TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 3, 2008

TO: Persons on the attached mailing list.

RE: Waste Management of Texas, Inc.
TCEQ Docket No. 2006-1931-MSW; SOAH Docket No. 582-07-0863
MSW Permit No. 66B

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.

An original and 11 copies of the motion must be sent to the chief clerk at the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

In addition, a copy of the motion must be sent on the same day to each of parties 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 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,

LaDonna Castañuela
Chief Clerk

LDC/ms

Enclosures

Waste Management of Texas, Inc.
TCEQ Docket No. 2006-1931-MSW
SOAH Docket No. 582-07-0863

FOR THE APPLICANT:

Bryan J. Moore ✻
John Riley
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568

Steve Jacobs, Area Landfill Manager
Waste Management of Texas, Inc.
9708 Giles Road
Austin, Texas 78754-9744

Ric Green, District Manager
Waste Management of Texas, Inc.
8611 Covel Road
San Antonio, Texas 78252

Scott Graves, P.E.
Geosyntec Consultants
3600 Bee Caves Road, Suite 101
Westlake Hills, Texas 78746

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR:

Anthony Tatu, Staff Attorney ✻
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Pladej Prompuntagorn, 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:

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:

Garrett Arthur, Attorney ✻
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

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

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

* Courtesy Copy

BRIANA MOLINA-VASQUEZ
910 WATER SPRAY LN
NEW BRAUNFELS TX 78130-8420

TOM ADAMS
384 E CAMP ST
NEW BRAUNFELS TX 78130-4206

ISMAEL ALEGRIA
246 GROVE LN
NEW BRAUNFELS TX 78130-8218

MINNIE ALEGRIA
246 GROVE LN
NEW BRAUNFELS TX 78130-8218

CHRIS ALLAN
PO BOX 311
MARTINDALE TX 78655-0311

DAVID B ARMBRUST & KIMBERLY S BECKHAM
STE 1300
100 CONGRESS AVE
AUSTIN TX 78701-4072

ENRIQUE ARMENDARIZ
2119 GRUENE RD
NEW BRAUNFELS TX 78130-3304

JOSEFA ARMENDARIZ
1447 CROSS ST
NEW BRAUNFELS TX 78130-6341

RAUL ARMENDARIZ
1447 CROSS ST
NEW BRAUNFELS TX 78130-6341

ROSA ARMENDARIZ
2119 GRUENE RD
NEW BRAUNFELS TX 78130-3304

CHRIS ARRALL
1406 PAMS PATH
NEW BRAUNFELS TX 78130-3132

DAVID BACOBITO
1058 NORTHPARK RDG
NEW BRAUNFELS TX 78130-8378

LORENZ F BADING
6201 FM 1101
NEW BRAUNFELS TX 78130-7109

DANIEL J BAKER
3838 FM 725
NEW BRAUNFELS TX 78130-9026

LOWELL BAKER
516 LIMESTONE
NEW BRAUNFELS TX 78130-2572

MICHAEL D BEARD
594 RUSK ST
NEW BRAUNFELS TX 78130-3744

LEO POLDO BELTRAN
170 S MESQUITE AVE
NEW BRAUNFELS TX 78130-6363

BRENT BELVEN
839 CANYON BND
CANYON LAKE TX 78133-6512

PAUL BERGLUND
704 LAZY LN
SAN MARCOS TX 78666-9460

ALICIA BLACK
519 BUTTERCUP
NEW BRAUNFELS TX 78130-3505

MITCHELL BLACK
519 BUTTERCUP
NEW BRAUNFELS TX 78130-3505

DERWIN L BOHNE
9409 GLOXINIA DR
GARDEN RIDGE TX 78266-2534

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

CORA BRIETZKE
947 KROESCHE LN
NEW BRAUNFELS TX 78130-7403

KENNETH BRIETZKE
947 KROESCHE LN
NEW BRAUNFELS TX 78130-7403

MARK BRIGANCE
31017 SETTING SUN DR
BULVERDE TX 78163-2746

MICHAEL BROTZE
1400 ISLAND VW
NEW BRAUNFELS TX 78133-5115

JEREMY BRUNS
22438 S STATE HIGHWAY 123
SEGUIN TX 78155-1018

DUSTIN CADDELL
17 OAK MOSS
NEW BRAUNFELS TX 78132-3862

STEVEN CARL
206 HARMONS WAY
SAN MARCOS TX 78666-9342

TOM C CHAFFE
11950 SHADOW LN
NEW BRAUNFELS TX 78132-3627

CONCERNED CITIZEN
157 CRESCENT LN
NEW BRAUNFELS TX 78130

LANCE DAMUTH
