

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

IN THE MATTER OF:) SOAH DOCKET NO.
WILLIAMSON COUNTY RECYCLING) 582-06-3321
& DISPOSAL FACILITY) TCEQ DOCKET NO.
) 2005-0037-MSW

ORAL DEPOSITION OF BOBBY EDWARD GREGORY

TUESDAY, NOVEMBER 7, 2006

ORAL DEPOSITION OF BOBBY EDWARD GREGORY,
produced as a witness at the instance of TJFA, LP, and
duly sworn, was taken in the above-styled and numbered
cause on Tuesday, November 7, 2006 from 1:30 p.m. to
4:41 p.m., by William C. Beardmore, a Certified
Shorthand Reporter in and for the State of Texas,
reported by computerized stenotype machine at the
Offices of Vinson & Elkins, 2801 Via Fortuna, Suite
100, Conference Room, Austin, Texas 78746-7568,
pursuant to the Texas Rules of Civil Procedure.

Page 2

1 APPEARANCES

2

3 MR. JOHN A. RILEY, Vinson & Elkins, LLP,

4 2801 Via Fortuna, Suite 100, Austin, Texas 78756-7568,

5 (512)542-8520, appearing on behalf of WASTE MANAGEMENT

6 OF TEXAS, INC.

7

8 MR. R. MARK DIETZ, Dietz & Jarrard, P.C., 106

9 Fannin Avenue East, Round Rock, Texas 78664,

10 (512)244-9314, appearing on behalf of the APPLICANT,

11 WILLIAMSON COUNTY.

12

13 MR. LAWRENCE G. DUNBAR, Dunbar, Harder &

14 Benson, LLP, One Riverway, Suite 1850, Houston, Texas

15 77056, (713)782-4646, appearing on behalf of TJFA, LP.

16

17 MR. ANTHONY TATU, Staff Attorney, Texas

18 Commission on Environmental Quality, MC-173 P.O. Box

19 13087, Austin, Texas 78711-3087, (512)239-4761,

20 appearing on behalf of THE EXECUTIVE DIRECTOR OF THE

21 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.

22

23 DR. ORLYNN EVANS, 112 Guadalupe Dr., Hutto,

24 Texas 78634, appearing on behalf of MOUNT HUTTO AWARE

25 CITIZENS.

Page 3

1 APPEARANCES

2

3 Also present:

4 Nicole Adame Winningham, Attorney, Vinson & Elkins

5 Chris Macomb, Governmental Affairs Director with

6 Waste Management of Texas

7 Ruth Muelker, Sr. Legal Counsel, Waste Management

8 Don Smith, Vice President of Waste Management of

9 Texas, Inc.

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1 P R O C E E D I N G S

2 TUESDAY, NOVEMBER 7, 2006

3 (1:30 p.m.)

4 MR. RILEY: Mr. Dunbar?

5 MR. DUNBAR: I'm Larry Dunbar

6 representing TJFA, and I just wanted to make it clear

7 and get an understanding of who's in attendance at

8 this deposition and who'll be taking the deposition.

9 MR. RILEY: Under what rights do you

10 have to gain that information?

11 MR. DUNBAR: My understanding is, my

12 client has agreed to take the deposition or have a

13 deposition taken on behalf of Williamson County who's

14 a party --

15 MR. RILEY: In fact, I have a transcript

16 from the preliminary hearing.

17 MR. DUNBAR: -- who is a party to this

18 deposition -- a party of this proceeding. And we're

19 more than happy to give the deposition based upon

20 questions asked of a party to this proceeding or its

21 designated counsel.

22 MR. RILEY: Waste Management was

23 accepted by the Administrative Law Judge in this

24 matter. Are you objecting?

25 MR. DUNBAR: As what?

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1 MR. RILEY: It's on the record.
 2 MR. DUNBAR: As what?
 3 MR. RILEY: It's on the record.
 4 MR. DUNBAR: Well, my understanding is,
 5 the Administrative Law Judge has not accepted Waste
 6 Management as a party.
 7 I have the order from the Administrative
 8 Law Judge, and on the very first page it talks about
 9 who the parties are and I don't see Waste Management
 10 as designated as a party.
 11 MR. RILEY: Are you denying that the
 12 Administrative Law Judge is allowing Waste Management
 13 to participate in support of this application?
 14 MR. DUNBAR: I have no idea what the
 15 Administrative Law Judge is doing, other than I don't
 16 see Waste Management being a party.
 17 I'm more than happy to have any party
 18 attend this deposition and ask questions of my client.
 19 MR. RILEY: Then I'll ask questions on
 20 behalf of Williamson County.
 21 MR. DUNBAR: If you want to say here
 22 that you represent Williamson County, then that's
 23 fine.
 24 MR. RILEY: I represent Waste Management
 25 as I described at the preliminary hearing.

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1 MR. DUNBAR: I'm sorry. If you don't
 2 represent Williamson County, then we need counsel for
 3 Williamson County to ask questions or any other party
 4 who wants to ask questions.
 5 MR. RILEY: Then I guess we're done --
 6 MR. DUNBAR: Okay.
 7 MR. RILEY: -- and we'll seek sanctions
 8 from the Administrative Law Judge.
 9 MR. DUNBAR: Not a problem. Is there
 10 any other party who wants to ask questions?
 11 MR. RILEY: I don't know.
 12 MR. DUNBAR: Williamson County, Mark
 13 Dietz?
 14 MR. RILEY: We're paying for the
 15 deposition. So --
 16 MR. DUNBAR: Mark Dietz, would you like
 17 to ask questions on behalf of Williamson County?
 18 MR. DIETZ: I will have questions, but
 19 we're also going to rely upon questions by the
 20 operator at the outset of this proceeding.
 21 MR. DUNBAR: But they are not a party to
 22 this proceeding.
 23 MR. RILEY: What is the nature of your
 24 objection, sir?
 25 MR. DUNBAR: That Waste Management is

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1 not a party to this proceeding and, therefore, is not
 2 entitled to depose my client. I'm sorry.
 3 MR. RILEY: Waste Management was
 4 described on the record to the Administrative Law
 5 Judge.
 6 In fact, I have it right in front of me
 7 where the Administrative Law Judge granted me the
 8 authority to take Mr. Gregory's deposition. You were
 9 there. You know this very well.
 10 MR. DUNBAR: My understanding -- and I
 11 talked with Mark Dietz about --
 12 MR. RILEY: If you would like us to go
 13 back to the Administrative Law Judge and seek
 14 clarification --
 15 MR. DUNBAR: I would like that.
 16 MR. RILEY: -- and seek sanctions --
 17 MR. DUNBAR: Whatever you need to do.
 18 MR. RILEY: -- we'll be happy to do so.
 19 MR. DUNBAR: Whatever you need to do.
 20 I'm willing to have the deposition of my client taken
 21 by Williamson County or its designated attorney,
 22 Mr. Mark Dietz, who is present or any other party
 23 who's here who would like to ask questions by their
 24 counsel, no problem with that.
 25 I do have a problem with Waste

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1 Management.
 2 MR. RILEY: Let's see if we can get the
 3 Administrative Law Judge on the phone. There are
 4 other parties here. Does anybody else have an
 5 objection to us taking this deposition?
 6 (No response)
 7 MR. RILEY: No objection.
 8 MR. DUNBAR: That's fine.
 9 MR. RILEY: Why don't we see if we can
 10 get the ALJ on the phone.
 11 MR. DUNBAR: Not a problem.
 12 (Off the record - 1:34 p.m. to
 13 2:02 p.m.)
 14 (Whereupon, a telephone conference with
 15 SOAH ALJ Howard Seitzman, along with the parties, took
 16 place as follows:)
 17 TELEPHONE CONFERENCE
 18 MR. RILEY: Judge, this is John Riley.
 19 Let me begin again by putting my appearance on the
 20 record. Then I guess we'll take turns from there.
 21 JUDGE SEITZMAN: Okay.
 22 MR. RILEY: My name is John Riley. I'm
 23 with the law firm of Vinson & Elkins. I represent
 24 Waste Management of Texas, Inc., which is an operator
 25 of the Williamson County landfill.

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1 And pursuant to TCEQ rules and an
 2 agreement with Williamson County, Waste Management
 3 filed the application in this matter. Mr. Dietz, here
 4 next to me, will introduce himself now.
 5 MR. DIETZ: I'm Mark Dietz of the law
 6 firm of Dietz & Jarrard in Round Rock representing the
 7 Applicant, Williamson County.
 8 JUDGE SEITZMAN: Okay.
 9 MR. DUNBAR: Judge, Larry Dunbar with
 10 Dunbar, Harder & Benson representing TJFA, LP.
 11 MR. TATU: Anthony Tatu, here on behalf
 12 of the Executive Director of the TCEQ.
 13 JUDGE SEITZMAN: All right.
 14 DR. EVANS: Orlynn Evans. I'm one of
 15 the parties to the hearing.
 16 JUDGE SEITZMAN: Dr. Evans. I'm
 17 cheating. I've got the service list in front of me.
 18 MR. DUNBAR: And, Judge, we have a few
 19 observers from Waste Management, I believe, in
 20 attendance as well as Bob Gregory, who's with TJFA and
 21 the deponent, in this particular proceeding.
 22 JUDGE SEITZMAN: Okay.
 23 MR. RILEY: Judge, let me introduce the
 24 issue and then, of course, other counsel may have a
 25 differing perspective on it, but I'll at least try to

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1 be fair to other parties.
 2 The preliminary hearing in this matter
 3 was held in front of Judge Vickery on October 26,
 4 2006. I appeared and introduced myself much as I have
 5 for the purposes of this conference call.
 6 There was no objection to Waste
 7 Management's participation in the hearing in support
 8 of Williamson County's application as I mentioned.
 9 There are TCEQ rules and a contract with
 10 Williamson County that bear on that question and
 11 create an obligation -- by an obligation in Waste
 12 Management to file the application and support the
 13 application throughout the process.
 14 The parties were designated at the
 15 hearing. TJFA or TFJA -- I'm --
 16 JUDGE SEITZMAN: TJFA is what I have.
 17 MR. RILEY: -- TJFA was admitted
 18 provisionally as a party. And the discussion on the
 19 record in front of Judge Vickery was as to whether
 20 that entity is an affected person under the TCEQ
 21 rules.
 22 Given a somewhat novel or at least a bit
 23 unique situation, Judge Vickery gave us leave to
 24 conduct some limited discovery regarding that entity
 25 and then brief the issue as to whether it should be

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1 admitted as an affected person.
 2 JUDGE SEITZMAN: I have the
 3 preliminary -- the order memorializing the preliminary
 4 hearing in front of me.
 5 MR. RILEY: Okay. And there was an
 6 agreement to have a deposition today for an
 7 hour-and-a-half of the representative of -- I'm just
 8 going to avoid the letters -- the representative of
 9 that entity.
 10 And when we began to take the
 11 deposition, Mr. Dunbar objected to my questioning of
 12 Mr. Gregory on the grounds that I was not -- or that
 13 Waste Management was not a party to the case.
 14 Mr. Dietz is here by agreement with
 15 Williamson County. Waste Management will assist the
 16 Applicant in prosecution of the application. And,
 17 frankly, we're a little bit mystified as to the nature
 18 of the objection and why I specifically am not allowed
 19 to question the witness, as I did, frankly, during the
 20 preliminary hearing under oath in front of
 21 Judge Vickery directly.
 22 Mr. Dietz?
 23 MR. DIETZ: Judge, the Applicant has
 24 relied upon Waste Management and its counsel, Vinson &
 25 Elkins, in this process and relies on their expertise

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1 both in the engineering review and also in going
 2 forward with the contested case hearing.
 3 By virtue of that, we have a joint
 4 prosecution agreement that our two law firms are going
 5 to rely upon each other in order to assure that the
 6 application is successful.
 7 That being said, during the hearing we
 8 both spoke -- both myself and in conjunction with
 9 Mr. Riley -- throughout the hearing and there was not
 10 any objection. So it was a surprise today.
 11 During our preliminary discussions
 12 before we got you on the phone there was some question
 13 as to who was going to ask questions, and I had
 14 indicated that I, perhaps, would ask questions, but I
 15 think I'm going to defer exclusively to Mr. Riley
 16 recognizing that it would probably be appropriate
 17 under the rules that one party question -- one person
 18 from a party question the deponent.
 19 That being said, we believe that by
 20 virtue of the rule that requires Waste Management to
 21 participate in conjunction with Williamson County in
 22 this application, it's appropriate that Mr. Riley be
 23 available for inquiry.
 24 JUDGE SEITZMAN: All right. Who else
 25 wants to be heard?

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1 MR. DUNBAR: Judge, I do. Larry Dunbar.
2 JUDGE SEITZMAN: Okay. Mr. Dunbar.
3 MR. DUNBAR: The objection that I had,
4 Judge, to an attorney not representing a party to
5 conduct this deposition was that very fact, that
6 nonparties should not be entitled to take discovery
7 and ask questions in depositions.
8 Mr. Riley has stated, I believe, that he
9 represents Waste Management of Texas. Waste
10 Management of Texas is not a party to this proceeding.
11 Williamson County is a party. There are other parties
12 here.
13 I agreed to allow any party or their
14 designated counsel to ask questions of my client in
15 accordance with the rules. I do not understand and
16 believe there's any rule that allows a nonparty to
17 participate and ask questions in a deposition.
18 JUDGE SEITZMAN: All right. Who else
19 wants to be heard?
20 MR. RILEY: There are two other parties
21 here who expressed earlier, Judge, before we had you
22 on the call that they had no objection to proceeding
23 as Williamson County and Waste Management had planned,
24 but I'll let them speak for themselves.
25 MR. TATU: No comments on behalf of the

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1 Executive Director, Judge.
2 DR. EVANS: No comments.
3 JUDGE SEITZMAN: Okay. Well --
4 MR. DUNBAR: And let me just say, Judge,
5 we don't have a problem with Mr. Riley asking
6 questions. If he's going to indicate that he
7 represents Williamson County who's a party, that's
8 fine.
9 If Mr. Dietz wants to say he represents
10 Williamson County who's a party and he wants to ask
11 questions instead of Mr. Riley, that's fine. But I
12 don't think it's proper under the Texas Rules of Civil
13 Procedure to allow nonparties to be asking questions
14 in depositions.
15 JUDGE SEITZMAN: Well, here's my ruling:
16 Williamson County can designate whoever it wants to
17 designate as its counsel of record for purposes of
18 this limited deposition, but only one of the counsel
19 will be entitled to ask questions.
20 So if they designate Mr. Riley to be the
21 questioner, then that's fine, but I'm not going to
22 allow both Williamson County and Waste Management of
23 Texas to both ask questions.
24 MR. DUNBAR: And, Your Honor, if
25 Williamson County wants to designate John Riley to

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1 represent them, that's not a problem. I don't think
2 that's been done yet.
3 JUDGE SEITZMAN: Okay. Is that what
4 Williamson County wishes to do, for purposes -- and
5 we're talking for the limited purposes of this
6 deposition?
7 MR. DIETZ: For the limited purposes of
8 this deposition and pursuant to the requirement under
9 the rules that there's a joint application and we've
10 got a joint prosecution agreement, Mr. Riley would be
11 the questioner on behalf of the Applicant.
12 JUDGE SEITZMAN: All right. Is there
13 any objection to that?
14 MR. DUNBAR: Well, I do, Your Honor,
15 only that I don't believe Williamson County has taken
16 that position.
17 MR. RILEY: Mr. Dietz is the attorney
18 for Williamson County.
19 MR. DIETZ: That's the -- I am the
20 lawyer representing Williamson County on the
21 application. So I don't know how he can disagree with
22 what I just said.
23 MR. DUNBAR: Well, as long as Mr. Riley
24 agrees that he is representing Williamson County in
25 this deposition --

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1 JUDGE SEITZMAN: For the limited purpose
2 of this deposition, Mr. Riley then will be the
3 designated counsel for Williamson County and he will
4 be the sole representative for Williamson County who's
5 allowed to question the witness.
6 MR. DUNBAR: And, Your Honor, I would
7 just like to put on the record that Mr. Riley has
8 indicated that he is also counsel and represents Waste
9 Management of Texas and we believe that to be a
10 potential conflict of interest.
11 MR. RILEY: And that's the real key
12 here. That's what Mr. Dunbar has been trying to set
13 up, Judge. And in spite of his efforts to do so, I
14 will be representing Waste Management of Texas as the
15 operator of this landfill and assisting Williamson
16 County just as it was described on the record before
17 Judge Vickery --
18 MR. SEITZMAN: And you can deal with
19 Judge Vickery on that. It seems to me that the
20 conflict of interest is an issue to be raised by a
21 client, not an opposing party.
22 So that -- I don't know. Williamson
23 County and Waste Management are -- as long as they are
24 in agreement that Mr. Riley will be asking the
25 questions on behalf of Williamson County at this point

1 for the limited purposes of this deposition, then I
2 think we're ready to go.

