



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 25, 2013

Mr. Ernest Kaufmann
President and Manager
130 Environmental Park, LLC
130 Riverstone Terrace, Suite 103
Canton, GA 30114

Re: 130 Environmental Park – Caldwell County
Municipal Solid Waste (MSW) – Permit Application No. 2383
Permit Application – Land Use Compatibility Determination – Notice of Deficiency (NOD)
Tracking No. 17458939; CN604375972/RN106897036

Dear Mr. Kaufmann:

The MSW Permits Section has completed the review of the land use compatibility determination application dated September 4, 2013 for the above-referenced facility. The application was prepared by Biggs & Mathews Environmental on your behalf and was received on September 4, 2013. Additional information must be presented to demonstrate compliance with Title 30 Texas Administrative Code (30 TAC) Chapter 305 and Chapter 330. The information requested below is necessary for a complete land use compatibility determination application and must be addressed before further technical review. Comments are mine except those noted from the geologist, Arten Avakian, P.G. When making revisions to maps, drawings, and figures which are replicated throughout the application, each map, drawing, and figure needs to be revised throughout the application.

1. The number assigned to this permit application is 2383. Please provide this number on all cover pages, figures, and elsewhere as appropriate.
2. The Regulated Entity Name identified on the Core Data Form is not the same as the Facility Name on the Part I Form. Additionally, the zip code provided for the operator mailing address in the Part I Form does not match the zip code for the customer in the Core Data Form. Please correct these discrepancies and resubmit the appropriate forms.
3. Please provide a Core Data Form for the property owner listed on page 9a-1 of the Part I Form.
4. In accordance with 30 TAC §305.45(a), please provide a nature of business for the applicant, or direct staff to its location.
5. A land ownership map is provided as page IB-2 in Appendix IB. Please provide on this figure the appropriate features required by 30 TAC §330.57(h)(4) and (5), including but not limited to a scale, north arrow, source map, and legend. A legend is not needed if a label is added for the blue line, similar to those for the green and red lines.

6. In accordance with §330.59(e), provide a list of persons with more than 20% ownership in the facility. If, as indicated by the Part I form, the sole owner and operator of the proposed facility is 130 Environmental Park, LLC, provide a list of all individuals that own more than 20% of the corporation.
7. In accordance with 30 TAC §305.45(a)(7)(K), for information reflecting other environmental permits, please include the transfer station registration being sought under registration application number 40269.
8. In accordance with 30 TAC §330.61(b)(1), the Waste Acceptance Plan should include a description of the materials to be stored or processed. Please provide this information. Please be certain that all storage and processing areas are identified on a facility layout figure.
9. In accordance with 30 TAC §330.61(b)(1), the Waste Acceptance Plan should include limiting parameters for waste. Possible examples of these, based on the wastes that the application indicates would be accepted and prohibited, include: a concentration of 1,500 mg/kg total petroleum hydrocarbons, the levels for Class 1 industrial solid waste provided in 30 TAC §335.521(a)(1), the presence of free liquids, the presence of regulated hazardous waste, the presence of polychlorinated biphenyls, the presence of radioactive waste, and the presence of chlorinated fluorocarbons. Please provide limiting parameters for wastes that would be accepted at the facility.
10. In accordance with 30 TAC §330.61(b)(1)(A), the Waste Acceptance Plan should include a brief, general discussion of the areas that are anticipated to contribute waste to the proposed facility.
11. In accordance with 30 TAC §330.61(c)(3), the application must include a figure illustrating all *structures* and inhabitable buildings within 500 feet of the proposed facility. Figure IIA.7 appears to be provided to address this rule, but according to the legend it illustrates "habitable structures." Please explain how all structures within 500 feet are illustrated in the application.
12. While the Land Use Analysis provided in Appendix IIB appears to address most of the requirements of 30 TAC §330.61(c)(4) and 30 TAC §330.61(g), the analysis does not appear to include hospitals and *all* recreational areas within one mile of the facility. Please address these requirements in Appendix IIB or on another general location map.
13. While the Transportation Study provided in Appendix IIC provides the location of roads within one mile of the facility, it is not clear that the surface type has been provided for all roads used as access, as required by 30 TAC §330.61(c)(5). Some confusion may result from the discussion of roads on pages IIC-9 and -10 that may not be used for access. Please clarify this information and provide the surface types for roads within one mile of the facility that will be used as access.
14. To address the requirements of 30 TAC §330.61(d)(4), please include the transfer station and any other associated buildings being sought under registration application number 40269. Label these buildings as proposed under a separate registration.

