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COMPANY: Fritz, Byrne Head + Harriem, LLP
FAX NUMBER: 477-5267 DATE: 7/18/08
FROM: Kevin Morse PHONE: (512) 854-9513
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July 18, 2008

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

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

Dear Ms. Castañuela:

Enclosed please find for filing Travis County's First Set of Interrogatories, First Request for Production and First Request for Admissions to Applicant BFI Waste Systems of North America, L.L.C.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin W. Morse".

Kevin W. Morse
Assistant Travis County Attorney

cc: TCEQ Chief Clerk via facsimile
Service List via electronic mail

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

IN THE MATTER OF THE	§	BEFORE THE
APPLICATION OF BFI WASTE	§	
SYSTEMS OF NORTH AMERICA, L.L.C.	§	STATE OFFICE OF
PROPOSED SOLID WASTE PERMIT	§	
AMENDMENT No. 1447A	§	ADMINISTRATIVE HEARINGS

TRAVIS COUNTY’S FIRST SET OF
INTERROGATORIES, FIRST REQUEST FOR PRODUCTION
AND FIRST REQUEST FOR ADMISSIONS TO
APPLICANT BFI WASTE SYSTEMS OF NORTH AMERICA, L.L.C.

TO: BFI Waste Systems of North America, L.L.C. by and through its attorneys of record Paul Gosselink and John Carlsson, Lloyd, Gosselink, Blevins, Rochell & Townscnd P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

Pursuant to Rule 196, 197 and 198 of the Texas Rules of Civil Procedure, Travis County hereby propounds this its First Set of Interrogatories, First Request For Production and First Set of Requests For Admissions on Applicant BFI Waste Systmes of North America, L.L.C. A written response to these Interrogatories, Requests For Production and Requests For Admission should be served upon Travis County within thirty (30) days after service of this document on BFI Waste Systems of North America, L.L.C. and the requested documents shall be produced at the Travis County Attorney’s Office, Attention: Kevin W. Morse, 314 W. 11th Street, Austin, Texas 78701, attorney of record for Travis County, Texas. Please be advised that pursuant to Rule 193.5, you have a continuing duty to amend or supplement your responses to the Travis County’s First Set of Interrogatories, First Request For Production and First Set of Requests For Admissions.

DEFINITIONS AND INSTRUCTIONS

A. Definitions

Please use the following definitions in responding to Travis County's Requests For Admissions, Interrogatories and Requests for Production:

1. **"Travis County"** means Travis County, Texas and, as the context requires, its agents, employees, representatives, affiliates, predecessors, successors, and persons acting, or purporting to act, on its behalf.
2. **"Applicant"** or **"BFI"** means BFI Waste Systems of North America, L.L.C. and as the context requires, includes its agents, employees, representatives, affiliates, predecessors, successors, and persons acting, or purporting to act, on its behalf or under its control.
3. **"You"** or **"your"** means Applicant, BFI Waste Systems of North America, L.L.C., its successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, and all other persons acting on behalf of Applicant or its successors, predecessors, divisions, and subsidiaries.
4. **"Person"** as used herein includes natural persons, general partnerships, limited partnerships, joint ventures, associations, corporations, governmental agencies, departmental units or subdivisions thereof, and any other form of business entity or association, as the case may be.
5. **"CAPCOG"** means the Capital Area Council of Governments.
6. **"SOAH"** means the State Office of Administrative Hearings.
7. **"Landfill"** means the Sunset Farms landfill located on 9912 Giles Lane in Travis County, Texas, which is owned and operated by BFI Systems of North America, L.L.C.
8. **"Permit"** means proposed Permit No. MSW 1447A, the major permit amendment submitted by Applicant to the Texas Commission on Environmental Quality on January 20, 2006 to expand the Sunset Farms landfill's permitted height, and any amendments to the application which have been filed since that date or which may be filed in the future by Applicant prior to the conclusion of the SOAH hearing.
9. **"Documents and tangible things"** is defined within the broadest sense of Rule 196 of the Texas Rules of Civil Procedure, and includes, without limitation, all written, recorded, electronic or graphic matter, however produced or reproduced, now or at any time in your possession, custody or control, or subject to your control, including, without limitation, all papers, books, accounts, drawings, graphs, charts, photographs, electronic or videotape recordings, data and data compilations, e-mails from which information may be obtained, and includes drafts and non-identical copies of documents. Documents and tangible things are deemed subject to your control if you have physical possession of the item or

have a right to possession of the item that is equal or superior to the person who has physical possession of the item. If any document or tangible thing requested herein was, but is no longer subject to your control, please state what disposition was made of it, and the date or dates or the approximate date or dates of such disposition.