3 And if there's a conflict of interest,
4 then that needs to be -- that seems to me to be raised
5 by one of those two, but you can deal with Judge
6 Vickery on that.

7 MR. RILEY: Thank you, Judge. We
8 appreciate your time.

9 JUDGE SEITZMAN: All right. Anything
10 further?

11 MR. DUNBAR: Not right now, Judge.

12 JUDGE SEITZMAN: Okay. Thank you.

13 (Off the record - 2:12 p.m. to

14 2:13 p.m.)

15 MR. RILEY: Now, Mr. Dunbar, before we
16 begin, is there any further objection you would like
17 to put on the record to my questioning the witness?

18 MR. DUNBAR: I've already stated my
19 objections on the record, but I would like to have
20 everyone in the room here to introduce themselves and
21 indicate what their position is.

22 MR. RILEY: Well, we'll get to that.
23 Why don't you start with yourself. What is your
24 position?

25 MR. DUNBAR: I'll introduce myself.

1 Larry Dunbar with Dunbar, Harder & Benson, counsel for
2 TJFA, LP.

3 MR. RILEY: My name is John Riley. I'm
4 with the law firm of Vinson & Elkins. I represent
5 Waste Management of Texas, Inc., and I'm assisting the
6 Applicant, Williamson County, in this matter with
7 Mr. Dietz who sits to my left.

8 Behind me is Nicole Winningham, also
9 with Vinson & Elkins, an associate with our firm.
10 Mr. Dietz?

11 MR. DIETZ: Mark Dietz with the law firm
12 of Dietz & Jarrard representing the Applicant,
13 Williamson County.

14 MS. MUELKER: Ruth Muelker, Senior Legal
15 Counsel, with Waste Management.

16 MR. SMITH: Don Smith, Vice President of
17 Waste Management of Texas, Inc.

18 MR. MACOMB: Chris Macomb, Governmental
19 Affairs Director with Waste Management of Texas.

20 MR. TATU: Anthony Tatu on behalf of the
21 Executive Director of the TCEQ.

22 DR. EVANS: Orlynn Evans, a party to the
23 hearing, Chairman of the Mount Hutto Steering
24 Committee.

25 MR. DUNBAR: And just to put on the

1 record, the discussion we had with the Administrative
2 Law Judge regarding concerns about Mr. Riley
3 representing Waste Management of Texas and asking
4 questions of this deposition was ruled on by the judge
5 by having Williamson County's attorney, Mr. Dietz,
6 designate Mr. John Riley to ask questions on behalf of
7 Williamson County for the limited purpose of this
8 particular deposition.

9 Did I state that right?

10 MR. RILEY: I'm not sure what your point
11 is.

12 MR. DUNBAR: I just wanted to put it on
13 the record to make sure --

14 MR. RILEY: It's on the record. It's
15 already been on the record. There was a separate
16 record made. Do you remember over there? We were
17 just there a minute ago.

18 Mr. Dunbar, do you have a point? Do you
19 have some objection that you would like to express
20 now?

21 MR. DUNBAR: I just wanted to make that
22 note. That's all. Thank you.

23 MR. RILEY: Do you have some objection
24 that you would like to further express --

25 MR. DUNBAR: I already stated my

1 objection.

2 MR. RILEY: -- some question on an
3 ethical basis as to whether I can continue with this
4 deposition?

5 Do you have some basis on some ethical
6 consideration that you would like to bring to my
7 attention?

8 MR. DUNBAR: Not at this time.

9 MR. RILEY: At any time? Do you?

10 MR. DUNBAR: Not at this time.

11 MR. RILEY: Are you trying to sandbag
12 me? Is there something you think that prohibits --

13 MR. DUNBAR: Mr. Riley, if you would
14 like to take the deposition, we're happy to -- we're
15 going to go an hour-and-a-half. So I would suggest
16 you move on.

17 MR. RILEY: Well, I suspect we're -- I
18 know where this is headed, but if you're not
19 forthright enough to state your objection, then I
20 guess I just can't address your issue.

21 MR. DUNBAR: Okay. I stated my
22 objections.

23 MR. RILEY: No, you haven't. If you
24 have some basis either under the disciplinary rules of
25 the state of Texas for attorneys for ethical

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1 considerations by which you object in me
 2 participating, and as the Judge has just said I
 3 should, then I would ask you as a professional and
 4 under your ethical obligations to make that known now.
 5 MR. DUNBAR: I put my objections on the
 6 record.
 7 MR. RILEY: You realize that if you sit
 8 there idly by and you allow me to commit an ethical
 9 violation that you're in violation of your ethical
 10 responsibilities. Do you realize that?
 11 MR. DUNBAR: I put my objections on the
 12 record.
 13 MR. RILEY: Thank you. Before we
 14 proceed, Mr. Dietz, do you have any concern with me
 15 proceeding as designated by Williamson County to take
 16 this deposition?
 17 MR. DIETZ: No.
 18 MR. RILEY: Do you know of any reason
 19 that Williamson County would object to me taking this
 20 deposition?
 21 MR. DIETZ: No.
 22 MR. RILEY: Okay.
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1 BOBBY EDWARD GREGORY,
 2 having been first duly sworn, testified as follows:
 3 EXAMINATION
 4 BY MR. RILEY:
 5 Q Mr. Gregory, please state your name and
 6 address.
 7 A My name is Bobby Edward Gregory. My address
 8 is 2939 Westlake Cove, Austin, Texas.
 9 Q "Bobby," is that your given name?
 10 A That is my given and legal name.
 11 Q In what capacity do you appear here today for
 12 this deposition?
 13 A As President of Garra de Aguila, Incorporated
 14 that serves as the General Partner of TJFA, LP.
 15 Q Garra de Aguila -- am I pronouncing that
 16 correctly?
 17 A Yes.
 18 Q Is that in the Spanish language?
 19 A Yes, sir.
 20 Q What does it mean, if you know?
 21 A I think it means -- is that what your
 22 question was?
 23 Q Yes.
 24 A I think it means talon of the eagle or
 25 something like that. It was not my name choice, but I

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1 believe that's what it --
 2 Q Who chose the name?
 3 A Dennis Hobbs.
 4 Q Who is Dennis Hobbs?
 5 A He is the vice president of that company.
 6 Q And you're the president of the company.
 7 Correct?
 8 A That is correct.
 9 Q Does the company have any employees?
 10 A No, it does not.
 11 Q Is it a for-profit entity?
 12 A Yes, it is.
 13 Q Is it registered with the Secretary of State?
 14 A Yes.
 15 Q When was the company formed?
 16 A I don't recall exactly. I think we
 17 determined in the hearing the other day that TJFA was
 18 in 2004, approximately two years ago.
 19 Q But I was speaking of Garra de Aguila.
 20 A I think it was about the same time. So I
 21 assume it was about that period.
 22 Q What type of business is Garra de Aguila?
 23 A It's a real estate development and investment
 24 company.
 25 Q Why did you form Garra de Aguila?

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1 A For real estate investment.
 2 Q Has Garra de Aguila made any real estate
 3 purchases?
 4 A It is a holding company for different
 5 investments including its general partnership position
 6 in TJFA, LP.
 7 MR. RILEY: Objection, nonresponsive.
 8 Q (By Mr. Riley) I asked you a simple
 9 question, Mr. Gregory. I know you've had your
 10 deposition taken before, and if you can answer my
 11 question with either a "yes" or "no" truthfully, I
 12 would appreciate it if you would do so.
 13 MR. DUNBAR: I'll object to badgering my
 14 client.
 15 MR. RILEY: Okay.
 16 Q (By Mr. Riley) Okay. Does Garra de Aguila
 17 have any real estate holdings?
 18 A Not that I recall.
 19 Q You mentioned that Garra de Aguila, then, is
 20 a holding company and is the general partner in
 21 another entity. Is that correct?
 22 A That is correct.
 23 Q And that's TJFA?
 24 A That's correct.
 25 Q Who are the other partners in TJFA?

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1 A Right now I am the only limited partner in
 2 TJFA.
 3 Q So the general partner is Garra de Aguila in
 4 which you're the president, and the only other partner
 5 in TJFA is you, yourself, as an individual?
 6 A That's correct.
 7 Q Okay. Is there a Board for Garra de Aguila?
 8 A There is a president and a vice president and
 9 secretary, and that is Dennis Hobbs and myself.
 10 Q Who's the secretary?
 11 A I believe Dennis Hobbs is.
 12 Q Is Dennis Hobbs otherwise an employee of
 13 yours?
 14 A He is.
 15 Q In what capacity?
 16 A He serves as an assistant to virtually
 17 everything that I deal with, all the businesses and
 18 nonprofit organizations that I'm involved in.
 19 Q Assistant to you, then, personally -- a
 20 personal assistant?
 21 A He is a personal assistant to me in all of
 22 the businesses and nonprofit organizations that I'm
 23 involved in.
 24 Q Does he draw a paycheck?
 25 A He does draw a paycheck, yes.

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1 Q And what from what entity does he draw a
 2 paycheck?
 3 A Texas Disposal Systems, Inc.
 4 Q How much is he paid?
 5 A I don't recall. Just under \$100,000, I
 6 believe.
 7 Q Does he have a title with Texas Disposal
 8 Systems, Inc.?
 9 A He's my assistant.
 10 Q Is that the full extent of his title?
 11 A I believe that is his title.
 12 Q How long have you known Mr. Hobbs?
 13 A Since the early '80s, I guess.
 14 Q How long has he worked for you?
 15 A Since 1987, I believe.
 16 Q Texas Disposal Systems, Inc. is an entity you
 17 mentioned. What is the nature of that entity's
 18 business?
 19 A Of Texas Disposal Systems, Inc?
 20 Q Yes, sir.
 21 A Texas Disposal Systems, Incorporated is a
 22 hauling company that it has contracts throughout
 23 Central Texas and is in the hauling/collection
 24 business for solid waste and recyclables.
 25 Q How long has -- may I call it "TDS"? Do you

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1 know what I'm referring to if I refer to it as "TDS,
 2 Inc"?"
 3 A Yeah. Let me just point out that often we
 4 refer to the company as "TDS" meaning Texas Disposal
 5 Systems, Inc. and Texas Disposal Systems Landfill,
 6 Inc. and even some of the other operation companies.
 7 So I'll ask you to help me keep them
 8 separate. I'm not going to try to confuse it and I
 9 don't think you're going to try to confuse it.
 10 So if you ask me a generic question
 11 about TDS, I'm not exactly sure you're going to --
 12 we'll try to figure it out as we go. Okay?
 13 Q Fair enough.
 14 A Okay.
 15 Q So far we have TDS, Inc. as the hauling
 16 company and the collection business?
 17 A Correct.
 18 Q Are there any other TDS entities other than
 19 TDS, Inc. and TDS Landfill, Inc?
 20 A They are the only ones that carry that in
 21 their name. Texas Disposal Systems Landfill,
 22 Incorporated you mentioned is the company that owns
 23 land where the landfill is in southeast Travis
 24 County, owns the permit and owns some other permits
 25 related to transfer stations.

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1 The other entities generally referred to
 2 as "TDS" are Texas Landfill Management, a company that
 3 operates those permitted facilities. So those are
 4 kind of the three main ones that are generally
 5 referred to often by many as TDS.
 6 Q Let me see if I can get the TDS corporate
 7 structure as best I can clear. Are any of the TDS
 8 entities a parent over the other?
 9 A No, they are separate corporations.
 10 Q They are all separate corporations?
 11 A That's correct.
 12 Q Are you president of all three or -- excuse
 13 me -- all the TDS corporations?
 14 A I'm president of all three of those
 15 corporations, yes.
 16 Q Okay. And if I understood you correctly,
 17 then, TDS, the physical landfill, is owned by TDS
 18 Landfill, Inc. Is that correct?
 19 A That's correct.
 20 Q But TDS Landfill Management Company is the
 21 operator of that landfill?
 22 A It's not TDS Landfill. It's just called
 23 "Texas Landfill" --
 24 Q I'm sorry.
 25 A -- TLM, "Texas Landfill Management,

1 Incorporated."

2 Q If I refer to that as "TLM," we'll know what

3 we're talking about?

4 A That's correct.

5 Q All right.

6 A TDSL is the landfill -- that may be easier --

7 and TDS is the hauling company and TLM is the

8 management company of the permitted facility.

9 Q Okay. So I think we can work with those.

10 A That will be easier.

11 Q All right. I want to go back to Mr. Hobbs

12 just briefly. Is it still accurate to say that he is

13 paid by TDS?

14 A Yes.

15 Q Does he receive any compensation from any

16 source that you're aware of or that you're affiliated

17 with other than TDS?

18 A Not that I'm aware of. Perhaps he's had

19 reimbursements of cash tickets or expenses related to

20 different corporations that I don't follow, but that's

21 a probability, but I'm not aware of any payroll checks

22 from other entities.

23 Q Okay. He may have other investments that

24 you're not familiar with, but as far as the companies

25 you're president of, he doesn't receive compensation

1 from those companies other than from TDS. Is that a

2 correct statement?

3 A Not in the form of payroll. He may receive

4 compensation in the form of reimbursement for

5 restaurant tickets or things like that. I'm actually

6 not aware --

7 Q That's just reimbursement of expenses,

8 though?

9 A Yes.

10 Q What was the net profit from Garra de Aguila

11 in 2005?

12 A I don't recall.

13 Q Was there any profit?

14 A I signed the tax returns, but I have no

15 recollection of what it would have been -- a profit or

16 a loss.

17 Q Garra de Aguila is the holding company.

18 Correct?

19 A That is a real estate development company

20 that serves -- I mentioned it only from the basis that

21 I am here as the general partner of TJFA, and as that

22 general partner I serve as that general partner as

23 president of Garra de Aguila.