PO BOX 1674
CANYON LAKE TX 78133-0021

DIANA CHAPA
429 WATSON LN W
NEW BRAUNFELS TX 78130-7161

CONCERNED CITIZEN
2665 KATY ST
NEW BRAUNFELS TX 78130-6974

WILLIAM DAWSON
9613 MEADOW RUE
SAN ANTONIO TX 78266-2547

PETE CLARK
148 KINGSBURY
CANYON LAKE TX 78133-3211

CONCERNED CITIZEN
1049 BOB WHITE DR
SPRING BRANCH TX 78070-5200

JAMES DE LA ZERDA
60 LONGHORN RD
STOCKDALE TX 78160-6111

VICTOR COCCHIOLA
304 SAUDER FARMS RD
NEW BRAUNFELS TX 78130-1861

CONCERNED CITIZEN
1080 FOREST TRL
NEW BRAUNFELS TX 78132-4620

PORTER DEWAR
2515 COUNTRY LEDGE DR
NEW BRAUNFELS TX 78132-4109

DONNA COELLO
3281 CORDOVA RD
SEGUIN TX 78155-0137

CONCERNED CITIZEN
5565 N IH 35
NEW BRAUNFELS TX 78130-7128

MONTY DICKSION
1463 EDGEWATER FLS
CANYON LAKE TX 78133-4501

SAMANTHA CONABLE
2300 LIMESTONE LEDGE
SPRING BRANCH TX 78070-3634

CONCERNED CITIZEN
355 COPPER MTN
NEW BRAUNFELS TX 78130-7021

RYAN DIXON
2340 WEGNER RD
NEW BRAUNFELS TX 78132-2712

CONCERNED CITIZEN
102 HILL HAVEN DR
NEW BRAUNFELS TX 78132-2806

CONCERNED CITIZEN
1049 ALLEN AVE
NEW BRAUNFELS TX 78130-4905

J B DOCKERY
33011 BLANCO RD
BULVERDE TX 78163-1601

CONCERNED CITIZEN
781 N LONE STAR AVE
NEW BRAUNFELS TX 78130

THE HONORABLE JUDY COPE
GUADALUPE COUNTY COMM CT PCT 4
307 W COURT ST
SEGUIN TX 78155-5701

MIKE DUC
117 CHAPARRAL CIR
CIBOLO TX 78108-3182

CONCERNED CITIZEN
PO BOX 310245
NEW BRAUNFELS TX 78131-0245

JOEL CORREN
380 DITTLINGER ST
NEW BRAUNFELS TX 78130-4315

LAWRENCE G DUNBAR
DUNBAR HARDER & BENSON
STE 1850
1 RIVERWAY
HOUSTON TX 77056-1920

CONCERNED CITIZEN
1340 LEE ST
NEW BRAUNFELS TX 78130-6359

CHAD CRAWFORD
651 HORACE HOWARD DR
SAN MARCOS TX 78666-8961

SCOTT DUNN
1122 GARDENIA DR
NEW BRAUNFELS TX 78130-5904

MELVIN F DURHAM
1213 BAYLOR AVE
SAN MARCOS TX 78666-2605

TIM EAST
1205 SPRING BRANCH RD
SPRING BRANCH TX 78070-3331

KATHLEEN ELBEL
1631 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

DON F EMMIS
1062 NORTHPARK RDG
NEW BRAUNFELS TX 78130-8378

ROBERT ETLINGER ASST CNTY ATTORNEY
GUADALUPE COUNTY
STE 104
101 E COURT ST
SEGUIN TX 78155

ROBERT ETLINGER & ELIZABETH MURRAY-KC
307 W COURT ST
SEGUIN TX 78155-5701

JOYCE & RON EVANS
118 SKY COUNTRY DR
NEW BRAUNFELS TX 78132-4140

BARNEY FADUL
701 TIMBER ELM
SEGUIN TX 78155-1134

CHERYL FISHER
3366 WESTMEYER RD
NEW BRAUNFELS TX 78130-2749

MAX L FLORES
241 RHINE RD
NEW BRAUNFELS TX 78130-3232

OLGA C FLORES
241 RHINE RD
NEW BRAUNFELS TX 78130-3232

ROY FLORES
1520 PAMS PATH
NEW BRAUNFELS TX 78130-3134

BRANDY S FORTNER
166 DOVE CREST LOOP
NEW BRAUNFELS TX 78130-2573

RICKY E FRENCH
225 BRICK LN DR
SAN ANTONIO TX 78233

MARVIN B FRIEDEL
PO BOX 310158
NEW BRAUNFELS TX 78131-0158

DANIELA GARCIA
3637 FM 725
NEW BRAUNFELS TX 78130-9102

DAVID P GARCIA
3637 FM 725
NEW BRAUNFELS TX 78130-9102

RUBEN V GARCIA
221 SPRING CIR
SPRING BRANCH TX 78070-3816

SANTA CLARA GARCIA
3637 FM 725
NEW BRAUNFELS TX 78130-9102

JOHN GILBERT
232 DALLAS ST
NEW BRAUNFELS TX 78130-5373

DAVE A GOMEZ
114 KELLY LN
NEW BRAUNFELS TX 78130-8920

RAE LYNN GOMEZ
257 LONGVIEW DR
SAN ANTONIO TX 78220-1613

VICENTE GOMEZ
111 S KOWALD LN
NEW BRAUNFELS TX 78130-2609

RICARDO GONZALES
375 COMANCHE ST
NEW BRAUNFELS TX 78130-4603

ALLISON GRAHAM
120 DUNDEE GRACE
NEW BRAUNFELS TX 78130-8800

BRANDON GRAVES
APT #1
1164 MAGNOLIA
SEGUIN TX 78155-2134

JAMES GREEN SR
5 DELIA CIR
NEW BRAUNFELS TX 78130-1820

MARA GRIFFIN
113 MORALES CT
NEW BRAUNFELS TX 78130-4872

ROCKY HAGGERTY
939 KROESCHE LN
NEW BRAUNFELS TX 78130-7403

BARBARA HALL
CONCERNED LAND OWNERS
1701 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

