

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk **DATE:** November 21, 2023

From: Michael Martinez and Anthony Tatu
Staff Attorneys
Environmental Law Division

Subject: Backup Documents for Consideration of Hearing Requests/Requests for Reconsideration on Agenda.

Applicant: 130 Environmental Park, LLC

Proposed Permit No.: 2383

Program: Office of Waste, Waste Permits Division and
Remediation Division

Docket No.: TCEQ Docket No. 2023-1559-MSW

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Draft Permit 2383
- Technical Summary and Executive Director's Preliminary Decision
- Compliance History
- Response to Public Comment (RTC)

Texas Commission on Environmental Quality



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

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

Description of Change:

The limited-scope amendment expands operating and waste acceptance hours to 24 hours per day, seven days per week.

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

Part of Permit Amended:

Part IV of the Application (Site Operating Plan)
Title page
Table of contents
Pages IV-34 and IV-35

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

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

Issue Date:

For the Commission

**Technical Summary and Executive Director's
Preliminary Decision
of the**

**130 Environmental Park, LLC
MSW Limited-Scope Amendment Application
to Permit No. 2383**

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

**Applicant:
130 Environmental Park LLC**

Date Prepared: April 7, 2022

By the
Municipal Solid Waste (MSW) Permits Section
Office of Waste, Waste Permits Division
Texas Commission on Environmental Quality

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

Name of Applicant: 130 Environmental Park LLC
5200 N US Highway 183 (NB)
Lockhart, TX 78644

Name of Facility: 130 Environmental Park

Contact Person: Charles Appleby, Vice President
5200 N US Highway 183 (NB)
Lockhart, TX 78644
(512) 772-5099

Consulting Engineer: David Clark, P.E.
Biggs & Mathews Environmental
1700 Robert Road, Suite 100
Mansfield, TX 76063
(817) 563-1144

1.0 SUMMARY OF CHANGES

The applicant has submitted this limited-scope amendment application requesting authorization to revise the existing Type I landfill in Caldwell County, Texas. The application proposes to expand operating and waste acceptance hours to 24 hours per day, seven days per week.

2.0 TECHNICAL REVIEW

The application has been technically reviewed by the Municipal Solid Waste Permits Section to determine its compliance with the applicable requirements in 30 TAC Chapters 305 and 330. Chapter 330 contains the minimum regulatory criteria for municipal solid waste facilities. It has been determined that the information in the permit amendment application demonstrates compliance with these regulatory requirements. A draft limited-scope amendment document has been prepared and the application has been declared technically complete.

3.0 PUBLIC PARTICIPATION PROCESS

The public can participate in the final decision on the issuance of a limited-scope amendment as follows:

- 3.1 The TCEQ will hold a public meeting if the executive director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the commission accepts formal comments on the application. There is also an informal question and answer period.
- 3.2 Technical review of the application is completed, a final draft limited-scope amendment is prepared, and the application is declared technically complete. Information for the application, the draft limited-scope amendment, the notice, and summaries are sent to the chief clerk's office for processing.

- 3.3 The "Notice of Application" is sent to the applicant and published in the newspaper. This notice provides a 30-day period, from the date of publication, for the public to make comment(s) about the application or draft limited-scope amendment. The notice also allows the public to request a public meeting for the proposed facility.
- 3.4 After the 30-day comment period has ended, a "Response to Comments" (RTC) is prepared for all comments received through the mail and at a public meeting. The RTC is then sent to all persons who commented on the application. Persons who receive the comments have a 30-day period after the RTC is mailed in which to request a public hearing.
- 3.5 After the 30-day period to request a hearing is complete, the matter is placed on an agenda meeting for the TCEQ commissioners to make a determination to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a public hearing.
- 3.6 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ commissioners for consideration of issuance or denial of a permit.
- 3.7 After the commission has approved or denied an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 25 days after the party or the party's attorney of record is notified of the decision. The matter could be set on another agenda for consideration by the commission, or allowed to expire by operation of law.
- 3.8 Applications for which no one requests a contested case hearing are considered uncontested matters after the 30-day comment period. The application is placed on the executive director's signature docket and an amendment is issued. Any motion to overturn the executive director's decision must be filed no later than 23 days after the agency mails notice of the signed permit amendment.

