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

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

TJFA, L.P.'s NOTICE OF ORAL DEPOSITION OF BRAD DUGAS AND SUBPOENA DUCES TECUM

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

PLEASE TAKE NOTICE pursuant to Rules 195.4 and 199 of the Texas Rules of Civil Procedure that Protestant TJFA, L.P. (TJFA) will take the following oral deposition in this proceeding:

Witness: Brad Dugas

Date: Wednesday, December 10, 2008

Time: 1:00 p.m.

Location: Offices of Lloyd, Gosselink, Rochelle & Townsend,

P.C., 816 Congress Ave., Suite 1900, Austin, Texas

78701

The deposition will continue from day-to-day until completed. The deposition will be taken before a certified court reporter from Affiliated Reporting & Video. The following persons may attend the deposition in addition to counsel for TJFA. Bob Gregory, Robert Kier and James Neyens. This Notice of Deposition requests the witness to bring to the deposition for

review, inspection and possibly copying, the originals of the documents requested in the Subpoena Duces Tecum that is attached as **Exhibit A**.

Respectfully submitted,

FRITZ, BYRNE, HEAD & HARRISON, PLLC 98 San Jacinto Blvd., Suite 2000

Austin, TX 78701

TEL: 512/476-2020 FAX: 512/477-5267

By:

P. D. Head

State Bar No. 09322400

Bob Renbarger

State Bar No. 16768100

ATTORNEYS FOR TJFA, L.P.

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing document has been served this <u>5th</u> day of December, 2008, via e-mail, facsimile transmission or U.S. First Class mail, to the following:

Mr. Paul G. Gosselink Mr. John E. Carlson

Lloyd, Gosselink, Rochelle & Townsend, P.C.

816 Congress Ave., Suite 1900

Austin, TX 78701 TEL: 512/322-5800 FAX: 512/472-0532

E-MAIL: pgosselink@lglawfirm.com
E-MAIL: jcarlson@lglawfirm.com

BFI WASTE SYSTEMS OF NORTH AMERICA, INC. and

GILES HOLDINGS, L.P.

Mr. Steve Shepherd Ms. Susan White

Environmental Law Division (MC-173)

Texas Commission on Environmental Quality

P.O. Box 13087

Austin, TX 78711-3087 TEL: 512/239-0464 FAX: 512/239-0606

E-MAIL: <u>sshepher@tceq.state.tx.us</u> E-MAIL: <u>swhite@tceq.state.tx.us</u>

EXECUTIVE DIRECTOR

Ms. Christina Mann

Attorney

Office of Public Interest Counsel (MC-103) Texas Commission on Environmental Quality

P.O. Box 13087

Austin, TX 78711-3087 TEL: 512/239-4014 FAX: 512/239-6377

E-MAIL: cmann@tceq.state.tx.us
OFFICE OF PUBLIC INTEREST COUNSEL

Mr. Kevin W. Morse

Assistant Travis County Attorney

P.O. Box 1748 Austin, TX 78767 TEL: 512/854-9513

FAX: 512/854-4808

E-MAIL: kevin.morse@co.travis.tx.us

TRAVIS COUNTY

Ms. Holly C. Noelke Assistant City Attorney

City of Austin Law Department

P.O. Box 1088 Austin, TX 78767 TEL: 512/974-2630 FAX: 512/974-6490

E-MAIL: holly.noelke@ci.austin.tx.us

CITY OF AUSTIN

Mr. Jim Blackburn Ms. Mary W. Carter Blackburn & Carter, P.C.

4709 Austin St. Houston, TX 77004

TEL: 713/524-1012 FAX: 713/524-5165

E-MAIL: jbb@blackburncarter.com
E-MAIL: mcarter@blackburncarter.com

NORTHEAST NEIGHBORS COALITION; MARK MCAFEE; MELANIE MCAFEE; ROGER JOSEPH;

DELMER D. ROGERS; and WILLIAMS, LTD.

EXHIBIT A

SUBPOENA DUCES TECUM

The witness is hereinafter referred to as "you" or "your." You are directed to bring with you to the deposition the following materials, to the extent such documents have not previously been produced to TJFA, L.P.:

- 1. All documents, tangible things, reports, models, or data compilations that have been provided to you, reviewed by you, or prepared by or for you in anticipation of his testimony, including:
 - a. Any and all documents and things reviewed, referred to, or relied upon by you in formulating any of your opinions or conclusions concerning the BFI Sunset Farms Landfill, BFI Waste Systems of North America, LLC's (BFI) application to expand the landfill, and this contested case hearing.
 - b. Any and all documents and things created or produced by you in connection with your work pertaining to the BFI Sunset Farms Landfill, BFI's application to expand the landfill, and this contested case hearing.
 - c. Any and all documents in your custody or control concerning this contested case hearing.
 - d. Any and all documented in your custody or control concerning the BFI Sunset Farms Landfill.
 - e. Your complete file in this case, including but not limited to any and all of your records, correspondence (including e-mails), personal notes, calendars, diaries, phone logs and any other type of documents concerning any fact or opinion in relation to BFI Sunset Farms Landfill, BFI's application to expand the landfill, and this contested case hearing.
 - f. Any and all citizen complaints or Texas Commission on Environmental Quality investigation reports received by BFI Sunset Farms Landfill since January 1, 2004.
 - g. Any memoranda, letters, notes, or other documents prepared by you or reviewed by you relating to the Rule 11 Agreement between BFI, Giles Holdings, L.P. and the City of Austin dated October 31, 2008, or relating to the Austin City Council's consideration of that Rule 11 Agreement (or topics addressed therein) prior to or at the Austin City Council meeting planned for December 11, 2008.

