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 STATE OFFICE OF
 ADMINISTRATIVE HEARINGS
 Jessie Harbin, CLERK

SOAH DOCKET NO. 582-20-2569
TCEQ DOCKET NO. 2019-1806-MSW

ACCEPTED
 582-20-2569
 6/29/2020 1:07 PM
 STATE OFFICE OF
 ADMINISTRATIVE HEARINGS
 Jessie Harbin, CLERK

APPLICATION OF TEXAS REGIONAL § BEFORE THE STATE OFFICE
LANDFILL COMPANY, LP, §
FOR MSW PERMIT 1841B § OF
 §
 § **ADMINISTRATIVE HEARINGS**

ORDER NO. 4

**MEMORIALIZING PRELIMINARY HEARING, TAKING JURISDICTION,
 ESTABLISHING PARTIES, DEADLINES AND PROCEDURES, AND SETTING
 HEARING ON MERITS VIA ZOOM VIDEOCONFERENCING PLATFORM**

On June 22, 2020, the undersigned Administrative Law Judges (ALJs) convened a preliminary hearing in this case for the purposes of taking jurisdiction of the case, determining parties, and setting a procedural schedule. The preliminary hearing was conducted via the Zoom videoconferencing platform, pursuant to Order No. 3. Texas Regional Landfill Company, LP (Applicant), the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ), and the Office of Public Interest Counsel (OPIC) all made appearances.

I. JURISDICTION

Applicant offered into evidence the certified administrative record, jurisdictional, and public notice documents. The administrative records, including Applicants' Exhibits TRLC-1 through TRLC-7, were admitted for all purposes. After reviewing the administrative records and hearing no objections to notice or jurisdiction, the ALJs determined that jurisdiction is established and that notice of the hearing was timely and adequate.

II. PARTIES

The parties to this case are as follows:

PARTY	REPRESENTATIVE
Applicant	John A. Riley
ED	Amie Robinson
OPIC	Pranjal Mehta

Texas Campaign for the Environment	Lauren Ice
TJFPA, LP	Marisa Perales
Crawfam LLC	Marisa Perales
Gabrielle and Chris Massey	Gabrielle Massey
Adham El-Effendi	Adham El-Effendi

Transport Workers Union #556, the Airline Pilots Association, and Justin Little made appearances at the hearing and requested party status over the objection of Applicant. At the hearing, the ALJs sustained Applicant's objections and denied party status to the three proposed protestants. The ALJs set deadlines of June 24, 2020, to file any motion for reconsideration and June 26, 2020, for any response. Justin Little and Transport Workers Union #556 filed motions for reconsideration. After the motions for reconsideration and response thereto, the evidence presented at the hearing, and the applicable law, the motions for reconsideration are **DENIED** and Applicant's objections are **SUSTAINED** as to the party status of Transport Workers Union #556, the Airline Pilots Association, and Justin Little.

III. ADOPTING PROCEDURAL SCHEDULE

The following procedural schedule is hereby adopted and will govern this proceeding until further order:

DATE	EVENT
6/22/2020	Discovery begins; preliminary hearing; administrative record admitted
8/4/2020	Deadline for Protestants and OPIC to designate fact and expert witnesses and serve information and materials required by TRCP 194.2(f)
8/11/2020	Deadline for Applicant and ED to designate expert witnesses and serve information and materials required by TRCP 194.2(f)
8/21/2020	Deadline for Protestants and OPIC to file direct cases, including testimony, proposed order of witnesses, and exhibits
8/21/2020	All discovery, including depositions, on Protestants and OPIC ends

