City of Waco Landfill
McLennan and Limestone Counties
TCEQ Permit No. MSW-2400
Parts I and II

Administratively Complete

Prepared for:

City of Waco

401 Franklin Avenue
Waco, Texas 76701

Prepared by:

SCS ENGINEERS

SCS Project No. 16216088.00 | Revision 0 - August 2018
Administrative NOD #1 – September 2018

1901 Central Drive, Suite 550
Bedford, Texas 76021
817.571.2288

Solid Waste Management Consultants
Offices Nationwide

1901 Central Drive
Suite 550
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817 571-2288
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www.scsengineers.com

SCS ENGINEERS

August 7, 2018

Mr. Chance Goodin, MC-124
Manager, Municipal Solid Waste Permits Section
Texas Commiss1ion on Environmental Quality
12100 Park 35 Circle, Bldg. F
Austin, TX 78753

Re: Proposed City of Waco Landfill
McLennan and Limestone Counties, Texas
Type I Permit Application: Parts I and II

Dear Mr. Goodin:

This permit application for the proposed City of Waco Landfill, a Type I municipal solid waste facility to be located in McLennan and Limestone Counties, is filed on behalf of the City of Waco. This application consists of Parts I and II in support of a separate determination regarding land use compatibility, as provided for in Health & Safety Code, Section 361.069 and 30 TAC §330.57(a). Included are four copies (one signed original and three copies) of the application for your review and approval.

We appreciate your review of this permit application. If you or your staff have any questions please do not hesitate to call us.

Sincerely,

Kevin D. Yard, P.E., BCEE
Vice President / Office Director
SCS ENGINEERS
TBPE Registration No. F-3407

Ryan Kuntz, P.E.
Vice President / Project Director
SCS ENGINEERS

Attachments: Part I Form
Core Data Form
TCEQ Checklist
Permit Application, Parts I and II (four copies)
CD - Electronic Copy of Land Owners List

cc: Mr. Charles Dowdell, City of Waco
Mr. Jeffrey Reed, Lloyd Gosselink Rochelle & Townsend, P.C.
Heart of Texas Council of Governments, Parts I/II only

September 6, 2018
SCS Project No. 16216088.00

Ms. Dawn Dollins
Business & Program Services Section
Waste Permits Division (MC-126)
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F
Austin, TX 78753

Re: Administrative Notice of Deficiency Letter
City of Waco Landfill
Waco, McLennan and Limestone Counties, Texas
Proposed Municipal Solid Waste Permit Number: 2400
RN110471307/CN600131940
New Type I Municipal Solid Waste Landfill

Dear Ms. Dollins:

On behalf of the City of Waco, SCS Engineers has prepared the following response to the Texas Commission on Environmental Quality's (TCEQ's) August 22, 2018 Administrative Notice-of-Deficiency (NOD) #1 letter, related to a permit application for the proposed City of Waco Landfill, TCEQ Permit No. MSW-2400. Attached to this response letter, we have included one original and three copies of all revised pages for use as replacement pages in the permit application. Where possible, with exception to TCEQ forms, we have identified proposed changes from the existing permit application in a redline/strike-out version (i.e., marked version). Additionally, we have included a revision date (September 2018) and revision number (Revision 0, Admin. NOD #1).

For ease of review, we have included your original comment from the August 22, 2018 Administrative NOD #1, followed by our response and/or revision in ***bold/italics***.

A1. Please revise and resubmit the title pages, table of contents, and the Part I Form section to include the newly assigned **MSW Permit No. 2400** and revision date.

This comment has been addressed as requested, including the permit application cover, Parts I/II cover and table of contents, and Part I application form.

A2. Please revise and resubmit Page 3 of the Part I application regarding the General Facility Information to include the phone number as requested. Please add the newly assigned Regulated Entity Number RN110471307 and MSW Authorization No. 2400.

Part I form, Section 12 has been updated as requested. The Director of Public Works' phone number has been provided for the facility phone number at this time.

A3. Please revise and resubmit Page 4 of the Part I application regarding the Description of Proposed Activities. MSW Type I landfill does not provide a description of the proposed activities as requested.

Part I form, Section 16 has been revised with the following statement "Proposed Type I Municipal Solid Waste Landfill located on 502.5 acres of land in McLennan and Limestone Counties, designed in accordance with Title 30, Texas Administrative Code, Chapter 330. The primary purpose of this landfill is to serve as a replacement for the current City of Waco landfill (MSW Permit No. 948A). The landfill will provide disposal capacity for residences, businesses, and industries primarily in the communities of McLennan and Limestone Counties and other nearby counties. The landfill will provide disposal of household waste, yard waste, commercial waste, Class 2 and Class 3 non-hazardous industrial wastes, construction-demolition waste, and special wastes authorized by TCEQ."

A4. Please provide the PE Firm Registration Number as requested.

The Part I form is right protected, and will not allow entry under Section 17 for "Texas Board of Professional Engineer Firm Registration Number." Therefore, we have updated the form under "Consultant Name (if applicable)" with "SCS Engineers, TBPE Registration No. F-3407" in response to this comment.

A5. Please correct the zip code for Sherry Williams, RNC, WHNP, City Health Authority and County Health Authority. The zip code provided is not correct per their website.

Part I, Section 20, Pages 6 and 7 has been updated with the correct zip code of 76707.

A6. Please add the suite number to the address provided for the State Representative information for District Number 56.

Note, we have revised Part 1, Section 20, Page 7 to reflect the State Representative for the site as Kyle Kacal, District 12, based on our further review of district boundaries for the subject site. As such, Kyle Kacal, District 12 is now shown on both Page 7 and 7A of the Part I form.

A7. Please add the suite number to the address provided for the State Senator information for District Number 22.

Part 1, Section 20 has been updated with Suite 500 for the District Number 22, State Senator.

A8. Please correct the phone number for the COG information listed. Per the website, the number provided does not match.

It is understood that you found a different phone number for Ms. Falen Bohannon on www.breatheeasywaco.org. However, it is not known whether Mr. Bohannon and this phone number will be active with the COG over the permit application process. The phone number provided in the Part I form, Section 20 is a published number on the COG website (www.hotcog.org). As such, we suggest that the phone number initially provided be used in the form during this application process.

A9. Please provide documentation that the Limestone Medical Center is acting as the Limestone County Health Authority.

We have attached an email from the Deputy County Clerk of Limestone County and associated Limestone County Commissioner's Court Agenda appointing Dr. Jeffrey Rettig as

Public Health Officer for Limestone County. This attachment is located behind the Part I form as Page 11 and 12. Based on our conversations with Dr. Rettig's office, Dr. Rettig's office is located at the Limestone Medical Center.

A10. Please correct the suite number for the address provided for the State Senator information for District Number 5.

Part 1, Section 20 has been updated with Suite 202 for the District Number 5, State Representative.

A11. Please provide an original signature page including the notary signature. The page submitted is a photo copy.

We have addressed this comment as requested, and also included original signature pages for the following:

- *Transmittal Letter*
- *Permit Application Table of Contents;*
- *TCEQ Part I Form;*
- *TCEQ Core Date Form;*
- *Part I/II Cover and Table of Contents;*
- *Property Owner Affidavit;*
- *Notice of Appointment; and*
- *Part I/II Drawings.*

These signature pages correspond to the initial submittal. Serval of these pages are being replaced as part of this administrative NOD response.

A12. In Section III: Regulated Entity Information - please provide the street address of the regulated entity instead of the physical location that was provided.

This comment has been addressed as requested. Additionally, we have updated the County under Section III to indicate that the regulated entity is located in both McLennan and Limestone Counties consistent with the Part I form.

A13. Please provide an original signature page. The page submitted is a photo copy.

See response to comment A11. This comment has been addressed as requested.

A14. Please submit four sets of printed mailing labels for the adjacent landowners list. Names and addresses must be typed in the format required by the U.S. Postal Service for machine readability. The list is to be 30 names, addresses, etc. (10 per column) per page (MS WORD Avery Standard 5160 - ADDRESS template for Laser Printers 5160).

The requested mailing labels are attached to this response for landowners within 1/4–mile of the permit boundary and identified mineral interest owners. Note, mailing labels have only been provided for landowners or mineral interest owners where addresses were available from the McLennan and Limestone County appraisal districts and real property records, respectively.

We trust that our responses will assist you in the completion of your administrative review. If you have any questions or need additional information, please do not hesitate to contact Ryan Kuntz, P.E. at (817) 358-6117.

Sincerely,

Ryan Kuntz, P.E.
Vice President/Project Director
SCS Engineers
TBPE Registration No. F-3407

Kevin D. Yard, P.E., BCEE
Vice President/Office Director
SCS Engineers

Attachments: as described herein

cc: Mr. Charles Dowdell, City of Waco
Mr. Jeffrey Reed, Lloyd Gosselink Rochelle & Townsend, P.C.

City of Waco Landfill
McLennan and Limestone Counties
TCEQ Permit No. MSW-2400
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1901 Central Drive, Suite 550
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City of Waco Landfill

McLennan and Limestone Counties

TCEQ Permit No. MSW -2400

MSW Landfill Permit Application, Parts I and II

Table of Contents

TCEQ Part I Form for New Permit for a MSW Facility (TCEQ-0650)

TCEQ Core Data Form (TCEQ-10400)

Administrative and Technical Review Checklist for Municipal Solid Waste (MSW) Permits, Registrations, and Amendments (Parts I/II only)

Supplementary Technical Report (See Part I/II, Page v)

Parts I/II General Application Requirements

Parts I/II Drawings

Parts I/II Appendices

SCS Engineers

TBPE Reg. # F-3407

Facility Name: City of Waco Landfill
Permittee/Registrant Name: City of Waco
MSW Authorization #:2400
Initial Submittal Date: 8/7/2018
Revision Date: 9/6/2018

Texas Commission on Environmental Quality

Part I Form for New Permit/Registration and Amendment Applications for an MSW Facility

1. Reason for Submittal

☒ Initial Submittal ☐ Notice of Deficiency (NOD) Response

2. Authorization Type

☒ Permit ☐ Registration

3. Application Type

☒ New ☐ Major Amendment
☐ Major Amendment (Limited Scope)

4. Application Fees

☐ Pay by Check ☒ Online Payment

If paid online, e-Pay Confirmation Number: **582EA000311862**

5. Application URL

Is the application submitted for Type I Arid Exempt (AE) and/or Type IV AE facility?

☐ Yes ☒ No

If the answer is "No", provide the URL address of a publicly accessible internet web site where the application and all revisions to that application will be posted.
http://**http://www.waco-texas.com/landfill-application-process.asp**

6. Application Publishing

Party Responsible for Publishing Notice:

☐ Applicant ☐ Agent in Service ☒ Consultant

Contact Name: **Ryan R. Kuntz, P.E.** Title: **Vice President /Project Director**

7. Alternative Language Notice

Is an alternative language notice required for this application? (For determination refer to Alternative Language Checklist on the Public Notice Verification Form TCEQ-20244-Waste)

☐ Yes ☒ No

8. Public Place Location of Application

Name of the Public Place: **Waco-McLennan County Central Library**

Physical Address: **1717 Austin Avenue**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76701**

(Area code) Telephone Number: **254.750.5941**

9. Consolidated Permit Processing

Is this submittal part of a consolidated permit processing request, in accordance with 30 TAC Chapter 33?

☐ Yes ☒ No ☐ Not Applicable

If "Yes", state the other TCEQ program authorizations requested:

10. Confidential Documents

Does the application contain confidential documents?

☐ Yes ☒ No

If "Yes", cross-reference the confidential documents throughout the application and submit as a separate attachment in a binder clearly marked "CONFIDENTIAL."

11. Permits and Construction Approvals

Permit or Approval	Received	Pending	Not Applicable
Hazardous Waste Management Program under the Texas Solid Waste Disposal Act	☐	☐	☒
Underground Injection Control Program under the Texas Injection Well Act	☐	☐	☒
National Pollutant Discharge Elimination System Program under the Clean Water Act and Waste Discharge Program under Texas Water Code, Chapter 26	☐	☒	☐
Prevention of Significant Deterioration Program under the Federal Clean Air Act (FCAA). Nonattainment Program under the FCAA	☐	☐	☒
National Emission Standards for Hazardous Air Pollutants Preconstruction Approval under the FCAA	☐	☐	☒
Ocean Dumping Permits under the Marine Protection Research and Sanctuaries Act	☐	☐	☒

Permit or Approval	Received	Pending	Not Applicable
Dredge or Fill Permits under the CWA	☐	☐	☒
Licenses under the Texas Radiation Control Act	☐	☐	☒
Other (describe)	☐	☐	☐
Other (describe)	☐	☐	☐
Other (describe)	☐	☐	☐
Other (describe)	☐	☐	☐

12. General Facility Information

Facility Name: **City of Waco Landfill**

Contact Name: **Charles Dowdell** Title: **Director of Public Works**

MSW Authorization No. (if available): **2400**

Regulated Entity Reference No. (if issued)*: RN**110471307**

Physical or Street Address (if available): **4730 T K Parkway**

City: **Axtell** County: **McLennan & Limestone** State: **TX** Zip Code: **76624**

(Area Code) Telephone Number: **(254) 750-1601**

Latitude (Degrees, Minutes Seconds): **N 31° 42' 05.31"**

Longitude (Degrees, Minutes Seconds): **W 96° 55' 52.07"**

Benchmark Elevation (above mean sea level): ft.

Provide a description of the location of the facility with respect to known or easily identifiable landmarks: **approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 in McLennan County**

Detail access routes from the nearest United States or state highway to the facility: **approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 in McLennan County**

*If this number has not been issued for the facility, complete a TCEQ Core Data Form (TCEQ-10400) and submit it with this application. List the Facility as the Regulated Entity.

13. Facility Type(s)

☒ Type I ☐ Type IV ☐ Type V
☐ Type I AE ☐ Type IV AE ☐ Type VI

14. Activities Conducted at the Facility

☐ Storage ☐ Processing ☒ Disposal

15. Facility Waste Management Unit(s)

- ☒ Landfill Unit(s)
- ☐ Class 1 Landfill Unit(s)
- ☐ Process Tank(s)
- ☐ Storage Tank(s)
- ☐ Tipping Floor
- ☐ Storage Area
- ☐ Container(s)
- ☐ Roll-off Boxes
- ☐ Surface Impoundment
- ☐ Incinerator(s)
- ☐ Autoclave(s)
- ☐ Refrigeration Unit(s)
- ☐ Mobile Processing Unit(s)
- ☐ Type VI Demonstration Unit
- ☐ Compost Pile(s) and/or Vessel(s)
- ☐ Other (Specify)
- ☐ Other (Specify)
- ☐ Other (Specify)

16. Description of Proposed Facility or Changes to Existing Facility

Provide a brief description of the proposed activities if application is for a new facility, or the proposed changes to an existing facility or permit conditions if the application is for an amendment.

Proposed Type I Municipal Solid Waste Landfill located on 502.5 acres of land in McLennan and Limestone Counties, designed in accordance with Title 30, Texas Administrative Code, Chapter 330. The primary purpose of this landfill is to serve as a replacement for the current City of Waco landfill (MSW Permit No. 948A). The landfill will provide disposal capacity for residences, businesses, and industries primarily in the communities of McLennan and Limestone Counties and other nearby counties. The landfill will provide disposal of household waste, yard waste, commercial waste, Class 2 and Class 3 non-hazardous industrial wastes, construction-demolition waste, and special wastes authroized by TCEQ.

17. Facility Contact Information

Site Operator (Permittee/Registrant) Name: City of Waco

Customer Reference No. (if issued)*: CN**600131940**

Contact Name: **Charles Dowdell** Title: **Director of Public Works**

Mailing Address: **401 Franklin Avenue**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76701**

(Area Code) Telephone Number: **(254) 750-1601**

Email Address: **charlesd@ci.waco.tx.us**

TX Secretary of State (SOS) Filing Number:

*If the Site Operator (Permittee/Registrant) does not have this number, complete a TCEQ Core Data Form (TCEQ-10400) and submit it with this application. List the Site Operator (Permittee/Registrant) as the Customer.

Operator Name[1]: same as Permittee

Customer Reference No. (if issued)*:

Contact Name: Title:

Mailing Address:

City: County: State: Zip Code:

(Area Code) Telephone Number:

Email Address:

TX SOS Filing Number:

[1]If the Operator is the same as Site Operator/Permittee type "Same as "Site Operator (Permittee/Registrant)".
*If the Operator does not have this number, complete a TCEQ Core Data Form (TCEQ-10400) and submit it with this application. List the Operator as the customer.

Consultant Name (if applicable): SCS Engineers, TBPE Registration No. F-3407

Texas Board of Professional Engineers Firm Registration Number:

Contact Name: **Ryan R. Kuntz, P.E.** Title: **Vice Pres., Pr. Director**

Mailing Address: **1901 Central Drive, Suite 550**

City: **Bedford** County: **Tarrant** State: **TX** Zip Code: **76021**

(Area Code) Telephone Number: **817.358.6117**

E-Mail Address: **rkuntz@scseng.com**

Agent in Service Name (required only for out-of-state):

Mailing Address:

City: County: State: Zip Code:

(Area Code) Telephone Number:

E-Mail Address:

18. Facility Supervisor's License

Select the Type of License that the Solid Waste Facility Supervisor, as defined in 30 TAC Chapter 30, Occupational Licenses and Registrations, will obtain prior to commencing facility operations.

☒ Class A ☐ Class B

19. Ownership Status of the Facility

☐ Corporation	☐ Limited Partnership	☐ Federal Government
☐ Individual	☒ City Government	☐ Other Government
☐ Sole Proprietorship	☐ County Government	☐ Military
☐ General Partnership	☐ State Government	☐ Other (Specify):

Does the Site Operator (Permittee/Registrant) own all the facility units and all the facility property?

☒ Yes ☐ No

If "No", provide the information requested below for any additional ownership.

Owner Name:

Street or P.O. Box:

City: County: State: Zip Code:

(Area Code) Telephone Number:

Email Address (optional):

20. Other Governmental Entities Information

Texas Department of Transportation District: Waco

District Engineer's Name: **Stanley Swiatek, P.E.**

Street Address or P.O. Box: **100 S. Loop Drive**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76704-2858**

(Area Code) Telephone Number: **(254) 867-2700**

E-Mail Address (optional):

The Local Governmental Authority Responsible for Road Maintenance (if applicable): N.A.

Contact Person's Name:

Street Address or P.O. Box:

City: County: State: Zip Code:

(Area Code) Telephone Number:

E-Mail Address (optional):

City Mayor Information

City Mayor's Name: **N.A.**

Office Address:

City: County: State: Zip Code:

(Area Code) Telephone Number:

E-Mail Address (optional):

City Health Authority: N.A.

Contact Person's Name:

Street Address or P.O. Box:

City: County: State: Zip Code:

(Area Code) Telephone Number:

E-Mail Address (optional):

County Judge Information

County Judge's Name: **Scott M. Felton**

Street Address or P.O. Box: **501 Washington Ave, Room 214**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76701**

(Area Code) Telephone Number: **(254) 757-5049**

E-Mail Address (optional):

County Health Authority: Waco-McLennan Health District

Contact Person's Name: **Sherry Williams, RNC, WHNP**

Street Address or P.O. Box: **225 W. Waco Drive**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76707**

(Area Code) Telephone Number: **(254) 750-5450**

E-Mail Address (optional):

State Representative Information

District Number: **12**

State Representative's Name: **Kyle Kacal**

District Office Address: **3000 Briarcrest Dr., Ste 203**

City: **Bryan** County: **Brazos** State: **TX** Zip Code: **77802**

(Area Code) Telephone Number: **979-774-7276**

E-Mail Address (optional):

State Senator Information

District Number: **22**

State Senator's Name: **The Honorable Brian Birdwell**

District Office Address: **900 Austin Ave, Suite 500**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76701**

(Area Code) Telephone Number: **(254) 772-6225**

E-Mail Address (optional):

Council of Government (COG) Name: Heart of Texas

COG Representative's Name: **Falen Bohannon**

COG Representative's Title: **Solid Waste Program Manager**

Street Address or P.O. Box: **1514 S. New Road**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76711**

(Area Code) Telephone Number: **(254)292-1800**

E-Mail Address (optional): **Falen.Bohannon@hot.cog.tx.us**

County Judge Information

County Judge's Name: **Limestone County Judge: Honorable Richard Duncan**

Street Address or P.O. Box: **200 W. Slate ST., Ste 101**

City: **Groesbeck** County: **Limestone** State: **TX** Zip Code: **76642**

(Area Code) Telephone Number: **254-729-3810**

E-Mail Address (optional):

County Health Authority: Limestone Medical Center

Contact Person's Name: **Dr. Jeffrey Rettig**

Street Address or P.O. Box: **204 W. Trinity Street**

City: **Groesbeck** County: **Limestone** State: **TX** Zip Code: **76642**

(Area Code) Telephone Number: **254-729-3740**

E-Mail Address (optional):

State Representative Information

District Number: **12**

State Representative's Name: **Kyle Kacal**

District Office Address: **3000 Briarcrest Dr., Ste 203**

City: **Bryan** County: **Brazos** State: **TX** Zip Code: **77802**

(Area Code) Telephone Number: **979-774-7276**

E-Mail Address (optional):

State Senator Information

District Number: **5**

State Senator's Name: **Charles Schwertner**

District Office Address: **3000 Briarcrest Drive, Suite 202**

City: **Bryan** County: **Brazos** State: **TX** Zip Code: **77802**

(Area Code) Telephone Number: **979-776-0222**

E-Mail Address (optional):

Council of Government (COG) Name: Heart of Texas

COG Representative's Name: **Falen Bohannon**

COG Representative's Title: **Solid Waste Program Manager**

Street Address or P.O. Box: **1514 S. New Road**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76711**

(Area Code) Telephone Number: **(254)292-1800**

E-Mail Address (optional): **Falen.Bohannon@hot.cog.tx.us**

River Basin Authority Name: Brazos River Authority

Contact Person's Name: **Phil Ford**

Watershed Sub-Basin Name:

Street Address or P.O. Box: **4600 Cobbs Drive**

City: **Waco** County: **McLennan** State: **TX** Zip Code: **76710**

(Area Code) Telephone Number: **(888) 922-6272**

E-Mail Address (optional):

Coastal Management Program

Is the facility within the Coastal Management Program boundary?

☐ Yes ☒ No

U.S. Army Corps of Engineers

The facility is located in the following District of the U.S. Army Corps of Engineers:

☐ Albuquerque, NM ☐ Galveston, TX

☒ Ft. Worth, TX ☐ Tulsa, OK

Local Government Jurisdiction

Within City Limits of:

Within Extraterritorial Jurisdiction of:

Is the facility located in an area in which the governing body of the municipality or county has prohibited the storage, processing or disposal of municipal or industrial solid waste?

☐ Yes ☒ No

(If "Yes", provide a copy of the ordinance or order as an attachment):

Signature Page

I, Wiley Stem III, City Manager,
(Site Operator (Permittee/Registrant)'s Authorized Signatory) (Title)

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____ Date: 9/6/18

TO BE COMPLETED BY THE OPERATOR IF THE APPLICATION IS SIGNED BY AN AUTHORIZED REPRESENTATIVE FOR THE OPERATOR

I, _____, hereby designate _____
(Print or Type Operator Name) (Print or Type Representative Name)

as my representative and hereby authorize said representative to sign any application, submit additional information as may be requested by the Commission; and/or appear for me at any hearing or before the Texas Commission on Environmental Quality in conjunction with this request for a Texas Water Code or Texas Solid Waste Disposal Act permit. I further understand that I am responsible for the contents of this application, for oral statements given by my authorized representative in support of the application, and for compliance with the terms and conditions of any permit which might be issued based upon this application.

_____
Printed or Typed Name of Operator or Principal Executive Officer

_____
Signature

SUBSCRIBED AND SWORN to before me by the said Wiley Stem III
On this 6th day of September 2018
My commission expires on the 31st day of March, 2022

Nita H Mays
Notary Public in and for
McLennan County, Texas
(Note: Application Must Bear Signature & Seal of Notary Public)

NITA H MAYS
Notary Public, State of Texas
Comm. Expires 03-31-2022
Notary ID 1117522-0

Part I Attachments

(See Instructions for P.E. seal requirements.)

Required Attachments	**Attachment No.**
Supplementary Technical Report	**X**
Property Legal Description	**X**
Property Metes and Bounds Description	**X**
Facility Legal Description	**X**
Facility Metes and Bounds Description	**X**
Metes and Bounds Drawings	**X**
On-Site Easements Drawing	**X**
Land Ownership Map	**X**
Land Ownership List	**X**
Electronic List or Mailing Labels	**X**
Texas Department of Transportation (TxDOT) County Map	**X**
General Location Map	**X**
General Topographic Map	**X**
Verification of Legal Status	**X**
Property Owner Affidavit	**X**
Evidence of Competency	**X**
Additional Attachments as Applicable- Select all those apply and add as necessary	
☒ TCEQ Core Data Form(s)	**X**
☒ Signatory Authority Delegation	**X**
☒ Fee Payment Receipt	**X**
☐ Confidential Documents	
☐ Waste Storage, Processing and Disposal Ordinances	
☐ Final Plat Record of Property	
☐ Certificate of Fact (Certificate of Incorporation)	
☐ Assumed Name Certificate	

Kuntz, Krystal

From: Jan Ledet <jan.ledet@co.limestone.tx.us>
Sent: Wednesday, September 5, 2018 9:14 AM
To: Kuntz, Krystal
Subject: FW: Appt of Dr Rettig
Attachments: Agenda Item 17.pdf

Per your request please find attached a copy of the Limestone County Commissioners' Court agenda appointing Dr. Rettig as Public Health Officer for Limestone County.

Janice Ledet
Deputy County Clerk
Limestone County, Texas
254-729-5504

REGARDING ITEM 16. OF AGENDA - Discuss and/or take action on Texas Brazos Trail Regional Office Selection.
Application.- Sharon Barnes-Economic Development:
Comm. Waldrop MOVED to approve benefits and phone for Brazos Trail Coordinator if Limestone County is selected for 3 year contract.
Judge Holmes SECONDED the motion.
VOTES: Eaves/Nay; Waldrop/Aye; Stone/Nay; Ford/Nay; Holmes/Aye
MOTION DID NOT CARRY.

REGARDING ITEM 17. OF AGENDA - Discuss and/or approve re-appointment of Dr. Jeffrey Rettig as Public Health officer for Limestone County:
Comm. Eaves MOVED to appoint Dr. Jeffrey Rettig as Public Health Officer.
Comm. Ford SECONDED the motion.
VOTES: Eaves/Aye; Waldrop/Aye; Stone/Aye; Ford/Aye
MOTION CARRIED AND IT WAS SO ORDERED.

REGARDING ITEM 18. OF AGENDA - Executive Session: Personnel Matters; a closed meeting will be held pursuant to chapter 551.074 of the Government Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer, employee or court appointment.

TCEQ Core Data Form

TCEQ Use Only

For detailed instructions regarding completion of this form, please read the Core Data Form Instructions or call 512-239-5175.

SECTION I: General Information

1. Reason for Submission (If other is checked please describe in space provided.)

☒ New Permit, Registration or Authorization (Core Data Form should be submitted with the program application.)

☐ Renewal (Core Data Form should be submitted with the renewal form) ☐ Other

2. Customer Reference Number (if issued)		3. Regulated Entity Reference Number (if issued)
CN 600131940	Follow this link to search for CN or RN numbers in Central Registry**	RN N/A

SECTION II: Customer Information

4. General Customer Information | 5. Effective Date for Customer Information Updates (mm/dd/yyyy)

☐ New Customer ☒ Update to Customer Information ☐ Change in Regulated Entity Ownership
☐ Change in Legal Name (Verifiable with the Texas Secretary of State or Texas Comptroller of Public Accounts)

The Customer Name submitted here may be updated automatically based on what is current and active with the Texas Secretary of State (SOS) or Texas Comptroller of Public Accounts (CPA).

6. Customer Legal Name (If an individual, print last name first: e.g.: Doe, John) | If new Customer, enter previous Customer below:

City of Waco

7. TX SOS/CPA Filing Number	8. TX State Tax ID (11 digits)	9. Federal Tax ID (9 digits)	10. DUNS Number (if applicable)
N/A	N/A	N/A	N/A

11. Type of Customer: ☐ Corporation ☐ Individual Partnership: ☐ General ☐ Limited
Government: ☒ City ☐ County ☐ Federal ☐ State ☐ Other ☐ Sole Proprietorship ☐ Other:

12. Number of Employees
☐ 0-20 ☐ 21-100 ☒ 101-250 ☐ 251-500 ☐ 501 and higher

13. Independently Owned and Operated?
☒ Yes ☐ No

14. Customer Role (Proposed or Actual) - as it relates to the Regulated Entity listed on this form. Please check one of the following:

☐ Owner ☐ Operator ☒ Owner & Operator
☐ Occupational Licensee ☐ Responsible Party ☐ Voluntary Cleanup Applicant ☐ Other:

15. Mailing Address: 401 Franklin Ave

City	Waco	State	TX	ZIP	76701	ZIP + 4	

16. Country Mailing Information (if outside USA)	17. E-Mail Address (if applicable)
N/A	charlesd@ci.waco.tx.us

18. Telephone Number	19. Extension or Code	20. Fax Number (if applicable)
(254) 750 - 1601		(254) 750 - 5844

SECTION III: Regulated Entity Information

21. General Regulated Entity Information (If `New Regulated Entity" is selected below this form should be accompanied by a permit application)

☒ New Regulated Entity ☐ Update to Regulated Entity Name ☐ Update to Regulated Entity Information

The Regulated Entity Name submitted may be updated in order to meet TCEQ Agency Data Standards (removal of organizational endings such as Inc, LP, or LLC).

22. Regulated Entity Name (Enter name of the site where the regulated action is taking place.)

City of Waco Landfill

23. Street Address of the Regulated Entity: (No PO Boxes)	4730 TK Parkway						
	City	Axtell	State	TX	ZIP	76624	ZIP + 4
24. County	McLennan and Limestone						

Enter Physical Location Description if no street address is provided.

25. Description to Physical Location:	Site entrance is approximately 70.0 feet east of the intersection of Happy Swaner Ln and TK Pkwy (FM 939) Northern boundary is approximately 0.4 mile from State Route 31 West

26. Nearest City	State	Nearest ZIP Code
Waco	TX	76624

27. Latitude (N) In Decimal:			28. Longitude (W) In Decimal:		
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds
31	42	5	96	55	52

29. Primary SIC Code (4 digits)	30. Secondary SIC Code (4 digits)	31. Primary NAICS Code (5 or 6 digits)	32. Secondary NAICS Code (5 or 6 digits)
4953	N/A	562212	N/A

33. What is the Primary Business of this entity? (Do not repeat the SIC or NAICS description.)

Municipal Solid Waste Landfill

34. Mailing Address:	401 Franklin Ave						
	City	Waco	State	TX	ZIP	76701	ZIP + 4
35. E-Mail Address:	charlesd@ci.waco.tx.us						

36. Telephone Number	37. Extension or Code	38. Fax Number (if applicable)
(254) 750 - 1601		(512) 299 - 4822

39. **TCEQ Programs and ID Numbers** Check all Programs and write in the permits/registration numbers that will be affected by the updates submitted on this form. See the Core Data Form instructions for additional guidance.

☐ Dam Safety	☒ Districts	☐ Edwards Aquifer	☐ Emissions Inventory Air	☐ Industrial Hazardous Waste
☒ Municipal Solid Waste	☐ New Source Review Air	☐ OSSF	☐ Petroleum Storage Tank	☐ PWS
To Be Assigned				
☐ Sludge	☒ Storm Water	☒ Title V Air	☐ Tires	☐ Used Oil
☐ Voluntary Cleanup	☐ Waste Water	☐ Wastewater Agriculture	☐ Water Rights	☐ Other:

SECTION IV: Preparer Information

40. Name: Ryan R. Kuntz, P.E.			41. Title: Vice President
42. Telephone Number	43. Ext./Code	44. Fax Number	45. E-Mail Address
(817) 358 - 6117		(817) 571 - 2188	RKuntz@scsengineers.com

SECTION V: Authorized Signature

46. By my signature below, I certify, to the best of my knowledge, that the information provided in this form is true and complete, and that I have signature authority to submit this form on behalf of the entity specified in Section II, Field 6 and/or as required for the updates to the ID numbers identified in field 39.

Company:	City of Waco	Job Title:	City Manager
Name(*In Print*):	Wiley Stem III	Phone:	(254) 750-5645
Signature:	Wiley Stem	Date:	9/6/18

Administrative and Technical Review Checklist for Municpipal Solid Waste (MSW) Permits, Registrations and Amendments

This checklist is designed to provide guidance for the Municipal Solid Waste (MSW) rules found in Title 30 Texas Administrative Code (30 TAC) Chapter 330, for Type I, IV and V registration, permit, and permit amendment applications. Areas of the checklist that are shaded in gray are for information purposes only.

Please fill out application information before selecting and filling out a checklist.

Applicant Information					
First name:	Charles	Last name	Dowdell		
Applicant Title:	Director of Public Works			Prefix:	
Company:	City of Waco				
Street Address:	401 Franklin Avenue				
City:	Waco	State:	Texas	Zipcode:	76701

Consultant Information					
First name:	Ryan	Last name:	Kuntz		
Consultant Title:	Vice President			Prefix:	
Consultant Firm:	SCS Engineers				
Consultant Address:	1901 Central Drive, Suite 550				
City:	Bedford	State:	Texas	Zipcode:	76021

Application Information					
Facility Name:	City of Waco Landfill				
Application Date	August	7	2018		
CN:	600131940			MSW ID:	
RN:		Authorization Type:		Permit	
County:	McLennan	Application Type:		New Permit	

Disclaimer: This checklist is intended for use as a reference in the application process and will not be considered a substitute for required application materials. Rules referenced have been paraphrased or reworded to facilitate this process. Any conflict or questions regarding rule interpretation should be directed to TCEQ for determination, and disputes will be resolved in favor of the exact language of rules, statutes or federal requirements. Should any dispute occur in an administrative proceeding, the applicant will bear the burden of proof of compliance with any and all applicable TCEQ and federal statutes, rules, or policies and procedures. This checklist is subject to discovery in administrative and civil legal proceedings and should not be considered confidential from the public.

Your transaction is complete. Thank you for using TCEQ ePay.

Note: It may take up to 3 working days for this electronic payment to be processed and be reflected in the TCEQ ePay system. Print this receipt and the vouchers for your records. An email receipt has also been sent.

Transaction Information

Trace Number: 582EA000311862
Date: 08/07/2018 03:14 PM
Payment Method: CC - Authorization 0000061085
Amount: $150.00
ePay Actor: Krystal Kuntz
Actor Email: kkuntz@scsengineers.com
IP: 172.87.161.170

Payment Contact Information

Name: Ryan Kuntz
Company: Scsengineers
Address: 1901 Central Drive Suite 550, Bedford, TX 76021
Phone: 817-571-2288

Cart Items

Click on the voucher number to see the voucher details.

Voucher	Fee Description	AR Number	Amount
382322	NONHAZARDOUS WASTE PERMIT - NEW, AMENDMENTS & MODIFICATIONS		$100.00
382323	30 TAC 305.53B HWP NOTIFICATION FEE		$50.00
	Total fees for transaction:	**$150.00**	

ePay Again Exit ePay

Note: It may take up to 3 working days for this electronic payment to be processed and be reflected in the TCEQ ePay system. Print this receipt for your records.

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ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
1	General	Submit all four parts of the permit, permit amendment or registration application	Required	330.57(a) & (b)	No		Parts III and IV forthcoming	Format-Application
2	General	Submit TCEQ Part I Form (Form No. 0650)	Required	330.57(c)(1)	Yes	See Part 1 Form		Format-Application
3	General	Part II of the application describes existing conditions and land use compatibility	Informational	330.57(c)(2)				Format-Application
4	General	Part III of the application contains design information	Informational	330.57(c)(3)				Format-Application
5	General	Part IV of the application contains the Site Operating Plan	Informational	330.57(c)(4)				Format-Application
6	General	The application should address all aspects of application and design requirements, even to show why not applicable (N/A)	Informational	330.57(d)				Format-Application
7	General	Submit data of sufficient completeness, accuracy and clarity	Required	330.57(d)	Yes	Part I/II and future Parts III and IV		Format-Application
8	General	Failure to provide complete information may be cause for ED to return application.	Informational	330.57(d)				Format-Application
9	General	Provide 4 Copies for Initial Submittal (1 original and 3 copies)	Required	330.57(e)	Yes	Included with initial submittal to TCEQ.		Format-Application
10	General	Provide 4 copies for NOD Responses including 1 copy with marked revisions (redline/strikeout)	Required	330.57(g)(6)	No			Format-Application
11	General	Application must be prepared in accordance with Texas Occupations Code, Texas Engineering Practice Act, Chapter 1001 and Texas Geoscience Practice Act, Chapter 1002	Informational	330.57(f)				Format-Application
12	General	Provide a PE signature, seal and date on the title page of each bound engineering report or individual engineering plan, and on each engineering drawing	Required	330.57(f)(1)	Yes	Part I/II and included Drawings I/II-1 through I/II-5	Parts III and IV forthcoming	Format-Application
13	General	Provide PG sign, seal, & date for applicable items	Required	330.57(f)(2)	Yes	Drawings I/II-6 and I/II-7	Part III Attachments forthcoming	Format-Application
14	General	Applications that are not sealed are incomplete and shall be returned	Informational	330.57(f)(3)				Format-Application
15	General	Submit the application in three ring-binders	Required	330.57(g)(1)	Yes	Included with initial submittal to TCEQ.		Format-Application
16	General	Submit Title Page with Name, Application No., Site Operator Name, Operator Name (if applicable), Location, Date Prepared and Revision Date(s)	Required	330.57(g)(2)	Yes	Included with initial submittal to TCEQ.		Format-Application
17	General	Provide Table of Contents with PE seal	Required	330.57(g)(3)	Yes	Included with initial submittal to TCEQ.		Format-Application
18	General	Use 8.5x11 inch or 11x17 paper (folded to 8.5x11 inch)	Required	330.57(g)(4)	Yes	Included with initial submittal to TCEQ.		Format-Application
19	General	Provide pages with date (original and revised) and sequential page numbers	Required	330.57(g)(5)	Yes	Included with initial submittal to TCEQ.		Format-Application
20	General	Provide legible drawings/maps	Required	330.57(h)(1)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
21	General	Provide color coding on all figures and drawings that is legible and distinct after copying in black & white	Required	330.57(h)(2)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
22	General	Provide a standard engineering scale on each figure or drawing	Required	330.57(h)(3)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
23	General	Provide a dated title block on each figure or drawing	Required	330.57(h)(4)(A)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
24	General	Provide a bar scale at least 1 inch on all figures and drawings	Required	330.57(h)(4)(B)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
25	General	Provide a revision block on all figures and drawings	Required	330.57(h)(4)(C)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
26	General	Provide a PE or PG seal ,if required, on all figures and drawings	Required	330.57(h)(4)(D)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
27	General	Include drawing number and a page number on each drawing and figure	Required	330.57(h)(4)(E)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
28	General	Include a north arrow on each map or plan drawing	Required	330.57(h)(5)(A)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
29	General	Include a reference to base map & date of most current base map used, if the map is based upon another map	Required	330.57(h)(5)(B)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
30	General	Include a legend on each map or plan drawing	Required	330.57(h)(5)(C)	Yes	Included with initial submittal to TCEQ.		Format-Maps/Drawings
31	General	Provide match lines and section lines that reference the drawing where the match or section is shown.	Required	330.57(h)(6)	No		Not Applicable for Part I/II	Format-Maps/Drawings
40	General	Acknowledge that the construction and operation of the waste management facility shall comply with Subchapter U of 30 TAC Chapter 330(relating to Standard Air Permits for Municipal Solid Waste Landfill Facilities and Transfer Stations) or other approved air authorizations. Owners or operators of these types of facilities should consult with the Air Permits Division on or before the date that the municipal solid waste application is filed with the executive director	Acknowledgement	330.55(a)	Yes	Parts I/II, Section 16.4, Note 3.		Other Authorizations
41	General	Acknowledge that all liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution. Facilities shall provide for the treatment of wastewaters resulting from waste management activities and from cleaning and washing. Owners or operators shall ensure that storm water and wastewater management is in compliance with the regulations of the commission.	Acknowledgement	330.55(a)	Yes	Part I/II, Sections 10.1, Paragraph 4, and Section 10.2, Paragraph 3.		Other Authorizations
42	General	A person may not cause, suffer, allow, or permit the disposal of municipal solid waste prior to recording, in the county deed records of the county or counties in which the disposal takes place, a metes and bounds description of the portion or portions of the tract of land on which disposal of solid waste will take place	Informational	330.19(a)				General Information
43	General	A certified copy of proof of deed recordation shall be provided to the executive director prior to instituting disposal operations.	Informational	330.19(b)				General Information

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
44	General	It is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the surface estate of the property for which a permit is issued, including the access route. The granting of a permit does neither convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued	Informational	330.67(a)			Property owned by City of Waco	General Information
45	General	The facility owner or operator shall retain the right of entry to the facility until the end of the post-closure care period for inspection and maintenance of the facility	Informational	330.67(b)				General Information
47	General	It is the responsibility of an owner or operator to obtain any permits or approvals that may be required by local agencies such as for building construction, discharge of uncontaminated waters into ditches under control of a drainage district, discharge of effluent into a local sanitary sewer system, etc.	Informational	330.67(b)		Parts I/II, Section 10.2, Paragraph 4.		General Information
53	General	If at any time during the life of the facility the owner or operator becomes aware of any condition in the permit or registration that necessitates a change to accommodate new technology or improved methods or that makes it impractical to keep the facility in compliance, the owner or operator shall submit to the executive director requested changes to the permit or registration in accordance with 30 TAC §305.62 or §305.70 and must be approved prior to their implementation	Informational	330.73(a)				General Information
54	General	A preconstruction conference shall be held prior to commencement of physical construction for a municipal solid waste (MSW) landfill facility, a vertical landfill expansion, or a lateral landfill expansion. The preconstruction conference shall be held no more than 90 days prior to the date that construction is scheduled to begin. All aspects of the permit, construction activities, and inspections shall be discussed. Additional preconstruction conferences may be held prior to the opening of a new MSW landfill unit. The executive director and owner's representatives, including the engineer, the geotechnical consultant, the contractor, and the facility manager, shall attend the preconstruction conference	Informational	330.73(c)				General Information

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
55	General	The owner or operator shall obtain and submit certification by a Texas-licensed professional engineer that the facility has been constructed as designed in accordance with the issued registration or permit and in general compliance with the regulations prior to initial operation. The owner or operator shall maintain that certification on site for inspection	Informational	330.73(d)				General Information
56	General	After all initial construction activity has been completed and prior to accepting any solid waste, the owner or operator shall contact the executive director and region office in writing and request a pre-opening inspection. A pre-opening inspection shall be conducted by the executive director within 14 days of notification by the owner or operator that all construction activities have been completed, accompanied by representatives of the owner or operator and the engineer	Informational	330.73(e)				General Information
57	General	The MSW facility shall not accept solid waste until the executive director has confirmed in writing that all applicable submissions required by the permit or registration and this chapter have been received and found to be acceptable, and that construction is in compliance with the permit or registration and the approved site development plan. If the executive director has not provided a written or verbal response within 14 days of completion of the pre-opening inspection, the facility shall be considered approved for acceptance of waste	Informational	330.73(f)				General Information
58	General	Identify if the Regulated Entity or Customer has any delinquent fees	Required	330.59(h), 330.671, 330.675			The City has no delinquent fees.	Delinquent Fees
59	Part I	Provide a copy of the application, including all revisions and supplements on a publicly accessible Web site	Required in Part I Form	330.57(i)(1)			Added to SCS Engineers' Website	Part I Form
60	Part I	Provide the commission with the Web address link for the application materials	Required in Part I Form	330.57(i)(1)			Part I Form	Part I Form
61	Part I	Signature Page must have signature and notarization	Required in Part I Form	330.59(a)(1)			Part I Form	Part I Form
62	Part I	Applicant's name, mailing address & phone no.	Required in Part I Form	330.59(a)(1)			Part I Form	Part I Form
63	Part I	Description of the nature of the business	Required in Part I Form	330.59(a)(1)			Part I Form	Part I Form
64	Part I	Activities that require a permit (conducted at the facility)	Required in Part I Form	330.59(a)(1)			Part I Form	Part I Form
65	Part I	Location description, facility name & mailing address	Required in Part I Form	330.59(b)(1); 305.45(a)(1)			Part I Form	Part I Form
66	Part I	Access routes	Required in Part I Form	330.59(b)(2)			Part I Form and Part I/II, Section 8.1	Part I Form
67	Part I	Lat. & Long. of the facility	Required in Part I Form	330.59(b)(3)			Part I Form	Part I Form
68	Part I	Lat. & Long. depicted	Required in Part I Form	330.59(c)(1)(A)			Drawings I/II-1 to I/II-6	Part I Form
69	Part I	All maps should show the facility location	Required in Part I Form	305.45(a)(6)			Drawings I/II-1 to I/II-7	Part I Form
70	Part I	All maps should display intake and discharge structures	Required in Part I Form	305.45(a)(6)			Not Applicable	Part I Form

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
71	Part I	All maps should show other structures or locations regarding the regulated facility and associated activities	Required in Part I Form	305.45(a)(6)			Drawing I/II-5	Part I Form
72	Part I	At least one map with a scale not less than 1 inch = 1 mile	Required in Part I Form	305.45(a)(6)			Drawing I/II-1	Part I Form
73	Part I	Permit/Registration boundary and 1 mile beyond to show the following:	Required in Part I Form	330.59(c)(1)(B)			Drawings I/II-1, 2, and 4	Part I Form
74	Part I	Wells, springs, surface water bodies	Required in Part I Form	305.45(a)(6)(A)			Drawings I/II-1, 2, and 4	Part I Form
75	Part I	Character of adjacent land including public roads, towns, development as residential, commercial, agricultural, etc.	Required in Part I Form	305.45(a)(6)(B)			Appendix I/II-C, Land Use Analysis, p.3, Figure LU-2	Part I Form
76	Part I	Location of any waste disposal activities conducted on the tract but not included in the application	Required in Part I Form	305.45(a)(6)(C)			Not Applicable	Part I Form
77	Part I	General location map, TXDOT, scale of ½ inch = 1 mile and most current map used	Required in Part I Form	330.59(c)(2)			Drawing I/II-1	Part I Form
78	Part I	Land Ownership Map, within ¼ mile & mineral interest ownership	Required in Part I Form	330.59(c)(3)(A)			Drawing I/II-3	Part I Form
79	Part I	Land Ownership List both in hardcopy and electronic form (alternatively pre-printed mailing labels)	Required in Part I Form	330.59(c)(3)(B)			Part I/II, Section 5	Part I Form
80	Part I	Legal description of property or other documentation of ownership	Required in Part I Form	330.59(d)(1)(A)			Part I/II, Attachment 14A	Part I Form
81	Part I	If Platted; plat record with county, book, page number and acreage information	Required in Part I Form	330.59(d)(1)(B)			Part I/II, Attachment 14A	Part I Form
82	Part I	Signed, sealed and dated surveyed metes and bounds description of the facility	Required in Part I Form	330.59(d)(1)(C)			Part I/II, Attachment 14A	Part I Form
83	Part I	Signed & sealed metes & bounds drawing	Required in Part I Form	330.59(d)(1)(D)			Part I/II, Attachment 14A	Part I Form
84	Part I	Signed property owner affidavit	Required in Part I Form	330.59(d)(2)			Part I/II, Section 14	Part I Form
85	Part I	Acknowledge that State may hold owner responsible	Required in Part I Form	330.59(d)(2)(A)			Part I/II, Section 14	Part I Form
86	Part I	Acknowledge that owner is responsible for deed record before & after operation	Required in Part I Form	330.59(d)(2)(B)			**Part I/II, Section 14; Property Owner Affidavit	Part I Form
87	Part I	Acknowledge that the owner & State shall have access during life of the facility and during closure	Required in Part I Form	330.59(d)(2)(C)			Part I/II, Section 14	Part I Form
88	Part I	Acknowledge that the owner & State shall have access during the post-closure care period	Required in Part I Form	330.59(d)(2)(C)			Part I/II, Section 14	Part I Form
89	Part I	Verified legal status of applicant and list of persons with 20% or more ownership in the facility	Required in Part I Form	330.59(e)			Part I/II, Section 15	Part I Form
90	Part I	Ownership status as federal, state, private, public, or other	Required in Part I Form	305.45(a)(2)			Part I Form	Part I Form
91	Part I	List of all Texas solid waste sites that the owner or operator has owned or operated within the last ten years. The site name, site type, permit or registration number, county, and dates of operation shall also be submitted.	Required in Part I Form	330.59(f)(1)			Part I/II, Section 16.1	Part I Form
92	Part I	List of all solid waste sites in all states, territories, or countries in which the owner or operator has a direct financial interest. The type of site shall be identified by location, operating dates, name, and address of the regulatory agency, and the name under which the site was operated.	Required in Part I Form	330.59(f)(2)			Part I/II, Section 16.1	Part I Form

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
93	Part I	Shall employ a licensed solid waste facility supervisor before operating	Required in Part I Form	330.59(f)(3)			Parts I/II, Section 16.2	Part I Form
94	Part I	Names of principals & supervisors owner or operators organization together with previous affiliations with other organizations involved with solid waste activities	Required in Part I Form	330.59(f)(4)			Part I/II, Section 16.2	Part I Form
95	Part I	Landfilling, earthmoving exp. or license under Chapter 30. Include number and size of equipment	Required in Part I Form	330.59(f)(5)			Part I/II, Section 16.3	Part I Form
96	Part I	Signatory meets 305.44, documentation of delegated signatory authority	Required in Part I Form	330.59(g)				Part I Form
97	Part I	Corporations – signed by a corporate officer	Required in Part I Form				Not Applicable	Part I Form
98	Part I	Partnership or proprietorship –signed by a general partner or proprietor	Required in Part I Form				Not Applicable	Part I Form
99	Part I	Municipality, public agency –signed by an executive officer or elected official	Required in Part I Form					Part I Form
100	Part I	Signatory certification statement	Required in Part I Form					Part I Form
101	Part I	Hazardous Waste Management	Required in Part I Form	305.45(a)(7)(A)			Not Applicable	Part I Form
102	Part I	Underground Injection Control	Required in Part I Form	305.45(a)(7)(B)			Not Applicable	Part I Form
103	Part I	NPDES	Required in Part I Form	305.45(a)(7)(C)			To be Added, See Part I/II, Section 10.2	Part I Form
104	Part I	Prevention of Significant Deterioration	Required in Part I Form	305.45(a)(7)(D)			Not Applicable	Part I Form
105	Part I	Nonattainment Program	Required in Part I Form	305.45(a)(7)(E)			Not Applicable	Part I Form
106	Part I	NESHAPS	Required in Part I Form	305.45(a)(7)(F)			Not Applicable	Part I Form
107	Part I	Ocean dumping permit	Required in Part I Form	305.45(a)(7)(G)			Not Applicable	Part I Form
108	Part I	Dredge & fill permit	Required in Part I Form	305.45(a)(7)(H)			Not Applicable	Part I Form
109	Part I	Licenses under the TRCA	Required in Part I Form	305.45(a)(7)(I)			Not Applicable	Part I Form
110	Part I	Other environmental permits	Required in Part I Form	305.45(a)(7)(K)			Part I/II, Section 16.4	Part I Form
111	Part I	Permit Application Fee is $150.00	Required in Part I Form	330.59(h)(1)			Initial submittal to TCEQ	Part I Form
112	Part I	A copy of the payment receipt to the MSW Permits Section, if paid by check.	Required in Part I Form	330.59(h)(1)			Part I Form	Part I Form
113	Part I	Prepared by PE, PG, or qualified person	Required in Part I Form	330.57(f)			Initial submittal to TCEQ	Part I Form
114	Part I	Description of facility & systems	Required in Part I Form	305.45(a)(8)(A)			Part I/II, Section 2	Part I Form
115	Part I	Volume, average & max rate of disposal for each place of disposal	Required in Part I Form	305.45(a)(8)(B)(i)			Part I/II, Section 2.1	Part I Form
116	Part I	Physical, chemical, thermal, organic, bacteriological, radiological properties of waste	Required in Part I Form	305.45(a)(8)(B)(ii)			Properties and characteristics of waste are described in Sesction 2.2.2.	Part I Form
117	Part I	Other reasonable information	Required in Part I Form	305.45(a)(8)(C)				Part I Form
118	Part II	Provide the sources and characteristics of all waste to be accepted.	Required	330.61(b)(1)	Yes	Part I/II, Section 2.2.2		Waste Acceptance Plan
119	Part II	Specify parametric limitations of each type of waste to be managed by the facility	Required	330.61(b)(1)	Yes	Part I/II, Section 2.2.2	Properties and characteristics of waste are described in Section 2.2.2.	Waste Acceptance Plan
121	Part II	Provide a descriptive narrative that describes the percentage of incoming waste that must be recovered and its intended use	Required if Requested	330.61(b)(1)(A)	No		Not Applicable	Waste Acceptance Plan
123	Part II	Provide an estimate of the maximum annual waste acceptance rate projected for 5 years	Required	330.61(b)(1)(C)	Yes	Part I/II, Section 2.2.1, Paragraph 2.		Waste Acceptance Plan
124		Provide information to establish why a facility qualifies for a registration in accordance with 30 TAC §330.9	Required	330.61(b)(2)	No		Not Applicable	
125	Part II	Provide any site specific conditions that require special design considerations & possible mitigation of conditions identified under sections (h) – (o)	Required	330.61(a)	No		No conditions requiring special design consideration or mitigation.	Facility Impact

