

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 INTERROGATORIES AND REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS TO TRAVIS COUNTY**

To: Travis County, by and through its attorney of record, Kevin Morse, Travis County Attorney's Office, P.O. Box 1748, Austin, Texas 78767.

Applicant BFI Waste Systems of North America, LLC serves its First Set of Interrogatories and Requests for Production of Documents and Things on Travis County pursuant to Rules 196 and 197 of the Texas Rules of Civil Procedure and the ALJ's Order No. 1. The interrogatories are to be answered separately and fully in writing under oath. These interrogatories and 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 /s/ per JEC
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OF COUNSEL:

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Interrogatories and Requests for Production of Documents and Things to Travis County 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:

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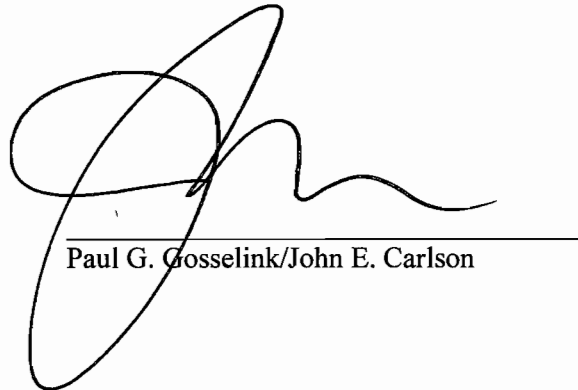
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Paul G. Gosselink/John E. Carlson

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. Your answers to the interrogatories must be made in writing and under oath.
3. 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.
4. If there are no documents or information responsive to a specific discovery request, please indicate so in your written response.
5. 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.
6. 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 "County" refer to Travis County.
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. INTERROGATORIES

1. Please identify (by name, address, phone number and title) all persons who participated in answering these interrogatories or provided any documents responsive to the requests for production.

Answer:

2. Please identify (by name, address, phone number and title) all persons you intend to call as a witness at the hearing on the merits. (This interrogatory specifically includes all persons whom you reasonably anticipate to use as witnesses for impeachment or rebuttal purposes.) For each witness listed, whom you anticipate will provide direct testimony, identify the referred issue(s) that the witness' direct testimony is anticipated to be relevant to.

Answer:

3. In a letter dated June 5, 2007 (attached as Exhibit A) from Travis County Judge Samuel Biscoe to the TCEQ Chief Clerk, Judge Biscoe wrote that "Travis County continues to refrain from opposing the BFI expansion [of the Sunset Farms Landfill] because of the applicant's promised compliance with the conditional conformance finding by the CAPCOG RSWMP" – including the insertion of a special permit condition that "[a]ll waste handling, including both disposal and operation of a transfer station, ends at BFI's Sunset Farms Landfill by November 1, 2015." (Letter at p. 2) Is it still Travis County's position that the County does not oppose the proposed permit provided that a November 15, 2015 closure date is included as a special provision in any permit that is issued by TCEQ and that BFI otherwise complies with the conditional conformance finding by CAPCOG?

Answer:

IV. 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. Where not specifically noted otherwise, please produce any responsive documents that were developed or generated within the last ten (10) years.

1. Any organizational chart or charts portraying or describing the County's current organizational structure, divisions, departments and/or managers.

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 and/or the operation of Landfill:
 - 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) Any individual employed or contracted by the County;
 - h) the City of Austin (including but not limited to the City's Department of Solid Waste and any City department, board or commission);
 - i) Capital Area Council of Governments (CAPCOG);
 - j) any federal, state or local elected official;
 - k) any other party to this proceeding;
 - l) any business competitor of the Applicant or Allied/BFI (including but not limited to Texas Disposal Systems, Inc and Waste Management);
 - m) Bob Gregory, Jim Gregory or Dennis Hobbs;
 - n) Northeast Action Group;
 - o) Trek English;
 - p) the Sierra Club;
 - q) Save Our Springs;
 - r) Texas Campaign for the Environment; or
 - s) an daily or weekly newspaper (including but not limited to the Austin American-Statesman and the Austin Chronicle).
3. Any and all internal County 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 County Commissioner's Court resolutions or proclamations pertaining to BFI's application, the proposed expansion of the Landfill, or closure of the Landfill.
5. Any and all public comments, statements or press releases regarding the proposed expansion that were prepared and/or filed on your behalf and provided to TCEQ, US EPA, the City of Austin, any federal, state or local elected official, or the press.
6. Any and all studies or reports in your possession custody or control that were prepared by or for you, TCEQ, EPA, or the City of Austin, pertaining to the Landfill, its operation, the proposed expansion of the Landfill, closure of the Landfill, or the County's projected disposal capacity if the expansion application is either granted or denied.