24 Q Okay. I thought I heard you describe it

25 earlier as a holding company. And what I was getting

1 to was, does it hold anything other than TJFA?

2 A Not that I'm aware of.

3 Q And as president and only one other person,

4 Dennis Hobbs as vice president, we can assume that you

5 would be aware of anything that it was holding other

6 than TJFA?

7 A You can assume that. I have a lot of

8 businesses, but I don't think it has any other --

9 Q How many businesses do you have?

10 A I would have to think about it and count them

11 up, but they are different investment companies that I

12 own.

13 Q TJFA, then -- any employees for TJFA?

14 A No.

15 Q Is it fair to say that you control all the

16 activity with respect to TJFA as president of Garra de

17 Aguila and then as the limited partner?

18 A I think you could say that, yes.

19 Q What holdings does TJFA have?

20 A I believe TJFA owns 10 different pieces of

21 property.

22 Q All right. Picking anyone that you like, why

23 don't we start listing them and then we'll try to

24 identify all 10.

25 A Okay. Well, let's start with Williamson

1 County. I own two -- I say "I own" -- TJFA owns two

2 pieces of property in Williamson County within a mile

3 of the Williamson County landfill.

4 I marked those on the map in this

5 hearing. I think you're familiar with those pieces of

6 property.

7 Q Okay.

8 A It owns --

9 Q Are we going to a different county?

10 A I'm going to Travis County.

11 Q Travis County?

12 A I'm headed south. It owns two pieces of

13 property in Travis County in the vicinity of the old

14 closed Travis County -- the Allied Waste and the Waste

15 Management Austin Community Landfill.

16 Q You say "in the vicinity." Would they also

17 be within a one-mile radius of the Waste Management

18 and Allied landfills in Travis County?

19 A I believe they would be within a one-mile

20 radius of those two. I'm not sure that one of them is

21 within a mile of the old closed county site.

22 Q I'm not so concerned --

23 A I've not measured it off, but I'm not sure

24 it's within a mile.

25 Q I'm not so concerned with the old county

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1 landfill that's been closed. But within the two
2 active landfills or within one mile of the two active
3 landfills, does TJFA -- or the property you identified
4 in Travis County as owned by TJFA, is that within or
5 are those parcels within the one-mile radius of the
6 Waste Management and Allied landfills?
7 A Yes.
8 Q Any other property owned by TJFA in Travis
9 County?
10 A Heading further south on Burleson Road there
11 is a small tract that is owned by TJFA in the vicinity
12 of the ISI landfill. It's also known as "Travis
13 County Landfill."
14 It's not owned by the county, but that's
15 just the name of it -- "Travis County Landfill." I
16 don't believe it's within a mile --
17 Q That's a --
18 A -- of the city of Austin landfill, which is
19 also in that area.
20 Q That's a Type IV landfill, the ISI landfill?
21 Is that --
22 A Both the city of Austin and the ISI landfills
23 are Type IV landfills.
24 Q And that small tract -- how big is a small
25 tract to you?

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1 A An acre-and-a-half or something. I'm sorry.
2 I don't recall exactly, but it's a small tract.
3 Q And that would also be within one mile, then,
4 of either of these --
5 A At least the ISI landfill.
6 Q Please continue. In Travis County, anything
7 else?
8 A Yes. TJFA owns two tracts adjacent to the
9 TDSL landfill on Carl Road.
10 Q And anything else in Travis County?
11 A No. Going further south to Comal County,
12 TJFA owns two tracts in the vicinity of the Comal
13 County landfill, which is a Waste Management-owned
14 facility, as you know.
15 Q Now, you were a little less specific here,
16 but I'll probe a little further. You say two tracts
17 within the vicinity of that landfill, would you say
18 that that was within a one-mile radius of the Waste
19 Management --
20 A One tract is certainly within a mile and I
21 believe the other one is. If not, it's just outside.
22 It's approximately one mile.
23 Q Anything else in Comal County?
24 A No. Going further south there is one tract
25 that TJFA owns in the vicinity of the Covell Gardens.

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1 COURT REPORTER: Covell? I'm sorry?
2 WITNESS GREGORY: C-o-v -- is it a-l?
3 MR. RILEY: It's e-l.
4 WITNESS GREGORY: C-o-v-e-l --
5 COURT REPORTER: Thank you.
6 A -- Gardens Landfill on Covell Road.
7 Q (By Mr. Riley) And would you say that was
8 within one mile? If you said that already, I
9 apologize.
10 A It is. And I believe that's all 10 tracts.
11 Does that total 10?
12 Q Let me count them up -- 1 -- or 2, 4, 5, 7, 9
13 and 10.
14 A Okay. I thought that was all of them.
15 Q So then it's fair to say, then, all of TJFA's
16 real estate holdings are within one mile of some
17 landfill. Is that correct?
18 A That is correct.
19 Q And was that by design?
20 A Yes.
21 Q And what is the design for TJFA? Why does it
22 purchase property within a one-mile distance of
23 landfills?
24 A Well, when I moved -- I know what I know
25 about landfills and about the regulations.

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1 Part of my investment interest includes
2 buying land close to landfills with the belief that
3 the improvement in regulations, those landfills will
4 be operated better and the property values will
5 increase and our ability to lease those properties and
6 gain income from those properties both as appreciation
7 and also as rental income from those properties going
8 up will be a good investment.
9 Q What is your current rental income from all
10 the TJFA properties?
11 A I don't have the documents in front of me,
12 but different rates -- if you want me to start again
13 at the top, I believe it's 575 and 750 -- \$750 and
14 \$575 in Williamson County for those two. I do
15 remember those.
16 Q Let's go Williamson County, then.
17 A Okay.
18 Q You mentioned two pieces of property. I
19 believe one of them is approximately -- well, it's a
20 residence-type property, a small piece of property.
21 Is that correct?
22 A Both in Williamson County are residential
23 properties with houses on them and they are both
24 leased for people who live in it.
25 Q Does one have more property than the other?

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1 A One is five or six acres -- maybe a little
2 bigger -- and then the other one is something like an
3 acre-and-a-half or two.
4 Q Let's start with the smaller tract first.
5 A The smaller tract I recall is -- I think I
6 recall exactly -- is 550 or -- I'm sorry -- 750 or
7 \$775 per month.
8 Q How much did you pay for that property?
9 A Approximately \$70,000.
10 Q Was it rented prior to your purchasing it?
11 A It had been rented prior to -- well, you
12 know, maybe it was owned. Maybe it was the owner that
13 lived in it. It was occupied before I purchased it --
14 being TJFA purchased it.
15 But when it was purchased, as I recall,
16 it was empty but was rented shortly afterwards.
17 Q And the five to six-acre property, is that
18 rented?
19 A I believe that the person that owned that
20 died. It went on the market. TJFA purchased it. It
21 has been rented -- sometime after that time it was
22 remodeled immediately, and it's been rented since then
23 as I recall.
24 Q And the rental value --
25 A I believe it's \$550 per month. It's a larger

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1 tract of land, but it's a smaller house.
2 Q How much did you pay for the property
3 originally?
4 A Approximately \$70,000.
5 Q Approximately the same amount as --
6 A Both of those were approximately \$70,000.
7 Q Do you know of the name of the tenant in the
8 smaller tract or -- I'm sorry -- the one-and-a-half to
9 two-acre tract that rents for 750 to \$775, do you have
10 a current tenant there?
11 A There are tenants in both of them. I am
12 terrible with names. I'm sorry. I don't recall
13 either name of either tenant. They are both Spanish
14 surnames, but I don't recall the name.
15 Q But they are both occupied and rented?
16 A Yes.
17 Q Have they been rented since the time that you
18 purchased them?
19 A The larger tract with the smaller house which
20 was remodeled and rented after the remodeling has been
21 rented for -- I'm not sure -- a year, maybe.
22 The smaller tract with the larger house
23 has been rented for some time, and I don't recall
24 exactly the time frame of that lease.
25 Q Are you making an adequate return on your

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1 investment?
2 A I think so, yeah.
3 Q Have either of these properties gone
4 unoccupied for any period of time while you have been
5 the owner other than what you've already described in
6 the remodeling of the --
7 A Not other than as I've described. I believe
8 it's the -- no. Actually, there was someone that
9 rented one of them and then bought a house and moved
10 into a house that they purchased and then someone --
11 I think there's been three tenants between the two
12 houses since we purchased them as TJFA.
13 Q So if I understood your testimony a moment
14 ago correctly, you believe that investment in real
15 estate close to landfills is a wise investment?
16 A Yes.
17 Q During the preliminary hearing on this
18 matter, do you remember me asking you some questions
19 when you were testifying?
20 A Yes, I do.
21 Q And do you remember being asked the question
22 of whether you purchased this property for the purpose
23 of becoming an affected person in the contested case
24 matter should any of -- excuse me. Let me stop there.
25 Do you remember being asked the question

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1 of whether you purchase the property for the purpose
2 of becoming an affected person?
3 A I remember you asking a question along that
4 line. I don't remember exactly how the question and
5 answer went.
6 Q Okay. Well, let me ask it again, then: Did
7 you purchase this property or did TJFA purchase this
8 property with the intention of qualifying as affected
9 person in the event that the Williamson County
10 landfill filed for an expansion?
11 A As I explained earlier, TJFA buys property in
12 the vicinity of landfills with the belief that as
13 those landfills are operated properly and as rules
14 improve, the value of that land and an ability to
15 lease and draw income for that land will improve.
16 I bought the properties under that
17 assumption. Knowing what I know about landfills and
18 about the ability to permit and seek permit
19 amendments, it provides TJFA the assurance that if
20 permit applications are submitted that do not meet the
21 rules or are done in a manner that circumvent the
22 rules, then it allows -- that allows me as a partner
23 and TJFA to seek clarification or challenge.
24 So I did know that you could take party
25 status if necessary. It was not purchased for the

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1 expressed purpose to take party status. So I hope
2 that answers your question.

3 Q Not so much, but let's try it again. Did you
4 purchase the property within a one-mile radius of the
5 Williamson County landfill for the purpose of
6 qualifying as an affected person under the TCEQ rules?

7 A The answer would be "no" for the expressed
8 purpose. However, I knew that I would be able to if
9 the need arose.

10 I believe that's how I answered the
11 question in the public -- the first day of public
12 hearing.

13 Q When you purchased this property, was the
14 application for expansion of the Williamson County
15 landfill pending? By "this property," I'm referring
16 to the Williamson County properties, either one of
17 them.

18 A It would have been because the application
19 was made, I believe, in 2003 which was three years
20 ago, and I believe these properties have been
21 purchased since then.

22 Q So the application had been filed. Correct?

23 A As I recall.

24 Q And you were aware of it. Correct?

25 A As I recall.

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1 Q In fact, you participated in a variety of
2 different --

3 A I have since then, yeah.

4 Q And prior to owning the property or -- excuse
5 me. Prior to TJFA owning the property, have you, Bob
6 Gregory, been active in Williamson County regarding
7 the permit application as the subject of this
8 proceeding?

9 A I have to put on a different hat. When I say
10 I participated, I have participated representing Texas
11 Disposal Systems Landfill, Inc. or TDSL, as we agreed
12 to call it, and to a limited extent -- to the extent
13 that hauling is involved, representing TDS, and I have
14 been involved in that and actively involved.

15 And as you and the county are aware,
16 because much of what I've done has been in writing, it
17 is made available to the county. But, again, that's
18 me representing TDS and TDSL.

19 I have not participated representing
20 TJFA in any of that as representing TJFA.

21 Q And you distinguish that how?

22 A I distinguish it just from the basis of how I
23 represent myself when I do it and from the position
24 that I state in the writings and the documents that
25 I've produced.

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1 Q Let me say it back to you and you can tell me
2 where I've gotten it wrong. You did not own property
3 around the Williamson County landfill prior to TJFA
4 purchasing the two tracts that we've been
5 discussing -- you in any form or fashion?

6 A Actually, I think for a very short period of
7 time it was in my name.

8 Q Your personal name?

9 A My personal name. As I recall, one of the
10 tracts was. That's when TJFA was in the process of
11 being formed.

12 I'm not exactly sure on that, but I
13 think I have a recollection of one of the properties
14 bought in my personal name that was transferred over
15 into TJFA.

16 Q Let's go back. Let's walk forward
17 chronologically. From the point of time where you
18 became aware that Williamson County had filed for an
19 expansion of the Williamson County landfill, do you
20 recall approximately what date that might have been?

21 A I do not recall.

22 Q Do you recall what year that might have been?

23 A It probably was 2004.

24 Q And is it your testimony that you were aware
25 of the application in whatever capacity you were

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1 acting prior to purchasing any property within a
2 one-mile radius of the Williamson County landfill?

3 A I think I was. If you could give me the date
4 that I purchased the property, I may be able to tell
5 it better. I'm not trying to be difficult at all.
6 I'm just trying to answer your question accurately.

7 I very well may have been aware that the
8 application had been filed, but I'm not positive.

9 Q Let me throw out some dates and see if they
10 refresh your recollection. The first public notice
11 for the land use only, Parts 1 and 2 of the Williamson
12 County application, was published on December 16,
13 2003. Does that sound about right to you?

14 A I have no recollection of a date. I remember
15 hearing about it. I don't know if it was in December
16 or a month later or two months later.

17 Q In July -- specifically July 22, 2004 -- you,
18 Bob Gregory, purchased 5.04 acres on County Road 130
19 in Williamson County.