4.0 ADDITIONAL INFORMATION

For information concerning the regulations covering this application, contact the Municipal Solid Waste Permits Section:

Mr. Steve Odil
Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711
(512) 239-4568

For more detailed technical information concerning any aspect of this

application or to request a copy of the Site Development Plan, please contact the consulting engineer or the applicant at the address provided at the beginning of this summary.

The application can be viewed on the internet at
http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_posted_apps.html

For information concerning the legal aspects of the hearing process, agency rules, and submitting public comments, please contact the Texas Commission on Environmental Quality's Office of the Public Interest Counsel at (512) 239-6363.

5.0 EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The executive director of the Texas Commission on Environmental Quality has made the preliminary decision that this proposed limited-scope amendment to MSW Permit No. 2383, for 130 Environmental Park LLC, if issued, meets all statutory and regulatory requirements.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

**TCEQ LIMITED-SCOPE PERMIT AMENDMENT
APPLICATION NO. 2383**

APPLICATION BY 130 ENVIRONMENTAL PARK, LLC FOR MSW PERMIT NO. 2383	§ § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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Executive Director’s Response to Public Comment

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the limited-scope amendment application (LSA Application) by 130 Environmental Park, LLC (130 Environmental Park or Applicant), for 130 Environmental Park, a Municipal Solid Waste (MSW) facility, Permit Number 2383 and on the Executive Director’s preliminary decision. The LSA Application would expand waste acceptance hours to 5:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday. It would expand operating hours to 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday. As required by 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 Executive Director is filing this Response to provide a response to public comments received in a timely manner. The Office of the Chief Clerk received timely comment letters from the following individuals.

Robert and Claudia Brown
Caldwell County Commissioners Court
Capitol Area Council of Governments (CAPCOG)
Environmental Protection in the Interest of Caldwell County (EPICC)
Byron Friedrich
Leslie Holder
King Family Trust
Susan Lane
Frank Sughrue

A resolution from the Caldwell County Commissioners Court was received from each of the four Commissioners (B.J. Westmoreland, Precinct 1; Barbara Shelton, Precinct 2; Ed Theriot, Precinct 3; and Joe Roland, Precinct 4) and the Caldwell County Clerk, Teresa Rodriguez.

The Chief Clerk received form letters from the following individuals, who will be referred to as Group 1 for the remainder of the Response.

Hector Aguilar	Travis Davis
Brian Alvey	Alaura Estrada
Pedro Areiniega	Ashley Estrada
Pedro Castillo	Anthony Hernandez
Jessica Cuellar	Cindy Johnson
Somer Davila-Flores	Samuel Maldonado

Vincent Ortiz
Paula Rodriguez
Beverly Ruiz
Renato Ruiz

Blanca Sifuentes
Brandi Sifuentes
Elizabeth Sifuentes
Parind Vora

The Chief Clerk also received form letters from the following individuals, who will be referred to as Group 2 for the remainder of the Response.

Mary Davila
Enrique Diaz
Alejo Galvan
Ricardo Gomez
Susan Lane

David Neumann
Lisa Rincon
Armando Suarez
Alfonso Torres
Angelica Torres

The Chief Clerk also received form letters from the following individuals, who will be referred to as Group 3 for the remainder of the Response.

Sara Figueroa
Eugenio Garcia

Irene Garcia
Dora Trejo

This response addresses all such public comments received, whether or not withdrawn, with the exception of comments that are that are outside the scope of the LSA Application that focuses on facility waste acceptance and operating hours. These out-of-scope comments addressed toxic exposure, health, air quality, and water quality. If you need more information about this permit application or the 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/.