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
126	Part II	Provide information regarding the likely impacts of the facility on cities, communities, groups of property owners, or individuals.	Required	330.61(h)	Yes	Part I/II, Section 7.1 and Appendix I/IIC		Facility Impact
127	Part II	Provide information on the compatibility of the facility with surrounding land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.	Required	330.61(h)	Yes	Part I/II, Section 7.1 and Appendix I/IIC		Facility Impact
128	Part II	Provide information on the character of surrounding land use within one mile	Required	330.61(h)(2)	Yes	Part I/II, Section 7.1 and Appendix I/IIC, Page 3, Paragraph 3		Existing Conditions
129	Part II	Provide information about the growth trends within five miles & directions of development	Required	330.61(h)(3)	Yes	Part I/II, Section 7.1 and Appendix I/IIC, Page 4		Existing Conditions
130	Part II	Indicate the proximity to residences & items listed in 330.61(c)(4) & (12), ~ no. of residences & commercial establishments including direct & distance to nearest, population density, all within one mile.	Required	330.61(h)(4)	Yes	Part I/II, Section 7.1 and Appendix I/IIC, Page 5		Existing Conditions
131	Part II	Indicate all wells and the well density within 500 ft.	Required	330.61(h)(5)	Yes	Part I/II, Section 7.2	No water wells within 500 feet	Existing Conditions
132	Part II	Provide any other information requested by the ED	Required	330.61(h)(6)	No		Not Applicable	Existing Conditions
133	Part II	Provide data on availability & adequacy of access roads	Required	330.61(i)(1)	Yes	Part I/II, Section 8.1, Paragraph 4.		Transportation
134	Part II	Provide the existing & expected traffic volumes on access roads within one mile of the facility during the expected life of the facility	Required	330.61(i)(2)	Yes	Part I/II, Section 8.1, Paragraph 3.		Transportation
135	Part II	Provide an estimate of traffic volume generated by the facility on access roads within one mile of the facility	Required	330.61(i)(3)	Yes	Part I/II, Section 8.1, Paragraph 1.		Transportation
136	Part II	Provide documentation of coordination for roadway improvements and documentation of coordination with TXDOT for traffic and location restrictions	Required	330.61(i)(4)	Yes	Part I/II, Section 8.1 and Appendix I/IIA		Transportation
137	Part II	Provide information about the facility's impact on airports per §330.545, documentation of coordination with FAA	Required	330.61(i)(5)	Yes	Part I/II, Section 8.2	no airports within 6 miles of facility	Transportation
138	Part II	Provide documentation of coordination with FAA	Required	330.61(i)(5)	Yes	Part I/II, Section 8.2 and Appendix I/IIA		Transportation
139	Part II	Provide a demonstration of no bird hazards for landfill units within 10,000 ft. of turbojet runway	Required	330.545(a)	No		N/A, no airports within 6 miles of facility	Transportation
140	Part II	Provide a demonstration of no bird hazards for landfill units within 5,000 ft. of piston-type runway	Required	330.545(a)	No		N/A, no airports within 6 miles of facility	Transportation
141	Part II	Provide notice to the airport & the FAA for MSW units within 6 miles of a small airport or within 5 miles of a large commercial airport.	Required	330.545(b)	No		N/A, no airports within 6 miles of facility	Transportation
142	Part II	Putrescible waste disposal must not cause bird hazard, All units within the distances indicated in 330.545(b) must be evaluated	Informational	330.545(d)				Transportation
143	Part II	Discuss in general terms the geology and soils of the proposed site	Required	330.61(j)(1)	Yes	Part I/II, Sections 9.1 through 9.3		Geology

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
144	Part II	Identify and provide data on fault area locations. If faults exist, see location restrictions in Part III, and include a fault study in the Geology Report	Required	330.61(j)(2)	Yes	Part I/II, Section 9.4		Geology
145	Part II	Identify and provide data on seismic impact zones. If located in impact zone see location restrictions in Part III	Required	330.61(j)(3)	Yes	Part I/II, Section 9.5		Geology
146	Part II	Identify and provide data on unstable areas. If unstable areas exist see location restrictions in Part III, and describe factors for determining unstable areas in the Geology Report	Required	330.61(j)(4)	Yes	Part I/II, Section 9.6		Geology
147	Part II	Provide data on site specific groundwater conditions	Required	330.61(k)(1)	Yes	Part I/II, Section 10.1		Groundwater and Surface Water
148	Part II	Provide data on surface water at or near the site	Required	330.61(k)(2)	Yes	Part I/II, Section 10.2		Groundwater and Surface Water
149	Part II	Provide information on how facility will comply with applicable Texas Pollutant Discharge Elimination System (TPDES) storm water permitting requirements and the Clean Water Act, §402, as amended.. This may include the information requires by 30 TAC 330.61(k)(3)(A) & (B)	Required	330.61(k)(3)	Yes	Part I/II, Section 10.2, Paragraph 3.		Groundwater and Surface Water
150	Part II	As applicable, provide a certification statement indicating the owner/operator will obtain the appropriate TPDES permit coverage when required	Required	330.61(k)(3)(A)	Yes	Part I/II, Section 10.2, Paragraph 4.		Groundwater and Surface Water
151	Part II	As applicable, provide a copy of permit number under an individual wastewater permit	Required	330.61(k)(3)(B)	No		Not Applicable	Groundwater and Surface Water
152	Part II	Provide the location of any water wells.	Required	330.61(l)(1)	Yes	Part I/II, Section 7.2 and Appendix I/IIB.	No water wells onsite or within 500 feet	Abandoned Oil and Water Wells
153	Part II	All water supply wells must be outside monitoring system or approved in the permit	Informational	330.61(l)(1)				Abandoned Oil and Water Wells
154	Part II	30 days prior to construction provide certification of plugging and abandonment of all water, oil and gas wells not approved in the permit	Informational	330.61(l)(1)				Abandoned Oil and Water Wells
155	Part II	Provide the location of oil & gas wells production wells may remain if identified & don't disrupt operations	Required	330.61(l)(2)	Yes	Part I/II, Section 7.3 and Appendix I/IIB.	No oil and gas wells onsite	Abandoned Oil and Water Wells
156	Part II	Production wells may remain if identified & they do not disrupt facility operations	Informational	330.61(l)(2)				Abandoned Oil and Water Wells
157	Part II	Indicate if the facility is within the 100yr floodplain. If facility within a floodplain see location restrictions in 30 TAC Chapter 330 Subchapter M	Required	330.61(m)(1)	Yes	Part I/II, Section 11.1, Paragraph 1.		Floodplains and Wetlands
158	Part II	Indicate if wetlands are located within the facility boundary. If wetlands exist, see location restrictions in 30 TAC Chapter 330 Subchapter M	Required	330.61(m)(2)	Yes	Part I/II, Section 11.2 and Appendix I/IIE, Figure 5	Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
160	Part II	Acknowledge that the construction and operation of the facility shall not result in the destruction or adverse modification of the critical habitat or cause or contribute to the taking of endangered or threatened species.	Acknowledgement	330.61(n)(1)	Yes	Part I/II, Section 12, Paragraph 2, and see coordination letters to TPWD and USFWS in Appendix I/IIA.		Endangered Species
161	Part II	Provide a demonstration of whether facility is located within species range and provide a biological assessment	Required	330.61(n)(2)	Yes	Appendix I/IIA, TPWD and USFWS Coordination Letters	As noted in these coordination letters, "The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species."	Endangered Species
162	Part II	Provide documentation of compliance with Natural Resource Code, Chapter 191 (Texas Antiquities Code)	Required	330.61(o)	Yes	Appendix I/IIA, Texas Historic Commission Coordination Letter		Historical Commission
163	Part II	Provide documentation that Parts I and II of the application were submitted for review to the applicable council of governments for compliance with regional solid waste plans.	Required	330.61(p)	Yes	Part I/II, Section 2.4 and Appendix I/IIA, HOTCOG Coordination Letter		COG Review
164	Part II	Acknowledgement that the owner or operator requested a review letter from any local government, as appropriate for compliance with local solid waste plans. A review letter is not a prerequisite to a final determination on a permit or registration application.	Acknowledgement	330.61(p)	Yes	Part I/II, Section 2.4 and Appendix I/IIA, HOTCOG Coordination Letter		COG Review
165	Part II	Provide Maps/Drawings with elements referenced under 330.57(h)(1)-(6) (Legible, Standard Engineering Scale, Dated Title and Revision Blocks, Seal, Drawing and Page No., North Arrow, Base Map Source, Legend, Section Lines)	Required	330.57(h)(1)-(6)	Yes	330.57(h)(1)-(4) - Appendix I/IIC 330.57(h)(5) - Appendix I/IIB	330.57(h)(6) is not applicable.	Maps/Drawings
166	Part II	Provide a constructed map showing boundary, zoning, & land use within one mile including info from 330.61(c)(4), (5), & (10) (schools, hospitals, etc.)	Required	330.61(g)	Yes	Appendix I/IIC, Figure LU-2 and Figure LU-3		Maps/Drawings
167	Part II	Provide the prevailing wind direction with a wind rose.	Required	330.61(c)(1)	Yes	Drawing I/II-2		Maps/Drawings
168	Part II	Provide the location of all known water wells within 500 feet of the proposed permit boundary with the state well numbering system designation for Water Development Board "located wells".	Required	330.61(c)(2)	Yes	Part I/II, Section 7.2	No water wells within 500 feet	Maps/Drawings
169	Part II	Provide the location of all structures and inhabitable buildings within 500 feet of the facility	Required	330.61(c)(3)	Yes	Drawing I/II-2 and Drawing I/II-4		Maps/Drawings
170	Part II	Provide the location of all schools, licensed day-cares, churches, hospitals, cemeteries, ponds, lakes, residential, commercial, & recreational areas within one mile of the facility	Required	330.61(c)(4)	Yes	Appendix I/IIC, Page 5	There are no churches, daycare centers, schools, recreational areas, or sites having exceptional aesthetic quality within one mile of the facility boundary.	Maps/Drawings
171	Part II	Provide the location and surface type of roads used for access within one mile of the facility	Required	330.61(c)(5)	Yes	Part I/II, Section 8.1, Paragraph 1, and Drawing I/II-1		Maps/Drawings
172	Part II	Provide the latitude & longitude of the facility	Required	330.61(c)(6)	Yes	Shown on all applicable drawings in Part I/II		Maps/Drawings
173	Part II	Provide the location of all area streams	Required	330.61(c)(7)	Yes	Drawings I/II-1 and I/II-2		Maps/Drawings
174	Part II	Provide the location of all airports within six miles	Required	330.61(c)(8)	Yes	Drawing I/II-1	No airports within six miles of proposed site.	Maps/Drawings

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
175	Part II	Indicate the property boundary of facility	Required	330.61(c)(9)	Yes	All Applicable Drawings		Maps/Drawings
176	Part II	Indicate all drainage, pipeline, and utility easements within & adjacent to the facility	Required	330.61(c)(10)	Yes	Part I/II, Section 3, Paragraph 3 and Section 14, Attachment 14A, Metes and Bound Survey		Maps/Drawings
177	Part II	Provide the location of all access control features	Required	330.61(c)(11)	Yes	Drawing I/II-5	See site entrance gate and perimeter fence shown on Drawing I/II-5	Maps/Drawings
178	Part II	Provide the location of all archaeological sites, historical sites, and sites with an aesthetic quality adjacent to the facility	Required	330.61(c)(12)	Yes	Appendix I/IIA, Texas Historic Commission Coordination Letter, Figure 4		Maps/Drawings
179	Part II	Provide a facility layout map	Required	330.61(d)	Yes	Drawing I/II-5		Maps/Drawings
180	Part II	A set of maps may be provided	Informational	330.61(d)				Maps/Drawings
181	Part II	Provide an outline of solid waste management units	Required	330.61(d)(1)	Yes	Drawing I/II-5		Maps/Drawings
182	Part II	Provide the location of interior roads	Required	330.61(d)(2)	Yes	Drawing I/II-5		Maps/Drawings
183	Part II	Indicate the location of monitor wells	Required	330.61(d)(3)	Yes	Drawing I/II-5, also see Note 5		Maps/Drawings
184	Part II	Provide the location of all facility buildings	Required	330.61(d)(4)	Yes	Drawing I/II-5		Maps/Drawings
185	Part II	Provide notes on sequence of development	Required	330.61(d)(5)	Yes	Drawing I/II-5, also see Note 4		Maps/Drawings
186	Part II	Indicate the location of all facility fencing	Required	330.61(d)(6)	Yes	Drawing I/II-5, Perimeter Fence		Maps/Drawings
187	Part II	Provide the location of facility windbreaks, greenbelts, visual screening	Required	330.61(d)(7)	Yes	Drawing I/II, 8-foot privacy fence		Maps/Drawings
188	Part II	Indicate the location of site entrance roads	Required	330.61(d)(8)	Yes	Drawing I/II-5		Maps/Drawings
189	Part II	Indicate the type of waste in each sector	Required	330.61(d)(9)(A)	Yes	Part I/II, Section 2.2.2, All Sectors may accept waste described in this section.		Maps/Drawings
190	Part II	Provide the general sequence of filling operation	Required	330.61(d)(9)(B)	Yes	Drawing I/II-5, also see Note 4		Maps/Drawings
191	Part II	Provide the sequence of excavation & filling	Required	330.61(d)(9)(C)	Yes	Drawing I/II-5, also see Note 4		Maps/Drawings
192	Part II	Indicate the dimensions of cells	Required	330.61(d)(9)(D)	Yes	Drawing I/II-5		Maps/Drawings
193	Part II	Indicate the maximum waste elevation & final cover	Required	330.61(d)(9)(E)	Yes	Drawing I/II-5		Maps/Drawings
194	Part II	Provide a general topographic maps: USGS 7.5 minute or equivalent one map at scale 1 in. = 2,000 ft.	Required	330.61(e)	Yes	Drawing I/II-2		Maps/Drawings
195	Part II	Provide Aerial Photograph(s) that are at least 9 in. by 9 in. at scale range of one inch = 1,667-3,334 ft. that covers an area at least one mile in radius of the site. Facility boundary and fill areas (as applicable) must be shown.	Required	330.61(f)	Yes	Drawing I/II-4		Maps/Drawings
196	Part II	A series of photos showing growth trends may be used	Informational	330.61(f)(2)				Maps/Drawings
197	Part II	All submitted prints & photocopies must be legible	Informational	330.61(f)(3)				Maps/Drawings
198	Part II	Provide zoning map within two miles and a copy of any nonconforming use or special permit required for the facility	Required	330.61(h)(1)	Yes	Appendix I/IIC		Maps/Drawings
199	Part II	Acknowledge whether the facility is located over the Edwards Aquifer recharge zone. If it is, the facility is subject to Chapter 213.	Acknowledgement	330.549(a)	Yes	Part I/II, Section 10.1, Paragraph 5.	The Site is not located over Edwards Aquifer recharge zone.	Groundwater and Surface Water
200	Part II	Type I & IAE Landfills are prohibited over the recharge zone	Informational	330.549(a)				Groundwater and Surface Water

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
201	Part II	Acknowledge if Class 1 cells or expansions are proposed; Class 1 cells are subject to location restrictions §335.584(b)(1)&(2) unless demonstration approved by ED.	Acknowledgement	330.549(b)	Yes	Part I/II, Section 2.2.2, Paragraph 2.	Which excludes Class 1 industrial solid waste	Groundwater and Surface Water
202	Part II	Class 1 industrial solid waste may not be located in areas where underlying soil unit(s) have a Unified Soil Classification of GW, GP, GM, GC, SW, SP, or SM; or a hydraulic conductivity greater than 1 x 10-5 cm/sec	Informational	335.584(b)(1)(A)&(B)			Not Applicable	Groundwater and Surface Water
203	Part II	Class 1 industrial solid waste may not be located in areas overlying a regional aquifer	Informational	335.584(b)(2)			Not Applicable	Groundwater and Surface Water
204	Part II	A new landfill cell or an expansion of an existing landfill managing Class 1 waste may not be located in areas described in §335.584(b)(3) and (4)	Informational	330.561			Not Applicable	Groundwater and Surface Water
205	Part II	Demonstrate that a facility with a Class 1 cell unit subject to active coastal shoreline erosion will be designed to prevent adverse effects resulting from storm surge and erosion or scouring by water.	Required if Requested	335.584(b)(4)	No		Not Applicable	Groundwater and Surface Water
208	Part II	Demonstrate that storage and processing facilities are located outside of the 100 year floodplain.	Required	330.547(c)	Yes	Part I/II, Section 11.1, Paragraph 2, and Drawing I/II-5		Floodplains and Wetlands
209	Part II	For storage and processing facilities located within the 100 year floodplain, please provide a demonstration that the facility is designed to prevent washout during a 100 year storm event, or a conditional letter of map amendment from the Federal Emergency Management Administration administrator	Required	330.547(c)	No		Not Applicable	Floodplains and Wetlands
210	Part II	Acknowledge if the facility will be located in wetlands.	Acknowledgement	330.553(a) & (b)	Yes	Appendix I/IIE, Figure 5	Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
211	Part II	Demonstrate, if located within wetlands, that there is no practicable alternative location	Required	330.553(b)(1)	Yes	Appendix I/IIE, Figure 5	Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
212	Part II	Acknowledge that the facility's construction & operations shall not cause or contribute to violations of state water quality standards, violation of any applicable toxic effluent standard or prohibition under the Clean Water Act §307; jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, or violate any requirement under the Marine protection, Research, & Sanctuaries Act	Acknowledgement	330.553(b)(2)(A) - (D)	Yes	Appendix I/IIE, Figure 5	Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
213	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing erosion, stability, & migration potential of native wetland soils, muds, and deposits used to support the landfill unit	Required	330.553(b)(3)(A)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
214	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing erosion, stability, & migration potential of dredged and fill materials used to support the landfill	Required	330.553(b)(3)(B)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
215	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing the volume and chemical nature of the waste managed in the landfill unit	Required	330.553(b)(3)(C)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
216	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing the impacts on fish, wildlife, and other aquatic resources and their habitat for the release of solid waste	Required	330.553(b)(3)(D)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
217	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing the potential effects of catastrophic release of waste to the wetlands and the resulting impacts on the environment	Required	330.553(b)(3)(E)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
218	Part II	If wetlands are located within the facility, submit a demonstration for the integrity of landfill unit by addressing any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected	Required	330.553(b)(3)(F)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
219	Part II	Sufficient information shall be provided to the ED to allow a reasonable determination to be made with respect to the demonstrations cited in 30 TAC §330.553(b)	Informational	330.553(b)(5)				Floodplains and Wetlands
220	Part II	Provide the steps taken to achieve no net loss of wetlands	Required	330.553(b)(4)	No		Wetlands are adressed on Appendix I/IIE, Figure 5. However, no wetlands are located within the two disposal areas. Additionally, the coordination letter to US Army Corp of Engineers states, "No wetlands will be impacted by the proposed landfill activity."	Floodplains and Wetlands
221	Part II	Acknowledge that the operation of this facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species	Acknowledgement	330.551(a)	Yes	Part I/II, Section 12, Paragraph 2 and Appendix I/IIA, TPWD and USFWS Coordination Letters	As noted in these coordination letters, "The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species."	Endangered Species
222	Part II	The term "Harassing" means; An intentional or negligent act or omission that creates the likelihood of injury to wildlife	Informational	330.551(b)(1)				Endangered Species

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
223	Part II	The term "Harming" means; An act of omission that actually injures or kills wildlife, including acts that annoy it to such an extent as to significantly disrupt essential behavioral patterns	Informational	330.551(b)(2)				Endangered Species
224	Part II	The term "Taking" means; collecting an endangered or threatened species or attempting to engage in such conduct	Informational	330.551(b)(3)				Endangered Species
226	Part II	Acknowledge that no solid waste disposal will occur within 25 ft. of the center line of any utility or pipeline easements but no closer than the easement, unless otherwise authorized by the executive director	Acknowledgement	330.543(a)	Yes	Part I/II, Section 2.3.1		Easements and Buffer Zone
227	Part II	Demonstrate that a 50 ft. buffer zone will be provided and maintained between feedstock or final product storage areas; solid waste storage, processing, Type IAE landfill units, Type IV landfill units, and Type IVAE landfill units within and adjacent to the facility boundary on property owned or controlled by the owner or operator	Required	330.543(b)(1)	Yes	Drawing I/II-5	The Citizen's Collection Station has a buffer of at least 125 feet.	Easements and Buffer Zone
228	Part II	Demonstrate that a 125 ft. buffer zone will be provided and maintained around all Type I landfill units, and vertical and lateral expansions	Required	330.543(b)(2)(A)	Yes	Part I/II, Section 2.3.2 and Drawing I/II-5		Easements and Buffer Zone
229	Part II	125 ft. buffer is required to be measured from outermost edge of new airspace for vertical expansions	Informational	330.543(b)(2)(B)				Easements and Buffer Zone
230	Part II	125 ft. buffer is required to be measured from edge of a horizontally expanded portion	Informational	330.543(b)(2)(C)				Easements and Buffer Zone
231	Part II	125 ft. buffer is required only for newly permitted airspace for vertical or lateral expansions	Informational	330.543(b)(2)(D)				Easements and Buffer Zone
232	Part II	The Executive Director may consider an alternative buffer zone if certain criteria are demonstrated.	Informational	330.543(b)(3)				Easements and Buffer Zone
233	Part II	Submit a demonstration that prescribed buffer zone standard is not feasible	Required if Requested	330.543(b)(3)(A)	No		Not Applicable	Easements and Buffer Zone
234	Part II	Provide a design alternative that demonstrates consistency with providing visual screening of solid waste activities	Required if Requested	330.543(b)(3)(B)(i)	No		Not Applicable	Easements and Buffer Zone
235	Part II	Provide a design alternative that demonstrates ready access for emergency response, maintenance, & monitoring	Required if Requested	330.543(b)(3)(B)(ii)	No		Not Applicable	Easements and Buffer Zone
239	Part II	the proposed site is located in a county with a population of more than 225,000 that is located adjacent to the Gulf of Mexico; and	Informational	330.563(a)			Not Applicable	Type I/Type IV Location Prohibitions
240	Part II	prior to final consideration of the application by the commission, the commissioners of the county in which the facility is located have adopted a resolution recommending denial of the application.	Informational	330.563(a)				Type I/Type IV Location Prohibitions

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
241	Part II	The commission may not issue a permit for a Type I or Type IV landfill, conversion of a Type I to a Type IV landfill, and conversion of a Type IV to a Type I landfill, if the landfill is located or proposed to be located adjacent to a county with a population of more than 3.3 million and inside the boundaries of a national forest, as designated by the United States Forest Service.	Informational	330.563(b)			Not Applicable	Type I/Type IV Location Prohibitions
242	Part II	The limitations listed under Texas Health & Safety Code 361.123(a) - (c) does not apply to a permit or permit amendment requesting an areal expansion of an existing Type I municipal solid waste landfill.	Informational	330.563(b)			Not Applicable	Type I/Type IV Location Prohibitions
243	Part II	Acknowledge if the landfill unit is located within 200 feet of a fault	Acknowledgement	330.555(a)	Yes	Part I/II, Section 9.4	No known faults within 200 feet of the site.	Geology
244	Part II	Submit a demonstration, if the facility is less than 200 feet from a fault, to show that the structural integrity of the facility will not be damaged and be protective of human health and the environment	Required	330.555(a)	No		N/A, See Section 9.4	Geology
245	Part II	Submit detailed fault studies for operations located within areas that may be subject to differential subsidence or active geological faulting	Required	330.555(b)	No		N/A, See Section 9.4	Geology
246	Part II	Submit information for structural damage to constructed facilities such as roads, buildings, etc.	Required	330.555(b)(1)	No		N/A, See Section 9.4	Geology
247	Part II	Submit information about scarps in natural ground surface	Required	330.555(b)(2)	No		N/A, See Section 9.4	Geology
248	Part II	Submit information about the presence of surface depressions	Required	330.555(b)(3)	No		N/A, See Section 9.4	Geology
249	Part II	Submit information about lineations noted on aerial photographs and topographic maps	Required	330.555(b)(4)	No		N/A, See Section 9.4	Geology
250	Part II	Provide structural control of streams	Required	330.555(b)(5)	No		N/A, See Section 9.4	Geology
251	Part II	Submit information regarding vegetation changes	Required	330.555(b)(6)	No		N/A, See Section 9.4	Geology
252	Part II	Submit information for crude oil and natural gas accumulations;	Required	330.555(b)(7)	No		N/A, See Section 9.4	Geology
253	Part II	Submit information for electrical spontaneous potential & resistivity logs	Required	330.555(b)(8)	No		N/A, See Section 9.4	Geology
254	Part II	Submit information for earth electrical resistivity surveys	Required	330.555(b)(9)	No		N/A, See Section 9.4	Geology
255	Part II	Submit information for open cell excavations	Required	330.555(b)(10)	No		N/A, See Section 9.4	Geology
256	Part II	Submit information for any change in elevation of established benchmarks	Required	330.555(b)(11)	No		N/A, See Section 9.4	Geology
257	Part II	Submit references to published geological literature of area	Required	330.555(b)(12)	No		N/A, See Section 9.4	Geology
258	Part II	Provide location information to identify if the facility is located in a seismic impact zones	Required	330.557	Yes	Part I/II, Section 9.5, Paragraph 2 and Drawing I/II-7		Geology
259	Part II	Submit a demonstration, if the facility is located in a seismic impact zones, that the facility is designed to resist the maximum horizontal acceleration in lithified earth material	Required	330.557	No		N/A, See Section 9.5	Geology

ID	App. Part	Checklist Item	Item Type	Citation	Complete?	Location	Comments	Application Area
260	Part II	Provide location information to identify if the facility is located in unstable areas susceptible to natural or human-induced events or forces capable of impairing the integrity of the landfill components	Required	330.559	Yes	Part I/II, Section 9.6, Paragraph 2, no known unstable areas.		Geology
261	Part II	Submit a demonstration, if the facility is in an unstable area, that the design of the facility will not be disrupted	Required	330.559	No		N/A, See Section 9.6	Geology
262	Part II	Provide factors for determining unstable areas. Landfill units located in an unstable area shall demonstrate that engineering measures have been incorporated into the landfill unit's design	Required	330.559	No		N/A, See Section 9.6	Geology
263	Part II	Submit information for local soil conditions that may result in significant differential settling	Required	330.559(1)	No		N/A, See Section 9.6	Geology
264	Part II	Submit information for on-site local geologic or geomorphologic features	Required	330.559(2)	No		N/A, See Section 9.6	Geology
265	Part II	Identify local human-made features or events	Required	330.559(3)	No		N/A, See Section 9.6	Geology

CITY OF WACO LANDFILL
TCEQ PERMIT NO. MSW-2400
McLENNAN AND LIMESTONE COUNTIES, TEXAS

PARTS I/II
GENERAL APPLICATION REQUIREMENTS

Prepared for:

CITY OF WACO

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SCS Engineers
TBPE Reg. # F-3407

LIST OF ACRONYMS

BMPs - Best Management Practices
CFR - Code of Federal Regulations
CLOMR - Conditional Letter of Map Revision
CMP - corrugated metal pipe
EPA - U.S. Environmental Protection Agency
ETJ - extraterritorial jurisdiction
FAA - Federal Aviation Administration
FEMA - Federal Emergency Management Agency
FIRM - Flood Insurance Rate Map
FWS - U.S. Fish and Wildlife Service
MSL - mean sea level
MSW - municipal solid waste
MSWR - Municipal Solid Waste Regulations
NAAQS - National Ambient Air Quality Standards
NCTCOG - North Central Texas Council of Governments
NFIP - National Flood Insurance Program
NOI - Notice of Intent
NWP - Nationwide Permit
OCC - old corrugated cardboard
ONP – old news paper
PCBs - polychlorinated biphenyls
RCRA - Resource Conservation and Recovery Act
SDP - Site Development Plan
SOP - Site Operating Plan
SUP – Specific Use Permit
TAC - Texas Administrative Code
TCEQ – Texas Commission on Environmental Quality
TPDES - Texas Pollutant Discharge Elimination System
TPWD - Texas Parks and Wildlife Department
TWC - Texas Water Commission
TxDOT - Texas Department of Transportation
USACE - U.S. Army Corps of Engineers

SUPPLEMENTARY TECHNICAL REPORT

The proposed City of Waco Landfill will be a Type I Municipal Solid Waste (MSW) Landfill located on 502.5 acres of land in McLennan and Limestone Counties approximately 0.4 miles south of the intersection of State Highway 31 and T K Parkway (also known as Farm-to-Market [FM] 939). The primary purpose of this landfill is to serve as a replacement for the current City of Waco landfill (MSW Permit No. 948A), consistent with the Regional Solid Waste Management Plan, 2013 Update approved by the Heart of Texas Council of Governments.

This landfill is intended to serve a similar customer base as the City of Waco's current landfill, which has an estimated remaining operating life of 6.9 years as of September 2017. While the City of Waco expects to continue its recycling and waste diversion programs, it is conservatively estimated that this proposed landfill's waste acceptance rate will continue to increase consistent with the population growth in McLennan County. As such, assuming a commensurate continued growth trend, it is anticipated that the proposed landfill will receive approximately 1,070 tons of solid waste per day in its initial year of operation, estimated to be 2024. Assuming that the waste inflow volume will continue to increase at this same growth rate, the expected maximum waste acceptance rate is estimated to be approximately 1,140 tons per day after a five-year period of operation. The above projections are based on current market conditions, and may vary as market conditions and recycling and waste diversion practices change.

The landfill facility will be accessed from T K Parkway (FM 939) with its entrance approximately 0.4 mile south of the intersection of T K Parkway and State Highway 31. A gatehouse and scales will be provided within the facility boundary. Additional facilities will include a maintenance/administration building and citizen's collection station.

The major classifications of solid waste to be accepted at the landfill include household waste, yard waste, commercial waste, Class 2 and Class 3 non-hazardous industrial wastes, construction-demolition waste, and special wastes. The landfill environmental protection features will include a liner system, a leachate collection system, a final cover system, and a surface water management system, all of which will meet or exceed the requirements of the TCEQ. Groundwater and stormwater will be monitored to verify the integrity of the environmental protection features consistent with the requirements of the TCEQ.

Parts I and II of this application are being submitted consistent with TCEQ's Municipal Solid Waste Regulations, 30 Texas Administrative Code (TAC) Chapter 330.

1 INTRODUCTION

The City of Waco proposes to develop and operate a Type I Municipal Solid Waste (MSW) Landfill on 502.5 acres of land located in McLennan and Limestone Counties, Texas. This landfill will be located approximately 0.4 miles south of the intersection of State Highway 31 and T K Parkway (also known as Farm-to-Market [FM] 939), as shown on Drawing I/II-1 – Site Location Map. The landfill will provide disposal capacity for residences, businesses, and industries in the communities of McLennan and Limestone Counties and other nearby counties. In addition, the landfill will accept waste from municipal, private, and public haulers from surrounding communities and counties. The landfill will accept municipal solid waste, and special wastes as authorized by the Texas Commission on Environmental Quality (TCEQ) and as defined in Section 2.2.2.

Parts I/II of this permit application have been prepared consistent with 30 TAC §330.59 and §330.61. In accordance with 30 TAC §330.57(c)(2), Parts I and II have been combined. Section 2, General Information, presents an overview of the project and a detailed landfill description as well as the types of waste that will be accepted at the landfill. The remaining portions of Parts I/II of this application present information on specific existing conditions on and around the site and matters of the entities involved in the application process. Drawings referenced throughout this document are provided at the end of Parts I and II.

2 GENERAL INFORMATION

2.1 PROJECT OVERVIEW

The proposed landfill will be a Type I MSW landfill with a permit boundary of 502.5 acres. The waste disposal footprint will encompass 175.7 acres, separated into two (2) disposal areas, with the East Disposal Area comprised of 112.9 acres and West Disposal Area comprised of 62.8 acres, as shown on Drawing I/II-5 – Facility Layout Plan. The landfill will serve residences, businesses, and industries in the communities of McLennan and Limestone County and other nearby counties transported to the landfill by municipal, private, and public haulers. The landfill will accept waste as defined in Section 2.2.2, including municipal solid waste, Class 2 and Class 3 non-hazardous industrial wastes, and special wastes authorized by the TCEQ.

This permit application includes the TCEQ required information, in accordance with 30 TAC §330.59 and §330.61. The proposed landfill is consistent with the region's waste capacity needs, as noted by the Heart of Texas Council of Governments (HOTCOG) (see Appendix I/IIA for documentation of coordination with HOTCOG).

2.2 WASTE ACCEPTANCE PLAN (30 TAC §330.61(B))

2.2.1 Disposal Rate and Volume of Waste

This landfill is intended to serve a similar customer base as the City of Waco's current landfill (referred to as Site 948A, based on its Permit No. MSW-948A). As indicated in Site 948A's fiscal year 2017 Annual Report to the TCEQ, the remaining life for Site 948A is estimated to be 6.9 years as of September 2017. While the City of Waco expects to continue its recycling and waste diversion programs, it is conservatively estimated that this proposed landfill's waste acceptance rate will continue to increase consistent with the population growth in McLennan County. As described in Appendix I/IIC – Land-Use Analysis, growth trends in McLennan County have increased by 1.25% on average between 2010 through 2016. As such, assuming this continued population growth trend, it is anticipated that the proposed landfill will receive approximately 305,000 tons of solid waste per year in its initial year of operation, estimated to be 2024. This translates to an initial disposal rate of approximately 1,070 tons per day over a 286 day per year operating schedule. Assuming that the waste inflow volume will continue to increase at this same growth rate, the expected maximum annual waste acceptance rate is estimated to be approximately 325,000 tons per year after a five-year period of operation, which translates to a disposal rate of approximately 1,140 tons per day over a 286 day per year operating schedule. The above projections are based on current market conditions, and may vary as market conditions and recycling and waste diversion practices change.

Over the life of the landfill, it is anticipated that the population served by the landfill will change as warranted by the needs of the area and market conditions. Based on an estimated 6.7 pounds of waste generated daily per person (ref: HOTCOG Regional Solid Waste Plan, 2013 Update), assuming an initial disposal rate of 1,070 tons per day, the number of people served by the landfill will be approximately 319,000 persons. Based on the maximum acceptance rate of 1,140

tons per day after a five-year period of operation, the number of people served by the landfill will be approximately 340,000 persons.

2.2.2 Properties and Characteristics of Waste

The major classifications of solid waste to be accepted at the landfill include household waste, yard waste, commercial waste, Class 2 and Class 3 non-hazardous industrial wastes, construction-demolition waste, and special wastes. Each classification of waste is defined in 30 TAC §330.3 and summarized below:

- **Household Waste:** Any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas) does not include yard waste or brush that is completely free of any household wastes.

- **Yard Waste:** Yard waste includes leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material not greater than 6 inches in diameter that results from landscaping maintenance and land-clearing operations. The term does not include stumps, roots, or shrubs with intact root balls.

- **Commercial Solid Waste:** Solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

- **Industrial Waste (Nonhazardous):** Solid waste resulting from or incidental to any process of industry or manufacturing, mining or agricultural operations, classified as follows:

  - Class 2 Industrial Solid Waste - any individual solid waste or combination of industrial solid wastes that cannot be described as Class 1 or Class 3, as defined in 30 TAC §335.506 (relating to Class 2 waste determination).

  - Class 3 Industrial Solid Waste – any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in 30 TAC §335.507 (relating to Class 3 waste determination).

- **Construction-Demolition Waste**: Waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, and plastics.

- **Special Wastes:** Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect human health or the environment. If improperly handled, transported, stored, processed, or disposed of, or otherwise managed, it may pose a present or potential danger to human health or the environment.

Any special waste accepted at the landfill will be in accordance with 30 TAC §330.171. Consistent with 30 TAC §330.15(e) the facility will not accept regulated hazardous waste, polychlorinated biphenyls (PCBs), and all other prohibited waste defined therein. Additionally, Class I industrial solid waste will not be accepted at this facility.

2.3 EASEMENTS AND BUFFER ZONES

2.3.1 Easement Protection (30 TAC §330.543(a))

Easements are described in Section 3 and shown on the metes and bound survey in Section 14, Attachment 14A. At the time of landfill development or cell construction, the waste disposal footprint will be located at least 25-feet from the centerline of the utility and pipeline easements, but no closer than the easement boundary, consistent with 30 TAC §330.543(a). All pipeline and utility easements shall be clearly marked with posts that extend at least six feet above ground level, spaced at intervals no greater than 300 feet. No solid waste unloading, storage, disposal, or processing operations will occur within any easement or right-of-way that crosses the facility, unless and until the easement has been abandoned or relocated.

2.3.2 Buffer Zones (30 TAC §330.543(b))

The Site will be developed with buffer zones of at least 125 feet between areas of solid waste disposal, storage, and processing (e.g. Type I waste disposal units, citizen's convenience center, etc.) and the permit boundary in accordance with 30 TAC §330.543(b)(2)(A). Buffer zones for the Site are depicted on Drawing I/II-5, which are greater than or equal to 125 feet. Access roads are provided in the buffer zones, which provide for safe passage for firefighting and other emergency vehicles. No solid waste unloading, storage, disposal, or processing operations will occur within any buffer zone.

2.4 AGENCY COORDINATION

Documentation of coordination with the following agencies is included in Appendix I/IIA.

- Texas Parks and Wildlife Department
- U.S. Department of the Interior, Fish and Wildlife Service
- Texas Historic Commission
- Texas Department of Transportation
- Heart of Texas Council of Governments (HOTCOG)
- Federal Aviation Administration
- U.S. Army Corp of Engineers

3 EXISTING CONDITIONS SUMMARY (30 TAC §330.61(a))

The existing site conditions are generally depicted on Drawing I/II-2 – General Topographic Map. The proposed landfill will be located on a 502.5-acre property (referred to herein as "the Site") that is located approximately 0.4 mile south of the intersection of State Highway 31 and FM 939 (see Drawing I/II-1). The Site, which is located in both McLennan and Limestone Counties, is currently comprised of rural native pasture land. The Site is relatively flat, and slopes gently to the center of the site towards Horse Creek. Surface water generally drains southeast from the western portion of the Site towards Horse Creek and generally drains south/southwest from the eastern portion of the Site towards Horse Creek and Packwood Creek. These creeks are tributaries of Soil Conservation Services Site 19 Reservoir, which discharges into Williams Creek located south of the Site and eventually flows into Tehuacana Creek about 11 miles southwest of the Site.

A portion of the Site is located in the 100-year floodplain, as described in Section 11.1. The waste disposal footprint is located entirely outside the limits of the 100-year floodplain (see Drawing I/II-5).

There are four (4) known easements on the Site, including a fiber optic, flowage, waterline, and electric line easement, as shown on the metes and bound survey in Section 14, Attachment 14A. The flowage easement is under the jurisdiction of the Tehuacana Creek Water Control and Improvement District Number One (1) of Leroy, Texas. No waste is proposed to be placed in the flowage easement. The 10-foot fiber optic easement crosses the northern portion of the Site in northeast/southwest direction. No waste will be placed in the easement until either it is shown that the portion of the easement to receive waste has expired, or has been abandoned. There is also a 20-foot electric line easement on the west side of the property and 15-foot waterline easement on the property. No waste is proposed to be placed in either the electric line easement or the waterline easement. All easements and associated deed records are further identified on the metes and bound survey provided in Section 14, Attachment 14A.

4 MAPS (30 TAC §330.59(c))

A site location map is presented on Drawing I/II - 1 - Site Location Map, which is based on McLennan and Limestone County Highway Maps. Additionally, a general topographic map is included on Drawing I/II – 2 - General Topographic Map , which includes the Wind Rose as well as structures and inhabitable buildings within 500 feet of the Site. All drawings are located at the end of Parts I & II under the Drawings tab.

5 LANDOWNERS' MAP AND LIST

In accordance with 30 TAC §330.59(c)(3)(B) and §305.45(a)(6)(D), the landowners' list presents the names and mailing addresses of the landowners of property within one-quarter (1/4) mile of the Site, as provided in Table 5-1. The numbering in the landowners list corresponds to the numbers on Drawing I/II-3, which depicts the locations of the landowners. The landowners' list and map are based on the McLennan, Limestone, and Hill County Appraisal Districts' property records, as of April 2018. Additionally, mineral interest owners shown in Table 5-2 were identified in the real property records for McLennan and Limestone Counties as provided by the Title company. Neither McLennan nor Limestone Counties identify mineral interests in their real property appraisal records.

Table 5-1 Landowners

1.	City of Waco 300 Austin Avenue Waco 76702	7.	Te Kay Ranch*	13.	Baugh Connally E 4396 TK Pkwy Axtell, TX 76624
2.	Milton Capital LLC 3119 Milton Ave Dallas, TX 75205	8.	Lee Mike Rex et al 3096 Happy Swaner Ln Axtell, TX 76624	14.	Griffin Kids Collectables 201 N 38th St Waco, TX 76710
3.	Dunlap Billie J 536 St Hwy 31 Mt. Calm, TX 76673	9.	Swaner Fred Lee Jr 4351 TK Pkwy Axtell, TX 76624	15.	Reed David L 3444 TK Pkwy Axtell, TX 76624
4.	Dunlap Joe W & Cynthia 211 State Hwy 31 Mt. Calm, TX 76673	10.	Swaner Troy Don 3132 Lovers Ln Dallas, TX 75225	16.	Jameson Mary Jo Grubbs Trustee et al 1910 Channing Park Dr Arlington TX 76013
5.	Trayler James F 796 LCR 114 Waco, TX 76705	11.	Hayes Matthew A & Ferdie 4550 TK Parkway Axtell, TX 76624	17.	Coggin Mary Ruth 532 LCR 112 Axtell, TX 76624
6.	Unknown Ownership*	12.	Foster Jayme L 4418 TK Pkwy Axtell, TX 76624		

*No information available per Kevin Fikes at the McLennan County Appraisal District

Table 5-2 Mineral Interest Owners

Joe Thompson*	St. Louis Southwestern Railway Company*	Jim B. Horn Rt. 1, Box 60 Axtell, TX 76624
Tant Horn 609 Norma Waco, TX 76705	Union Pacific Railroad Company*	Ridley and Locklin*
Sun Oil Company*	Paul Barenkamp 8233 Purdue Tyler, TX 75701	St. Louis Southwestern Railway Company*

*No address available in lease summaries.

6 AERIAL PHOTOGRAPH

In accordance with 30 TAC §330.61(f), an aerial photograph of the Site and surrounding area is presented on Drawing I/II-4.

7 LAND-USE AND IMPACT ON SURROUNDING AREA (30 TAC §330.61(G) & (H))

7.1 LAND USE ANALYSIS (30 TAC §330.61(G) & (H)(1)-(4))

See report by John Worrall Consulting LLC in Appendix I/IIC, which addresses the TCEQ regulations listed above.

7.2 WATER WELLS WITHIN 500 FEET (30 TAC §330.61(H)(5))

A water well search was performed by Atlas Environmental Research for water wells located within 500 feet of the property. This water well search indicates no known water wells within 500 feet of the permit boundary. Additionally, no known in use water wells exist within the property boundary. This water well report is provided in Appendix I/IIB.

7.3 ABANDONED OIL AND WATER WELLS (30 TAC §330.61(L))

There are no known existing or abandoned water wells situated within the permit boundary. If water wells are discovered on the Site, the City of Waco will provide the TCEQ with written certification within 30 days of discovery that these wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the commission or other state agency.

Atlas Environmental Research also performed a search for existing or abandoned oil and natural gas wells within the property boundary. Based on this search, there are no known existing or abandoned on-site crude oil or natural gas wells, or other wells associated with mineral recovery that are under the jurisdiction of the Railroad Commission of Texas. This well report is also provided in Appendix I/IIB.

If any oil or natural gas wells are discovered within the permit boundary, the City of Waco will provide written notification to TCEQ of their location. If any discovered well is within the waste disposal footprint or may impact operations of the landfill, the City of Waco will provide the TCEQ with written certification within 30 days of discovery that these wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the Railroad Commission of Texas.

8 TRANSPORTATION (30 TAC §330.61(i))

8.1 TRAFFIC INFORMATION

The proposed landfill will be located on FM 939, also known as T K Parkway. The primary access route to the landfill will be via State Highway (SH) 31 and FM 939. Currently, FM 939 is a two-lane asphalt-paved road. SH 31 is a concrete-paved four-lane divided highway that connects the City of Waco to FM 939. The landfill entrance will be located approximately 0.4 mile south of the intersection of SH 31 and FM 939. These existing roadways provide adequate access to the proposed landfill. The proposed access roads for the landfill within a one-mile radius are depicted on Drawing I/II-1 – Site Location Map. Confirmation of coordination with the Texas Department of Transportation (TxDOT), Waco District, is included in Appendix I/IIA.

According to the 2016 Waco District Traffic Map, the traffic counts on FM 939 adjacent to the proposed landfill entrance were 607 vehicles per day. Additionally, according to the same traffic map, traffic counts for SH 31 were 6,063 vehicles per day near the intersection of FM 939 and SH 31, approximately 0.4 mile north of the proposed landfill entrance. The 2016 Waco District Traffic Map is provided in Appendix I/IID.

The maximum initial increase in vehicle traffic on FM 939 and SH 31 associated with the landfill is estimated to be 250 vehicles per day, based on the initial waste acceptance rate described in Section 2.2.1. Assuming that the waste inflow volume will continue to increase in accordance with growth trends in McLennan County (i.e., 1.25% as provided in Appendix I/IIC), the total vehicle traffic on FM 939 and SH 31 associated with the landfill is estimated to increase to 400 vehicles per day over the life of the landfill. This may include transfer trucks, collection trucks and small vehicles, as well as landfill employee vehicles. This estimated increase in traffic is dependent on the method of waste transport (i.e., direct haul vs. use of transfer trailers), the use of the landfill by small vehicles, as well as market dynamics of the waste collection and hauling business.

Based on available information, the existing access roadways are considered to be adequate to handle the estimated increased traffic volumes associated with the proposed landfill. Nevertheless, to provide for enhanced efficiency of vehicle movement, the City is planning to improve the section of FM 939 between SH 31 and the landfill entrance. These proposed improvements include the following:

- a structural overlay on the two-lane road;
- adding eight-foot shoulders on both sides of the road; and
- adding a turning lane for the southbound vehicles entering the landfill.

8.2 AIRPORTS (30 TAC §330.619(C)(8) & §330.545)

There are no airports located within a six mile radius of the landfill, as depicted on Drawing I/II-1. Coordination with the FAA is included in Appendix I/IIA.

9 GENERAL GEOLOGY AND SOILS STATEMENT (30 TAC §330.61(i))

9.1 REGIONAL GEOLOGIC SETTING

The Site is located in the Blackland Prairie subdivision of the Coastal Plain physiographic province. Soils derived from the underlying formation generally are low hydraulic conductivity geologic formations and are typically dark, clay-rich, and drain slowly.

The Site is primarily situated on the outcrop of the Wolfe City Formation, a Cretaceous age calcareous clay/marl/sand/shale. The Wolfe City Formation is described by the *Geologic Atlas of Texas, Waco Sheet* (1970) as:

> *Marl, sand, sandstone, and clay; marl, sandy, silty, dark gray to light gray and brown, interbedded with, thin sandstone lenses cemented by sparry fine to coarse grained calcite, grain size increases northward; uncemented sand increases northward; clay; glauconitic, phosphate and hematite nodules, dark gray to brown; thickness up to 300 feet, feathers out near southern edge of sheet.*

9.2 SITE GEOLOGY

Site geologic conditions encountered in field investigations were consistent with the Wolfe City Formation descriptions in relevant literature. Site geology is characterized by three layers as follows, from the ground surface downward to a maximum drilled depth of 100 feet.

- Layer 1: Overlying soil horizon, light brown to dark brown, soft, clay.
- Layer 2: Hard, brown to mottled grey, high plasticity, calcareous clay, with minor amounts of dark gray to brown, very fine-grained sand. The contact with the underlying unweathered shale (see below) is marked by a clear color change from dark gray and brown to dark gray and black.
- Layer 3: Hard, fissile, unweathered, dark gray to black, fossil bearing shale with small 1/8” to 1/2” lenses of sand and limestone (to bottom of borings).

Based on available information, including field investigation of the Site, the geology of the Site is considered suitable for landfill development.

9.3 ON-SITE SOILS

The Site is located in Limestone and McLennan counties and is composed of 11 soil types. The majority of the Site consists of Wilson clay loam, which consists of very deep, moderately well drained, very slowly permeable soils found on stream terraces and Axtell fine sandy loam, which consists of very deep, moderately well drained, very slowly permeable soils found on broad river terraces. Following are detailed results from the two County soil reports:

- Natural Resource Conservation Service's Soil Geographic Database for Limestone County: Axtell fine sandy loam, Ferris clay, Ferris-Heiden complex, Heiden clay, Houston Black clay, Tinn clay, and Wilson clay loam.

- Natural Resource Conservation Service's Soil Geographic Database for McLennan County: Crockett loam, Heiden clay, and Wilson clay loam.

9.4 FAULT AREAS

The proposed Site was reviewed for the presence of faulting in accordance with 30 TAC §330.555 criteria by a professional geologist licensed in the State of Texas. The study included review of aerial photographs and a search of relevant geophysical literature for this area, consistent with criteria defined in 30 TAC §330.555(b) (1) – (12). No evidence was found for any fault within 200 feet of the Site boundary having displacement within Holocene time, as shown on Drawing I/II-6 - Regional Tectonic/Geology Map. Therefore, the landfill is in compliance with the Fault Areas Restrictions stated in 30 TAC §330.555.

Fault evaluation conducted by SCS Engineers included:

1. Review of published geologic maps.
2. Review of published surficial fault maps.
3. Review of aerial photographs.
4. Field inspection for fault indications/surface displacement.

9.5 SEISMIC IMPACT ZONES

The location restriction criterion in 30 TAC §330.557 requires that new disposal units and lateral expansions not be located in seismic impact zones unless the owner or operator can demonstrate that all containment structures, including liners, leachate collection systems, and surface water control systems are designed to resist the maximum horizontal acceleration in lithified earth material for the landfill. A seismic impact zone is defined as an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years. If the maximum horizontal acceleration is less than or equal to 0.10 g, then the design of the unit will not need to incorporate an evaluation of seismic effects.

Areas within the United States where seismic effects need to be evaluated, as determined by the United States Geological Survey (USGS), are shown on Drawing I/II-7 – Seismic Impact Map. As indicated on this drawing, the landfill property is not located within a seismic impact zone as defined by 30 TAC §330.557. Therefore, an evaluation of the seismic effects on the landfill design is not required for this landfill.

9.6 UNSTABLE AREAS

The location restriction criteria in 30 TAC §330.559 require engineering measures to be incorporated into the design of a disposal unit located in an unstable area to ensure that the integrity of the structural components of the disposal unit will not be disrupted. Unstable areas, by definition, are areas susceptible to natural or human-induced events or forces that are capable of impairing the integrity of some or all structural components (i.e., liners, leachate collection systems, final covers, etc.) of a disposal unit. Unstable areas can include poor foundation conditions, areas susceptible to mass movement, salt domes, or karst terrain.

Based on information from existing geological and geotechnical data (reference: Bureau of Economic Geology, University of Texas at Austin), unstable areas due to poor foundation conditions, areas susceptible to mass movement, salt domes, or karst terrain do not exist at, or immediately adjacent to the Site. Therefore, additional engineering measures for unstable areas do not need to be incorporated into the design of the landfill.

