

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 17, 2009

TO: Persons on the attached mailing list.

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

Decision of the Commission on Application.

The Texas Commission on Environmental Quality ("TCEQ" or "Commission") has made a decision to grant the above-referenced application. Enclosed with this letter is a copy of the Commission's order and a draft copy of the permit. Unless a Motion for Rehearing ("MFR" or "motion") is timely filed with the chief clerk, as described below, this action of the Commission will become final. A MFR is a request for the Commission to review its decision on the matter. Any motion must explain why the Commission should review the decision.

Deadline for Filing Motion for Rehearing.

A MFR must be received by the chief clerk's office no later than 20 days after the date a person is notified of the Commission's order on this application. A person is presumed to have been notified on the third day after the date that this order is mailed.

Motions may be filed with the chief clerk electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and 7 copies with the Chief Clerk at the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/239-3311

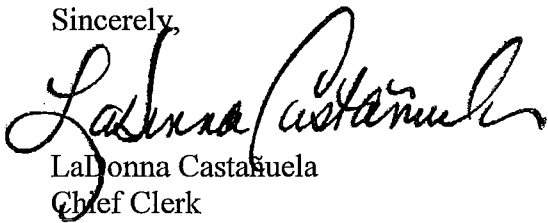
In addition, a copy of the motion must be sent on the same day to each of the individuals on the attached mailing list as indicated by an asterisk (*). A certificate of service stating that copies of the motion were sent to those on the mailing list must also be sent to the chief clerk. The procedures for filing and serving motions for rehearing and responses are located in 30 Texas Administrative Code (TAC) §80.272 and 30 TAC §1.10-1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h).

The written motion must contain (1) the name and representative capacity of the person filing the motion; (2) the style and official docket number assigned by SOAH or official docket number assigned by the Commission; (3) the date of the order; and (4) a concise statement of each allegation of error.

Unless the time for the Commission to act on the motion is extended, the MFR is overruled by operation of law 45 days after a person is notified of the Commission's order on this application. If the Commission does not receive a motion for rehearing, the permit will be issued and forwarded to appropriate parties.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance toll free at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink, appearing to read "LaDonna Castañuela". The signature is written in a cursive style with a large initial "L".

LaDonna Castañuela
Chief Clerk

LDC/ms

Enclosures

BFI Waste Systems of North America, LLC
TCEQ Docket No. 2007-1774-MSW
SOAH Docket No. 582-08-2178

FOR THE APPLICANT:

Paul Gosselink ✱
John Carlson
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

Brad Dugas
South Central Texas District Manager
BFI Waste Systems of North America, Inc.
4542 Southeast Loop 410
San Antonio, Texas 78222

Ray Shull, P.E., President
Associated Consulting Engineers, Inc.
901 South MoPac Expressway,
Building II, Suite 165
Austin, Texas 78746

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Steve Shepherd, Staff Attorney ✱
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Arten Avakian, Technical Staff
Texas Commission on Environmental Quality
Waste Permits Division MC-124
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE
via electronic mail:

Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Amy Swanholm, Attorney ✱
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

