

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

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

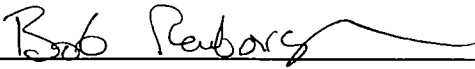
**TJFA, L.P.'s FIRST SET OF INTERROGATORIES,  
FIRST REQUESTS FOR PRODUCTION, AND FIRST REQUESTS  
FOR ADMISSIONS TO GILES HOLDINGS, L.P.**

TO: Giles Holdings, L.P., by and through its aligned party representative, Mr. Paul Gosselink and Mr. John E. Carlson, Lloyd, Gosselink, Blevins, Rochell & Townsend, P.C., 816 Congress Ave., Suite 1900, Austin, TX 78701

PLEASE TAKE NOTICE that pursuant to Rules 196, 197, and 198 of TEX.R.CIV.P., TJFA, L.P. ("TJFA"), in the above-styled cause, serve these Interrogatories, Requests for Production, and Requests for Admissions upon you. Giles Holdings, L.P. must answer each interrogatory in writing and under oath within thirty (30) days after service, must produce all requested documents as they are kept in the ordinary course of business or segregated according to each request, for inspection and copying not more than thirty (30) days after service at the law offices of J. D. Head and Bob Renbarger, and must provide written responses to each request for admission within thirty (30) days after service of such requests.

Respectfully submitted,

FRITZ, BYRNE, HEAD & HARRISON, PLLC  
98 San Jacinto Blvd., Suite 2000  
Austin, TX 78701  
TEL: 512/476-2020  
FAX: 512/477-5267

By:   
\_\_\_\_\_  
J. D. Head  
State Bar No. 09322400

Bob Renbarger  
State Bar No. 16768100

ATTORNEYS FOR TJFA, L.P.

## CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing document has been served this 18<sup>th</sup> day of July, 2008, via e-mail, facsimile transmission or U.S. First Class mail, to the following:

Mr. Paul G. Gosselink  
Mr. John E. Carlson  
Lloyd, Gosselink, Blevins, Rochell & Townsend, P.C.  
816 Congress Ave., Suite 1900  
Austin, TX 78701  
TEL: 512/322-5800  
FAX: 512/472-0532  
E-MAIL: [pgosselink@lglawfirm.com](mailto:pgosselink@lglawfirm.com)  
E-MAIL: [jcarlson@lglawfirm.com](mailto:jcarlson@lglawfirm.com)  
**BFI WASTE SYSTEMS OF NORTH AMERICA, INC. and  
GILES HOLDINGS, L.P.**

Mr. Steve Shepherd  
Legal Counsel  
Environmental Law Division (MC-173)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
TEL: 512/239-0464  
FAX: 512/239-0606  
E-MAIL: [sshepher@tceq.state.tx.us](mailto:sshepher@tceq.state.tx.us)  
**EXECUTIVE DIRECTOR**

Ms. Susan White  
Staff Attorney  
Litigation Division (MC-173)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
TEL: 512/239-0454  
FAX: 512/239-0606  
E-MAIL: [swhite@tceq.state.tx.us](mailto:swhite@tceq.state.tx.us)  
**EXECUTIVE DIRECTOR**

Ms. Christina Mann  
Attorney  
Office of Public Interest Counsel (MC-103)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
TEL: 512/239-4014  
FAX: 512/239-6377  
E-MAIL: [cmann@tceq.state.tx.us](mailto:cmann@tceq.state.tx.us)  
**OFFICE OF PUBLIC INTEREST COUNSEL**

Mr. Kevin W. Morse  
Assistant Travis County Attorney  
P.O. Box 1748  
Austin, TX 78767  
TEL: 512/854-9513  
FAX: 512/854-4808  
E-MAIL: [kevin.morse@co.travis.tx.us](mailto:kevin.morse@co.travis.tx.us)  
**TRAVIS COUNTY**

Ms. Holly C. Noelke  
Assistant City Attorney  
City of Austin Law Department  
P.O. Box 1088  
Austin, TX 78767  
TEL: 512/974-2630  
FAX: 512/974-6490  
E-MAIL: [holly.noelke@ci.austin.tx.us](mailto:holly.noelke@ci.austin.tx.us)  
**CITY OF AUSTIN**