T R HARDIN
197 FALLING HLS
NEW BRAUNFELS TX 78132-2202

BRIAN HARRELL
618 FRANKLIN DR
SAN MARCOS TX 78666-2426

MILTON HARRIS
UNIT A
320 FRANCES HARRIS LN
SAN MARCOS TX 78666-8963

NOBLE HART
541 BIRMENSDORF DR
SAN MARCOS TX 78666-2029

CHRIS HAYNES
PO BOX 2086
CANYON LAKE TX 78133-0008

FRANK HAYNES
PO BOX 2086
CANYON LAKE TX 78133-0008

KENNETH A HENN
1071 DIAMONDHEAD DR
CANYON LAKE TX 78133-3610

JAVIER HERREJON
700 WATSON LN E
NEW BRAUNFELS TX 78130-7160

WILLIAM A HESTER
8336 PARK LANE DR
GARDEN RIDGE TX 78266-2763

DAN HITZFELDER
21 HUNTERS CHASE
NEW BRAUNFELS TX 78132-4758

JOHN A HOLLAN
732 KRUEGER CYN
NEW BRAUNFELS TX 78132-4568

JOHN HOLTMAN
1520 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2728

ROBERT HOOK
1483 ORIOLE DR
NEW BRAUNFELS TX 78130-3836

STEVE HUNT
1174 ROYAL GATE DR
NEW BRAUNFELS TX 78132-2554

DANIEL HUTCHISON JR
2713 BECKER ST
NEW BRAUNFELS TX 78130-6804

JAMES JACKSON
1514 8TH ST
SEGUIN TX 78155-2519

MARY E JEKEL
160 HIGH LOW DR
NEW BRAUNFELS TX 78132-4209

MIKE JEKEL
160 HIGH LOW DR
NEW BRAUNFELS TX 78132-4209

ROBERT JIMENEZ JR
456 RAYON RIDGE
NEW BRAUNFELS TX 78130

JUSTIN JOHNSON
3355 JAKES COLONY RD
SEGUIN TX 78155-9606

ALLAN JONES
2985 TANGLEWOOD TRL
SPRING BRANCH TX 78070

JAN KENNADY & DANNY SCHEEL
COMAL COUNTY
199 MAIN PLAZA
NEW BRAUNFELS TX 78130-5163

THE HONORABLE JAN KENNADY COMMISSIO
COMAL COUNTY PCT 4
199 MAIN PLZ
NEW BRAUNFELS TX 78130-5134

KARL KETTLER
621 HIGH LOW DR
NEW BRAUNFELS TX 78132-4213

PAT KETTLER
621 HIGH LOW DR
NEW BRAUNFELS TX 78132-4213

ROBERT S KIER
4900 SPICEWOOD SPRINGS RD
AUSTIN TX 78759-8422

BRIAN KING
1272 FM 1863
NEW BRAUNFELS TX 78132-3724

M KLUG
1633 CLOUDY BRK
SCHERTZ TX 78154-3081

JAMIE KNIVACKA
5565 N IH 35
NEW BRAUNFELS TX 78130-7128

JANICE KOEHNE
2485 N STATE HIGHWAY 46
SEGUIN TX 78155-2217

ROBERT KOEPKE
19509 ENCINO CROWN
SAN ANTONIO TX 78259-2426

DIANE & MARVIN KRAFT
3815 FM 1101
NEW BRAUNFELS TX 78130-2626

JEFFREY KRIVACKA
5565 N IH 35
NEW BRAUNFELS TX 78130-7128

JOSEPH KRIVACKA
5565 N IH 35
NEW BRAUNFELS TX 78130-7128

NANCY & WAYMAN KRUEGER
2641 WESTMEYER RD
NEW BRAUNFELS TX 78130-2737

JOHNNY KUBEND
1183 CANYON DR
NEW BRAUNFELS TX 78130-6005

THE HONORABLE EDMUND KUEMPEL
TEXAS HOUSE OF REPRESENTATIVES
PO BOX 2910
AUSTIN TX 78768-2910

GREG LA CROSS
916 LAZY LN
SAN MARCOS TX 78666-9462

SAMUEL ERIC LAIRD
702 JEFFERSON AVE
SEGUIN TX 78155-6310

E R LAMBERT
1140 SUNSET VW
FISCHER TX 78623-1835

J F LANGFORD
1381 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

MR & MRS JAMES F LANGFORP
1381 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

