

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

2008 SEP -8 AM 10: 40

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

TJFA, L.P.'s FIRST SUPPLEMENTAL RESPONSES TO BFI WASTE SYSTEMS OF NORTH AMERICA, LLC's FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, AND REQUESTS FOR ADMISSIONS

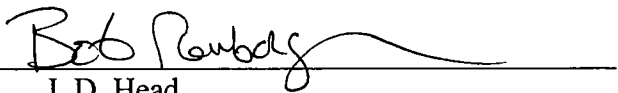
TO: BFI Waste Systems of North America, LLC, by and through its attorneys of record, Mr. Paul Gosselink and Mr. John E. Carlson, Lloyd, Gosselink, Rochelle & Townsend, P.C., 816 Congress Ave., Suite 1900, Austin, TX 78701

COMES NOW, TJFA, L.P. ("TJFA") and pursuant to Rules 190 - 198 of the TEX. R. CIV. P. and the Texas Commission on Environmental Quality ("TCEQ") discovery rules hereby supplements its responses to BFI Waste Systems of North America, LLC's First Set of Interrogatories, Requests for Production of Documents and Things, and Requests for Admissions. The filing of these supplemental responses is not to be construed as a waiver of any objections served contemporaneously herewith nor a waiver of any legal privileges claimed. To the extent that discovery is ongoing in this case, TJFA specifically reserves its rights to change or supplement any of its responses as recognized by the TEX. R. CIV. P. and relevant regulations.

COPY

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 5th day of September, 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, Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900
Austin, TX 78701
TEL: 512/322-5800
FAX: 512/472-0532
E-MAIL: pgosselink@lglawfirm.com
E-MAIL: 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
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
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
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
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
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
CITY OF AUSTIN

2008 SEP - 8 AM 10:40
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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

E-MAIL: mcarter@blackburncarter.com

**NORTHEAST NEIGHBORS COALITION;
MARK MCAFEE; MELANIE MCAFEE;
ROGER JOSEPH; DELMER D. ROGERS;
WILLIAMS, LTD.; and PIONEER FARMS**

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. TJFA objects to Instruction No. 1. TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.
2. TJFA objects to Definition No. 2 regarding "affiliate." Neither Texas Disposal Systems, Inc. nor Texas Disposal Systems Landfill, Inc. is a party to these proceedings and the information requested is not relevant nor reasonably calculated to lead to the discovery of admissible evidence.

OBJECTIONS AND SUPPLEMENTAL RESPONSES TO 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: J. D. Head
Fritz, Byrne, Head & Harrison, PLLC
98 San Jacinto Blvd., Suite 2000
Austin, TX 78701
TEL: 512/476-2020

Attorney for TJFA.

Bob Renbarger
Fritz, Byrne, Head & Harrison, PLLC
98 San Jacinto Blvd., Suite 2000
Austin, TX 78701
TEL: 512/476-2020

Attorney for TJFA.

Dennis Hobbs
P.O. Box 17126
Austin, TX 78760-7126
TEL: 512/421-1320

President of Garra de Aguila, Inc., TJFA's general partner.

2. Please provide the following information regarding your company as of the date of the jurisdictional hearing in this Contested Case Hearing (May 8, 2008): the names, titles and business addresses, phone numbers and e-mail addresses of any and all persons responsible for the management of your company; your physical office address or location (including any suite or office number); your physical mailing address; any post

office box mailing address used by your company; your company's main office telephone number; your main office facsimile number; and your company's website address.

Answer: Dennis Hobbs
P.O. Box 17126
Austin, TX 78760-7126
12200 Carl Rd.
Creedmoor, TX 78610
TEL: 512/421-1320
FAX: 512/243-4123
E-MAIL: dennis@tjfa-lp.com

TJFA has no company website address. Garra de Aguila, Inc. is the general partner of TJFA. Bob Gregory is a limited partner of TJFA. Dennis Hobbs is the director of Garra de Aguila, Inc. and president, vice president and secretary of Garra de Aguila, Inc.

3. Describe the nature of any legal, business or other relationships between TJFA, L.P. and each of the following persons or entities: Texas Disposal Systems, Inc., Texas Disposal Systems Landfill, Inc., Texas Landfill Management, LLC, Texas Organic Products, Garden-Ville, Garra de Aguila, Inc., Bob Gregory, Jim Gregory and Dennis Hobbs. This interrogatory specifically requests, but is not limited to, information regarding common ownership, management and control of any of the corporations, partnerships or entities listed.

Answer: TJFA objects to this interrogatory as it pertains to Texas Disposal Systems, Inc., Texas Disposal Systems Landfill, Inc., Texas Landfill Management, LLC, Texas Organic Product, Gardenville, and Jim Gregory inasmuch as these inquiries are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections:

Garra de Aguila, Inc. is the general partner of TJFA. Bob Gregory is a limited partner of TJFA. Dennis Hobbs is the director of Garra de Aguila, Inc. and president, vice president and secretary of Garra de Aguila, Inc.

In supplementation of its previous response, TJFA provides the following:

- a) Texas Disposal Systems, Inc. ("TDS") – TJFA has no legal or business relationship with this entity. TJFA conducts its business out of the same office building as TDS. TJFA's general partner (Garra de Aguila, Inc.) also conducts its business at this location and its president, vice president, secretary and sole director is Dennis Hobbs. Dennis Hobbs is also an employee of TDS and is its special projects director.

- b) Texas Disposal Systems Landfill, Inc. - TJFA has no legal or business relationship with this entity. TJFA conducts its business out of the same office building as TDSL. Dennis Hobbs is not an employee of TDSL nor does he have any managerial, operational or decision-making authority over TDSL.
- c) Texas Landfill Management, LLC – TJFA has no legal or business relationship with this entity. TJFA conducts its business out of the same office building as Texas Landfill Management, LLC. TJFA's general partner (Garra de Aguila, Inc.) also conducts its business at this location. Mr. Hobbs has no managerial, operational or decision-making authority over Texas Landfill Management, LLC.
- d) Texas Organic Products – TJFA has no legal or business relationship with this entity. Texas Organic Products is a dba of Texas Landfill Management, LLC and conducts its business out of the same office building as Texas Landfill Management, LLC.
- e) Garden-Ville - TJFA has no legal or business relationship with this entity. Garden-Ville is a dba of Texas Landfill Management, LLC and conducts its business out of the same office building as Texas Landfill Management, LLC.
- f) Jim Gregory. TJFA has no legal or business relationship with this person. Jim Gregory conducts his business out of the same office building as TDS. Jim Gregory is an officer, director and shareholder of TDS, TDSL and Texas Landfill Management, LLC.

