

SOAH DOCKET NO. 582-08-2178
TCEQ DOCKET NO. 2007-1774-MSW

APPLICATION OF BFI WASTE SYSTEMS § BEFORE THE STATE OFFICE
OF NORTH AMERICA, INC., FOR A §
MAJOR AMENDMENT TO TYPE I MSW § OF
PERMIT NO. MSW-1447A §
§ ADMINISTRATIVE HEARINGS

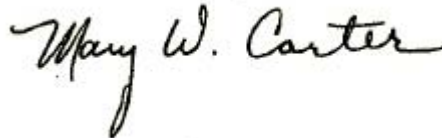
**PROTESTANT NORTHEAST NEIGHBORS COALITION'S INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT**

TO: Applicant BFI Waste Systems of North America, Inc. by and through its attorney of record Paul G. Gosselink of Lloyd Gosselink Blevins Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767

COME NOW Protestant Northeast Neighbors Coalition and pursuant to Order No. 1 of the Scheduling Order issued by the Administrative Law Judge on May 9, 2008 in the above numbered and styled proceeding, and the Texas Rules of Civil Procedure, serve the following Interrogatories and Request for Production of Documents to be answered within thirty days after the service of same. You are advised that you are under a continuing duty to supplement and amend your responses to these discovery requests.

Respectfully submitted,

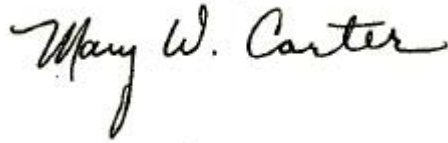
BLACKBURN CARTER, P.C.



Mary W. Carter
TBN 03926300
4709 Austin
Houston, Texas 77004
713/524-1012 (Tel.)
713/524-5165 (Fax)

CERTIFICATE OF SERVICE

On this 18th day of July, 2008, a true and correct copy of the foregoing instrument was served on all attorneys of record by the undersigned via regular U.S. Mail, and/or Facsimile Transmission, and/or Electronic Mail.

A handwritten signature in cursive script that reads "Mary W. Carter". The signature is written in black ink on a white background.

Mary W. Carter

See Attached Service List

SERVICE LIST

FOR THE CHIEF CLERK:

LaDonna Castañuela *Via Fax & U.S. First Class Mail*
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711

FOR THE APPLICANT:

Paul G. Gosselink *Via E- Mail*
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FOR THE EXECUTIVE DIRECTOR:

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Susan White, Staff Attorney
Texas Commission on Environmental Quality
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FOR THE PUBLIC INTEREST COUNSEL:

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FOR GILES HOLDING, L.P.

Paul Terrill *Via E- Mail*
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Austin, Texas 78701
Tel: (514) 474-9100
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FOR CITY OF AUSTIN

Meitra Farhadi, Assistant City Attorney *Via E- Mail*
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FOR TRAVIS COUNTY:

Kevin W. Morse, Assistant County Attorney *Via E- Mail*
Travis County
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Fax: (512) 854-4808

FOR TJFA, L.P.

J.D. Head *Via E- Mail*
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Austin, Texas 78701
Tel: (512) 476-2020
Fax: (512) 477-5267

FOR WILLIAMS, LTD.

Evan Williams *Via E- Mail*
Williams, Ltd.
524 N. Lamar, #203
Austin, Texas 78703
Tel: (512) 477-1277

FOR PIONEER FARMS:

Celeste Scarborough *Via Facsimile*
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ADDITIONAL AFFECTED PARTIES:

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Fax: (512) 467-9573

Mark and Melanie McAfee *Via E- Mail*
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Tel: (512) 517-6552

Delmer Rogers *Via U.S. First Class Mail*
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Manor, Texas 78653
Tel: (512) 278-9188

Joyce Best *Via E- Mail*
4001 Licorice Lane
Austin, Texas 78728

Trek English *Via E- Mail*
3705 Toby Court
Arlington, Texas 76001

I. DEFINITIONS

For purposes of these Interrogatories, the following definitions shall apply.

