

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

SUBPOENA

To any Sheriff; Constable, or any other person authorized to serve and execute subpoenas in the State of Texas:

You are commanded to summon: Texas Disposal Systems Landfill, Inc.
12200 Carl Road
Creedmoor, Texas 78610

By and through its registered agent,
Bob E. Gregory
12200 Carl Road
Creedmoor, Texas 78621

on behalf of BFI Waste Systems of North America, Inc., the applicant and a party in the above-contested case hearing now pending at the State Office of Administrative Hearings to appear at:

Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701
Phone: (512) 322-5800

on January 9, 2009 at 9:00 a.m., and there to remain until discharged, in order to:

X Give testimony at a:

X DEPOSITION (by written questions only)
 HEARING
 TRIAL

X Produce and permit inspection and copying of the following designated documents or tangible things in the possession, custody, or control of BFI Waste System of North America, LLC's counsel, Paul G. Gosselink, Lloyd Gosselink Rochelle & Townsend,

DELIVERED TO
BRUCE
CONSTABLE, FREDERICK COUNTY, TEXAS
BY _____ DEPUTY

Certificate of Service

I hereby certify that a true and correct copy of this document 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 December 16, 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:

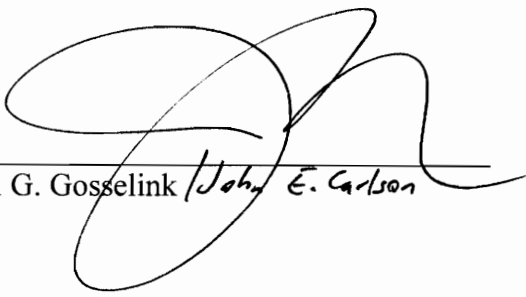
Kevin Morse
Assistant Travis County Attorney
Travis County Attorney's Office
P. O. Box 1748
Austin, Texas 78767
Tel: (512) 854-9513
Fax: (512) 854-4808

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 / John E. Carlson

EXHIBIT "A"

SUBPOENA FOR PRODUCTION OF DOCUMENTS

I. INSTRUCTIONS

1. If there are no documents or information responsive to a specific discovery request, please indicate so in your written response.
2. This discovery is continuing in nature, and a demand is made for the supplementation of this discovery as required by the Texas Rules of Civil Procedure.
3. If any documents requested herein have been lost or destroyed, in lieu of a true and correct copy thereof provide a list of such documents lost or destroyed together with the following information: (a) the date or origin of the document; (b) a brief description of the document; (c) the author of the document; (d) the date the document was lost or destroyed; and (e) a brief statement describing the manner in which the document was lost or destroyed.

II. DEFINITIONS

1. "You," "your," "yours" and "TDSL" refer to Texas Disposal Systems Landfill, Inc.
2. "TCEQ" or "the Commission" refer to the Texas Commission on Environmental Quality.
3. "Communications" and "correspondence" are used in their broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone, or by means of written, electronic or other medium.
4. "Document(s)" or "record(s)" means any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly concerns, in whole or in part, any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD's, digital photographs, e-mail, graphs, drawings, or any other data compilation from which information can be obtained. Any magnetic or electronic data should be produced in hard copy form.
5. "Relating," "referring," and "regarding" include, without limitation, embodying, mentioning, pertaining to, connected with, evidencing, or concerning, directly or indirectly, the subject matter identified.

III. DOCUMENTS REQUESTED

1. A full and complete copy of the current version of TCEQ Permit No. 2123 (Texas Disposal Systems Landfill) (with all supporting application documents).

**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**

**NOTICE OF INTENT TO TAKE DEPOSITION ON WRITTEN QUESTIONS
OF TEXAS DISPOSAL SYSTEM LANDFILL, INC. AND REQUEST FOR PRODUCTION**

To: Texas Disposal Systems Landfill, Inc., 12200 Carl Road, Creedmoor, Texas 78610, by and through its registered agent, Bob E. Gregory, 12200 Carl Road, Creedmoor, Texas 78610 and/or its Custodian of Records, 12200 Carl Road, Creedmoor, Texas 78610

PLEASE TAKE NOTICE that, pursuant to subpoena issued in the above-referenced contested case hearing pending before the State Office of Administrative Hearings (SOAH), BFI Waste Systems of North America, LLC will take the deposition on written questions of Texas Disposal Systems Landfill, Inc. The deposition will take place at the offices of Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Ave., Suite 1900, Austin, Texas 78701 on January 9, 2008 at 9:00 a.m. All parties are invited to attend and participate as prescribed by the Texas Rules of Civil Procedure. The direct questions to be propounded are attached as Exhibit "A" and are incorporated by reference. The document(s) requested are attached as Exhibit "B" and are incorporated by reference. All parties may serve objections, redirect questions and re-cross questions, and these questions will also be provided to the deposition officer and propounded at the deposition. BFI Waste Systems of North America, LLC requests that Texas Disposal Systems Landfill, Inc. produce at the deposition the document or documents within its possession, custody or control listed in Exhibit "B" hereto.