In lieu of further response, TJFA shall produce a copy of a deposition taken in SOAH Docket No. 582-06-3321 on November 7, 2006 which provides detailed information regarding TJFA and its business relationships. Bob Gregory is the deponent as he was then serving in the capacity as president of Garra de Aguila, Inc., TJFA's general partner. Dennis Hobbs now serves in this capacity. This document will be produced at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

4. List (by street address, city and county, and deed information such as volume and page number of deed in official county records or property ID number) all properties you have owned, either in whole or in part, in the past five (5) years. For each property listed in your answer, state the date of purchase; the purchase amount; the total acreage of the tract, the present use or uses of the tract (*e.g.*, single-family residential, multi-family residential, commercial, industrial, agricultural, etc.), and the names and addresses of any persons or business who reside on or operate a business on the tract.

Answer:

TJFA objects to this interrogatory to the extent it seeks information on properties not located in the direct vicinity of BFI's Sunset Farms landfill inasmuch as such requests are overbroad, harassing and seek information not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA answers as follows: TJFA owns property at 5510 Blue Goose Road, Austin, Travis County, Texas. The deed volume and page number are Volume 11378, Page 166. The purchase date was November 19, 2004. The purchase amount was \$129,864.70. The total acreage is 11.27 acres. The property is used for grazing and the current lessee is Cecil Remmert. TJFA also owns property at 9900 Springdale Road, Austin, Travis County, Texas. The deed volume and page are Volume 820, Page 619. This property was purchased December 13, 2004 for an amount of \$133,628.36. The property comprises 5.67 acres and is for residential use. The lessee is Jeff Young.

In lieu of further response, TJFA will produce copies of deeds and other documents related to the location and acquisition of properties owned by TJFA in the State of Texas. TJFA will produce these documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

5. For each property listed in your answer to Interrogatory No. 4 above, state the proximity of the property to the closest landfill; the name of the landfill and its owner and operator; whether the landfill was the subject of planned expansion at any time since you purchased the property; whether you sought or obtained party status in any contested case hearings involving that landfill since you purchased the property; and the TCEQ and SOAH Docket numbers for any such contested case proceedings.

Answer:

TJFA restates its objections to Interrogatory No. 4. Subject to and without waiving the foregoing objection, the property on Blue Goose Road is located less than 100 feet from the BFI Sunset Farms landfill. The property on Springdale Road is located approximately 220 feet from the Waste Management Austin Community landfill. Both landfills were the subject of planned expansions at the time of purchase. TJFA has obtained party status in this proceeding and in SOAH Docket No. 582-08-2186 regarding Waste Management's Austin Community landfill application. All other properties are located within one mile of an existing landfill facility. TJFA has sought and been granted party status in landfill proceedings for facilities near its properties in Comal, Travis and Williamson Counties. TJFA did not seek party status nor protest the issuance of a permit application for Covell Gardens (Permit No. MSW 2093-B) issued on June 6, 2006 notwithstanding its ownership of property within one mile of such facility. In lieu of further response, TJFA will produce copies of deeds and other documents related to the location and

acquisition of properties owned by TJFA in the State of Texas. TJFA will produce these documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

6. As a real estate investment company, have you calculated the expected costs, benefits and rate of return for your challenge to the application and various potential outcomes in this proceeding (*e.g.*, permit granted, permit denied, special conditions imposed, etc.)? If so, provide the rate or rates of return you have calculated and how you calculated any such rate of return.?

Answer: TJFA objects to this interrogatory in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA also objects to this interrogatory as it requests confidential financial information of the type or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA has no responsive information to this interrogatory.

7. Do you contend that the application for the vertical expansion of the Landfill fails to satisfy any TCEQ regulation that governs such applications (including but not limited to the agency's "MSW rules" found at 30 TAC §330.1 *et seq.*)? For any such alleged deficiency, please specify the portion or portions of the application you contend are deficient; the regulation or regulations you contend have not been satisfied or met; and why you contend the application fails to satisfy or meet each such regulation.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the subject application fails to satisfy the TCEQ's pre-2006 MSW rules, including but not limited to those rules identified in the TCEQ's Interim Order dated February 29, 2008 which TJFA hereby incorporates by reference. TJFA has designated experts to review and evaluate BFI's application with respect to each of the 26 issues referenced in the Interim Order. The topics under review and TJFA's contentions have previously been identified in TJFA's response to Requests for Disclosure and Designation of Experts which TJFA incorporates by reference. Some of the preliminary reviews and subjects of TJFA's expert analyses have been previously provided in documents responsive to BFI's Requests for Production. These analyses are currently being revised and supplemented in anticipation of the filing of pre-filed testimony in these proceedings. TJFA's experts are evaluating the relevant issues and portions of the BFI application on the basis of their knowledge, training and experience as related to solid waste landfill designs, operations, anticipated impacts and the history of the BFI Sunset Farms landfill facility. The final opinions and issues to be presented for hearing will be

subject to review of discovery which is ongoing at this time. TJFA reserves the right to not pursue one or more of the 26 referred issues upon completion of its experts' analyses and completion of all discovery.

8. For each alleged deficiency you have identified in your answer to Interrogatory No. 7 immediately above, do you contend that the draft permit cannot be cured by a technical revision or special condition such that the permit should be issued by the TCEQ? Please include in your answer the reason or reason why you contend that the draft permit cannot be cured by a technical revision or special condition.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the draft permit cannot be cured by a technical revision or special condition issued by the TCEQ. The basis for this contention is TJFA's position that the subject application must be reviewed on its merits as it existed on the date of the Executive Director's Preliminary Decision and issuance of draft permit. TJFA further contends that the applicant has the burden of proof at a contested case hearing and its failure to prove up any required part of its application should result in denial of the permit or permit amendment, as the case may be. Applicants should not be entitled to amend, change or revise technical deficiencies in a final application nor should the TCEQ take such actions. The TCEQ should not consider the addition of special conditions to a permit if the end result of doing so is to enable an applicant to receive an authorization or approval wherein the applicant failed to meet its burden of proof. Subject to the foregoing, TJFA has not identified any deficiency in the draft permit that is or should be correctable by a technical revision of special permit provisions. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

9. Do you contend that the application contains any "fatal flaws" not listed in your answer to Interrogatory No. 7 above that warrant denial of the permit amendment for the vertical expansion of the Landfill? (For the purposes of this interrogatory, "fatal flaw" means any legal basis for denying the application.) If so, specify each fatal flaw you contend that the application contains; any statute, law, ordinance, regulation, guideline or standard you contain has not been met or satisfied; and the factual and legal bases for your contention that the alleged flaw is fatal to the application.