RANDY LEFLER
496 SOFT WIND CANYON LAKE
CANYON LAKE TX 78133

GAYLORD LIELL
335 OAK SPRINGS DR
SEGUIN TX 78155-0188

WILLIAM LOTZ
1225 MORNINGWOOD DR
SAN MARCOS TX 78666-8456

JEFF LUCAS
1838 COLLEEN DR
CANYON LAKE TX 78133-5316

MANUEL MADRIGAL
1110 W BRIDGE ST
NEW BRAUNFELS TX 78130-5520

BRIAN MAHONEY
8115 FM 2673
CANYON LAKE TX 78133-6430

GEARY MARTIN
768 FAWN RIVER DR
SPRING BRANCH TX 78070-4043

JENNIFER MARTIN
768 FAWN RIVER DR
SPRING BRANCH TX 78070-4043

TORRA MARTIN
768 FAWN RIVER DR
SPRING BRANCH TX 78070-4043

GLORIA MARTINEZ
360 DITTLINGER ST
NEW BRAUNFELS TX 78130-4315

JOAN A MARTINEZ
360 DITTLINGER ST
NEW BRAUNFELS TX 78130-4315

JOSE L MARTINEZ
380 SHELLEY LN
SAN MARCOS TX 78666-1637

JUAN ANTONIO MARTINEZ
1519 PAMS PATH
NEW BRAUNFELS TX 78130-3129

MARIA MARTINEZ
1519 PAMS PATH
NEW BRAUNFELS TX 78130-3129

ALEX MATA
549 AVENTURA DR
NEW BRAUNFELS TX 78130

MERLE MATTHEWS
3655 ARCHER BLVD
NEW BRAUNFELS TX 78132-5105

AARON MAY
795 W COLL ST
NEW BRAUNFELS TX 78130-5624

CHRIS MCCULLEY
953 HIDEAWAY CIR
NEW BRAUNFELS TX 78130-5948

ROY L MCDANIEL
1045 TWISTED OAK CT
CANYON LAKE TX 78133-1812

GARRETT MCDONALD
1047 W MILL ST
NEW BRAUNFELS TX 78130-5546

KENNETH E MCINTOSH
942 ALLEN AVE
NEW BRAUNFELS TX 78130-4904

ANGELICA MEDRANO
716 4TH ST
SEGUIN TX 78155-3506

EUSEBIO MENDOZA
HUNTER RD
SAN MARCOS TX 78666

DOROTHY MERCER
1555 HOFFMANN LN
NEW BRAUNFELS TX 78132-4216

ANTHONY L MILLER
411 N SAN MARCOS ST
SEGUIN TX 78155-4929

DENNIS A MILLER
140 ELK RDG
CANYON LAKE TX 78133-5414

LOLA MILLER
612 CAMPBELL ST
SEGUIN TX 78155-4304

STEVEN MILLETT
375 SCENIC MDW
NEW BRAUNFELS TX 78130-7405

GUILLERMO MOLINA
1309 ALTWEIN LN
NEW BRAUNFELS TX 78130-8701

NYDIA MONTERO
792 HENDERSON DR
SPRING BRANCH TX 78070-4052

JUAN MONTOYA
541 FERN GULLY LN
SEGUIN TX 78155-0924

JOHN MOOS
1508 HWY 46 S
NEW BRAUNFELS TX 78130

