

SOAH DOCKET NO. 582-15-2082
TCEQ DOCKET NO. 2015-0069-MSW

APPLICATION OF § BEFORE THE STATE OFFICE
130 ENVIRONMENTAL PARK, LLC §
FOR PROPOSED § OF
PERMIT NO. 2383 §
§ ADMINISTRATIVE HEARINGS

APPLICANT’S WRITTEN CLOSING ARGUMENT

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TO: THE HONORABLE KERRIE JO QUALTROUGH, ADMINISTRATIVE LAW JUDGE
AND THE HONORABLE CASEY A. BELL, ADMINISTRATIVE LAW JUDGE:

130 ENVIRONMENTAL PARK, LLC, (130 Environmental Park), the Applicant in this proceeding, files this, its Closing Brief, and would respectfully show as follows:

A. BACKGROUND FACTS

130 Environmental Park, LLC (“130 Environmental Park”) has filed with the Texas Commission on Environmental Quality (“TCEQ”) Application No. 2383 (“the Application”) for a permit to construct and operate the 130 Environmental Park Landfill. *Exs. 130EP-1 through 130EP-7.* The 130 Environmental Park Landfill (“the Facility”) will be a new Type I municipal solid waste landfill facility located in Caldwell County and serving residences and businesses in Caldwell and surrounding counties. *Ex. 130EP-1 p.42.*

The site on which the Facility will be constructed and operated (“the Site”, “the Permit Boundary”, or “the Facility Boundary”) consists of 519.746 acres located in northern Caldwell County, approximately 0.6 miles east of SH130 and 0.7 miles north of FM1185, more than two miles north of the city limits of Lockhart, Texas. *Ex. 130EP-1 pp.46 and 69-72.* The Site is part of a 1,229.076-acre tract of land (“the Hunter Property”) owned by Cathy Moore Hunter. *Ex. 130EP-1 pp.26-32 and 42.* 130 Environmental Park, LLC has entered into an agreement with Cathy Moore Hunter and will purchase the Hunter Property prior to the development and operation of the Facility. *Ex. 130EP-1 p.42.*

The Facility will include a municipal solid waste landfill unit (“the Landfill”), with a waste management unit boundary (“the Landfill footprint”) of approximately 202 acres, a large item storage area, a reusable materials staging area, a citizen’s convenience center, a used/scrap tire storage area, a wood waste processing area, a leachate storage facility, and a truck wheel wash. *Ex. 130EP-1 pp.43-44, and 63; Ex. 130EP-2 pp.29-31.*

130 Environmental Park’s mailing address is: 134 Riverstone Terrace, Suite 203, Canton, GA 30114. *Ex. 130EP-1, p. 17.* 130 Environmental Park’s telephone number is: (770) 720-2717. *Ex. 130EP-1, p. 17.*

B. PROCEDURAL HISTORY

The Application was filed with TCEQ on September 4, 2013. *Ex. Welch-1 p.4/l. 33-42*. As originally filed, the Application consisted of Parts I and II. *Ex. Welch-1 p.4/l. 33-42*. Parts I and II of the Application were declared administratively complete on September 27, 2014. *Ex. ED-SO-1 p.9/l.18*. Parts III and IV of the Application were filed with TCEQ on February 18, 2014. *Ex. ED-SO-1 p.11/l.20-22*. Parts III and IV of the Application were declared administratively complete on February 28, 2014. *Ex. ED-SO-1 p.11/l.20-22*.

In October 2014, the TCEQ Executive Director determined that the Application demonstrates compliance with the applicable regulatory requirements in TCEQ's rules at 30 TAC Chapter 305 ("Consolidated Permits") and Chapter 330 ("Municipal Solid Waste") and that the Application "meets the requirements of the Commission's rules and provides proper safeguards to protect public health and safety, and the environment", and declared the Application technically complete. *Ex. ED-SO-8 p.52, Technical Summary sec. 2.0; Ex. ED-SO-8 p.60, Executive Summary; Ex. ED-SO-8 p.61, October 28, 2014 letter to Mr. Ernest Kaufmann*. Also in October 2014, the TCEQ Executive Director prepared a draft permit based on the Application ("the Draft Permit"), a technical summary of the Application ("the Technical Summary"), and a compliance history report of the Applicant ("the Compliance History Report"). *Ex. ED-SO-1 p.14/l.2-22; Ex. ED-SO-8, at pp.62-73, 50-57, 58-59*. Also in October 2014, the TCEQ Executive Director issued his Preliminary Decision that "proposed MSW Permit No. 2383, for 130 Environmental Park, LLC, if issued, meets all statutory and regulatory requirements." *Administrative Record materials transmitted with TCEQ March 13, 2015 memo p.245*

Pursuant to 30 TAC §55.210, the TCEQ Chief Clerk referred the Application directly to SOAH for a hearing on whether the Application complies with all applicable statutory and regulatory requirements. *Administrative Record materials transmitted with TCEQ March 13, 2015 memo at p.1 (March 13, 2015 TCEQ memo to SOAH); Ex. ED-A at pp.6-7 (February 4, 2015 Notice of Hearing)*. On February 4, 2015, TCEQ issued a Notice of Hearing regarding the Application, which was published in the Lockhart Post-Register and the Caldwell County Guardian on February 19, 2015, and mailed as required on February 4, 2015 and February 23, 2015. *Exs. ED-A through ED-D; Administrative Record materials transmitted with TCEQ March 13, 2015 memo at pp.15-39; Applicant's Exs. 1 through 5*. Notice was provided in accordance with Tex. Health & Safety Code §§361.0665 and 361.081, 30 TAC §§39.5 and 39.501, and Tex. Gov't Code §§2001.051 and 2001.052.

By way of memoranda dated March 13, April 1, and April 17, 2015, TCEQ transmitted portions of the administrative record to the State Office of Administrative Hearings. *Administrative Record materials transmitted with TCEQ March 13, 2015 memorandum pp.1-996; Administrative Record materials transmitted with TCEQ April 1, 2015 memorandum and pp.1-75 (Executive Director's Amended Response to Public Comment pp.1-75); Administrative Record materials transmitted with TCEQ April 1, 2015 memorandum (Executive Director's Amended Response to Public Comment pp.1-75)*.

On March 26, 2015, SOAH Administrative Law Judges Casey A. Bell and Sharon Cloninger held a preliminary hearing regarding the Application at the Caldwell County Judicial Center in Lockhart, Caldwell County, Texas. *Order No. 1*. At the preliminary hearing, the ALJs found that notice had been adequately provided and that both the Commission and SOAH have proper

jurisdiction over this matter. *Order No. 1.* The following persons and entities were designated as parties to this proceeding: 130 Environmental Park, LLC (“130 Environmental Park” or “Applicant”), TCEQ Executive Director, TCEQ Office of Public Interest Counsel, Caldwell County, Plum Creek Conservation District (PCCD), Environmental Protection in the Interest of Caldwell County (EPICC), James Abshier, Claudia & Robert Brown, Joe Colley, Ann & Troyce Collier, Byron Friedrich, the King Family Trust, Brenda Martin, Frank Sughrue, Bill & Pam Young, TJFA, L.P. (TJFA), and Ben Pesl. *Order No. 2.* Pursuant to Order No. 1, the following parties were aligned as the Aligned Protestants: EPICC, James Abshier, Claudia & Robert Brown, Ann & Troyce Collier, Byron Friedrich, the King Family Trust, Brenda Martin, Frank Sughrue, and Bill & Pam Young. *Order No. 1.* Pursuant to Order No. 2, the following parties were aligned with the Aligned Protestants: TJFA, L.P. and Joe Colley. *Order No. 2.* Pursuant to Order No. 7, TJFA, L.P. was no longer aligned with the Aligned Protestants. *Order No. 7.*

On April 9, 2015, the TCEQ Executive Director filed his Amended Response to Public Comment (“the RTCs”), addressing public comments that had been submitted to TCEQ regarding the Application. *Ex. ED-SO-9.* During the preparation of the RTCs, the TCEQ Executive Director requested additional information from 130 Environmental Park, which was provided by way of a March 2015 supplement to the Application (“the March 2015 Supplement”). *Ex. ED-SO-1 p.37/1.2-8; Ex. 130EP-6.*

During discovery in this proceeding, TJFA and EPICC sought “to enter the proposed landfill site and conduct geo-physical probes of Applicant’s existing piezometers, drill up to 15 borings on the site, perform in-situ testing of the soils on site, including tests of hydraulic conductivity, and collect samples to be tested at a lab.” 130 Environmental Park and Cathy Moore Hunter afforded TJFA and EPICC access to the Hunter Property to conduct the requested investigations, which were carried out during February and March 2016. *TJFA, LP’s & EPICC’S November 16, 2015 Amended Motion to Compel Access to Property; Order No. 16.* Also during February 2016, 130 Environmental Park conducted additional investigations of the Site, including soil borings and laboratory testing of collected soil samples. *Ex. 130EP-7.* Following the 2016 investigations, 130 Environmental Park submitted to TCEQ a May 2016 supplement to Attachments E (Geology Report) and F (Groundwater Sampling and Analysis Plan) of the Application (“the May 2016 Supplement”). *Ex. 130EP-7.*

The hearing on the merits regarding the Application was conducted August 15 through 19 and August 22 through 26, 2016 by SOAH Administrative Law Judges Kerry Jo Qualtrough and Casey A. Bell at SOAH, 300 West 15th Street, Austin, Texas. *Tr. vols. 1 – 10.*

C. SPECIFIC ISSUES

1. SUFFICIENCY OF PROPERTY RIGHTS

The current owner of the Site is Cathy Moore Hunter, a natural person. *Ex. 130EP-1 p.49.* 130 Environmental Park, LLC has entered into an agreement with Cathy Moore Hunter for the purchase of, and prior to the development and operation of the Facility will purchase, the Hunter Property, including the Site. *Ex. 130EP-1 pp.26-32 and 42; Ex. 130EP-18; Ex. 130EP-19.* 130 Environmental Park will own and operate the Facility. *Ex. 130EP-1 p.49.*

The Application includes an affidavit executed by the property owner and acknowledging that (1) the State of Texas may hold the property owner of record either jointly or severally responsible for the operation, maintenance, and closure and post-closure care of the Facility, (2) the owner of the Site has a responsibility to file in the deed records of Caldwell County an affidavit to the public advising that the Site will be used for a solid waste facility prior to the time that the Facility actually begins operating as a municipal solid waste landfill facility, and to file a final recording upon completion of disposal operations and closure of the landfill units in accordance with 30 TAC §330.19, and (3) the Facility owner or operator and the State of Texas shall have access to the Site during the active life and post-closure care period after closure of the Facility for the purpose of inspection and maintenance. *Ex. 130EP-1 pp.26-32.*

The Application includes a boundary metes and bounds description of the Site and a drawing of that description, signed and sealed by a registered professional land surveyor. *Ex. 130EP-1 pp.70-72.* The identifying reference of the current ownership record for the Site is Volume 533, Page 637 in the Official Public Records of Real Property of Caldwell County, Texas. *Ex. 130EP-1 pp.70-72.*

The Application complies with TCEQ's rules regarding property rights.

2. EVIDENCE OF COMPETENCY

130 Environmental Park has not owned or operated a solid waste site in Texas within the last ten years. *Ex. 130EP-1 p.24.* 130 Environmental Park does not have a direct financial interest in any solid waste site other than the proposed Facility. *Ex. 130EP-1 p.24.*

The Application includes the names of the principals and supervisors of 130 Environmental Park's organization, together with previous affiliations with other organizations engaged in solid waste activities *Ex. 130EP-1 pp.50-51.* The Application contains the number and size of each type of equipment to be dedicated to facility operation. *Ex. 130EP-1 pp.51-52; Ex. 130EP-5 pp.119-121.* 130 Environmental Park will provide sufficient equipment to conduct site operations in accordance with the landfill design and permit condition. *Ex. 130EP-1 p.51; Ex. 130EP-5 p.119.* 130 Environmental Park will employ a licensed solid waste facility supervisor and qualified equipment operators in compliance with TCEQ's rules before commencing operations. *Ex. 130EP-1 pp.50-51.*

The Application complies with TCEQ's rules regarding evidence of competency.

3. COMPLIANCE HISTORY

In a Compliance History Report prepared on October 3, 2014, the TCEQ Executive Director evaluated the compliance history of the Facility and classified the Facility and 130 Environmental Park. *Ex. ED-SO-8 p.58-59.* There was no compliance information about the Facility at the time the Executive Director developed the compliance history. *Ex. ED-SO-8 p.58-59.* The compliance history classification for 130 Environmental Park and the Facility is designated as "unclassified". *Ex. ED-SO-8 p.58.* TCEQ's compliance history rules do not prohibit the permitting of the Facility.

4. LAND USE COMPATIBILITY

The Application includes a map showing the boundary of the Facility, actual uses within the Site and within one mile of it, including the locations of residences, commercial establishments, ponds or lakes, and access roads serving the Facility. *Ex. 130EP-1 p.152; Ex. 130EP-1 pp.124, 141, and 166; Testimony of Tyson Traw, P.E. at Tr. p.495/l.23-p.496/l.4.* The Application includes maps showing the locations of drainage, pipeline, and utility easements within the Site. *Ex. 130EP-1 pp.124, 131, and 141.* There is no zoning within two-miles of the Site. *Ex. 130EP-1 p.148.*

John Worrall, 130 Environmental Park's expert witness on land use matters, prepared an updated land use map (updated as of September 2015). *Ex. Worrall-3 p.8.* 4083 acres (93.1%) of the land within one mile of the Site is open and agricultural use land, the predominant land within one-mile. *Ex. Worrall-3 p.4.* 234 acres (5.3%) of the land within one mile of the Site is residential use land (all single family residential, with 143 residences). *Ex. Worrall-3 p.4.* The nearest residence is approximately 185 feet west of the Facility boundary and approximately 345 feet west of the Landfill footprint. *Ex. Worrall-3 p.6.* 65 acres (1.5%) of the land within one mile of the Site is water bodies: stock tanks and the Site 21 Reservoir. *Ex. Worrall-3 p.4.* 5 acres (0.1%) of the land use within one-mile of the Site is commercial/industrial use land (5 establishments). *Ex. Worrall-3 p.4.* The nearest business establishment is approximately 4,000 feet southwest of the Site and more than 6,500 feet from the Landfill footprint. *Ex. Worrall-3 p.6.* There are no schools, day care centers, churches, hospitals, cemeteries, recreational areas or sites having exceptional aesthetic quality within one-mile of the Site. *Ex. Worrall-3 pp.6 and 8; Ex. 130EP-1 pp.119 and 150.* Within one mile of the Site there are five archaeological sites and three historic sites. There are no historically significant sites or archaeologically significant sites within one mile of the Site. *Ex. 130EP-1, p.806.* Within 500 feet of the Site there are no water wells and three dry hole oil/gas wells, one of which is located within the Facility Boundary but approximately 1,800 feet from the Landfill footprint. *Ex. 130EP-1, pp.97 and 121.*

Growth trends within five-miles of the Site are shown on a map in the Application. *Ex. 130EP-1 p.153.* Within five-miles of the Site, 2000 to 2010 population growth was less than 5%, except to the south where northern Lockhart lost population. *Ex. Worrall-3 p.5.* The presence of the State Highway 130 Toll Road (SH 130) is the primary factor influencing growth trends in the area of the Site. *Ex. Worrall-1 p.12.* Growth trends will continue from the north into the area within a five-mile radius of the Site. *Ex. 130EP-1 p.149, Ex. Worrall-1 p.12.*

The area within one mile of the Site is sparsely populated. *Ex. Worrall-1 p.6/l.15-33 and p.10/l.30-p.11/l.12.* The Facility will have ready access to a major transportation network without the need to use local roads and impact local properties. *Ex. Worrall-1 p.6/l.15-33 and p.10/l.30-p.11/l.12.* The growth rate in the vicinity of the Site is relatively low as compared to the very high growth rate of the Metropolitan Statistical Area in which the facility is located. *Ex. Worrall-1 p.6/l.15-33 and p.10/l.30-p.11/l.12.* The Facility design includes substantial set-backs and buffer zones that exceed TCEQ standards. *Ex. Worrall-1 p.6/l.15-33, p.10/l.30-p.11/l.12, and p.14/l.25-33; Ex. 130EP-1 p.143.* Visibility of the Facility will be limited by existing topography, naturally occurring tree lines and the vegetated landscaping plan for the Facility (including an effective screening berm). *Ex. Worrall-1 p.6/l.15-33, p.10/l.30-p.11/l.12, and p.14/l.3-p.15/l.38; Ex. Worrall-10; Ex. 130EP-1 p.143.* The Facility design provides a visually compatible shape and massing of the landfill itself. *Ex. Worrall-1 p.6/l.15-33, p.9/l.38-44 and p.10/l.30-p.11/l.12.*

The Facility will be compatible with surrounding land uses. *Ex. Worrall-1 p.6/l.15-33 and p.10/l.30-p.11/l.12.*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding land use compatibility. As required by Tex. Health & Safety Code §361.069, the Facility is compatible with surrounding land uses.

5. TRANSPORTATION AND TRAFFIC

All vehicles traveling to and from the Facility will use northbound U.S. Highway 183 (US 183) north of its intersection with Farm to Market Road 1185 (FM 1185), and the entrance road (or driveway) for the Facility. *Ex. 130EP-1 pp. 164, 167, and 172.* The entrance road for the Facility will extend from the east side of US 183 north of its intersection with FM 1185, through the entrance gate, to the Permit Boundary, and continue past the scale house and scales, the citizen's convenience center, and the truck wheel wash. *Ex. 130EP-1 pp. 124, 141, and 164.* Roadways within one mile of the Facility that will be used by 130 Environmental Park for entering or leaving the Facility are shown on general locations maps in Part II of the Application: US 183, State Highway 130 (SH130), and the grade-separated intersections of FM 1185 and Schuelke Road with US 183, all of which are hard-surfaced paved roads with asphalt pavement; and the entrance road for the Facility, which will be 40-foot wide and use the same section of asphalt pavement as US 183. *Ex. 130EP-1 pp.117, 124, 141, and 166; Testimony of Tyson Traw, P.E. at Tr. p.495/l.23-p.496/l.4; Ex. Parker-6 p.26, at Note 1.*

A traffic impact analysis for the Facility was prepared by John Denholm, P.E. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.5/l.8-15.* Following several communications with the Texas Department of Transportation (TxDOT), the final version of the traffic impact analysis ("the TIA") was submitted to TxDOT in October 2014 and approved by TxDOT in November 2014. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.5/l.34-40; Testimony of Heath Parker, P.E. at Ex. Parker-1 p. 6/l.38-44; Exhibit 130EP-1 pp. 160-196.*

The volumes of background (non-Facility) vehicular traffic on access roads within one mile of the proposed Facility, both existing and expected, during the life of the proposed Facility are set out in the TIA. *Ex. 130EP-1 pp. 176-182.* Reasonable projections of the volume of traffic expected to be generated by the Facility on the access roads within one mile of the proposed Facility are set out in the TIA. *Ex. 130EP-1 pp.168-175 and 195-196; Testimony of B. Jeffery Hobby at Ex. Hobby-1 p.5/l.5-8.* Vehicles traveling to and from the Facility and will consist of waste route collection trucks, waste transfer trucks, small waste load vehicles, recycling trucks, miscellaneous trucks, and passenger cars. *Ex. 130EP-1 pp.195-196.* The number of vehicles traveling to and from the Facility on a daily basis is projected to increase each year from the time the Facility begins operations (Year 1) until the time the 130 Environmental Park Landfill reaches capacity (estimated to be Year 44). *Ex. 130EP-1 pp.195-196; Ex. 130EP-3 pp.52-54.* The projected numbers of each type of vehicle traveling to and from the Facility on a daily basis in Year1/Year 44 are: waste route collection trucks (110/216), waste transfer trucks (15/29), small waste load vehicles (25/49), recycling trucks (40/78), miscellaneous trucks (4/8) and passenger cars (40/79). The total projected number of vehicles traveling to and from the Facility on a daily basis is 234 in Year 1 and 459 in Year 44. *Ex. 130EP-1 pp.195-196.* Projected total vehicular traffic volumes on access roads within

one mile of the proposed Facility during the expected life of the proposed Facility are set out in the TIA. *Ex. 130EP-1 pp.183-185*. The Facility will contribute a minimal amount (approximately 3.5%) of the total traffic on US 183 in the area of the Site. *Ex. 130EP-1 p.193*. The existing roadway infrastructure, including northbound US 183, has adequate capacity to accommodate the traffic generated by the Facility. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.2/l.21-27*.

Based in part on the TIA, TxDOT issued a driveway permit authorizing the construction and connection to northbound US 183 of the entrance road for the Facility. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.2/l.24-31; Testimony of Heath Parker, P.E. at Ex. Parker-1 p. 6/l.38-p.7/l.4; Ex. Parker-6*. As part of its review and consideration of the driveway permit request for the entrance road for the Facility, TxDOT considered issues related to structural integrity of the public roadways and the entrance road. *Testimony of John Denholm, P.E. at Tr. p.291/l.22-p. 292/l.11*. The Facility entrance road connection to northbound US 183 will include a northbound right turn deceleration lane as coordinated with, and recommended and permitted by, TxDOT. No other roadway improvements are necessary to accommodate Facility traffic. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.2/l.24-34; Ex. 130EP-1 pp. 189-190; Ex. Parker-4; Ex. Parker-6*. The proposed location of the Facility entrance road will provide adequate sight distance for vehicles exiting onto US 183. *Testimony of John Denholm, P.E. at Ex. Denholm-1 p.2/l.24-39; Ex. 130EP-1 pp. 191-192*.

130 Environmental Park coordinated with TxDOT regarding traffic and location restrictions. *Ex. 130EP-1 pp. 157-196; Testimony of John Denholm, P.E. at Ex. Denholm-1 p.5/l.8-15; Testimony of Heath Parker, P.E. at Ex. Parker-1 p.4/l.12-25 and p.6/l.38-p.7/l.28*.

The roads to be used by 130 Environmental Park to access the Facility will be available and adequate.

The Application includes documentation of coordination with the Federal Aviation Administration for compliance with airport location restrictions. *Ex. 130EP-1 pp.814-820*. There is no airport within a six-mile radius of the Site. *Ex. 130EP-1 pp.98, 122, and 814-820*. The Facility will comply with the Airport Safety Location Restriction in 30 TAC §330.545. *Ex. 130EP-1 p. 838*.

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding transportation and traffic.

