

November 21, 2008

Via Facsimile

Judge William E. Newchurch
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701

Re: SOAH Docket No. 582-08-2178; TCEQ Docket No. 2007-1774-MSW
Permit Amendment Application of BFI Waste Systems of North America, LLC
MSW Permit No. 1447A

Dear Judge Newchurch:

Enclosed for filing is an original and one copy of Applicant BFI Waste Systems Of North America, LLC's Motion to Compel in the above referenced matter.

Should you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Respectfully submitted,



Paul Gosselink

Enclosures

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

**IN RE THE APPLICATION OF BFI WASTE § BEFORE THE
SYSTEMS OF NORTH AMERICA, LLC § STATE OFFICE OF
PERMIT NO. MSW-1447A § ADMINISTRATIVE HEARINGS**

**APPLICANT BFI WASTE SYSTEMS OF NORTH AMERICA, LLC'S
MOTION TO COMPEL**

Applicant BFI WASTE SYSTEMS OF NORTH AMERICA, LLC (BFI) files this motion to compel, respectfully showing:

I. INTRODUCTION

Texas Disposal Systems, Inc. (TDS), Texas Disposal Systems Landfill, Inc. (TDSL) and their majority owner, Bob Gregory, are very closely connected to TJFA. At least two of TJFA's testifying experts in this case, Pierce Chandler (an engineer) and Bob Kier (a geologist), do work at and for TDSL's landfill in Creedmoor in southern Travis County. The TDSL landfill is situated in soils that are starkly similar to those at the Sunset Farms site. BFI intends to examine TJFA's experts – both at deposition and, when appropriate, at the hearing on the merits – regarding the similarities and any alleged differences between the two sites. The solid waste permit and related documents for the TDSL facility in Creedmoor are public documents that should be available for inspection and copying at TCEQ – but for some reason are not. TJFA refuses to voluntarily produce copies of these documents to BFI. Accordingly, BFI moves to compel production of these documents prior to the upcoming depositions of TJFA's expert witnesses. BFI will pay for the copying costs.

II. ARGUMENT AND AUTHORITIES

TJFA, TDS, TDSL and Bob Gregory

TJFA claims to be a “real estate investment company.” HOBBS DEPO TR., Exhibit A, at 70. It sought and obtained party status in the proceeding based on its ownership of a property it purchased near Sunset Farms in December 2004 shortly before BFI filed its permit application (and after it was common knowledge that BFI was planning on seeking this permit amendment). TJFA is *exceedingly* closely related to two direct competitors of BFI in the Central Texas marketplace, TDS (a waste hauling company) and TDSL (a landfill), as well as their majority owner, Bob Gregory. Indeed, BFI’s deposition of TJFA’s designated corporate representative, Dennis Hobbs, last month demonstrates the following:

- TJFA is a Texas limited partnership that was formed in November 2004. *Id.* at 26. Its sole limited partner is Bob Gregory, who owns a 99% interest in the partnership. *Id.* at 26-27. Garra de Aguila, Inc. is TJFA’s managing general partnership. *Id.* at 28 & 66. Bob Gregory owns 100% of Garra de Aguila’s stock, and thus owns a 100% beneficial interest in TJFA. *Id.* at 36-37.
- Bob Gregory was Garra de Aguila’s sole director until shortly before the preliminary hearing in this case earlier this year. *Id.* at 46-48. At that time, he was replaced by Mr. Hobbs, whose primary employment is as “Director of Special Projects” for TDS. *Id.* at 35-37.
- TJFA does not have an office or employees of its own, and never has. *Id.* at 29-31. It shares a common physical address, mailing address, phone number and fax number with TDS and TDSL. *Id.* at 29-31 & 53.
- Mr. Hobbs uses the same desk, computer and phone to conduct his TDS and TJFA business. *Id.* at 31. He does not have a separate TJFA business card. *Id.* at 31.
- TJFA’s hearing request in this proceeding was sent from TDS’s fax machine under cover of a TDS/TDSL fax cover sheet. *Id.* at 136.
- By Mr. Hobbs’ own admission, TDS and TDSL both compete directly with BFI and the Sunset Farms landfill in the Central Texas municipal solid waste hauling and disposal markets, respectively. *Id.* at 50-54.

- Mr. Hobbs described TJFA as a “real estate investment company.” Under oath, he described its investment strategy as “Our position on that property is to buy it at the right price, to hold it in hopes that landfills and landfill regulations will enhance how that landfill is operated. The landfill will come in compliance -- or be in compliance with all of the regulations; thus, there will not be any impact on the property, and the property values will rise.” *Id.* at 70.
- TJFA does not focus its investments on any particular type of property – residential, commercial, industrial or agricultural. *Id.* at 69 & 71. Mr. Hobbs was unable to point to any study or treatise that supported its (rather unique) investment strategy. *Id.* at 74-75.
- TJFA has purchased 10 properties since its formation in late 2004. *Id.* at 72-73. Each of these properties is located within one mile of the permit boundaries of an existing landfill. *Id.* at 73 & 146. With the exception of several properties located adjacent to the TDSL landfill, TJFA typically purchases only one property in the vicinity of a landfill that is owned and operated by a competitor of TDS and/or TDSL. *Id.* at 82-93.
- Based on its ownership of these properties, in four years TJFA has sought and obtained party status in at least four contested case hearings involving planned expansions of landfills that are owned and operated by competitors of TDS/TDSL: the Williamson County Landfill (near Hutto), the Comal County Landfill (near Seguin), Sunset Farms and the Austin Community Landfill (immediately south of Sunset Farms). *Id.* at 96 & 146-147.
- TJFA did not settle, withdraw or otherwise excuse itself from the Williamson County and Comal County Landfill proceedings – both of which went to evidentiary hearing. *See id.* at 96-104. To date, TJFA has not settled, withdrawn, or otherwise excused itself in this hearing or in the pending Austin Community Landfill proceeding.
- In each proceeding, TJFA has been represented throughout by counsel and has presented testimony through retained expert witnesses. *Id.* at 100-02 (Comal County), 113-14 (Williamson County) & 116 (Austin Community Landfill). In this case, TJFA is represented by a prominent Austin law firm, has designated six technical experts, and has filed pre-filed testimony for four of these experts – to protect a piece of property it purchased for approximately \$130,000 in late 2004. *Id.* at 86-88.
- In his deposition, Mr. Hobbs – who is the sole director and officer of TJFA’s managing partner – was unable to testify whether TJFA is making a profit this year and, indeed, did not know whether TJFA or its managing general partner, Garra de Aguila, have *ever* made a profit. *Id.* at 81-82 & 104-05.

- In his deposition, Mr. Hobbs was unable to explain why TJFA doesn't purchase more than one property in the vicinity of a landfill to be challenged – despite the obvious fact (assuming for argument's sake that TJFA's purported "investment strategy" has any validity whatsoever) that the cost to challenge a permit application would be essentially the same whether TJFA owned one property or ten in the vicinity of a particular landfill and the increase in value to a second, third or tenth property would be "pure profit" in the event that TJFA prevailed in its challenge. *Id.* at 109-11.

Pre-filed Testimony of TFJA's Retained Experts

TJFA has prepared and filed pre-filed testimony of four technical experts, including the testimony of Pierce Chandler and Robert Kier. Among other things, Mr. Chandler's pre-filed testimony contains opinions regarding the slope stability of the landfill at Sunset Farms, the geotechnical properties of the soils at the Sunset Farms site, site hydrogeology, the adequacy of the bottom liner and other matters. Dr. Kier's pre-filed testimony contains opinions regarding the geology and hydrogeology at and around the Sunset Farms site and the alleged inadequacy of the proposed groundwater monitoring system.

Based in part upon the information contained in their pre-filed testimony and the resumes they have attached as exhibits to that testimony, it is clear that both Mr. Chandler and Dr. Kier have performed and do presently perform technical consulting work for TDS and/or TDSL at and in connection with the TDSL site in Travis County. Moreover, based on the personal knowledge of the undersigned, Dr. Kier was the geologist of record for the TDS permit application when it (or TDSL) applied for its original MSW permit in the late 1980s.

Dr. Kier's deposition in this case is currently scheduled to be taken on December 4th. Mr. Chandler's deposition is currently being scheduled by agreement sometime in mid-December.

TDSL's Permit

The TDSL Landfill and Sunset Farms are both situated in soils of the Taylor Formation east of I-35 in Travis County – less than 20 miles apart. Although obviously no two landfill sites are identical, the soil characteristics, basic geology and basic hydrogeology of these two sites (and others in Travis and Williamson Counties) are nevertheless quite similar. Similarly, although no two landfills are identical in design, landfills often can share some similar design characteristics – including, for example, the slope of the side slopes and the depths and screening intervals of the groundwater monitoring systems.

Among other things, BFI intends to ask questions of Mr. Chandler, Dr. Kier and TJFA's other expert witnesses regarding the characteristics of the TDSL site; the nature of TDSL's landfill design; positions these gentleman have previously taken both in public and in private regarding the adequacy or appropriateness of the TDSL site or design for landfill operations; and how the TDSL site, landfill and permit compare and contrast to the Sunset Farms site, landfill and permit application. These are plainly areas that are appropriate for inquiry – most certainly in deposition. These questions and answers will go to both the merits of this case and the credibility of TJFA's witnesses.

In preparation for these depositions, counsel for BFI has attempted to obtain copies of TDSL's current permit and the underlying application documents – all of which are public documents that should be available for public inspection and copying at TCEQ. TCEQ, however, has stated that it does not have complete copies of such records in its files. Moreover, in response to recent inquiries by the undersigned, TJFA's attorneys have indicated that TJFA/TDS/TDSL will not produce copies of these documents. (A true and correct copy of TJFA's attorney's e-mail regarding its refusal is attached as Exhibit B.) Thus, BFI is moving to

compel production of these documents on or before end-of-business on Wednesday, November 26, 2008. In particular, BFI seeks an order compelling production of the following documents on or before that date:

1. A complete copy of MSW Permit No. 2123 (TDSL landfill).
2. A complete copy of the original permit application for MSW Permit No. 2123 (as well as any amendments and modifications thereto – including but not limited to any application pertaining to the implementation of the federal Subtitle D regulations).
3. Copies of other permitting documents pertaining to the TDSL Landfill in Creedmoor that include any discussions, studies, reports or characterizations of the geology, hydrogeology or geotechnical properties of the soils at the TDSL Landfill site.
4. A complete copy of the current Groundwater Sampling and Analysis Plan (GWSAP) for the TDSL landfill.
5. A complete copy of the current Site Operating Plan (SOP) for the TDSL landfill.

BFI will pay all copying/reproduction costs.

III. CONCLUSION AND PRAYER

For the foregoing reasons, BFI respectfully requests that the ALJ compel production of the identified documents for copying/reproduction by BFI on or before 5:00pm on November 25,

2008. BFI further requests such additional or alternative relief to which it might show itself justly entitled.

Respectfully submitted,

By: 
Paul G. Gosselink
Texas Bar No. 08222800

LLOYD, GOSSELINK, ROCHELLE & TOWNSEND, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701
Phone: (512) 322-5800
Fax: (512) 472-0532

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

OF COUNSEL:
John E. Carlson
Texas Bar No. 00790426

Certificate Conference and Attempted Resolution

By my signature above, I, Paul G. Gosselink, certify to the following: I am attorney for BFI Waste Systems of North America, LLC. Pursuant to Civil Procedure Rule 191.2 and 1 T.A.C. 155.31(l), when the discovery dispute underlying this motion arose, I made a reasonable effort to resolve the matter with the opposing counsel without the necessity of intervention from the Administrative Law Judge. The parties conferred, negotiated in good faith, and were unable to resolve the dispute prior to submitting the dispute to the Administrative Law Judge for resolution. Counsel for TJFA and I agree it is unlikely we would reach agreement as to resolution of the issues raised in this motion to compel without the intervention of the Administrative Law Judge. We were unable to come to any resolution of the matter. I will continue to seek resolution of all or any part of these matters.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion was served on the following counsel/parties of record by certified mail (return receipt requested), regular U.S. mail, facsimile transmission and/or hand delivery and via e-mail on November 21, 2008:

FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

REPRESENTING NORTHEAST NEIGHBORS
COALITION AND INDIVIDUALS:

Jim Blackburn and Mary Carter
Blackburn and Carter, LLP
4709 Austin Street
Houston, Texas 77004
Tel: (713) 524-1012
Fax: (713) 524-5165

FOR THE PUBLIC INTEREST COUNSEL:

Christina Mann
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4014
Fax: (512) 239-6377

REPRESENTING TJFA, L.P.:

Bob Renbarger and J. D. Head
Fritz, Byrne, Head, & Harrison, LLP
98 San Jacinto Blvd., Suite 2000
Austin, Texas 78701
Tel: (512) 476-2020
Fax: (512) 477-5267

FOR THE EXECUTIVE DIRECTOR:

Steve Shepherd, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

REPRESENTING TRAVIS COUNTY:

Kevin Morse
Assistant Travis County Attorney
Travis County Attorney's Office
P. O. Box 1748
Austin, Texas 78767
Tel: (512) 854-9513
Fax: (512) 854-4808

REPRESENTING CITY OF AUSTIN:

Holly Noelke
Assistant City Attorney
City of Austin Law Department
P. O. Box 1088
Austin, Texas 78767
Tel: (512) 974-2630
Fax: (512) 974-6490

REPRESENTING GILES HOLDINGS, L.P.