DATE	EVENT
9/4/2020	All discovery, including depositions, on Applicant and ED ends
9/4/2020	Deadline for Applicant and ED to pre-file additional evidence, if any, including testimony, proposed order of witnesses and exhibits, per 30 TAC § 80.117(c)(3).
9/11/2020	Deadline to file dispositive motions and any objections to and motions to strike pre-filed testimony and exhibits
9/15/2020	Deadline to file responses to dispositive motions and responses to objections to and motions to strike pre-filed testimony and exhibits
9/14 at 10:00 a.m.	Final telephonic prehearing conference, if necessary ¹
9/21/2020 – 9/25/2020	Hearing on the merits (Estimated 5 days)
10/12/2020	Deadline for all parties to file written closing arguments; Applicant must also file proposed findings of fact and conclusions of law, other parties are permitted to do so
10/26/2020	Deadline for parties to file reply briefs; record closes
1/8/2021	Deadline to issue PFD ²

The parties may modify any deadline above (except for the hearing on the merits settings and post-hearing deadlines) by written agreement, without necessity of an order from the ALJ.

IV. SETTING HEARING ON THE MERITS AND PREHEARING CONFERENCE

The hearing on the merits will convene on September 21, 2020, at 9:00 a.m. via the Zoom videoconferencing platform and will continue each workday through September 25, 2020, until it has concluded.

To participate in the hearing on the merits, you will need: (1) a computer with a functional webcam and microphone (preferred method); (2) any smart device, such as a cellphone, iPad, iPhone, or Android phone; or (3) a mobile or landline telephone. More information on how to join

¹ Parties may waive the final prehearing conference by written agreement filed at SOAH.

² The parties have agreed, pursuant to Tex. Gov't. Code § 2003.047(e-3)(1), to extend the applicable statutory deadline to complete the proposal for decision found in Tex. Gov't. Code § 2003.047(e-2) to January 8, 2021.

a Zoom meeting is available here: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>. You may also contact SOAH Docketing at (512) 475-4993.

Use one of the following three methods to access the **Hearing on the Merits**:

1. Join Zoom Meeting Via Computer:

- Use the Zoom meeting link:
<https://zoom.us/j/91549175564?pwd=bWx0d0FZREovTVpkWnlPdExZWFdIQT09>
- To participate, you should follow the link above or copy the link and paste it into your browser, then hit enter. If you have not downloaded the Zoom application, you will be prompted to do so and then to open the Zoom launcher.
- Alternatively, you can go to www.zoom.us/join and enter the following Meeting ID and Password:
 - **Meeting ID:** 915 4917 5564
 - **Password:** 3UJgDG

2. Join Zoom Meeting Via Smart Device:

- Download the Zoom application.
- Open the Zoom application and enter the following Meeting ID and Password:
 - **Meeting ID:** 915 4917 5564
 - **Password:** 3UJgDG

3. Join Zoom Meeting Via Telephone:

- Participants who do not have access to a device that would allow videoconferencing capabilities may call any number below (regardless of your location) and enter the Meeting ID and Password listed below to join by telephone.
- **Note that the password to join by telephone is different than the password to join via a computer or smart device.**

Dial by your location

- +1 346 248 7799 US (Houston)
- +1 669 219 2599 US (San Jose)
- +1 669 900 6833 US (San Jose)
- +1 720 928 9299 US (Denver)
- +1 971 247 1195 US (Portland)
- +1 206 337 9723 US (Seattle)
- +1 213 338 8477 US (Los Angeles)
- +1 253 215 8782 US (Tacoma)
- +1 602 753 0140 US (Phoenix)
- +1 651 372 8299 US (St. Paul)
- +1 786 635 1003 US (Miami)
- +1 267 831 0333 US (Philadelphia)
- +1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)
+1 470 250 9358 US (Atlanta)
+1 470 381 2552 US (Atlanta)
+1 646 518 9805 US (New York)
+1 646 876 9923 US (New York)

Meeting ID: 915 4917 5564

Password: 166940

Find your local number: <https://zoom.us/j/ab1011Wffk>

The telephonic prehearing conference to rule on objections to pre-filed evidence and other pending motions will be held beginning at **10:00 a.m. on September 14, 2020**. The parties will be called at their telephone numbers of record.