20 Does that sound about right?

21 A I take your word for it. I don't have a
22 reason to doubt it.

23 Q I think these are --

24 A But I don't recall when that was, to be
25 honest with you.

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1 Q But my purpose in going through the dates is
 2 hopefully pretty clear. You didn't own property,
 3 there was an application on file and you purchased
 4 property within a one-mile radius.
 5 MR. DUNBAR: Objection, form.
 6 Q (By Mr. Riley) Do you agree with that
 7 statement?
 8 A I know I purchased property within a mile
 9 radius, meaning TJFA. The exact time of whether I was
 10 aware of whether a permit had been filed on the first
 11 one, I can't say, but I don't know that that matters.
 12 When TJFA bought the second tract,
 13 there's no question I knew at that point that a permit
 14 had been filed.
 15 Q Well, let me --
 16 A So if that's what you are trying to get to, I
 17 know it was the case on the second tract. I'm not
 18 positive it was on the first.
 19 Q My purpose in asking these questions is
 20 twofold. One is to drill down on what you've said is
 21 TJFA's investment strategy. All right?
 22 And to that end, what I'm asking you is,
 23 when you purchased this property you were aware that
 24 the application for expansion had been requested or --
 25 excuse me -- had been filed and, therefore, it was

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1 part of your investment strategy or acknowledged in
 2 your investment strategy that the landfill could be
 3 expanded. Is that correct?
 4 A It certainly was that understanding on the
 5 second tract --
 6 Q Okay.
 7 A -- that I knew that there was a permit being
 8 filed -- had been filed and that the landfill might be
 9 expanded.
 10 Q Okay. I have two dates here. The first date
 11 that I have that you as an individual purchased
 12 property is July 22, 2004, and that's the five-acre
 13 tract or approximately five-acre tract.
 14 Does that date sound about right to you?
 15 A I told you I don't recall, but I have no
 16 reason to doubt you.
 17 Q Okay. I also have a date of December 29,
 18 2004 where you also -- excuse me -- not you, but TJFA
 19 purchased property from a Ronica Renee Ledesma. Does
 20 that sound correct?
 21 A That's the second tract. I do remember the
 22 Ledesma name.
 23 Q So the first in time tract would have been
 24 the July tract -- the five-acre tract in July of
 25 2004 --

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1 A Yes.
 2 Q -- which would have been --
 3 A The five acre one was the first tract. The
 4 date, I'm taking your word on.
 5 Q And it would have been approximately seven
 6 months after the first public notice of the -- excuse
 7 me -- of the Williamson County application to expand
 8 the landfill.
 9 So each of these pieces of property were
 10 purchased after there was public notice of the intent
 11 to expand the landfill?
 12 A I'm taking your word on those dates and your
 13 word being -- if your word is accurate, then that's
 14 correct, obviously.
 15 Q Okay. So when you purchased this property,
 16 either you as an individual or you as the president of
 17 Garra de Aguila, the general partner for TJFA, you
 18 purchased it with the expressed purpose of being
 19 within a one-mile radius and seeking affected person
 20 status in that application. Is that true?
 21 A The first part is true. The last part is not
 22 true. It wasn't with the expressed purpose of seeking
 23 party status.
 24 There is an investment philosophy and
 25 strategy that I've tried to explain to you that is a

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1 fact. That's an issue, and that's relative to all of
 2 our facilities.
 3 I don't automatically buy the property
 4 to take party status, and I've demonstrated that with
 5 at least one of the tracts that I purchased.
 6 Q And which tract is that that you're referring
 7 to?
 8 A That's the tract next to the Covell Gardens
 9 landfill in Bexar County in San Antonio.
 10 Q Do you intend to seek affected person or --
 11 excuse me -- party status in the pending applications
 12 of Waste Management for expansion of the Comal County
 13 landfill which you referred to as Comal County and the
 14 Austin Community landfill?
 15 A I don't know. That is a possibility.
 16 Q Well, have you not already sought party
 17 status in the Comal County landfill expansion?
 18 A The opportunity has not made itself
 19 available. There's not even been a public meeting on
 20 it, let alone the start of a public hearing where one
 21 would take party status.
 22 Q Are you not aware that you requested a
 23 contested case hearing in the Comal County landfill
 24 expansion referred to as "Mesquite Creek"?
 25 A As I understand it, my attorneys identified

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1 issues that we felt -- TJFA felt needed to be dealt
 2 with and corrected and made those known in the process
 3 of seeking improvement to that.
 4 That was about the time as I recall that
 5 a public -- that the draft permit was issued and a
 6 public meeting notice was issued -- very similar to
 7 the position taken by my attorneys on the Williamson
 8 County landfill where issues were identified that TJFA
 9 was seeking corrections in the permit application.
 10 Q So you're not seeking denial of the permit in
 11 either case; you're seeking merely technical
 12 corrections. Is that correct?
 13 A I'm seeking denial of a permit in the event
 14 that it is -- that it doesn't meet the requirements
 15 under the regulations under the law.
 16 Q Well, if I understood your testimony, your
 17 testimony is that you benefit as TJFA by the adherence
 18 to the state regulation regarding the operation of
 19 landfills. Is that correct?
 20 A That is correct.
 21 Q So your economic interest is improved when a
 22 landfill meets the requirements of the state. Is that
 23 correct?
 24 A That's correct.
 25 Q So your economic interest is simply to see

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1 that the rules and requirements of the state are met
 2 by a landfill in the area where you own property?
 3 MR. DUNBAR: Objection, form.
 4 A That is correct. However, if a landfill
 5 applicant and/or the Executive Director choose not to
 6 follow the rules and meet the requirements of those
 7 regulations as a property owner within a mile of the
 8 facility that chooses to take party status and
 9 participate in a hearing, one can go to the point of
 10 seeking denial of the permit amendment or the permit
 11 approval.
 12 That's the position of safety that TJFA
 13 has from an investor standpoint, that it can influence
 14 that process, that the facility operate properly, that
 15 the agency permit properly in hopes that it will rise
 16 to the occasion and do so.
 17 If it doesn't do it, then it's the
 18 prerogative of TJFA and any other party with
 19 justiciable interest to seek a denial of the permit.
 20 Q (By Mr. Riley) That's a lot of words,
 21 Mr. Gregory. I didn't ask you the question.
 22 A I think I was responsive to your question.
 23 Q Let me try to get to the question, then, and
 24 maybe you can give me a more succinct answer.
 25 A Please do.

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1 Q If a landfill was operated in accordance with
 2 the requirements of the state -- all the rules, laws,
 3 permits -- it enhances your investment according to
 4 what you've said the purpose of TJFA is?
 5 A That's correct.
 6 Q Does denial of a permit enhance your
 7 investment?
 8 A It can.
 9 MR. DUNBAR: Objection, form.
 10 A As you know, a denial of an amendment to a
 11 permit just takes you back to where the permit stood
 12 prior to the amendment being requested. So it doesn't
 13 close the landfill, necessarily. It just takes the
 14 opportunity to do an amendment.
 15 There is no question that it's better --
 16 there is no question it's better to have a denial of
 17 that permit amendment than it is for the permit
 18 amendment to be granted in a fashion that is
 19 inconsistent with the rules or illegal.
 20 Q (By Mr. Riley) Regarding the Williamson
 21 County application, what specifically do you think is
 22 illegal about the application and/or the draft permit?
 23 MR. DUNBAR: Objection, form.
 24 A I will answer your question as specific as I
 25 can, although I will also refer you to the two sets of

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1 comments that TJFA attorneys have submitted -- one in
 2 May of this year and one in July of this year -- that
 3 we've tried to articulate what our concerns are.
 4 But, initially, going from the top as
 5 best I can recall, the way the application was filed
 6 in the name of Waste Management as well as Williamson
 7 County we think is inappropriate.
 8 Q (By Mr. Riley) How does that improve the
 9 value of your property one way or the other?
 10 A We believe that if Waste Management, given
 11 the way they operate facilities, becomes the
 12 controller of this landfill and the one who under its
 13 contract and permit takes over the control of this
 14 from Williamson County that it will reduce the
 15 probability of the values going up surrounding this
 16 site and our ability to lease land, because we know
 17 how Waste Management has operated in this area.
 18 Q So you don't have any problem with the
 19 technical aspects of the application. You have a
 20 problem with the operator of the landfill. Is that
 21 correct?
 22 A I do have problems with the technical aspect
 23 of the application. And, again, that's why I referred
 24 you to the comments that were submitted. Those
 25 particular issues primarily were dealt with in May

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1 with the documents that were presented to the agency
2 when we were seeking a public meeting --
3 Q Mr. Gregory, the --
4 A -- in this process. So I can try to go
5 through them as best I can, but I've articulated --
6 tried to articulate those to the point that the county
7 would get the picture and revise the permit
8 application accordingly.
9 Q If the permit application were revised in
10 accordance with those observations or comments, would
11 you agree that the permit should be issued?
12 A I could. In the case of the Covell Gardens
13 landfill, TJFA owned property adjacent to this Bexar
14 County --
15 Q I appreciate the hypothetical, but I'm asking
16 you a direct question.
17 A It's not a hypothetical. It --
18 Q And we're not going to argue. I'm going to
19 ask you questions and you're going to answer them and
20 we're not going to have a conversation.
21 My question is: As pertains to the
22 Williamson County permit application, if the comments
23 that were advanced by TJFA or some other entity acting
24 on your individual and corporate behalf were
25 addressed, would you agree that the permit should be

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1 issued?
2 MR. DUNBAR: Objection, form.
3 A I will state that those were issues that we
4 identified that need to be addressed.
5 I'm not going to go to the point of
6 saying that I think that would address all the
7 concerns, because issues can be raised in the process
8 of addressing those concerns.
9 But to my knowledge, that was a very
10 thorough representation of our concerns at that time,
11 and I still believe they should be addressed.
12 Q (By Mr. Riley) Would you like to have the
13 Williamson County contract?
14 MR. DUNBAR: Objection, form.
15 A TJFA is not in the business of running
16 landfills and has no interest at all in having --
17 Q (By Mr. Riley) Could we drop the pretense?
18 Would TDSL like to have the Williamson County
19 contract?
20 A First of all, I'm here to answer your
21 questions on behalf of TJFA. To the extent that the
22 position of TDS and TDSL issues and concern in this
23 issue, I've given most of those in writing to the
24 public and to the county itself.
25 Q Are you actively on behalf of TDSL or any

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1 other entity you own trying to rest the contract away
2 from Waste Management for your benefit?
3 MR. DUNBAR: Objection, form.
4 A I will not characterize it as you
5 characterize it. TDSL, primarily, has expressed
6 serious concerns with the contract that exists between
7 the county and Waste Management.
8 TDSL has expressed very serious concerns
9 with the manner in which Waste Management has chosen
10 to seek this permit application. TDSL is very
11 concerned in the manner that Waste Management has
12 attempted to intimidate the county into going along
13 with its plan.
14 And from that end, TDSL has expressed
15 very serious concern with the county moving forward,
16 and TDSL has used its right to petition government,
17 freedom of speech, to address our concerns to the
18 county as they are in the process of renegotiating the
19 contract with Waste Management.
20 But those are representations that I
21 personally have made representing TDSL and to a lesser
22 extent TDS. At no time was it TJFA's representation
23 to do anything with the contract.
24 Q (By Mr. Riley) Let's face it Mr. Gregory,
25 you talk about investors to TJFA, but it's just you.

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1 Is there some other investor to TJFA
2 that you haven't been able to explain on the record
3 here this afternoon? You keep talking about investors
4 to TJFA and Garra de Aguila, but it's just you. Isn't
5 that correct?
6 A I don't keep talking about investors to --
7 Q You've mentioned it several times. At least
8 I've heard it. Answer my question directly: Is there
9 anyone else who has a financial interest in TJFA or
10 Garra de Aguila other than Bobby Gregory?
11 A I've already answered that question, and I am
12 the owner of Garra de Aguila and TJFA --
13 Q Is the answer to my question, "no," you're
14 the only person -- you're the only individual who
15 benefits from those two entities?
16 A The corporation is a person as you know, but
17 I am the only individual.
18 Q Right. So if TJFA makes a profit, it goes
19 into your pocket. Correct?
20 A It goes to the profit of -- in the taxable
21 account of these companies.
22 Q Right. That goes into your pocket. Is that
23 correct?
24 A As an individual, I'm the only owner of it,
25 if that's your point.

1 Q So you are the only person who benefits
2 financially from the outcome or the investment
3 strategy of the two entities we've been discussing
4 this afternoon -- TJFA and Garra de Aguila. Is that
5 correct?

6 A In the end. There are separate --

7 Q In the beginning, in the end, in the middle,
8 is there anybody else who benefits?

9 A They are separate entities. They are
10 separate taxable entities. They are separate legal
11 entities, and under the law they can practice as they
12 do.

13 I have made no attempt at any point in
14 time to shield the fact that I own -- as Bobby Gregory
15 owns the companies, and I wouldn't have been at the
16 public hearing the other day presenting myself
17 personally doing it if I had any intent to try to
18 shield that.

19 I would have had an attorney there or
20 someone for it. So we've made no attempt to this
21 and --

22 Q Then I don't know why you're not being
23 forthright in answering my questions.

24 A I'm being more than forthright in answering
25 your questions, Mr. Riley.

1 Q Is your intent here -- and by "here" as
2 TJFA, is part of TJFA's objective to limit the
3 municipal solid waste disposal capacity in this area
4 of Central Texas?

5 A No.

6 Q It is not?

7 A No.

8 Q Okay. So the fact that you oppose expansions
9 of other landfills other than your own, that's not
10 indicative of your true intent. Is that your
11 statement?

12 MR. DUNBAR: Objection, form.

13 A That is not indicative of -- that has nothing
14 to do with the investment philosophy and opportunity
15 of TJFA.

16 If anyone could take this same
17 investment philosophy that TJFA has, and I believe as
18 long as they were smart enough and knew how the --
19 what opportunities -- legal opportunities -- lay
20 before them to make sure -- to do their best to make
21 sure that the rules are followed that values of real
22 estate will go up over time as entities follow the
23 rules and follow the law and as the requirements are
24 placed on landfills to operate better.

25 Q (By Mr. Riley) How does TDSL benefit if

1 these expansions or -- excuse me -- the Williamson
2 County expansion is not granted?

3 A How does TDSL --

4 Q Yes.

5 A You're asking me a question as a spokesman
6 for TDSL at this point?

7 Q I asked you a question as an individual under
8 oath. It's as simple as that.

9 A Well, again, I'm here representing TJFA.

10 Q Are you refusing to answer the question?

11 A I will go into some extent answering
12 questions, but --

13 Q So you're refusing to answer?

14 A -- you're not going to ask -- ask your
15 question again.

16 Q Sure. Does TDSL benefit by defeating the
17 application for expansion of Williamson County, Austin
18 Community Landfill, Allied's -- I think it's called
19 Sunset Farms -- and Covell Gardens? Does it benefit if
20 those applications are denied?

21 A It benefits by those applications following
22 the law and operating to a standard that are called if
23 they follow the law.

24 Q How does it benefit by those other entities
25 under your -- in your opinion following the law?

1 A Because it changes the way they operate now.
2 They have to operate by a higher standard than they
3 are operating --

4 Q So TDSL is a public-minded company?

5 A I am a publicly-minded individual and my
6 company is a publicly-minded company, and you more
7 than anyone else in this room know that I have a long
8 history of working to try to raise the bar for the
9 operation of facilities throughout the state.

10 Q We might have a disagreement as to what
11 you're working toward, but I do agree that you're very
12 active in seeking to benefit your company through the
13 regulatory process.

14 So we at least have that much in common
15 and a common agreement.

16 A To the extent that encouraging landfill
17 operators throughout the state to meet the regulations
18 means helping my company, then, yes, that would be
19 correct.

20 To the extent that I am seeking to ask
21 them to do anything other than meet the regulations
22 and follow the regulations, then I would disagree with
23 you.

24 Q Who's a good operator in this state other
25 than yourself?

1 MR. DUNBAR: Objection, form.
 2 A There are some Type IV landfill operators in
 3 the state that are good operators.
 4 Q (By Mr. Riley) Is that it, Bobby Gregory and
 5 the Type IV landfill operators?
 6 A And as I understand it -- I have spent very
 7 little time there, but as I understand it, the Waste
 8 Management Covel Gardens landfill is operated well.
 9 That's my understanding and one reason
 10 that I didn't oppose STJFA, the permitting of that
 11 facility.
 12 Q Without getting too far afield here, you have
 13 an opinion about other landfills. You've just
 14 expressed an opinion about the Covel Gardens landfill,
 15 but you admit that you don't know much about it. Is
 16 that correct?
 17 A I know about the permit. I know about their
 18 operating history. I'm not there enough to know about
 19 the day-to-day impact, and that's what I'm referring
 20 to, what I don't know as much about.
 21 Q Okay. Would you then extend that to the
 22 Comal County landfill where I think it's somewhere in
 23 the nature of 500 letters of support for that facility
 24 have been submitted to the TCEQ and only one letter in
 25 opposition to granting that expansion that has been

1 submitted and that's on behalf of you or TJFA?
 2 How do you explain that, Mr. Gregory?
 3 Everybody is wrong but you?
 4 A First of all, I can't imagine what this has
 5 to do with Williamson County and permitting an
 6 expansion of their landfill in Williamson County, but
 7 I have reviewed that application and I reviewed the
 8 application before it and it's a very poor landfill,
 9 and the TCEQ permitted an expansion of that landfill
 10 over a major geological fault which should have never
 11 been, in my opinion, permitted.
 12 It has some serious problems with the
 13 permit as proposed.
 14 Q All right.
 15 A So I don't know where you -- I have not seen
 16 one of the 500 letters that you're talking about that
 17 are in support of it.
 18 Q That's not surprising to me that you haven't
 19 seen those, but I can't imagine you've actually looked
 20 for them either. Is that correct?
 21 A Actually, individuals have looked at the
 22 file. I have not been to the TCEQ to look at the file
 23 and I never remember anyone representing to me that
 24 there are 500 letters in the file of support.
 25 Maybe it's letters at a different level.