Paul M. Terrill, III
The Terrill Firm, P.C.
810 W. 10th Street
Austin, Texas 78701
Tel: (512) 474-9100
Fax: (512) 474-9888



Paul G. Gosselink

Exhibit A

Excerpts From Oral Deposition of Dennis Hobbs

TRANSCRIPT OF PROCEEDINGS BEFORE THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AUSTIN, TEXAS

IN THE MATTER OF THE) SOAH DOCKET NO.
APPLICATION OF BFI WASTE) 582-08-2178
SYSTEMS OF NORTH AMERICA, LLC)
PROPOSED SOLID WASTE PERMIT) TCEQ DOCKET NO.
AMENDMENT NO. 1447A) 2007-1774-MSW

ORAL DEPOSITION
DENNIS HOBBS
THURSDAY, OCTOBER 30, 2008

ORAL DEPOSITION OF DENNIS HOBBS, produced as a witness at the instance of the Applicant, and duly sworn, was taken in the above-styled and numbered cause on October 30, 2008, from 9:58 a.m. to 1:55 p.m. before Virginia L. Bunting, CSR, RPR, in and for the State of Texas, reported by machine shorthand, at the offices of Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701, pursuant to the Texas Rules of Civil Procedure.

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1 that were held in the Williamson County and Comal County
 2 proceedings, correct?
 3 A. That is correct.
 4 Q. And did you review those transcripts in
 5 connection with your preparation for today's deposition?
 6 A. As I said just a few minutes ago, I did, yes.
 7 Q. And have you done that in the last week
 8 preceding this deposition?
 9 A. Yes, I have.
 10 Q. All right. I'd like to ask you some questions
 11 about TJFA and some other entities that may or may not
 12 be related to TJFA. TJFA is a Texas limited
 13 partnership, correct?
 14 A. That is correct.
 15 Q. And it was formed in November of 2004?
 16 A. That is correct.
 17 Q. Garra de Aguila, Inc., is its general partner;
 18 is that correct?
 19 A. That's correct.
 20 Q. Garra de Aguila is a 1 percent owner of the
 21 partnership; is that correct?
 22 A. If my memory serves me right, yes.
 23 Q. Bobby Gregory is the sole limited partner of
 24 TJFA, correct?
 25 A. That is correct.

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1 Q. And Bobby Gregory is a 99 percent -- has a
 2 99 percent ownership in TJFA, correct?
 3 A. He has the 99 percent ownership in Garra de
 4 Aguila. I'm sorry. Repeat that question.
 5 Q. Sure. I asked you, first, what the ownership
 6 interest of Garra de Aguila is in TJFA, and you said
 7 1 percent, correct?
 8 A. I would need to review those documents to
 9 answer that for sure.
 10 Q. And the document you're talking about is the
 11 partnership agreement?
 12 A. That is correct.
 13 Q. I'll show you that in a bit. So as we sit here
 14 today right now, you don't have a specific recollection
 15 of the percentage ownership of Garra de Aguila and Bobby
 16 Gregory in the partnership?
 17 A. No, I do not. I remember -- or I recall that
 18 there is a 1 percent and a 99 percent.
 19 Q. Bobby Gregory is the sole limited
 20 partnership -- partner of TJFA; is that correct?
 21 A. He is.
 22 Q. And there has never, to your knowledge, since
 23 November of 2004, been any other limited partner in
 24 TJFA, correct?
 25 A. That is correct.

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1 Q. So you have an understanding of how
 2 partnerships work, correct, based on your business
 3 experience?
 4 A. Yes.
 5 Q. Garra de Aguila and Bobby Gregory are the only
 6 persons or entities who share in TJFA's profits and
 7 losses; is that correct?
 8 A. Please repeat the question.
 9 Q. Sure. You understand how partnerships work,
 10 correct?
 11 A. Yes.
 12 Q. It's an agreement to share profits or losses,
 13 right?
 14 A. Right.
 15 Q. And I believe we established that Garra de
 16 Aguila and Bobby Gregory will look at the percentages,
 17 but they're the only partners in TJFA, correct?
 18 A. Bob Gregory is the only limited partner in
 19 TJFA, correct.
 20 Q. And Garra de Aguila is the managing partner; is
 21 that correct?
 22 A. That is correct.
 23 Q. So those are the only two persons and/or
 24 entities who would share in the profits and losses of
 25 TJFA, right?

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1 A. That is correct.
 2 Q. TJFA has no employees of its own; is that fair
 3 to say?
 4 A. That is correct.
 5 Q. Its physical office is the 12200 Carl Road
 6 address; is that correct?
 7 A. That is correct.
 8 Q. It's the same address that the TDS offices are
 9 at, correct?
 10 A. That is correct.
 11 Q. Same offices that the TDSL offices are at; is
 12 that correct?
 13 A. That is correct.
 14 Q. Same offices that the TLM offices are at; is
 15 that correct?
 16 A. That is correct.
 17 Q. What is TJFA's mailing address?
 18 A. P.O. Box 17126.
 19 Q. Austin, Texas?
 20 A. That is correct. 78760.
 21 Q. Has that been TJFA's mailing address since it
 22 was formed in 2004?
 23 A. The attorney that set up the incorporation is
 24 the official record holder from the State's standpoint,
 25 and that address is downtown, 100 Congress.

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1 Q. That's the Armbrust & Brown law firm?
 2 A. Yes, that's correct.
 3 Q. The P.O. Box 17126 mailing address for TJFA,
 4 that's the same post office box that TDS uses; is that
 5 correct?
 6 A. That is correct.
 7 Q. It's the same post office box that TDSL uses,
 8 correct?
 9 A. That is correct.
 10 Q. And that's the same post office box that TLM
 11 uses; is that correct?
 12 A. That is correct.
 13 Q. And I've seen TJFA's office phone number is
 14 (512) 421-1320; is that correct?
 15 A. That is correct.
 16 Q. And that's also the number that you use in your
 17 employment with TDS; is that correct?
 18 A. That is correct.
 19 Q. What is TJFA's office fax number?
 20 A. (512) 243-4123.
 21 Q. Is that the same fax number that TDS, TDSL, and
 22 TLM use?
 23 A. That is correct.
 24 Q. Same physical fax machine?
 25 A. That is correct.

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1 Q. Now, when you're at the 12200 Carl Road
 2 address, do you have any separate offices for the work
 3 you do for various corporate or partnership entities?
 4 A. No, I do not.
 5 Q. You sit at the same desk when you're doing --
 6 regardless of which entity you're doing business for,
 7 you sit at the same desk; is that correct?
 8 A. That is correct.
 9 Q. You use the same computer?
 10 A. That is correct.
 11 Q. You use the same phone number?
 12 A. That is correct.
 13 Q. And you use the same fax number; is that
 14 correct?
 15 A. That is correct.
 16 Q. Do you have a business card -- we've talked
 17 about your business card for TDS. Do you recall that
 18 conversation?
 19 A. Yes.
 20 Q. Do you have a business card for the work that
 21 you do for Garra de Aguila?
 22 A. No, I do not.
 23 Q. Do you have a separate business card for the
 24 work that you do for TJFA?
 25 A. No, I do not.

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1 Q. A little bit earlier we talked about a
 2 transcript of a deposition that Mr. Bobby Gregory gave
 3 in Williamson County; do you recall that?
 4 A. Yes, I do.
 5 Q. That was in approximately November of 2006;
 6 does that sound right?
 7 A. I believe that was 2007.
 8 Q. I think it was 2007.
 9 At that point, to your recollection, was
 10 that a corporate representative deposition as well?
 11 A. I don't recall.
 12 Q. You don't know?
 13 A. I don't recall.
 14 Q. Nevertheless, Mr. Gregory was the person in
 15 that case that gave deposition testimony on behalf of
 16 TJFA; is that correct?
 17 A. That is correct.
 18 Q. And not yourself?
 19 A. That's correct.
 20 Q. All right. Let's talk a little bit about Garra
 21 de Aguila. Let me say if at any point in time,
 22 Mr. Hobbs, if you want to take a break, just let me
 23 know, and I'll be happy to oblige you for any reason.
 24 MR. HEAD: Let's take a two-minute break.
 25 (Off the record)

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1 Q. (By Mr. Carlson) Okay. Back on the record. I
 2 had been asking you some questions about TJFA,
 3 Mr. Hobbs. I'd like to transition to Garra de Aguila.
 4 Okay. I'm probably mispronouncing it.
 5 MR. HEAD: I think he wants to -- go ahead.
 6 A. I would like to -- you made -- your question a
 7 while ago was what was Bob Gregory's position at
 8 Williamson County.
 9 Q. (By Mr. Carlson) Let me do this right now,
 10 because I'll give your attorney an opportunity to clean
 11 up anything afterwards. Okay?
 12 MR. HEAD: It's traditional, John -- if he
 13 wants to correct an answer when we get back from a
 14 break, that's traditional.
 15 Q. (By Mr. Carlson) You can do that this time,
 16 but generally if you want to clean up answers or add on
 17 to answers, we'll let your attorney --
 18 MR. HEAD: It's not an add-on. It's a
 19 correction.
 20 A. Bob Gregory was acting on behalf -- at that
 21 point he was president of Garra de Aguila.
 22 Q. (By Mr. Carlson) And I've got some documents
 23 and we can clarify that down the road. Okay.
 24 Having said that, let's talk about
 25 Garra de Aguila. It is a Texas corporation, correct?

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1 A. Correct.
 2 Q. And it was incorporated in February of 2004,
 3 right?
 4 A. Yes, it was.
 5 Q. I believe we talked about this a little bit.
 6 It was incorporated by Mr. Armbrust at the Armbrust and
 7 Brown's law firm; is that correct?
 8 A. An attorney with his firm.
 9 Q. Do you recall if David Armbrust was named as
 10 the sole director of the corporation at the time of
 11 incorporation?
 12 A. Initially, yes.
 13 Q. Yes, sir. At some point later in 2004, Bobby
 14 Gregory became the sole director of Garra de Aguila; is
 15 that correct?
 16 A. That is correct.
 17 Q. And that was roughly coincident with the
 18 formation of the TJFA; is that correct?
 19 A. TJFA was formed --
 20 Q. I'll represent to you that it was formed on
 21 November 19th, 2004.
 22 A. Okay.
 23 Q. Having said that --
 24 A. That's correct on that date.
 25 Q. And that jogs your memory --

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1 A. Yes, sir.
 2 Q. -- at that point Mr. Gregory became the sole
 3 director instead of Mr. Armbrust?
 4 A. That's correct.
 5 Q. And Bobby Gregory performed as the sole
 6 director of Garra de Aguila until February of this year,
 7 2008, correct?
 8 A. That is correct.
 9 Q. At which point by a unanimous consent of both
 10 the directors and shareholders, you became the sole
 11 director of Garra de Aguila; is that correct?
 12 A. That is correct.
 13 Q. Now, when Garra de Aguila was first formed, who
 14 were the officers of the corporation?
 15 A. Bob Gregory was president. I was vice
 16 president and secretary.
 17 Q. And that did not change -- those roles did not
 18 change until February of 2008, either; is that correct?
 19 A. Well, only one of those roles changed at that
 20 point.
 21 Q. What was that?
 22 A. That was -- I became president. I am also vice
 23 president and secretary, so those roles did not change.
 24 Q. But just to clarify, in terms of corporate
 25 officers, from 2004 to February of 2008, Bobby Gregory

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1 was the president, correct?
 2 A. Until February of 2008, that's correct.
 3 Q. At all points in time?
 4 A. Yes.
 5 Q. And you were the executive vice president,
 6 correct?
 7 A. You're correct.
 8 Q. And there was no one appointed as either
 9 treasurer or secretary?
 10 A. I was secretary.
 11 Q. And in February of 2008, Mr. Gregory no longer
 12 served as president. You replaced him as president,
 13 correct?
 14 A. That is correct.
 15 Q. And as of mid February of 2008, you are the
 16 sole director, you are the president, you are the
 17 executive vice president, and you are the secretary of
 18 Garra de Aguila, correct?
 19 A. That is correct.
 20 Q. And Mr. Gregory has had no role since that time
 21 as either a director or an officer of the corporation,
 22 correct?
 23 A. That is correct.
 24 Q. And during that time frame Mr. Gregory is and
 25 has been the sole shareholder of the corporate stock; is