6. GEOLOGY AND SOILS

The Geology Report was prepared, signed, and sealed by John Michael Snyder, P.G., a qualified groundwater scientist. *Ex. 130EP-4 pp.6-222; Ex. 130EP-6; Ex. 130EP-7; Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.4/l.28-p.9/l.11 and p.9/l.15-p.10/l.11; Ex. Snyder-2*. The Geology Report identifies sources and references for the information in it. *Ex. 130EP-4 pp.33-34 and 6-222; Ex. 130EP-6 pp.34 and 45-52; Ex. 130EP-7*. The Geology Report includes portions of published map series, including the Geologic Map of Texas, the Geologic Atlas of Texas, and mapping from the USGS Geologic Database of Texas, all of which are regional geologic maps. *Ex. 130EP-4 pp.11-12 and 37-39; Ex. 130EP-7 pp.7-8 and 13 14/l.44-p.15/l.43*. The Geology Report includes a description of the generalized stratigraphic column in the area of the Site, with specific information on each geologic unit. *Ex. 130EP-4 pp.11-12, 16-18, and 37-40; Ex. 130EP-*

7 pp.7-8. The Geology Report includes a regional stratigraphic cross-section. *Ex. 130EP-4 pp.12 and 40.* The Geology Report includes a description of the geologic processes active in the vicinity of the Site, including information about faulting and subsidence. *Ex. 130EP-4 pp 12, 13-15, 40; Ex. 130EP-7 p.13; Testimony of John Michael Snyder, P.G. at Ex. Snyder-1. p.14/l.44-p.17/l.4.*

The Geology Report includes the results of investigations of subsurface conditions at the proposed location of the Landfill. *Ex. 130EP-4 pp.19-31 and 44-222; Ex. 130EP-7 pp.8-113.* The Geology Report describes forty-three borings drilled on the Site on behalf of 130 Environmental Park in mid to late 2013 and in 2016 during boring programs supervised by John Michael Snyder, P.G. to investigate, characterize, and test soils and to characterize groundwater (the "Soil Borings"). *Ex. 130EP-4 pp.19-31 and 44-222; Ex. 130EP-7 pp.8-113.* Seventeen additional borings were drilled and completed as piezometers to investigate and measure levels of groundwater at the Site. *Ex. 130EP-7 pp.8 and 14.* The Soil Borings were drilled to depths of up to 127 feet below ground surface (bgs) using established field exploration methods, including rotary drilling with drilling fluid introduced when the material became too hard to drill dry. *Ex. 130EP-4 pp.19-20; Ex. 130EP-7 p.8 and pp. 21-22.* All of the Soil Borings were at least five feet deeper than the elevation of the deepest excavation proposed for the Landfill. Eighteen of the 2013 Soil Borings and four of the 2016 Soil Borings were drilled to a depth at least 30 feet below the deepest excavation planned at the Landfill. *Ex. 130EP-7 pp.21-22.* Samples were collected from the Soil Borings using Shelby tubes and split spoons and, in several borings where the presence of occasional cobbles and pebbles in the shallow subsurface clay prevented pushing tubes, samples at depths of 1 to 7 feet bgs were collected from auger cuttings. *Ex. 130EP-4 pp.19-20; Ex. 130EP-7 pp.8-9.* The number and locations of the Soil Borings were sufficient to establish subsurface stratigraphy, to obtain adequate samples for soil testing, and to determine geotechnical properties of the soils and rocks beneath the Facility. *Testimony of Gregory W. Adams, P.E. at Tr. p.894/l.1-8.* The Soil Borings were properly plugged and abandoned. *Ex. 130EP-4 p.20; Ex. 130EP-7 p.9.*

The Geology Report includes boring logs, maps, and tables that provide detailed information for all of the Soil Borings and piezometers. *Ex. 130EP-4 pp.19-23, 26-31, 50-161, and 221-222; Ex. 130EP-7 pp.5-11, 14-25, and 69-113.* The Geology Report includes narrative discussions describing John Michael Snyder, P.G.'s interpretations of the subsurface stratigraphy based upon the field investigation work conducted at the Site. *Ex. 130EP-4 pp.22-23; Ex. 130EP-7 pp.8-10.* The Geology Report includes cross-sections, prepared from the Soil Borings and piezometers, depicting the generalized strata in the subsurface at the Facility. *Ex. 130EP-4 pp.22 and 151-160; Ex. 130EP-7 pp.5-6 and 15-16.*

Regional stratigraphy includes geologic units of the Cretaceous Gulf Series Navarro Group, the Paleocene Midway and Eocene Wilcox Group and Quaternary deposits of the Leona Formation. *Ex. 130EP-4 p.11.* The Site is located on an outcrop of the Midway Group. The Midway in the area consists primarily of dense, silty, fat clay (high plasticity inorganic clay) and, based on published literature, is between 400 and 600 feet thick beneath the Site. *Ex. 130EP-4 pp.11-12, 22-23, and 37-39; Ex. 130EP-7 pp.7-8 and 13.* Beneath the Midway there are several hundred feet of low permeability clays, marls, and limestones of the Navarro, Taylor, Eagle Ford, and Austin formations. *Ex. 130EP-4 pp.11-12; Ex. 130EP-7 p. 5.*

Silty fat clay is by far the dominant material encountered in all of the Soil Borings. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.21/l.22.* Based upon the field investigation work

conducted at the Site, the subsurface stratigraphy consists of three strata (beginning at the surface and continuing downward): Stratum I is up to ten feet thick and consists primarily of brown to tan, silty fat clay with occasional discontinuous occurrence of small rock pieces, including cobbles (larger than about 3 inches), pebbles (between about ¼ inch and 3 inches) and some gravel (smaller than pebbles). Stratum II ranges in thickness from about 30 to 60 feet and consists of weathered silty fat clay. Weathering effects are indicated primarily by color from tan near the upper parts to tan and gray and eventually to gray as it transitions to the unweathered dark gray clay below. Stratum III consists of hard, dense, dark gray silty fat clay, up to 77 feet of which was encountered in the Soil Borings. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.21/l.23-31; Ex. 130EP-3 pp.60-61.*

The Geology Report includes laboratory report data describing the characteristics and geotechnical properties of soil samples from Stratum I, Stratum II, and Stratum III based on geotechnical tests performed in accordance with industry practice and recognized procedures, including permeability, sieve analysis, Atterberg limits, and moisture content. *Ex. 130EP-4 pp.24-25 and 175-218; Ex. 130EP-7 pp.9-10 and 28-67; Ex. 130EP-3 p.59; Testimony of Gregory W. Adams, P.E. at Tr. p.895/l.13-p.896/l.24.* Permeability (hydraulic conductivity) tests were performed on samples from the strata that will form the bottom and sides of the landfill excavations. Tested permeabilities ranged from 5.9×10^{-8} cm/sec in Stratum I material to an average of 1.5×10^{-8} in Stratum III material. *Testimony of Gregory W. Adams, P.E. at Ex. Adams-1 p.15/l.24-35; Ex. 130EP-4 pp.25, 176-177, and 194-205.* The Geology Report includes discussion with conclusions about the suitability of the soils and strata for the uses for which they are intended. The soils at the Site will be suitable for use in construction and operation of the proposed Facility. *Ex. 130EP-4 pp.24-26; Ex. 130EP-7 pp.8-10; Ex. 130EP-3 pp.60-61; Testimony of Gregory W. Adams, P.E. at Ex. Adams-1 p.15/l.8-p.17/l.40; Ex. Adams-5.* Analyses of the landfill slope stability show that the factors of safety against slope failure exceed the recommended factors of safety for all conditions analyzed. The soils at the Site will provide adequate support for the proposed landfill. *Testimony of Gregory W. Adams, P.E. at Ex. Adams-1 p.15/l. 35-39; Ex. 130EP-3 pp.64-66; Ex. 130EP-4 p.15; Ex. 130EP-3 pp.64-66 and 71-212.*

The May 2016 Supplement to the Application presents information from borings drilled in 2016 that is consistent with the information obtained from borings drilled during the original subsurface investigation in 2013. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.7/l.1-13.* The May 2016 Supplement includes minor revisions to several 2013 boring and piezometer locations and elevations, and several tables and drawings. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.7/l.1-15.*

The Application contains complete and accurate information about geology and groundwater required by 30 TAC § 330.63(e) and (f). *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.11/l.9-11.* The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding geology. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.12/l.2-9; Tr. p.1991/l.3-p.1993/l.8.* The Geology Report complies with all applicable TCEQ requirements concerning geology reports. *Ex. Snyder-1 p.14/l.34-37.* The Application (including March 2015 and May 2016 supplements) includes sufficient information and demonstrates compliance with TCEQ rules regarding geology and soils.

7. HYDROGEOLOGY

The Geology Report includes a description of the regional aquifers in the vicinity of the Site. *Ex. 130EP-4 pp.11-12, 16-18, and 37-42.* Regional aquifers that supply groundwater to wells in Caldwell County are the Carrizo-Wilcox and the Leona formations. *Ex. 130EP-4 pp.16 and 227.* The Wilcox Formation crops out east of the Site and in a northeast trending belt across Caldwell County. The Carrizo Formation occurs east and southeast of the outcrop of the Wilcox, approximately 12 miles southeast of the Site. The aquifer portions of these two formations is collectively known as the Carrizo- Wilcox. *Ex. 130EP-4 pp.16.* The Carrizo- Wilcox is characterized by the Texas Water Development Board (TWDB) as a major aquifer. *Ex. 130EP-4 pp.16 and 227.* Most groundwater produced in northern Caldwell County is from wells tapping the Carrizo-Wilcox Formation, located east of the site. *Ex. 130EP-4 pp.16 and 227.* The primary outcrop of the Leona Formation, from which some groundwater is produced, is located several miles south of the Site. *Ex. 130EP-4 pp.16 and 227.* The Leona Formation is not characterized by the TWDB as either a major or minor aquifer. *Ex. 130EP-4 pp.16 and 227.* Leona Formation material is not present at the Site. *Ex. 130EP-4 p.11; Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.25/l.30-44.*

Published literature shows no aquifers located beneath the Site. *Ex. 130EP-4 p.29.* There is very little groundwater present in the silty clays and shales that make up the geologic formations at the Site down to a depth of several hundred feet below the ground surface. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.26/l.34-46.* Groundwater was not encountered during drilling in any of the forty-three Soil Borings prior to the introduction of drilling fluid. *Ex. 130EP-4 pp.51-126; Ex. 130EP-7 pp.94-113.* Water level readings were taken in each of the seventeen piezometers every month from October 2013 until May 2016. Water has been observed in only three of the seventeen piezometers, all screened at the interface between Stratum II and Stratum III; one of those has been dry since November 2013, another one has been dry since August 2015. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.27/l.2-22; Ex. 130EP-4 p.29; Ex. 130EP-7 p.24.*

Small amounts of groundwater occur at the Site in the shallow weathered silty fat clay (Stratum II), just above its interface with the underlying hard, dark gray unweathered clay (Stratum III) that is present across the Site. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.31/l.28-32.* The zone of groundwater occurrence at the Site is not characterized as a major or minor aquifer by the Texas Water Development Board and there are no known wells completed in this zone within one mile of the Site. *Ex. 130EP-4 p.29.* Groundwater at the Site does not occur in sufficient amounts to supply usable quantities to wells that could support industrial, irrigation, domestic, or livestock use. *Ex. 130EP-4 p.29.* The volume of water observed in piezometers on the Site would be sufficient for sampling and analysis in accordance with TCEQ Municipal Solid Waste rules and, as a result, the zone of groundwater occurrence on the Site satisfies the criteria used by the TCEQ Municipal Solid Waste Permits Section for characterization as an aquifer. *Ex. 130EP-4 p.29.*

The zone of groundwater occurrence in the shallow weathered silty fat clay (Stratum II), just above its interface with the underlying hard, dark gray unweathered clay (Stratum III) is the uppermost aquifer at the Site. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.31/l.28-32; Ex. 130EP-4 p.29.* There are no lower aquifers that are hydraulically connected to the uppermost aquifer beneath the Facility. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.31/l.28-*

32. Other than the zone of groundwater occurrence in the Stratum II weathered silty fat clay just above its interface with the underlying Stratum III unweathered Midway clay, the field investigation work at the Site showed no aquifers are present beneath the Site. *Ex. 130EP-7 p.8.*

The lack of weathering effects in the deeper, unweathered clay (Stratum III) results in Stratum III functioning as an aquitard or lower confining unit to the groundwater in the above weathered clay, thus creating a pathway for groundwater to move at the interface of Stratum II and Stratum III. *Ex. 130EP-4 p.29.* The structural contour map of the top of Stratum III shows a strong resemblance to the surface topography. Groundwater flow from the landfill footprint area may occur to the northwest, west, southwest, south, southeast, and east. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.27/l.24-p.28/l.3; Ex. 130EP-4 pp.30; Ex. 130EP-7 pp.11 and 17-18.* The groundwater velocities in Stratum II are estimated at 0.01 to 0.04 feet per year. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.27/l.24-p.28/l.3; Ex. 130EP-7 pp.11, 17-18, and 25.*

The Groundwater Sampling and Analysis Plan complies with all applicable TCEQ MSW regulatory requirements concerning groundwater sampling and analysis plans. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.26/l.18-22; Ex. 130EP-4 pp.223-268, Ex. 130EP-7.* The Facility will comply with the Groundwater Location Restriction in 30 TAC §330.549. *Ex. 130EP-1 p.840.*

The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding hydrogeology. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.12/l.2-9; Tr. p.1991/l.3-p.1993/l.8.* The Application (including March 2015 and May 2016 supplements) includes sufficient information and demonstrates compliance with TCEQ rules regarding hydrogeology. The Facility will comply with the Groundwater Location Restriction in 30 TAC §330.549.

8. FAULTS

A fault study of the Site area, based on the criteria in 30 TAC §330.555, was conducted by John Michael Snyder, P.G., a licensed professional geoscientist qualified to evaluate faulting, and found no evidence of faulting. *Ex. 130EP-4 pp.13-14 and 37-39; Ex. Snyder-1. p.14/l.44-p.17/l.4.*

The area of the Site is not experiencing withdrawal of crude oil, natural gas, sulfur, etc. or significant amounts of groundwater. *Ex. 130EP-1 pp.97, 108, 146-150, and 152; Ex. 130EP-4 pp.16-18, 42, 165; Ex. 130EP-54; Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.4/l.1-6.* The area of the Site is not subject to differential subsidence and there is no evidence of subsidence in the area. *130EP-4 p.14; Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.16/l.28-42.*

Locations of known (mapped) faults within several miles of the Site are shown on the portions of regional geology maps included in the Geology Report and are all located more than 200 feet from the proposed landfill waste management unit boundary. *Ex. 130EP-4 pp.11-12, 14 and 37-39; Ex. 130EP-7 pp.7-8 and 13; Ex. Snyder-1 p.15/l.17-p.17/l.4.* The faults located in the area of the Site are documented to have last moved 5 to 56 million years ago, well before the Holocene Epoch (the most recent 11,700 years). *Ex. 130EP-4 p.14.* There is no active faulting or fault that has had

displacement in Holocene time in the area of the Site or within one-half mile of the Site. *Ex. 130EP-4 p.14; Ex. Snyder-1. p.16/l.44-p.17/l.4.*

The municipal solid waste landfill unit at the Facility will not be located within 200 feet of a fault that has had displacement in Holocene time. *Ex. 130EP-4 pp.11-12, 14 and 37-39; Ex. 130EP-7 pp.7-8 and 13; Ex. Snyder-1 p.15/l.17-p.17/l.4.*

The Facility will comply with the Fault Areas Location Restriction in 30 TAC §330.555. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.31/l.39-44; Ex. 130EP-1 p.843.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding faults.

9. GROUNDWATER MONITORING

Any groundwater that may be present at the Site will move through the subsurface very slowly. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30.* Groundwater that may be present at the Site could move more readily in the Stratum II weathered clay than in the unweathered clay material in Stratum III. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30.* In the unlikely event any contaminants were to migrate out of the Landfill and enter groundwater, that groundwater could move slowly downward and outward from the Landfill in the weathered Stratum II material above the unweathered material in Stratum III. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30.*

A groundwater monitoring system for the Facility has been designed by John Michael Snyder, P.G. and is described in the Groundwater Sampling and Analysis Plan in the Application. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.9/l.15-23, p.12/l.4-9, and p.28/l.5-30; Ex. 130EP-4 pp.224-268; Ex. 130EP-7 pp.5-6 and 19.* The point of compliance groundwater monitoring system for the Facility will include twenty-five groundwater monitoring wells located downgradient from the Landfill footprint, around the northwest, west, southwest, south, southeast, and east perimeter of the Landfill, and spaced no more than 600 feet apart. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30; Ex. 130EP-4 pp.231-232 and 237.* The groundwater monitoring system for the Facility will include one groundwater monitoring well located upgradient from (northeast of) the Landfill footprint. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30; Ex. 130EP-4 pp.231-232 and 237.* The groundwater monitoring wells will be constructed with well screens (perforated portion of the pipe in the well where water can enter the well to be collected for laboratory analysis) starting at the interface of the weathered Stratum II/unweathered Stratum III materials and extending upward for twenty feet. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30. Ex. 130EP-4 pp.231-232; Ex. 130EP-7 pp.5-6 and 19.* The downgradient monitoring wells will be located at depths and locations to allow for the detection of contaminants in the uppermost aquifer. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.28/l.5-30.*

The Groundwater Sampling and Analysis Plan complies with all applicable TCEQ municipal solid waste regulatory requirements concerning groundwater sampling and analysis plans. *Testimony of John Michael Snyder, P.G. at Ex. Snyder-1 p.26/l.18-22.*

The Application (including March 2015 and May 2016 supplements) includes sufficient information and demonstrates compliance with TCEQ rules regarding groundwater monitoring. The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding monitoring systems and other features whose designs depend on the geologic and hydrogeologic characteristics of the Site, including groundwater monitoring systems. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.12/l.2-9; Tr. p.1991/l.3-p.1993/l.8.*

10. GENERAL FACILITY DESIGN

Access to the Facility will be controlled by a perimeter fence consisting of barbed wire, woven wire, wooden fencing, plastic fencing, pipe fencing, or other suitable material located along the facility boundary and a locking gate at the Site entrance. *Ex. 130EP-2 p.26.* The fencing and gate at the Facility will prevent the entry of livestock, protect the public from exposure to potential health and safety hazards, discourage unauthorized public access to the disposal operations, and discourage unauthorized entry or uncontrolled disposal of solid waste or prohibited materials. *Ex. 130EP-2 p.26.* A gate constructed of suitable fencing materials will be located on the entrance road of the Facility and will be locked when the landfill is not accepting waste. *Ex. 130EP-2 p.26.*

The Application contains a generalized process design and working plan of the overall facility. *Ex. 130EP-2 pp.27-31, 39, and 40-45.* The Application contains a flow diagrams indicating the storage, processing, and disposal sequences for the various types of wastes received at the Facility. *Ex. 130EP-2 p.39.* The Application contains schematic view drawings showing the various phases of collection, separation, processing, and disposal as applicable for the types of wastes and feedstocks received at the Facility. *Ex. 130EP-2 pp.40-45.* The Application contains ventilation and odor control measures for each storage, separation, processing, and disposal unit. *Ex. 130EP-2 pp.28-31, Ex. 130EP-5 pp.143-144, and 147-151.* The Application contains generalized construction details of all storage and processing units, including slabs and subsurface supports, and locations and engineering design details of all containment dikes or walls. *Ex. 130EP-2 pp.27-31 and 39-45.* Grease, oil, and sludge will not be accepted or stored at the Facility. *Ex. 130EP-2 p.12.* The Application describes how all liquids resulting from the operation of solid waste processing facilities will be disposed of. *Ex. 130EP-2 pp.27-31, 34, and 39-45; Ex. 130EP-3 pp.214-420.*

Processing facilities will be designed to facilitate proper cleaning by controlling surface drainage in the vicinity of the facility to prevent surface water runoff onto, into, and off the treatment area and constructing walls and floors in operating areas of masonry, concrete, or other hard-surfaced materials. *Ex. 130EP-2 pp.32-33 and 40-45.* The surface water drainage design will manage runoff and runoff during the peak discharge from the 25-year, 24-hour storm event to minimize surface water running onto, into, and off waste processing and storage areas and prevent the off-site discharge of waste and feedstock material, including, but not limited to, processed or stored materials. *Ex. 130EP-2 pp.34 and 49.* The Facility has been designed to keep contaminated surface water (water that may have come into contact with waste) separated from uncontaminated stormwater runoff. Contaminated water will not be discharged to the surface water management system to be constructed at the Site. *Ex. 130EP-2 p.34.* Surface or groundwater that has become contaminated will be handled, stored, treated, and disposed of in accordance with 30 TAC §330.207. *Ex. 130EP-3 pp.214-420.*

The design and operation of the Facility, including waste processing and storage facilities, and the surface water management system, will prevent the discharge of solid waste, pollutants, dredged or fill material, and nonpoint source pollution that would violate any of the provisions referenced in 30 TAC §330.15(h). *Ex. 130EP-2 p.34.* Because all contaminated water will be managed in a controlled manner, groundwater will be protected. *Ex. 130EP-2 p.34, Ex. 130EP-2 pp.47-468.*

Prior to commencing Facility operations, 130 Environmental Park will submit a notice of intent (NOI) under the stormwater permitting requirements of TCEQ's rules, qualifying the facility to operate pursuant to a general stormwater discharge permit (TPDES General Permit No. 050000). *Ex. 130EP-1 pp.107 and 811-812; Ex. 130EP-2 p.34.*

The Site Operating Plan in the Application includes a Species Protection Plan that provides criteria for the protection of endangered or threatened species that have the potential to occur within the Hunter Property. *Ex. 130EP-5 pp.178-187.*

There are no site-specific conditions that require special design considerations. *Ex. 130EP-1 p.89.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding general facility design.

11. WASTE MANAGEMENT UNIT DESIGN

The Facility will have all weather access from US Highway 183, a publically owned route. *Ex. 130EP-3 pp.13 and 23; Ex. 130EP-1 pp.134-139; and Ex. 130EP-5 p.145.* The Facility will have all weather access from the entrance of the facility to unloading areas used during wet weather. *Ex. 130EP-3 pp.13 and 23; Ex. 130EP-1 pp.134-139; and Ex. 130EP-5 p.145.* The Facility access roads will be constructed of crushed stone, gravel, concrete rubble, masonry rubble, wood chips, or other similar materials to provide access to the disposal area during all weather conditions. *Ex. 130EP-3 p.13.* Tracking of mud onto public roads will be minimized by the all-weather surfaces of the Facility access roads and the entrance road and a truck wheel wash. *Ex. 130EP-3 p.13 and Ex. 130EP-5 pp.144-145.*

The development method for the 130 Environmental Park landfill will be a combination of area-excavation fill followed by aerial fill to the proposed landfill completion height. *Ex. 130EP-3 p.13.* The elevation of deepest excavation will be 501.9 feet msl. *Ex. 130EP-3 p.13.* The maximum elevation of final cover will be 736 feet msl. *Ex. 130EP-3 p.13.* The maximum elevation of disposed waste will be 731.5 feet msl. *Ex. 130EP-3 p.13.*

The total volume available for waste disposal will be approximately 33.1 million cubic yards (waste and daily cover), which will provide an estimated 44 years of site life. *Ex. 130EP-3 pp.14 and 51-54.* The Application contains calculations and assumptions for the waste volume, rate of deposition, and site life estimate. *Ex. 130EP-3 pp.51-54.*

The Application contains landfill unit cross-sections consisting of plan profiles across the Facility that accurately depict the proposed depths of all fill areas within the Facility. *Ex. 130EP-3 pp.14, and 27-38.* The landfill unit cross-sections show boring logs obtained from the soils report on the profiles. *Ex. 130EP-3 pp.14, and 27-38.* Stratum I, Stratum II, and Stratum III materials will form the sides of the landfill unit excavations, and the bottom of the landfill unit excavations will be in Stratum II and Stratum III materials. Stratum III materials extend at least 30 feet below the lowest

elevation of the landfill unit excavations. *Ex. 130EP-1 pp.153-160.* Construction and design details of compacted perimeter or toe berms are included on the fill cross-sections. *Ex. 130EP-3 pp.14, and 27-38.*

The Application contains a liner quality control plan prepared in accordance with 30 TAC Chapter 330, Subchapter H. *Ex. 130EP-3 pp.14-15, 40-49, and 422-476.*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding waste management unit design.

12. UNSTABLE AREAS

The logs of the Soil Borings and laboratory data from soil samples did not indicate the presence of poor foundation conditions such as soft clay or loose sand beneath the Landfill. The hand penetrometer values and unit dry weight results indicate that the subsurface clays are hard. *Ex. 130EP-4 pp.15, 51-126, and 175-218.* The settlement and heave analyses presented in the Application show that the landfill components will not undergo detrimental differential settlement. *Ex. 130EP-4 p.15; Ex. 130EP-3 pp.64 and 71-75.* The slope stability analyses presented in the Application show that landfill components will be stable. *Ex. 130EP-4 p.15; Ex. 130EP-3 pp.65-66 and 77-212.* Evidence of mass movement of natural formations of earthen material on or in the vicinity of the Site was not observed at the Site, in the Soil Borings, or on geologic maps. *Ex. 130EP-4 p.15, 51-126.* Evidence of karst terrain was not observed at the Site, in the Soil Borings, or on geologic maps of the area. *Ex. 130EP-4 p.15, 51-126.*

The Site is not located in an unstable area. *Ex. 130EP-4 p.15.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding unstable areas.

The Facility will comply with the Unstable Areas Location Restriction in 30 TAC §330.559. *Testimony of Gregory W. Adams, P.E. at Ex. Adams-1 p.21/l.23-p.22/l.44; Ex. 130EP-1 p.845.*

13. LANDFILL GAS MONITORING

The Application includes a Landfill Gas Management Plan (LFGMP) as required by 30 Tex. Admin Code § 330.63(g). *Ex. 130EP-5 pp.6-40.* The LFGMP describes the mechanisms to be employed at the Facility for quarterly monitoring of landfill gas, including a detailed description of monitoring procedures. *Ex. 130EP-5 pp.6-40.* The LFGMP includes a perimeter methane monitoring system consisting of 33 permanent monitoring probes. *Ex. 130EP-5 pp.11, 13-14, and 24-26.* The LFGMP includes provisions for continuous methane monitors to be located in structures within the Facility boundary. *Ex. 130EP-5 pp.11, 16, and 25.*

There are no underground utility lines or easements that enter or exit the Facility Boundary. *Ex. 130EP-5 p.12.* Any future underground utility trench that crosses the Facility Boundary will be monitored regularly. *30 TAC §330.371(f); Ex. 130EP-5 p.10.*

The LFGMP includes procedures and standards for methane monitoring. *Ex. 130EP-5 pp.13-17.* Soil conditions, hydrogeologic and hydraulic conditions surrounding the facility, the location of facility structures and property boundaries, and the provisions of 30 TAC §330.371 were

considered in determining the type and frequency of methane monitoring. *Ex. 130EP-5 pp.11-12.* The LFGMP describes the actions that the Facility must take if methane levels are detected in excess of the prescribed limits. *Ex. 130EP-5 pp.18-20.* The LFGMP includes a back-up plan to be used if any installed LFG monitoring probes or continuous monitoring devices become unusable or inoperative. *Ex. 130EP-5 p.17.* The LFGMP provides for including applicable documentation, including monitoring records for landfill gas monitoring probes, in the site operating record. *Ex. 130EP-5 p.17.* Landfill gas monitoring will continue for a period of 30 years after certification of final closure of the Facility, or until 130 Environmental Park receives written TCEQ authorization to reduce the program. *Ex. 130EP-5 p.10.*

The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding monitoring systems and other features whose designs depend on the geologic and hydrogeologic characteristics of the Site, including landfill gas systems. *Testimony of TCEQ Geologist Arten Avakian, P.G. at Ex. ED-AA-1 p.12/l.2-9; Tr. p.1991/l.3-p.1993/l.8.*

The Application includes adequate provisions to manage landfill gas in compliance with TCEQ rules. *Ex. 130EP-5 pp.6-40.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding landfill gas monitoring.