10. **“Concerning”** includes referring to, alluding to, pertaining to, responding to, relating to, in connection with, commencing on, in respect of, about, regarding, discussing, showing, describing, mentioning, reflecting, analyzing, constituting, or evidencing.
11. **“Communication”** or **“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.
12. **“Possession, custody, or control”** of an item means that the Applicant either has physical possession of the item or has a right to possession equal to that of the person who has physical possession of the item.
13. As used in these Interrogatories and Requests for Production, the singular encompasses the plural and the plural encompasses the singular.
14. Whenever the masculine gender is used herein, it should be taken to include feminine gender where appropriate.
15. The word **“and”** is defined to mean “and/or.”
16. The word **“or”** is defined to mean “or/and.”
17. The term **“Identify”** or **“Describe”** as used herein means, when used in reference to:
 - a. A natural person, his or her:
 - (i) Full name;
 - (ii) Home address and telephone number;
 - (iii) Business address and telephone number;
 - (iv) Present or last known position, business affiliation, job title and job description; and,
 - (v) E-mail.

b. A company, corporation, association, partnership, or any other legal entity other than a natural person:

- (i) Its full name;
- (ii) A description of the type of organization or entity;
- (iii) The address of the principal place of business;
- (iv) The jurisdiction of the incorporation or organization;
- (v) The date of its incorporation or organization; and,
- (vi) If the organization is doing business under any assumed names, set forth those names and the date of filing the "doing business as" certificate.

c. A Document:

- (i) Its description (for example: a letter, memorandum, report, study, permit invoice, etc.);
- (ii) Its title;
- (iii) Its date and bates number (if applicable);
- (iv) The number of pages thereof;
- (v) Its subject matter;
- (vi) The identity of its author, signatory and any person who participated in its preparation;
- (vii) The identity of its addressee or recipient;
- (viii) Its present location;
- (ix) The identity of its custodian; and,

- (x) If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it and when, including producing any relevant retention policy if applicable.

B. Instructions for Interrogatories

1. Answer each interrogatory separately and fully in writing under oath, unless it is properly objected to, in which event state the reasons for the objection in lieu of an answer.
2. An evasive or incomplete answer may be deemed to be a failure to answer.
3. You are under a continuing duty to supplement your response as soon as practicable.
4. You are under a duty to supplement your answers if you later learn the answer was incorrect when made or is no longer true, even though it was correct when made.
5. If there are any documents, which answer in whole or in part, any of these interrogatories, they may be attached to your answers and incorporated in the answers by specific reference.
6. If a document required to be identified by these interrogatories was, but is no longer, in your possession or subject to your control, state what disposition was made of the document as well as the date(s), or approximate date(s), on which such disposition was made and state the nature of the circumstances surrounding the disposition.
7. For all information or documents you withhold based upon the assertion of privilege please serve a withholding statement upon Travis County as required by TRCP 193.3(a) and then identify the information or material withheld in a Privilege Log as required by TRCP 193.3(b).
8. Although subsequent discovery and/or investigation may yield additional information in the future and make it necessary for you to supplement your responses, Travis County, Texas requests that you answer these interrogatories as fully and completely as possible by providing all such responsive information as is known to you at the time your original answers to these interrogatories are due.

9. For any requested information about a document that no longer exists or cannot be located, identify the document; state how and when it passed out of existence, or when it could no longer be located, and the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss, and identify each document evidencing the existence of each document that cannot be located or any facts about the lost document.

C. Instructions for Requests for Production

1. Answer each request for documents separately by listing the documents produced in response to the requests and by describing them as defined below. If documents are bates numbered for production, in each response provide both the information that identifies the documents and the documents' bates number.
2. For all information or documents you withhold based upon the assertion of privilege please serve a withholding statement upon Travis County as required by TRCP 193.3(a) and then identify the information or material withheld in a Privilege Log as required by TRCP 193.3(b).
3. For a document that no longer exists or that cannot be located, identify the document, state how and when it passed out of existence, or when it could no longer be located, and the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss of the document, and identify any other document evidencing the lost document's existence or any facts about the lost document.