1. "Applicant" shall mean and refer to BFI Waste Systems of North America, Inc. Sunset Farms Landfill, applicant herein.
2. "Application" or "Amendment Application" shall mean and refer to the BFI Waste Systems of North America, Inc. application for a major amendment to Type I MSW Permit No. MSW-1447A.
3. "Protestant" shall mean and refer to Northeast Neighbors Coalition, protestant herein.
4. "Landfill" means Sunset Farms Landfill.
5. As used herein, the term "person" includes natural persons, proprietorships, corporations, partnerships, groups, associations and organizations.
6. To "identify" a person means to list that person's name, current or last known address and telephone number, and current or last known place of employment and business telephone number.
7. To "identify" some entity other than a natural person means to state its full name; the nature of its organization (*i.e.*, corporation, partnership, association, committee, or other); the address of its principal offices, and, if applicable, the state in which it is incorporated; and its principal line of business or activity.
8. As used herein, "you" or "your" means the applicant BFI Waste Systems of North America, Inc. Sunset Farms Landfill and any present and former agents, employees, consultants, investigators, engineers, surveyors and all others acting or purporting to act on your behalf.
9. As used herein, the term "document" is defined as follows: any written or graphic matter, however produced or reproduced, including, but not limited to, all hand-written, typed, printed, microfilmed, photostated, electronically recorded, and computer-stored matter including electronic mail, copies of all kinds, regardless of origin, including all correspondence, memoranda, reports, notes, letters, telegrams, messages (including tape recordings and reports of telephone conversations and conferences), studies, analyses, comparisons, demands, data, schedules, shop orders, recordings, papers, date sheets, publications, books, magazines, newspapers, booklets, circulars, brochures, bulletins, notices, instructions, drafts, notebooks, diaries, sketches, diagrams, forms, manuals, lists, computer hard drives, computer floppy disks, computer hard disks, computer laser disk, computer tapes, computer cards, and other communications, including inter-office and intra office communications, surveys, photographs, drawings, chart, notes of meetings, conversations, records of conversations, work papers, invoices, minutes of meetings, consultations and any ancillary materials, whether executed or unexecuted, and municipal, county, state, federal or other governmental ordinances, laws or statutes, and any types of official or unofficial trade or organization publications or standards.

10. Without limitation of the term “control”, a document is deemed to be within Applicant's control if the Applicant has the ownership, possession, or custody of the documents, or a copy thereof, or the right to secure the documents, or a copy thereof from any other person or private entity who has actual physical possession thereof.

11. “Communication” means any document, oral statement, meeting or conference, formal or informal, at any time or place and under any circumstance whatsoever, whereby information of any nature was state, written, recorded, or in any manner transmitted or transferred, including e-mail and electronic communication.

12. To “identify” an act, event, or occurrence, means to state its date; identify each person or entity that was a party to or witness to the act, event, or occurrence; describe where and how it took place; and identify any communication which constitutes or refers to such act, event, or occurrence.

13. As used herein, the terms “and” and “or” are to be construed both conjunctively and disjunctively.

II. INSTRUCTIONS

A. **Continuing Requests.** Each request for production shall be deemed continuing in order to require supplemental answers in accordance with the Texas Rules of Civil Procedure if you obtain further information between the time of answering the request for production and the time of the contested case hearing on the merits.

B. **Relevant Period.** Unless otherwise instructed, please produce documents relating to the entire period for which you have such information until the present time.

C. **Destroyed Documents.** If any document requested herein has been lost, discarded, or destroyed, identify it and also state the date, manner and reason for disposal, persons authorizing the disposal, persons having knowledge of the disposal and persons disposing of the document.

D. **Electronic or Magnetic Data.** You are hereby requested to produce all electronic and/or magnetic data or media that is responsive to the requests below in electronic or magnetic form. With reference to image files, please produce in TIF, GIF, JPEG or PDF formats. With reference to any documents existing in Microsoft Word or WordPerfect format, please produce in those formats. With reference to all other electronic and/or magnetic data, please produce in an ASCII format and for any field-based data, please produce in an ASCII delimited text format, identifying the delimiters. All such electronic and/or magnetic data or media should be produced on either CD-Rom or DVD.

E. **Objections.** To the extent you find a request objectionable, state with specificity the objection and answer the remaining part of the request or the remaining requests which you do not find objectionable. In the event you seek to withhold any information based on a claim of privilege or other claim, set forth in complete detail each and every fact and ground upon which

the claim is based with sufficient specificity to permit a court to make a full determination of whether the claim is valid.