14. ENDANGERED OR THREATENED SPECIES

The Application contains an evaluation of endangered or threatened species for the Hunter Property conducted by Russell Marusak, a qualified biologist. *Ex. 130EP-1 pp.681-756; Ex. Marusak-2.* The United States Fish and Wildlife Service and the Texas Parks and Wildlife Department were contacted for locations and specific data relating to endangered and threatened species. *Ex. 130EP-1 pp.681-756.* Five threatened or endangered species have the potential to occur within the Hunter Property: the wood stork, the golden orb, the Texas pimpleback, the Texas horned lizard, and the timber rattlesnake. *Ex. 130EP-1 p.111.* The wood stork, the golden orb, the Texas pimpleback, the Texas horned lizard, and the timber rattlesnake are not federally listed threatened or endangered species and therefore no critical habitat has been designated for any of them. *Ex. 130EP-1 p.111.* The Site Operating Plan in the Application includes a Species Protection Plan that provides criteria for the protection of endangered or threatened species that have the potential to occur within the Hunter Property. *Ex. 130EP-5 pp.178-187.*

The Facility and its operation will not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species. *Ex. 130EP-1 pp.111, and 681-757; Ex. 130EP-2 p.35; Ex. 130EP-5 pp.145, and 178-187.*

The Facility will comply with the Endangered or Threatened Species Location Restriction in 30 TAC §330.551. *Ex. 130EP-1 p.841.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding endangered or threatened species.

15. WETLANDS

The Application includes a wetlands determination under applicable federal, state, and local laws

and identifies wetlands located within the Facility Boundary. *Testimony of Russell Marusak at Ex. Marusak-1 p.7/l.13-26; Ex. 130EP-1 pp.275-674.* The U.S. Army Corps of Engineers issued a June 20, 2014 letter approving the wetlands jurisdictional determination and authorizing construction of the roadway crossings of streams associated with the entrance road for the Facility pursuant to Nationwide Permit 14. *Ex. 130EP-1 pp.199-269; Testimony of Russell Marusak at Ex. Marusak-1 p.8/l.32-44, p.9/l.23-p.10/l.10; Exhibit Marusak-3.* The Application includes a discussion of wetlands in accordance with 30 TAC §330.553 and each of the demonstrations set out therein. *Testimony of Russell Marusak at Ex. Marusak-1 p.7/l.28-31; Ex. 130EP-1 pp.675-679.*

The federal definition of “wetlands” in 33 CFR §328.3(c)(4) is “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.” 33 CFR §328.3(c)(4). The applicable state definition of “wetlands” is nearly identical to the federal definition, but does not include a man-made wetland of less than one acre. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.11; 30 TAC §330.3(178); 30 TAC §307.3(a)(81).* The state definition of “wetlands” does not conflict with the federal definition in a situation like municipal solid waste permitting. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.11.*

There are 20 areas, totaling 1.46 acres in size, of “federal definition” wetlands located within the Facility Boundary. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.26; Ex. 130EP-1 pp.671-674.* There are 12 areas, totaling 0.68 acres in size, of “federal definition” wetlands located within the proposed Landfill footprint, each of which is a man-made wetland of less than one acre. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.26; Ex. 130EP-1, pp.271, 298, and 671-674.* There are no “state definition” wetlands located within the proposed Landfill footprint. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.26; Ex. 130EP-1, pp.271, 298, and 671-674; 30 TAC §307.3(a)(81).*

The Landfill will not be located in “state definition” wetlands. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.26; Ex. 130EP-1, pp.271, 298, and 671-674; 30 TAC §307.3(a)(81).* No municipal solid waste storage or processing facilities at the Facility will be located in wetlands. *Testimony of Russell Marusak at Ex. Marusak-1 p.6/l.44-p.7/l.26; Ex. 130EP-1, pp.124 and 671-674.*

There is no requirement applicable to the Facility under Clean Water Act, §404 or state wetlands laws to rebut the presumption that a practicable alternative to the Landfill is available that does not involve wetlands. *Ex. 130EP-1, p.676.* The construction and operation of the Landfill will not cause or contribute to violations of any applicable state water quality standard. *Ex. 130EP-1, p.676.* The construction and operation of the Landfill will not violate any applicable toxic effluent standard or prohibition under the Clean Water Act, §307. *Ex. 130EP-1, pp.676-677.* The construction and operation of the Landfill will not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat. *Ex. 130EP-1, pp.677 and 681-756.* The construction and operation of the Landfill will not violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary. *Ex. 130EP-1, p.677.* The Landfill will not cause or contribute to significant degradation of “federal definition” or “state definition” wetlands. *Ex. 130EP-1,*

p.677-678. The Application demonstrates the integrity of the Landfill and its ability to protect ecological resources. *Ex. 130EP-1, p.677-678.* There is no requirement applicable to the Facility under Clean Water Act, §404 or state wetlands laws to take steps to attempt to achieve no net loss of wetlands. *Ex. 130EP-1, p.679.*

The Facility will comply with the Wetlands Location Restriction in 30 TAC §330.553. *Testimony of Russell Marusak at Ex. Marusak-1 p.5/l.34-p.6/l.8; Ex. 130EP-1 p.842.*

The Application satisfies, and the Facility will satisfy, all applicable TCEQ municipal solid waste regulatory requirements regarding wetlands. *Testimony of Russell Marusak at Ex. Marusak-1 p.3/l.26-30.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding wetlands.

16. SURFACE WATER AND DRAINAGE

The Application includes a map showing wells, springs, and surface water bodies within one mile of the Site. *Ex. 130EP-1 p.61.* The Site is located in the San Marcos River drainage basin. *Ex. 130EP-2 pp.246.* An unnamed tributary to Dry Creek traverses the Site in a northwest to southeast direction. *Ex. 130EP-2 pp.246 and 257.* Dry Creek traverses the Hunter Property east and southeast of the Site in a northeast to southwest direction. *Ex. 130EP-2 pp.11, 246, and 257.* A dam located on Dry Creek approximately 3,000 feet south of the Site and operated and maintained by Plum Creek Conservation District (PCCD) impounds water in the Soil Conservation Service (SCS) Site 21 Reservoir, also known as Plum Creek Watershed Retarding Structure No. 21. *130EP-2 pp.246 and 257.* The unnamed tributary to Dry Creek enters the Site 21 Reservoir south of the Site. *Ex. 130EP-2 pp.246 and 257.* Dry Creek exits the Site 21 Reservoir to the south and enters Plum Creek approximately six miles south of the Site. Plum Creek flows generally in a northwest to southeast direction, and enters the San Marcos River approximately 23 miles downstream from the Site. *Ex. 130EP-1 p.58; Ex. 130EP-2 p.246.* Surface topography of the Site area generally slopes to the south toward Dry Creek or its unnamed tributaries and ultimately to the Site 21 Reservoir. *Ex. 130EP-1 p.107.* Surface water from the landfill footprint area flows to the south into the Site 21 Reservoir, either via the unnamed tributary, Dry Creek, or the Site 21 Reservoir. *Ex. 130EP-1 p.107.*

The Application includes a facility surface water drainage report with facility surface water drainage design information, narrative discussion, drawings, and calculations that demonstrate how the facility is designed to meet the drainage requirements of 30 TAC §§330.63(c), 330.303, and 330.305. *Ex. 130EP-2 pp.15, 47-242, and 447-468.* The surface water drainage design report includes analyses of the existing conditions, postdevelopment conditions, and design of the surface water management system including final cover drainage facilities, drainage swales, downchutes, perimeter drainage channels, detention and sedimentation ponds and outlet structures, and also includes an erosion and sediment control plan for all phases of Facility development. *Ex. 130EP-2 pp.15 and 47-468; Ex. 130EP-1 p.107.* The surface water drainage design report includes drawings showing the off-site and on-site drainage areas, in both the existing (prior to Facility development) and postdeveloped (after Facility development) conditions. *Ex. 130EP-2 pp.75-78.*

The surface water drainage design report includes calculations and designs of surface water collection, drainage, and detention facilities to manage the water volume resulting from a 24-hour,

25-year storm. *Ex. 130EP-2 pp.63-64; 71; 160-242, and 447-468.* All uncontaminated surface water from the Landfill footprint area will be routed through the Facility detention and sedimentation ponds before entering Dry Creek or its tributary. *Ex. 130EP-1 p.107.* Surface water entering the facility boundary from the north will be conveyed around the Landfill footprint and will exit the Facility Boundary on the south. *Ex. 130EP-1 p.107.* The Facility run-on control system will prevent flow onto the active portion of the Landfill and treatment areas during the peak discharge from at least a 25-year rainfall event. *Ex. 130EP-2 p.49.* The Facility runoff management system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. *Ex. 130EP-2 p.49.* The surface water drainage design will manage runoff and runoff during the peak discharge from the 25-year, 24-hour storm event to minimize surface water running onto, into, and off waste processing and storage areas and prevent the off-site discharge of waste and feedstock material, including, but not limited to, processed or stored materials. *Ex. 130EP-2 pp.34 and 49.*

The surface water drainage design report includes a description of the methods and calculations used to estimate peak flow rates and runoff volumes: United States Army Corps of Engineers (COE) HEC-HMS computer program, the Rational Method, the Universal Soil Loss Equation, and the methods defined in the TxDOT *Hydraulic Design Manual*, October 2011, all approved by the Executive Director. *Ex. 130EP-2 pp.57-58.* The surface water drainage design report includes drainage analyses, including 25-year peak discharge, volume, and peak velocity, for both the existing and postdeveloped conditions. *Ex. 130EP-2 pp.59-62, 81-116, 118-158.* The surface water drainage design report includes existing and postdeveloped conditions comparison of peak discharge, volume, and peak velocity, for both the existing and postdeveloped conditions. *Ex. 130EP-2 pp.68-70 and 73-79.* The postdevelopment stormwater discharge points are consistent with the existing site configuration. *Ex. 130EP-2 p.70 and 75-79.* Development of the Facility will not adversely alter peak flow rates, velocities, or runoff volumes. *Ex. 130EP-2 p.70 and 75-79.*

Existing drainage patterns will not be adversely altered by development of the Facility. *Ex. 130EP-2 pp.15 and 70.*

The top surfaces and external embankment slopes of the Landfill are designed to minimize erosion and soil loss during all phases of landfill operation, closure, and post-closure care. *Ex. 130EP-2 pp.49, 65-67, 180, 184-193 and 214-242.* Estimated peak velocities for top surfaces and external embankment slopes will be less than the permissible non-erodible velocities under similar conditions. *Ex. 130EP-2 pp.49, 65-67, 180, 184-193, and 214-242.* Potential soil loss will not exceed the permissible soil loss for comparable soil-slope lengths and soil-cover conditions. *Ex. 130EP-2 pp.49, 65-67, 180, 184-193, and 214-242.* The surface water protection and erosion control practices will provide long-term, low maintenance geotechnical stability to the final cover. *Ex. 130EP-2 p.55.*

The Facility has been designed to keep contaminated surface water (water that may have come into contact with waste) separated from uncontaminated stormwater runoff. Contaminated water will not be discharged to the surface water management system to be constructed at the Site. *Ex. 130EP-2 p.34.* Because all contaminated water will be managed in a controlled manner, groundwater will be protected. *Ex. 130EP-2 p.34.* Surface or groundwater that has become contaminated by contact with the working face of the Landfill or with leachate will be handled, stored, treated, and disposed of in accordance with 30 TAC §330.207. *Ex. 130EP-3 pp.214-420.*

The design and operation of the Facility, including the Landfill, waste processing and storage facilities, and the surface water management system, will prevent the discharge of solid waste, pollutants, dredged or fill material, and nonpoint source pollution that would violate any of the provisions referenced in 30 TAC §330.15(h). *Ex. 130EP-2 p.34.*

Prior to commencing Facility operations, 130 Environmental Park will submit a notice of intent (NOI) under the stormwater permitting requirements of TCEQ's rules, qualifying the facility to operate pursuant to a general stormwater discharge permit (TPDES General Permit No. 050000). *Ex. 130EP-1 pp.107 and 811-812; Ex. 130EP-2 p.34.*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding surface water and drainage.

17. FLOODPLAINS

The Application includes the portion of the relevant Federal Emergency Management Agency (FEMA) floodplain map (Map Number 48055C1025E; effective date: 6-19-2012) that encompasses the Site and surrounding area. *130EP-2 pp.246-247 and 257.* The FEMA floodplain map in the Application shows (as Zone A) the 100-year floodplain in the area of the Site. *130EP-2 pp.246-247 and 257.* The Facility Boundary, the Hunter Property Boundary, the proposed Landfill Footprint, and the Limits of Landfill Grading have been added to the FEMA floodplain map in the Application. *130EP-2 pp.246-247 and 257.* The FEMA floodplain map in the Application shows that the 100-year floodplain extends onto portions of the Site, but the Landfill Footprint is outside the 100-year floodplain. *130EP-2 pp.246-247 and 257.*

The Application includes a detailed flood study (flood control analysis) of the Site and surrounding area. *130EP-2 pp.244-446.* The methods employed in the detailed flood study, including the use of United States Corps of Engineers HEC-HMS and HEC-RAS computer programs (used in the hydrologic and hydraulic analyses, respectively), are reasonable and appropriate, and consistent with and in compliance with, TCEQ municipal solid waste regulatory requirements. *130EP-2 p.248; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.4/l.39-p.5/l.43.* The detailed flood study determined the 100-year floodplain water surface elevations and the extent of the 100-year floodplain at the Site and in the area around it for the existing and postdeveloped conditions. *Ex. 130EP-2 pp. 259-261; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.11/l.4-16.* The detailed flood study shows that the Landfill Footprint will be outside the 100-year floodplain. *Ex. 130EP-2 pp. 259-261; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.11/l.18-23.* The detailed flood study shows that waste processing and/or storage units at the Facility will not be located in any 100-year floodplain. *Ex. 130EP-2 pp. 259-261; Ex. 130EP-1 p.63.* Waste disposal operations at the Facility will not be located in a 100-year floodway. *Ex. 130EP-2 pp.246-247, 253, and 257; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.10/l.23-33.*

The Landfill will not be located in any 100-year floodplain. *130EP-2 pp.246-247, 257, and 260; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.10/l.35-p.11/l.36.* Waste processing and/or storage units at the Facility will not be located in any 100-year floodplain. *Ex. 130EP-2 pp.246-247, 253, 257, and 260; Ex. 130EP-1 p.63.* The proposed municipal solid waste management units at the Facility will not be located in any 100-year floodplain. *Ex. 130EP-2 pp.246-247, 253, 257, and 260; Ex. 130EP-1 p.63; Testimony of Tyson L. Traw, P.E. at Ex. Traw-1 p.10/l.35-p.11/l.36.*

The Facility will be in compliance with the Floodplains Location Restriction in 30 TAC §330.547. *Ex. 130EP-1 p. 839.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding floodplains.

18. LOCAL REGULATIONS/APPROVALS

The Capital Area Council of Governments (“CAPCOG”) and TCEQ have adopted a regional solid waste management plan (“the Regional Plan”) that covers ten counties in Central Texas, including Caldwell County. *Ex. 130EP-20.* The Application includes documentation that Parts I and II of the Application were submitted for review to CAPCOG for compliance with the regional solid waste management plan. *Ex. 130EP-1 pp.823-829.* CAPCOG conducted a conformance review of the Application and determined that it is in conformance with the CAPCOG regional solid waste management plan. *Testimony of John Worrall at Tr. p.33/l.15-p.34/l.8; Ex. 130EP-21.* The Application and the Facility are in conformance with the Regional Plan. *Ex. 130EP-20 p.2, Ex. 130EP-21.*

On December 9, 2013, the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, Section III of which identifies an 18.232-acre area of the County in which “[t]he processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is not prohibited”, and Section IV of which states, “The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is prohibited in the following areas within Caldwell County, Texas: All portions of Caldwell County, Texas not included in Section III above.” *Caldwell County Ex. 3 pp. D-0003 through D-0004.*

When the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, the Application for the 130 Environmental Park Landfill permit was pending at TCEQ. *Ex. Welch-1 p.5/l.20-23.* When the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, the County sought to prohibit the processing or disposal of municipal or industrial solid waste in an area of the County for which an application for a permit or other authorization under Chapter 361 had been filed with and was pending before TCEQ. *Caldwell County Ex. 3 pp. D-0003 through D-0004; Ex. 130EP-8; Ex. Welch-1 p.4/l.33-p.5/l.23; Ex. 130EP-8.*

The existence of the Caldwell County Solid Waste Disposal Ordinance does not prevent TCEQ from granting the Application and issuing the permit sought by way of the Application. *Health & Safety Code §§363.112(d) and 364.012(f).*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding local regulations/approvals.

19. WASTE ACCEPTANCE PLAN

Solid wastes to be accepted at the Facility include municipal solid waste, special wastes, and Class 2 and 3 industrial wastes. *Ex. 130EP-1 p.90.* Limiting parameters for waste to be accepted at the Facility include: a concentration of 1,500 mg/kg total petroleum hydrocarbons, the levels for Class 1 industrial solid waste provided in 30 TAC §335.521(a)(1), the presence of free liquids, the

presence of regulated hazardous waste, the presence of polychlorinated biphenyls, the presence of radioactive waste, and the presence of chlorinated fluorocarbons. *Ex. 130EP-1 p.90.*

Waste contributed to the Facility is expected to come from residences and businesses in Caldwell County and surrounding Texas counties. *Ex. 130EP-1 p.42.* The Facility will serve an estimated population equivalent of approximately 470,000 persons to 922,000 persons during the life of the Facility. *Ex. 130EP-1 p.91.* The estimated maximum annual waste acceptance rate for the Facility projected for five years is as follows: Year 1 - 429,000 tons; Year 2 - 435,778 tons; Year 3 - 442,663 tons; Year 4 - 449,658 tons; Year 5 - 456,762 tons. *Ex. 130EP-1 p.91.*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding waste acceptance plan.

20. SITE OPERATING PLAN

Part IV of the Application is the Site Operating Plan for the Facility. *Ex. 130EP-5 pp.99-187.*

130 Environmental Park will provide notice of construction of a new waste disposal area or cell in the form of a Soil Liner Evaluation Report (SLER) and a Geosynthetics Liner Evaluation Report (GLER), to the Executive Director for review 14 days prior to the placement of waste. *Ex. 130EP-5 p.106.*

130 Environmental Park will maintain the operating record for the Facility on site. *Ex. 130EP-5 p.107.* 130 Environmental Park will record and retain in the site operating record those items listed in Table 2-1 of the Site Operating Plan within seven working days following completion or receipt of analytical data. *Ex. 130EP-5 pp.107-110.* 130 Environmental Park will maintain the site operating record in an organized format, where information is easily locatable and retrievable. *Ex. 130EP-5 pp.107-110.* 130 Environmental Park will furnish the site operating record to the Executive Director upon request, and will make it available on site for inspection by the Executive Director. *Ex. 130EP-5 p.107.* 130 Environmental Park will retain all information contained within the site operating record of the Facility and all plans required for the Facility for the life of the Facility including the postclosure care period. *Ex. 130EP-5 p.107.*

130 Environmental Park will require personnel training and maintain records in accordance with 30 TAC § 335.586(d) and (e). *Ex. 130EP-5 pp.107, 111-118.* The Facility will be staffed with qualified and experienced personnel. *Ex. 130EP-5 p.111.* 130 Environmental Park will maintain personnel operator licenses issued in accordance with TCEQ Rules, Chapter 30, Subchapter F. *Ex. 130EP-5 pp.107, 111-118.* 130 Environmental Park will maintain documentation of the annual waste acceptance rate for the Facility as part of the site operating record. *Ex. 130EP-5 pp.108-110.* The Site Operating Plan describes the personnel training programs for the Facility, including a description of all minimum training requirements based on subject matter. *Ex. 130EP-5 p.112-114.* The Site Operating Plan includes provisions related to training employees, including training for record keeping, license requirements, detection, prevention of disposal of prohibited waste, fire protection and response, site inspection, site safety, site access, and maintenance. *Ex. 130EP-5 pp.112-114.* Facility personnel will receive training through a combination of classroom instruction and on-the-job training in procedures relevant to the position for which they are employed. *Ex. 130EP-5 pp.112-114.* Facility personnel will receive training appropriate to

individual needs as well as specific job duties and responsibilities. Ex. 130EP-5 pp.112-114. Facility personnel will be properly trained to identify any prohibited wastes, and to perform random inspections and know what to do in the event prohibited wastes are identified. Ex. 130EP-5 pp.123-124.

130 Environmental Park will maintain records including the quarterly solid waste summary reports and the annual solid waste summary report as required by 30 TAC § 330.675. Ex. 130EP-5 pp.109-110. The maximum estimated waste acceptance rate will reach 841,803 tons per year or about 2,943 tons per day. Ex. 130EP-5 pp.108, 119. 130 Environmental Park will provide sufficient equipment to conduct site operations in accordance with the landfill design and permit condition. Ex. 130EP-5 p.119. The Site Operating Plan includes the minimum number, size, type, and function, of the equipment to be utilized at the Facility based on the estimated waste acceptance rate. Ex. 130EP-5 pp.119-121. Backup equipment will be provided from contractors or local rental companies in the event of a breakdown or maintenance to avoid interruption of waste services. Ex. 130EP-5 p.119.

All incoming loads will be visually monitored at the gatehouse and working face. Ex. 130EP-5, pp.122-123. The Site Operating Plan provides procedures, including a screening program, for the detection and prevention of the disposal of prohibited wastes. Ex. 130EP-5 pp.122-129. The Site Operating Plan's detection and prevention program includes training for site personnel to know in detail what the prohibited wastes are, how to perform a random inspection, how to control site access, and what procedures are required in the event of identification of prohibited wastes. Ex. 130EP-5 pp.122-126. The detection and prevention program includes the following steps: random inspections of incoming loads; records of all inspections; training for appropriate facility personnel to recognize prohibited waste, regulated hazardous waste and PCB waste; notification to TCEQ of any incident involving the receipt or disposal of regulated hazardous waste or PCB waste at the landfill; provisions for remediation of the incident; and identification and sampling to ensure no free liquids (as determined by the paint filter test) will be accepted. Ex. 130EP-5 pp.122-126.

Lead acid storage batteries are prohibited and will not be accepted at the Facility. Ex. 130EP-5 p.124. Do-it-Yourself (DIY) used motor vehicle oil is prohibited and will not be accepted at the Facility, except that it may be accepted if the mixing or commingling of used oil with solid waste that is to be disposed of in a landfill is incidental to, and the unavoidable result of, the mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals. Ex. 130EP-5 p.124. Used oil filters from internal combustion engines will not be accepted at the Facility unless crushed or processed to remove oil as provided in 30 Tex. Admin. Code § 330.171(d). Ex. 130EP-5 p.124. Whole used or scrap tires will not be intentionally or knowingly accepted for disposal unless processed prior to disposal in a manner acceptable to the Executive Director. Ex. 130EP-5 p.124. Refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbons (CFC) will not be knowingly accepted for disposal unless all the CFC contained in an item is captured and sent to an approved CFC disposal site or recycling facility. Ex. 130EP-5 p.125. Bulk or noncontainerized liquid waste will not be accepted for disposal unless the waste is household waste other than septic waste. Ex. 130EP-5 p.125. Containers holding liquid waste will not be accepted for disposal unless: the container is a small container similar in size to that normally found in household waste, the container is designated to hold liquids for use other than storage, or the waste is household waste. Ex. 130EP-5 p.125. Regulated hazardous waste as defined in 30 Tex. Admin Code § 330.3 is prohibited and will not

be accepted at the Facility. *Ex. 130EP-5 p.125.* Polychlorinated biphenyls (PCB) wastes are prohibited from and will not be accepted at the Facility except as permitted under 40 CFR Part 761. *Ex. 130EP-5 p.125.* Radioactive substances as defined in Chapter 336 are prohibited from and will not be accepted at the Facility except as authorized in 30 Tex. Admin. Code Chapter 336 or that are subject to an exception of the Texas Department of Health Services. *Ex. 130EP-5 p.125.*

The Facility will not accept for disposal medical waste, sewage, dead animals and/or slaughterhouse waste, sludge, grease trap waste, grit trap waste, liquid waste from municipal sources, municipal hazardous waste from conditionally exempt small quantity generators, or out-of-state wastes. *Ex. 130EP-5 p.125.* The Facility will not accept contaminated soil that exceeds 1,500 parts per million (ppm) total petroleum hydrocarbons or a constituent of concern exceeding levels in §335.521(a)(1), Table 1. *Ex. 130EP-5 p.125; Ex. 130EP-5 p.90.* The Facility will not accept Class 1 industrial solid wastes, except for wastes that are Class 1 only because of asbestos content. *Ex. 130EP-5 p.125.*

130 Environmental Park will notify TCEQ if prohibited wastes are received and/or disposed of in the landfill. *Ex. 130EP-5 p.126.* The Site Operating Plan provides adequate controls for screening of prohibited wastes. *Ex. 130EP-5 pp.122-123.*

The Site Operating Plan contains general and specific instructions for site operations and site safety. *Ex. 130EP-5 pp.127-129.* A stockpile of earthen material will be maintained in the vicinity of the landfill working face so that it is available at all times to extinguish a fire. *Ex. 130EP-5 p.131.* The total volume of earthen material available from the stockpile will be sized to cover the working face with a minimum six-inch layer of earthen material. *Ex. 130EP-5 p.131.* The landfill equipment identified in Table 4-1 of the Site Operating Plan is sufficient to cover the active working face with a minimum six-inch soil layer from the earthen material stockpile within one hour of detecting a fire. *Ex. 130EP-5 p.131.* The Site Operating Plan contains calculations demonstrating the adequacy of the earthen material and to demonstrate that the type and number of equipment listed in the Site Operating Plan will be able to transport the volume of earth required. *Ex. 130EP-5 pp.131-132.* The Site Operating Plan contains a fire protection plan that identifies the fire protection standards to be used at the Facility and how personnel are trained. *Ex. 130EP-5 p.112-114, 130-132.* The Site Operating Plan contains an adequate fire protection plan. *Ex. 130EP-5 pp.130-135.*

Public access to the Facility will be controlled by a perimeter fence located along the Facility boundary and a gate located on the entrance road. *Ex. 130EP-5 pp.136-137.* Access to the landfill from US183 is limited to the entrance road through the gatehouse area. *Ex. 130EP-5 pp.136-137.* The Application contains adequate provisions for control of access. *Ex. 130EP-5 pp.136-137.*