7. Any environmental reports, assessments, surveys or similar documents that have been performed by any person in connection with the Landfill or any property located within one (1) mile of the Landfill's permit boundaries in the past ten (10) years.
8. 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;
9. 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.

10. Any models, simulations or animations of the proposed expansion of the Landfill – including but not limited to any line-of-site visualizations of the proposed expanded facility .
11. Any and all documents or items produced or reviewed by any testifying expert who has been retained or designated by you in connection with any issue that has been referred by the Commission in this contested case proceeding. (This request specifically includes documents or items produced or reviewed by any consulting expert whose mental impressions and opinions were reviewed by any other testifying witness.)
12. All reports, studies and analyses discussing or showing the impact of the Landfill on land development, property use or land use within five (5) miles of the Landfill
13. All reports, studies and analyses discussing or showing the compatibility of the Landfill with surrounding land uses.
14. All studies, reports, documents or emails discussing the impact of the Landfill on growth trends.
15. All County ordinances or regulations restricting, allowing or addressing the siting of landfills within the County.
16. All reports, studies, presentations (Power Point type or otherwise) or other documents which have been produced in the last ten (10) years that specify, describe or estimate the future landfill disposal or capacity needs of the County and its citizens.
17. Records of all correspondence wherein the County has informed the landfill that its use is not compatible with land uses in the area.
18. All documentation regarding any violation of the Landfill for any groundwater, surface water or air emission constituent for any local, state, for federal pollution standard or constituent.
19. All documentation of any operational noncompliance with applicable permits that has occurred at the Sunset Farms Landfill.
20. 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 (including but not limited to any County employee) at the Landfill 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 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.)

21. Any and all Areas of Concern, Notices of Violation (NOVs), Notices of Enforcement (NOEs), enforcement orders or similar documents regarding the Landfill or its operation that have been issued by TCEQ, US EPA, Travis County and/or the City of Austin 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 compliance matters which occurred more than fifteen years ago for any purpose in this case, please produce copies of documents reflecting or referring to any and all such matters.)
22. Documents relating, regarding or referring to any surface water contamination at or near the Landfill, including surveys, reports, studies, field notes, memos, correspondence, test results, samples and analyses.
23. Documents relating, regarding or referring to any groundwater contamination at or near the Landfill, including but not limited to surveys, reports, studies, field notes, memos, correspondence, test results, samples and analyses.
24. 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) at and in the vicinity of the Landfill.
25. Any and all documents (including but not limited to any surveys, reports, test results, samples and analyses) which regard, reflect or relate to any groundwater remediation or corrective action or at any property that is located within one (1) mile of the Landfill's permit boundary.
26. Complaints regarding odors at the Landfill within the last ten (10) years, responses to any such complaints, and reports and notes from any investigations pertaining to any such complaints. (Note: If you or any testifying expert designated or disclosed by you will be referring to or relying upon any such odor complaints which occurred more than five years ago for any purpose in this case, please produce copies of documents reflecting or referring to any and all such odor complaints.)
27. Any witness statements.
28. All documents or things you intend to offer as evidence at the contested case hearing.
29. All documents or things you intend to use as demonstrative exhibits at the contested case hearing.

EXHIBIT A

Management Plan. This conditional conformance was stated in a letter from CAPCOG sent to the Texas Commission on Environmental Quality on August 23, 2006, and re-committed to by BFI Waste Systems of North America, Inc./Allied Waste Services in a January 18, 2007, letter to CAPCOG. As such, these conditions have been embodied into the proposed permit by reference and attachments to the permit.

Agreed Special Conditions

By these comments it is Travis County's intention to identify issues of concern pertinent to the BFI expansion application. Travis County continues to refrain from opposing the BFI expansion because of the applicant's promised compliance with the conditions outlined in the conditional conformance finding by the CAPCOG RSWMP.