Ms. Meitra Farhadi  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, TX 78767  
TEL: 512/974-2310  
FAX: 512/974-6490  
E-MAIL: [meitra.farhadi@ci.austin.tx.us](mailto:meitra.farhadi@ci.austin.tx.us)  
CITY OF AUSTIN

Mr. Jim Blackburn  
Ms. Mary W. Carter  
Blackburn & Carter, P.C.  
4709 Austin St.  
Houston, TX 77004  
TEL: 713/524-1012  
FAX: 713/524-5165  
E-MAIL: [jbb@blackburncarter.com](mailto:jbb@blackburncarter.com)  
E-MAIL: [mcarter@blackburncarter.com](mailto:mcarter@blackburncarter.com)  
**NORTHEAST NEIGHBORS COALITION; MARK  
MCAFEE; MELANIE MCAFEE; ROGER JOSEPH;  
DELMER D. ROGERS; WILLIAMS, LTD.; and PIONEER  
FARMS**

## INSTRUCTIONS

The following instructions and definitions apply to these requests and your responses thereto.

1. These requests are continuing in nature and require supplementary responses if you or your attorney obtain information which reveals that your responses were incorrect or incomplete when made or that your responses are no longer correct or complete.

2. These requests and your responses may be offered in evidence at the hearings of the above cause.

3. Your failure to respond to these requests as required by the Texas Rules of Civil Procedure within the time required may result in sanctions determined by the Administrative Law Judge.

4. Strict compliance with the requirements of Rules 193, 196, 197, and 198 of the Texas Rules of Civil Procedure shall be required. Service of your written responses to these requests, together with any objections, is due from you within 31 days of the date of service of these requests.

5. If you refuse to answer any interrogatory on the grounds that some or all of the requested information is protected or privileged, set forth, in detail, the privilege claimed, the facts upon which you rely to support the claim of privilege, and the scope of said privilege, and proceed to answer with all requested information for which protection or privilege is not claimed.

6. If you have ever had any of the documents requested below in your possession, custody, or control but do not now, you are requested to state the following with respect to each such document:

- a. The present location thereof, if known, or all reasons why you cannot or do not know the location thereof;
- b. The date each such document left your possession, custody, or control;
- c. The reasons why each such document is not now in your possession, custody, or control; and

- d. Names and addresses of all persons having knowledge about the matters inquired about in the immediately preceding paragraphs (a) through (c).

7. If any document requested herein has been destroyed, you are requested to describe in detail the circumstances of and reasons for such destruction and to produce all documents which relate to either the circumstances or the reasons for such destruction.

8. If any document requested herein is withheld under claim of privilege or is not produced for whatever reason, you are instructed (i) to state with specificity the claim of privilege or other reason used to withhold production, and (ii) to identify each such document by date, author, addressee, persons or entities copied, persons or entities who reviewed the document, and subject matter, without disclosing its contents, in a manner sufficient to allow it to be described to the Court for ruling on the privilege or other reason asserted. You are further requested to produce those portions of any such documents which are not subject to a claim of privilege or other reason for non-production by excising or otherwise protecting the portions for which privilege is asserted, if such a technique does not result in disclosing the contents of the portions for which some privilege is asserted. Also, for each document you claim is not discoverable, state the date of the document; the name, job title, and address of the person who prepared it; the name, address, and job title of the person to whom it was addressed or circulated, or who saw it; the name, job title, and address of the person now in possession of the document; a description of the subject matter of the document; and the present location and the custodian for the document.

9. Each of the requests contained herein is made in accordance with relevant provisions of Rules 193, 196, 197 and 198 of the Texas Rules of Civil Procedure. No request herein should be construed as calling for the following categories of information:

- a. Unless waiver of an existing privilege has occurred or is intended, the work-product of the attorneys for parties who have appeared in this case; and
- b. Documents containing information generated by a non-testifying consulting expert employed by you in anticipation of litigation unless the consulting expert's opinion or impressions have been reviewed by a testifying expert.