Answer: Subject to any order issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response by noting that it has no available information responsive to this interrogatory but reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

10. Do you contend that, for the purposes of siting and operating an MSW landfill, the soil and groundwater characteristics and conditions at the TDS landfill facility in Creedmoor are different from the soil and groundwater characteristics and conditions at the Sunset Farms Landfill? If your answer is anything other than a categorical "no," describe in detail the differences between the two sites –including but not limited to any geological, geotechnical, geophysical, lithological, stratigraphical, hydrogeological and permeability characteristics and conditions – with respect to the siting and operation of an MSW landfill.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that, for purposes of siting and operating a MSW landfill, the soil and groundwater characteristics are unique to the specific location of the proposed landfill, the landfill's design, the operating parameters governing the landfill's siting and operations, the impacts of existing and proposed future development of the site, the impacts of prior development, meteorological impacts, the technical quality of installed features of the landfill, the geological properties and availabilities of soils identified for specific uses, the erosional effects of surface water, the direction and rate of flow of groundwater, the depth of groundwater, the quality of groundwater and the proximity to other sources of pollution, among other things. TJFA contends that the unique characteristics of a given site and an existing landfill are such that comparisons of different landfills do not result in anything other than general observations and speculation which are of no probative value in a specific landfill proceeding. In further response to this request and upon information and belief, TDS' landfill is different and not comparable to BFI's landfill. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

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

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the landfill or the proposed expansion of the landfill will adversely impact groundwater and surface water. TJFA contends that there have been occurrences in the past that document impacts to groundwater (vis-à-vis data from BFI and other entity's detection of contaminants) and surface water run-off events affecting neighboring properties and downstream sediment-loading. TJFA contends that the vertical expansion of BFI's landfill will likely exacerbate the number and

severity of future incidents impacting groundwater and surface water. TJFA contends that the application fails to satisfy the TCEQ's pre-2006 MSW rules including, but not limited to, 30 T.A.C. §§ 330.55(b)(1), 330.56(f), 330.134 and 330.200 – .206 with respect to protection of groundwater and surface water. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

12. Do you contend that the existence of other municipal solid waste (MSW) facilities (whether existing or closed) adjacent to or nearby the Sunset Farms Landfill such as the Austin Community Landfill warrants denial of BFI's application? If so, please list any and all such facilities whose existence warrants denial of this application and the factual and legal bases for your contention that the application should be denied on such grounds.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the existence of Waste Management's Austin Community Landfill warrants denial of BFI's application or, in the alternative, supports a contention that both landfills should be subject to increased scrutiny due to their cumulative impacts. TJFA contends that both landfills cause or contribute to adverse effects on surface water and groundwater, odors, windblown waste, vectors and nuisance conditions in the immediate vicinity. TJFA contends that expansion of both landfills is not compatible with future land use. TJFA contends that adjoining landfills make the tasks of management of landfill gas and groundwater monitoring problematic as well as control and suppression of dust from such operations. Two operating and potentially expanding landfills further tax existing roadways and affect traffic-safety concerns of local property owners. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

13. Do you contend that the Landfill or the proposed expansion of the Landfill are inconsistent or incompatible with current or anticipated land uses or land use patterns in the vicinity of the facility? If so, describe the land uses or land use patterns you contend that the Landfill or proposed expansion is inconsistent or incompatible with and the legal and factual bases for your contention.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the landfill or the proposed expansion of the landfill is incompatible with current or future land use patterns in the vicinity of BFI's facility. TJFA's contention is based on information provided or developed by local governments and/or local government planning agencies. Upon information and belief, these entities include the City of

Austin, Travis County and the Capital Area Council of Governments. TJFA contends that the application fails to satisfy 30 T.A.C. § 330.53(b)(8) of the TCEQ's regulations. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

14. Do you contend that the Landfill or the proposed expansion of the Landfill are inconsistent or incompatible with any existing or planned roadways or traffic patterns in the vicinity of the facility? If so, describe the roadway(s) or traffic patterns you contend that the Landfill or proposed expansion is inconsistent or incompatible with and the legal and factual bases for your contention.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the landfill and the proposed expansion of the landfill are incompatible with the transportation requirements as set forth in 30 T.A.C. § 330.53(b)(9) of the TCEQ's regulations. TJFA further contends that the traffic study included in the application is dated and does not accurately consider future impacts of two proposed landfill expansions and other non-landfill related developments in the vicinity during the lifetime of the proposed expansion. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

15. 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: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that applicant's compliance history is poor and warrants denial of the expansion application. TJFA contends that BFI's compliance history, as depicted in Texas Health and Safety Code § 361.089, 30 T.A.C. § 305.66 and Chapter 60 of the TCEQ's rules fails to account for or consider the vast number of citizen complaints to not only the TCEQ but also the City of Austin and Travis County. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

16. 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: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the vertical expansion of BFI's landfill will likely cause flooding, erosion and sedimentation (both on and offsite). TJFA bases this contention on its view that the application discussions of drainage fail to meet 30 T.A.C. § 330.56(f)(A)(iv) and sound engineering practices, that the closure and post-closure plan fail to satisfy 30 T.A.C. §§ 330.56(f) and (m), that erosion control methods identified in the application and draft permit are inadequate, that the proposed design will result in increased erosion and runoff velocities, that detention ponds and wet ponds will not adequately be able to handle increased sedimentation with resulting offsite impacts, among other things. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

17. Do you contend that the application fails to adequately provide for slope stability? If so, please describe the specific portion or portions of the application (whether text, appendixes, drawings, charts or calculations) you contend are inadequate, incorrect or improper vis-à-vis slope stability and give the legal and factual bases for your contention that any such portions are inadequate, incorrect or improper.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the provisions for slope stability contained in the application are defective from regulatory and sound engineering bases. TJFA contends that the application fails to meet the demonstrations required in 30 T.A.C. §§ 330.55(b)(8) and 330.56(l). TJFA contends that the designs for the proposed vertical expansion fail to account for the factors leading up to major slope failures of other municipal solid waste landfills and soil-based, engineered designs for other earthen structures. TJFA contends that the slope stability is further impacted by inadequate closure and post-closure care plans, deficient erosion control measures and designs, inadequate geotechnical testing of available soils and incompatible construction designs between the existing and proposed expanded landfill. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

18. Do you contend that the application fails to provide for adequate financial assurance? If so, please describe the specific portion or portions of the application (whether text, appendixes, drawings, charts or calculations) you contend are inadequate, incorrect or improper vis-à-vis financial assurance and give the legal and factual bases for your contention that any such portions are inadequate, incorrect or improper.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the application fails to provide for adequate financial assurance, including those requirements set forth in 30 T.A.C. §§ 330.52(b)(11) and 330.281. TJFA bases this contention on disputed issues of fact related to the actual costs to address closure and post-closure of the proposed expanded landfill in the worst case scenario. TJFA contends that the worst case scenario fails to accurately document variables which, if considered, would drive up the financial assurance costs. TJFA is still reviewing the potential disputed costs and how they may or may not affect these computations. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