D. Instructions for Requests for Admissions

1. In each answer specifically admit or deny the request or explain in detail the reasons that you cannot admit or deny the request.
2. You may qualify an answer, or deny a request in part, only when good faith requires it. Lack of information or knowledge is not a proper response unless the responding party states that a reasonable inquiry was made but that the information known or easily obtainable is insufficient to enable the responding party to admit or deny. An assertion that the request is an issue for trial is also not a proper response.
3. If your responses are not timely served upon Travis County, the requests will be considered admitted without necessity of a court order.
4. For all information you withhold based upon the assertion of privilege please serve a withholding statement upon Travis County as required by TRCP 193.3(a) and then identify the information or material withheld in a Privilege Log as required by TRCP 193.3(b).

TRAVIS COUNTY'S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person answering these interrogatories, supplying information, or assisting in any way with the preparation of the answers to these interrogatories.

ANSWER:

INTERROGATORY NO. 2:

Identify each person who is expected to be called to testify at the SOAH hearing, including your experts.

ANSWER:

INTERROGATORY NO. 3:

Identify all discoverable, consulting experts who have knowledge of the closing date identified in the draft permit for the landfill, that is, consulting experts whose work has been reviewed by the testifying expert. For each expert named, provide the following information:

- a. The expert's name, address, and telephone number.
- b. The expert's current resume and bibliography.
- c. The facts known to the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with the case, regardless of when and how the factual information was acquired.
- d. The mental impressions or opinions of the expert formed or made in connection with the case and any methods used to derive them.
- e. Any bias of the expert.
- f. Identify all documents and tangible things, including reports, models, or data compilations, that have been provided to, reviewed by, or prepared by or for the expert, so the documents or tangible things may properly be sought by a request for production.

ANSWER:

INTERROGATORY NO. 4:

Identify all experts who have firsthand factual information about the permit amendment's closing date and provide a brief statement of each expert's connection with the case.

ANSWER:

INTERROGATORY NO. 5:

Please identify the legal name of the owner of the property located at 9912 Giles Road and on which the Sunset Farms landfill is located.

ANSWER:

INTERROGATORY NO. 6:

Please describe the legal relationship between BFI and the owner of the property on which the Sunset Farms landfill is located.

ANSWER:

INTERROGATORY NO. 7:

Please identify any documents which define the legal relationship between BFI and the owner of the property on which the Sunset Farms landfill is located.

ANSWER:

INTERROGATORY NO. 8:

Please identify any lease or other legal document concerning the use of the 9912 Giles Road property by BFI.

ANSWER:

INTERROGATORY NO. 9:

Please identify all previous names and entities by which BFI Waste Systems of North America, L.L.C. has been known.

ANSWER:

INTERROGATORY NO. 10:

Please describe when and for what reason BFI Waste Systems of North America, Inc. changed its name to BFI Waste Systems of North America, L.L.C.

ANSWER:

INTERROGATORY NO. 11:

Please describe any changes in ownership for the property located at 9912 Giles Road and for the Sunset Farms landfill located on that property.

ANSWER:

INTERROGATORY NO. 12:

Please describe any plans BFI has for operating any landfill in Travis County, Texas after November 1, 2015.

ANSWER:

INTERROGATORY NO. 13:

Please describe where BFI intends to operate a landfill within Travis County, Texas after November 1, 2015.

ANSWER:

INTERROGATORY NO. 14:

Should Applicant reach capacity prior to November 1, 2015, does Applicant have any plans to seek an amendment to its permit?

ANSWER:

INTERROGATORY NO. 15:

Should Applicant reach capacity at its current location on 9912 Giles Road prior to November 1, 2015, where does Applicant anticipate operating its business?

ANSWER:

INTERROGATORY NO. 16:

Should Applicant fail to reach its anticipated capacity at its current location on 9912 Giles Road by November 1, 2015, does Applicant have any plans to seek an amendment to their permit to continue to operate at its current location?

ANSWER:

INTERROGATORY NO. 17:

If you contend that the Sunset Farms landfill has demonstrated compliance with the CAPCOG Regional Solid Waste Plan, state the basis for such contention.

ANSWER:

INTERROGATORY NO. 18:

If you contend that the Closure Plan contained in the Application is adequate, please state the basis for this contention and identify with specificity the regulatory authority relied upon for each component of the plan.

ANSWER:

INTERROGATORY NO. 19:

If you contend that the Closure Plan cost estimate contained in the Application is adequate, please state the basis for this contention and identify with specificity the regulatory authority relied upon for each component of the plan.