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1 that correct?
 2 A. That is correct.
 3 Q. To your knowledge, does anybody else own Garra
 4 de Aguila stock?
 5 A. Not to my knowledge.
 6 Q. To your knowledge, has anybody, other than
 7 Mr. Gregory, ever owned shares of Garra de Aguila stock?
 8 A. Not to my knowledge.
 9 Q. And this transition where you took over the
 10 reins as both the director and president of Garra de
 11 Aguila, that took place roughly three months before the
 12 jurisdictional or preliminary hearing in this
 13 proceeding; is that correct?
 14 A. I will assume you have your dates right. I
 15 took over in February of '08.
 16 Q. And I'll represent to you that the
 17 jurisdictional hearing was in early May of 2008.
 18 A. Then it would be three months.
 19 Q. Garra de Aguila, it doesn't have any employees
 20 of its own; is that correct?
 21 A. That's correct.
 22 Q. It shares the 122000 Carl Road address with
 23 TJFA, TDS, TDSL, and TLM?
 24 A. Incorrect. It's 12200.
 25 Q. I'm sorry. Let me rephrase the question so

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1 Q. (By Mr. Carlson) I'll hand you 74, and ask you
 2 to review that. What is Exhibit 74, Mr. Hobbs?
 3 A. It's the Unanimous Consent of the Directors in
 4 Lieu of the 2008 Annual Meeting of the Board of
 5 Directors of Garra de Aguila.
 6 Q. Okay. Is that another document from the
 7 company's files?
 8 A. Yes, it is.
 9 Q. Is this document -- earlier you said you became
 10 the sole officer of the company --
 11 A. Yes.
 12 Q. -- in February of 2008?
 13 A. Yes.
 14 Q. Is this a document that reflects you becoming
 15 the sole officer of the company?
 16 A. That is correct.
 17 (Exhibit 75 marked)
 18 Q. (By Mr. Carlson) All right. Here's
 19 Exhibit 75. I'll ask you to look at that and identify
 20 that document, please, sir.
 21 A. It's a Unanimous Consent of the Shareholders in
 22 Lieu of a Special Meeting of the Shareholders for
 23 Garra de Aguila.
 24 Q. And that's dated 2004?
 25 A. Yes, it is.

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1 Q. And it resolves Bobby Gregory is appointed the
 2 sole director of the company; is that correct?
 3 A. David Ambrust resigns. Bob Gregory is the
 4 main person, yes.
 5 Q. And it's signed by the shareholder, who is Bob
 6 E. Gregory; is that correct?
 7 A. That is correct.
 8 (Exhibit 76 marked)
 9 Q. (By Mr. Carlson) Let me hand you Exhibit 76
 10 and ask you to review it and identify it, please.
 11 A. It's a Unanimous Consent of the Shareholders in
 12 Lieu of the 2006 Annual Meeting.
 13 Q. Okay. Is that another document from
 14 Garra de Aguila's corporate records?
 15 A. Yes, it is.
 16 Q. All right.
 17 (Exhibit 77 marked)
 18 Q. (By Mr. Carlson) Let me hand you 77 and ask
 19 you to read and identify that, sir.
 20 A. Unanimous Consent of the Shareholders in Lieu
 21 of the 2007 Annual Meeting of the Shareholders,
 22 Garra de Aguila.
 23 Q. It's another corporate document from Garra de
 24 Aguila's corporate records?
 25 A. That is correct.

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1 (Exhibit 78 marked)
 2 Q. (By Mr. Carlson) And the last of these series,
 3 Exhibit 78, would you take a look at that and identify
 4 that document.
 5 A. It's Unanimous Consent of Shareholders in Lieu
 6 of the 2008 Annual Meeting of Shareholders.
 7 Q. And this is for Garra de Aguila, correct?
 8 A. That's correct.
 9 Q. And in this document you've been appointed to
 10 serve as the sole director of the company, right?
 11 A. That's correct.
 12 Q. As of February 12th of 2008?
 13 A. That is correct.
 14 Q. And as we've established, approximately three
 15 months before the preliminary hearing in our case here,
 16 right?
 17 A. Based on your dates, that's correct.
 18 Q. Okay. Let's talk a little bit about some other
 19 companies, including your employer. What does TDS do?
 20 What's the nature of its business?
 21 A. Texas Disposal Systems, Inc., is a solid waste
 22 hauling company in Central Texas collection.
 23 Q. It does basically waste collection and waste
 24 hauling; is that correct?
 25 A. That's correct.

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1 Q. In the Central Texas area?
 2 A. In the Central Texas area. We have one
 3 operation in the West Texas area.
 4 Q. Are some businesses in San Angelo?
 5 A. Texas Disposal Systems does not.
 6 Q. When you talk about the Central Texas area, can
 7 you be a little bit more specific in terms of either
 8 cities or counties that you consider to be the market
 9 area?
 10 A. From a hauling operation, it's south of
 11 San Antonio to Georgetown, a little bit north of
 12 Georgetown, to the east. It would go to Sealy. And to
 13 the west, around the Lake Travis area.
 14 Q. The Web site for TDS indicates that TDS does
 15 business in approximately a 25-county area surrounding
 16 Austin and San Antonio. Is that a fair description of
 17 TDS's marketed area?
 18 A. I would assume so, yes.
 19 Q. Now, I believe we established that TDS shares
 20 the same office address as TJFA, Garra de Aguila, TDSL,
 21 and TLM at 12200 Carl Road, correct?
 22 A. Correct.
 23 Q. Same mailing, same post office box?
 24 A. Correct.
 25 Q. Same main telephone number?

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1 A. Correct.
 2 Q. Same fax number?
 3 A. Correct.
 4 Q. Getting back to this marketed area, to your
 5 knowledge, who are -- what companies are TDS's primary
 6 competitors in this 25-county Central Texas market area?
 7 A. Can you define your definition of a "primary"?
 8 Q. I'll just get rid of the word "primary." Who
 9 are TDS's competitors, to your knowledge, in this market
 10 area?
 11 A. There is a tremendous number of competitors
 12 within that market area. There are two major
 13 corporations that are in that market area, as well as
 14 other areas throughout the United States, that being
 15 Waste Management and Allied Waste. There are
 16 numerous -- for example, in Austin, there is IESI,
 17 there's Central Texas Refuse. There's a number of -- a
 18 large number of competitors in every one of those market
 19 areas.
 20 Q. Okay. And we're talking at this point in time
 21 the waste collection and hauling business, correct?
 22 A. That is correct.
 23 Q. And so your testimony is that BFI/Allied Waste
 24 is one of TDS's competitors in this market area,
 25 correct?

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1 A. Yes.
 2 Q. And Waste Management of Texas is another
 3 competitor of TDS in this particular market area; is
 4 that fair to say?
 5 A. Yes.
 6 Q. Now, does Bobby Gregory serve on the Board of
 7 Directors of TDS?
 8 A. Yes.
 9 Q. Is Bobby Gregory an officer of TDS?
 10 A. Yes.
 11 Q. Does he serve as its president?
 12 A. Yes.
 13 Q. Does he have any other roles of --
 14 A. CEO.
 15 Q. So Bobby Gregory is the CEO and president of
 16 TDS; is that correct?
 17 A. That is correct.
 18 Q. And, to your knowledge, is Bobby Gregory a
 19 principal shareholder in TDS?
 20 A. That is correct.
 21 Q. Do you know if he's a majority shareholder in
 22 TDS?
 23 A. Yes, he is.
 24 Q. Is Mr. Gregory a principal shareholder in TDS,
 25 Bobby Gregory?

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1 A. As I just answered, yes, he is a principal
 2 shareholder.
 3 Q. Let's talk a little bit about TDSL. What does
 4 TDSL do?
 5 A. Texas Disposal Systems Landfill owns a Type 1
 6 municipal solid waste landfill in southeast Travis
 7 County.
 8 Q. And that's in the Creedmoor area; is that
 9 correct?
 10 A. That is correct.
 11 Q. What's the permit number for that landfill?
 12 A. 2123.
 13 Q. MSW No. 2123?
 14 A. Yes.
 15 Q. And TDSL is the entity that actually holds the
 16 permit; is that correct?
 17 A. That is correct.
 18 Q. TDSL owns the landfill itself and the land upon
 19 which the landfill is located?
 20 A. That is correct.
 21 Q. And the landfill is located in southeast Travis
 22 County, correct?
 23 A. Correct.
 24 Q. It's east of I-35 off of FM-1327?
 25 A. Yes.

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1 Q. It's located, for lack of a better term, in the
 2 Blackland Prairie type of soil; is that fair to say?
 3 A. It's located three miles east of 35. If you're
 4 asking me to be a geologist --
 5 Q. Would you describe -- let's forget geology for
 6 a second. Would you describe the location to be on the
 7 Blackland Prairie?
 8 A. I describe it as being in the Taylor and
 9 Navarro clay area.
 10 Q. Okay. I understand that TDSL also operates
 11 transfer stations; is that correct?
 12 A. No.
 13 Q. Some companies operate -- as I understand it,
 14 transfer stations in Georgetown and San Antonio, which
 15 of the TDS or TDS affiliate entities operate transfer
 16 stations?
 17 A. It would be TLM.
 18 Q. We'll get to that. I believe TDSL shares the
 19 same office address, P.O. box, telephone number, and fax
 20 number with TJFA, Garra de Aguila, TDS, and TLM. Is
 21 that correct?
 22 A. Yes.
 23 MR. HEAD: Objection; form.
 24 Q. (By Mr. Carlson) What is the market area for
 25 TDSL for the landfill itself?

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1 A. As per the annual report that TDSL submits to
 2 the regulatory agency, I believe TDSL accepts waste from
 3 approximately 32 counties.
 4 Q. Okay. Would these be 32 counties in and around
 5 the cities of Austin and San Antonio?
 6 A. Yes.
 7 Q. Roughly approximate with the 25 counties that
 8 I've referred to earlier that are discussed in Texas
 9 Disposal's Web site, right?
 10 A. Some of which would be the same.
 11 Q. From a landfill perspective and from solid
 12 waste disposal, who are TDSL's competitors in this -- in
 13 that market area?
 14 A. Would be any landfill located within that
 15 market area.
 16 Q. Okay. So that would include the Williamson
 17 County Landfill near Hutto, correct?
 18 A. Correct.
 19 Q. That would include BFI's Sunset Farms Landfill
 20 in northeast Travis County; is that correct?
 21 A. That would be correct.
 22 Q. That would be the Austin Community Landfill,
 23 which is operated by Waste Management in northeast
 24 Travis County; is that correct?
 25 A. That would be correct.

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1 Q. That would include IESI's facility on Burleson
 2 Road -- or near Burleson Road; is that correct?
 3 A. The Type 4 facility; that would be correct.
 4 Q. And TDSL Landfill in Creedmoor does accept
 5 Type 4 types of waste; is that correct?
 6 A. That would be correct.
 7 Q. Would it include the Comal County Landfill or
 8 what's now called the Mesquite Creek Landfill?
 9 A. Yes.
 10 Q. What about Covel Gardens Landfill in
 11 Bexar County?
 12 A. To some extent, yes.
 13 Q. Is it fair to say that all of those landfills
 14 that I've just mentioned are competitors of the TDSL
 15 Landfill in Creedmoor?
 16 A. That would be true.
 17 Q. Does Bobby Gregory serve on the TDSL Board of
 18 Directors?
 19 A. Yes.
 20 Q. Is Bobby Gregory an officer of TDSL?
 21 A. Yes.
 22 Q. Is he the president of TDSL?
 23 A. Yes.
 24 Q. Is he TDSL's chief executive officer?
 25 A. Yes.

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1 Q. Is Bobby Gregory a majority shareholder in TDSL
 2 stock, to your knowledge?
 3 A. To my knowledge, yes.
 4 Q. Let me talk about one other entity that we've
 5 been chatting about. Texas Landfill Management, LLC, or
 6 what I've been calling TLM. What does TLM do, sir?
 7 A. It's an operating entity that contracts out to
 8 operate the facilities.
 9 Q. So just to put it all together here: As I
 10 understand these businesses, TDS collects and hauls
 11 waste to the landfill, right?
 12 A. Yes.
 13 Q. And TDSL actually owns the physical property
 14 that holds the permit for the landfill; is that correct?
 15 A. That is correct.
 16 Q. And then the day-to-day operations, for
 17 example, compacting trash and doing that sort of stuff,
 18 is that done by TLM or its employees?
 19 A. It's contracted out to TLM to do it, yes.
 20 Q. All right. And I'll get an objection, but I'll
 21 ask it anyhow. The office address, the telephone
 22 number, everything we've talked about before, fax number
 23 for TLM is the same as TJFA, Garra de Aguila, TDS, and
 24 TDSL, correct?
 25 A. Correct.