19. Do you contend that the application fails to adequately provide for the management of landfill gas? If so, please describe the specific portion or portions of the application (whether text, appendixes, drawings, charts or calculations) you contend are inadequate, incorrect or improper vis-à-vis landfill gas and management of landfill gas and give the legal and factual bases for your contention that any such portions are inadequate, incorrect or improper.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the application fails to address or provide for the proper management of landfill gas. TJFA asserts that the application fails to meet the regulatory requirements of 30 T.A.C. §§ 330.56(n) and 330.130. TJFA asserts that BFI's landfill gas management plan fails to adequately address the cumulative impacts and considerations presented by the existence of a common border with Waste Management's Austin Community Landfill, inadequate number and location of gas monitors and design features to address the capture and compatibility of landfill gas management systems between the existing facility and the proposed expanded facility. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

20. Do you contend that DEFICIENCIES IN THE ?Landfill's liner warrants denial of the proposed expansion? If so, please describe any deficiency or inadequacy you contend exists with the Landfill's liner; how this liner is materially different from the liners of the TDS landfill in Creedmoor, the Williamson County Landfill near Hutto, or any other

landfill in Texas that is situated in the Taylor or Ozan formations and does not have a geosynthetic or geocomposite liner system; why the liners of any such facilities are superior in terms of design, functionality or materials in your estimation to the Sunset Farms Landfill's liner; and give the legal and factual bases for your contentions.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that there are deficiencies in the design and operational features of the liner systems for the BFI landfill. TJFA does not contend that BFI's existing or proposed liner system is comparable to liner systems in other Texas landfills due to the multiple differences of each landfill's siting, design, historical and current operations, local site conditions, excavation depths, vertical height differences, variations in liner materials and soil, conditions of surface and subsurface soils overlying the relevant geological formation, depths to groundwater, heave and uplift considerations, waste deposition rates and qualities of disposal wastes, local meteorological conditions, prior expansions or modifications to the landfill, etc. TJFA contends that the liner proposed in BFI's application is further flawed due to compatibility and effectiveness considerations related to BFI's pre- and post-Subtitle D operations. TJFA contends that the application fails to satisfy the requirements of 30 T.A.C. §§ 330.200 – .206 in such regard and is therefore not protective of groundwater. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

21. Do you contend that the proposed expansion of the Landfill will cause or create a nuisance or nuisance condition? If so, please identify each such nuisance or nuisance condition you contend the expansion will cause or create; the proposed design feature, condition or activity at the site you contend will cause or contribute to a nuisance or nuisance condition; and state the legal and factual bases for your contention.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends the proposed landfill expansion will cause or create nuisance conditions in violation of 30 T.A.C. § 330.5(a)(2). TJFA bases this contention on past performance of the landfill operations that have resulted in releases of trash and windblown waste, dust, odors, increased vectors, altered natural drainage patterns resulting in flooding and impacts to surface waters, releases of contaminants into surrounding groundwater, adverse impacts to traffic and additional regulatory violations as cited by the TCEQ and its predecessor agencies. TJFA contends such violations constitute a nuisance per se and/or actionable nuisance conditions wherein there is a departure from legal requirements, permit provisions or that otherwise create untenable conditions related to BFI's landfill operations.

TJFA contends that the proposed expansion will substantially increase the vertical surface area and height of the landfill with attendant opportunities for the release of windblown trash and waste, dispersion of odors, dust and air contaminants. The proposed vertical expansion will further increase flooding risks and potential releases of contaminants to surface water and groundwater as more fully set forth in the supplemental response to Interrogatory No. 11. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

22. Do you contend that the application fails to adequately address control of landfill-related odors? If so, please identify the proposed design feature, condition or activity at the site you contend fails to adequately control landfill-related odors; the legal and factual bases for your contention; and what odor control measures, if any, you contend the applicant should or could implement in connection with the expansion to adequately control any such odors.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the application fails to adequately address control of landfill related odors. TJFA bases this contention on past odor problems associated with this landfill and the increased potential for dispersion of odors if the proposed vertical expansion is approved. TJFA contends the vertical expansion would significantly increase exposure of waste operations and increased surface areas with the resulting potential to create odors in the immediate vicinity. TJFA believes the provisions to address odors that are contained in the application are inadequate and fall short of the requirements of 30 T.A.C. §§ 330.125(b) and 330.133(a). TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

23. Do you contend that the proposed Site Operating Plan (SOP) in the application, or any provision in the proposed SOP, fails to meet TCEQ's regulatory requirements for site operations or is otherwise inadequate? If so, please identify each provision in the proposed SOP you contend fails to meet the TCEQ's regulatory requirements and/or are otherwise inadequate; the regulation or regulations you contend have not been met; and the legal and factual bases for your contention.

Answer: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that the proposed Site Operating Plan ("SOP") contained in the application is inadequate. TJFA contends that such SOP is not sufficient to adequately address a number of operational issues, including but not limited to, control of disease vectors, odors, spilled and windblown wastes, management of special wastes, prevention of disposal of

unauthorized wastes, dust control, maintenance of access roads, provisions for fire protection, creation and maintenance of buffer zones and landscape screening, erosion controls and maintenance of erosion prevention features, storage, treatment and management of contaminated water, site access control, unloading of waste, operating hours, control of waste hauling vehicles to prevent releases of waste materials along the route to the site, disposal of large or bulky items, endangered and threatened species protection, landfill gas controls, daily, intermediate and final cover and prevention of ponded water. TJFA contends that the SOP is insufficient to meet the requirements of 30 T.A.C. §§ 330.114, *et seq.* of Subchapter F of the TCEQ's pre-2006 MSW rules. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

24. Do you contend that the applicant or any of its engineers or 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: Subject to any orders issued by SOAH and without waiving its earlier objections, TJFA supplements its earlier response as follows:

TJFA contends that BFI and/or its engineers and consultants have made some improper assumptions and calculations in the subject permit amendment application. TJFA's experts are reviewing a number of assumptions and calculations and have not reached any final conclusions regarding such errors. Some of the types of questioned calculations include, but are not necessarily limited to, calculations concerning the available remaining waste disposal capacity of BFI's facility, its operating life and the duration of its operating life based on assumed rates of waste deposition, financial assurance calculations based on inaccurate cost assumptions, calculations for the amounts of suitable soils for facility use at the site, traffic assumptions for future impacts on transportation, slope stability calculations, drainage calculations and input assumptions for drainage models, sizing calculations for run-off control features and designs, volumes of contaminated water subject to disposal and/or management, rates of sedimentation in water control features, engineering assumptions and calculations related to vertical expansion designs over the existing landfill, among others. TJFA reserves its right to supplement this response upon completion of its experts' analyses and completion of discovery.

25. 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: This interrogatory is premature inasmuch as TJFA has not identified all persons it intends to call as a witness at the hearing on the merits. Please refer to TJFA's Responses to Requests for Disclosure and Expert Designations.

**SUPPLEMENTAL OBJECTIONS AND RESPONSES TO REQUESTS
FOR PRODUCTION OF DOCUMENTS AND THINGS**

1. Any organizational chart or charts portraying or describing:

- a) TJFA;
- b) Garra de Aguila, Inc.; and
- c) how TJFA is related to any entity owned or controlled by TDS, TDSL or Bob Gregory.