STEVEN MUECKE
326 OAK CT
NEW BRAUNFELS TX 78132-3854

BRAD MYERS
2474 COVE CRST
SCHERTZ TX 78154-2617

JERRY NEWBY
3203 S OLD BASTROP HWY
SAN MARCOS TX 78666-8937

MELISSA O'BRIEN
2237 WINDSOR PL
NEW BRAUNFELS TX 78130-8903

STEPHEN O'BRIEN
2237 WINDSOR PL
NEW BRAUNFELS TX 78130-8903

REYNA OLVERA
692 WATSON LN E
NEW BRAUNFELS TX 78130-7141

JOSE OLVERIA
696 WATSON LN E
NEW BRAUNFELS TX 78130-7141

DAVID PAULOS
144 S ANN ST
NEW BRAUNFELS TX 78130-1826

CINDY PEEK
30041 BECK RD
BULVERDE TX 78163-4020

CLAYTON PEEK
30041 BECK RD
BULVERDE TX 78163-4020

ROBERT C PEEK
30041 BECK RD
BULVERDE TX 78163-4020

ANNA M PEREZ
195 MAGAZINE AVE
NEW BRAUNFELS TX 78130-5651

RUBEN G PEREZ JR
195 MAGAZINE AVE
NEW BRAUNFELS TX 78130-5651

ROBERT PIEPER
1356 WINDING WAY
NEW BRAUNFELS TX 78132-4120

LYNN PIERCE
3438 WESTMEYER RD
NEW BRAUNFELS TX 78130-2735

CHARLES PODYURSKI
1466 MARIGOLD DR
NEW BRAUNFELS TX 78130-6550

AL PORTER
889 RIDGED READ
NEW BRAUNFELS TX 78130

JOE P RUDD
2142 KEYSTONE DR
NEW BRAUNFELS TX 78130-9072

J SCHAEFER
2625 CONNIE DR
CANYON LAKE TX 78133-5264

LISA PREWITT
1743 ROLLING RAPIDS DR
NEW BRAUNFELS TX 78130-3056

DAVID RUTHERFORD
1244 RIVERCREST DR
NEW BRAUNFELS TX 78130-3436

DANNY SCHEEL
199 MAIN PLZ
NEW BRAUNFELS TX 78130-5134

LETICIA QUINTANILLA
APT 113
453 N BUSINESS IH 35
NEW BRAUNFELS TX 78130-7811

JEFF RUTHERFORD
1384 COUNTY RIDGE
NEW BRAUNFELS TX 78132

SHERRY SCHNEIDER
3338 WESTMEYER RD
NEW BRAUNFELS TX 78130-2749

LETICIA QUINTANILLA
105 GLOBAL DR
NEW BRAUNFELS TX 78130-8993

VANGELINA SALAZAR
716 CAMPBELL ST
SEGUIN TX 78155-4305

STEPHEN SCHULTZ
THE SCHULTZ GROUP INC
2461 LOOP 337
NEW BRAUNFELS TX 78130-8130

ANDREANA RAMOS
62 CAMPBELL ST
SEGUIN TX 78155

ALIA SANCHEZ
268 GOLIAD DR
NEW BRAUNFELS TX 78130-3068

LEROY & NANCY SCHWARZLOSE
2041 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2731