F. **Production.** Respondents shall deliver the production of documents or tangible things to the offices of Blackburn Carter, P.C., 4709 Austin, Houston, Texas, 77004, attorneys for Protestant or to any other mutually acceptable location agreed upon by the party making the requests and the respondent.

III. INTERROGATORIES

1. Please identify each person answering these interrogatories, supplying information to answer these interrogatories or assisting in any way with the preparation of the answers to these interrogatories and state whether or not each person has read the “Instructions and Definitions”.
2. If you contend that BFI Waste Systems of North America, Inc. Sunset Farms Landfill has demonstrated compliance with the CAPCOG Regional Solid Waste Plan, state the basis for such contention.
3. If you contend that the land use at or near the proposed facility is consistent with the siting and operation of a Type I landfill whose disposal capacity will be increased by increasing the height of the landfill to a maximum elevation of 795 feet msl on the western portion of the landfill and to a maximum elevation of 770 feet msl on eastern portions of the landfill as proposed in the solid waste permit amendment application, please state the basis for this contention.
4. Please describe what is meant by a “desired development zone.”
5. Please describe how this permit amendment application is consistent with a “desired development zone.”
6. What is the significance of the term “desired development zone” in terms of anticipated population or residential growth.
7. Please identify any further revisions to the land use report included in the Amendment Application which was revised most recently January 18, 2007.
8. Please identify proposed infrastructure in undeveloped areas within the five (5) miles of the landfill.
9. Please identify the future land use trends for the area within a five (5) mile radius of the landfill.
10. Please describe the buffer zone surrounding the landfill in terms of size and location.
11. Please describe the topography surrounding the landfill.

12. Please describe any measures the Applicant will take to screen the expansion activities from public view.
13. Please describe any organized effort to ensure that residents living in nearby homes will not be impacted by dust, noise, and windblown trash from the landfill.
14. Please describe any agreements (formal or informal) with Waste Management of Texas, Inc. Austin Community Recycling and Disposal Facility to take responsibility for cleanup of dust and windblown trash.
15. Is it the Applicant's intention to perform recycling and composting in the operation of the landfill? If so, please explain.
16. Do you contend that the expansion and operation of the Landfill will not adversely affect the health of any person? If so, please describe the factual basis for your contention.
17. Do you contend that the operation of the Landfill will not adversely interfere with the use and enjoyment of surrounding lands and homes? If so, please describe the factual basis for your contention.
18. Do you contend the buffer zone and screening proposed in the Application for the Landfill is adequate considering the proposed height of the facility? If so, please describe the factual basis for your contention.
19. Are you aware of any groundwater contamination (whether past or present and regardless of constituent or level of contamination) in the groundwater under any properties that are located, either in whole or in part, within one (1) mile of the Landfill permit boundary? If so, please identify the property or properties where such contamination exists or existed and identify the specific contaminant or contaminants in the groundwater at each such property.
20. Do you contend the proposed site operating plan in the Application is adequate to control vectors, scavengers, birds, animals and rodents? If so, please describe the factual basis for your contention.

IV. REQUEST FOR PRODUCTION

Please produce the following documents:

1. All documents not otherwise produced in response to the requests below that provide the basis for, or that are identified in your response to, any interrogatory from any Protestant.
2. All audits or other evaluations of your landfill, including those involving its design, operations, life expectancy, record keeping, and/or reporting activities at the landfill.
3. All documents related to the surface hydrology, hydrographs, surface topography, drainage, and/or surface water controls at your landfill including, but not limited to, all

correspondence, reports, or any document to you or from you to any engineers or hydrologists hired by you or assisting you in preparation of any prior or current application for a permit or permit amendment or modification, or other authorization at your landfill.