* The Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

* Courtesy Copy via inter-agency mail

ADAMS , CHRISTOPHER & LORRIE
7012 MUCKENDER LN
AUSTIN TX 78754-5736

AHNELL , LANE E
11605 RYDALWATER LN
AUSTIN TX 78754-5720

ALBEE , KATHRYN E
11406 BIRCHOVER LN
AUSTIN TX 78754-5717

ALBRECHT , EMILY & LESLIE
3500 QUIETTE DR
AUSTIN TX 78754-4925

AMES , VA
11311 AVERING LN
AUSTIN TX 78754-5742

ANDREWS , ROBERT G
6815 ASHPRINGTON LN
AUSTIN TX 78754-5710

ANGLIN , GERI
19301 EYERLEY RD
MANOR TX 78653-4831

ASCOT , KARIN
405 ACADEMY DR
AUSTIN TX 78704-1812

ATTRA , ED
1613 BRUSHY VIEW CV
AUSTIN TX 78754-2000

AVILA , ISRAEL
6721 CROMARTY LN
AUSTIN TX 78754-5824

BALLARD , TODD
6502 CARISBROOKE LN
AUSTIN TX 78754-5700

BELCHER , CHARLES G
6924 THISTLE HILL WAY
AUSTIN TX 78754-5803


BELCHER , CYNTHIA R
6924 THISTLE HILL WAY
AUSTIN TX 78754-5803

BENTLEY , JEREMIAH
12100 KILMARTIN LN
MANOR TX 78653-4772

BESS , LIONEL
4713 FORT MOULTRIE LN
AUSTIN TX 78754-5408

BEST , JOYCE
4001 LICORICE LN
AUSTIN TX 78728-3617

BISCOE, SAMUEL T & DAUGHERTY, GERALD
PO BOX 1748
AUSTIN TX 78767-1748

BLACKBURN JR , JAMES B 
BLACKBURN CARTER PC
4709 AUSTIN ST
HOUSTON TX 77004-5004

BORST , GAYLE
2313 W 8TH ST
AUSTIN TX 78703-4318

BOWLES , JIM
7117 WHIFFLEWIND WAY
AUSTIN TX 78754-5765

BRADLEY , JAMES E
BRADLEY LAW FIRM
STE 1525
5718 WESTHEIMER RD
HOUSTON TX 77057-5745

BREAZEALE , DR. & MRS J L
PO BOX 142427
AUSTIN TX 78714-2427

BROOKS , DEWY
9210 WELLESLEY DR
AUSTIN TX 78754-5020

BULLOCK , LINDA & PAUL
11501 LOWESWATER LN
AUSTIN TX 78754-5727

BULLOCK , LINDA
11501 LOWESWATER LN
AUSTIN TX 78754-5727

BUNODONO , TONY
11105 SEAY ST
AUSTIN TX 78754-5766

CAINAL , TERRY
11017 RELIANCE CREEK DR
AUSTIN TX 78754-5918

CANNON , CARRIE & MATTHEW
11621 RYDALWATER LN
AUSTIN TX 78754-5720

CARMAN , NEIL
TEXAS STATE SIERRA CLUB & LOCAL CHAP
1202 SAN ANTONIO ST
AUSTIN TX 78701-1834

CARMAN , NEIL J PHD CLEAR AIR DIR
LONE START CHAPTER SIERRA CLUB
PO BOX 1931
AUSTIN TX 78767-1931

CARTER , MARY W
BLACKBURN CARTER PC
4709 AUSTIN ST
HOUSTON TX 77004-5004

COOK , LEE
9500 E HIGHWAY 290
AUSTIN TX 78724-2316

COTTLE , SEAN
11009 SILO VALLEY DR
AUSTIN TX 78754-5914

CUEVA , TERRY
HARRIS BRANCH
6008 SPEYSIDE DR
MANOR TX 78653-4750

CULLENDER , DOKA
6309 BOYCE LN
MANOR TX 78653-4774

DABBS , CHUCK
11410 BIRCHOVER LN
AUSTIN TX 78754-5717

DANIEL , JAMES
11333 AVERING LN
AUSTIN TX 78754-5742

DAVIS , RON
TRAVIS CO COMM CRT PCT 1
PO BOX 1748
AUSTIN TX 78767-1748

DEANDA , JUAN
6916 THISTLE HILL WAY
AUSTIN TX 78754-5803

DOCTOROFF , MANDY
6417 BOYCE LN
AUSTIN TX 78754

DOHERTY , JOCELYN
1103 BYERS LN
AUSTIN TX 78753-6904

DOUGLAS , MANDY N
7020 THISTLE HILL WAY
AUSTIN TX 78754-5805

ECKHARDT , SARAH
PO BOX 1748
AUSTIN TX 78767-1748

ENGLISH , B TREK
3616 QUIETTE DR
AUSTIN TX 78754-4927

ENGLISH , B TREK
NORTHEAST ACTION GROUP
3705 TOBY CT
ARLINGTON TX 76001-5372

ESPINOZA , ABEL & ANNA
6905 WILLIAM WALLACE WAY
AUSTIN TX 78754-5808

ESPINOZA , DAVID
11445 GLEN FALLOCH CT
AUSTIN TX 78754-5796

FERGUSON , JEANIE C
4712 VIRGINIA DARE LN
AUSTIN TX 78754-5438

FIELDS , MELISSA
3521 LONG DAY DR
AUSTIN TX 78754-5921

FLEETWOOD , TIM
9011 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

FOWLER , MARSHA & WALLACE
3604 EK LN
AUSTIN TX 78754-4923

FRIESEN , KYLE
4714 VIRGINIA DARE LN
AUSTIN TX 78754-5438

FRIESEN , KYLE & SARA
4714 VIRGINIA DARE LN
AUSTIN TX 78754-5438

GARCIA , DEL
7004 DAGON DR
AUSTIN TX 78754-5760

GERNALE , CHRISTINA
4800 DORCHESTER HEIGHTS LN
AUSTIN TX 78754-5404

GOMEZ , MARGARET TRAVIS CO COMMISSION
TRAVIS COUNTY COMMISSIONER
PO BOX 1748
AUSTIN TX 78767-1748

GONZALES , HECTOR
PO BOX 367
WEBBERVILLE TX 78653-0367

GRAHAM , CHRIS & DIANE
11317 AVERING LN
AUSTIN TX 78754-5742

GUDENRATH , JEFF & JENNIFER
5600 CLYDE LN
MANOR TX 78653-5085

GUNLOCK , MR DAVID
8004 BROWN CEMETERY RD
MANOR TX 78653-4986

GUTIERREZ , JOCABED
3404 LONG DAY DR
AUSTIN TX 78754-5920

HAIRSTON , NANA T
8109 GEORGIAN DR
AUSTIN TX 78753-6439

HALLOCK , CHRISTINE
1304 E APPELEGATE DR
AUSTIN TX 78753-4009

HANNA , MICHAEL
3612 SAVAGE SPRINGS DR
AUSTIN TX 78754-5906

HEAD , J D 
FRITZ BYRNE HEAD & HARRISON PLLC
STE 2000
98 SAN JACINTO BLVD
AUSTIN TX 78701-4082

HERNANDEZ , ANTONIO
127 OLD AUSTIN TRL
ELGIN TX 78621-5744

HILL , JULIE L
7004 WILLIAM WALLACE WAY
AUSTIN TX 78754-5809

HILLE JR , JOHN C DIRECTOR, TRANSACTIONS
DIVISION
TRAVIS COUNTY
PO BOX 1748
AUSTIN TX 78767-1748

HIRONYMOUS , ELLEN
2402 POST OAK RD
WEBBERVILLE TX 78653-5305

HOBBS , DENNIS L
PO BOX 17126
AUSTIN TX 78760-7126

HOTCHKISS , JOEL & LISA
12012 KILMARTIN LN
MANOR TX 78653-4770

IVERSON , KAY
11329 FABER VALLEY CV
AUSTIN TX 78754-3915

JOHNSON , DUSTIN
11732 DUNFRIES LN
AUSTIN TX 78754-5820

JOHNSON , LESLIE
11732 DUNFRIES LN
AUSTIN TX 78754-5820

JONES , KIM
7024 THISTLE HILL WAY
AUSTIN TX 78754-5805

JUNKER , CAM & RONALD
11709 LANSDOWNE RD
AUSTIN TX 78754-5817

JUNKER , CAM
11709 LANSDOWNE RD
AUSTIN TX 78754-5817

JUNKER , RON
11709 LANSDOWNE RD
AUSTIN TX 78754-5817

KANNAPPAN , SHEILA
7120 DAGON DR
AUSTIN TX 78754-5761

KERSTEN , AMY
9038 WELLESLEY DR
AUSTIN TX 78754-5016

KLOTZ , JANET
11100 TERRACE BLUFF DR
AUSTIN TX 78754-2022

KOOCK , KEN
6106 SKAHAN LN
AUSTIN TX 78739-1630

KUSTERER , ROBERT
11501 GLEN FALLOCH CT
AUSTIN TX 78754-5807

LANFORD , ROBERT L
PO BOX 141411
AUSTIN TX 78714-1411

LEHMAN , MARY
110 E 37TH ST
AUSTIN TX 78705-1567

LEITNER , LARRY
11328 AVERING LN
AUSTIN TX 78754-5741

LONG , WELDON
2118 S CONGRESS AVE
AUSTIN TX 78704-4317

LONGORIA , NORA
7005 DAGON DR
AUSTIN TX 78754-5762

LUTTIG , ALLAN
11105 SEAY ST
AUSTIN TX 78754-5766

LUTTIG , PAM
11105 SEAY ST
AUSTIN TX 78754-5766

LUTTIG-BUONODONO , AMBER
11105 SEAY ST
AUSTIN TX 78754-5766

LYONS , LARRY
1502 ECHO BLUFF CV
AUSTIN TX 78754-2015

MARCHAK , JAMES
6300 THIRLMARE CT
AUSTIN TX 78754-5732

MARTINEZ , ADRIANA
9009 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

MARTINEZ , EMILIO
9009 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

MARTINEZ , FABIAN
9009 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

MARTINEZ , JESUS
9009 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

MARTINEZ , MARIA
9009 MAGNA CARTA LOOP
AUSTIN TX 78754-5429

MARTINEZ , REBECCA
1613 BRUSHY VIEW CV
AUSTIN TX 78754-2000

MCAFFEE , ANNE C
4831 TIMBERLINE DR
AUSTIN TX 78746-5630

MCAFFEE , MARK
10463 SPRINKLE RD
AUSTIN TX 78754-9604

MCAFFEE , MARK & MELANIE
6315 SPICEWOOD SPRINGS RD
AUSTIN TX 78759-7703

MCAFFEE , MARK
6315 SPICEWOOD SPRINGS RD
AUSTIN TX 78759-7703

MCAFFEE , MELANIE
6315 SPICEWOOD SPRINGS RD
AUSTIN TX 78759-7703

MCAFFEE , MELANIE
NORTHEAST ACTION GROUP
10463 SPRINKLE RD
AUSTIN TX 78754-9604

MCCULLOUGH , OTIS D
11731 RYDALWATER LN
AUSTIN TX 78754-5725

MCCULLOUGH , PAMELA J
11731 RYDALWATER LN
AUSTIN TX 78754-5725

MCLEOD , C ROSS
1608 PAYTON FALLS DR
AUSTIN TX 78754-5874

MELVIN , MICHAEL
6514 CARISBROOKE LN
AUSTIN TX 78754-5700

MILLER , CHRISTINE & KENNETH W
6823 ASHPRINGTON LN
AUSTIN TX 78754-5710

MILSTEAD , JAN
1903 REDLANDS ST
AUSTIN TX 78757-2827

MONTOYA , CINDY
6701 TULLOCH WAY
AUSTIN TX 78754-5822

MONTOYA , CINDY & ROBERTO
6701 TULLOCH WAY
AUSTIN TX 78754-5822

MORGAN , SUSAN
1611 BRUSHY VIEW CV
AUSTIN TX 78754-2000

MORSE , KEVIN ASST COUNTY ATTY *
TRAVIS COUNTY
PO BOX 1748
AUSTIN TX 78767-1748

NAUERT , ALTO & ROSEMARY
11201 AUS TEX ACRES LN
MANOR TX 78653-3646

NAUERT , ROSEMARY M
11201 AUS TEX ACRES LN
MANOR TX 78653-3646

NAZOR , CRAIG
11701 BARCHETTA DR
AUSTIN TX 78758-3762

NGUYEN , DAN
6904 THISTLE HILL WAY
AUSTIN TX 78754-5803

NOELKE , HOLLY C ASST CITY ATTY *
CITY OF AUSTIN
PO BOX 1088
AUSTIN TX 78767-1088

O'BRIEN , MIKE
6610 BRAMBER LN
AUSTIN TX 78754-5713

ODOM , DOLORES
3004 MURRELET WAY
PFLUGERVILLE TX 78660-7780

OWEN ,
6506 CARISBROOKE LN
AUSTIN TX 78754-5700

PENNEY , ALICE
1411 ALMA DR
AUSTIN TX 78753-6813

PORRAS , ABEL
6834 WILLIAM WALLACE WAY
AUSTIN TX 78754-5799

PRINCE , LEAHBETH
11613 RYDALWATER LN
AUSTIN TX 78754-5720

PYKA , DAN
8807 NEWPORT LN
AUSTIN TX 78754-5049

PYLE , SHERRY
1509 PAYTON FALLS DR
AUSTIN TX 78754-5814

REILLY , LESLIE
455 CYPRESS CREEK LN
WIMBERLEY TX 78676-3650

REINMOND , ALICIA
LCRA
L421
3700 LAKE AUSTIN BLVD
AUSTIN TX 78703-3504

REMMERT , CECIL & EVELYN
11815 CAMERON RD
MANOR TX 78653-9792

REMMERT , EVELYN
11815 CAMERON RD
MANOR TX 78653-9792

RENBARGER , BOB *
FRITZ BYREN HEAD & HARRISON PLLC
STE 2000
98 SAN JACINTO BLVD
AUSTIN TX 78701-4082

RICH , GEORGIA
1609 BRUSHY VIEW CV
AUSTIN TX 78754-2000

RIGHTMER , MERRY
6305 THIRLMARE CT
AUSTIN TX 78754-5732

RINEHART , F
7793 BURNET RD
AUSTIN TX 78757-1276

RODRIGUEZ JR , ARTURO D *
RUSSELL & RODRIGUEZ LLP
BLDG 2 STE 200
1633 WILLIAMS DR
GEORGETOWN TX 78628-3659

ROGERS , DELMER D
5901 SPEYSIDE DR
MANOR TX 78653-4747

ROUNTREE , MIKE & RAMONA
6920 THISTLE HILL WAY
AUSTIN TX 78754-5803

ROUNTREE , RAMONA
6920 THISTLE HILL WAY
AUSTIN TX 78754-5803

SCARBOROUGH , CELESTE
1632 PAYTON FALLS DR
AUSTIN TX 78754-5815

SCARBOROUGH , CELESTE
10621 PIONEER FARMS DR
AUSTIN TX 78754-5415

SCHNEIDER , ROBIN EXECUTIVE DIRECTOR
TEXAS CAMPAIGN FOR THE ENVIRONMENT
STE 200
611 S CONGRESS AVE
AUSTIN TX 78704-8706

SEIDER , JEFFREY
6605 CARISBROOKE LN
AUSTIN TX 78754-5701

SMITH JR, JANET & ROY
11815A CAMERON RD
MANOR TX 78653-3841

SMITH , JANET
11815 CAMERON RD
MANOR TX 78653-9792

SMITH , KATHY
6702 CARISBROOKE LN
AUSTIN TX 78754-5704

SMITH , PATRICK L
11516 LOWESWATER LN
AUSTIN TX 78754-5726

SMITH , ROY
11815A CAMERON RD
MANOR TX 78653-3841


SPRADLING , CLOYCE
20560 NW SEDONA LN
BEAVERTON OR 97006-2030

STEELE, CHRISTI
12204 INNESVIEW LN
MANOR TX 78653-4768

STRAMA, THE HONORABLE MARK
TEXAS HOUSE OF REPRESENTATIVES - DIST 50
PO BOX 2910
AUSTIN TX 78768-2910

SUTTON, VALERIE
4810 VALCOUR BAY LN
AUSTIN TX 78754-5437

SWENSON, GERMAINE
20826 BLAKE MANOR RD
MANOR TX 78653-4976

TERRILL III, PAUL M 
THE TERRILL FIRM PC
810 W 10TH ST
AUSTIN TX 78701-2005

THORESEN, JOYCE
WALNUT PLACE NEIGHBORHOOD ASSOC
3600 CARLA DR
AUSTIN TX 78754-4920

TRAN, CAMTU
12313 INNESVIEW LN
MANOR TX 78653-4766

TRAN, VU
6854 THISTLE HILL WAY
AUSTIN TX 78754-5800

TREVINO, ELIZABETH
12209 LITTLE FATIMA LN
AUSTIN TX 78753-7073

TRONCALE, ANDREA & JASON
4702 VALCOUR BAY LN
AUSTIN TX 78754-5436

TROUCALE, JASON
4702 VALCOUR BAY LN
AUSTIN TX 78754-5436

VALLES, ROLAND
8805 NEWPORT LN
AUSTIN TX 78754-5049

VEST, JEREMY
5917 BOYCE LN
MANOR TX 78653-4737

VEST, KAREN
5917 BOYCE LN
MANOR TX 78653-4737

VON HAREN, PATRICK
405 ACADEMY DR
AUSTIN TX 78704-1812

WALKER, MIRIAM
6904 BREEZY HILL DR
AUSTIN TX 78724-2928

WALTER, K C
8602 KARLING DR
AUSTIN TX 78724-1802

WARD, MARSHALL L
11313 AVERING LN
AUSTIN TX 78754-5742

WARD, MARTHA KOOCK
905 E 55TH 1/2 ST
AUSTIN TX 78751-1615

WATSON, THE HONORABLE KIRK
TEXAS SENATE
PO BOX 12068
AUSTIN TX 78711-2068

WENDLAND, ALFRED
16519 MAHLOW RD
MANOR TX 78653-3529

WERSTLER, ROBERT
6708 CARISBROOKE LN
AUSTIN TX 78754-5704

WILKERSON, MURK
5909 BOYCE LN
MANOR TX 78653-4737

WILKINS, JOHN A
803 CUTLASS
LAKEWAY TX 78734-5338

WILKINSON, TONI
11908 DUNFRIES LN
AUSTIN TX 78754-5821

WILLIAMS, DAVID
11604 RYDALWATER LN
AUSTIN TX 78754-5719

WILLIAMS, EVAN M
PO BOX 2144
AUSTIN TX 78768-2144

WILLIAMS, EVAN M
524 N LAMAR BLVD STE 203
AUSTIN TX 78703-5422

WILLIAMSON, AMY
11017 RELIANCE CREEK DR
AUSTIN TX 78754-5918

WINCHELL, BARBARA
11341 AVERING LN
AUSTIN TX 78754-5742

WOLFINGTON, KATHLEEN
127 OLD AUSTIN TRL
ELGIN TX 78621-5744

WOODS, JAMES L
6609 CROMARTY LN
AUSTIN TX 78754-5823

YOCUM, REX
11712 DUNFRIES LN
AUSTIN TX 78754-5820

YOUNG, MICHAEL S
8901 NEWPORT LN
AUSTIN TX 78754-5011

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

GRANTING IN PART THE APPLICATION OF BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, FOR TYPE I MSW PERMIT NO. 1447A; SOAH DOCKET NO. 582-08-2178; TCEQ DOCKET NO. 2007-1774-MSW

On September 9, 2009, the Texas Commission on Environmental Quality (TCEQ of Commission) considered the application (Application) of BFI Waste Systems of North America, LLC (BFI) for Type I Municipal Solid Waste Permit No. MSW-1447A. A Proposal for Decision (PFD) was presented by William G. Newchurch, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted a hearing in this case from January 20 through January 30, 2009, in Austin, Texas.

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

General Findings

1. The applicant is BFI Waste Systems of North America, LLC (BFI). Its business address is 4542 Southeast Loop 410, San Antonio, Texas 78222.
2. The facility is the Sunset Farms Landfill (Sunset Farms, Landfill, or the Facility). The street and mailing address for the Facility is 9912 Giles Lane, Austin, Texas 78754.

3. Sunset Farms is located in Travis County at the intersection of Giles Lane and Blue Goose Road, approximately five miles east of the intersection of U.S. 290 and I.H. 35. The Facility is bounded by Blue Goose Road to the north, Giles Lane to the east, the Austin Community Landfill to the south and southwest, and open land to the west.
4. A portion of the permitted boundary is located within the city limits of Austin, Texas, and the remainder of the site is within the extra-territorial jurisdiction (ETJ) of Austin.
5. Sunset Farms is an existing Type I Municipal Solid Waste (MSW) Landfill operating under TCEQ Permit No. MSW-1447. The original permit for the Facility was issued by the Texas Department of Health in 1981.
6. The Facility is currently authorized to accept municipal solid waste, Class 2 and Class 3 industrial nonhazardous solid waste, Class 1 industrial waste that is Class 1 only because of asbestos content, and certain special wastes.
7. The Facility is approximately 349.4 acres in size. The landfill footprint is approximately 251.5 acres.
8. The maximum elevation of waste allowed under the existing permit is 720 feet above mean sea level (msl).
9. The currently permitted landfill has a total disposal capacity of approximately 27.7 million cubic yards.
10. The land on which the Facility is located is owned by BFI and Giles Holding, L.P. (Giles). BFI owns an approximately 55-acre tract within the permit boundaries; Giles owns three other tracts that together comprise the remaining acreage of the Facility.
11. BFI operates the Facility and is the sole permittee under the existing permit. The relationship between BFI and Giles is one of landlord (Giles) and tenant (BFI) with respect to the three Giles-owned tracts.
12. BFI initially submitted its application to the TCEQ Executive Director (ED) on January 20, 2006.

13. Notice that the Application was deemed administratively complete by the ED was issued on January 31, 2006.
14. Notice of the ED's determination that the Application was technically complete was issued on March 21, 2007.
15. The ED issued a draft permit (proposed Permit No. MSW-1447A) on March 21, 2007. A revised draft permit was issued on October 23, 2007 (Draft Permit). The ED prepared the attached Updated Revised Draft Permit, which was admitted into evidence without objection on February 4, 2009.
16. The Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment containing the information specified in 30 Tex. Admin. Code (TAC) § 39.411 was published on February 27, 2006 in the *Austin American-Statesman*, and on March 2, 2006 in Spanish in the *El Mundo* newspaper.
17. The *Austin American-Statesman* is the newspaper of largest general circulation that is published in the county in which the facility is located.
18. The *El Mundo* newspaper is a publication of general circulation in the City of Austin and Travis County, and is published primarily in Spanish. The *El Mundo* notice was in Spanish.
19. The Notice of Application and Preliminary Decision containing the information required by 30 TAC § 39.411 was published on April 26, May 3, May 10, and May 17, 2007, in the *Austin American-Statesman* and in Spanish in the *El Mundo* newspaper on the same dates.
20. On February 28, 2008, the Commission issued an interim order granting several hearing requests and referring 26 issues to SOAH for a contested case hearing.
21. The Notice of Hearing on the Application was published on April 7, 2008, in the *Austin American-Statesman*.

22. On April 3, 2008, the TCEQ Chief Clerk mailed the Notice of Hearing on the Application to potentially affected persons identified in the Application, to various state and local agencies and officials, to state legislators for the districts in which the Facility is located, and to other persons specified in 30 TAC § 39.413.
23. The Application was filed prior to amendments to Title 30, Chapter 330 of the Texas Administrative Code (the MSW rules) that were implemented and became effective on March 27, 2006. The Application is subject to the version of the MSW rules in effect at the time it was filed. Unless otherwise noted, all references in this Order to rules in Chapter 330 are to those pre-March 27, 2006 rules.
24. As part of the Application, BFI is requesting an authorization (Permit No. MSW-1447A) to vertically expand the Landfill such that the maximum elevation of waste will be 770 feet msl on its eastern portion and 795 feet msl on the western portion.
25. As part of the Application, BFI is requesting to increase the disposal capacity of the Facility by approximately 10.6 million cubic yards.
26. BFI is not requesting an authorization to laterally expand the landfill or to modify the existing permit boundaries.
27. BFI is seeking to make certain drainage improvements at the Facility as part of the Application for vertical expansion.
28. The preliminary hearing on the Application commenced before ALJ William Newchurch at 10:00 a.m. on May 8, 2008, at the SOAH hearing rooms, William P. Clements Building, 300 West 15th Street, Austin, Texas 78701.
29. The following persons and entities were named as parties to the proceeding: BFI, Giles, the ED, the Office of Public Interest Counsel (OPIC), Travis County, the City of Austin, TFJA, L.P. (TJFA), Northeast Neighbors Coalition (NNC), Mark McAfee, Melanie McAfee, Roger Joseph, Delmer D. Rogers, Williams, Ltd. (Williams), and Pioneer Farms.

Settlement and Agreements

30. Before or during the hearing, BFI reached partial agreements with several of the parties, settling portions of the dispute. These agreements culminated in both stipulations on some issues, requests for special conditions to the permit, and changes to the Application.
31. Pioneer Farms withdrew prior to the Hearing on the Merits as part of a settlement agreement with BFI.
32. In accordance with these agreements, several issues which were referred by the Commission were stipulated to by some of the parties and not objected to by any other party. All of these stipulations were either supported by the evidence at the hearing or were not contradicted by the evidence. Based on these stipulations:
 - a. Identification and/or protection of wetlands has not been referred as an issue.
 - b. BFI has in all respects satisfied any burden pertaining to matters regarding the identification and/or protection of wetlands in this proceeding.
 - c. Referred Issue J, pertaining to whether the application includes adequate provisions for closure and post closure care in accordance with TCEQ rules, is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue. The stipulation does not extend to the adequacy of the final cover provisions of the closure plan, which is addressed under other issues.
 - d. Referred Issue S, pertaining to whether the application includes adequate provisions for fire protection in accordance with TCEQ rules, is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue.
 - e. Referred Issue Z, pertaining to whether the storage, treatment and disposal of contaminated water, is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue.
33. BFI has requested inclusion of several special conditions to the permit. All of these special conditions were supported by the evidence at the hearing or were not contradicted by the evidence. Inclusion of these special conditions will make the permit more

protective than it would have been if issued as originally proposed. These special conditions are:

- a. The permittee shall comply with the conditions specified in a letter from the Capital Area Council of Governments (CAPCOG) to the TCEQ, dated August 23, 2006, and agreed to by the applicant in a letter to CAPCOG dated January 18, 2007, as described in Section I.B (Supplementary Technical Report) of Part I of the Application and documented in Section II.K (Coordination Letters) of Part II of the Application.
- b. All waste receipt shall cease on or before November 1, 2015. The permittee shall restrict the property on which the landfill currently operates from use for transfer station operations on or after November 1, 2015. After the last receipt of wastes, the permittee shall complete installation of the permitted final cover system in accordance with 30 TAC § 330.253. The maximum heights, depths and footprint for the landfill fill area, as approved by the TCEQ under permit No. MSW 1447A, shall not be exceeded by any subsequent modification or amendment of the permit.
- c. Leachate and gas condensate shall not be recirculated.
- d. The permittee shall repair eroded cover within five days of detection unless the Commission's regional office approves otherwise.
- e. Special Provisions E.1 – E.9 identified in the Updated Revised Draft Permit proposed by the Executive Director are incorporated as a result of a Settlement Agreement between BFI, Giles, and the City of Austin, filed with SOAH on October 31, 2008 (Settlement Agreement). They include various requirements to control erosion, which are described in detail in the Findings of Fact below. These enhanced erosion controls include increased vegetative cover, irrigation requirements, permanent erosion control devices on top decks, side slope, and soil stockpiles and maintenance requirements for the water quality detention pond.
- f. BFI will not use alternative material daily cover (ADC) at the Sunset Farms Landfill.

Sufficiency of the Permit Application and Draft Permit

34. The Application was prepared by Associated Consulting Engineers, Inc. (ACE) pursuant to a Notice of Engineer's Appointment prepared by BFI. The lead project engineer was Ray Shull, P.E. The lead project geoscientist was John Michael Snyder, P.G., of Biggs &

Mathews Environmental, Inc. Other licensed professional engineers and geoscientists assisted in preparation of various portions of the Application.

35. The seals of Mr. Shull or other engineers licensed in the State of Texas were affixed to all engineering plans and drawings and on the Application cover pages. The seal of Mr. Snyder was affixed to Part III, Attachments 4, 5, and 11 and to various plans and drawings contained within those sections. The seal of Gregory Adams, P.E., was affixed to the geotechnical report (a portion of Part III, Attachment 4), the Soil and Liner Quality Control Plan (Part III, Attachment 12), and the Final Cover Quality Control Plan (Part III, Attachment 12, Appendix 12A).
36. BFI has coordinated with all appropriate agencies, officials, and authorities that may have a jurisdictional interest in the Application.
37. BFI has provided complete information concerning governmental permits, authorizations, and construction approvals it has received or applied for.
38. The Application contains all information required of applicants under Title 30, Chapter 330 of the Texas Administrative Code and other regulations that govern MSW applications in Texas.
39. The conditions which exist at and near the Facility are favorable for the vertical expansion of an existing MSW landfill that is designed, constructed, and operated in a manner considered standard by engineers and geoscientists specializing in their respective fields and which is embodied in the MSW rules.
40. There are no site-specific conditions that require special design considerations. The site is well suited to the design, construction, operation, and, ultimately, closure and post-closure of an MSW landfill.

Governmental Coordination, Authorizations, and Permits

41. BFI (or consultants on its behalf) coordinated the Application with the following governmental agencies:

- a. U.S. Army Corps of Engineers;
 - b. Texas Parks and Wildlife Department;
 - c. U.S. Fish and Wildlife Department;
 - d. Federal Aviation Administration;
 - e. TCEQ Watershed Management Team;
 - f. Texas Historical Commission; and
 - g. Texas Department of Transportation.
42. Each of these federal and state governmental agencies responded that the Application was not problematic with respect to that agency's jurisdictional area. Agency coordination letters were included in Part II, Section II.K of the Application.
43. BFI also provided written information regarding the proposed expansion to the CAPCOG, which is a 10-county regional planning commission. CAPCOG issued its conditional conformance letter on August 23, 2006, in which it made the determination that the proposed vertical expansion conformed to CAPCOG's regional solid waste management plan provided that BFI agreed to conform the project to the conditions set forth in CAPCOG's letter. BFI agreed to the conditions of CAPCOG's conditional conformance letter in a letter it sent to CAPCOG on January 18, 2007.
44. Based on the Special Conditions which satisfy requests of CAPCOG, the requested vertical expansion of the Sunset Farms landfill conforms to CAPCOG's regional solid waste management plan.
45. BFI has obtained development permits from the City of Austin and Travis County for the new sedimentation/water quality pond that is being proposed in the permit application.
46. BFI has applied for a site development permit from Travis County in connection with the proposed vertical expansion.
47. BFI has applied for a site development permit from the City of Austin in connection with the proposed vertical expansion.

48. Based on the Special Provisions which satisfy the Settlement Agreement between BFI and the City of Austin, BFI is in compliance with all development permitting requirements of the City of Austin.
49. BFI operates its storm water controls pursuant to the Texas Pollutant Discharge Elimination System (TPDES) General Multi-Sector Permit.
50. BFI has prepared and implemented a Storm Water Pollution Prevention Plan (SWPPP) in connection with TCEQ's approval of its notice of coverage under the TPDES program.
51. With respect to air quality authorizations (for landfill emissions and gas flares), BFI holds a current General Operating Permit as well as a current Standard Air Permit that have both been approved by TCEQ.

Transfer of the Permit Application

52. The application was originally filed – and the draft permit issued – in the name of “BFI Waste Systems of North America, Inc.”
53. In December 2007, BFI changed corporate form from a regular corporation to a limited liability corporation, “BFI Waste Systems of North America, LLC.”
54. BFI mailed a notice of the proposed transfer of the permit amendment Application to potentially affected persons on April 11, 2008.
55. BFI also identified the transfer of the permit amendment Application from the regular corporation to the limited liability corporation in its April 7, 2008 published notice of the jurisdictional hearing in the *Austin American-Statesman*.
56. BFI complied with all notice requirements to effect the transfer of the Application. TCEQ approved the transfer of the MSW permit and Application.
57. The transfer of the permit amendment Application was the result of a mere change in corporate form and nothing more. The change had no (non-tax) effect on the ownership, management, or operation of the Landfill.

