

**Debbie Zachary**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, June 8, 2022 10:42 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** jose\_alva08@yahoo.com <jose\_alva08@yahoo.com>  
**Sent:** Wednesday, June 8, 2022 9:17 AM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Jose E Alvarez

**EMAIL:** [jose\\_alva08@yahoo.com](mailto:jose_alva08@yahoo.com)

**COMPANY:** Triple j Hot shot services

**ADDRESS:** 2715 TORINO REALE AVE  
TEMPLE TX 76502-7995

**PHONE:** 2107052056

**FAX:**

**COMMENTS:** I would like to request a contested case hearing in regards to the landfill. My family and I bought a property less than a mile away from where the landfill will be. We have started making arrangements to build our forever home and are planning on moving in this year. We are very concerned about the impact the landfill will have on our health and health of our animals. The conservation lake 19 will be surrounded by the landfill and likely be contaminated by it. The contaminants will then flow down Williams Creek which borders our property on the south and

negatively impact wildlife that drink from that creek . Also the contaminants and blown trash that will fill our air can be detrimental to my my family's health especially our young kids. Theres research that shows exposure to hydrogen sulfide from landfills have been linked to lung cancer and other respiratory problems (NIH). I would also like to add the traffic the trash trucks will cause on TK pkwy will increase daily commute, can potentially cause accidents on that road and the heavy trucks will cause damage to the roads in the area. Thank you

**Debbie Zachary**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, June 8, 2022 8:17 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

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**From:** jose\_alva08@yahoo.com <jose\_alva08@yahoo.com>  
**Sent:** Wednesday, June 8, 2022 7:25 AM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Jose E Alvarez

**EMAIL:** [jose\\_alva08@yahoo.com](mailto:jose_alva08@yahoo.com)

**COMPANY:** Triple j Hot shot services

**ADDRESS:** 2715 TORINO REALE AVE  
TEMPLE TX 76502-7995

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msw  
112581

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, October 1, 2018 2:12 PM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** CORRECTION: Public comment on Permit Number 2400

H

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:13 AM  
**To:** PUBCOMMENT-WPD <pubcomment-wpd@tceq.texas.gov>; PUBCOMMENT-ELD <pubcomment-eld@tceq.texas.gov>; PUBCOMMENT-OCC2 <pubcomment-occ2@tceq.texas.gov>; PUBCOMMENT-OPIC <pubcomment-opic@tceq.texas.gov>  
**Subject:** FW: Public comment on Permit Number 2400

**From:** [Stephanie.amy9698@gmail.com](mailto:Stephanie.amy9698@gmail.com) <[Stephanie.amy9698@gmail.com](mailto:Stephanie.amy9698@gmail.com)>  
**Sent:** Wednesday, September 26, 2018 7:25 PM  
**To:** PUBCOMMENT-OCC <[pubcomment-occ@tceq.texas.gov](mailto:pubcomment-occ@tceq.texas.gov)>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Stephanie Marie Amy

**E-MAIL:** [Stephanie.amy9698@gmail.com](mailto:Stephanie.amy9698@gmail.com)

**COMPANY:**

**ADDRESS:** PO BOX 452  
AXTELL TX 76624-0452

mm

**PHONE: 2547170388**

**FAX:**

**COMMENTS:** I respectfully request a public hearing regarding Permit 2400 - Waco Landfill at FM 939 and Hwy 31. I have multiple concerns regarding this potential landfill being constructed in our community and this landfill would affect my family in many ways. Traveling on Hwy 31 daily - I fear for my daughter's lives as it is. The traffic along this highway is horrible at best. I am a volunteer firefighter and EMT for the community of Ek. There are times during the day that a call will go out and there isn't anyone available to respond. If we are able to respond, most of the local community departments in this area are not equipped to handle any type of landfill fire. We are not specially trained for toxic or hazardous fire. We do not have the man power to handle any type of toxic or hazardous fire. We do not have the equipment to handle a toxic or hazardous fire. I worry about being a first responder on the highway, having to respond to accidents. We have already seen too many fatality accidents along this highway due to drunk drivers going the wrong way, and the excessive speeds that people drive along this stretch of highway. I have seen motorcycles split into two, children and grandchildren being left behind due to stupidity and negligence. I fear what will happen when the Waco landfill is constructed. I fear that the number fatalities increase dramatically increase due to an additional 400 trucks or more on these roads that really aren't constructed for commercial traffic. We are still researching the number of violations that have been handed out to trash drivers for the City of Waco but I can tell you - it is staggering for sure. Please do not approve this permit #2400. Please deny the permit and save thousands of lives. Thank you.

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:13 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

**From:** Stephanie.amy9698@gmail.com <Stephanie.amy9698@gmail.com>  
**Sent:** Wednesday, September 26, 2018 7:25 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

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**RN NUMBER:** RN110471307

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**PRINCIPAL NAME:** CITY OF WACO

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**FROM**

**NAME:** Stephanie Marie Amy

**E-MAIL:** [Stephanie.amy9698@gmail.com](mailto:Stephanie.amy9698@gmail.com)

**COMPANY:**

**ADDRESS:** PO BOX 452  
AXTELL TX 76624-0452

**PHONE:** 2547170388

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hazardous fire. We do not have the man power to handle any type of toxic or hazardous fire. We do not have the equipment to handle a toxic or hazardous fire. I worry about being a first responder on the highway, having to respond to accidents. We have already seen too many fatality accidents along this highway due to drunk drivers going the wrong way, and the excessive speeds that people drive along this stretch of highway. I have seen motorcycles split into two, children and grandchildren being left behind due to stupidity and negligence. I fear what will happen when the Waco landfill is constructed. I fear that the number fatalities increase dramatically increase due to an additional 400 trucks or more on these roads that really aren't constructed for commercial traffic. We are still researching the number of violations that have been handed out to trash drivers for the City of Waco but I can tell you - it is staggering for sure. Please do not approve this permit #2400. Please deny the permit and save thousands of lives. Thank you.



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

MSW  
112581

June 6, 2022

2022 JUN -7 PM 2: 31

CHIEF CLERKS OFFICE

Laurie Gharis, Chief Clerk  
TCEQ (MC-105)  
P.O. BOX 13087  
Austin, TX 78711-3087

REVIEWED

JUN 07 2022

By GCW

H

RE: Request for a contested case hearing - Municipal Solid  
Waste Permit - Proposed Permit No. #2400

Laurie Gharis:

McLennan and Hill Counties Tehuacana Creek Water Control  
and Improvement District #1 (TCWCID#1) requests a contested  
case hearing on the above referenced permit.

TCWCID#1 wishes to contest the findings of the Executive  
Director that the permit application meets the requirements of  
applicable law, specifically regarding the easements held by  
TCWCID#1 on this site. The application continues to show  
disposal areas located on TCWCID#1's existing ingress-egress  
easement in violation of 30 TAC § 330.543(a) which states: "No  
solid waste unloading, storage, disposal or processing  
operation shall occur within any easement ... that crosses the  
facility.."

In formal comments mailed September 22, 2021 and received  
by the TCEQ on September 27, 2021, TCWCID#1 gave notice  
that the District held easements on the proposed landfill site.  
The existence of 2 of these easements has been acknowledged  
by both the City of Waco in their application and the Executive  
Director in his comments. TCWCID#1 believes the Executive  
Director erred in his analysis of the TCWCID#1 easements.

Background:

October 18, 2021 - NAPD issued

November 29, 2021 - End of comment period

On December 7, 2021, after the end of the comment period, the City of Waco submitted modifications to the permit application to the detriment of TCWCID#1. The City's submittal attempted to restrict TCWCID#1's existing access easement.

TCWCID#1 submitted additional comments and on January 7, 2022 the TCEQ received TCWCID#1's supplement to their previous comments protesting the changes submitted by the City of Waco.

TCWCID#1 submitted the following comments:

1. McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) has not agreed to modify their easement which attaches to the entirety of the 503 acre landfill tract.
2. McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) strongly disagrees with the City of Waco attempting to unilaterally modify the property rights in our easement using the TCEQ permitting process.
3. McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) does not believe it is proper for the TCEQ to arbitrarily and unquestionably adopt the City of Waco's characterization of this easement. The District's current access is more than just ingress and egress to the inundation lands. The

originator of this restricted access proposal would appear to have limited experience navigating and moving vehicles or equipment through seasonally saturated post oak swamp land. This proposed restricted access is not equivalent to the District's current legal access and has the potential to be detrimental in an emergency situation.

4. McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) does not believe it is proper for the TCEQ, as a regulatory agency, to interpret and adjudicate what property rights that may or may not exist in this easement nor be a party to the City's attempt to modify and/or restrict the District's full use and enjoyment of their rights. These rights are held by the District and not by the general public.

McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) deems the City of Waco's December 7, 2021 submittal to be a material change to the permit application. Should our request to supplement our formal comments be denied, the District requests that the TCEQ issue a revised NAPD along with a requisite comment period.

On May 13, 2022 - TCWCID#1 received the Director's comments:

Comment 15 states:

"Dr. Lehr and Wendel Bordovsky asked whether the proposed facility would restrict easements onto the landfill property that are held by the Tehuacana Creek Water Control and Improvement District #1 (TCWCID) which it uses to maintain the dam."

TCWCID#1 believes this wording is a mischaracterization of TCWCID's easement concerns.

Comment 15 response paragraph 2 states:

"Part IV, Section 4.6.1 of the application states that no disposal, processing, unloading, or storage of solid waste would occur within any right-of-way or easement crossing the site of the facility, unless the easement has been relocated or abandoned."

TCWCID#1 has not relocated or abandon any easements.

Comment 15 response paragraph 3 states:

"Specific access arrangements between TCWCID and the Applicant are outside the scope of the Executive Director's review."

TCWCID#1 agrees with this comment; however, both the Applicant and the Director have ignored the location and encroachment on TCWCID#1's existing ingress-egress easement.

Based on the above, TCWCID#1 requests a hearing to determine answers to the six (6) following questions:

QUESTION #1 - Do easements exist and what are their nature?

TCWCID#1's easement analysis:

This analysis will be limited to the two easements acknowledged by the City of Waco and the Executive Director.

Easements referenced in Comment 15 response paragraph 4

designated as a “flowage easement” and “[t]his easement includes the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining land.” which is commonly known as an ingress-egress easement.

Using the analysis of the Texas Supreme Court’s opinion in *Southwestern Electric Power Company v. Lynch*, these are considered two easements. Quoting from this opinion:

“The language in the SWEPCO easements grants:

an easement or right-of-way for an electric transmission and distributing line, consisting of variable numbers of wires, and all necessary or desirable appurtenances (including towers or poles made of wood, metal or other materials, telephone and telegraph wires, props and guys), at or near the location and along the general course now located and staked out by the said Company over, across and upon the following described lands . . . .

Together with the right of ingress and egress over [the Landowners’ predecessors-in-title’s] adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wires on, maintaining and removing said line and appurtenances; the right to remove from said lands all trees (fruit trees excepted) and parts thereof, or other obstructions, which endanger or may interfere with the efficiency of said line or its appurtenances; and the right of exercising all other rights hereby granted. . . .

In sum, the plain language of the easements grants SWEPCO (1) a right-of-way on the Landowners’ properties on which SWEPCO may construct a transmission line along a particular course; and (2) the right of ingress and regress over the Landowners’ properties...”

From above opinion, please note: “In sum, the plain language of the easements...” - “easements” being plural recognizes two easements.

Similarly, the plain language of TCWCID#1’s easements grants (1) the right “...for the permanent storage and temporary detention, either or both, of any waters...; and (2) “... the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining land.”

## The Texas Supreme Court's opinion in Southwestern Electric Power Company v. Lynch goes on further:

“Because landowners purchase properties aware of any encumbrances, and easements are a common encumbrance, landowners are charged with notice of easements that may encumber their property, including easements that do not contain a specific width but instead include general language. See *Williams v. Thompson*, 256 S.W.2d 399, 403 (Tex. 1953)”

With respect to the Executive Director's analysis of the TCWCID#1 easements. The Texas Supreme Court's opinion in *Southwestern Electric Power Company v. Lynch* states:

“The Landowners were of course free to renegotiate the easements with SWEPCO, and in fact SWEPCO invited them to do so. But the Landowners did not agree to SWEPCO's proposed fixed width. As a result, the Landowners' properties remain burdened by general easements with no defined width.”

Similarly, TCWCID#1 invited the City of Waco to renegotiate the easements. TCWCID#1 and the City held meetings in April 2021 and on September 30, 2021. The City declined to agree with TCWCID's proposals and therefore the City's property remains burdened with a general easement with no defined width.

### TCWCID#1 Summary:

- (1) The parties acknowledge the easements exist.
- (2) TCWCID#1's ingress-egress easement is a general easement with no defined width.
- (3) TCWCID#1 has not agreed to modify or abandon its easements.
- (4) The City of Waco property including the proposed disposal

sites remains burdened with a general easement with no defined width.

(5) 30 TAC § 330.543(a) states: No solid waste unloading, storage, disposal or processing operation shall occur within any easement ... that crosses the facility.

(6) The permit application appears to be in violation of 30 TAC § 330.543(a)

QUESTION #2 - Where are the easements located?

Based on analysis above, TCWCID#1 believes the entire site may be encumbered with a general easement with no defined width; however, TCWCID#1 has not performed a complete analysis.

Applicant did not locate TCWCID#1's ingress-egress easement in the application but then states in Part IV, Section 4.6.1 "that no disposal, processing, unloading, or storage of solid waste would occur within any right-of-way or easement crossing the site of the facility, unless the easement has been relocated or abandoned."

Common sense dictates that the location of an easement would be important if you are planning to avoid it. TCWCID#1's believes it is the responsibility of the Applicant to show the location of the existing ingress-egress easement so that the TCEQ can make a proper determination.

QUESTION #3 - Does TCWCID#1's ingress-egress easement meet the definition for "any easement" referenced in 30 TAC § 330.543(a) which states: "No solid waste unloading, storage, disposal or processing operation shall occur within any easement, buffer zone, or right-of way that crosses the facility."?

TCWCID#1's believes the plain language in this rule would indicate so.

QUESTION #4 - Does TCWCID#1's ingress-egress easement meet the definition for "right-of-way" referenced in 30 TAC § 330.543(a) which states: "No solid waste unloading, storage, disposal or processing operation shall occur within any easement, buffer zone, or right-of-way that crosses the facility."?

Black's Law Dictionary states: "Right of way" in its strict meaning, is the right of passage over another man's ground.

QUESTION #5 - Is permit approval based on existing conditions?

30 TAC § 330.67(a) states:

(a) It is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the surface estate of the property for which a permit is issued, including the access route. The granting of a permit does neither 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.

The Applicant contains this hypothetical in their application:

Part IV, Section 4.6.1 of the application states "that no disposal, processing, unloading, or storage of solid waste would occur within any right-of-way or easement crossing the site of the facility, unless the easement has been relocated or abandoned."

The Applicant recognizes all of the other easements and applies appropriate buffer zones but pretends that TCWCID#1's ingress-egress easement does not exist and shows disposal



areas within the District's existing easement.