I. BACKGROUND

A. DESCRIPTION OF FACILITY

130 Environmental Park, LLC owns and operates 130 Environmental Park, a Type I MSW landfill in Caldwell County, Texas. The original application was received on September 4, 2013 and the permit issued December 11, 2017 (referred to as original application or original permit). The facility is located north of Farm-to-Market Road (FM) 1185 between U.S. Highway 183 and Homannville Trail, about two miles north of Lockhart. The facility boundary covers 520 acres, of which approximately 202 acres are approved for waste disposal. The Applicant is authorized to dispose of municipal solid waste resulting from, or incidental to, municipal, community, commercial, institutional, recreational, and industrial activities, including garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, construction and demolition waste, and yard waste. The Applicant is also authorized to dispose of Class 2 industrial solid waste, Class 3 industrial solid waste, and certain special waste. The Applicant is prohibited from accepting Class 1 nonhazardous industrial solid waste except waste that is Class 1 only because of asbestos content. The Applicant is further prohibited from accepting medical waste, sewage, dead animals, slaughterhouse waste, sludge, grease trap waste, grit trap waste, liquid waste from municipal sources, municipal hazardous waste from conditionally exempt small quantity generators, and out-of-

state waste. The total disposal capacity of the landfill, including waste and daily cover, is 33.1 million cubic yards.

B. PROCEDURAL BACKGROUND

The LSA Application was received on December 22, 2021. An administrative Notice of Deficiency letter (NOD) was mailed on January 18, 2021. A response to the NOD was received January 31, 2022 and the LSA Application was declared administratively complete on March 7, 2022. The LSA Application originally requested operating hours of 24 hours per day, seven days per week. The Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment (NORI) was mailed on March 14, 2022. The NORI was published on April 4, 2022 in the *Austin American-Statesman*; on April 7, 2022 in the *Lockhart Post-Register*; and on April 7, 2022 in Spanish in *El Mundo*, in Caldwell, County, Texas.

The Executive Director completed the technical review of the LSA Application on May 25, 2022 and prepared a draft limited-scope amendment document. The Notice of Application and Preliminary Decision (NAPD) was mailed May 27, 2022. The NAPD was published on June 15, 2022 in the *Austin American-Statesman*; on June 16, 2022 in the *Lockhart Post-Register*; and on June 16, 2022 in Spanish in *El Mundo*, in Caldwell County, Texas. An error was noted in the NAPD published in the *Austin American-Statesman* and the NAPD was republished in the *Austin American-Statesman* on July 21, 2022. A second error was noted in the July 21, 2022 NAPD publication.

Before the second publishing error was resolved, the Applicant made changes to the technically complete LSA Application. These changes were received September 14, 2022. These changes reduced the requested waste acceptance hours to 5:00 a.m. to 7:00 pm, Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday; and operating hours to 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday; and allows Caldwell County residents to dispose of waste under certain situations at no charge. A revised NAPD and revised Spanish NAPD were prepared and mailed on October 11, 2022. The revised NAPD was published on October 12, 2022 in the *Austin American-Statesman* and on October 13, 2022 in the *Lockhart Post-Register*. The revised Spanish NAPD was published on October 13, 2022 in *El Mundo*, in Caldwell County, Texas.

The comment period for the LSA Application ended on November 14, 2022.

To determine whether to hold a public meeting for an application, the Executive Director considered the factors set forth in Title 30 of the Texas Administrative Code (TAC), Section 39.501. According to 30 TAC §39.501(e)(1)(B), the Executive Director will hold a public meeting on the request of a member of the legislature who represents the general area in which the facility is proposed to be located or when there is substantial public interest in the proposed facility. Significant public interest exists if a request for a public meeting is filed by: a group of ten or more local residents, property owners, or business located in the general area of the proposed facility request a public meeting, a local government entity with jurisdiction over the location at which the facility is proposed to be located by formal resolution of the entity's governing body; a council of governments with jurisdiction over the location at which

the facility is proposed to be located by formal request of either the council's solid waste advisory committee, executive committee, or governing board; or a homeowners' or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is proposed to be located. The Executive Director received one public meeting request on this application. Based on these factors, the Executive Director did not to hold a public meeting on the LSA Application.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) § 5.115(a-1)(2)(B).