10 GROUNDWATER AND SURFACE WATER STATEMENTS (30 TAC §330.(k))

10.1 GROUNDWATER STATEMENT

The Trinity Aquifer is the defined major aquifer in this region, which is also located at or near the Site. This aquifer underlies an area of approximately 41,000 square miles. The Trinity Aquifer is composed primarily of Cretaceous sandstone, sand, silt, clay, shale, conglomerate, and carbonates. The stratigraphic units that make up the Trinity Aquifer are generally the basal Hosston and Sligo Formations, and the overlying Travis Peak, Glen Rose, and Paluxy Formations (U.S.G.S., 1996).

The beds of the Trinity Aquifer dip gently to the south-southeast, towards the Gulf, and aquifer thickness increases in that direction. Groundwater gradient is to the southeast except where affected by local pumping, which has created water-level declines of up to 400 feet in the Waco area. The transmissivity of the Trinity Aquifer varies widely due to lithology changes, from about 80 to 5,700 square feet per day (ft^2/d), and the storage coefficient ranges from about 0.00002 to 0.026. Recharge to the Trinity Aquifer is primarily from precipitation falling in the outcrop areas, approximately 40 miles west of the Site.

The basal Walnut Clay of the Fredericksburg Group functions as the regional upper confining unit to the underlying Trinity Aquifer (Baker et al., 1990). The Walnut Clay is approximately 125 to 175 feet thick in the vicinity of the Site (Barnes, 1970).

Liquids resulting from the operation of the landfill will be disposed of in a manner that will not cause groundwater contamination.

The proposed landfill is not located over the recharge zone of the Edwards Aquifer as delineated on maps maintained by TCEQ. Therefore, the proposed landfill is not subject to 30 TAC §330.213.

10.2 SURFACE WATER STATEMENT

As shown on Drawing I/II-2, the proposed landfill will be located within the drainage basin of the Brazos River. Surface water generally drains southeast from the western portion of the property towards Horse Creek and generally drains south/southwest from the eastern portion of the property towards Horse Creek and Packwood Creek (see Section 3, related to Existing Conditions Summary).

Stormwater runoff from the developed landfill will be conveyed through perimeter drainage channels that discharge into detention basins prior to discharging offsite as overland flow. The surface water drainage system for the developed landfill will be designed in accordance with 30 TAC §330.63(c). Stormwater will be conveyed from the landfill property into natural drainage features, including Horse and Packwood Creeks. These creeks are tributaries of Soil Conservation Services Site 19 Reservoir, which discharges into Williams Creek located south of

the property and eventually flows into Tehuacana Creek approximately 11 miles southwest of the property. Tehuacana Creek discharges into the Brazos River approximately 15 miles southwest of the property.

Liquids resulting from the operation of the landfill will be disposed of in a manner that will not cause surface water contamination. The landfill is being designed to prevent discharge of pollutants into waters of the State or waters of the United States, as defined by the Texas Water Code and the Federal Clean Water Act, §402, as amended, respectively. Consistent with TCEQ requirements, a Notice of Intent (NOI) will be submitted to the TCEQ and a Stormwater Pollution Prevention Plan will be developed prior to the commencement of landfill operations to obtain coverage under the Texas Pollutant Discharge Elimination System (TPDES) General Permit, TXR050000 for Stormwater Discharges associated with Industrial Activity. In addition, an NOI will be submitted the TCEQ and a Stormwater Pollution Prevention Plan will be developed prior to construction to obtain coverage under the TPDES General Permit, TXR150000 for Stormwater Discharges Associated with Construction Activity.

The City will obtain appropriate approvals or permits that may be required by local agencies for connection to a sanitary sewer or installation of an on-site domestic wastewater management system.

11 FLOODPLAIN AND WETLANDS STATEMENT (30 TAC §330.61(m))

11.1 FLOODPLAIN STATEMENT

A small portion of the Site is within the 100-year floodplain of Horse and Packwood Creeks. The floodplain limits were obtained from the current effective Flood Insurance Rate Maps (Panels 48309C0250C and 48293C0125C) obtained from FEMA for portions of McLennan and Limestone County. The floodplain limits have been established as Zone A which indicates that no flood elevations have yet been determined along these creeks on the Site. The 100-year floodplain is shown on Drawings I/II-2, I/II-4, and I/II-5.

The proposed waste disposal footprint is located entirely outside the limits of the 100-year floodplain. In accordance with 30 TAC §330.547(a), no solid waste disposal operations will take place within the 100-year floodplain, and therefore no development is proposed in the 100-year floodplain. As such, no levee or other flood protection improvement is proposed. Additionally, in accordance with 30 TAC §330.547(b), site operations and development will not restrict the flow or reduce the temporary storage capacity of the 100-year floodplain; nor will the site operations result in washout of solid waste associated with the 100-year floodplain. Furthermore, in accordance with 30 TAC §330.547(c), all storage and processing facilities (e.g., onsite citizen's convenience center) will be located outside of the 100-year floodplain.

11.2 WETLANDS STATEMENT

See Appendix I/IIA for the coordination letter with the U.S. Army Corps of Engineers, and Section 404 Jurisdiction Determination report by C. Lee Sherrod of Horizon Environmental Services in Appendix I/IIE, which addresses the pertinent TCEQ regulations (30 §TAC 330.61(m)(2)) regarding wetlands. As noted in the coordination letter in Appendix I/IIA, "No wetlands will be impacted by the proposed landfill activity." Additionally, as noted in the jurisdiction determination report (see Appendix I/IIE), no wetlands exist within the two proposed disposal areas.

12 PROTECTION OF ENDANGERED OR THREATENED SPECIES (30 TAC §330.61(n))

See coordination letters to the US Fish and the Texas Parks and Wildlife Department (with attachments) from C. Lee Sherrod of Horizon Environmental Services in Appendix I/IIA. These letters address the TCEQ regulations listed above, noting, "The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species."

In view of the above, consistent with 30 TAC §330.61(n), it is concluded that the development and operation of this landfill 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 threatened or endangered species or result in adverse impact to critical habitat of threatened or endangered species.

13 LEGAL DESCRIPTION (30 TAC §330.59(d)(1))

A legal description of the permit boundary of the proposed landfill is included as Attachment 14A of Section 14 of this Part I and II. Easements are described in Section 3 of this Part I and II, as well as shown on the metes and bounds survey provided in Attachment 14A.

14 PROPERTY OWNER AFFIDAVIT (30 TAC §330.59(d)(2))

The property owner affidavit and attached legal description are included on the following pages.

PROPERTY OWNER AFFIDAVIT

City of Waco, the owner of record of the property described in Attachment 14A hereto (502.5 acre parcel located at 4730 T K Parkway, Axtell, Texas), acknowledges and is aware that City of Waco plans to file for a permit to operate a solid waste Type I Landfill, Citizen's Collection Station, and related facilities upon said property.

City of Waco acknowledges that the State of Texas may hold City of Waco either jointly or severally responsible for the operation, maintenance, and closure and post-closure care of the facility.

City of Waco acknowledges that it has a responsibility to file with McLennan and Limestone Counties deed records an affidavit to the public advising that the land 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 §330.19.

City of Waco acknowledges the facility owner or operator and the State of Texas shall have access to the property during the active life and post-closure care period, if required, after closure for the purpose of inspection and maintenance.

WITNESS MY HAND on this day, August 7, 2018.

City of Waco
401 Franklin Avenue
Waco, TX 76701

By: Wiley Stem III, City Manager
City of Waco

Signature

SWORN TO AND SUBSCRIBED BEFORE ME by the said Wiley Stem III this 7th day of August, 2018, to certify which witness my hand and seal of office.

Notary Public in and for McLennan County, Texas
My commission expires on June 5, 2020

BRITTANY COMBS
Notary ID # 126545112
My Commission Expires
June 5, 2020

Printed Name Brittany Combs
Brittany Combs

ATTACHMENT 14A

METES AND BOUNDS SURVEY AND LEGAL DESCRIPTION

Walker Partners
engineers ★ surveyors

823 Washington Ave.
Waco, Texas 76701

502.493 ACRES
LOCATED IN THE WILLIAM W. BOREN SURVEY, ABSTRACT 1155 IN McLENNAN COUNTY, TEXAS AND THE WILLIAM W. BOREN SURVEY, ABSTRACT 54 IN LIMESTONE COUNTY, TEXAS

FIELD NOTES FOR A 502.493 ACRE TRACT OF LAND LOCATED IN THE WILLIAM W. BOREN SURVEY, ABSTRACT 1155 IN McLENNAN COUNTY, TEXAS AND THE WILLIAM W. BOREN SURVEY, ABSTRACT 54 IN LIMESTONE COUNTY, TEXAS, AND BEING ALL OF A CALLED 498.40 ACRE TRACT DESCRIBED IN A DEED TO DAVID BENJAMIN ROYALTY, JR. AND WIFE, LORI ROYALTY RECORDED IN McLENNAN COUNTY CLERK'S DOCUMENT (M.C.C.D.) 2002018663 OF THE OFFICIAL PUBLIC RECORDS OF McLENNAN COUNTY, TEXAS (O.P.R.M.C.T.), AND ALL OF A CALLED 100 FEET WIDE (4.20 ACRE) TRACT DESCRIBED IN A DEED TO DAVID ROYALTY AND LORI ROYALTY, HUSBAND AND WIFE, RECORDED IN VOLUME 1101, PAGE 715 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS (D.R.L.C.T.). SAID 502.493 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED BOUNDARY SURVEY DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD WITH A CAP STAMPED "1519" FOUND IN THE EAST RIGHT-OF-WAY LINE OF FARM TO MARKET HIGHWAY 939, ALSO KNOWN AS TK PARKWAY (100' WIDE) MARKING THE NORTHWEST CORNER OF A CALLED 20.01 ACRE TRACT DESCRIBED IN A DEED TO MATTHEW A. HAYES AND WIFE, FERIDE HAYES RECORDED IN M.C.C.D. 2017039630 OF THE O.P.R.M.C.T., SAME BEING AN OUTSIDE ELL CORNER OF SAID 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD FOUND IN THE EAST RIGHT-OF-WAY LINE OF SAID FARM TO MARKET HIGHWAY 939 MARKING THE SOUTHWEST CORNER OF SAID 20.01 ACRE TRACT BEARS S 32°06'17" E – 685.92';

THENCE N 31°57'55" W – 1872.13' WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID FARM TO MARKET HIGHWAY 939 TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING AN ANGLE POINT OF THE WEST LINE OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE N 31°49'49" W – 176.13' WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID FARM TO MARKET HIGHWAY 939 TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING THE SOUTHWEST CORNER OF THE TE KAY CHURCH AND CEMETERY TRACT (NO DEED FOUND OF RECORD BY THIS SURVEYOR) FOR AN OUTSIDE ELL CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID TE KAY CHURCH AND CEMETERY TRACT THE FOLLOWING THREE CALLS:

1) **N 59°42'05" E – 381.98'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING THE SOUTHEAST CORNER OF THE TE KAY CHURCH AND CEMETERY TRACT FOR AN INSIDE ELL CORNER OF THE HEREIN DESCRIBED TRACT,
2) **N 31°31'21" W – 214.12'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING THE NORTHEAST CORNER OF THE TE KAY CHURCH AND CEMETERY TRACT FOR AN INSIDE ELL CORNER OF THE HEREIN DESCRIBED TRACT,
3) **S 60°45'31" W – 381.05'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND IN THE EAST RIGHT-OF-WAY LINE OF SAID FARM TO MARKET HIGHWAY 939 MARKING THE NORTHWEST CORNER OF THE TE KAY CHURCH AND CEMETERY TRACT FOR AN OUTSIDE ELL CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE N 31°35'38" W – 477.97' WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID FARM TO MARKET HIGHWAY 939 TO A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF A CALLED 103.09 ACRE TRACT DESCRIBED AS TRACT TWO IN A DEED TO JOE W. DUNLAP AND WIFE, CYNTHIA P. DUNLAP RECORDED IN M.C.C.D. 2016002452 OF THE O.P.R.M.C.T., FROM WHICH A 1/2" IRON ROD WITH A CAP STAMPED "M&A" FOUND IN THE EAST RIGHT-OF-WAY LINE OF FARM TO MARKET HIGHWAY 939 MARKING AN OUTSIDE ELL CORNER OF SAID 103.09 ACRE TRACT BEARS N 31°29'49" W – 698.20';

THENCE WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID 103.09 ACRE TRACT THE FOLLOWING TWO CALLS:

1) **N 58°07'19" E – 2437.98'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE SOUTHEAST CORNER OF THE 103.09 ACRE TRACT AND AN INSIDE ELL CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1" IRON PIPE FOUND BEARS S 57°43'00" E – 4.10',
2) **N 32°02'34" W – 1130.29'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND IN THE SOUTH LINE OF THE REMAINDER OF A CALLED 272.277 ACRE TRACT DESCRIBED IN A DEED TO BILLIE JOYCE DUNLAP RECORDED IN VOLUME 1578, PAGE 773 OF THE OFFICIAL PUBLIC RECORDS OF HILL COUNTY, TEXAS (O.P.R.H.C.T.) MARKING AN OUTSIDE ELL CORNER OF THE 103.09 ACRE TRACT AND AN OUTSIDE ELL CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE N 58°35'45" E – 2285.88' WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND THE REMAINDER OF SAID 272.277 ACRE TRACT TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET MARKING AN INSIDE ELL CORNER OF THE 272.277 ACRE TRACT, SAME BEING THE NORTHEAST CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE S 31°33'03" E – 347.32' TO A 1/2" IRON ROD FOUND MARKING A SOUTH CORNER OF THE REMAINDER OF THE 272.277 ACRE TRACT, SAME BEING THE MOST WESTERLY NORTHWEST CORNER OF A CALLED 593.964 ACRE TRACT DESCRIBED IN A DEED TO MILTON CAPITAL LLC RECORDED IN VOLUME 1911, PAGE 81 OF THE O.P.R.H.C.T., AND THE MOST NORTHERLY CORNER OF SAID 4.20 ACRE TRACT AND AN OUTSIDE CORNER OF THE 498.40 ACRE TRACT, FROM WHICH A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING THE MOST WESTERLY CORNER OF THE 4.20 ACRE TRACT BEARS S 33°14'02" W – 1855.13';

THENCE S 31°24'04" E – 110.31' WITH THE COMMON LINE OF SAID 4.20 ACRE TRACT AND SAID 593.964 ACRE TRACT TO A 1/2" IRON ROD FOUND MARKING THE MOST EASTERLY CORNER OF THE 4.20 ACRE TRACT AND AN OUTSIDE CORNER OF THE 498.40 ACRE TRACT;

THENCE WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID 593.964 ACRE TRACT THE FOLLOWING THREE CALLS:

1) **S 31°46'59" E – 1493.35'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND FOR AN ANGLE POINT,
2) **S 31°31'43" E – 1286.35'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
3) **S 31°37'54" E – 1288.23'** TO A 3/4" IRON PIPE FOUND MARKING A NORTHEAST CORNER OF A REMAINDER OF A CALLED 280.3 ACRE TRACT DESCRIBED IN A DEED TO WILLIAM F. McKINNEY, TRUSTEE OF THE JENNIFER LYNN McKINNEY TRUST RECORDED IN VOLUME 787, PAGE 418 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS (D.R.L.C.T.), SAME BEING AN OUTSIDE ELL CORNER OF SAID 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD WITH A CAP STAMPED "CARTER 1935" FOUND FOR REFERENCE IN THE COMMON LINE OF SAID 593.964 ACRE TRACT AND THE REMAINDER OF SAID 280.3 ACRE TRACT BEARS S 31°52'57" E – 780.41';

THENCE S 58°25'05" W – 1017.76' TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING A NORTHWEST CORNER OF THE REMAINDER OF SAID 280.3 ACRE TRACT, SAME BEING AN INSIDE ELL CORNER OF SAID 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE S 31°17'08" E – 894.29' TO A 3/8" IRON ROD FOUND MARKING A SOUTHWEST CORNER OF THE REMAINDER OF SAID 280.3 ACRE TRACT, SAME BEING THE NORTHWEST CORNER OF A CALLED 338.93 ACRE TRACT DESCRIBED IN A DEED TO JAMES F. TRAYLOR AND WIFE, LOIS J. TRAYLOR RECORDED IN VOLUME 1315, PAGE 356 OF THE NAMED RECORDS OF LIMESTONE COUNTY, TEXAS;

THENCE S 31°44'43" E – 1180.79' WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID 338.93 ACRE TRACT TO A 1/2" IRON ROD WITH AN ILLEGIBLE CAP FOUND MARKING THE SOUTHEAST CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT AT A NORTHEAST CORNER OF ANOTHER REMAINDER OF SAID 280.3 ACRE TRACT;

THENCE WITH THE COMMON LINE OF SAID 498.40 ACRE TRACT AND SAID 280.3 ACRE TRACT THE FOLLOWING THREE CALLS:

1) **S 58°16'29" W – 1247.10'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND MARKING AN OUTSIDE ELL CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT,
2) **N 31°33'19" W – 693.61'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN INSIDE ELL CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD WITH AN ILLEGIBLE CAP FOUND BEARS S 01°16'18" E – 1.66',
3) **S 58°15'15" W – 1167.34'** TO A 1/2" IRON ROD WITH A CAP STAMPED "4748" FOUND IN THE EAST LINE OF A CALLED 54.606 ACRE TRACT DESCRIBED IN A DEED TO GRIFFIN KIDS COLLECTIBLES RECORDED IN M.C.C.D. 2008035950 OF THE O.P.R.M.C.T. AT AN OUTSIDE ELL CORNER OF THE REMAINDER OF THE 280.3 ACRE TRACT MARKING A SOUTHWEST CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID 54.606 ACRE TRACT AT AN INSIDE ELL CORNER OF THE REMAINDER OF THE 280.3 ACRE TRACT BEARS S 32°01'02" E – 689.02';

THENCE N 31°29'44" W – 1351.52' TO A 1/2" IRON ROD WITH A CAP STAMPED "1519" FOUND MARKING THE NORTHEAST CORNER OF SAID 54.606 ACRE TRACT, SAME BEING THE SOUTHEAST CORNER OF SAID 20.01 ACRE TRACT;

THENCE N 32°02'36" W – 686.78' TO A 1/2" IRON ROD FOUND MARKING THE NORTHEAST CORNER OF SAID 20.01 ACRE TRACT AT AN INSIDE ELL CORNER OF THE 498.40 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE S 58°03'46" W – 1270.75' WITH THE COMMON LINE OF THE SAID 498.40 ACRE TRACT AND SAID 20.01 ACRE TRACT RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 502.493 ACRES OF LAND.

THIS DESCRIPTION IS BASED ON THE ATTACHED BOUNDARY SURVEY DRAWING MADE BY DANA B. SPIGENER REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.

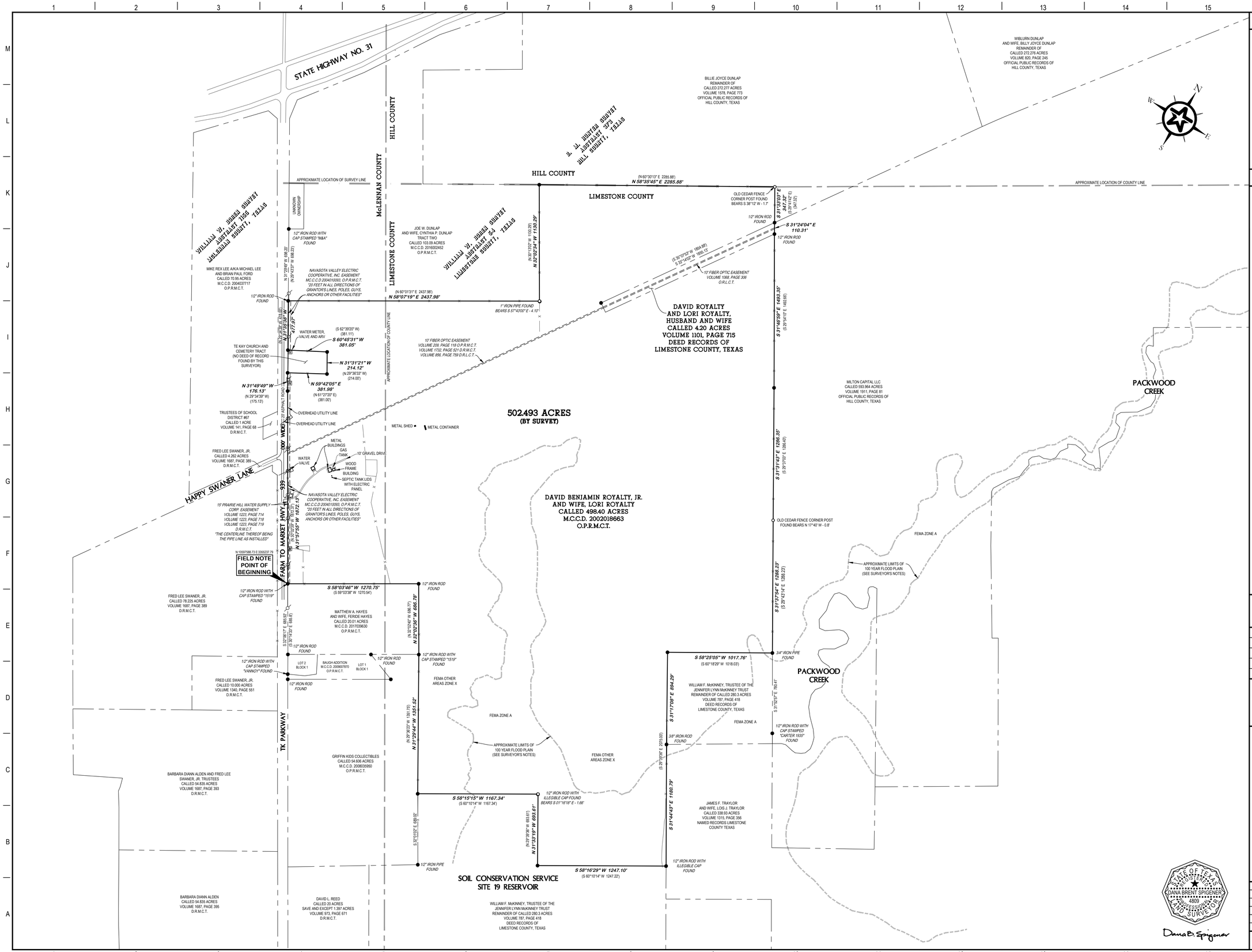
BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEYED: JANUARY & FEBRUARY, 2018
RELEASED: APRIL 16, 2018
REVISED: JULY 2, 2018

Dana B. Spigener
DANA B. SPIGENER, R.P.L.S. 4809

STATE OF TEXAS
REGISTERED
DANA BRENT SPIGENER
4809
PROFESSIONAL
LAND SURVEYOR

PROJ NO. 1-03063
PLAT NO. D1-0049
FIELD NOTE NO. 01
MAP CHECKED 04/13/2018 DBS



LEGEND

D.R.M.C.T.	= DEED RECORDS McLENNAN COUNTY, TEXAS
M.C.C.D.	= McLENNAN COUNTY CLERK'S DOCUMENT
O.P.R.M.C.T.	= OFFICIAL PUBLIC RECORDS McLENNAN COUNTY, TEXAS
D.R.L.C.T.	= DEED RECORDS LIMESTONE COUNTY, TEXAS
O.R.L.C.T.	= OFFICIAL RECORDS LIMESTONE COUNTY, TEXAS
( )	= DEED CALLS
○	= 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET
●	= 1/2" IRON ROD WITH CAP STAMPED "4748" FOUND UNLESS LABELED OTHERWISE
— X —	= BARBED WIRE FENCE
⋈	= WATER VALVE
Ⓦ	= WATER METER
—○—	= UTILITY POLE
⟵	= GUY WIRE
— E —	= OVERHEAD ELECTRIC LINE

SURVEYOR'S NOTES

SURVEY DATE: JANUARY & FEBRUARY, 2018

RELEASE DATE: JULY 18, 2018

FIELD NOTES ATTACHED HERETO, MADE A PART HEREOF AND TITLED:
502.493 ACRES LOCATED IN THE WILLIAM W. BOREN SURVEY, ABSTRACT 1155 IN McLENNAN COUNTY, TEXAS AND THE WILLIAM W. BOREN SURVEY, ABSTRACT 54 IN LIMESTONE COUNTY, TEXAS

THE SURVEYOR DID NOT ABSTRACT THE SUBJECT TRACT. THIS SURVEY WAS PERFORMED WITH THE BENEFIT OF A TITLE REPORT PROVIDED BY STEWART TITLE GUARANTY COMPANY, FILE NO. 20173029, WHICH BEARS AN EFFECTIVE DATE OF DECEMBER 14, 2017. THE SURVEYOR DOES NOT GUARANTEE THAT THE SCHEDULE "B" LISTS ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES (EITHER OF RECORD OR NOT OF RECORD) WHICH MAY AFFECT THE SUBJECT TRACT.

A FLOWAGE EASEMENT EXISTS ON THE SUBJECT PROPERTY THAT IS UNDER THE JURISDICTION OF THE TEHUACANA CREEK WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE (1) OF LEROY, TEXAS RECORDED IN VOLUME 498, PAGE 118, VOLUME 506, PAGE 181, VOLUME 507, PAGE 378, AND VOLUME 509, PAGE 417 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) NOTE: BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN FEMA "SPECIAL FLOOD HAZARD AREAS" ZONE A AND FEMA "OTHER AREAS" ZONE X AS SHOWN ON THE FLOOD INSURANCE RATE MAP, LIMESTONE COUNTY, TEXAS, COMMUNITY PANEL 48091C0020 A, WHICH BEARS AN EFFECTIVE DATE OF JUNE 1, 1987. THIS FLOOD STATEMENT DOES NOT IMPLY THAT THIS TRACT WILL, OR WILL NOT FLOOD, NOR DOES IT CREATE ANY LIABILITY IN SUCH EVENT ON THE PART OF THIS SURVEYOR OR COMPANY.

EXPLANATION OF FEMA ZONES:

FEMA "SPECIAL FLOOD HAZARD AREAS" ZONE A = NO BASE FLOOD ELEVATIONS DETERMINED.

FEMA "OTHER AREAS" ZONE X = AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN.

THE BEARINGS AND GRID COORDINATES SHOWN HEREON ARE BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE.

0 200 400 800
GRAPHIC SCALE (FEET)

REV.	DESCRIPTION	DATE
1	CHANGED TITLE TO "BOUNDARY SURVEY"	08-06-2018

Walker Partners
engineers ★ surveyors
823 Washington Avenue ◆Waco, Texas 76701
Phone: 1-254-714-1402 ◆ T.B.P.E. Registration No. 8053
T.B.P.L.S. Registration No. 10032500

BOUNDARY SURVEY
502.493 ACRE TRACT

LOCATED IN THE WILLIAM W. BOREN SURVEY, ABSTRACT 1155 IN McLENNAN COUNTY, TEXAS AND THE WILLIAM W. BOREN SURVEY, ABSTRACT 54 IN LIMESTONE COUNTY, TEXAS, AND BEING ALL OF A CALLED 498.40 ACRE TRACT DESCRIBED IN A DEED TO DAVID BENJAMIN ROYALTY, JR. AND WIFE, LORI ROYALTY RECORDED IN McLENNAN COUNTY CLERK'S DOCUMENT 2002018663 OF THE OFFICIAL PUBLIC RECORDS OF McLENNAN COUNTY, TEXAS, AND ALL OF A CALLED 4.20 ACRE TRACT DESCRIBED IN A DEED TO DAVID ROYALTY AND LORI ROYALTY RECORDED IN VOLUME 1101, PAGE 715 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS

STATE OF TEXAS
REGISTERED
DANA BRENT SPIGENER
4869
PROFESSIONAL
LAND SURVEYOR

Dana B. Spigener

PLAT NUMBER	D1-0439
PROJECT NUMBER	1-03063
DRAWN BY/CHECKED BY	DBS/WRH
FIELD NOTE NO.	FN-01
DRAWING NAME	1-03063BOUNDARY SURVEY.DWG
DRAFT DATE	07/11/2018
SHEET NUMBER	1 OF 1

15 LEGAL AUTHORITY (30 TAC §330.59(e))

The applicant, the City of Waco, is an incorporated city in the State of Texas with an estimated population of over 135,000, based on current estimates. A copy of the certified City Charter is provided in Appendix I/IIF.

16 EVIDENCE OF COMPETENCY (30 TAC §330.59(f))

16.1 CITY OF WACO

The applicant, the City of Waco, currently owns and operates a MSW Landfill, TCEQ Permit No. MSW-948A (Site 948A). While Site 948A is the only landfill that the City has operated in the last 10 years, the City previously operated the following MSW landfills, which have been closed in accordance with TCEQ requirements:

- City of Waco Closed Landfill, Permit No. 1419 issued on September 3 1981, located on FM 3400 southeast of Waco; stopped accepting waste on June 17, 1986.
- City of Waco Closed Landfill, Permit No. 1039 issued on July 22, 1977, located on FM 3400 southeast of Waco; stopped receiving waste on June 24, 1983.

The competency of the City of Waco to operate the proposed landfill is evidenced by the City's operating history, over 20 years of operating Site 948A.

16.2 THE CITY OF WACO KEY PERSONNEL

As with Site 948A, the proposed landfill will be administered within the City's Public Works Department. Key personnel include the following: Director of Public Works, Landfill Manager, and Environmental Programs Manager.

- Charles Dowdell, the Director of Public Works for the City, has over 45 years of experience in managing and operating landfills, including nine years with the City of Waco. His pertinent experience includes the following:
    - Two years as landfill manager of Site 948A, responsible for managing landfill staff, equipment maintenance, day-to-day operation of the landfill, regulatory compliance, community relations, and related activities.
    - Seven years as the Director of the Solid Waste Department and more recently as the Director of Public Works. In both positions, he has had the responsibility for the management of the landfill, which includes overseeing the landfill manager, assuring adequate budgets for landfill staff, equipment, and third-party consultants and contractors, and ultimate regulatory compliance for the landfill.
    - Forty years as a consulting engineer, including the design, permitting, construction, monitoring, and operation of landfills. In addition, Mr. Dowdell has a TCEQ MSW Class "A" license, as well as licensed as a Professional Geoscientist.

- David Rydl, Landfill Manager for Site 948A, has over 20 years of experience in managing and operating landfills, including six years with the City of Waco. In the capacity of Landfill Manager for Site 948A, he is responsible for managing landfill staff, equipment maintenance, day-to-day operation and construction of the landfill consistent with TCEQ requirements, community relations, and related activities. In addition to his experience with the City of Waco, he has over 13 years of similar landfill management experience with other municipal

governments. In addition, he has a TCEQ MSW Class "A" license as well as the Manager of Landfill Operations (MOLO) license through the Solid Waste Association of North America (SWANA).

- Anna Dunbar, Environmental Programs Manager for the City of Waco, Public Works Department, has been working with the City for approximately six years. Her prior experience includes the following:
    - Served as TCEQ Waco Regional Office Regional Director for 10 years.
    - Served as the Waste Program Manager in TCEQ Waco Regional Office for one year.
    - Served as an environmental scientist with Nalco Chemical Company over the stormwater, wastewater, and RCRA programs for two years.
    - Served as an Enforcement Coordinator and Assistant Section Chief of Enforcement at the Texas Water Commission in Austin for four years

The City of Waco will ensure that a landfill manager is employed, and serves as the Solid Waste Facility Supervisor as defined in 30 TAC 30.207(2). The landfill manager will have the requisite managerial and technical qualifications to assure that the City's proposed MSW facilities comply with TCEQ requirements and is trained in the practical aspects of the design, operation, maintenance and supervision of a solid waste facility according to standards, rules or orders established by the TCEQ. These qualifications include the following:

- **Education and/or Experience** – A minimum of five years related experience and/or training, or equivalent combination of education and experience, including a MSW Facility Class A License as a municipal solid waste facility supervisor.
- **Language Skills** – Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedure manuals. Ability to write routine reports and correspondence.
- **Mathematical Skills** - Ability to calculate figures and amounts such as area, volume, disposal fees (per TCEQ rules), discounts, interest, and percentages.
- **Problem Solving Skills -** Ability to solve practical problems and deal with a variety of situations where only limited standardization exists.

Additionally, other landfill personnel will include gate attendant, load inspector, equipment operators, and general laborers.

16.3 EQUIPMENT TO BE DEDICATED TO THIS LANDFILL

Sufficient equipment will be provided to conduct site operations in accordance with the landfill design and permit conditions. As this landfill is intended to replace the Site 948A, which has a remaining operating life of less than six years, it is assumed that the equipment needs at that time will be similar to those of Site 948A and will include the following minimum number and types of equipment:

- 2 – Landfill Compactors (Caterpillar 826 or equivalent)

- 2 - Bulldozers (Caterpillar D8 or equivalent)
- 1 - Excavators
- 2 - Off-road dump trucks
- 1 - Motor grader
- 1 - Water truck (minimum 2,000 gallon capacity)

The equipment requirements for this landfill will be based on anticipated solid waste volume and field conditions consistent with 30 TAC §330.127. The Director of Public Works, with input from the Landfill Manager or his designee, will routinely assess the equipment needed to maintain compliance with the TCEQ regulations and make adjustments, as appropriate.

16.4 OTHER PERMITS / AUTHORIZATIONS

Consistent with 30 TAC §305.45(a)(7), the following table lists all permits or construction approvals that the City of Waco will apply for related to the proposed landfill.

PERMIT PROGRAM	LANDFILL APPLICABILITY
(A) Hazardous Waste Management Program under the Texas Solid Waste Disposal Act	N.A.
(B) Underground Injection Control Program under the Texas Injection Well Act	N.A.
(C) National Pollutant Discharge Elimination System Program under the Clean Water Act and Waste Discharge Program under Texas Water Code, Chapter 26	See Note 1
(D) Prevention of Significant Deterioration Program under the Federal Clean Air Act (FCAA)	N.A.
(E) Nonattainment Program under the FCAA	N.A.
(F) National emission standards for hazardous air pollutants preconstruction approval under the FCAA	N.A.
(G) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act	N.A.
(H) Dredge or fill permits under the FCAA	N.A.
(I) Licenses under the Texas Radiation Control Act	N.A.
(J) Subsurface area drip dispersal system permits under Texas Water Code, Chapter 32	See Note 2
(K) Other Environmental Permits	See Note 3

Notes:

1. See Parts I/II, Section 10, related to compliance with the Texas Water Code and the Federal Clean Water Act.
2. An on-site sanitary sewage system will be developed to serve the employees and visitors of the City's solid waste facilities.
3. At least 120 days prior to commencement of construction of the initial landfill cell, the City will obtain a Standard Air Permit Certification consistent with Chapter 330, Subchapter U. Additionally, The City of Waco will submit an abbreviated Title V application within 90 days of construction and obtain an operating permit consistent with the Title V General Operating Permit prior to the initial acceptance of waste.
4. N.A.: not applicable

17 APPOINTMENTS (30 TAC §330.59(g)

The notice of appointment for the applicant's engineer is included on page 17-2.

CITY OF WACO

City Manager's Office
Post Office Box 2570
Waco, Texas 76702-2570
254 / 750-5640
Fax: 254 / 750-5880
www.waco-texas.com

July 31, 2018

Ms. Stephanie Bergeron Perdue
Interim Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Dear Ms. Perdue:

This is to advise you that the City of Waco has duly appointed SCS Engineers as consulting and design engineers for the purpose of submitting engineering reports and planning material for an MSW facility permit application, including a Type I MSW landfill for the City of Waco. SCS Engineers is an engineering firm employing professional engineers in good standing in accordance with State statutes, and the firm has extensive experience in the design and construction of similar facilities. Mr. Ryan R. Kuntz, P.E., Vice President with SCS Engineers, is the engineer of record for this application.

I herewith authorize you to review and comment on such reports, planning material, and data on this proposed project as SCS Engineers may submit to you.

By: City of Waco

Wiley Stem III, City Manager

RESOLUTION NO. 2018-677

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

That the City Council authorizes the filing of an application with the Texas Commission on Environmental Quality for a permit for a Municipal Solid Waste facility to be located on property located near the intersection of State Highway 31 and T. K. Parkway and described as a 502.493 acre tract of land located in the William W. Boren Survey, Abstract 1155, in McLennan County, Texas and the William W. Boren Survey, Abstract 54 in Limestone County, Texas, and being all of a called 498.40 acre tract described in a deed recorded in McLennan County Clerk's Document 2002018663 of the Official Public Records of McLennan County, Texas, and all of a called 100 feet wide (4.20 acre) tract described in a deed recorded in Volume 1101, Page 715 of the Deed Records of Limestone County, Texas, and being the same property being acquired by the City of Waco pursuant to Resolution No. 2018-676, and the Mayor or the City Manager is authorized to execute all documents and/or furnish additional information/documentation necessary to complete this transaction.

That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED this 31st day of July, 2018.

Kyle Deaver, Mayor
City of Waco, Texas

ATTEST:

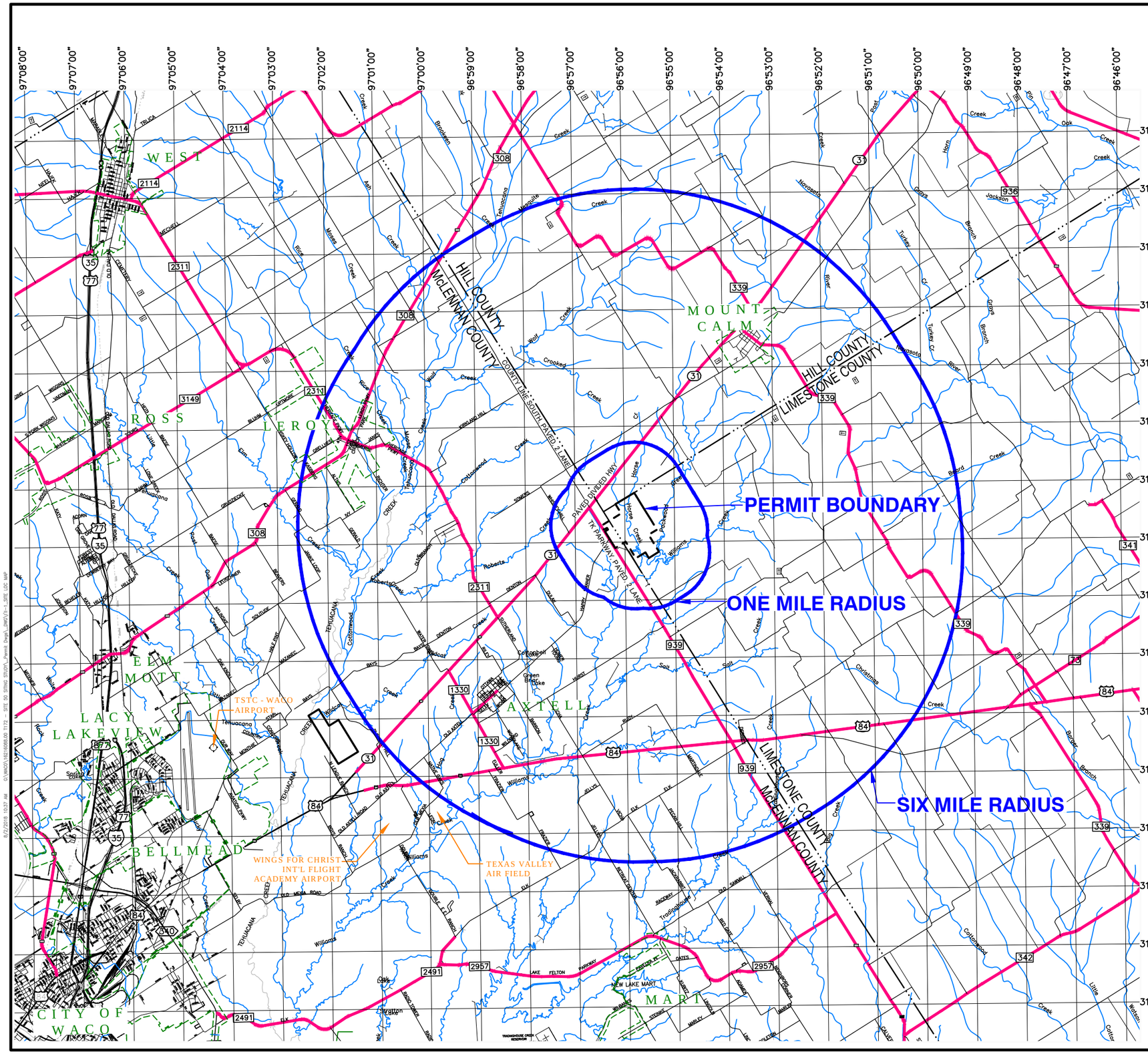
Esmeralda Hudson, City Secretary

APPROVED AS TO FORM & LEGALITY:

Jennifer Richie, City Attorney

DRAWINGS

- Drawing I/II-1: Site Location Map
- Drawing I/II-2: General Topographic Map (includes Wind Rose)
- Drawing I/II-3: Landowner's Map
- Drawing I/II-4: Aerial Photograph (9 inch X 9 inch)
- Drawing I/II-5: Facility Layout Map
- Drawing I/II-6: Regional Tectonic/Geology Map
- Drawing I/II-7: Seismic Impact Map



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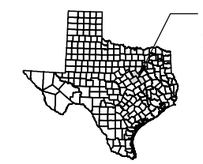
SCALE IN MILES



COUNTY LOCATION

LEGEND

- 1503 — FARM TO MARKET ROAD
- 37 — STATE HIGHWAY
- 38 — STATE HIGHWAY LOOP
- 82 — US NUMBERED HIGHWAY
- STREAM
- CEMETRY
- COUNTY LINE
- 96°55'30" — LATITUDE/LONGITUDE LINES

NOTE:

1. INFORMATION SHOWN IS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION DIGITAL COUNTY MAPBOOK 2014.

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: SITE LOCATION MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

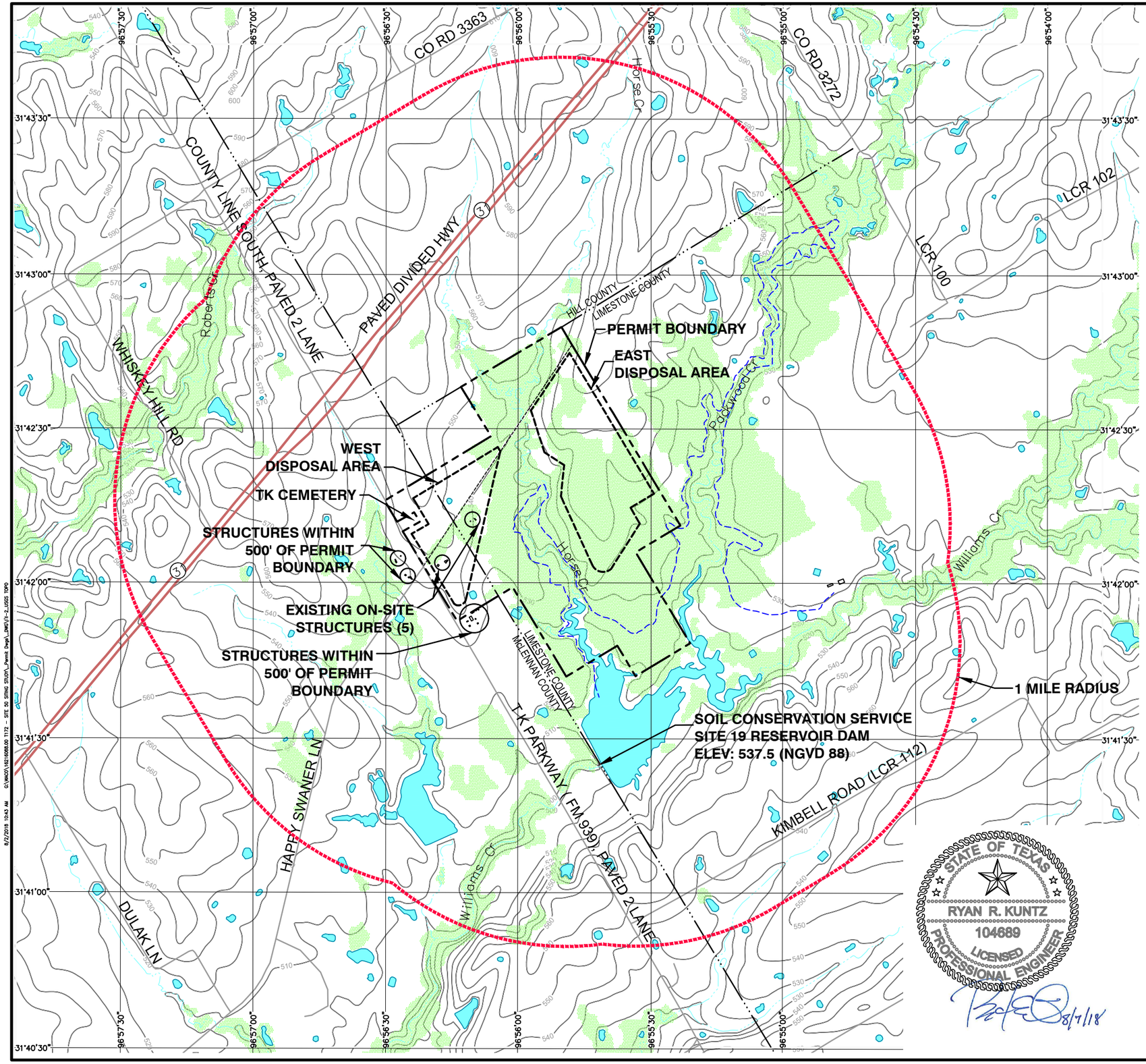
PROJ. NO. 16216068.00
DSN. BY: JAA
DWN. BY: JLJ
CHK. BY: JAA
Q/A RVW BY: RRK
APP. BY: RRK

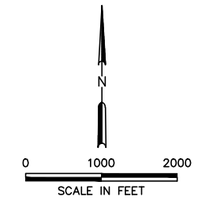
CADD FILE: 1-1_SITE LOC MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-1





COUNTY LOCATION

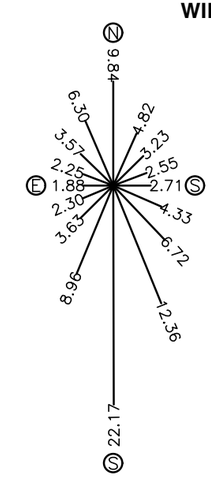
LEGEND

- PERMIT BOUNDARY
- 1 MILE RADIUS
- LIMITS OF WASTE
- COUNTY LINE
- 560 EXISTING CONTOURS (SEE NOTE 1)
- FLOOD PLAIN (SEE NOTE 2)
- 96°55'30" LATITUDE/LONGITUDE LINES

ROAD CLASSIFICATION

Expressway	Local Connector
Secondary Hwy	Local Road
Ramp	4WD
Interstate Route	US Route
State Route	

WIND ROSE



CALM 2.81%

WIND ROSE REPRESENTS AVERAGE PERCENT OF TIME WIND BLOWS FROM EACH OF THE 16 COMPASS POINTS SHOWN.

SOURCE:
TNRCC–EPA
STATION TX03927
AVERAGE VALUES
PERIOD ANALYZED: 1984–1992

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

NOTES:

1. CONTOURS SHOWN ARE FROM THE 24K QUAD MAP FOR AXTELL, TEXAS (2016) PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY.
2. 100–YEAR FLOOD PLAIN IS DESIGNATED AS ZONE A, BASED ON FIRM PANEL 48293C0125C, DATED 09/16/11.
3. ALL KNOWN STRUCTURES AND INHABITABLE BUILDINGS WITHIN 500 FEET OF PERMIT BOUNDARY ARE SHOWN.
4. THERE ARE NO KNOWN WATER WELLS WITHIN 500 FT. OF THE PROPOSED PERMIT BOUNDARY IN ACCORDANCE WITH PARTS I/II, SECTION 7.2.
5. BASED ON SCS' SITE INVESTIGATIONS, NO SPRINGS WERE OBSERVED ON THE SITE.

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: GENERAL TOPOGRAPHIC MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1301 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216068.00 | DSN. BY: RRK | DWN. BY: JLJ | CHK. BY: KDY | Q/A RVW BY: KDY | APP. BY: RRK

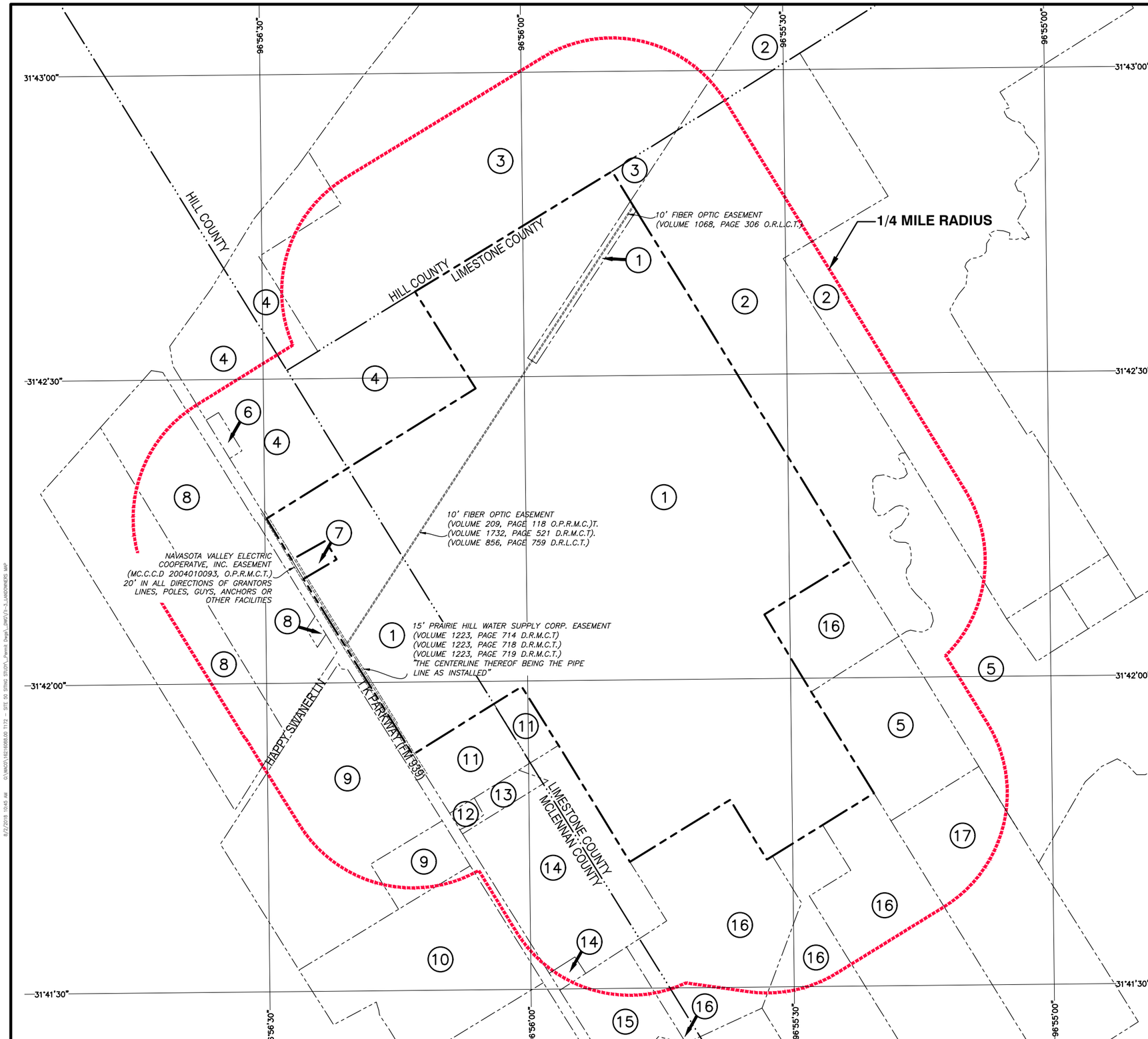
CADD FILE: 1II-2_USGS TOPO

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-2

8/2/2018 10:43 AM G:\WACO\16216068.00 1172 - SITE 50 SITING STUDY_Permit Dwgs_DWG\I-2_USGS TOPO



N

0 500 1000

SCALE IN FEET

LEGEND

- PERMIT BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- COUNTY LINE
- 1/4 MILE RADIUS
- 96°55'30" LATITUDE/LONGITUDE LINES

NOTES:

1. (X) CORRESPONDS TO LANDOWNERS LISTED ON LANDOWNERS LIST.
2. PROPERTY OWNERS WITHIN 1/4 MILE OF THE PERMIT BOUNDARY ARE SHOWN.
3. LANDOWNER PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE.
4. FIBER OPTIC LINE EASEMENT. VOLUME 209, PAGE 118, MCLENNAN CO. RECORDS, IF EXISTING AT TIME OF LANDFILL DEVELOPMENT, WILL BE RELOCATED PRIOR TO CONSTRUCTION OF SECTORS 9 THROUGH 13 AND WILL BE VACATED. IF FIBER LINE IS NOT INSTALLED WITHIN EASEMENT, THEN EASEMENT IS ABANDONED ON ITS OWN TERMS.
5. A FLOWAGE EASEMENT EXISTS ON THE PROPERTY THAT IS UNDER THE JURISDICTION OF THE TECHUACANA CREEK WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER (1) OF LEROY, TEXAS SUBJECT TO THE EASEMENT RECORDED IN VOLUME 498, PAGE 118, VOLUME 506, PAGE 181, VOLUME 507, PAGE 378, AND VOLUME 509, PAGE 417 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS.