As to that information which you contend falls into the categories enumerated above, or is protected from disclosure by any other privilege, counsel should follow the

relevant provisions of Rule 193 concerning presentation of objections to any information requested by these requests.

10. Pursuant to Rule 196.4 of the Texas Rules of Civil Procedure, if any information responsive to any request for production is in electronic or magnetic format or otherwise exists on computer hard-drive or any other form of electronic data storage, you are instructed to provide such information by downloading true and correct copies of such information on a computer disc (“CD”). If you cannot, through reasonable efforts, provide such information in CD format, you are instructed to download and print true and correct copies of such information from the electronic storage format into hard copies for subsequent production. All such electronic, magnetic or computer information is specifically included within the scope and definition of the term “document” as hereinafter defined.

### **DEFINITIONS**

1. “Applicant,” unless otherwise modified to reflect a different context, refers to BFI Waste Systems of North America, Inc., BFI Waste Systems of North America, LLC, BFI Sunset Farms Landfill, Sunset Farms Landfill and all of their present or former officers, directors, board members, employees, agents, engineers, consultants, experts, representatives, predecessors and all other persons acting in concert with such entities, on their behalf or under their control whether directly or indirectly.

2. “Application,” unless otherwise modified to reflect a different context, refers to the application for a permit amendment for TCEQ MSW Permit No. 1447-A originally submitted August 5, 2005 which is the subject of these proceedings, together with any and all documents, attachments, supplements or other written or electronically disseminated information filed or submitted in support thereto.

3. “BFI” refers to Applicant, as herein defined, and all of its present or former officers, directors, board members, employees, agents, engineers, consultants, experts, representatives, predecessors and all other persons acting in concert with BFI, on its behalf or under its control whether directly or indirectly.

4. “Communication(s)” refers to any oral or written communication of which the Applicant has knowledge, information or belief.

5. “Date” means the exact date, month, and year, if ascertainable, or, if not, the best available approximation.

6. “Document” refers to, without limitation, any book, pamphlet, magazine, circular, bulletin, manual, periodical, written communication, correspondence, resolution,

telegram, letter, message, report, inventory, account, bill of sale, purchase order, bill of lading, shipping order, work order, change order, invoice, check, memorandum, division order, contract, subcontract, agreement, draft, minute, diary, statement, study, analysis, evaluation, worksheet (including any accountant's worksheet), working paper, court paper, paper, transcript, note, pen or pencil notation, schedule, chart, list, log, graph, table, index, instruction, blueprint, drawing, questionnaire, survey, record, photograph, audio or video recording, information generated or stored on a computer disc or hard drive, personal electronic device, computer printout, data compilation, data processing card, microfilm or microfiche or any other writing or recording, however produced or reproduced.

7. "Executive Director" or "ED" refers to the chief administrative officer of the Texas Commission on Environmental Quality ("TCEQ") and all of his present and former employees, deputy directors, managers, agents, consultants, experts, representatives, predecessors and all other persons acting in concert with him, on his behalf or under his control whether directly or indirectly.

8. "Expert" refers to persons who have been consulted, retained or specifically employed by you in any way connected with or related to these permit proceedings, except that a person who will not be called to testify as an expert and whose opinions or impressions have not been and will not be reviewed, in whole or in part, by a testifying expert shall not be considered an expert for purposes of these interrogatories.

9. "Permit," unless otherwise modified to reflect a different context, refers to the authorization granted by the TCEQ to operate the Sunset Farms Landfill, together with any amendments or modifications thereto, for TCEQ MSW Permit No. 1447 as it currently exists and inclusive of the amendments requested in the Application.

10. "Person" refers to any individual, proprietorship, firm, corporation, association, partnership, organization, governmental subdivision or other entity.

11. "Regulatory authority" or "authority" refers to the specific guidance document(s), administrative rule(s), statutory reference(s), TCEQ or Environmental Protection Agency document(s), published study or reference, treatise, textbook or recognized authority consulted, reviewed or relied upon in support of any element of the Application for a permit amendment sought in these proceedings.