TCWCID#1 has not relocated or abandon any easements.

QUESTION #6 - Are there restrictions imposed by the TCEQ to prevent the City of Waco from constructing infrastructure improvements for their anticipated permit prior to the final approval of said permit?

TCWCID#1 firmly believes that it meets the definition of an "affected person" and for the reasons stated above requests a contested case hearing to answer the above questions,

Respectfully,



Wendel Bordovsky, PE, RPLS - Retired  
President TCWCID#1

Correspondence may directed to:

Mailing Address -

TCWCID#1  
c/o Wendel Bordovsky  
P. O. Box 23829  
Waco, Texas 76702

Phone - (254) 717-3279

Fax - (254) 772-4333

Email - [wendel@goddardlegacy.com](mailto:wendel@goddardlegacy.com)

# EX

FROM: Federal Express  
CARR: 27398446908  
TRK#: 817/2022 1026  
RCVD: 1026

CLRK: CHRIS JACKSON  
TO: GHARIS, LAURIE  
BDG: F  
PKG: 1  
PCS: 1



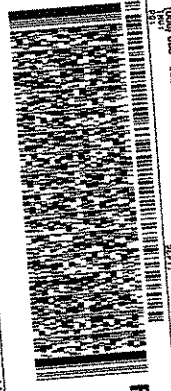
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MSC: 105  
GHARIS, LAURIE

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GRUEN 10/ACTR (284) 717-3279  
KENDLE B  
1102 HROUD TOWER RD  
LINDO, TX 78753  
UNITED STATES  
LAURIE GHARIS

SHIP DATE: 08 JUN 82  
ACT WT: 0.10 LB  
CMT: 898849/58F2A21  
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12100 PARK 35 CIRCLE  
MC-105 BLDG F  
AUSTIN TX 78753



TUE - 07 JUN 10:30A  
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CHIEF CLERKS OFFICE

2022 JUN -7 PM 2:29

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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Align top of FedEx Express® shipping label

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SEP 28 2021

Office of The Chief Clerk  
TCEQ  
12100 Park 35 Circle, Bldg F  
Austin, TX 78753

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2021 SEP 27 PM 3: 29

CHIEF CLERKS OFFICE

MSW

112581

RE: Formal Comments - Municipal Solid Waste Permit -  
Proposed Permit No. #2400

McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1) has an easement on the entire 503 acre tract covered in the above referenced permit application and respectfully requests that the permit be denied as submitted.

TCWCID#1 is a Special Utility District created by an Act of the Texas Legislature who's primary purpose is flood control and has 29 different dam sites in eastern McLennan County and southern Hill County.

The district's primary responsibility is the inspection and maintenance of the sites through brush control and outlet works repairs.

TCWCID#1 as a Special Utility District also has the statutory authority to store and sell water.

The City of Waco has historically been a proponent of protecting their water supply. The City has previously filed suit against the then TNRCC over permitting for dairies in Bosque County and more recently abandoned plans to expand their existing landfill which is in proximity to Lake Waco primarily due to political opposition. The people residing within TCWCID#1 do not get to vote in the City elections and thus the City's concern for TCWCID#1's Site 19 has been minimal.

## Background:

In July 2018, the District became aware that the City had purchased property for a landfill project. TCWCID#1's manager, Dr. Larry Lehr contacted the City to insure the City was aware that the District held an easement on the purchased tract and provided a copy of the easement to the City.

Dr. Lehr met with the then Mayor of Waco and visited the site and expressed concerns which resulted in zero follow up from the City.

In August 2019, the City held a hearing in Axtell with Waco's then City Manager. Dr. Lehr attended this meeting and commented on 2 primary areas that seemed deficient in their permit application. First was the wildlife study which ignored a pair of nesting bald eagles that reside in the area and second was the District's belief that the City needed to perform a water quality study on TCWCID#1's Site 19. Again there was no follow up from the City.

In the summer of 2020, the District initiated a grant request from Texas Water Development Board (TWDB) for a water quality study to be done by Freese & Nichols to establish baseline water quality conditions prior to landfill construction. After months of back & forth and paperwork submissions, the TWDB determined the District's request fell outside of the TWDB program criteria.

In October 2020, over one year after the Axtell hearing, the District approached the City to pay for 1/3 of the cost of the proposed water quality study. The City was noncommittal on any funding.

In April 2021, the City contacted the District to inform that the landfill permit application would be administratively complete in two weeks and suggested a meeting to discuss the District's concerns. (note: this was almost a full 3 years after the District had initiated contact with the City)

As the result of this meeting, the District made three (3) primary requests:

1. Protect the water quality in the lake by modifying the grading to route landfill runoff to a location downstream of the dam. This can be accomplished without any adverse affects or change in downstream discharge by revising the grading plan to route the runoff from properly designed detention ponds to the existing stilling basin downstream of the dam.
2. Have the City waive any claims to sovereign immunity since the City represented that they intended to design, build and operate the landfill to prevent any impairment to Site 19.
3. Pay for 1/3 of the cost of the water quality study.

The District has thus far been unable to reach an agreement with the City. The City did generously offered to pick up trash that washes into the lake within 30 days of the District giving written notification and provided that the trash meets the correct legal definition.

On August 30, 2021, the District approved engaging Freese & Nichols to perform a water quality study without City participation. This study should be completed within the next 18 months.


The public water utilities that provide service within TCWCID#1 boundaries rely almost exclusively on groundwater derived from the 2<sup>nd</sup> Trinity aquifer. This aquifer is a diminishing resource and is generally impaired with an elevated arsenic content. Surface water will eventually become essential to supplement the existing groundwater resources in this area. Common sense says that people are not going to want to drink landfill runoff water. The District has been proactive in attempting to protect Site 19 and believes our proposed modification request is reasonable. The District does not believe it to be in the public interest that this permit be approved as submitted.

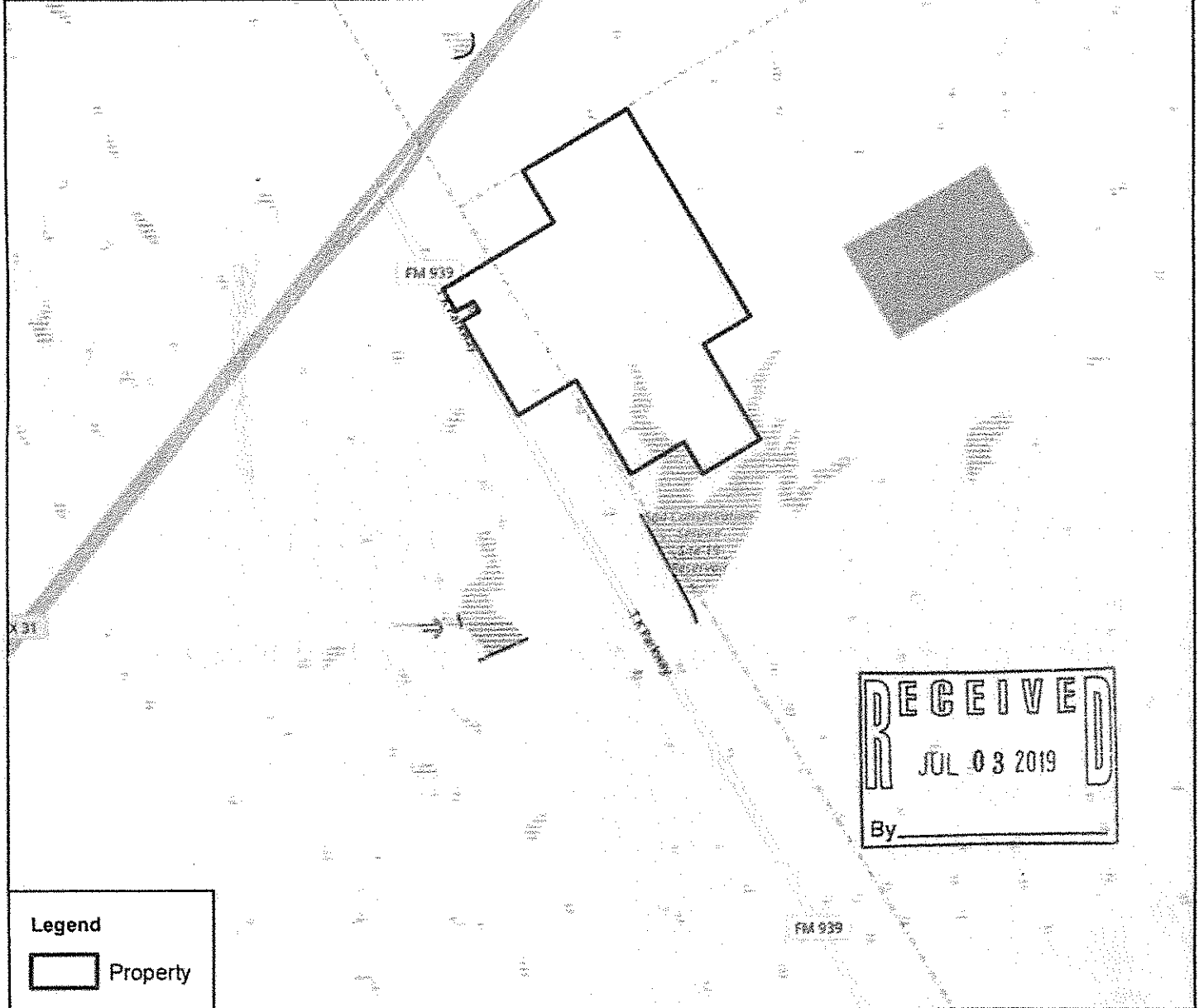
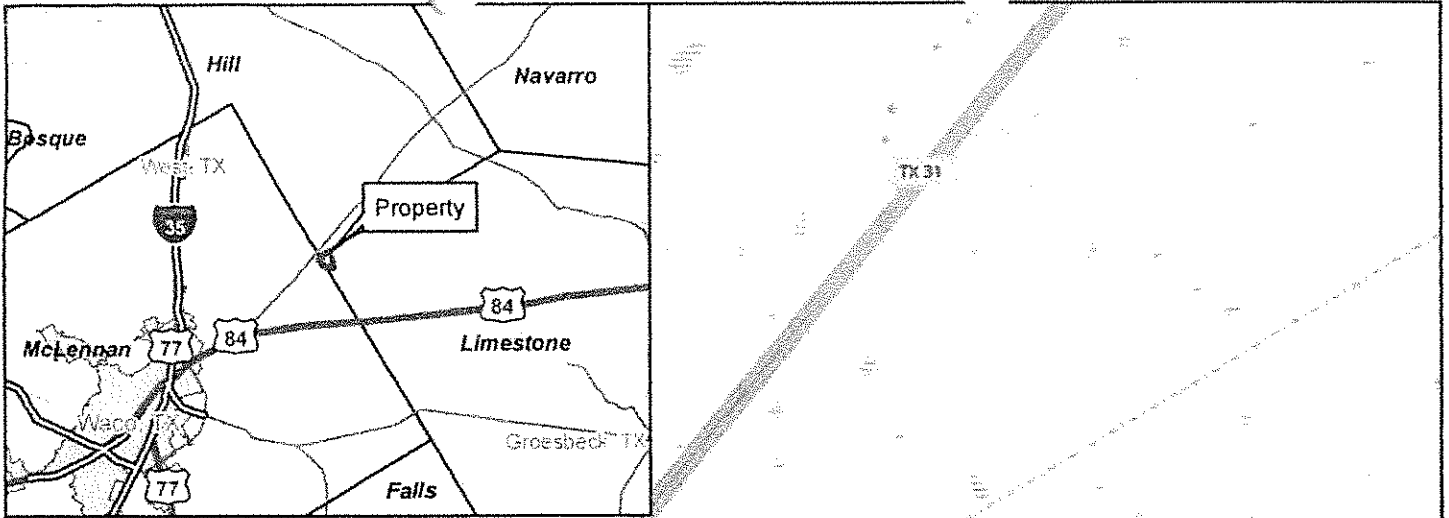
The taxpayers in TCWCID#1 do not deserve be placed in a position where the District may be compelled to acquire or condemn additional rights in our existing easement to protect Site 19 for water storage nor bear the expense of a contested case hearing.

Specifically, TCWCID#1 requests that the proposed Permit #2400 be denied absent modification to the grading plan to route landfill runoff downstream of the Site 19 dam.


Attached is a copy of Figure 1 from the USACE Public Notice for Project SWF-2017-00047 dated July 17, 2019 that shows the relationship of Site 19 to the 503 acre landfill site.

Respectfully,

  
Wendel Bordovsky, PE  
President TCWCID#1



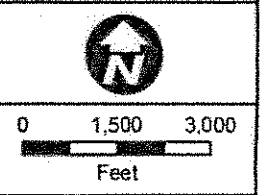
**RECEIVED**  
 JUL 03 2019  
 By \_\_\_\_\_

<b>Legend</b>	
	Property

**Horizon**  
 Environmental Services, Inc.

Date:	06/14/2019
Drawn:	TED
HJN NO:	150184.003 PA
Source:	OSM, 2019

**Figure 1 of 6**  
 Vicinity Map  
 SWF-2017-0047  
 Waco Landfill - Site 50  
 Axtell, McLennan & Limestone Counties, TX



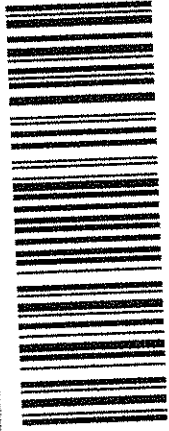
Please return any written comments to:

TCWCID#1  
c/o Wendel Bordovsky  
P. O. Box 23829  
Waco, Texas 76702



P. O. Box 23829  
Waco, Texas 76702

**CERTIFIED MAIL**



70221 1970 0000 5164 7659



1000



78753

U.S. POSTAGE PAID  
P.O. LG ENVY  
WACO, TX  
76702  
SEP 22 21  
AMOUNT

**\$6.16**  
**\$6.16**

R2304E105015-01

Office of The Chief Clerk  
TCEQ  
12100 Park 35 Circle, Bldg F  
Austin, TX 78753

**RETURN RECEIPT  
REQUESTED**

**RECEIVED**

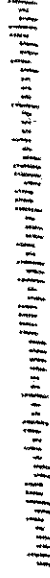
SEP 27 2021

TCEQ MAIL CENTER  
WT

TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

Formal Comments MSWP #2400

7875331606 0015



**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:07 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** al.boyett@yahoo.com <al.boyett@yahoo.com>  
**Sent:** Wednesday, September 26, 2018 8:23 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Alton M Boyett

**E-MAIL:** [al.boyett@yahoo.com](mailto:al.boyett@yahoo.com)

**COMPANY:**

**ADDRESS:** 7664 E HIGHWAY 84  
WACO TX 76705-4954

**PHONE:** 2548551785

**FAX:**

**COMMENTS:** I live and fly from the Wings for Christ airport. I am a private pilot and this airport is within 2.5 miles of a current landfill near Bellmead Texas. The proposed city of Waco landfill will be approximately 5 miles away. There have been numerous bird strikes in this area. Tstc (college), as well as military helicopters frequent this airport where I live and fly. During inclement weather these aircraft operations are at very low altitudes, which will likely encounter birds at the low altitudes. This is one of my concerns with this airport being sandwiched between two active landfills. Please

consider the safety of aircraft in flight as well as the people on the ground if a collision should occur. I request a contested case hearing

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:33 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** cindyboyett50@yahoo.com <cindyboyett50@yahoo.com>  
**Sent:** Tuesday, September 25, 2018 9:57 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MRS Cynthia Ann Boyett

**E-MAIL:** [cindyboyett50@yahoo.com](mailto:cindyboyett50@yahoo.com)

**COMPANY:**

**ADDRESS:** 7664 E HIGHWAY 84  
WACO TX 76705-4954

**PHONE:** 2547991449

**FAX:**

**COMMENTS:** I request a contested case hearing. The proposed landfill is within 6 miles of my home. I'm against the proposal due to traffic and the dangers of large trucks pulling out from the intersections. My grandchildren attend Axtell school and the traffic increases chances of major car accidents. The landfill would affect our environment and promote pollution. Our water table would be polluted. This farm land not a trash dump.