1 Q Possibly.
 2 A I'll be glad for you to make those available
 3 to me.
 4 Q They are available from the TCEQ. You spend
 5 a lot of time out there. I'm sure you can find them.
 6 A I'll go looking.
 7 Q Good. Have you entertained any of the
 8 current county commissioners or county judge of
 9 Williamson County either at a lunch or a dinner?
 10 MR. DUNBAR: Objection, form.
 11 A Yes, I have.
 12 Q (By Mr. Riley) And have you lobbied any of
 13 those people for termination of the Waste Management
 14 contract in favor of TDSL?
 15 MR. DUNBAR: Objection, form.
 16 A I have had lunch and/or dinner with each of
 17 the county commissioners and the judge representing
 18 TDSL -- not representing TJFA in any respect.
 19 I've told at least Commissioner Limmer
 20 and Judge Doerfler and Mark Dietz approximately two
 21 years ago that I was involved with a company -- an
 22 investment company -- that owned land next to the
 23 Williamson County landfill, but that's the only extent
 24 of any mention that I ever had as far as a
 25 representation of TJFA.

1 All other discussions that I've had are
 2 me on behalf of TDSL.
 3 Q (By Mr. Riley) My question is: Have you,
 4 Bob Gregory, lobbied any public official at any
 5 level -- the state, federal, local -- for relief of
 6 the contract or -- to take the contract for the
 7 Williamson County landfill and award it to TDSL?
 8 A I have asked them to seriously review the
 9 contract to -- I've never asked them to break the
 10 contract.
 11 I've never encouraged them to do
 12 anything like break the contract, but to evaluate it
 13 from the basis that Waste Management itself had
 14 already breached the contract and to evaluate whether
 15 it was appropriate for them to terminate the contract
 16 based on that.
 17 So I'm trying to be very specific.
 18 Q So you have lobbied on behalf of TDSL for
 19 review of that contract and consideration of TDSL for
 20 the contract. Is that correct?
 21 A That's correct.
 22 Q All right. Are you a registered lobbyist?
 23 A There is no need for a -- there is no place
 24 to register as a lobbyist in Williamson County.
 25 Q That's your understanding of the lobby

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1 requirements?
2 A That's correct.
3 Q Okay. Have you spent any amount of money, no
4 matter how insignificant, in entertaining any public
5 official for the purpose of lobbying for the
6 Williamson County contract?
7 MR. DUNBAR: Objection, form.
8 A Not that would require me to register as a
9 lobbyist.
10 Q (By Mr. Riley) That's not my question. Have
11 you spent any amount of money?
12 A If I bought a meal, I spent an amount of
13 money.
14 Q And during that meal, did you lobby for
15 action on behalf of public officials?
16 MR. DUNBAR: Objection, form.
17 A I've encouraged them to review the contract
18 and evaluate what TDSL had to offer.
19 Q (By Mr. Riley) So the answer would be "yes,"
20 you asked them to take action and provided at least a
21 meal during these interactions with public officials.
22 Is that correct?
23 A That's correct. I know of no reason for
24 registration as a lobbyist --
25 Q Do you lobby?

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1 MR. DUNBAR: Objection, form.
2 A I serve as -- when I speak on this behalf, I
3 speak as the president of the corporation, and there
4 is no reason for me to file as a lobbyist to talk to
5 people in Williamson County -- at the county or
6 Georgetown at the city level.
7 Q (By Mr. Riley) So you went to see them as a
8 representative of TJFA and a property owner expressing
9 your -- what did you refer to it earlier -- your First
10 Amendment rights and then lobbying on behalf of --
11 A I went to see them representing TDSL.
12 Q How do keep those straight?
13 A Well, I just do. It's how I present myself,
14 and Mark Dietz can tell you because he was in one of
15 the meetings.
16 Q Let's go back to the Williamson County
17 landfill. During the preliminary hearing you were
18 asked this question and apparently unprepared for it
19 at the time. You answered -- "Honestly" --
20 MR. DUNBAR: Objection, form.
21 Q (By Mr. Riley) -- "the reason that TJFA
22 purchased property within one mile of the Williamson
23 County Landfill is to qualify as an effected person.
24 Is that correct?"
25 "In the need that there was needed to be

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1 that step taken, that is correct." Do you give that
2 same answer?
3 A That is a correct answer.
4 Q Okay. So then you did purchase the property
5 within one mile of the Williamson County landfill to
6 qualify as an affected person. Is that correct?
7 A In the need that was necessary. As I've
8 stated, if it is necessary to protect the investment
9 interests of this company, if there are steps being
10 taken that are directly contrary to the investment
11 interests of TJFA, particularly if illegal steps are
12 being taken or steps taken that are inconsistent with
13 the regulations, that is part of my knowledge and part
14 of my understanding of the rules and part of my
15 ability to challenge those steps.
16 TJFA has done it in a fashion of
17 articulating those concerns up front, well ahead of
18 the time of a public hearing and an opportunity to
19 take party status, such that the entity can take those
20 items and those issues if they want to and incorporate
21 the corrections into the permit.
22 And it just so happened in this case for
23 Williamson County they ignored every single one of
24 them and moved ahead.
25 Q So your position is that TJFA is simply

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1 interested in compliance with the regulations. Is
2 that correct?
3 A TJFA is a real estate investment company
4 that's interested in buying property in proximity to
5 landfills with the knowledge that as facilities are
6 operated better land values will go up.
7 And it also knows that, if necessary, it
8 can take a party status if those permit applications
9 are being pursued in a manner inconsistent with the
10 rules and the law, and we've done it on occasion and
11 on other occasions we have not done it as was
12 necessary.
13 Q Are you an employee of any of your companies?
14 A Yes.
15 Q Which one?
16 A I am an employee of Texas Disposal Systems.
17 I'm an employee of Txalloy, and I believe that's the
18 only businesses that I'm an employee of.
19 Q How much are you paid annually by TDS?
20 A I don't recall.
21 Q You don't know your annual salary from your
22 own company?
23 A No.
24 Q How much are you paid by Txalloy?
25 A I don't recall.

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1 Q What's your annual income?
2 MR. DUNBAR: I'm going to object and
3 instruct my client not to answer as being beyond the
4 scope of discovery in this proceeding.
5 MR. RILEY: Well, the scope of discovery
6 is economic interest. I'm trying to establish how
7 much economic interest Mr. Gregory has or derives from
8 the --
9 MR. DUNBAR: From TJFA is fine.
10 MR. RILEY: -- from TJFA. I can't put
11 it in proportion unless he answers the question.
12 A TJFA has no income. So whatever it is, it's
13 still zero.
14 Q (By Mr. Riley) How much do you make
15 annually, Mr. Gregory?
16 A You will have to certify that question to the
17 Hearings Examiner. I won't answer that question.
18 First of all, I don't know because I have a lot of
19 income coming in from other various and sundry things.
20 You've asked me two companies that Waste
21 Management competes directly with, and I will not
22 answer that question since you've identified yourself
23 as representing Waste Management. It has absolutely
24 no --
25 Q Unfortunately, you don't get to make

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1 objections, Mr. Gregory.
2 A It has absolutely nothing to do with
3 Williamson County.
4 Q You know, I've rarely been in a deposition
5 where the witness makes his own objections.
6 MR. DUNBAR: And I have already objected
7 and instruct my client not to answer.
8 A And I was acting under that objection.
9 Q (By Mr. Riley) Do you personally benefit --
10 you, Bob Gregory, personally benefit if the Williamson
11 County application is denied?
12 A TJFA will benefit --
13 Q Please answer the question I've asked you.
14 Don't reframe it. Answer it or don't answer it, but
15 answer the question I asked you.
16 MR. DUNBAR: Objection, form.
17 A I don't know.
18 Q (By Mr. Riley) You don't know?
19 A There are scenarios when it could be
20 beneficial. There are scenarios when it would not be
21 beneficial.
22 Q Does your landfill or TDSL's landfill benefit
23 from noncompetition in this market?
24 A It benefits from honest competition that
25 plays by the rules.

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1 Q Again, if you can answer my question, answer
2 it.
3 A I told you. I said I don't know how to
4 answer it because depending on which --
5 Q If every other landfill in this area closes,
6 does your landfill benefit?
7 A You're asking me now from TDSL's perspective.
8 Is that correct?
9 Q Yes.
10 A A moment ago you asked me personally, and
11 I --
12 Q No, it's the same thing, isn't it,
13 Mr. Gregory? Even though you won't answer the
14 question about your income, I'm pretty sure we would
15 find out that TDSL pays the bulk of your unknown
16 annual income.
17 Isn't that correct?
18 MR. DUNBAR: Objection. I instruct my
19 client not to answer.
20 Q (By Mr. Riley) Does the vast majority of
21 your annual income, without telling me a number, come
22 from revenue generated by TDSL?
23 A A percentage of my total income comes from
24 TDSL.
25 Q What would you say that percentage is without

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1 telling me the number?
2 A I don't know.
3 Q More than 50 percent?
4 MR. DUNBAR: Objection --
5 A I simply don't recall.
6 Q (By Mr. Riley) So some amount of your annual
7 income is derived from the revenue generated by TDSL.
8 Is that a fair statement?
9 A That's correct.
10 Q And if TDSL were the only landfill in the
11 Central Texas area, would you expect your revenue from
12 TDSL to increase?
13 MR. DUNBAR: Objection, form.
14 A The revenue would increase, yes.
15 Q (By Mr. Riley) Would you expect to
16 personally benefit from that revenue increase?
17 MR. DUNBAR: Objection, form.
18 A I would benefit as a stockholder in TDSL.
19 Q (By Mr. Riley) How about TDS, would you also
20 benefit as an employee of TDS?
21 A As an employee of TDS, I don't know. I'm a
22 stockholder. I'm a majority stockholder of TDS, and I
23 would benefit.
24 Q So if these other landfills go out of
25 existence or are denied their expansions, you

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1 personally would derive a direct economic benefit. Is
 2 that correct?
 3 MR. DUNBAR: Objection, form.
 4 A I could.
 5 Q (By Mr. Riley) Do you have any question
 6 about that?
 7 MR. DUNBAR: Objection, form.
 8 A It depends on who else opened up. I mean, I
 9 guess you're assuming that no one else would permit a
 10 landfill.
 11 As you know, there is a wide world of
 12 opportunities out there for landfill operators. So
 13 this landfill could --
 14 Q (By Mr. Riley) Mr. Gregory, what is the
 15 expected --
 16 MR. DUNBAR: Objection. I'm going to
 17 ask that counsel not overspeak when my client is
 18 trying to answer.
 19 Let him finish answering the question
 20 and then you can ask another question.
 21 MR. RILEY: I'm going to cut him off if
 22 he's not answering the question and giving a
 23 statement.
 24 MR. DUNBAR: Then object and say, "It's
 25 nonresponsive" and then go on.

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1 MR. RILEY: Don't give me instructions,
 2 Mr. Dunbar.
 3 Q (By Mr. Riley) Mr. Gregory, isn't this
 4 effort of TJFA all about noncompetition?
 5 A No.
 6 Q But coincidentally you've bought property
 7 around all the major landfills in the Central Texas
 8 area and coincidentally you're opposing expansion of
 9 those landfills. Is that correct?
 10 MR. DUNBAR: Objection, form.
 11 A That's not true.
 12 Q (By Mr. Riley) It's a coincidence?
 13 A Not only is it not of coincidence, it's not
 14 true. I have not opposed all the expansions.
 15 Q Okay.
 16 A I've called upon those -- I hoped that those
 17 landfills would operate by the rules. And in the case
 18 where I thought one did -- the largest of all of
 19 them -- which happened to be owned by Waste
 20 Management, I did not take -- I did not seek party
 21 status.
 22 Q What is Waste Management doing so that you
 23 would make the broad statement that it's not operating
 24 by the rules?
 25 A Again, we can go to my comments that we

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1 submitted. There are multiple pages that articulate
 2 where I feel that it is not --
 3 Q Mr. Gregory, are you involved in
 4 anticompetitive practice?
 5 A No.
 6 Q You're not?
 7 A No.
 8 Q I would like to hear specifically what
 9 efforts you've made to encourage Williamson County to
 10 breach the contract with Waste Management and award it
 11 to TDSL?
 12 A None.
 13 Q You've not made any efforts? So anyone who
 14 would testify to the contrary to your sworn testimony
 15 would be lying. Is that correct?
 16 A It is my testimony that I have made no effort
 17 to encourage the county to breach the contract with
 18 Waste Management -- "breach" meaning break the
 19 contract.
 20 Q Is there a contract between Williamson County
 21 and Waste Management that you acknowledge exists?
 22 A Yes.
 23 Q What has Waste Management done in your mind
 24 that has breached that contract?
 25 A They have attempted to take over and take

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1 from Williamson County control of the permit.
 2 Q What else, if anything?
 3 A They have attempted to take party -- under
 4 that, by attempting to take party status and give
 5 public notice and take over the control. That's just
 6 an explanation of that statement.
 7 Beyond that, I believe they have acted
 8 improperly under that contract in a manner that they
 9 sought the amendment of the contract in 2003.
 10 Q Didn't you encourage amendment of the
 11 contract?
 12 MR. DUNBAR: Objection, form.
 13 A I have encouraged amendment of the contract
 14 since then. I was not aware of any amendment that was
 15 going on in 2003.
 16 Q (By Mr. Riley) What specifically was done in
 17 2003 that you can testify to factually that was a
 18 breach of the contract?
 19 A Say again.
 20 Q You said that in 2003 there was an amendment
 21 to the contract. Is that your testimony?
 22 A That is my understanding. Yes, there was, in
 23 October of 2003.
 24 Q And how is that a breach of a contract if the
 25 parties agree to amend it?

