

CAUSE NO. D-1-GN-09-004062

TJFA, L.P.,

Plaintiff,

v.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,

Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

353rd JUDICIAL DISTRICT

PLAINTIFF TJFA, L.P.'S SECOND SUPPLEMENTAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, TJFA, L.P. ("Plaintiff") and files this its *Second Supplemental Petition* in order to answer *Giles Holdings, LP's Provisional Petition in Intervention and Original Answer (Subject to the TCEQ's Plea to the Jurisdiction)*. In support of this filing, Plaintiff would respectfully show the Court as follows:

I. INTRODUCTION

1. Plaintiff is TJFA, L.P. Defendant is the Texas Commission on Environmental Quality ("TCEQ" or the "Commission").

2. Plaintiff brought suit against Defendant seeking judicial review of Defendant's decision to grant the application for permit amendment of BFI Waste Systems of North America, LLC ("BFI") for an expansion of a municipal solid waste ("MSW") landfill (Permit No. MSW-1447A), known as the Sunset Farms Landfill, which lies in Travis County.

3. This *Second Supplemental Petition* is to supplement and not to take the place of Plaintiff's *Original Petition* or Plaintiff's *First Supplemental Petition* on file in this case.

4. Defendant filed a *Plea to the Jurisdiction, or, in the Alternative, Motion to Dismiss, and Original Answer* on January 29, 2010.

5. Plaintiff filed its *Response to Defendant Texas Commission on Environmental Quality's Plea to the Jurisdiction and Alternative Motion to Dismiss* on February 9, 2010, asking

the Court to deny Defendant's motion to dismiss for lack of jurisdiction and retain Plaintiff's suit on the Court's docket.

6. BFI filed a *Provisional Petition in Intervention, Original Answer and Counterclaim* ("BFI Petition") on February 11, 2010.

7. Plaintiff filed a First Supplemental Petition on February 25, 2010, in response to *BFI Waste Systems of North America, LLC's Provisional Petition in Intervention, Original Answer and Counterclaim*.

8. Giles Holdings filed a *Provisional Petition in Intervention and Original Answer (Subject to the TCEQ's Plea to the Jurisdiction)* ("Giles Petition") on April 21, 2010.

II. RESPONSE TO GILES ASSERTIONS REGARDING PLEA TO THE JURISDICTION

9. In the *Giles Petition*, Giles asserts that Defendant's Plea to the Jurisdiction is meritorious.

10. TJFA disputes this assertion, and in response thereto, incorporates by reference its *Response to Defendant Texas Commission on Environmental Quality's Plea to the Jurisdiction and Alternative Motion to Dismiss*.

III. RESPONSE TO GILES' PETITION IN INTERVENTION

11. Plaintiff does not oppose Giles' Petition in Intervention.

IV. PRAYER

12. For these reasons, TJFA, L.P. asks the Court to deny the Texas Commission on Environmental Quality's *Plea to the Jurisdiction, or, in the Alternative, Motion to Dismiss* and retain Plaintiff's suit on the Court's docket.

Respectfully submitted,

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ATTORNEYS FOR TJFA, L.P.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on the following via hand delivery, express mail, electronic mail, facsimile, and/or U.S. First Class Mail, on this the 17th day of May, 2010.

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