58. During the course of the contested case hearing, BFI's parent company, Allied Waste Industries, Inc., merged with Republic Services, Inc. The merger had no effect on the corporate structure of the applicant, BFI Waste Systems of North America, LLC.

No Significant Alteration of Natural Drainage Patterns

59. There are six surface water drainage outfalls (Outfalls) from the Facility.

60. For each of the six Outfalls, the Application compares the peak flow rate, the peak flow velocity, and the total volume for the 25-year, 24-hour storm event under the "predevelopment condition" to those for the 25-year, 24-hour storm event for the "postdevelopment condition" to determine whether natural drainage patterns will be significantly altered as a result of the expansion.

61. The "predevelopment condition" is the "existing permitted condition" as it would be constructed under the current permit. It would be the condition that the landfill would ultimately be in when the landfill closes if the newly requested amendment were not granted.

62. The drainage analyses performed by BFI for its original permit application in 1981 and subsequent permit modifications were all reviewed by the TCEQ under the same regulatory requirement – that natural drainage patterns not be significantly altered – and determined to not significantly alter those natural drainage conditions. Therefore, BFI's "existing permitted condition" replicates the drainage patterns that existed at the time of its original application.

63. The TCEQ has provided Technical Guidance Document RG-417 in accordance with its normal practice of publishing regulatory guidance documents.

64. RG-417 defines "natural drainage patterns" to mean "existing permitted conditions."

65. The "postdevelopment condition" is the condition that the landfill would be in at the time of landfill closure if the amendment were granted.

66. The Application also compares the same parameters for the 100-year, 24-hour storm event under the “predevelopment condition” to the 100-year, 24-hour storm event for the “postdevelopment condition.”
67. For the 25-year, 24-hour storm event, the peak flow rates, the peak velocity, and the total volume are shown in the following table:

OUTFALL	PEAK FLOWRATE (CFS)		RUN-OFF VOLUME (AC-FT)		DISCHARGE VELOCITY (FT/SEC)	
	Pre-Development	Post-Development	Pre-Development	Post-Development	Pre-Development	Post-Development
1	1045	954	236.4	242.9	1.4	1.4
2	275	270	29.1	26.8	3.2	3.2
3	98	89	10.1	8.5	6.7	6.7
4	66	61	6.6	6.4	2.3	2.2
5	175	171	20.0	17.8	2.8	2.8
6	9	9	1.5	1.5	1.3	1.3

68. For the 100-year, 24-hour storm event, the peak flow rates, the peak velocity, and the total volume are shown in the following table:

OUTFALL	PEAK FLOWRATE (CFS)		RUN-OFF VOLUME (AC-FT)		DISCHARGE VELOCITY (FT/SEC)	
	Pre-Development	Post-Development	Pre-Development	Post-Development	Pre-Development	Post-Development
1	1354	1302	321.1	329.8	1.5	1.5
2	393	386	39.0	35.9	3.7	3.7
3	141	128	13.5	11.4	6.7	6.7

4	94	88	8.8	8.5	2.5	2.5
5	251	245	26.8	23.8	3.1	3.1
6	13	13	2.1	2.1	1.9	1.9

69. For both the 25- and 100-year events, the peak flow rates, total volumes, and peak velocities for Outfalls 2, 3, 4, 5 and 6 in the “postdevelopment” condition are equal to or less than in the “predevelopment” condition.
70. A detention/water quality pond will reduce peak flow rates for the 25, and 100-year storm events at Outfall 1. The detention volume for the pond will be approximately 1.2 million cubic feet. The pond includes additional volume for water quality enhancement.
71. For Outfall 1, the peak flow rate and runoff velocity in the “postdevelopment” condition are equal to or less than in the “predevelopment” condition.
72. For Outfall 1, the total volume for the “postdevelopment” condition is approximately 2% higher than for the “predevelopment” condition for both the 25- and 100- year events. However, the additional volume will be released at a slower rate such that it will not adversely affect downstream water bodies or significantly alter natural drainage patterns.
73. The “predevelopment condition” was determined using the landfill’s currently permitted geometry. The currently permitted geometry is that which was approved in a modification request that was approved in 2006 (the 2006 Mod). The geometry of the 2006 Mod was the proper baseline to use for the comparison of predevelopment conditions to postdevelopment conditions for this Application.
74. The predevelopment condition in the 2006 Mod reflects the same landfill design, geometry and runoff conditions as existed in the 2002 drainage modification (2002 Mod) except for the deletion of eleven acres in the northeast corner of the footprint of the landfill and the resultant change in flows through Outfall 1. All other aspects of the landfill, including the flows at Outfalls 2 through 6, were unchanged from the 2002 Mod to the 2006 Mod.

75. The “predevelopment condition” was calculated in the Application using updated methodology and more accurate information regarding the drainage areas than was used in the 2002 Mod.
76. The drainage analysis provided in the 2006 Mod included a topographic map that was based on an aerial survey.
77. An on-the-ground survey of the northwest corner of the buffer zone showed that the aerial-survey-based topography was incorrect.
78. The error in the topographic map was in the natural ground within the permitted boundaries but outside of the landfill fill area. It was not part of the landfill design. No construction to modify the topography was proposed or performed prior to the 2006 Mod, as part of the 2006 Mod, or subsequent to the 2006 Mod.
79. The aerial-survey-based topographic map incorrectly showed that a very small area (approximately 2.5 acres) drained to Outfall 1, when it actually drained to Outfall 5. The on-the-ground survey reflected the correct drainage pattern.
80. The correct topography was utilized in calculating both the “predevelopment condition” and the “postdevelopment condition” that was used in the Application.
81. The buffer zones that drain to Outfalls 4 and 5 were not included in the calculations in either the 2002 Mod or 2006 Mod drainage analyses.
82. The buffer zones were included in the drainage calculations in the Application, in both the “predevelopment condition” and the “postdevelopment condition” that were used in the Application.
83. After the 2002 Mod was submitted but before the 2006 Application was submitted, the Texas Department of Transportation (TxDOT) Hydraulic Design Manual (rev. March 2004), which the TCEQ requires applicants to use in their drainage analyses, was changed.

84. The new TxDOT drainage formula resulted in a significant increase in the projected (i.e., calculated) flows at all the outfalls even though it had no effect on actual flows on the ground.
85. For the Application, peak flowrates for Outfall 1 (predevelopment and postdevelopment) were computed using HEC-HMS.
86. For the Application, peak flowrates for Outfalls 2, 3, 4, 5, and 6 (predevelopment and postdevelopment) were computed using the TxDOT Rational Method.
87. For the Application, run-off volumes for Outfall 1 (predevelopment and postdevelopment) were computed using HEC-HMS.
88. For the Application, run-off volumes for Outfalls 2, 3, 4, 5, and 6 (predevelopment and postdevelopment) were computed using the NRCS runoff curve number method.
89. For the Application, velocities for Outfall 1 (predevelopment and postdevelopment) were calculated using HEC-RAS.
90. For the Application, velocities for Outfalls 2, 3, 4, 5, and 6 (predevelopment and postdevelopment) were calculated using Flowmaster.
91. All of the methodologies for calculating predevelopment and postdevelopment velocities, volumes, and peak flow rates in the Application were proper and in compliance with the TCEQ regulations.
92. The Application included similar calculations based on the City of Austin's criteria.
93. At all six Outfalls, the peak flowrates for the postdevelopment 25-year and 100-year events were the same or less than for the predevelopment 25-year and 100-year events using the City of Austin criteria.
94. At all six Outfalls, the peak velocities associated with the peak flowrates for both the postdevelopment 25-year and 100-year events were the same or less than for the predevelopment 25-year and 100-year events using the City of Austin criteria.

95. At Outfalls 2-6, the total runoff volumes for both the postdevelopment 25-year and 100-year events were the same or less than for the predevelopment 25-year and 100-year events using the City of Austin criteria.
96. At Outfall 1, using the City of Austin criteria, the total runoff volume is approximately 2% greater for both the postdevelopment 25-year and 100-year events, but the additional volume will be released at a slower rate such that it will not adversely affect downstream water bodies or significantly alter natural drainage patterns.
97. The numerical representations of the projected flows at Outfalls 4 and 5 are different between the analyses performed using the TCEQ criteria reflected in BFI Exhibits 16 and 17 and the analyses performed using the City of Austin criteria as reflected in BFI Exhibits 34 and 35. The different numbers for the projected flows reflect the impact of the different methods used – they do not mean that there are different actual on-the-ground flows at Outfalls 4 and 5.
98. Natural drainage patterns will not be significantly altered as a result of the proposed expansion.

Sufficiency of Erosion Control Methods

99. The Application includes: (1) structural controls for capturing sediment before it leaves the site in both interim and final configurations, (2) erosion control practices to prevent erosion in the interim and final configurations, and (3) calculations to show that erosion in the final configuration will be below permissible levels.
100. The existing Facility has a number of structural controls that control erosion and sedimentation. Among other structural controls, the existing Facility has:
 - a. two existing sedimentation basins that correspond to Outfalls 4 and 5 on the western boundary of the site;
 - b. two sediment traps that correspond to Outfalls 2 and 3 on the southern boundary of the site;

- c. several rock berm sediment traps and sediment pools that are part of a channel improvement project that was implemented on the northern side of the site and drains to Outfall 1;
 - d. an existing detention pond that drains to Outfall 1;
 - e. silt fences, rock berms and grass lined swales throughout the site; and
 - f. temporary earthen berms and downchutes on the side slopes of the landfill.
101. The City of Austin, BFI, and Giles entered into a Settlement Agreement on October 31, 2008, which required BFI to institute additional erosion control measures and which satisfied all parties' concerns regarding erosion and sedimentation control practices except TJFA's and NNC's.
102. The erosion control measures set forth in the Settlement Agreement were included as Special Provisions in the proposed Draft Permit.
103. All parties agreed to the language in the proposed Special Provisions if a permit is issued. However, TJFA and NNC stated that they opposed permit issuance even including these Special Provisions.
104. The vertically expanded facility will also have:
- a. a new, larger sedimentation/water quality/detention pond to be constructed in place of the existing detention pond on the northern portion of the site. This pond will provide for sediment capture for runoff that is discharged from Outfall 1, the outfall that has the largest contributing watershed area.
 - b. additional silt fences, rock berms, and grass-lined swales throughout the site, including:
 - i. perimeter silt fences, hay bales, mulch tubes or mulch berms at soil stock piles;
 - ii. soil stock piles with slope lengths greater than 20 feet will have mid-slope temporary stabilization controls within fourteen days of the initial establishment of the soil stock pile;

- iii. silt fences or mulch berms at the base of all side slope and top deck area within fourteen days of completion of intermediate cover in those areas, until adequate vegetation growth is achieved; and
 - iv. permanent earthen berms and downchutes on the side slopes of the landfill (these berms and downchutes reduce the erosion that might otherwise flow to all the outfalls).
105. Outfall 1 releases runoff from on-site drainage areas 2, 3, and 9. The runoff from all of these areas is treated by silt fences, rock berms, and grass swales. In addition, the runoff from Drainage Area 2 will be treated by the water quality/detention pond. Drainage Area 2 is approximately 80.5 acres.
106. Outfall 1 also releases runoff from approximately 200 off-site acres which drain through the Facility. That offsite area is generally agricultural in nature. Agricultural land produces a high degree of sediment. Although that area is treated by the water quality pond, there is no requirement to treat runoff from off-site.
107. The runoff to Outfalls 2 and 3 is treated by silt fences, rock berms and grass swales, then by the existing sedimentation basins. These basins were constructed and are maintained to have sufficient volume to capture and treat the first ½ inch of runoff that drains to them.
108. The runoff to Outfalls 4 and 5 is treated by silt fences, rock berms, and grass swales, then by the existing sedimentation basins. These basins were designed as part of the 2006 Mod and have sufficient volume to capture and treat the first ½ inch of runoff from the area that drains to them.
109. No disturbance is proposed in the area that drains to Outfall 6, so no specific erosion controls are necessary in this area.
110. In addition to the structural controls, a number of non-structural practices will be implemented to control and prevent erosion. These include:
- a. irrigation of seeded areas, including intermediate cover, to help establish vegetation more quickly;

- b. seeding of intermediate cover side slope areas on which waste placement activity has not recommenced within 60 days, except during the months of July and August;
 - c. seeding of intermediate cover on the top deck of the landfill in all areas on which waste placement activity has not recommenced within 120 days except for certain areas that will receive sod;
 - d. placement of buffalo grass sod on areas immediately up gradient of the five constructed temporary drainage downchutes;
 - e. inspections at least weekly of the intermediate cover to verify the integrity of the cover material, and the next operating day after each day that measurable rainfall occurs at the site;
 - f. repair of eroded cover within five days of detection;
 - g. seeding of the topsoil layer immediately following the application of the final cover in order to minimize erosion; and
 - h. routing of the runoff from drainage Area 2 through the existing detention pond or the proposed water quality pond, when that drainage area has reached final grades.
111. The Application includes soil erosion loss calculations for the final configuration of top surfaces and embankment slopes using the US Department of Agriculture's Soil Conservation Service's Revised Universal Soil Loss Equation (RUSLE).
112. RUSLE calculations are required for the final cover configuration but not for the interim configuration, because RUSLE calculations are required to confirm the long term sustainability of the landfill cover, *i.e.*, that in the final configuration, soil will be replenished at least as quickly as it is eroded.
113. Based on the RUSLE calculations, the soil loss from the final cover will be 0.7 tons/acre/year for the top slope, and 2.18 tons/acre/year for the sideslopes.
114. Average soil losses of two to three tons/acre/year are acceptable for landfill cover systems.
115. The soil loss for the final cover will not exceed the permissible soil loss for comparable soil-slope lengths and soil cover conditions.

116. All downchutes are properly designed to safely convey the flow of the 25-year, 24-hour storm.
117. All downchutes are properly designed to safely convey the flow of greater than the 100-year storm.
118. All side slope berms are properly designed to reduce the velocity of runoff on the landfill and the potential for erosion.
119. All side slope berms are constructed with erosion control matting and can be constructed as designed.
120. Sedimentation ponds at Outfalls 4 and 5 were designed to capture the first ½ inch of runoff consistent with City of Austin design requirements.
121. Sedimentation traps at Outfalls 2 and 3 will be maintained so as to be able to capture the first ½ inch of runoff.
122. Inspectors for the TCEQ and the City of Austin found no evidence that eroded sediment had been discharged at any outfalls and found no permit violations during investigations in response to four separate complaints after rainfall events.
123. The erosion control methods identified in the application and Draft Permit are sufficient.

Adequacy of Storage, Treatment, and Disposal of Contaminated Water

124. Leachate and gas condensate will not be recirculated.
125. The Application provides for the proper storage, treatment, and disposal of contaminated water.
126. The Application contains a leachate and contaminated water plan.
127. Contaminated water will not be discharged without specific written authorization from TCEQ. Water that has become contaminated by contact with the working face or with

leachate will be segregated from uncontaminated surface and groundwater and properly managed.

128. The storage, treatment, and disposal of contaminated water are adequately addressed in the Application and Draft Permit.

Protection of Surface Water

129. Ponding of water over waste areas will be minimized and eliminated. Ponding in any portion of the Facility will be eliminated and the area in which the ponding occurred will be filled and regraded within seven days of the occurrence. The Application includes provisions to prevent the ponding of water over waste.
130. The Application properly identifies and provides protection for wetlands.
131. BFI has in all respects satisfied any burden pertaining to matters regarding the identification and/or protection of wetlands in this proceeding.
132. The Facility operates under the TPDES Storm Water Multi-Sector General Permit.
133. BFI has prepared a SWPPP as required by the TPDES General Permit.
134. The Facility has submitted a Notice of Intent (NOI) as required by the TPDES General Permit.
135. The Application includes provisions that will prevent sediment from leaving the site in compliance with the Facility's TPDES permit. These provisions include sedimentation traps and basins, silt fences, vegetative swales, rock berms, and a sedimentation/water quality/detention pond.
136. The Facility will be able to achieve 85% vegetative cover.
137. Sedimentation ponds at the Facility are adequately sized to capture sediment.

138. Drainage downchutes and their component materials are appropriately designed and sized to control surface drainage off the Landfill.
139. The Facility will not cause a discharge of solid wastes or pollutants adjacent to or into the water in the state, including wetlands, that is in violation of the requirements of the Texas Water Code § 26.121.
140. The Facility will not cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) requirements, pursuant to section 402, as amended.
141. The Facility will not cause a discharge of dredged or fill material to waters of the United States, including wetlands, that is in violation of the requirements under federal Clean Water Act § 404, as amended.
142. The Facility will not cause a discharge of a nonpoint source pollution of waters of the United States, including wetlands, that violates any requirement of an areawide or statewide water quality management plan that has been approved under the federal Clean Water Act § 208 or § 319, as amended.
143. The Application includes a surface water protection plan and drainage plan which includes the locations, details, and typical sections of the facilities that relate to the protection of surface water, and it shows the adequacy of provisions for safe passage of all internal and externally adjacent floodwaters.
144. The Application proposes adequate protection of surface water.

Protection of Groundwater

145. The Landfill site is in central Travis County within the general outcrop area of the Taylor Group of the Cretaceous System.
146. The Taylor Group is composed of impermeable clays/shales and underlies the Facility down to approximately 400 feet below the surface elevation.