- h. Any and all drafts of the Rule 11 Agreement between BFI, Giles Holdings, L.P., and the City of Austin, and any documents related to any ongoing negotiations related to any revision of the Rule 11 Agreement dated October 31, 2008.
- i. Any and all documents related to settlement negotiations with any other party to this proceeding, including Travis County.
- j. Any and all documents reflecting communications about the proposed expansion of BFI's Sunset Farms Landfill with neighbors, media representatives or Travis County and City of Austin government officials.
- k. Copies of all mailers sent out on behalf of BFI, Allied Waste, Inc., and/or Giles Holdings, L.P., related to the BFI Sunset Farms Landfill expansion, including drafts of all mailers subsequently sent out on behalf of BFI, Allied Waste, Inc. and/or Giles Holdings, L.P.
- 1. Copies of all surveys, opinion polls, or other such public opinion sampling conducted by BFI, Allied Waste, Inc. or Giles Holdings, L.P., or its consultants related to the BFI Sunset Farms Landfill expansion.
- m. Documents related to the selection of any consultants and instructions to any such consultants related to the conducting of any telephone survey and all results of any survey data collected from individuals who may or may not have received a copy of the mailer similar to the one described in or attached to the subpoena as Attachment 1.
- n. Any and all invoices for payments to consultants for work on the BFI Sunset Farms Landfill expansion permit application.
- o. Any and all documents, including check stubs, relating to payments by BFI to consultants related to the BFI Sunset Farms Landfill expansion permit application.
- p. Any and all documents related to any plan or proposal, at any time, to combine the BFI Sunset Farms Landfill to the adjacent Waste Management Austin Community Landfill and/or the closed Travis County Landfill, including but not limited to all possible scenarios for increased heights and capacity increases available if these landfills were tied together.
- q. Any and all documents related to the potential transfer of BFI's Sunset Farms Landfill permit to a new owner.

- r. Any and all documents that discuss how the November 1, 2015 closure deadline for BFI's Sunset Farms Landfill can be avoided.
- s. Any and all documents related to the planned post-closure uses of the BFI Sunset Farms Landfill.
- t. Any and all documents estimating or establishing that the BFI Sunset Farms Landfill can reasonably be filled to its proposed waste capacity by November 1, 2015.
- u. Any and all documents related in any way to waste capacity projections, capacity volume projections, and sources of waste related to the proposed November 1, 2015 closure date.
- v. Any and all documents discussing how the restrictive covenant in the Rule 11 Agreement between the City of Austin, BFI and Giles Holdings, L.P. could be negated or avoided.
- w. Any and all documents regarding the proposed re-zoning, in the last ten years, of any portion of the 349.363 permitted acreage for the BFI Sunset Farms Landfill site.

ATTACHMENT 1

*******AUTO**5-DIGIT 78610

HallalallaadhaalallalallalallladabadH

THE FAMILY
MUSTANG MESA DR
BUDA TX 78610-4834



Special interest groups are working hard to close the two landfills in Northeast Travis County. If they are successful, this could leave only one Travis County landfill, located in Southeast Travis County, to accept Dear Neighbor, one travis county tanonti, tocated in Southbase Travis County. the 4 billion pounds of trash disposed of every year in Travis County.

We believe this could have a direct impact on you. According to 2006 reports, this Southeast Travis County landfill accepted over 1.4 billion pounds that year. This leaves 2.6 billion pounds of trash without a home and, unless other options are developed, this

may be the only landfill left to accept this trash. If the Northeast landfills are closed, it may double the volume of trash disposed at this land-

Inis could lead to the citizens of Travis County, more specifically southeast Travis County, living with the consequences. The most significant impact could be traffic. It could reast Travis County, living with the consequences. east 1 ravis County, trying with the consequences. The most significant impact could be traffic. It could result in over 136,000 additional trucks per year headed to the one remaining landfill. Are we trying to sensationalize it? No This autimate is based on a published report by the Capital Area Council of Courtments tionalize it? This could lead to the citizens of Travis County, more specifically Southsuit in over 136,000 additional trucks per year neaded to the one remaining landini. Are we trying to sensationalize it? No. This estimate is based on a published report by the Capital Area Council of Governments.