V. PREHEARING AND HEARING PROCEDURES

A. Discovery and Service

Discovery shall be conducted according to the Texas Rules of Civil Procedure (TRCP), as supplemented by TCEQ's and SOAH's discovery rules.³ The TRCP shall be interpreted consistently with chapter 80 of the TCEQ's rules, the Texas Water Code, the Texas Health and Safety Code, and the Administrative Procedure Act.⁴ Discovery documents shall be served on the other parties but **shall not be filed with the ALJ** unless such materials are the subject of a discovery dispute, and only those portions relevant to the dispute shall be attached to any pertinent motion.

The parties are expected to attempt to resolve discovery disputes; however, disputes which cannot be resolved should be brought to the ALJ's attention in a motion to compel. Any such motion shall include a **certificate of conference** and a copy of any discovery correspondence necessary for an informed ruling on the dispute.⁵

³ 30 Tex. Admin. Code § 80.151 and 1 Tex. Admin. Code § 155.251.

⁴ 30 Tex. Admin. Code § 80.151.

⁵ 1 Tex. Admin. Code § 155.305.

SOAH has implemented optional service by email for orders, proposals for decision, and other case-related documents created by SOAH. Additional information and the form to request email service can be found on the SOAH website (www.soah.texas.gov) by clicking on the “E-Services” link at the top of the homepage. NOTE: It is important for the parties to be aware that SOAH’s service by email only applies to SOAH-issued documents, but not to documents filed by other parties. That is, if a party signs-up for service by email with SOAH, that party is only agreeing to receive SOAH-issued documents by email. For all other filings, the filing party must still serve every other party on the service list with the filing. **Pursuant to agreement between the parties at the preliminary hearing, the parties will serve each other via email.** SOAH does not have email addresses or phone numbers for all of the parties. **Review the SOAH mailing list and provide an update, as necessary to include the correct name of each party representative, correct address, phone and fax numbers and email address.**

B. Prefiled Evidence

Parties are directed to e-file copies of prefiled testimony and exhibits.⁶

Prior to the hearing on the merits, each party shall provide to the court reporter two hard copies of every exhibit, which will be referred to as the “Record Set” and the “Appeal Set,” so that the court reporter can mark them and not delay the hearing.

C. Transcript

Because this proceeding is set to last longer than one day, a court reporter will be required.⁷ Applicant shall arrange for and pay a court reporter to record and transcribe the hearing on the

⁶ Except as otherwise permitted by the SOAH Rules of Procedure, attorneys, state agencies, and other governmental entities are required after March 3, 2020 to file all documents (including documentary exhibits) electronically through eFileTexas.gov and an electronic filing service provider certified by the Texas Office of Court Administration. See 1 Tex. Admin. Code § 155.101. If you are not represented by an attorney and you do not wish to file documents electronically, you may continue to file documents by fax or by mail addressed to SOAH, P.O. Box 13025, Austin, Texas 78711-3025; by hand-delivery to the appropriate SOAH office. All filings should identify the SOAH Docket Number and the parties to the contested case. With respect to documents filed by mail, fax, or hand-delivery, the time and date of the submission shall be determined by the file stamp affixed by SOAH. Any questions related to filing procedures can be directed to SOAH’s Docketing Division at (512) 475-4993.

⁷ 30 Tex. Admin. Code § 80.23(b)(4).

merits and deliver the original and one copy of the transcript to the ALJ and two copies to the TCEQ's Chief Clerk. When the TCEQ makes a final decision on the application, the costs of the recording and transcription may be allocated among the parties.⁸

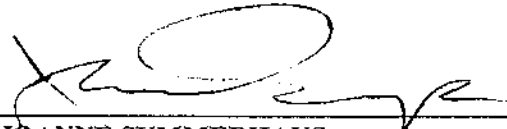
D. Procedural Questions

A party who has procedural questions or experiences technical difficulties with joining the hearing should contact SOAH's Docketing Division at (512) 475-4993 or the Administrative Law Judge's Legal Secretary Tujuana Tate at (512) 475-2241 or tujuana.tate@soah.texas.gov.

SIGNED June 29, 2020.



SRINIVAS BEHARA
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁸ 30 Tex. Admin. Code § 80.23(d).