C. ACCESS TO RULES, LAWS, AND RECORDS

Rules and Laws applicable to this application are accessible at the following URLs:

- The Texas Secretary of State hosts official versions of the Texas Administrative Code: www.sos.state.tx.us.
- TCEQ hosts rules under Title 30 Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" at the bottom of the page).
- The Texas Legislative Council hosts official versions of Texas statutes: www.statutes.legis.state.tx.us.
- The U.S. Government's Publishing Office hosts Federal environmental laws and Federal rules including those under Title 40 Code of Federal Regulations (relating to Protection of the Environment): www.gpo.gov.
- Federal rules in Title 40 of the Code of Federal Regulations are available at the EPA's public webpage at epa.gov/laws-regulations/regulations.
- Federal environmental laws are available at the EPA's public webpage at epa.gov/laws-regulations/laws-and-executive-orders.
- General information about TCEQ can be found at the Commission's public webpage at tceq.texas.gov.
- Some documents located in the Office of the Chief Clerk may also be located on the Commissioner's Integrated Database at: <https://www14.tceq.texas.gov/epic/eCID/>.
- General information about TCEQ and information about the municipal solid waste permitting process is available at the Commission's public webpage at tceq.texas.gov.

- Information about the municipal solid waste permitting process is available from the TCEQ Public Education Program at 1-800-687-4040.

Commission records for this application and Draft Permit are available for viewing and copying in the Office of the Chief Clerk at the TCEQ's main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor. Some documents located in the Office of the Chief Clerk may also be located on the Commissioner's Integrated Database at: <https://www14.tceq.texas.gov/epic/eCID/>.

II. COMMENTS AND RESPONSES

COMMENT 1: NOTICE

Marissa Perales, representing Environmental Protection in the Interest of Caldwell County (EPICC), noted errors in the NAPD publications in the *Austin American-Statesman* on June 15, 2022 and July 21, 2022.

RESPONSE 1:

The Executive Director agrees that the NAPD publications in the *Austin American-Statesman* on June 15, 2022 and July 21, 2022 were missing information. The first publication was missing a weblink to provide public comments electronically and a link to the Commissioner's Integrated Database (CID). The second publication in the *Austin American-Statesman* provided the public comment weblink but did not include the CID weblink. Before the second publishing errors could be resolved, the Applicant submitted changes to the technically complete LSA Application that reduced the requested waste acceptance and operating hours. A revised NAPD and Spanish NAPD were mailed on October 11, 2022. The revised NAPD was published on October 12, 2022 in the *Austin American-Statesman* and on October 13, 2022 in the *Lockhart Post-Register*. The revised Spanish NAPD was published on October 13, 2022 in *El Mundo*, in Caldwell County, Texas. The published revised NAPDs included the previously missing weblinks. The public comment period ended November 14, 2022.

The Executive Director has preliminarily determined that notice was provided in accordance with 30 TAC §39.501(d).

COMMENT 2: HEARING ON ORIGINAL APPLICATION

Group 3, Robert and Claudia Brown, the Capitol Area Council of Governments (CAPCOG), EPICC, Leslie Holder, the King Family Trust, and Frank Sughrue noted that after the hearing for the original application, the Administrative Law Judges (ALJs) recommended that the facility be limited to the hours specified in 30 TAC §330.135(a). CAPCOG and EPICC noted that the Commission appeared to agree with the recommendation on operating hours from the ALJs and noted that no justification was provided in the original application for hours beyond the hours specified in 30 TAC §330.135(a). EPICC, Byron Friedrich, Patton King, and the King Family Estate maintained their objection to the proposed operating and waste acceptance hours made in the changes to the technically complete LSA Application.

RESPONSE 2:

While §330.135(a) establishes operating and waste acceptance hours, it also allows hours beyond these specified hours, if approved by the Executive Director. Alternative hours beyond those listed in 30 TAC §330.135(a) may be requested through a limited-scope amendment, as specified in 30 TAC §305.62(j)(2)(B).

While the ALJs in the hearing for the original application recommended the hours specified in 30 TAC §330.135(a) and the original permit was issued using the hours specified in 30 TAC §330.135(a), no rule or statute prevents a permittee from requesting expanded hours after ALJs in a previous hearing have made specific recommendations.