147. The soils of this group are divided into the upper weathered Taylor and the lower unweathered Taylor.
148. At the site, the weathered Taylor consists of 30 to 75 feet of stiff-to-hard clay weathered from the marl; the average thickness of the weathered Taylor across the site is approximately 45 feet.
149. The weathered Taylor is the uppermost aquifer for the purposes of groundwater monitoring at the Landfill site.
150. The Austin Group lies immediately beneath the Taylor Group.
151. Beneath the Austin Group lies an alternating sequence of limestone and clay formations that generally comprise the Edwards Aquifer.
152. The unweathered Taylor is of sufficiently low permeability and of lateral areal extent to prevent the downward migration of shallow groundwater from the uppermost aquifer to deeper aquifers.
153. The Application adequately describes the regional geology in the vicinity of the Facility.
154. No active faults are located at or near the Sunset Farms site.
155. The regional geology should not require any limits to be placed on the design, construction, or operation of the Landfill.
156. The Landfill is located in the Blackland Prairie, which consists of rolling hills.
157. There is no unfavorable topography in the area that would limit the Landfill's design, construction, or operation.
158. All of the disposal cells at the Landfill have been excavated and lined. No additional excavations will occur in connection with the vertical expansion of the Landfill.
159. The proposed vertical expansion does not change the already-approved excavation plan, the limits of the liner, or the design of the liner system.

160. Soils at the site are suitable for use as liner material.
161. The Application proposes adequate protection of groundwater.

Slope Stability

162. The Application contains a geotechnical report that describes and summarizes the geotechnical properties of the subsurface and discusses the suitability of the soils for the uses for which they are intended.
163. There are two layers that form the sides and bottom of the excavation or are less than 30 feet below the lowest excavation: the weathered Taylor is comprised of hard clays and the unweathered Taylor is comprised of hard clayey shales.
164. The weathered Taylor and the unweathered Taylor have been extensively tested as part of subsurface investigations at the site.
165. In-situ soils at the site possess sufficient characteristics to preclude the possibility of development of a bearing capacity type foundation failure under the anticipated overburden pressure of the Landfill.
166. In-situ soils at the site possess sufficient characteristics to support the 3H:1V excavation slopes and provide for slope stability.
167. In-situ soils at the site are not susceptible to excessive differential settlement that could detrimentally affect the performance of the Landfill's liner.
168. The subsurface soils beneath the facility are suitable for landfill construction.
169. BFI included slope stability analyses in the Application. The analyses were prepared and sealed by a licensed professional geotechnical engineer, Gregory Adams.
170. The slope stability calculations were based on conservative input parameters using site-specific data.

171. Final (long-term) and interim (short-term) conditions will be stable and well within the accepted factors of safety.
172. No areas of the site are susceptible to mass movement.
173. No areas of the site are located over Karst Terrain formations.
174. No portion of the solid waste disposal area is located over an area with poor foundation conditions.
175. The Application contains an Unstable Area Location Restriction Demonstration.
176. The Application includes adequate analysis of and provisions to ensure slope stability.

Groundwater Monitoring

177. Data compiled from numerous site investigations were used to design the groundwater monitoring network, the purpose of which is to detect any release of contaminants into the groundwater beneath the facility.
178. The existing groundwater monitoring system is comprised of 17 groundwater monitoring wells that are located around the perimeter of the facility. These wells are screened within the saturated portion of the weathered Taylor to monitor the shallow groundwater beneath the site.
179. The groundwater monitoring system will be expanded from 17 to 32 wells in connection with the vertical expansion. Two of the existing wells will be decommissioned and replaced with new wells. The wells in the enhanced system are spaced an average distance of approximately 500 feet apart and no wells are more than 600 feet apart.
180. The wells of the proposed system will continue to be screened within the saturated portion of the weathered Taylor to monitor the shallow groundwater beneath the site and are designed to monitor the interface between the weathered and unweathered Taylor.

181. The 17 new monitoring wells are designed and will be installed to TCEQ-required specifications.
182. The point of compliance was correctly identified as the entire perimeter of the site because most of the facility perimeter is directly downgradient or located such that groundwater flows parallel or obliquely to the site boundary.
183. The Groundwater Sampling and Analysis Plan (GWSAP) contained in the Application provides procedures for collecting representative samples from groundwater monitoring wells and quality assurance/quality control procedures required to ensure valid analytical results. The GWSAP also includes methodology for establishing background water quality in each well and for comparison of the subsequent results to background values in the same well in order that any statistically significant increase may be detected.
184. The Application includes adequate provisions for groundwater monitoring.

Calculation of the Estimated Rate of Solid Waste Deposition and Operating Life of the Site

185. All waste receipt will cease on or before November 1, 2015. BFI will restrict the property on which the landfill operates from use for transfer station operations on or after November 1, 2015. After the last receipt of wastes, BFI will complete installation of the permitted final cover system in accordance with 30 TAC § 330.253. The maximum heights, depths and footprint for the landfill fill area, as approved by the TCEQ under Permit No. MSW 1447A, shall not be exceeded by a subsequent modification or amendment of the permit.
186. BFI measures and computes the rate of solid waste deposition both in the tons of waste received at the scale house and by geometric measurements obtained through annual flyovers and topographic mapping efforts.
187. The landfill volume is currently being consumed at a rate of approximately 20,000 cubic yards per month, as computed from the aerial topographic data between March 2003 and March 2004.

188. The site life calculations in the Application reflect the 2015 closure date.
189. The Application includes adequate provisions calculating the estimated rate of solid waste deposition and operating life of the site.

Provisions for Closure and Post-Closure

190. The Application contains closure cost estimates, including a “worst case closure cost estimate” and a “post-closure care cost estimate.”
191. The Application includes a Final Closure Plan and a Post-Closure Care Plan.
192. All of the landfill cells will be closed with a final cover system, meeting the criteria for cover over post-Subtitle D liner systems.
193. Within 180 days after the last receipt of waste for the site, installation of the final cover system will be initiated.
194. The site will be closed in an orderly fashion, in compliance with established steps and timelines for implementation.
195. Post-closure care will last for a period of 30 years after final closure of the landfill, unless an alternative period is required or approved by the TCEQ.
196. Post-closure care maintenance will be performed in accordance with regulatory requirements.
197. The Application includes adequate provisions for closure and post-closure care.

Provisions for Cover

198. The Application includes two options for the final cover system.
199. Option A consists of the following components (from the intermediate cover layer upwards):

- a. a compacted clay cover consisting of a minimum of 18 inches of earthen material with a coefficient of permeability no greater than 1.0×10^{-5} cm/sec;
 - b. a 40-mil Linear Low Density Polyethylene (LLDPE) geomembrane;
 - c. a drainage layer consisting of a double-sided drainage geocomposite;
 - d. an erosion layer consisting of 12 inches of soil; and
 - e. a topsoil layer consisting of a minimum of six inches of earthen material that is capable of sustaining native plant growth.
200. Option B modifies Option A by replacing the compacted clay layer with a geosynthetic clay liner. It consists of the following components from the intermediate cover upwards:
- a. a geosynthetic clay liner (GCL) comparable to the 18-inch thick compacted clay liner specified in Option A;
 - b. a 40-mil LLDPE geomembrane;
 - c. a drainage layer consisting of a double-sided drainage geocomposite;
 - d. an erosion layer consisting 12 inches of soil; and
 - e. a topsoil layer consisting of a minimum of six inches of earthen material that is capable of sustaining native plant growth.
201. Both Option A and Option B of the final cover designs are in accordance with the site closure plan and satisfy all regulatory requirements for final cover.
202. The final cover top soil layer will be seeded immediately following the application of the final cover in order to minimize erosion.
203. On approximately 15% of the surface area of the eastern and northern slopes of the landfill, seeding will be of a seasonally appropriate 609-S (native seeds) mix as defined in Exhibit 3 of the Special Provisions of the attached permit. On the remainder of the site, seeding will be of a seasonally appropriate mix.

204. Landfill Final cover will be inspected for erosion not later than the next operating day after each day that measurable rainfall occurs at the site.
205. The Application includes soil erosion loss calculations for the top surfaces and embankment slopes using the US Department of Agriculture's Soil Conservation Service's Universal Soil Loss Equation.
206. Based on those calculations, the soil loss from the final cover will be 0.7 tons/acre/year for the top slope, and 2.18 tons/acre/year for the sideslopes.
207. Average soil losses of two to three tons/acre/year are acceptable for landfill cover systems.
208. The soil loss for the final cover will not exceed the regulatory permissible soil loss for comparable soil-slope lengths and soil cover conditions.
209. Erosion of final cover will be repaired within five days of detection, unless approval is obtained from the regional office of the TCEQ.
210. The date of detection of erosion and date of completion of repairs will be documented in the cover inspection record.
211. Inspections of the final cover will be conducted at least monthly during the operating life of the landfill, and will be conducted at least semi-annually during the post-closure care period of the landfill. Any areas requiring maintenance will be promptly restored during the entire operational life and for the post-closure maintenance period of the facility. These cover erosion inspections will be documented on the Monthly Inspection Report.
212. The Facility will keep a cover application record on site.
213. The final cover design will provide effective long-term erosional stability to the top dome surfaces and embankment sideslopes.
214. The Application includes adequate provisions for final cover.

Financial Assurance

215. BFI has provided financial assurance in the form of a bond for closure under its existing permit. That financial assurance is currently in place.
216. BFI has provided a letter of intent to post financial assurance with the Application.
217. Financial assurance in accordance with the Application is not required unless/until the Application is approved.
218. The Application contains an accurate estimate of the amount of financial assurance required.
219. The Applicant has complied with financial assurance requirements.

Control of Disease Vectors

220. Vector control will be achieved through the following practices:
 - a. Proper waste compaction and proper application of daily cover.
 - b. A minimum of six inches of daily cover will be used.
 - c. Poned water will be controlled.
 - d. The size of the working face will be minimized.
 - e. A licensed commercial pesticide applicator will conduct at least semiannual inspections, and if necessary, a pest management program will be developed and implemented.
 - f. A bird abatement program has been and will be implemented using pyrotechnic devices. The bird abatement program will be continued throughout the acceptance of waste at the site and a copy of the plan will be available at the site.
221. The bird abatement plan has significantly reduced the number of buzzards and other birds that visit the site to numbers at or below levels that would be expected if there were no landfill present.

222. Buzzards roost on power lines along Springdale Road. The buzzards are attracted to the area primarily because of the presence of the power lines as a roosting site, not because of the presence of the Landfill.
223. The Application includes adequate provisions to control disease vectors.

Control of Odors

224. The Landfill uses several operational methods to prevent and control odors. These include:
- a. Wastes are deposited at the working face, spread into layers that can be readily compacted, and covered with a minimum of six inches of soil or other waste material.
 - b. The working face is sized to minimize the amount of waste exposed while still providing adequate area for safe and efficient vehicle unloading.
 - c. Odiferous wastes are handled so as to minimize odors.
 - d. Mister-type equipment may be installed at appropriate locations.
 - e. Odor controlling sprays applied directly to the working face may also be used to manage odors as determined by the Site Manager.
 - f. Poned water at the site is controlled to prevent the occurrence of odors.
225. BFI will not accept liquid waste as defined in 30 TAC § 330.2(70) and will not construct or operate a liquid waste stabilization/solidification basin at the Sunset Farms Landfill.
226. BFI will not use alternative material daily cover (ADC) at the Sunset Farms Landfill.
227. The Facility's will control odors through implementation of a Landfill Gas Collection and Control System (GCCS) pursuant to the Landfill Gas Management Plan.
228. The Landfill has successfully controlled odors through the expansion of the GCCS system.

- 229. Daily odor inspections will be performed at the Facility.
- 230. The Application includes adequate provisions to control odors.

Management of Landfill Gas

- 231. The Application contains a Landfill Gas Management Plan which includes a Landfill Gas Collection and Control System (GCCS) (Part III, Attachment 14 of the Application), which is incorporated into the Site Operating Plan.
- 232. The GCCS serves the dual purpose of controlling surface emissions and gas-related odors.
- 233. The GCCS is comprised of 180 extraction wells, an enclosed landfill gas (LFG) flare, and a landfill-gas-to-energy (LFGTE) facility. The LFGTE facility is operated by GRS pursuant to a separate air authorization.
- 234. BFI will expand the GCCS as the Landfill is vertically expanded.
- 235. The existing perimeter gas monitoring system at the site consists of fifteen gas probes. Each of these probes has been installed to a depth equal to either the depth of groundwater or the depth of the deepest waste within 1,000 feet of the probe.
- 236. BFI will add six additional gas probes to the perimeter gas monitoring system in connection with the vertical expansion - one between existing probes GMP-7A and GMP-8 and five along the southern permit boundary between the Sunset Farms Landfill and the Austin Community Landfill.
- 237. The Landfill Gas Management Plan includes an Exceedance Action Plan, which details the steps to be taken in the event a regulatory exceedance of gas is detected during a regular monitoring event or by a building monitor. A Remediation Plan is also included with the Landfill Gas Management Plan.
- 238. The Application includes adequate provisions to manage landfill gas.

Control of Spilled and Windblown Waste and Cleanup of Spilled Waste

239. BFI will take steps to discourage commercial waste hauling vehicles from utilizing Blue Goose Road as ingress or egress to the Sunset Farms Landfill except for those few vehicles which service businesses and residences in that area. These steps may include reprimanding drivers, posting signs, adding surcharges, or similar measures.
240. BFI will take the necessary steps to ensure that vehicles hauling waste to the site properly secure their loads in order to prevent the escape of any part of the load by blowing or spilling. BFI will, as necessary, post signs at the Landfill entrance requiring loads to be covered or enclosed and the potential consequences for non-compliance – including the assessment of surcharges and the reporting of offenders to law enforcement.
241. The Site Operating Plan provides that the working face will be maintained and operated in a manner to control windblown solid waste.
242. Daily cover and litter fences will be employed to control windblown waste from the working face.
243. BFI will not use alternative material daily cover (ADC) at the Sunset Farms Landfill.
244. The Landfill has installed permanent litter fences up to 20 feet tall to capture windblown waste before it leaves the site.
245. Each day that the landfill is open, public roads used to access the Landfill will be inspected and cleaned of spilled materials and windblown waste for a distance of two miles in either direction from any entrance used for the delivery of waste to the site.
246. The Application includes adequate provisions to control spilled and windblown waste and clean up spilled waste.

Management and Disposal of Special Waste

247. BFI will not accept liquid waste as defined in 30 TAC § 330.2(70) and will not construct or operate a liquid waste stabilization/solidification basin at the Landfill.
248. The Site Operating Plan provides detailed procedures for handling special wastes that do not require written authorization from the TCEQ.
249. Special wastes that require written authorization will be handled in accordance with the written authorization.
250. The Application includes adequate provisions to manage and dispose of special waste.

Prevention of Disposal of Unauthorized Wastes

251. Prohibited wastes include regulated hazardous waste (except municipal hazardous waste from conditionally exempt small quantity generators), certain PCB wastes, lead acid storage batteries, do-it-yourself used motor vehicle oil, used oil filters from internal combustion engines, whole used or scrap tires, items containing CFCs, and unauthorized special waste.
252. To prevent the disposal of unauthorized waste at the Facility, BFI will:
 - a. post signs regarding hazardous and other unacceptable wastes,
 - b. screen wastes,
 - c. use video monitoring systems at the site entrance to allow site personnel to visually inspect open-topped waste loads,
 - d. provide personnel training,
 - e. reject haulers carrying unauthorized wastes, and
 - f. perform random inspections on at least one vehicle per day.

253. The working face will be confined to as small an area as practicable. A trained employee will be present at the active disposal area during operating hours to monitor all incoming loads of waste.
254. The Site Operating Plan specifies procedures for random inspections of incoming waste.
255. Access to the Facility will be controlled using a perimeter fence and a gated entrance.
256. The Application includes adequate provisions to prevent unauthorized wastes from being disposed in the landfill.

Dust Control

257. The Site Operating Plan specifies procedures to minimize the tracking of mud and dirt by vehicles entering or exiting the Facility onto public roadways. Vehicles will traverse all-weather site access roads and paved site entrance roads, allowing for mud to be removed from the vehicle.
258. The main access road to the site is a paved surface road.
259. The access road will be swept at least weekly.
260. Other access roads to the waste fill area are unpaved and will be amended with gravel or ground woody wastes to reduce dust and improve traction. During dry conditions, the unpaved roads will be periodically wetted to reduce dust.
261. BFI has installed a permanent wheel wash near the site entrance for use by exiting vehicles when the disposal area is muddy. The wheel wash is a drive-through unit and provides for direct washing of the wheels of waste hauling vehicles.
262. BFI regularly sweeps the streets near the entrance to the Facility to remove mud.
263. Much of the area around the landfill is used for agriculture. The largest land use within one mile of the permit boundary is classified as open (including vacant, agricultural, or

rights-of-way), comprising approximately 65% of the land area. Agricultural fields produce dust.

264. The Application includes adequate provision for dust control.

Maintenance of Site Access Roads

265. All on-site and other access roadways will be maintained on a regular basis. Non-paved access roadways will be regraded as necessary to minimize depressions, ruts, and potholes. These roads will be inspected at least weekly to determine the need for regrading. Non-paved access roads actively used by waste hauling vehicles will be regraded after initial construction at least once every three months.

266. The Application includes adequate provision for maintenance of site access roads.

Daily and Intermediate Cover

267. BFI will not use alternative material daily cover (ADC) at the Sunset Farms Landfill.

268. Daily cover will have a total thickness of at least six inches of well-compacted soil not previously mixed with solid waste.

269. Daily cover will be sloped to drain and will promote runoff and minimize infiltration. Care will be exercised to eliminate areas which will pond water in the event of rainfall.

270. Daily cover will be applied during the day as waste placement is in progress and upon completion of daily waste acceptance to assure complete covering of the active face.