Unloading of solid waste will be confined to as small an area as practical. *Ex. 130EP-5 p.137.* A trained staff person will be on duty during operating hours at each area where waste is being unloaded to direct and observe the unloading of solid waste. *Ex. 130EP-5 p.137.* The Application provides adequate provisions for the unloading of waste. *Ex. 130EP-5 pp.137-138.*

The Facility may accept waste from public and private haulers from 3:00 a.m. to 5:00 p.m. (14 hours) on Monday through Friday and from 5:00 a.m. to 12:00 p.m. (7 hours) on Saturday. *Ex. 130EP-5 pp.138-139.* Other Facility operations (including construction, earthmoving, monitoring,

transportation of construction materials, heavy equipment operation, and other non-waste acceptance operations) may be conducted 24 hours per day, seven days per week. *Ex. 130EP-5 pp.138-139.* A sign will be displayed at the gated entrance to the Facility. *Ex. 130EP-5 p.139.*

The Facility sign will comply with all requirements of 30 TAC § 330.137. *Ex. 130EP-5 p.139.* The working face will be maintained and operated in a manner to control windblown solid waste. *Ex. 130EP-5 pp.139-140.* Solid waste unloading, storage, disposal, or processing operations will not occur within any easement, buffer zone, or right-of-way that crosses the Site. *Ex. 130EP-5 p.140.* No solid waste disposal will occur within 25 feet of the centerline of any utility line or pipeline easement, unless otherwise authorized by TCEQ. *Ex. 130EP-5 p.140.* Landfill markers and benchmark will be installed and maintained as required by 30 TAC § 330.143(b). *Ex. 130EP-5 pp.140-141.* Signs will be posted at the entrance gate and gatehouse notifying haulers that vehicles hauling waste to the Facility must be enclosed or provided with a tarpaulin, net, or other means to properly secure the load and that this requirement will be enforced by applying surcharges or other similar measures. *Ex. 130EP-5 p.142.*

Spilled materials will be cleaned up once per day for US183 and TX 130 (two miles north of the site entrance and two miles south of the site entrance) and FM1185 and Schuelke Road (between southbound and northbound US183). *Ex. 130EP-5 p.142.* 130 Environmental Park will consult with officials of TxDOT concerning the cleanup of state highways and right-of-ways. *Ex. 130EP-5 p.142.*

A storage area for large items and white goods may be provided, should these items be accepted. *Ex. 130EP-5 p.142.* Large items and white goods will be recycled to prevent a nuisance and to preclude discharge of fluids, but will not be stored in excess of 180 days. *Ex. 130EP-5 p.142.* Refrigerators, freezers, air conditioning units, or other items containing chlorinated fluorocarbon (CFC) refrigerant will be handled in accordance with 40 Code of Federal Regulations (CFR) §82.156(f), as amended. *Ex. 130EP-5 p.142.*

On-site populations of disease vectors will be controlled by minimizing the size of the active working face; placing daily, intermediate, and final cover; adhering to the ponded water plan; the use of other approved methods when needed; and following the detailed procedures described in the Site Operating Plan. *Ex. 130EP-5 p.144.* 130 Environmental Park will employ a licensed professional to apply pesticides to ensure that proper chemicals are used and that they are properly applied should daily operations not control vectors. *Ex. 130EP-5 p.144.*

All-weather roads will extend between the Facility and US183 and within the Facility to the unloading area(s) designated for wet-weather operation. *Ex. 130EP-5 p.144-145.* The all-weather surface entrance, access, and internal roads; speed bumps along the main access roads between the fill areas and the gatehouse; weekly grading; and a truck wheel wash station will minimize the tracking of mud onto public roads. *Ex. 130EP-5 pp.144-145.* Should mud or other associated debris be tracked onto US183, the material will be removed daily. *Ex. 130EP-5 p.144.* Dust on the landfill haul roads and access roads will be controlled by periodic spraying from a water truck to prevent nuisance conditions. *Ex. 130EP-5 p.145.* The Site entrance road, landfill haul road, and access roads will be maintained in a clean and safe condition. *Ex. 130EP-5 p.145.* Litter and debris will be picked up daily and returned to the active working face. *Ex. 130EP-5 p.145.* Grading equipment

will be used weekly to control mud and to minimize depressions, ruts, and potholes. *Ex. 130EP-5 pp.144-145.*

Salvaging will not be allowed to interfere with prompt sanitary disposal of solid waste or to create public health nuisances. *Ex. 130EP-5 p.145.* Salvaged materials will be considered as potential recycled materials. Salvaged items will be removed from the Site on an as-needed basis, but will not be stored in excess of 180 days, to prevent the items from becoming a nuisance, to preclude the discharge of pollutants from the area, and to prevent an excessive accumulation of the material at the site. *Ex. 130EP-5 p.145.* Special wastes received at the Site will not be salvaged. *Ex. 130EP-5 p.145.* Pesticide, fungicide, rodenticide, or herbicide containers will not be salvaged unless they are salvaged through a state-supported recycling program. *Ex. 130EP-5 p.145.* Scavenging will be prohibited at all times and not allowed. *Ex. 130EP-5 p.145.*

There is one dry hole oil/gas well located within the Facility Boundary, but it is approximately 1,800 feet from the Landfill footprint. *Ex. 130EP-1, pp.97 and 121.* 130 Environmental Park will provide written notification to the TCEQ Executive Director within 30 days after discovery should any unknown abandoned water, crude oil, or natural gas wells, or other well associated with mineral recovery, be discovered within the Facility Boundary. *Ex. 130EP-5 p.146.* Any unknown well found within the Landfill footprint will be plugged and abandoned. *Ex. 130EP-5 p.146, 130EP-3 p.43.* A copy of the well plugging report for any water well found during Facility development will be submitted to the appropriate state agency and to the Executive Director within 30 days after the well is discovered. *Ex. 130EP-5 p.146.* Within 30 days after plugging of any abandoned crude oil or natural gas wells or other wells associated with mineral recovery, the 130 Environmental Park will provide the Executive Director with written certification that such wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the Railroad Commission of Texas. *Ex. 130EP-5 p.146.*

Incoming waste will be spread in layers and thoroughly compacted by repeated passes of a landfill compacter weighing in excess of 40,000 pounds so each layer of solid waste will be thoroughly compacted. *Ex. 130EP-5 p.147.* The Site Operating Plan describes the daily cover that will be used at least once every 24 hours at the Facility as a means to control disease vectors, fire, odor, windblown litter and scavenging. *Ex. 130EP-5 pp.147-151.* The Site Operating Plan describes how intermediate cover of soils and/or vegetative growth, or other suitable erosion control mechanisms, will be used at the Facility for all areas that will receive additional waste but may be inactive for more than 180 days. *Ex. 130EP-5 pp.149-150.* The Site Operating Plan explains that alternative daily cover will be used only after the same has been proposed to and authorized by TCEQ. *Ex. 130EP-5 pp.148-149.* The Site Operating Plan describes the final cover for the Landfill, including an explanation of the components of the final cover, slope range and drainage control, with reference to Part III of the Application, Attachment H - Closure Plan; Attachment D8 - Final Cover Quality Control Plan. *Ex. 130EP-5 p.149, Ex. 130EP-4 pp.42-51.* The Site Operating Plan addresses erosion of cover, and explains procedures for repairs in the event of cover erosion. *Ex. 130EP-5 pp.149-150.* The cover application record, with the required elements, will be maintained on site and available for appropriate inspection. *Ex. 130EP-5 p.150.* The Site Operating Plan includes adequate provisions for cover, in compliance with TCEQ's rules. *Ex. 130EP-5 pp.147-150.*

The Site Operating Plan contains a ponding prevention plan that identifies techniques to be used at the Facility to prevent the ponding of water over waste, an inspection schedule to identify potential ponding sites, corrective actions to remove ponded water, and general instructions to manage water that has been in contact with waste. *Ex. 130EP-5 pp.149-151, 157-158, Attachment D6 - 130EP-3 pp.214-420.* Ponding of water over waste will be prevented. *Ex. 130EP-5 pp.150-151.* The Site Operating Plan provides adequate controls for ponded water. *Ex. 130EP-5 pp.150-151.*

Special wastes may be accepted at the Facility. *Ex. 130EP-5 p.151.* Requests for approval to accept special wastes will be submitted by the generator to the TCEQ Executive Director or 130 Environmental Park. *Ex. 130EP-5 p.151.* Approval for acceptance and disposal of special wastes at 130 Environmental Park will be waste-specific. *Ex. 130EP-5 p.151.* 130 Environmental Park will not accept the following special wastes: untreated medical waste, dead animals, slaughterhouse waste, municipal hazardous waste from a conditionally exempt small quantity generator, sewage sludge, grease trap waste, grit trap waste, or liquid wastes from municipal sources. The facility will not accept contaminated soil that exceeds 1,500 parts per million (ppm) total petroleum hydrocarbons or a constituent of concern exceeding levels in 30 TAC § 335.521 (a)(1), Table 1. *Ex. 130EP-5 p.151; Ex. 130EP-1 p.90.* The Facility may accept the following wastes without prior written authorization: empty containers, non-regulated asbestos-containing materials, and regulated asbestos containing materials. *Ex. 130EP-5 p.152.* Class 1 industrial solid waste requiring Executive Director approval pursuant to §330.173 will not be accepted, except regulated asbestos containing material that has been designated Class 1 industrial solid waste due to its asbestos content. *Ex. 130EP-5 p.152.*

130 Environmental Park will not recirculate leachate and landfill gas condensate. *Ex. 130EP-5 p.153.* 130 Environmental Park will not discharge contaminated water from the facility without specific written authorization from TCEQ. *Ex. 130EP-5 p.153.* All water coming in contact with waste or contaminated soils will be treated as contaminated water and managed following the procedures set forth in the Leachate and Contaminated Water Management Plan in the Application. *Ex. 130EP-5 p.153, Ex. 130EP-3 pp.214-420.* The Site Operating Plan describes operations for storage areas for large items and white goods within the waste disposal footprint or near the citizen's convenience center. *Ex. 130EP-5 p.153.* The large item storage area will receive approximately one ton of large items and white goods per day and have a maximum amount of 180 tons of material stored at one time. *Ex. 130EP-5 p.153.* The large item storage area, when located within the waste disposal footprint, will be placed only over areas that have received intermediate cover. *Ex. 130EP-5 p.153.* Surface water runoff from the large item storage area will be contained by placement of earth containment berms to preclude discharge from this area. Containment and diversion berms will be placed, and runoff from the area managed, consistent with the Leachate and Contaminated Water Plan. *Ex. 130EP-5 p.153, Ex. 130EP-3 pp.214-420.* The large items and white goods stored at the storage area near the citizen's convenience area will be transferred into steel roll-off containers for storage until transported to an off-site recycler or disposed of. *Ex. 130EP-5 p.153.* Containers at the citizen's convenience area will be covered with tarps during a rainfall event to prevent contaminated water from being generated. *Ex. 130EP-5 p.153.*

The Site Operating Plan describes operations for a reusable materials staging area. *Ex. 130EP-5 pp.153-154.* Inert materials such as brick, concrete, etc., and non-inert materials such as asphalt

may be received and staged at the facility for use as roadbase materials for facility access roads and staging areas or erosion control in drainage structures. *Ex. 130EP-5 pp.153-154.* Asphalt pavement will not be used for erosion control in drainage structures. *Ex. 130EP-5 pp.153-154.* The reusable materials staging area will receive approximately 250 tons of inert materials per day and have a maximum amount of 2,000 tons stored at one time. *Ex. 130EP-5 pp.153-154.* The reusable materials staging area will receive approximately 50 tons of non-inert material per day and have a maximum of 500 tons stored at one time. *Ex. 130EP-5 pp.153-154.* 130 Environmental Park will provide a recyclable materials storage and staging area for source-separated recyclable materials, including asphalt and other materials. *Ex. 130EP-5 p.154.* The Site Operating Plan describes operation of a citizen's convenience center at the Facility. *Ex. 130EP-5 p.154.*

The Site Operating Plan describes how containers located in the citizen's convenience center will be managed and provides a description of waste stream processing in the center. *Ex. 130EP-5 p.154.* 130 Environmental Park will not intentionally or knowingly accept whole used or scrap tires for disposal unless processed prior to disposal in a manner acceptable to the Executive Director. *Ex. 130EP-5 pp.154-155.* The Site Operating Plan describes how the Facility will manage scrap tires and a description of scrap tire processing. *Ex. 130EP-5 pp.154-155.* The Site Operating Plan describes operations for scrap tires to be accepted from the public or from community clean-up efforts and stored in containers or trailers prior to shipment off-site. *Ex. 130EP-5 pp.154-155.* The Site Operating Plan describes operations for a wood waste processing area. *Ex. 130EP-5 p.155.*

The Site Operating Plan describes operations for a leachate and landfill gas condensate facility. *Ex. 130EP-5 pp.155-156.* Leachate and landfill gas condensate will be pumped from the leachate sumps directly to transport trucks or to an existing on-site leachate storage facility through a leachate forcemain. *Ex. 130EP-5 pp.155-156.* The leachate storage facility consists of two 250,000-gallon steel storage tanks, which will be installed individually as needed based on leachate generation. *Ex. 130EP-5 pp.155-156.* The calculations in the Application demonstrate that the secondary containment at the leachate storage facility, consisting of reinforced concrete slab and walls, provides containment volume for 110 percent of the volume of one leachate storage tank and precipitation from the 25-year, 24-hour storm event with 12 inches of freeboard. *Ex. 130EP-5 pp.155-156, Ex. 130EP-3 pp.214-420.* The maximum amount of leachate that may be stored on Site at any time is 500,000 gallons. *Ex. 130EP-5 pp.155-156.* The maximum amount of time leachate will be stored during the postclosure condition is 12 months and the average amount of time is 6 months. *Ex. 130EP-5 pp.155-156.*

The Site Operating Plan describes operations for a truck wheel wash station. *Ex. 130EP-5 p.157.* Water from the wheel wash will be collected and stored in a concrete settlement basin for reuse in the wheel wash. *Ex. 130EP-5 p.157.* Periodically, the settlement basin of the truck wheel wash station will be drained and the sediment will be removed from the basin, or the sediment within the settlement basin will be solidified in place and then removed from the basin. *Ex. 130EP-5 p.157.* The wash water of the truck wheel wash station may be hauled to an authorized off-site facility for treatment and disposal if not solidified in place. *Ex. 130EP-5 p.157.* The sediment from the truck wheel wash station, following solidification and passing the paint filter test, may be disposed of in the Landfill. *Ex. 130EP-5 p.157.* The maximum amount of sediment stored in the truck wheel wash is approximately 100 cubic yards. *Ex. 130EP-5 p.157.* The sediment from the

truck wheel wash station will not be stored in excess of 90 days and the average length of time sediment will be stored is 30 days. *Ex. 130EP-5 p.157.*

The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding site operating plan.

21. ODOR

The Site Operating Plan in the Application includes an Odor Management Plan that addresses sources of odors and includes general instructions to control odors or sources of odors. *Ex. 130EP-5 pp.143-144.* The Application contains ventilation and odor control measures for each storage, separation, processing, and disposal unit. *Ex. 130EP-2 pp.28-31, Ex. 130EP-5 pp.143-144, 147-151.* Among the wastes that will not be accepted at the Facility are medical waste, sewage, dead animals and/or slaughterhouse waste, sludge, grease trap waste, and grit trap waste. *Ex. 130EP-5 p.90.* Leachate and landfill gas condensate will not be recirculated at the Facility. *Ex. 130EP-5 p.153.* Odors associated with waste acceptance and disposal operations, and operation of the storage and processing areas, will be managed in accordance with provisions of the Odor Management Plan. *Ex. 130EP-5 pp.143-144.* The Odor Management Plan discusses wastes that require special attention due to potential odors. *Ex. 130EP-5 pp.143-144.*

The Application satisfies, and the 130 Environmental Park Landfill will satisfy, all applicable regulatory requirements regarding odors, odor controls and avoidance of nuisance odors. *Testimony of Martha O'Brien at Ex. O'Brien-1 p.2/l.40-42.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding odor.

22. WATER SUPPLY

Water will be supplied to the Facility by Polonia Water Supply Corporation. *Ex. 130EP-48.* Potable water (bottled water) will be provided for all employees and visitors at/near the scale house and/or maintenance building. *130EP-5 p.159.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding water supply.

23. BUFFER ZONES

Buffer zones, between the Facility boundary and the Landfill footprint and between the Facility boundary and waste storage or processing activities, will exceed the TCEQ-required minimum of 125 feet. *Ex. 130EP-1 pp.89, 131.* No solid waste unloading, storage, disposal, or processing operations will occur within any buffer zone, or right-of-way that crosses the Site, including the 125-foot buffer zone of the landfill. *Ex. 130EP-5 p.140.* The buffer zones will provide for safe passage of fire-fighting and other emergency vehicles. *Ex. 130EP-5 p.140.* Buffer zones will be marked with yellow markers (posts extending at least six feet above the ground surface) placed along each buffer zone boundary at all corners and between corners at intervals of 300 feet. *Ex. 130EP-5 pp.140-141.* The inundation area of the Plum Creek Conservation District easement for the Site 21 Reservoir extends onto the Site in the south and southeast, but does not extend to any area to be used for waste unloading, storage, processing, or disposal. *See Ex. 130EP-1 p.131, Ex. 130EP-6 p.38.* No solid waste unloading, storage, disposal, or processing operations will occur within any easement, buffer zone, or right-of-way that crosses the Site. *Ex. 130EP-5 p.140.*

The Facility will comply with the Easements and Buffer Zones Location Restriction in 30 TAC §330.543. *Ex. 130EP-1 p.837.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding easements and buffer zones.

24. SCREENING

Existing topography and vegetation will provide natural screening of deposited waste. *Ex. 130EP-1 p.131, Ex. 130EP-5 p.152.* Visual screening of deposited waste will be provided as part of normal waste disposal and cover placement operations and sequence of development. *Ex. 130EP-5 p.152.* Final cover will be placed as the landfill reaches final contours. *Ex. 130EP-5 p.152.* As the site is developed, the visual effects of the disposal activities will be minimized through the use of screening provided by fencing, constructed berms, planted vegetation, and natural vegetation located within the buffer zone. *Ex. 130EP-5 p.152.* Visibility of the Facility will be limited by existing topography, naturally occurring tree lines, and the vegetated landscaping plan for the Facility (including an effective screening berm). *Ex. Worrall-1 p.6/l.15-33, p.10/l.30-p.11/l.12, and p.14/l.3-p.15/l.38; Ex. Worrall-10; Ex. 130EP-1 p.143.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding screening.

25. PERMIT DURATION

TCEQ's municipal solid waste rules state that "a registration or permit is normally issued for the life of the facility...When deemed appropriate a registration or permit may be issued for a specific period of time." 30 TAC §330.71(b) and (c). The projected life of the 130 Environmental Park Landfill facility is 44 years. *Ex. 130EP-1 p.44; Ex. 130EP-3 pp.9,14, and 53-54.* It is appropriate for the permit for the 130 Environmental Park Landfill facility to be issued for the life of the Facility. The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding permit duration.

26. CLOSURE PLAN

The Application includes a Closure Plan for the Facility in Part III, Attachment H. *Ex. 130EP-5 pp.42-59.* The Closure Plan includes drawings showing the final constructed contour of the entire landfill, including internal drainage and side slopes, accommodation of surface drainage entering and departing the completed fill area, and areas subject to flooding due to a 100-year frequency flood. *Ex. 130EP-5 pp.58-59.* The estimated largest area requiring final cover during the active life of the Landfill is approximately 75 acres. *Ex. 130EP-5 p.47.* The estimated maximum inventory of waste and operational cover at the Facility during its life is approximately 33.1 million cubic yards, which is the total volume of the Landfill. *130EP-5 p.47.* The Closure Plan specifies the procedures for closure of any portion or all of the Landfill. *Ex. 130EP-5 p.42-59.* The Closure Plan includes a description of the steps that will be undertaken to close the Landfill, a schedule for final closure, a description of the final cover system, and the methods used to install the final cover. *Ex. 130EP-5 p.42-59.* The final cover system will consist of an infiltration layer, a flexible membrane cover, a drainage layer on sideslopes, a cushion layer on topslopes, and an erosion control layer. *Ex. 130EP-5 pp.45, and 57-59.* The infiltration layer will be a minimum of 18 inches of compacted soil with a coefficient of permeability less than or equal to 1×10^{-5} cm/sec. *Ex. 130EP-5 pp.45 and 57-59.* The estimated cost of hiring a third party to close the largest area of the Landfill requiring

final closure at any time during its active life is \$10,121,410.00. *Ex. 130EP-5 pp.51 and 70-97.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding closure plan.

27. POST-CLOSURE PLAN

The Application includes, in Part III Attachment I, a Post-Closure Plan addressing the ongoing monitoring and maintenance activities that will be conducted at the Site for 30 years following closure. *Ex. 130EP-5 pp.61-68.* The estimated cost of hiring a third party to conduct postclosure care activities in accordance with the Post-Closure Plan is \$6,794,348. *Ex. 130EP-5 pp.68, 70-97.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding postclosure plan.

28. FINANCIAL ASSURANCE

TCEQ rules require the submission of cost estimates for closure of a municipal solid waste landfill facility with a new permit application. *30 TAC §330.503(a).* The Application includes a cost estimate for closure of the Facility. *Ex. 130EP-5 pp.51, 73-74, 79 and 84-89.* TCEQ rules require the owner or operator of a municipal solid waste landfill unit to establish financial assurance for closure of the unit in accordance with 30 TAC Chapter 37 (Financial Assurance for Municipal Solid Waste Facilities). *30 TAC §330.503(b).* TCEQ rules require the submission of cost estimates for post-closure care of a municipal solid waste landfill facility with a new permit application. *30 TAC §330.507(a).* The Application includes a cost estimate for post-closure care of the Facility. *Ex. 130EP-5 pp.68, 73, 75, 80 and 91-94.* TCEQ rules require the owner or operator of a municipal solid waste landfill unit to establish financial assurance for the costs of post-closure care of the unit in accordance with 30 TAC Chapter 37 (Financial Assurance for Municipal Solid Waste Facilities). *30 TAC §330.507(b).* TCEQ rules require that a copy of the required documentation for financial assurance be submitted at least 60 days prior to the initial receipt of waste at the Facility. *30 TAC §330.63(j).* 130 Environmental Park will submit a copy of the documentation required to demonstrate financial assurance as specified in 30 TAC Chapter 37, Subchapter R at least 60 days prior to the initial receipt of waste at the Facility. *Ex. 130EP-5 pp.77 and 96-97.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding financial assurance.

29. IMPACTS ON HEALTH, WELFARE, ENVIRONMENT, OR PHYSICAL PROPERTY OF NEARBY RESIDENTS AND PROPERTY OWNERS

TCEQ's municipal solid waste rules provide standards for the design, permitting and operation of municipal solid waste facilities to protect human health and welfare, the environment, and physical property of nearby residents and property owners. *Health & Safety Code Sec. 361.002(a); 30 TAC §§330.1(a) and 330.61(h); Testimony of Kerry D. Maroney, P.E., R.P.L.S. at Ex. Maroney-1 p.5/l.38-41.* A facility permitted and operated in compliance with TCEQ's municipal solid waste rules will be protective of human health and welfare, the environment, and physical property of nearby residents and property owners. The 130 Environmental Park Landfill facility will be protective of human health and welfare, the environment, and physical property of nearby residents and property owners. The Application includes sufficient information and demonstrates

compliance with TCEQ rules regarding impacts on health, welfare, environment, or physical property of nearby residents and property owners.

30. ENFORCEABILITY OF DRAFT PERMIT

TCEQ is authorized to enforce the provisions of any permit it issues. *Water Code Sec. 7.002*. A permit issued by TCEQ based on the Application and the draft permit is enforceable.

31. PERMIT SPECIAL PROVISIONS

Section IX of the draft permit includes two special provisions, as follow:

A. Before physical construction may commence, the permittee must provide the Executive Director with a floodplain development permit from the city, county, or other agency with jurisdiction over improvements authorized by this permit.

B. The facility must implement all roadway improvements specified in Part II, Appendix IIC of the permit application prior to the pre-opening inspection of the facility. *Ex. ED-SO-8 p.45*. No other permit special provisions are necessary.

32. ASSESSMENT OF REPORTING AND TRANSCRIPTION COSTS

The hearing on the merits regarding the Application was conducted August 15 through 19 and August 22 through 26, 2016 by SOAH Administrative Law Judges Kerry Jo Qualtrough and Casey A. Bell at SOAH, 300 West 15th Street, Austin, Texas. *Tr. vols. 1 – 10*. Pursuant to Order No. 1, the Applicant arranged for and paid a court reporter to report and transcribe the hearing on the merits and delivered the original and one copy of the transcript to each of the ALJs and two copies to the TCEQ's Chief Clerk, including electronic copies on disc in text format. *Order No. 1; Ex. 130EP-60*.

As shown by the copies of paid invoices (Exhibit 130EP-60), the cost of reporting, preparing, and delivering the transcripts delivered to the ALJs and the TCEQ Chief Clerk was \$16,725.85, calculated by adding the following amounts shown on the invoices: Hourly Reporting Fee, After Hours Reporting Fee, Original & One Copy – Regular Delivery, 5/6ths of the Additional Format of Transcript (for the five electronic copies of the transcript delivered to SOAH and TCEQ), Delivery fee, and Administrative Fee; not including the following amounts shown on the invoices: Rough Draft – Daily, and 1/6th of the Additional Format of Transcript (for the one electronic copies of the transcript delivered to the Applicant). *Ex. 130EP-60*.

