

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

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

**TJFA, L.P.'s OBJECTIONS TO BFI WASTE  
SYSTEMS OF NORTH AMERICA, LLC's AMENDED NOTICE OF ORAL  
DEPOSITION OF L. STEPHEN STECHER AND SUBPOENA DUCES TECUM**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, TJFA, L.P. (TJFA), Protestant in the above-referenced matter, and files its Objections to BFI Waste Systems of North America, LLC's (BFI) Amended Notice of Oral Deposition of L. Stephen Stecher and Subpoena Duces Tecum and would show the following:

1. Counsel for TJFA received BFI's Amended Notice of Oral Deposition of L. Stephen Stecher and Subpoena Duces Tecum by facsimile on December 2, 2008. The deposition was scheduled by agreement of counsel. TJFA does not oppose the deposition of L. Stephen Stecher, a designated expert of TJFA, nor does it oppose the time and place of the deposition.

2. TJFA does oppose the subpoena duces tecum attached as Exhibit A to the deposition notice which was styled a Request for Production. To the extent that the request for production seeks documents other than the documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for Mr. Stecher in anticipation of his expert testimony as described in Rule 194.2(f)(4)(A), the requests are overly broad, unduly burdensome and exceed the scope of discovery for testifying expert witnesses. Rule 195.1 limits the permissible

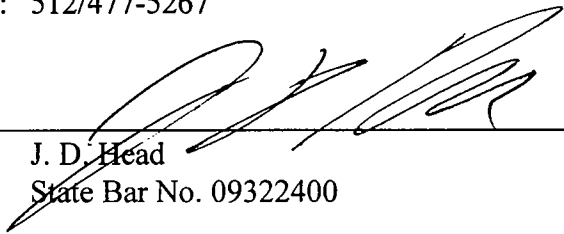
forms of discovery of testifying experts to disclosure under Rule 194 and to depositions and expert reports as described in Rule 195.

3. TJFA objects to the production of any documents requested by BFI outside the scope of TEX. R. CIV. P. 194.2(f)(4), 195.1, 195.4 and 195.5. In accordance with 30 T.A.C. § 80.151, TJFA objects to and will not produce drafts of pre-filed testimony. TJFA further objects to the production of any documents already produced to BFI or in BFI's possession that are not within the scope of the above-referenced authorities. Specific objections and responses to the request for production are attached hereto as **Exhibit A** and incorporated for all purposes.

Respectfully submitted,

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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 5<sup>th</sup> day of December, 2008, via e-mail, facsimile transmission or U.S. First Class mail, to the following:

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MCAFEE; MELANIE MCAFEE; ROGER JOSEPH;  
DELMER D. ROGERS; and WILLIAMS, LTD.**

# EXHIBIT A

## **TJFA's SPECIFIC OBJECTIONS AND RESPONSES TO BFI's SUBPOENA DUCES TECUM (REQUEST FOR PRODUCTION)**

1. TJFA does not object to this request to the extent it falls within TEX. R. CIV. P. 194.2(f)(4)(A). TJFA objects to this request as unduly burdensome, overbroad and exceeds the scope of discovery to the extent the documents requested go beyond those identified in TEX. R. CIV. P. 194.2(f)(4)(A). TJFA further objects to the requested documents to the extent they may be directed to drafts of pre-filed testimony as they are not discoverable pursuant to 30 T.A.C. § 80.151. TJFA further asserts privilege to any document requested that falls within the ambit of attorney/client or attorney work product related to this contested case hearing.
2. TJFA does not object to this request.
3. This document has already been produced to BFI.
4. The witness has no documents responsive to this request.
5. The witness has no documents responsive to this request.
6. TJFA does not object to this request.
7. TJFA reiterates and adopts its responses, objections and privileges asserted in its response to Request No. 1.
- 7a. TJFA objects to this request as it is not relevant to any issue in this case. Any work performed by the witness for Texas Disposal Systems landfill was site specific and as such is of limited or no value for purposes of comparison to a different site. TJFA further objects to this request that it seeks information the Administrative Law Judge previously prohibited from discovery in its November 25, 2008 ruling (Order No. 9) to the extent this request seeks same. TJFA further objects to this request to the extent that it seeks confidential or proprietary business information regarding a non-party to these proceeding through this witness.
- 7b. TJFA objects to this request as it is not relevant to any issue in this case. Any work performed by the witness for Texas Disposal Systems landfill was site specific and as such is of limited or no value for purposes of comparison to a different site. TJFA further objects to this request that it seeks information the Administrative Law Judge previously prohibited from discovery in its November 25, 2008 ruling (Order No. 9) to the extent this request seeks same. TJFA further objects to this request to the extent that it seeks confidential or

proprietary business information regarding a non-party to these proceeding through this witness. The witness has no documents responsive to this request.

7c. The witness has no documents responsive to this request.