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1 A I think the manner that it was done does not
 2 show a good-faith negotiation on both sides, and I
 3 think it was approved in a manner that was
 4 inconsistent with a fair negotiation.
 5 Q What was not good faith about it?
 6 A Williamson County relied on an individual --
 7 Dwight Pittman -- who was a former Waste Management
 8 employee to handle the negotiations.
 9 Dwight Pittman's wife runs the
 10 gatehouse, is my understanding, for Williamson County
 11 at the Williamson County landfill. He draws income
 12 from his wife working for Waste Management.
 13 The county relied on him representing
 14 the county to negotiate a contract and pretty much, as
 15 I can tell, just rubber stamped what he okayed for the
 16 county.
 17 His past experience and his past
 18 relationship with Waste Management himself and his
 19 wife working for Waste Management on that landfill, I
 20 think, was improper.
 21 I think the county approved the
 22 contract, that they didn't have a clue what it
 23 included, and I believe that because numerous things
 24 that I and others have asked about it containing, no
 25 one on the county Commissioners' Court was even aware

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1 of it.
 2 Q But you agree there is a contract. Correct?
 3 A I agree there is a contract.
 4 Q All right.
 5 MR. RILEY: I have about 20 more
 6 minutes.
 7 MR. DUNBAR: Okay.
 8 (Brief recess - 3:33 p.m. to 3:47 p.m.)
 9 Q (By Mr. Riley) Mr. Gregory, I want to go to
 10 heart of some of the matters we've discussed.
 11 Hopefully, I can get there quickly. And I'd ask you,
 12 again, if you could -- without feeling like I'm tying
 13 you down unnecessarily, if you could give as succinct
 14 an answer as possible, that would be appreciated by
 15 all, I'm sure.
 16 The initials "TJFA," do they stand for
 17 anything?
 18 MR. DUNBAR: Asked and answered.
 19 MR. RILEY: I don't believe so. No one
 20 else remembered it.
 21 A TJFA, LP is the name of the business, the
 22 limited partnership.
 23 Q (By Mr. Riley) I understand that, but do the
 24 letters themselves have any significance?
 25 A They represent a phrase that I coined. It

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1 has nothing to do with the name. The name is TJFA,
 2 LP, but the phrase is Texas Justice For All.
 3 Q That's pretty dramatic. It doesn't seem to
 4 have anything to do with real estate investment -- the
 5 title at least. Is that correct?
 6 A Actually, it does.
 7 Q Mr. Gregory, I think it's pretty clear that
 8 you have a strategy here for buying property around
 9 landfills. Whatever the reasons are, you obviously
 10 have employed that strategy as it pertains to a number
 11 of Waste Management landfills and you've made at least
 12 some statements about your intention in doing so.
 13 The question I have for you as directly
 14 as I can ask it -- and I ask for as direct an answer
 15 as you can give me -- is, if you are successful in
 16 defeating the applications or you've already requested
 17 party status and/or a contested case hearing, will you
 18 personally financially benefit if those permits are
 19 denied?
 20 MR. DUNBAR: Objection, form.
 21 A You're speaking of me personally, the owner
 22 of all of these corporations. Is that correct?
 23 Q (By Mr. Riley) Correct.
 24 A I could --
 25 Q Well --

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1 A -- under certain scenarios.
 2 Q Would it not --
 3 MR. DUNBAR: Just one second. Some
 4 parties have left. I just --
 5 MR. RILEY: Yeah, I didn't notice. Let
 6 me go check in the hall for Dr. Evans. Excuse me.
 7 (Off the record - 3:50 p.m. to
 8 3:52 p.m.)
 9 MR. DUNBAR: On the record, then. I
 10 just want to make a note that Mr. Evans has left the
 11 room. I don't have any problem continuing the
 12 deposition with him out of the room if no one else
 13 does.
 14 MR. RILEY: I have no problem with it.
 15 Certainly, it's his right to absent himself at any
 16 time.
 17 MR. DUNBAR: Right. I didn't know if he
 18 did it intentionally or not.
 19 MR. RILEY: No one dragged him out. I'm
 20 pretty sure of that.
 21 MR. DUNBAR: Mark Dietz from Williamson
 22 County has also left. I don't have a problem with
 23 continuing as long as -- because you're here to ask
 24 questions for Williamson County. I assume you're
 25 allowing him to leave and you're continuing without

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1 him.

2 MR. RILEY: Yes. He's got a, as he

3 described it, doctor's appointment that he could not

4 miss and so he decided to leave. And as we discussed

5 earlier, I've been designated by Williamson County to

6 take this deposition.

7 MR. DUNBAR: Okay. That's fine. And

8 Mr. Evans has returned.

9 DR. EVANS: I apologize if I created a

10 problem by leaving.

11 MR. RILEY: No. We just wanted to know

12 where you were.

13 (Laughter)

14 MR. RILEY: So we're happy to see you

15 back.

16 DR. EVANS: A little room down the --

17 MR. RILEY: I understand.

18 MR. DUNBAR: I mean, the point is,

19 you're entitled to hear this all. And so if you

20 leave, we don't want to do things without you present.

21 DR. EVANS: Thank you. I appreciate

22 that.

23 Q (By Mr. Riley) I had asked you if you

24 personally would financially benefit from defeating

25 landfill applications in the Central Texas area, and I

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1 believe you answered that you were uncertain of that.

2 Is that correct?

3 A I could. It depends on the circumstance.

4 Q Would you say it was likely?

5 A To the extent that it could restrict the flow

6 over time to the ability of that landfill to continue

7 to take waste beyond what it's already permitted to

8 do, yes, it could.

9 That might not occur for -- in the case

10 of Williamson County, they have approximately

11 35 years' capacity remaining, I believe, from their

12 last annual report.

13 So it may not affect me personally or

14 any company that I own other than TJFA for 35 years.

15 I may not be here in 35 years from now.

16 Q I may not be either, although I'm doing my

17 best. The point I was trying to make, Mr. Gregory, is

18 that in addition to buying the property near

19 landfills, which apparently TJFA has concluded is a

20 wise investment, you have other interests that would

21 be served by denial of expansion permits in Central

22 Texas. Is that correct?

23 A TJFA does not have other interests that would

24 be served by denial of landfills in Central Texas.

25 Q Okay. And you personally, though, do have

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1 other interests in other companies that would benefit

2 by TJFA's efforts to defeat those permits?

3 A It depends, and it depends on the life of the

4 landfill remaining and what else would happen.

5 Q If you end up being the --

6 A There's no general rule nor is it the role of

7 TJFA to oppose permits. I know you're trying to do

8 your best to show that that is the case, but I'm here

9 to tell you that that's not the case.

10 Q I know you're here to tell me that, but you

11 agree with me, don't you, that the purchase of

12 property around all of the Waste Management landfills

13 in Central Texas suggests that you have a larger

14 strategy in mind?

15 Would you agree with that?

16 A I have not purchased all of the landfill

17 property around all the landfills in Central Texas.

18 Q All of the Waste Management landfills --

19 A I have not purchased property around all of

20 those landfills.

21 Q Which landfill that Waste Management owns or

22 operates have you not purchased property around?

23 A The Temple landfill is one that I've not

24 purchased property around --

25 Q I guess I --

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1 A -- and that's certainly Central Texas. It

2 depends on how you define "Central Texas."

3 Q What areas does TDSL serve?

4 A Excuse me?

5 Q What areas of the state does TDSL serve?

6 A TDSL serves or receives waste, I believe,

7 from 20-something land -- counties. I'm sorry. I've

8 forgotten now -- 21, 25 counties. They don't get all

9 of the waste from it, but some waste from those.

10 It's whatever is identified in our

11 annual report.

12 Q Does the -- is Temple one of the areas where

13 TDSL would receive waste?

14 A We receive waste from generators that

15 generate waste in the area that Temple serves, yes.

16 Q So other than the Temple landfill -- I'm

17 sorry -- TJFA has purchased property around all the

18 Waste Management landfills in Central Texas?

19 A TJFA has purchased property in areas that I'm

20 familiar with, which are in the general vicinity of

21 Austin and San Antonio.

22 Q Let's talk about the property that you

23 purchased around your own landfill, with the TDSL

24 landfill just for a moment.

25 A There are two tracts.

1 Q When did you purchase the first tract?
 2 A I'm sorry. I don't recall. It was within
 3 the last three years, but the exact date I don't
 4 recall.
 5 Q Do you recall the purchase price?
 6 A I think they were in the \$150,000 -- each --
 7 range as I recall.
 8 Q All right. So let's try to identify them a
 9 little more specifically if we could. Let's talk
 10 about Tract No. 1.
 11 Could you identify for me in any way
 12 address, lot size --
 13 A I'm sorry. I don't know the address. They
 14 are both on Carl Road if that helps you. There's only
 15 about -- what -- five or six houses on Carl Road, and
 16 they are the two pretty much in the middle of the
 17 houses on Carl Road.
 18 They are adjacent to each other, and I
 19 don't know the address.
 20 Q So they are both residential properties?
 21 A Both residential. They are both leased as
 22 residential property with renters living in them now.
 23 Q I think you said earlier that you believe
 24 that you are or that TDSL is -- how would I say it?
 25 How would you say it -- that TDSL is in absolute

1 compliance with all laws and regulations regarding the
 2 operation of the landfill. Is that your statement?
 3 A As far as I know, yes, we are --
 4 Q Okay.
 5 A -- as TDSL.
 6 Q You have a substantial amount of hazardous
 7 waste on your site, don't you?
 8 A There is a substantial amount of waste stored
 9 in containers awaiting shipment off-site, and that
 10 waste contains approximately 6 to 10,000 pounds of
 11 hazardous waste.
 12 Q And that's about 19 roll-off boxes, if I
 13 remember correctly?
 14 A It's 99 roll-off boxes.
 15 Q I'm sorry. That's right. And how long has
 16 that waste been on your site?
 17 A The waste has been on my site since -- "my
 18 site," again TDSL's site. I have to be careful about
 19 saying the TDSL site -- since October 9, 1997.
 20 Q So we're going on a decade. Is that correct?
 21 A Just over nine years.
 22 Q So you've been storing hazardous waste at
 23 your site for over nine years?
 24 A That's correct.
 25 Q Do you have any authorization to do so?

1 A Yes, we do.
 2 Q By whom?
 3 A The TCEQ.
 4 Q And what form of authorization do you have?
 5 MR. DUNBAR: I'm going to object.
 6 MR. RILEY: I'm going to come to a point
 7 in second.
 8 MR. DUNBAR: Okay.
 9 Q (By Mr. Riley) What form of authorization do
 10 you have?
 11 A Written authorization from the TCEQ to
 12 excavate the waste and store it in containers pending
 13 shipment off-site to a hazardous waste landfill.
 14 Q What is preventing you from shipping the
 15 waste off-site to a hazardous waste landfill?
 16 A The generator who owns the waste has refused
 17 to ship it to a hazardous waste landfill.
 18 Q Nothing is preventing TDSL from making that
 19 shipment. Is that correct?
 20 A TDSL could ship the waste if it wanted to
 21 become the generator of the waste and assume the role
 22 of the generator and pay the cost of disposal in a
 23 hazardous waste landfill.
 24 Q What is the current plan for achieving
 25 compliance by removing that waste from an unauthorized

1 location?
 2 MR. DUNBAR: I'm going to object and
 3 instruct my client not to answer as being beyond the
 4 scope of this limited discovery for party status.
 5 Q (By Mr. Riley) Well, your point of why you
 6 have an interest in this matter is that you believe
 7 that a properly-operated landfill will increase the
 8 value of your investment properties. Is that correct?
 9 A That's correct.
 10 Q So you've purchased property near landfills
 11 presumably at a discounted price and you hope or you
 12 work toward greater compliance at a landfill so that
 13 the investment you've made in these properties in
 14 proximity to landfills increase in value. Is that
 15 correct?
 16 A That's correct.
 17 Q At your own landfill, then, have you had any
 18 instances of noncompliance?
 19 A In the life of the landfill?
 20 Q Yes, sir.
 21 A There, I believe, are a total of four
 22 violations in the 16 years of operation -- 15 or so
 23 years of operation -- one, mud on the road; one, too
 24 steep of a working face which is not even an issue,
 25 but it was an alleged violation; one, insufficient

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1 cover, I believe it was at one time, and one that we
2 were a few days late in checking a gas monitoring
3 well.
4 There was no problem other than just the
5 time frame, the number of days between checking.
6 Q When was the most recent instance of
7 noncompliance?
8 A I don't know. About eight years ago,
9 something like that. Some time ago.
10 Q How has the value of the property that you
11 purchased in the area of TDSL's landfill changed since
12 your original purchase?
13 A It has gone up in value.
14 Q How so? How do you know that?
15 A I know that from the standpoint of watching
16 other values of houses and land selling around it. I
17 do not have any appraisals on it since I've purchased
18 it.
19 So it's my belief that it would track
20 the improvement in value of other property selling
21 around it.
22 Q And since you've had no noncompliance and you
23 appeared to have achieved the nirvana that your
24 investment strategy is served by, what is your current
25 plan for divesting those properties?

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1 A I have no intention of divesting those
2 properties.
3 Q How will they improve in value, then?
4 A There are income-producing properties. The
5 plan for TJFA is not just to buy, see improvements and
6 sell. It's to draw income from them as leased
7 property.
8 Most all of our properties are
9 properties that have residences on them and in one
10 case a grazing lease where income is derived from the
11 property.
12 Q I'm talking about the properties around your
13 own landfill.
14 A I'm talking about most of the other -- of all
15 of the 10 TJFA-owned properties or residential
16 properties that draw income from a lease.
17 Q And I want to be specific to the properties
18 that you've described around the TDSL landfill.
19 A Both of those have residences on them and
20 both of them are leased and draw income in lease
21 revenue.
22 Q And are any of those properties -- I'm sorry.
23 Let me withdraw that question. What is the rent for
24 either or both of those properties?
25 A I don't recall exactly. I think one of them

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1 is just over 1,000, and I believe one of them is 700
2 or \$900. I get the properties confused, but I don't
3 have any of that documentation with me.
4 Q Do you have any mortgages on any of the TJFA
5 properties or is it owned outright?
6 A No, I borrow money. TJFA has a line of
7 credit at Chase Bank, and some of them I purchased
8 myself out of my own account, but most of them I have
9 borrowed money.
10 Q Does TJFA have an account?
11 A Yes.
12 Q Okay. And it has a line of credit?
13 A Yes.
14 Q Okay. And it also has apparently some income
15 into that account. Is that true?
16 A Oh, yes. Most of the properties have income
17 from them on a monthly basis.
18 Q Based on the rental values?
19 A Yes.
20 Q And what is the ratio -- well, sorry. What
21 is the amount borrowed on the two properties that are
22 in Travis County near the TDSL site?
23 A I'm sorry. I do not recall. I don't know
24 particularly how much is borrowed and how much of it
25 is from my own --

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1 Q Are there specific mortgages for each
2 property or is it out of this fund -- both funds of
3 TJFA and the line of credit, or is there a mortgage
4 for any of this property?
5 A They are collateral on a line of credit in
6 loans that we purchased property out of. I have
7 investment in the corporation that is my own money
8 that goes to the purchase of properties.
9 Q That's your own money, not TJFA's? That's
10 you're personal, Bobby Gregory, money?
11 A I have made contribution into TJFA into the
12 limited partnership of money that becomes the
13 partnership's money, and then the partnership owns the
14 assets.
15 Q How much money have you contributed to the
16 partnership?
17 A I think it's around a quarter million
18 dollars.
19 Q So back to the properties that are near the
20 TDSL site. The investment strategy for those
21 properties is simply to derive rental income. Is that
22 correct?
23 A It's to derive income as the property values
24 go up, and over time the assets grow in value greater
25 than the money owed against them and also from rental

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1 income.

2 Q Is there a point at which you believe the

3 factor that you described which drives the investment

4 strategy; namely, the proper operation of the

5 landfill, maximizes for purposes of the individual

6 property value?

7 In other words, if you were operating in

8 compliance with the law as you've said your investment

9 strategy contemplates, the property value will go up?