271. Intermediate cover will consist of at least twelve inches of compacted, clean earthen material that has not been previously mixed with garbage, rubbish or other solid waste materials. The earthen material will be capable of sustaining native plant growth and may include the previously placed six inches of daily cover material. Twelve inches of compacted, clean soil may also be applied to serve as both daily and intermediate covers.

- 272. The intermediate cover will be graded to prevent ponding of water.
- 273. The Site Operating Plan establishes that inspections of the intermediate cover will be conducted at least weekly to verify the integrity of the cover material, and the next operating day after each day that measurable rainfall occurs at the site.
- 274. Eroded cover will be repaired within five days of detection.
- 275. Intermediate cover will be placed and seeded on all side slope areas on which waste placement activity has not recommenced within 60 days, except during the months of July and August. These seeded areas will be irrigated.
- 276. Intermediate cover will be placed and seeded on the top deck of the landfill in all areas on which waste placement activity has not recommenced within 120 days, except for certain areas that will receive sod.
- 277. Initial seeding will be done by hydromulch and using a seasonally appropriate mix.
- 278. The Application includes adequate provisions for daily and intermediate cover.

Fire Protection

- 279. The Site Operating Plan includes detailed provisions for fire protection.
- 280. A minimum of six inches of daily cover will be used in order to reduce the possibility of fire.
- 281. Waste will be compacted to aid in fire protection.
- 282. The Application contains adequate provisions for fire protection.

Operational Hours

- 283. The Facility is currently authorized to operate 24 hours per day, seven days per week.
- 284. The Application does not seek to change the operating hours for the Facility.

285. The current operating and waste acceptance hours, as posted at the site entrance, are 24 hours per day Monday through Friday and from 12:00 am to 3:00 pm on Saturdays. No waste is currently accepted on Sundays.

286. The evidence shows that the landfill's operating hours are appropriate.

Designation of Owner and Operator

287. The Application designates both BFI and Giles as Owners of the Facility.

288. The land on which the Facility is located is owned by BFI and Giles. BFI owns an approximately 55-acre tract within the permit boundaries; Giles owns three other tracts that together comprise the remaining acreage of the Facility.

289. BFI and Giles are co-owners of the Facility.

290. The Application includes a legal description of each piece of property that makes up the Facility.

291. The Application includes a properly executed property owner affidavit.

292. The Application designates BFI as the Operator of the Facility.

293. The Application includes a verification of BFI's legal status.

294. BFI is the sole operator of the Facility, and has operated it (either in the corporation's present corporate form or as a predecessor-in-interest) continuously since the landfill was first permitted in 1981.

295. With respect to the tracts owned by Giles, BFI operates the facility under a landlord-tenant relationship.

296. BFI is the sole "Site Operator."

297. BFI is the sole party responsible for the operation of the Facility.

298. The Application designates BFI as the sole Applicant.

299. The Application includes adequate provisions designating the owner and operator.

Designation of Responsible Parties and Qualified Personnel

300. The Application includes evidence of BFI's competency.

301. The Application includes appointments of the person signing the Application and the engineer.

302. The Application is signed by Brad Dugas of BFI.

303. Brad Dugas is a responsible corporate officer who has (and has had) authority to sign the Application documents.

304. Associated Consulting Engineers, Inc. is the duly appointed consulting and design engineers for the Application.

305. Key personnel are described in the Application and are qualified to operate the site.

306. The Application includes adequate provisions designating responsible parties and qualified personnel.

Transportation Information

307. The primary access roads to Sunset Farms are U.S. 290, Giles Lane, Johnny Morris Road, Blue Goose Road, and Cameron Road.

308. Vehicles traveling to the Landfill typically approach the Facility from the south by turning north onto Giles Lane from U.S. 290 and then turning westward into the Facility's entrance. Vehicles leaving the landfill typically turn south onto Giles Lane toward U.S. 290.

309. U.S. 290 is a major east-west highway and is the primary road traveled by trucks approaching or leaving the facility. It is a four-lane road with a grass median dividing the two directions of travel.

310. U.S. 290 is signaled at its intersection with Giles Lane. There is a 500-foot left-turn lane for eastbound vehicles (including refuse trucks) turning north onto Giles Lane toward the Facility's entrance. Vehicles traveling westbound, including trucks approaching the landfill from the east, have a separate right-turn lane beginning approximately 200 feet from the intersection.
311. There are no weight restrictions for vehicles traveling on U.S. 290 in the proximity of the landfill other than the statewide vehicular weight limit of 80,000 pounds.
312. TxDOT maintains U.S. 290. It is planning to reconstruct the existing highway in the vicinity of the landfill into a six-lane tolled freeway with three lanes in each direction. Non-tolled frontage roads (three lanes in each direction) are also planned. Construction is scheduled for completion in 2013.
313. Landfill traffic represents only approximately one percent of the peak hour traffic volume on U.S. 290.
314. Sunset Farms' entrance is located on the west side of Giles Lane, which runs in a north/south direction from its intersection with U.S. 290. It is a four-lane divided asphalt-surfaced crush limestone based roadway, consisting of 12-foot travel lanes with a curb-and-gutter section and a grass median.
315. The statewide maximum legal weight limit of 80,000 pounds applies to Giles Lane.
316. The City of Austin maintains Giles Lane and other City roadways in the vicinity of the Facility. The stretch of Giles Lane between U.S. 290 south of the Landfill and Harris Branch Parkway north of the Landfill was reconstructed in 2001.
317. Johnny Morris Road is a continuation of Giles Lane south of U.S. 290. It is a four-lane undivided asphalt-surfaced roadway, consisting of 12-foot travel lanes. The maximum legal weight of vehicles traveling on Johnny Morris Road is also 80,000 pounds.
318. Blue Goose Road is a two-lane roadway that runs east/west along the northern boundary of the Landfill. It intersects with Giles Lane at the northeast corner of the Landfill. Travis County maintains Blue Goose Road west of Giles Lane as part of its Pavement

Management System. The standard statewide weight restriction for Blue Goose Road of 80,000 pounds also applies to Blue Goose Road.

319. BFI prohibits its refuse truck drivers from using Blue Goose Road to access the Facility and has entered into a settlement agreement with the City memorializing this restriction.
320. Cameron Road is a two-lane road that runs northeast/southwest between Parmer Lane on the north and intersects Blue Goose Road near the northwest corner of the Landfill. The City of Austin maintains the stretch of Cameron Road between Parmer Lane and Yager Lane. Cameron Road also has the statewide maximum weight limit of 80,000 pounds.
321. The Application provides traffic volumes for area roadways in the vicinity of the Landfill as required by regulation: U.S. 290, Giles Lane, Johnny Morris Road, Blue Goose Road, and the Facility's driveway. These data were updated/confirmed in September 2008 prior to the evidentiary hearing.
322. All of the roadways that may be used to access the site are presently operating well below their capacities.
323. All of these roadways presently have a level of service (LOS) rating of "A" – the highest rating.
324. Non-landfill traffic (i.e., background traffic) on the roadways in the vicinity of the Landfill is estimated to increase annually by five percent. Landfill traffic is estimated to increase annually by one percent until cessation of waste acceptance on or before November 1, 2015.
325. The projected LOS for all of the site access roadways in 2015 remains "A" except for U.S. 290, which would go to a "B" rating (if the highway is upgraded to a tollway as planned) or a "C" rating (if the planned upgrades are not made). LOS ratings of "B" and "C" are still acceptable.
326. The adequacy and design capacities of the site access roadways are sufficient to safely accommodate any additional traffic generated by the Landfill if the permit for the vertical expansion is granted.

327. No public use airport is located within five miles of the Facility's boundaries.
328. The permit boundary is not located within 10,000 feet of the end of an airport servicing turbojet aircraft or within 5,000 feet of the end of a runway serving piston-type aircraft.
329. The Federal Aviation Administration has no objection to the expansion of this landfill from the standpoint of bird hazards to aircraft.
330. The expanded Facility will not constitute a bird hazard to aircraft.
331. The Application provides adequate information related to transportation.

Protection of Endangered and Threatened Species

332. BFI filed a motion for partial summary disposition of this issue. No party filed a response to the motion.
333. This is a vertical only expansion over land that was previously disturbed.
334. Associated Consulting Engineers, Inc. corresponded with the U.S. Fish and Wildlife Department and the Texas Parks and Wildlife Department regarding the potential impact of the proposed expansion on endangered and threatened species and their critical habitat. Both agencies determined that there would be no impact.
335. The Application considers and avoids impacts to endangered and threatened species.
336. The Application includes adequate provisions to protect endangered or threatened species.

Compliance History

337. The Executive Director prepared compliance summaries for BFI, Giles, and the Facility.
338. "BFI Waste Services Austin" is designated as the Regulated Entity for four Customer designations.

339. The four Customer Designations under this Regulated Entity are: Browning-Ferris Industries, Inc.; BFI Waste System of North America, Inc.; Giles Holdings, L.P.; and BFI Waste Services of Texas, LP.
340. The compliance history rating for Browning-Ferris Industries, Inc. is Average/4.84.
341. The compliance history rating for BFI Waste System of North America, Inc. is Average/2.59. At the time the compliance history was prepared, BFI Waste Systems of North America, LLC (the Applicant) was known as BFI Waste Systems of North America, Inc.
342. The compliance history rating for Giles Holdings, L.P. is Average/17.77.
343. The compliance history rating for BFI Waste Services of Texas, LP is Average/3.27.
344. BFI's compliance history does not warrant denial of the Application.

Land Use Compatibility

345. No portion of the Facility is located within the city limits of any incorporated city except for an approximately 200-foot-wide strip along Giles Lane in the far eastern portion the permit boundaries which was annexed by the City of Austin in 1985.
346. The remainder of the Facility is located within the extraterritorial jurisdiction (ETJ) of the City of Austin.
347. The approximately 200-foot-wide strip along the eastern boundary is zoned "DR" by the City of Austin. No other zoning ordinance or designation applies to the remainder of the Facility.
348. The "DR" designation applicable to the 200-foot-wide strip is an interim zoning designation that does not restrict or prohibit the proposed vertical expansion of the landfill. No zoning ordinance restricts or prohibits the proposed vertical expansion of the landfill.

349. The City of Austin's Smart Growth Initiative does not address or prohibit the proposed vertical expansion. The Smart Growth Initiative is merely a guide to growth and is not enforceable in the manner that zoning ordinances are.
350. The predominant land use (62%) within one mile of the permit boundary is open, which includes agricultural property, vacant property and rights-of-way. The next largest land use (21%) is industrial, which includes two active landfills (Sunset Farms and the Austin Community Landfill), the Applied Materials manufacturing facility, and other industrial uses along U.S. 290 and Johnny Morris Road. The next largest land use (11%) is residential, and the remaining land uses (commercial, recreational, water and institutional) comprise 6% of the land area within one mile of the permit boundary.
351. Solid waste disposal has been a historically and geographically significant land use within one-mile of the Facility since at least 1968. Of the 4,338 acres within one mile of Sunset Farms, approximately 795 acres (18%) have been permitted for waste disposal purposes at one time or another.
352. While substantial residential growth is occurring within one mile of the permit boundaries of Sunset Farms (524 residences constructed between 2004 and 2008), most of this activity is relatively distant from the Landfill.
353. Almost 90% of the residences that are located within one mile of the permit boundary have been built while Sunset Farms and the other landfills have been operating.
354. A school and a day care center are located within one mile of the permit boundary. Both the school and day care center were built while Sunset Farms and the Austin Community Landfill were operating.
355. The City of Austin is the community that is located closest to the Landfill.
356. The bulk of the City of Austin is located to the west of Sunset Farms. However, the City has annexed properties (including the Harris Branch subdivision) immediately to the east of the Facility.

357. From 1990 to 2000, the predominant direction of residential growth for the City of Austin was northerly. Sunset Farms is located within the fastest growing sector of the City from 1990 to 2000.
358. Sunset Farms has not deterred growth in the vicinity of the landfill.
359. The nearest residence is approximately 1,045 feet east of the permit boundary and 1,830 feet from the limit of fill. One school is located 2,035 feet north of the permit boundary and 2,355 from the limit of fill. One day care center is located 660 feet east of the permit boundary and 1,450 feet from the limit of fill. Each of these locations is more than one-quarter mile away from the limit of fill.
360. Waste disposal operations will effectively recede from surrounding land uses because the Application proposes a vertical expansion only. In effect, the limit of fill for the vertical expansion area is 600 feet inside the existing limit of fill due to the 4H:1V side slopes.
361. BFI conducted a water well search for wells located within one mile of the permit boundary, including a review of records and maps that are on file at the Texas Water Development Board and TCEQ, a review of previous permitting documents, and a visual survey of properties in the vicinity of the facility.
362. There are twelve identified water wells within one mile of the facility – two of which are located on-site. Of the remaining identified wells, only one is located within 500 feet of the permit boundary.
363. Most or all of the water wells appear to be shallow wells – often hand-dug. None of the identified wells appears to be used for drinking water purposes by the landowners.
364. The weathered Taylor group does not produce adequate amounts of water for domestic use, and the areas in the vicinity of the facility are served by public water suppliers.
365. The TCEQ considered the impact of the site upon the city, community and nearby property owners and individuals in terms of compatibility of land use, zoning, community growth patterns, and other factors associated with the public interest.

366. BFI included sufficient information in the Application pertaining to land use and land use compatibility.
367. The existing Sunset Farms Landfill is compatible with surrounding land uses.
368. The continued use of the land for an MSW site will not adversely impact human health, safety, or welfare.
369. The inclusion of the requested special provisions will improve the compatibility of the Landfill with surrounding land uses, as will the two-tiered design BFI has proposed, its plans to “paint” the Landfill with wildflowers upon closure, and its implementation of landscaping and screening at the site.
370. The proposed expansion is compatible with land use in the surrounding area

Buffer Zones and Landscape Screening

371. The Facility includes a buffer that is a minimum of 50 feet wide around the perimeter of the Landfill. The approximate 55-acre area in the northeast corner of the Facility that is not used for landfilling activities serves as additional buffer for potential receptors to the north and east.
372. BFI has designed and implemented landscape and aesthetic enhancements at the facility for three purposes: (1) to visually screen where possible; (2) to create a defined edge for a sense of separation; and (3) to refine the visual image of the landfill. Design elements (1) and (2) have occurred or are in progress at the facility. Design element (3) will occur when the landfill is completed as a result of the two-tiered massing of the landfill and BFI’s agreement to “paint” the landfill with wildflowers upon closure.
373. The Site Operating Plan specifically prohibits solid waste unloading, storage, disposal or processing operations from occurring within any easement that crosses the site or within any buffer zone.

374. The provisions proposed for buffer zones and landscape screening comply with agency rules.

Health of Hearing Requesters and Their Families

375. The Application meets the requirements of the Commission's rules and goes beyond those requirements in many respects.

376. No evidence was presented that any individual has suffered any adverse health effects due to the Landfill.

377. No evidence was presented that any individual will suffer adverse health effects as a result of expansion of the landfill.

378. The Application proposes sufficient provisions to protect groundwater and surface waters.

379. The Application proposes sufficient provisions regarding air emissions, landfill gas management, odor controls, dust controls, vector controls, and other measures that will be protective of human health and the environment.

380. The vertical-only expansion will not increase the likelihood that any individual's health will be adversely affected.

381. The Application proposes sufficient provisions to protect the health of requesters and their families.

Nuisance

382. Nuisance is defined in the Commission's rules as "municipal solid waste that is stored, processed, or disposed of in a manner that causes the pollution of the surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety, or welfare." 30 TAC § 330.2(86).

383. Operation of the expanded landfill as requested in the Application will not result in pollution of the surrounding land.
384. Operation of the expanded landfill as requested in the Application will not result in contamination of groundwater and surface water.
385. Operation of the expanded landfill as requested in the Application will not result in breeding of insects or rodents.
386. Operation of the expanded landfill as requested in the Application will not result in the creation of odors adverse to human health, safety, or welfare.
387. Noise is not a component of the Commission's definition of nuisance.
388. Noise from the Landfill does not and will not rise to a level that would constitute a nuisance.
389. BFI has never been cited for any nuisance-level noise conditions.
390. Municipal solid waste will not be stored, processed, or disposed of at the Facility in a manner that causes the pollution of the surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety, or welfare.
391. The Application proposes sufficient provisions to avoid causing a nuisance.

Reporting and Transcription Costs

392. Reporting and transcription costs of \$12,612.95 were incurred for the prehearing conference and evidentiary hearing.
393. TJFA is a Texas limited partnership. TJFA was formed in November 2004.
394. Bob Gregory is the sole (99%) limited partner of TJFA.

395. Garra de Aguila, Inc., a Texas corporation, owns the remaining 1% interest in TJFA and serves as the managing general partner of TJFA.
396. Bob Gregory owns 100% of the shares of Garra de Aguila, Inc.
397. Bob Gregory serves as president, chief executive officer, and principal owner of Texas Disposal Systems Landfill, Inc. (TDSL) and Texas Disposal Systems, Inc. (TDS).
398. TDSL owns a municipal solid waste landfill near Creedmoor in southeast Travis County.
399. Neither TJFA nor Garra de Aguila, Inc. has any employees.
400. Dennis Hobbs currently serves as the sole officer and director of Garra de Aguila, Inc.
401. Dennis Hobbs is employed by TDS as its Director of Special Projects.
402. TJFA shares a common business location, telephone number and fax number with TDSL and TDS.
403. TJFA is an affiliate of TDSL, a business competitor of BFI.
404. TJFA purchased a property near the BFI landfill in November 2004. TJFA has purchased properties next to four Central Texas landfills (Sunset Farms and three facilities operated by Waste Management) and participated as a party-protellant in four separate MSW permitting proceedings in the past four years.
405. TJFA spent several hundred thousand dollars in expert witness fees alone in this proceeding.