Answer: TJFA objects to this request on relevance grounds to the extent it seeks information regarding TDS or TDSL, who are not parties to this proceeding. Subject to and without waiving the foregoing objection, TJFA has no documents responsive to this request.

2. Deeds for any real property listed in your answer to Interrogatory No. 4 above.

Answer: TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

3. Any list, chart or spreadsheet that lists any real properties owned by you.

Answer: TJFA objects to this request in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence relating to any issues referred to the ALJ by the Commission. Subject to and without waiving the foregoing objection, TJFA has no documents responsive to this request.

4. Sales/purchase agreements or similar documents that reflect the date of purchase and purchase price of any real property listed in your answer to Interrogatory No. 4 above.

Answer: TJFA objects to the information sought in this request as it reflects confidential business or financial information of the type or character that is outside the scope of permissible discovery. Subject to and without waiving its objection, TJFA will produce responsive documents at the

offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

5. Appraisals of any real property listed in your answer to Interrogatory No. 4 above.

Answer: TJFA objects to this request in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA has no documents responsive to this request.

6. Documents that contain or reflect any cost/benefit analyses or rate of return calculations pertaining to your challenge of the application and/or the projected impact of your challenge on any real property owned by you.

Answer: TJFA objects to this request in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA further objects to this request as it seeks confidential business information of the type and character that is outside the scope of permissible discovery. Subject to and without waiving the foregoing objection, TJFA has no documents responsive to this request.

7. Your partnership agreement (plus any amendments thereto).

Answer: TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

8. Your certificate of formation.

Answer: TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

9. Your mission statement.

Answer: TJFA has no documents responsive to this request.

10. Documents that describe or reflect your business model, investment strategies and investment goals – including but not limited to your business plan (if any) and all such documents that pertain to investments in properties located near landfills.

Answer: TJFA objects to this request in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA further objects to this request as it seeks confidential business information of the type and character that is outside the scope of permissible discovery. Subject to and without waiving the foregoing

objection and in lieu of further response, TJFA shall produce a copy of a deposition taken in SOAH Docket No. 582-06-3321 on November 7, 2006 which provides detailed information regarding TJFA and its business relationships. Bob Gregory is the deponent as he was then serving in the capacity as president of Garra de Aguila, Inc., TJFA's general partner. Dennis Hobbs now serves in this capacity. This document will be produced at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

11. Any comments and requests for hearing made by or on behalf of TJFA in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

12. Any proposals for decisions and final orders issued in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above.

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

13. Copies of any deposition transcripts for any depositions that were taken of any TJFA representative or employee in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above.

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to its objections and without waiving the foregoing objections, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

14. Copies of any deposition transcripts for any depositions that were taken of any testifying or consulting expert witness retained by TJFA in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above.

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to its objections and without waiving the foregoing objections, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

15. Copies of any expert witness reports produced by any testifying or consulting expert witness retained by TJFA in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above.

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to its objections and without waiving the foregoing objections, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

16. Transcripts of the hearing on the merits in any contested case hearing referenced or described in your answer to Interrogatory No. 5 above.

Answer: TJFA objects to this request to the extent it seeks documents related to any other landfill than BFI Sunset Farms facility in that it seeks the production of documents that are not relevant and not reasonably calculated to lead to discovery of admissible evidence. Subject to its objections and without waiving the foregoing objections, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

17. Copies of any expert reports or transcripts of any deposition or hearings involving TDSL's landfill permit in which that site and facility are compared or contrasted in any way to the Sunset Farms site or facility.

Answer: TJFA objects in that the requested information is not relevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objection, TJFA has no responsive documents.

18. Any and all correspondence (including e-mails and attachments thereto) between you or your representatives and employees on the one hand and any of the following persons or entities on the other hand 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:

- 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) Travis County or the City of Austin (or any department, board or commission of either);
- h) Capital Area Council of Governments (CAPCOG);
- i) any federal, state or local elected official;
- j) any other party to this proceeding;
- k) any business competitor of the Applicant or Allied Waste/BFI (including but not limited to TDS, TDSL and Waste Management);
- l) Bob Gregory, Jim Gregory or Dennis Hobbs;
- m) Pierce Chandler or Bob Kier;
- n) Texas Campaign for the Environment;
- o) the Sierra Club (including but not limited to its Lone Star Chapter);
- p) Save Our Springs;
- q) Joyce Best;
- r) Trek English;
- s) Bluebonnet Elementary School or its administrators;
- t) any neighborhood association for any neighborhood in the vicinity of the Landfill;
or
- u) any daily or weekly newspaper (including but not limited to the Austin American-Statesman and the Austin Chronicle).

Answer: TJFA objects to this request as burdensome and harassing. Subject to its previous privilege objections and without waiving the foregoing objections, and further consistent with any SOAH order regarding same, TJFA will produce responsive documents, to the extent that same exist, at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

19. Any and all internal TJFA 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:

Answer: TJFA has no documents responsive to this request.

20. Any and all documents reflecting or referring to any and all citizen complaints that were made by anyone to the State of Texas (or any of its agencies), the federal government (or any of its agencies), Travis County or the City of Austin in connection with the Landfill or its operation 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 complaint made more than ten years ago for any purpose in this case, please produce copies of documents reflecting or referring to any and all such complaints.)

Answer: TJFA objects to this request as burdensome and harassing. Moreover, the documents requested are obtainable from some other source that is more convenient, less burdensome or less expensive. Subject to the foregoing objection and without waiving such objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

21. Any and all studies, analyses or reports in your possession, custody or control that were prepared by or for you, TDS, TDSL, Bob Gregory, any entity owned or controlled by TDS or Bob Gregory, TCEQ, EPA, Travis County or any other party pertaining to the Landfill, its operation, the proposed expansion of the Landfill, closure of the Landfill, or the City's projected disposal capacity if the expansion application is either granted or denied.

Answer: TJFA objects to this request as it relates to TDS, TDSL, Bob Gregory or any entity owned or controlled by TDS or Bob Gregory. TDS and TDSL are not parties to this proceeding. TJFA further objects to this request to the extent that it seeks confidential business information that the ALJ has ruled will not be subject to discovery. Subject to the foregoing objections and without waiving such objections, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

22. Any and all studies, analyses or reports in your possession, custody or control or constructive possession, custody or control that compare or contrast any aspect of the location, design or operation of the TDSL landfill in Creedmoor with any of the following MSW landfills:

- a) the Sunset Farms Landfill;
- b) the Austin Community Landfill in Travis County; or
- c) the Williamson County landfill in Williamson County (near Hutto).

Answer: TJFA objects to this request as seeking documents not relevant nor reasonably calculated to lead to the discovery of admissible evidence. The TDSL landfill is not the subject of this proceeding. Subject to and without waiving the foregoing objection, TJFA has no responsive documents to this request.