CHRISTY RAMOS
621 CAMPBELL ST
SEGUIN TX 78155-4303

ALMA SANCHEZ
121 GRANITE RUN DR
NEW BRAUNFELS TX 78130-2532

NANCY SCHWARZLOSE
2041 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2731

NICK RAMUS
230 SHELLEY LN
SAN MARCOS TX 78666-1634

GERONIMO SANCHEZ
525 E BASIC ST
NEW BRAUNFELS TX 78130

SUZANNE SCHWARZLOSE
2081 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2731

TED REED
325 W EDGEWATER TER
NEW BRAUNFELS TX 78130-4935

RENE SANCHEZ
648 BLUFFSIDE DR
NEW BRAUNFELS TX 78130-3312

KRISTINA SETTLE
833 BELLAIRE DR
NEW BRAUNFELS TX 78130-2308

MARTIN RICE
2758 MORNING STAR
NEW BRAUNFELS TX 78132-4736

HORATIO M SANDOVAL
202 E SOUTH ST
NEW BRAUNFELS TX 78130-4446

TIMOTHY SHAFER
#5
2100 HUNTER RD
NEW BRAUNFELS TX 78132-3077

DOROTEO RODRIGUEZ
163 BUTCHER ST
NEW BRAUNFELS TX 78130-7615

RUDY SAUCEDA
1745 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

SAYLE D SHERROW
1501 E TOMAY ST
NEW BRAUNFELS TX 78130

BENTON SIFFORD
5531 N IH 35
NEW BRAUNFELS TX 78130-7128

CARL SIFFORD
5531 N IH 35
NEW BRAUNFELS TX 78130-7128

FREIDA SIFFORD
5531 N IH 35
NEW BRAUNFELS TX 78130-7128

DON SINGLETON
1795 LAUBACH RD
SEGUIN TX 78155-1181

MATTHEW SMITH
421 RAMBLING DR
CANYON LAKE TX 78133-3844

DAVID SPIKER
1799 OAK GLN
NEW BRAUNFELS TX 78132-3839

DAVID STEPHENS
230 WOODCREEK DR
WIMBERLEY TX 78676-3412

THOMAS B STOLHUNDSKE
6140 HIGHWAY 46 W
NEW BRAUNFELS TX 78132-3771

GROVEN SULLIVAN
207 ROYAL GEORGE CIR
MC QUEENEY TX 78123-3428

JOSC SUNTILLAN
371 LAKESIDE PASS
NEW BRAUNFELS TX 78130-8272

DONNA TAYLOR
1122 LIZZY LN
SAN MARCOS TX 78666

SANDRA ELBEL TAYLOR
1571 SCHWARZLOSE RD
NEW BRAUNFELS TX 78130-2730

GENE TECHAU
1277 RHINESTONE
CANYON LAKE TX 78133-2319

TODD THETFORD
996 WALNUT HEIGHTS BLVD
NEW BRAUNFELS TX 78130

JOHN TIMBERLAKE
3414 WESTMEYER RD
NEW BRAUNFELS TX 78130-2735

LARRY TIMMERMAN
2605 N GUADALUPE ST
SEGUIN TX 78155-7356

JAMES TINSLEY
1451 RIADA DR
NEW BRAUNFELS TX 78132-3277

VON TOLER
3315 RIVER RD
MARTINDALE TX 78655-4112

SHELBY TRIAL
21657 FOREST WATERS CIR
SAN ANTONIO TX 78266-2779

JOHN TRUMBALL
4923 WINDMILL PR
SEGUIN TX 78155-1757

WAYNE TSCHIRHART
2582 COUNTRY LEDGE DR
NEW BRAUNFELS TX 78132-4109

REGINA ULLRICH
1060 GARDENIA DR
NEW BRAUNFELS TX 78130-5902

ALEX R URDIALEZ
621 CAMPBELL ST
SEGUIN TX 78155-4303

ELVIRA L URDIALEZ
625 CAMPBELL ST
SEGUIN TX 78155-4303

RACHEL URDIALEZ
621 CAMPBELL ST
SEGUIN TX 78155-4303

ROBERT URRATIA
1445 W MILL ST
NEW BRAUNFELS TX 78130-6225

CHRIS VARNI
2258 GRUENE RD
NEW BRAUNFELS TX 78130-3413

RONNIE VETTER
1027 KROESCHE LN
NEW BRAUNFELS TX 78130-7401

GUADALUPE I VILLA
2270 W SAN ANTONIO ST
NEW BRAUNFELS TX 78130-6765

TOMMY VILLARREAL
STE 400
FM 89
NEW BRAUNFELS TX 78130

LUCY M VILLEGAS
PO BOX 2861
SEGUIN TX 78156-2861

MICHAEL WAHRMUND
172 LULLWOOD DR
NEW BRAUNFELS TX 78130-9540

INGA WARD
1948 QUEEN VICTORIA DR
NEW BRAUNFELS TX 78130-1212

ART WARMACK
2876 POTTERS CREEK RD
CANYON LAKE TX 78133-3214