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1 MR. HEAD: Saved you the objection.
 2 MR. CARLSON: Thanks.
 3 Q. (By Mr. Carlson) Is Bobby Gregory -- is he a
 4 manager of this limited liability corporation?
 5 A. Yes.
 6 Q. Does he have a title other than manager? Do
 7 you know?
 8 A. I don't know.
 9 Q. Has the LLC actually established kind of a
 10 traditional corporate officer position, such as
 11 president, vice president, treasurer, or secretary?
 12 A. I would have to look at those documents to tell
 13 you that.
 14 Q. Is Bobby Gregory an owner of TLM?
 15 A. Yes.
 16 Q. To your knowledge, is he a majority owner of
 17 TLM?
 18 A. Yes.
 19 Q. Is Mr. Gregory -- Bobby Gregory a salaried
 20 employee of any or all of TDS, TDSL, or TLM, to your
 21 knowledge?
 22 A. Repeat that question.
 23 Q. Yes, sir. Do you know if Mr. Bobby Gregory is
 24 a salaried employee of TDS, TDSL, or TLM? Does he draw
 25 a salary from any of those companies, in addition to any

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1 Q. So based on that instruction, you're going to
 2 refuse to answer that last question; is that correct?
 3 A. That is correct.
 4 Q. Okay. Let's talk about TJFA. What is TJFA?
 5 What does it do?
 6 A. TJFA is a limited partnership. It's in the
 7 investment and development business real estate.
 8 Q. Would your description of TJFA's business be
 9 identical to your description of Garra de Aguila's
 10 business?
 11 A. Garra de Aguila is the general partner,
 12 managing partner. TJFA is a limited partnership. They
 13 both hold real estate assets.
 14 Q. I think I misunderstood you, then. I
 15 understood your prior testimony to be that Garra de
 16 Aguila does not actually hold any real estate. Correct?
 17 A. That is correct.
 18 Q. It serves as the general partner of TJFA,
 19 correct?
 20 A. Yes. That's correct.
 21 Q. My question was -- maybe it was inartfully
 22 worded -- was: It's really not the roles of the
 23 companies but what they do. And I believe you testified
 24 that Garra de Aguila is a real estate investment and
 25 development company; is that correct?

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1 A. A general partner of the entity that holds the
 2 real estate -- that owns the real estate is the limited
 3 partnership.
 4 Q. And how -- using -- strike that.
 5 What does TJFA do, the nature of its
 6 business?
 7 A. It owns real estate in the state of Texas.
 8 Q. Okay. That covers the investment side of
 9 things. You mentioned development, I believe, before.
 10 What sort of development work does TJFA do?
 11 A. Currently, we are looking at several tracts to
 12 possibly do some development on it; however, current
 13 economic times have changed a little bit here in the
 14 last 90 days.
 15 Q. And let me -- I do want to -- I'm sensitive to
 16 proprietary business information. I don't want to get
 17 into confidential business information, but I do want to
 18 ask you general questions, okay? So when I'm asking you
 19 these questions, I'll give you that caveat, okay? Do
 20 you understand that?
 21 A. Yes.
 22 Q. So as I understand it, TJFA is in the business
 23 of purchasing real property, correct?
 24 A. Correct.
 25 Q. Okay. What type of property?

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1 A. Improved property as well as raw land property.
 2 Q. Is there any particular category of properties
 3 that TJFA focuses on, commercial, for example?
 4 A. We have focused initially on property in and
 5 around landfills.
 6 Q. I'll talk about that or ask you some questions,
 7 but in terms of a distinction between -- you understand
 8 the definition between commercial property, residential
 9 property, industrial property, and agricultural
 10 property?
 11 A. Yes, I do.
 12 Q. Okay. Of those categories or other similar
 13 categories, is there a category or categories of
 14 property that TJFA focuses on?
 15 A. We look at all of those categories that you
 16 have just listed or stated.
 17 Q. Any others?
 18 A. Not at the present time.
 19 Q. And given that, what sort of purposes does the
 20 company or the partnership have in mind for these
 21 properties? Is it development for use as a rental
 22 property or to buy and hold it as an investment or
 23 anything else?
 24 A. Obviously, we're looking for a return on the
 25 investment.

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1 Q. But you can do that by developing, renting, or
 2 just holding. Is there any particular purpose that
 3 y'all have in mind when you buy these properties?
 4 A. You're going to have to expand on that question
 5 a little bit.
 6 Q. Okay. Maybe I don't understand what you don't
 7 understand.
 8 A. No. Maybe I don't understand what you're
 9 asking.
 10 Q. Okay. You've told me that -- and correct me if
 11 I'm wrong -- that TJFA is interested in and buys
 12 commercial, residential, industrial, and agricultural
 13 properties, correct?
 14 A. We have purchased residential and raw land
 15 properties at this present time. TJFA will look at all
 16 potential opportunities on your industrial and anything
 17 else.
 18 Q. So you're -- the company -- the partnership is
 19 open to any of those categories as potential
 20 investments; is that correct?
 21 A. That is correct.
 22 Q. It does not focus on residential, it does not
 23 focus on industrial, agricultural, or any particular
 24 category of property?
 25 A. That is correct.

1 Q. Now, when you identify a property for potential
2 purpose of -- for potential investment, what are the
3 purposes of the investment? What are you looking to do,
4 to immediately develop the property, to hold the
5 property for future development, to flip the property,
6 to rent it out to others? What's the general philosophy
7 or business purpose of TJFA?

8 A. As I stated earlier, TJFA has focused on
9 property in and around landfills. Our position on that
10 property is to buy it at the right price, to hold it in
11 hopes that landfills and landfill regulations will
12 enhance how that landfill is operated. The landfill
13 will come in compliance -- or be in compliance with all
14 of the regulations; thus, there will not be any impact
15 on the property, and the property values will rise.

16 Q. Okay. What you just told me there, is that the
17 general investment philosophy at TJFA?

18 A. That is one.

19 Q. What else?

20 A. TJFA is a real estate investment company, and
21 they're looking for opportunities to purchase real
22 estate. We're not in the flipping business, so we're
23 looking for long-term real estate investments, whatever
24 that may be.

25 Q. Okay. I'm not trying to be argumentative, but

1 A. We have to this point.

2 Q. And after you gave an answer to that effect, I
3 asked you was there any other philosophies, strategies
4 that the company has, and you said that's one of them.
5 Do you recall that question and answer?

6 A. I recall my answer. I don't recall your
7 question specifically.

8 Q. I'm just trying to find out if other than this
9 buying properties close to landfills or solid waste
10 facilities if there is any other strategy or philosophy
11 that --

12 A. Okay. Excuse me for interrupting. I'm going
13 to repeat it one more time. We purchase commercial,
14 residential, raw land, industrial if the opportunity
15 exists, investment opportunities, whether that be in and
16 around a landfill or somewhere else.

17 Q. All right. Does the company have a written
18 business plan that reflects its investment philosophy?

19 A. No.

20 Q. I don't want to know what it is, but do you
21 have any sort of target rate of return for your
22 investments?

23 A. No.

24 Q. Now, I understand from prior testimony that
25 I've read in other proceedings that TJFA presently owns

1 you were in the real estate business in the 1980s,
2 correct?

3 A. That's correct.

4 Q. I've got friends who do real estate. And in my
5 experience, most of these folks have a certain niche
6 that they're involved in. For example, they're looking
7 for corner properties to develop as a Quick Mart. Do
8 you understand that as a general premise --

9 A. Sure.

10 Q. -- or a strip mall or apartment buildings. And
11 what I'm trying to understand and get my arms around is
12 what does TJFA do? Does it have a similar type of a
13 niche or a focus for its investments?

14 MR. HEAD: Objection; form.

15 Q. (By Mr. Carlson) You can answer.

16 A. We are looking for real estate opportunities,
17 whether it be residential, whether it be commercial,
18 whether it be industrial, which we haven't found any of
19 those. I am not a niche purchaser looking for only
20 corners that I can sell to 7-Eleven. We are general.

21 Q. And you mentioned before -- and we'll get into
22 this -- the company does -- the partnership does buy
23 properties I believe exclusively that are in the
24 vicinity of solid waste facilities; would that be fair
25 to say?

1 10 properties in Central Texas. Is that still correct?

2 A. That is correct.

3 Q. And each of these properties -- each of these
4 10 properties are, in fact, located within one mile of
5 an existing MSW facility; is that correct?

6 A. That is correct.

7 Q. And earlier you articulated -- I'm
8 paraphrasing -- that TJFA buys these properties with a
9 hope that by enforcing proper operation of the landfill,
10 potential changes in regulations, that the value of
11 these properties will increase. And that's the
12 investment hope and strategy of the company; is that
13 roughly fair to say?

14 A. It's roughly fair to say. There are landfills
15 that are not exactly up to standard throughout the
16 state. I'm sure there are. And once they come into
17 regulation, that certainly will have an impact on
18 adjacent property values.

19 Q. I'm curious how TJFA came up with this
20 investment strategy of buying properties near landfills.
21 Where did you come up with that idea?

22 A. Our basic knowledge of landfills and the
23 operation of landfills.

24 Q. Was it an internal -- something that just
25 brewed up internally?

1 A. You're going to have to -- "brewed up
 2 internally" is -- what is your definition of that?
 3 Q. Had you ever seen any sort of literature, for
 4 example, or a promotional tool or something where
 5 somebody is advocating purchasing properties in the
 6 proximity of landfills for investment purposes?
 7 A. To answer that question, no.
 8 Q. You've never seen anything in writing where
 9 somebody advocated an investment strategy similar to the
 10 one that you articulated today?
 11 A. No.
 12 Q. Never heard a consultant's -- or had a
 13 consultant give you a suggestion that that is an
 14 investment strategy to be pursued?
 15 A. TJFA has never hired a consultant.
 16 Q. Have you ever seen any sort of empirical
 17 research that would suggest that that is, in fact, a
 18 prudent investment strategy?
 19 A. I have never seen any written research
 20 regarding that.
 21 Q. Have you ever heard of any? Not that you've
 22 personally seen, but has somebody just told you that
 23 it's out there?
 24 A. No.
 25 Q. Have you ever attempted to go out and look for

1 piece of property, my limited partnership that purchased
 2 the property -- obviously, they have to have discussions
 3 with that partnership to see whether they want to
 4 participate in that.
 5 Q. And since yourself and Mr. Gregory are the only
 6 two people involved in the partnership, those
 7 discussions are exclusively between yourselves; would
 8 that be fair?
 9 A. That would be fair.
 10 Q. What sorts of properties are you looking for?
 11 What criterion do you have to analyze a potential
 12 purchase?
 13 A. I am looking for property that is a good
 14 investment on a long-term basis.
 15 Q. Do the properties you look at have to be
 16 located within a mile of a solid waste facility?
 17 A. Not necessarily. They have been.
 18 Q. To date, they've all been located --
 19 A. That's correct.
 20 Q. Have you ever made an offer on a piece of
 21 property that's more than a mile from the permit
 22 boundaries of solid waste --
 23 A. I don't recall.
 24 Q. Let me finish my question. I'm sorry.
 25 Has TJFA made an offer on a piece of

1 such documents, materials -- written materials that
 2 would suggest that that strategy that you've just
 3 articulated is, in fact, a prudent investment strategy?
 4 A. To reaffirm my thought process is right or
 5 wrong, no.
 6 Q. Who at TJFA actually goes out and looks for
 7 potential properties to purchase?
 8 A. I do.
 9 Q. Anybody else?
 10 A. When Bob Gregory was the president of Garra de
 11 Aguila, and I was vice president, we had conversations
 12 and we had some discussions on properties.
 13 Q. Okay. Anybody else?
 14 A. No, sir.
 15 Q. Just the two of y'all?
 16 A. Yes.
 17 Q. And since the change and responsibility --
 18 since you've become the sole director and officer of
 19 Garra de Aguila, has that changed, or does Mr. Gregory
 20 still assist you in looking for potential purchases?
 21 A. Nothing has changed.
 22 Q. So when you're looking for property, it's still
 23 a joint exercise between yourself and Bobby Gregory; is
 24 that fair to say?
 25 A. No, that's not fair to say. If I identify a

1 property that's located more than a mile from a
 2 permanent boundary of a solid waste facility?
 3 A. I don't recall.
 4 Q. Has TJFA ever made an offer on a piece of
 5 property that's located outside of this 25- or 32-county
 6 market area that we discussed earlier in the deposition?
 7 A. No.
 8 Q. Once you identify a piece of property, who
 9 makes the decision to actually purchase the property?
 10 A. Again, as I stated earlier, TJFA is the limited
 11 partnership. They're the purchasing entity. They have
 12 limited partners, and those limited partners have a
 13 financial investment in that. So there has to be
 14 discussions there.
 15 Q. Okay. And there's one limited partner here,
 16 and that's Mr. Gregory; is that correct?
 17 A. That is exactly correct.
 18 Q. So we've identified -- TJFA has identified a
 19 piece of property for purchase. Who at TJFA is the
 20 person who says "Yes, we'll buy that" or "No, we won't"?
 21 A. It's a joint discussion between myself and the
 22 limited partner.
 23 Q. What is the last property that TJFA purchased?
 24 A. I believe it would have been a piece of
 25 property in -- we have two pieces of property in Comal

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1 County. I believe it would have been one of those two
 2 pieces.
 3 Q. One of the two Comal County ones?
 4 A. Uh-huh.
 5 Q. What does TJFA stand for?
 6 A. It's a limited partnership. It's a name. It's
 7 the name of the limited partnership.
 8 Q. Do the initials or the acronym "TJFA" stand for
 9 anything in particular?
 10 A. No.
 11 Q. You have read Mr. Gregory's deposition
 12 testimony in the Williamson County case, haven't you?
 13 A. Yes, I have.
 14 Q. Do you recall testimony he gave to the effect
 15 that TJFA stands for Texas Justice For All?
 16 A. That's incorrect. His testimony was that TJFA
 17 stood for the entity, but he coined the phrase of "Texas
 18 Justice For All."
 19 Q. So if I understand your testimony correctly,
 20 TJFA, L.P., existed as an entity before the phrase
 21 "Texas Justice For All" was coined?
 22 A. I don't know when Mr. Gregory coined that
 23 phrase.
 24 Q. It could have been before TJFA, L.P., was
 25 actually formed?