These conditions are as follows:

- All waste handling, including both disposal and operation of a transfer station, ends at BFI's Sunset Farms Landfill by November 1, 2015.
- New landfills may be located in the Desired Development Zone if they include adequate buffer zones and other safeguards to avoid incompatible land use.
- CAPCOG opposes any landfill application by BFI Sunset Farms for a permit to operate as a waste disposal site and/or transfer station after November 1, 2015.
- CAPCOG continues to strongly encourage BFI Waste Services of North America, Inc. to locate and permit a Greenfield site in another location and relocate from its current site in northeast Travis County as soon as possible thereafter.
- CAPCOG strongly encourages BFI Sunset Farms to commit to take the same quantity of waste that it has taken during recent years, including factoring in annual increases.
- CAPCOG strongly encourages BFI Sunset Farms to commit to bring no waste into Travis County from outside of Texas.

However, Travis County reserves the right to oppose the permit application if applicant fails to meet these special conditions. Consistent with these conditions articulated by CAPCOG and accepted by BFI, it is Travis County's understanding and position that BFI must leave the existing location earlier than November 1, 2015, if a new greenfield site is located and permitted prior to that date. BFI maintains that they are unable to secure an appropriate greenfield site. Secondly, should there be any future contested hearing on this matter, Travis County will seek party status so as to ensure the inclusion in the permit of the conditions required by CAPCOG.

FURTHER COMMENTS

Travis County provides further comments regarding this proposed permit amendment because of existing and (inevitable) future land use issues at the site; and regarding certain technical issues

existing and (inevitable) future land use issues at the site; and regarding certain technical issues associated with the proposed expansion; and regarding the applicant's compliance history.

Land Use Issues

Because of proximity to the landfill, adjacent landowners suffer visual, olfactory, and other impairments to the use and enjoyment of their private property. The applicant has a history of nuisance odor violations that have affected neighboring communities. Moreover, the location of the proposed expansion is in the community's preferred growth corridor, known as the "Desired Development Zone" as designated by the City of Austin's Transportation, Planning and Sustainability Department. Thus, many residences, commercial buildings, and employment sites have been, and in the near future will be, constructed near the site. Contextually, it must be noted that there are almost one thousand residences within one mile of the proposed site. Indeed, the application acknowledges that this is the fastest growing sector of the Austin metropolitan area. Further, the Greater Austin Chamber of Commerce states that there was 48% growth in the 1990's and the 2000 census indicates only four U.S. metro areas saw greater total net migration than Austin between 1995 and 2000. Thus, in terms of siting facilities for expansion that avoid nuisances to neighbors and communities, this location is obviously a poor choice. It is clear that the land use pattern that will prevail for the foreseeable future in the vicinity of the proposed expansion is incompatible with ongoing, expanded, and perpetual waste disposal activities.

A partial list of proximate existing and proposed residential developments follows.

- Harris Branch Subdivision
- Harris Branch Speyside Subdivision
- Harris Branch single family (new project across from BFI on Blue Goose)
- Chimney Hill Austin
- Chimney Hills North
- Walnut Place Neighborhood
- Colonial Place neighborhood (close to Waste Management on Springdale)
- Pioneer Crossing (several phases)
- Pioneer Hill - new pilot project for COA - TND - Traditional Neighborhood
- Development concept
- Pioneer Apartments on Sprinkle
- Old Manor at Rosemont (apartments on 290 East)

In addition to these proximate residential developments, there are two closely located and well-established commercial enterprises: Applied Materials (employing about 2,000 people or more) is located within 2 miles of the site; and Samsung (employing about 1,000-1,500 people) is also located nearby. Additionally, there are several housing projects under construction on Johnny Morris Road and others being constructed to the north and east of the landfill.

The application suggests that because there are 793-acres of permitted landfills within one square mile of the facility, the proposed expansion does not constitute a change in land use patterns. This suggestion is misleading because approximately one-third of that acreage is comprised of a closed landfill that will never re-open. The remaining acreage is between 5-8 years away from

final contour and SHOULD be closing, never to re-open. Further the application seems to suggest that because 65% of the land within one square mile is open land there are no impending compatibility conflicts. This too is misleading in light of the above-stated information that this area is the fastest growing planning sector in the City of Austin; it also ignored the fact that a major new roadway (SH 130) connecting nearby to SH 290 will casue an increase in commercial and residential development opportunities; indeed, without limiting conditions the landfills could be phased out as completely incompatible land uses.