The LSA Application proposed twenty-four hours operations but on September 14, 2022, the Applicant requested changes to the technically complete LSA Application to reduce the requested waste acceptance hours to 5:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday; and operating hours to 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday. The LSA Application Narrative indicated that “the addition of Saturday operating hours will provide available weekend disposal, including for individuals who, for work or other reasons may be unable to get to the landfill on weekdays, and for businesses (restaurants, grocery stores, etc.) needing waste collection and disposal services on Saturday. Authorizing waste acceptance hours to begin at 5 am (6 am on Saturday) will allow vehicles collecting waste in the very early morning hours to get their first loads of the day to the landfill and return to their collection routes before the peak morning traffic times for persons travelling to work, students travelling to schools, and others travelling on area roadways, thereby reducing peak hour traffic on roadways providing access to the landfill.”

The Executive Director has reviewed the LSA and preliminarily determined that it satisfies the regulatory requirements regarding operating hours for the proposed facility.

COMMENT 3: CAPCOG REVIEW

Betty Voights, Executive Director of CAPCOG, submitted a comment noting that they would be providing a conformance review of the LSA Application against their Regional Solid Waste Management Plan (RSWMP). Subsequently they submitted a comment stating that the LSA Application does not conform to the CAPCOG 2002-2022 Regional Solid Waste Management Plan. This CAPCOG finding was noted by EPICC.

RESPONSE 3:

CAPCOG revised its findings in a letter dated October 20, 2022. This letter indicates that the CAPCOG Executive Committee met on October 12, 2022 and made a determination of conformance. The COG made this determination after the Applicant self-initiated changes to the technically complete LSA Application and republished public notice for this application. The LSA Application was revised to request waste acceptance hours of 5:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday; and operating hours to 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday.

COMMENT 4: RESPONSE TO COMMENTS FOR 2006 RULE REVISIONS

Robert and Claudia Brown, Leslie Holder, the King Family Trust, and Frank Sughrue indicated that during Chapter 330 rule revisions in 2006, the response to comments addressing 30 TAC §330.135 indicated that “the rules specify reasonable hours for landfill operations and include authority for the commission to approve operating hours in excess of those stated in the rules. The commission believes that with proper planning, the performance of construction activities and waste acceptance and disposal activities may be accomplished during operating hours. The commission further anticipates that facilities will be staffed and equipped sufficiently to address all activities that are part of landfill operations. The commission is justified in limiting operating hours by the need to protect communities from the potential impacts from landfills. Landfill operations outside the stated hours are more likely to disturb people in residential areas.”

RESPONSE 4:

In accordance with 30 TAC § 330.135(a) (relating to Facility Operating Hours), an application for a MSW landfill facility must include a site operating plan that specifies the waste acceptance and operating hours for when a facility will transport materials on or off-site, as well as the hours for when a facility will operate heavy equipment.

The LSA Application indicates that the landfill would be open for waste acceptance from 5:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday. The LSA Application indicates that non-waste acceptance site operations at the facility would be from 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday. These operations include construction, earthmoving, monitoring, and other non-waste acceptance activities.

The LSA would require the facility to maintain these days and hours of operation and to post them on signs at entrances of the facility that receive waste, as required under 30 TAC § 330.137. Representations regarding days and hours of operation included in the application are incorporated by reference into the permit and would become enforceable upon issuance of the amended permit.

The Executive Director has received no information to justify restricting these proposed operating hours. The Executive Director has reviewed the LSA and preliminarily determined that it satisfies the regulatory requirements regarding operating hours for the proposed facility.

If the amendment is issued authorizing the proposed hours, then individuals would be encouraged to report any concerns regarding suspected noncompliance with the terms of the permit or other TCEQ authorization or applicable environmental regulation to the Region 11 TCEQ Office in Austin, Texas at 512-339-2929. Individuals may also file complaints online at tceq.texas.gov/compliance/complaints or by phone at 1-888-777-3186.