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1 A. I don't know. and Mr. Gregory formed that
 2 phrase.
 3 Q. Would Mr. Gregory be the proper person to ask
 4 that?
 5 A. One would assume so.
 6 Q. Do you recall reading an article in the Austin
 7 American-Statesman last year in which Mr. Gregory was
 8 quoted as using the phrase "Texas Justice For All" in
 9 the context of TJFA?
 10 A. No. I don't.
 11 Q. Do you recall you signed the interrogatory --
 12 or verified the interrogatory in -- strike that.
 13 You verified the interrogatory answers that
 14 TJFA gave to BFI in this case. correct?
 15 A. That's correct.
 16 Q. Did you have an opportunity to look at the
 17 answers to the Request For Admission that TJFA provided?
 18 A. Yes. I did.
 19 Q. Do you recall one in which you denied that --
 20 TJFA denied that TJFA stands for "Texas Justice For
 21 All"?
 22 A. Repeat that question one more time.
 23 Q. Yes. sir. I'll show it to you at the end of
 24 the deposition.
 25 A. Sure.

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1 Q. Is TJFA a for profit partnership?
 2 A. Yes.
 3 Q. Who provides the sources of funds to purchase
 4 the properties?
 5 A. Limited partnership.
 6 Q. Well, you've done business for over 20 years
 7 now. You understand a limited partnership has to start
 8 with contributions -- capital contributions from
 9 partners, correct?
 10 A. That's correct.
 11 Q. Did the limited partner, in this case
 12 Mr. Gregory, make capital contributions when the limited
 13 partnership was formed in 2004?
 14 A. Yes.
 15 Q. Okay. Did anybody else make contributions?
 16 A. Not that I'm aware of.
 17 Q. I understand from prior testimony in other
 18 cases that TJFA also has a line of credit that it uses
 19 to purchase properties; is that correct?
 20 A. That is correct.
 21 Q. Is that actually in the name -- or is that line
 22 of credit in the name of TJFA, L.P.?
 23 A. I believe it is, yes.
 24 Q. Do you know what institution that line of
 25 credit is with?

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1 MR. HEAD: Objection. I'm going to
 2 instruct him not to answer that. We're not going to get
 3 into the financial information or where they do their
 4 banking.
 5 Q. (By Mr. Carlson) Has TJFA ever turned a profit
 6 in its four years of existence?
 7 A. I don't recall.
 8 Q. Has it made any distribution to its partners in
 9 the four years that you've been involved in the
 10 business?
 11 A. Not that I'm aware of, but I don't recall.
 12 Q. Does it file tax returns?
 13 A. Yes, it does.
 14 Q. Have you seen those tax returns?
 15 A. Yes, I have.
 16 Q. Have you signed any of those tax returns?
 17 A. No, I haven't.
 18 Q. And as we sit here today, you cannot recall
 19 whether or not TJFA has ever turned a profit since it
 20 was formed in 2004?
 21 A. No, I cannot.
 22 Q. You testified at the beginning of this
 23 deposition that you read Mr. Gregory's deposition in the
 24 Williamson County case.
 25 A. Uh-huh.

1 Q. Do you recall testimony that he gave in that
 2 deposition that at least as of that time TJFA had no
 3 income?
 4 A. At that time, yes.
 5 Q. Do you have any reason to dispute that
 6 testimony?
 7 A. I have no reason to dispute it, no.
 8 Q. Did TJFA turn a profit in 2007?
 9 A. I don't --
 10 MR. HEAD: Objection; form.
 11 Q. (By Mr. Carlson) Is TJFA turning a profit in
 12 2008?
 13 A. 2008 isn't over, but I can't tell you that.
 14 Q. I'm a little curious. You're the sole director
 15 and the sole officer of the managing general partner of
 16 the partnership, and you don't know the answers to
 17 whether or not the partnership is making a profit or has
 18 made a profit?
 19 A. Not at this present time, no.
 20 Q. All right. I hope not to mark documents I
 21 would like to go through.
 22 Do you have a general understanding of the
 23 10 properties that TJFA owns?
 24 A. I have a general understanding, yes.
 25 Q. I understand that TJFA owns two properties that

1 five-acre property in Hutto?
 2 A. I believe those were in the \$70,000 range.
 3 Q. And that five-acre tract is located within a
 4 mile of the Williamson County Landfill, correct?
 5 A. That is correct.
 6 Q. And that county is owned -- that landfill is
 7 owned by Williamson County, correct?
 8 A. Yes.
 9 Q. And operated by Waste Management of Texas,
 10 correct?
 11 A. Williamson County owns that landfill, and
 12 there's some dispute on --
 13 Q. There's a lawsuit going on right now?
 14 A. Yes, there is.
 15 Q. Nevertheless, I believe we established earlier
 16 on that Waste Management of Texas is a competitor of the
 17 company that you work for, TDS; is that correct?
 18 A. Yes, we did establish that.
 19 Q. And that first property, that was actually
 20 bought in Mr. Gregory's name individually. Do you
 21 recall that?
 22 A. Yes, I do. That was prior to the formation of
 23 Garra de Aguila and TJFA.
 24 Q. Were you involved in that purchase?
 25 A. Yes, I was.

1 are located within a mile of the Williamson County
 2 Landfill near Hutto; is that correct?
 3 A. That is correct.
 4 Q. There's a 5.04-acre tract that has a street
 5 address of 2101 County Road 130; is that correct?
 6 A. I am not exactly sure on that address, but I
 7 know there's a five-plus acre tract.
 8 Q. Okay. What's the use of that particular tract?
 9 A. It's a residential tract.
 10 Q. That was purchased from either a person or a
 11 family called the McCraries. Does that sound familiar?
 12 A. From the estate, yes.
 13 Q. And it was purchased in January of 2005. Does
 14 that sound correct?
 15 A. If you want to pin me down on those dates, I
 16 can't answer that. We've supplied the deeds and
 17 everything. If you have a list and you want to show me,
 18 I'd be happy --
 19 Q. I'm trying to cut through and make things a
 20 little faster. I wanted to see if you had a personal
 21 recollection or if -- you had reviewed the documents
 22 before this, so may have --
 23 A. Most of those properties were in '04, '05, '06,
 24 '07, and I think one in '08.
 25 Q. Do you recall the purchase price for that

1 Q. At the time that purchase was made, were you
 2 personally aware of either the existence of an
 3 application to expand the Williamson County Landfill or
 4 plans to expand the Williamson County Landfill?
 5 A. I personally haven't been involved in anything
 6 to do with that Williamson County Landfill. I believe I
 7 knew there were some plans.
 8 Q. You're under oath, now, today.
 9 A. I understand that.
 10 Q. And it's your understanding and it's your
 11 testimony here today that you have at least a general
 12 understanding that at the time of this purchase of the
 13 five-acre tract near the Williamson County Landfill that
 14 there were plans, in fact, to expand that landfill; is
 15 that correct?
 16 A. Yes.
 17 Q. There's a second tract that TJFA owns within a
 18 mile of the Williamson County Landfill. It's a two-acre
 19 tract; is that correct?
 20 A. Yes.
 21 Q. Is the street address 3800 County Road 130?
 22 Does that sound familiar?
 23 A. Yes.
 24 Q. That's also a residential property?
 25 A. Yes.

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1 Q. It was purchased from the Ledesmas?
 2 A. Ronica Ledesma.
 3 Q. And that was purchased in December of 2004;
 4 does that sound correct?
 5 A. Yes.
 6 Q. Purchase price, again, was around \$70,000, give
 7 or take?
 8 A. Yes.
 9 Q. Within a mile of the Williamson County
 10 Landfill, right?
 11 A. Correct.
 12 Q. And at the time that property was purchased a
 13 month before the five-acre property, again, were you
 14 personally aware of the fact that there were plans to
 15 expand the Williamson County Landfill?
 16 A. Yes.
 17 Q. Well, let's move to Travis County. TJFA owns
 18 an 11.224-acre tract at 5510 Blue Goose Road, correct?
 19 A. That is correct.
 20 Q. That's an agricultural property, correct?
 21 A. Correct.
 22 Q. Presently leased to Cecil and Evelyn Remmert;
 23 is that correct?
 24 A. That is correct.
 25 Q. Sellers were Fadal?

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1 A. Fadal.
 2 Q. That property was purchased in November
 3 of 2004, or thereabouts; is that correct?
 4 A. I'm assuming -- I don't recall the exact date
 5 on that one.
 6 Q. Were you personally involved in that
 7 transaction?
 8 A. Yes, I was.
 9 Q. Do you recall what the purchase price was, give
 10 or take a few thousand dollars?
 11 A. 130,000.
 12 Q. And that 11.224-acre tract was located within a
 13 mile of the BFI Sunset Farms Landfill, correct?
 14 A. That is correct.
 15 Q. And it's also located within a mile of the
 16 Austin Community Landfill facility, correct?
 17 A. Yes.
 18 Q. Were you aware at the time that tract was
 19 purchased that there were plans to expand both
 20 landfills?
 21 A. Yes.
 22 Q. Now, TJFA owns a second tract within the
 23 proximity of those two landfills. It's a 5.59-acre
 24 tract at 9900 Springdale; is that correct?
 25 A. Yes.

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1 Q. That's a residential tract?
 2 A. Yes, it is.
 3 Q. And that was purchased from a number of
 4 sellers, including a Mr. Hocker; is that correct?
 5 A. I believe he was a trustee on that. There was
 6 a lady that --
 7 Q. There were a number of owners of the property?
 8 A. Yes, there were quite a large number.
 9 Q. That property, that 5.598-acre property was
 10 purchased in December of 2004. Does that sound correct?
 11 A. Yes.
 12 Q. What was the purchase price?
 13 A. I think that one was like 133. They both were
 14 in that 130 range.
 15 Q. You were personally involved in that
 16 transaction?
 17 A. Yes, I was.
 18 Q. Again, that property is located within a mile
 19 of both the BFI Sunset Farms and the Waste Management
 20 Austin Community Landfills?
 21 A. Yes, it is.
 22 Q. And, again, at the time that property was
 23 purchased, you are aware that there were plans to expand
 24 both landfills; is that correct?
 25 A. Yes.