*kmw*

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 1:58 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** julie\_slayden@att.net <julie\_slayden@att.net>  
**Sent:** Tuesday, September 25, 2018 5:07 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME CITY OF WACO LANDFILL**

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** DR. Julie Michelle Brannen

**E-MAIL:** [julie\\_slayden@att.net](mailto:julie_slayden@att.net)

**COMPANY:** Hidden Branch Stables

**ADDRESS:** 595 HURST RD  
AXTELL TX 76624-1307

**PHONE:** 8067891618

**FAX:**

**COMMENTS:** I request a contested case hearing regarding the Waco landfill. As a resident of Axtell as well as an owner of a horse boarding facility in Axtell I have major objections to a landfill being built just miles from my home and business. My horse owners come out of Waco to enjoy the beautiful tranquil country. The landfill will destroy the tranquility as well as the safety of our beautiful country town. The garbage trucks will be load in our small quiet community as well as dangerous for our small roads. Thank you for your consideration.

**Debbie Zachary**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Friday, June 10, 2022 8:58 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

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**From:** cdunlap12@outlook.com <cdunlap12@outlook.com>  
**Sent:** Thursday, June 9, 2022 12:46 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME CITY OF WACO LANDFILL**

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Cynthia Banik Dunlap

**EMAIL:** [cdunlap12@outlook.com](mailto:cdunlap12@outlook.com)

**COMPANY:**

**ADDRESS:** 211 STATE HIGHWAY 31  
MOUNT CALM TX 76673-3163

**PHONE:** 2547448472

**FAX:**

**COMMENTS:** I, along with my husband, Joe, are staunchly opposed to the place of the proposed City of Waco Landfill at 4730 T K Parkway in Axtell, Texas. Our property borders the purchased property by 3500 feet of this proposed landfill and our home is within 1 mile of the proposed site. I am requesting a contested case hearing for the following reasons: A large lake sits adjacent to the purchased property and many streams flow through the property. A rather obvious concern is the potential for the water to be contaminated. Studies have identified that the current City of Waco landfill

has had seepage out of their containment of the landfill and been reported to the TCEQ with violations. What will be done by the City to preserve the water of our area when it doesn't protect the water within its own boundaries? The land affected by the proposed landfill is beautiful with many trees and small rolling hills. A 100 foot tall landfill will certainly impact the current state of the environment. Our home is due north of the proposed site. Certainly smell is a huge concern for us with our frequent strong, south winds. What will be done to control and contain the trash that will blow out of the trucks on their way to the proposed landfill and the trash that will be released into the community surrounding the landfill? So, the City was able to get the Texas Department of Transportation to build an overpass to address the hazardous traffic junction of Highway 31 and T K Parkway. However, the overpass is only one part of the concern; the other part of the concern is 700 vehicles a day congesting the roadways. Feral hogs are a nuisance in the area. With a landfill embedded within this space, what controls will be placed to control the hog population to not further invade the nearby lands? What controls will be placed to manage noise from the landfill? The area impacted by the proposed landfill is quiet and large trucks and other heavy equipment will obviously be disruptive and loud. The proposed landfill must have the same hours of operation as the current landfill of the City of Waco. For weekdays, the hours of accepting trash must be 8 am to 4:30 pm using 6:00 am to get the landfill ready to accept trash and then using the time from 4:30 to 6:30 pm to wrap up the landfill for night. On Saturdays, I propose the hours of operations being 8 to 11:30 am with the prep of the landfill at 6 am and then closing the landfill from 11:30 am to 1:30 pm.

**Debbie Zachary**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, June 9, 2022 8:58 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

---

**From:** jdunlap@aatx.com <jdunlap@aatx.com>  
**Sent:** Wednesday, June 8, 2022 3:48 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME CITY OF WACO LANDFILL**

**RN NUMBER: RN110471307**

**PERMIT NUMBER: 2400**

**DOCKET NUMBER:**

**COUNTY: HILL, LIMESTONE, MCLENNAN**

**PRINCIPAL NAME: CITY OF WACO**

**CN NUMBER: CN600131940**

**FROM**

**NAME: Joe Wilburn Dunlap**

**EMAIL: [jdunlap@aatx.com](mailto:jdunlap@aatx.com)**

**COMPANY:**

**ADDRESS: 211 STATE HIGHWAY 31  
MOUNT CALM TX 76673-3163**

**PHONE: 2548552849**

**FAX:**

**COMMENTS:** My name is Joe Dunlap and my wife Cynthia and I are "affected persons" as defined in the TCEQ letter dated May 10, 2022 to "All Interested Persons". I officially request a contested case hearing regarding TCEQ Permit 2400. We are definitely affected in a manner not common to the general public. Potential and likely impacts include but are not limited to the following: Our home is within 1 mile of the landfill site; we own property that borders the landfill site for approximately 3,500 feet; we could be impacted by odor emitting from the site, particularly given the prevailing



south wind and the position of our home; windblown trash from the site will most definitely accumulate on our bordering property and possibly in the immediate area of our home; our health could be negatively affected by gases and air contaminants emitted from the site, particularly given the proximity and the prevailing south winds; the marketability and value of our property, given the proximity of our home and the fact that much of our land directly borders the site; the inevitable and substantial increase in traffic involving large trucks, trailers, etc. will obviously increase the safety concerns in the immediate area; and finally, the clear and unambiguous impacts to our overall quality of life. Thank you for your consideration. Joe Dunlap

**Lori Rowe**

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, November 29, 2021 8:51 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** Dunlap Public Comment letter Permit #2400.pdf

MSW  
112581

RFR

**From:** jdunlap@aatx.com <jdunlap@aatx.com>  
**Sent:** Wednesday, November 24, 2021 7:18 AM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Joe Wilburn Dunlap

**E-MAIL:** [jdunlap@aatx.com](mailto:jdunlap@aatx.com)

**COMPANY:**

**ADDRESS:** 211 STATE HIGHWAY 31  
MOUNT CALM TX 76673-3163

**PHONE:** 2548552849

**FAX:**

**COMMENTS:** Please see the attached comments.

November 23, 2021

Cynthia and Joe Dunlap  
211 State Highway 31  
Mount Calm, Texas 76673  
Cyndy's cell: 254-744-8472 and Joe's cell: 254-855-2849

Texas Commission on Environmental Quality  
Office of the Chief Clerk  
MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: Proposed Permit No. 2400

To Whom It May Concern:

I, along with my husband, Joe, are staunchly opposed to the proposed City of Waco Landfill at 4730 T K Parkway in Axtell, Texas. Our property borders the purchased property slated for this landfill and our home is within 1 mile of the proposed site. In 1941, our grandparents settled on this property to farm and raise cattle. Subsequently, our parents purchased adjacent land to the original property to build a home and raise a family. My husband and I purchased adjacent property which now borders the proposed landfill site. In addition, 2.5 miles of the border to the landfill proposed site is owned by the Dunlap family including our mother, Joyce Dunlap; our brother and sister-in-law, Steven and Angie Dunlap; and, our niece and her husband, Kristen and Josh Boyd. We chose to live a quiet country life compared to the city with homes just a few feet away from each other.

We object to the clandestine manner in which the City of Waco purchased the property. The City Council and City of Waco Staff went through the secretive process of contracting for purchase of the initial 502 acres, initial testing of the land, and the development of a landfill permit for approximately 7 months without any transparency to the affected populations. In fact, the purchase of the property was accomplished through a straw buyer to hide the true purchaser of the property. Seven (7) days after the Council's vote to acquire the land, the City was able to immediately file a 300-page document for application to permit the landfill. Demonstrating continued insensitivity to the communities affected, the landfill permit showed two entrance roads to the landfill site with each road entering the site from 2 sides of the TK Cemetery. As an additional affront to the citizens of McLennan, Limestone and Hill Counties, one of the two disposal sites barely met the requirement of being 125 feet from the TK Parkway Road. These actions exhibit a lack of concern for these counties and their populations.

Second, the current City of Waco landfill resides within the Waco community itself. The citizens surrounding the current landfill have representation on the City Council to address their

concerns and consternations of living near a landfill. For my husband and me, who represents us? We do not have representation on the City Council. Who will take our phone calls? Address our concerns? Why should we trust that the City will do right by us in light of how they purchased the property in such a secretive fashion? We are being put upon by a government that has no obligation to us. We are being governed without any representation.

To demonstrate how far the City will go to get rid of its own trash, it purchased property 20 miles outside the City and now their trash trucks will have to travel 20 - 35 minutes to reach the proposed landfill. There appears to be no concern as to costs since the City decided to buy property so far away from City headquarters, increase travel time of the trucks, use more gasoline to pollute our air, and increase congestion on our roads. They are literally taking their trash from 20 miles away and dumping it in our front yard. In addition, the proposed site is intended to be a "regional" landfill and trash will be coming to our front door from several surrounding counties.

In addition to these costs, the City of Waco, as a means to get the proposed landfill approved, has collaborated with the Texas Department of Transportation to use Texas taxpayers' money, including mine, to build an overpass at the site of the junction of Highway 31 and T K Parkway. It has continued to buy more adjacent property to silence its opposition and minimize the voices to object to the proposed landfill site. No cost is too great in order to get the trash out of their city.

We have significant concerns about the effects of the proposed landfill site:

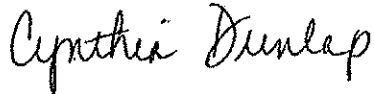
1. A large lake sits adjacent to the purchased property and many streams flow through the property. A rather obvious concern is the potential for the water to be contaminated. Studies have identified that the current City of Waco landfill has had water seepage out of the existing landfill and been reported to the TCEQ with violations. What will be done by the City to preserve the water of our area when it doesn't protect the water within its own boundaries?
2. The land affected by the proposed landfill is beautiful with many trees and small rolling hills. A 100 foot tall landfill will certainly impact the current state of the environment.
3. Our home is due north of the proposed site. Certainly smell is a huge concern for us with our frequent strong, south winds.
4. What will be done to control and contain the trash that will blow out of the trucks on their way to the proposed landfill and the trash that will be released into the community surrounding the landfill?
5. So, the City was able to get the Texas Department of Transportation to build an overpass to address the hazardous traffic junction of Highway 31 and T K Parkway. However, the overpass is only one part of the concern; the other part of the concern is 700 vehicles a day congesting the roadways.
6. Feral hogs are a nuisance in the area. With a landfill embedded within this space, what controls will be placed to control the hog population that will be attracted to the odors from the landfill?

7. What controls will be placed to manage noise from the landfill? The area impacted by the proposed landfill is quiet and large trucks and other heavy equipment will obviously be disruptive and loud.
8. We were insulted by the City of Waco having a straw buyer to confidentially purchase the property in the first place. To add another insult to injury, the City intends to have operating hours of the proposed landfill that *are significantly longer than the existing landfill!!!* These extended hours will result in the landfill operating before sunrise and after sunset. I guess since they have to transport their trash so far away the City has to have longer hours to get the necessary trips to the landfill to dump their trash in our area.

The proposed landfill must have the same hours of operation as the current landfill of the City of Waco. For weekdays, the hours of accepting trash must be 8 am to 4:40 pm using 6:00 am to get the landfill ready to accept trash and then using the time from 4:30 to 6:30 pm to wrap up the landfill for night. On Saturdays, we proposed the hours of operations being 8 to 11:30 am with the prep of the landfill at 6 am and then closing the landfill from 11:30 am to 1:30 pm.

Please consider our concerns and force the City to reconsider other locations within their boundaries for the management of their refuse.

Sincerely,



Cynthia Dunlap  
Joe Dunlap

**Lori Rowe**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Tuesday, November 23, 2021 3:58 PM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** Dunlap Public Comment letter Permit #240010.pdf

MSW  
112581

RFR

**From:** cdunlap12@outlook.com <cdunlap12@outlook.com>  
**Sent:** Tuesday, November 23, 2021 3:33 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** DR. Cynthia Dunlap

**E-MAIL:** [cdunlap12@outlook.com](mailto:cdunlap12@outlook.com)

**COMPANY:**

**ADDRESS:** 211 STATE HIGHWAY 31  
MOUNT CALM TX 76673-3163

**PHONE:** 2547448472

**FAX:**

**COMMENTS:** Please see the attached file

November 23, 2021

Cynthia and Joe Dunlap  
211 State Highway 31  
Mount Calm, Texas 76673  
Cyndy's cell: 254-744-8472 and Joe's cell: 254-855-2849

Texas Commission on Environmental Quality  
Office of the Chief Clerk  
MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: Proposed Permit No. 2400

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In addition to these costs, the City of Waco, as a means to get the proposed landfill approved, has collaborated with the Texas Department of Transportation to use Texas taxpayers' money, including mine, to build an overpass at the site of the junction of Highway 31 and T K Parkway. It has continued to buy more adjacent property to silence its opposition and minimize the voices to object to the proposed landfill site. No cost is too great in order to get the trash out of their city.

We have significant concerns about the effects of the proposed landfill site:

1. A large lake sits adjacent to the purchased property and many streams flow through the property. A rather obvious concern is the potential for the water to be contaminated. Studies have identified that the current City of Waco landfill has had water seepage out of the existing landfill and been reported to the TCEQ with violations. What will be done by the City to preserve the water of our area when it doesn't protect the water within its own boundaries?
2. The land affected by the proposed landfill is beautiful with many trees and small rolling hills. A 100 foot tall landfill will certainly impact the current state of the environment.
3. Our home is due north of the proposed site. Certainly smell is a huge concern for us with our frequent strong, south winds.
4. What will be done to control and contain the trash that will blow out of the trucks on their way to the proposed landfill and the trash that will be released into the community surrounding the landfill?
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7. What controls will be placed to manage noise from the landfill? The area impacted by the proposed landfill is quiet and large trucks and other heavy equipment will obviously be disruptive and loud.
8. We were insulted by the City of Waco having a straw buyer to confidentially purchase the property in the first place. To add another insult to injury, the City intends to have operating hours of the proposed landfill that *are significantly longer than the existing landfill!!!* These extended hours will result in the landfill operating before sunrise and after sunset. I guess since they have to transport their trash so far away the City has to have longer hours to get the necessary trips to the landfill to dump their trash in our area.