COMMENT 5: NEED AND JUSTIFICATION FOR EXTENDED HOURS

Robert and Claudia Brown, Byron Friedrich, Leslie Holder, and the King Family Trust commented that the expansion of hours was not needed. This comment was reiterated by Byron Friedrich and the King Family Trust after changes to the technically complete LSA Application reduced the requested hours expansion. Robert and Claudia Brown, CAPCOG, EPICC, Byron Friedrich, Leslie Holder, the King Family Trust, and Frank Sughrue indicated that no justification was provided for expanded hours. CAPCOG refuted the Applicant's claim that additional operating hours would enable 130 Environmental Park to better assist local communities to address disasters or other emergency situations.

RESPONSE 5:

MSW rules allow an applicant to request expansion of operating hours beyond those specified in 30 TAC §330.135 through a limited-scope amendment under 30 TAC §305.62(j)(2)(B). In accordance with 30 TAC § 330.135(a) (relating to Facility Operating Hours), an application for a MSW landfill facility must include a site operating plan that specifies the waste acceptance and operating hours for when a facility will transport materials on or off-site, as well as the hours for when a facility will operate heavy equipment.

The LSA application indicates that the landfill would be open for waste acceptance from 5:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 5:00 p.m. on Saturday. The LSA Application indicates that non-waste acceptance site operations at the facility would be from 5:00 a.m. to 9:00 p.m., Monday through Friday, and 6:00 a.m. to 6:00 p.m. on Saturday. These operations include construction, earthmoving, monitoring, and other non-waste acceptance activities.

The revised LSA Application narrative indicates that "the addition of Saturday operating hours will provide available weekend disposal, including for individuals who, for work or other reasons may be unable to get to the landfill on weekdays, and for businesses (restaurants, grocery stores, etc.) needing waste collection and disposal services on Saturday. Authorizing waste acceptance hours to begin at 5 a.m. (6 a.m. on Saturday) will allow vehicles collecting waste in the very early morning hours to get their first loads of the day to the landfill and return to their collection routes before the peak morning traffic times for persons travelling to work, students travelling to schools, and others travelling on area roadways, thereby reducing peak hour traffic on roadways providing access to the landfill."

The Executive Director has received no information to justify restricting these proposed operating hours. The Executive Director has reviewed the LSA and preliminarily determined that it satisfies the regulatory requirements regarding operating hours for the proposed facility.

COMMENT 6: TRAFFIC

Robert and Claudia Brown, Leslie Holder, the King Family Trust, and Frank Sughrue expressed concerns that the proposed hours would create traffic issues,

especially at 7:00 a.m. on weekdays because of nearby schools and residents travelling to work.

RESPONSE 6:

The facility is currently authorized to accept waste from 7:00 a.m. to 7:00 p.m., Monday through Friday and to operate from 5:00 a.m. to 9:00 p.m., Monday through Friday. For this reason, traffic impacts associated with the landfill at 7:00 a.m. on weekdays are not expected to change because of these proposed waste acceptance and operating hour changes.

In accordance with 30 TAC §330.61(i), an application for an MSW landfill permit must include data on access roads for the proposed facility, including: availability and adequacy of roads that the owner or operator will use to access the site; volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the facility; and projections on the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility.

The original application for 130 Environmental Park included a traffic study supplying the required traffic data, including proposed road improvements, in Part II, Appendix IIC and discussed in Part II, Section 9.1. This traffic study provided information and data for traffic based on operations 24 hours per day, seven days per week. The traffic study was submitted to the Texas Department of Transportation (TxDOT) for recommendations on roadway improvements needed to handle expected traffic. Coordination documents with TxDOT, required under 30 TAC §330.61(i)(4) and presuming operations 24 hours per day, seven days per week, were provided in Part II, Appendix IIC of the original application. The traffic study recommended a 660-foot deceleration lane (a 560-foot deceleration length and a 100-foot storage length) on U.S. Highway 183 northbound and no acceleration lane. TxDOT responded that the proposed access mitigation was satisfactory and that no other issues remain. The rules provide for consideration of roads that serve as access roads to and from the facility. The traffic study concluded that with proposed changes, U.S. Highway 183 will be adequate to handle predicted volumes of site traffic throughout the life of the facility. 130 Environmental Park was required to build the deceleration lanes before opening the facility.