(See http://www.capcag.org/Documents/linthanguis/PCWP Plan Volume II add

(See http://www.capcog.org/Documents/inthenews/RSWR_Plan_Volume_II.pdf) Second, the cost to get rid of your trash could increase significantly. The cost of transporting 2.6 billion and more miles of waste percee Travie County will have to be paid by company Added truck time and more miles of waste percee Travie County will have to be paid by company. Second, the cost to get rid or your trash could increase significantly. The cost of transporting 4.0 billion pounds of waste across Travis County will have to be paid by someone. Added truck time and more miles pounds of waste across Travis County will have to be paid by someone. Higher transportation costs will equal higher transportation costs with no positive environmental herefit. pounds of waste across Travis County will have to be paid by someone. Added truck time and more miles equals higher cost with no positive environmental benefit. Higher transportation costs will equal higher trassportation costs will equal higher transportation.

Recycling can help, but it generally costs more and it won't happen overnight. Not everything can be recycled and reaching the Zero Waste initiative goals are expected to take a generation to implement require Recycling can help, but it generally costs more and it won't nappen overnight. Not everything can be recycled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the Zero Waste initiative goals are expected to take a generation to implement—requiring cled, and reaching the cled to take a generation to the cled to take a generation of the cled to take a generation of the cled to take a generation to to tak cieu, and reaching the Lero waste initiative goals are expected to take a generation to implement—rec new ordinances, recycling facilities, and enforcement resources. None of that will be cheap or quick. fees for Travis County residents.

More landfill space can be permitted in Northeast Travis County. This will provide limited but valuable time to develop new infractmentare such as new landfile and recycling facilities, and better transportation routes. More landill space can be permitted in Northeast Travis County. This will provide limited but valuable time to develop new infrastructure such as new landfills and recycling facilities, and better transportation routes.

Austin will have more time to develop its "Zero Waste" program and make sure it works. This could take Yes, it sounds great to oppose landfill expansions but let's "not throw the baby out with the bath water." We need to use pressure off the need for new landfills in the future.

Yes, it sounds great to oppose landnil expansions but let's "not throw the baby out with the bath water." We need to take the time to do what's right and in the best long-term interest of Travis County. We need to take the time to do what's right and in the best long-term interest of build the right infrastructure in the substance when the page of the future. We need to build the right infrastructure in the substance when the page of the future. need to take the time to do what's right and in the best long-term interest of Travis County. We need to use what we have. We need to make sound plans for the future. We need to make sound plans for the future. Call your county and city officials and tell them to take deep breath and do it right. Let's maintain enough the landfill canacity in Northeast Travis County for the payt five to seven years so we won't have so through the landfill canacity in Northeast Travis County for the payt five to seven years so we won't have so through the

what we have. We need to make all of Travis County a better place for everyone. We need to make all of Travis County a better place for everyone. Can your county and city officials and ten them to take deep breath and do it right. Let's maintain enough landfill capacity in Northeast Travis County for the next five to seven years so we won't have go through this fight again in a few years. "Do overe" have a big cost in this case.

fight again in a few years. "Do-overs" have a big cost in this case.

ACT NOW - Return this prepaid reply card to ensure that your voice is heard!



YES. I want elected officials to find immediate landfill solutions that will prevent increased garbage truck traffic in my neighborhood and prevent SE Travis County from becoming the dumping ground for our entire region.

NAME

ADDITIONAL NAMES

ADDRESS

EMAIL

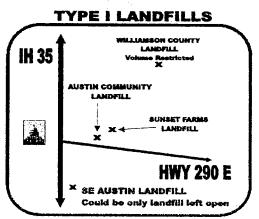
PHONE

YES, I want to be informed of updates and news regarding his crucial issue.

Closing Northeast Travis County landfills too soon may have an impact on you.

Very soon, Southeast Travis County could have our region's only landfill.

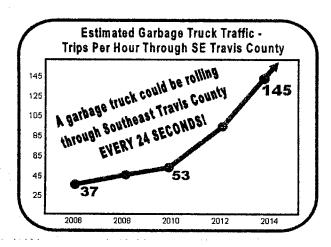
Currently, our region uses several landfills to handle every piece of residential and commercial garbage, but these landfills could close as early as 2010.



Truck traffic could increase in Southeast Travis County.

If Southeast Travis County must accommodate the waste needs of our entire region, garbage truck traffic will increase dramatically. This could result in over

2 trucks every minute headed to the one remaining landfill, located in Southeast Travis County.



🌠 Your costs could increase.

When competition is reduced, your costs usually increase. This means higher trash fees for you. Unless other landfill sites are developed or the operational life of existing landfills is extended, all the trucks carrying our waste will likely have to travel to the one remaining landfill located in Southeast Travis County.



NECESSARY IF MAILED IN THE UNITED STATE

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POSTAGE WILL BE PAID BY ADDRESSEE

BFI WASTE SYSTEMS PO BOX 140026 AUSTIN TX 78714-9902