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Please consider our concerns and force the City to reconsider other locations within their boundaries for the management of their refuse.

Sincerely,



Cynthia Dunlap  
Joe Dunlap

①

TCEQ Public Meeting Form  
August 15, 2019

The City of Waco  
Municipal Solid Waste Permit  
Proposed Permit No. 2400

PLEASE PRINT

Name: Cynthia Dunlap

Mailing Address: 211 State Hwy 31

Physical Address (if different): same

City/State: Mount Calm TX Zip: 76673

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

Email: cdunlap12@outlook.com

Phone Number: 254-744-8472

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? \_\_\_\_\_

Please add me to the mailing list.

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

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

(Written comments may be submitted at any time during the meeting)  
Please give this form to the person at the information table. Thank you.

mw

14

TCEQ Public Meeting Form  
August 15, 2019

The City of Waco  
Municipal Solid Waste Permit  
Proposed Permit No. 2400

PLEASE PRINT

Name: JOE DUNLAP

Mailing Address: 211 STATE HWY 31 MT. CALM TX 76673

Physical Address (if different): \_\_\_\_\_

City/State: MT. CALM TX Zip: 76673

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

Email: JDUNLAP@AATX.COM

Phone Number: 254 855 2849

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? SAFE

Please add me to the mailing list.

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

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

(Written comments may be submitted at any time during the meeting)  
Please give this form to the person at the information table. Thank you.

44

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 5, 2018 2:56 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

**From:** jdunlap@aatx.com <jdunlap@aatx.com>  
**Sent:** Wednesday, September 5, 2018 12:31 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME:** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Joe Wilburn Dunlap

**E-MAIL:** [jdunlap@aatx.com](mailto:jdunlap@aatx.com)

**COMPANY:**

**ADDRESS:** 211 STATE HIGHWAY 31  
MOUNT CALM TX 76673-3163

**PHONE:** 2548552849

**FAX:**

**COMMENTS:** To Whom It May Concern: My name is Joe Dunlap and my wife Cyndy and I live on Hwy 31 approximately 3/4 of a mile from the proposed T.K. Parkway/Waco landfill site. We own property that borders approximately 1/2 mile of the northern boundary of the proposed site. The City of Waco has now purchased an additional 770 acres to the east of the first site, and my Mother, Joyce Dunlap, owns land that borders approximately two miles of the northern boundaries of both sites. The vast majority of land in these two sites is NOT in McLennan County, the City of Waco's home county. Roughly 1,000 acres is in Limestone County, 600 acres in Hill County, and the rest, a small portion, is in

McLennan County. To add insult to injury, the City of Waco is planning to take part of our land via eminent domain in order to expand T.K. Parkway (county road 939) in order to accommodate the over 250 vehicles per day that the city estimates will visit the site initially. The City of Waco estimates that over 400 vehicles per day will bring trash to the site before the useful life of the landfill expires. We are obviously extremely opposed to this aggression by the City of Waco, as are the neighboring counties of Limestone and Hill. Our land, and my Mother's land, has been in our family since the 1940's and it is just tragic that we would now have over 2 and 1/2 miles of boundary bordered by a dump ground. The obvious impact to traffic safety, land marketability and value, and overall quality of life is not only obvious but devastating. I urge you to consider these facts, and the fact that there are other very reasonable options for the City of Waco to pursue, in making your decision on this permit. Sincerely Joe Dunlap

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 9:46 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** ke0461543@STUDENTS.MCLENNAN.EDU <ke0461543@STUDENTS.MCLENNAN.EDU>  
**Sent:** Thursday, September 27, 2018 8:31 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MISS Kaylee Engledow

**E-MAIL:** [ke0461543@STUDENTS.MCLENNAN.EDU](mailto:ke0461543@STUDENTS.MCLENNAN.EDU)

**COMPANY:**

**ADDRESS:** 9151 COUNTY LINE RD S  
MOUNT CALM TX 76673-3245

**PHONE:** 2544952143

**FAX:**

**COMMENTS:** I am requesting a public hearing on this landfill request from the City of Waco. There are numerous safety issues regarding roadways and traffic, fire dangers that our small volunteer fire department is ill-equipped to handle (and nearest fire station is located too far to be effective in fighting all of the hazards that a landfill can create). This property borders all three sides of the cemetery in which my grandmother is buried and no one should have to visit their loved ones with the sounds and smells of a landfill that is located within a stones throw away from their graves. The are safety issues concerning the contamination of our soil, groundwater and aquifers as there are three creeks located on

this property as well as a huge soil conservation lake. There is abundant wildlife located on this property, which includes many endangered or protected animals. We have absolutely no representation within the city of Waco and that is precisely why they chose our small community to place their massive landfill. They purchased this land in secret and have tried their best to the application fast tracked by TCEQ. The City of Waco already has land that they can put their landfill on, but they are trying to appease a small affluent group of Waco citizens who oppose their new landfill being near their homes even though they purchased their homes KNOWING there was a landfill near them. We are a small farm and ranch community and this landfill would devastate us. Our home and land values will plummet. The majority of this land is not even within the City of Waco's own county, which is McLennan county. Limestone County is where most of this land located. The City of Waco kept their landfill plans secret from even Limestone County. When Limestone County learned of the City of Waco plans to put a landfill they immediately opposed it and let the City of Waco know. The City of Waco did not care and continued their quest to purchase millions and millions of dollars of land outside of their county in order to put an even larger landfill than what they originally submitted to TCEQ. They are now hoping to add a third county that will be impacted by their massive landfill; however, the third county, Hill, opposed it as well. I do not believe the City of Waco has been forthright with the information they submitted in their landfill application to TCEQ. Yes, their application may be administratively complete; however, I hope TCEQ really delves into the technical aspect of their application because I believe TCEQ will have the same concerns that the residents of Axtell, Mount Calm, Billington, Limestone County and Hill County have with this landfill. There is a reason the City of Waco is pushing TCEQ to fast track this application. My hope is that TCEQ will put the brakes on it and see exactly what we are seeing and that is this land is not suitable for a landfill for many, many reasons.

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 6, 2018 2:13 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

**From:** ke0461543@STUDENTS.MCLENNAN.EDU <ke0461543@STUDENTS.MCLENNAN.EDU>  
**Sent:** Thursday, September 6, 2018 10:20 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME:** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MISS Kaylee Engledow

**E-MAIL:** [ke0461543@STUDENTS.MCLENNAN.EDU](mailto:ke0461543@STUDENTS.MCLENNAN.EDU)

**COMPANY:** Pierce & Pierce Builders, Inc.

**ADDRESS:** 9151 COUNTY LINE RD S  
MOUNT CALM TX 76673-3245

**PHONE:** 2544952143

**FAX:**

**COMMENTS:** \*\*REVISED\*\* I am writing in opposition to the City of Waco's plan to put a new landfill on TK Parkway in McLennan County, Texas. My first issue is with the way in which the COW handled this process. Everything was done in secret and they did not allow the residents who live near the site ample time to protest this proposed landfill site. The COW secretly purchased this land via trust. The sellers had no idea it was the COW of purchasing the land or their intended purpose for this land. The Texas courts have already ruled in a similar case, Pintail Landfill- Hempstead, TX, that the governing body (the county officials), violated the Open Meetings Act, the Public Information Act, and record

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retention requirements for meeting in secret and failing to timely and adequately inform the public of their intentions. It is obvious that the COW held meetings, etc. and made up their minds prior to voting to approve this massive land purchase for the purposes of creating a massive landfill. I have requested a copy of all of the documents pertaining to the purchase of this land from the COW. They have given me some documents; however, they are hiding behind "attorney client privilege". I asked them to get the opinion of the Texas Attorney general regarding this as I believe they just don't want the public to be aware of exactly who was involved in this transaction and when this was first discussed as a possible site for their landfill. I believe it is worth noting that the Mayor of Waco, Kyle Deaver, is an attorney, is a board member of American Bank, and owns American Guaranty Title in Waco. I bet if you followed the paper trail you would see his name (and his companies' name) all over this deal, which would seem to me to be a huge conflict of interest. The COW purchased this 1,200 acres well above market value and have acknowledged construction of a landfill on this property would cost \$5,000,000+ in infrastructure and would add at least \$3,000,000 in annual operating costs. Tell me why a city would commit to such a huge investment when they already have a suitable site within their own city limits that would not cost the city near as much money in infrastructure or annual operating costs? The answer is someone is profiting off of this deal and it is not the City of Waco residents nor the residents of Axtell and Mount Calm. The COW states that their current landfill will be at maximum capacity in 5 or so years. Well, then maybe they should stop accepting trash from 11 different counties. It is not our fault that the city has chosen to fill their current landfill up with 11 other different counties' trash. They have obviously chosen profit over the waste management needs of the residents of Waco. They created the problem and they can solve the problem within their city limits. I also take issue with the fact that this land is out of the city of Waco and only 3% of the property is located INSIDE of their county, which means 97% is located outside of their county. The 2 other counties have voiced their opposition to this new proposed landfill site, but the COW refuses to change their plans. This proposed landfill site touches three different cemeteries- of which one my mom is buried in...no one should have to visit their loved ones grave or attend a funeral with a landfill right next door...with the smells, and noise of the landfill in the background...and, no, COW purchasing 700+ acres as a "buffer" or "green space" is not a satisfactory solution. This land also has several creeks that run through it and includes a soil conservation lake. This land has been prone to flood the neighboring properties. There is no way the COW can adequately keep these waters from being contaminated. The COW already has multiple violations identified by TCEQ, but yet we are supposed to trust them to manage this huge proposed landfill better than they manage their current landfill, which is within their own city limits?? Our community does not receive 1 single service from the COW...NOT 1 SINGLE SERVICE, but the COW thinks they can turn 1,200 acres of our community into a landfill or "buffer zone". That just isn't right. Our community is serviced by a volunteer fire department. We do not have adequate resources to handle fires, etc. that occur at a landfill. The closest COW of fire department is located too far away from our community to be effective in handling the issues that can arise at a landfill. Safety is another concern as this proposed site is located at one of the most dangerous intersections in McLennan County. Several people have lost their lives at this intersection. By putting 400+ garbage trucks on our roads daily the COW has just amplified this danger tenfold. The COW already has a suitable site, which is within their city limits, but has decided to dump on our small town because a small, affluent percentage of their citizens have voiced opposition to using this land. The citizens of Axtell have no voice within the COW, and we have no representation in the COW, which is precisely the reason the COW chose our area. There also is abundant wildlife in the area, which would be negatively impacted should TCEQ decide to approve this permit. Several endangered species have been identified as inhabiting this land. We have wild hogs that would wreak havoc on this site. The COW just recently purchased another 700+ acres, which they say will be a "buffer" to the landfill. That is not sufficient. We are a farming and ranching community. This proposed landfill will ruin our way of life. I beg you to not approve the City of Waco's request for a permit to build a new landfill on TK Parkway in McLennan, Hill, and Limestone counties. Thank you!

**Lori Rowe**

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**From:** PUBCOMMENT-OCC  
**Sent:** Friday, June 3, 2022 3:54 PM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** 2022-06-03 Porter Comments and Hearing Request.pdf

MSW  
112581

H

**From:** afriedman@msmtx.com <afriedman@msmtx.com>  
**Sent:** Friday, June 3, 2022 2:08 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME:** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Adam Friedman

**EMAIL:** [afriedman@msmtx.com](mailto:afriedman@msmtx.com)

**COMPANY:** McElroy, Sullivan, Miller & Weber, L.L.P.

**ADDRESS:** 4330 GAINES RANCH LOOP Suite 200  
AUSTIN TX 78735-6733

**PHONE:** 5123278111

**FAX:** 5123502651

**COMMENTS:** Comments and Request for Hearing Regarding the Application of the City of Waco for Municipal Solid Waste Permit No. 2400.



MCELROY,  
SULLIVAN,  
MILLER &  
WEBER, LLP

4330 Gaines Ranch Loop, Suite 200, Austin, TX 78735 | www.msmtx.com

MAILING ADDRESS: P.O. Box 12127, Austin, TX 78711 | T. 512.327.8111 F. 512.350-2681

June 3, 2022

**VIA ELECTRONIC COMMENT:**

Laurie Gharis, MC-105  
Office of the Chief Clerk, Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
<https://www14.tceq.texas.gov/epic/eComment/>

**Re: Comments and Request for Hearing Regarding the Application of the City of Waco for Municipal Solid Waste Permit No. 2400**

Dear Ms. Gharis:

I represent Darren and Melissa Porter (the "Porters") regarding the City of Waco's (the "City") pending application (the "Application") for Municipal Solid Waste Permit No. 2400 (the "Permit"), to authorize disposal of solid waste at the City of Waco Landfill (the "Landfill") in McLennan and Limestone Counties. By this letter, the Porters submit comments to the Application and request a contested case hearing. The Porters can be reached by calling my office at 512-327-8111, and their address is 1500 LCR 102, Mount Calm, Texas 76673.

**I. The Porters are affected persons entitled to a contested case hearing.**

An affected person is "one 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." 30 TEX. ADMIN. CODE §55.256(a). The Landfill will have a clear impact on the Porter's legal rights, duties, power, and economic interests. The Porters own property (the "Porter Property") adjacent to the City's property and the Porter Property is located less than a half mile (approximately 2,250 feet) from one of the City's proposed cells for waste disposal. The Porters live on the Porter Property and use the Porter Property for a commercial cattle operation, hunting and other recreational activities.

The Landfill will depress the value of the Porter Property, create nuisances and pollution that will decrease the economic and recreational use of the Porter Property, threaten ground and surface waters that the Porters rely on, and negatively impact the health of the Porters and their property. Each of these impacts qualify the Porters as affected persons with standing for a contested case hearing.

## **II. The Application does not satisfy TCEQ's location characteristics requirements.**

TCEQ regulations prohibit solid waste disposal operations to be located within a 100-year floodplain and only permit municipal solid waste storage in a 100-year floodplain in limited circumstances. 30 TEX. ADMIN. CODE §330.57. On the Application, the City represents that “a portion of the Site is located in the 100-year floodplain...the waste disposal footprint is located entirely outside the limits of the 100-year floodplain.”<sup>1</sup> The City acknowledges that the floodplain limits within the facility have been designated by FEMA as “Zone A.”<sup>2</sup>

FEMA defines Zone A locations as “areas subject to inundation by the 1-percent-annual flood event generally determined using approximate methodologies. Because detailed analyses have not performed, no Base Flood Elevations (BFEs) or flood depths are shown.”<sup>3</sup> The FEMA Map, therefore, is only an approximation of the 100-year floodplains for the relevant waters. Further investigation is needed to see if the actual floodplain limits contradict the City's representation on the Application and violates TCEQ requirements regarding facility siting and solid waste disposal operations in floodplains. Locating facilities within the 100-year floodplain pose a significant threat to the Porter Property and could result in pollution and contamination.

