the ability of a landowner to use common law remedies for a nuisance in response to activities that interfere with his use and enjoyment of his property.

Complaints regarding the facility may be made by contacting the Abilene Regional Office, at 325-698-9674, or the toll-free Environmental Violation Hotline at 1-888-777-3186. Complaints may also be made through the Commission's Web site by following the menu for "Reporting"

and "Reporting Environmental Problems to TCEQ" at <http://www.tceq.state.tx.us>. If the facility violates a term of the permit or the TCEQ's regulations, the permittee will be subject to an enforcement action.

COMMENT No. 41:

Maude Farris and J. C. Benson commented about odors generated by the, including the smell of decomposing trash, methane gas, and carbon monoxide. Other commenters also expressed concerns regarding possible odors from the proposed facility.

RESPONSE No. 41:

Adequate information regarding odor prevention has been provided in Section 8.10.2 of Part IV of the application, Odor Management Plan. *See also*, Response No. 21. Inadequacies.

COMMENT No. 42:

Mark Sprencel, James R. Thompson, and Linda Henderson Thompson commented that the landfill will cause windblown trash. Joan M. Patterson commented that a landfill on the west side of Fort Worth on Interstate 20 in Tarrant County has windblown waste and is operated by the same company who has applied for this permit. Other commenters also expressed concerns regarding windblown waste.

RESPONSE No. 42:

Adequate information regarding control of windblown waste and litter has been provided in Section 8.5 of Part IV of the application, Control of Windblown Solid Waste and Litter. *See also*, Response No. 21. Inadequacies, and Response No. 26. Buffer Zone and Screening.

The referenced landfill in Tarrant County is permitted and operated by Waste Management of Texas, Inc., Westside Recycling & Disposal Facility, MSW Permit No. 1019A. Complaints regarding this facility may be made by contacting the TCEQ Dallas/Fort Worth Regional Office, at 817-588-5703, or call the toll-free Environmental Violation Hotline at 1-888-777-3186.

B. Local and Elected Officials

COMMENT No. 43:

Jerry Adams, former Jack County Commissioner, Precinct 2, commented that he strongly opposes the landfill being proposed in his precinct and request the application be denied.

Bryson K. Sewell, Jack County Commissioner, Precinct 2, commented, that as a county commissioner for Jack County, he expresses support for his constituents who oppose the

proposed landfill and expresses concerns about the impacts the proposed landfill will have on the community.

RESPONSE No. 43:

The Executive Director has noted these comments in opposition to the Application.

The TCEQ bases its decision on this application on applicable state and federal laws. This application must comply with the requirements of the Texas Solid Waste Disposal Act, codified in Chapter 361 of the Texas Health and Safety Code, and 30 Texas Administrative Code (TAC) Chapter 330.

The three-member Commission is appointed by the governor and is responsible for all permitting decisions issued by the agency. The commission has delegated authority to the ED to review permits. The ED is allowed to approve certain permits when an application has not been contested. However, any permit application that is contested will be sent to the commission for a decision on whether a contested case hearing should be granted or denied.

COMMENT No. 44:

State Senator Craig Estes, Senate District 30, commented that he supports the landfill because the project is deemed appropriate and necessary by the City of Jacksboro.

State Representative Richard L. "Rick" Hardcastle, House District 68, commented that he believes the proposed facility will provide necessary solid waste disposal capacity, in an environmentally protective manner, and other substantial benefits to the citizens of Jacksboro and Jack County. Representative Hardcastle also commented that the NORTEX Regional Planning Commission has reviewed the project, found it to be in conformance with the regional solid waste management plan, and recommended that the TCEQ approve the permit application.

RESPONSE No. 44:

The Executive Director has noted these comments in support of the Application.

CHANGES MADE IN RESPONSE TO COMMENT

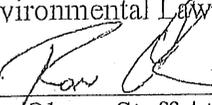
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

By 

Ron Olson, Staff Attorney
Environmental Law Division
State Bar No. 24056070
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
512-239-0608

Representing the Executive Director
of the Texas Commission on
Environmental Quality

Attachment E
Map of the Proposed Facility Site and Vicinity

**IESI TX landfill
MSW Permit No. 2332**

Map Requested by TCEQ Office of Legal Services



*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

September 11, 2007

0 0.1 0.2 0.4 0.6 0.8 1 Miles

Projection: Texas Statewide Mapping System
(TSMS)

