

SOAH Docket No. 582-08-2178  
TCEQ Docket No. 2007-1774-MSW

IN RE THE APPLICATION OF BFI WASTE § BEFORE THE  
SYSTEMS OF NORTH AMERICA, LLC § STATE OFFICE OF  
PERMIT NO. MSW-1447A § ADMINISTRATIVE HEARINGS

**APPLICANT BFI WASTE SYSTEMS OF NORTH AMERICA, LLC'S  
FIRST SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS AND THINGS TO THE CITY OF AUSTIN**

To: The City of Austin, by and through its attorneys of record, Holly Noelke and Meitra Farhadi, City of Austin Law Department, P.O. Box 1088, Austin, Texas 78767.

Applicant BFI Waste Systems of North America, LLC serves its First Set of Requests for Production of Documents and Things on the City of Austin pursuant to Rules 196 and 197 of the Texas Rules of Civil Procedure and the ALJ's Order No. 1. These requests are continuing in character so as to require you to file supplemental answers and responses if you obtain further or different information or locate additional responsive documents or things prior to trial.

Respectfully submitted,

By: Paul G. Gosselink / by permission JEC  
Paul G. Gosselink  
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**ATTORNEYS FOR APPLICANT  
BFI WASTE SYSTEMS OF NORTH  
AMERICA, LLC**

OF COUNSEL:

John E. Carlson  
Texas Bar No. 00790426

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing Requests for Production of Documents and Things to the City of Austin was served on the following counsel/parties of record by certified mail (return receipt requested), regular U.S. mail, facsimile transmission and/or hand-delivery and via e-mail on July 18, 2008:

FOR THE PUBLIC INTEREST COUNSEL:

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MCAFEE, MELANIE MCAFEE, ROGER  
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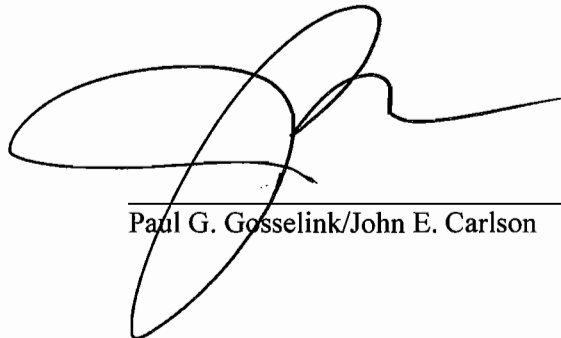
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Paul G. Gosselink/John E. Carlson

## I. INSTRUCTIONS

1. Your responses to these discovery requests must be served upon the undersigned counsel within the deadlines established by the Texas Rules of Civil Procedure and the ALJ's Order No. 1.
2. In those instances in which you choose to respond to any of these discovery requests by referring to a specific document or record, the response should be in sufficient detail to permit the requesting party to locate and identify the records and documents from which the answer is to be ascertained.
3. If there are no documents or information responsive to a specific discovery request, please indicate so in your written response.
4. This discovery is continuing in nature; and a demand is made for the supplementation of this discovery as required by the Texas Rules of Civil Procedure.
5. If any documents requested herein have been lost or destroyed, in lieu of a true and correct copy thereof provide a list of such documents lost or destroyed together with the following information: (a) the date or origin of the document; (b) a brief description of the document; (c) the author of the document; (d) the date the document was lost or destroyed; and (e) a brief statement describing the manner in which the document was lost or destroyed.

## II. DEFINITIONS

1. "You," "your," "yours" and "City" refer to the City of Austin.
2. "Applicant" and "BFI" refers to applicant BFI Waste Systems of North America, LLC.
3. "CAPCOG" refers to the Capital Area Council of Governments.
4. "TCEQ" or "the Commission" refer to the Texas Commission on Environmental Quality.
5. "US EPA" refers to the United States Environmental Protection Agency.
6. The "Landfill" refers to the Sunset Farms Landfill located at the intersection of Giles Lane and Blue Goose Road approximately five miles east of the intersection of U.S. 290 and I.H. 35 in Travis County, Texas.
7. "Communications" and "correspondence" are used in their broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone, or by means of written, electronic or other medium.