12. "Site" or Facility" refers to the BFI Sunset Farms Landfill facility that is referenced in the Application which is the subject of these proceedings.

13. "Statement" includes any written or graphic statement, any stenographic, mechanical, electrical or other recording or transcription thereof which is a substantially



verbatim recital of an oral statement by the person making it and contemporaneously recorded.

14. "TCEQ" refers to the Texas Commission on Environmental Quality and all of its present and former commissioners, executive directors, deputy directors, managers, employees, agents, consultants, experts, representatives, predecessors, and all other persons acting in concert with it, on its behalf or under its control whether directly or indirectly.

15. "You," "Your," or "Yourself" refers to Giles Holdings, L.P. and all of its partners, limited partners, predecessor entities, present and former employees, agents, consultants, experts, representatives and all persons acting in concert with it, on its behalf or under its control whether directly or indirectly.

16. When used in reference to an individual or person, "identify" means to state his full name, business affiliation and title, current telephone number, and his present and/or last known business address and personal residence. A request for the "identity" of an individual shall constitute a request for the same information.

17. When used in reference to an entity other than a natural person, "identify" means to state its full name, its assumed name if any, telephone number, the address of its principal place of business, its mode of organization (e.g., corporation, partnership, governmental subdivision, etc.), the names of its principals, if any, and the nature of its business. A request for the "identity" of an entity other than a natural person shall constitute a request for the same information.

18. When used in reference to a document (including any written communication), the terms "identify" and "describe" mean to state the nature and title of the document, its author, its recipient, the date of its preparation, a summary of its contents, its present location and custodian, and a statement of its disposition if it is no longer in the possession, custody or control of the respondent. A request for a "description" or "identification" of a document shall constitute a request for the same information. A true, legible and complete copy of each such document (with a designation of the interrogatory to which it relates) may be affixed to the answers supplied hereto in lieu of such description or identification.

19. When used with reference to an oral communication, the terms "identify" or "describe" mean to state its nature (e.g., telephone call, interview, conversation in person, etc.) the identity (as such term is defined above) of each person participating therein or witnessing any part thereof, its date, its place, and a summary of its substance. Additionally, if there is any written memorandum or other writing evidencing, reflecting or relating to such oral communication, identify or describe such document in accordance with Paragraph E. above. A request for a "description" or "identification" of an oral communication shall constitute a request for the same information.

20. When used in the context of a contention interrogatory, the term “state the basis” means to recite all facts, opinions, arguments and legal theories upon which you rely in support of such contention.

21. Any use of one gender herein is intended to include all genders.

22. Any use of the singular form of grammar herein is intended to include the corresponding plural form as well, and vice versa, where such alteration would contribute either to the accuracy or to the thoroughness of an answer.

### **INTERROGATORIES**

1. 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”.

**ANSWER:**

2. State the name, address, and telephone number of any person who is or may be called to testify at the contested case hearings for these permit applications.

**ANSWER:**

3. For any “consulting expert” whose mental impressions and opinions have been reviewed by any “testifying expert” of yours, state the name, address, and telephone number of each such consulting expert.

**ANSWER:**

4. Identify each and every person, other than your attorneys, with whom you have had communications concerning the Application.

**ANSWER:**

5. Please identify and describe any and all communications between you and the TCEQ related to the Application.

**ANSWER:**

6. Please identify and describe your business relationship with the Applicant.

**ANSWER:**

7. Please identify and describe any interest you have in the Application.

**ANSWER:**

8. If you contend that you are not an applicant for the subject solid waste permit amendment, please state the basis for such contention and identify any regulatory authority you rely upon for such contention.

**ANSWER:**

9. If you contend that you are not an owner of the Sunset Farms landfill facility, please state the basis for such contention and identify any regulatory authority you rely upon for such contention.

10. If you contend that you are not an operator of the Sunset Farms landfill facility, please state the basis for such contention and identify any regulatory authority you rely upon for such contention.

**ANSWER:**

11. If you contend that you do not have potential liability for the operations of the Sunset Farms landfill facility, please state the basis for such contention and identify any regulatory authority you rely upon for such contention.