The Applicant, PCCD, Caldwell County, TJFA, EPICC, the Executive Director, and OPIC all participated substantially in the contested case hearing and benefitted from having a transcript for use in preparing written closing arguments and responses. *Tr. pp.1-2195*. The other parties to this proceeding did not participate in the contested case hearing. The Applicant, PCCD, Caldwell County, TJFA and EPICC were each represented by private law firm attorneys in connection with the contested case hearing, demonstrating these parties' ability to pay costs. In the contested case hearing, each of these parties presented direct case testimony and exhibits and cross-examined witnesses presented by other parties to the hearing. *Order No. 2; Tr. pp.1-2195*. TJFA and EPICC presented hearing evidence and witnesses jointly and were represented by the same attorneys in the contested case hearing. *Tr. pp.1-2195*.

The hearing transcript consists almost entirely of questions asked of witnesses by party representatives and the witnesses' answers to those questions. Approximately 90% of the transcript pages consist of questions/answers attributable to the Applicant, PCCD, Caldwell County, TJFA, and EPICC. (The remaining 10% is questions/answers attributable to the TCEQ Executive Director and OPIC, parties against whom reporting and transcript costs may not be assessed.) *Tr. pp.1-2195; 30 TAC §80.23(d)(2)*. The approximate percentages of that 90% of the hearing transcript pages attributable to the Applicant, PCCD, Caldwell County, TJFA, and EPICC are: Applicant – 22%, PCCD – 6%, Caldwell County – 20%, TJFA and EPICC (combined because these parties shared attorneys and witnesses) – 52%. *Tr. pp.1-2195*.

Allocating the transcript costs among the above parties based on the above percentages is just and reasonable and results in the following allocation: Applicant – \$3,679.69, PCCD – \$1,003.55, Caldwell County – \$3,345.17, TJFA and EPICC – \$8,697.44. *Tr. pp.1-2195; Ex. 130EP-60*.

33. ADDITIONAL ISSUES

Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §281.5. *Ex. 130EP-1 pp. 1-81*. Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §305.45. *Ex. 130EP-1 pp. 1-81*. Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §330.59. *Ex. 130EP-1 pp. 1-81*.

Part II of the Application describes the existing conditions and character of the Site and surrounding area, and includes the information required by and complies with the requirements of 30 TAC §330.61. *Ex. 130EP-1 pp. 82-847*. Parts I and II of the Application include information relating to land-use compatibility under the provisions of Texas Health and Safety Code, §361.069. *Ex. 130EP-1 pp. 1-847*.

Part III of the Application includes design information, detailed investigative reports, schematic designs of the Facility, and required plans and consists of the documents required by 30 TAC §330.63. *Ex. 130EP-2, Ex. 130EP-3, Ex. 130EP-4, Ex. 130EP-5 pp. 1-97*.

Part IV of the Application includes the Site Operating Plan that discusses how the owner or operator will conduct daily operations at the facility and consists of the information required by 30 TAC §330.65. *Ex. 130EP-5 pp. 98-187*.

The Application includes data of sufficient completeness, accuracy, and clarity to provide assurance that operation of the Facility will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners. *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5*. 130 Environmental Park provided the number of copies of the Application required by 30 TAC §330.57(e) and requested by the Executive Director. *Ex. ED-SO-8 pp. 30, 60*. 130 Environmental Park prepared the Application in conformance with Texas Occupations Code, Texas Engineering Practice Act, Chapter 1001 and Texas Geoscience Practice Act, Chapter 1002. *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5*.

The responsible engineers sealed, signed, and dated the title page of each bound engineering report or individual engineering plan in the Application and each engineering drawing as required by Texas Engineering Practice Act, §15c, and in accordance with 22 TAC §137.33 (relating to Sealing Procedures). *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.* The responsible geoscientist sealed, signed, and dated applicable items as required by Texas Geoscience Practice Act, §6.13(b), and in accordance with 22 TAC §851.156 (relating to Geoscientist's Seals). *Ex. 130EP-1 pp. 61, 87, 120, 121, 125-129, 840, 843-844, Ex. 130EP-4 pp. 6-268.*

The Application is prepared in the format required by, and complies with the requirements of, 30 TAC §§305.45 and 330.57(g). *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.* The Application drawings are prepared in the format required by, and comply with the requirements of TCEQ rules including 30 TAC §§330.57(h) and 330.61(c) and (d). *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.*

The Application includes general topographic maps in the format required by, and in compliance with, TCEQ rules including 30 TAC §330.61(e). *Ex. 130EP-1 pp.118-121.* The Application includes an aerial photograph in the format required by, and in compliance with, TCEQ rules including 30 TAC §330.61(f). *Ex. 130EP-1 p.123.* The Application includes the information required by, and in compliance with, the provisions of 30 TAC §281.5. *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.* The Application forms are signed and notarized. *Ex. 130EP-1 pp.26, 33, 36, 38, and 78.* 130 Environmental Park has paid all required application fees. *Ex. 130EP-1 p.81.* The Application includes a Certificate of Fact wherein the Texas Secretary of State verifies the legal status of 130 Environmental Park. *Ex. 130EP-1 p.75.* The Application includes a Notice of Appointment signed by the President and Manager of 130 Environmental Park. *Ex. 130EP-1 p.78.*

The Application includes attachments of technical reports and supporting data required by TCEQ rules. *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.* The Application includes a list of adjacent and potentially affected landowners and their addresses along with a map locating the property owned by these persons. *Ex. 130EP-1 pp.65-67.* The Application includes a report of a Cultural Resources Survey conducted by AR Consultants, Inc. *Ex. 130EP-1 pp.112, 758-809.* No area within the Site is eligible for listing on the National Register of Historic Places or warrants designation as a Texas State Antiquities Landmark. *Ex. 130EP-1 p.764.* The Application includes the Texas Historical Commission's concurrence that no area within the Site is eligible for listing on the National Register of Historic Places. *Ex. 130EP-1, p.759.* The Site is not located in a seismic impact zone. *Ex. 130EP-4, pp.14-15 and 164.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding seismic impact zones. The Facility will comply with the Seismic Impact Zones Location Restriction in 30 TAC §330.557. *Ex. 130EP-1, p.844.* The Facility will not be located in a coastal area or on an island or peninsula. *Ex. 130EP-1, pp.61, 677; Ex. 130EP-4, p.164; Ex. Worrall-3 p.8.* The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding coastal areas. The Facility will comply with the Coastal Areas Location Restriction in 30 TAC §330.561. *Ex. 130EP-1, p.846.* The Site is not located inside the boundaries of a national forest. *Ex. 130EP-1, p.59.* The Facility will comply with the Type I and Type IV Landfill Permit Issuance Prohibited Location Restriction in 30 TAC §330.563. *Ex. 130EP-1, p.847.*

The Application includes all information required by the Executive Director and TCEQ rules. *Exs. 130EP-1, 130EP-2, 130EP-3, 130EP-4, and 130EP-5.* 130 Environmental Park submitted an administratively and technically complete permit application as required by Tex. Health & Safety Code §§361.066 and 361.068, which demonstrates that it will comply with all relevant aspects of the Application and design requirements as provided in 30 TAC §§330.57 and 330.63. The application was processed and the proceedings described in this Order were conducted in accordance with applicable law and TCEQ rules, specifically 30 TAC §80.1 et seq., and SOAH, specifically §155.1 et seq., and Tex. Health & Safety Code ch. 361, subch. C. The Application demonstrates compliance with the applicable regulatory requirements in TCEQ's rules at 30 TAC Chapter 281 ("Applications Processing"), 30 TAC Chapter 305 ("Consolidated Permits") and Chapter 330 ("Municipal Solid Waste") and that the Application meets the requirements of the Commission's rules and provides proper safeguards to protect public health and safety, and the environment. The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding property rights. The Application includes sufficient information and demonstrates compliance with TCEQ rules regarding evidence of competency.

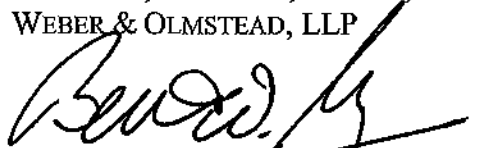
D. PRAYER

WHEREFORE, premises considered, 130 Environmental Park respectfully requests that the ALJs prepare a Proposal for Decision (1) recommending granting of a permit to 130 Environmental Park with the provisions as set out in the Draft Permit prepared and recommended by the TCEQ Executive Director, (2) including as proposed findings of fact and conclusions of law those set out in Attachment 1 hereto: Applicant's Proposed Findings of Fact and Conclusions of Law, (3) recommending assessment of reporting and transcription costs as set out in Section C. 32 above.

Respectfully submitted,

MCÉLROY, SULLIVAN, MILLER,
WEBER & OLMSTEAD, LLP

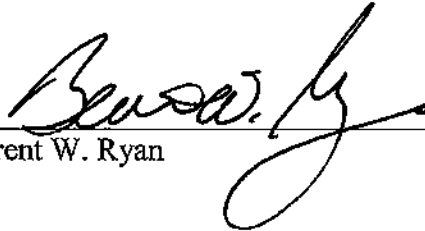
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CERTIFICATE OF SERVICE

On October 24, 2016, a true and correct copy of the foregoing was sent to each party representative via email and/or first-class mail, as shown on the attached service list. In addition, a Word version of the foregoing document was submitted to Ms. Hilary Aguirre at Hilary.Aguirre@soah.texas.gov.


Brent W. Ryan

SERVICE LIST

SOAH Docket No. 582-15-2082; TCEQ Docket No. 2015-0069-MSW
Application of 130 Environmental Park Landfill, LLC for Proposed Permit No. 2383

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**SOAH DOCKET NO. 582-15-2082
TCEQ DOCKET NO. 2015-0069-MSW**

APPLICATION OF	§	BEFORE THE STATE OFFICE
130 ENVIRONMENTAL PARK, LLC	§	
FOR PROPOSED	§	OF
PERMIT NO. 2383	§	
	§	ADMINISTRATIVE HEARINGS

ATTACHMENT 1 TO APPLICANT’S WRITTEN CLOSING ARGUMENT
APPLICANT’S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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A. BACKGROUND FACTS

1. 130 Environmental Park, LLC (“130 Environmental Park”) has filed with the Texas Commission on Environmental Quality (“TCEQ”) Application No. 2383 (“the Application”) for a permit to construct and operate the 130 Environmental Park Landfill.
2. The 130 Environmental Park Landfill (“the Facility”) will be a new Type I municipal solid waste landfill facility located in Caldwell County and serving residences and businesses in Caldwell and surrounding counties.
3. The site on which the Facility will be constructed and operated (“the Site”, “the Permit Boundary”, or “the Facility Boundary”) consists of 519.746 acres located in northern Caldwell County, approximately 0.6 miles east of SH130 and 0.7 miles north of FM1185, more than two miles north of the city limits of Lockhart, Texas.
4. The Site is part of a 1,229.076-acre tract of land (“the Hunter Property”) owned by Cathy Moore Hunter.
5. 130 Environmental Park, LLC has entered into an agreement with Cathy Moore Hunter and will purchase the Hunter Property prior to the development and operation of the Facility.
6. The Facility will include a municipal solid waste landfill unit (“the Landfill”), with a waste management unit boundary (“the Landfill footprint”) of approximately 202 acres, a large item storage area, a reusable materials staging area, a citizen’s convenience center, a used/scrap tire storage area, a wood waste processing area, a leachate storage facility, and a truck wheel wash.
7. 130 Environmental Park’s mailing address is: 134 Riverstone Terrace, Suite 203, Canton, GA 30114.
8. 130 Environmental Park’s telephone number is: (770) 720-2717.

B. PROCEDURAL HISTORY

9. The Application was filed with TCEQ on September 4, 2013.

10. As originally filed, the Application consisted of Parts I and II.
11. Parts I and II of the Application were declared administratively complete on September 27, 2014.
12. Parts III and IV of the Application were filed with TCEQ on February 18, 2014.
13. Parts III and IV of the Application were declared administratively complete on February 28, 2014.
14. In October 2014, the TCEQ Executive Director determined that the Application demonstrates compliance with the applicable regulatory requirements in TCEQ's rules at 30 TAC Chapter 305 ("Consolidated Permits") and Chapter 330 ("Municipal Solid Waste") and that the Application "meets the requirements of the Commission's rules and provides proper safeguards to protect public health and safety, and the environment", and declared the Application technically complete.
15. In October 2014, the TCEQ Executive Director prepared a draft permit based on the Application ("the Draft Permit"), a technical summary of the Application ("the Technical Summary"), and a compliance history report of the Applicant ("the Compliance History Report").
16. In October 2014, the TCEQ Executive Director issued his Preliminary Decision that "proposed MSW Permit No. 2383, for 130 Environmental Park, LLC, if issued, meets all statutory and regulatory requirements."
17. Pursuant to 30 TAC §55.210, the TCEQ Chief Clerk referred the Application directly to SOAH for a hearing on whether the Application complies with all applicable statutory and regulatory requirements.
18. On February 4, 2015, TCEQ issued a Notice of Hearing regarding the Application, which was published in the Lockhart Post-Register and the Caldwell County Guardian on February 19, 2015, and mailed as required on February 4, 2015 and February 23, 2015.
19. By way of memoranda dated March 13, April 1, and April 17, 2015, TCEQ transmitted portions of the administrative record to the State Office of Administrative Hearings.
20. On March 26, 2015, SOAH Administrative Law Judges Casey A. Bell and Sharon Cloninger held a preliminary hearing regarding the Application at the Caldwell County Judicial Center in Lockhart, Caldwell County, Texas.
21. At the preliminary hearing, the ALJs found that notice had been adequately provided and that both the Commission and SOAH have proper jurisdiction over this matter.
22. The following persons and entities were designated as parties to this proceeding: 130 Environmental Park, LLC ("130 Environmental Park" or "Applicant"), TCEQ Executive Director, TCEQ Office of Public Interest Counsel, Caldwell County, Plum Creek

Conservation District (PCCD), Environmental Protection in the Interest of Caldwell County (EPICC), James Abshier, Claudia & Robert Brown, Joe Colley, Ann & Troyce Collier, Byron Friedrich, the King Family Trust, Brenda Martin, Frank Sughrue, Bill & Pam Young, TJFA, L.P. (TJFA), and Ben Pesl.

23. Pursuant to Order No. 1, the following parties were aligned as the Aligned Protestants: EPICC, James Abshier, Claudia & Robert Brown, Ann & Troyce Collier, Byron Friedrich, the King Family Trust, Brenda Martin, Frank Sughrue, and Bill & Pam Young.
24. Pursuant to Order No. 2, the following parties were aligned with the Aligned Protestants: TJFA, L.P. and Joe Colley.
25. Pursuant to Order No. 7, TJFA, L.P. was no longer aligned with the Aligned Protestants.
26. On April 9, 2015, the TCEQ Executive Director filed his Amended Response to Public Comment (“the RTCs”), addressing public comments that had been submitted to TCEQ regarding the Application.
27. During the preparation of the RTCs, the TCEQ Executive Director requested additional information from 130 Environmental Park, which was provided by way of a March 2015 supplement to the Application (“the March 2015 Supplement”).
28. During discovery in this proceeding, TJFA and EPICC sought “to enter the proposed landfill site and conduct geo-physical probes of Applicant’s existing piezometers, drill up to 15 borings on the site, perform in-situ testing of the soils on site, including tests of hydraulic conductivity, and collect samples to be tested at a lab.” 130 Environmental Park and Cathy Moore Hunter afforded TJFA and EPICC access to the Hunter Property to conduct the requested investigations, which were carried out during February and March 2016.
29. Also during February 2016, 130 Environmental Park conducted additional investigations of the Site, including soil borings and laboratory testing of collected soil samples.
30. Following the 2016 investigations, 130 Environmental Park submitted to TCEQ a May 2016 supplement to Attachments E (Geology Report) and F (Groundwater Sampling and Analysis Plan) of the Application (“the May 2016 Supplement”).
31. The hearing on the merits regarding the Application was conducted August 15 through 19 and August 22 through 26, 2016 by SOAH Administrative Law Judges Kerry Jo Qualtrough and Casey A. Bell at SOAH, 300 West 15th Street, Austin, Texas.

C. SPECIFIC ISSUE FINDINGS OF FACT

1. SUFFICIENCY OF PROPERTY RIGHTS

32. The current owner of the Site is Cathy Moore Hunter, a natural person.

33. 130 Environmental Park, LLC has entered into an agreement with Cathy Moore Hunter for the purchase of, and prior to the development and operation of the Facility will purchase, the Hunter Property, including the Site.
34. 130 Environmental Park will own and operate the Facility.
35. The Application includes an affidavit executed by the property owner and acknowledging that (1) the State of Texas may hold the property owner of record either jointly or severally responsible for the operation, maintenance, and closure and post-closure care of the Facility, (2) the owner of the Site has a responsibility to file in the deed records of Caldwell County an affidavit to the public advising that the Site will be used for a solid waste facility prior to the time that the Facility actually begins operating as a municipal solid waste landfill facility, and to file a final recording upon completion of disposal operations and closure of the landfill units in accordance with 30 TAC §330.19, and (3) the Facility owner or operator and the State of Texas shall have access to the Site during the active life and post-closure care period after closure of the Facility for the purpose of inspection and maintenance..
36. The Application includes a boundary metes and bounds description of the Site and a drawing of that description, signed and sealed by a registered professional land surveyor.
37. The identifying reference of the current ownership record for the Site is Volume 533, Page 637 in the Official Public Records of Real Property of Caldwell County, Texas.
38. The Application complies with TCEQ's rules regarding property rights.

2. EVIDENCE OF COMPETENCY

39. 130 Environmental Park has not owned or operated a solid waste site in Texas within the last ten years.
40. 130 Environmental Park does not have a direct financial interest in any solid waste site other than the proposed Facility.
41. The Application includes the names of the principals and supervisors of 130 Environmental Park's organization, together with previous affiliations with other organizations engaged in solid waste activities
42. The Application contains the number and size of each type of equipment to be dedicated to facility operation.
43. 130 Environmental Park will provide sufficient equipment to conduct site operations in accordance with the landfill design and permit condition.
44. 130 Environmental Park will employ a licensed solid waste facility supervisor and qualified equipment operators in compliance with TCEQ's rules before commencing operations.

45. The Application complies with TCEQ's rules regarding evidence of competency.

3. COMPLIANCE HISTORY

46. In a Compliance History Report prepared on October 3, 2014, the TCEQ Executive Director evaluated the compliance history of the Facility and classified the Facility and 130 Environmental Park.

47. There was no compliance information about the Facility at the time the Executive Director developed the compliance history.

48. The compliance history classification for 130 Environmental Park and the Facility is designated as "unclassified".

49. TCEQ's compliance history rules do not prohibit the permitting of the Facility.

4. LAND USE COMPATIBILITY

50. The Application includes a map showing the boundary of the Facility, actual uses within the Site and within one mile of it, including the location of residences, commercial establishments, ponds or lakes, and access roads serving the Facility.

51. The Application includes maps showing the locations of drainage, pipeline, and utility easements within the Site.

52. There is no zoning within two-miles of the Site.

53. John Worrall, 130 Environmental Park's expert witness on land use matters, prepared an updated land use map (updated as of September 2015).

54. 4083 acres (93.1%) of the land within one mile of the Site is open and agricultural use land, the predominant land within one-mile.

55. 234 acres (5.3%) of the land within one mile of the Site is residential use land (all single family residential, with 143 residences).

56. The nearest residence is approximately 185 feet west of the Facility boundary and approximately 345 feet west of the Landfill footprint.

57. 65 acres (1.5%) of the land within one mile of the Site is water bodies: stock tanks and the Site 21 Reservoir.

58. 5 acres (0.1%) of the land use within one-mile of the Site is commercial/industrial use land (5 establishments).

59. The nearest business establishment is approximately 4,000 feet southwest of the Site and more than 6,500 feet from the Landfill footprint.

60. There are no schools, day care centers, churches, hospitals, cemeteries, recreational areas or sites having exceptional aesthetic quality within one-mile of the Site.
61. Within one mile of the Site there are five archaeological sites and three historic sites. There are no historically significant sites or archaeologically significant sites within one mile of the Site.
62. Within 500 feet of the Site there are no water wells and three dry hole oil/gas wells, one of which is located within the Facility Boundary but approximately 1,800 feet from the Landfill footprint.
63. Growth trends within five-miles of the Site are shown on a map in the Application.
64. Within five-miles of the Site, 2000 to 2010 population growth was less than 5%, except to the south where northern Lockhart lost population.
65. The presence of the State Highway 130 Toll Road (SH 130) is the primary factor influencing growth trends in the area of the Site.
66. Growth trends will continue from the north into the area within a five-mile radius of the Site.
67. The area within one mile of the Site is sparsely populated.
68. The Facility will have ready access to a major transportation network without the need to use local roads and impact local properties.
69. The growth rate in the vicinity of the Site is relatively low as compared to the very high growth rate of the Metropolitan Statistical Area in which the facility is located.
70. The Facility design includes substantial set-backs and buffer zones that exceed TCEQ standards.
71. Visibility of the Facility will be limited by existing topography, naturally occurring tree lines and the vegetated landscaping plan for the Facility (including an effective screening berm).
72. The Facility design provides a visually compatible shape and massing of the landfill itself.
73. The Facility will be compatible with surrounding land uses.

5. TRANSPORTATION AND TRAFFIC

74. All vehicles traveling to and from the Facility will use northbound U.S. Highway 183 (US 183) north of its intersection with Farm to Market Road 1185 (FM 1185), and the entrance road (or driveway) for the Facility.

75. The entrance road for the Facility will extend from the east side of US 183 north of its intersection with FM 1185, through the entrance gate, to the Permit Boundary, and continue past the scale house and scales, the citizen's convenience center, and the truck wheel wash.
76. Roadways within one mile of the Facility that will be used by 130 Environmental Park for entering or leaving the Facility are shown on general locations maps in Part II of the Application: US 183, State Highway 130 (SH130), and the grade-separated intersections of FM 1185 and Schuelke Road with US 183, all of which are hard-surfaced paved roads with asphalt pavement; and the entrance road for the Facility, which will be 40-foot wide and use the same section of asphalt pavement as US 183.
77. A traffic impact analysis for the Facility was prepared by John Denholm, P.E.
78. Following several communications with the Texas Department of Transportation (TxDOT), the final version of the traffic impact analysis ("the TIA") was submitted to TxDOT in October 2014 and approved by TxDOT in November 2014.
79. The volumes of background (non-Facility) vehicular traffic on access roads within one mile of the proposed Facility, both existing and expected, during the life of the proposed Facility are set out in the TIA.
80. Reasonable projections of the volume of traffic expected to be generated by the Facility on the access roads within one mile of the proposed Facility are set out in the TIA.
81. Vehicles traveling to and from the Facility and will consist of waste route collection trucks, waste transfer trucks, small waste load vehicles, recycling trucks, miscellaneous trucks, and passenger cars.
82. The number of vehicles traveling to and from the Facility on a daily basis is projected to increase each year from the time the Facility begins operations (Year 1) until the time the 130 Environmental Park Landfill reaches capacity (estimated to be Year 44).
83. The projected numbers of each type of vehicle traveling to and from the Facility on a daily basis in Year 1/Year 44 are: waste route collection trucks (110/216), waste transfer trucks (15/29), small waste load vehicles (25/49), recycling trucks (40/78), miscellaneous trucks (4/8) and passenger cars (40/79). The total projected number of vehicles traveling to and from the Facility on a daily basis is 234 in Year 1 and 459 in Year 44.
84. Projected total vehicular traffic volumes on access roads within one mile of the proposed Facility during the expected life of the proposed Facility are set out in the TIA.
85. The Facility will contribute a minimal amount (approximately 3.5%) of the total traffic on US 183 in the area of the Site.
86. The existing roadway infrastructure, including northbound US 183, has adequate capacity to accommodate the traffic generated by the Facility.

87. Based in part on the TIA, TxDOT issued a driveway permit authorizing the construction and connection to northbound US 183 of the entrance road for the Facility.
88. As part of its review and consideration of the driveway permit request for the entrance road for the Facility, TxDOT considered issues related to structural integrity of the public roadways and the entrance road.
89. The Facility entrance road connection to northbound US 183 will include a northbound right turn deceleration lane as coordinated with, and recommended and permitted by, TxDOT. No other roadway improvements are necessary to accommodate Facility traffic.
90. The proposed location of the Facility entrance road will provide adequate sight distance for vehicles exiting onto US 183.
91. 130 Environmental Park coordinated with TxDOT regarding traffic and location restrictions.
92. The roads to be used by 130 Environmental Park to access the Facility will be available and adequate.
93. The Application includes documentation of coordination with the Federal Aviation Administration for compliance with airport location restrictions.
94. There is no airport within a six-mile radius of the Site.
95. The Facility will comply with the Airport Safety Location Restriction in 30 TAC §330.545.

6. GEOLOGY AND SOILS

96. The Geology Report was prepared, signed, and sealed by John Michael Snyder, P.G., a qualified groundwater scientist.
97. The Geology Report identifies sources and references for the information in it.
98. The Geology Report includes portions of published map series, including the Geologic Map of Texas, the Geologic Atlas of Texas, and mapping from the USGS Geologic Database of Texas, all of which are regional geologic maps.
99. The Geology Report includes a description of the generalized stratigraphic column in the area of the Site, with specific information on each geologic unit.
100. The Geology Report includes a regional stratigraphic cross-section.
101. The Geology Report includes a description of the geologic processes active in the vicinity of the Site, including information about faulting and subsidence.