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1 Q. TJFA owns a 1.766-acre tract on Burleson Road;
 2 is that correct?
 3 A. That is correct.
 4 Q. That's an agricultural property?
 5 A. It's just raw land.
 6 Q. It has a --
 7 A. 1-d-1 one on it.
 8 Q. It appears to have some sort of an odd ag
 9 exemption on it, but I know Travis County typically
 10 doesn't do that. It's raw land?
 11 A. It's raw land.
 12 Q. Who did you buy that property from?
 13 A. That's a family that owns a lot of adjacent
 14 land right there. And at the moment, the name has just
 15 escaped me. If you want to show me the deed, I'll --
 16 Q. I don't have that one.
 17 A. Okay.
 18 Q. Do you recall when that piece of property, the
 19 1.766-acre property was purchased?
 20 A. Not the exact date, no.
 21 Q. It was purchased after TJFA was formed; is that
 22 correct?
 23 A. Oh, yes.
 24 Q. Do you recall the purchase price?
 25 A. That piece of property has just totally escaped

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1 me. I'm sorry.
 2 Q. Nevertheless, that one -- that piece of
 3 property is located within a mile of the IESI Landfill;
 4 is that correct?
 5 A. Yes, it would be.
 6 Q. There are two properties in Southeast Travis
 7 County that are located on Carl Road; is that correct?
 8 A. Yes.
 9 Q. One is a 2.25-acre tract. The other is a
 10 .25-acre tract, right?
 11 A. Yes.
 12 Q. Those are both residential?
 13 A. Yes.
 14 Q. They were bought for roughly \$150,000 each; is
 15 that correct?
 16 A. Yes.
 17 Q. And both of those are located within a mile of
 18 the TDSL Landfill; is that correct?
 19 A. That's correct.
 20 Q. TJFA bought a 2.31-acre tract in Comal County;
 21 is that correct?
 22 A. Yes.
 23 Q. On FM-1101?
 24 A. Yes.
 25 Q. From the Perez family?

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1 A. Yes.
 2 Q. Is that a residential property?
 3 A. That is a residential property.
 4 Q. That was purchased in September of 2006,
 5 correct?
 6 A. Yes.
 7 Q. Do you recall the purchase price?
 8 A. I believe that was around two and a half.
 9 Q. Two and a half?
 10 A. 250,000. I'm sorry. I'm not sure on that.
 11 Q. All right. That's within a mile of the permit
 12 boundaries of what used to be called the Comal County
 13 Landfill and is now the Mesquite Creek Landfill,
 14 correct?
 15 A. That's correct.
 16 Q. And that landfill is owned and operated by
 17 Waste Management of Texas?
 18 A. That is correct.
 19 Q. Which is a competitor of your employer, TDS,
 20 right?
 21 A. That's correct.
 22 Q. And the ninth property I counted is a lot
 23 that's also within a mile of the Comal County Landfill.
 24 I didn't see what the acreage is. Do you recall that
 25 property?

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1 A. That's incorrect.
 2 Q. Okay. What's the other -- there's a second
 3 property.
 4 A. There are two residential properties in Comal
 5 County.
 6 Q. Okay. Do you recall if I say by the name of
 7 the seller, Mr. Walther and Ms. Sweet, sold the property
 8 to TJFA?
 9 A. Yes. That's a residential property.
 10 Q. Okay. And that was purchased approximately
 11 November of 2004, correct?
 12 A. Yes.
 13 Q. That was the first property that TJFA actually
 14 acquired; is that correct?
 15 A. I would have to look at the dates.
 16 Q. Were you involved in both the Comal County
 17 transactions?
 18 A. Yes, I was.
 19 Q. At the time that the Comal County properties
 20 were purchased, were you aware that there were plans to
 21 expand the Comal County Landfill?
 22 A. Yes, I was.
 23 Q. And the 10th and last that I found or seen is a
 24 property in Bexar County, 7.479-acre property at 8420
 25 Covell Road. Are you familiar with that property?

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1 A. Yes, I am.
 2 Q. Is that an agricultural property?
 3 A. Yes.
 4 Q. Purchased from a Mr. Rodriguez?
 5 A. Yes.
 6 Q. In June of 2005?
 7 A. Correct.
 8 Q. And that's within a mile of the Covell Gardens
 9 Landfill, correct?
 10 A. That's correct.
 11 Q. Which is owned and operated by Waste Management
 12 of Texas?
 13 A. Yes, it is.
 14 Q. Which as we've established is a competitor of
 15 your employer; is that correct?
 16 A. Of my employer, TDS.
 17 Q. Are there any other properties that are either
 18 currently owned or have been owned by TJFA that we
 19 haven't discussed?
 20 A. No, sir.
 21 Q. On an operational basis, who is the person at
 22 TJFA who actually receives the bills and invoices and
 23 cuts the checks?
 24 A. I receive the bills.
 25 Q. Do you cut the checks?

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1 A. I have someone write those checks for me and
 2 then I review them and sign them.
 3 Q. Do you send them to somebody at either TDS or
 4 TDSL to handle the accounting?
 5 A. I have a young lady that is paid by TDS that
 6 helps me with that.
 7 Q. Okay.
 8 A. I need to take a break and get some coffee.
 9 (Break taken from 12:17 p.m. to 12:29 p.m.)
 10 Q. (By Mr. Carlson) All right. We had a short
 11 break, Mr. Hobbs, and I believe I was asking you some
 12 questions just about perfunctory handling, invoices,
 13 bills, checks, and whatnot for TJFA. Other than
 14 yourself on a day-to-day basis, is there anybody that
 15 handles the disposition of work orders, checks, company
 16 paperwork, partnership paperwork?
 17 A. No.
 18 Q. And I had asked you some questions. Obviously,
 19 it's a taxable entity both at the state and federal
 20 level, correct?
 21 A. Yes.
 22 Q. And I believe your testimony, but I want to
 23 make it clear, is you have never personally signed the
 24 tax returns for TJFA, and I'm going to expand it to say
 25 not only at the federal level, but also the state level;

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1 is that fair to say?
 2 A. Yes, it is.
 3 Q. Are those documents that Bobby Gregory has
 4 signed in the past?
 5 A. As president of Garra de Aguila, he did sign
 6 those, yes.
 7 Q. Now, TJFA is in the real estate investment and
 8 development business, correct?
 9 A. Correct.
 10 Q. Has TJFA ever made any contributions to your
 11 recollection or awareness to either the Texas Campaign
 12 for the Environment or for the Sierra Club?
 13 MR. HEAD: I'm going to object to that.
 14 There is a Supreme Court case. I'm going to instruct
 15 you not to answer that. The entities have a right to
 16 make contributions to nonprofit corporations, and it's
 17 not an appropriate subject matter in this deposition.
 18 I'm instructing him not to answer.
 19 Q. (By Mr. Carlson) If I asked you the same
 20 question, you're not going to answer it based on the
 21 instruction of your counsel?
 22 A. That's correct.
 23 Q. Focusing on the area around the Sunset Farms
 24 Landfill, we've talked about two properties, the 9900
 25 Springdale and the 5510 Blue Goose properties. Has TJFA

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1 made any offers on any properties other than those two
 2 properties?
 3 A. No.
 4 Q. Okay. I would like to switch gears a little
 5 bit and start talking about Item 5 in the depo notice,
 6 having to do with TJFA's challenges to other permit
 7 applications.
 8 I understand that TJFA has been a
 9 participant in at least four MSW solid waste permitting
 10 procedures here in Texas; is that correct?
 11 A. That's correct.
 12 Q. The Williamson County proceeding, Comal County,
 13 this one involving Sunset Farms, and the Austin
 14 Community Landfill, correct?
 15 A. That's correct.
 16 Q. What is the status of the Williamson County
 17 proceeding? Let me back up. You've personally been
 18 involved in or at least aware of those proceedings and
 19 their status?
 20 A. Not totally, no.
 21 Q. You have a general awareness of those
 22 proceedings?
 23 A. It depends upon what you want to discuss, I
 24 guess.
 25 Q. We'll see. One of our topics that we have

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1 designated and you are included and you are designated
 2 to talk about was TJFA's prior involvement in such
 3 proceedings. Do you understand that?
 4 A. Yes, I do.
 5 Q. Okay. And did you make an effort to the extent
 6 you didn't -- you felt like you didn't have a grasp of
 7 those proceedings to go back and educate yourself for
 8 the purposes of this deposition?
 9 A. I looked at them, yes.
 10 Q. All right. What is the current status of the
 11 Williamson County permit application proceeding?
 12 A. There's litigation on that, as we speak,
 13 regarding the operation of the landfill.
 14 Q. And let me clarify, because I think I
 15 understand what you're talking about, but let me make
 16 the record clear. I'm talking about the administrative
 17 proceeding involving the application to expand that
 18 facility. Do you understand the difference between that
 19 and perhaps some district court litigation between TDS
 20 and Waste Management?
 21 A. Yes, I did.
 22 Q. I'm focusing my questions on the administrative
 23 proceeding, okay? What is the status of that, to your
 24 knowledge?
 25 A. I'm sorry. I don't recall at this present

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1 time.
 2 Q. Maybe we'll walk through and we'll get there a
 3 different way. Same question for the Comal County
 4 proceeding. Do you know what the status of the
 5 administrative permitting proceeding is, sir?
 6 A. They are -- at this time it's my understanding
 7 on the Comal County they are still in process.
 8 Q. Okay. And same question for the Austin
 9 Community Landfill proceeding. That's in discovery,
 10 correct?
 11 A. Yes, just basically starting.
 12 Q. So in order of proceedings, the furthest one --
 13 I'll represent to you that the TCEQ has actually issued
 14 a permit in the Williamson County proceeding. Is that
 15 consistent with your recollection?
 16 A. Yes.
 17 Q. And that's actually -- of these four, that one
 18 is the furthest down, the permitting pipeline; is that
 19 fair to say?
 20 A. That's fair to say.
 21 Q. And the next one is Comal County, correct?
 22 A. Yes. That's correct.
 23 Q. And we're -- and the Sunset Farms' proceedings
 24 here, we're slightly ahead of the Austin Community
 25 Landfill proceeding; is that correct?

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1 A. That would be correct.
 2 Q. Actually, I might have gotten those backwards,
 3 too.
 4 MR. HEAD: Can I --
 5 MR. CARLSON: As I'm thinking about it,
 6 Williamson County was ahead of -- let's see.
 7 MR. HEAD: If I can try to clarify the
 8 record.
 9 MR. CARLSON: Sure.
 10 MR. HEAD: Comal County has been decided;
 11 Williamson has not been decided.
 12 MR. CARLSON: By the commissioners.
 13 MR. HEAD: By the commissioners.
 14 MR. CARLSON: Okay. Thank you for that
 15 clarification.
 16 Q. (By Mr. Carlson) Let's talk about the Comal
 17 County proceeding, okay? Waste Management filed an
 18 application to expand what's now called the Mesquite
 19 Creek Landfill, formerly the Comal County Landfill,
 20 correct?
 21 A. That's correct.
 22 Q. And do you remember when that application was
 23 filed?
 24 A. I don't recall.
 25 Q. Do you recall TJFA filing written comments

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1 regarding the application with TCEQ after the
 2 application was filed?
 3 A. Yes.
 4 Q. In those comments, TJFA was opposing -- or at
 5 least portions of the proposed -- or of the application,
 6 correct?
 7 A. That's correct.
 8 Q. And subsequently TJFA requested a contested
 9 case hearing on that application; is that correct?
 10 A. That's correct.
 11 Q. And at some point TJFA sought and obtained
 12 party status as a party in that proceeding; is that
 13 correct?
 14 A. That's correct.
 15 Q. Who were TJFA's lawyers in that administrative
 16 proceeding?
 17 A. Larry Dunbar.
 18 Q. Was it only Mr. Dunbar or did you have any
 19 other attorneys that you had engaged that represented in
 20 a public form TJFA?
 21 A. No. I believe Mr. Dunbar -- he's a party in
 22 this case. Larry Dunbar was the primary attorney, and I
 23 believe he used additional consult.
 24 Q. Okay. From the same firm or a different law
 25 firm?

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1 A. Different firm.
 2 Q. And in the course of the Comal County
 3 proceeding, TJFA or its attorneys retained expert
 4 witnesses to testify on his behalf; is that correct?
 5 A. That's correct.
 6 Q. Who were TJFA's expert -- retained expert --
 7 testifying experts in Comal County?
 8 A. Dr. Kier. Robert Kier.
 9 Q. H.C. Clark? Dr. Clark?
 10 A. There were several, and I can't tell you all
 11 the names at this point.
 12 Q. I'll draw you a distinction. I want to know
 13 who you, being TJFA, designated as testifying experts.
 14 I don't care about consulting experts. As we sit here
 15 today, can you tell me the names of the experts that
 16 were designated by TJFA to testify on its behalf in the
 17 Comal County proceeding?
 18 A. I can tell you Dr. Kier was one of them.
 19 Q. And he's a geologist; is that correct?
 20 A. Hydrogeologist.
 21 Q. Hydrogeologist. Do you recall if Dr. Clark --
 22 H.C. Clark was a testifying witness in Comal County?
 23 A. I don't recall.
 24 Q. Do you recall anybody else that had been
 25 designated?