8. “Describe” or “identify,” when referring to a person, includes information regarding the person’s full name; the present or last known address of the person; the present or last known residential and office telephone numbers of the person.
9. “Describe” or “identify,” when referring to a document means information sufficient to discern the type (*e.g.*, letter, handwritten note) of document; the title of or heading on the document; the date of the document; the identity of the author of the document; and the person or persons who have custody of the document.
10. “Document(s)” or “record(s)” means any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly concerns, in whole or in part, any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD’s, digital photographs, e-mail, graphs, drawings, or any other data compilation from which information can be obtained. Any magnetic or electronic data should be produced in hard copy form.
11. “Relating,” “referring,” and “regarding” include, without limitation, embodying, mentioning, pertaining to, connected with, evidencing, or concerning, directly or indirectly, the subject matter identified.
12. “ETJ” means the extraterritorial jurisdiction of the City of Austin.

### III. REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Please produce the following documents or things in your possession, custody or control or your constructive possession, custody or control:

1. Deeds for any real property in the vicinity of the Landfill that serves in any way as a basis for its request for party standing in this Contested Case Hearing.
2. Any and all correspondence (including e-mails) between you and any of the following persons or entities regarding the permit amendment application, the draft permit, the proposed expansion, closure of the Landfill, or any alleged deficiency in the Landfill or its operation:
  - a) TCEQ;
  - b) Texas Department of Transportation
  - c) Texas Parks & Wildlife Department;
  - d) United States Environmental Protection Agency (US EPA);
  - e) Federal Aviation Administration
  - f) U.S. Fish & Wildlife Service;
  - g) Travis County;
  - h) Capital Area Council of Governments (CAPCOG);
  - i) any federal, state or local elected official;
  - j) any other party to this proceeding;
  - k) any business competitor of the Applicant or Allied Waste/BFI (including but not limited to Texas Disposal Systems and Waste Management);
  - l) Bob Gregory, Jim Gregory or Dennis Hobbs;
  - m) Texas Campaign for the Environment;
  - n) any daily or weekly newspaper (including but not limited to the Austin American-Statesman and the Austin Chronicle).
3. Any and all internal correspondence (including e-mails, but excluding privileged communications between you and your lawyers) regarding the permit amendment application, the draft permit, the proposed expansion, closure of the Landfill, or any alleged deficiency in the Landfill or its operation:
4. Any and all documents reflecting or referring to any and all complaints that were made to the state (or any of its agencies), the federal government (or any of its agencies), Travis County, the City of Austin in connection with the Landfill or its operation that you or any testifying expert designated by you will be referring to or relying upon for any purpose in this case,
5. Any and all studies or reports in your possession custody or control that were prepared by or for you, TCEQ, EPA, Travis County, pertaining to the Landfill, its operation, the proposed expansion of the Landfill, closure of the Landfill, or the City's projected disposal capacity if the expansion application is either granted or denied.

6. Any photos and videos of the Landfill or the areas surrounding the Landfill (including roadways within two miles of the landfill) you have provided to any expert or that you intend to use as an exhibit, to offer as evidence in this contested case hearing, or that you reasonably anticipate offering in rebuttal in this contested case hearing.
7. Any and all documents reviewed or prepared by the City in connection with the proposed expansion of the Landfill.
8. Any and all studies or reports that were prepared by or for TCEQ, US EPA, Travis County, the City, or any other party pertaining to the Landfill or its operation.
9. All reports, studies, analyses or similar documents showing that the Landfill has adversely impacted land development, property use or land use within five (5) miles of the Landfill or that the Landfill is otherwise incompatible with other land uses.
10. Any plans or maps indicating the location of the City's "desired development zone."
11. Copies of any resolutions, reports, studies, ordinances or similar documents describing the goals and purpose of the "desired development zone" and/or how those goals and purposes are to be achieved – including but not limited to any description of what type of development the City encourages within the desired development zone.
12. Zoning maps and zoning ordinances for areas located within five (5) miles of the Landfill – including all such maps and ordinances applicable or in effect when the permit amendment application was filed with TCEQ.
13. All documents describing the general purpose of the City of Austin's zoning regulations or ordinances.
14. Any reports, studies, master growth plans, regional or area growth plans (whether or not so named), photographs, diagrams, charts and graphs that discuss growth trends in the area of the Landfill and/or of the City of Austin in general.
15. All studies, reports, documents or correspondence discussing any impact of the Landfill on area growth trends that have been created, developed, or written in the last ten (10) years.
16. Copies of any City ordinances or regulations restricting, allowing or addressing the siting of landfills within the City of Austin or its ETJ.
17. Copies of the following plans, all documents referring to the effect of the Landfill on any of the following plans, and all documents describing the Landfill's compliance or lack of compliance with any of the following plans:
  - a) the City's Comprehensive Plan;