102. The Geology Report includes the results of investigations of subsurface conditions at the proposed location of the Landfill.
103. The Geology Report describes forty-three borings drilled on the Site on behalf of 130 Environmental Park in mid to late 2013 and in 2016 during boring programs supervised by John Michael Snyder, P.G. to investigate, characterize, and test soils and to characterize groundwater (the "Soil Borings").
104. Seventeen additional borings were drilled and completed as piezometers to investigate and measure levels of groundwater at the Site.
105. The Soil Borings were drilled to depths of up to 127 feet below ground surface (bgs) using established field exploration methods, including rotary drilling with drilling fluid introduced when the material became too hard to drill dry.
106. All of the Soil Borings were at least five feet deeper than the elevation of the deepest excavation proposed for the Landfill. Eighteen of the 2013 Soil Borings and four of the 2016 Soil Borings were drilled to a depth at least 30 feet below the deepest excavation planned at the Landfill.
107. Samples were collected from the Soil Borings using Shelby tubes and split spoons and, in several borings where the presence of occasional cobbles and pebbles in the shallow subsurface clay prevented pushing tubes, samples at depths of 1 to 7 feet bgs were collected from auger cuttings.
108. The number and locations of the Soil Borings were sufficient to establish subsurface stratigraphy, to obtain adequate samples for soil testing, and to determine geotechnical properties of the soils and rocks beneath the Facility.
109. The Soil Borings were properly plugged and abandoned.
110. The Geology Report includes boring logs, maps, and tables that provide detailed information for all of the Soil Borings and piezometers.
111. The Geology Report includes narrative discussions describing John Michael Snyder, P.G.'s interpretations of the subsurface stratigraphy based upon the field investigation work conducted at the Site.
112. The Geology Report includes cross-sections, prepared from the Soil Borings and piezometers, depicting the generalized strata in the subsurface at the Facility.
113. The Geology Report includes laboratory report data describing the characteristics and geotechnical properties of soil samples from Stratum I, Stratum II, and Stratum III, based on geotechnical tests performed in accordance with industry practice and recognized procedures, including permeability, sieve analysis, Atterberg limits, and moisture content.

114. The Geology Report includes discussion with conclusions about the suitability of the soils and strata for the uses for which they are intended.
115. Regional stratigraphy includes geologic units of the Cretaceous Gulf Series Navarro Group, the Paleocene Midway and Eocene Wilcox Group and Quaternary deposits of the Leona Formation.
116. The Site is located on an outcrop of the Midway Group. The Midway in the area consists primarily of dense, silty, fat clay (high plasticity inorganic clay) and, based on published literature, is between 400 and 600 feet thick beneath the Site.
117. Beneath the Midway there are several hundred feet of low permeability clays, marls, and limestones of the Navarro, Taylor, Eagle Ford, and Austin formations.
118. Silty fat clay is by far the dominant material encountered in all of the Soil Borings.
119. Based upon the field investigation work conducted at the Site, the subsurface stratigraphy consists of three strata (beginning at the surface and continuing downward): Stratum I is up to ten feet thick and consists primarily of brown to tan, silty fat clay with occasional discontinuous occurrence of small rock pieces, including cobbles (larger than about 3 inches), pebbles (between about ¼ inch and 3 inches) and some gravel (smaller than pebbles). Stratum II ranges in thickness from about 30 to 60 feet and consists of weathered silty fat clay. Weathering effects are indicated primarily by color from tan near the upper parts to tan and gray and eventually to gray as it transitions to the unweathered dark gray clay below. Stratum III consists of hard, dense, dark gray silty fat clay, up to 77 feet of which was encountered in the Soil Borings.
120. The Geology Report includes laboratory report data describing the characteristics and geotechnical properties of soil samples from Stratum I, Stratum II, and Stratum III based on geotechnical tests performed in accordance with industry practice and recognized procedures, including permeability, sieve analysis, Atterberg limits, and moisture content.
121. Permeability (hydraulic conductivity) tests were performed on samples from the strata that will form the bottom and sides of the landfill excavations. Tested permeabilities ranged from 5.9×10^{-8} cm/sec in Stratum I material to an average of 1.5×10^{-8} in Stratum III material.
122. The Geology Report includes discussion with conclusions about the suitability of the soils and strata for the uses for which they are intended. The soils at the Site will be suitable for use in construction and operation of the proposed Facility.
123. Analyses of the landfill slope stability show that the factors of safety against slope failure exceed the recommended factors of safety for all conditions analyzed. The soils at the Site will provide adequate support for the proposed landfill.
124. The May 2016 Supplement to the Application presents information from borings drilled in 2016 that is consistent with the information obtained from borings drilled during the

original subsurface investigation in 2013.

125. The May 2016 Supplement includes minor revisions to several 2013 boring and piezometer locations and elevations, and several tables and drawings.
126. The Application contains complete and accurate information about geology and groundwater required by 30 TAC § 330.63(e) and (f).
127. The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding geology.
128. The Geology Report complies with all applicable TCEQ requirements concerning geology reports.

7. HYDROGEOLOGY

129. The Geology Report includes a description of the regional aquifers in the vicinity of the Site.
130. Regional aquifers that supply groundwater to wells in Caldwell County are the Carrizo-Wilcox and the Leona formations.
131. The Wilcox Formation crops out east of the Site and in a northeast trending belt across Caldwell County. The Carrizo Formation occurs east and southeast of the outcrop of the Wilcox, approximately 12 miles southeast of the Site. The aquifer portions of these two formations is collectively known as the Carrizo- Wilcox.
132. The Carrizo- Wilcox is characterized by the Texas Water Development Board (TWDB) as a major aquifer.
133. Most groundwater produced in northern Caldwell County is from wells tapping the Carrizo-Wilcox Formation, located east of the site.
134. The primary outcrop of the Leona Formation, from which some groundwater is produced, is located several miles south of the Site.
135. The Leona Formation is not characterized by the TWDB as either a major or minor aquifer.
136. Leona Formation material is not present at the Site.
137. Published literature shows no aquifers located beneath the Site.
138. There is very little groundwater present in the silty clays and shales that make up the geologic formations at the Site down to a depth of several hundred feet below the ground surface.

139. Groundwater was not encountered during drilling in any of the forty-three Soil Borings prior to the introduction of drilling fluid.
140. Water level readings were taken in each of the seventeen piezometers every month from October 2013 until May 2016. Water has been observed in only three of the seventeen piezometers, all screened at the interface between Stratum II and Stratum III; one of those has been dry since November 2013, another one has been dry since August 2015.
141. Small amounts of groundwater occur at the Site in the shallow weathered silty fat clay (Stratum II), just above its interface with the underlying hard, dark gray unweathered clay (Stratum III) that is present across the Site.
142. The zone of groundwater occurrence at the Site is not characterized as a major or minor aquifer by the Texas Water Development Board and there are no known wells completed in this zone within one mile of the Site.
143. Groundwater at the Site does not occur in sufficient amounts to supply usable quantities to wells that could support industrial, irrigation, domestic, or livestock use.
144. The volume of water observed in piezometers on the Site would be sufficient for sampling and analysis in accordance with TCEQ Municipal Solid Waste rules and, as a result, the zone of groundwater occurrence on the Site satisfies the criteria used by the TCEQ Municipal Solid Waste Permits Section for characterization as an aquifer.
145. The zone of groundwater occurrence in the shallow weathered silty fat clay (Stratum II), just above its interface with the underlying hard, dark gray unweathered clay (Stratum III) is the uppermost aquifer at the Site.
146. There are no lower aquifers that are hydraulically connected to the uppermost aquifer beneath the Facility.
147. Other than the zone of groundwater occurrence in the Stratum II weathered silty fat clay just above its interface with the underlying Stratum III unweathered Midway clay, the field investigation work at the Site showed no aquifers are present beneath the Site.
148. The lack of weathering effects in the deeper, unweathered clay (Stratum III) results in Stratum III functioning as an aquitard or lower confining unit to the groundwater in the above weathered clay, thus creating a pathway for groundwater to move at the interface of Stratum II and Stratum III.
149. The structural contour map of the top of Stratum III shows a strong resemblance to the surface topography. Groundwater flow from the landfill footprint area may occur to the northwest, west, southwest, south, southeast, and east.
150. The groundwater velocities in Stratum II are estimated at 0.01 to 0.04 feet per year.

151. The Groundwater Sampling and Analysis Plan complies with all applicable TCEQ MSW regulatory requirements concerning groundwater sampling and analysis plans.
152. The Facility will comply with the Groundwater Location Restriction in 30 TAC §330.549.
153. The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding hydrogeology.

8. FAULTS

154. A fault study of the Site area, based on the criteria in 30 TAC §330.555, was conducted by John Michael Snyder, P.G., a licensed professional geoscientist qualified to evaluate faulting, and found no evidence of faulting.
155. The area of the Site is not experiencing withdrawal of crude oil, natural gas, sulfur, etc. or significant amounts of groundwater.
156. The area of the Site is not subject to differential subsidence and there is no evidence of subsidence in the area.
157. Locations of known (mapped) faults within several miles of the Site are shown on the portions of regional geology maps included in the Geology Report and are all located more than 200 feet from the proposed landfill waste management unit boundary.
158. The faults located in the area of the Site are documented to have last moved 5 to 56 million years ago, well before the Holocene Epoch (the most recent 11,700 years).
159. There is no active faulting or fault that has had displacement in Holocene time in the area of the Site or within one-half mile of the Site.
160. The municipal solid waste landfill unit at the Facility will not be located within 200 feet of a fault that has had displacement in Holocene time.
161. The Facility will comply with the Fault Areas Location Restriction in 30 TAC §330.555.

9. GROUNDWATER MONITORING

162. Any groundwater that may be present at the Site will move through the subsurface very slowly.
163. Groundwater that may be present at the Site could move more readily in the Stratum II weathered clay than in the unweathered clay material in Stratum III.
164. In the unlikely event any contaminants were to migrate out of the Landfill and enter groundwater, that groundwater could move slowly downward and outward from the

Landfill in the weathered Stratum II material above the unweathered material in Stratum III.

165. A groundwater monitoring system for the Facility has been designed by John Michael Snyder, P.G. and is described in the Groundwater Sampling and Analysis Plan in the Application.
166. The point of compliance groundwater monitoring system for the Facility will include twenty-five groundwater monitoring wells located downgradient from the Landfill footprint, around the northwest, west, southwest, south, southeast, and east perimeter of the Landfill, and spaced no more than 600 feet apart.
167. The groundwater monitoring system for the Facility will include one groundwater monitoring well located upgradient from (northeast of) the Landfill footprint.
168. The groundwater monitoring wells will be constructed with well screens (perforated portion of the pipe in the well where water can enter the well to be collected for laboratory analysis) starting at the interface of the weathered Stratum II/unweathered Stratum III materials and extending upward for twenty feet.
169. The downgradient monitoring wells will be located at depths and locations to allow for the detection of contaminants in the uppermost aquifer.
170. The Groundwater Sampling and Analysis Plan complies with all applicable TCEQ municipal solid waste regulatory requirements concerning groundwater sampling and analysis plans.
171. The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding monitoring systems and other features whose designs depend on the geologic and hydrogeologic characteristics of the Site, including groundwater monitoring systems.

10. GENERAL FACILITY DESIGN

172. Access to the Facility will be controlled by a perimeter fence consisting of barbed wire, woven wire, wooden fencing, plastic fencing, pipe fencing, or other suitable material located along the facility boundary and a locking gate at the Site entrance.
173. The fencing and gate at the Facility will prevent the entry of livestock, protect the public from exposure to potential health and safety hazards, discourage unauthorized public access to the disposal operations, and discourage unauthorized entry or uncontrolled disposal of solid waste or prohibited materials.
174. A gate constructed of suitable fencing materials will be located on the entrance road of the Facility and will be locked when the landfill is not accepting waste.

175. The Application contains a generalized process design and working plan of the overall facility.
176. The Application contains a flow diagrams indicating the storage, processing, and disposal sequences for the various types of wastes received at the Facility.
177. The Application contains schematic view drawings showing the various phases of collection, separation, processing, and disposal as applicable for the types of wastes and feedstocks received at the Facility.
178. The Application contains ventilation and odor control measures for each storage, separation, processing, and disposal unit.
179. The Application contains generalized construction details of all storage and processing units, including slabs and subsurface supports, and locations and engineering design details of all containment dikes or walls.
180. Grease, oil, and sludge will not be accepted or stored at the Facility.
181. The Application describes how all liquids resulting from the operation of solid waste processing facilities will be disposed of.
182. Processing facilities will be designed to facilitate proper cleaning by controlling surface drainage in the vicinity of the facility to prevent surface water runoff onto, into, and off the treatment area and constructing walls and floors in operating areas of masonry, concrete, or other hard-surfaced materials.
183. The surface water drainage design will manage runoff and runoff during the peak discharge from the 25-year, 24-hour storm event to minimize surface water running onto, into, and off waste processing and storage areas and prevent the off-site discharge of waste and feedstock material, including, but not limited to, processed or stored materials.
184. The Facility has been designed to keep contaminated surface water (water that may have come into contact with waste) separated from uncontaminated stormwater runoff. Contaminated water will not be discharged to the surface water management system to be constructed at the Site.
185. Surface or groundwater that has become contaminated will be handled, stored, treated, and disposed of in accordance with 30 TAC §330.207.
186. The design and operation of the Facility, including waste processing and storage facilities, and the surface water management system, will prevent the discharge of solid waste, pollutants, dredged or fill material, and nonpoint source pollution that would violate any of the provisions referenced in 30 TAC §330.15(h).
187. Because all contaminated water will be managed in a controlled manner, groundwater will be protected.

188. Prior to commencing Facility operations, 130 Environmental Park will submit a notice of intent (NOI) under the stormwater permitting requirements of TCEQ's rules, qualifying the facility to operate pursuant to a general stormwater discharge permit (TPDES General Permit No. 050000).
189. The Site Operating Plan in the Application includes a Species Protection Plan that provides criteria for the protection of endangered or threatened species that have the potential to occur within the Hunter Property.
190. There are no site-specific conditions that require special design considerations.

11. WASTE MANAGEMENT UNIT DESIGN

191. The Facility will have all weather access from US Highway 183, a publically owned route.
192. The Facility will have all weather access from the entrance of the facility to unloading areas used during wet weather.
193. The Facility access roads will be constructed of crushed stone, gravel, concrete rubble, masonry rubble, wood chips, or other similar materials to provide access to the disposal area during all weather conditions.
194. Tracking of mud onto public roads will be minimized by the all-weather surfaces of the Facility access roads and the entrance road and a truck wheel wash.
195. The development method for the 130 Environmental Park landfill will be a combination of area-excavation fill followed by aerial fill to the proposed landfill completion height.
196. The elevation of deepest excavation will be 501.9 feet msl.
197. The maximum elevation of final cover will be 736 feet msl.
198. The maximum elevation of disposed waste will be 731.5 feet msl. *Ex.*
199. The total volume available for waste disposal will be approximately 33.1 million cubic yards (waste and daily cover), which will provide an estimated 44 years of site life.
200. The Application contains calculations and assumptions for the waste volume, rate of deposition, and site life estimate.
201. The Application contains landfill unit cross-sections consisting of plan profiles across the Facility that accurately depict the proposed depths of all fill areas within the Facility.
202. The landfill unit cross-sections show boring logs obtained from the soils report on the profiles.

203. Stratum I, Stratum II, and Stratum III materials will form the sides of the landfill unit excavations, and Stratum II, and Stratum III materials will form the bottom of the landfill unit excavations. Stratum III materials extend at least 30 feet below the lowest elevation of the landfill unit excavations.
204. Construction and design details of compacted perimeter or toe berms are included on the fill cross-sections.
205. The Application contains a liner quality control plan prepared in accordance with 30 TAC Chapter 330, Subchapter H.

12. UNSTABLE AREAS

206. The logs of the Soil Borings and laboratory data from soil samples did not indicate the presence of poor foundation conditions such as soft clay or loose sand beneath the Landfill. The hand penetrometer values and unit dry weight results indicate that the subsurface clays are hard.
207. The settlement and heave analyses presented in the Application show that the landfill components will not undergo detrimental differential settlement.
208. The slope stability analyses presented in the Application show that landfill components will be stable.
209. Evidence of mass movement of natural formations of earthen material on or in the vicinity of the Site was not observed at the Site, in the Soil Borings, or on geologic maps.
210. Evidence of karst terrain was not observed at the Site, in the Soil Borings, or on geologic maps of the area.
211. The Site is not located in an unstable area.
212. The Facility will comply with the Unstable Areas Location Restriction in 30 TAC §330.559.

13. LANDFILL GAS MONITORING

213. The Application includes a Landfill Gas Management Plan (LFGMP) as required by 30 Tex. Admin Code § 330.63(g).
214. The LFGMP describes the mechanisms to be employed at the Facility for quarterly monitoring of landfill gas, including a detailed description of monitoring procedures.
215. The LFGMP includes a perimeter methane monitoring system consisting of 33 permanent monitoring probes.

216. The LFGMP includes provisions for continuous methane monitors to be located in structures within the Facility boundary.
217. There are no underground utility lines or easements that enter or exit the Facility boundary.
218. Any future underground utility trench that crosses the Facility Boundary will be monitored regularly.
219. The LFGMP includes procedures and standards for methane monitoring.
220. Soil conditions, hydrogeologic and hydraulic conditions surrounding the facility, the location of facility structures and property boundaries, and the provisions of 30 TAC §330.371 were considered in determining the type and frequency of methane monitoring.
221. The LFGMP describes the actions that the Facility must take if methane levels are detected in excess of the prescribed limits.
222. The LFGMP includes a back-up plan to be used if any installed LFG monitoring probes or continuous monitoring devices become unusable or inoperative.
223. The LFGMP provides for including applicable documentation, including monitoring records for landfill gas monitoring probes, in the site operating record.
224. Landfill gas monitoring will continue for a period of 30 years after certification of final closure of the Facility, or until 130 Environmental Park receives written TCEQ authorization to reduce the program.
225. The information provided by 130 Environmental Park in the Application (including March 2015 and May 2016 supplements) complies with the requirements of 30 TAC Chapter 330 regarding monitoring systems and other features whose designs depend on the geologic and hydrogeologic characteristics of the Site, including landfill gas systems.
226. The Application includes adequate provisions to manage landfill gas in compliance with TCEQ rules.

14. ENDANGERED OR THREATENED SPECIES

227. The Application contains an evaluation of endangered or threatened species for the Hunter Property conducted by Russell Marusak, a qualified biologist.
228. The United States Fish and Wildlife Service and the Texas Parks and Wildlife Department were contacted for locations and specific data relating to endangered and threatened species.
229. Five threatened or endangered species have the potential to occur within the Hunter Property: the wood stork, the golden orb, the Texas pimpleback, the Texas horned lizard, and the timber rattlesnake.

230. The wood stork, the golden orb, the Texas pimpleback, the Texas horned lizard, and the timber rattlesnake are not federally listed threatened or endangered species and therefore no critical habitat has been designated for any of them.
231. The Site Operating Plan in the Application includes a Species Protection Plan that provides criteria for the protection of endangered or threatened species that have the potential to occur within the Hunter Property.
232. The Facility and its operation will not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.
233. The Facility will comply with the Endangered or Threatened Species Location Restriction in 30 TAC §330.551.

15. WETLANDS

234. The Application includes a wetlands determination under applicable federal, state, and local laws and identifies wetlands located within the Facility Boundary.
235. The U.S. Army Corps of Engineers issued a June 20, 2014 letter approving the wetlands jurisdictional determination and authorizing construction of the roadway crossings of streams associated with the entrance road for the Facility pursuant to Nationwide Permit 14.
236. The Application includes a discussion of wetlands in accordance with 30 TAC §330.553 and each of the demonstrations set out therein.
237. The federal definition of “wetlands” in 33 CFR §328.3(c)(4) is “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.”
238. The applicable state definition of “wetlands” is nearly identical to the federal definition, but does not include a man-made wetland of less than one acre.
239. The state definition of “wetlands” does not conflict with the federal definition in a situation like municipal solid waste permitting.
240. There are 20 areas, totaling 1.46 acres in size, of “federal definition” wetlands located within the Facility Boundary.
241. There are 12 areas, totaling 0.68 acres in size, of “federal definition” wetlands located within the proposed Landfill footprint, each of which is a man-made wetland of less than one acre.

242. There are no “state definition” wetlands located within the proposed Landfill footprint.
243. The Landfill will not be located in “state definition” wetlands.
244. No municipal solid waste storage or processing facilities at the Facility will be located in wetlands.
245. There is no requirement applicable to the Facility under Clean Water Act, §404 or state wetlands laws to rebut the presumption that a practicable alternative to the Landfill is available that does not involve wetlands.
246. The construction and operation of the Landfill will not cause or contribute to violations of any applicable state water quality standard.
247. The construction and operation of the Landfill will not violate any applicable toxic effluent standard or prohibition under the Clean Water Act, §307.
248. The construction and operation of the Landfill will not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat.
249. The construction and operation of the Landfill will not violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary.
250. The Landfill will not cause or contribute to significant degradation of “federal definition” or “state definition” wetlands.
251. The Application demonstrates the integrity of the Landfill and its ability to protect ecological resources.
252. There is no requirement applicable to the Facility under Clean Water Act, §404 or state wetlands laws to take steps to attempt to achieve no net loss of wetlands.
253. The Facility will comply with the Wetlands Location Restriction in 30 TAC §330.553.
254. The Application satisfies, and the Facility will satisfy, all applicable TCEQ municipal solid waste regulatory requirements regarding wetlands.

16. SURFACE WATER AND DRAINAGE

255. The Application includes a map showing wells, springs, and surface water bodies within one mile of the Site.
256. The Site is located in the San Marcos River drainage basin.
257. An unnamed tributary to Dry Creek traverses the Site in a northwest to southeast direction.

258. Dry Creek traverses the Hunter Property east and southeast of the Site in a northeast to southwest direction.
259. A dam located on Dry Creek approximately 3,000 feet south of the Site and operated and maintained by Plum Creek Conservation District (PCCD) impounds water in the Soil Conservation Service (SCS) Site 21 Reservoir, also known as Plum Creek Watershed Retarding Structure No. 21.
260. The unnamed tributary to Dry Creek enters the Site 21 Reservoir south of the Site.
261. Dry Creek exits the Site 21 Reservoir to the south and enters Plum Creek approximately six miles south of the Site. Plum Creek flows generally in a northwest to southeast direction, and enters the San Marcos River approximately 23 miles downstream from the Site.
262. Surface topography of the Site area generally slopes to the south toward Dry Creek or its unnamed tributaries and ultimately to the Site 21 Reservoir.
263. Surface water from the landfill footprint area flows to the south into the Site 21 Reservoir, either via the unnamed tributary, Dry Creek, or the Site 21 Reservoir.
264. The Application includes a facility surface water drainage report with facility surface water drainage design information, narrative discussion, drawings, and calculations that demonstrate how the facility is designed to meet the drainage requirements of 30 TAC §§330.63(c), 330.303, and 330.305.
265. The surface water drainage design report includes analyses of the existing conditions, postdevelopment conditions, and design of the surface water management system including final cover drainage facilities, drainage swales, downchutes, perimeter drainage channels, detention and sedimentation ponds and outlet structures, and also includes an erosion and sediment control plan for all phases of Facility development.
266. The surface water drainage design report includes drawings showing the off-site and on-site drainage areas, in both the existing (prior to Facility development) and postdeveloped (after Facility development) conditions.
267. The surface water drainage design report includes calculations and designs of surface water collection, drainage, and detention facilities to manage the water volume resulting from a 24-hour, 25-year storm.
268. All uncontaminated surface water from the Landfill footprint area will be routed through the Facility detention and sedimentation ponds before entering Dry Creek or its tributary.
269. Surface water entering the facility boundary from the north will be conveyed around the Landfill footprint and will exit the Facility Boundary on the south.

270. The Facility run-on control system will prevent flow onto the active portion of the Landfill and treatment areas during the peak discharge from at least a 25-year rainfall event.
271. The Facility runoff management system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm.
272. The surface water drainage design will manage runoff and runoff during the peak discharge from the 25-year, 24-hour storm event to minimize surface water running onto, into, and off waste processing and storage areas and prevent the off-site discharge of waste and feedstock material, including, but not limited to, processed or stored materials.
273. The surface water drainage design report includes a description of the methods and calculations used to estimate peak flow rates and runoff volumes: United States Army Corps of Engineers (COE) HEC-HMS computer program, the Rational Method, the Universal Soil Loss Equation, and the methods defined in the TxDOT *Hydraulic Design Manual*, October 2011, all approved by the Executive Director.
274. The surface water drainage design report includes drainage analyses, including 25-year peak discharge, volume, and peak velocity, for both the existing and postdeveloped conditions.
275. The surface water drainage design report includes existing and postdeveloped conditions comparison of peak discharge, volume, and peak velocity, for both the existing and postdeveloped conditions.
276. The postdevelopment stormwater discharge points are consistent with the existing site configuration.
277. Development of the Facility will not adversely alter peak flow rates, velocities, or runoff volumes.
278. Existing drainage patterns will not be adversely altered by development of the Facility.
279. The top surfaces and external embankment slopes of the Landfill are designed to minimize erosion and soil loss during all phases of landfill operation, closure, and post-closure care.
280. Estimated peak velocities for top surfaces and external embankment slopes will be less than the permissible non-erodible velocities under similar conditions.
281. Potential soil loss will not exceed the permissible soil loss for comparable soil-slope lengths and soil-cover conditions.
282. The surface water protection and erosion control practices will provide long-term, low maintenance geotechnical stability to the final cover.
283. The Facility has been designed to keep contaminated surface water (water that may have come into contact with waste) separated from uncontaminated stormwater runoff.