1 A. I don't recall.
 2 Q. Were there more than just Dr. Kier?
 3 A. Yes, there was.
 4 Q. Do you recall roughly how many testifying
 5 experts had been designated by TJFA in that proceeding?
 6 A. I don't recall if I can recall a number. I
 7 think I can recall the names.
 8 Q. TJFA did --
 9 A. I believe Pierce Chandler was, also, but I
 10 don't -- I can't tell you at this present time whether
 11 he was a consultant or a testifying expert.
 12 Q. All I want to know is the folks who were
 13 identified publicly.
 14 A. (Shakes head.)
 15 Q. All right. TJFA participated in the discovery
 16 process in the Comal County proceeding; isn't that
 17 correct?
 18 A. Uh-huh.
 19 Q. By and through your lawyers?
 20 A. Yes.
 21 Q. TJFA -- there was an evidentiary hearing held
 22 in that matter, correct?
 23 A. Yes.
 24 Q. How many days long was that hearing?
 25 A. I don't recall.

1 Q. Did you present your expert witnesses in that
 2 hearing?
 3 MR. HEAD: Objection; form.
 4 Q. (By Mr. Carlson) Did you present -- did TJFA
 5 offer expert witnesses to provide testimony at the
 6 evidentiary hearing?
 7 A. I don't recall.
 8 Q. After the hearing there was a post hearing
 9 briefing process; is that correct?
 10 A. I believe that's correct.
 11 Q. And through this process TJFA was represented
 12 by Mr. Dunbar and perhaps other attorneys; is that
 13 correct?
 14 A. That's correct.
 15 Q. And based on our discussion here, do you recall
 16 what the status of that proceeding is now?
 17 A. I can't tell you that at the present time.
 18 Q. You don't know what the result is as we sit
 19 here today, the legal result?
 20 A. I cannot tell you that. I don't recall.
 21 Q. Okay. I'm not asking you for an amount or the
 22 individual components of an amount, but have you on
 23 TJFA's behalf ever calculated how much money the
 24 partnership spent on the Comal County proceeding?
 25 A. I have not calculated it.

1 Q. Have you ever seen that amount?
 2 A. No, I haven't.
 3 Q. Okay. That was done by somebody else, perhaps
 4 Mr. Gregory?
 5 A. I can't attest to the fact that it was done.
 6 Q. Okay. Well, I'm asking you right now. You're
 7 the sole director.
 8 A. Uh-huh.
 9 Q. You're the sole officer in three different
 10 capacities of TJFA, and I'm asking if you have any
 11 idea -- if you've seen any calculations about the money
 12 that was spent prosecuting TJFA's position in that
 13 administrative proceeding.
 14 A. When that occurred, Bobby Gregory was the,
 15 quote, chief administrative officer, as you called it,
 16 during that period for Garra de Aguila.
 17 Q. Nevertheless, as an officer of Garra de
 18 Aguila --
 19 A. Garra de Aguila.
 20 Q. -- did you feel compelled to get a sense of the
 21 amount of money the company was spending prosecuting
 22 that particular opposition to the landfill?
 23 A. Define to me what you mean, "when do I feel
 24 compelled."
 25 Q. Well, you're involved in a real estate

1 investment company, right?
 2 A. Yes.
 3 Q. With a goal of making money, correct?
 4 A. Correct.
 5 Q. And you make money in various ways, but one way
 6 you make money is to -- or to turn a profit is by
 7 reducing the amount of money you spend in expenses,
 8 correct?
 9 A. That's correct.
 10 Q. So expenses is an important part of the
 11 business, right?
 12 A. Expenses are a part of the business.
 13 Q. And as an officer of the managing partner,
 14 didn't you feel important to get a sense of the amount
 15 of money that was being spent prosecuting or pursuing an
 16 opposition to a landfill in connection with the two
 17 properties that TJFA had purchased in the vicinity?
 18 A. I didn't do that.
 19 Q. Didn't think it was important?
 20 A. I didn't say that. I said I didn't do it.
 21 Q. Well, my question was you didn't think it was
 22 important?
 23 MR. HEAD: Objection; form. We're starting
 24 to get a little argumentative here.
 25 A. I didn't do it.

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1 Q. (By Mr. Carlson) As we sit here today, do you
 2 believe that the money that TJFA has spent opposing the
 3 Comal County proceeding was a good investment with
 4 respect to the two properties within the one mile
 5 proximity of the landfill?
 6 MR. HEAD: Objection; form.
 7 A. I think the money that was spent -- we were
 8 looking for a return on our investment, and when those
 9 landfills are operated within the standards and the
 10 guidelines and operated correctly, the property will be
 11 increased and enhanced in value. And over time, the
 12 return will be there.
 13 Q. (By Mr. Carlson) Well, for lack of a better
 14 term, TJFA lost -- or at least at the initial phases,
 15 lost the Comal County proceeding; is that correct? The
 16 permit is going to be issued, right?
 17 A. Yes.
 18 Q. Spent a lot of money. I don't care -- I'm not
 19 breaking it down into attorneys or experts, but you
 20 spent a bunch of money opposing that, right?
 21 A. I'm not sure what your definition of a bunch of
 22 money is, so I'm sure that that's long and wide as the
 23 sunset.
 24 Q. Well, you're the officer and director of the
 25 managing partner.

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1 A. "A bunch of money" is relative. So I -- you
 2 know, you need to protect your investment. You want to
 3 improve your investment. So maybe what I spend to
 4 improve and protect my investment in one individual's
 5 eyes is too much and in others too little.
 6 Q. Let me ask you this: How did the money TJFA
 7 spent opposing Comal County improve or protect its
 8 investments in those two properties within one mile of
 9 the landfill permit boundary?
 10 A. The landfill will be operated in a better
 11 manner.
 12 Q. How so?
 13 A. By the changes that Waste Management will
 14 apply. Maybe not all that we would have hoped, but
 15 Waste Management will operate better. And, again, as a
 16 property owner, I reserve the right to participate in
 17 those hearings.
 18 Q. Have you ever quantified the value that you
 19 perceive has come about -- strike that.
 20 Have you ever quantified the value or
 21 increase in value to these two properties as a result of
 22 TJFA's participation in the Comal County proceeding?
 23 A. No.
 24 Q. Don't you think as a businessman that it's
 25 important to actually put numbers on these to see if

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1 you're actually making money, making a good rate of
 2 return?
 3 A. I think as a businessman I have prerogatives to
 4 do what we believe is right.
 5 Q. Isn't a businessman's primary prerogative to
 6 actually make money?
 7 A. One would hope.
 8 Q. Have you actually done the math to determine
 9 whether or not you've made money -- or are making money
 10 on those two Comal County investments?
 11 A. No, I haven't.
 12 Q. It doesn't matter to you?
 13 A. Improving the properties, increasing my value
 14 of my investment matters. Okay?
 15 Q. But how can you tell that if you don't have any
 16 metrics to determine that?
 17 A. Long-term we will know that.
 18 Q. So we're three or four years out. And as we
 19 sit here today, wearing your TJFA hat, you can't tell me
 20 or you can't tell the ALJ in any sort of quantifiable
 21 way that you've concluded that you have a positive
 22 return on the investment?
 23 A. These are long-term investments.
 24 Q. Let me ask you a little different question.
 25 You sound confident that you're doing the right thing.

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1 Given the strategy that you've talked about today about
 2 buying properties in the proximity of landfills and
 3 ensuring that landfills are operated correctly -- are
 4 you with me so far?
 5 A. Yes, I am.
 6 Q. If you're going to spend this money opposing a
 7 landfill or at least trying to get a better permit out
 8 of it, why don't you buy six or eight or ten properties
 9 and spend the same amount of money? Don't you think
 10 that's a prudent business approach?
 11 A. We didn't buy the property to oppose the
 12 landfill. That's number one. The properties were
 13 purchased as an investment knowing that if the landfills
 14 are operated correctly, our value will increase. Your
 15 question to me was: Buying it to oppose the landfill.
 16 That was incorrect.
 17 Q. Well, let me ask it a little different way.
 18 Based on your business model, you're part
 19 of a real estate investment company, right?
 20 A. Correct.
 21 Q. The focus is on properties in the proximity of
 22 a landfill, right?
 23 A. Has been to this point.
 24 Q. Okay. You've purchased, as we've established
 25 earlier, landfills in the proximity -- or, excuse me,

1 properties in the proximity of, I believe, five
 2 different landfills in the Central Texas, correct?
 3 A. Williamson County, TDS, IESI, Comal. Yes.
 4 Q. And my question -- and perhaps was improperly
 5 worded. I don't want you to be confused, but I want to
 6 get an answer out of this. Given this strategy, why not
 7 buy multiple properties around one landfill, spend the
 8 amount of money you spent protesting, challenging,
 9 trying to improve the landfill and reap the benefits on
 10 multiple properties instead of just two?
 11 A. Well, to answer your question, that would be
 12 like a real estate investment company buying every
 13 property within one block. And some real estate
 14 investors spread their money into other areas. Markets
 15 are different. And so you look at other areas of the
 16 marketplace where you can capitalize on your investment
 17 rather than dumping all of your eggs in one basket.
 18 Does that answer your question?
 19 MR. CARLSON: I'll object as nonresponsive.
 20 Q. (By Mr. Carlson) I'll try to ask it in a
 21 little different direction. Let me put it in terms of
 22 a -- a little bit of a simpler hypothetical. Let's say
 23 TJFA is going to buy four properties, okay?
 24 A. Okay.
 25 Q. Each property is going to follow this maximum

1 of being within a mile of a landfill, correct? You
 2 understand that?
 3 A. You're the one that's doing the hypothetical.
 4 Q. Under that hypothetical you're going to buy a
 5 total of four properties, okay?
 6 A. I understand what you're saying.
 7 Q. Now, you have an option before you. You can
 8 buy one property next to four different landfills,
 9 okay --
 10 A. I understand.
 11 Q. -- and oppose four different expansion
 12 applications, or you can buy four properties in the
 13 proximity of one landfill, spend the same amount of
 14 money challenging that application and minimize your
 15 expenses. You understand that scenario?
 16 A. I understand that scenario.
 17 Q. Don't you believe that's a more prudent
 18 investment strategy for a real estate investment company
 19 than challenging three, four, or five different
 20 applications with a sprinkling of properties around each
 21 one?
 22 A. Your hypothetical case assumes that you're
 23 doing this entirely to oppose landfills. and we don't
 24 buy property entirely based on the fact that we're going
 25 to oppose the landfill.

1 Q. You use the word "entirely." It implies that
 2 at least partially you purchase these to challenge
 3 landfills.
 4 A. No, we do not. Properties are not purchased to
 5 oppose a landfill, period. Your hypothetical was based
 6 on opposing landfills.
 7 Q. Well, we went through the 10 properties a
 8 little bit earlier before the break, and by my count --
 9 and you've also talked about four different proceedings
 10 TJFA has been involved in, correct?
 11 A. Yes.
 12 Q. So of the 10 properties that TJFA has
 13 purchased, seven properties have been the basis or
 14 subject for TJFA's opposition to a permit application,
 15 correct?
 16 A. I'm going to come back to my same answer. Not
 17 the basis, okay? We own property. We own property
 18 around landfills. As a property owner within the
 19 certain proximity of a landfill, I reserve the right and
 20 have the right to become a party in a landfill hearing
 21 if I don't think that landfill permit application is
 22 correct or an adherence to the rules. And we have
 23 exercised that right as we speak today for facilities.
 24 Q. In at least 70 percent -- seven out of 10 of
 25 the 10 properties that TJFA has bought have been the

1 basis -- serve as the basis for getting effective person
 2 status to challenge a landfill expansion; is that
 3 correct?
 4 A. I will totally agree with you on your word
 5 basis.
 6 Q. Let me just -- I've been beating around the
 7 bush. Let me just ask you this question straight up.
 8 Does TJFA purchase properties within one mile of
 9 landfills for the purchase of obtaining effective person
 10 or party status to challenge proposed expansions?
 11 A. No.
 12 Q. That's your testimony under oath?
 13 A. Yes.
 14 Q. Okay. Let's just -- let me ask you some
 15 questions about the Williamson County proceeding. TJFA
 16 did provide written comments on the Williamson
 17 County/Waste Management application; is that correct?
 18 A. Yes.
 19 Q. TJFA requested a contested case hearing on that
 20 application?
 21 A. Yes.
 22 Q. Did it seek and obtain party status in that
 23 proceeding?
 24 A. Yes.
 25 Q. Was Mr. Dunbar again TJFA's lawyer in that

1 proceeding? Do you recall?
 2 A. I don't recall.
 3 Q. Do you recall whether TJFA or its attorneys
 4 retained expert -- testifying expert witnesses in the
 5 Williamson County proceeding?
 6 A. Yes, I do.
 7 Q. Who were those testifying experts?
 8 MR. HEAD: Only testifying experts, only
 9 people who testified.
 10 MR. CARLSON: I know who their consultants
 11 were, but go ahead.
 12 THE WITNESS: Ask the question again.
 13 Q. (By Mr. Carlson) Did TJFA or its attorneys
 14 retain testifying expert witnesses in that Williamson
 15 County proceeding?
 16 A. I don't recall.
 17 Q. Do you recall H.C. Clark giving testimony as an
 18 expert witness on TJFA's behalf in that proceeding?
 19 A. I don't recall.
 20 Q. You don't recall anybody, period? You don't
 21 recall?
 22 A. I don't recall.
 23 Q. TJFA did participate in the discovery of that
 24 proceeding through its attorneys?
 25 A. Yes.