Similarly, the Porters believe that further investigation is needed to determine the Landfill's potential impact on wetlands to ensure compliance with TCEQ requirements for location characteristics. 30 TEX. ADMIN. CODE §330.553.

## **III. The Application does not adequately protect groundwater.**

The Application also demonstrates the City has failed to adequately consider and protect groundwater. The Application fails to identify any wells at the Landfill site and the area surrounding the site. However, old wells are located in the area, including one on the Porter Property, and a review is necessary to ensure no contamination of groundwater that the Porters rely upon occurs.

## **IV. The proposed Landfill is not a compatible land use with the surrounding area.**

TCEQ regulations instruct that, for municipal solid waste facilities, “a primary concern is that the use of any land for a municipal solid waste facility not adversely impact human health or the environment.” 30 TEX. ADMIN. CODE §330.61(h). Further, TCEQ may deny a municipal solid waste permit for issues pertaining to land use. TEX. HEALTH & SAFETY CODE §362.089(a).

Building and operating the Landfill in the proposed site will inalterably change the nature and usage of the surrounding land, including the Porter Property. Odors, harmful air emissions, and contamination of water will deny the Porters the ability to enjoy and use their land. The TCEQ should deny the Application on the basis of incompatible land use.

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<sup>1</sup> City of Waco, Parts I & II Permit Application, 3-1.

<sup>2</sup> City of Waco, Parts I & II Permit Application, 11-1.

<sup>3</sup> <https://www.fema.gov/glossary/zone>

**V. The proposed Landfill will cause nuisance conditions.**

The Application is not clear that the City will be able to successfully manage nuisances, such as odors and harmful air emissions from the proposed Landfill. The proximity of the Porter Property to the Landfill means any failure to control and abate nuisances resulting from odors and air emissions will negatively impact the Porter Property.

**VI. Relevant and material disputed Issues of Fact for Contested Case Hearing**

The Porters respectfully request the following issues be referred to SOAH for a contested hearing:

1. Whether the proposed Landfill is within a 100-year floodplain. 30 TEX. ADMIN. CODE §330.57.
2. Whether the proposed Landfill is located on or will have a negative impact on wetlands. 30 TEX. ADMIN. CODE §330.53.
3. Whether the proposed Landfill is a compatible land use with the surrounding area.
4. Whether the proposed Landfill meets the requirement to abate and control nuisances. 30 TEX. ADMIN. CODE §330.15(a).
5. Whether the proposed Landfill adequately protects groundwater from contamination. 30 Tex. Admin. Code §330.61.
6. Whether the proposed Landfill has a sufficient odor management plan. 30 TEX. ADMIN. CODE §330.149.

**VII. Conclusion**

Based on the foregoing, the Porters respectfully request they be found as affected persons entitled to a contested case hearing on the identified issues to ensure their property is protected.

Thank you,

/s/ Adam Friedman

Adam M. Friedman

MC ELROY, SULLIVAN, MILLER & WEBER

4330 Gaines Ranch Loop, Suite 200

Austin, Texas 78735

[afriedman@msmtx.com](mailto:afriedman@msmtx.com)

**ATTORNEY FOR THE PORTERS**

**Lori Rowe**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, November 18, 2021 8:34 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** 2021-11-17 Porter Comments and Hearing Request2.pdf

H

**From:** sabella@msmtx.com <sabella@msmtx.com>  
**Sent:** Wednesday, November 17, 2021 4:47 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Sebastian Abella

**E-MAIL:** [sabella@msmtx.com](mailto:sabella@msmtx.com)

**COMPANY:** McElroy, Sullivan, Miller, Weber LLP

**ADDRESS:** 4330 GAINES RANCH LOOP STE 200  
AUSTIN TX 78735-6735

**PHONE:** 5123278111

**FAX:**

**COMMENTS:** Please find the attached pdf for the Comments and Hearing Request Letter. Thank you.



MCELROY,  
SULLIVAN,  
MILLER &  
WEBER, LLP

4330 Gaines Ranch Loop, Suite 200, Austin, TX 78735 | www.msmtx.com

MAILING ADDRESS: P.O. Box 12127, Austin, TX 78711 | T. 512.327.8111 F. 512.327.6566

November 17<sup>th</sup>, 2021

**VIA ELECTRONIC COMMENT:**

Laurie Gharis, MC-105  
Office of the Chief Clerk, Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
<https://www14.tceq.texas.gov/epic/eComment/>

**Re: Comments and Request for Hearing Regarding the Application of the City of Waco for Municipal Solid Waste Permit No. 2400**

Dear Ms. Gharis:

I represent Darren and Melissa Porter (the "Porters") regarding the City of Waco's (the "City") pending application (the "Application") for Municipal Solid Waste Permit No. 2400 (the "Permit"), to authorize disposal of solid waste at the City of Waco Landfill (the "Landfill") in McLennan and Limestone Counties. By this letter, the Porters submit comments to the Application and request a contested case hearing. The Porters can be reached by calling my office at 512-327-8111, and their address is 1500 LCR 102, Mount Calm, Texas 76673.

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The Application also demonstrates the City has failed to adequately consider and protect groundwater. The Application fails to identify any wells at the Landfill site and the area surrounding the site. However, old wells are located in the area, including one on the Porter Property, and a review is necessary to ensure no contamination of groundwater that the Porters rely upon occurs.

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<sup>1</sup> City of Waco, Parts I & II Permit Application, 3-1.

<sup>2</sup> City of Waco, Parts I & II Permit Application, 11-1.

<sup>3</sup> <https://www.fema.gov/glossary/zone>



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3. Whether the proposed Landfill is a compatible land use with the surrounding area.
4. Whether the proposed Landfill meets the requirement to abate and control nuisances. 30 TEX. ADMIN. CODE §330.15(a).
5. Whether the proposed Landfill adequately protects groundwater from contamination. 30 Tex. Admin. Code §330.61.
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**VII. Conclusion**

Based on the foregoing, the Porters respectfully request they be found as affected persons entitled to a contested case hearing on the identified issues to ensure their property is protected.

Thank you,

/s/ Adam Friedman

Adam M. Friedman

McELROY, SULLIVAN, MILLER & WEBER

4330 Gaines Loop, Suite 200

Austin, Texas 78735

afriedman@msmtx.com

ATTORNEY FOR THE PORTERS

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 1:45 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Niseypoo2@yahoo.com <Niseypoo2@yahoo.com>  
**Sent:** Tuesday, September 25, 2018 3:54 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Denise Graham

**E-MAIL:** [Niseypoo2@yahoo.com](mailto:Niseypoo2@yahoo.com)

**COMPANY:**

**ADDRESS:** 718 N SEELEY AVE W  
MOUNT CALM TX 76673-3085

**PHONE:** 2547442196

**FAX:**

**COMMENTS:** I would like to have a public hearing on the City of Waco landfill request permit #2400. I have many concerns about where this landfill you s being proposed to be placed.

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 1:59 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** birch.angie@yahoo.com <birch.angie@yahoo.com>  
**Sent:** Tuesday, September 25, 2018 5:47 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Angela Green

**E-MAIL:** [birch.angie@yahoo.com](mailto:birch.angie@yahoo.com)

**COMPANY:**

**ADDRESS:** 462 BEAVER LN  
WACO TX 76705-4901

**PHONE:** 2542189850

**FAX:**

**COMMENTS:** I would like to request a contested case hearing on this permit. I am against this landfill for many reasons  
1. The traffic flow at that location is already terrible and the traffic accidents already are horrible 2. The environment for my life, family and my grandchildren we choose to live in a rural area away from all the huddle from the city life and the air quality that this landfill will have us hazardous to our health 3. Property that right next to a cemetery where loved ones go and visit their deceased families how disrespectful this is 4. The wildlife on this property please consider all of this before you allow this permit I can go and on to how the landfill can't go in our quite rural community

**Debbie Zachary**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, June 8, 2022 8:50 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

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**From:** Jasmin\_tx@hotmail.com <Jasmin\_tx@hotmail.com>  
**Sent:** Tuesday, June 7, 2022 2:51 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Jasmin Guillen

**EMAIL:** [Jasmin\\_tx@hotmail.com](mailto:Jasmin_tx@hotmail.com)

**COMPANY:**

**ADDRESS:** 2715 TORINO REALE AVE  
TEMPLE TX 76502-7995

**PHONE:** 2108570158

**FAX:**

**COMMENTS:** I request a contested case hearing. My family and I used all of our savings to buy a property off of TK pkwy. It's 217 acres and about mile from the proposed landfill. We started clearing some of the land and we are making plans to build our forever home on this property this year. We are extremely concerned about the air and water contaminants this facility can produce and the ways it will affect my kids and animals. We are also concerned about all the traffic this will bring to TK pkwy with all of the large trucks going in and out of the landfill. My kids will soon go to school and will

more than likely ride the school bus which is also a concern considering the amount of large trucks that will be around that area. Please add me to the mailing list.

MSW  
112581

**Debbie Zachary**

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**From:** PUBCOMMENT-OCC  
**Sent:** Tuesday, June 7, 2022 1:44 PM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Jasmin\_tx@hotmail.com <Jasmin\_tx@hotmail.com>  
**Sent:** Tuesday, June 7, 2022 1:41 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTITY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Jasmin Guillen

**EMAIL:** [Jasmin\\_tx@hotmail.com](mailto:Jasmin_tx@hotmail.com)

**COMPANY:**

**ADDRESS:** 2715 TORINO REALE AVE  
TEMPLE TX 76502-7995

**PHONE:** 2108570158

**FAX:**

**COMMENTS:** I request a contested case hearing. My family and I used all of our savings to buy a property off of TK pkwy. It's 217 acres and about mile from the proposed landfill. We started clearing some of the land and we are making plans to build our forever home on this property this year. We are extremely concerned about the air and water contaminants this facility can produce and the ways it will affect my kids and animals. We are also concerned about all the traffic this will bring to TK pkwy with all of the large trucks going in and out of the landfill. My kids will soon go to school and will

more than likely ride the school bus which is also a concern considering the amount of large trucks that will be around that area. Please add me to the mailing list.

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:25 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** lynmlj19@yahoo.com <lynmlj19@yahoo.com>  
**Sent:** Thursday, September 27, 2018 10:24 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MRS Mary Harris

**E-MAIL:** [lynmlj19@yahoo.com](mailto:lynmlj19@yahoo.com)

**COMPANY:**

**ADDRESS:** 882 LCR 116  
MOUNT CALM TX 76673-3546

**PHONE:** 2547090603

**FAX:**

**COMMENTS:** I request a contested case hearing. I bought my property just because it was in the Axtell School district and because it was in the country. I'm roughly 5 miles (by mostly backroads) from the proposed landfill site. I live in Limestone county - where most of this proposed site will be located. The traffic, the smell, the noise, the pollution of our water and air are some of the reasons I would like to contest this. There are so many beautiful trees that filter our county air on that land! We raise crop and cattle out there for processing. Some of those cattle go straight to HEB packing. This directly affects everyone that eats meat from HEB. Our crops and cattle should not have to drink from



contaminated water or eat the hay (that we grow) that was contaminated with trash. These farms and ranches are how a lot of us make our living. Waco is in McLennan county, but they are trying to dump their trash on us on the country side of Limestone county because they have more money and they don't want the trash in their backyard. I moved to the country 10+ years ago for the peace, quiet, county living, fresh air, home grown food, and safety for my children. Please don't let another county take that away from us. Thank you, Mary Harris 882 LCR 116 Mount Calm, TX 76673 2547090603 Requesting a contested case hearing for permit #2400 Waco Landfill on the corner of FM939 and HWY31

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 11:38 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Phillipkharris@yahoo.com <Phillipkharris@yahoo.com>  
**Sent:** Tuesday, September 25, 2018 3:03 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME CITY OF WACO LANDFILL**

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Phillip Kirk Harris

**E-MAIL:** [Phillipkharris@yahoo.com](mailto:Phillipkharris@yahoo.com)

**COMPANY:**

**ADDRESS:** 363 HOMER YOUNG LN  
AXTELL TX 76624-1306

**PHONE:** 2544054999

**FAX:**

**COMMENTS:** I oppose the City of Waco landfill . A landfill will ruin my property and it's value . This is a killer for our community. This is beautiful country and I purchased my property so I could live in peace , quiet and safety of country living . I'm requesting a public hearing on this awful proposal / permit . This landfill will be extremely dangerous for our citizens both young and old . We in this area drink water from wells and this will probably pollute our wells . This proposed property and site for the Waco landfill could be better used as a lake to furnish drinking water to our citizens instead pollution from the actual landfill to all of the truck traffic . There won't be anymore peaceful nights and days in

the country with the steady drone and noise of earth moving equipment through all hours of the day and night . This is a disaster in the making . It's as if through the dark of night with slight of hand this horrible thing has happened and dropped on the citizens of Axtell and neighboring communities.

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 2:25 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Vhaynes98@yahoo.com <Vhaynes98@yahoo.com>  
**Sent:** Tuesday, September 25, 2018 6:06 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Vickie Haynes

**E-MAIL:** [Vhaynes98@yahoo.com](mailto:Vhaynes98@yahoo.com)

**COMPANY:**

**ADDRESS:** 6969 HIGHWAY 84 W  
COOLIDGE TX 76635-3115

**PHONE:** 2547267882

**FAX:**

**COMMENTS:** I am against the city of Waco getting this permit. They have gone about securing this in a very deceitful way and the citizens of Limestone county do not want a landfill in our county. I request a public hearing with TCEQ on this matter.

*MW*

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 10:32 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Stacyannlee2000@yahoo.com <Stacyannlee2000@yahoo.com>  
**Sent:** Wednesday, September 26, 2018 3:22 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Stacy Howard

**E-MAIL:** [Stacyannlee2000@yahoo.com](mailto:Stacyannlee2000@yahoo.com)

**COMPANY:**

**ADDRESS:** PO BOX 186  
AXTELL TX 76624-0186

**PHONE:** 2546400535

**FAX:**

**COMMENTS:** Please schedule a public hearing on the permit request #2400 for the proposed landfill to be located on TK Parkway.