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: LANDOWNER'S MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216088.00 | DWN. BY: JLJ | Q/A RVW BY: KDY
DSN. BY: RRK | CHK. BY: KDY | APP. BY: RRK

CADD FILE: I-II-3_LANDOWNERS MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-3

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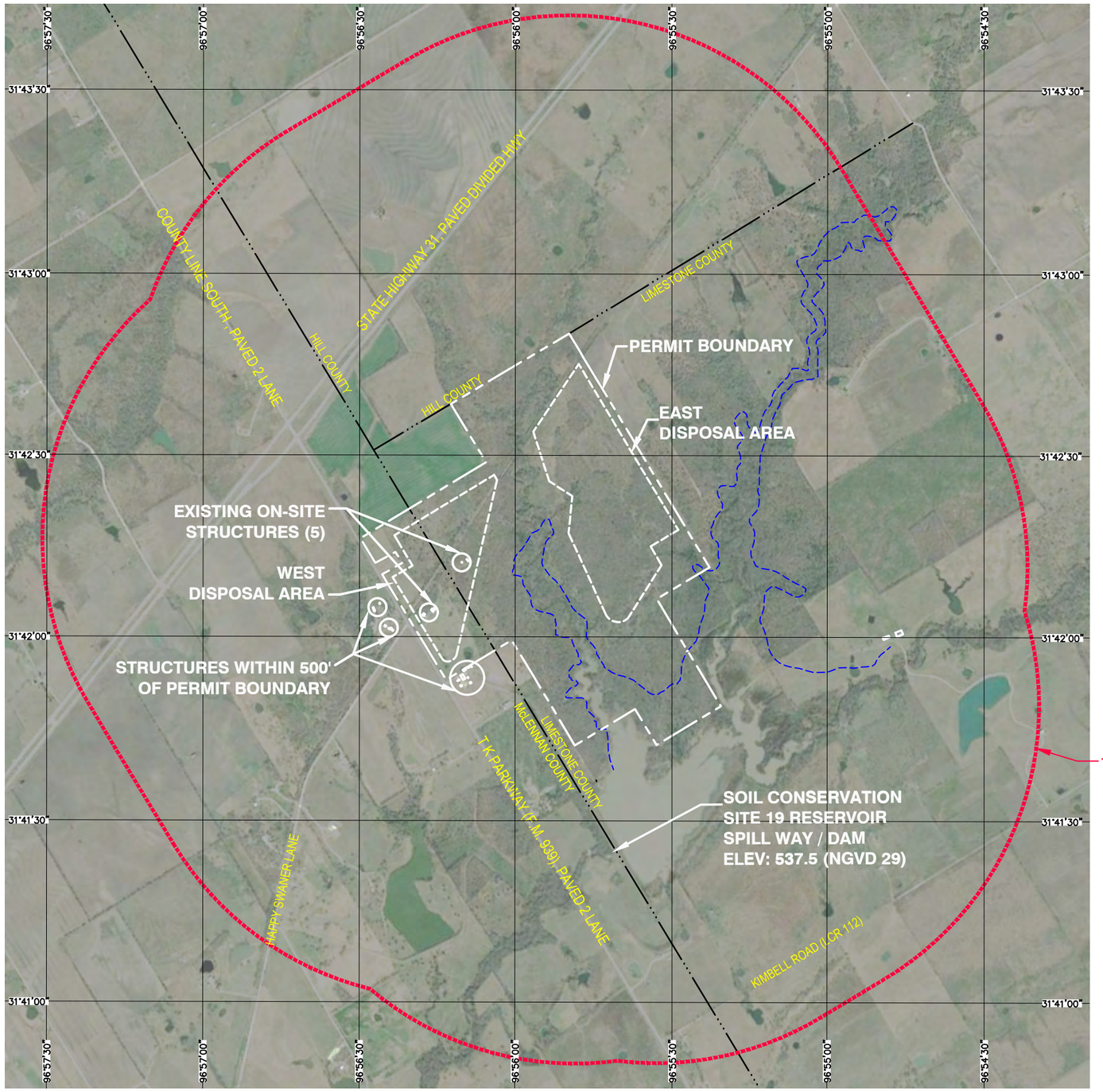


N

0 1000 2000
SCALE IN FEET

LEGEND

- PERMIT BOUNDARY
- LIMITS OF WASTE
- COUNTY LINE
- 1 MILE RADIUS
- FLOOD PLAIN (SEE NOTE 2)
- 96°55'30" LATITUDE/LONGITUDE LINES

NOTES:

1. AERIAL SHOWN WAS SOURCED FROM GOOGLE EARTH, IMAGERY DATED 09/07/17.
2. 100-YEAR FLOOD PLAIN IS DESIGNATED AS ZONE A, BASED ON FIRM PANEL 48293C0125C, DATED 09/16/11.
3. ALL KNOWN STRUCTURES AND INHABITABLE BUILDINGS WITHIN 500 FEET OF PERMIT BOUNDARY ARE SHOWN.

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: AERIAL PHOTOGRAPH

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216088.00 | DWN. BY: JLJ | Q/A REVW BY: KDY
DSN. BY: RRK | CHK. BY: KDY | APP. BY: RRK

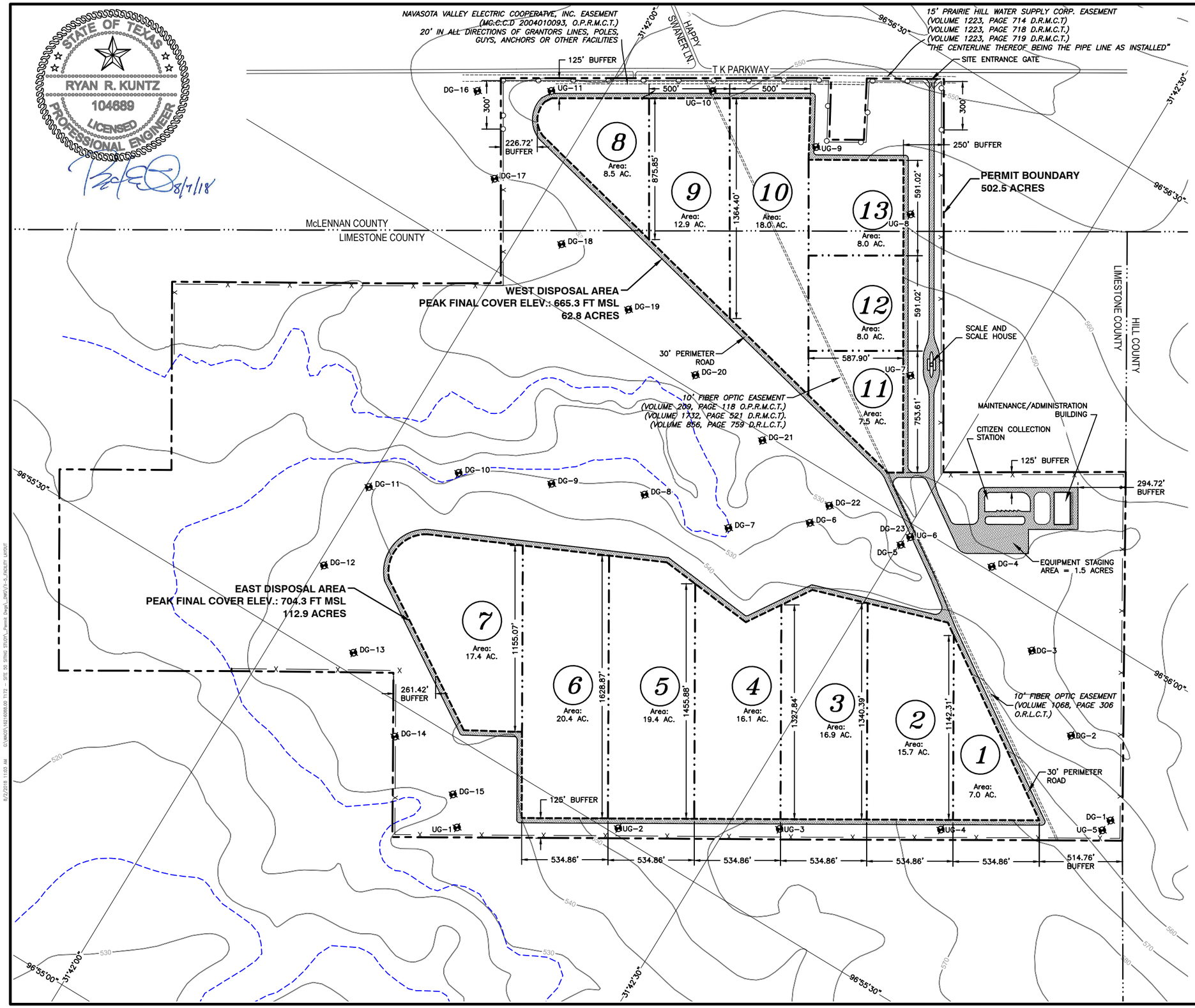
CADD FILE: I/II-4_AERIAL MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-4

8/2/2018 11:53 AM G:\WACO\16216088.00 1172 - SITE 90 SITING STUDY_Permit Dwgs_DWG\I-4_AERIAL MAP



STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

LEGEND

- EXISTING CONTOURS (SEE NOTE 1)
- PERMIT BOUNDARY
- LIMITS OF WASTE
- SECTOR BOUNDARY
- COUNTY LINE
- 100–YEAR FLOOD PLAIN (SEE NOTE 2)
- LATITUDE/LONGITUDE LINES
- PERIMETER FENCE
- 8' PRIVACY FENCE
- ACCESS ROAD
- GROUNDWATER MONITOR WELL (SEE NOTE 6)
- SECTOR DESIGNATION (SEE NOTE 5)

NOTES:

1. CONTOURS SHOWN ARE FROM THE 24K QUAD MAP FOR AXTELL, TEXAS (2016) PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY.
2. 100–YEAR FLOOD PLAIN IS DESIGNATED AS ZONE A, BASED ON FIRM PANEL 48293C0125C, DATED 09/16/11.
3. FIBER OPTIC LINE EASEMENT, VOLUME 209, PAGE 118 MCLENNAN CO. RECORDS, IF EXISTING AT TIME OF LANDFILL DEVELOPMENT, WILL BE RELOCATED PRIOR TO CONSTRUCTION OF SECTORS 9 THROUGH 13 AND WILL BE VACATED. IF FIBER LINE IS NOT INSTALLED WITHIN EASEMENT, THEN EASEMENT IS ABANDONED ON ITS OWN TERMS.
4. A FLOWAGE EASEMENT EXISTS ON THE PROPERTY THAT IS UNDER THE JURISDICTION OF THE TECHUACANA CREEK WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER (1) OF LEROY, TEXAS SUBJECT TO THE EASEMENT RECORDED IN VOLUME 498, PAGE 118, VOLUME 506, PAGE 181, VOLUME 507, PAGE 378, AND VOLUME 509, PAGE 417 OF THE DEED RECORDS OF LIMESTONE COUNTY, TEXAS.
5. SECTOR DEVELOPMENT SEQUENCE REPRESENTED BY SECTOR NUMBER, MAY BE DEVELOPED IN SMALLER INCREMENTS (AKA SUBSECTORS OR CELLS) WITH LINER CERTIFICATIONS SUBMITTED SEPARATELY TO TCEQ.
6. SUBJECT TO THE APPROVAL OF THE TCEQ, THE LOCATIONS OF GROUNDWATER MONITORING WELLS WILL BE CONFIRMED OR ADJUSTED BASED ON THE RESULTS OF THE SITE HYDROGEOLOGIC CHARACTERIZATION TO BE INCLUDED IN PART III OF THE PERMIT APPLICATION, CONSISTENT WITH 30 TAC §330.61(D)(3) AND §330.403.

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: FACILITY LAYOUT PLAN

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

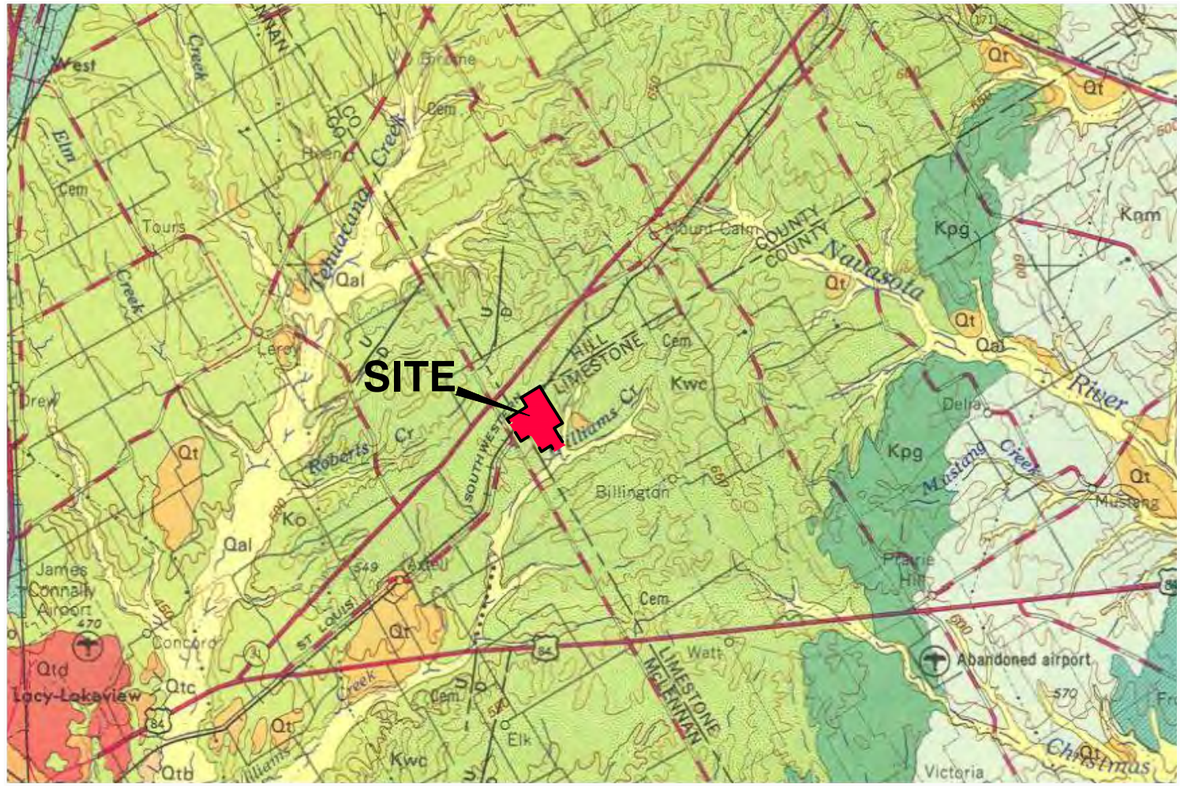
PROJ. NO. 16216088.00 | DSN. BY: RRK | DWN. BY: JLJ | CHK. BY: KDY | Q/A RVW BY: KDY | APP. BY: RRK

CADD FILE: I/II-5_FACILITY LAYOUT

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-5



Scale 1:250,000

5 0 5 10 15 20 Statute Miles

5 0 5 10 15 20 25 30 Kilometers

5 0 5 10 Nautical Miles

CONTOUR INTERVAL 50 FEET

TRANSVERSE MERCATOR PROJECTION

1960 MAGNETIC DECLINATION FOR THIS SHEET VARIES FROM 9°30' EASTERLY FOR THE CENTER OF THE WEST EDGE TO 8°30' EASTERLY FOR THE CENTER OF THE EAST EDGE. MEAN ANNUAL CHANGE IS 0°02' WESTERLY.

GEOLOGIC ATLAS OF TEXAS, WACO SHEET

LLOYD WILLIAM STEPHENSON MEMORIAL EDITION

REPRINTED 1979

EXPLANATION

Qal

Alluvium

Qta, Qtb, Qtc, Qtd, Qt, Qt1, Qt2, Qt3

Fluviatile terrace deposits

Kpg, Kwc, Ko

Pecan Gap Chalk, Wolfe City Formation, and Ozan Formation ("lower Taylor marl")

Kknm, Kke, Kn, Knm

Kemp Clay, Nacatoch Sand, Neylandville Formation, and Marlbrook Marl ("upper Taylor marl")

U / D

Fault

U, *upthrown*; D, *downthrown side*; *dotted where concealed*; *dashed where inferred*

SOURCE:
BUREAU OF ECONOMIC GEOLOGY, UNIVERSITY OF TEXAS AT AUSTIN.

STATE OF TEXAS
James Lawrence
Discipline
License #
541
LICENSED
PROFESSIONAL GEOSCIENTIST

8-7-2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY
△			
△			
△			
△			
△			
△			

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE
REGIONAL TECTONIC/GEOLOGY MAP

PROJECT TITLE
CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT
CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216088.00
DSN. BY: JL
DWN. BY: JL/J
CHK. BY: TM
Q/A RVW BY: TM
APP. BY: JL

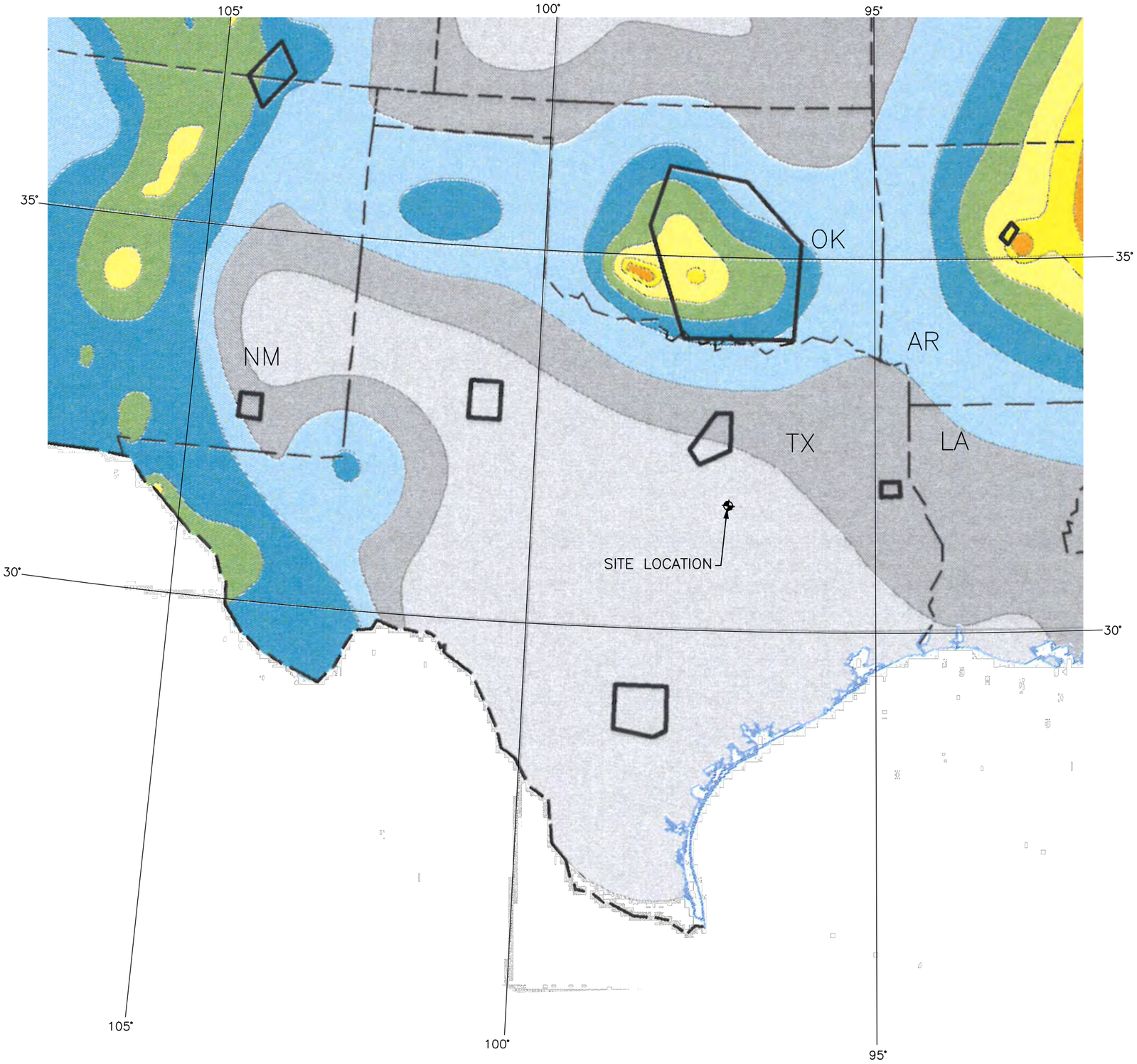
CADD FILE:
I/II-6_REGIONAL TECTONIC AND GEOLOGY MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO.
I/II-6

6/7/2018 3:04 PM G:\WACO\16216088.00 1172 – SITE 50 SITING STUDY_Permit Dwgs_DWG\I/I-6_Regional Tectonic and Geology Map



N

0 50 100
SCALE IN MILES

LEGEND

Areas where suspected nontectonic earthquakes have been deleted

EXPLANATION

Peak acceleration, expressed as a fraction of standard gravity (g)

0.8
0.4
0.3
0.2
0.14
0.1
0.06
0.04
0.02
0

SOURCE:
SEISMIC IMPACT ZONE MAP TAKEN FROM THE U.S. GEOLOGICAL SURVEY, UPDATED 2014.

STATE OF TEXAS
James Lawrence
Discipline
License #
541
LICENSED
PROFESSIONAL GEOSCIENTIST

James Lawrence 8-7-2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE
SEISMIC IMPACT MAP

PROJECT TITLE
CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT
CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216088.00
DSN. BY: JL
DWN. BY: JL
CHK. BY: TM
Q/A RVW BY: TM
APP. BY: JL

CADD FILE: I/II-7_SEISMIC MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO.
I/II-7

8/2/2018 3:03 PM G:\WACO\16216088.00 1172 - SITE 50 SITING STUDY_Permit Dwgs_DWG\I-7_Seismic.mcp

APPENDIX I/IIA

DEMONSTRATION OF COORDINATION (30 TAC 330.51(b)(5-10))

- Coordination with Texas Parks and Wildlife Department
- Coordination with U.S. Department of the Interior, Fish and Wildlife Service
- Coordination with Texas Historic Commission
- Coordination with U.S. Army Corp of Engineers
- Coordination with Texas Department of Transportation
- Coordination with Heart of Texas Council of Governments
- Coordination with Federal Aviation Administration

COORDINATION WITH TEXAS PARKS AND WILDLIFE DEPARTMENT

7 August 2018

Texas Parks and Wildlife Department
Wildlife Habitat Assessment Program
4200 Smith School Road
Austin, Texas 78744

RE: Proposed New Waco Landfill:
McLennan and Limestone Counties, Texas
HJN 150184-003WD

Dear Sirs:

The City of Waco is proposing to develop a new Type I Municipal Solid Waste Landfill located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River. The proposed landfill footprint has been designed to avoid Horse Creek and its associated floodplain (Figure 2). Site configuration is also constrained by the downstream SCS reservoir easement.

Per requirements of the TCEQ regulations for landfill permitting and development, a Biological Assessment report has been developed for this site addressing the potential effects on State- and Federally-listed threatened or endangered species (attached). In summary, our conclusions are as follows:

> *The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species. Two state-listed species, the timber rattlesnake and Texas horned lizard may occur in or near the landfill site. A species management plan is included and will be implemented by the City of Waco to ensure that the undertaking will not cause or contribute to the taking of any threatened or endangered species.*

We are requesting your review and concurrence with our findings and recommendations. Your prompt attention to this matter would be greatly appreciated, as your signed correspondence is necessary to complete the landfill permit application to the TCEQ.

Please call me should you have any questions concerning this project or if I can be of any further assistance.

Sincerely,
For Horizon Environmental Services, Inc.

C. Lee Sherrod
President

Horizon™
Environmental Services, Inc.

BIOLOGICAL ASSESSMENT
NEW CITY OF WACO LANDFILL
MCLENNAN AND LIMESTONE COUNTIES, TEXAS

PREPARED FOR:

CITY OF WACO

PREPARED BY:

HORIZON ENVIRONMENTAL SERVICES, INC.

AUGUST 2018

CORPORATE OFFICE
1507 South IH 35★Austin, Texas 78741★512.328.2430★FAX 512.328.1804★www.horizon-esi.com
An LJA Company

Introduction

Horizon Environmental Services, Inc. has conducted a biological assessment of the proposed new City of Waco Landfill to determine the effect of the proposed landfill on any state or federally listed threatened or endangered species and the existence of any potentially suitable habitat for any such species. The assessment included a literature and agency records search and a site reconnaissance during December, 2017 by a qualified Horizon biologist. Prior to the site investigation, records and files maintained by the Texas Parks and Wildlife Department (TPWD), Natural Diversity Data Base (NDD) and the U.S. Fish and Wildlife Service (USFWS) were inspected to determine if any listed species or habitat were previously recorded. A list of state and federal species of potential occurrence in McLennan and Limestone Counties was also obtained from each agency. Color aerial photography and USGS topographic maps were acquired to aid the field reconnaissance.

Background

The proposed New Waco Landfill will be a Type I municipal solid waste landfill operated by the City of Waco. The New Landfill is located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1, Appendix A). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2, Appendix A). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River (Figure 3, Appendix A). The proposed landfill footprint has been designed to avoid Horse Creek and its associated floodplain (Figure 2, Appendix A). Site configuration is also constrained by the downstream SCS reservoir easement. Site photographs are included in Appendix B.

Listed Threatened and Endangered Species

Table 1 provides a list of the State and Federally protected species whose distribution includes McLennan and Limestone counties. The table was compiled as a result of the above mentioned agency information review. Federal and State lists are included in Appendix C.

TABLE 1: STATE- AND FEDERALLY-LISTED THREATENED OR ENDANGERED SPECIES OF POTENTIAL OCCURRENCE IN MCLENNAN AND LIMESTONE COUNTIES

Taxon	Common Name	Scientific Name	Federal Status	State Status
Birds	Peregrine Falcon	*Falco peregrinus*	DL	T
	American Peregrine Falcon	*Falco peregrinus anatum*	DL	T
	Whooping Crane	*Grus americana*	E	E
	Bald Eagle	*Haliaeetus leucocephalus*	DL	T
	Interior Least Tern	*Sterna antillarum* athalassos	E	E
	Golden-cheeked Warbler	*Setophaga chrysoparia*	E	E
	White-faced Ibis	*Plegadis chihi*	--	T
	Wood Stork	*Mycteria americana*	--	T
	Piping Plover	*Charadrius melodus*	T	T
	Red Knot	*Calidris canutus rufa*	T	--
Fishes	Sharpnose shiner	*Micropterus treculii*	E	--

Taxon	Common Name	Scientific Name	Federal Status	State Status
	Smalleye shiner	*Notropis oxyrhynchus*	E	--
Mammals	Gray Wolf	*Canis lupus*	E	E
Mollusks	Smooth pimpleback	*Quadrula houstonensis*	C	T
	Texas fawnsfoot	*Truncilla macrodon*	C	T
Reptiles	Timber rattlesnake	*Crotalus horridus*	--	T
	Texas Horned Lizard	*Phrynosoma cornutum*	--	T
	Alligator snapping turtle	*Macrochelys temminckii*	--	T
Plants	Navasota ladies-tresses	*Spiranthes parksii*	E	E

1 E = Endangered: Species in danger of extinction throughout all or a significant portion of its range.
T = Threatened: Species is likely to become listed as an endangered species.
T/SA: NL – Threatened due to similar appearance: not listed.
DL = Delisted: Species is no longer listed as threatened or endangered.
C = Candidate for Federal Listing
2 Source: USFWS IPAC Threatened and Endangered Species List for Southwest Landfill, McLennan and Limestone Counties (https://ecos.fws.gov/ipac/) 2018 and Texas Parks and Wildlife Department, Natural Diversity Data Base (http://tpwd.texas.gov/gis/rtest/) 2018

The NDD list from the TPWD also includes several rare species, including the western burrowing owl, Arctic peregrine falcon, Sprague's pipit, Henslow's sparrow, cave myotis bat, plains spotted skunk, Texas garter snake, Guadalupe bass, plateau milkvine, Texas milk vetch, tree dodder, goldenwave tick seed, small headed pipewort, and Texas sandmint as possibly occurring in McLennan and Limestone counties. However, none of these species are listed by the State or Federal government as threatened or endangered.

Birds

Peregrine Falcons (state list)

The two peregrine falcons were federally delisted in 1999, but TPWD has not as yet followed suit at the state level. Suitable nesting habitat for the two peregrines includes large rocky bluffs and canyons. However, no bluffs or canyons occur on the subject site. Both birds are migratory across Texas and could temporarily occur in the area as transients who are opportunistic feeders. Any such temporary occurrence during migrations would not be precluded by the landfill; however, no adverse effects to peregrines would be expected because they are quite tolerant of human activity and are known to winter in urban areas and very active ports along the Gulf Coast.

Whooping Crane (state and federal lists)

The whooping crane is migratory and passes over much of Texas on its migration route between the Texas coast and southern Canada. It may occasionally stop over at points along the way that provide temporary feeding or resting habitat such as large wetlands, playa lakes, or agricultural fields. The site does not provide any usable habitat for the whooping crane. The whooping crane would not be expected on the site.

Bald Eagle (state list)

The bald eagle is represented in Texas by both migratory and non-migratory individuals. Nesting or wintering eagles are increasing in Texas and are found around large bodies of water such as rivers and reservoirs. SCS Reservoir #19 is adjacent to the landfill site to the south. No eagles were observed during site reconnaissance efforts. Eagles can range a considerable

distance in daily flights or migrations, and it is not uncommon to see them flying over any area within 20 or 30 miles of suitable habitat areas. They rarely land in or utilize any other habitats other than near large water bodies, which is an essential component of suitable habitat because fish and waterfowl make up the majority of their diets. While an eagle could temporarily fly over the subject site, it would not be expected to utilize the site.

Interior Least Tern (state and federal lists)
The interior least tern is also migratory and nests along large bodies of water such as rivers or lakes where generally barren shorelines or sandbars exist. No such habitats exist on the subject site and this species would not be expected to occur there.

Piping Plover (federal list)
The piping plover is migratory and passes over much of Texas on its migration route. It winters on the Texas coast. It occupies coastal beaches, mud flats, and shorelines. The piping plover would not be expected on the landfill site.

Red Knot (federal list)
The red knot is migratory and passes over much of Texas on its migration route. It winters on the Texas coast. It occupies coastal beaches, mud flats, and shorelines. The red knot would not be expected on the landfill site.

Golden-cheeked Warbler (state and federal list)
Nests in juniper-oak woodlands in the western portion of McLennan County. The golden-cheek would not be expected in the eastern portion of the county or on the landfill site.

White-faced Ibis (state list)
The white-faced ibis prefers freshwater marshes, sloughs, and irrigated rice fields. It nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats. The landfill site is upland with only ephemeral tributaries. The ibis would not be expected on the landfill site.

Wood Stork (state list)
The wood stork forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries). It breeds in Mexico and the birds move into Gulf States in search of mud flats and other wetlands. The landfill site is upland with only ephemeral tributaries. The wood stork would not be expected on the landfill site.

Mammals

Gray Wolf (state list)
Although the gray wolf is included on the state list of endangered mammals, the wolf is considered extirpated in the state.

Fishes

Smalleye Shiner (state List)
The smalleye shiner is endemic to the upper Brazos River system and its tributaries (Clear Fork and Bosque) and apparently introduced into the adjacent Colorado River drainage. The landfill

site is upland with only ephemeral tributaries. The shiner would not be expected on the landfill site.

Sharpnose Shiner (state list)

The sharpnose shiner is endemic to the Brazos River watershed and has also apparently been introduced into the adjacent Colorado River drainage. It utilizes large turbid rivers with sand, gravel, and clay-mud bottom. The landfill site is upland with only ephemeral tributaries. The shiner would not be expected on the landfill site.

Mussels

Smooth Pimpleback (federal and state list)

Occurs in small to moderate streams and rivers as well as moderate size reservoirs with mixed mud, sand, and fine gravel. It tolerates very slow to moderate flow rates and appears not to tolerate dramatic water level fluctuations. The landfill site is upland with only ephemeral tributaries. The pimpleback would not be expected on the landfill site.

Texas Fawnsfoot (federal and state list)

Little is known about this species, but it possibly occurs in rivers and larger streams, and is intolerant of impoundments. Known from the Brazos and Colorado River basins. The landfill site is upland with only ephemeral tributaries. The fawnsfoot would not be expected on the landfill site.

Reptiles

Timber Rattlesnake (state list)

Occurs in swamps, floodplains, upland pine and deciduous woodlands, riparian zones, and abandoned farmland. It prefers dense ground cover such as grapevines or palmetto. There are potentially suitable habitat characteristics for this species in the bottomlands along Horse Creek. The proposed landfill area is upland with only ephemeral tributaries and minimal riparian areas. It is relatively unlikely that the timber rattlesnake would occur on the landfill site. However, due to the general proximity to Horse Creek, a species management plan is included herein to minimize the potential effects to the timber rattlesnake.

Texas Horned Lizard (state list)

The Texas horned lizard formerly occurred throughout most of Texas, but now is generally restricted to the western and southern two-thirds of the state. Its preferred habitat is open to semi-open grasslands and savannahs. Its primary food source is the harvester ant. The presence of these ants is a prerequisite for suitable horned lizard habitat. While somewhat unlikely, the possible occurrence of the horned lizard on the subject site cannot be ruled out, particularly on the western disposal area and the northern portion of the eastern disposal area. A species management plan is included herein to minimize the potential effects to the horned lizard.

Alligator Snapping Turtle (state list)

Occurs in perennial water bodies; deep water of rivers, canals, lakes, and oxbows; also swamps, bayous, and ponds near deep running water; usually in water with mud bottom and abundant aquatic vegetation; may migrate several miles along rivers. All streams on the subject site are ephemeral and unlikely to support alligator snapping turtles.

Plants

Navasota Ladies-tresses (federal and state list)

Occurs in sandy loams within openings in post oak woodlands along upland drainages or intermittent streams, often in areas with suitable hydrologic factors, such as a perched water table associated with the underlying claypan. This species is known to occur in eastern and southern Limestone County. It is unlikely to occur in northwestern Limestone County or on the subject site.

CONSERVATION MEASURES

According to 30 Texas Administrative Code (TAC) 330.157 and 330.551, construction and operation of municipal solid waste landfill facilities in the State of Texas shall not result in adverse modification of the critical habitat of threatened or endangered (T/E) species, or cause or contribute to the taking of any T/E species. No federally-designated critical habitat is situated on or near the proposed landfill site. No federally-listed species are likely to occur on the site. Horizon has made a determination of "No Effect" for federally-listed species.

In the case of the occurrence of a state-listed species on a site for a proposed state-permitted activity such as a landfill, water reservoir, surface coal mine, or the like, the typical means of minimizing impacts to the species that is recommended by Texas Parks and Wildlife Department is through the formulation and implementation of a management plan for the species.

These plans can include a number of actions or management activities, depending on the species, but generally focus on education of project personnel to be observant and to recognize the species for avoidance of death or injury. In many cases, qualified and permitted biologists conduct detailed surveys for the species prior to clearing or grading to find and relocate as many of the individuals as possible to another suitable habitat area. These surveys may be conducted each year in as yet undisturbed areas of the project site scheduled for clearing, excavation, grading, etc. that year. If possible, favorable habitats for the species may be created, managed, or enhanced on an area away from the project site to increase the species available habitat. The collection and transport of any state-listed species must be done under a State Scientific Collection Permit specific to that species. A management plan for the timber rattlesnake and Texas horned lizard on the proposed landfill site is found in the next section of this report.

Implementation of a management plan will significantly reduce the likelihood of a "take" during development and operation of the landfill because pursuing, hunting, wounding, trapping, capturing, and collecting are intentional acts that will be prohibited by the plan. The disruption of normal behavior patterns (harassing) will not occur because significant undeveloped areas exist nearby, within and off the site. Additionally, an "act of omission" that actually kills or injures wildlife (harming) will not occur because the management plan will provide specific actions to be taken to minimize impacts to the species consistent with recommendations of TPWD for state-permitted facilities.

No timber rattlesnakes or Texas horned lizards have thus far been observed during field reconnaissance efforts on the proposed landfill site. However, the possibility of their occurrence

cannot be ruled out. In order to minimize potential impacts and to demonstrate compliance with regulatory requirements, the City of Waco will implement the following protection and management activities for these species.

MANAGEMENT PLAN

Prohibited Actions

Persons at the proposed landfill facility shall not annoy, pursue, hunt, wound, trap, capture or collect any timber rattlesnakes or Texas horned lizards that may be present at the facility except for capturing for purposes of relocation as authorized by this plan and a State Scientific Collection Permit.

Survey/Relocation

Prior to land clearing, excavation or other disruptive activities on undeveloped areas of the site, the City of Waco will implement a search and removal/relocation survey of the area to be impacted. The surveys will occur no more than 6 months prior to land clearing, excavation, etc. A biologist with a State Scientific Collection Permit will conduct the surveys. Additional field assistants will be utilized as needed. Surveys will be pedestrian-style ground surveys conducted during the season when the listed reptile species are active. Surveys will consist of meandering transects in which logs, plant material, and debris are overturned in an effort to locate listed species. All individuals of these species encountered and captured will be relocated to suitable habitat off the landfill area.

Conclusion

All of the threatened or endangered species were reviewed for possible impact by the proposed landfill operations. The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species. Two state-listed species, the timber rattlesnake and Texas horned lizard may occur in or near the landfill site. A species management plan is included herein and will be implemented by the City of Waco to ensure that the undertaking will not cause or contribute to the taking of any T/E species.

Please call if you have any questions.

Sincerely,

C. Lee Sherrod
President

APPENDIX A

FIGURES

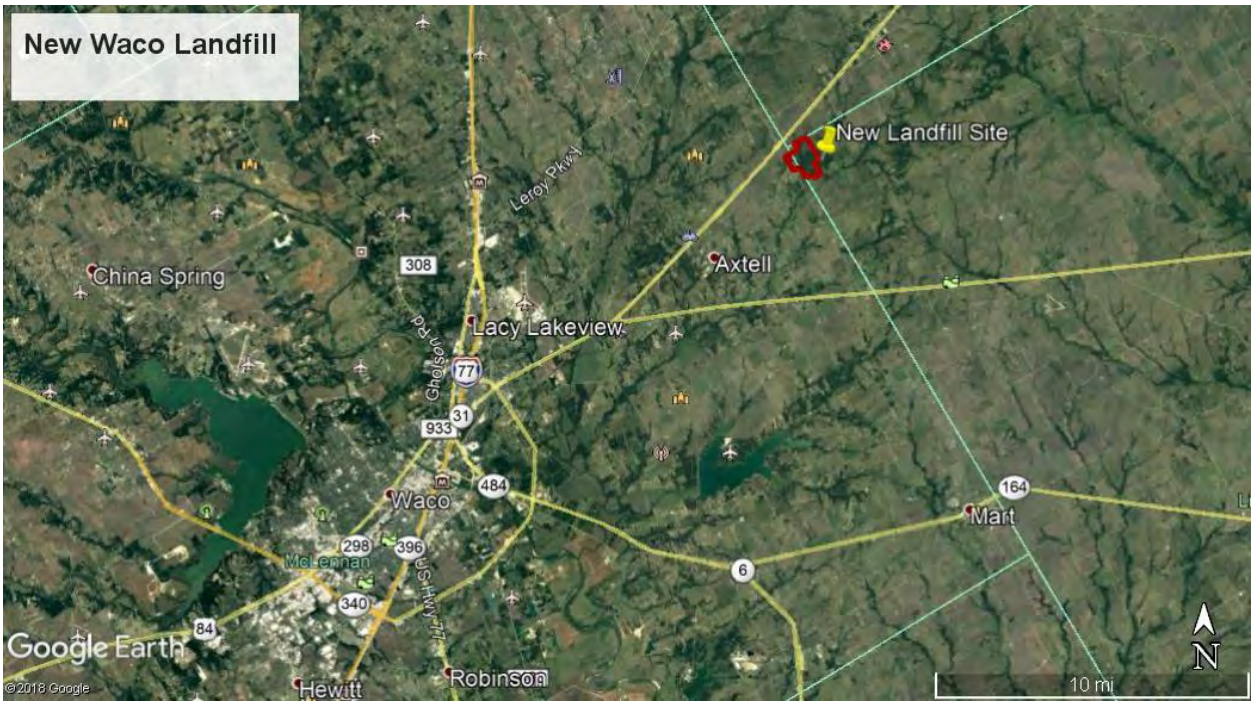


FIGURE 1: LOCATION

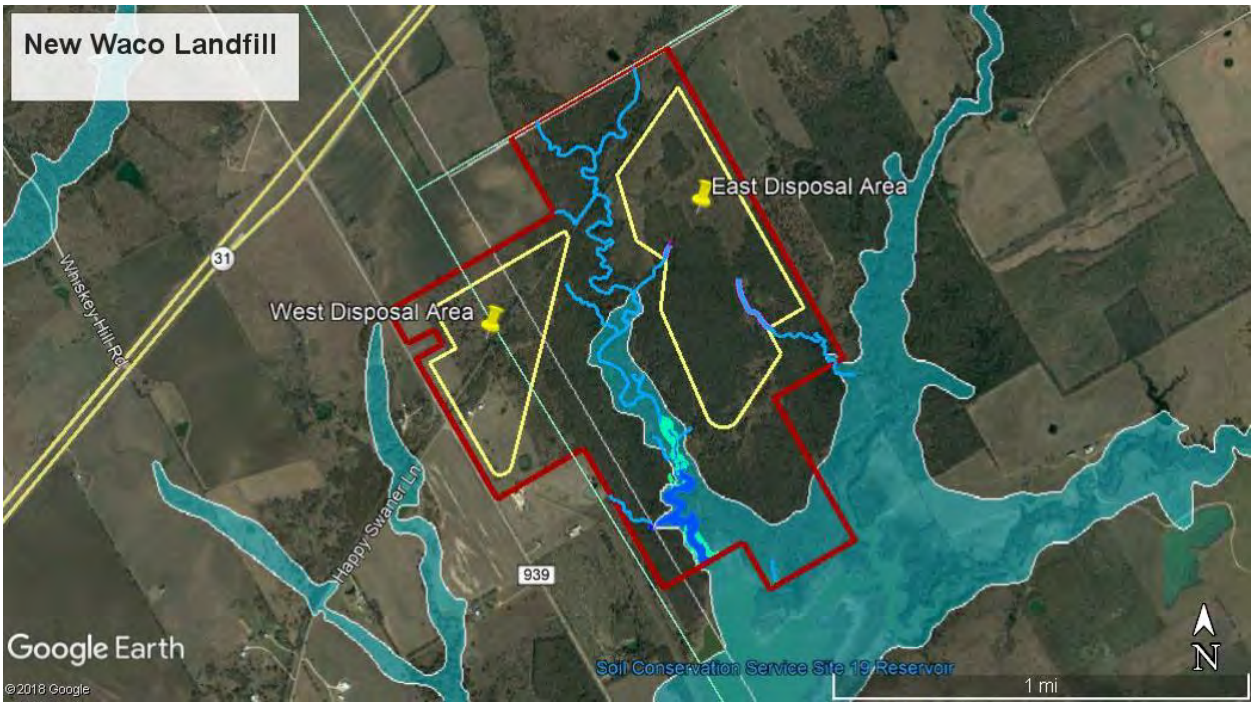


FIGURE 2: SITE CHARACTERISTICS

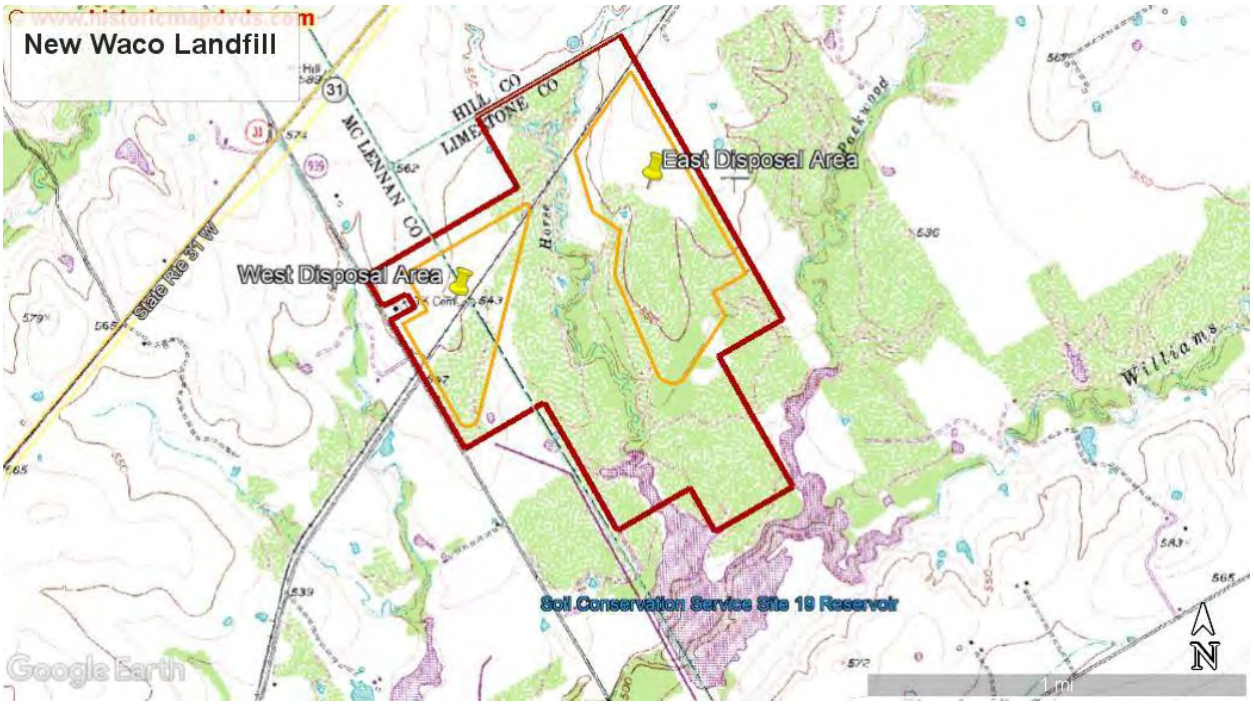


FIGURE 3: TOPO MAP

APPENDIX B

ONSITE PHOTOGRAPHS

PHOTO 1
Upland Woodland

PHOTO 2
Riparian Woodland

PHOTO 3
Horse Creek

PHOTO 4
Horse Creek

PHOTO 5
Tributary of Horse Creek to be Impacted

PHOTO 6
Tributary of Horse Creek to be Impacted

APPENDIX C

STATE AND FEDERAL LISTS

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
Phone: (512) 490-0057 Fax: (512) 490-0974
http://www.fws.gov/southwest/es/AustinTexas/
http://www.fws.gov/southwest/es/EndangeredSpecies/lists/

In Reply Refer To: July 15, 2018
Consultation Code: 02ETAU00-2018-SLI-1221
Event Code: 02ETAU00-2018-E-02397
Project Name: New Waco LF

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that *may* occur within the county of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

Please note that new information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Also note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq*.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of federally listed as threatened

or endangered species and to determine whether projects may affect these species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

While a Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment, the Federal Agency must notify the Service in writing of any such designation. The Federal agency shall also independently review and evaluate the scope and content of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by a federally funded, permitted or authorized activity, the agency is required to consult with the Service pursuant to 50 CFR 402. The following definitions are provided to assist you in reaching a determination:

- *No effect* - the proposed action will not affect federally listed species or critical habitat. A "no effect" determination does not require section 7 consultation and no coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.
- *May affect, but is not likely to adversely affect* - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effect. The Federal agency or the designated non-Federal representative should consult with the Service to seek written concurrence that adverse effects are not likely. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.
- *Is likely to adversely affect* - adverse effects to listed species may occur as a direct or indirect result of the proposed action. For this determination, the effect of the action is neither discountable nor insignificant. If the overall effect of the proposed action is beneficial to the listed species but the action is also likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. The analysis should consider all interrelated and interdependent actions. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with our office.

Regardless of the determination, the Service recommends that the Federal agency maintain a complete record of the evaluation, including steps leading to the determination of effect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related information. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF.

Migratory Birds

For projects that may affect migratory birds, the Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of these species. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Migratory birds may nest in trees, brushy areas, or other areas of suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals, nests, or eggs. If project activities must be conducted during this time, we recommend surveying for nests prior to conducting work. If a nest is found, and if possible, the Service recommends a buffer of vegetation remain around the nest until the young have fledged or the nest is abandoned.

For additional information concerning the MBTA and recommendations to reduce impacts to migratory birds please contact the U.S. Fish and Wildlife Service Migratory Birds Office, 500 Gold Ave. SW, Albuquerque, NM 87102. A list of migratory birds may be viewed at https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php. Guidance for minimizing impacts to migratory birds for projects including communications towers can be found at: https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/communication-towers.php. Additionally, wind energy projects should follow the wind energy guidelines

https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/wind-energy.php) for minimizing impacts to migratory birds and bats.

Finally, please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/eagles.php.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
(512) 490-0057

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

Project Summary

Consultation Code: 02ETAU00-2018-SLI-1221

Event Code: 02ETAU00-2018-E-02397

Project Name: New Waco LF

Project Type: Landfill

Project Description: New landfill

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/31.702514752419994N96.92286119351184W

Counties: Limestone, TX | McLennan, TX

Endangered Species Act Species

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 3 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Birds

NAME	STATUS
Golden-cheeked Warbler (=wood) *Dendroica chrysoparia* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/33	Endangered
Least Tern *Sterna antillarum* Population: interior pop. No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover *Charadrius melodus* Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is **final** critical habitat for this species. Your location is outside the critical habitat. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot *Calidris canutus rufa* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane *Grus americana* Population: Wherever found, except where listed as an experimental population There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Clams

NAME	STATUS
Smooth Pimpleback *Quadrula houstonensis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8967	Candidate
Texas Fawnsfoot *Truncilla macrodon* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8965	Candidate

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
Phone: (281) 286-8282 Fax: (281) 488-5882
http://www.fws.gov/southwest/es/TexasCoastal/
http://www.fws.gov/southwest/es/ES_Lists_Main2.html

In Reply Refer To: July 15, 2018
Consultation Code: 02ETTX00-2018-SLI-1957
Event Code: 02ETTX00-2018-E-04079
Project Name: New Waco LF

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: http://www.fws.gov/southwest/es/TexasCoastal/Map.html. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; P.O. Box 81468; Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project.

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website http://ecos.fws.gov/ipac/ at regular intervals during project planning and implementation for updates to species list and information. An updated list may be

requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect - adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect - the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the

project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at: http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at: http://www.fws.gov/endangered/esa-library/pdf/HCP_Handbook.pdf

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Proposed Species and/or Proposed Critical Habitat

While consultations are required when the proposed action may affect listed species, section 7(a)(4) was added to the ESA to provide a mechanism for identifying and resolving potential conflicts between a proposed action and proposed species or proposed critical habitat at an early planning stage. The action agency should seek conference from the Service to assist the action agency in determining effects and to advise the agency on ways to avoid or minimize adverse effect to proposed species or proposed critical habitat.

Candidate Species

Candidate species are species that are being considered for possible addition to the threatened and endangered species list. They currently have no legal protection under the ESA. If you find you have potential project impacts to these species the Service would like to provide technical

assistance to help avoid or minimize adverse effects. Addressing potential impacts to these species at this stage could better provide for overall ecosystem healh in the local area and ay avert potential future listing.