Consideration of whether local buses traverse these roads is not required under MSW rules; however, their presence are part of expected traffic counts.

The Executive Director has reviewed the LSA Application and preliminary determined that it satisfies the regulatory requirements regarding transportation and traffic under 30 TAC §330.61(i).

COMMENT 7: PROPERTY VALUES AND LIGHT POLLUTION

Susan Lane raised a concern that the proposed landfill will affect property values.

Group 2, Group 3, CAPCOG, EPICC, the King Family Trust, and Susan Lane raised a concern regarding the likelihood of light pollution from the proposed facility. Comments from EPICC and the King Family Trust were reiterated after the changes to the technically complete LSA Application were submitted.

RESPONSE 7:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider the impact of the facility on property values or of light pollution when determining whether to approve or deny a permit application.

COMMENT 8: ODORS, NOISE, AND NUISANCE

Group 3, Robert and Claudia Brown, EPICC, Leslie Holder, the King Family Trust, and Frank Sughrue noted a concern that the proposed landfill will cause odors. This comment was reiterated by EPICC and the King Family Trust after changes to the technically complete LSA Application were received.

Group 2, Group 3, Robert and Claudia Brown, CAPCOG, EPICC, Byron Friedrich, Leslie Holder, the King Family Trust, Susan Lane, and Frank Sughrue provided concerns that operations during the expanded would cause noise. Comments from EPICC, Byron Friedrich, and the King Family Trust were reiterated after the changes to the technically complete LSA Application were submitted.

The Caldwell County Commissioners Court submitted Resolution 32-2022. This resolution opposed extending the operating hours of the 130 Environmental Park landfill and that extending the 130 Environmental Park hours would result in nuisance conditions. This resolution was referenced in comments by Group 2 and Susan Lane.

RESPONSE 8:

MSW rules under 30 TAC §330.149 require that an application include an odor management plan that must identify wastes and activities that are more likely to cause odors and how odors will be mitigated. This information is provided in Part IV, Section 8.10 of the original permit and will not be changed by the LSA Application, if approved.

Nuisances, which are defined by 30 TAC §330.3(97) to include odors, are prohibited under 30 TAC §330.15(a)(2). Although MSW rules do not set specific limits on noise generated by landfill operations, MSW facilities are prohibited from causing a nuisance under 30 TAC §330.15(a)(2). If odor or other activities from the facility create a nuisance, please report the issue to the TCEQ Region 11 office in writing or in person at 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, or by telephone at (512) 339-2929 or toll-free at 1-888-777-3186. Citizen complaints may also be filed online at <https://www.tceq.texas.gov/compliance/complaints>.

COMMENT 9: EXPANSION OF OPERATIONS

EPICC indicated that the LSA Application appears to expand the types of operations that may be conducted during non-waste acceptance hours.

RESPONSE 9:

The proposed language in the LSA Application SOP indicates that “site operations include construction, material delivery, maintenance, heavy equipment operations, transportation of construction material, and other non-waste operations.” These details are consistent with the definition provided in 30 TAC §330.3(100), which states that operating hours are the hours when the facility is open to receive waste, operate heavy equipment, and transport materials on- or off-site. The Executive Director has reviewed the LSA Application and determined that proposed language in the SOP satisfies the regulatory requirements.

COMMENT 10: SUPPORT OF THE LANDFILL

Group 1 noted that they are in favor of the proposed landfill or support the project.

RESPONSE 10:

This support is noted and documented by this Response.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS

The Applicant self-initiated changes to the technically complete LSA Application that reduced the requested waste acceptance and operating hours. The LSA Application and draft limited-scope amendment comply with all applicable regulatory and statutory permitting requirements. No other changes were made to the LSA Application or draft amendment in response to comments received.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Interim Executive Director

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REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on August 17, 2023, the Executive Director's Response to Public Comments for Municipal Solid Waste Permit No. 2383 was filed with the TCEQ's Office of the Chief Clerk.

A handwritten signature in black ink, appearing to read "Anthony Tatu".

Anthony Tatu, Staff Attorney
Environmental Law Division