10 A That's correct.

11 Q Is there some point at which, other than

12 normal appreciation of property, that factor is no

13 longer relevant? Hopefully, you understand what I'm

14 saying.

15 In other words, let me try to rephrase.

16 You said your investment strategy is generally to buy

17 property rental landfill, seek proper operation of the

18 landfill and reap the benefits from an increased

19 property value. Is that correct?

20 A It's to buy property around landfills knowing

21 that as rules change, as they already have, it will

22 result in increased property values, simply as a

23 natural result of entities following the rules and the

24 state requiring operators to upgrade their permits as

25 the opportunities arise to follow the rules.

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1 Q So your investment strategy depends directly

2 on regulatory requirements changing and increasing

3 operational requirements?

4 A They benefit from it. I mean, face it. In

5 Central Texas, all the way from San Antonio to

6 Williamson County, we're in a very dynamic market. So

7 real estate prices are going up in general.

8 It just so happens that I believe that

9 buying property around landfills in this area is even

10 a greater opportunity for property values to go up

11 simply because I am aware -- the different hats that I

12 wear -- that regulations are becoming more stringent

13 and site operating plans are becoming upgraded.

14 As landfills grow and seek permit

15 modifications through site operating plans, through

16 changes in site development plans, the way they

17 operate will change and improve.

18 It just so happens that if they don't do

19 it or they submit plans that don't meet the rules, I

20 have an opportunity to speak against and speak out and

21 to encourage them to do that.

22 Q But your overall theory applies as much to

23 TDSL as it would to any other landfill, that as

24 restrictions or requirements become greater, then the

25 property that you've purchased under TJFA would

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1 increase in value because there are greater

2 operational requirements for the TDSL site?

3 A That's correct, and that's why TJFA owns

4 property next to the TDS landfill as well.

5 Q So you think that purchasing property next to

6 a landfill is a bargain?

7 A It can be if you buy it right. If you pay

8 too much for it, you pay too much for it. But if you

9 are able to buy it right, it can be because conditions

10 will change.

11 Q And so your overall strategy is to buy low

12 and hold on to the property -- is that correct -- in

13 hope of greater regulatory requirements?

14 A I would like to say buy right, hold on to it

15 and improve the property in such a manner to draw

16 income from it whether it's residential property or

17 whether it's commercial property that can be developed

18 and leased for storing things or whatever.

19 Q Who owns the permit at the TDSL site?

20 A TDSL.

21 Q Is that a correct way to refer to the legal

22 status of a permit ownership?

23 MR. DUNBAR: Objection, form.

24 A Well, let me clarify. Texas Disposal Systems

25 Landfill, Inc. owns the landfill permit.

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1 Q (By Mr. Riley) And that's the issue I want

2 to discuss with you.

3 A Okay.

4 Q Is it correct in your mind to say that

5 someone owns a permit?

6 A Yes.

7 Q In what sense?

8 A You do.

9 Q Could it be sold?

10 A Yes.

11 Q Without restriction?

12 A If a permit is sold from one entity to

13 another, the state gets involved as far as the

14 transfer of that permit.

15 History has shown that they will allow a

16 transfer as long as the party that's taking it over

17 can show that they can operate the facility.

18 Q Is it an asset to be sold?

19 A Absolutely.

20 Q And do you own your driver's license?

21 A I don't think I own my driver's license. I

22 think that's a privilege to drive. It's not something

23 I --

24 Q And so you distinguish your driver's license

25 from a permit?

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1 A Totally. They're in no way, shape or form
2 alike.

3 Q Have you heard the phrase that a permit is
4 issued in persona? Do you know what those words mean?

5 A I actually don't know what in persona means.
6 Help me out.

7 Q Well, I'll Mr. Dunbar help you out on that.
8 But it is your opinion, then, that the landfill permit
9 is an asset that can be sold?

10 A Without question.

11 Q Without restriction? Without requirement for
12 approval for transfer?

13 A The TCEQ, as I stated a while ago, gets
14 involved in the approval of a transfer from one name
15 to another. It happens generally where a corporation
16 that owns a permit sells the stock of its corporation,
17 and within the value of that stock is the value of the
18 permit.

19 And as long as the entity buying the
20 stock of the corporation maintains that same name,
21 there's no need for the TCEQ to get involved because
22 Landfill Operator, Incorporated, so to speak, just
23 changed his hands from, say, Buyer Group No. 1 to
24 Buyer Group No. 2 and they continue to operate it as
25 Landfill Owner, Incorporated.

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1 Q Well, if I wanted to transfer the permit from
2 TDSL to TJFA -- and this, of course, is a
3 hypothetical -- am I at liberty to do so?

4 A Well, you couldn't do it. Me as the
5 principal owner of TDSL could sell that permit to
6 TJFA, and TJFA would have to qualify as a separate
7 company if the state would allow it to transfer that
8 permit.

9 Q So it sells -- what is being sold in your
10 mind?

11 A The intangible right to operate under the
12 bounds of the permit.

13 Q Subject to TCEQ's discretion to transfer the
14 permit to a new entity. Is that correct?

15 A Well, to the extent that people want to
16 change the name. Often, again, as I stated, these
17 corporations sell the permit within the ownership
18 fraction of the stock, and there is no approval
19 process at the TCEQ.

20 The stock simply changes hands from one
21 group of owners to another group of owners. And as
22 you well know, because Waste Management buys them
23 throughout the nation all the time, they have huge
24 values.

25 Q That's a stock acquisition where the entity

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1 doesn't change? Would you agree with me there? The
2 ownership entity doesn't change?

3 A If it's held by stock that is transferred to
4 a new owner and the permit is held in the name of the
5 stock, then it does not have to change.

6 Q The reason I'm bringing up this topic -- and
7 it may seem far afield -- is that you raised the issue
8 of one of the primary concerns you have in this case
9 is the ownership of the permit.

10 A The owner and the control of the permit.

11 Q What's the difference between ownership and
12 control?

13 A Well, who controls the ownership of any
14 asset, one may control it as authority given by
15 various means, and they may own a portion of it but
16 not all of it but, yet, they control all of it.

17 Q Your --

18 A You could effectively have control of
19 100 percent -- 100 percent control even though you own
20 10 percent of the asset.

21 My concern for Williamson County is, if
22 the transfer of this permit and the way that it's
23 being done results in Williamson County losing
24 50 percent of the control to Waste Management and
25 50 percent of the ownership being a co-permittee, then

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1 Williamson County could be further intimidated by
2 Waste Management into doing exactly what Waste
3 Management wanted to, and then it would effectively
4 become the permit of Waste Management.

5 Q Further intimidated?

6 A Further intimidated.

7 Q In what sense has there been any intimidation
8 that you're aware of personally as opposed to some
9 rumor or story you want to make up?

10 A I'm not making up any story and it's not a
11 rumor. I've been told by the --

12 Q Well, that would be someone telling you
13 something. Do you have any personal knowledge of
14 intimidation, or are you just repeating what you've
15 been told?

16 A I'm repeating what's been told to me by the
17 county attorney's office as well as each commissioner
18 and the county judge.

19 Q The county attorney's office?

20 A Steve Ackley, particularly.

21 Q On what occasion did you speak with
22 Mr. Ackley?

23 A Mid June of this year.

24 Q And what did he tell you about intimidation,
25 specifically?

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1 A He told me that Waste Management would sue
2 the county if they did not follow through with the
3 permit process that was underway.
4 Q Is that intimidation in your mind?
5 A I certainly took it as intimidation
6 because --
7 Q Why is that intimidating?
8 A Pardon me?
9 Q If there's a legal right held by Waste
10 Management and they pursue a legal process, why is
11 that intimidation?
12 A I just -- it's my impression that --
13 Q Isn't that what courts are for, Mr. Gregory?
14 A -- it was conveyed to me that the county
15 attorney's office, particularly Steve Ackley, each of
16 the commissioners as well as the county judge was
17 saying they would like to do something else but Waste
18 Management will sue them if they don't follow
19 through --
20 Q Have you ever sued anyone?
21 A Companies that I've been involved with and
22 owned have sued, yes.
23 Q Were you engaged in intimidation at the time?
24 A It can be intimidating to --
25 Q So in the instances where you brought a

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1 lawsuit, you are trying to intimidate somebody or are
2 you simply exercising your rights afforded to anybody?
3 A If the threat to sue causes someone to do
4 something that they themselves feel is not in their
5 best interest, then that's intimidating.
6 MR. TATU: Excuse me, gentlemen. I have
7 to leave. Excuse me. I'm sorry.
8 MR. DUNBAR: Are we almost done?
9 MR. RILEY: Yeah, I think so.
10 Q (By Mr. Riley) Let me see if I understand
11 your point, then. You've sued people. But when you
12 sue somebody, it's not intimidation?
13 A It can be intimidation.
14 Q So you've exercised legal process to
15 intimidate?
16 A The legal process that you do -- if it's
17 intended just to intimidate rather than to follow
18 through, then that's a step to intimidate.
19 Q What information do you have that suggests
20 that Waste Management had no intention to follow
21 through with the lawsuit?
22 A I don't believe that -- I didn't believe that
23 they would follow through with a lawsuit.
24 Q Well, that's your personal belief --
25 A That's my personal belief.

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1 Q -- but you weren't involved, were you? You
2 weren't being sued.
3 A Oh, I've been threatened to be sued by Waste
4 Management on this issue.
5 Q And you've sued Waste Management --
6 A Absolutely.
7 Q -- and that's a legal process.
8 A Absolutely.
9 Q So why do you deny to others when you avail
10 yourself of it all the time?
11 A I'm not denying it. I'm just saying as a
12 fact they represented to me that it's an intimidation
13 tactic by Waste Management.
14 Q To threaten that you're going to bring a
15 lawsuit to enforce a legal right? That's intimidation
16 in your mind?
17 A Yes.
18 Q Okay. So any time you bring a lawsuit,
19 you're trying to intimidate?
20 A No, but it can be. I believe that Waste
21 Management's efforts with Williamson County has been
22 to intimidate.
23 Q How many sets of rules do you have,
24 Mr. Gregory -- one for you and one for everybody else?
25 A No, I don't ask for anything --

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1 Q Again, let me ask a question. As president
2 of TDSL, which I believe is your primary business and
3 primary source of income, whether you will verify that
4 or not -- and I don't know why you're so shy about
5 doing so -- name one other Class I landfill operator
6 in the state or Class I landfill operation that you
7 think meets your standard, your personal standard?
8 A I think North Texas Municipal Water District
9 does.
10 Q How many landfills in the state of Texas?
11 A How many Type I landfills in the state of
12 Texas?
13 Q Yes, sir.
14 A That's a good question. I would -- I guess a
15 little over 100.
16 Q And that's the only one that you can say --
17 A No. I think -- the Waste Management Covel
18 Gardens, as I identified earlier, I think meets an
19 operating criteria standard and operates --
20 Q So --
21 A I don't even --
22 Q There's no question before you. You've
23 mentioned now two landfills out of 100. So you're
24 saying 98 percent of the landfills in the state of
25 Texas are out of compliance?

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1 A No. You cut me off and wouldn't let me
 2 finish answering my question -- your question. I said
 3 those are the two that came to mind. There are many
 4 landfills in the state of Texas that I've never been
 5 to and I'm not aware of.

6 So I'm not in any way, shape or form
 7 suggesting that the landfill that I'm not even aware
 8 of is operating out of compliance. It's your attempt
 9 to try to get me to identify every one that rises to
 10 the standard of TDS, and I'm trying to answer your
 11 question.

12 Q I know you have a very high opinion of your
 13 operation at TDSL, and I know that you feel as though
 14 you're the operator of choice and you trumpet that
 15 from any pulpit that someone will give you, but other
 16 than your opinion on that subject, do you have any
 17 objective evidence of that fact?

18 A I have 16 years of operating history around
 19 the TDS landfill that demonstrates how we operate.

20 This very day while this deposition is
 21 occurring, there is a public broadcasting camera crew
 22 at my facility videotaping our facility for a program
 23 called, "This Old House."

24 We have international acclaim with our
 25 facility. This is not the first time we've been on

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1 nationwide coverage for the way we operate and who we
 2 are.

3 I would be there representing the
 4 company if I wasn't here speaking to you about Waste
 5 Management's concern about my business. But just
 6 check the media. Check the media in the Austin area,
 7 compare the TDS landfill operation with all the other
 8 operations in the area and you will see the
 9 difference, and 16 years of operating history shows
 10 that we operate a good facility.

11 Q If I'm counting correctly, then, 10 of those
 12 years you've stored hazardous waste without
 13 authorization, and you still claim to be the operator
 14 of choice?

15 A That is absolutely false representation. It
 16 is with authorization from the TCEQ, and it's only by
 17 Waste Management and TCEQ's efforts to keep the
 18 material from being properly managed by the Executive
 19 Director's efforts and TCEQ's --

20 Q Excuse me?

21 A -- that the Executive Director and Waste
 22 Management's efforts to keep the material from flowing
 23 from our site that has resulted in the material
 24 staying there.

25 Q So the Executive Director of the TCEQ has

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1 conspired to keep hazardous waste at your site?

2 A Yes.

3 Q Waste Management is part of that conspiracy?

4 A The very lawyer who would be sitting in your
 5 chair, Derek McDonald, representing Baker Botts, has
 6 worked for nine years on that case representing Penske
 7 and also represents Waste Management and Williamson
 8 County changed them as you know within the last year
 9 from it being Derek McDonald representing them to you,
 10 so that when these issues came up it wouldn't be the
 11 issue of Derek McDonald and Baker Botts representing
 12 Penske as well as Waste Management.

13 Q Are you on medication? Is it wearing off?

14 A I'm taking this deposition very seriously.

15 Q So let me -- let's talk about what you just
 16 said. So your proposition is that Derek McDonald has
 17 led a conspiracy to advocate for Penske through Waste
 18 Management -- excuse me -- for Waste Management
 19 through Penske to obstruct removal of hazardous waste
 20 from TDSL. Is that your allegation?

21 A My statement is that Baker Botts, who also
 22 represents Waste Management up until recently on this
 23 landfill, also has represented Penske for some
 24 years -- now, almost nine years -- to work to try to
 25 keep the waste at the TDS landfill.

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1 Q What does that anything -- how does that have
 2 anything to do with Waste Management?

3 A How does whether TDS has hazardous waste
 4 stored with proper authorization at TDS have anything
 5 to do with Williamson County permitting a landfill --

6 Q Well, it's simple.

7 A -- and TJFA having --

8 MR. DUNBAR: I'm going to object. Let's
 9 finish this deposition with the scope --

10 Q (By Mr. Riley) Well, I'm going to go a
 11 little further here on the allegation that's been made
 12 about a conspiracy, I guess, led by the law firm of
 13 Baker Botts to advocate a position of Waste Management
 14 through another client, Penske.

15 Is that what your statement is?

16 A That is my concern.

17 Q Concern? A moment ago you said it was an
 18 absolute fact.

19 A I did not.

20 Q You said that the permit was transferred over
 21 here to avoid these issues coming up in this case.

22 A I do believe that.

23 Q Do you have any basis for that?

24 A It's just the fact of the case. There is a
 25 tremendous amount of documentation. There's multiple

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1 lawsuits that exist between the parties involved, and
 2 I don't think it's a coincidence that the same law
 3 firm representing Waste Management also represent --
 4 on this landfill, up until recently when you took
 5 over, also represent Penske.