MELISSA WEAVER
696 WATSON LN E
NEW BRAUNFELS TX 78130-7141

MARVIN WESTMEYER
2625 WESTMEYER RD
NEW BRAUNFELS TX 78130-2737

REYNALDO WHEELER
1209 BAYLOR AVE
SAN MARCOS TX 78666-2605

MIKE WIGGINS
307 W COURT ST
SEGUIN TX 78155-5701

BEVERLY WIGLEY
792 HENDERSON DR
SPRING BRANCH TX 78070-4052

APRIL WILLIAMS
411 N SAN MARCOS ST
SEGUIN TX 78155-4929

CODY WILLIAMS
7795 FM 671
LULING TX 78648-4414

JERRY WILLIAMS
612 CAMPBELL ST
SEGUIN TX 78155-4304

DON WILO
2322 TWINWOOD
NEW BRAUNFELS TX 78132-3865

JEFFERY WOODARD
136 PERRYMAN ST
NEW BRAUNFELS TX 78130-7863

AMANDA WOODY
423 MARYMONT DR
NEW BRAUNFELS TX 78130-5285

MARK D WOOLSY
1920 LIVE OAK DR
CANYON LAKE TX 78133-2625

RAUL YOUNG JR
2864 SUNSET DR
NEW BRAUNFELS TX 78130-7002

REGINA YOUNG
2468 SAVANNAH HILL CIR
NEW BRAUNFELS TX 78130-9070

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AN ORDER Granting the Application for Permit No. MSW-66B to Waste Management of Texas, Inc., TCEQ Docket No. 2006-1931-MSW, SOAH Docket No. 582-07-0863

On August 6, 2008 and September 10, 2008, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the application of Waste Management of Texas, Inc. (Applicant) for Permit No. MSW-66B to authorize Applicant to laterally expand the existing Comal County Landfill in Comal County and into Guadalupe County, Texas, and to rename the facility the Mesquite Creek Landfill. Sarah G. Ramos, Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), presented a Proposal for Decision (PFD), which recommended that the Commission grant the application for Permit No. MSW-66B. After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

General Findings/Procedural Issues

1. The Applicant is Waste Management of Texas, Inc., 9708 Giles Lane, Austin, Texas 78754.

2. The facility is the Comal County Landfill, to be renamed the Mesquite Creek Landfill (Mesquite Creek Landfill), and is owned and operated by Applicant.

3. The facility is located at the southwest intersection of FM 1101 and Kohlenberg Lane, approximately five miles north of the intersection of State Highway 46 and FM 1101 and approximately two miles east of the I-35 Kohlenberg Road exit, north of the City of New Braunfels in Comal County.

4. The street address for the current site is 1000 Kohlenberg Lane, New Braunfels, Texas, but a new entrance is planned in the expansion.

5. The facility is an existing Type I Municipal Solid Waste (MSW) landfill consisting of approximately 96 acres and permitted pursuant to Permit No. MSW-66A.

6. Of the currently permitted areas on the site, Unit 3, which is not yet built, is on the westernmost side. Unit 1, which is nearly filled, is adjacent to Unit 3 to the east. The area for which Applicant seeks a permit, Unit 2, is on the easternmost side of the property.

7. Applicant has sufficient property rights in the facility to ensure right of entry until the end of the post-closure care period.