- b) any neighborhood plan that the City contends is affected by the Landfill;
  - c) the City's long-range transportation plan;
  - d) the City's annexation plan;
  - e) the City's Great Streets Plan; and
  - f) the City's Urban Design Plan.
18. All reports, studies, presentations (Power Point type or otherwise) or other similar documents which have been produced in the last ten (10) years specifying, describing or estimating the future landfill disposal or capacity needs of the City of Austin.
19. All reports, correspondence or similar documents describing inspections by City personnel or City contractors of the Landfill, including but not limited to:
- a) inspections carried out during the construction of all projects associated with the site (including but not limited to SP-02-0303D, SP-03-0321D, SP-02-0277D, and SP-01-0161D);
  - b) inspections by the staff of the Watershed Protection department during routine inspections, and
  - c) complaint-driven inspections performed by the City.
20. Records of all complaints made to the City regarding the Landfill or its operation during the past ten (10) years, and all responses from the City regarding such complaints.
21. All documentation regarding any violation of the Landfill for any groundwater, surface water, or air emission constituent of any federal, state or local pollution standard.
22. Any documentation of any operational noncompliance with applicable permits that has occurred at the Landfill.
23. Any and all documents regarding, referring and/or relating to any site visits, inspections or investigations that were performed by any federal, state or local governmental investigator or inspector that you or any testifying expert designated by you will be referring to or relying upon for any purpose in this case.
24. Any and all documents regarding, referring and/or relating to any site visits, inspections or investigations that were performed by you or any City employee or contractor in the past ten (10) years. (Note: If you or any testifying expert designated by you will be referring to or relying upon any such site visits, inspections, or investigations which occurred more than ten (10) years ago for any purpose in this case, please produce copies of documents reflecting or referring to any and all such site visits, inspections or investigations.
25. Any and all documents which identify, characterize or otherwise reflect, refer or relate to the flow of groundwater (direction, depth, rate of flow and hydrogeologic characterizations) under the Landfill or under any property that is located within one (1) mile of the Landfill's permit boundary.



26. Any and all analyses, samples, test results, studies, memoranda, reports, charts, lists, drawings, sketches, calculations, models, simulations, charts, lists, photos, videos, correspondence, etc., in your possession, custody or control that pertain to any of the following issues in this case:
- a) drainage design (existing or proposed);
  - b) vectors and/or vector control;
  - c) groundwater or surface water / contamination of groundwater or surface water;
  - d) odors and/or odor management at the site;
  - e) landfill gas;
  - f) slope stability;
  - g) spillage of waste or windblown waste;
  - h) groundwater monitoring;
  - i) operating life or rate of solid waste deposition;
  - j) closure and post-closure of the site;
  - k) management or disposal of special waste at the site;
  - l) the owner, operator, responsible parties and qualified personnel at the landfill;
  - m) management or disposal of unauthorized wastes;
  - n) transportation/traffic in and around the site;
  - o) dust control and maintenance of access roads;
  - p) endangered or threatened species, and/or habitat;
  - q) adequacy of landfill cover;
  - r) applicant's compliance history and/or the calculation of same;
  - s) fires and/or adequacy of fire protection;
  - t) adequacy of financial assurance;
  - u) compatibility of the landfill with other land uses;
  - v) landfill buffer zones and/or landscape screening;
  - w) impacts or effects (whether past, current or prospective) of the landfill or the proposed expansion on the health of any person or persons, or on the general population;
  - x) operational hours of the landfill;
  - y) adequacy of erosion control;
  - z) storage, treatment and disposal of contaminated water at the landfill; and
  - aa) nuisance/nuisance conditions at or near the landfill;
27. All documents or things you intend to offer as evidence at the contested case hearing.
28. All documents or things you intend to use as demonstrative exhibits at the contested case hearing.