15. As indicated by 30 TAC §330.61(d)(7), maintenance of natural windbreaks and visual screening are encouraged at MSW facilities and should be illustrated on facility layout maps. On Drawing IIA.13, notes 5 and 6 discuss these issues. It is unclear how diversion berms, containment berms and stockpiles would provide effective visual screening as indicated in note 6. Also, note 5 indicates that disturbance of existing natural windbreaks and greenbelts will be limited within the buffer. It is not clear why protection of natural windbreaks would be limited only to those in buffer zones. None of the discussed features are illustrated on the figure. Please address these concerns.
16. In accordance with 30 TAC §330.61(d)(9)(C) and (D), the application must include a sequence of excavation and fill and dimensions of cells. Drawing IIA.13 provides some general information (four phases, developed south to north, approximately 400 feet wide) but this is not enough to meet the rule requirements. Please provide greater detail, such as cell outlines within each phase with fill directions in each. Otherwise expand notes to adequately specify the dimensions of the cells and the fill directions in each cell.
17. In accordance with 30 TAC §330.61(h)(3), information regarding the impact of the proposed facility on the surrounding area must include information about growth trends within five miles of the facility with directions of major development. The Land Use Analysis, provided in Appendix IIB, includes county growth rates from 2000 to 2010 for counties within five miles of the proposed facility, and notes that northern Lockhart, approximately 3 miles to the south, experienced a decrease in population over this period. However, more information is needed to discuss growth trends within five miles of the proposed facility with directions of major development. Please expand this discussion to address this rule.
18. Transportation Study – Appendix IIC
 - a. Drawing 1 does not illustrate State Highway 130. Please confirm that the figure was the current map at the time of submittal of the study to the Texas Department of Transportation (TXDOT).
 - b. Please provide an explanation of how traffic counts were calculated for the facility. Table 1 only indicates that these values were provided by 130 Environmental Park, LLC. If they are based on anticipated waste acceptance rates and anticipated fractions of various types of vehicles, please state this clearly. The explanation should be adequate to allow staff to confirm the traffic values included in the application.
 - c. Please provide an explanation of how the peak hour of facility operation and the percentages of daily site traffic during the analysis hour reported in Table 2 were determined. Table 2 only indicates that these values were provided by 130 Environmental Park, LLC.
 - d. Please provide units for vehicle counts throughout the Transportation Study. In most cases units may be determined from associated text, but please ensure that all tables and figures include appropriate units, such as vehicles per hour or vehicles per day.

- e. Please consider removing discussions of roads on pages IIC-9 and -10 that will not be used to access the facility. Otherwise, please explain the inclusion of these roads. If these roads will be used, provide statistics required under 30 TAC §330.61(i)(1) through (3) for roads other than US Highway 183.
- f. To document coordination with the TXDOT in accordance with 30 TAC §330.61(i)(4) and to confirm their approval of proposed road improvements, please provide a response letter to your letter dated August 30, 2013 and the Transportation Study.

19. Federal Aviation Administration (FAA) Documentation – Appendix IIIH

- a. To document coordination with the FAA in accordance with 30 TAC §330.61(i)(5) and to confirm their approval of proposed structure, please provide a response letter to your letter dated August 30, 2013 and the information you provided to them on potential impacts on airports.
 - b. Please note that federal requirements have changed regarding construction that requires notice to the FAA. These requirements now involve coordination based on both proximity to airports and height of proposed structures (please see FAA webpage <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>). While it is unlikely, based on the location that is greater than six miles from any airport and the height of less than 200 feet, that there is an obstruction issue for this facility, this must be confirmed through the FAA and documented in the application.
20. In accordance with 30 TAC §330.61(m)(1), the application must include a statement as to whether the facility is within the 100-year floodplain. The statement provided in Part II, Section 13.1 indicates that the waste disposal units will not be located in the 100-year floodplain, but is based on a map from the Federal Emergency Management Agency (FEMA), provided as Drawing IIA.11. The floodplain in the vicinity of the proposed facility is estimated, as no base elevations have been determined. It appears that floodplain modeling will be required to allow the executive director to have confidence in the floodplain statement. While the details of a floodplain determination should be presented in Part III of the application, adequate data will be needed in Part II to support the floodplain statement. Please address this concern.
21. Once a 100-year floodplain is developed from floodplain modeling, please include the floodplain on Drawing IIA.12 (Facility Site Plan), IIA.13 (Site Layout Plan), or other appropriate figure to illustrate the floodplain relative to all facility appurtenances.
22. Discussions on wetlands in Part II, Section 13,2 and in Appendix IID appear to address the requirements of 30 TAC §330.61(m)(2); however, the analysis and conclusions regarding concerns over potential adverse effects to jurisdictional wetlands seem to be limited to the waste disposal unit. These discussions should be expanded to include all facility appurtenances.
23. In accordance with 30 TAC §330.553(b)(5), please provide the Wetlands Demonstration (Appendix IID.3) and any necessary supporting information to the United States Army Corps of Engineers for their concurrence with demonstrations required under 30 TAC §330.553(b)(1) through (4).

24. In accordance with 30 TAC §330.61(m)(3), please include jurisdictional wetlands identified within the facility boundary on Drawing IIA.12 (Facility Site Plan), IIA.13 (Site Layout Plan), or other appropriate figure to illustrate the wetlands areas relative to all facility appurtenances.