Contaminated water will not be discharged to the surface water management system to be constructed at the Site.

284. Because all contaminated water will be managed in a controlled manner, groundwater will be protected.
285. Surface or groundwater that has become contaminated by contact with the working face of the Landfill or with leachate will be handled, stored, treated, and disposed of in accordance with 30 TAC §330.207.
286. The design and operation of the Facility, including the Landfill, waste processing and storage facilities, and the surface water management system, will prevent the discharge of solid waste, pollutants, dredged or fill material, and nonpoint source pollution that would violate any of the provisions referenced in 30 TAC §330.15(h).
287. Prior to commencing Facility operations, 130 Environmental Park will submit a notice of intent (NOI) under the stormwater permitting requirements of TCEQ's rules, qualifying the facility to operate pursuant to a general stormwater discharge permit (TPDES General Permit No. 050000).

17. FLOODPLAINS

288. The Application includes the portion of the relevant Federal Emergency Management Agency (FEMA) floodplain map (Map Number 48055C1025E; effective date: 6-19-2012) that encompasses the Site and surrounding area.
289. The FEMA floodplain map in the Application shows (as Zone A) the 100-year floodplain in the area of the Site.
290. The Facility Boundary, the Hunter Property Boundary, the proposed Landfill Footprint, and the Limits of Landfill Grading have been added to the FEMA floodplain map in the Application.
291. The FEMA floodplain map in the Application shows that the 100-year floodplain extends onto portions of the Site, but the Landfill Footprint is outside the 100-year floodplain.
292. The Application includes a detailed flood study (flood control analysis) of the Site and surrounding area.
293. The methods employed in the detailed flood study, including the use of United States Corps of Engineers HEC-HMS and HEC-RAS computer programs (used in the hydrologic and hydraulic analyses, respectively), are reasonable and appropriate, and consistent with and in compliance with, TCEQ municipal solid waste regulatory requirements.
294. The detailed flood study determined the 100-year floodplain water surface elevations and the extent of the 100-year floodplain at the Site and in the area around it for the existing and postdeveloped conditions.

295. The detailed flood study shows that the Landfill Footprint will be outside the 100-year floodplain.
296. The detailed flood study shows that waste processing and/or storage units at the Facility will not be located in any 100-year floodplain.
297. Waste disposal operations at the Facility will not be located in a 100-year floodway.
298. The Landfill will not be located in any 100-year floodplain.
299. Waste processing and/or storage units at the Facility will not be located in any 100-year floodplain.
300. The proposed municipal solid waste management units at the Facility will not be located in any 100-year floodplain.
301. The Facility will be in compliance with the Floodplains Location Restriction in 30 TAC §330.547.

18. LOCAL REGULATIONS/APPROVALS

302. The Capital Area Council of Governments (“CAPCOG”) and TCEQ have adopted a regional solid waste management plan (“the Regional Plan”) that covers ten counties in Central Texas, including Caldwell County.
303. The Application includes documentation that Parts I and II of the Application were submitted for review to CAPCOG for compliance with the regional solid waste management plan.
304. CAPCOG conducted a conformance review of the Application and determined that it is in conformance with the CAPCOG regional solid waste management plan.
305. The Application and the Facility are in conformance with the Regional Plan.
306. On December 9, 2013, the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, Section III of which identifies an 18.232-acre area of the County in which “[t]he processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is not prohibited”, and Section IV of which states, “The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is prohibited in the following areas within Caldwell County, Texas: All portions of Caldwell County, Texas not included in Section III above.”
307. When the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, the Application for the 130 Environmental Park Landfill permit was pending at TCEQ.

308. When the Caldwell County Commissioners Court adopted the Caldwell County Solid Waste Disposal Ordinance, the County sought to prohibit the processing or disposal of municipal or industrial solid waste in an area of the County for which an application for a permit or other authorization under Chapter 361 had been filed with and was pending before TCEQ.
309. The existence of the Caldwell County Solid Waste Disposal Ordinance does not prevent TCEQ from granting the Application and issuing the permit sought by way of the Application.

19. WASTE ACCEPTANCE PLAN

310. Solid wastes to be accepted at the Facility include municipal solid waste, special wastes, and Class 2 and 3 industrial wastes.
311. Limiting parameters for waste to be accepted at the Facility include: a concentration of 1,500 mg/kg total petroleum hydrocarbons, the levels for Class 1 industrial solid waste provided in 30 TAC §335.521(a)(1), the presence of free liquids, the presence of regulated hazardous waste, the presence of polychlorinated biphenyls, the presence of radioactive waste, and the presence of chlorinated fluorocarbons.
312. Waste contributed to the Facility is expected to come from residences and businesses in Caldwell County and surrounding Texas counties.
313. The Facility will serve an estimated population equivalent of approximately 470,000 persons to 922,000 persons during the life of the Facility.
314. The estimated maximum annual waste acceptance rate for the Facility projected for five years is as follows: Year 1 - 429,000 tons; Year 2 - 435,778 tons; Year 3 - 442,663 tons; Year 4 - 449,658 tons; Year 5 - 456,762 tons.

20. SITE OPERATING PLAN

315. Part IV of the Application is the Site Operating Plan for the Facility.
316. 130 Environmental Park will provide notice of construction of a new waste disposal area or cell in the form of a Soil Liner Evaluation Report (SLER) and a Geosynthetics Liner Evaluation Report (GLER), to the Executive Director for review 14 days prior to the placement of waste.
317. 130 Environmental Park will maintain the operating record for the Facility on site.
318. 130 Environmental Park will record and retain in the site operating record those items listed in Table 2-1 of the Site Operating Plan within seven working days following completion or receipt of analytical data.

319. 130 Environmental Park will maintain the site operating record in an organized format, where information is easily locatable and retrievable.
320. 130 Environmental Park will furnish the site operating record to the Executive Director upon request, and will make it available on site for inspection by the Executive Director.
321. 130 Environmental Park will retain all information contained within the site operating record of the Facility and all plans required for the Facility for the life of the Facility including the postclosure care period.
322. 130 Environmental Park will require personnel training and maintain records in accordance with 30 TAC § 335.586(d) and (e).
323. The Facility will be staffed with qualified and experienced personnel.
324. 130 Environmental Park will maintain personnel operator licenses issued in accordance with TCEQ Rules, Chapter 30, Subchapter F.
325. 130 Environmental Park will maintain documentation of the annual waste acceptance rate for the Facility as part of the site operating record.
326. The Site Operating Plan describes the personnel training programs for the Facility, including a description of all minimum training requirements based on subject matter.
327. The Site Operating Plan includes provisions related to training employees, including training for record keeping, license requirements, detection, prevention of disposal of prohibited waste, fire protection and response, site inspection, site safety, site access, and maintenance.
328. Facility personnel will receive training through a combination of classroom instruction and on-the-job training in procedures relevant to the position for which they are employed.
329. Facility personnel will receive training appropriate to individual needs as well as specific job duties and responsibilities.
330. Facility personnel will be properly trained to identify any prohibited wastes, and to perform random inspections and know what to do in the event prohibited wastes are identified.
331. 130 Environmental Park will maintain records including the quarterly solid waste summary reports and the annual solid waste summary report as required by 30 TAC § 330.675.
332. The maximum estimated waste acceptance rate will reach 841,803 tons per year or about 2,943 tons per day.
333. 130 Environmental Park will provide sufficient equipment to conduct site operations in accordance with the landfill design and permit condition.

334. The Site Operating Plan includes the minimum number, size, type, and function, of the equipment to be utilized at the Facility based on the estimated waste acceptance rate.
335. Backup equipment will be provided from contractors or local rental companies in the event of a breakdown or maintenance to avoid interruption of waste services.
336. All incoming loads will be visually monitored at the gatehouse and working face.
337. The Site Operating Plan provides procedures, including a screening program, for the detection and prevention of the disposal of prohibited wastes.
338. The Site Operating Plan's detection and prevention program includes training for site personnel to know in detail what the prohibited wastes are, how to perform a random inspection, how to control site access, and what procedures are required in the event of identification of prohibited wastes.
339. The detection and prevention program includes the following steps: random inspections of incoming loads; records of all inspections; training for appropriate facility personnel to recognize prohibited waste, regulated hazardous waste and PCB waste; notification to TCEQ of any incident involving the receipt or disposal of regulated hazardous waste or PCB waste at the landfill; provisions for remediation of the incident; and identification and sampling to ensure no free liquids (as determined by the paint filter test) will be accepted.
340. Lead acid storage batteries are prohibited and will not be accepted at the Facility.
341. Do-it-Yourself (DIY) used motor vehicle oil is prohibited and will not be accepted at the Facility, except that it may be accepted if the mixing or commingling of used oil with solid waste that is to be disposed of in a landfill is incidental to, and the unavoidable result of, the mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals.
342. Used oil filters from internal combustion engines will not be accepted at the Facility unless crushed or processed to remove oil as provided in 30 Tex. Admin. Code § 330.171(d).
343. Whole used or scrap tires will not be intentionally or knowingly accepted for disposal unless processed prior to disposal in a manner acceptable to the Executive Director.
344. Refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbons (CFC) will not be knowingly accepted for disposal unless all the CFC contained in an item is captured and sent to an approved CFC disposal site or recycling facility.
345. Bulk or noncontainerized liquid waste will not be accepted for disposal unless the waste is household waste other than septic waste.
346. Containers holding liquid waste will not be accepted for disposal unless: the container is a small container similar in size to that normally found in household waste, the container is

- designated to hold liquids for use other than storage, or the waste is household waste.
347. Regulated hazardous waste as defined in 30 TAC § 330.3 is prohibited and will not be accepted at the Facility.
 348. Polychlorinated biphenyls (PCB) wastes are prohibited from and will not be accepted at the Facility except as permitted under 40 CFR Part 761.
 349. Radioactive substances as defined in Chapter 336 are prohibited from and will not be accepted at the Facility except as authorized in 30 TAC Chapter 336 or that are subject to an exception of the Texas Department of Health Services.
 350. The Facility will not accept for disposal medical waste, sewage, dead animals and/or slaughterhouse waste, sludge, grease trap waste, grit trap waste, liquid waste from municipal sources, municipal hazardous waste from conditionally exempt small quantity generators, or out-of-state wastes.
 351. The Facility will not accept contaminated soil that exceeds 1,500 parts per million (ppm) total petroleum hydrocarbons or a constituent of concern exceeding levels in §335.521(a)(1), Table 1.
 352. The Facility will not accept Class 1 industrial solid wastes, except for wastes that are Class 1 only because of asbestos content.
 353. 130 Environmental Park will notify TCEQ if prohibited wastes are received and/or disposed of in the landfill.
 354. The Site Operating Plan provides adequate controls for screening of prohibited wastes.
 355. The Site Operating Plan contains general and specific instructions for site operations and site safety.
 356. A stockpile of earthen material will be maintained in the vicinity of the landfill working face so that it is available at all times to extinguish a fire.
 357. The total volume of earthen material available from the stockpile will be sized to cover the working face with a minimum six-inch layer of earthen material.
 358. The landfill equipment identified in Table 4-1 of the Site Operating Plan is sufficient to cover the active working face with a minimum six-inch soil layer from the earthen material stockpile within one hour of detecting a fire.
 359. The Site Operating Plan contains calculations demonstrating the adequacy of the earthen material and to demonstrate that the type and number of equipment listed in the Site Operating Plan will be able to transport the volume of earth required.

360. The Site Operating Plan contains a fire protection plan that identifies the fire protection standards to be used at the Facility and how personnel are trained.
361. The Site Operating Plan contains an adequate fire protection plan.
362. Public access to the Facility will be controlled by a perimeter fence located along the Facility boundary and a gate located on the entrance road.
363. Access to the landfill from US183 is limited to the entrance road through the gatehouse area.
364. The Application contains adequate provisions for control of access.
365. Unloading of solid waste will be confined to as small an area as practical.
366. A trained staff person will be on duty during operating hours at each area where waste is being unloaded to direct and observe the unloading of solid waste.
367. The Application provides adequate provisions for the unloading of waste.
368. The Facility may accept waste from public and private haulers from 3:00 a.m. to 5:00 p.m. (14 hours) on Monday through Friday and from 5:00 a.m. to 12:00 p.m. (7 hours) on Saturday.
369. Other Facility operations (including construction, earthmoving, monitoring, transportation of construction materials, heavy equipment operation, and other non-waste acceptance operations) may be conducted 24 hours per day, seven days per week.
370. A sign will be displayed at the gated entrance to the Facility.
371. The Facility sign will comply with all requirements of 30 TAC § 330.137.
372. The working face will be maintained and operated in a manner to control windblown solid waste.
373. Solid waste unloading, storage, disposal, or processing operations will not occur within any easement, buffer zone, or right-of-way that crosses the Site.
374. No solid waste disposal will occur within 25 feet of the centerline of any utility line or pipeline easement, unless otherwise authorized by TCEQ.
375. Landfill markers and benchmark will be installed and maintained as required by 30 TAC § 330.143(b).
376. Signs will be posted at the entrance gate and gatehouse notifying haulers that vehicles hauling waste to the Facility must be enclosed or provided with a tarpaulin, net, or other

means to properly secure the load and that this requirement will be enforced by applying surcharges or other similar measures.

377. Spilled materials will be cleaned up once per day for US183 and TX 130 (two miles north of the site entrance and two miles south of the site entrance) and FM1185 and Schuelke Road (between southbound and northbound US183).
378. 130 Environmental Park will consult with officials of TxDOT concerning the cleanup of state highways and right-of-ways.
379. A storage area for large items and white goods may be provided, should these items be accepted.
380. Large items and white goods will be recycled to prevent a nuisance and to preclude discharge of fluids, but will not be stored in excess of 180 days.
381. Refrigerators, freezers, air conditioning units, or other items containing chlorinated fluorocarbon (CFC) refrigerant will be handled in accordance with 40 Code of Federal Regulations (CFR) §82.156(f), as amended.
382. On-site populations of disease vectors will be controlled by minimizing the size of the active working face; placing daily, intermediate, and final cover; adhering to the ponded water plan; the use of other approved methods when needed; and following the detailed procedures described in the Site Operating Plan.
383. 130 Environmental Park will employ a licensed professional to apply pesticides to ensure that proper chemicals are used and that they are properly applied should daily operations not control vectors.
384. All-weather roads will extend between the Facility and US183 and within the Facility to the unloading area(s) designated for wet-weather operation.
385. The all-weather surface entrance, access, and internal roads; speed bumps along the main access roads between the fill areas and the gatehouse; weekly grading; and a truck wheel wash station will minimize the tracking of mud onto public roads.
386. Should mud or other associated debris be tracked onto US183, the material will be removed daily.
387. Dust on the landfill haul roads and access roads will be controlled by periodic spraying from a water truck to prevent nuisance conditions.
388. The Site entrance road, landfill haul road, and access roads will be maintained in a clean and safe condition.
389. Litter and debris will be picked up daily and returned to the active working face.

390. Grading equipment will be used weekly to control mud and to minimize depressions, ruts, and potholes.
391. Salvaging will not be allowed to interfere with prompt sanitary disposal of solid waste or to create public health nuisances.
392. Salvaged materials will be considered as potential recycled materials. Salvaged items will be removed from the Site on an as-needed basis, but will not be stored in excess of 180 days, to prevent the items from becoming a nuisance, to preclude the discharge of pollutants from the area, and to prevent an excessive accumulation of the material at the site.
393. Special wastes received at the Site will not be salvaged.
394. Pesticide, fungicide, rodenticide, or herbicide containers will not be salvaged unless they are salvaged through a state-supported recycling program.
395. Scavenging will be prohibited at all times and not allowed.
396. There is one dry hole oil/gas well located within the Facility Boundary, but it is approximately 1,800 feet from the Landfill footprint.
397. 130 Environmental Park will provide written notification to the TCEQ Executive Director within 30 days after discovery should any unknown abandoned water, crude oil, or natural gas wells, or other well associated with mineral recovery, be discovered within the Facility Boundary.
398. Any unknown well found within the Landfill footprint will be plugged and abandoned.
399. A copy of the well plugging report for any water well found during Facility development will be submitted to the appropriate state agency and to the Executive Director within 30 days after the well is discovered.
400. Within 30 days after plugging of any abandoned crude oil or natural gas wells or other wells associated with mineral recovery, the 130 Environmental Park will provide the Executive Director with written certification that such wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the Railroad Commission of Texas. *Ex.*
401. Incoming waste will be spread in layers and thoroughly compacted by repeated passes of a landfill compacter weighing in excess of 40,000 pounds so each layer of solid waste will be thoroughly compacted.
402. The Site Operating Plan describes the daily cover that will be used at least once every 24 hours at the Facility as a means to control disease vectors, fire, odor, windblown litter and scavenging. *Ex.*

403. The Site Operating Plan describes how intermediate cover of soils and/or vegetative growth, or other suitable erosion control mechanisms, will be used at the Facility for all areas that will receive additional waste but may be inactive for more than 180 days.
404. The Site Operating Plan explains that alternative daily cover may be used only after the same has been proposed to and authorized by TCEQ.
405. The Site Operating Plan describes the final cover for the Landfill, including an explanation of the components of the final cover, slope range and drainage control, with reference to Part III of the Application, Attachment H - Closure Plan; Attachment D8 - Final Cover Quality Control Plan.
406. The Site Operating Plan addresses erosion of cover, and explains procedures for repairs in the event of cover erosion.
407. The cover application record, with the required elements, will be maintained on site and available for appropriate inspection.
408. The Site Operating Plan includes adequate provisions for cover, in compliance with TCEQ's rules.
409. The Site Operating Plan contains a ponding prevention plan that identifies techniques to be used at the Facility to prevent the ponding of water over waste, an inspection schedule to identify potential ponding sites, corrective actions to remove ponded water, and general instructions to manage water that has been in contact with waste.
410. Ponding of water over waste will be prevented
411. The Site Operating Plan provides adequate controls for ponded water.
412. Special wastes may be accepted at the Facility.
413. Requests for approval to accept special wastes will be submitted by the generator to the TCEQ Executive Director or 130 Environmental Park.
414. Approval for acceptance and disposal of special wastes at 130 Environmental Park will be waste-specific.
415. 130 Environmental Park will not accept the following special wastes: untreated medical waste, dead animals, slaughterhouse waste, municipal hazardous waste from a conditionally exempt small quantity generator, sewage sludge, grease trap waste, grit trap waste, or liquid wastes from municipal sources. The facility will not accept contaminated soil that exceeds 1,500 parts per million (ppm) or a constituent of concern exceeding levels in 30 TAC § 335.521 (a)(1), Table 1.
416. The Facility may accept the following wastes without prior written authorization: empty containers, non-regulated asbestos-containing materials, and regulated asbestos containing

materials.

417. Class 1 industrial solid waste requiring Executive Director approval pursuant to §330.173 will not be accepted, except regulated asbestos containing material that has been designated Class 1 industrial solid waste due to its asbestos content.
418. 130 Environmental Park will not recirculate leachate and landfill gas condensate.
419. 130 Environmental Park will not discharge contaminated water from the facility without specific written authorization from TCEQ.
420. All water coming in contact with waste or contaminated soils will be treated as contaminated water and managed following the procedures set forth in the Leachate and Contaminated Water Management Plan in the Application.
421. The Site Operating Plan describes operations for storage areas for large items and white goods within the waste disposal footprint or near the citizen's convenience center.
422. The large item storage area will receive approximately one ton of large items and white goods per day and have a maximum amount of 180 tons of material stored at one time.
423. The large item storage area, when located within the waste disposal footprint, will be placed only over areas that have received intermediate cover.
424. Surface water runoff from the large item storage area will be contained by placement of earth containment berms to preclude discharge from this area. Containment and diversion berms will be placed, and runoff from the area managed, consistent with the Leachate and Contaminated Water Plan.
425. The large items and white goods stored at the storage area near the citizen's convenience area will be transferred into steel roll-off containers for storage until transported to an off-site recycler or disposed of.
426. Containers at the citizen's convenience area will be covered with tarps during a rainfall event to prevent contaminated water from being generated.
427. The Site Operating Plan describes operations for a reusable materials staging area.
428. Inert materials such as brick, concrete, etc., and non-inert materials such as asphalt may be received and staged at the facility for use as roadbase materials for facility access roads and staging areas or erosion control in drainage structures.
429. Asphalt pavement will not be used for erosion control in drainage structures.
430. The reusable materials staging area will receive approximately 250 tons of inert materials per day and have a maximum amount of 2,000 tons stored at one time.

431. The reusable materials staging area will receive approximately 50 tons of non-inert material per day and have a maximum of 500 tons stored at one time.
432. 130 Environmental Park will provide a recyclable materials storage and staging area for source-separated recyclable materials, including asphalt and other materials.
433. The Site Operating Plan describes operation of a citizen's convenience center at the Facility.
434. The Site Operating Plan describes how containers located in the citizen's convenience center will be managed and provides a description of waste stream processing in the center.
435. 130 Environmental Park will not intentionally or knowingly accept whole used or scrap tires for disposal unless processed prior to disposal in a manner acceptable to the Executive Director.
436. The Site Operating Plan describes how the Facility will manage scrap tires and a description of scrap tire processing.
437. The Site Operating Plan describes operations for scrap tires to be accepted from the public or from community clean-up efforts and stored in containers or trailers prior to shipment off-site.
438. The Site Operating Plan describes operations for a wood waste processing area.
439. The Site Operating Plan describes operations for a leachate and landfill gas condensate facility.
440. Leachate and landfill gas condensate will be pumped from the leachate sumps directly to transport trucks or to an existing on-site leachate storage facility through a leachate forcemain.
441. The leachate storage facility consists of two 250,000-gallon steel storage tanks, which will be installed individually as needed based on leachate generation.
442. The calculations in the Application demonstrate that the secondary containment at the leachate storage facility, consisting of reinforced concrete slab and walls, provides containment volume for 110 percent of the volume of one leachate storage tank and precipitation from the 25-year, 24-hour storm event with 12 inches of freeboard.
443. The maximum amount of leachate that may be stored on Site at any time is 500,000 gallons.
444. The maximum amount of time leachate will be stored during the postclosure condition is 12 months and the average amount of time is 6 months.
445. The Site Operating Plan describes operations for a truck wheel wash station.

- 446. Water from the wheel wash will be collected and stored in a concrete settlement basin for reuse in the wheel wash.
- 447. Periodically, the settlement basin of the truck wheel wash station will be drained and the sediment will be removed from the basin, or the sediment within the settlement basin will be solidified in place and then removed from the basin.
- 448. The wash water of the truck wheel wash station may be hauled to an authorized off-site facility for treatment and disposal if not solidified in place.
- 449. The sediment from the truck wheel wash station, following solidification and passing the paint filter test, may be disposed of in the Landfill.
- 450. The maximum amount of sediment stored in the truck wheel wash is approximately 100 cubic yards.
- 451. The sediment from the truck wheel wash station will not be stored in excess of 90 days and the average length of time sediment will be stored is 30 days.

21. ODOR

- 452. The Site Operating Plan in the Application includes an Odor Management Plan that addresses sources of odors and includes general instructions to control odors or sources of odors.
- 453. The Application contains ventilation and odor control measures for each storage, separation, processing, and disposal unit.
- 454. Among the wastes that will not be accepted at the Facility are medical waste, sewage, dead animals and/or slaughterhouse waste, sludge, grease trap waste, and grit trap waste.
- 455. Leachate and landfill gas condensate will not be recirculated at the Facility.
- 456. Odors associated with waste acceptance and disposal operations, and operation of the storage and processing areas, will be managed in accordance with provisions of the Odor Management Plan.
- 457. The Odor Management Plan discusses wastes that require special attention due to potential odors.
- 458. The Application satisfies, and the 130 Environmental Park Landfill will satisfy, all applicable regulatory requirements regarding odors, odor controls and avoidance of nuisance odors.

22. WATER SUPPLY

- 459. Water will be supplied to the Facility by Polonia Water Supply Corporation.

460. Potable water (bottled water) will be provided for all employees and visitors at/near the scale house and/or maintenance building.

23. BUFFER ZONES

461. Buffer zones, between the Facility boundary and the Landfill footprint and between the Facility boundary and waste storage or processing activities, will exceed the TCEQ-required minimum of 125 feet.
462. No solid waste unloading, storage, disposal, or processing operations will occur within any buffer zone, or right-of-way that crosses the Site, including the 125-foot buffer zone of the landfill.
463. The buffer zones will provide for safe passage of fire-fighting and other emergency vehicles.
464. Buffer zones will be marked with yellow markers (posts extending at least six feet above the ground surface) placed along each buffer zone boundary at all corners and between corners at intervals of 300 feet.
465. The inundation area of the Plum Creek Conservation District easement for the Site 21 Reservoir extends onto the Site in the south and southeast, but does not extend to any area to be used for waste unloading, storage, processing, or disposal.
466. No solid waste unloading, storage, disposal, or processing operations will occur within any easement, buffer zone, or right-of-way that crosses the Site.
467. The Facility will comply with the Easements and Buffer Zones Location Restriction in 30 TAC §330.543.

24. SCREENING

468. Existing topography and vegetation will provide natural screening of deposited waste.
469. Visual screening of deposited waste will be provided as part of normal waste disposal and cover placement operations and sequence of development.
470. Final cover will be placed as the landfill reaches final contours.
471. As the site is developed, the visual effects of the disposal activities will be minimized through the use of screening provided by fencing, constructed berms, planted vegetation, and natural vegetation located within the buffer zone.
472. Visibility of the Facility will be limited by existing topography, naturally occurring tree lines, and the vegetated landscaping plan for the Facility (including an effective screening berm).