While Texas Counties may not have the ability to zone in order to control land uses in rapidly suburbanizing areas, with regard to BFI and Waste Management, the Travis County Commissioners Court has clearly, consistently and continuously informed those landfills that as they currently function they are no longer a compatible land use in this area. Despite such communication and in the face of unprecedented surrounding residential and commercial growth, these landfills refuse to relocate to property more compatible with the operation of a landfill, preferring instead to continue to seek additional expansion and growth at the current, incompatible, locations.

The proposed facility has a permanent benchmark height at 613.4' which represents the natural land surface, and a final contour authorization of 720' above mean sea level (msl). If this expansion application is authorized, the BFI landfill will have a split-level final contour design of 795 feet msl on the west side (75' height increase) and 775' msl on the east side (50' height increase). It is important to recognize that the cited height increases of 50' and 75' are calculated from the 720' final contour of the existing permitted facility, not from the actual natural ground level. It is also notable to recall that the 720' final contour was recently raised or expanded from 710' by virtue of a simple administrative request to the TCEQ in 2002. The reality is that even if the BFI landfill does not further expand the existing final contour of 720', would represent an elevation that is over 100' taller than the natural ground level (e.g., 613.4' msl onsite benchmark). Adding the requested additional 50-75' would elevate it nearly 200' above the natural ground level. Interestingly, this elevation would ensure that the landfill exceeds by more than 100' any surrounding high point in the area thus essentially making the proposed BFI expansion a regional landmark.¹ The landfills are already clearly visible to motorists on SH 130 and not only visible, but distracting to those traveling on US 290E.

Technical Issues

The limited footprint, resulting steep shoulders, and unprecedented proposed height, when combined with existing and future operation challenges at the BFI landfill require comment from

¹ Once completed this imposing facility with its 795' height above mean sea level (msl) will tower more than 100' (equivalent to a 10-story building) above the nearest **high points** in the natural elevation. A review of the USGS topographic maps for the area indicates the highest nearby elevation is 674' msl at Bald Knob benchmark (USGS Quadrangle – Manor Sheet); 671' msl to the south and west near the flea market and on WMT land and 690' msl to the northeast near the Jourdan Bachman Pioneer Settlement Farm. Regardless of the talent of the landscape architects employed by the applicant, this unvegetated prominence, particularly while filling, will at best be a very odd high point surrounded by an urban environment. Despite the fact that TCEQ does not concern itself with aesthetics, a common sense wisdom regarding land use compatibility should question, if not at least address, the short and longterm utility of such a large prominence.

the Travis County Commissioners Court.

The proposed steep sided design creates technical challenges for appropriate stabilization and management of the facility. During inevitable periods of high rainfall, such a steep-walled facility will be much more likely to be unstable and to thus create slumping and stabilization challenges for both employees and customers. Rapid runoff caused by such steep slopes, will create increased erosion potential which will be more likely to overwhelm sedimentation controls. It has taken the applicant more than two years to revegetate a wetland area, a task seemingly less onerous than the revegetation of steep eroding walls. Currently, the facility with its relatively flat contours has released polluted stormwater and has regular, on-site, flooding episodes. A situation that must only be compounded when high rainfall events send stormwater down the proposed, un-vegetated, 4:1, sloped walls.

Within the last five years, profound odor, leachate, landfill gas and pollutant discharges have adversely impacted adjacent landowners. These discharges occurred during a period of high scrutiny on the landfills and the associated noxious migrating emissions, affected thousands of citizens both adjacent to and miles from the area. Through substantial effort and investment, applicant appears to have upgraded the facilities to a level of compliance acceptable to TCEQ that should, if applicant remains vigilant, allow it to reach currently permitted closeout at existing operation levels without excessive repetition of such noxious emissions. However, the proposed expansion at the BFI landfill constitutes such a dramatically escalated operation that it is highly likely, if not inevitable, that the site would once again be unable to contain noxious discharges. Further, if there are un-anticipated operational emergencies or regulatory updates requiring innovation or modernization of the facility, it would appear the waste footprint and surrounding floodplain prevent any flexibility.

Lastly, it is not clear what possible ultimate end use is intended for this land. This will be nearly 400-acres of very steep, un-forested land in what will be a fairly central urban area in the very near future. The owner and operator owe the community a look into the vision for this end land use.

Compliance Issues

TCEQ has fined the applicant for the following violations: stormwater pollution, leachate system operating violations, nuisance odors violations and emissions of harmful gases that affected neighbors and communities. Given this history of violations, and given such a large expansion proposal, it is probable that violations will increase in proportion to the size of the expansion. Thus it would seem prudent to require the applicant to demonstrate that it has taken steps to mitigate this possibility.