23. Any photos and videos of the Landfill or the areas surrounding the Landfill (including roadways within two miles of the landfill) taken by you, that you have provided to any expert, or that you intend to use as a demonstrative exhibit offer as evidence in this Contested Case Hearing.

Answer: TJFA has no documents responsive to this request.

24. Any photos and videos of the Landfill or the areas surrounding the Landfill (including roadways within two miles of the landfill) that have been provided to you by any of the persons or entities listed in RFP No. 18 above.

Answer: Other than the documents included in the application, TJFA has no documents responsive to this request.

25. Any groundwater or surface water samples – or any reports of same – for any groundwater or surface water collected within one (1) mile of the Landfill. (This request specifically includes but is not limited to any such samples or reports relating to the Applied Materials property that is in your possession, custody or control.)

Answer: TJFA objects to this request as burdensome and harassing. Moreover, the documents requested are obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

26. Any and all documents reviewed or prepared by you in connection with the proposed expansion of the Landfill (other than attorney-client privileged documents) or planned expansion of the Austin Community Landfill that is located immediately to the south of the Landfill

Answer: TJFA objects to this request as it relates to Austin Community landfill in that the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA will produce responsive documents related to BFI's landfill at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time. With respect to documents related to the

Austin Community landfill, TJFA will produce responsive documents at the offices Birch, Becker & Moorman, L.L.P., 7000 N. Mopac Expy, Austin, Texas 78731 at a mutually agreeable time.

27. Any and all studies or reports that were prepared by or for TJFA, TDS, TDSL, Bob Gregory, any entity owned or controlled by TDS or Bob Gregory, TCEQ, US EPA, Travis County, the City, or any other party pertaining to the Landfill or its operation or the Austin Community Landfill and its operation.

Answer: TJFA objects to this request insofar as it requests studies or reports prepared for TDS, TDSL or any entity owned or controlled by TDS or Bob Gregory. Moreover, TJFA objects to this request to the extent it seeks information regarding the Austin Community landfill inasmuch as such information is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA will produce responsive documents related to BFI's landfill at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time. With respect to documents related to the Austin Community landfill, TJFA will produce responsive documents at the offices Birch, Becker & Moorman, L.L.P., 7000 N. Mopac Expy, Austin, Texas 78731 at a mutually agreeable time.

28. All reports, studies, analyses or similar documents showing that the Landfill or the Austin Community Landfill have adversely impacted land development, property use or land use within five (5) miles of the Landfill or that the Landfill or the Austin Community Landfill are otherwise incompatible with surrounding land uses.

Answer: TJFA objects to this request insofar as it requests documents related to the Austin Community landfill inasmuch as such information is not relevant nor reasonably calculated to lead to the admission of admissible evidence in this proceeding. Subject to and without waiving the foregoing objection, TJFA will produce responsive documents related to BFI's landfill at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time. With respect to documents related to the Austin Community landfill, TJFA will produce responsive documents at the offices Birch, Becker & Moorman, L.L.P., 7000 N. Mopac Expy, Austin, Texas 78731 at a mutually agreeable time.

29. Any reports, studies, master growth plans, regional or area growth plans (whether or not so named), photographs, diagrams, charts and graphs that discuss growth trends of the area in the vicinity of the Landfill and/or of the City of Austin in general.

Answer: Other than materials contained in BFI's application, TJFA has no documents responsive to this request.

30. All studies, reports, documents or correspondence discussing any impact of the Landfill or the Austin Community Landfill on area growth trends that have been generated or produced in the last ten (10) years.

Answer: TJFA objects to this request insofar as it requests information regarding Austin Community landfill inasmuch as such request is not relevant and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA will produce responsive documents related to BFI's landfill at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time. With respect to documents related to the Austin Community landfill, TJFA will produce responsive documents at the offices Birch, Becker & Moorman, L.L.P., 7000 N. Mopac Expy, Austin, Texas 78731 at a mutually agreeable time.

31. Copies of any ordinances or regulations restricting, allowing or addressing the siting of landfills within Travis County, the City of Austin, or the City's ETJ.

Answer: TJFA objects to this request as burdensome and harassing. Moreover, the information sought is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA has no responsive documents.

32. All reports, studies, presentations (Power Point type or otherwise) or other similar documents which have been generated or produced in the last ten (10) years specifying, describing or estimating the future landfill disposal or capacity needs of the City of Austin, Travis County and/or Central Texas.

Answer: TJFA objects to the extent that this request seeks confidential business information that the ALJ has ruled is outside the scope of permissible discovery. TJFA further objects to this request as the information sought is unduly burdensome and harassing. Subject to and without waiving the foregoing objections, TJFA will provide responsive documents to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

33. All reports, correspondence or similar documents describing inspections of the Landfill by TCEQ, Travis County or the City of Austin or its contractors, including but not limited to:

a) inspections carried out during the construction of all projects associated with the site;

- b) inspections by City of Austin's Watershed Protection department during routine inspections, and
- c) complaint-driven inspections performed by TCEQ, Travis County or the City of Austin.

Answer: TJFA objects to this request inasmuch as discovery sought is unreasonably cumulative or duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce responsive documents at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

34. Records of all complaints made to TCEQ, Travis County or the City of Austin regarding the Landfill or its operation during the past ten (10) years, and all responses from the TCEQ, Travis County or the City regarding such complaints.

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

35. All documentation regarding any violation by the Landfill of any federal, state or local groundwater, surface water or air emission pollution standard (for any constituent).

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

36. Any and all documents which identify, characterize or otherwise reflect, refer or relate to the quality of groundwater under the Landfill or under any property that is located within one (1) mile of the Landfill's permit boundary.

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz,

Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

37. 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) under the Landfill or under any property that is located within one (1) mile of the Landfill's permit boundary.

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

38. Any groundwater models, animations or simulations (whether computerized or not) of groundwater located at the Sunset Farms Landfill or within one (1) mile of the Landfill's permit boundary.

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

39. Any documentation of any operational noncompliance with applicable permits that has occurred at the Landfill within the last ten (10) years.

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

40. 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 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.)

Answer: TJFA objects to this request inasmuch as the discovery sought is unreasonably cumulative and duplicative and is obtainable from some other source that is more convenient, less burdensome and less expensive. Subject to and without waiving the foregoing objection, TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

41. Any models, simulations or visualizations showing the Landfill at its projected elevation if the vertical expansion is shown.

Answer: TJFA has no documents responsive to this request.

42. Any and all traffic or transportation projections, surveys, plans or counts you contend are applicable to the Landfill and the proposed expansion.

Answer: TJFA has no documents responsive to this request.

43. 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;

Answer: TJFA will produce documents responsive to this request at the offices of Fritz, Byrne, Head & Harrison, PLLC, located at 98 San Jacinto Blvd., Suite 2000, Austin, Texas 78701 at a mutually agreeable time.