Other Remaining Issues

406. With respect to all other contested issues and all unrefuted issues, the Application and the remainder of the evidentiary record contain sufficient factual information regarding the Landfill's design and operation to satisfy all applicable statutory and regulatory requirements.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the disposal of municipal solid waste and the authority to issue this permit under TEX. HEALTH & SAFETY CODE ANN. § 361.061.
2. Notice was provided in accordance with TEX. HEALTH & SAFETY CODE ANN. § 361.0665, 30 TEX. ADMIN. CODE §§ 39.405 and 39.501, and TEX. GOV'T CODE §§ 2003.051 and 2003.052.
3. SOAH has jurisdiction to conduct a hearing and to prepare a Proposal for Decision in contested cases referred by TCEQ under TEX. GOV'T CODE § 2003.47.
4. The provisions of 30 TEX. ADMIN. CODE ch. 330 in effect prior to the March 27, 2006 amendments apply to the Application.
5. BFI submitted an administratively and technically complete permit amendment application, as required by TEX. HEALTH & SAFETY CODE ANN. §§ 361.066 and 361.068, that demonstrates that it will comply with all relevant aspects of the Application and design requirements as provided in 30 TEX. ADMIN. CODE §§ 330.4(m) and 330.51(b)(1).
6. The Application was processed and the proceedings described in this Order were conducted in accordance with applicable law and rules of the TCEQ, specifically 30 TEX. ADMIN. CODE § 80.1 *et seq.*, and the State Office of Administrative Hearings, specifically 1 TEX. ADMIN. CODE § 155.1 *et seq.*, and Subchapter C of TEX. HEALTH & SAFETY CODE ANN. Chapter 361.
7. The burden of proof was on the Applicant, in accordance with 30 TEX. ADMIN. CODE § 80.17(a). BFI met its burden with respect to all referred issues.

8. The evidence in the record is sufficient to meet the requirements of applicable law for issuance of the Draft Permit, including TEX. HEALTH & SAFETY CODE ANN. Chapter 361 and 30 TEX. ADMIN. CODE Chapter 330.
9. The TCEQ's guidance RG-417, as employed by the Applicant in preparing the Application, is a proper interpretation of the TCEQ's regulation 30 TEX. ADMIN. CODE § 330.56(f)(4)(A)(iv), which requires that an applicant provide a “discussion and analyses to demonstrate that natural drainage patterns will not be significantly altered as a result of the proposed landfill development.”
10. BFI has demonstrated that natural drainage patterns will not be significantly altered as a result of the proposed Landfill development, as required by 30 TEX. ADMIN. CODE § 330.56(f)(4)(A)(iv).
11. The Application includes adequate provisions to control disease vectors as required by 30 TEX. ADMIN. CODE §§ 330.126 and 330.1 33(a);
12. As required by 30 TEX. ADMIN. CODE § 330.51(b)(6), BFI has submitted documentation of coordination with TCEQ for compliance with the federal Clean Water Act, Section 208.
13. The Applicant has submitted wetland determinations required by applicable federal, state, and local laws as required by 30 TEX. ADMIN. CODE §§ 330.51(b)(7) and 330.53(b)(12).
14. The Settlement Agreement between the City of Austin and BFI which was filed with SOAH on October 31, 2008, is enforceable against the parties thereto pursuant to TEX. RULES OF CIV. PROC. Rule 11.
15. Applicant submitted a subsurface investigation report that complies with 30 TEX. ADMIN. CODE § 330.56(d)(5).

16. BFI's borings were in compliance with the depth requirements contained in 30 TEX. ADMIN. CODE § 330.56(d)(5)(A)(ii).
17. BFI has thoroughly investigated for the presence of geologic faults as required by 30 TEX. ADMIN. CODE § 330.56(d)(3)(A).
18. The Application meets the requirements of 30 TEX. ADMIN. CODE §§ 330.55 and 330.200-300.206, concerning groundwater protection.
19. The Application proposes adequate protection of groundwater and surface water, in compliance with agency rules, including 30 TEX. ADMIN. CODE §§ 330.55(b)(1), 330.56(f), 330.134, and 330.200-330.206.
20. The Application includes adequate provisions to control odors in compliance with agency rules, including 30 TAC §§ 330.125(b) and 330.133(a).
21. The Landfill gas monitoring system complies with 30 TEX. ADMIN. CODE § 330.130.
22. The Facility is operated in accordance with the federal New Source Performance Standards and under the Commission's Title V General Operating Permit.
23. The Application includes adequate provisions to manage landfill gas, in compliance with agency rules, including 30 TAC §§ 330.56(n) and 330.130.
24. The Application includes adequate provisions for proper slope stability, in compliance with agency rules, including 30 TAC §§ 330.55(b)(8) and 330.56(1).
25. The methods specified in the Site Operating Plan for the control of windblown waste and litter comply with the MSW rules, including 30 TEX. ADMIN. CODE §§ 330.117, 330.120, 330.123, and 330.127.

26. The groundwater sampling and analysis plan meets the requirements set forth in 30 TEX. ADMIN. CODE §§ 330.56(k) and 330.230-330.234.
27. The Application includes adequate provisions calculating the estimated rate of solid waste deposition and operating life of the site, in compliance with agency rules, including 30 TEX. ADMIN. CODE § 330.55(a)(4).
28. BFI has submitted information regarding closure and post-closure that demonstrates compliance with the requirements of 30 TEX. ADMIN. CODE §§ 330.56(1) and (m), 330.253, and 330.254(b).
29. The parties have stipulated that referred Issue J, pertaining to whether the application includes adequate provisions for closure and post closure, in compliance with agency rules, is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue. (This stipulated finding does not extend to the sufficiency of final cover, addressed elsewhere herein.)
30. BFI has provided sufficient information concerning its acceptance or disposal of “special waste,” as defined by 30 TEX. ADMIN. CODE § 330.2.
31. BFI has demonstrated compliance with 30 TEX. ADMIN. CODE § 330.136 regarding disposal of special wastes.
32. The Site Operating Plan's special waste acceptance procedures ensure that special waste, as that term is defined in 30 TEX. ADMIN. CODE § 330.2, will not be accepted or disposed of without the prior written authorization from TCEQ, except with respect to certain special wastes the acceptance of which is previously authorized.
33. Under 30 TEX. ADMIN. CODE § 330.62(a), BFI possesses sufficient property rights in the Facility for which the permit will be issued and through the post-closure care period.

34. BFI and Giles Holdings, L.P. are the “owners” of the Facility as defined in 30 TEX. ADMIN. CODE § 330.2(94).
35. BFI is the “site operator” of the Facility as defined in 30 TEX. ADMIN. CODE § 330.2(132).
36. BFI is the “operator” of the Facility as defined in 30 TEX. ADMIN. CODE § 330.2(91).
37. The Application includes adequate provisions to prevent unauthorized wastes from being disposed in the landfill, in compliance with agency rules, including 30 TEX. ADMIN. CODE § 330.114(5).
38. As required by 30 TEX. ADMIN. CODE § 330.51(b)(6), BFI has submitted documentation of coordination with the Federal Aviation Administration for compliance with airport location restrictions.
39. As required by 30 TEX. ADMIN. CODE § 330.51(b)(6), BFI has submitted documentation of coordination with the Texas Department of Transportation for traffic and location restrictions.
40. BFI includes adequate provisions for dust control and maintenance of site access roads, in compliance with agency rules, including 30 TEX. ADMIN. CODE § 330.127.
41. Applicant has submitted Endangered Species Act compliance demonstrations under state and federal laws as required by 30 TEX. ADMIN. CODE §§ 330.51(b)(8), 330.53(b)(13), and 330.55(b)(9).
42. The Application conforms to the applicable requirements of the Engineering Practice Act, TEX. REV. CIV. STAT. ANN. art. § 3271a, as provided in 30 TEX. ADMIN. CODE § 330.51(d) and 22 TEX. ADMIN. CODE § 131.166.

43. BFI submitted a Motion for Partial Summary Disposition requesting resolution in its favor of Issue P, pertaining to the protection of endangered or threatened species. No party responded to BFI's motion. Summary disposition is granted in favor of BFI as to referred Issue P.
44. The Application includes adequate provisions for cover, in compliance with agency rules, including 30 TEX. ADMIN. CODE § 330.133.
45. The Applicant's compliance history was reviewed by the Executive Director and is acceptable under 30 TEX. ADMIN. CODE §§ 305.66 and 361.089 and 30 TEX. ADMIN. CODE Chapter 60.
46. In accordance with 30 TEX. ADMIN. CODE § 330.115, the fire protection plan in the Site Operating Plan includes fire protection standards and site personnel training requirements.
47. The parties have stipulated that referred Issue S, pertaining to whether the application includes adequate provisions for fire protection in accordance with TCEQ rules, is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue.
48. BFI has submitted information regarding financial assurance that complies with 30 TEX. ADMIN. CODE §§ 330.52(b)(11) and 330.280-.286.
49. The land use information provided in the Application contains the technical information required under 30 TEX. ADMIN. CODE § 330.53(b).
50. As required by TEX. HEALTH & SAFETY CODE ANN. § 361.069, Sunset Farms Landfill is compatible with surrounding land uses.

51. Operation of an MSW Landfill in accordance with the applicable law and regulations is a proper land use of the property described in the Application.
52. The buffer zones established by BFI between the edge of fill and the site boundary are compliant with the MSW rules, including 30 TEX. ADMIN. CODE §§ 330.121(b) and 330.138. The Application satisfies all applicable screening requirements.
53. The vertical expansion of the Landfill, if constructed and operated in accordance with the TEX. HEALTH & SAFETY CODE ANN. Chapter 361, 30 TEX. ADMIN. CODE Chapter 330, the Application, and the Draft Permit, will not adversely affect the health of the requestors or their families.
54. The vertical expansion of the Landfill, if constructed and operated in accordance with the TEX. HEALTH & SAFETY CODE ANN. Chapter 361, 30 TEX. ADMIN. CODE Chapter 330, the Application, and the Draft Permit, will not cause the creation or maintenance of a nuisance in violation of Commission rules, including 30 TAC § 330.5(a)(2).
55. The operating hours proposed in the Application are appropriate.
56. The erosion control methods identified in the Application and Draft Permit are sufficient.
57. The parties have stipulated that referred Issue Z, pertaining to whether the storage, treatment and disposal of contaminated water is adequately addressed in the Application and Draft Permit and is not in dispute and may be resolved as if BFI had obtained summary disposition in its favor with respect to this issue.
58. The provisions of 30 TEX. ADMIN. CODE Chapter 330 apply specifically to “all aspects of municipal solid waste management,” and are based primarily on the stated purpose of TEX. HEALTH & SAFETY CODE ANN. Chapter 361.

59. No site-specific conditions exist at the site that will require special consideration as provided in 30 TEX. ADMIN. CODE §§ 330.51(b)(3) and 330.53(b)(4).
60. The contents of the permit to be issued to the Facility meet the requirements of TEX. HEALTH & SAFETY CODE ANN. §§ 361.086(b) and 361.087.
61. The TCEQ is not prohibited by TEX. HEALTH & SAFETY CODE ANN. § 361.122 from issuing Permit No. MSW-1447A.
62. BFI has submitted documentation of compliance with the National Pollutant Discharge Elimination System (NPDES) program under the federal Clean Water Act Section 402, as amended, as required by 30 TEX. ADMIN. CODE § 330.51(b)(5).
63. Part I of the Application meets the technical requirements of 30 TEX. ADMIN. CODE §§ 305.45 and 330.52.
64. Part II of the Application meets the technical requirements of 30 TEX. ADMIN. CODE § 330.53.
65. The Site Development Plan, which supports Parts I and II of the Application, meets the requirements of 30 TEX. ADMIN. CODE §§ 330.54, 330.55, and 330.56.
66. Part IV of the Application, (the Site Operating Plan) meets the requirements of 30 TEX. ADMIN. CODE §§ 330.57 and 330.114.
67. BFI has shown that it will comply with the operational prohibitions and requirements in 30 TEX. ADMIN. CODE §§ 330.5, 330.11 and 330.139.
68. Pursuant to the authority of, and in accordance with applicable laws and regulations, the attached Permit should be granted.

69. Pursuant to 30 TEX. ADMIN. CODE § 80.23(d)(2), the Executive Director and Office of Public Interest Counsel may not be assessed any portion of the transcript and reporting costs.
70. For the reasons set out in the Findings of Fact, the court reporting and transcript costs should be assessed as follows: 50% to BFI and 50% to TJFA.
71. In accordance with 30 TEX. ADMIN. CODE § 50.117, the Commission issues this Order and the attached permit as its single decision on the permit amendment application. Information in the agency record of this matter, which includes evidence admitted at the hearing and part of the evidentiary record, documents the Executive Director's review of the permit amendment application, including that part not subject to a contested case hearing, and establishes that the terms of the attached permit are appropriate and satisfy all applicable federal and state requirements.

III. EXPLANATION OF CHANGES

1. The Commission adopted the Executive Director's clarifying and grammatical changes from his exceptions to the ALJ's PFD and Proposed Order. The ALJ recommended adoption of the Executive Director's proposed changes in his June 29, 2009 letter. Accordingly, changes were made to Finding of Fact Nos. 16, 19, 22, 35, and 104 and Conclusion of Law Nos. 2 and 4 to correct citations and grammatical errors.
2. In response to the ALJ's June 29, 2009 letter regarding operating hours, the Commission adopted the ALJ's conclusion that the Applicant's existing and proposed 24 hour per day, seven day per week operating hours are appropriate for the Landfill. However, the Commission modified the ALJ's underlying reasoning, finding instead that the Applicant bore the burden of proof on all issues in this matter and that it presented sufficient evidence to meet its burden on all issues referred to SOAH by the Commission. With regard to operating hours, the Commission determined that the evidence in the record supported a finding that BFI made a prima facie showing that its' existing and proposed

operating hours are appropriate and there was no contravening evidence offered by the Protestants in the record to warrant any changes to those hours. Thus, the Commission modified proposed Finding of Fact No. 286 and proposed Conclusion of Law Nos. 7 and 55 to reflect that the proposed operating hours for the facility are appropriate and that the Applicant bore the burden of proof on all issues referred to SOAH for hearing in this matter. Conforming clarification changes to proposed Conclusion of Law No. 68 and Ordering Provision No. 1 were also made to effectuate the clear intent of the Commission's action on this matter, pursuant to the Commission's Resolution in Docket No. 2009-0059-RES.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT:

1. The attached Type I Municipal Solid Waste Permit No. MSW-1447A is granted to BFI Waste Systems of North America, LLC.
2. The Commission adopts the Executive Director's Response to Public Comment in accordance with 30 TEX. ADMIN. CODE § 50.117. Also in accordance with Section 50.117, the Commission issues this Order and the attached permit as its single decision on the permit amendment application. Information in the agency record of this matter, which includes evidence admitted at the hearing and part of the evidentiary record, documents the Executive Director's review of the permit amendment application, including that part not subject to a contested case hearing, and establishes that the terms of the attached permit are appropriate and satisfy all applicable federal and state requirements.
3. The Applicant shall pay 50% of the court reporting and transcript costs for this case and TFJA, L.P. shall pay the remaining 50%.

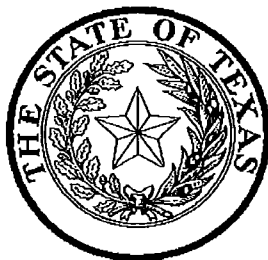
4. The Chief Clerk of the Commission shall forward a copy of this Order to all parties and issue the attached permit as changed to conform to this Order.
5. All other motions, requests for specific Findings of Fact or Conclusions of Law, and other requests for general and specific relief, if not expressly granted, are denied for want of merit.
6. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of this Order.
7. The effective date of this Order is the date the Order is final, as provided by 30 TAC § 80.273 and TEX. GOV'T CODE ANN. § 2001.144.

ISSUED: SEP 14 2009

**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**



**Buddy Garcia, Commissioner
For the Commission**



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT FACILITY
Issued under provisions of Texas
Health & Safety Code
Chapter 361

MSW Permit No.: 1447A TCEQ Docket No.: 2007-1774-MSW

Site Operator / Permittee: BFI Waste Systems of North America, LLC
4542 SE Loop 410
San Antonio, Texas 78222-3925

Property Owners: BFI Waste Systems of North America, LLC
4542 SE Loop 410
San Antonio, Texas 78222-3925

Giles Holdings, L.P.
1223 Judson Road
Longview, Texas 75601-3922

Facility Name: BFI Sunset Farms Landfill

Classification of Site: Type I Municipal Solid Waste Management Facility

The permittee is authorized to store, process, and dispose of wastes in accordance with the limitations, requirements, and other conditions set forth herein. This amended permit is granted subject to the rules and orders of the Commission and laws of the State of Texas and it replaces any previously issued permit. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality. This permit will be valid until canceled, amended, or revoked by the Commission.

APPROVED, ISSUED AND EFFECTIVE in accordance with Title 30 Texas Administrative Code Chapter 330, as in effect before March 27, 2006.

ISSUED DATE:

For the Commission

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BFI Sunset Farms Landfill
MSW Permit No. 1447A
Travis County

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PART NO. 1

I. Location and Size of Facility

- A. The BFI Waste Systems of North America Sunset Farms Landfill is located approximately three quarters of a mile north of the intersection of Giles Road and U.S. Highway 290, in Travis County, Texas. The site is within the city limits and extra-territorial jurisdiction of the City of Austin. The address of the landfill entrance is 9912 Giles Road.
- B. The legal description is contained in Part I of the application, in Attachment A of this permit.
- C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude: N 30° 20' 21"
Longitude: W 97° 37' 01"
Elevation: 613.40 feet above mean sea level (msl)
- D. The total area within the permit boundary is approximately 349.4 acres, of which approximately 251.5 acres will be used for waste disposal. The final maximum elevation of the waste fill and final cover material will be 795 feet msl.