A summary of the applicant's violations follows.

BFI Citations

BFI, as owner and operator of the Landfill, has been cited by the TCEQ as follows:

1. 30 TEX. ADMIN. CODE §330.111 by deviating from the Landfill's site operating plan by allowing the leachate head to rise more than 12 inches above the liner, as documented during an investigation conducted on **December 6, 2001**;
2. 30 TEX. ADMIN. CODE §330.111 by deviating from the Landfill's site operating plan by failing to increase the frequency that the leachate levels were monitored after leachate levels were measured above the 12-inch limit, as documented during an investigation conducted on **December 6, 2001**;
3. 30 TEX. ADMIN. CODE §101.4, and TEX. HEALTH & SAFETY CODE §382.085 (b) by discharging one or more air contaminants is such concentration and for such duration so as to interfere with the normal use and enjoyment of property, as documented during an investigation conducted on **April 4, 2002**;
4. 30 TEX. ADMIN. CODE §305.125 (11), Texas Pollutant Discharge Elimination System General Permit No. TXR050000, Part III, Section A.5.h, and TEX. WATER CODE §26.121 by failing to adequately conduct quarterly visual inspections of either each outfall or an outfall that is representative of the others, as documented during an investigation conducted on **March 27, 2002**; and
5. TEX. WATER CODE §26.121 (a) (2) by allowing an unauthorized discharge of waste into or adjacent to any water in the state, as documented during an investigation conducted on **March 27, 2002**. Specifically, A TCEQ investigator observed accumulations of sediment and landfill debris in drainage channels that flow into unnamed tributaries of Walnut Creek.

Source:

June 23, 2004 Agreed Order Docket No. 2002-0936-MLM-E

Permit Text Clarifications

In addition to the land use, technical and compliance history issues, there are several areas in the permit application which need clarification and/or change.

1. Who is the actual applicant and who will ultimately be liable? Most documents suggest BFI Waste Systems of North America, Inc. is the applicant; however, others suggest Giles Holdings, Inc. may be a co-applicant. Given the current compliance history rules and a common sense approach to enforcement challenges, it would seem prudent to have a single entity responsible for operations and post closure requirements so there is no question of liability when violations occur.
2. Section I.J contains an explanation of ownership of the land and discussion regarding transfers in ownership between Mobley Chemical, Inc., L.P., Texas Landfill Consultants, Inc. and Giles Holdings, L.P. between 1991 and 1999; however, there is no mention of the original party referred to as 'Tiger Corporation,' the entity identified as the site owner in the original 1982 Texas Department of Health permit. It would seem that the explanation of ownership is deficient in this regard. It might also be prudent to explain in layman's terms why this property changed hands a minimum of four times between 1982 and 1991.
3. Section I.J also documents the transfer of a 54.119-acre portion of the original 349.4 acre tract from Giles Holding, L.P. to BFI Waste Systems of North America. It would be

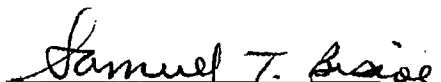
- helpful to understand what part of the facility is located on this 54.119-acre portion of the overall site and why such transfer occurred.
4. The summary of the proposed permit amendment application suggests that TCEQ is making its decision based upon the four volume, four part application dated August 1, 2005 along with revisions dated May 8, 2006, August 22, 2006, November 10, 2006, January 18, 2007, February 12, 2007, and March 14, 2007. Travis County received the initial volumes dated August 1, 2005, after requesting them from BFI; however, despite a longstanding history of dialogue, no subsequent revisions were sent to Travis County for review. Travis County thus reserves the right to make further comment upon those sections after received and after having a reasonable time to review them.
 5. Consistently throughout the August 1, 2005, Permit Application, the termination date for receiving wastes listed is 2018. This figure is used for all calculations found throughout the document and conflicts with stated commitments to the Capital Area Council of Governments and others that applicants would cease acceptance of wastes by November 1, 2015. BFI, Allied Waste and Giles Holdings should thus revise the dates and rates of acceptance everywhere stated in the application to conform to the November 1, 2015 date.

Summary

In our ongoing monitoring of BFI's promise to comply with the conditions of the CAPCOG RSWMP conditional conformance finding, we offer these comments identifying issues of concern pertinent to the BFI expansion application. In addition to these comments, we will continue to represent the interests of Travis County, as outlined by the CAPCOG conditions and otherwise, by pursuing party status in any future contested hearing for BFI and Giles Holdings' permit amendment.