44. All documents or things you intend to offer as evidence at the contested case hearing.

Answer: TJFA objects to this request in that it is premature and TJFA has not, at this time, determined documents and things intended to offer as evidence in the contested case hearing. Moreover, under the Texas Rules of Civil Procedure (“TRCP”), there is no requirement to provide demonstrative exhibits in the absence of a court or SOAH order.

45. All documents or things you intend to use as demonstrative exhibits at the contested case hearing.

Answer: TJFA objects to this request in that it is premature and TJFA has not determined all documents and things it intends to use as demonstrative evidence at the contested case hearing. Moreover, under the TRCP, there is no requirement to provide demonstrative exhibits in the absence of a court or SOAH order.

SUPPLEMENTAL OBJECTIONS AND RESPONSES TO REQUESTS FOR ADMISSIONS

1. Texas Disposal Systems (TDS) is a waste services company that does business in Central Texas.

Answer: TJFA objects to this request. TDS is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

2. TDS is a competitor of BFI's in the Central Texas market.

Answer: TJFA objects to this request. TDS is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as

discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

3. Bob Gregory is the President of TDS.

Answer: TJFA objects to this request. TDS is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

4. Bob Gregory has an ownership interest in TDS.

Answer: TJFA objects to this request. TDS is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

5. TDSL owns a landfill in Travis County.

Answer: TJFA objects to this request. TDSL is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

6. TDSL's landfill competes with the Sunset Farms Landfill in the waste disposal business.

Answer: TJFA objects to this request. TDSL is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

7. Bob Gregory is the President of TDSL.

Answer: TJFA objects to this request. TDSL is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject

to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

8. Bob Gregory has an ownership interest in TDSL.

Answer: TJFA objects to this request. TDSL is not a party to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

9. Garra de Aguila, Inc. is the general partner of TJFA.

Answer: Admit.

10. Bob Gregory is the President of Garra de Aguila, Inc.

Answer: Deny.

11. Dennis Hobbs is an officer or director of Garra de Aguila, Inc.

Answer: Admit.

12. Dennis Hobbs is an employee of TDS or TDSL.

Answer: TJFA objects to this request. TDS and TDSL are not parties to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits that Dennis Hobbs is an employee of TDS only.

13. Bob Gregory has a direct ownership interest in Garra de Aguila, Inc.

Answer: Admit.

14. Bob Gregory has an indirect ownership interest in Garra de Aguila, Inc.

Answer: Deny.

15. Bob Gregory is a limited partner of TJFA.

Answer: Admit.

16. Bob Gregory is the only limited partner of TJFA.

Answer: Admit.

17. Dennis Hobbs is the President of TJFA.

Answer: Deny.

18. Dennis Hobbs is an officer or director of TJFA.

Answer: Deny.

19. TJFA has no full-time employees of its own.

Answer: Admit.

20. TJFA has no separate office of its own.

Answer: Admit.

21. TJFA shares office space with TDS, TDSL or affiliates of TDS and TDSL.

Answer: TJFA objects to this request. TDS and TDSL are not parties to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits its business office is located in the same building as the business offices of TDS and TDSL.

22. TJFA has no separate phone line of its own.

Answer: Admit.

23. TJFA has no separate fax line of its own.

Answer: Admit.

24. TJFA shares phone and fax lines with TDS, TDSL or affiliates of TDS or TDSL.

Answer: TJFA objects to this request. TDS and TDSL are not parties to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits that it has no independent phone lines for its business and does utilize phone lines, from time-to-time, that are also listed for TDS.

25. TJFA has no separate e-mail addresses or accounts.

Answer: Deny.

26. To the extent that they use e-mail to conduct TJFA business, TJFA's representatives use

e-mail addresses associated with TDS, TDSL or affiliates of TDS or TDSL.

Answer: TJFA objects to this request. TDS and TDSL are not parties to this proceeding and the information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits that it has its own e-mail to conduct business. Any use of e-mail addresses associated with TDS, TDSL for TJFA's business is inadvertent or unintentional.

27. TJFA shares a post office box number (P.O. Box 17126, Austin, TX 78760) with TDS, TDSL and Garra de Aguila, Inc.

Answer: TJFA objects to this request to the extent it seeks information regarding non-parties. The information sought regarding non-parties is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. TJFA admits it shares a post office box with Garra de Aguila, Inc., TDS and TDSL.

28. TJFA receives funding from TDS, TDSL or affiliates of TDS or TDSL.

Answer: TJFA objects insofar as this request seeks information with regard to non-parties. TJFA further objects in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA denies.

29. TJFA wants BFI's application to expand the Sunset Farms Landfill to be denied.

Answer: Admit, as the permit amendment is now proposed.

30. Denial of the expansion permit for the Sunset Farms Landfill would likely result in increased volume of waste for disposal at the TDSL landfill.

Answer: TJFA objects to this request inasmuch as it seeks information regarding non-parties to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

31. Denial of the expansion permit for the Sunset Farms Landfill would likely result in increased profits for TDSL.

Answer: TJFA objects to this request inasmuch as it seeks information regarding non-parties to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

32. It is in TDSL's economic interest that BFI's application be denied.

Answer: TJFA objects to this request inasmuch as it seeks information regarding non-parties to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

33. It is in TDS's economic interest that BFI's application be denied.

Answer: TJFA objects to this request inasmuch as it seeks information regarding non-parties to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

34. It is in Bob Gregory's economic interest that BFI's application be denied.

Answer: TJFA objects to this request. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

35. TJFA purchased a tract of land within one mile of the Sunset Farms Landfill in 2004 (the 5510 Blue Goose Road tract).

Answer: Admit.

36. TJFA purchased the 5510 Blue Goose Road tract so that TJFA could qualify as an affected person or party in connection with BFI's application.

Answer: Deny.

37. TJFA purchased a tract of land within one mile of the Austin Community Landfill in 2004 (the 9900 Springdale Road tract).

Answer: TJFA objects to this request inasmuch as it seeks information regarding the Austin Community landfill. The requested information is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits it owns the property at 9900 Springdale Road and that it is also located within one mile of the landfill owned by BFI and Giles Holdings.

38. The Austin Community Landfill is operated by a business competitor of TDS and TDSL's.

Answer: TJFA objects to this request. TDS and TDSL are not parties to this proceeding and this proceeding does not involve Austin Community landfill. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

39. TJFA has sought affected person or party status in a contested case hearing involving the

expansion of the Austin Community Landfill.

Answer: TJFA objects to this request inasmuch as Austin Community landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits.

40. It is in TDSL's economic interest that the application for the expansion of the Austin Community Landfill be denied.

Answer: TJFA objects to this request. TDSL is not a party to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

41. It is in TDS's economic interest that the application for the expansion of the Austin Community Landfill be denied.

Answer: TJFA objects to this request. TDS is not a party to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny.

42. TJFA purchased a tract of land within one mile of the Williamson County Landfill.

Answer: TJFA objects to this request. The Williamson County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits.