Several species of freshwater mussels occur in Texas and four are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at http://www.fws.gov/endangered/what-we-do/cca.html.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the goden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidlines, we recommend you review information provided at http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf.

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project

developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at http://www.aplic.org/.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at: http://www.fws.gov/habitatconservation/communicationtowers.html, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at: http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory flyways or corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at: http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005, ext. 246, if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
(512) 490-0057

Project Summary

Consultation Code: 02ETTX00-2018-SLI-1957

Event Code: 02ETTX00-2018-E-04079

Project Name: New Waco LF

Project Type: Landfill

Project Description: New landfill

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/31.702514752419994N96.92286119351184W

Counties: Limestone, TX | McLennan, TX

Endangered Species Act Species

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 2 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Birds

NAME	STATUS
Least Tern *Sterna antillarum* Population: interior pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover *Charadrius melodus* Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is **final** critical habitat for this species. Your location is outside the critical habitat. This species only needs to be considered under the following conditions: ▪ Wind related projects within migratory route. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot *Calidris canutus rufa* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind related projects within migratory route. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane *Grus americana* Population: Wherever found, except where listed as an experimental population There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Clams

NAME	STATUS
Smooth Pimpleback *Quadrula houstonensis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8967	Candidate
Texas Fawnsfoot *Truncilla macrodon* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8965	Candidate

Flowering Plants

NAME	STATUS
Navasota Ladies'-tresses *Spiranthes parksii* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1570	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

Last Revision: 5/16/2016 5:47:00 PM

MCLENNAN COUNTY

BIRDS

		Federal Status	State Status
American Peregrine Falcon	*Falco peregrinus anatum*	DL	T

year-round resident and local breeder in west Texas, nests in tall cliff eyries; also, migrant across state from more northern breeding areas in US and Canada, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.

Arctic Peregrine Falcon	*Falco peregrinus tundrius*	DL	

migrant throughout state from subspecies' far northern breeding range, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.

Bald Eagle	*Haliaeetus leucocephalus*	DL	T

found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds

Golden-cheeked Warbler	*Setophaga chrysoparia*	LE	E

juniper-oak woodlands; dependent on Ashe juniper (also known as cedar) for long fine bark strips, only available from mature trees, used in nest construction; nests are placed in various trees other than Ashe juniper; only a few mature junipers or nearby cedar brakes can provide the necessary nest material; forage for insects in broad-leaved trees and shrubs; nesting late March-early summer

Henslow's Sparrow	*Ammodramus henslowii*		

wintering individuals (not flocks) found in weedy fields or cut-over areas where lots of bunch grasses occur along with vines and brambles; a key component is bare ground for running/walking

Interior Least Tern	*Sterna antillarum athalassos*	LE	E

subspecies is listed only when inland (more than 50 miles from a coastline); nests along sand and gravel bars within braided streams, rivers; also know to nest on man-made structures (inland beaches, wastewater treatment plants, gravel mines, etc); eats small fish and crustaceans, when breeding forages within a few hundred feet of colony

Peregrine Falcon	*Falco peregrinus*	DL	T

both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (F. p. anatum) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, F.p. tundrius is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level; see subspecies for habitat.

Red Knot	*Calidris canutus rufa*	T	

Red knots migrate long distances in flocks northward through the contiguous United States mainly April-June, southward July-October. A small plump-bodied, short-necked shorebird that in breeding plumage, typically held from May through August, is a distinctive and unique pottery orange color. Its bill is dark, straight and, relative to other shorebirds, short-to-medium in length. After molting in late summer, this species is in a drab gray-and-white non-breeding plumage, typically held from September through April. In

the non-breeding plumage, the knot might be confused with the omnipresent Sanderling. During this plumage, look for the knot's prominent pale eyebrow and whitish flanks with dark barring. The Red Knot prefers the shoreline of coast and bays and also uses mudflats during rare inland encounters. Primary prey items include coquina clam (Donax spp.) on beaches and dwarf surf clam (Mulinia lateralis) in bays, at least in the Laguna Madre. Wintering Range includes- Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, San Patricio, and Willacy. Habitat: Primarily seacoasts on tidal flats and beaches, herbaceous wetland, and Tidal flat/shore.

Sprague's Pipit *Anthus spragueii*

only in Texas during migration and winter, mid September to early April; short to medium distance, diurnal migrant; strongly tied to native upland prairie, can be locally common in coastal grasslands, uncommon to rare further west; sensitive to patch size and avoids edges.

Western Burrowing Owl *Athene cunicularia hypugaea*

open grasslands, especially prairie, plains, and savanna, sometimes in open areas such as vacant lots near human habitation or airports; nests and roosts in abandoned burrows

White-faced Ibis *Plegadis chihi* T

prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats

Whooping Crane *Grus americana* LE E

potential migrant via plains throughout most of state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties

Wood Stork *Mycteria americana* T

forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960

FISHES

Federal Status State Status

Guadalupe bass *Micropterus treculii*

endemic to perennial streams of the Edward's Plateau region; introduced in Nueces River system

Sharpnose shiner *Notropis oxyrhynchus* LE

endemic to Brazos River drainage; also, apparently introduced into adjacent Colorado River drainage; large turbid river, with bottom a combination of sand, gravel, and clay-mud

Smalleye shiner *Notropis buccula* LE

endemic to upper Brazos River system and its tributaries (Clear Fork and Bosque); apparently introduced into adjacent Colorado River drainage; medium to large prairie streams with sandy substrate and turbid to clear warm water; presumably eats small aquatic invertebrates

MAMMALS

Federal Status State Status

Cave myotis bat *Myotis velifer*

colonial and cave-dwelling; also roosts in rock crevices, old buildings, carports, under bridges, and even in

abandoned Cliff Swallow (Hirundo pyrrhonota) nests; roosts in clusters of up to thousands of individuals; hibernates in limestone caves of Edwards Plateau and gypsum cave of Panhandle during winter; opportunistic insectivore

Plains spotted skunk *Spilogale putorius interrupta*

catholic; open fields, prairies, croplands, fence rows, farmyards, forest edges, and woodlands; prefers wooded, brushy areas and tallgrass prairie

Red wolf *Canis rufus* LE E

extirpated; formerly known throughout eastern half of Texas in brushy and forested areas, as well as coastal prairies

MOLLUSKS

Federal Status State Status

Smooth pimpleback *Quadrula houstonensis* C T

small to moderate streams and rivers as well as moderate size reservoirs; mixed mud, sand, and fine gravel, tolerates very slow to moderate flow rates, appears not to tolerate dramatic water level fluctuations, scoured bedrock substrates, or shifting sand bottoms, lower Trinity (questionable), Brazos, and Colorado River basins

Texas fawnsfoot *Truncilla macrodon* C T

little known; possibly rivers and larger streams, and intolerant of impoundment; flowing rice irrigation canals, possibly sand, gravel, and perhaps sandy-mud bottoms in moderate flows; Brazos and Colorado River basins

REPTILES

Federal Status State Status

Texas garter snake *Thamnophis sirtalis annectens*

wet or moist microhabitats are conducive to the species occurrence, but is not necessarily restricted to them; hibernates underground or in or under surface cover; breeds March-August

Texas horned lizard *Phrynosoma cornutum* T

open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky; burrows into soil, enters rodent burrows, or hides under rock when inactive; breeds March-September

Timber rattlesnake *Crotalus horridus* T

swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay; prefers dense ground cover, i.e. grapevines or palmetto

PLANTS

Federal Status State Status

Plateau milkvine *Matelea edwardsensis*

GLOBAL RANK: G3 ; Occurs in various types of juniper-oak and oak-juniper woodlands; Perennial; Flowering March-Oct; Fruiting May-June

Texas milk vetch *Astragalus reflexus*

GLOBAL RANK: G3; Grasslands, prairies, and roadsides on calcareous and clay substrates; Annual; Flowering Feb-June; Fruiting April-June

Tree dodder *Cuscuta exaltata*

GLOBAL RANK: G3; Parasitic on various Quercus, Juglans, Rhus, Vitis, Ulmus, and Diospyros species as well as Acacia berlandieri and other woody plants; Annual; Flowering May-Oct; Fruiting July-Oct

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LIMESTONE COUNTY

BIRDS		Federal Status	State Status
American Peregrine Falcon	*Falco peregrinus anatum*	DL	T

year-round resident and local breeder in west Texas, nests in tall cliff eyries; also, migrant across state from more northern breeding areas in US and Canada, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.

Arctic Peregrine Falcon	*Falco peregrinus tundrius*	DL	

migrant throughout state from subspecies' far northern breeding range, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.

Bald Eagle	*Haliaeetus leucocephalus*	DL	T

found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds

Henslow's Sparrow	*Ammodramus henslowii*		

wintering individuals (not flocks) found in weedy fields or cut-over areas where lots of bunch grasses occur along with vines and brambles; a key component is bare ground for running/walking

Interior Least Tern	*Sterna antillarum athalassos*	LE	E

subspecies is listed only when inland (more than 50 miles from a coastline); nests along sand and gravel bars within braided streams, rivers; also know to nest on man-made structures (inland beaches, wastewater treatment plants, gravel mines, etc); eats small fish and crustaceans, when breeding forages within a few hundred feet of colony

Peregrine Falcon	*Falco peregrinus*	DL	T

both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (F. p. anatum) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, F.p. tundrius is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level; see subspecies for habitat.

Red Knot	*Calidris canutus rufa*	T	

Red knots migrate long distances in flocks northward through the contiguous United States mainly April-June, southward July-October. A small plump-bodied, short-necked shorebird that in breeding plumage, typically held from May through August, is a distinctive and unique pottery orange color. Its bill is dark, straight and, relative to other shorebirds, short-to-medium in length. After molting in late summer, this species is in a drab gray-and-white non-breeding plumage, typically held from September through April. In the non-breeding plumage, the knot might be confused with the omnipresent Sanderling. During this plumage, look for the knot's prominent pale eyebrow and whitish flanks with dark barring. The Red Knot prefers the shoreline of coast and bays and also uses mudflats during rare inland encounters. Primary prey items include coquina clam (Donax spp.) on beaches and dwarf surf clam (Mulinia lateralis) in bays, at least in the Laguna Madre. Wintering Range includes- Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, San Patricio, and Willacy. Habitat: Primarily

seacoasts on tidal flats and beaches, herbaceous wetland, and Tidal flat/shore.

Sprague's Pipit *Anthus spragueii*

only in Texas during migration and winter, mid September to early April; short to medium distance, diurnal migrant; strongly tied to native upland prairie, can be locally common in coastal grasslands, uncommon to rare further west; sensitive to patch size and avoids edges.

Western Burrowing Owl *Athene cunicularia hypugaea*

open grasslands, especially prairie, plains, and savanna, sometimes in open areas such as vacant lots near human habitation or airports; nests and roosts in abandoned burrows

White-faced Ibis *Plegadis chihi* T

prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats

Whooping Crane *Grus americana* LE E

potential migrant via plains throughout most of state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties

Wood Stork *Mycteria americana* T

forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960

FISHES

Federal Status State Status

Smalleye shiner *Notropis buccula* LE

endemic to upper Brazos River system and its tributaries (Clear Fork and Bosque); apparently introduced into adjacent Colorado River drainage; medium to large prairie streams with sandy substrate and turbid to clear warm water; presumably eats small aquatic invertebrates

MAMMALS

Federal Status State Status

Plains spotted skunk *Spilogale putorius interrupta*

catholic; open fields, prairies, croplands, fence rows, farmyards, forest edges, and woodlands; prefers wooded, brushy areas and tallgrass prairie

Red wolf *Canis rufus* LE E

extirpated; formerly known throughout eastern half of Texas in brushy and forested areas, as well as coastal prairies

MOLLUSKS

Federal Status State Status

Smooth pimpleback *Quadrula houstonensis* C T

small to moderate streams and rivers as well as moderate size reservoirs; mixed mud, sand, and fine gravel, tolerates very slow to moderate flow rates, appears not to tolerate dramatic water level fluctuations, scoured bedrock substrates, or shifting sand bottoms, lower Trinity (questionable), Brazos, and Colorado River

basins

Texas fawnsfoot *Truncilla macrodon* C T

little known; possibly rivers and larger streams, and intolerant of impoundment; flowing rice irrigation canals, possibly sand, gravel, and perhaps sandy-mud bottoms in moderate flows; Brazos and Colorado River basins

REPTILES

Federal Status State Status

Alligator snapping turtle *Macrochelys temminckii* T

perennial water bodies; deep water of rivers, canals, lakes, and oxbows; also swamps, bayous, and ponds near deep running water; sometimes enters brackish coastal waters; usually in water with mud bottom and abundant aquatic vegetation; may migrate several miles along rivers; active March-October; breeds April-October

Texas garter snake *Thamnophis sirtalis annectens*

wet or moist microhabitats are conducive to the species occurrence, but is not necessarily restricted to them; hibernates underground or in or under surface cover; breeds March-August

Texas horned lizard *Phrynosoma cornutum* T

open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky; burrows into soil, enters rodent burrows, or hides under rock when inactive; breeds March-September

Timber rattlesnake *Crotalus horridus* T

swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay; prefers dense ground cover, i.e. grapevines or palmetto

PLANTS

Federal Status State Status

Goldenwave tickseed *Coreopsis intermedia*

GLOBAL RANK: G3; In deep sandy soils of sandhills in openings in or along margins of post oak woodlands and pine-oak forests of east Texas; Perennial; Flowering/Fruiting May-Aug

Navasota ladies'-tresses *Spiranthes parksii* LE E

Texas endemic; openings in post oak woodlands in sandy loams along upland drainages or intermittent streams, often in areas with suitable hydrologic factors, such as a perched water table associated with the underlying claypan; flowering populations fluctuate widely from year to year, an individual plant does not flower every year; flowering late October-early November (-early December)

Small-headed pipewort *Eriocaulon koernickianum*

in East Texas, post-oak woodlands and xeric sandhill openings on permanently wet acid sands of upland seeps and hillside seepage bogs, usually in patches of bare sand rather than among dense vegetation or on muck; in Gillespie County, on permanently wet or moist hillside seep on decomposing granite gravel and sand among granite outcrops; flowering/fruiting late May-late June

Texas sandmint *Rhododon ciliatus*

GLOBAL RANK: G3; Open sandy areas in the Post Oak Belt of east-central Texas; Annual; Flowering April-Aug; Fruiting May-Aug

COORDINATION WITH U.S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE

7 August 2018

US Fish and Wildlife Service
Ecological Services Field Office - Austin
10711 Burnet Road, Suite 200
Austin, Texas 78758-4460

US Fish and Wildlife Service
Ecological Services Field Office – Clear Lake
17629 El Camino Real, Suite 211
Houston, Texas 77058-3051

RE: Proposed New Waco Landfill:
McLennan and Limestone Counties, Texas
HJN 150184-003WD

Dear Sirs:

The City of Waco is proposing to develop a new Type I Municipal Solid Waste Landfill located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River. The proposed landfill footprint has been designed to avoid Horse Creek and its associated floodplain (Figure 2). Site configuration is also constrained by the downstream SCS reservoir easement.

Per requirements of the TCEQ regulations for landfill permitting and development, a Biological Assessment report has been developed for this site addressing the potential effects on State- and Federally-listed threatened or endangered species (attached). In summary, our conclusions are as follows:

> *The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species. Two state-listed species, the timber rattlesnake and Texas horned lizard may occur in or near the landfill site. A species management plan is included and will be implemented by the City of Waco to ensure that the undertaking will not cause or contribute to the taking of any threatened or endangered species.*

Horizon has made a finding of "No Effect" for federally-listed species in conformance with TCEQ landfill regulations at 30 TAC 330.157 and 330.551. We are requesting your review of our findings and conclusions with regard to federally-listed species and advise if you have any information to the contrary. Your prompt attention to this matter would be greatly appreciated, as your response is necessary to complete the landfill permit application to the TCEQ.

Please call me should you have any questions concerning this project or if I can be of any further assistance.

Sincerely,
For Horizon Environmental Services, Inc.

C. Lee Sherrod
President

Horizon™
Environmental Services, Inc.

BIOLOGICAL ASSESSMENT
NEW CITY OF WACO LANDFILL
MCLENNAN AND LIMESTONE COUNTIES, TEXAS

PREPARED FOR:

CITY OF WACO

PREPARED BY:

HORIZON ENVIRONMENTAL SERVICES, INC.

AUGUST 2018

CORPORATE OFFICE
1507 South IH 35★Austin, Texas 78741★512.328.2430★FAX 512.328.1804★www.horizon-esi.com
An LJA Company

Introduction

Horizon Environmental Services, Inc. has conducted a biological assessment of the proposed new City of Waco Landfill to determine the effect of the proposed landfill on any state or federally listed threatened or endangered species and the existence of any potentially suitable habitat for any such species. The assessment included a literature and agency records search and a site reconnaissance during December, 2017 by a qualified Horizon biologist. Prior to the site investigation, records and files maintained by the Texas Parks and Wildlife Department (TPWD), Natural Diversity Data Base (NDD) and the U.S. Fish and Wildlife Service (USFWS) were inspected to determine if any listed species or habitat were previously recorded. A list of state and federal species of potential occurrence in McLennan and Limestone Counties was also obtained from each agency. Color aerial photography and USGS topographic maps were acquired to aid the field reconnaissance.

Background

The proposed New Waco Landfill will be a Type I municipal solid waste landfill operated by the City of Waco. The New Landfill is located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1, Appendix A). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2, Appendix A). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River (Figure 3, Appendix A). The proposed landfill footprint has been designed to avoid Horse Creek and its associated floodplain (Figure 2, Appendix A). Site configuration is also constrained by the downstream SCS reservoir easement. Site photographs are included in Appendix B.

Listed Threatened and Endangered Species

Table 1 provides a list of the State and Federally protected species whose distribution includes McLennan and Limestone counties. The table was compiled as a result of the above mentioned agency information review. IPAC lists are included in Appendix C.

TABLE 1: STATE- AND FEDERALLY-LISTED THREATENED OR ENDANGERED SPECIES OF POTENTIAL OCCURRENCE IN MCLENNAN AND LIMESTONE COUNTIES

Taxon	Common Name	Scientific Name	Federal Status	State Status
Birds	Peregrine Falcon	*Falco peregrinus*	DL	T
	American Peregrine Falcon	*Falco peregrinus anatum*	DL	T
	Whooping Crane	*Grus americana*	E	E
	Bald Eagle	*Haliaeetus leucocephalus*	DL	T
	Interior Least Tern	*Sterna antillarum* athalassos	E	E
	Golden-cheeked Warbler	*Setophaga chrysoparia*	E	E
	White-faced Ibis	*Plegadis chihi*	--	T
	Wood Stork	*Mycteria americana*	--	T
	Piping Plover	*Charadrius melodus*	T	T
	Red Knot	*Calidris canutus rufa*	T	--
Fishes	Sharpnose shiner	*Micropterus treculii*	E	--

Taxon	Common Name	Scientific Name	Federal Status	State Status
	Smalleye shiner	*Notropis oxyrhynchus*	E	--
Mammals	Gray Wolf	*Canis lupus*	E	E
Mollusks	Smooth pimpleback	*Quadrula houstonensis*	C	T
	Texas fawnsfoot	*Truncilla macrodon*	C	T
Reptiles	Timber rattlesnake	*Crotalus horridus*	--	T
	Texas Horned Lizard	*Phrynosoma cornutum*	--	T
	Alligator snapping turtle	*Macrochelys temminckii*	--	T
Plants	Navasota ladies-tresses	*Spiranthes parksii*	E	E

1 E = Endangered: Species in danger of extinction throughout all or a significant portion of its range.
T = Threatened: Species is likely to become listed as an endangered species.
T/SA: NL – Threatened due to similar appearance: not listed.
DL = Delisted: Species is no longer listed as threatened or endangered.
C = Candidate for Federal Listing
2 Source: USFWS IPAC Threatened and Endangered Species List for Southwest Landfill, McLennan and Limestone Counties (https://ecos.fws.gov/ipac/) 2018 and Texas Parks and Wildlife Department, Natural Diversity Data Base (http://tpwd.texas.gov/gis/rtest/) 2018

The NDD list from the TPWD also includes several rare species, including the western burrowing owl, Arctic peregrine falcon, Sprague's pipit, Henslow's sparrow, cave myotis bat, plains spotted skunk, Texas garter snake, Guadalupe bass, plateau milkvine, Texas milk vetch, tree dodder, goldenwave tick seed, small headed pipewort, and Texas sandmint as possibly occurring in McLennan and Limestone counties. However, none of these species are listed by the State or Federal government as threatened or endangered.

Birds

Peregrine Falcons (state list)

The two peregrine falcons were federally delisted in 1999, but TPWD has not as yet followed suit at the state level. Suitable nesting habitat for the two peregrines includes large rocky bluffs and canyons. However, no bluffs or canyons occur on the subject site. Both birds are migratory across Texas and could temporarily occur in the area as transients who are opportunistic feeders. Any such temporary occurrence during migrations would not be precluded by the landfill; however, no adverse effects to peregrines would be expected because they are quite tolerant of human activity and are known to winter in urban areas and very active ports along the Gulf Coast.

Whooping Crane (state and federal lists)

The whooping crane is migratory and passes over much of Texas on its migration route between the Texas coast and southern Canada. It may occasionally stop over at points along the way that provide temporary feeding or resting habitat such as large wetlands, playa lakes, or agricultural fields. The site does not provide any usable habitat for the whooping crane. The whooping crane would not be expected on the site.

Bald Eagle (state list)

The bald eagle is represented in Texas by both migratory and non-migratory individuals. Nesting or wintering eagles are increasing in Texas and are found around large bodies of water such as rivers and reservoirs. SCS Reservoir #19 is adjacent to the landfill site to the south. No eagles were observed during site reconnaissance efforts. Eagles can range a considerable

distance in daily flights or migrations, and it is not uncommon to see them flying over any area within 20 or 30 miles of suitable habitat areas. They rarely land in or utilize any other habitats other than near large water bodies, which is an essential component of suitable habitat because fish and waterfowl make up the majority of their diets. While an eagle could temporarily fly over the subject site, it would not be expected to utilize the site.

Interior Least Tern (state and federal lists)
The interior least tern is also migratory and nests along large bodies of water such as rivers or lakes where generally barren shorelines or sandbars exist. No such habitats exist on the subject site and this species would not be expected to occur there.

Piping Plover (federal list)
The piping plover is migratory and passes over much of Texas on its migration route. It winters on the Texas coast. It occupies coastal beaches, mud flats, and shorelines. The piping plover would not be expected on the landfill site.

Red Knot (federal list)
The red knot is migratory and passes over much of Texas on its migration route. It winters on the Texas coast. It occupies coastal beaches, mud flats, and shorelines. The red knot would not be expected on the landfill site.

Golden-cheeked Warbler (state and federal list)
Nests in juniper-oak woodlands in the western portion of McLennan County. The golden-cheek would not be expected in the eastern portion of the county or on the landfill site.

White-faced Ibis (state list)
The white-faced ibis prefers freshwater marshes, sloughs, and irrigated rice fields. It nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats. The landfill site is upland with only ephemeral tributaries. The ibis would not be expected on the landfill site.

Wood Stork (state list)
The wood stork forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries). It breeds in Mexico and the birds move into Gulf States in search of mud flats and other wetlands. The landfill site is upland with only ephemeral tributaries. The wood stork would not be expected on the landfill site.

Mammals

Gray Wolf (state list)
Although the gray wolf is included on the state list of endangered mammals, the wolf is considered extirpated in the state.

Fishes

Smalleye Shiner (state List)
The smalleye shiner is endemic to the upper Brazos River system and its tributaries (Clear Fork and Bosque) and apparently introduced into the adjacent Colorado River drainage. The landfill

site is upland with only ephemeral tributaries. The shiner would not be expected on the landfill site.

Sharpnose Shiner (state list)

The sharpnose shiner is endemic to the Brazos River watershed and has also apparently been introduced into the adjacent Colorado River drainage. It utilizes large turbid rivers with sand, gravel, and clay-mud bottom. The landfill site is upland with only ephemeral tributaries. The shiner would not be expected on the landfill site.

Mussels

Smooth Pimpleback (federal and state list)

Occurs in small to moderate streams and rivers as well as moderate size reservoirs with mixed mud, sand, and fine gravel. It tolerates very slow to moderate flow rates and appears not to tolerate dramatic water level fluctuations. The landfill site is upland with only ephemeral tributaries. The pimpleback would not be expected on the landfill site.

Texas Fawnsfoot (federal and state list)

Little is known about this species, but it possibly occurs in rivers and larger streams, and is intolerant of impoundments. Known from the Brazos and Colorado River basins. The landfill site is upland with only ephemeral tributaries. The fawnsfoot would not be expected on the landfill site.

Reptiles

Timber Rattlesnake (state list)

Occurs in swamps, floodplains, upland pine and deciduous woodlands, riparian zones, and abandoned farmland. It prefers dense ground cover such as grapevines or palmetto. There are potentially suitable habitat characteristics for this species in the bottomlands along Horse Creek. The proposed landfill area is upland with only ephemeral tributaries and minimal riparian areas. It is relatively unlikely that the timber rattlesnake would occur on the landfill site. However, due to the general proximity to Horse Creek, a species management plan is included herein to minimize the potential effects to the timber rattlesnake.

Texas Horned Lizard (state list)

The Texas horned lizard formerly occurred throughout most of Texas, but now is generally restricted to the western and southern two-thirds of the state. Its preferred habitat is open to semi-open grasslands and savannahs. Its primary food source is the harvester ant. The presence of these ants is a prerequisite for suitable horned lizard habitat. While somewhat unlikely, the possible occurrence of the horned lizard on the subject site cannot be ruled out, particularly on the western disposal area and the northern portion of the eastern disposal area. A species management plan is included herein to minimize the potential effects to the horned lizard.

Alligator Snapping Turtle (state list)

Occurs in perennial water bodies; deep water of rivers, canals, lakes, and oxbows; also swamps, bayous, and ponds near deep running water; usually in water with mud bottom and abundant aquatic vegetation; may migrate several miles along rivers. All streams on the subject site are ephemeral and unlikely to support alligator snapping turtles.

Plants

Navasota Ladies-tresses (federal and state list)

Occurs in sandy loams within openings in post oak woodlands along upland drainages or intermittent streams, often in areas with suitable hydrologic factors, such as a perched water table associated with the underlying claypan. This species is known to occur in eastern and southern Limestone County. It is unlikely to occur in northwestern Limestone County or on the subject site.

CONSERVATION MEASURES

According to 30 Texas Administrative Code (TAC) 330.157 and 330.551, construction and operation of municipal solid waste landfill facilities in the State of Texas shall not result in adverse modification of the critical habitat of threatened or endangered (T/E) species, or cause or contribute to the taking of any T/E species. No federally-designated critical habitat is situated on or near the proposed landfill site. No federally-listed species are likely to occur on the site. Horizon has made a determination of "No Effect" for federally-listed species.

In the case of the occurrence of a state-listed species on a site for a proposed state-permitted activity such as a landfill, water reservoir, surface coal mine, or the like, the typical means of minimizing impacts to the species that is recommended by Texas Parks and Wildlife Department is through the formulation and implementation of a management plan for the species.

These plans can include a number of actions or management activities, depending on the species, but generally focus on education of project personnel to be observant and to recognize the species for avoidance of death or injury. In many cases, qualified and permitted biologists conduct detailed surveys for the species prior to clearing or grading to find and relocate as many of the individuals as possible to another suitable habitat area. These surveys may be conducted each year in as yet undisturbed areas of the project site scheduled for clearing, excavation, grading, etc. that year. If possible, favorable habitats for the species may be created, managed, or enhanced on an area away from the project site to increase the species available habitat. The collection and transport of any state-listed species must be done under a State Scientific Collection Permit specific to that species. A management plan for the timber rattlesnake and Texas horned lizard on the proposed landfill site is found in the next section of this report.

Implementation of a management plan will significantly reduce the likelihood of a "take" during development and operation of the landfill because pursuing, hunting, wounding, trapping, capturing, and collecting are intentional acts that will be prohibited by the plan. The disruption of normal behavior patterns (harassing) will not occur because significant undeveloped areas exist nearby, within and off the site. Additionally, an "act of omission" that actually kills or injures wildlife (harming) will not occur because the management plan will provide specific actions to be taken to minimize impacts to the species consistent with recommendations of TPWD for state-permitted facilities.

No timber rattlesnakes or Texas horned lizards have thus far been observed during field reconnaissance efforts on the proposed landfill site. However, the possibility of their occurrence

cannot be ruled out. In order to minimize potential impacts and to demonstrate compliance with regulatory requirements, the City of Waco will implement the following protection and management activities for these species.

MANAGEMENT PLAN

Prohibited Actions

Persons at the proposed landfill facility shall not annoy, pursue, hunt, wound, trap, capture or collect any timber rattlesnakes or Texas horned lizards that may be present at the facility except for capturing for purposes of relocation as authorized by this plan and a State Scientific Collection Permit.

Survey/Relocation

Prior to land clearing, excavation or other disruptive activities on undeveloped areas of the site, the City of Waco will implement a search and removal/relocation survey of the area to be impacted. The surveys will occur no more than 6 months prior to land clearing, excavation, etc. A biologist with a State Scientific Collection Permit will conduct the surveys. Additional field assistants will be utilized as needed. Surveys will be pedestrian-style ground surveys conducted during the season when the listed reptile species are active. Surveys will consist of meandering transects in which logs, plant material, and debris are overturned in an effort to locate listed species. All individuals of these species encountered and captured will be relocated to suitable habitat off the landfill area.

Conclusion

All of the threatened or endangered species were reviewed for possible impact by the proposed landfill operations. The site is not in an area designated as critical habitat for any listed threatened or endangered species, nor does the site provide suitable habitat for any federally-listed species. Two state-listed species, the timber rattlesnake and Texas horned lizard may occur in or near the landfill site. A species management plan is included herein and will be implemented by the City of Waco to ensure that the undertaking will not cause or contribute to the taking of any T/E species.

Please call if you have any questions.

Sincerely,

C. Lee Sherrod
President

APPENDIX A

FIGURES

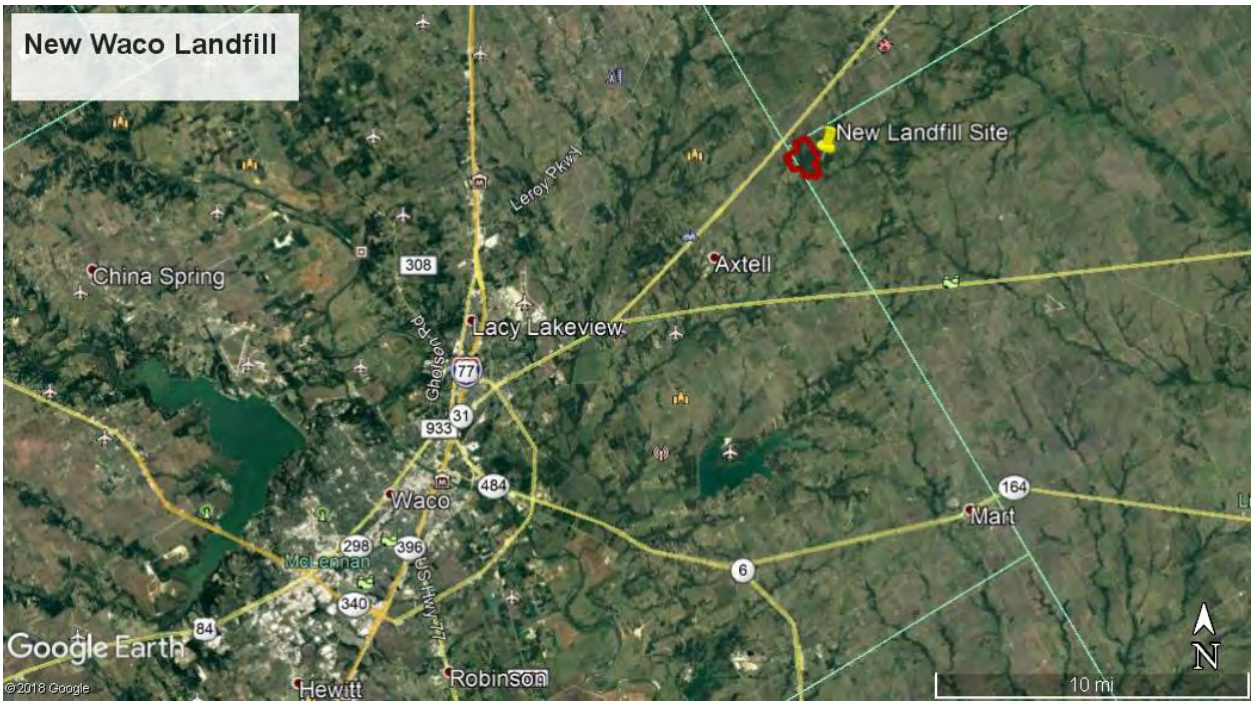

FIGURE 1: LOCATION

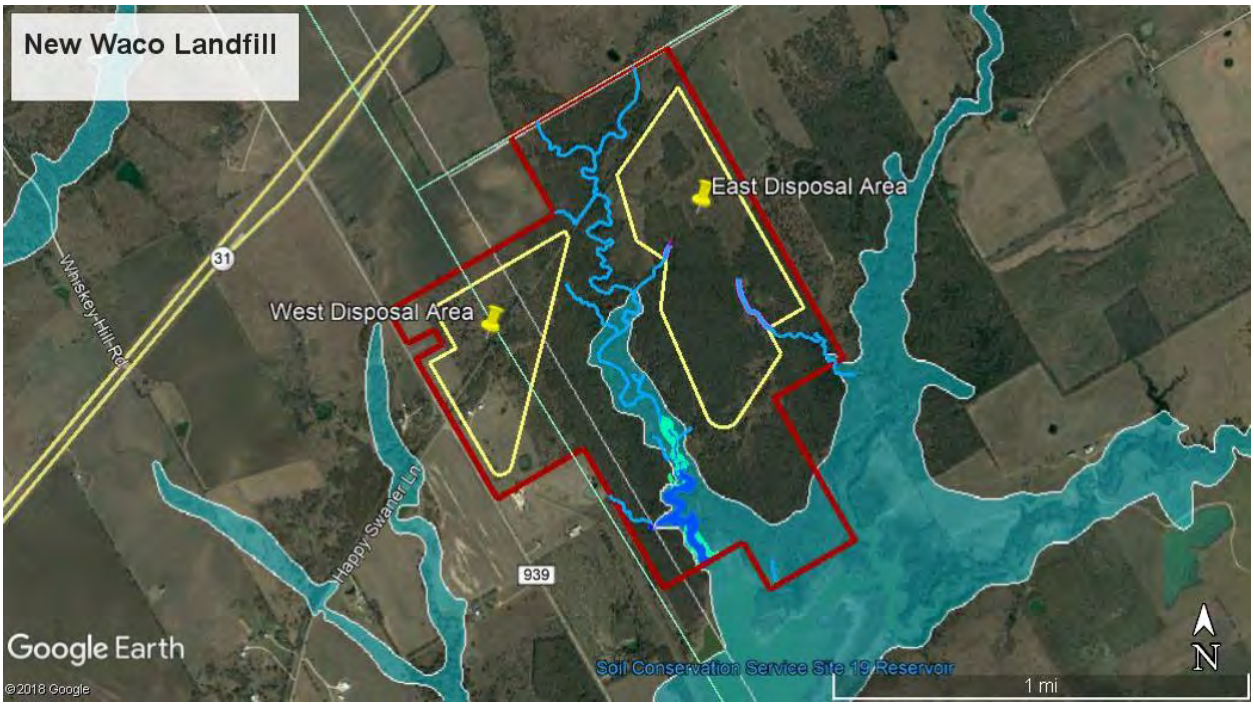

FIGURE 2: SITE CHARACTERISTICS

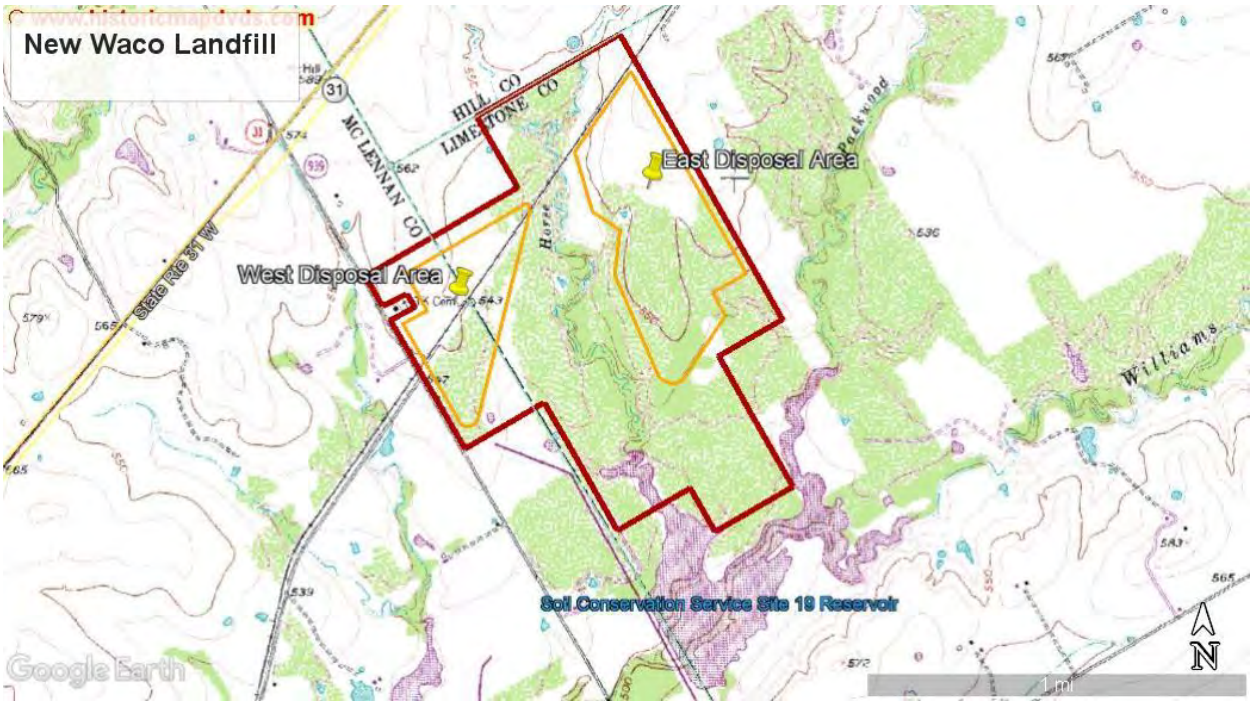

FIGURE 3: TOPO MAP

APPENDIX B

ONSITE PHOTOGRAPHS

PHOTO 1
Upland Woodland

PHOTO 2
Riparian Woodland

PHOTO 3
Horse Creek

PHOTO 4
Horse Creek

PHOTO 5
Tributary of Horse Creek to be Impacted

PHOTO 6
Tributary of Horse Creek to be Impacted

APPENDIX C

IPAC LISTS

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
Phone: (512) 490-0057 Fax: (512) 490-0974
http://www.fws.gov/southwest/es/AustinTexas/
http://www.fws.gov/southwest/es/EndangeredSpecies/lists/

In Reply Refer To: July 15, 2018
Consultation Code: 02ETAU00-2018-SLI-1221
Event Code: 02ETAU00-2018-E-02397
Project Name: New Waco LF

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that *may* occur within the county of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

Please note that new information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Also note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq*.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of federally listed as threatened

or endangered species and to determine whether projects may affect these species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

While a Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment, the Federal Agency must notify the Service in writing of any such designation. The Federal agency shall also independently review and evaluate the scope and content of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by a federally funded, permitted or authorized activity, the agency is required to consult with the Service pursuant to 50 CFR 402. The following definitions are provided to assist you in reaching a determination:

- *No effect* - the proposed action will not affect federally listed species or critical habitat. A "no effect" determination does not require section 7 consultation and no coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.
- *May affect, but is not likely to adversely affect* - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effect. The Federal agency or the designated non-Federal representative should consult with the Service to seek written concurrence that adverse effects are not likely. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.
- *Is likely to adversely affect* - adverse effects to listed species may occur as a direct or indirect result of the proposed action. For this determination, the effect of the action is neither discountable nor insignificant. If the overall effect of the proposed action is beneficial to the listed species but the action is also likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. The analysis should consider all interrelated and interdependent actions. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with our office.

Regardless of the determination, the Service recommends that the Federal agency maintain a complete record of the evaluation, including steps leading to the determination of effect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related information. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF.

Migratory Birds

For projects that may affect migratory birds, the Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of these species. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Migratory birds may nest in trees, brushy areas, or other areas of suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals, nests, or eggs. If project activities must be conducted during this time, we recommend surveying for nests prior to conducting work. If a nest is found, and if possible, the Service recommends a buffer of vegetation remain around the nest until the young have fledged or the nest is abandoned.

For additional information concerning the MBTA and recommendations to reduce impacts to migratory birds please contact the U.S. Fish and Wildlife Service Migratory Birds Office, 500 Gold Ave. SW, Albuquerque, NM 87102. A list of migratory birds may be viewed at https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php. Guidance for minimizing impacts to migratory birds for projects including communications towers can be found at: https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/communication-towers.php. Additionally, wind energy projects should follow the wind energy guidelines

https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/wind-energy.php) for minimizing impacts to migratory birds and bats.

Finally, please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/guidance-documents/eagles.php.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
(512) 490-0057

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

Project Summary

Consultation Code: 02ETAU00-2018-SLI-1221

Event Code: 02ETAU00-2018-E-02397

Project Name: New Waco LF

Project Type: Landfill

Project Description: New landfill

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/31.702514752419994N96.92286119351184W

Counties: Limestone, TX | McLennan, TX

Endangered Species Act Species

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 3 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Birds

NAME	STATUS
Golden-cheeked Warbler (=wood) *Dendroica chrysoparia* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/33	Endangered
Least Tern *Sterna antillarum* Population: interior pop. No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover *Charadrius melodus* Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is **final** critical habitat for this species. Your location is outside the critical habitat. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot *Calidris canutus rufa* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind Energy Projects Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane *Grus americana* Population: Wherever found, except where listed as an experimental population There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Clams

NAME	STATUS
Smooth Pimpleback *Quadrula houstonensis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8967	Candidate
Texas Fawnsfoot *Truncilla macrodon* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8965	Candidate

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
Phone: (281) 286-8282 Fax: (281) 488-5882
http://www.fws.gov/southwest/es/TexasCoastal/
http://www.fws.gov/southwest/es/ES_Lists_Main2.html

In Reply Refer To: July 15, 2018
Consultation Code: 02ETTX00-2018-SLI-1957
Event Code: 02ETTX00-2018-E-04079
Project Name: New Waco LF

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: http://www.fws.gov/southwest/es/TexasCoastal/Map.html. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; P.O. Box 81468; Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project.

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website http://ecos.fws.gov/ipac/ at regular intervals during project planning and implementation for updates to species list and information. An updated list may be

requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect - adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect - the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the

project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at: http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at: http://www.fws.gov/endangered/esa-library/pdf/HCP_Handbook.pdf

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Proposed Species and/or Proposed Critical Habitat

While consultations are required when the proposed action may affect listed species, section 7(a)(4) was added to the ESA to provide a mechanism for identifying and resolving potential conflicts between a proposed action and proposed species or proposed critical habitat at an early planning stage. The action agency should seek conference from the Service to assist the action agency in determining effects and to advise the agency on ways to avoid or minimize adverse effect to proposed species or proposed critical habitat.

Candidate Species

Candidate species are species that are being considered for possible addition to the threatened and endangered species list. They currently have no legal protection under the ESA. If you find you have potential project impacts to these species the Service would like to provide technical

assistance to help avoid or minimize adverse effects. Addressing potential impacts to these species at this stage could better provide for overall ecosystem healh in the local area and ay avert potential future listing.

Several species of freshwater mussels occur in Texas and four are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at http://www.fws.gov/endangered/what-we-do/cca.html.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the goden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidlines, we recommend you review information provided at http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf.

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project

developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at http://www.aplic.org/.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at: http://www.fws.gov/habitatconservation/communicationtowers.html, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at: http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory flyways or corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at: http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005, ext. 246, if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058
(281) 286-8282

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office, and expect that the species and critical habitats in each document reflect only those that fall in the office's jurisdiction:

Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, TX 78758-4460
(512) 490-0057

Project Summary

Consultation Code: 02ETTX00-2018-SLI-1957

Event Code: 02ETTX00-2018-E-04079

Project Name: New Waco LF

Project Type: Landfill

Project Description: New landfill

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/place/31.702514752419994N96.92286119351184W

Counties: Limestone, TX | McLennan, TX

Endangered Species Act Species

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 2 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

---

1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Birds

NAME	STATUS
Least Tern *Sterna antillarum* Population: interior pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover *Charadrius melodus* Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is **final** critical habitat for this species. Your location is outside the critical habitat. This species only needs to be considered under the following conditions: ▪ Wind related projects within migratory route. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot *Calidris canutus rufa* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ Wind related projects within migratory route. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane *Grus americana* Population: Wherever found, except where listed as an experimental population There is **final** critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Clams

NAME	STATUS
Smooth Pimpleback *Quadrula houstonensis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8967	Candidate
Texas Fawnsfoot *Truncilla macrodon* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8965	Candidate

Flowering Plants

NAME	STATUS
Navasota Ladies'-tresses *Spiranthes parksii* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1570	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

COORDINATION WITH TEXAS HISTORIC COMMISSION

August 8, 2018

Mr. Mark Wolfe
Executive Director / State Historic Preservation Officer
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711

Re: Request for Cultural Resources Consultation under Antiquities Code of Texas and Section 106 of National Historic Preservation Act

Proposed City of Waco Site 50 Landfill
Limestone and McLennan Counties, Texas

HJN 150184.003AR

Dear Mr. Wolfe:

The City of Waco is proposing to construct a new municipal landfill within an approximately 502.5-acre tract located in eastern McLennan County and northwestern Limestone County, Texas. Horizon Environmental Services, Inc. (Horizon) respectfully submits this cultural resources consultation request letter to solicit the Texas Historical Commission's (THC) comments regarding the nature and extent of cultural resources investigations required for the proposed project in compliance with the Antiquities Code of Texas (ACT) and Section 106 of the National Historic Preservation Act (NHPA).

On behalf of the City of Waco (the potential future landowner and project sponsor) and its engineering contractor, SCS Engineers (SCS), Horizon conducted a cultural resources background study to determine the locations of any previously recorded cultural resources and surveys conducted within and near the study area and to evaluate the potential of the study area to contain significant cultural resources. The background study included examination of records on file on the THC's online *Texas Archeological Sites Atlas* (TASA) and historical topographic maps and aerial photographs available online on Nationwide Environmental Title Research's (NETR) Web site. Natural Resources Conservation Service (NRCS) soil maps also were examined. Finally, at the request of SCS, Horizon conducted an informal site inspection of portions of the Site 50 tract, which is currently privately owned, on January 22, 2018, via limited pedestrian walkover and vehicular inspection with an all-terrain vehicle (ATV).

Project Description

The Site 50 tract is currently largely undeveloped and consists of heavily wooded upland, floodplain, and terrace settings associated with the Horse and Packwood creek drainages as well as clear, open pastures (Figures 1 and 2). The tract is bounded roughly by Farm-to-Market Road (FM) 939 (a.k.a. TK Parkway) on the southwest and the Limestone-Hill county line on the northwest. The currently proposed landfill design plan includes two waste-disposal areas, a small complex of administrative buildings, and connective roadways (see attached Facility Layout Plan). The East Disposal Area would be located on an upland ridge that forms an interfluve between Horse Creek to the west and Packwood Creek to the east and would cover an area of approximately 112.9 acres. The West Disposal Area would be located on an upland formation between Horse Creek to the east and FM 939 (a.k.a. TK Parkway) to the west

and would cover an area of approximately 62.8 acres. Proposed project facility buildings, including a maintenance/administration building and a citizen's convenience center, would be constructed within an approximately 3.6-acre area within the northern portion of the tract. Finally, an intrasite roadway would be constructed that would provide access to the site from FM 939 and provide connectivity between the various project facilities within the site. The proposed roadway would measure approximately 4.2 linear miles within the tract. Ground disturbances associated with construction, use, and ongoing maintenance of the facility would be largely constrained to upland areas, with the exception of one roadway crossing over Horse Creek in the northern portion of the study area near the proposed location of the administration buildings. Aside from this road crossing, no impacts are currently anticipated on the floodplain or terraces of Horse or Packwood creeks based on current project design.

Currently, the Site 50 tract is privately owned. In the event that the Site 50 tract is selected for the proposed construction and use of a City of Waco municipal landfill, the property would be purchased, owned, and operated by the City of Waco. At that time, the project would fall under the jurisdiction of the ACT. In addition, the project would require permitting by the US Army Corps of Engineers (USACE), Fort Worth District, under Section 404 of the Clean Water Act (CWA); as such, those portions of the overall study area subject to federal permitting would additionally fall under the jurisdiction of Section 106 of the NHPA. The ACT and the NHPA state that applicable federal agency(ies) (in this case the USACE) and the THC, which serves as Texas's State Historic Preservation Office (SHPO), must be afforded the opportunity to comment when any historic properties that are listed on or considered eligible for designation as State Antiquities Landmarks (SAL) (under the ACT) and/or for inclusion in the National Register of Historic Places (NRHP) (under the NHPA) are present in a project area affected by federal and/or state agency actions or covered under federal and/or state permits or funding.

Archival Research

Environmental Setting

Geologically, the study area is situated on the Upper Cretaceous-age Wolfe City Formation (Kwc), which consists of marl, sand, sandstone, and clay (Flawn 1970). The study area is roughly bisected by Horse Creek, which flows southwards to its confluence with Packwood Creek immediately south of the study area. The study area is composed of two prominent upland formations located in the northeastern and western portions of the study area on either side of Horse Creek, floodplain and terrace settings within the broad Horse Creek valley, and floodplain and terrace settings to the west of Packwood Creek (though Packwood Creek proper does not flow through the study area).

Geomorphologically, the study area is composed of a mosaic of upland, floodplain, and terrace soils (Figure 3; Table 1). Upland settings within the study area are characterized by Pleistocene-age alluvial deposits and residuum weathered in situ from shale, marl, and mudstone bedrock. Floodplain and terrace settings within the study area are characterized by clayey and loamy alluvium of Quaternary and Holocene age.

Previously Recorded Archeological Sites and Cemeteries

Records on file on the THC's online TASA were examined for information on previously recorded archeological sites and previous archeological investigations conducted within a 1.0-mile radius of the study area. This archival research revealed that one previously recorded archeological site and one cemetery occur within 1.0 mile of the study area (Figure 4; Table 2). Minimal information is provided on the site form for the previously recorded archeological site, 41ML76, and the site type, age of cultural

component(s), and NRHP eligibility of this site are not known. This site is located 0.2 mile southwest of the study area and would not be disturbed as a result of the proposed project. The TK cemetery is located off the eastern side of FM 939 (TK Parkway) adjacent to and outside of the western boundary of the study area. No known cultural resources are located within the study area, and no historic properties or districts listed on the NRHP or designated as SALs are present within the 1.0-mile search radius.

Historical Map Research

Historical US Geological Survey (USGS) topographic maps dating from 1920 to 2013 and historical aerial images dating from 1995 to 2014 were also examined for information about possible historic-age standing structures (NETR 2018). Historical imagery suggests that the study area has remained largely undeveloped throughout at least the latter half of the 20th century. Two structures, apparently a house and an outbuilding, are visible off the eastern side of FM 939 (a.k.a. TK Parkway) near its intersection with Happy Swaner Lane along the western margin of the study area. These structures appear on the 1957 and 1978 USGS topographic maps, though neither is visible on the 2013 map, and it would appear that both structures were removed or demolished between 1978 and 2013. These two structures may be visible on a historical aerial photograph dating to 1995, though the image is blurry and it is not clear whether or not these structures were present in 1995. Furthermore, a church was formerly located in front of the TK cemetery off the eastern side of FM 939 (a.k.a. TK Parkway). This church is visible on USGS maps dating to 1957 and 1978, though the church is not visible on the 1995 aerial photograph or the 2013 USGS map. The two domestic structures would have fallen within the boundaries of the study area, whereas the church would have fallen outside the boundaries of the study area.

Previous Cultural Resources Surveys

No prior cultural resources surveys have been conducted within the study area.