6 And it's interesting that you bring
 7 these very things up in the course of the deposition
 8 in an effort to try to make TDS look -- TDSL -- excuse
 9 me -- look bad and even suggest that we are operating
 10 without proper authorization when you know very well
 11 that TDSL has full authorization to keep the material
 12 in roll-off containers on its site pending all of the
 13 litigation that is going on for it to be shipped off.

14 Q I don't know that at all. To put your mind
 15 at ease, I have absolutely no interest in those
 16 hazardous waste containers at your landfill site but
 17 for the fact you're testifying in this matter that you
 18 had an investment strategy that depends on absolute
 19 compliance by a landfill in order for your investment
 20 strategy to succeed.

21 This is the web you've spun,
 22 Mr. Gregory, not something I'm imagining. What I'm
 23 trying to drill down on is how your entity that you
 24 formed for purpose of buying property near Waste
 25 Management and other landfills is served in the

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1 instance around TDSL when you know it to have
 2 hazardous waste stored on-site.

3 A It's a perfect example of how you see it
 4 completely different than TJFA sees it. TJFA buys
 5 property around these landfills dependent upon the
 6 state having people operate according to the law.

7 TDSL has spent multi-millions of dollars
 8 trying to make sure that this material gets properly
 9 disposed of. We have done everything within our power
 10 legally to see that it is handled properly and
 11 properly disposed of.

12 So that in no way suggests that TJFA has
 13 made a mistake by buying property around the TDSL
 14 landfill. It still fits within its model.

15 Q I understand what you've claimed to be its
 16 model, Mr. Gregory. And, frankly, your credibility is
 17 part of the deposition.

18 The fact that TJFA owns no other
 19 property, I think, is a -- it's fair to say that
 20 TJFA, its true motives hopefully will come out through
 21 litigation.

22 But having said all of that, what I
 23 really need to do is ask you questions and not have a
 24 conversation.

25 So my last line of questioning is, what

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1 basis do you have for making the statement that Waste
 2 Management has anything whatsoever to do with your
 3 matter involving Penske?

4 What rational relationship or basis do
 5 you have for making that statement?

6 A Waste Management has -- what -- 30 or 40
 7 landfills and transfer stations in the state of Texas.

8 What happened to TDSL was an entity -- a
 9 generator -- who generated waste off-site and allowed
 10 it to come into a permitted facility; in this case,
 11 TDSL's facility on October 9, 1997.

12 I have gone as an industry player to
 13 Waste Management asking them to join in to try to
 14 protect the interest of permitted facilities, and
 15 Waste Management to my knowledge has done everything
 16 in their power to make sure that the state does not
 17 follow through, even to the point of not objecting to
 18 their own attorneys, Baker Botts, representing Penske
 19 for all these years in making sure or trying to make
 20 sure that the waste stays at the TDS landfill.

21 What happened to TDSL could happen to
 22 Waste Management's landfills and transfer stations
 23 throughout the state on any and every given day of the
 24 year.

25 That same thing would -- the same blight

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1 or Tar-Baby that has occurred with me and TDSL would
 2 occur with them. If anything should draw the
 3 companies together -- not only TDSL and Waste
 4 Management, but the other companies -- it should be
 5 the protection of the facility that a generator has to
 6 properly manage their waste once generated.

7 Q Has any landfill joined you --

8 A The --

9 Q -- in the lawsuit? Has any landfill --

10 A No.

11 Q -- joined you in the lawsuit?

12 A No.

13 Q Joined you in your effort -- in your crusade?

14 A The -- I'm sorry. The association --

15 Q Has any company joined you, Mr. Gregory? A
 16 simple question. See if you can answer it.

17 A NSWMA, the national --

18 Q Has --

19 A Let me answer the question.

20 Q I wish you would.

21 A The National Solid Waste Management
 22 Association has joined us of which all of the
 23 companies are a member --

24 Q Including Waste Management. Correct?

25 A -- but to answer you question, Waste

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1 Management has tried in every way, shape and form to
 2 keep that from any --
 3 Q Mr. Gregory, is Waste Management a member of
 4 NSWMA?
 5 A Yes, it is.
 6 Q Okay.
 7 MR. DUNBAR: Mr. Riley, I think this
 8 deposition has gone far enough along, beyond the
 9 hour-and-a-half --
 10 MR. RILEY: No, we're just getting
 11 started.
 12 MR. DUNBAR: -- and it looks like we're
 13 into an area and scope of discovery that is far beyond
 14 the limited scope intended to determine whether TJFA
 15 is going to be a party to this proceeding.
 16 MR. RILEY: And, Mr. Dunbar, let me
 17 explain to you my point. A moment ago your client was
 18 telling me of his investment strategy, why he buys
 19 properties around landfills.
 20 He's made it abundantly clear that his
 21 investment potential and investment strategy is only
 22 served when there's 100 percent compliance, whether
 23 it's an increase in regulatory oversight or a number
 24 of other factors that he believes will occur, and
 25 that's why he's made these investments.

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1 Yet, when confronted with questions
 2 about the landfill that he has direct control over and
 3 an issue that he just a moment ago described as a
 4 Tar-Baby, I can't drill down on it because he refuses
 5 to answer the question in the context of his
 6 investment strategy.
 7 He chooses, instead, to make allegations
 8 of conspiracy, law firms joining together,
 9 nonparticipation in his crusade, and I think this is
 10 all within the scope of your client's answers.
 11 If he had answered my question directly,
 12 we wouldn't be here.
 13 MR. DUNBAR: He answered the question
 14 and determined that he believed that TDSL has
 15 authorization with TCEQ regarding those hazardous
 16 waste barrels.
 17 MR. RILEY: He also made allegations
 18 regarding another law firm and my client.
 19 MR. DUNBAR: And we've discussed it and
 20 you just want to continue on discussing it, and I
 21 would like that to stop, because I believe it's beyond
 22 the scope of discovery of this deposition.
 23 I'm sure there's other proper venues in
 24 which all of this can be discussed at another time.
 25 MR. RILEY: I'm afraid that's going to

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1 be so.
 2 MR. DUNBAR: So -- and I know we're
 3 beyond time, but I was willing to give you a little
 4 bit more time --
 5 MR. RILEY: I appreciate it, and I
 6 appreciate what you've done, but I have to say that
 7 some of the reason we're going so far afield is
 8 clearly your client's desire to expound on his
 9 paranoia regarding Waste Management and others.
 10 And simply exploring the areas that he's
 11 made absolutely unsupported -- totally unsupported --
 12 statements about conspiracies and the Executive
 13 Director of the agency, I think those are --
 14 MR. DUNBAR: And we've discussed them
 15 and I think it's time to move on to another topic, if
 16 you have any. Otherwise --
 17 DR. EVANS: Can I ask a question? Is
 18 that --
 19 MR. RILEY: Almost. Almost. It's
 20 almost your turn.
 21 MR. DUNBAR: He gets to finish first.
 22 So are we almost done or do you have another line of
 23 questions?
 24 Q (By Mr. Riley) Well, given what you've said
 25 about your theories of Waste Management's lack of

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1 support and working through law firms, the
 2 disadvantage apparently of other clients and other
 3 allegations you've made, isn't it fair, Mr. Gregory,
 4 to say that the real objective of TJFA -- I think it's
 5 too good to let go -- Texas Justice For All -- is to
 6 obstruct the efforts of Waste Management?
 7 A No.
 8 MR. RILEY: Pass the witness.
 9 DR. EVANS: May I ask a question?
 10 MR. RILEY: It's your turn, Dr. Evans.
 11 EXAMINATION
 12 BY DR. EVANS:
 13 Q Please appreciate my empiricism and tendency
 14 to be a little bit numerical oriented. It's my
 15 background in research analysis and design in
 16 mathematics and computer science.
 17 Are you aware that TCEQ rates landfills?
 18 A TECQ what?
 19 Q Rates landfills.
 20 A Rates landfills?
 21 Q Yes.
 22 A They rate compliance history, I know, of
 23 landfill operators.
 24 Q Yes.
 25 A Is that what you're referring to?

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1 Q That's what I'm talking about.
2 A Yeah, I'm aware of that.
3 Q Do you know the ratings of landfills in
4 Central Texas?
5 A I actually don't know the ratings of them.
6 Q What is the ratings of your landfill?
7 A We have no violations. So we have -- I know
8 we don't have any negative to us because there are no
9 violations since they've started doing any ratings,
10 but I don't know what that translates to, whether it
11 means superior or nonrated.
12 So I really can't answer the question on
13 that.
14 Q Well, that's what I'm getting at. And by
15 asking this question I do not accept the scientific
16 nature of their rating because I've not examined it.
17 So I do not know that the word "average"
18 has any statistical reliability, because "average" to
19 me is a very specific meaning and does not mean so-so,
20 but it means the median -- that type of a thing.
21 Are you saying that your landfill is
22 rated as superior by TCEQ?
23 A I'm saying that, to my knowledge, since
24 ratings have been applied, there have been no
25 violations related to TDSL. Therefore, it has as good

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1 a rating as it can have.
2 I don't know whether that translates to
3 zero or to superior or a 10. I have so little
4 confidence in the rating system, I actually do not
5 know what any of the landfills are rated.
6 Q Would you be surprised if I knew what those
7 ratings were?
8 A I would not at all be surprised of that,
9 Dr. Evans.
10 MR. RILEY: I would be a little
11 surprised.
12 DR. EVANS: You would be?
13 MR. RILEY: I would be easily surprised.
14 Q (By Dr. Evans) Well, of course, this would
15 not be a question. I am familiar with your rating and
16 the rating of the two landfills of BFI's and Waste
17 Management's and of the Williamson County.
18 So that is the -- I would -- if I wanted
19 to know what you thought -- if I wanted to know how
20 your landfill rated, I would have pursued it in an
21 empirical method rather than a --
22 A Since I don't know how any of them rate, I
23 can't refer -- I can't answer your question. I'm
24 sorry.
25 Q I'm also familiar with the Nacogdoches City

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1 Landfill which is where I lived for 20 years. I do
2 not know their rating, but I would be glad to
3 investigate it if that would be helpful to your
4 deposition.
5 MR. RILEY: This is fine, but I know
6 you're -- this is not your field, doctor, but, really,
7 the purpose of this --
8 DR. EVANS: Please don't put me down.
9 MR. RILEY: No, I'm not. I'm actually
10 going to build you up. You're supposed to ask
11 questions of this guy if you would like to.
12 DR. EVANS: Well, I noticed you had
13 quite a lot to say, too.
14 MR. DUNBAR: And, doctor, let me just
15 say that what this deposition is for was the limited
16 scope to investigate, I believe, the economic growth
17 or interest of TJFA in its pursuit of seeking party
18 status in this matter.
19 DR. EVANS: Yes. Nevertheless, one of
20 the questions asked is what he thought of how his
21 landfill -- and it's in that light that I think that
22 Mr. Riley raised the issue and it was in -- I think
23 some objective light could be shed on that question if
24 that's an important question.
25 MR. RILEY: I'm sure we're going to get

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1 to that, doctor, at some point in this hearing. So I
2 think it is an important question and I'm sure we are
3 going to cover it.
4 I'm not sure if Mr. Gregory can help you
5 out in answering questions about it.
6 WITNESS GREGORY: I'll know the answer
7 if it comes up again.
8 DR. EVANS: I'm surprised you don't know
9 the answer, quite honestly. It's quite easily
10 discovered.
11 WITNESS GREGORY: I'll look for it.
12 MR. RILEY: Do you have any questions
13 you want to ask him about -- and I'm just asking. I'm
14 not -- do you have any questions you want to ask him
15 about his affected person status in this matter as
16 he's described it or anything --
17 DR. EVANS: Oh, no. I think the
18 question is, does he have affected status?
19 MR. RILEY: That's the issue that we are
20 trying to -- that we're in discovery about.
21 DR. EVANS: I think that would depend on
22 the extent to which the judge follows the letter of
23 the law.
24 MR. DUNBAR: And the question is, do you
25 have any questions of Mr. Gregory at this point in

1 time? That's what we're --
 2 DR. EVANS: To him? No, I don't think I
 3 could add anything to what's happened here.
 4 MR. DUNBAR: Okay.
 5 MR. RILEY: Well, I think what we
 6 usually say, because we're going to do more
 7 depositions, is, when you're through asking questions
 8 of the witness, if you want to pass the witness, then
 9 you just say "pass the witness."
 10 DR. EVANS: Pass.
 11 MR. DUNBAR: I have no questions at this
 12 time. Thank you.
 13 (Proceedings concluded at 4:41 p.m.)
 14 WITNESS: BOBBY EDWARD GREGORY DATE: 11-7-2006
 15 CHANGES AND SIGNATURE
 16 PAGE LINE CHANGE REASON
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 10 I, BOBBY EDWARD GREGORY, have read the
 11 foregoing deposition and hereby affix my signature
 12 that same is true and correct, except as noted above.
 13 _____
 14 BOBBY EDWARD GREGORY
 15 THE STATE OF _____)
 16 COUNTY OF _____)
 17 Before me, _____, on this day
 18 personally appeared BOBBY EDWARD GREGORY, known to me
 19 or proved to me on the oath of _____
 20 or through _____ (description of
 21 identity card or other document) to be the person
 22 whose name is subscribed to the foregoing instrument
 23 and acknowledged to me that he/she executed the same
 24 for the purposes and consideration therein expressed.
 25 Given under my hand and seal of office on
 this ____ day of _____, _____.

 NOTARY PUBLIC IN AND FOR
 THE STATE OF _____
 My Commission Expires: _____

1 TRANSCRIPT OF PROCEEDINGS
 2 BEFORE THE
 3 STATE OFFICE OF ADMINISTRATIVE HEARINGS
 4 (FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)
 5 AUSTIN, TEXAS
 6 IN THE MATTER OF: _____) SOAH DOCKET NO.
 7 WILLIAMSON COUNTY RECYCLING) 582-06-3321
 8 & DISPOSAL FACILITY) TCEQ DOCKET NO.
 9) 2005-0037-MSW
 10 REPORTER'S CERTIFICATE
 11 ORAL DEPOSITION OF BOBBY EDWARD GREGORY
 12 TUESDAY, NOVEMBER 7, 2006
 13 I, William C. Beardmore, Certified Shorthand
 14 Reporter in and for the State of Texas, hereby certify
 15 to the following:
 16 That the witness, BOBBY EDWARD GREGORY, was
 17 duly sworn and that the transcript of the deposition
 18 is a true record of the testimony given by the
 19 witness;
 20 That the deposition transcript was duly
 21 submitted on _____ to the attorney/witness
 22 for examination, signature and return;
 23 That pursuant to information given to the
 24 deposition officer at the time said testimony was
 25 taken, the following includes all parties of record
 and the amount of time used by each party at the time
 of the deposition:
 John Riley (Two Hours, 9 minutes)
 Attorney for Waste Management of Texas, Inc.
 Orlynn Evans (6 minutes)
 Party Representative For Mount Hutto Aware
 Citizens
 I further certify that I am neither counsel
 for, related to, nor employed by any of the parties in
 the action in which this proceeding was taken, and

1 further that I am not financially or otherwise
2 interested in the outcome of the action.
3 Certified to by me this 10th day of November,
4 2006.
5
6

7 William C. Beardmore,
8 Certified Shorthand Reporter
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