**Debbie Zachary**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Friday, June 10, 2022 8:57 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** 2022.06.09 Hearing Request w Attachment1.pdf

H

**From:** gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>  
**Sent:** Thursday, June 9, 2022 4:56 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME CITY OF WACO LANDFILL**

**RN NUMBER: RN110471307**

**PERMIT NUMBER: 2400**

**DOCKET NUMBER:**

**COUNTY: HILL, LIMESTONE, MCLENNAN**

**PRINCIPAL NAME: CITY OF WACO**

**CN NUMBER: CN600131940**

**FROM**

**NAME: Marisa Perales**

**EMAIL: [gwyneth@txenvirolaw.com](mailto:gwyneth@txenvirolaw.com)**

**COMPANY: Perales, Allmon & Ice, P.C.**

**ADDRESS: 1206 SAN ANTONIO ST  
AUSTIN TX 78701-1834**

**PHONE: 5124696000**

**FAX: 5124829346**

**COMMENTS: Please see the attached hearing request regarding the Application by the City of Waco for new Type I Municipal Solid Waste (MSW) Landfill, Proposed Permit No. 2400**

PERALES, ALLMON & ICE, P.C.  
ATTORNEYS AT LAW

1206 San Antonio Street  
Austin, Texas 78701  
(512) 469-6000 • (512) 482-9346 (facsimile)  
info@txenvirolaw.com

Of Counsel:  
David Frederick  
Richard Lowerre  
Brad Rockwell

June 9, 2022

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC 105  
P.O. Box 13087  
Austin, Texas 78701-3087

*Via TCEQ Online Comment Form*

**RE: Hearing Request regarding Application by the City of Waco for new Type I Municipal Solid Waste (MSW) Landfill, Proposed Permit No. 2400.**

Dear Ms. Gharis:

Save Axtell Families and the Environment (“SAFE”) and member of SAFE, Mr. James Trayler, request a contested case hearing regarding the Application by the City of Waco for new Type I Municipal Solid Waste (MSW) Landfill, Proposed Permit No. 2400. This hearing request is also being submitted on behalf of the McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District #1 (TCWCID#1).<sup>1</sup>

The Response to Comments issued by the Executive Director does not resolve the issues previously raised by SAFE, James Trayler, and TCWCID#1 (jointly, “Requestors”). Requestors may be contacted through my office at the address and telephone number indicated above.

**I. Save Axtell Families and the Environment (“SAFE”) is an “affected person.”**

SAFE is a 501(c)(4) non-profit organization whose goal is to protect the public health, quality of life, and the environment in Limestone, Hill, and McLennan counties. Members of SAFE include landowners adjacent to the site of the proposed landfill on TK Parkway and others who will be adversely affected by the proposed landfill project. To

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<sup>1</sup> TCWCID#1 already submitted a hearing request, dated June 6, 2022. This letter should be considered as a supplement to the hearing request dated June 6, 2022.

achieve its goals, SAFE has conducted community education and advocacy in and around the Axtell community in response to the proposed City of Waco Landfill. SAFE's position is consistent with residents in the area of the proposed landfill site.

## **II. James Trayler is an "Affected Person."**

One member of SAFE, Mr. James Trayler, owns 375 acres of land adjacent to the southeast boundary of the site of the proposed landfill. His is Property No. 5 on the adjacent landowners' map submitted in the application. Mr. Trayler's property includes a lake that he uses for kayaking and fishing. The floodplain on his property is connected to the floodplain on the site of the proposed landfill, and his property and his lake will be adversely affected by the proposed facility. Other members of SAFE will also be adversely affected by the landfill due to the impacts on endangered and threatened species, odors from landfill operations, noise and light, surface and groundwater, drainage patterns and floodplains, roads and traffic safety, and fire and emergency response.

## **III. TCWCID#1 is an "Affected Person."**

As explained in their public comments regarding the pending application, TCWCID#1 is a special utility district, with an easement on the 503-acre tract that is the site of the proposed landfill. TCWCID#1 will be adversely impacted by the proposed landfill, in that the landfill will inhibit its access to its easement, and its ability to effectively carry out its purposes, which include flood control and protection of water quality.

## **IV. SAFE, James Trayler, and TCWCID#1 request a contested case hearing.**

The Response to Comments issued by the Executive Director does not resolve the issues previously raised by Requestors in prior comments and hearing requests. Requestors maintain their request for a hearing on all issues raised in their prior comments and hearing requests, including, without limitation:



- (1) Whether the Applicant has demonstrated that the facility is a compatible land use;<sup>2</sup>
- (2) Whether issuance of the draft permit is consistent with applicable local ordinances;<sup>3</sup>
- (3) Whether the Applicant has provided an adequate floodplain delineation, and adequately addressed potential impacts of the proposed facility on flooding;<sup>4</sup>
- (4) Whether the Applicant has provided an adequate surface water drainage report;<sup>5</sup>
- (5) Whether the Applicant has demonstrated that the proposed facility is protective of surface water;<sup>6</sup>
- (6) Whether the Applicant has the requisite property interests to operate a landfill at the proposed site, and whether it has the requisite legal authority to limit access to the TCWCID easement;<sup>7</sup>
- (7) Whether the proposed landfill will cause adverse impacts on the downstream reservoir, Site 19;<sup>8</sup>
- (8) Whether the Applicant has demonstrated that the landfill is protective of groundwater;<sup>9</sup>
- (9) Whether the Applicant has demonstrated that the facility includes an adequate groundwater monitoring system;<sup>10</sup>
- (10) Whether the Applicant has performed an adequate subsurface investigation and characterization;

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<sup>2</sup> James Trayler October 11, 2018 Hearing Request at p. 2; SAFE Nov. 29, 2021 Comments at pp. 4-5.

<sup>3</sup> James Trayler October 11, 2018 Hearing Request at p. 5; SAFE Nov. 29, 2021 Comments at pp. 2-3.

<sup>4</sup> James Trayler October 11, 2018 Hearing Request at p. 3 – 4; SAFE Nov. 29, 2021 Comments at pp. 6-8.

<sup>5</sup> James Trayler October 11, 2018 Hearing Request at p. 3; SAFE Nov. 29, 2021 Comments at pp. 5-6; TCWCID#1 comments dated August 5, 2019 & September 27, 2019.

<sup>6</sup> James Trayler October 11, 2018 Hearing Request at p. 4; SAFE Nov. 29, 2021 Comments at pp. 5-6; TCWCID#1 Comments dated August 5, 2019 & September 27, 2019.

<sup>7</sup> TCWCID#1 Comments dated August 5, 2019 & September 27, 2019, January 5, 2022, & Hearing Request dated June 6, 2022.

<sup>8</sup> TCWCID#1 Comments dated August 5, 2019 & September 27, 2019, January 5, 2022, & Hearing Request dated June 6, 2022.

<sup>9</sup> James Trayler October 11, 2018 Hearing Request at p. 2; SAFE Nov. 29, 2021 Comments at pp. 5-6; TCWCID#1 Comments dated August 5, 2019 & September 27, 2019, January 5, 2022, & Hearing Request dated June 6, 2022.

<sup>10</sup> James Trayler October 11, 2018 Hearing Request at p. 2; SAFE Nov. 29, 2021 Comments at pp. 5-6.

- (11) Whether the Applicant accurately characterized the groundwater at the site, including the uppermost aquifer, and the seasonal high water level;<sup>11</sup>
- (12) Whether the Applicant has demonstrated the availability of sufficient and adequate soils for construction of the liner, cover materials, etc.;<sup>12</sup>
- (13) Whether the Application includes a sufficient landfill gas management plan;<sup>13</sup>
- (14) Whether the proposed facility will create unacceptable odor and nuisance conditions;<sup>14</sup>
- (15) Whether the roads used to access the facility are adequate and available;<sup>15</sup>
- (16) Whether the Applicant has demonstrated that the design and operation of the facility includes sufficient measures for erosion control and prevention;<sup>16</sup>
- (17) Whether the design and operation of the landfill liner meet all applicable requirements;<sup>17</sup>
- (18) Whether the geotechnical design of the landfill is adequate, including adequate long-term slope stability;<sup>18</sup>
- (19) Whether the design and operation of the landfill would adversely affect the environment, including wildlife;<sup>19</sup>
- (20) Whether the design and operation of the landfill would adversely affect wetlands;<sup>20</sup>
- (21) Whether the Applicant has adequately addressed endangered and threatened species, as required by TCEQ rules;<sup>21</sup>
- (22) Whether the Applicant has proposed an adequate Site Operating Plan;<sup>22</sup>

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<sup>11</sup> SAFE Nov. 29, 2021 Comments at pp. 5-6

<sup>12</sup> SAFE Nov. 29, 2021 Comments at p. 6.

<sup>13</sup> James Trayler October 11, 2018 Hearing Request at p. 2.

<sup>14</sup> SAFE Nov. 29, 2021 Comments at pp. 2-3.

<sup>15</sup> James Trayler October 11, 2018 Hearing Request at p. 1; SAFE Nov. 29, 2021 Comments at pp. 3-4.

<sup>16</sup> James Trayler October 11, 2018 Hearing Request at p. 3.

<sup>17</sup> James Trayler October 11, 2018 Hearing Request at p. 2; SAFE Nov. 29, 2021 Comments at p. 10.

<sup>18</sup> SAFE Nov. 29, 2021 Comments at p. 10.

<sup>19</sup> James Trayler October 11, 2018 Hearing Request at p. 2.

<sup>20</sup> SAFE Nov. 29, 2021 Comments at p. 8.

<sup>21</sup> SAFE Nov. 29, 2021 Comments at pp. 8 -9.

<sup>22</sup> SAFE Nov. 29, 2021 Comments at pp. 9 – 10.

(23) Whether the Applicant has demonstrated evidence of competency, as required by TCEQ rules.<sup>23</sup>

In addition to the issues described above, the public input process has been inadequate, and has denied the impacted public meaningful opportunities to express their concerns regarding the application. Two public meetings were convened regarding this application or portions of this application. The first public meeting was convened after the City had submitted only Parts I and II of the permit application. The City, however, elected to forego the bifurcated application process and later submitted a full permit application.

Before the application was declared technically complete, and before the draft permit was issued, TCEQ convened a public meeting regarding the application, as it was still undergoing technical review and as it was still being revised by the City. In fact, the City revised its application several more times, after the second public meeting was held, in September 2021. This public meeting was convened virtually, and the process inhibited, rather than facilitated, meaningful public participation. The area of the proposed landfill is not in Waco; it is in a small, rural community, where internet access is not always reliable. And many residents expressed frustration regarding their ability to access and meaningfully participate in the public meeting.

Consequently, State Representative Kacal requested another public meeting—to be held after the Executive Director completed his review of the permit application. But the Executive Director denied this request.

Later, after the Executive Director completed his technical review of the application, the City *amended* its application, providing new information to the Executive Director after the draft permit had been issued and the application had been declared technically complete. Nevertheless, the Executive Director did not undertake the normal application amendment process. *See* 30 Tex. Admin. Code § 281.23. No new notice was provided; no additional opportunity to submit public comments was provided.

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<sup>23</sup> James Trayler October 11, 2018 Hearing Request at pp. 7 - 8.

Representative Kacal again requested another public meeting, in light of this application amendment, but that request was once again denied.

This is a departure from the manner in which TCEQ has processed other permit application. See, for instance, the attached excerpt from the Executive Director's Response to Public Comments regarding the Application by Rancho Viejo Waste Management, LLC for a new municipal solid waste landfill permit, which describes the various public meetings and opportunities afforded the public to submit comments, particularly after Rancho Viejo's application was amended.

For this reason, the hearing requestors submit that another issue that should be referred to SOAH is whether the proper procedure was followed when the Executive Director conducted his review of the application, including the City's application amendment after the application was declared technically complete, and whether the Executive Director arbitrarily limited the opportunities for meaningful public input regarding this permit application.

#### V. Conclusion

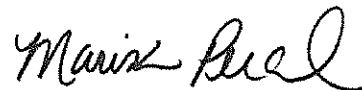
For the above reasons, Requestors respectfully request a contested case hearing with regard to the issues raised in this hearing request and previous comments submitted by Requestors.

Respectfully submitted,



---

Lauren Ice



---

Marisa Perales

**PERALES, ALLMON & ICE, P.C.**

1206 San Antonio

Austin, Texas 78701

512-469-6000 (t)

512-482-9346 (f)

[lauren@txenvirolaw.com](mailto:lauren@txenvirolaw.com)

[marisa@txenvirolaw.com](mailto:marisa@txenvirolaw.com)

*Attorneys for SAFE, James Trayler,  
& TCWCID#1*

SOAH DOCKET NO. 582-18-3319  
TCEQ DOCKET NO. 2013-1506-MSW  
TCEQ PERMIT NO. 2374

APPLICATION BY RANCHO VIEJO	§	BEFORE THE
WASTE MANAGEMENT, LLC	§	TEXAS COMMISSION ON
FOR MSW PERMIT NO. 2374	§	ENVIRONMENTAL QUALITY

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**Executive Director's Response to Public Comment**

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) received on the application by Rancho Viejo Waste Management, LLC (Applicant), for a new Municipal Solid Waste (MSW) facility, Permit Number 2374, and on the Executive Director's preliminary decision. As required by Title 30, Texas Administrative Code (TAC), Section 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received timely written comments, as well as oral comments at the public meetings, held on February 28, 2013, August 11, 2016, and May 1, 2018. This Response includes a list of all written and oral commenters in **Attachment A**.

The Commission received many written comments, including three form comments, raising concerns regarding the floodplain, health impacts, and emergency response for the proposed facility. This Response refers to these form comments as Group 1 (floodplain), Group 2 (health impacts), and Group 3 (emergency response). The relevant responses to these comments can be found in Response 7 (Floodplains), Response 21 (Health and Environmental Concerns), and Response 45 (Site Operating Plan).

This response addresses all timely public comments received, whether or not withdrawn. If you would like to receive a hard copy of this RTC, please contact the Office of the Chief Clerk (OCC), at 512-239-3300. If you need more information about this permit application or the municipal solid waste permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

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## I. Background

### A. Description of Facility

Rancho Viejo Waste Management, LLC has applied to the TCEQ for a new MSW permit to construct and operate the Pescadito Environmental Resource Center, which would include a new Type I MSW landfill, a Type V Grease and Grit Trap waste processing facility, and a recycling facility. The facility is proposed to be located approximately five miles southeast of U.S. Highway 59 at Ranchitos Las Lomas, Laredo, Webb County, Texas. The total permitted area would include 952.89 acres of land, of which approximately 72.33 acres would be used for waste disposal. The final elevation of the landfill final cover material would be 705 feet above mean sea level (MSL). The site would be authorized to accept municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities. This would include garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, abandoned automobiles, construction-demolition waste, and yard waste. The facility would also be authorized to accept industrial waste, including Class 1, Class 2, Class 3 non-hazardous industrial solid waste, and special wastes in accordance with 30 TAC § 330.171. Non-hazardous liquid from municipal and industrial sources will be solidified prior to disposal. Waste would be accepted at an anticipated initial rate of approximately 2,740 tons per day and may increase to a maximum of 10,000 tons per day. The acceptance of Class 1 non-hazardous industrial solid waste would be limited to no more than 20% of the total amount of waste (not including Class 1 wastes) accepted during the current or previous year. The Type V Grease and Grit Trap waste processing facility will have a permitted maximum daily acceptance rate of 50,000 gallons.