Scale 1:51,898

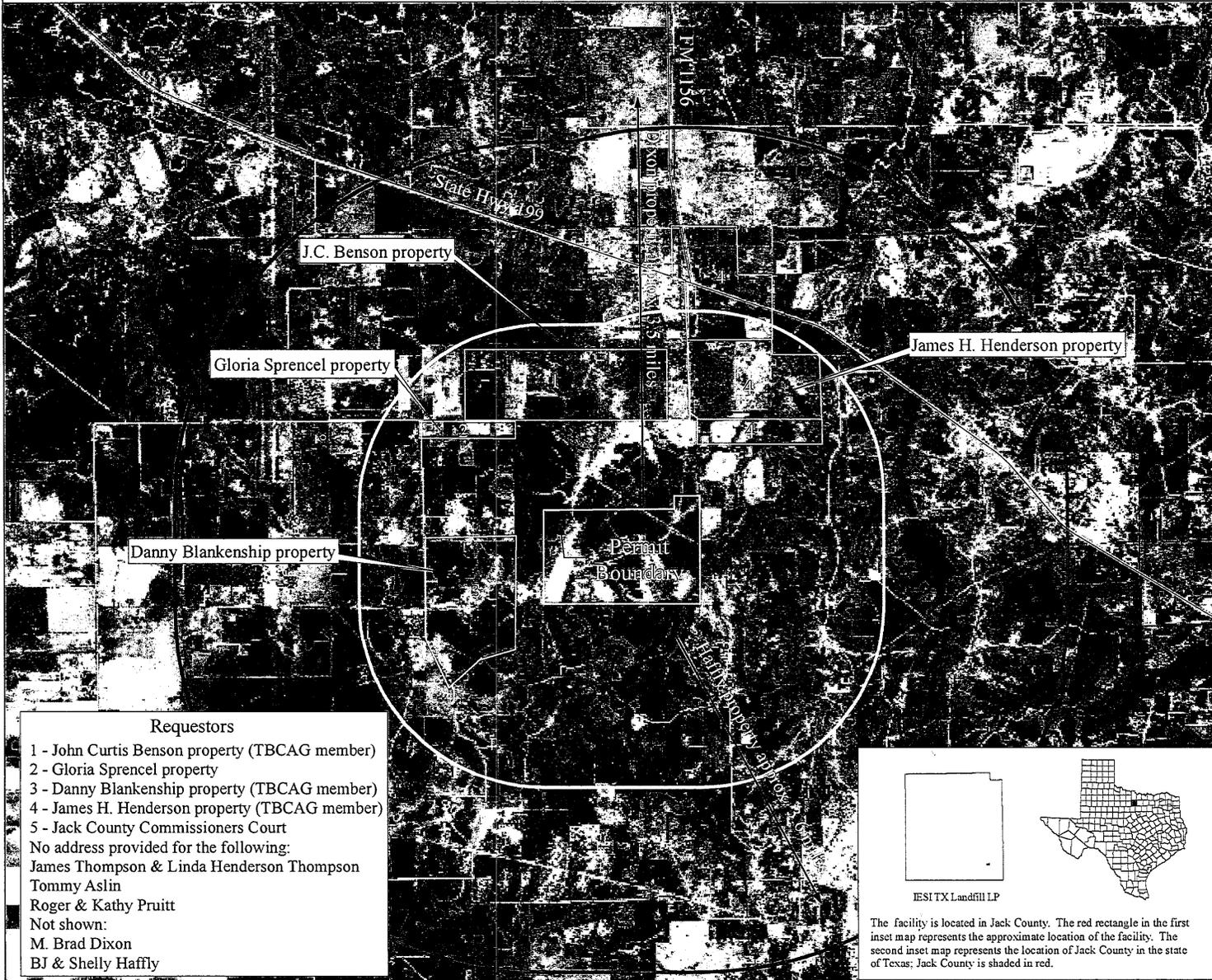
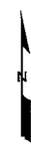
Legend

- Permit Boundary
- Requestors
- 1-Mile Radius
- 2-Mile Radius

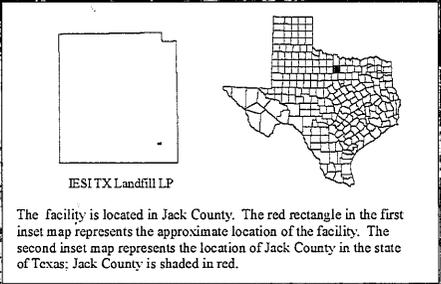
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is tx029_1-1.

This map depicts the following:

- (1) The approximate location of the facility. This is labeled "Permit Boundary".
- (2) Circles and arrows depicting 1-mile radius and 2-mile radius. These are labeled accordingly.
- (3) Properties of the requestors.



- Requestors**
- 1 - John Curtis Benson property (TBCAG member)
 - 2 - Gloria Sprencel property
 - 3 - Danny Blankenship property (TBCAG member)
 - 4 - James H. Henderson property (TBCAG member)
 - 5 - Jack County Commissioners Court
- No address provided for the following:
James Thompson & Linda Henderson Thompson
Tommy Aslin
Roger & Kathy Pruitt
- Not shown:
M. Brad Dixon
BJ & Shelly Haffly



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.