25. Biological Assessment (Appendix IIE)

- a. The letters sent to the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department note that "a preliminary site assessment" is included. Please clarify whether the Threatened and Endangered Species Review report, dated August 2013, including Appendix B, Species Protection Plan, was submitted to the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department.
- b. Section 5.0, Conclusions, does not appear to include language required under 30 TAC §330.61(n)(1) that "the facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of [State or Federal] endangered or threatened species, or cause or contribute to the taking of any [State or Federal] endangered or threatened species. Please delete the statement indicating that "there will be 'no effect' to any federally-listed threatened or endangered species," as this is meaningless with your quotation marks around "no effect." Please provide an updated Section 5.0 to address these concerns. If the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department have responded to the report, the conclusion required by 30 TAC §330.61(n)(1) may be provided by including a separate letter to this effect in Appendix IIE.
- c. To document coordination with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department in accordance with 30 TAC §330.61(n)(2) and to confirm their approval of the Threatened and Endangered Species Review report and proposed Species Protection Plan, please provide response letters to your letters dated August 30, 2013.

26. In accordance with 30 TAC §330.61(o), the application must include a review letter from the Texas Historical Commission (THC) documenting compliance with the Natural Resources Code, Chapter 191, Texas Antiquities Code. While a Cultural Resources Survey is provided in Appendix IIF, there is no indication of its being submitted to the THC and no review letter from them. Please explain and provide evidence of coordination in accordance with the cited rule.

27. To document coordination with the Capital Area Council of Governments in accordance with 30 TAC §330.61(p), please provide a response letter to your letter dated August 30, 2013.

Geologist comments provided by Arten Avakian, P.G.

28. Drawings

- a. Revise the title of Drawing IIA.4 (Water Wells) to clarify that it shows water wells within 500 feet of the proposed permit boundary. Also revise the entry for the drawing in the table of contents.

- b. Some of the labels on Drawing IIA.5 (Locations of Oil and Gas Wells) are illegible. Please revise the drawing to ensure that all information will be fully legible, even when photocopied. Also, delete the word "producing" from the reference to the drawing in Section 8.1 of the text.

29. General geology and soils statement

- a. In Section 10.2, in the description of the Leona Formation, revise the second sentence ("An additional discontinuous deposit of the Leona is found at this site.") to clarify that "this site" refers to the proposed landfill site, and not Plum Creek Valley which was the last location referred to before the second sentence. Please also label the Leona deposit at the landfill site on the geologic map in Drawing IIA.9.
- b. The fourth sentence in the description of the Wilcox Group refers to the *Midway* thickness. Was the sentence meant to refer to the Wilcox thickness? Please examine and revise accordingly.
- c. Revise the description of the Navarro Group to clarify that it is the *top* of the Navarro that is approximately 600 feet below the surface at the site. (The existing text stating it is 600 feet *deep* may be misunderstood to mean that the Navarro extends from the surface to a depth of 600 feet.)
- d. Please provide more information about the soils at the site (for example, depth, composition, shrink-swell potential, structure, etc.).
- e. Please provide a larger scale geologic map in the area of the proposed landfill to show clearly the locations of mapped faults and their proximity to the landfill.
- f. We were unable to locate the source of information for the map of seismic impact zones in Drawing IIA.10. Please provide the exact Internet address for the map, along with an explanation how you translated the information so that it could be displayed in Drawing IIA.10.

30. Groundwater and surface water statement

- a. Please provide a regional hydrogeologic cross section, showing the approximate location of the proposed landfill site.
- b. Please provide data about the site-specific groundwater conditions at and near the site (for example, include information about groundwater quality and yield for the aquifers).

31. Abandoned oil and water wells

- a. Please revise Section 12.1 clarify that you will certify no later than 30 days before construction of the facility that you have capped, plugged, and closed any abandoned water wells that are found.

Mr. Ernest Kaufmann
Page 7
November 25, 2013

The identified items must be satisfactorily addressed prior to our determining the permit application technically complete. It is recommended that the response to this Notice of Deficiency be in the following format to ensure that the response to each and every item of concern is identified.

- 1) A dated cover letter transmitting the revised application should accompany the revised application.
- 2) Each item of concern should be addressed in the transmittal letter, and the applicant's response to the item should be immediately following the item of concern.
- 3) The applicant should indicate where in the revised permit application the revisions have been incorporated by reference to part, section, and page number.
- 4) An original certification statement with the revision, in accordance with 30 TAC Section §305.44 should be included. The certification statement should indicate the name, title, and address of the responsible official.

Please submit an original and three (3) copies of your application revisions within 54 days of the date of this letter. Your response must be in a form that allows for the replacement of application pages with the revised pages. According to 30 TAC §330.57(g)(6), revisions must have a revision date and note that the sheet is revised in the header or footer of each revised sheet or page. The revised text must also be marked to highlight the revision. Failure to submit a satisfactory response to each of the noted deficiencies may result in the application being returned due to technical deficiencies.

If you have any questions, please contact me at (512) 239-4568. When addressing written correspondence, please use mail code MC 124.

Sincerely,



Steve Odil, P.E.
Municipal Solid Waste Permits Section
Waste Permits Division
Texas Commission on Environmental Quality

SPO/dp

cc: Mr. Kerry D. Maroney, P.E., Biggs & Mathews, Inc., Wichita Falls