Site Inspection

On January 22, 2018, Horizon conducted an informal site inspection of the study area at the request of SCS to further assess its cultural resources potential. The study area was privately owned at the time of the site inspection (and is still privately owned as of the date of this letter). The site inspection consisted of a visual inspection of easily accessible portions of the property via pedestrian walkover and vehicular inspection from an ATV. No aboriginal or historic-age cultural resources were observed on the modern ground surface; however; visibility of the modern ground surface was generally poor throughout the study area due to dense vegetative cover. Where visible, soils in upland areas tended to be gravelly and appeared to be relatively shallow, suggesting a reduced potential for intact subsurface archeological deposits, though no subsurface testing (such as shovel testing) was conducted. Cutbanks along the channels of Horse and Packwood creeks were randomly inspected in accessible areas, typically revealing soil profiles measuring a meter or more in depth composed of loamy and clayey alluvial sediments. No cultural resources were observed in the cutbank profiles inspected; though no subsurface testing was conducted. Observed prior disturbances within the study area included some vegetation clearing in the northeastern and western portions of the study area, creation of a network of ATV trails through portions of the property, and prior construction and abandonment of a linear railroad berm that passes northeast to southwest through the northern portion of the property, though the majority of the property appeared to be relatively undisturbed.

Horizon inspected the former location of the historic-age structures visible on historical USGS topographic maps and aerial photographs along the western margin of the study area off the eastern side of FM 939 (a.k.a. TK Parkway). No evidence of historic-age standing structures was observed in these areas.

Horizon also examined the location of the TK Cemetery, which is located off the eastern side of FM 939 (a.k.a. TK Parkway) adjacent to the study area. The cemetery boundary is clearly marked with a fence constructed of cedar posts and barbed wire. Vegetation was relatively light on and adjacent to the cemetery, consisting of short grasses and scattered saplings. No obvious signs of unmarked graves were observed outside the existing cemetery fence boundary. Based on a brief examination of headstones, the earliest interment in the cemetery appears to date to 1914.

Assessment of Cultural Resources Potential

In Central Texas, aboriginal cultural resources are relatively common on alluvial terraces adjacent to prominent streams and springs and in upland settings typically associated with exposures of gravel deposits containing Edwards Formation chert. Away from streams, clayey sediments are common on and near the modern ground surface throughout Central Texas. Intact aboriginal archeological deposits may occur at great depths adjacent to streams that contain deep Holocene-age alluvial packages. Due to the relative antiquity of the sediments in upland areas and on Pleistocene-age paleoterraces and Cretaceous-age uplands, combined with the shrink-swell characteristics and erosional potential of associated soils, intact aboriginal archeological resources are less common in upland settings. Where they do occur, they tend to consist of surficial scatters of artifacts that lack depth and vertical or horizontal integrity.

Based on the physiographic setting of the study area on the floodplain and terraces of Horse and Packwood creeks as well as on adjacent uplands, it is Horizon's opinion that the potential exists for undocumented aboriginal archeological deposits within the boundaries of the study area. Where visible, soils in upland areas tended to be gravelly and appeared to be relatively shallow, suggesting a reduced potential for intact subsurface archeological deposits, though no subsurface testing (such as shovel testing) was conducted during the preliminary site inspection. Sediments observed in random cutbank profiles of Horse Creek indicate that deep alluvial packages are present within floodplain and terrace settings within the study area. No cultural resources were observed in the observed cutbank profiles, though the floodplains and terraces of Horse and Packwood creeks possess the potential for deeply buried archeological deposits.

Historic-age cultural resources may occur almost anywhere in this region but are most common in urban settings and in rural settings suitable for agriculture, and they tend to be visible on the modern ground surface. Historical imagery suggests that the study area has remained largely undeveloped throughout at least the latter half of the 20th century. Two structures, apparently a house and an outbuilding, are visible off the eastern side of FM 939 (a.k.a. TK Parkway) near its intersection with Happy Swaner Lane along the western margin of the study area on the 1957 and 1978 USGS topographic maps. Neither of these structures are visible on modern imagery, and no evidence of either structure was observed during the preliminary site inspection. As such, it is Horizon's opinion that the study area has low potential for historic-age architectural resources, though historic-age archeological resources could be present at the locations of the former structures.

The TK cemetery is located off the eastern side of FM 939 (a.k.a. TK Parkway) adjacent to the study area. A church associated with this cemetery is visible on historical USGS maps dating to 1957 and 1978, though the church is not visible on modern aerial imagery, and the site inspection confirmed that this church is no longer present. Both the cemetery and former church fall outside the boundaries of the study area. Based on the site inspection, no obvious signs of unmarked graves were observed outside the cemetery boundaries, which are marked with a fence constructed of cedar posts and barbed wire. The cemetery is well maintained, and the earliest observed headstone dates to 1914. The cemetery

appears to be currently in use. Proposed project facilities would maintain a construction buffer exceeding the minimum 25.0-foot buffer required by the THC surrounding cemeteries.

Consistent with 30 TAC §330.61(o) of the rules of the Texas Commission on Environmental Quality, Horizon respectfully requests a review letter from the THC documenting compliance with the Natural Resources Code, Chapter 191, ACT, and Section 106 of the NHPA. Please feel free to contact me at russ_brownlow@horizon-esi.com or at (512) 328-2430 if you have any questions or require any additional information about the proposed project.

Sincerely,

Russ Brownlow

Russ Brownlow, MA, RPA
Vice President
Horizon Environmental Services, Inc.

References:

National Park Service (NPS)

2018 National Register of Historic Places NPGallery Digital Asset Search. <https://npgallery.nps.nrhp>. Accessed May 4, 2018.

Natural Resources Conservation Service (NRCS)

2018 Web Soil Survey. <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>. Accessed May 4, 2018.

Nationwide Environmental Title Research (NETR)

2018 *Historic Aerials*. <https://www.historicaerials.com>. Accessed May 4, 2018.

Flawn, P.

1970 *Geological Atlas of Texas—Waco Sheet*. Bureau of Economic Geology, The University of Texas at Austin.

Texas Department of Transportation (TxDOT)

2018 *Historic Bridges of Texas*. <https://www.arcgis.com/home/webmap/viewer.html?webmap=e55a0c5725644e5badef578db02bee9f&extent=-109.4371,25.5608,-86.8053,37.2641>. Accessed May 4, 2018.

Texas Historical Commission (THC)

2018 *Texas Archeological Sites Atlas Restricted-Access Database*. <https://atlas.thc.state.tx.us/>. Accessed May 4, 2018.

US Department of Agriculture (USDA)

2015 Digital orthophoto, McClennan, Hill, and Limestone Counties, Texas. National Agriculture Imagery Program, Farm Service Agency, Aerial Photography Field Office.

US Geological Survey (USGS)

1978 7.5-minute series topographic maps, Axtell, Texas, quadrangle.

Table 1. Summary of Mapped Soils within Study Area

NRCS Soil Code	Soil Name	Parent Material	Typical Profile (inches)
Limestone County			
AxB	Axtell fine sandy loam, 1 to 3% slopes	Clayey alluvium of Pleistocene age derived from mudstone on stream terraces	0-10: Fine sandy loam (A) 10-18: Clay (Btss) 18-46: Clay (Btk1) 46-80: Clay (Btk2)
CrB	Crockett loam, 1 to 3% slopes	Loamy residuum weathered from Cretaceous-age shale on ridges	0-8: Loam (A) 8-25: Clay (Btss) 25-45: Clay (Btkss) 45-53: Clay (BCk) 53-72: Clay loam (Cdk)
FeD2	Ferris clay, 5 to 15% slopes, eroded	Residuum weathered from calcareous shale of the Cretaceous-age Eagleford Shale and Taylor Marl formations on ridges	0-4: Clay 4-45: Clay 45-80: Clay
FhC2	Ferris-Heiden complex, 2 to 5% slopes, eroded	Clayey residuum weathered from mudstone on ridges	0-10: Clay (Ap) 10-30: Clay (Bkss1) 30-45: Clay (Bkss2) 45-60: Clay (Cdk)
HeB	Heiden clay, 1 to 3% slopes	Clayey residuum weathered from mudstone on ridges	0-6: Clay (Ap) 6-18: Clay (A) 18-58: Clay (Bkss) 58-70: Clay (BCdk)
To	Tinn clay, 0 to 1% slopes, frequently flooded	Calcareous clayey alluvium on floodplains	0-17: Clay (A) 17-57: Clay (Bss) 57-80: Clay (Bkssy)
Wf	Whitesboro loam, frequently flooded	Loamy alluvium of Holocene age derived from mixed sources on floodplains	0-26: Loam 26-58: Clay loam 58-80: Sandy clay loam
WnA	Wilson clay, 0 to 2% slopes	Loamy and/or clayey alluvium derived from mudstone on stream terraces	0-7: Clay loam (Ap) 7-31: Clay (Btss) 31-36: Clay (Btkss) 36-42: Clay (Btkssyg) 42-80: Clay loam (Btkyg)
McLennan County			
CrB	Crockett loam, 3 to 5% slopes	Loamy residuum weathered from Cretaceous-age shale on ridges	0-8: Loam (A) 8-25: Clay (Btss) 25-45: Clay (Bkss)

			45-53: Clay (BCk) 53-72: Clay loam (Cdk)
HeC	Heiden clay, 3 to 5% slopes	Clayey residuum weathered from mudstone on ridges	0-6: Clay (Ap) 6-18: Clay (Bkss1) 18-58: Clay (Bkss2) 58-80: Clay (CBdk)
WnA	Wilson clay loam, 0 to 2% slopes	Loamy and/or clayey alluvium derived from mudstone on stream terraces	0-7: Clay loam (Ap) 7-31: Clay (Btss) 31-36: Clay (Btkss) 36-42: Clay (Btkssyg) 42-80: Clay loam (Btkyg)

Source: NRCS 2018

NRCS = Natural Resources Conservation Service

Table 2. Previously Recorded Cultural Resources within 1.0 Mile of Study Area

Site No./Name	Site Type	NRHP/SAL Eligibility Status[1]	Distance/Direction from Study Area	Potential to be Impacted by Project?
Archeological Sites				
41ML76	No information provided on site form	Unknown	0.2 mile southwest	No
Cemeteries				
TK Cemetery (ML-C014)	Cemetery	N/A	Immediately adjacent to study area	No

[1] *Determined eligible/ineligible* = Site determined eligible/ineligible by SHPO
Recommended eligible/ineligible = Site recommended as eligible/ineligible by site recorder and/or sponsoring agency but eligibility has not been determined by SHPO
Undetermined = Eligibility not assessed or no information available

NRHP National Register of Historic Places

SAL State Antiquities Landmark

SHPO State Historic Preservation Office

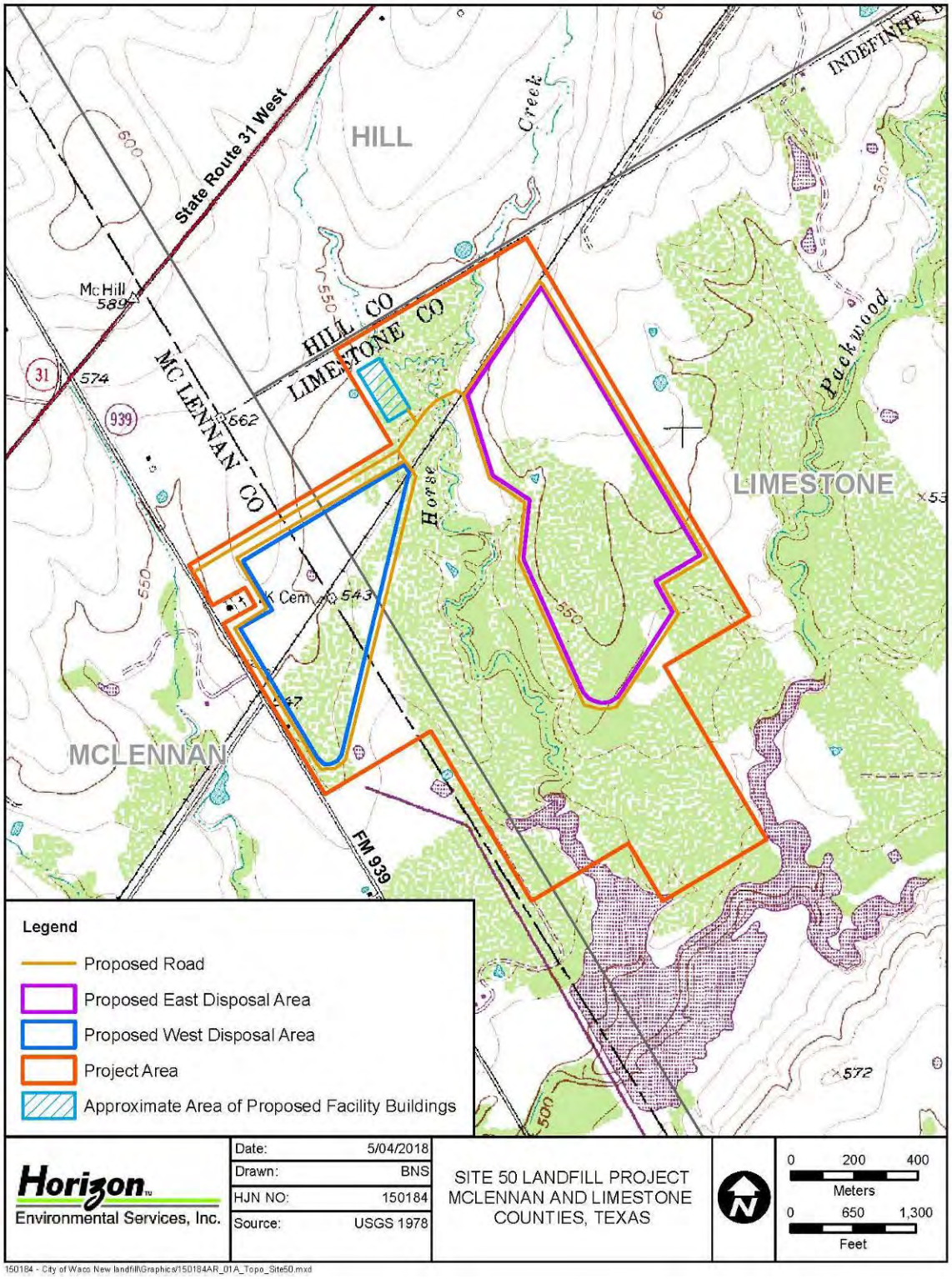


Figure 1. Locations of Study Area on USGS Topographic Map

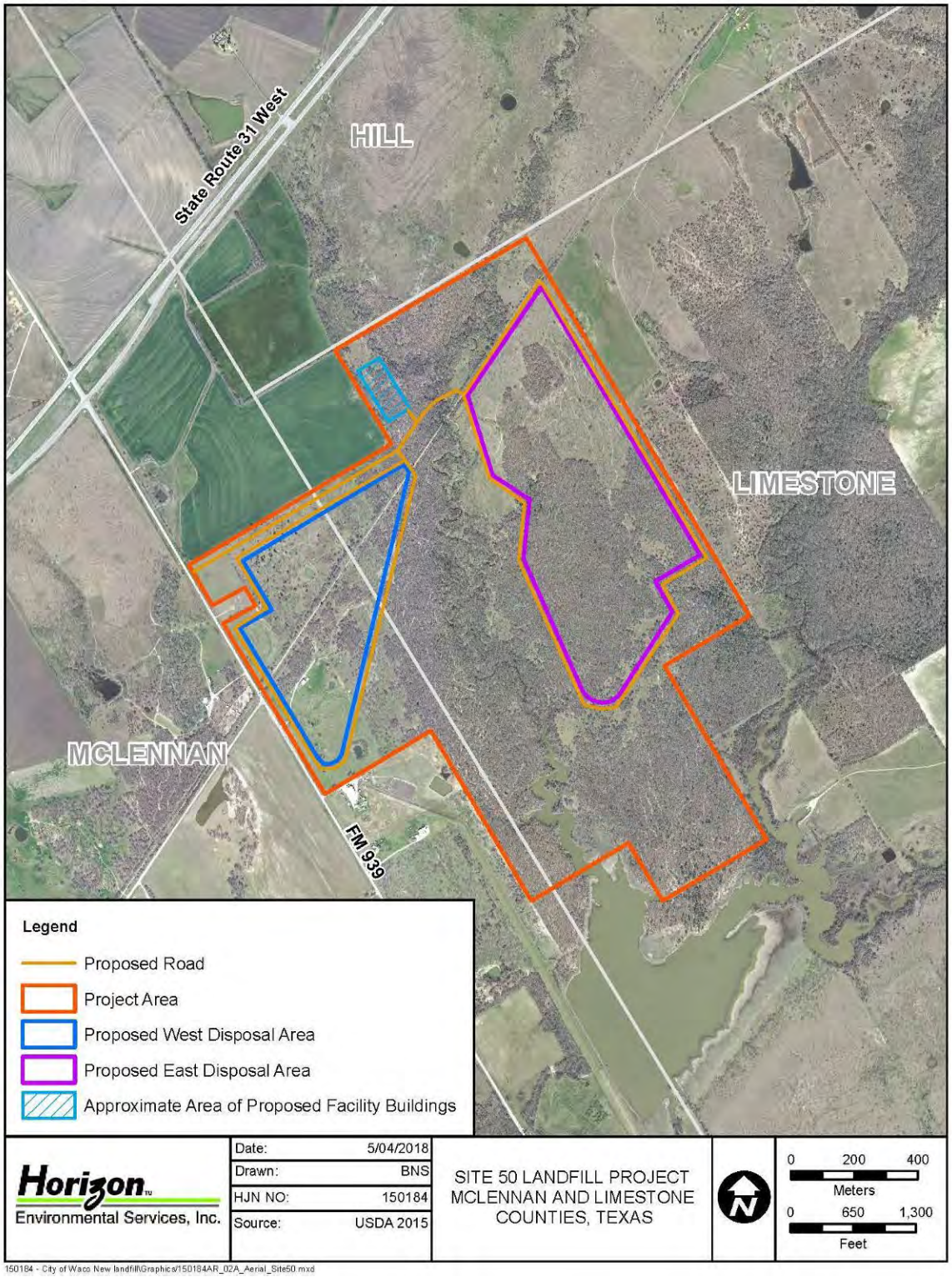


Figure 2. Locations of Study Area on Aerial Photograph

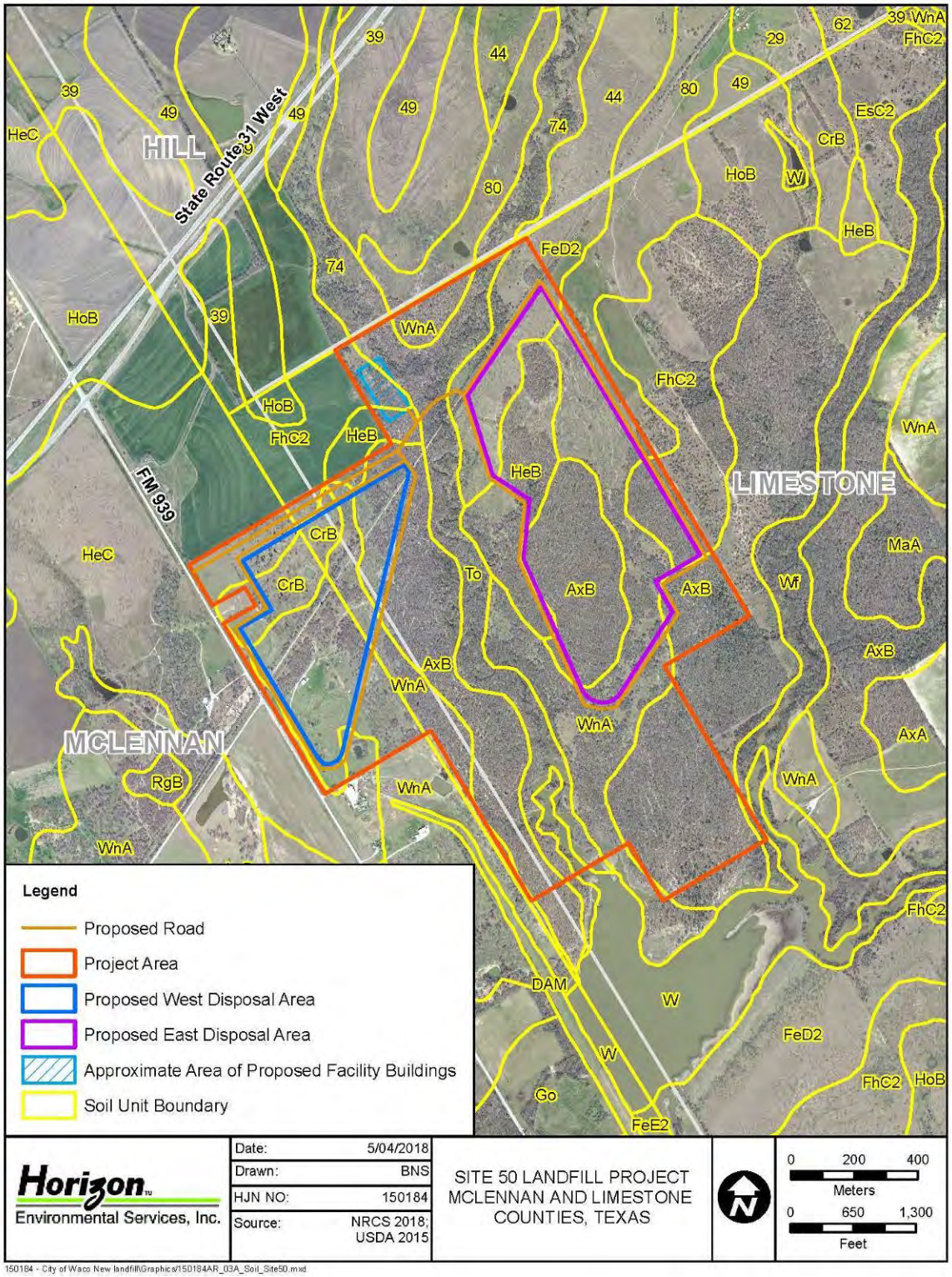


Figure 3. Distribution of Soils Mapped within Study Area

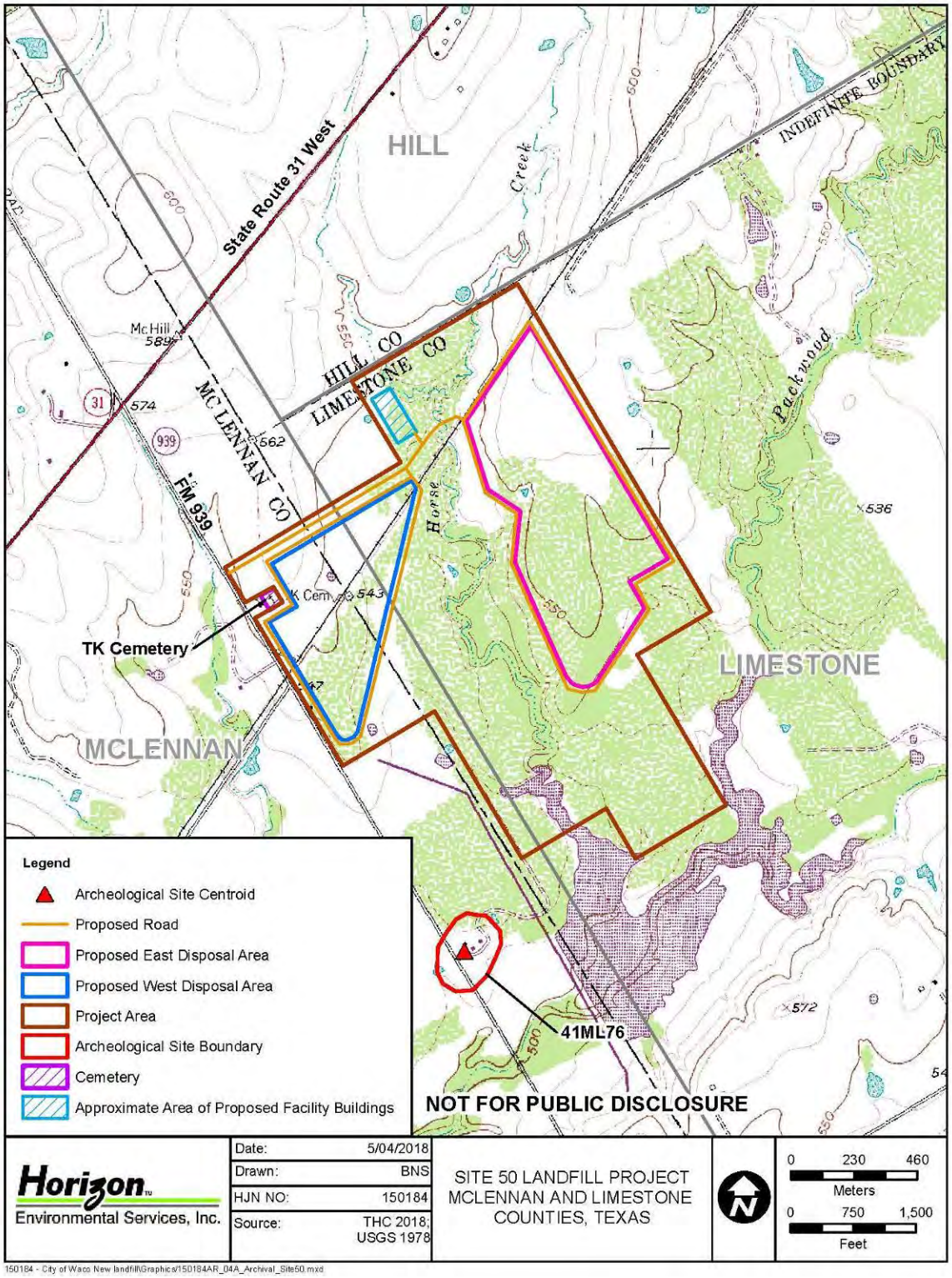


Figure 4. Known Cultural Resources within 1.0 Mile of Study Area

COORDINATION WITH U.S. ARMY CORP OF ENGINEERS

<u>Note:</u> See Appendix I/IIE for the "Section 404 Jurisdictional Determination," dated August 2018, prepared by Horizon Environmental Services, Inc., as referenced in the attached coordination letter.

7 August 2018

U.S. Army Corps of Engineers
Fort Worth District CESWF-DE-R
819 Taylor Street, Room 3A37
Fort Worth, Texas 76102-0300

Re: NEW CITY OF WACO LANDFILL, MCLENNAN AND LIMESTONE COUNTIES, TEXAS
HJN 150184-003WD

Dear Sirs:

The City of Waco is proposing to develop a new Type I Municipal Solid Waste Landfill located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River. The proposed landfill footprint has been designed to avoid Horse Creek and its associated floodplain (Figure 2). Site configuration is also constrained by the downstream SCS reservoir easement.

Horizon has conducted a preliminary Section 404 jurisdictional review for the project site. A Section 404 Jurisdictional Determination Report is attached.

Based on our preliminary on-site jurisdictional review, it is our opinion that portions of two ephemeral tributaries to Horse Creek and an on-channel stock pond (open water) occur within the eastern landfill development footprint (Figure 3). An approximate total of 1066 linear feet of tributary and 2937 square feet of open water pond would be impacted by the proposed landfill footprint. No wetlands will be impacted by the proposed landfill activity. It is the intent of the City of Waco to apply for a Section 404 permit to fill portions of these two ephemeral tributaries and the stock pond as part of the landfill operation.

Please review the attached Jurisdictional Determination report concerning the proposed project to determine if the project may affect waters of the US subject to your regulatory purview. Please respond by letter at your earliest convenience. Your prompt attention to this matter would be greatly appreciated, as your correspondence is necessary to complete the application for a landfill permit from the TCEQ. We understand your letter will not constitute a permit to fill the aforementioned waters of the US.

Please call me should you have any questions concerning this project or if I can be of any further assistance.

Sincerely,
For Horizon Environmental Services, Inc.

C. Lee Sherrod
President

COORDINATION WITH TEXAS DEPARTMENT OF TRANSPORTATION

Solid Waste Management Consultants
Offices Nationwide

1901 Central Drive
Suite 550
Bedford, Texas 76021

817-571-2288 Main
817-571-2188 FAX
www.scsengineers.com

SCS ENGINEERS

August 7, 2018
SCS Project Number: 16216088.00

Mr. Stanley Swiatek, P.E., District Engineer
Texas Department of Transportation, Waco District
100 S. Loop Drive
Waco, Texas 76704

Sent via FedEx

Re: Traffic Information
Proposed City of Waco Landfill
TCEQ Permit Application for a Proposed Landfill in McLennan and Limestone Counties

Dear Mr. Swiatek:

On behalf of City of Waco, SCS Engineers (SCS) is currently preparing a permit application to be submitted to the Texas Commission on Environmental Quality (TCEQ) for a proposed landfill to be located on the border of McLennan and Limestone Counties. The facility entrance will be located at approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 in McLennan County, Texas, at approximately 31° 41' 16.4" N latitude and 96° 55' 59.6" W longitude. The permit application will be submitted for review and approval to the Texas Commission on Environmental Quality (TCEQ) before the facility begins operation.

To verify compliance with 30 TAC §330.61(c)(4), TCEQ requires that documentation of coordination be provided within the permit application. As such, SCS respectfully requests TxDOT provide, by return letter, confirmation of our having coordinated with TxDOT for this proposed facility. As part of this coordination, SCS is also requesting data on the current volume of traffic on access roads within one mile of the proposed property, as shown on the attached Drawings I/II-1 and I/II-2, which illustrate the proposed site location. If you or your staff require additional information for this review, please contact Kevin Yard at (817) 358-6105 or Ryan Kuntz at (817) 358-6117. Your assistance with this matter is greatly appreciated.

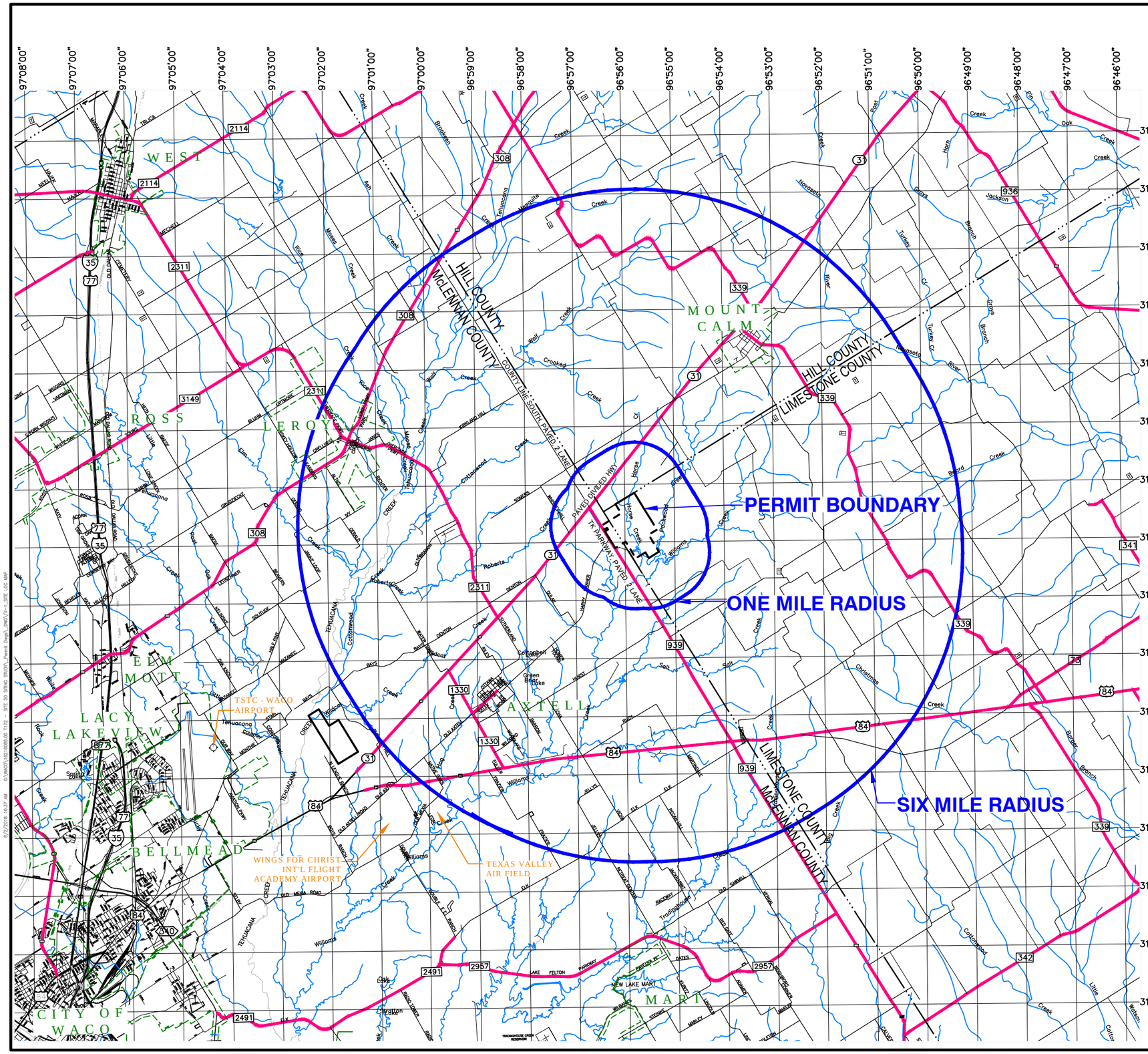
Sincerely,

Kevin D. Yard, P.E., BCEE
Vice President / Office Director
SCS ENGINEERS
TBPE Registration No. F-3407

Ryan R. Kuntz, P.E.
Vice President / Project Director
SCS ENGINEERS

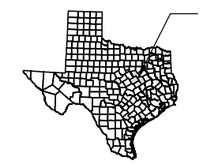
Attachment: Drawing No. I/II-1 and Drawing No. I/II-2

cc: Mr. Charles Dowdell, City of Waco



N

0 1 2
SCALE IN MILES



COUNTY LOCATION

LEGEND

- 1503 — FARM TO MARKET ROAD
- 37 — STATE HIGHWAY
- 38 — STATE HIGHWAY LOOP
- 82 — US NUMBERED HIGHWAY
- STREAM
- CEMETRY
- COUNTY LINE
- 96°55'30" — LATITUDE/LONGITUDE LINES

NOTE:

1. INFORMATION SHOWN IS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION DIGITAL COUNTY MAPBOOK 2014.

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

Revision 0 I/IIA-100 August 2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: SITE LOCATION MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

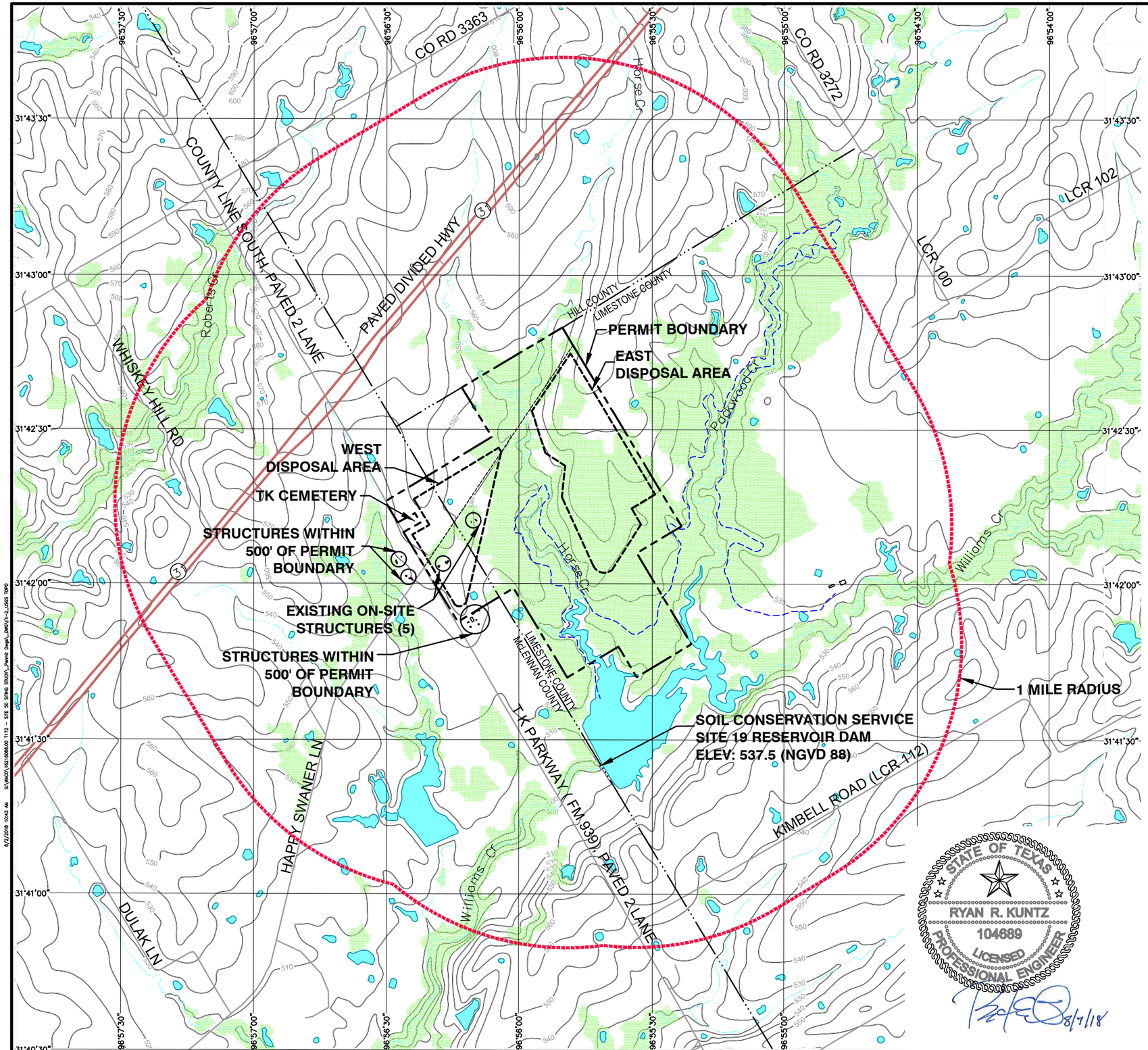
PROJ. NO. 16216068.00
DSN. BY: JLJ
DWN. BY: JLJ
CHK. BY: JAA
DSN. BY: JAA
D/A RVW BY: RRK
APP. BY: RRK

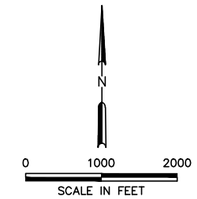
CADD FILE: 1-1_SITE LOC MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-1





COUNTY LOCATION

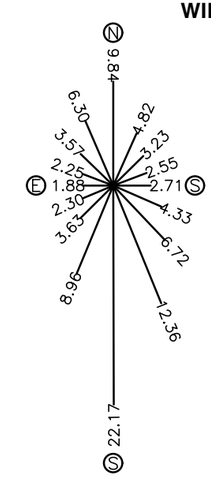
LEGEND

- PERMIT BOUNDARY
- 1 MILE RADIUS
- LIMITS OF WASTE
- COUNTY LINE
- 560 EXISTING CONTOURS (SEE NOTE 1)
- FLOOD PLAIN (SEE NOTE 2)
- 96°55'30" LATITUDE/LONGITUDE LINES

ROAD CLASSIFICATION

Expressway	Local Connector
Secondary Hwy	Local Road
Ramp	4WD
Interstate Route	US Route
State Route	

WIND ROSE



CALM 2.81%

WIND ROSE REPRESENTS AVERAGE PERCENT OF TIME WIND BLOWS FROM EACH OF THE 16 COMPASS POINTS SHOWN.

SOURCE:
TNRCC–EPA
STATION TX03927
AVERAGE VALUES
PERIOD ANALYZED: 1984–1992

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

NOTES:

1. CONTOURS SHOWN ARE FROM THE 24K QUAD MAP FOR AXTELL, TEXAS (2016) PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY.
2. 100–YEAR FLOOD PLAIN IS DESIGNATED AS ZONE A, BASED ON FIRM PANEL 48293C0125C, DATED 09/16/11.
3. ALL KNOWN STRUCTURES AND INHABITABLE BUILDINGS WITHIN 500 FEET OF PERMIT BOUNDARY ARE SHOWN.
4. THERE ARE NO KNOWN WATER WELLS WITHIN 500 FT. OF THE PROPOSED PERMIT BOUNDARY IN ACCORDANCE WITH PARTS I/II, SECTION 7.2.
5. BASED ON SCS' SITE INVESTIGATIONS, NO SPRINGS WERE OBSERVED ON THE SITE.

Revision 0 I/IIA-101 August 2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: GENERAL TOPOGRAPHIC MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1301 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216068.00 | DSN. BY: RRK | DWN. BY: JLJ | CHK. BY: KDY | Q/A RVW BY: KDY | APP. BY: RRK

CADD FILE: 1/II-2_USGS TOPO

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-2

8/2/2018 10:43 AM G:\WACO\16216068.00 1172 - SITE 50 SITING STUDY_Permit Dwgs_DWG\I-2_USGS TOPO

COORDINATION WITH
HEART OF TEXAS COUNCIL OF GOVERNMENTS (HOTCOG)

Solid Waste Management Consultants
Offices Nationwide

1901 Central Drive
Suite 550
Bedford, Texas 76021

817-571-2288 Main
817-571-2188 FAX
www.scsengineers.com

SCS ENGINEERS

August 7, 2018
SCS Project Number: 16216088.00

Ms. Falen Bohannon, Project Assistant
Heart of Texas Council of Governments
1514 S. New Road
Waco, TX 76711

Sent via FedEx

Re: Regional Solid Waste Management Plan Conformance Review
Proposed City of Waco Landfill
TCEQ Permit Application for a Proposed Landfill in McLennan and Limestone Counties

Dear Ms. Bohannon:

As discussed, on behalf of the City of Waco, SCS Engineers (SCS) is currently preparing a permit application to be submitted to the Texas Commission on Environmental Quality (TCEQ) for a proposed landfill to be located in McLennan and Limestone Counties. The proposed landfill will be located on the border of McLennan and Limestone Counties. The facility entrance will be located at approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 in McLennan County, Texas, at approximately 31º 41' 16.4" N latitude and 96º 55' 59.6" W longitude.

As you know, TCEQ regulation Title 30 Texas Administration Code (TAC) §330.61(p) requires evidence of coordination with the appropriate regional council of government (Heart of Texas Council of Governments [HOTCOG]). The purpose of this letter is to inform the HOTCOG of the proposed landfill, and to demonstrate that the proposed landfill complies with the regional solid waste plan. As a part of this coordination with the HOTCOG, the City of Waco is requesting a regional conformance review for the above referenced facility. Attached for your review please find two (2) copies of Parts I/II of the permit application (as required per 30 TAC §330.61(p) of the TCEQ regulations).

As you know, SCS Engineers updated the HOTCOG Regional Solid Waste Plan in 2013. Based on our review of the HOTCOG's Regional Solid Waste Management Plan, it is our opinion that the City of Waco's proposed landfill is consistent with the regional solid waste management plan. Further, on the behalf of the City of Waco, we would appreciate your expediting review and approval of this project.

We appreciate your assistance in this matter and we look forward to your favorable review. If you have any questions or need additional information, please contact Kevin Yard at (817) 358-6105 or Ryan Kuntz at (817) 358-6117.

Sincerely,

Kevin D. Yard, P.E., BCEE
Vice President / Office Director
SCS ENGINEERS
TBPE Registration No. F-3407

Ryan R. Kuntz, P.E.
Vice President / Project Director
SCS ENGINEERS

Attachments: 2 copies of Parts I/II of the permit application

cc: Mr. Charles Dowdell, City of Waco

COORDINATION WITH FEDERAL AVIATION ADMINISTRATION

Solid Waste Management Consultants
Offices Nationwide

1901 Central Drive
Suite 550
Bedford, Texas 76021

817-571-2288 Main
817-571-2188 FAX
www.scsengineers.com

SCS ENGINEERS

August 7, 2018
Project Number: 16216088.00

Mr. Rick Compton, Airport Safety Program Manager
U.S. Department of Transportation
Federal Aviation Administration
2601 Meacham Boulevard
Fort Worth, Texas 76137-4298

Sent via FedEx

Re: Airport Locations Request
Proposed City of Waco Landfill
TCEQ Permit Application for a Proposed Landfill in McLennan and Limestone Counties

Dear Mr. Compton:

On behalf of City of Waco, SCS Engineers (SCS) is currently preparing a permit application to be submitted to the Texas Commission on Environmental Quality (TCEQ) for a proposed landfill to be located on the border of McLennan and Limestone Counties. The facility entrance will be located at approximately 0.4 mile south of the intersection of TK Parkway and State Highway 31 in McLennan County, Texas, at approximately 31º 41' 16.4" N latitude and 96º 55' 59.6" W longitude.

Our review of available records indicates that the nearest airport, Wings for Christ International Flight Academy Airport, is a small general aviation airport owned by Wings for Christ International Flight Academy and is located 8 miles northeast of Waco, Texas. In addition, Texas State Technical College (TSTC) Waco Airport is located approximately 9 miles southwest of the site.

Also, by this letter, SCS is requesting the names and locations of any airports within six (6) miles of the proposed site, as required by 30 TAC §330.61(c)(8) of the TCEQ regulations. For any such airports, please indicate in writing if the facility is (1) located within 10,000 feet of any public airport runway used by turbojet aircraft, (2) within 5,000 feet of any public airport runway used by only piston-type aircraft. Also, please advise regarding the locations of public-use airports within a five-mile radius of the site, if any. Also please confirm that there are no General Aviation Airports as defined in H.R. Bill 1000, Section 503, within a six-mile radius of the existing facility.

We have included Drawing No. I/II-1: Site Location Map and Drawing No. I/II-2: General Topographic Map, which illustrate the proposed site location and boundaries.

We appreciate your assistance in this matter. If you have any questions or need additional information, please contact Kevin Yard at (817) 358-6105 or Ryan Kuntz at (817) 358-6117.

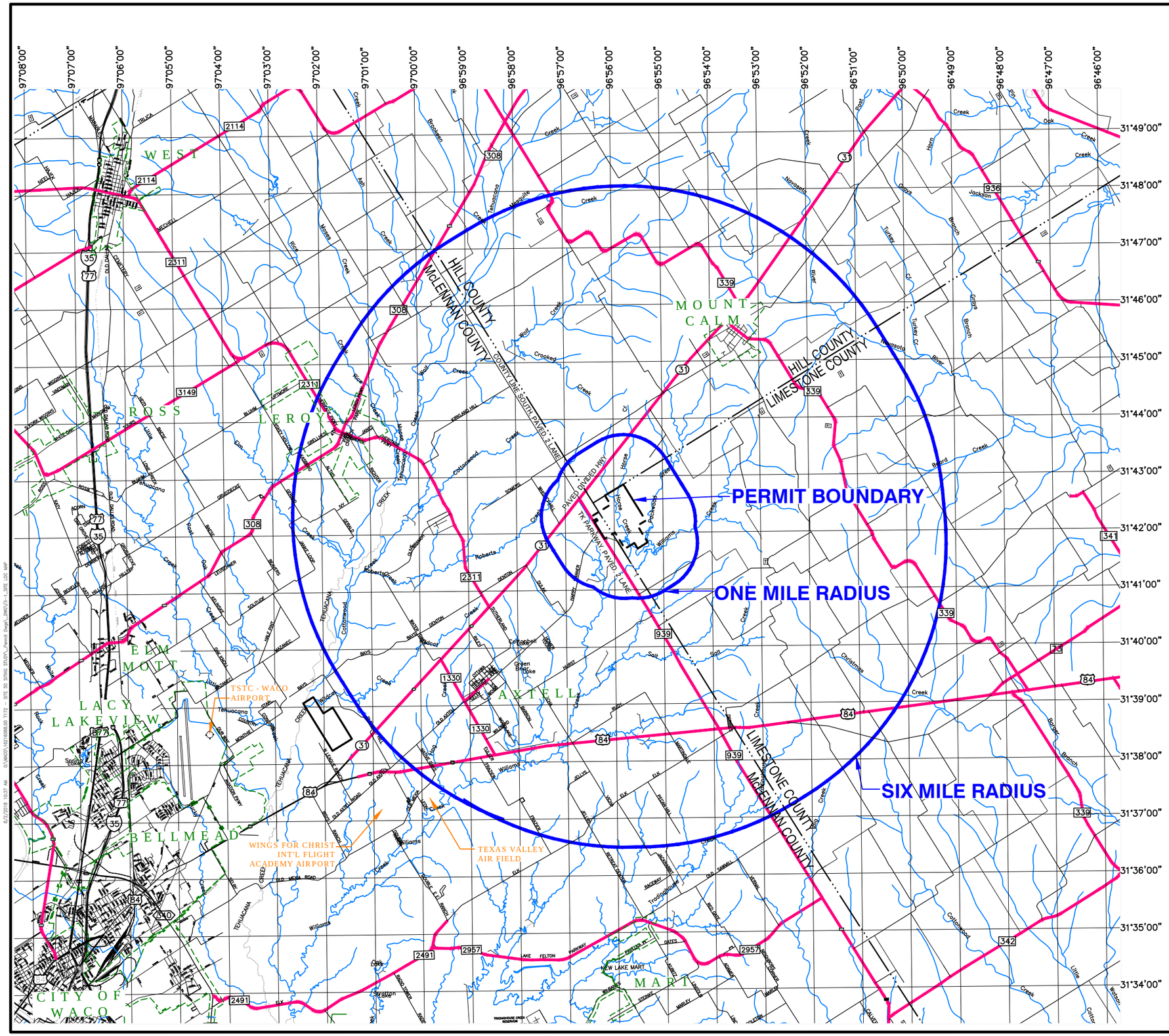
Sincerely,

Kevin D. Yard, P.E., BCEE
Vice President / Office Director
SCS ENGINEERS
TBPE Registration No. F-3407

Ryan R. Kuntz, P.E.
Vice President / Project Director
SCS ENGINEERS

Attachment:

cc: Mr. Charles Dowdell, City of Waco



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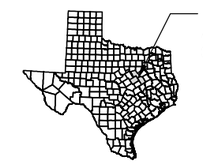
0 1 2
SCALE IN MILES



COUNTY LOCATION

LEGEND

- 1503 — FARM TO MARKET ROAD
- 37 — STATE HIGHWAY
- 38 — STATE HIGHWAY LOOP
- 82 — US NUMBERED HIGHWAY
- STREAM
- CEMETRY
- COUNTY LINE
- 96°55'30" — LATITUDE/LONGITUDE LINES

NOTE:

1. INFORMATION SHOWN IS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION DIGITAL COUNTY MAPBOOK 2014.

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

Revision 0 I/IIA-108 August 2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: SITE LOCATION MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

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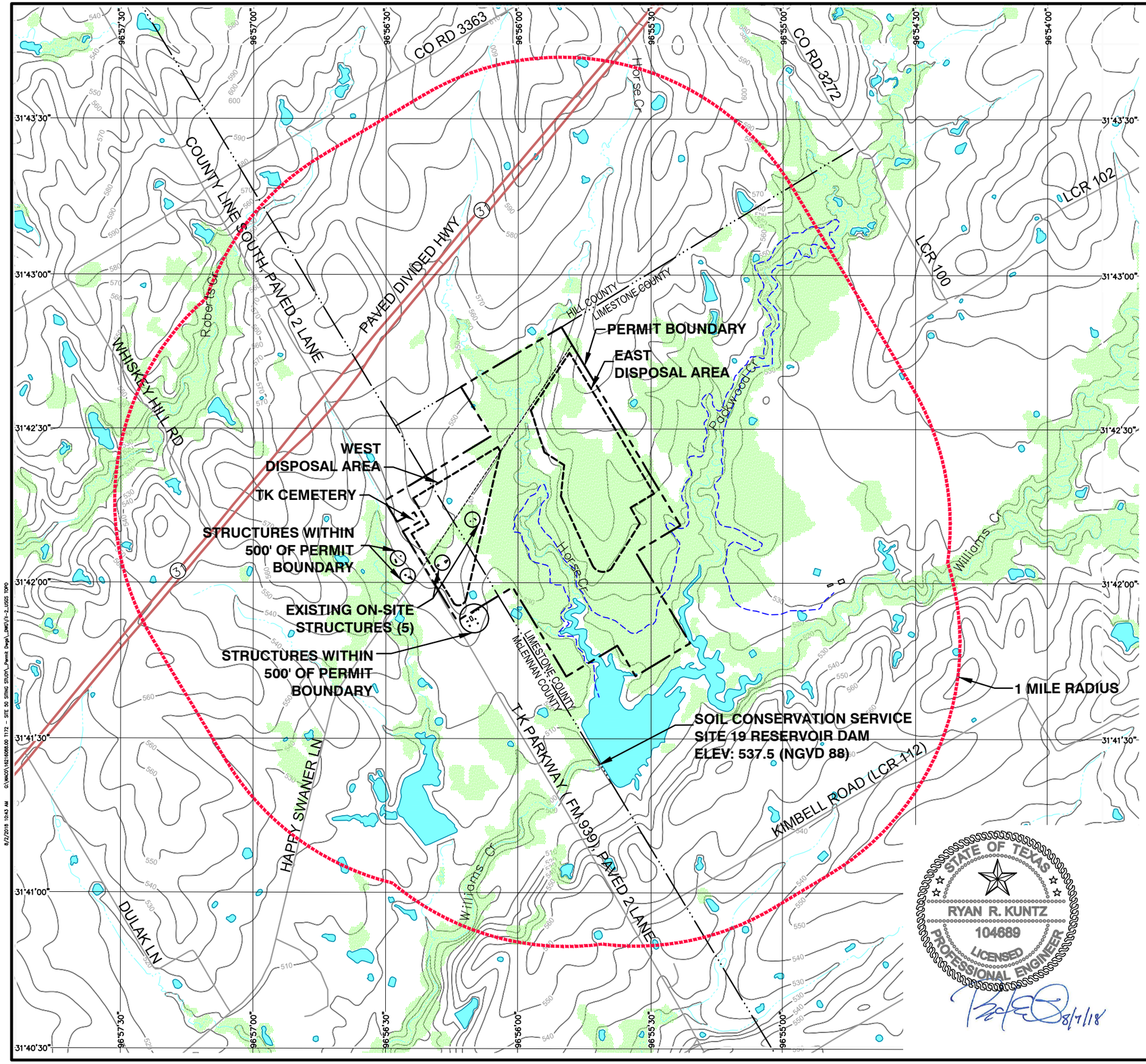
DSN. BY: JAA
DWN. BY: JLJ
CHK. BY: JAA
Q/A RVW BY: RRK
APP. BY: RRK

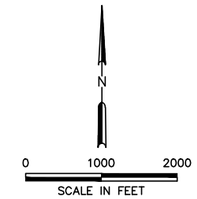
CADD FILE: I-1_SITE LOC MAP

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-1





COUNTY LOCATION

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- LIMITS OF WASTE
- COUNTY LINE
- 560 EXISTING CONTOURS (SEE NOTE 1)
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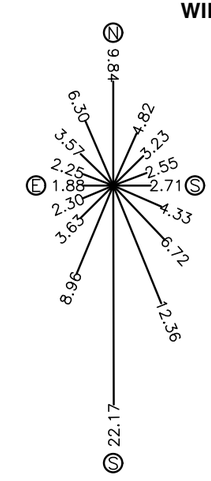
- 96°55'30" LATITUDE/LONGITUDE LINES

ROAD CLASSIFICATION

Expressway	Local Connector
Secondary Hwy	Local Road
Ramp	4WD
Interstate Route	US Route
State Route	

WIND ROSE



CALM 2.81%

WIND ROSE REPRESENTS AVERAGE PERCENT OF TIME WIND BLOWS FROM EACH OF THE 16 COMPASS POINTS SHOWN.

