

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 30, 2022

TO: Persons on the attached mailing list

RE: City of Waco
TCEQ Docket No. 2022-0977-MSW; MSW Permit No. 2400

Enclosed is a copy of an interim order issued by the Commission regarding the above-referenced matter.

Should you have any questions, please contact Meghan Taack of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3313.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

**MAILING LIST
CITY OF WACO
DOCKET NO. 2022-0977-MSW; MSW PERMIT NO. 2400**

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SENATOR
THE SENATE OF TEXAS DISTRICT 5
PO BOX 12068
AUSTIN TX 78711-2068

SERROS III , DR. ALCARIO
933 FRAZIER LN
AXTELL TX 76624-1658

SERROS , MRS GINA
933 FRAZIER LN
AXTELL TX 76624-1658

SHANNON , JOYCE M
6300 SHOREWOOD DR
ARLINGTON TX 76016-2653

SHANNON , JOYCE M
6116 OLD MEXIA RD
WACO TX 76705-4932

SHURETTE , STEVEN
797
11292 LEISURE RD
BRENHAM TX 77833-8887

SISEMORE , DAVE
633 HERITAGE PKWY
AXTELL TX 76624-1108

SKINNER , JOELLEN
PO BOX 184
AXTELL TX 76624-0184

SOUDERS , LESLIE GAIL
518 N SEELEY AVE W
MOUNT CALM TX 76673-3073

STANFIELD , ASHLEY
STE 101
200 W STATE ST
GROESBECK TX 76642-1700

STANLEY , KELDA
1233 LONGHORN PKWY
AXTELL TX 76624-1414

STEFFEK , MS JULIANNA L
4351 T K PKWY
AXTELL TX 76624-1461

STEFKA , DAVID
PO BOX 43
AXTELL TX 76624-0043

STEPHENS , MRS SUNNY
261 E SELEY
AXTELL TX 76624-1235

STOKES , MR BENJAMIN LUKE
1553 FRAZIER LN
AXTELL TX 76624-1662

STOKES , MRS MELANIE
1553 FRAZIER LN
AXTELL TX 76624-1662

STONE , CURTIS
322 N PLEASANT HILL RD
AXTELL TX 76624-1483

STONE , ROBERT R
2013 HIGHWAY 31
AXTELL TX 76624-1520

STOUT , JOHNNY
3334 HAPPY SWANER LN
AXTELL TX 76624-2108

STOUT , MARGARET
3334 HAPPY SWANER LN
AXTELL TX 76624-2108

STOUT , VICTORIA
3334 HAPPY SWANER LN
AXTELL TX 76624-2108

STRANACHER , DANETTE
3007 HIGHWAY 31
AXTELL TX 76624-1209

STRANACHER , DESIRAE
964 KIRKLAND HILL RD
AXTELL TX 76624-1195

STRANACHER , MICHAEL
964 KIRKLAND HILL RD
AXTELL TX 76624-1195

STRANGE , MATT B
2981 HIGHWAY 31
AXTELL TX 76624-1623

STROCK , SHANA
604 OLD SAWMILL RD
AXTELL TX 76624-1565

SUGGS , KATHLEEN A
526 HAPPY SWANER LN
AXTELL TX 76624-2102

SUMNER , LYNN & STEVE
1464 W DENTON RD
AXTELL TX 76624-1132

SUTTON , JENNIFER
247 N LAKE ST
AXTELL TX 76624-1318

SWANER , FRED L
4351 T K PKWY
AXTELL TX 76624-1461

SWANER , SUSAN
4351 T K PKWY
AXTELL TX 76624-1461

SYKORA , JAYNI
4025 WINDSOR AVE
WACO TX 76708-3073

TENNISON , KEVEN
4081 E OLD AXTELL RD
AXTELL TX 76624-1218

TENNISON , KEVEN
1442 N DALE AVE
STEPHENVILLE TX 76401-1605

TIERCE , SHARON KAY
156 CULLENS LN
AXTELL TX 76624-1372

TIERCE , VIRGINIA
376 WOOD ST
AXTELL TX 76624-1232

TRAMMELL , SHANNON
788 FM 339
MOUNT CALM TX 76673-3130

TRAYLER , JAMES
20 WALKERS XING
WACO TX 76705-4006

TROUT , BRENDA P
2003 BRIDGEHAMPTON PL
BRANDON FL 33511-2309

TUCKER , CHRIS
1088 LCR 114
AXTELL TX 76624-1439

TUCKER , CHRIS SHAWN
970 W SOMERS LN
AXTELL TX 76624-1171

TUCKER , CHRIS SHAWN
PO BOX 154142
WACO TX 76715-4142

TUCKER , GLENDA & KEN
1116 LCR 114
AXTELL TX 76624-1459

TUCKER , JENNIFER KAY
1755 LCR 120
MOUNT CALM TX 76673-3002

TUCKER , JIMMY
304 N 5TH ST W
MOUNT CALM TX 76673-3096

TUCKER , KEN
1116 LCR 114
AXTELL TX 76624-1459

TULL , NICOLE
PO BOX 407
AXTELL TX 76624-0407

VICHA , JOHN
400 N VICHA RD
AXTELL TX 76624-2125

VICHA , MRS LESLIE
1119 RUDY RD
AXTELL TX 76624-1322

WEATHERBY , MR BRENT
602 HCR 3373
HUBBARD TX 76648-2838

WEDDINGTON , CHRISTINE
1589 LCR 106
MOUNT CALM TX 76673-3573

WEGWERTH , RICK
1867 SOMMERFELD DR
WACO TX 76705-5051

WHITAKER , WILLIAM
304 GLENVIEW CIR
WOODWAY TX 76712-3141

WHITE , MS RANDELLE
PO BOX 367
AXTELL TX 76624-0367

WHITLEY , MRS KAREN
PO BOX 375
AXTELL TX 76624-0375

WHITLEY , MS KAY
PO BOX 375
AXTELL TX 76624-0375

WHITLEY , MARY JO