Respectfully submitted,

By: Paul G. Gosselink / by perm JEC
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
John R. Moore
Texas Bar No. 14348565

Certificate of Service

I hereby certify that a true and correct copy of the foregoing document 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 the 16 day of December, 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
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REPRESENTING TJFA, L.P.:

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Tel: (512) 476-2020
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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
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Fax: (512) 239-6377

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
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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
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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

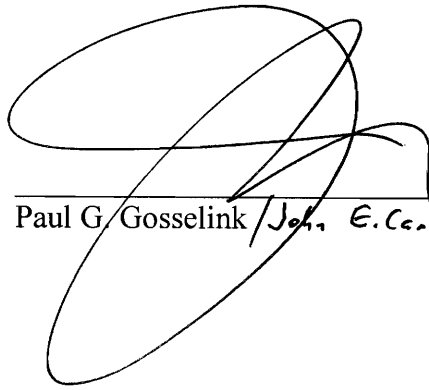
REPRESENTING CITY OF AUSTIN:

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

Hon. William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings,
300 West 15th Street, Suite 502
Austin, Texas 78701

**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



Paul G. Gosselink / John E. Carlson

EXHIBIT "A"

I. INSTRUCTIONS

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II. DEFINITIONS

1. "You," "your," "yours" and "TDSL" refer to Texas Disposal Systems Landfill, Inc.
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3. "Communications" and "correspondence" are used in their broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone, or by means of written, electronic or other medium.
4. "Document(s)" or "record(s)" means any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly concerns, in whole or in part, any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD's, digital photographs, e-mail, graphs, drawings, or any other data compilation from which information can be obtained. Any magnetic or electronic data should be produced in hard copy form.
5. "Relating," "referring," and "regarding" include, without limitation, embodying, mentioning, pertaining to, connected with, evidencing, or concerning, directly or indirectly, the subject matter identified.

**WRITTEN QUESTIONS TO BE PROPOUNDED TO THE
CUSTODIAN OF RECORDS FOR
TEXAS DISPOSAL SYSTEMS LANDFILL, INC.**

1. Please provide your name, address, occupation and job title:

ANSWER:

2. Please state whether or not you are the custodian of records for Texas Disposal Systems Landfill, Inc.

ANSWER:

3. Have you been served with a subpoena duces tecum for the production of all documents requested to be produced in Exhibit B?

ANSWER:

4. Do you have in your custody or subject to your control the records requested in Exhibit B?

ANSWER:

5. Are these documents, memoranda, reports, records or data compilations produced in response to the request for documents under your case, supervision, direction, custody and/or control?

ANSWER:

6. Were these documents, memoranda, reports, records or data compilations produced in response to the request for documents made at or near the time of the transaction recorded on these entries?

ANSWER:

7. State whether or not it was in the regular course of business for an employee or representative with personal knowledge of the event, condition, act or opinion recorded in the documents requested to be produced in Exhibit B and records produced to the Notary Public to make such memorandum or record or transmit the information which is included in this record.

ANSWER:

8. In the regular practice of Texas Disposal Systems Landfill, Inc. has Texas Disposal Systems Landfill, Inc. kept records of the type requested to be produced in Exhibit B in the normal course of business?

ANSWER:

9. Please hand exact duplicates of all records pertaining to Exhibit B (or the originals thereof) for photocopying to the Notary Public taking your deposition for the attachment to the deposition. Have you done as requested? If not, why?

ANSWER:

10. Have you been requested or directed to withhold any records, or has it been suggested by any person that any part of the records which are the subject of this deposition should be withheld or protected from discovery for this reason? If so, please state the name, address, and telephone number of the person who conveyed this information to you and when such event occurred.

ANSWER:

11. Do you know whether or not, or do you have any reason to believe that the records that are the subject of this deposition have in any manner been edited, purged, culled, or in any manner made different from the way such records existed when created? If so, please explain your knowledge or belief in this regard.

ANSWER:

12. Are there any records, documents, papers, correspondence, or tangible matter of any kind pertaining to documents requested to be produced by Exhibit B that you have not provided to the Notary Public taking your deposition?

ANSWER:

13. Are you aware that it may be necessary to subpoena you or your employer at the time of the trial of this case, if you have not provided the Notary Public taking your deposition all papers, documents, records, correspondence, or tangible matter of any kind pertaining to the documents requested to be produced in Exhibit B?

ANSWER:

EXHIBIT "B"

DOCUMENTS REQUESTED

1. A full and complete copy of the current version of TCEQ Permit No. 2123 (Texas Disposal Systems Landfill) (with all supporting application documents).