ANSWER:

INTERROGATORY NO. 20:

If you contend that the Post-Closure Plan contained in the Application is adequate, please state the basis for this contention and identify with specificity the regulatory authority relied upon for each component of the plan.

ANSWER:

TRAVIS COUNTY'S FIRST REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce all correspondence, reports, studies, or documents related to any evaluation of any existing or future need for municipal waste management disposal facilities in the region of the Sunset Farms landfill in Travis County, Texas.

ANSWER:

REQUEST FOR PRODUCTION NO. 2:

Please produce all correspondence, reports, studies, or documents related to any evaluation of any existing or future need for municipal waste management disposal facilities in Travis County, Texas, including but not limited to any search for alternative sites in Travis or contiguous counties.

ANSWER:

REQUEST FOR PRODUCTION NO. 3:

Please produce any agreements or correspondence you have or have had with residents, landowners, communities, governmental entities or others regarding the location, design and/or operations of the Sunset Farms landfill, including its closing date.

ANSWER:

REQUEST FOR PRODUCTION NO. 4:

Please produce all correspondence, reports, studies, or documents regarding any potential future landfill sites, design changes or potential capacity expansion design or plans of the landfill beyond the closing date included in the current permit amendment application.

ANSWER:

REQUEST FOR PRODUCTION NO. 5:

Please produce all correspondence, reports, studies, or documents regarding potential future landfill design changes or potential capacity expansion design or plans of the landfill beyond MSW 1447A.

ANSWER:

REQUEST FOR PRODUCTION NO. 6:

Please produce any correspondence, agreements, leases, contracts, or other documents concerning the use of the land on which the Sunset Farms landfill is located.

ANSWER:

REQUEST FOR PRODUCTION NO. 7:

Please produce any correspondence or documents concerning BFI Waste Systems of North America, Inc.'s name change to BFI Waste Systems of North America, L.L.C., and any previous names used prior to BFI Waste Systems of North America, Inc.

ANSWER:

REQUEST FOR PRODUCTION NO. 8:

Please produce all correspondence or documents relating to the organization of BFI and Giles Holdings, L.P. and relating to any reorganization or changes of name or legal organization of the company.

ANSWER:

REQUEST FOR PRODUCTION NO. 9:

Please produce any and all documents produced or reviewed by any testifying expert who has been retained or designated by you in connection with the capacity of the Sunset Farms landfill or the November 1, 2015 closing date.

ANSWER:

REQUEST FOR PRODUCTION NO. 10:

Any and all correspondence between you and any of the following persons or entities regarding the closing date in the permit amendment application, the proposed expansion of the Sunset Farms landfill and/or the possible relocation of landfill operations by BFI:

- a) TCEQ;
- b) Texas Department of Transportation
- c) Texas Parks and Wildlife Department;
- d) United States Environmental Protection Agency (EPA);
- e) Capital Area Council of Governments (CAPCOG); and
- f) Any other party to this proceeding, including but not limited to Giles Holding, L.P.;

ANSWER:

REQUEST FOR PRODUCTION NO. 11:

Please produce any and all internal correspondence regarding capacity of the landfill, closure of the landfill, the November 1, 2015 closure date, or any plans for operation of a waste accepting landfill in Travis County after November 1, 2015.

ANSWER:**REQUEST FOR PRODUCTION NO. 12:**

Please produce all reports, studies, or other documents which have been produced in the last ten (10) years that describe, specify or estimate the future capacity of the landfill if the permit amendment is approved.

ANSWER:**REQUEST FOR PRODUCTION NO. 13:**

Please produce all reports, studies, or other documents that have been produced in the last ten (10) years that describe, specify or estimate the future capacity of the landfill if the permit amendment is not approved.

ANSWER:**REQUEST FOR PRODUCTION NO. 14:**

Please produce all documents or things related to the proposed November 1, 2015 closing date in the permit application that you intend to offer as evidence in the contested case hearing.

ANSWER:**REQUEST FOR PRODUCTION NO. 15:**

Please produce all documents or things you intend to use as demonstrative exhibits related to the proposed November 1, 2015 closing date in the permit application in the contested case hearing.

ANSWER:**REQUEST FOR PRODUCTION NO. 16:**

Please produce any and all studies or reports in your possession, custody or control that were prepared by or for BFI, the TCEQ, the EPA or the City of Austin pertaining to

closure of the Sunset Farms landfill or projected disposal capacity if the expansion application is either granted or denied.