1304 E ELM ST
HILLSBORO TX 76645-2646

WILLIAMS , BEN
2920 T K PKWY
AXTELL TX 76624-1467

WILLIAMS , MARJORIE
6116 OLD MEXIA RD
WACO TX 76705-4932

WILLIAMS , TRACY
462 LCR 118
MOUNT CALM TX 76673-3284

WILLIAMS , TRISHA
2920 T K PKWY
AXTELL TX 76624-1467

WILLIS JR , KENNY
3730 OLD MEXIA RD
WACO TX 76705-4950

WILSON , DONIS LEE
1216 MIDDLETON RD
MART TX 76664-5133

WILSON , LOGAN & MARY ANN
638 LCR 463
MEXIA TX 76667-2651

WILSON , MARY
1216 MIDDLETON RD
MART TX 76664-5133

WRIGHT , BETH
3939 WILLOWVIEW DR
PASADENA TX 77504-3041

YOUNG , ROBERT
1990 T K PKWY
AXTELL TX 76624-1352

ZABOROWSKI , MR CARY
1259 N VICHARD
AXTELL TX 76624-2118

ZACHARIAS , ARLENE & EDWARD F
817 LCR 120
MOUNT CALM TX 76673-3555

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER

concerning the application by the City of Waco for new MSW Permit No. 2400; TCEQ Docket No. 2022-0977-MSW.

On September 22, 2022, the Texas Commission on Environmental Quality (Commission) considered during its open meeting numerous requests for hearing and reconsideration concerning the application by the City of Waco (Applicant) for new MSW Permit No. 2400 for a Type I MSW landfill, located on approximately 502.5 acres in McLennan and Limestone Counties, approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 near Axtell, Texas. The requests for hearing and reconsideration were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the hearing requests and requests for reconsideration filed by the Executive Director, Office of Public Interest Counsel, and Applicant; replies filed by several requesters; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined to grant the hearing requests filed by Cynthia and Joe Dunlap, Darren and Melissa Porter, David Reed, Steven and Elisabeth Rigby, James Trayler, Save Axtell Families and the Environment, and the McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District No. 1. The

Commission also determined to refer the hearing request of Susan Swaner to the State Office of Administrative Hearings (SOAH) for a preliminary determination on whether she qualifies as an affected person. The Commission denied the remaining requests for hearing and all requests for reconsideration.

The Commission next referred this matter to the Commission's Alternative Dispute Resolution (ADR) Program, to run concurrently with SOAH preliminary hearing scheduling efforts. The Commission then determined whether the granted requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by an affected person during the comment period, and which are relevant and material to the decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to SOAH for contested case hearing:

- A) Whether the permit application is adequately protective of endangered and threatened species;
- B) Whether the proposed facility is compatible with existing land uses in accordance with TCEQ statutes and rules;
- C) Whether the Applicant has demonstrated that the proposed landfill would be adequately protective of groundwater;
- D) Whether the Applicant has demonstrated that the proposed landfill would be adequately protective of surface water;
- E) Whether the Applicant has provided an adequate delineation of the relevant floodplains, floodways, and wetlands and adequately addressed potential impacts of the proposed facility upon floodplains, floodways, and wetlands;
- F) Whether the Applicant has adequately addressed geologic and slope stability at the proposed facility;
- G) Whether the Applicant has demonstrated sufficient availability of soils for construction of a liner;
- H) Whether the proposed design and operation of the landfill cover meets all applicable requirements;
- I) Whether the application includes adequate buffer zones in accordance with applicable TCEQ rules;