SOURCE:
TNRCC–EPA
STATION TX03927
AVERAGE VALUES
PERIOD ANALYZED: 1984–1992

STATE OF TEXAS
RYAN R. KUNTZ
104689
LICENSED
PROFESSIONAL ENGINEER
8/7/18

NOTES:

1. CONTOURS SHOWN ARE FROM THE 24K QUAD MAP FOR AXTELL, TEXAS (2016) PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY.
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4. THERE ARE NO KNOWN WATER WELLS WITHIN 500 FT. OF THE PROPOSED PERMIT BOUNDARY IN ACCORDANCE WITH PARTS I/II, SECTION 7.2.
5. BASED ON SCS' SITE INVESTIGATIONS, NO SPRINGS WERE OBSERVED ON THE SITE.

Revision 0 I/IIA-109 August 2018

FOR PERMITTING PURPOSES ONLY

REV	DATE	DESCRIPTION	BY

TEXAS BOARD OF PROFESSIONAL ENGINEERS REG. NO. F-3407

DRAWING TITLE: GENERAL TOPOGRAPHIC MAP

PROJECT TITLE: CITY OF WACO LANDFILL
TYPE I MSW - PERMIT APPLICATION

CLIENT: CITY OF WACO
501 SHROEDER
WACO, TEXAS 76710

SCS ENGINEERS
STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS
1901 CENTRAL DRIVE, SUITE 550, BEDFORD, TX 76021
PH (817) 571-2288 FAX NO. (817) 571-2188

PROJ. NO. 16216068.00 | DSN. BY: RRK | DWN. BY: JLJ | CHK. BY: KDY | Q/A RVW BY: KDY | APP. BY: RRK

CADD FILE: I/II-2_USGS TOPO

DATE: 08/2018

SCALE: AS SHOWN

DRAWING NO. I/II-2

8/2/2018 10:43 AM G:\WACO\16216068.00 1172 - SITE 50 SITING STUDY_Permit Dwgs_DWG\I-2_USGS TOPO

APPENDIX I/IIB

WATER, OIL, AND NATURAL GAS WELL SEARCH

Assessment, Compliance and Permitting Support

May 1, 2018

James Lawrence, P.G.
SCS Engineers
1901 Central Drive, Suite 550
Bedford, Texas 76021

Re: 500 Ft. Radial Water Well Search
Waco Site 50
Happy Swaner Lane
Limestone and McLennan Counties
Atlas Job #18-04-020

Mr. Lawrence:

Atlas Environmental Research has performed a water well search for the above referenced site using the records of the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ). Included in this report you will find a complete well listing sorted by the different types of files in the state's water well system. You will also find a map delineating water wells within the area of review and copies of all available drillers logs.

Please do not hesitate to call me at (512) 339-4155 if you have any questions concerning this project or questions concerning Atlas' water well research protocol. Thank you for utilizing Atlas' research services to meet your environmental information needs. I look forward to being of service to you in the future.

Sincerely,

Scott Anderson
Research Consultant

Enclosures/SA/

ATLAS E. R., Inc.
8705 Shoal Creek Blvd., Suite 207 • Austin, Texas 78757
800.940.0977 • 512.339.4155 • FAX 512.339.4413

Atlas E.R. Water Well Search

Waco Site 50
Happy Swaner Lane
Limestone and McLennan Counties
Atlas Job #18-04-020

Atlas Environmental Research has located **0** water wells in the area of review.

Located Water Wells – 0

Plotted Water Wells – 0

Partially Numbered Water Wells – 0

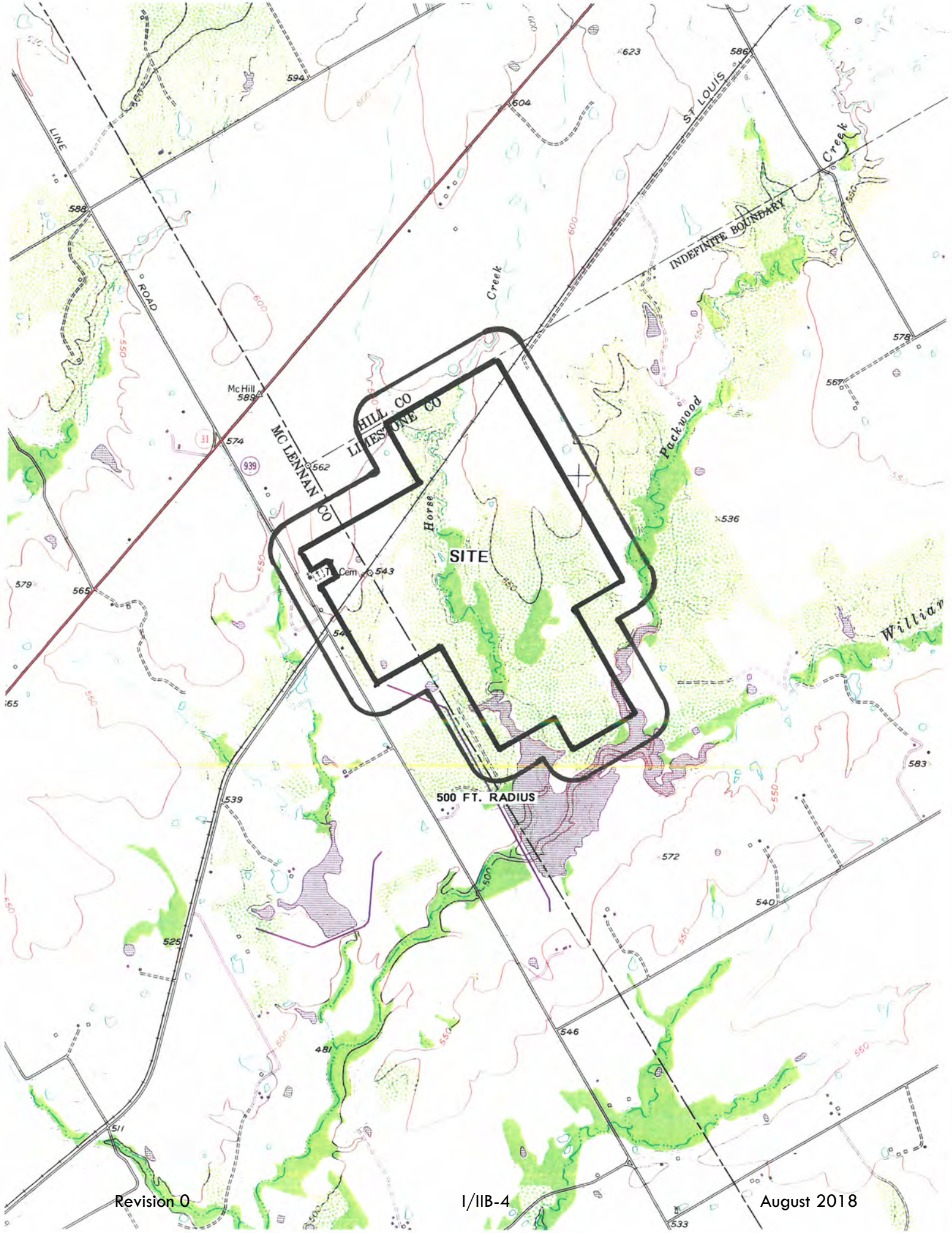
Unnumbered Water Wells – 0

Public Water Supply Wells – 0

These wells have been labeled on the attached map with the final portion of the state well number. This portion of the state well number has also been highlighted on the corresponding drillers log. The information for each USGS quadrangle utilized for the well location map is listed below.

Quadrangle	Date	Contours
Axtell, Texas	1956 (Photorevised 1978)	10 Feet

Quadrangle Scale: 1:24000; 1" = 2000'


SITE
500 FT. RADIUS
INDEFINITE BOUNDARY
HILL CO
LIMESTONE CO
MC LENNAN CO
ST LOUIS
LINE
ROAD
McHill
Creek
Horse
Creek
Packwood
Creek
Cem
31
939
594
604
623
586
588
589
574
562
543
565
579
567
536
583
539
572
540
525
546
481
511
533

ENVIRONMENTAL RESEARCH

ATLAS

Assessment, Compliance and Permitting Support

May 1, 2018

James Lawrence
SCS Engineers
1901 Central Drive, Suite 550
Bedford, Texas 76021

Re: Oil & Gas Well Search
Waco Site 50
Happy Swaner Lane
Limestone and McLennan Counties
Atlas Job #18-04-020

Mr. Lawrence:

Atlas Environmental Research has performed an oil & gas well search for the above referenced site using the records of the Texas Railroad Commission (TRC). The following is a well listing sorted by the status shown on the TRC's maps.

Producing Wells – 0 Locations

Plugged Wells – 3 Locations

Map ID: A
Map ID: B
Map ID: C

Canceled Permits – 0 Locations

Please call me at (512) 339-4155 if you have any questions concerning this project or questions concerning Atlas' oil & gas well research protocol. Thank you for utilizing Atlas' research services to meet your environmental information needs. I look forward to being of service to you in the future.

Sincerely,

Scott Anderson
Research Consultant

ATLAS E. R., Inc.
8705 Shoal Creek Blvd., Suite 207 • Austin, Texas 78757
800.940.0977 • 512.339.4155 • FAX 512.339.4413

GIS Identify Results - Well Location Attributes

A

Number of identify results: 1

Result #1	
API	21730310
GIS WELL NUMBER	1A
GIS SYMBOL DESCRIPTION	Dry Hole
GIS LOCATION SOURCE	Commission`s hardcopy map
GIS LAT (NAD27)	31.720426
GIS LONG (NAD27)	-96.920970
GIS LAT (NAD83)	31.720589
GIS LONG (NAD83)	-96.921243

OPERATOR/WELLBORE	
WELLBORE STATUS	DRY
LAST PERMIT ISSUED	265676
LAST PERMIT OPERATOR NUMBER	089953
LAST PERMIT OPERATOR	BRAZOS PRODUCTION COMPANY INC.
LAST PERMIT LEASE NAME	HAWKINS, R. M. "A"
TOTAL DEPTH	0
SURFACE LOCATION	Land
ABSTRACT	373
SURVEY	B. M. HUNTER
BLOCK	
SECTION	
DISTANCE 1	5475
DIRECTION 1	NEL
DISTANCE 2	3475
DIRECTION 2	NWL
PLUGGING RECORD	
DATE PLUGGED	03/26/1985
PLUG DEPTH	769
PLUGGING OPERATOR	BRAZOS PROD. CO.
PLUGGED LEASE	HAWKINS

GIS Identify Results - Well Location Attributes

B

Number of identify results: 1

Result #1	
API	21730312
GIS WELL NUMBER	3
GIS SYMBOL DESCRIPTION	Dry Hole
GIS LOCATION SOURCE	Commission`s hardcopy map
GIS LAT (NAD27)	31.719254
GIS LONG (NAD27)	-96.921318
GIS LAT (NAD83)	31.719417
GIS LONG (NAD83)	-96.921592

OPERATOR/WELLBORE	
WELLBORE STATUS	DRY
LAST PERMIT ISSUED	271372
LAST PERMIT OPERATOR NUMBER	089953
LAST PERMIT OPERATOR	BRAZOS PRODUCTION COMPANY INC.
LAST PERMIT LEASE NAME	HAWKINS, R.M.
TOTAL DEPTH	0
SURFACE LOCATION	Land
ABSTRACT	373
SURVEY	B. M. HUNTER
BLOCK	
SECTION	
DISTANCE 1	3520
DIRECTION 1	NWL
DISTANCE 2	5475
DIRECTION 2	NEL
PLUGGING RECORD	
DATE PLUGGED	04/17/1985
PLUG DEPTH	575
PLUGGING OPERATOR	BRAZOS PROD. CO.
PLUGGED LEASE	HAWKINS

GIS Identify Results - Well Location Attributes

C

Number of identify results: 1

Result #1	
API	293
GIS WELL NUMBER	1
GIS SYMBOL DESCRIPTION	Dry Hole
GIS LOCATION SOURCE	Commission`s hardcopy map
GIS LAT (NAD27)	31.706381
GIS LONG (NAD27)	-96.912253
GIS LAT (NAD83)	31.706545
GIS LONG (NAD83)	-96.912525

B B B & C RR
J SINCLAIR
MITC.
A-430
A-95
109
A-877
A-657
A-94
A-149
B B B & C RR
B M HUNTER
A
1A 3
30310 30312
B
2B
30309
ESTE
T N DUGGAN
A-1078
A-262
A-221
A-228
A-255
A-162
1
80218
C
SULLIVAN
A-508
C W LOVE
30580
A-320
J ALPERLADO
A-373
A-1062
A-151
I H ROBERTS
A-767
A-49
T K
Cem
C
W W BOREN
30589
30756
A R VALDEZ
A-1155
A-54
W A SHELTON
31°43'30"N
31°42'0"N
31°40'30"N

APPENDIX I/IIC

LAND-USE ANALYSIS

LAND USE ANALYSIS

City of Waco Landfill
Type I Facility

May 7, 2018

Prepared by:
John Worrall Consulting LLC
509 Camino Barranca
Round Mountain, TX 78663
830.825.3029

Introduction

The City of Waco Landfill is proposed as a Type I municipal solid waste facility. The proposed facility encompasses approximately 502.6 acres and is to be developed in a rural area in Limestone and McLennan Counties, approximately 15 miles northeast of the city of Waco. (refer also to Figure LU-1).

The purpose of this land use evaluation is to address land use issues as required by TCEQ in support of an application for TCEQ municipal solid waste facility authorization for the City of Waco Landfill. Specifically, this evaluation addresses those portions of TCEQ rules pertaining to land use compatibility. The relevant rule portions, as excerpted from 30 Texas Administrative Code ("TAC") § 330.61, are:

> *(g) Land-use map. This is a constructed map of the facility showing the boundary of the facility and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the facility and within one mile of the facility. The owner or operator shall make every effort to show the location of residences, commercial establishments, schools, licensed day-care facilities, churches, cemeteries, ponds or lakes, and recreational areas within one mile of the facility boundary…*
>
> *(h) Impact on surrounding area. A primary concern is that the use of any land for a municipal solid waste facility not adversely impact human health or the environment. The owner or operator shall provide information regarding the likely impacts of the facility on cities, communities, groups of property owners, or individuals by analyzing the compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest. To assist the commission in evaluating the impact of the site on the surrounding area, the owner or operator shall provide the following:*
>
> > *(1) if available, a published zoning map for the facility and within two miles of the facility for the county or counties in which the facility is or will be located. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted;*
> >
> > *(2) information about the character of surrounding land uses within one mile of the proposed facility;*
> >
> > *(3) information about growth trends within five miles of the facility with directions of major development;*
> >
> > *(4) the proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.) within one mile of the facility. The owner or operator shall provide the approximate number of residences and commercial establishments within one mile of the proposed facility including the distances and directions to the nearest residences and commercial establishments. Population density and proximity to residences and other uses described in this paragraph may be considered for assessment of compatibility…*

List of Figures

LU-1	Vicinity Map
LU-2	Land Use—One Mile
LU-3	Growth Trends—5 Miles

Zoning
Because the site is not in an incorporated area, there is no zoning at the site. Moreover, the site is more than two miles from any incorporated city; hence there is no zoning within two miles.

The site is not within the extraterritorial jurisdiction of any incorporated city and is therefore not subject to the subdivision regulations of any city. The site does not require approval as a nonconforming use or a special permit from any local government.

Character of Surrounding Land Uses
The predominant land use within one mile of the permit boundary is classified as *Other (open, agricultural, vacant, floodplain).* This land use comprises 95.3 % of the land area within one mile of the facility boundary (refer also to Figure LU-2). Nearly all of this open land is agricultural pasture lands or wooded floodplain lands.

Land use within one mile is specifically characterized as follows:

Land Use	Acres	Percentage	Remarks
Other	4257	95.3	Open, agric., vacant, floodplain
Water Bodies	184	4.1	January, 2017 surface area
Residential	23	0.5	23 residences
Commercial	1	< 0.1	1 establishment
Cemetery	1	< 0.1	1 cemetery
Total	4466 ac	100 %	not including permit boundary

Source: Field Inventories, April 2 and April 17, 2018

There are approximately 184 acres of *Water Bodies* within one mile of the permit boundary, representing approximately 4.1% of the area within one mile. The two largest water bodies are Soil Conservation Service Reservoirs; the remainder are stock tanks or ornamental water features. (Water surface area was calculated based on January 2017 aerial photography.)

All of the *Residential* land (23 estimated acres) is rural, single-family residential, consisting of 23 residences and representing an estimated 0.5% of the land area within one mile of the permit boundary. (In the case of rural residences, one acre is attributed to each residence.)

Commercial land use (one establishment estimated at one acre) makes up less than 0.1% of the land area within one mile of the permit boundary.

Cemetery land use is one cemetery estimated at one acre, less than 0.1% of the land area within one mile of the permit boundary.

Growth Trends

The permit boundary for the City of Waco Landfill straddles the McLennan and Limestone County lines, immediately south of Hill County. Recent population estimates for these three counties are indicated below.

Population Growth, by County

	2010	2016	% Change
McLennan County	234,906	252,626	7.5%
Limestone County	23,384	24,104	3.1%
Hill County	35,089	35,621	1.5%

Source: Texas Demographic Center, UT-San Antonio

Anchored by the City of Waco, McLennan County is clearly the dominant county in terms of population size and growth. For purposes of comparison, the State of Texas grew 10.3% from 2010 through 2016.

Figure LU-3 depicts growth trends within five miles of the site, as well as regional growth trends, for the period of 2012 through 2017. Within five miles of the site, population growth in the census block groups immediately north and south of the site grew by less than 1%, from 2012 through 2017 (an increase of 14 persons). Immediately east and west of the site, the census block groups grew at less than 2% from 2012 through 2017 (an increase of 52 persons).

Within the region, the highest growth is occurring within those census block groups either within or west of Waco.

Proximity

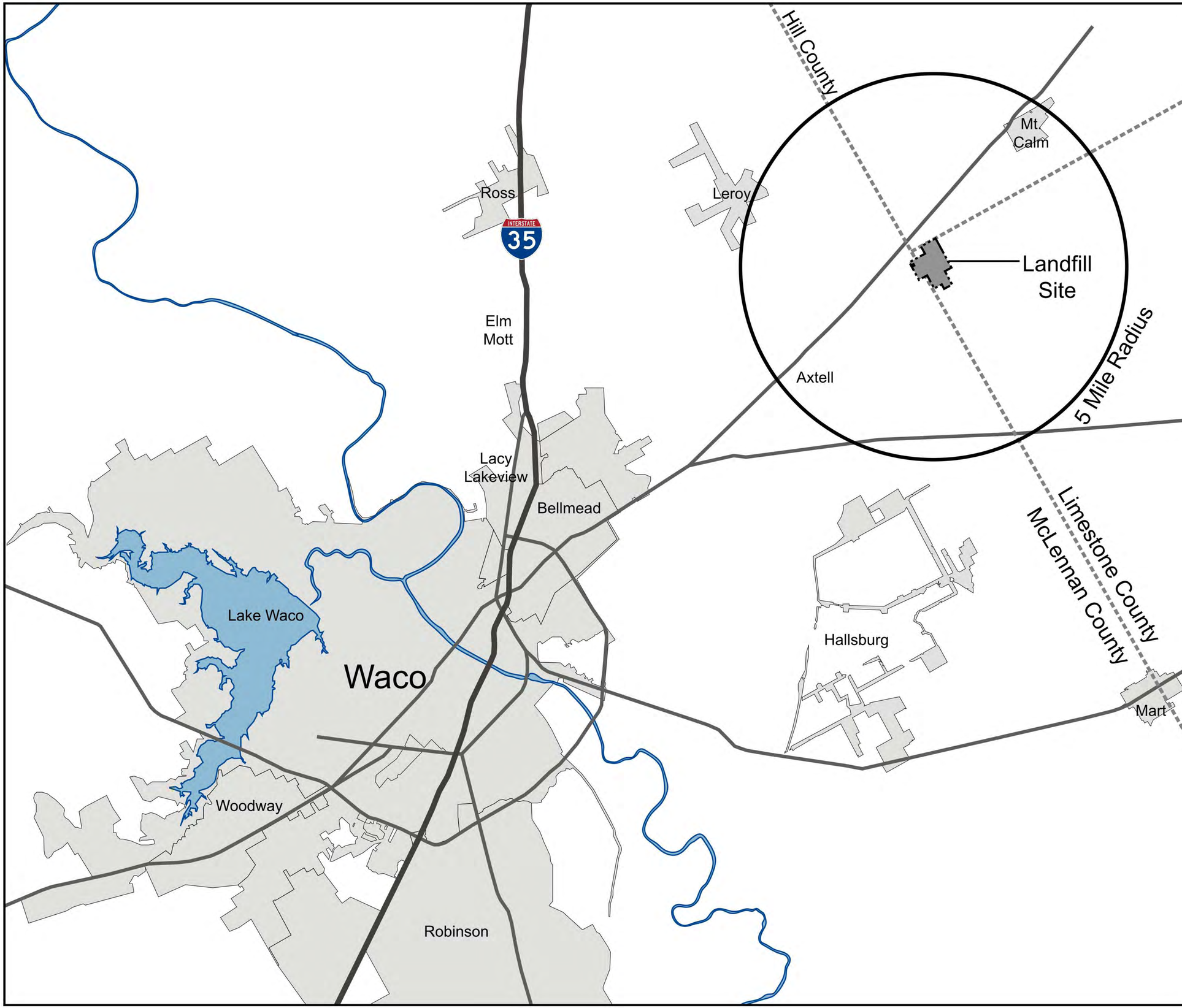
As of April 2018, there are 23 residences within one mile of the facility boundary. The nearest residence to the proposed facility is at 4418 TK Parkway, estimated to be approximately 265 feet south of the permit boundary, and approximately 485 feet south of the limit of fill.

There is one business establishment within one mile of the permit boundary; Southern Cross Whitetail Ranch, on TK Parkway, approximately 650 feet southwest of the permit boundary and 775 feet southwest of the limit of fill

There is one cemetery (TK Cemetery) within one mile of the permit boundary, located on TK Parkway. The cemetery adjoins the western permit boundary and is 125 feet west and north of the limit of fill.

The Texas Historic Sites Atlas of the Texas Historical Commission does not identify any historic sites or structures or any archaeological sites within one mile of the facility boundary. Horizon Environmental Services prepared a Cultural Resources Archival Review of the site and vicinity and notes that one previously recorded archaeological site is present within one mile, and no historic properties. (Refer elsewhere in application for more detailed information.)

There are no churches, daycare centers, schools, recreational areas, or sites having exceptional aesthetic quality within one mile of the facility boundary.



JOHN WORRALL CONSULTING
Land Use
Aesthetics
Reclamation
phone 830-825-3029
email worrall.john@gmail.com

Figure LU-1

VICINITY MAP

CITY OF WACO LANDFILL (TYPE I)

NORTH

0 6,000' 12,000' 18,000' 24,000' 30,000'
GRAPHIC SCALE IN FEET

Revision 0 I/IIC-7 August 2018

L:\2018\18000974 Mt. Calm Landfill\Base Info\Base Map\base map.dwg April 30, 2018

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LEGEND

- Permit Boundary
- Limits of Fill
- 1 Mile Radius from Permit Boundary

LAND USE

(Within 1 Mile of Permit Boundary)

- Other: Open, Agricultural, Vacant, Floodplain
- Residential (23 units)
- Water Bodies
- Cemetery (1)
- Commercial (1 unit)

-All roadways unpaved except as indicated
-No churches, schools, daycare centers, or parks within 1 mi. of permit boundary.
-No historic sites (per THC database) within 1 mi. of permit boundary.

Figure LU-2

LAND USE - 1 MILE

CITY OF WACO LANDFILL (TYPE I)

NORTH

DATA SOURCES:
Aerial Photograph: Google Earth January, 2017
Site Inventory: April 2, 2018
April 17, 2018

0 1000' 2000' 3000' 4000' 5000'
GRAPHIC SCALE IN FEET

Revision 0 1/IIC-8 August 2018

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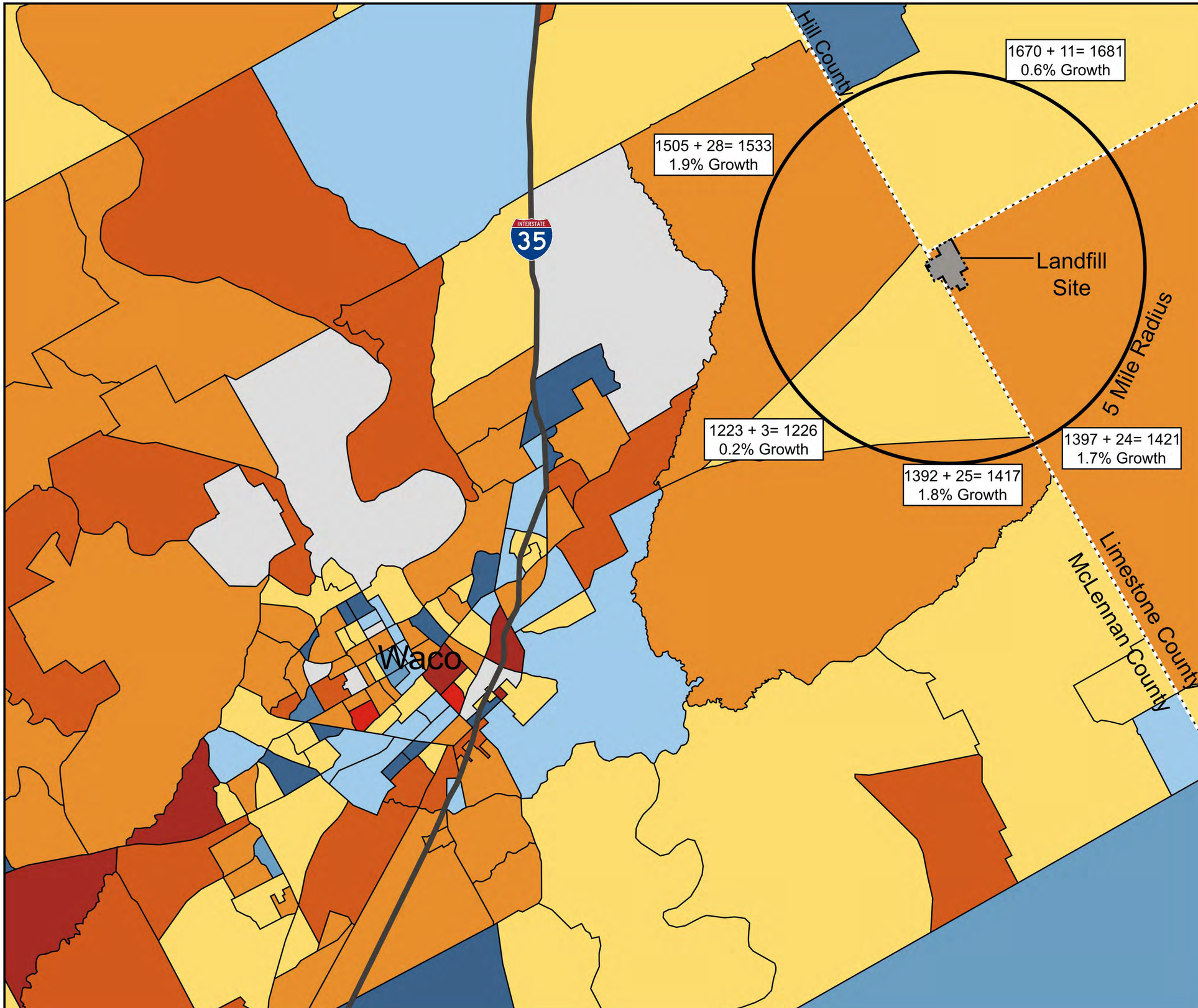

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CHANGE IN POPULATION
2012-2017
by Census Block Group

- 4% or greater population increase
- 3.0 to 3.9% population increas
- 2.0 to 2.9% population increase
- 1.0 to 1.9% population increase
- 0.1 to 0.9% population increase
- no change in population
- 0.1 to 0.9% population decrease
- 1.0 to 1.9% population decrease
- 2.0 to 2.9% population decrease
- 3% or greater population decrease

Figure LU-3

GROWTH TRENDS - 5 MILES

CITY OF WACO LANDFILL (TYPE I)

NORTH

DATA SOURCES:
Growth Trends Data: ArcGis.com Accessed 4-26-2018
https://www.arcgis.com/home/webmap/viewer.html?webmap=09cfac5781d949918557f13c7295893e

0 6,000' 12,000' 18,000' 24,000' 30,000'
GRAPHIC SCALE IN FEET

Revision 0 I/IIC-9 August 2018

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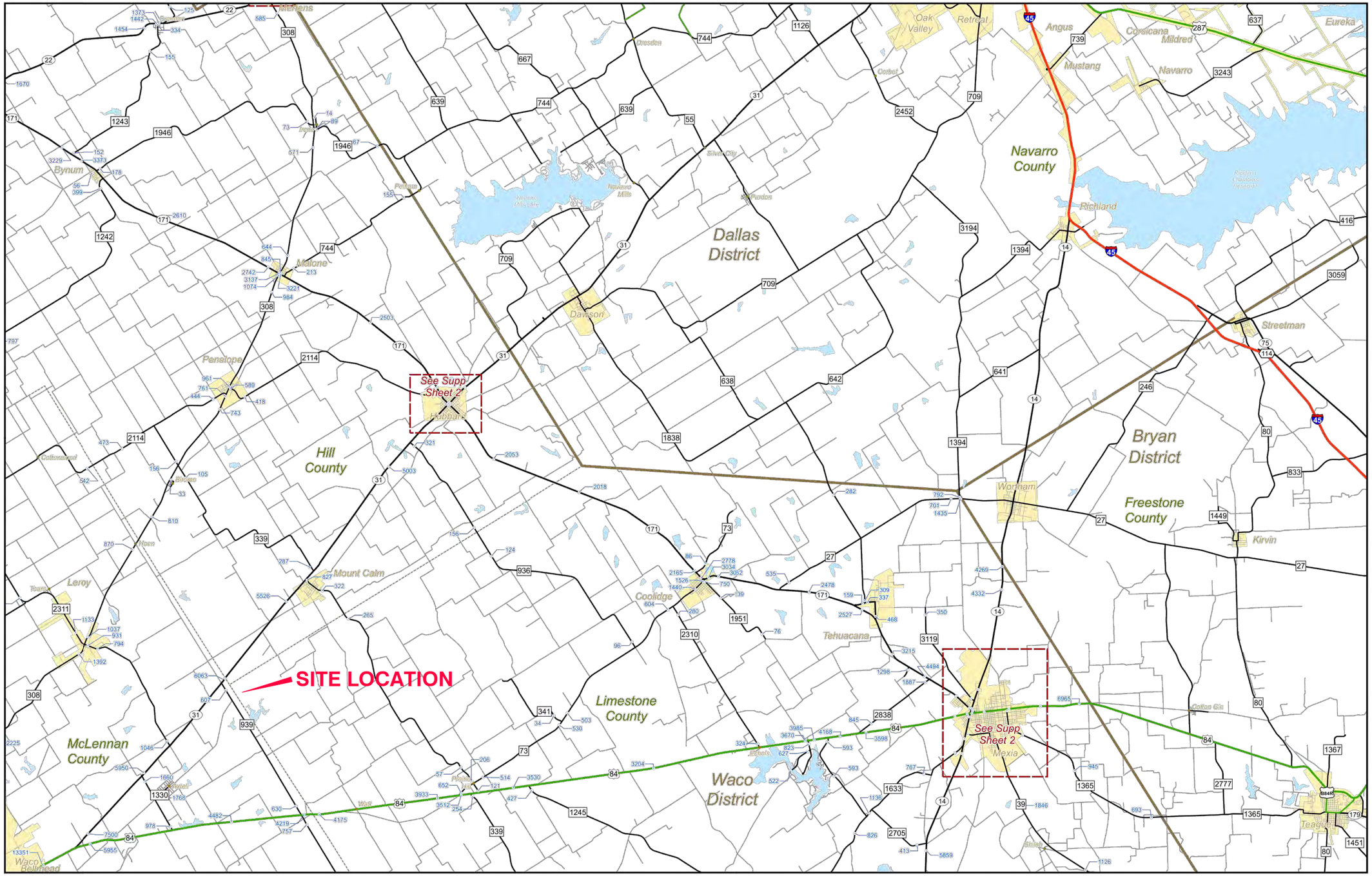
APPENDIX I/IID

TxDOT WACO DISTRICT TRAFFIC MAP



AADT | Town | IH | US | State | Arterials & Collectors | County | Local | Inset | City | County | District

0 1.25 2.5 5 Miles

N

2016 WACO DISTRICT TRAFFIC MAP

PREPARED BY THE
Texas Department of Transportation
Transportation Planning and Programming Division
Traffic Analysis System Support Branch
IN COOPERATION WITH THE
United States Department of Transportation Federal Highway Administration

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NOTICE: This map has been prepared for internal use within the Texas Department of Transportation. Accuracy is limited to the validity of available data.

Toll road traffic counts are shown for context purposes only and may not represent On System traffic.

Publication Date: September 2017

Texas Department of Transportation

Sheet 5 of 10 Base Sheets

APPENDIX I/IIE

SECTION 404 JURISDICTIONAL DETERMINATION

SECTION 404 JURISDICTIONAL DETERMINATION
NEW CITY OF WACO LANDFILL
MCLENNAN AND LIMESTONE COUNTIES, TEXAS

PREPARED FOR:

CITY OF WACO

PREPARED BY:

HORIZON ENVIRONMENTAL SERVICES, INC.

August 2018

Introduction

Horizon Environmental Services, Inc.'s (Horizon) has evaluated the site for potential areas subject to jurisdiction under Section 404 of the Clean Water Act and regulated by the US Army Corps of Engineers (USACE) (wetlands and other "waters of the U.S."). This letter provides the results of that jurisdictional determination.

Project Location

The proposed New Waco Landfill will be a Type I municipal solid waste landfill operated by the City of Waco. The New Landfill is located approximately 16 miles northeast of Waco south of State Highway 31 and east of FM 939 (TK Parkway) in McLennan and Limestone counties (Figure 1). The new landfill will be located on a 502.5 acre property in two separate landfill development units comprising a total of 176 acres (Figure 2). The two development units are separated by a tributary referred to as Horse Creek that is a tributary to Williams Creek, a tributary to Tehuacana Creek and the Brazos River (Figure 3).

Jurisdictional Determination

The jurisdictional determination consisted of a pre-field literature review and a site assessment conducted according to the general methodologies prescribed by the 2008 Clean Water Act Jurisdictional Determination Guidance (Rapanos Guidance), the 1987 USACE *Wetlands Delineation Manual*, *the* Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0), and USACE Regulatory Guidance Letter No. 05-05 (7 December 2005). Areas subject to jurisdiction under Section 404 of the Clean Water Act are referred to as "waters of the U.S." including wetlands. Federal regulations (33 CFR 328.3) define waters of the US as the following features:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

i. Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
iii. Which are used or could be used for industrial purpose by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under the definition;
5. Tributaries of waters identified in paragraphs (a)(1)-(4) of this section;
6. The territorial seas;
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)-(6) of this section.
8. Waters of the United States do not include prior converted cropland.

The term **"wetlands"** means those areas that are inundated or saturated by surface or ground water 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. (EPA, 40 CFR §230.3). Wetlands are technically identified by the presence of hydrophytic vegetation, hydric soils, and evidence of frequent or prolonged hydrology.

Pre-field Evaluation

The literature evaluation included a review of the US Geological Survey (USGS) topographic map, Federal Emergency Management Agency (FEMA) flood hazard map, US Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) map, color aerial photography, and US Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) soil survey information to evaluate the subject site for potential wetlands or other “waters of the U.S.” that would require further assessment during the field investigation. The literature evaluation determined that there were potential waters of the United States, primarily streams and on-channel ponds, within the project boundaries. Specifically, the USGS map revealed the presence of Horse Creek and a number of unnamed tributaries, as well as several impoundments. SCS Conservation reservoir #19 is present just south of the site and backs water up Horse Creek on the southern portion of the site. Historic aerial photographs indicate that the Property remained generally unchanged since prior to 1995.

Field Reconnaissance

During a field reconnaissance in December of 2017 Horizon personnel field verified those areas identified as potential waters of the U.S., during the pre-field evaluation to determine which features, if any, met the USACE criteria to be classified as jurisdictional and subject to regulation under Section 404 of the Clean Water Act.

Vegetation species observed on the majority of the site were all classified as upland species. The site is generally characterized as undeveloped woodland and grazing pasture. The site has previously been used for cattle grazing and as an ATV park. Common species of the woodlands include post oak (*Quercus stellata*), blackjack oak (*Quercus* marilandica), cedar elm (*Ulmus* crassifolia), yaupon (*Ilex vomitoria*), greenbriar (*Smilax bona-nox*), and grape (*Vitis mustangensis*). Riparian and bottomland areas along Horse Creek contain cedar elm, hackberry (*Celtis* laevigata), and pecan (*Carya illinoiensis*). The backwater area of the SCS conservation reservoir exhibits wetland characteristics dominated by green ash (*Fraxinus pensylvanica*), smartweed (*Polygonum sp*), and cocklebur (*Xanthium* sp.). Grazing pastures include various bluestems, forbs, and mesquite (*Prosopis* glandulosa). On-site photographs are provided in Attachment 2.

Horse Creek and its tributaries are determined to be ephemeral waters of the US in accordance with jurisdictional definition #5 above (Figure 3). The tributaries exhibited an ordinary high water mark. On-channel stock ponds are determined waters of the US in accordance with jurisdictional definition #4 above. Wetlands and open water are present in the area of the SCS reservoir backwater on the southern portion of the property and are determined to be jurisdictional in accordance with jurisdictional definitions #4 and #7 above (Figure 4 and 5).

The two proposed disposal areas were designed to avoid Horse Creek and the wetlands on the southern portion of the property. The western disposal area does not contain any waters of the US. The boundary of the eastern disposal area was reduced as much as possible to minimize the extent of waters of the US affected, but could not completely avoid two minor tributaries and an on-channel stock pond without reducing capacity below acceptable levels.

Based on our on-site jurisdictional review, it is our opinion that portions of two ephemeral tributaries to Horse Creek and an on-channel stock pond (open water) occur within the eastern landfill development footprint (Figure 6). An approximate total of 1066 linear feet of tributary and 2937 square feet of open water pond would be impacted by the proposed landfill footprint.

Summary and Recommendations

Based on the pre-field literature review, field investigation and current USACE guidance, Horizon determined that the eastern disposal area contains two small ephemeral tributaries considered “waters of the U.S.” subject to regulation by the USACE. A permit from the USACE will be required for development of the eastern disposal area.

For Horizon Environmental Services Inc.

C. Lee Sherrod
President
Certified Professional Wetland Scientist

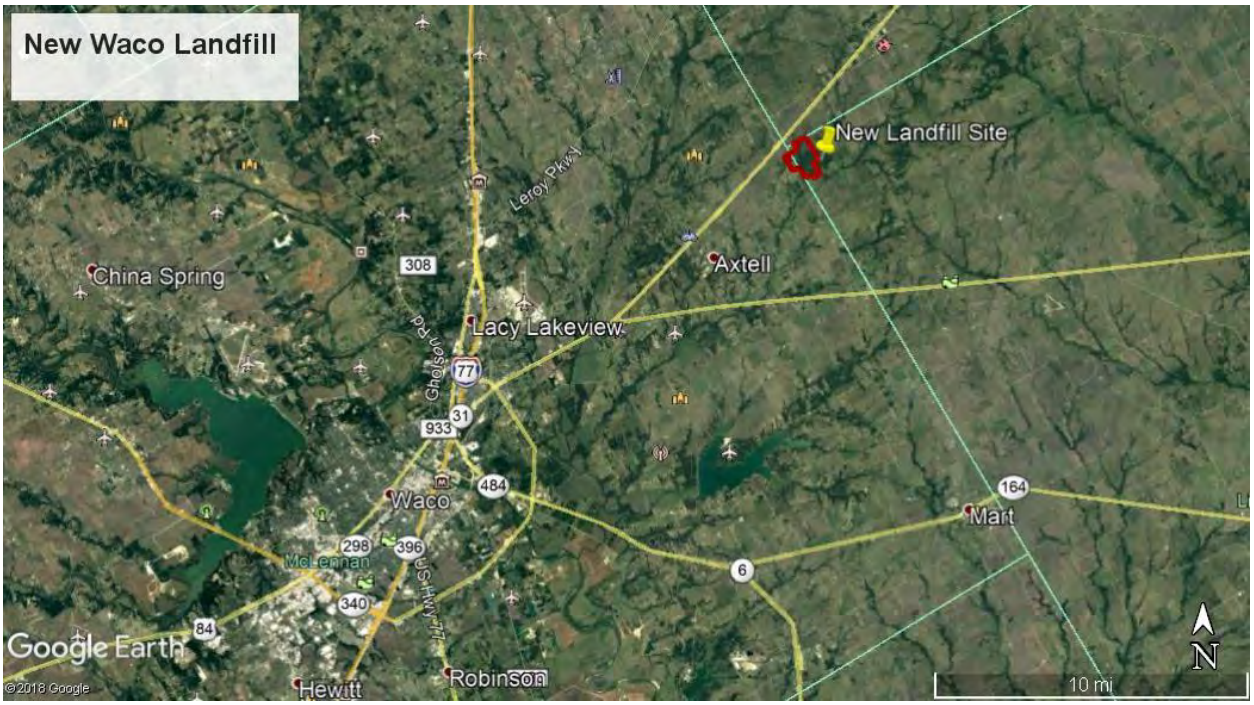

FIGURE 1: LOCATION

FIGURE 2: PROPERTY BOUNDARY AND DISPOSAL UNITS

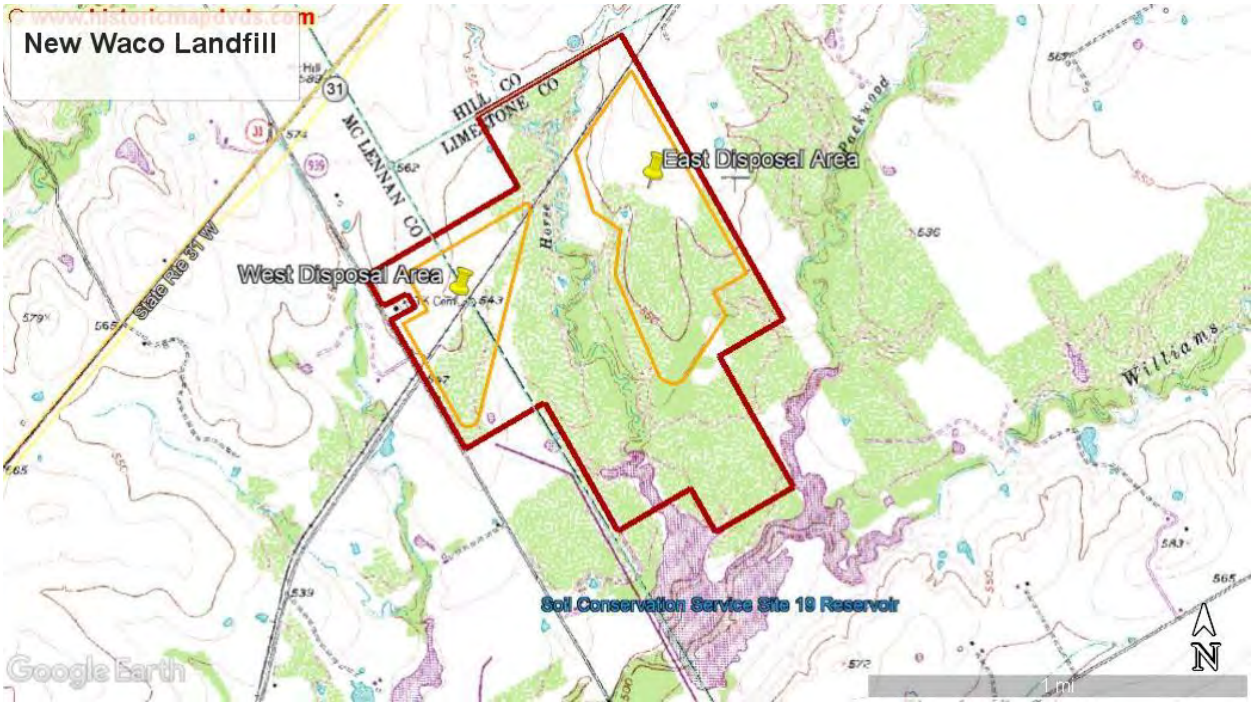

FIGURE 3: TOPO MAP

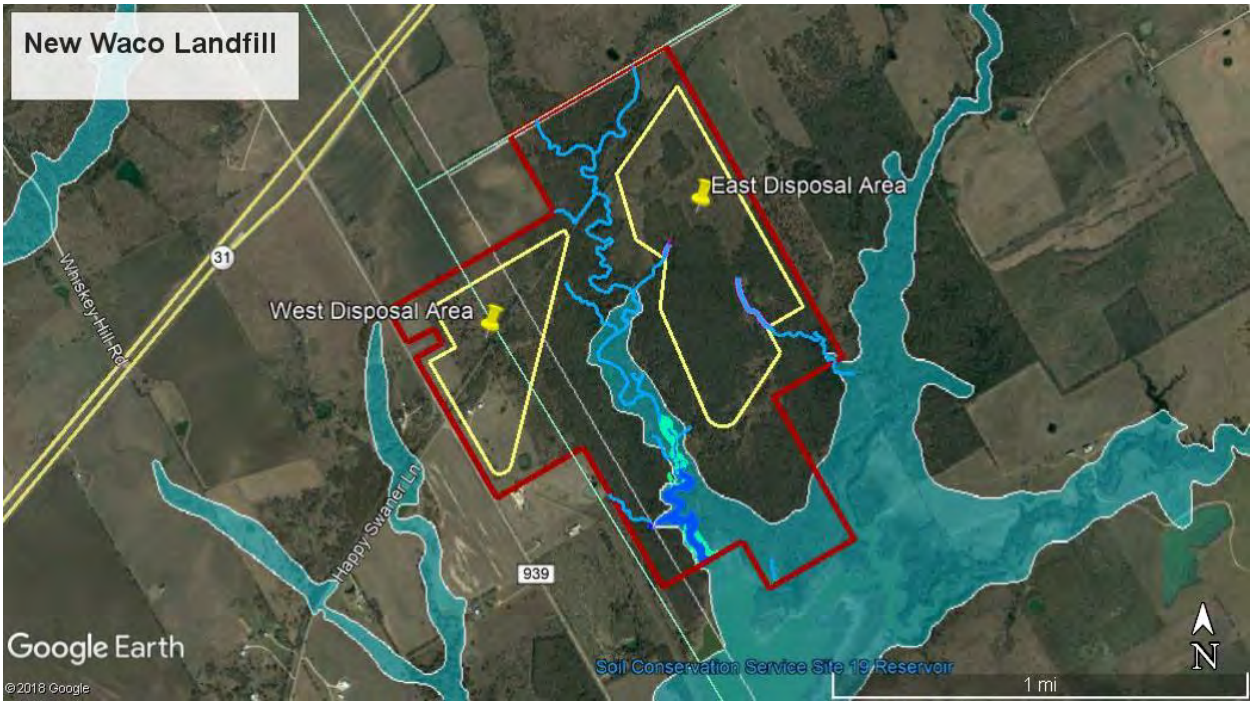

FIGURE 4: SITE CONFIGURATION, JURISDICTIONAL DETERMINATION, FLOODPLAIN

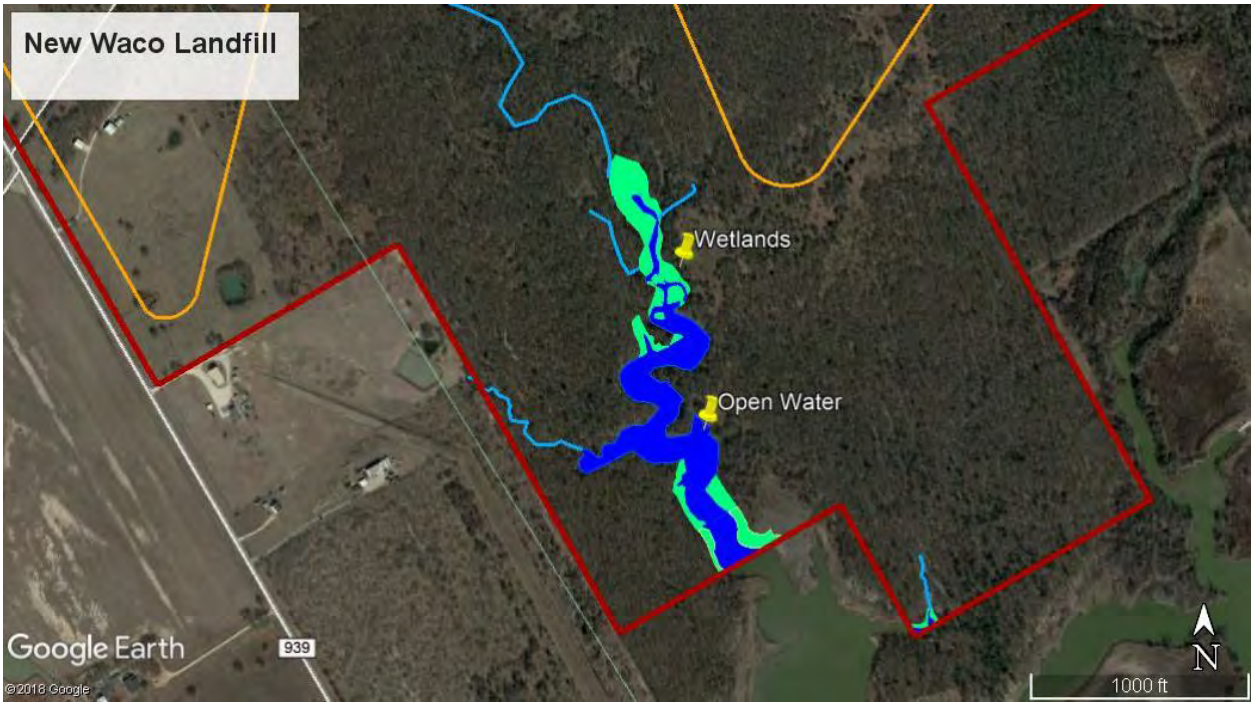

FIGURE 5: WETLANDS AND OPEN WATER ON SOUTHERN PORTION OF SITE

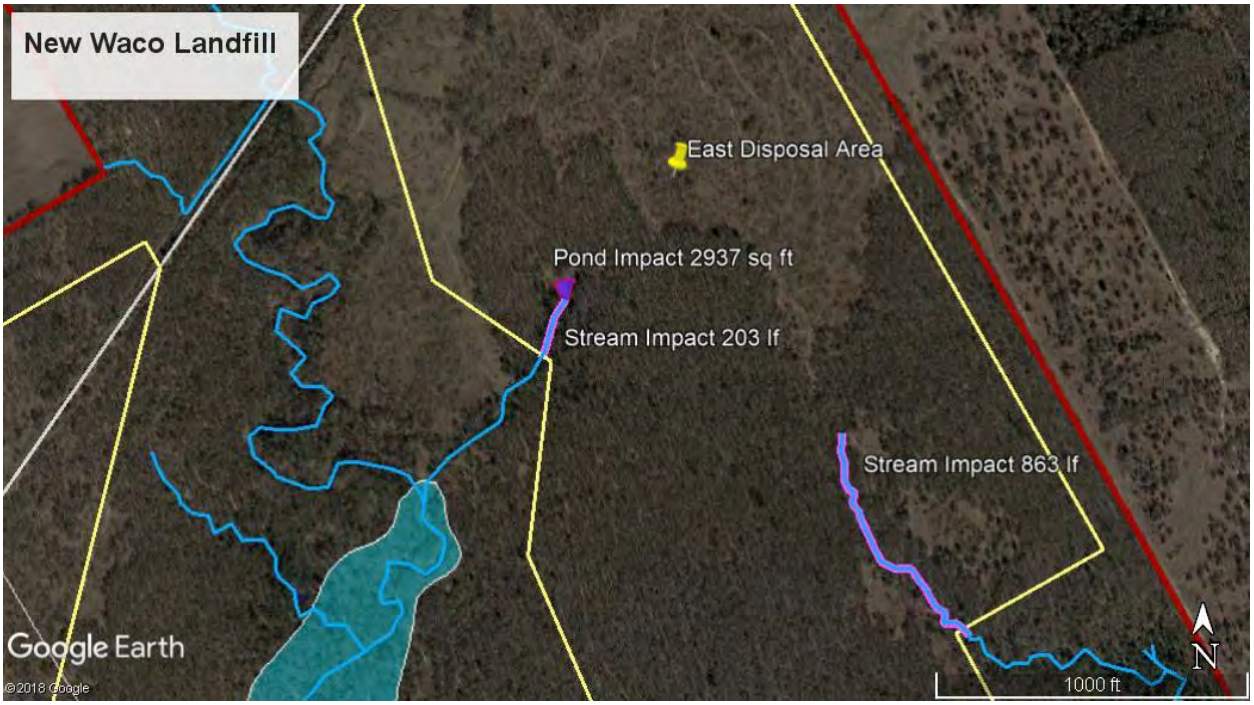

FIGURE 6: JURISDICTIONAL IMPACTS

ATTACHMENT 1

ON-SITE PHOTOS

PHOTO 1
Horse Creek (No Impact)

PHOTO 2
Horse Creek (No Impact)

PHOTO 3
SCS Reservoir Backwater Area and Wetlands

PHOTO 4
SCS Reservoir Backwater Area and Wetlands

PHOTO 5
Tributary of Horse Creek to be Impacted

PHOTO 6
Tributary of Horse Creek to be Impacted

APPENDIX I/IIF

CERTIFIED CITY CHARTER

THE STATE OF TEXAS §
COUNTY OF McLENNAN §

I, Esmeralda Hudson, TRMC, City Secretary of the City of Waco, Texas, hereby certify that the attached is a true and correct copy of the Charter of Waco Texas as adopted at an election held on the 1st day of November, 1958, was declared adopted by the Waco City Council on the 18th day of November, and subsequently amended in accordance with the Charter Election held on the 7th day of May, 2006, and adopted by the Waco City Council by Ordinance 2006-308 on second reading on the 16th day of May, 2006.