II. Incorporated Application Materials

This permit is based on and the permittee shall follow Parts I through IV of the permit application dated August 1, 2005, and the revisions dated May 8, 2006, August 22, 2006, November 10, 2006, January 18, 2007, February 12, 2007, March 14, 2007, May 12, 2008, January 16, 2009 and January 29, 2009, which are hereby approved subject to the terms of this permit and any other orders of the Texas Commission on Environmental Quality (TCEQ). These materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these application materials shall become conditions of this permit upon the date of approval by the Commission.

Part V of the permit application shall be submitted upon completion of construction of the facility. The permittee shall maintain Parts I through V of the application as described in Title 30 Texas Administrative Code (30 TAC), Chapter 330, Section (§) 330.51(a) at the facility and make them available for inspection by TCEQ personnel. (Chapter 330 rule citations in this document refer to the rules in effect at the time of the application, before the March 27, 2006, revisions.)

III. Facilities and Operations Authorized

A. Days and Hours of Operation

The facility is authorized to operate and accept waste 24 hours per day, seven days per week.

B. Wastes Authorized at This Facility

The permittee is authorized to dispose of municipal solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including household garbage, putrescible wastes, rubbish, ashes, brush, street cleanings, dead animals, construction-demolition waste, and yard waste. The facility may also accept, regulated asbestos-containing material from municipal sources, Class 1 industrial nonhazardous solid waste that is considered Class 1 only because of asbestos content (30 TAC §330.136(b) and §330.137(b)), Class 2 industrial nonhazardous solid waste, Class 3 industrial nonhazardous solid waste, and certain special wastes identified in Part IV in Attachment A of this permit. The acceptance of special wastes is contingent upon such waste being handled in accordance with 30 TAC §330.136, and in accordance with the listed and described procedures in Part IV in Attachment A of this permit, subject to the limitations and special provisions provided herein.

C. Wastes Prohibited at This Facility

The permittee shall comply with the waste disposal restrictions set forth in 30 TAC §330.5(e). Hazardous wastes (other than municipal hazardous waste from conditionally exempt small quantity generators), radioactive wastes, polychlorinated biphenyl (PCB) wastes, nonhazardous Class 1 industrial wastes (other than that considered Class 1 only because of asbestos content), or any other wastes not identified in Section III.B. of this permit shall not be accepted at this facility.

D. Waste Acceptance Rate

Authorized solid waste may be accepted for disposal at this site at the initial rate of approximately 3,150 tons-per-day and increasing over time to a maximum acceptance rate of approximately 5,000 tons-per-day. The actual yearly waste acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance. Present and future waste acceptance rates are detailed in Part III, Appendix IIIA in Attachment A of this permit.

E. Volume Available for Waste Disposal

The total waste disposal capacity of the landfill is 38,333,735 cubic yards, based on the information contained in Appendix III-A of Part III, in Attachment A of this permit.

F. Facilities Authorized

The permittee is authorized to operate a Type I municipal solid waste landfill that utilizes a combination of area excavation fill and aerial fill of the municipal solid waste landfill, subject to the limitations contained herein. All waste disposal activities subject to permitting are to be confined to the following facilities, which shall include disposal units, structures, appurtenances, or improvements: access roads, dikes, berms and temporary drainage channels, permanent drainage structures, detention ponds, wheel-wash facility, fuel storage tanks, citizen drop-off area, brush storage and grinding area, landfill gas management system, contaminated water management system, final cover, groundwater monitoring system, landfill liner system, and other improvements.

G. Changes, Additions, or Expansions

Any proposed facility changes must be authorized in accordance with the Texas Commission on Environmental Quality (TCEQ) permit amendment or modification rules, 30 TAC Chapters 305 and 330.

IV. Facility Design, Construction, and Operation

A. Facility design, construction, and operation and/or maintenance must comply with the provisions of this permit; Commission Rules, including 30 TAC §§330.50 through 330.65, 330.111 through 330.139, 330.150 through 330.159, 330.200 through 330.206, 330.230 through 330.242, 330.250 through 330.256, 330.280 through 330.284, and 330.300 through 330.305; Chapter 37, Subchapter R; special provisions contained in this permit; and Parts I through IV of the application in Attachment A of this permit, and shall be managed in a manner to protect human health and the environment.

B. The entire waste management facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the point of compliance as defined in 30 TAC §330.2 and to prevent inundation or discharge from the areas surrounding the facility components. Each

receiving, storage, processing, and disposal area shall have a containment system that will collect spills and incidental precipitation in such a manner as to:

1. Preclude the release of any contaminated runoff, spills, or precipitation;
 2. Prevent washout of any waste by a 100-year storm; and
 3. Prevent run-on into the disposal areas from off-site areas.
- C. The site shall be designed and operated so as not to cause a violation of:
1. The requirements of §26.121 of the Texas Water Code;
 2. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements of §402, as amended, and/or the Texas Pollutant Discharge Elimination System (TPDES), as amended;
 3. The requirements under §404 of the Federal Clean Water Act, as amended; and
 4. Any requirement of an area wide or statewide water quality management plan that has been approved under §208 or §319 of the Federal Clean Water Act, as amended.
- D. Contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §330.55(b)(6), 30 TAC §330.56(o), and Part III, Attachment 15 in Attachment A of this permit.
- E. Best management practices for temporary erosion and sedimentation control shall remain in place until sufficient vegetative cover has been established to control and mitigate erosion on areas having final cover. Vegetative cover will be monitored and maintained throughout the post-closure care period in accordance with Part III, Attachment 13 in Attachment A of this permit.
- F. Storm water runoff from the active portion of the landfill shall be managed in accordance with 30 TAC §330.55(b)(3) and §330.133(b), and as described in Part III in Attachment A of this permit.
- G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve

compliance with this permit. The permittee shall comply with 30 TAC §330.52(b)(9) and as described in Part I in Attachment A of this permit. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility, in accordance with Part III and Part IV in Attachment A of this permit. All facility employees and other persons involved in facility operations shall obtain the appropriate level of operator certification as required by recent changes in the statute and applicable regulations.

- H. The facility shall be properly supervised to assure that bird populations will not increase and that appropriate control procedures will be followed. Any increase in bird activity that might be hazardous to safe aircraft operations will require prompt mitigation actions.

V. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 330, Subchapter K and 30 TAC Chapter 37, Subchapter R.
- B. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of closure of the landfill in accordance with 30 TAC §§330.253(d)(6) and 330.281. The closure cost estimate of \$39,099,849 (2004 dollars) is based on estimates as described in Part III, Attachments 8 and 12, in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2004 until the year the permit is issued.
- C. Within 60 days after the date of issuance of this permit, the permittee shall provide financial assurance instrument(s) for demonstration of post-closure care of the landfill in an amount for the entire landfill facility. The post-closure care cost estimate of \$7,984,570 (2005 dollars) is based on estimates as described in Part III, Attachments 8 and 13, in Attachment A of this permit. The financial assurance instrument shall be in an amount that includes the inflation factors for each calendar year following 2005 until the year the permit is issued.
- D. The owner and/or operator shall annually adjust closure and/or post-closure care cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC §330.281 and §330.283, as applicable.

- E. If the facility closure and/or post-closure care plan is modified in accordance with 30 TAC §305.70, the permittee shall provide new cost estimates in current dollars in accordance with 30 TAC §§330.253(d)(6), 330.254(b)(3)(D), 330.281, and 330.283, as applicable. The amount of the financial assurance mechanism shall be adjusted within 45 days after the modification is approved. Adjustments to the cost estimates and/or the financial assurance instrument to comply with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit, shall be initiated as a modification within 30 days after the effective date of the new regulation.

VI. Facility Closure

Closure of the facility shall commence:

- A. Upon completion of the disposal operations and the site is completely filled or rendered unusable in accordance with Part III, Attachment 7 in Attachment A of this permit. All waste receipt shall cease on or before November 1, 2015. After the last receipt of wastes, the permittee shall complete installation of the permitted final cover system in accordance with 30 TAC §330.253;
- B. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of this permit or violation of State or Federal regulations. The Executive Director is authorized to issue emergency orders to the permittee in accordance with §5.501 and §5.512 of the Water Code regarding this matter after considering whether an emergency requiring immediate action to protect the public health and safety exists;
- C. Upon abandonment of the site;
- D. For failure to secure and maintain an adequate bond or other financial assurance as required; or
- E. Upon the permittee's notification to the TCEQ that the landfill will cease to accept waste and no longer operate at any time prior to the site being completely filled to capacity.

VII. Site Completion and Closure

The landfill shall be completed and closed in accordance with 30 TAC §330.250 and the applicable portions of 30 TAC §§330.253 through 330.256. Upon closure, the permittee shall submit to the Executive Director documentation of closure as set out in 30 TAC

§330.253. Post-closure care and maintenance shall be conducted in accordance with Part III, Attachment 13 found in Attachment A of this permit, for a period of 30 years or as otherwise determined by the Executive Director pursuant to 30 TAC §330.254(b).

VIII. Standard Permit Conditions

- A. Parts I through IV, as described in 30 TAC §330.51(a), which comprise the Permit Application for MSW Permit No. 1447A are hereby made a part of this permit as Attachment A. The permittee shall maintain Parts I through IV and Part V, as described in 30 TAC §330.51(a), at the facility and make them available for inspection by TCEQ personnel. The contents of Part III of Attachment A of this permit shall be known as the "Approved Site Development Plan," in accordance with 30 TAC §330.54 and §330.55. The contents of Part IV of Attachment A of this permit shall be known as the "Approved Site Operating Plan," in accordance with 30 TAC §330.57 and §330.114.
- B. Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- C. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act, and is grounds for an enforcement action, revocation, or suspension.
- D. A pre-construction conference shall be held pursuant to 30 TAC §330.64(c) before beginning any construction within the permit boundary to ensure that all aspects of this permit, construction activities, and inspections are met. Additional pre-construction conferences may be held prior to the opening of the facility.
- E. A pre-opening inspection shall be held pursuant to 30 TAC §330.64(d).
- F. The permittee shall monitor sediment accumulations in ditches and culverts on a quarterly basis, and remove sedimentation to re-establish the design flow grades on an annual basis or more frequently if necessary to maintain the design flow.
- G. The tracking of mud off-site onto any public right-of-way shall be minimized.
- H. In accordance with 30 TAC §330.7(a), the permittee shall record in the deed records of Travis County, a metes and bounds description of all portions within the permit boundary on which disposal of solid waste has and/or will take place. A certified

copy of the recorded document(s) shall be provided to the Executive Director in accordance with 30 TAC §330.7(b).

- I. Daily cover of the waste fill areas shall be performed with clean soil that has not been in contact with waste. Intermediate cover, run-on, and run-off controls shall not be constructed from soil that has been scraped up from prior daily cover or which contains waste.
- J. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and speed bumps/mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- K. In complying with the requirements of 30 TAC §330.123, the permittee shall consult with the local District Office of the Texas Department of Transportation or other authority responsible for road maintenance, as applicable, to determine standards and frequencies for litter and mud cleanup on state, county, or city maintained roads serving the site. Documentation of this consultation shall be submitted within 30 days after the permit has been issued.
- L. The permittee shall retain the right of entry onto the site until the end of the post-closure care period as required by 30 TAC §330.62(b).
- M. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until the end of the post-closure care period as required by §361.032 of the Texas Health and Safety Code.
- N. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- O. Regardless of the specific design contained in Attachments A and B of this permit, the permittee shall be required to meet all performance standards required by the permit, the regulations, and as required by local, state, and federal laws or ordinances.
- P. If differences exist between permit provisions, application materials (incorporated as Parts I through IV of Attachment A of this permit) and the rules under 30 TAC Chapter 330, then the permit provisions and the rules shall hold precedence over the

application materials. The Special Provisions contained in Section X of this permit shall hold precedence over any inconsistent provisions in this permit.

- Q. The permittee shall comply with the requirements of the air permit exemption in 30 TAC §106.534, if applicable, and the applicable requirements of 30 TAC Chapters 106 and 116.
- R. All discharge of storm water will be in accordance with the U.S. Environmental Protection Agency NPDES requirements and/or the State of Texas TPDES requirements, as applicable.

IX. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 37, 281, 305, and 330 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

X. Special Provisions

- A. The permittee shall comply with the conditions specified in a letter from the Capital Area Council of Governments (CAPCOG) to the TCEQ, dated August 23, 2006, and agreed to by the applicant in a letter to CAPCOG dated January 18, 2007, as described in Section I.B (Supplementary Technical Report) of Part I of the application and documented in Section II.K (Coordination Letters) of Part II of the application, in Attachment A of this permit.
- B. All waste receipt shall cease on or before November 1, 2015. The permittee shall restrict the property on which the landfill currently operates from use for transfer station operations on or after November 1, 2015. After the last receipt of wastes, the permittee shall complete installation of the permitted final cover system in accordance with 30 TAC §330.253. The maximum heights, depths and footprint for the landfill fill area, as approved by the TCEQ under permit No. MSW 1447A shall not be exceeded by any subsequent modification or amendment of the permit.
- C. Leachate and gas condensate shall not be recirculated.

- D. The permittee shall repair eroded cover within 5 days of detection unless the commission's regional office approves otherwise.
- E. The following Special Provisions are incorporated as a result of a settlement agreement between the permittee, Giles Holdings, L.P., and the City of Austin, and include the definitions below which apply to Special Provisions E.1 through E.9:

Side slope means the exterior edges of fill areas or sidewalls of detention ponds which generally will have a slope steeper than 10%.

Top deck means the top portion of the landfill which generally will have a slope flatter than 10%.

Adequate vegetation growth means 85% surface area coverage in vegetation at least 1" tall.

Seeding events means seeding in compliance with City of Austin Environmental Criteria Manual (ECM) Section 1.4.7 A (Exhibit 1) except as otherwise noted.

Amended landfill permit means proposed TCEQ draft permit 1447A for the Sunset Farms Landfill.

Property means the property on which the Landfill operates as described in the amended landfill permit application.

1. BFI shall place intermediate cover and implement seeding events, on all side slope areas on which waste placement activity has not recommenced within 60 days except BFI is under no obligation to seed such areas during the months of July and August. These seeded areas shall be irrigated in accordance with the requirements of Exhibit 1. This provision is not intended to modify the requirement to seed or sod immediately following the application of final cover as required by 30 TAC §330.253(b)(3).
2. BFI shall place intermediate cover and implement seeding events on the top deck of the landfill in all areas on which waste placement activity has not recommenced within 120 days except for that area immediately up gradient of the five constructed temporary drainage down chutes on intermediate cover areas as shown on attached Exhibit 2. Those up gradient areas shall be immediately vegetated upon construction of each down chute with a filter strip of buffalo grass sod that extends at least 100 feet out from each down chute inlet and is wide enough to filter the run off to be directed to each down

chute (See Exhibit 2 for width dimensions). The buffalo grass filter strip shall be maintained until final cover is placed. In addition, a silt fence or mulch berm or other erosion control mechanisms approved by the TCEQ shall be placed on the top deck in front of the inlet of each down chute and at the end of each constructed down chute (See Exhibit 2 for locations). These controls shall remain in place and be maintained until the areas contributing runoff to these down chutes achieve adequate vegetation growth. This provision is not intended to modify the requirement to seed or sod immediately following the application of final cover as required by 30 TAC §330.253(b)(3).

3. The initial seeding event for all areas will be accomplished using hydro-mulch seeding application procedures per Exhibit 1.
4. Seeding will be of a seasonally appropriate mix. Currently the seed mix is bermuda/millet for warm weather and rye for cold weather. When cold weather seed is used the seeded area shall be reseeded with warm weather mix within 60 days of the onset of sufficiently warm weather to support the warm weather mix. The reseeded area shall be irrigated until adequate vegetation growth is achieved.
5. Seeding for the final cover shall include a seasonally appropriate 609-S (native seeds) mix as defined in Exhibit 3, excerpt from the City of Austin Standard Specifications Manual, on approximately 15% of the surface area of the eastern and northern slopes of the landfill and for the remainder of the site a seasonally appropriate mix.
6. Perimeter sediment/erosion control devices such as silt fences, hay bales, mulch tubes or mulch berms shall be in place prior to the establishment of any soil stock piles on site. For soil stock piles which have slope lengths greater than 20 feet, mid-slope temporary stabilization controls such as seeding, tarping or placement of silt fences or mulch berms shall be implemented within fourteen days of the initial establishment of the soil stock pile and shall be maintained in good working condition until the stockpile is removed.
7. BFI shall install and maintain silt fences or mulch berms within 14 days of completion of intermediate cover at the base of all side slope and top deck intermediate cover areas until adequate vegetation growth is achieved.

8. Stormwater runoff from the landfill area designated as Drainage Area 2 shall be routed through the existing detention pond, or the proposed water quality/detention pond, when the waste fill in Drainage Area 2 has reached the final grades proposed in the landfill expansion plan.
9. BFI will ensure that the side slopes of the existing detention pond and the side slopes of the proposed water quality/detention pond in the northeast portion of the landfill shall be adequately stabilized through proper grading and maintenance and by implementing/applying vegetation on the side slopes of the ponds within thirty days of completion of construction of the pond. BFI further agrees to inspect the sedimentation ponds/basins every three months and after every half-inch rainfall event and to clean the ponds/basins by removing the accumulated sediment once the sediment has reached 25% of the respective pond capacity.
10. BFI shall not accept liquid waste as defined in 30 TAC §330.2(70) and shall not construct or operate a liquid waste stabilization/solidification basin at the Sunset Farms Landfill.
11. BFI shall take steps to discourage commercial waste hauling vehicles from utilizing Blue Goose Road as ingress or egress to the Sunset Farms Landfill except for those few vehicles which service businesses and residences in that area. These steps may include posting signs, adding surcharges, or similar measures.