- J) Whether the application adequately delineates and addresses easements and whether the Applicant has the requisite property interests in the proposed site in accordance with applicable TCEQ rules;
- K) Whether the Applicant has provided an adequate Site Operating Plan, including provisions for fire and emergency response;
- L) Whether the Applicant has adequately addressed traffic impacts and traffic safety in accordance with applicable TCEQ rules;
- M) Whether the application adequately meets the applicable requirements for addressing visual impacts;
- N) Whether the Applicant has adequately addressed the control of windblown waste and debris;
- O) Whether the Applicant has adequately addressed the control of vectors at the proposed facility in accordance with applicable TCEQ rules;
- P) Whether the application includes a sufficient odor management plan;
- Q) Whether the Applicant has adequately addressed the hours of operation in accordance with applicable TCEQ rules;
- R) Whether the Applicant has an acceptable compliance history and has demonstrated evidence of competency as required by TCEQ rules;
- S) Whether the Commission may grant the draft permit given the Limestone County Ordinance and the provisions of Texas Health & Safety Code § 364.012;
- T) Whether the application is adequately protective of human health;
- U) Whether the proposed facility's design includes sufficient measures for erosion control and prevention;
- V) Whether the application includes a sufficient landfill gas management plan;
- W) Whether the Applicant has performed an adequate subsurface investigation and characterization; and
- X) Whether the Applicant has accurately characterized the groundwater at the site, including the uppermost aquifer and the seasonal high-water level.

Finally, the Commission specified that the maximum duration of the contested case hearing shall be 180 days from the date of the preliminary hearing until the proposal for decision is issued by SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- 1) The hearing requests of Cynthia and Joe Dunlap, Darren and Melissa Porter, David Reed, Steven and Elisabeth Rigby, James Trayler, Save Axtell Families and the Environment, and the McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District No. 1 are hereby GRANTED;
- 2) The hearing request filed by Susan Swaner is REFERRED to SOAH for a determination on whether she qualifies as an affected person;
- 3) The remaining requests for hearing and all requests for reconsideration are hereby DENIED;
- 4) This matter is hereby referred to the Commission's Alternative Dispute Resolution Program, to run concurrent with the SOAH preliminary hearing scheduling process;
- 5) The Chief Clerk shall refer the application to SOAH for a contested case hearing on the following issues:
 - A) Whether the permit application is adequately protective of endangered and threatened species;
 - B) Whether the proposed facility is compatible with existing land uses in accordance with TCEQ statutes and rules;
 - C) Whether the Applicant has demonstrated that the proposed landfill would be adequately protective of groundwater;
 - D) Whether the Applicant has demonstrated that the proposed landfill would be adequately protective of surface water;
 - E) Whether the Applicant has provided an adequate delineation of the relevant floodplains, floodways, and wetlands and adequately addressed potential impacts of the proposed facility upon floodplains, floodways, and wetlands;
 - F) Whether the Applicant has adequately addressed geologic and slope stability at the proposed facility;

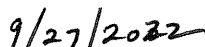
- G) Whether the Applicant has demonstrated sufficient availability of soils for construction of a liner;
- H) Whether the proposed design and operation of the landfill cover meets all applicable requirements;
- I) Whether the application includes adequate buffer zones in accordance with applicable TCEQ rules;
- J) Whether the application adequately delineates and addresses easements and whether the Applicant has the requisite property interests in the proposed site in accordance with applicable TCEQ rules;
- K) Whether the Applicant has provided an adequate Site Operating Plan, including provisions for fire and emergency response;
- L) Whether the Applicant has adequately addressed traffic impacts and traffic safety in accordance with applicable TCEQ rules;
- M) Whether the application adequately meets the applicable requirements for addressing visual impacts;
- N) Whether the Applicant has adequately addressed the control of windblown waste and debris;
- O) Whether the Applicant has adequately addressed the control of vectors at the proposed facility in accordance with applicable TCEQ rules;
- P) Whether the application includes a sufficient odor management plan;
- Q) Whether the Applicant has adequately addressed the hours of operation in accordance with applicable TCEQ rules;
- R) Whether the Applicant has an acceptable compliance history and has demonstrated evidence of competency as required by TCEQ rules;
- S) Whether the Commission may grant the draft permit given the Limestone County Ordinance and the provisions of Texas Health & Safety Code § 364.012;
- T) Whether the application is adequately protective of human health;
- U) Whether the proposed facility's design includes sufficient measures for erosion control and prevention;

- V) Whether the application includes a sufficient landfill gas management plan;
 - W) Whether the Applicant has performed an adequate subsurface investigation and characterization; and
 - X) Whether the Applicant has accurately characterized the groundwater at the site, including the uppermost aquifer and the seasonal high-water level;
- 6) All issues not referred to SOAH in Ordering Provision No. 5 are hereby DENIED;
 - 7) The duration of the hearing shall be 180 days from the date of the preliminary hearing until the proposal for decision is issued; and
 - 8) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niermann, Chairman



Date Signed