Sincerely,


TRAVIS COUNTY COMMISSIONERS COURT



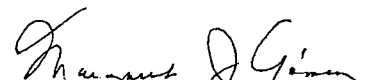
Samuel T. Biscoe
Travis County Judge

Ron Davis
Commissioner, Precinct One

Sarah Eckhardt
Commissioner, Precinct Two



Gerald Daugherty
Commissioner, Precinct Three



Margaret Gómez
Commissioner, Precinct Four

ITEM 20 CONTINUED

A Friendly Amendment to the previous Motion was offered by Commissioner Eckhardt that we strike all reference to whether or not we oppose the application, since whether or not we oppose the application is premature at this point, and I would also suggest that we include comment regarding the explicit request to increase the rate of acceptance in recognition of including our erroneously deleted condition regarding rate of acceptance.

Clerk's Note: The Friendly Amendment was not accepted.

Clerk's Note: The Court took a vote on whether to vote on the Substitute Motion before the Standing Motion.

Motion carried:

County Judge Samuel T. Biscoe	yes
Precinct 1, Commissioner Ron Davis	no
Precinct 2, Commissioner Sarah Eckhardt	no
Precinct 3, Commissioner Gerald Daugherty	yes
Precinct 4, Commissioner Margaret J. Gómez	yes

Clerk's Note: The Court took a Vote on the Substitute Motion.

Motion carried:

County Judge Samuel T. Biscoe	yes
Precinct 1, Commissioner Ron Davis	no
Precinct 2, Commissioner Sarah Eckhardt	no
Precinct 3, Commissioner Gerald Daugherty	yes
Precinct 4, Commissioner Margaret J. Gómez	yes

I, Dana DeBeauvoir, County Clerk and Ex-Officio Clerk of the Commissioners' Court of Travis County, Texas, do hereby certify that the above is correct information from the Proceedings of the Commissioners' Court of Travis County, Texas.

Witness my hand and seal, this the 8th day of June, 2007.



DANA DeBEAUVOIR
County Clerk and Ex-Officio Clerk
of the Commissioners' Court of
Travis County, Texas

By: Gillian Porter
Gillian Porter, Deputy

CERTIFIED MINUTES EXCERPT

The Travis County Commissioners' Court convened on June 5, 2007. The following item was considered:

THIS ITEM TO BE TAKEN UP AT 2:00 P.M.

20. CONSIDER AND TAKE APPROPRIATE ACTION ON THE EXPANSION APPLICATION AND RELATED DOCUMENTATION OF BFI-ALLIED WASTE FILED WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.
(2:27 PM) (4:44 PM) (5:56 PM)

Clerk's Note: Judge Biscoe announced that Item 20 would be considered in Executive Session pursuant to Gov't. Code Ann. 551.071, Consultation with Attorney.

Members of the Court heard from: Robin Schneider, Texas Campaign for the Environment; Joyce Best, Northeast Action Group; Mark McAfee, Owner, Barr Mansion; Ann McAfee, Travis County Resident; Melanie McAfee, Owner, Barr Mansion; Fidel Acevero, Travis County Resident; David Martinez, Travis County Resident; Brad Douglas, Allied Waste/BFI; Paul Gosselink, Attorney representing BFI; Ray Schull, Engineer, BFI; David Escamilla, Travis County Attorney; and Steve Shannon, Recycling Department, BFI.

Motion by Commissioner Davis **and seconded by** Commissioner Eckhardt that we oppose the BFI/Allied Waste application before the Texas Commission on Environmental Quality (TCEQ). This is their amended solid waste permit 1447 A.

A Clarification of the previous Motion was made by Judge Biscoe that the Motion by Commissioner Davis was to oppose the BFI/Allied Waste expansion instead of responding to the letter for comments.

A Substitute Motion was made by Judge Biscoe **and Seconded by** Commissioner Daugherty for the Court to approve option A with the comments given legal counsel, after receiving legal advice; that those things be incorporated into option A; that in addition we direct the County Attorney's office to draft appropriate documents to make the mutual commitments enforceable, including consideration of the TCEQ permit, protective covenant, enforceable agreement, financial security, any other appropriate matters, and report back to the Court in two to three weeks, June 19, 2007 to June 26, 2007. This anticipates working with representatives from BFI between now and that time to put appropriate documents in place.