4. All documents related in any way to flood plains, flood waters, flood ways, flood conditions, flood insurance, flood maps, and flooding at the landfill or in the region of the landfill.
5. All documents related to the plugging of any boring, well or other artificial penetration at or within five miles of your proposed landfill.
6. All documents related to the geology and/or groundwater hydrology in the region of the landfill.
7. All documents related to past or potential future releases of molds, fungus, pollens, or bacteria from the landfill.
8. Any agreement you have or have had with residents, landowners, communities, governmental entities or others regarding the siting, design, and/or operations on the landfill.
9. All documents related to any evaluation of any existing or future need for municipal waste management disposal facilities in the region of the landfill.
10. All documents related to any evaluation of impacts on surrounding land uses that have occurred in the past or that may occur in the future from the design or operation of the landfill including, but not limited to, impacts to private or government properties, water bodies, homes, businesses, utilities or roads.
11. All documents providing guidance from any state or federal agency on design or operations of a landfill or related activities, such as surface water controls, liners, monitoring wells, and methane management systems that were used or considered by you or any employee, agent, consultant or representative of BFI WASTE SYSTEMS OF NORTH AMERICA, INC. in the preparation of the application that is the subject of this hearing.
12. All documents indicating any violation identified by you or any violation or any allegation of violation identified by any local, state or federal entity for the last ten (10) years for any of your activities at the landfill or any other site of waste management activities in Texas that are owned or operated by BFI WASTE SYSTEMS OF NORTH AMERICA, INC..
13. All documents related to any evaluation of the adequacy of the roads, traffic controls, increase in traffic, or access to your facility with respect to potential accidents, traffic risks, routing or waste load management for the landfill.

14. All documents related to any evaluation of methane generation, release, collection, or control at the landfill.
15. All records since 1998 of complaints filed with BFI WASTE SYSTEMS OF NORTH AMERICA, INC., or private legal actions taken against BFI WASTE SYSTEMS OF NORTH AMERICA, INC., involving any landfill located in the State of Texas owned or operated by BFI WASTE SYSTEMS OF NORTH AMERICA, INC..
16. All current and past agreements with any local government or others for assistance with response to fires or emergencies at the landfill.
17. All evaluations including monitoring, inspections or modeling of the movement of water, soils, dirt or waste from the landfill to any off-site water body including any lake or stream, whether perennial or intermittent, and/or into the groundwater.
18. All documents related to any proposal by you to amend or change any aspect of the application or draft permit that is the subject of this proceeding after the date of the determination by TCEQ that the application was technically complete.
19. All documents related to the type of and the number of each piece of equipment currently used at the landfill for construction of the landfill or the handling of waste at the landfill.
20. All documents related to the determination of the current or future hours of operation at the landfill, including but not limited to, any draft or final agreements, contracts, reports, surveys or studies.
21. All documents related to any proposal for acceptance of hazardous or any class of industrial solid waste at the proposed landfill, including but not limited to, any draft or final agreements, contracts, reports, surveys, studies, site location of disposal or requests regarding such waste acceptance.
22. All documents related to management or any proposal for the disposal recirculation or use of leachate at the landfill, including but not limited to, any application, contracts, reports, surveys, studies, or requests, and the areas of the constructed landfill which have generated leachate and which have received leachate from this landfill or any other landfill.
23. All documents related to current, future or past management of odors that may result from operations at the landfill.
24. All documents related to current, future or past management of windblown waste and/or dust at the landfill.
25. All documents related to the annual precipitation at the proposed landfill site or at a location that you believe is relevant to evaluating the annual precipitation at the proposed landfill site.

26. All documents related to groundwater under the site or under property within 5 miles of the proposed landfill site.
27. All documents related to surface water on the property or within 5 miles of the site.
28. All documents related to the soils and the composition of the soils at the site.
29. All documents that are related to your position on whether you have any practicable waste management alternative(s) to the proposed expansion of the landfill including, but not limited to, other locations for a Type I landfill.
30. All documents related to the potential or actual existence, or lack thereof, of any threatened or endangered species on the site or within 5 miles of the proposed landfill site.
31. All documents related to current, future or past evaluations of wind conditions at the landfill.
32. All documents related to current, future or past evaluations or management of disease vectors at the landfill.
33. All documents related to any evaluation of the risk of a tornado(s) at the landfill.
34. All documents related to the character of the waste to be accepted at the landfill.
35. All documents regarding potential future landfill design changes or potential capacity expansion design or plans of the landfill beyond MSW-1447A.
36. All documents regarding safety records for workers at the landfill.
37. All documents related to grant applications made by Applicant for solid waste initiatives, including but not limited to recycling.
38. All documents relating to any recycling (existing and proposed) activities at the landfill.
39. All documents relating to the Applicant's compliance history rating for the landfill by the TCEQ.
40. All documents relating to storm water inspection, reports, and permits maintained on the landfill.
41. All air emissions compliance reports and permits.
42. Any correspondence and other input from citizens to the Applicant regarding the landfill since January of 2000 and responses thereto.