

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 THE CITY OF AUSTIN**

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

Applicant BFI Waste Systems of North America, LLC serves its First Set of Interrogatories on the City of Austin pursuant to Rule 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 are continuing in character so as to require you to file supplemental answers if you obtain further or different information or locate additional responsive documents or things prior to trial.

Respectfully submitted,

By: 

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**ATTORNEYS FOR APPLICANT  
BFI WASTE SYSTEMS OF NORTH  
AMERICA, LLC**

**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 the City of Austin was served on the following counsel/parties of record by certified mail (return receipt requested), regular U.S. mail, facsimile transmission and/or hand-delivery and via e-mail on July 25, 2008:

**FOR THE CHIEF CLERK:**

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Paul G. Gosselink

## I. INSTRUCTIONS

1. Your answers to these interrogatories 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 interrogatories 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. 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.

## II. DEFINITIONS

1. "You," "your," "yours" and "City" refer to the City of Austin.
2. "Applicant" and "BFI" refers to applicant BFI Waste Systems of North America, LLC.
3. "CAPCOG" refers to the Capital Area Council of Governments.
4. "TCEQ" or "the Commission" refer to the Texas Commission on Environmental Quality.
5. "US EPA" refers to the United States Environmental Protection Agency.
6. The "Landfill" refers to the Sunset Farms Landfill located at the intersection of Giles Lane and Blue Goose Road approximately five miles east of the intersection of U.S. 290 and I.H. 35 in Travis County, Texas.
7. "Communications" and "correspondence" are used in their broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone, or by means of written, electronic or other medium.
8. "Describe" or "identify," when referring to a person, includes information regarding the person's full name; the present or last known address of the person; the present or last known residential and office telephone numbers of the person.
9. "Describe" or "identify," when referring to a document means information sufficient to discern the type (*e.g.*, letter, handwritten note) of document; the title of or heading on the

document; the date of the document; the identity of the author of the document; and the person or persons who have custody of the document.

10. "Document(s)" or "record(s)" means any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly concerns, in whole or in part, any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD's, digital photographs, e-mail, graphs, drawings, or any other data compilation from which information can be obtained. Any magnetic or electronic data should be produced in hard copy form.
11. "Relating," "referring," and "regarding" include, without limitation, embodying, mentioning, pertaining to, connected with, evidencing, or concerning, directly or indirectly, the subject matter identified.
12. "ETJ" means the extraterritorial jurisdiction of the City of Austin.

### **III. INTERROGATORIES**

1. Does the City contend that the draft permit requires any technical revisions or special conditions other than the special condition requiring closure by November 1, 2015 before it should be issued by the Commission? If so, please describe any and all such technical revisions or special conditions you contend should be made/included and provide the legal and factual basis or bases for your contention.

**Answer:**

2. If BFI's application for expansion of the Landfill and Waste Management's application for expansion of the nearby Austin Community Gardens facility were both denied for any reason, how long would the City have disposal capacity under its existing waste hauling and disposal contracts?

**Answer:**

3. Has the City entered into any contracts with BFI or any other entity to dispose of municipal solid waste in the Landfill within the last ten (10) years (whether such waste is generated by the City itself or by residents and businesses within its jurisdiction)? If so, please describe (by date, contracting parties, and general description of contract) each such contract.

**Answer:**

4. What negative impacts, if any, does the City allege the Landfill has caused the City (as opposed to any such impacts on the citizens/residents who live, work or attend school in the vicinity of the facility)?

**Answer:**

5. Is the Landfill located in any area designated by the City as the “Desired Development Zone”? If so, is the Landfill within the category of development that is prohibited within the Desired Development Zone, and if so, in what areas does the City contend landfills should be located in?

**Answer:**

6. Do you contend that either the existing Landfill or the proposed expansion of the Landfill fail to comply with any City ordinances or regulations (including but not limited to any municipal zoning or siting ordinances)? If so, please list the ordinances and/or regulations you contend that the Landfill does not comply with, and the dates that it was determined that the Landfill was not in compliance with such ordinances and regulations, and describe any report or other document that documents the alleged non-compliance.

**Answer:**

7. Do you contend that the Landfill violates or will violate (or is inconsistent with the provisions of) any of the following plans:

- a) the City’s Comprehensive Plan;
- b) any neighborhood plan;
- c) the City’s long range transportation plan;
- d) the City’s annexation plan;
- e) the City’s Great Streets Plan; or
- f) the City’s Urban Design Plan.