### B. Procedural Background

Parts I and II of the Application were received by the TCEQ on April 15, 2011, and declared administratively complete on June 1, 2011. The Notice of Receipt of Application and Intent to Obtain a Permit (NORI) was published in the *Laredo Morning Times* on June 29, 2011, and in Spanish in *El Mañana* on June 29, 2011. The Executive Director completed the technical review of Parts I and II of the Application on July 2, 2012, and prepared a draft compatibility determination order. The Notice of Public Meeting was published in the *Laredo Morning Times* on February 9, 2013, February 14,

2013, and February 21, 2013. A public meeting was held on February 28, 2013, at Texas A&M International University Student Center, located at 5201 University Drive, Laredo, Texas 78041. The Notice of Application and Preliminary Decision (NAPD) was published in the *Laredo Morning Times* on March 30, 2013, and in Spanish in *El Mañana* on February 25, 2013. The comment period ended on April 29, 2013. The Executive Director issued a response to public comment on Parts I and II of the Application on June 28, 2013. On October 8, 2013, the Commission granted the hearing requests filed by ANB Cattle Company, Ltd., Lilia G. Cavazos-Keller, Rosemary Jordan Contreras, John A. Meitzen, Hurd Enterprises Ltd., James Volz, Mary L. Wied, and Robert F. Wied, and referred James Robert Jordan for an affectedness determination at SOAH. On April 2, 2014, SOAH remanded the Application back to the Executive Director of TCEQ to process an application amendment. The Applicant submitted a minor amendment application on June 17, 2014, to remove property from the proposed permit boundary.

On March 9, 2015, the Applicant submitted a major amendment to add Parts III and IV to the permit Application. As a result of the major amendment, the TCEQ consolidated the review and processing of Parts I through IV of the Application and issued a NORI on May 7, 2015 and a NAPD on March 22, 2016. The Executive Director held a second public meeting on August 11, 2016, in Laredo, Texas. Notice of the second public meeting was published in the *Laredo Morning Times* on July 10, 2016, July 17, 2016, and July 24, 2016, and in Spanish in *El Mañana* on July 10, 2016, July 17, 2016, and July 24, 2016.

The Application was subsequently amended on August 18, 2017 to reduce the waste footprint from 660 acres to 72.33 acres. A NAPD was published in the *Laredo Morning Times* on February 11, 2018 and in Spanish in *El Mañana* on February 14, 2018. The Executive Director held a third public meeting on May 1, 2018, in Laredo, Texas. Notice of the third public meeting was published in the *Laredo Morning Times* on April 13, 2018, April 20, 2018, and April 27, 2018, and in Spanish in *El Mañana* on April 13, 2018, April 20, 2018, and April 27, 2018. The comment period for this Application was extended an additional 30 days after the end of the third public meeting and closed on May 31, 2018.

On February 16, 2018, the Applicant filed a request for a direct referral of the Application to the State Office of Administrative Hearings (SOAH). Therefore, the

Office of the Chief Clerk referred this application directly to SOAH for a hearing on whether the application complies with all applicable statutory and regulatory requirements. A notice of hearing was published in the *Laredo Morning Times* on June 2, 2018, and in Spanish in *El Mañana* on June 7, 2018, notifying the public that SOAH would conduct a preliminary hearing on July 18, 2018. SOAH held a preliminary hearing on July 18, 2018 in Laredo, Texas, and the following people were named as parties: Hurd Enterprises, Ltd. and Hurd Ranch Company, Ltd; ANB Cattle Company, Ltd; Stop Pescadito Industrial Landfill League, Inc. (SPILL); Webb County; Rosemary Jordan Contreras, Anna Jordan Dodier, James Robert Jordan, Richard Jerome Jordan, and Sharyn Jordan (The Jordan Group); JEV Family, Ltd; and JOB Homestead Partners, Ltd.

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.

### ***C. Access to Rules, Laws, and Records***

Please consult the following websites to access the rules and regulations applicable to this permit:

- to access the Secretary of State website: [www.sos.state.tx.us](http://www.sos.state.tx.us);
- for TCEQ rules in Title 30 of the Texas Administrative Code: [www.sos.texas.gov/tac/](http://www.sos.texas.gov/tac/) (select "View the current Texas Administrative Code" on the right, then "Title 30 Environmental Quality");
- for Texas statutes: [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us);
- to access the TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (to download rules in Adobe PDF format, select "Rules and Rulemaking" on the left side of the page, then "Download TCEQ Rules");
- for Federal rules in Title 40 of the Code of Federal Regulations (CFR): [www.epa.gov/lawsregs/regulations/](http://www.epa.gov/lawsregs/regulations/) (to view rules, select "Where can I see the text of the actual regulations?"); and
- for Federal environmental laws: [www.epa.gov/lawsregs/index.html](http://www.epa.gov/lawsregs/index.html) (to view rules, select "Where can I see the text of the actual regulations?").

TCEQ records for the facility are available for viewing and copying at the TCEQ Central Office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records),

and at the TCEQ Region 16 Office in Laredo at 707 E. Calton Road, Suite 304, Laredo, Texas 78041-388. The technically complete Application is also available for review and copying at the Laredo Public Library, 1120 East Calton Road, Laredo, Webb County, Texas 78041. A courtesy copy of the application is also available online at <https://pescaditoerc.com/>.

## **II. Comments and Responses**

The comments have been grouped under the following topics for response.

### **A. SITING**

- Access Roads
- Traffic
- Easements
- Airport Safety
- Land Use Compatibility and Growth Trends
- Potential Historical Significance
- Floodplains
- Wetlands
- County Ordinance
- Abandoned Oil and Water Well Certification

### **B. GEOLOGY AND HYDROGEOLOGY**

- Site Geology and Hydrogeologic Setting
- Impact on Groundwater
- Groundwater Monitoring
- Groundwater Sampling and Analysis Plan
- Groundwater Quality

### **C. OPERATIONS**

- Odor Control
- Dust Control
- Vectors
- Endangered and Threatened Species
- Vegetation, Wildlife, Domestic Animals, Birds, and Scavengers
- Health and Environmental Concerns
- Surface Water Drainage, Storm Water Run-On and Run-Off

Water Pollution and Contaminated Water  
Air Quality and Pollution  
Liner and Leachate Collection System  
Buffer Zones  
Oil & Gas Waste, Class 1 Industrial Non-Hazardous Waste, and Hazardous  
Waste  
Out-of-State and Foreign Wastes  
Waste Acceptance Plan  
Coal Combustion Residuals  
Size, Shape, and Height  
Daily Cover  
Nuisances from Grease and Grit Trap Waste  
Competency  
General Prohibitions  
Noise  
Windblown Trash, Roadside Trash, and Debris  
Financial Assurance and Feasibility  
Life of the Facility and Term of Permit  
Landfill Gas Management Plan  
Waste Management Unit Design  
Access Control  
Site Development Plan  
Facility Design  
Site Operating Plan  
Closure and Post-Closure

#### D. NOTICE AND PUBLIC PARTICIPATION

Notice  
Elected Officials  
Time and Opportunity for Public Participation  
Public Meeting  
Contested Case Hearing

E. PROPERTY RIGHTS

Mineral Rights

Property Ownership

F. OTHER

Inadequate maps

Dated Maps and Figures with Non-Current Information

General Location Maps

Facility Layout Maps

Economic Impact and Property Values

Quality of Life

Tax Increase for Road Improvement

Demand for Proposed Landfill

Application Review

Regional Waste Management Plans

Potential Permit Transfer

Landfill Classification

Recycling Technology

RCRA

Environmental Justice

Future Expansion

Application Processing Time

Injection Well

Engineering Seal

Spills

G. OPPOSITION

General Opposition

County Opposition

H. SUPPORT

Support of the Application



**Lori Rowe**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Tuesday, November 30, 2021 9:08 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400  
**Attachments:** 2021.11.29 SAFE Comments on City of Waco Proposed Permit 2400.pdf

H

**From:** christa@txenvirolaw.com <christa@txenvirolaw.com>  
**Sent:** Monday, November 29, 2021 4:55 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Lauren Ice

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**COMMENTS:** Please see the attached comments.

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November 29, 2021

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC 105  
P.O. Box 13087  
Austin, Texas 78701-3087

*Via TCEQ Online Comment Form*

**RE: Comment and Hearing Request regarding Application by the City of Waco for a new Type I Municipal Solid Waste (MSW) Landfill Proposed Permit No. 2400.**

Dear Ms. Gharis:

**I. Introduction and Interests of SAFE**

This firm represents Save Axtell Families and the Environment (“SAFE”). SAFE is a non-profit organization whose membership includes members who possess justiciable interests that will be impacted by the proposed landfill in a manner not shared by the general public, including landowners adjacent to and within one mile of the site of the proposed City of Waco landfill referenced above. This letter serves as the comments and request for a contested case hearing, on behalf of SAFE, with regard to the application of the City of Waco (“Waco” or “Applicant”) for a new Type I Municipal Solid Waste Landfill Proposed Permit No. 2400 (the “Application”). These comments supplement the written and oral comments previously submitted by my firm and by members of SAFE.

SAFE is a non-profit organization whose goal is to protect the public health, quality of life, and the environment in Limestone, Hill, and McLennan counties. Members of SAFE include landowners adjacent to the site of the proposed landfill on TK Parkway and others who will be adversely affected by the proposed landfill project. To achieve its goals, SAFE has conducted community education and advocacy in and around

the Axtell community in response to the proposed City of Waco Landfill. SAFE's position is consistent with residents in the area of the proposed landfill site. For the reasons identified below, Waco's application should be denied. SAFE requests a contested case hearing with regard to the Application if the Executive Director does not decide to deny the Application.

**II. The application was not properly submitted and processed in accordance with TCEQ rules and governing statutes.**

The City of Waco Landfill is a proposed Type I Municipal Solid Waste Management Facility to be located on a 502-acre property in McLennan and Limestone Counties, at 4730 TK Parkway, near U.S. Highway 31 and Axtell, Texas.

The Applicant first submitted its Application as a land-use only application, submitting Parts I and II only on August 7, 2018 (received August 8, 2018), with revisions to Parts I and II submitted on January 8, 2019 and March 7, 2019. In its August 7, 2018 Application, the Applicant acknowledged that the application, consisting of only Parts I and II, were being submitted "in support of a separate determination regarding land use compatibility, as provided for in Health & Safety Code, Section 361.069 and 30 TAC §330.57(a)." The NORI was issued on September 14, 2018.

After receiving one Administrative NOD and two Technical NODs (dated November 19, 2018 and February 14, 2019), in May 2020, the Applicant abandoned the bifurcated process seeking a separate determination regarding land use compatibility, and submitted Parts III and IV (received by TCEQ on May 29, 2020). The Applicant received an Administrative NOD on June 12, 2020, and the NORI was issued on June 30, 2020. The Applicant then received three technical NODs (dated August 19, 2020; November 9, 2020; and January 21, 2021), all of which, identified deficiencies in Part II of the Application, which indicates that no land use compatibility determination was reached before the Applicant abandoned the bifurcated process. Accordingly, the Applicant should have been required to re-start the application process when it submitted its new application.

Had Waco followed the permit application process prescribed by TCEQ rules, it would have had to acknowledge that a landfill siting ordinance exists—and has existed since the date of the submission of its landfill permit application. And that ordinance prohibits the siting of Waco’s proposed landfill at the site proposed in the application. Waco cannot avoid the applicability and effect of the ordinance by disingenuously claiming to pursue a bifurcated process, beginning with a land use compatibility determination, only to abandon that process and submit a new landfill permit application. Once Waco chose to abandon the bifurcated process and submit a new landfill permit application, the TCEQ application process should have restarted, and any landfill siting ordinance that existed before the landfill permit application was submitted to TCEQ must be acknowledged and identified in the landfill permit application. This Waco failed to do.

This failure to acknowledge and identify the existing county siting ordinance not only renders the application incomplete and inaccurate, but it also renders the land use compatibility analysis deficient.

Waco’s deliberate efforts to bypass the usual, established regulatory procedures for processing a landfill permit application have resulted in numerous NOD letters and informal requests for additional information by TCEQ staff, and countless revisions and supplements to the application materials by Waco—over a period of more than 3 years. Allowing a landfill permit applicant, such as Waco, to submit its application in a piecemeal fashion, and allowing the applicant unlimited and untimely revisions to its application, over such a lengthy period of time, is not only contrary to the intent of TCEQ’s rules, but it is also unfair to the public.

**III. The Applicant has not adequately addressed traffic and transportation concerns.**

The Applicant has failed to show that nearby roadways are adequate to accommodate the traffic associated with the facility. The traffic created by the Proposed Facility is not compatible with the surrounding land use of the area, and as such, will adversely impact human health and the environment.

The proposed City of Waco Landfill would be located on TK Parkway (FM 939), near the intersection of SH 31. TK Parkway is a two-lane asphalt road. As the Application acknowledges, the 2016 Waco District Traffic Map indicates TK Parkway traffic counts near the proposed entrance were 607 vehicles per day. The proposed Landfill would generate 884 vehicle trips per day on TK Parkway, and 1,358 trips per day over the life of the landfill. Not only would the traffic count increase by 141 to 223 percent, but the vehicles would include heavy collection and transfer trucks, as well as other commercial traffic.

This TK Parkway/SH 31 intersection is already dangerous and the site of numerous traffic accidents, including fatal accidents in recent years. TK Parkway and the road network in the immediate vicinity of the landfill are also traveled by Axtell ISD school buses. Though the Applicant proposes improvements to this intersection and to TK Parkway near the Landfill entrance, including turning lanes and eight-foot shoulders, the Applicant has not demonstrated that these improvements alone would protect the safety of drivers and school children

#### **IV. Land Use Compatibility**

The TCEQ has the discretion to make its own land-use compatibility determination. Tex. Health & Safety Code § 361.069; 30 Tex. Admin. Code § 330.61(h). Indeed, a land use compatibility evaluation is required under TCEQ's rules. 30 Tex. Admin. Code § 330.61(h). This land use-compatibility determination allows for consideration of a broad array of issues related to the public interest. 30 Tex. Admin. Code § 330.61(h).

The basic analysis that was submitted in the application reveals that the proposed facility is not compatible with surrounding land uses, including residential, agricultural, and other rural land uses. Odors and nuisance conditions will interfere with normal use and enjoyment of the surrounding properties and homes. The proposed height of the landfill is incompatible with the surrounding area.

The number and routing of trucks is incompatible with current conditions in the area, particularly with school bus routes. This is a concern that has been expressed by the local school district.

Further, the land use compatibility analysis included in the application materials acknowledges that there are approximately 184 acres of water bodies within one mile of the permit boundary, including two SCS reservoirs. Elsewhere in the application materials, floodplains are identified within the permit boundary. Yet, the land use compatibility analysis fails to evaluate or analyze the impacts of siting a landfill in close proximity to so many water bodies, and it fails to analyze the compatibility of siting and designing a landfill such that it is bisected by a floodplain, and is accessible via an access road that crosses a floodplain and creek. The land use compatibility analysis simply fails to analyze the compatibility of the proposed landfill with these surrounding land uses and land characteristics—characteristics that impact the public health and welfare.

Given the large number of comments regarding the Application, Limestone County's landfill siting ordinance, and the almost universal local opposition to the proposed facility, it is incumbent on the ED and the Commission to conduct a thorough land use compatibility evaluation, including all factors related to the public interest. A thorough evaluation of land use compatibility concerns would reveal that the proposed facility is not compatible with surrounding land uses, in part because of the inadequate roads and floodplains in the area, and the potential of this Landfill to adversely impact neighboring property owners whose property is downstream or accessible only by the same inadequate roads that the Landfill trucks will traverse.