1 A. I don't recall seeing any documents of that
 2 nature.
 3 Q. Have you determined whether the two properties
 4 in the proximity of the Williamson County Landfill, if
 5 their values have increased as a result of TJFA's
 6 participation in that proceeding?
 7 A. That proceeding just finished, so it's --
 8 again, our investment strategy is a long-term strategy,
 9 so hopefully we will see some increase in values.
 10 Q. But you haven't done that yet, have you?
 11 A. It just ended.
 12 Q. I'm familiar with y'all's participation in this
 13 proceeding. Just a quick question: Who are your
 14 lawyers in the Austin Community Landfill proceeding?
 15 A. Birch, Moorman & Becker.
 16 Q. Have you designated your testifying experts in
 17 that proceeding yet?
 18 A. I don't recall that.
 19 Q. Do you recall -- strike that.
 20 Let me ask you -- I'm getting towards the
 21 end, sir. Let me ask you a couple of names that popped
 22 up before. I believe you -- strike that.
 23 You're out at the TDS's main office every
 24 day, correct, as a part of your job?
 25 A. Yes.

1 Q. TJFA participated in the contested case -- the
 2 evidentiary hearing itself. correct?
 3 A. Correct.
 4 Q. Do you recall how long that hearing was?
 5 A. I don't recall.
 6 Q. A little over a week?
 7 A. I don't recall was my answer.
 8 Q. Participated in post hearing briefing, correct?
 9 A. I don't recall.
 10 Q. Participated in proceedings before the TCEQ
 11 commissioners post hearing proceedings?
 12 A. Yes. I believe they did.
 13 Q. We already had a discussion about what the
 14 result was. Going back to this computation of "money
 15 spent" issue. Have you ever gone back, sir, and
 16 calculated how much money TJFA spent in connection with
 17 its opposition to the Williamson County permit
 18 application?
 19 A. I have not.
 20 Q. Are you aware of anybody having done that?
 21 A. I am not aware.
 22 Q. Are you aware of anybody having done any sort
 23 of calculations to determine rates of return, expenses,
 24 projected expenses, costs, with respect to the
 25 Williamson County properties?

1 Q. You're generally familiar with the operations
 2 of TDS, TDSL, TLM, and related companies, right?
 3 A. Well, depending on your definition of familiar
 4 with operations. I know what they do.
 5 Q. And, again, I'm not talking about in the
 6 context of a legal proceeding, but I would like to know
 7 based on your knowledge does Pierce Chandler perform any
 8 type of technical consulting work for either TDS, TDSL,
 9 or TLM?
 10 A. I can't answer that.
 11 Q. You just don't know?
 12 A. You know. when you say does Pierce Chandler
 13 perform technical -- does -- you need to expand on that.
 14 I'm sorry.
 15 Q. Do you know what a slur is?
 16 A. Sure. It's a liner evaluation pipe.
 17 Q. Are you aware of somebody -- consultant that
 18 prepares slurs for TDS or in particular here for TDSL?
 19 A. I am familiar.
 20 Q. Is that something Pierce Chandler does or has
 21 done for TDSL?
 22 A. I can't tell you that.
 23 Q. Just to clean this up, are you aware of any
 24 sort of consulting work -- nonlegal related consulting
 25 work that Pierce Chandler has performed for any of those

1 comments that you personally prepared?
 2 A. These were comments that -- these issues were
 3 developed by TJFA experts that I rely upon.
 4 Q. Let me back up a little bit. The letter.
 5 itself, did you prepare the cover letter?
 6 A. Yes.
 7 Q. Okay. The public comments, the Attachment 3
 8 that we were just looking at, the bullet points, those
 9 are comments that were provided to you by outside
 10 consultants or experts, right?
 11 A. That's correct.
 12 Q. Mr. Kier and Mr. Chandler and perhaps some
 13 others?
 14 A. Correct.
 15 Q. I'm trying to shorthand it and speed this up a
 16 little bit. Are Mr. Kier -- or Dr. Kier and
 17 Mr. Chandler and others the proper people to talk about
 18 with respect to specific comments, criticisms,
 19 complaints of BFI's application?
 20 A. Yes.
 21 Q. Are you intending to be a sponsor to provide
 22 prefiled testimony regarding any of these particular
 23 comments, or is TJFA going to be relying on expert
 24 witnesses to discuss these various comments?
 25 A. TJFA is relying on my attorneys as well as my

1 Q. Now, the first page of Exhibit 81 is a fax
 2 cover page, right?
 3 A. Yes, it is.
 4 Q. And the fax cover page is actually a Texas
 5 Disposal Systems and TDSL cover page; isn't that
 6 correct?
 7 A. That is correct.
 8 Q. And, in fact, the fax header indicates that it
 9 was faxed from Texas Disposal Systems' fax; is that
 10 correct?
 11 A. That is correct.
 12 Q. And the message is from yourself?
 13 A. From TJFA signed by myself.
 14 Q. But TJFA's comments did come from Texas
 15 Disposal Systems' fax machine; is that correct?
 16 A. As I stated earlier in answers to your
 17 questions, the fax number that TJFA utilizes in its
 18 business is, in fact, the same fax number that TDS,
 19 TDSL, and TLM uses.
 20 Q. Okay. The substantive comments on Exhibit 81,
 21 you've got three or four pages of text.
 22 A. Three pages, correct.
 23 Q. Again, just to shorten things, you're not
 24 providing prefiled testimony, you're not planning on
 25 providing any sort of substantive commentary on these

1 expert witnesses.
 2 Q. Okay. And what I want to do is get us out of
 3 here.
 4 MR. HEAD: I'll stipulate that he's not
 5 going to testify about anything.
 6 MR. CARLSON: Okay. There's no prefile.
 7 We're done here with his testimony.
 8 MR. HEAD: He will not have prefiled
 9 testimony.
 10 MR. CARLSON: Based on that, I will move
 11 on, and we'll save those questions for another deponent
 12 for another day.
 13 (Exhibit 81 marked)
 14 Q. (By Mr. Carlson) Let me hand you a document
 15 that I've marked as 81 and ask you to take a look at
 16 that, Mr. Hobbs. Are you familiar with that document?
 17 A. Yes.
 18 Q. Okay. What is it?
 19 A. It is a letter from TJFA to Office of the Chief
 20 Clerk, TCEQ, with comments submitted on behalf of TJFA
 21 in response to the executive director's response to the
 22 public comment.
 23 Q. And these were -- let's see. The last page has
 24 your signature on it, correct?
 25 A. Yes, it does.

1 various items that are mentioned in this letter; is that
 2 fair to say?
 3 A. That's correct.
 4 Q. And I can save these questions -- my questions
 5 regarding these for TJFA's retained experts; is that
 6 fair to say?
 7 A. That is correct.
 8 MR. CARLSON: Let's go off the record.
 9 (Off the record)
 10 Q. (By Mr. Carlson) Mr. Hobbs, we've been going
 11 over a little bit earlier some of the complaints or
 12 observations you had in connection with the two TJFA
 13 properties in the vicinity of the landfill.
 14 Do you recall getting document requests
 15 from BFI in this proceeding?
 16 A. Yes.
 17 Q. Does TJFA have in its possession any photos of
 18 either the landfill -- the BFI Landfill or any of the
 19 properties -- roadways or properties surrounding the
 20 landfill?
 21 A. Not that I'm aware of that TJFA has, no.
 22 Q. What about videos?
 23 A. No.
 24 Q. Has TJFA or any of the TDS companies ever
 25 submitted any complaints to either TCEQ, the City of

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1 is largely competitive." Do you see that?
 2 A. I read that sentence, yes.
 3 Q. Is that consistent with the order or the ruling
 4 of the judge at least as this order is concerned?
 5 A. I see what the sentence says and it's signed,
 6 so that's his opinion.
 7 Q. I just want to ask you a few closing questions
 8 about your company's investment strategy, philosophy.
 9 Okay. We had the discussion earlier, but I would like
 10 to close out and make sure I understand exactly the
 11 nature of the philosophy.
 12 As I understand it, correct me if I'm
 13 wrong, TJFA is a real estate investment and development
 14 company, correct?
 15 A. Correct.
 16 Q. Today TJFA has never developed any property
 17 that its purchased; is that fair to say?
 18 A. Yes.
 19 Q. So far it's all been purchases, right?
 20 A. Yes.
 21 Q. All 10 of the properties that TJFA has
 22 purchased have been within a mile of an existing MSW
 23 facility, correct?
 24 A. Correct.
 25 Q. Eight of those 10 are located within a mile of

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1 a facility that is owned or operated by a direct
 2 competitor of either TDS or TDSL in the Central Texas
 3 market, correct?
 4 A. From a hauling standpoint and a landfill
 5 standpoint?
 6 Q. Yes.
 7 A. Correct.
 8 Q. TJFA has sought party status in four contested
 9 case hearings before TCEQ and SOAH in connection with
 10 those properties, correct?
 11 A. Correct.
 12 Q. In each case it's hired attorneys, right?
 13 A. Correct.
 14 Q. In each case it's hired testifying expert
 15 witnesses, correct?
 16 A. Correct.
 17 Q. They're in various stages of litigation,
 18 correct?
 19 A. Correct.
 20 Q. All told, TJFA has spent a lot of money
 21 opposing applications to expand landfills that are in
 22 the vicinity of the properties its purchased, correct?
 23 A. Define your definition of a lot.
 24 Q. I don't think I'm entitled to necessarily know
 25 how much you've spent on attorneys. If you want to tell

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1 me, I'll be happy to let -- have you let me know.
 2 MR. HEAD: He doesn't want to tell you.
 3 A. No, I'm not going to tell you. But when you
 4 tell me "a lot" -- and you're going to say it's
 5 nonresponsive, but how far away is it? It's a long ways
 6 away. How far is long?
 7 Q. (By Mr. Carlson) You've spent a lot of money
 8 over the last four years opposing land permit --
 9 A. I can't answer that.
 10 Q. Let me finish.
 11 A. Sure.
 12 Q. You've spent a lot of money -- TJFA has spent a
 13 lot of money opposing expansion applications, correct?
 14 A. I can't answer that, because I don't know what
 15 you mean when you say "a lot of money."
 16 Q. Well, you've never even quantified the amount
 17 of money that TJFA has spent opposing landfill
 18 applications, have you?
 19 A. Nor will I, no.
 20 Q. Okay. You're a real estate investor?
 21 A. Yes.
 22 Q. Do you think it's a prudent business practice
 23 not to quantify the amount of money you've spent on your
 24 real estate investments?
 25 MR. HEAD: Objection; form.

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1 Q. (By Mr. Carlson) You can answer that.
 2 A. Rephrase it.
 3 Q. Do you think it's a prudent business practice
 4 not to quantify the amount of money you've spent in
 5 expenses on your real estate investments?
 6 A. I think it's prudent to know what you've spent,
 7 yes.
 8 Q. Why haven't you done that?
 9 A. I just haven't got to it yet.
 10 Q. You've been involved with TJFA for four years
 11 now, correct?
 12 A. Yes.
 13 Q. You've been an officer of the company for all
 14 four years, correct?
 15 A. Yes.
 16 Q. You're now a sole -- the sole director and the
 17 sole officer of the managing general partnership,
 18 correct?
 19 A. Yes.
 20 Q. And that happened eight months ago?
 21 A. February.
 22 Q. Okay. February to -- we're now approaching
 23 November. Between seven and eight months, correct?
 24 A. Yes.
 25 Q. And as you assume those roles, you haven't

Exhibit B

TJFA's Attorney's E-mail

Joe Jimenez

From: Head, JD [JDHead@fbhh.com]
Sent: Tuesday, November 18, 2008 4:03 PM
To: Paul Gosselink
Cc: Renbarger, Bob
Subject: discovery

Paul, Neyens is on for Dec 2nd. We will have the depo at my office. Let's start it at 10 am or later. TJFA objects to production of TDSL's original application for a landfill permit. JDHead **Attorney at Law**

Fritz, Byrne, Head & Harrison, PLLC
98 San Jacinto Boulevard, Suite 2000
Austin, Texas 78701-4288
Telephone: 512.476.2020
Telecopier: 512.477.5267

FBH

& H

FRITZ, BYRNE, HEAD & HARRISON, PLLC

Attorneys at Law

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