If your answer was anything other than a categorical “no” for any of the foregoing, please provide the provision of the plan that you contend the proposed expansion of the Landfill violates or will violate and the legal and factual bases for your contention.

**Answer:**

8. Describe what regulatory authority you contend the City has over the Landfill, the source of that authority, what steps, if any, you contend the City could take to increase that authority (*e.g.*, annexation), and the reasons(s) that the City has not taken those steps.

**Answer:**

9. Please identify (by name, address, job title and phone number) any and all persons who have conducted inspections of the Landfill on behalf of the City during the past ten (10) years. For each person, identify the date or dates the person conducted the investigation or inspection, the nature or purpose of the investigation or inspection (*e.g.*, regular visit, investigation of complaint, records review, etc.), and whether a written report or similar document exists documenting the inspection.

**Answer:**

10. Please identify (by date, name and address of complainant, and nature of complaint) any complaints you are aware of that have been made to the City by any person or entity during the past ten (10) years regarding the Landfill, the operation of the Landfill, or any event or condition associated with the Landfill.

**Answer:**

11. Does the City maintain site inspection/environmental compliance files or folders for the Landfill (or similar files or folders)? If so, please identify (by file or folder name or category, physical location of such files or folders, and name, job title and phone number of the custodian(s) of such files or folders) any and all such files or folders you maintain in connection with the Landfill. (This interrogatory specifically encompasses any "files" or "folders" that are maintained in electronic form.)

**Answer:**

12. Do you contend that the applicant's compliance history warrants denial of the application? If so, please identify all events, occurrences or conditions (including but not limited to any Areas of Concern, Notices of Violation (NOVs), Notices of Enforcement (NOEs), final orders or any other matters or items related to the applicant's compliance history) you contend should be considered as a basis for denial of the permit amendment application and the legal and factual bases for your contention.

**Answer:**

13. Do you contend that the Landfill or the expansion of the Landfill will cause flooding, erosion or sedimentation – either at the facility or off of the site? If so, please describe the location where you contend flooding, erosion or sedimentation will take place; the nature of any flooding, erosion or sedimentation you contend will occur; the cause of any

flooding, erosion or sedimentation you contend will take place at that location; the inadequacy of any flood, erosion or sediment control measures proposed in the application pertaining to any such location; and the legal and factual bases for your contention.

**Answer:**

14. Do you contend that the Landfill or the proposed expansion of the Landfill will adversely impact or affect groundwater in the area of the facility? If so, please describe the specific mechanism by which you believe that groundwater will become adversely affected and the legal and factual bases for your contention.

**Answer:**

15. Do you contend that the Landfill or the proposed expansion of the Landfill will adversely impact or affect surface water in the area of the facility? If so, please describe the specific mechanism by which you believe that surface water will become adversely affected and the legal and factual bases for your contention.

**Answer:**

16. Do you contend that the proposed Site Operating Plan (SOP) in the permit amendment application, or any provision within the proposed SOP, are inadequate in any way? If so, please identify the provision or provisions in the Site Operating Plan you contend are not adequate and provide the legal and factual bases for your contention(s).

**Answer:**

17. Do you contend that the proposed expansion of the Landfill will not be compatible with transportation, traffic or roadways? If so, please identify the transportation, traffic or roadway-related issues you contend the expansion will be incompatible with and state the legal and factual basis or bases for your contention.

**Answer:**

18. Do you contend that closure of the Landfill will result in a net reduction of waste haul trips in Travis County? (For the purpose of this interrogatory, a “waste haul trip in Travis County” means any portion of a trip made by a waste haul vehicle to or from an MSW landfill or transfer station for the purposes of handling, processing, disposing or recycling of waste.) If so, please state the legal and factual basis or bases for your contention.

**Answer:**

19. Do you contend that closure of the Landfill will result in a net reduction of waste haul vehicle miles driven in Travis County? If so, please state the legal and factual basis or bases for your contention.

**Answer:**

20. Do you contend that the application needs to propose any additional measures to control birds in and around the Landfill? If so, please describe any such measures and the basis for your contention that the application should propose such measures.

**Answer:**

21. Do you contend that BFI or any of its consultants made any incorrect or improper assumptions or calculations in its permit amendment application? If so, please identify (by Part/Attachment/Section/Subsection/Page Number) any assumption you contend was incorrect or improper and state the basis for your contention that the assumption was incorrect or improper.

**Answer:**

22. 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:**