#### **V. Subsurface Issues**

The subsurface investigation and characterization performed by Waco is deficient, and as a result Waco has not accurately characterized the subsurface at the site. Furthermore, Waco has not accurately characterized the potential presence of groundwater at the site, nor the hydrology of groundwater at the site. As a result, the facility will pose a danger to groundwater that Waco has not adequately addressed.

Waco did not drill an adequate number of borings for a site of this size, particularly considering the unusual design of the proposed landfill. Relatedly, the borings are not at suitable locations and depths for the evaluation of the geology and groundwater, given the conditions at this site and the importance of the groundwater monitoring system to protect groundwater under the site. For instance, while Waco drilled a number of borings on the site, only about 5 were drilled in the western waste disposal footprint.

Further, Waco has failed to define the uppermost aquifer underlying the proposed site and has not adequately demonstrated how it will prevent groundwater contamination. Waco also failed to reliably identify the seasonal high water level, as required by TCEQ rules.

In addition, the application does not contain comprehensive and accurate information regarding fractures and groundwater levels and movement underneath the site. Nor does it adequately describe the vertical and horizontal flow characteristics of the groundwater or of the leachate that will likely leak from the landfill. The characterization of soils is inadequate and inaccurate. The geologic report including the stratigraphic column are inadequate and unreliable. And the application does not properly evaluate the availability of water and soils at the site for construction of liners, cover materials, etc.

## **VI. Floodplains & Surface Water Drainage**

The proposed landfill presents a highly unusual design: it is bisected by a floodplain into two separate footprints. The floodplain delineation, reflected in the figures in the City's application, is based on a FEMA FIRM map that designates the floodplain as "Zone A," meaning that a full hydraulic and hydrologic analysis has not been undertaken to confirm the limits of the floodplain. The floodplain boundary is likely based on historical data, but not a true H and H analysis.

While the City has now included in its application modeling for a 100-year water surface, the City has not submitted a CLOMR (Conditional Letter of Map Revision) or a LOMR (Letter of Map Revision) to FEMA, requesting a revision of the mapped 100-year floodplain.

In any event, TCEQ Rule 330.63(c)(2)(B) requires certain specific information if a “site” is located within a 100-year floodplain, including cross-sections or elevations of landfill levees shown tied into contours. Waco has not supplied the required information even though its “site” is located within a 100-year floodplain. Nor has Waco explained, in sufficient detail, how it will avoid any “solid waste disposal operations” in areas located in 100-year floodplains. *See* 30 Tex. Admin. Code § 330.547.

The impacts of the proposed project include impacts to a floodwater retention lake. The lake is a USDA site. McLennan County, the NRCS, and a Texas Special Utility District, the McLennan and Hill Counties Tehuacana Creek Water Improvement District (TCWID), are co-sponsors of the site. The TCWID, NRCS, and McLennan County, have had no voice or role in the location, application process, or monitoring issues of the proposed landfill, as noted by the TCWID Manager, Dr. Larry Lehr, in comments submitted to TCEQ. Dr. Lehr explained that the “City of Waco application introduces issues related to third party activity impacting infrastructure funded by taxes from a special utility district; a federal floodwater retention facility potentially impacted from third party infrastructure; water quality; and habitat for bald eagles.” Dr. Lehr further pointed out: “There are also hydrological considerations that have not been mentioned or resolved, including a baseline water quality assessment, ongoing water quality evaluation, remediation plans in the event of contamination, the impact on storage, and the responsible parties in the event of overtopping related to reduction of the lake volume from additional deposition, and the potential need for infrastructure improvement that is funded by tax payers who do not benefit from the landfill.”

As reflected by Dr. Lehr’s comments, the landfill project is likely to impact floodwater retention and water quality. Yet, there has been no coordination with the entities that are responsible for the floodwater retention facility. And the City has provided scant data to suggest that it has conducted a thorough evaluation of the impacts to the floodwater retention facility including dam safety, the floodplains, the streams, or the easement on the proposed landfill site.



Considering the extent of floodplains on the site, it is also worth re-evaluating whether the proposed project will impact wetlands onsite. A thorough evaluation of existing wetlands on the site of the proposed project is necessary to determine whether Waco has accurately evaluated impacts to wetlands.

Construction and operation of the proposed facility has the potential to significantly impact drainage patterns in the area, as well. Waco has not made an adequate demonstration that construction and operation of the proposed facility will not significantly and adversely alter natural drainage patterns in the area, particularly at the boundaries of the proposed facility; nor has Waco demonstrated that surface water quality will be protected.

In addition, the designs for the channels and ponds are not adequate. Drainage controls have not been designed to assure historic levels of runoff and to protect surrounding properties. The changes to the drainage patterns will result in damage to property off-site including increased erosion and could impact the nearby reservoirs and floodplains.

There are also inadequate controls to prevent contamination of storm water by wastes, leachate, or spills of materials at the landfill.

## **VII. Endangered & Threatened Species**

In addition, based on the information included in the City's application to TCEQ, the City has failed to conduct a meaningful and thorough assessment of impacts to endangered and threatened species. According to the report included in the application, the City's consultant conducted only one site reconnaissance, and that was in December 2017. December is not the appropriate time to search for sitings of the Texas Horned Lizard or the Indigo Snake. Moreover, area residents report that the Bald Eagle is known to have habitat in the area of the proposed landfill site. Yet, the City has conducted no real evaluation of potential impacts to this habitat, as a result of its proposed landfill.

In addition, the endangered and threatened species "management plan" included in the application is deficient, consisting of little useful information. This is not a real plan.

It does not address the expected impacts to the habitat of endangered and threatened species known to be present in the area of the proposed landfill site.

**VIII. The Applicant cannot show a need for the Landfill and is bypassing local authority.**

The proposed City of Waco Landfill is proposed predominantly in neighboring Limestone County, in a location approximately 19 miles from the City of Waco itself. Despite this location, and despite the City having identified potential sites on City-owned land adjacent to its existing landfill, the City did not consult with Limestone County officials prior to selecting this site.

On September 20, 2018, Limestone County approved a landfill siting ordinance that would prohibit the disposal of municipal solid waste in certain areas of Limestone County. With this ordinance, the County determined that a landfill would be inappropriate in this location. As previously discussed, the Applicant voluntarily abandoned the bifurcated process when it submitted Parts III and IV without first obtaining its land use compatibility determination. The Application should be required to begin its application again, at which the siting ordinance would prohibit a landfill at this proposed location.

Furthermore, both Limestone and Hill Counties each have a landfill that serves the local population and surrounding counties, and both of these landfills have more than 100 years of life remaining. Given the existing capacity in the region, the Applicant has not shown a need for the proposed Landfill.

**IX. Access and windblown will not be adequately controlled with a perimeter fence.**

The Applicant does not propose to completely encompass the Landfill site with a perimeter fence, because of the presence of Horse Creek and Reservoir 19. This limitation is one of the Applicant's own making, since the Applicant selection of the site as one with substantial water features and floodplains was improper. The Applicant's proposed Site Operating Plan regarding access control and collection of windblown waste is deficient because it does not adequately account for the large areas of surface water.

**X. The SOP fails to prevent unacceptable odors, scavengers, or other nuisances.**

The Applicant's SOP does not prevent or minimize odors, especially considering that the TCEQ has received numerous complaints regarding odors coming from the City of Waco current landfill. The SOP does not prevent or minimize windblown waste, nor does the SOP provide for adequate control of animal or human scavenging, or provide for adequate procedures to prevent and control of vectors in the vicinity of the site. Other aspects of the Applicant's SOP aimed at preventing nuisances and protecting public health are also inadequate.

**XI. Inadequate liner design and inadequate structural components**

The applicant has failed to provide for an adequate liner given the site selected and the geology underlying the site and the shallow groundwater that exists beneath the site. The underdrain system and ballast evaluation report are inadequate to address the risks and issues related to excavating into shallow groundwater.

In addition, a review of the landfill application materials reveals that the slope stability analysis is inadequate. 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.

**XII. Conclusion.**

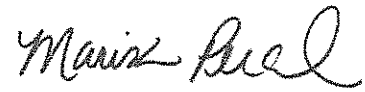
For the above reasons, SAFE respectfully request that the Application be denied. If not denied, SAFE requests a contested case hearing with regard to the issues raised in these comments and hearing request. We reserve the right to supplement these comments.

Respectfully submitted,



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Lauren Ice



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Marisa Perales

**PERALES, ALLMON & ICE, P.C.**

1206 San Antonio

Austin, Texas 78701

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[marisa@txenvirolaw.com](mailto:marisa@txenvirolaw.com)

*Attorneys for SAFE*

TCEQ Public Meeting Form  
August 15, 2019

The City of Waco  
Municipal Solid Waste Permit  
Proposed Permit No. 2400

PLEASE PRINT

Name: LAUREN ICE, FREDERICK PERALES, ALMON, + ROCKWELL  
ON BEHALF OF SAFE

Mailing Address: 1206 SAN ANTONIO ST., AUSTIN, TX 78702

Physical Address (if different): \_\_\_\_\_

City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

Email: lauren@lf-lawfirm.com

Phone Number: 512-469-6000

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? \_\_\_\_\_

Please add me to the mailing list.

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

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

(Written comments may be submitted at any time during the meeting)  
Please give this form to the person at the information table. Thank you.

MW

26

TCEQ Public Meeting Form  
August 15, 2019

The City of Waco  
Municipal Solid Waste Permit  
Proposed Permit No. 2400

PLEASE PRINT

Name: Marisa Perales

Mailing Address: 1206 San Antonio St.

Physical Address (if different): \_\_\_\_\_

City/State: Austin, TX Zip: 78701

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

Email: marisa@lf-lawfirm.com

Phone Number: 512-469-6000

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Save Axtell Families and Environment (SAFE)

Please add me to the mailing list.

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

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

(Written comments may be submitted at any time during the meeting)  
Please give this form to the person at the information table. Thank you.

mc

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Friday, September 28, 2018 8:30 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** suzerain@windstream.net <suzerain@windstream.net>  
**Sent:** Friday, September 28, 2018 7:09 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME:** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Suzanne C Johnson

**E-MAIL:** [suzerain@windstream.net](mailto:suzerain@windstream.net)

**COMPANY:**

**ADDRESS:** 202 N 2ND ST E  
MOUNT CALM TX 76673-3094

**PHONE:** 2542303239

**FAX:**

**COMMENTS:** Please request a public hearing on this permit application. The permit and proposed plan for a landfill greatly concerns me. I take issue with the impact this landfill will have on the surrounding land, communities, and traffic. I travel Hwy 31 daily and have personally witnessed many crashes at the intersection of Hwy 31 and TK Pkwy. Its already a very dangerous intersection, but this proposed landfill and the traffic it will bring will increase the danger exponentially. The intersection is bounded by hills on either side. 400 slow moving trash trucks or other vehicles with trailers entering the intersection many many times a day will prove to be deadly. I'm also concerned with the distance

*cm*

each of these trash trucks will have to travel to this remote landfill. If you've ever been behind a trailer or truck going to a landfill, you can see there are many opportunities for items to fly out or be inadvertently dumped along the way. The city of Waco will also need to establish a transfer station since the location is so far from Waco. TK Cemetery is within the area Waco has purchased, and I would like the plans for it discussed in a public hearing. How will Waco handle access to the cemetery or relocation of this historically marked cemetery? Can we discuss in a public hearing how McClennan county can propose to open a landfill in two other counties who don't get a say in the process? Shouldn't the counties and their constituents have a say in their own counties? Who is the voice that represents them on the Waco City Council? There are multiple farm fields and ranches bordering the proposed site and I fear the impact to them will be disastrous. There are three different creeks and a soil conservation lake all located on the property. How will ground water be protected? How will the TCEQ and the EPA protect this from happening? Who will suffer the consequences of it?



msw

112581

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Friday, September 28, 2018 10:36 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** cklanika@gmail.com <cklanika@gmail.com>  
**Sent:** Thursday, September 27, 2018 4:06 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** Charles Klanika

**E-MAIL:** [cklanika@gmail.com](mailto:cklanika@gmail.com)

**COMPANY:**

**ADDRESS:** 176 HCR 3259  
MOUNT CALM TX 76673-3174

**PHONE:** 2547491332

**FAX:**

**COMMENTS:** I would like to request a public hearing on the proposed landfill. This landfill will be on pastureland that is near a soil conservation lake. Pollution from this site has the potential to contaminate not only this lake, but several others. Also as stated before, this is pastureland. Removing this many acres from the agricultural production will have an impact on the economy in this area. Another point to consider is the narrow farm to market road leading to the area. The city of Waco is not considering the issues that make this site unsuitable. They are only concerned about the location. Thank you.

*msw*

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, September 27, 2018 9:52 AM  
**To:** PUBCOMMENT-WPD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** kim\_lucien@yahoo.com <kim\_lucien@yahoo.com>  
**Sent:** Wednesday, September 26, 2018 10:09 PM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME** CITY OF WACO LANDFILL

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MRS Kimberly Lucien

**E-MAIL:** [kim\\_lucien@yahoo.com](mailto:kim_lucien@yahoo.com)

**COMPANY:**

**ADDRESS:** PO BOX 221  
LEROY TX 76654-0221

**PHONE:** 2547440636

**FAX:**

**COMMENTS:** I request a contested hearing regarding the permit for a landfill near the community of Axtell. First, the farms and ranches in the area have been in families for generations. Next, the quality of the soil, air, and water would be damaged beyond repair. By destroying the land, air quality, and water, the habitats for a number of wildlife species in the area would also be destroyed. Endangered animals also inhabit the area. Not only is the proposed area for a landfill quality, fertile ground, it is also our home. This is not a place for Waco to dump their trash. Please have a contested hearing to prevent destruction of our way of life.

*Kim*

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, September 26, 2018 10:31 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-WPD  
**Subject:** FW: Public comment on Permit Number 2400

H

**From:** Kst82@aol.com <Kst82@aol.com>  
**Sent:** Tuesday, September 25, 2018 10:42 AM  
**To:** PUBCOMMENT-OCC <pubcomment-occ@tceq.texas.gov>  
**Subject:** Public comment on Permit Number 2400

**REGULATED ENTY NAME CITY OF WACO LANDFILL**

**RN NUMBER:** RN110471307

**PERMIT NUMBER:** 2400

**DOCKET NUMBER:**

**COUNTY:** HILL, LIMESTONE, MCLENNAN

**PRINCIPAL NAME:** CITY OF WACO

**CN NUMBER:** CN600131940

**FROM**

**NAME:** MRS Katy Lynch

**E-MAIL:** [Kst82@aol.com](mailto:Kst82@aol.com)

**COMPANY:**

**ADDRESS:** 1789 LCR 120  
MOUNT CALM TX 76673-3002

**PHONE:** 2548553253

**FAX:**

**COMMENTS:** I am concerned about ge placement of this landfill and would like to have a public hearing. There are many factors that should be discussed before permitting is allowed.