**ANSWER:**

12. If you contend that you do not possess operational control of the Sunset Farms landfill facility, please state the basis for such contention and identify any regulatory authority you rely upon for such contention.

**ANSWER:**

13. Please state your intentions on what you plan to do with the real estate you own which comprises the Site should the waste disposal operations of the Sunset Farms landfill facility cease by November 1, 2015.

**ANSWER:**

14. Please identify and describe any options you have or contingencies which would result in you taking over possession and control of the Sunset Farms landfill facility.

**ANSWER:**

15. Please identify any and all environmental permits or authorizations for activities at the Site where you are identified as a permittee, owner or operator.

**ANSWER:**

## **REQUESTS FOR PRODUCTION**

1. Please provide true and correct copies of any and all documents that were reviewed or relied upon in preparing your responses to written discovery served contemporaneously herewith.
2. Please provide true and correct copies of any and all documents reflecting your ownership interest in the Site.
3. Please provide true and correct copies of any and all documents reflecting your consent and authorization for the Applicant to conduct solid waste disposal and waste management operations at the Site.
4. Please provide true and correct copies of any and all documents reflecting any ownership interest in the permit, permit amendment Application or the Sunset Farms landfill facility.
5. Please provide true and correct copies of any and all documents reflecting any contractual agreement with the Applicant that provides you the authority to make any decisions affecting the operations at the site, the expansion of capacity at the Site or the closure of the Site.
6. Please provide true and correct copies of any and all documents reflecting lease agreements and/or operating agreements with the Applicant that establish the terms by which the Applicant is authorized to engage in solid waste management activities at the Site.
7. Please provide true and correct copies of any and all documents reflecting any liens, encumbrances or security interests, whether recorded or unrecorded, on any property held by the Applicant related to the Sunset Farms landfill facility.
8. Please provide true and correct copies of any and all documents reflecting any plans, agreements, proposals or solicitations involving the Applicant or any other party for the merger, consolidation, combination or joint operation of the Sunset Farms landfill facility and the adjacent Waste Management landfill.
9. Please provide true and correct copies of any and all documents reflecting environmental permits or authorizations related to the Site wherein you are identified as an owner, operator, permittee or co-permittee.
10. Please provide true and correct copies of any and all documents produced, made available or responsive to any party to these proceedings.

11. Please produce any and all documents, not previously identified above, in your custody or control that relates to the pending Application.

**REQUESTS FOR ADMISSIONS**

1. Admit that you support issuance of MSW Permit No. 1447-A and TCEQ approval of the Application.

**RESPONSE:**

2. Admit that you have a financial interest in the operations of the Sunset Farms landfill facility.

**RESPONSE:**

3. Admit that you own real estate upon which the Sunset Farms landfill facility is located.

**RESPONSE:**

4. Admit that as a landowner of the Site where Sunset Farms landfill facility is located, you have potential liability for its operations.

**RESPONSE:**

5. Admit that you have operational control over the Site and the operator of the Sunset Farms landfill facility.

**RESPONSE:**

6. Admit that you have an agreement with the operator of the Sunset Farms landfill facility which authorizes the use of the Site for municipal solid waste disposal and management activities.

**RESPONSE:**

7. Admit that you are identified in certain environmental permits and authorizations related to activities conducted or regulated at the Site.

**RESPONSE:**

8. Admit that you would agree to placement of a deed restriction on the land comprising the Site that all waste handling, including both disposal and operation of transfer station, will cease by November 1, 2015 and not be permitted after such date.

**RESPONSE:**

9. Admit that the Applicant has an option to purchase the real property where the Sunset Farms landfill facility is located.

**RESPONSE:**

10. Admit that you have no intentions of acquiring Applicant's interests in the permit, permit Application or the operations of the Sunset Farms landfill facility.

**RESPONSE:**

11. Admit that you have no intention of conducting waste management operations at the Site after November 1, 2015.

**RESPONSE:**

12. Admit that you consented to the 2004 - 2005 channelization project at the Site which resulted in the alteration of the floodplain.

**RESPONSE:**