43. The Williamson County Landfill is operated by a business competitor of TDS and

TDSL's.

Answer: TJFA objects to this request. The Williamson County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA contends that the referenced landfill is operated by Williamson County. Williamson County is not a business competitor of TDS or TDSL, therefore TJFA denies.

44. TJFA sought affected person or party status in a contested case hearing involving the expansion of the Williamson County Landfill.

Answer: TJFA objects to this request. The Williamson County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits.

45. TJFA purchased a tract of land within one mile of the Comal County Landfill.

Answer: TJFA objects to this request inasmuch as Comal County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits.

46. The Comal County Landfill is operated by a business competitor of TDS and TDSL's.

Answer: TJFA objects to this request inasmuch as Comal County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* Subject to and without waiving the foregoing objections, and upon information and belief, TJFA admits.

47. TJFA sought affected person or party status in a contested case hearing involving the expansion of the Comal County Landfill.

Answer: TJFA objects to this request inasmuch as Comal County landfill is not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits.

48. Denial of the expansion permit for the Sunset Farms Landfill would have significantly greater impact on the profitability of TDSL than it will on the value of TJFA's land near the Landfill.

Answer: TJFA objects to this request in that TDSL is not a party to this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is an improper request as discovery on third parties is governed by TRCP § 205.1, *et seq.* TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny. Further, the ALJ in this proceeding has ruled that the impact of the landfill and the proposed expansion on the value of real property or its impact on the value of any business is not relevant to any issue that has been referred to contested case hearing and, thus, no party will be allowed to present such evidence.

49. Any increase in the value of the 5510 Blue Goose Road tract arising from denial of the expansion permit for the Sunset Farms Landfill would likely be less than the costs to TJFA of participating in this contested case hearing.

Answer: TJFA cannot admit or deny based on available information or knowledge. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny. TJFA does not know the future value of its land under different scenarios. Also, TJFA does not know the full cost of participating in this contested case hearing. TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny. Further, the ALJ in this proceeding has ruled that the impact of the landfill and the proposed expansion on the value of real property or its impact on the value of any business is not relevant to any issue that has been referred to contested case hearing and, thus, no party will be allowed to present such evidence.

50. Any increase in the value of TJFA's property arising from denial of the expansion permit for the Sunset Farms Landfill would likely be less than the costs to TJFA of participating in this contested case hearing.

Answer: TJFA cannot admit or deny based on available information or knowledge. A reasonable inquiry was made but the information known or easily

attainable is insufficient to enable TJFA to admit or deny. TJFA does not know the future value of its land under different scenarios. Also, TJFA does not know the full cost of participating in this contested case hearing. TJFA further objects to the extent that this request seeks financial information of the kind or character not within the permissible scope of discovery. Subject to and without waiving the foregoing objections, TJFA cannot admit or deny based on available information or knowledge and based upon the uncertainty surrounding the approval of other permits, permit amendments and other options for waste processing and disposal in Central Texas. A reasonable inquiry was made but the information known or easily attainable is insufficient to enable TJFA to admit or deny. Further, the ALJ in this proceeding has ruled that the impact of the landfill and the proposed expansion on the value of real property or its impact on the value of any business is not relevant to any issue that has been referred to contested case hearing and, thus, no party will be allowed to present such evidence.

51. TJFA is a real estate investment company.

Answer: Admit.

52. TJFA has never turned a profit in any calendar year.

Answer: TJFA objects in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA further objects to the extent that this request seeks confidential financial information of the kind and character not within the permissible scope of discovery.

53. TJFA stands for "Texas Justice for All."

Answer: Deny.

54. Garra de Aguila, Inc. is a holding company.

Answer: Deny.

55. Garra de Aguila, Inc. has never turned a profit in any calendar year.

Answer: TJFA objects to this interrogatory in that it requests information that is not relevant nor reasonably calculated to lead to discovery of admissible evidence. TJFA further objects to the extent that this request seeks confidential financial information of the kind and character not within the permissible scope of discovery.

56. TJFA and its affiliates have coordinated opposition to BFI's application with the Texas Campaign for the Environment.

Answer: TJFA objects to this inquiry inasmuch as Applicant's definition of affiliates includes entities that are not parties to this proceeding and the information sought with regard to affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA denies.

57. TJFA and its affiliates have coordinated opposition to BFI's application with neighborhood associations of neighborhoods in the vicinity of the Sunset Farms Landfill.

Answer: TJFA objects to this inquiry inasmuch as Applicant's definition of affiliates includes entities that are not parties to this proceeding and the information sought with regard to affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA admits, through its attorneys, it is coordinating with counsel for party protestants.

58. TJFA and its affiliates have coordinated opposition to expansions of landfills other than the Sunset Farms Landfill with Texas Campaign for the Environment.

Answer: TJFA objects to this request inasmuch as it seeks information regarding landfills and a party not the subject of this proceeding. The information sought is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. TJFA further objects to any inquiry regarding its affiliates inasmuch as any affiliates are not parties to this proceeding and the information sought with regard to any affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, TJFA admits that it and Texas Campaign for the Environment have opposed landfill expansions in Comal, Travis and Williamson Counties. For further explanation of its response, TJFA denies it coordinated the opposition to other landfill expansions with Texas Campaign for the Environment.

59. TJFA and its affiliates have made efforts to discourage the development of a landfill by the City of Austin in Webberville.

Answer: TJFA objects to this inquiry inasmuch as Applicant's definition of affiliates includes entities that are not parties to this proceeding and the information sought with regard to affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA denies.

60. Representatives of TJFA and its affiliates have met privately with one or more Travis County officials (whether county judge or county commissioners or management-level staff) to discuss BFI's application.

Answer: TJFA objects to this inquiry inasmuch as Applicant's definition of affiliates includes entities that are not parties to this proceeding and the

information sought with regard to affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA admits.

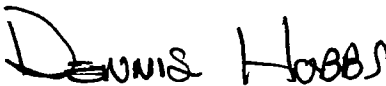
61. Representatives of TJFA and its affiliates have met privately with one or more City of Austin officials (whether mayor or city council members or management-level staff) to discuss the Sunset Farms application.

Answer: TJFA objects to this inquiry inasmuch as Applicant's definition of affiliates includes entities that are not parties to this proceeding and the information sought with regard to affiliates is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, TJFA denies.

VERIFICATION


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority in and for said county and state, personally appeared Dennis Hobbs, as the duly authorized representative of TJFA, L.P., who is known to me, to be the person whose name is subscribed below, who, after being duly sworn by me, upon oath deposed and stated that he has read the above and foregoing First Supplemental Responses to BFI Waste Systems of North America, LLC's First Set of Interrogatories, and that all information and statements contained herein are within his own personal knowledge or are derived from TJFA, L.P.'s business records or other reliable sources and are true and correct.



Dennis Hobbs

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this 5th day of September, 2008.



Notary Public in and for
the State of Texas