F. BFI shall not use alternative material daily cover (ADC) at the Sunset Farms Landfill.

PART NO. 2

Attachment A

Parts I through IV of the permit application.

PART NO. 3

Attachment B

Minor Amendments, Corrections, and Modifications that may be issued for MSW Permit No. 1447A

BFI Sunset Farms Landfill
MSW Permit No. 1447A
Page 15

The minor amendment, modification, or correction document prepared and executed with an approval date shall be attached to this attachment. There is no limit on the number of these documents that may be included in Attachment B of this permit.

EXHIBIT 1

Vegetative Practices

Temporary Vegetative Stabilization of Disturbed Areas

1. Description.

Stabilize soil in disturbed areas with temporary vegetation or mulching.

2. Purpose.

To stabilize the soil; to reduce damages from sediment and runoff to downstream areas; improve wildlife habitat; enhance natural beauty.

3. Conditions Where Practice Applies.

Use vegetation to temporarily stabilize the soil on disturbed, graded or cleared areas prior to establishment of permanent vegetation.

4. Design Criteria.

Prior to vegetative establishment, install needed erosion control practices, such as diversions, grade stabilization structures, berms, dikes, level spreaders, and sediment basins.

Final grading and shaping has usually not been completed for temporary stabilization.

5. Fertilizer.

For temporary vegetative establishment, apply fertilizer with an analysis of 15-15-15 at the rate of .5 pounds of nitrogen per 1,000 square feet during the installation period. In order to avoid the conveyance of nutrients off-site, the timing shall not occur when rainfall is expected.

6. Seed Bed Preparation.

Prepare a suitable seed bed which allows good seed-to-soil contact and soil conditions that are conducive to vegetative growth. Do not disturb the soil within the critical root zone of existing trees.

Areas of compacted soil shall be loosened to a depth of at least two (2) inches by plowing, discing, raking or other acceptable means before seeding. In areas where no topsoil exists, or where fill is needed, the subgrade shall be loosened by discing or by scarifying to a depth of at least two (2) inches to permit bonding of the topsoil to the subsoil.

Topsoil, when used, shall have the following requirements: The depth of the topsoil shall be a minimum of 6" in all areas except within the critical root zone of existing trees. Do not add topsoil within the critical root zone of existing trees.

For temporary vegetative stabilization, the top six inches of soil used for intermediate cover must contain sufficient organic matter and nutrients to support vegetative cover. The following description is not required but is a suggested mix which will be presumed to meet this performance requirement: *The topsoil shall be composed of 3 parts of soil mixed with 1 part Compost, by volume. The compost*

shall be Dillo Dirt or an equal approved by the Engineer, or designated representative. The soil shall be locally available native soil that meets the following specifications:

- Shall be free of trash, weeds, deleterious materials, rocks, and debris.
- 100% shall pass through a 0.75-inch screen.
- Less than 25 % shall pass through a #200 sieve.

Topsoil salvaged from the existing site may often be used, but it should meet the same standards as set forth in these standards.

7. Seeding.

If seeding is to be conducted during the cool season (November 1 to February 15) select species noted as "cool season cover crop" from the tables in Standard Specification 604S and/or 609S. If seeding is to be conducted during the warm season (February 16 to October 31) use one of the following options (whichever is applicable).

- Native Seeding: Green Sprangletop (*Leptochloa dubia*) at the rate of 4 lbs. per acre.
- Non-native Seeding: Comply with 604S.5 using Bermuda grass.
 - Apply seed uniformly with a seed spreader, drill, cultipacker seeder or hydroseeder (slurry includes seed, fertilizer and binder).

8. Protection of Seed Bed with Hydromulching or Soil Retention Blanket.

Newly-installed temporary vegetation must be protected by hydromulch or soil retention blanket (refer to Standard Specification 605S Soil Retention Blanket) immediately after seeding. Protection of the seed bed shall occur in a manner that will allow seed germination and that encourages effective vegetative growth. Hydromulching, when used, shall comply with the requirements of Table 1.4.7-A: Hydromulching for Temporary Vegetative Stabilization.

Table 1.4.7-A: Hydromulching for Temporary Vegetative Stabilization

Material	Description	Longevity	Typical Applications	Application Rates
70/30 Wood/Cellulose Blend Mulch	70% Wood 30% Paper 3% Tackifier	0-3 months	Moderate slopes; from flat to 3:1	45.9 lbs/1000 sf
Wood Fiber Mulch	96% Wood 3% Tackifier	0-3 months	Moderate slopes; from flat to 3:1	45.9 lbs/1000 sf

a. 70/30 Wood/Cellulose Blend Fiber Mulch. Wood/Cellulose blend fiber mulch shall consist of 70% long wood grain fibers produced from grinding clean, whole wood chips and 30% cellulose fiber produced from ground newsprint. Refer to Table 1.4.7-B for mulch properties and to Standard Specification 604S – Seeding for additional mulch requirements.

b. Wood Fiber Mulch. Wood fiber mulch shall consist of 100% long wood grain fibers produced from grinding clean, whole wood chips. Refer to Table 1.4.7-C for mulch properties and to Standard Specification 604S – Seeding for additional mulch requirements.

Table 1.4.7-B: Properties of 70/30 Wood/Cellulose Blend Fiber Mulch

<u>Property (Test Method)</u>	<u>Required Value</u>
<u>Moisture content %</u>	<u>12.0% ±3.0% (max.)</u>
<u>Organic matter % - wood fiber</u>	<u>70% ±1% Oven Dry Basis (min.)</u>
<u>Organic matter % - paper fiber</u>	<u>30.0% ±1% Oven Dry Basis (max.)</u>
<u>Tacking Agent</u>	<u>3.0% (min.)</u>
<u>Water holding capacity</u>	<u>1,000 Grams of water per 100 grams of fiber (min.)</u>

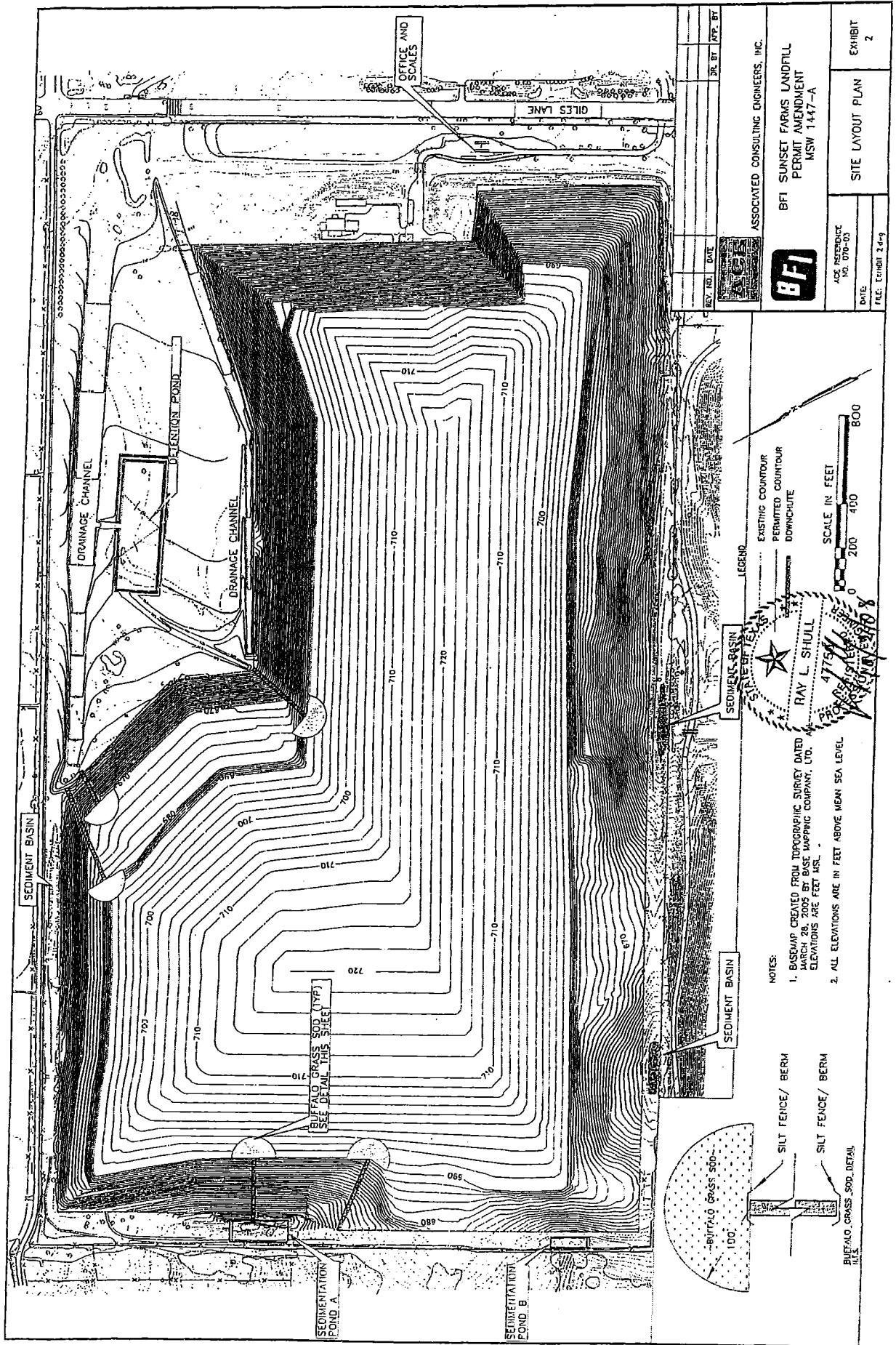
Table 1.4.7-C: Properties of Wood Fiber Mulch

<u>Property (Test Method)</u>	<u>Required Value</u>
<u>Moisture content %</u>	<u>12.0% ±3.0% (max.)</u>
<u>Organic matter % - wood fiber</u>	<u>96% ±1% Oven Dry Basis (min.)</u>
<u>Organic matter % - paper fiber</u>	<u>30.0% ±1% Oven Dry Basis (max.)</u>
<u>Tacking Agent</u>	<u>3.0% (min.)</u>
<u>Water holding capacity</u>	<u>1,000 Grams of water per 100 grams of fiber (min.)</u>

9. Watering

Seed germination will be expected within 1 week of sowing. Watering is required to germinate seed and maintain growth. Seedlings shall be watered daily, or more often as necessary to ensure growth and to ensure that the vegetative cover stabilizes the soil as required.

Exhibit 2



REV.	NO.	DATE	BY	APP.	BY

ASSOCIATED CONSULTING ENGINEERS, INC.

BFI BFI SUNSET FARMS LANDFILL PERMIT AMENDMENT MSW 1447-A

AGE REFERENCE NO. 078-05
DATE
FILE: Enroll 2-4-9

SITE LAYOUT PLAN

EXHIBIT 2

LEGEND

- EXISTING COUNTOUR
- PERMITTED COUNTOUR
- DOWNGRUTE

SCALE IN FEET

0 200 400 800

RAY L. SHULL

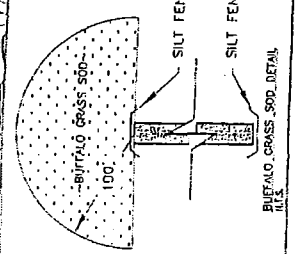
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- NOTES:
1. BASEMAP CREATED FROM TOPOGRAPHIC SURVEY DATED MARCH 28, 2005 BY BASE MAPPING COMPANY, LTD. ELEVATIONS ARE FEET MSL.
 2. ALL ELEVATIONS ARE IN FEET ABOVE MEAN SEA LEVEL.



BUFFALO GRASS SOD (TYP)
SEE DETAIL THIS SHEET

SEDIMENT BASIN

SEDIMENT BASIN

SEDIMENTATION POND A

SEDIMENTATION POND B

OFFICE AND SCALES

GILES LANE

DRAINAGE CHANNEL

DRAINAGE CHANNEL

DETECTION POND

SEDIMENT BASIN

SEDIMENT BASIN

SEDIMENT BASIN

SEDIMENT BASIN

EXHIBIT 3

If the native grassland is being installed during the cool season (November 1 to February 15), the cool season cover crop species (as listed) shall be included in the mix.

The rooted plants shall be applied in accordance with appropriate 'growing environments' (UFS = Upland Full Sun; USD = Upland Shade-Dappled; and FHM = Facultative, Moderate to High Moisture)

Table 2: Native Grass Planting Options				
Select Rooted Grasses For Appropriate Environments On Project Site Use Several Species If Site Environment Is Diverse Or To Achieve Greater Diversity				
Common Name	Botanical Name	Spacing	Size	Preferred Environment
Buffalo Grass	<i>Buchloe dactyloides</i>	5 foot centers	16" X 24" piece of sod	UFS.
Sideoats Grama	<i>Bouteloua curtipendula</i>	5 foot centers	1 gallon equivalent	UFS
Green Sprangletop	<i>Leptochloa dubia</i>	5 foot centers	1 gallon equivalent	UFS
Little Bluestem	<i>Schizachyrium scoparium</i>	5 foot centers	1 gallon equivalent	UFS
Blue Grama Grass	<i>Bouteloua gracilis</i>	5 foot centers	1 gallon equivalent	UFS
Big Bluestem	<i>Andropogon gerardii</i>	5 foot centers	1 gallon equivalent	UFS or FHM
Indiangrass	<i>Sorghastrum nutans</i>	5 foot centers	1 gallon equivalent	UFS or FHM
Bushy Bluestem	<i>Andropogon glomeratus</i>	5 foot centers	1 gallon equivalent	FHM
Big Muhly (Lindheimer's)	<i>Muhlenbergia lindheimeri</i>	5 foot centers	1 gallon equivalent	FHM
Eastern Gama Grass	<i>Tripsacum dactyloides</i>	5 foot centers	1 gallon equivalent	FHM
Switchgrass	<i>Panicum virgatum</i>	5 foot centers	1 gallon equivalent	FHM
Inland Sea Oats	<i>Chasmanthium latifolium</i>	5 foot centers	1 gallon equivalent	USD
Canada Wild Rye	<i>Elymus canadensis</i>	5 foot centers	1 gallon equivalent	USD
Caric Sedges	<i>Carex spp.</i>	5 foot centers	1 gallon equivalent	USD
Canada Wild Rye	<i>Elymus canadensis</i>	5 foot centers	1 gallon equivalent	USD

The seed mixture and the rate of application shall be as follows for both native grasses and wildflowers:

Common Name	Botanical Name	Application rates	
		Lbs/1000 feet ²	kg/ 100 meter ²
Indiangrass	Sorghastrum nutans	0.2	0.10
Sideoats grama	Bouteloua curtipendula	0.2	0.10
Green sprangletop	Leptochloa dubia	0.2	0.10
Buffalo Grass	Buchloe dactyloides	0.1	0.05
Little Bluestem	Schizachyrium scoparium	0.05	0.025
Blue Grama Grass	Bouteloua gracilis	0.2	0.10
Canada Wild Rye	Elymus canadensis	0.2	0.10
Eastern gamagrass	Tripsacum dactyloides	0.2	0.10
Switchgrass	Panicum virgatum	0.1	0.05
Big Bluestem	Andropogon gerardii	0.05	0.025
Total Grass Seeding Rate		1.5	0.75

Common Name	Botanical Name	Application rates	
		Lbs/1000 feet ²	kg/ 100 meter ²
Black-Eyed Susan	Rudbeckia hirta	0.05	0.025
Bundleflower	Desmanthus illinoensis	0.05	0.025
Scarlet Sage	Salvia coccinea	0.10	0.05
Pink Evening Primrose	Oenothera speciosa	0.05	0.025
Phlox	Phlox Drummondii	0.05	0.025
Coreopsis	Coreopsis tinctoria	0.05	0.025
Greenthread	Thelesperma filifolium	0.05	0.025
Purple Prairie Clover	Petalostemum purpurea	0.05	0.025
Cutleaf Daisy	Engelmannia pinnatifida	0.05	0.025
Partridge Pea	Cassia fasciculata	0.1	0.05
Indian Blanket	Gaillardia pulchella	0.1	0.05
Bluebonnet	Lupinus texensis	0.15	0.075
Mexican Hat	Ratibida columnaris	0.05	0.025
Maximilian Sunflower	Helianthus maximiliani	0.1	0.05
Total Wildflower Seeding Rate		1.0	0.5
Total Warm Season		2.5	1.25

Seeding Rate (Grass & Wildflowers)			
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Table 5: Cool Season Cover Crop			
Common Name	Botanical Name	Application rates	
		Lbs/1000 feet ²	kg/ 100 meter ²
Wheat	Triticum aestivum	0.5	0.25
Oats	Avena sativa	0.5	0.25
Cereal Rye Grain	Secale cereale	0.5	0.25
Total Cool Season Cover Crop Seeding Rate		1.5	0.75
Total Cool Season Seeding Rate (Grass, Wildflowers, & Cover Crop)		4.0	2.0

Species substitution as necessary due to availability shall be approved by the Engineer or designated representative. Watering and fertilizer application shall follow procedures outlined above or as otherwise specified on the Drawings.

Seed shall be applied by broadcast or drill method and shall be distributed evenly over the topsoil. Mulching shall immediately follow seed application.

September 15 to March 1:

Add 1.5 pounds per 1000 square feet (0.75 kilograms per 100 square meters) of cool season cover crop to grass and wildflower mixture.