Esmeralda Hudson, TRMC
City Secretary
City of Waco, Texas

(City Seal)

CITY OF WACO
TEXAS

THE STATE OF TEXAS §
COUNTY OF McLENNAN §

BEFORE ME, the undersigned authority, on this day Esmeralda Hudson, City Secretary of the City of Waco, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge to me that she executed the same for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 25th day of July, A.D. 2018.

Notary Public for the
State of Texas

(Notary Seal)

LIZ CARAWAY
NOTARY PUBLIC
STATE OF TEXAS
ID 128314680
EXP. 03-18-2020

PART I

CHARTER*

Article I. Incorporation, Form of Government and Powers

Sec. 1. Incorporation.
Sec. 2. General powers.
Sec. 3. Form of government.
Sec. 4. Streets and public property.
Sec. 5. Street development and improvement.
Sec. 6. Change of boundaries and annexation of territory.
Sec. 7. Urban development, redevelopment and renewal.

Article II. The Council

Sec. 1. City divided into districts.
Sec. 2. Number, selection and term of office.
Sec. 3. Qualifications.
Sec. 4. Vacancies.
Sec. 5. Powers of the council.
Sec. 6. Investigative body.
Sec. 7. Interference in personnel matters.
Sec. 8. Mayor and Mayor Pro Tem.
Sec. 9. City secretary.
Sec. 10. Meetings of council.
Sec. 11. Rules of procedure.
Sec. 12. Procedure to enact legislation.
Sec. 13. Publication of ordinance.
Sec. 14. Code of ordinances.
Sec. 15. Emergency powers of mayor.

Article III. Elections

Sec. 1. General election.
Sec. 2. Regulation of elections.
Sec. 3. Filing of candidates.
Sec. 4. Canvassing election and declaring results.

***Editor's note**—Printed herein is the city's Home Rule Charter adopted by the voters of the city at a special election held on November 1, 1958. The original arrangement, including section numbers and catchlines and article headings, has been retained. Amendments to the Charter have been added at the proper places and are indicated by history notes following the amended sections. All material contained within brackets [ ] has been added by the editors, either to clarify or correct the meaning of the text, to correct errors or to facilitate indexing or ease of reference. Obvious misspellings and punctuation errors have been corrected without notation. A uniform system of citation to state statutes has been used to conform to the Code of Ordinances.

State law references—Adoption, amendment, etc., of Home Rule Charter, V.T.C.A., Local Government Code § 9.001 et seq.; charters, Vernon's Ann. Tex. Const. art. 11, § 5.

Sec. 5. Notification and qualification of city officers.
Sec. 6. Special elections.

Article IV. Initiative, Referendum and Recall

Sec. 1. Power of initiative.
Sec. 2. Power of referendum.
Sec. 3. Form of petitions.
Sec. 4. Filing, examination and certification of petitions.
Sec. 5. Council consideration and submission to voters.
Sec. 6. Results of elections.
Sec. 7. Power of recall.
Sec. 8. Recall election.
Sec. 9. Results of recall election.
Sec. 10. Limitation on recall.

Article V. Administrative Organization

Sec. 1. The city manager.
Sec. 2. Powers and duties of the city manager.
Sec. 3. Administrative departments.
Sec. 4. Directors of departments.
Sec. 5. Departmental organization.
Sec. 6. City attorney.

Article VI. Municipal Court

Sec. 1. Municipal court.
Sec. 2. Judge of the municipal court.
Sec. 3. Clerk of the municipal court.
Sec. 4. Costs, process and procedure in the municipal court.

Article VII. Finance

Sec. 1. Department of finance.
Sec. 2. Director of finance—Powers and duties.
Sec. 3. Fiscal year.
Sec. 4. Budget preparation and adoption.
Sec. 5. Appropriations.
Sec. 6. Emergency appropriations.
Sec. 7. Borrowing to meet emergency appropriations.
Sec. 8. Borrowing in anticipation of property taxes.
Sec. 9. Depository.
Sec. 10. General obligation bonds.
Sec. 11. Revenue bonds.
Sec. 12. Sale of bonds.
Sec. 13. Purchase procedure.
Sec. 14. Independent audit.

Article VIII. Taxation

Sec. 1.	Department of taxation.
Sec. 2.	Powers of taxation.
Secs. 3—5.	Reserved.
Sec. 6.	Tax liens and liability.
Sec. 7.	Reserved.
Sec. 8.	Arrears of taxes offset to debt against city.
Sec. 9.	Other rules and regulations.

Article IX. Planning

Sec. 1.	The city plan commission.
Sec. 2.	The city plan commission—Powers and duties.
Sec. 3.	City plan department.
Sec. 4.	The city plan.
Sec. 5.	Legal effect of city plan.

Article X. Franchises and Public Utilities

Sec. 1.	Inalienability of control of public property.
Sec. 2.	Power to grant franchise.
Sec. 3.	Ordinance granting franchise.
Sec. 4.	Transfer of franchise.
Sec. 5.	Regulation of franchise.
Sec. 6.	Regulation of rates.

Article XI. General Provisions

Sec. 1.	Reserved.
Sec. 2.	Continuation of government.
Sec. 3.	Effect of charter on existing law.
Sec. 4.	Official oath.
Sec. 5.	Public records.
Sec. 6.	Official newspaper.
Sec. 7.	Notice of claim.
Sec. 8.	Assignment, execution, and garnishment.
Sec. 9.	Security or bond not required.
Sec. 10.	Remission of fines and penalties.
Sec. 11.	Personal interest in city contracts.
Sec. 12.	Nepotism.
Sec. 13.	Residence requirements.
Sec. 14.	Health, life and accident insurance for city employees.
Sec. 15.	Pensions for retiring policemen and firemen.
Sec. 16.	Non-substantive revisions and conformance with state and federal laws.
Sec. 17.	Judicial notice.
Sec. 18.	Construction of charter.
Sec. 19.	Separability clause.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Section 1. Incorporation.

The inhabitants of the City of Waco, McLennan County, Texas, residing within its corporate limits as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Waco," hereinafter referred to as the "City" with such powers, privileges, rights, duties and immunities as are herein provided.

Section 2. General powers.

The City shall have all the power granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or any political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter; may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred expressly and permissively by Chapter 147, Page 307, of the Acts of the 33rd Legislature, Regular Session, enacted in 1913 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Vernon's Ann. Civ. St. art. 1175, V.T.C.A., Local Government Code §§ 26.021, 26.041, 43.021, 43.142, 51.072–51.078, 54.004, 101.021–101.023, 141.004, 211.003, 211.005, 211.013, 214.001, 214.005, 214.013, 214.901, 215.072–215.075, 217.042, 251.001, 341.003, 341.903, 342.011, 342.012, 372.041, 401.002, 402.002, 402.017, as now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article XI, Section V, of the Constitution of Texas, the people of the City are empowered by election to grant to or confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

Section 3. Form of government.

The municipal government provided by this Charter shall be known as "Council-Manager Government." Pursuant to the provisions of and subject only to the limitations imposed by the

State Constitution, the State Laws, and this Charter, all powers of the City shall be vested in and exercised by an elective Council, hereinafter referred to as "the Council," which shall enact legislation, adopt budget, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the City.

Section 4. Streets and public property.

The City shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public squares and public ways within the corporate limits of the City, and in, upon, over and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

Section 5. Street development and improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

If improvements be ordered constructed in any part of any such area used or occupied by the tracks or facilities of any railway or public utility, then the City Council shall have power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have power, by ordinance, to provide for the enforcement of such assessment.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, and same being Vernon's Ann. Civ. St. art. 1105b.

State law reference—Street improvement and assessments, Vernon's Ann. Civ. St. art. 1105b.

Section 6. Change of boundaries and annexation of territory.

The City Council shall have power by ordinance to fix the boundary limits of the City of Waco; and to provide for the alteration and extension of said boundary limits, the detachment of territory, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed or detached. Upon the introduction of any ordinance annexing additional territory, such ordinance shall be published in the form in which it may be finally passed, in the official newspaper of said City at least one time, and said ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and when any additional territory has been so annexed, same shall be a part of the City of Waco, and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens and shall be bound by the acts and ordinances, resolutions and regulations of the City. Upon the final adoption of any ordinance detaching territory from the City, the corporate limits of the City shall be reduced by the territory so detached.

State law reference—Annexations, V.T.C.A., Local Government Code § 43.001 et seq.

Section 7. Urban development, redevelopment and renewal.

The City shall have the power to carry out slum clearance, public housing and urban redevelopment and renewal projects. For these purposes, it may acquire land by eminent domain, may contract or cooperate with the State or Federal Governments of any agency thereof, may invest its funds and borrow or accept money.

ARTICLE II. THE COUNCIL

Section 1. City divided into districts.

The City shall be divided into five districts. The territory included in such districts shall be as heretofore established by ordinances of the City of Waco, and may be changed from time to time by ordinance as the interests of the City may demand, having regard to the number of qualified electors as shown by the last preceding tax roll and fixing district boundaries so that each ward shall contain, as nearly as possible, the same number of qualified electors. In the event the limits of the City are extended, annexed territory shall become a part of the district to which it adjoins until changed by the Council; and in the event any annexed tract adjoins two or more districts, the district line or lines intersecting the original City Limits shall be considered extended so that such annexed territories shall become parts of such adjoining districts until changed by the Council.

(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, changed the title of section 1 from "City divided into wards" to "City divided into districts."

Editor's note—The six (6) ward at large system was declared unconstitutional in 1976 in Derrick, et al. v. Mathias, et al. (Civil Action No. W-74-CA-2 in the U.S. District Court for the Western District of Texas, Waco Division). The court ordered the adoption of a five (5) single member district and one (1) at large council member system.

Section 2. Number, selection and term of office.

The Council shall be composed of the Mayor and five (5) Council members. Each Council member, unless sooner removed under the provisions of this Charter, shall serve for two (2) year terms, from the first meeting of the Council following the Council member's election until the first meeting of the Council following the election two (2) years later, or until the Council member's successor has been elected and duly qualified. The Mayor and Council members from Districts I and III shall be elected in even numbered years. The Council members from Districts II, IV, and V shall be elected in odd numbered years.

Editor's note—The six (6) ward at large system was declared unconstitutional in 1976 in Derrick, et al. v. Mathias, et al. (Civil Action No. W-74-CA-2 in the U.S. District Court of the Western District of Texas, Waco Division). The court ordered the adoption of a five (5) single member district and one (1) at large council member system. Districts I and III and at large member are elected in even years and districts II, IV and V are elected in odd years per the 1976 court order. In 1987, the Charter was amended to provide that the at large member was the mayor and that position is elected in even numbered years.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 3. Qualifications.

At the time of election to office, each member of the Council shall be at least twenty-one (21) years of age, shall be a citizen and qualified voter of the State of Texas and the City of Waco for the twelve (12) months immediately preceding the date of election, and, if elected from a District, a resident of the District from which elected for the six (6) months immediately preceding the day of election. No member of the Council shall hold any other office or employment under the City Government while a member of said Council, nor shall hold any paid employment under the City Government within two (2) years thereafter. A member of the Council from a district who ceases to reside within that district or a Mayor who ceases to reside in the city shall immediately forfeit his or her office.
(Res. No. 1987-134, Amend. No. 2, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

State law references—Qualified voter, V.T.C.A., Election Code § 11.002; eligibility for public office, V.T.C.A., Election Code § 141.003.

Section 4. Vacancies.

Vacancies in the Council except for the position of mayor arising from any cause shall be filled by a majority vote of the remaining members for the unexpired term or until the next City general election and provided the successor shall possess all qualifications required for the office. Provided also, that in all cases the said vacancy shall be filled by election at the next succeeding City general election for the remaining year of the unexpired term or for the next full term, as the case may be.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 5. Powers of the council.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council; provided, that the Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

Section 6. Investigative body.

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

State law reference—Public meetings, V.T.C.A., Government Code § 551.001 et seq.

Section 7. Interference in personnel matters.

Neither the Council nor any of its members shall instruct or request the City Manager or any of the Manager's subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the Council under the provisions of this Charter. Except for the purpose of inquiry and investigation, the Council and its members shall deal with the administrative service of the City solely through the City Manager and shall not give orders to any of the Manager's subordinates either publicly or privately.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 8. Mayor and Mayor Pro Tem.

The Council member elected at large shall serve as the Mayor. The Mayor shall serve no more than three (3) two (2) year terms. As used in this section the word "term" shall mean the period of time from the first meeting of the Council following the Mayor's election until the first meeting of the Council following the election of the Mayor two (2) years later or any portion thereof. Vacancies created in the Mayor's position, arising from any cause, shall be filled by election at the next authorized election date for the remaining of the unexpired term or for the next full term as the cause may be. As used in this charter, except where otherwise provided, the term council or council member shall include the Mayor. At its first meeting following each regular election of Council members, the Council shall by election designate one (1) of its number as Mayor Pro Tem who shall serve in such capacity during the pleasure of the Council. The Mayor shall preside at all meetings of the Council and shall be recognized as head of the City government for all ceremonial purposes, for the purpose of receiving service of civil process, for emergency purposes and for military purposes, but shall have no regular administrative duties. The Mayor, as a member of the Council, shall be entitled to vote upon all affairs considered by the Council but shall have no veto power. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor and shall have power to perform every act the Mayor could perform if present.
(Res. No. 1987-134, Amend. No. 1, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

Section 9. City secretary.

The Council shall appoint the City Secretary for a term of four (4) years and continuing thereafter until reappointment and/or appointment of successor. The City Secretary shall keep

the records of the council and shall have such other duties and responsibilities as may be assigned by this Charter and the Council. The City Secretary shall appoint such assistants as may be authorized by the Council. The Council may enter into such written agreement as deemed appropriate. The City Secretary can be removed for cause, after hearing, by a majority vote of the council members qualified and serving.
(Res. No. 1987-134, Amend. No. 7, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

Section 10. Meetings of council.

There shall be regular meetings of the City Council which shall be held at such times and places as shall be prescribed by ordinance or resolution. Special meetings may be called at any time by the City Secretary upon the request of the Mayor, the City Manager, or three Council members. Notice of special meetings shall be given to all members of the Council who are not absent from the City; provided, however, that any member of the Council who did not receive notice of a special meeting may, either before or after such special meeting is held, waive such notice. It shall not be necessary to give notice to a Council member of a special meeting held at a time when such Council member is absent from the City, and it shall not be necessary for such absent Council member to waive such notice.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Open meetings act, V.T.C.A., Government Code § 551.001 et seq.

Section 11. Rules of procedure.

The Council shall by ordinance determine its own rules and order of business. A majority of the Council qualified and serving shall constitute a quorum for all meetings for the transaction of all business; but no action of the Council shall be of any force or effect unless it is adopted by the favorable votes of a majority of the Councilmembers qualified and serving unless otherwise provided by this Charter. The Council may adopt such rules, and prescribe such penalties as it may see fit to enforce the attendance of its members at all regular and called meetings of the Council or its committees. Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.
(Ord. No. 2006-308, § 1, 5-16-06)

State law references—Public meetings, V.T.C.A., Government Code § 551.001 et seq.; public records, V.T.C.A., Government Code § 552.001 et seq.

Section 12. Procedure to enact legislation.

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the City of Waco." The City Attorney shall approve all ordinances adopted by the Council as to the legality thereof or shall file with the City Secretary written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be by notation on the ordinance itself or by separate paper or instrument. Every ordinance enacted by the Council shall be signed by the Mayor, Mayor Pro Tem or by two (2) Councilmembers and shall be filed with and recorded by the City Secretary. All ordinances shall be read by descriptive caption in open meeting of the Council on two (2) different days.

All ordinances, unless otherwise provided by law or by the terms of such ordinances, shall take effect immediately upon final passage thereof. The requirements for reading ordinances on two (2) different days may be dispensed with where an ordinance relating to the immediate preservation of the public peace, health, safety or welfare is adopted by the favorable vote of three-fourths (3/4) of all Council members, qualified and serving, and contains a statement of the nature of the emergency.

(Res. No. 1987-134, Amend. No. 4, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

Cross reference—Procedure for ordinance granting franchise, art. X, § 3.

Section 13. Publication of ordinance.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other ordinance required by law or this Charter to be published, by causing the said ordinance, or its caption and penalty, to be published at least one (1) time within ten (10) days after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect ten (10) days after the date of such publication, provided that any penal ordinance passed as an emergency measure under Section 12 of this Article shall take effect immediately on its publication.

State law reference—Ordinance adoption procedure for home rule cities, V.T.C.A., Local Government Code § 52.013.

Section 14. Code of ordinances.

The Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. The Council shall cause all general ordinances to be codified, recodified and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by law. When adopted by the Council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

Section 15. Emergency powers of mayor.

In addition to the powers granted pursuant to Chapter 418 of the Texas Government Code, as amended from time to time, whenever the Mayor shall deem it necessary in order to enforce the laws of the City, or to advert danger, or to protect life or property in case of riot, outbreak, calamity or public disturbance, or when the Mayor has reason to fear any serious violation of law or order, outbreak or any other danger to the City of Waco or the inhabitants thereof, the Mayor shall summon into service as a special police force, all or as many of the citizens as in

the Mayor's judgment and discretion may be necessary and proper; and such summons may be made by proclamation or orders addressed to the citizens generally, or those of any district of the City or subdivision thereof, or such summons may be by personal notification. Such summons shall be made pursuant to a proclamation by the Mayor that an emergency exists in the City of Waco. During such emergency, the police department of the City of Waco, and such special police as have been summoned by the Mayor, shall be subject to the orders of the Mayor, and shall perform such duties as the Mayor may require, and shall have the same power while on duty as the regular police of the City of Waco. The Mayor shall have authority during the continuance of such emergency to make and enforce such rules, regulations, and orders as are necessary to preserve the public health, safety, and welfare from the threatened danger. During such emergency, such rules, regulations and orders shall have the force and effect of law.

The Mayor shall have authority in case of riot or other unlawful assemblage, to order and enforce the closing of any theater, picture show, or other place of public amusement or entertainment, ballroom, barroom, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence any of the penal laws of the State, or any ordinance of the City; and shall perform such other duties and possess and exercise such other power and authority as may be prescribed by law or by ordinance.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Emergency management, V.T.C.A., Government Code § 418.001 et seq.

ARTICLE III. ELECTIONS*

Section 1. General election.

The regular election of Council members to the places on the Council occupied by Council members whose terms are expiring shall be held on the second Saturday in May of each year. In every election each qualified voter shall vote for not more than one candidate for each Council place to be filled. Said election shall be ordered by the Council, and in case of its failure to order the same, the Mayor of the City shall make such order. In the case of the inability of the Council and the Mayor to act, the election may be called by the City Secretary, and in case of the City Secretary's inability to act, by the County Judge of McLennan County, Texas, and in case of the County Judge's inability to act, by the Governor of the State of Texas. The City Secretary shall give notice of such election by causing said notice to be published at least thirty (30) days previous to the day of such election in the official newspaper of the City.
(Res. No. 1987-162, 12-22-87; Ord. No. 2006-308, § 1, 5-16-06)

State law references—Election dates, V.T.C.A., Election Code § 41.001; filing period, V.T.C.A., Election Code § 143.007.

***State law reference**—Elections, V.T.C.A., Election Code § 1.001 et seq.

Section 2. Regulation of elections.

All elections shall be held in accordance with the Laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the Council for the conduct of elections. The Council shall appoint the Election Judges and other election officials and shall provide for the compensation of all election officials in the City elections, and for all other expenses of holding such election.

Section 3. Filing of candidates.

Any qualified person who desires to become a candidate for election to a place on the Council shall file with the City Secretary an application for their name to appear on the ballot. Such application shall clearly designate by district, the place on the Council to which the candidate seeks election and shall contain a sworn statement by the candidate that they are fully qualified under the Laws of Texas and the provisions of this Charter to hold the office they seeks.
(Ord. No. 2006-308, § 1, 5-16-06)

State law references—Candidate filing dates, V.T.C.A., Election Code § 143.007; candidate filing requirements, V.T.C.A., Election Code § 143.001 et seq.

Section 4. Canvassing election and declaring results.

The returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary. The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election as prescribed by state law. The qualified person receiving the highest number of votes cast for any office shall thereupon be declared by said Council elected.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 5. Notification and qualification of city officers.

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment and all the newly elected or appointed officers may enter upon their duties. Any officer elected or appointed must qualify by taking and subscribing the oath of office within thirty (30) days; otherwise the office may be deemed vacant.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Oath, Vernon's Ann. Tex. Const. art. 16.

Section 6. Special elections.

The Council may by ordinance or resolution call such special elections as are authorized by the State law and this Charter.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Special elections, V.T.C.A., Election Code § 41.003.

ARTICLE IV. INITIATIVE, REFERENDUM AND RECALL*

Section 1. Power of initiative.

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter, the State Constitution, or the State Laws. Any initiated ordinance may be submitted to the Council by a petition signed by qualified voters of the City equal in number to at least fifteen per cent of the qualified voters of the City.

State law reference—Qualified voter, V.T.C.A., Election Code § 11.002.

Section 2. Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter, except that ordinances authorizing the issuance of bonds (either tax bonds or revenue bonds), whether original or refunding bonds, shall only be subject to such referendum where expressly authorized by state law. Prior to or within thirty (30) days after the effective date of any ordinance which is subject to referendum a petition signed by qualified voters of the City equal in number to at least fifteen per cent of the qualified voters of the City may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. (Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Qualified voter, V.T.C.A., Election Code § 11.002.

Section 3. Form of petitions.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the Council, the full text of the ordinance sought to be referred shall be included in such papers. The signatures to the initiative or referendum petitions need not be all appended to one paper. In addition to the signatures, the petition must contain the information required by state law. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition, or does not contain the information required by state law. Before the signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath before the City Secretary, or any other officer competent to administer oaths, that the statements made

***State law reference**—Charter amendments, V.T.C.A., Local Government Code § 9.004.

therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in the affiant's presence.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Qualified voter, V.T.C.A., Election Code § 11.002.

Section 4. Filing, examination and certification of petitions.

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 3 of this Article. In examining the petition, the Secretary shall write the letters "D. V." in red ink opposite the names of signers found not qualified. After completing examination of the petition the Secretary shall certify the result thereof to the Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the Secretary shall notify the person filing the petition, and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty (30) days after such amendment is filed, the Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient no further proceedings shall be had with regard to it.

State law reference—Qualified voter, V.T.C.A., Election Code § 11.002.

Section 5. Council consideration and submission to voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

(a) Pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council; or

(b) Submit said initiated ordinance without amendments to a vote of the qualified voters of the City at the next available election date; or

(c) At such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the Council.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at the next available election date. Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Qualified voter, V.T.C.A., Election Code § 11.002.

Section 6. Results of elections.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a vote of three-fourths of the Council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed.

Section 7. Power of recall.

The people of the City reserve the power to recall any elected officer of the City of Waco and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty (30) per cent of the qualified voters of the City or district as applicable, demanding the removal of such elected officer. The petition shall be signed and verified in the manner required for an initiative petition.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 8. Recall election.

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election forthwith to determine whether such officer shall be recalled.

State law reference—Recall elections, V.T.C.A., Election Code § 41.001(b)(6).

Section 9. Results of recall election.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the Council shall immediately declare the office vacant and a special election for the filling of such vacancy shall be called and held forthwith, in accordance with the provisions of this Charter on elections. An officer thus removed shall not be eligible to hold office again in the City of Waco within a period of four (4) years from date of their recall.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 10. Limitation on recall.

No recall petition shall be filed against an officer within six (6) months after the person takes office, and no officer shall be subjected to more than one (1) recall election during a term of office.
(Ord. No. 2006-308, § 1, 5-16-06)

ARTICLE V. ADMINISTRATIVE ORGANIZATION

Section 1. The city manager.

The Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City. The City Manager shall be chosen by the Council solely on the

basis of executive and administrative training, experience and ability and need not, when appointed, be a resident of the City of Waco; however, during the City Manager's tenure of office, the City Manager shall reside within the City.

The Council may appoint an Acting City Manager to serve at the pleasure of the Council during the temporary absence of the City Manager or upon the vacancy of that position.

The City Council shall have the authority in its sole discretion to enter into a contract of employment for a City Manager, either at the time of hiring or any time during the City Manager's tenure; but in no event may a contract of employment exceed four (4) years. The City Council shall always have authority to remove a City Manager for cause with due process considerations, subject to the provisions provided herein. The removal of the City Manager, subject to the provisions herein, shall be by majority vote.

No member of the Council shall, during the time for which the Council member is elected or for two (2) years thereafter, be appointed as City Manager.
(Res. No. 1987-134, Amend. No. 6, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

Section 2. Powers and duties of the city manager.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited by, the following:

(a) To appoint and remove any officer or employee of the City, except those officers and employees whose appointment or election is otherwise provided for by law or this Charter;

(b) To perform such other duties as may be prescribed by this Charter or required by the Council, not inconsistent with the provisions of this Charter.

(Ord. No. 2006-308, § 1, 5-16-06)

Section 3. Administrative departments.

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one (1) or more departments created by it, and may assign or transfer duties of any departments of the City from one (1) department to another by ordinance.

Section 4. Directors of departments.

At the head of each department there shall be a Director who shall be appointed and who may be removed by the City Manager. Such directors shall have supervision and control over their respective departments, and may serve as chief of divisions within their respective departments. Two (2) or more departments may be headed by the same individual, and the City Manager may head one (1) or more departments.

Section 5. Departmental organization.

The work of each department shall be distributed among such divisions as may be established by ordinance. Pending passage of ordinances establishing department divisions, the City Manager may establish temporary divisions in any department.

Section 6. City attorney.

There shall be a Department of Law, the head of which shall be the City Attorney. The City Attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five (5) years immediately preceding appointment. The City Attorney shall be the legal advisor of and attorney for all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings. The City Attorney shall draft, approve or file written legal objections to every ordinance adopted by the Council; and shall pass upon all documents, contracts and legal instruments in which the City may have an interest.

There shall be such assistant City Attorneys as may be authorized by the Council and appointed by the City Attorney, and such Assistant City Attorneys shall be authorized to act for [or] on behalf of the City Attorney.

The City Attorney shall be hired by and responsible to the City Council for a four-year term of office and continuing thereafter until reappointment or appointment of successor. The City Attorney, so appointed by the Council, may be removed for cause, after hearing, by a majority vote of the Council Members qualified and serving. A Council may enter into such written agreement as deemed appropriate.
(Res. No. 1987-134, Amend. No. 8, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

ARTICLE VI. MUNICIPAL COURT*

Section 1. Municipal court.

There shall be a court known as the Municipal Court of the City of Waco, which court shall be deemed always open for the trial of causes, with such jurisdiction, powers, and duties as are given and prescribed by the Laws of the State of Texas.
(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, changed the title of section 1 from "Corporation court" to "Municipal court."

Section 2. Judge of the municipal court.

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Judge shall be appointed by the Council for a term of two (2) years, from June first in even years until May thirty-first two (2) years later, or for the portion of such term unexpired at the time of the appointment. The Judge shall be a competent

*State law references—Municipal court, V.T.C.A., Government Code § 29.001 et seq.; rules of municipal court, Vernon's C.C.P. art. 45.01 et seq.

attorney who at the time of appointment has practiced law for at least two (2) years and who is a resident of the City of Waco. The Judge of the Municipal Court may be removed for cause, after hearing by vote of three-fourths (3/4) of the Council qualified and serving.

In the event the Judge of the Municipal Court is temporary unable to act for any reason, the Court shall appoint a qualified attorney to act in the Judge's place. The Judge, or anyone acting in the Judge's place, shall receive such compensation as may be set by the Council.

The Council shall have the power to create and establish additional Municipal Courts, and to appoint more than one (1) Judge of each Municipal Court, whether one (1) or more, each of whom shall be a magistrate.
(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, changed the title of section 2 from "Judge of the corporation court" to "Judge of the municipal court."

Section 3. Clerk of the municipal court.

There shall be a Clerk of the Municipal Court who shall be appointed by and who shall serve at the pleasure of the Judge of the Municipal Court. The Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized by the Council and appointed by the judge of the Municipal Court, which deputy clerks shall have authority to act for and on the behalf of the Clerk of the Municipal Court.
(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, changed the title of section 3 from "Clerk of the corporation court" to "Clerk of the municipal court."

State law reference—Clerk, V.T.C.A., Government Code § 29.010.

Section 4. Costs, process and procedure in the municipal court.

The Council shall determine what costs, if any, shall be charged for proceedings in and for all processes issued by said Court.

The style of all writs issued out of the Municipal Court shall be in the name of the City of Waco.

All jurors shall be residents of said City and otherwise possess the same qualifications as jurors in the State courts, and they shall be summoned in the same manner as provided for in Justice Courts.
(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, changed the title of section 4 from "Costs, process and procedure in the corporation court" to "Costs, process and procedure in the municipal court."

ARTICLE VII. FINANCE*

Section 1. Department of finance.

There shall be a Department of Finance, the head of which shall be the Director of Finance. The Director of Finance shall have knowledge of municipal accounting and shall have had at least three years experience in budgeting, accounting, and financial control. Said Director shall provide a bond with such surety and in such amount as the Council may require. The premiums on such bond shall be paid by the City.

Section 2. Director of finance—Powers and duties.

The Director of Finance shall administer and supervise all financial affairs of the City and shall have such other powers and duties as the Council shall by ordinance or resolution prescribe.

Section 3. Fiscal year.

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

Section 4. Budget preparation and adoption.

At least thirty (30) days prior to the end of each fiscal year the City Manager shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Should the Council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

Section 5. Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this Article no funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided by this Article. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and become

*State law reference—Finances, V.T.C.A., Local Government Code § 101.021 et seq.

available for reappropriation for the next fiscal year. The Council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another, at any time. The City Manager shall have authority, without Council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

Section 6. Emergency appropriations.

At any time in any fiscal year, the Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirements, to protect the public health, safety or welfare. Such appropriation shall be by ordinance adopted by the favorable votes of three-fourths of the Council members qualified and serving, and shall be made only upon recommendation of the City Manager. The total amount of all emergency appropriations made in any fiscal year shall not exceed two and one-half per centum of the tax levy for that fiscal year. Should the unappropriated and unencumbered revenues, income and available funds of the City for such fiscal year be not sufficient to meet the expenditures under the appropriation authorized by this section, thereby creating a deficit, it shall be the duty of the Council to include the amount of such deficit in its budget for the following fiscal year, and said deficit shall be paid off and discharged during the said following fiscal year.

State law references—Emergency expenditures, V.T.C.A., Local Government Code § 102.009; charter provisions prevail under certain circumstances, V.T.C.A., Local Government Code § 102.011; notice provisions, V.T.C.A., Government Code § 551.043; municipal budgets, V.T.C.A., Local Government Code § 102.001 et seq.

Section 7. Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding Section, the Council may by resolution authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any such fiscal year and any renewals thereof shall mature and be payable not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation was made, as provided in the last preceding Section.

State law reference—Charter provisions prevail under certain circumstances, V.T.C.A., Local Government Code § 102.011.

Section 8. Borrowing in anticipation of property taxes.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten per cent of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year 20____" (stating the

tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued, and may be secured by the pledge of the ad valorem property taxes for such year.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 9. Depository.

All moneys received by any person, department, or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the Director of Finance or a deputy and countersigned by the City Manager. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted facsimile signatures of said Director of Finance and City Manager on such checks, vouchers or warrants.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 10. General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 11. Revenue bonds.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Bonds, Vernon's Ann. Civ. St., art. 701 et seq.

Section 12. Sale of bonds.

No bond (other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds) issued by the City shall be sold for less than par value and accrued interest.

All bonds of the City having been issued and sold in accordance with the terms of this section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 13. Purchase procedure.

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged; and no contract or order shall be binding upon the City, unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the City makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition. The Council may, by ordinance, confer upon the city manager general authority to contract for expenditures for budgeted items and also emergency expenditures without further approval of the Council. The Council may also determine by ordinance the dollar amount above which contracts or purchases shall be let to the lowest and best responsible bidder, after there has been opportunity for competitive bidding as provided for by law or ordinance; provided, however, that said amount shall not be greater than the maximum amount allowed by state law, and also provided that the council, or the city manager, if authorized to contract for the City, shall have the right to reject any and all bids. Contracts for personal or professional services may be competitively bid if permitted by state law.
(Res. No. 1987-134, Amend. No. 3, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Purchasing and contracting, V.T.C.A., Local Government Code § 252.001 et seq.

Section 14. Independent audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be published immediately in the official newspaper of the City of Waco and copies placed on file in the City Secretary's office as a public record.

State law reference—Audits, V.T.C.A., Local Government Code § 103.001 et seq.

ARTICLE VIII. TAXATION*

Section 1. Department of taxation.

There shall be a Department of Taxation, the head of which shall be the City Tax Assessor and Collector. The Department Head shall be responsible for the assessment and collection of all taxes levied by the City of Waco.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Tax assessor/collector, V.T.C.A., Tax Code § 6.22 et seq.

Section 2. Powers of taxation.

The City shall have the power to levy, assess, and collect taxes of every character and type not prohibited by the Constitution and Laws of the State of Texas, and for any municipal purpose. Provided that the City ad valorem property tax rate for any one year shall never exceed one dollar and eighty-five cents ($1.85) per one hundred dollars' assessed value of taxable property.

State law reference—Taxation authority, Vernon's Ann. Tex. Const. art. 11, § 5, art. 8, V.T.C.A., Tax Code § 1.01 et seq.

Sections 3—5. Reserved.

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, repealed sections 3—5 in their entirety, which pertained to assessment of property for tax purposes, board of equalization, and tax payments, respectively, and derived from original codification.

Section 6. Tax liens and liability.

All property, real, personal and mixed, situated in the City of Waco on the first day of January of each year shall stand charged with a special lien in favor of the City from said date for the taxes due thereon. The liens provided herein shall be superior to all other liens except liens except as provided by law, regardless of when such other liens were created.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Tax liens, V.T.C.A., Tax Code §§ 32.01 et seq., 113.001 et seq.

Section 7. Reserved.

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, repealed section 7 in its entirety, which pertained to joint interest in property and derived from original codification.

Section 8. Arrears of taxes offset to debt against city.

The City shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City of

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***Editor's note**—Many provisions of this article have been superseded by the state law referenced after each provision pursuant to Vernon's Ann. Tex. Const. art. 8.

State law references—Taxation authority, Vernon's Ann. Tex. Const. art. 11, § 5, V.T.C.A., Tax Code § 1.01 et seq.; tax equalization and single appraisal districts and board of equalization, Vernon's Ann. Tex. Const. art. 8, § 11.

Waco for taxes, in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

Section 9. Other rules and regulations.

Except as otherwise provided by law or this Charter, the Council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations and mode of procedure to enforce the collection by and payment to the City Tax Assessor and Collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

ARTICLE IX. PLANNING*

Section 1. The city plan commission.

There shall be a City Plan Commission which shall consist of not less than nine nor more than fifteen citizens of the City of Waco, and such other ex officio members as are provided herein. The members of said Commission, except the ex officio members, shall be appointed by the Council for a term of three years. Vacancies will be filled for the unexpired term by the Council. The ex officio members shall include the City Manager, the Chair of the Board of Adjustment, the Director of Public Works, and such other ex officio members as the Council shall by ordinance or resolution provide. Ex officio members shall participate in the work of the Commission, but shall not have a vote in its official actions.

The Commission shall elect a chair from among its appointed members. A majority of the appointed members shall constitute a quorum.

The Council may provide by ordinance for the appointment of subcommittees from the membership of the Commission who shall have the power to hold hearings, make recommendations to the Commission, and otherwise carry on the work of the Commission. In the absence of such provision the Commission may authorize and empower such subcommittees. The final action taken by the Commission with regard to any matter before it, however, shall be by the Commission as a whole.

The Commission shall keep minutes of its proceedings, which shall be a public record. (Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Planning commission, V.T.C.A., Local Government Code § 371.001 et seq.

***State law reference—**Planning and development, V.T.C.A., Local Government Code § 371.001 et seq.

Section 2. The city plan commission—Powers and duties.

The City Plan Commission shall:

(1) Recommend a City Plan for the physical development of the City and amendments thereto;

(2) Recommend to the Council approval or disapproval of proposed changes in the zoning ordinance;

(3) Exercise control over platting or subdividing land within the corporate limits of the City and outside said corporate limits to the extent authorized by law.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 3. City plan department.

There shall be a City Plan Department, to be headed by the Director of Planning. The Director of Planning shall serve as the regular technical adviser of the City Plan Commission, and shall have such other duties and responsibilities as the Council may establish.

Section 4. The city plan.

The City Plan for the physical development of the City of Waco shall contain the Commission's recommendations for the growth, development and beautification of the City. Before recommending to the Council a City Plan, or any part thereof, or any amendment thereto, the Commission shall hold a public hearing thereon, after having given notice of such hearing by causing such notice to be published one time at least fifteen days before such hearing in the official newspaper of the City. A copy of the City Plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan, or part thereof, to the Council with the city manager's recommendations thereon. The Council may adopt the plan or partial plan so submitted as a whole or in parts. If such plan or part thereof should be rejected by the Council, the City Plan Commission may modify such plan, or part thereof, and again forward it to the city manager for submission to the Council. All amendments to the City Plan shall be recommended by the Plan Commission and submitted in the same manner as that outlined above to the Council for approval, and the Council may adopt or reject the same in the same manner as above specified. All recommendations to the City Council from any City Department affecting the City Plan must be accompanied by a recommendation from the Commission.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 5. Legal effect of city plan.

Upon adoption of the City Plan by the Council, no subdivision, street, park nor any public way, ground or space, public building or structure and no public utility, whether publicly or privately owned, which is in conflict with the City Plan, shall be authorized, purchased or

constructed by the City until and unless the location, extent and character thereof shall have been submitted to and approved or disapproved by the Commission. In case of disapproval, the Commission shall communicate its reasons to the Council in writing. The Council shall have the power to overrule such disapproval and upon such overruling the Council or the appropriate office, department or agency shall have the power to proceed. The failure of the Commission to act within thirty days after the date of official submission to the Commission shall be deemed approval, unless a longer period be granted by the Council or the submitting official. The widening, narrowing, relocating, vacating or change in the use of any street, river or watercourse, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the Council. Provided, that a certificate by the city manager executed under the seal of the City that a public project or improvement is not in conflict with the City Plan, or that the location, character and extent of such project or improvement have been approved by the City Plan Commission, or if such project or improvement has been disapproved by the City Plan Commission that the Council has overruled such disapproval, shall be conclusive as to such facts. Provided, that the sale of any land or building owned or held by the City, not for public use and not included in the City Plan as City land for public use, shall not be subject to the provisions of this Section; and provided further, that a certificate by the city manager as to such facts, shall be conclusive as to any purchaser of such land or building from the City. (Ord. No. 2006-308, § 1, 5-16-06)

ARTICLE X. FRANCHISES AND PUBLIC UTILITIES*

Section 1. Inalienability of control of public property.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

Section 2. Power to grant franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than 25 years.

*State law reference—Franchises, V.T.C.A., Local Government Code § 402.002.

Section 3. Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three regular meetings of the Council, and shall not be finally acted upon until 30 days after the first reading thereof. Within five days following each of the three readings of the ordinance, the full text thereof shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

Section 4. Transfer of franchise.

No public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by ordinance.

Section 5. Regulation of franchise.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

(1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.

(2) To impose reasonable regulations to insure safe, efficient and continuous service to the public.

(3) To require such expansion, extension, enlargement and improvements of plans and facilities as are necessary to provide adequate service to the public.

(4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities.

(5) To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represents the increased cost of such operations resulting from the occupancy of such public places by such public utility, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

(6) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such event a reasonable rental shall be paid such owner of facilities for such use. Provided further, that inability of such public utilities to agree upon rentals for such facilities shall not be an excuse for failure to comply with such requirements by the Council.

(7) (a) To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kinds of such franchise holder.

(b) To examine and audit at any time during business hours the accounts and other records of any franchise holder.

(c) To require reports on the operations of the utility, which shall be in such form and contain such information as the Council shall prescribe.

Section 6. Regulation of rates.

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rates, charges, or fares, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investment properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date, to which said hearing may be adjourned. If at the conclusion of said adjourned hearing, the Council is still not satisfied with the sufficiency of the evidence furnished by said utility, the Council shall have the right to select and employ, then and later, rate consultants, auditors and attorneys to conduct investigations, present evidence, advise the Council, and conduct litigation on such requested increase in rates, charges or fares; and said utility shall reimburse the City for its reasonable and necessary expense so incurred. Such rate consultants, auditors and attorneys shall be qualified, competent, and of good standing in their professions. No public utility franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the Council within a reasonable time, not to exceed ninety days from the filing of such motion for rehearing; provided, that the Council may by resolution extend such time limit for acting on said motion for rehearing from ninety days to one hundred eighty days.

State law reference—Authority to regulate certain utilities, Vernon's Ann. Civ. St. art. 1446c, § 17.

ARTICLE XI. GENERAL PROVISIONS

Section 1. Reserved.

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, repealed section 1 in its entirety, which pertained to interim government, and derived from original codification.

Section 2. Continuation of government.

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the City of Waco which ceases to exist under this Charter, shall continue in force and the powers and duties therein prescribed shall be the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous charter. When the term "Board of Commissioners" appears in any such ordinance it shall be construed as "The Council" after the effective date of this Charter.

Section 3. Effect of charter on existing law.

All ordinances, resolutions, rules and regulations in force in the City of Waco on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Council. All taxes, assessments, liens, incumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

Section 4. Official oath.

All officers of the City of Waco shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas.

State law reference—Oath, Vernon's Ann. Tex. Const. art. 16, § 1.

Section 5. Public records.

All public records of every office, department, or agency of the City shall be open to inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purpose of this Section.

State law references—Public records, V.T.C.A., Government Code § 552.001 et seq.; local government records, V.T.C.A., Local Government Code § 201.001 et seq.

Section 6. Official newspaper.

The Council shall have power to contract annually with, and by ordinance or resolution designate, a public newspaper of general circulation in the City as the official organ thereof

and to continue as such until another is designated, and shall cause to be published therein, all ordinances, notices and other matter required by this Charter, by the ordinances of the City, of [or] by the Constitution or laws of the State of Texas to be published.
(Ord. No. 2006-308, § 1, 5-16-06)

Section 7. Notice of claim.

The City of Waco shall not be held responsible on account of any claim for damages to any person or property unless the person making such complaint or claiming such damages shall, within thirty days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City Secretary, a true statement under oath, as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of the witnesses, if any known to affiants, who witnessed such accident.

State law reference—Notice of claim, V.T.C.A., Civil Practice and Remedies Code § 101.101.

Section 8. Assignment, execution, and garnishment.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

State law reference—Garnishment, V.T.C.A., Local Government Code § 101.023.

Section 9. Security or bond not required.

It shall not be necessary in any action, suit or proceedings in which the City shall be a party, for any bond, undertaking or security to be executed in behalf of the City; but all actions, suits and proceedings, shall be conducted in the same manner as if such bond, undertaking or security had been given. The City shall have all remedies of appeal provided by law to all courts in this State without bond or security of any kind. For all the purposes of such actions, suits, proceedings, and appeals, the City shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security in ordinary cases had been given and executed.

Section 10. Remission of fines and penalties.

The City Council shall have power to remit in whole or in part, on such conditions as it may deem proper, by a vote of three-fourths of the Council members qualified and serving, any fine or penalty belonging to the City which may be imposed or incurred under any penal ordinance of the City.

Section 11. Personal interest in city contracts.

No member of the City Council, or other officer or employee of the City of Waco shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by an assessment levied by an ordinance or resolution of the City Council, nor be the surety on the official bond of any officer of the City, or for any person having a contract, work or business with said City for the performance of which security may be required, except on behalf of the City as an officer or employee. Any wilfull violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the Council.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Conflicts of interest of officers and employees, V.T.C.A., Local Government Code § 171.001 et seq.

Section 12. Nepotism.

No person related within the fourth degree by affinity or consanguinity to the Mayor, any member of the City Council, or the city manager shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of the election of the Mayor or Councilmember, or appointment of the city manager, so related thereto.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Nepotism, V.T.C.A., Government Code § 573.041 et seq.

Section 13. Residence requirements.

Any officer or City Council appointed department head appointed after the effective date of this Charter to any office or employment under the City Government shall before entering upon employment or term of office be or become a resident of the City of Waco, and shall remain a resident of the City of Waco so long as they shall hold such office or employment. This Section shall not apply to independent contractors with the City.
(Ord. No. 2006-308, § 1, 5-16-06)

State law reference—Residency requirement, V.T.C.A., Local Government Code § 150.021.

Section 14. Health, life and accident insurance for city employees.

The City Council shall have the power, exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper to create, operate, amend, and contract for an insurance plan covering health, life and accident insurance, or any of them, for any or all City employees, and to pay the premiums therefor.

Section 15. Pensions for retiring policemen and firemen.

Any policeman, fireman or fire alarm operator who was employed by the City prior to September 12, 1950, and the hereinafter named dependents of such policeman, fireman or fire

alarm operator, shall be entitled to the benefits of this Section. Any such policeman, fireman or fire alarm operator who has been continuously on the payroll of the City for twenty-five (25) years or more, who shall retire or be dropped therefrom, shall be retired by the Council on pension pay equal to one-half (½) of the salary drawn by him per month at the time of his retirement. The Council shall provide by ordinance for the payment of a sum monthly to firemen, policemen and fire alarm operators who may be disabled while in their performance of their duties an amount equal to one-half (½) of their salary. The Council shall also provide by ordinance for the payment to the surviving widows of such firemen, policemen and fire alarm operators who may receive injuries while in the performance of their duty, resulting in death within six (6) months of such injury, of an amount payable monthly equal to one-half (½) of the payment per month received by such party injured, provided that payment shall be made to the surviving widow all her life, or until she shall marry again, or to the minor children until they shall become of age, as said Council may deem advisable. No fireman, policeman or fire alarm operator who was employed by the City after September 12, 1950, or any dependent of such policeman, fireman or fire alarm operator, shall be entitled to the benefits of this Section. The City Council may, by ordinance provide increases in pension benefits for police officers, firefighters and fire alarm operators and their respective dependents but, in no event, greater than other City employees' benefits.
(Res. No. 1987-134, Amend. No. 5, 11-9-87; Ord. No. 2006-308, § 1, 5-16-06)

Section 16. Non-substantive revisions and Conformance with State and Federal laws.

The City Council may, without approval of the voters, adopt ordinances that renumber; revise titles; reorder; rearrange; correct errors in spelling; grammar; cross-references; punctuations; revise language to reflect modern usage and style and similar non-substantive revisions.

The City Council may, without approval of the voters, adopt ordinances that conform the language of the Charter to current State and Federal laws.
(Ord. No. 2006-308, § 1, 5-16-06)

Editor's note—Ord. No. 2006-308, § 1, adopted May 16, 2006, amended section 16 in its entirety to read as herein set out. Formerly, section 16 pertained to rearrangement and renumbering, and derived from original codification.

Section 17. Judicial notice.

This Charter shall be deemed a public act, and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

Section 18. Construction of charter.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Waco in the same manner as the Constitution of Texas is construed as a limitation on

the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5, of the Constitution of Texas, which it would be competent for the people of the City of Waco to grant expressly to the City, shall be construed to be granted to the City by this Charter.

Section 19. Separability clause.

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force, or effect of any other Section or part of a Section of this Charter.

I, Patricia W. Ervin, City Secretary of the City of Waco, hereby certify that the foregoing is a true and correct copy of the Charter of the City of Waco as adopted at an election held on the 1st day of November, 1958, and said Charter was declared adopted by the governing body of the City of Waco on the 18th day of November, 1958.

Witness my hand and seal of said City this the 1st day of October, A. D., 2002.

/s/ Patricia W. Ervin

City Secretary of
Waco, Texas

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