25. PERMIT DURATION

- 473. TCEQ's municipal solid waste rules state that "a registration or permit is normally issued for the life of the facility... When deemed appropriate a registration or permit may be issued for a specific period of time."
- 474. The projected life of the 130 Environmental Park Landfill facility is 44 years.
- 475. It is appropriate for the permit for the 130 Environmental Park Landfill facility to be issued for the life of the Facility.

26. CLOSURE PLAN

- 476. The Application includes a Closure Plan for the Facility in Part III, Attachment H.
- 477. The Closure Plan includes drawings showing the final constructed contour of the entire landfill, including internal drainage and side slopes, accommodation of surface drainage entering and departing the completed fill area, and areas subject to flooding due to a 100-year frequency flood.
- 478. The estimated largest area requiring final cover during the active life of the Landfill is approximately 75 acres.
- 479. The estimated maximum inventory of waste and operational cover at the Facility during its life is approximately 33.1 million cubic yards, which is the total volume of the Landfill.
- 480. The Closure Plan specifies the procedures for closure of any portion or all of the Landfill.
- 481. The Closure Plan includes a description of the steps that will be undertaken to close the Landfill, a schedule for final closure, a description of the final cover system, and the methods used to install the final cover.
- 482. The final cover system will consist of an infiltration layer, a flexible membrane cover, a drainage layer on sideslopes, a cushion layer on topslopes, and an erosion control layer.
- 483. The infiltration layer will be a minimum of 18 inches of compacted soil with a coefficient of permeability less than or equal to 1×10^{-5} cm/sec.
- 484. The estimated cost of hiring a third party to close the largest area of the Landfill requiring final closure at any time during its active life is \$10,121,410.00.

27. POST-CLOSURE PLAN

- 485. The Application includes, in Part III Attachment I, a Post-Closure Plan addressing the ongoing monitoring and maintenance activities that will be conducted at the Site for 30 years following closure.

486. The estimated cost of hiring a third party to conduct postclosure care activities in accordance with the Post-Closure Plan is \$6,794,348.

28. FINANCIAL ASSURANCE

487. TCEQ rules require the submission of cost estimates for closure of a municipal solid waste landfill facility with a new permit application.

488. The Application includes a cost estimate for closure of the Facility.

489. TCEQ rules require the owner or operator of a municipal solid waste landfill unit to establish financial assurance for closure of the unit in accordance with 30 TAC Chapter 37 (Financial Assurance for Municipal Solid Waste Facilities).

490. TCEQ rules require the submission of cost estimates for post-closure care of a municipal solid waste landfill facility with a new permit application.

491. The Application includes a cost estimate for post-closure care of the Facility.

492. TCEQ rules require the owner or operator of a municipal solid waste landfill unit to establish financial assurance for the costs of post-closure care of the unit in accordance with 30 TAC Chapter 37 (Financial Assurance for Municipal Solid Waste Facilities).

493. TCEQ rules require that a copy of the required documentation for financial assurance be submitted at least 60 days prior to the initial receipt of waste at the Facility.

494. 130 Environmental Park will submit a copy of the documentation required to demonstrate financial assurance as specified in 30 TAC Chapter 37, Subchapter R at least 60 days prior to the initial receipt of waste at the Facility.

29. IMPACTS ON HEALTH, WELFARE, ENVIRONMENT, OR PHYSICAL PROPERTY OF NEARBY RESIDENTS AND PROPERTY OWNERS

495. TCEQ's municipal solid waste rules provide standards for the design, permitting and operation of municipal solid waste facilities to protect human health and welfare, the environment, and physical property of nearby residents and property owners.

496. A facility permitted and operated in compliance with TCEQ's municipal solid waste rules will be protective of human health and welfare, the environment, and physical property of nearby residents and property owners.

497. The 130 Environmental Park Landfill facility will be protective of human health and welfare, the environment, and physical property of nearby residents and property owners.

30. ENFORCEABILITY OF DRAFT PERMIT

498. TCEQ is authorized to enforce the provisions of any permit it issues.

499. A permit issued by TCEQ based on the Application and the draft permit is enforceable.

31. PERMIT SPECIAL PROVISIONS

500. Section IX of the draft permit includes two special provisions, as follow:

A. Before physical construction may commence, the permittee must provide the Executive Director with a floodplain development permit from the city, county, or other agency with jurisdiction over improvements authorized by this permit.

B. The facility must implement all roadway improvements specified in Part II, Appendix IIC of the permit application prior to the pre-opening inspection of the facility.

501. No other permit special provisions are necessary.

32. ASSESSMENT OF REPORTING AND TRANSCRIPTION COSTS

502. The hearing on the merits regarding the Application was conducted August 15 through 19 and August 22 through 26, 2016 by SOAH Administrative Law Judges Kerry Jo Qualtrough and Casey A. Bell at SOAH, 300 West 15th Street, Austin, Texas.

503. Pursuant to Order No. 1, the Applicant arranged for and paid a court reporter to report and transcribe the hearing on the merits and delivered the original and one copy of the transcript to each of the ALJs and two copies to the TCEQ's Chief Clerk, including electronic copies on disc in text format.

504. The cost of reporting, preparing, and delivering the transcripts delivered to the ALJs and the TCEQ Chief Clerk was \$16,725.85, calculated by adding the following amounts shown on the invoices: Hourly Reporting Fee, After Hours Reporting Fee, Original & One Copy – Regular Delivery, 5/6ths of the Additional Format of Transcript (for the five electronic copies of the transcript delivered to SOAH and TCEQ), Delivery fee, and Administrative Fee; not including the following amounts shown on the invoices: Rough Draft – Daily, and 1/6th of the Additional Format of Transcript (for the one electronic copies of the transcript delivered to the Applicant).

505. The Applicant, PCCD, Caldwell County, TJFA, EPICC, the Executive Director, and OPIC all participated substantially in the contested case hearing and benefitted from having a transcript for use in preparing written closing arguments and responses. The other parties to this proceeding did not participate in the contested case hearing.

506. The Applicant, PCCD, Caldwell County, TJFA and EPICC were each represented by private law firm attorneys in connection with the contested case hearing, demonstrating these parties' ability to pay costs.

507. In the contested case hearing, Applicant, PCCD, Caldwell County, TJFA and EPICC presented direct case testimony and exhibits and cross-examined witnesses presented by other parties to the hearing.

508. The hearing transcript consists almost entirely of questions asked of witnesses by party representatives and the witnesses' answers to those questions, and approximately 90% of the transcript pages consist of questions/answers attributable to the Applicant, PCCD, Caldwell County, TJFA, and EPICC (the remaining 10% is questions/answers attributable to the TCEQ Executive Director and OPIC, parties against whom reporting and transcript costs may not be assessed).
509. The approximate percentages of that 90% of the hearing transcript pages attributable to the Applicant, PCCD, Caldwell County, TJFA, and EPICC are: Applicant – 22%, PCCD – 6%, Caldwell County – 20%, TJFA and EPICC (combined because these parties shared attorneys and witnesses) – 52%.
510. Allocating the transcript costs among the above parties based on the above percentages is just and reasonable and results in the following allocation: Applicant – \$3,679.69, PCCD – \$1,003.55, Caldwell County – \$3,345.17, TJFA and EPICC – \$8,697.44.

33. ADDITIONAL ISSUES

511. Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §281.5.
512. Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §305.45.
513. Part I of the Application includes the information required by, and complies with the requirements of, 30 TAC §330.59.
514. Part II of the Application describes the existing conditions and character of the Site and surrounding area, and includes the information required by and complies with the requirements of 30 TAC §330.61.
515. Parts I and II of the Application include information relating to land-use compatibility under the provisions of Texas Health and Safety Code, §361.069.
516. Part III of the Application includes design information, detailed investigative reports, schematic designs of the facility, and required plans and consists of the documents required by 30 TAC §330.63.
517. Part IV of the Application includes the Site Operating Plan that discusses how the owner or operator will conduct daily operations at the facility and consists of the information required by 30 TAC §330.65.
518. The Application includes data of sufficient completeness, accuracy, and clarity to provide assurance that operation of the Facility will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners.

519. 130 Environmental Park provided the number of copies of the Application required by 30 TAC §330.57(e) and requested by the Executive Director.
520. 130 Environmental Park prepared the Application in conformance with Texas Occupations Code, Texas Engineering Practice Act, Chapter 1001 and Texas Geoscience Practice Act, Chapter 1002.
521. The responsible engineers sealed, signed, and dated the title page of each bound engineering report or individual engineering plan in the Application and each engineering drawing as required by Texas Engineering Practice Act, §15c, and in accordance with 22 TAC §137.33 (relating to Sealing Procedures).
522. The responsible geoscientist sealed, signed, and dated applicable items as required by Texas Geoscience Practice Act, §6.13(b), and in accordance with 22 TAC §851.156 (relating to Geoscientist's Seals).
523. The Application is prepared in the format required by, and complies with the requirements of, 30 TAC §§305.45 and 330.57(g).
524. The Application drawings are prepared in the format required by, and comply with the requirements of TCEQ rules including 30 TAC §§330.57(h) and 330.61(c) and (d).
525. The Application includes general topographic maps in the format required by, and in compliance with, TCEQ rules including 30 TAC §330.61(e).
526. The Application includes an aerial photograph in the format required by, and in compliance with, TCEQ rules including 30 TAC §330.61(f).
527. The Application includes the information required by, and in compliance with, the provisions of 30 TAC §281.5.
528. The Application forms are signed and notarized.
529. 130 Environmental Park has paid all required application fees.
530. The Application includes a Certificate of Fact wherein the Texas Secretary of State verifies the legal status of 130 Environmental Park.
531. The Application includes a Notice of Appointment signed by the President and Manager of 130 Environmental Park. *Ex.*
532. The Application includes attachments of technical reports and supporting data required by TCEQ rules.
533. The Application includes a list of adjacent and potentially affected landowners and their addresses along with a map locating the property owned by these persons.

534. The Application includes a report of a Cultural Resources Survey conducted by AR Consultants, Inc.
535. No area within the Site is eligible for listing on the National Register of Historic Places or warrants designation as a Texas State Antiquities Landmark.
536. The Application includes the Texas Historical Commission's concurrence that no area within the Site is eligible for listing on the National Register of Historic Places.
537. The Site is not located in a seismic impact zone.
538. The Facility will not be located in a coastal area or on an island or peninsula.
539. The Site is not located inside the boundaries of a national forest.
540. The Facility will comply with the Type I and Type IV Landfill Permit Issuance Prohibited Location Restriction in 30 TAC §330.563.
541. The Application includes all information required by the Executive Director and TCEQ rules.

E. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the disposal of municipal solid waste and the authority to issue this permit under Tex. Health & Safety Code §361.061.
2. Notice was provided in accordance with Tex. Health & Safety Code §361.0665, 30 TAC §§39.405 and 39.501, and Tex. Gov. Code §§2001.051-.052.
3. SOAH has jurisdiction to conduct a hearing and to prepare a PFD in contested cases referred by TCEQ under Tex. Gov. Code §2003.047.
4. The Executive Director determined that 130 Environmental Park, LLC ("130 Environmental Park") submitted an administratively and technically complete permit application, as required by Tex. Health & Safety Code §§361.066 and 361.068, that demonstrated that it will comply with all relevant aspects of the Application and design requirements as provided in 30 TAC §§330.57 and 330.63.
5. The Application was processed and the proceedings described in this Order were conducted in accordance with applicable law and rules of the TCEQ, specifically 30 TAC §80.1 *et seq.*; the State Office of Administrative Hearings, specifically 1 TAC §155.1 *et seq.*; and Tex. Health & Safety Code ch. 361, subch. C.
6. The burden of proof was on 130 Environmental Park, in accordance with 30 TAC §80.17(a). 130 Environmental Park, LLC met its burden with respect to all issues.

7. The evidence in the record is sufficient to meet the requirements of applicable law for issuance of a permit based on the Draft Permit, including Tex. Health & Safety Code ch. 361 and 30 TAC ch. 330.
8. The 130 Environmental Park Facility, if constructed and operated in accordance with the Solid Waste Disposal Act, 30 TAC ch. 330, and the permit required by this Order, will not adversely affect the health, welfare, or physical property of the people or the environment.
9. The Draft Permit No. MSW-2383, as prepared by the Executive Director, includes all matters required by law.
10. The approval of the Application and issuance of Permit No. MSW-2383 will not violate the policies of the State of Texas, as set forth in Texas Health and Safety Code §361.002(a), to safeguard the health, welfare, and physical property of the people of Texas, and to protect the environment by controlling the management of solid waste.
11. The contents of the permit to be issued to the Facility meet the requirements of the Texas Solid Waste Disposal Act, Tex. Health & Safety Code §§361.086(b) and 361.087.
12. 130 Environmental Park provided the information required under TCEQ's rules to demonstrate evidence of competency under 30 TAC §330.59(f).
13. 130 Environmental Park's compliance history ranking was properly classified as "unclassified" under 30 TAC ch. 60.
14. The Application includes sufficient information and demonstrates compliance with TCEQ rule requirements regarding property rights in 30 TAC §330.67.
15. The TCEQ is not prohibited by Tex. Health & Safety Code §361.122 from issuing Permit No. MSW-2383.
16. The Application adequately demonstrates how the Facility will comply with the TPDES program under the federal Clean Water Act Section 402, as amended, as required by 30 TAC §330.61(k)(3).
17. As required by 30 TAC §330.61(i)(4), and (i)(5), 130 Environmental Park has submitted documentation of coordination with the FAA for compliance with airport location restrictions, and TxDOT for traffic and location restrictions.
18. 130 Environmental Park has submitted wetland determinations required by applicable federal, state, and local laws as required by 30 TAC §330.61(m).
19. The Application conforms to the applicable requirements of the Texas Engineering Practice Act, Tex. Occ. Code ch. 1001, and the Texas Geoscience Practice Act, Tex. Occ. Code ch. 1002, as provided in 30 TAC §330.57.

20. Part I of the Application meets the requirements of 30 TAC §§281.5, 305.45, 305.57(c)(1) and 305.59.
21. Part II of the Application meets the requirements of 30 TAC §§305.45, 330.57(c)(2), and 305.61, and 330.543 through 330.563.
22. Part III of the Application, the Site Development Plan, meets the requirements of 30 TAC §§330.57(c)(3) and 330.63.
23. Part IV of the Application, the Site Operating Plan (“SOP”), meets the requirements of 30 TAC §§330.57(c)(4), 330.65, and 330.121-330.249.
24. 130 Environmental Park has shown that it will comply with the operational prohibitions and requirements in 30 TAC §§330.15 and 330.121-330.249.
25. 130 Environmental Park submitted a geology report that complies with 30 TAC §330.63(e).
26. The Application meets the requirements of 30 TAC §§330.63(f)(4), 330.401, 330.403, 330.405, and 330.407, concerning groundwater protection.
27. The groundwater sampling and analysis plan meets the requirements set forth in 30 TAC §330.63(f) and Subchapter J of Chapter 330.
28. 130 Environmental Park has demonstrated that existing drainage patterns will not be adversely altered as a result of the proposed landfill development, as required by 30 TAC §§330.63(c)(1)(D)(iii) and 330.305(a).
29. The landfill gas monitoring system complies with 30 TAC §330.159.
30. 130 Environmental Park has demonstrated compliance with applicable TPDES stormwater permitting requirements.
31. 130 Environmental Park has demonstrated compliance with the location restrictions set forth in 30 TAC §§330.543, 330.545, 330.547, 330.549, 330.551, 330.553, 330.555, 330.557, 330.559, 330.561, and 330.563.
32. 130 Environmental Park has submitted information regarding closure and post-closure that demonstrates compliance with the requirements of 30 TAC §§ 330.63(h) and (i), 330.457, 330.461, 330.463, and 330.465.
33. The Soils and Liner Quality Control Plan complies with 30 TAC §§ 330.63(d)(4)(G) and 330.339.
34. 130 Environmental Park is not proposing to site a new MSW landfill or lateral expansion

within five miles of an airport serving turbojet or piston-type aircraft, as confirmed in correspondence with the FAA and in compliance with 30 TAC §§330.61(i)(5) and 330.545.

35. The Facility will be compatible with surrounding land uses.
36. The existence of the Caldwell County Solid Waste Disposal Ordinance does not prevent TCEQ from granting the Application and issuing the permit sought by way of the Application pursuant to Tex. Health & Safety Code §§363.112(d) and 364.012(f).
37. Solid waste management activities at the Facility will conform with the applicable regional solid waste management plan, pursuant to Tex. Health & Safety Code §363.066.
38. The methods specified in the SOP comply with the MSW rules to prevent the creation of any nuisance, as defined by 30 TAC §330.3(95).
39. The buffer zones established by 130 Environmental Park between the edge of fill and the Facility boundary are compliant with the MSW rules, including 30 TAC §§330.141(b) and 330.543(b).
40. 130 Environmental Park has provided sufficiently detailed information regarding the operational methods to be utilized at the Facility when using daily cover and its preventative effect on vectors, fires, odors, windblown waste and litter, and scavenging, as required by 30 TAC §330.165(a).
41. The methods specified in the SOP for the control of windblown waste and litter comply with the MSW rules, including 30 TAC §§330.127 and 330.139.
42. 130 Environmental Park has provided adequate information related to transportation in compliance with 30 TAC §330.61(i).
43. The roads to be used by 130 Environmental Park to access the Facility will be available and adequate.
44. The operating hours proposed in the Application (waste acceptance hours from 3:00 a.m. to 5:00 p.m. (14 hours) on Monday through Friday and from 5:00 a.m. to 12:00 p.m. (7 hours) on Saturday, and transportation of materials and heavy equipment operation hours 24 hours per day, seven days per week) are appropriate pursuant to 30 TAC §330.135.
45. The proposed groundwater monitoring system will adequately monitor the groundwater beneath the Facility and protect human health and the environment in compliance with 30 TAC §§330.63(f)(4), 330.401, 330.403, 330.405, and 330.407.
46. Parts I and II of the Application comply with applicable regulatory requirements of 30 TAC ch. 330.

47. Parts I and II of the Application comply with applicable regulatory requirements of 30 TAC §§281.5, 330.59, and 330.61.
48. Section 1 - Existing Conditions Summary of Part II of the Application complies with applicable regulatory requirements of 30 TAC §330.61(a).
49. Section 2 - Waste Acceptance Plan of Part II of the Application complies with applicable regulatory requirements of 30 TAC §330.61(b).
50. Section 3 - General Location Maps and Appendix IIA of Part II of the Application comply with applicable regulatory requirements of 30 TAC §330.61(c)-(f) and (l)(1).
51. Section 4 - Facility Layout Maps and Appendix IIA of Part II of the Application comply with applicable regulatory requirements of 30 TAC §330.61(d)(1)-(9).
52. Section 5 - General Topographic Map and Drawing IIA.2 of Appendix IIA of Part II of the Application comply with applicable regulatory requirements of 30 TAC §330.61(e).
53. Section 6 - Aerial Photograph of Part II of the Application complies with applicable regulatory requirements of 30 TAC §330.61(f).
54. Sections 7 - Land Use Map and Appendix IIB of Part II of the Application and Exhibit Worrall-3 p.8 - Updated Land Use Analysis comply with applicable regulatory requirements of 30 TAC §330.61(g).
55. Sections 8 - Impact on Surrounding Area, Appendix IIB - Land Use Analysis of Part II of the Application and Exhibit Worrall-3, Updated Land Use Analysis comply with applicable regulatory requirements of 30 TAC § 330.61(h).
56. Section 9 - Transportation, Appendix IIC - Transportation Study, and Appendix IIIH - Federal Aviation Administration Documentation of Part II of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(i) and 330.545.
57. Section 10 - General Geology and Soils Statement of Part II, and Attachment E of Part III of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(j), 330.555, 330.557 and 330.559.
58. Section 11 - Groundwater and Surface Water of Part II and Attachment F of Part III of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(k) and 330.549.
59. Section 12 - Abandoned Oil and Water Wells of Part II of the Application complies with applicable regulatory requirements of 30 TAC §§330.61(l).
60. Section 13 - Floodplains and Wetlands, Drawing IIA.11, Drawing IIA.21, Appendix IID,

Appendix IIG, and Appendix IIJ of Part II of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(m), 330.547 and 330.553.

61. Section 14 - Endangered or Threatened Species and Appendix IIE of Part II and Appendix IVC of Part IV of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(n) and 330.551.
62. Section 15 - Texas Historical Commission Review and Appendix IIF of Part II of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(c)(12), 330.61(h)(4) and 330.61(o).
63. Section 16 - Council of Governments and Local Government Review Request and Appendix III of Part II of the Application comply with applicable regulatory requirements of 30 TAC §§330.61(p)
64. Commission rules 30 TAC §§330.549, 330.561, and 330.563 are not applicable to the Facility, based on its location.
65. Part III - Site Development Plan of the Application complies with applicable regulatory requirements of 30 TAC §§330.15, 330.63, 330.171, 330.303, 330.305, 330.307, 330.331, 330.333, 330.371, 330.401-330.421, 330.457, 330.459, 330.461, 330.463, 330.465, 330.503, and 330.507.
66. Attachment A - Site Development Plan Narrative of Part III of the Application complies with applicable regulatory requirements of 30 TAC §330.63(b).
67. Attachment B - General Facility Design of Part III of the Application complies with applicable regulatory requirements of 30 TAC §330.63(b).
68. Attachment C - Facility Surface Water Drainage Report of Part III of the Application complies with applicable regulatory requirements of 30 TAC §§330.63(c) and 330.301 - 330.307.
69. Attachment D - Waste Management Unit Design of Part III of the Application complies with applicable regulatory requirements of 30 TAC §330.63(d) 330.331, 330.337, 330.339, 330.341, and 330.457.
70. Attachment E - Geology Report of Part III of the Application and Exhibit 130EP-7, Supplement May 2016 comply with applicable regulatory requirements of 30 TAC §§330.57(f)(2), 330.63(e), 330.61(j)(2), 330.555, 330.557, and 330.559.
71. Attachment F - Groundwater Sampling and Analysis Plan of Part III of the Application and Exhibit 130EP-7, Supplement May 2016 comply with applicable regulatory requirements of 30 TAC §§330.330.63(f), 330.403, 330.405, 330.407, 330.409, 330.421 and 30 TAC ch. 330 subch. J.

72. Attachment G - Landfill Gas Management Plan of Part III of the Application complies with applicable regulatory requirements of 30 TAC §§330.63(g), 330.371, and 30 TAC ch. 330 subch. U.
73. Attachment H - Closure Plan of Part III of the Application complies with applicable regulatory requirements of 30 TAC §§330.63(h), 330.171(c)(3)(C), 330.457, 330.459, 330.461, and 330.503(a).
74. Attachment I - Postclosure Plan of Part III of the Application complies with applicable regulatory requirements of 30 TAC §§330.63(i), 330.331 - 330.333, 330.371, 330.401 - 330.421, 330.459, 330.463(b), 330.465, 330.951 - 330.964.
75. Attachment J - Cost Estimates for Closure and Post Closure Care complies with applicable regulatory requirements of 30 TAC §§330.63(j), 330.501 - 330.507, and 30 TAC ch. 37, subch. R.
76. The SOP in Part IV of the Application complies with applicable regulatory requirements in 30 TAC §330.65, and 30 TAC ch. 330, subch. D and subch. E.
77. The SOP in Part IV of the Application is designed to make the Facility protective of human health, welfare, property and the environment.
78. Section 1 - Introduction of Part IV of the Application complies with the applicable regulatory requirements of 30 TAC §330.65, 330.121, 330.123, and 330.127.
79. Section 2 - Recordkeeping Requirements of Part IV of the Application complies with applicable regulatory requirements of 30 TAC §330.125.
80. Section 3 - Personnel and Training complies with the regulatory requirements of 30 TAC §§330.127 and 335.586.
81. Section 4 - Equipment of Part IV of the Application complies with the applicable regulatory requirements of 30 TAC §330.127(2).
82. Section 5 - Detection and Prevention of Disposal of Prohibited Wastes of Part IV of the Application complies with the regulatory requirements of 30 TAC §330.127(5).
83. Section 6 - General Instructions of Part IV of the Application complies with the regulatory requirements of 30 TAC §330.127(6).
84. Section 7 - Fire Protection Plan of Part IV of the Application complies with the regulatory requirements of 30 TAC §330.129.
85. Section 8 - Operational Procedures of Part IV of the Application complies with the regulatory requirements of 30 TAC §330.131 - 330.175.

86. The engineering, design, and operational plans and drawings in the Application ensure that the Facility is designed and operated in a manner protective of human health, welfare, property, and the environment.
87. The subsurface investigations of the Facility were conducted to ensure that the Site is suitable for construction and operation of a landfill that will not adversely impact human health, welfare, property, or the environment.
88. Pursuant to the authority of, and in accordance with, applicable laws and regulations, the requested permit should be granted.
89. No transcript costs may be assessed against the Executive Director or OPIC because the TCEQ's rules prohibit the assessment of any cost to a statutory party who is precluded by law from appealing any ruling, decision, or other act of the Commission. 30 TAC §80.23(d)(2).
90. Factors to be considered in assessing transcript costs include: the party who requested the transcript; the financial ability of the party to pay the costs; the extent to which the party participated in the hearing; the relative benefits to the various parties of having a transcript; the budgetary constraints of a state or federal administrative agency participating in the proceeding; and any other factor which is relevant to a just and reasonable assessment of the costs. 30 TAC§ 80.23(d)(2).
91. Reasonable assessment of hearing transcript costs against parties to the contested case proceeding is: 130 Environmental Park – \$3,679.69, Plum Creek Conservation District – \$1,003.55, Caldwell County – \$3,345.17, TJFA and EPICC (jointly and severally) – \$8,697.44.