ANSWER:

REQUEST FOR PRODUCTION NO. 17:

Please produce any environmental reports, assessments, surveys, or similar documents in your possession that have been performed by any person in connection with the closure of the Sunset Farms landfill in the past ten (10) years.

ANSWER:

REQUEST FOR PRODUCTION NO. 18:

Please produce any and all correspondence, reports, studies, or other documents relating to any search by BFI for alternative landfill sites in Travis or contiguous counties for use after the Sunset Farms landfill reaches capacity or closes.

ANSWER:

REQUEST FOR PRODUCTION NO. 19:

Please produce any and all documents not otherwise produced in response to the requests above that provide the basis for, or that are identified in your response to, any interrogatory from Travis County.

ANSWER:

TRAVIS COUNTY'S FIRST REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Admit or Deny that that BFI will cease all waste acceptance operations at the Sunset Farms landfill no later than November 1, 2015 if this expansion permit is granted.

ANSWER:

REQUEST FOR ADMISSION NO. 2:

Admit or Deny that that BFI will cease all waste acceptance operations at the Sunset Farms landfill no later than November 1, 2015 if this expansion permit is denied.

ANSWER:

REQUEST FOR ADMISSION NO. 3:

Admit or Deny that that BFI will seek to continue any waste acceptance operations at the Sunset Farms landfill past November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 4:

Admit or Deny that that BFI will cease to accept any waste or recycling at the Sunset Farms landfill no later than November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 5:

Admit or Deny that BFI intends to change its legal name or legal form of business before November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 6:

Admit or Deny that BFI intends apply to TCEQ under a different legal name or entity to extend the life of the Sunset Farms landfill beyond November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 7:

Admit or Deny that BFI's proposed expansion will increase its landfill capacity to an amount that would theoretically allow acceptance of waste at the Sunset Farms landfill beyond November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 8:

Admit or Deny that if the current application to amend BFI's permit is approved, November 1, 2015 is the date by which BFI is legally obligated to end solid waste acceptance at the Sunset Farms landfill.

ANSWER:

REQUEST FOR ADMISSION NO. 9:

Admit or Deny that CAPCOG conditionally approved Applicant's expansion of their Sunset Farms landfill if, among other things, BFI ceased waste acceptance at its Sunset Farms facility no later than November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 10:

Admit or Deny there is an agreement between BFI and CAPCOG to cease waste acceptance at the Sunset Farms landfill no later than November 1, 2015.

ANSWER:

REQUEST FOR ADMISSION NO. 11:

Admit or Deny that if BFI accepts waste at its Sunset Farms landfill on or after November 1, 2015, it will breach its agreement with CAPCOG.

ANSWER:

REQUEST FOR ADMISSION NO. 12:

Admit or Deny that BFI agreed with CAPCOG that solid waste acceptance at the Sunset Farms landfill will cease by November 1, 2015, and will not be resumed by BFI.

ANSWER:

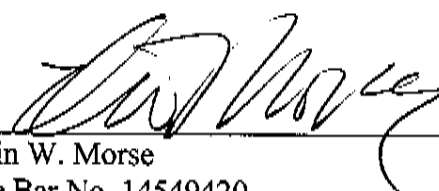
REQUEST FOR ADMISSION NO. 13:

Admit or Deny that BFI will cease landfill operations entirely in Travis County, Texas no later than November 1, 2015, with the exception of implementing the Closure and Post-Closure Care Plans for the Sunset Farms landfill.

ANSWER:

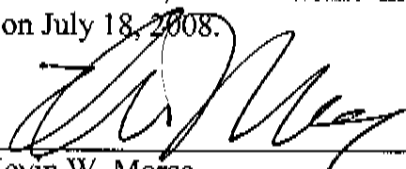
Respectfully Submitted,

DAVID A. ESCAMILLA
Travis County Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all attorneys of record included in the attached service list, via electronic mail delivery and/or certified mail, return receipt requested, on July 18, 2008.


Kevin W. Morse
Assistant County Attorney

MAILING LIST
BFI Waste Systems of North America, LLC
SOAH Docket No. 582-08-2178
TCEQ Docket No. 2007-1774-MSW
Permit No. 1447A

FOR THE APPLICANT

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Giles Holdings, L.P.

FOR THE EXECUTIVE DIRECTOR

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