8. Applicant filed Application No. MSW-66B (application), which requests an amendment of Permit MSW-66A to laterally expand the existing 96-acre facility to approximately 244 acres and into Guadalupe County. The application proposes to expand the actual area of waste disposal from approximately 79 acres to approximately 164 acres.

9. The facility is currently authorized to accept municipal solid waste, Class 2 and Class 3 industrial solid waste, special waste as defined by 30 TEX. ADMIN. CODE (West 2006) (TAC) § 330.2 , and Class 1 industrial waste that is Class 1 only because of asbestos content.

10. Scott M. Graves, P.E., a professional engineer registered in Texas, affixed his seal to all engineering plans and drawings and on the application cover pages.

11. The application was initially submitted to the TCEQ on November 18, 2005.

12. On December 13, 2005, the Executive Director (ED) issued notice that the application was deemed administratively complete, and on August 23, 2006, the ED issued notice that the application was found technically complete.

13. The Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment containing the information specified in 30 TAC § 39.11 was published on December 19, 2005, in the *San Antonio Express News*.

14. The Revised Notice of Application and Preliminary Decision for a Municipal Solid Waste Permit Amendment containing the information required by 30 TAC § 39.11 was published on August 29, 2006, in the *New Braunfels Herald-Zeitung* and the *Seguin Gazette-Enterprise*.

15. The Notice of Hearing containing the information specified in 30 TAC § 39.11 was published on March 12 and 13, 2007, in the *New Braunfels Herald-Zeitung*, the *Seguin Gazette-Enterprise*, and the *San Antonio Express News*.

16. A combined notice including the Notice of Receipt of Application and Intent to Obtain Permit, Notice of Application and Preliminary Decision, Notice of Public Meeting, and Notice of Hearing was issued by TCEQ on March 8, 2007, and published on March 12 and 13, 2007, in the *New Braunfels Herald-Zeitung*, the *Seguin Gazette-Enterprise*, and the *San Antonio Express News*.

17. On March 9, 2007, the TCEQ Chief Clerk mailed the Notice of Hearing on the application to the then-identified participants to the proceeding, to other potentially affected persons identified in the application, to various state and local agencies and officials, to state legislators for the district in which the facility is located, and to other persons specified in 30 TAC § 39.13. Potentially affected persons receiving notice generally included those landowners whose property was within one mile of the facility.

18. The preliminary hearing was conducted on April 13, 2007, at the New Braunfels Municipal Court, 1486 South Seguin Avenue, New Braunfels, Texas 78130.

19. The following persons were named as parties to the proceeding: Applicant, the ED, the Office of Public Interest Council (OPIC); TJFA, L.P. (TJFA); the City of New Braunfels; Guadalupe County; and Concerned Citizens and Landowners (CCL) (representing Nancy Schwarzlose, the Holtman family, Sandra Elbel Taylor and Lilian Schriewer Elbel, James F. and Vera B. Langford, and the Krueger-Westmeyer families). Guadalupe County was named as a party but withdrew its party status during the hearing, after it had reached a settlement agreement with Applicant about the facility's operating hours.

20. A contested case hearing on the application was conducted on October 22-29, 2007, at the offices of the State Office of Administrative Hearings, William Clements Building, 300 West 15th Street, Austin, Texas 78701 and the New Braunfels Municipal Court, 1486 South Seguin Avenue, New Braunfels, Texas 78130.

Sufficiency of Permit Application and Draft Permit

21. There are no site-specific conditions that require special design consideration.

22. Applicant coordinated with all appropriate agencies, officials, and authorities that may have a jurisdictional interest in the application.

23. Applicant has provided complete information concerning permits or construction approvals received or applied for.

24. The ED has prepared a draft permit for Permit No. MSW-66B.

Geology and Hydrogeology Investigations

25. The facility is located along the western edge of the Gulf Coastal Plain physiographic province, in the Blackland Prairies subprovince.

    a. The Gulf Coastal Plain is located south of the Balcones Fault Zone, which trends northeast-southwest across north central Comal and Guadalupe Counties and separates the Gulf Coastal Plain from the Edwards Plateau.

    b. The Blackland Prairies subprovince is the westernmost subprovince within the Gulf Coastal Plain and is characterized by a hilly to rolling prairie surface covering deep clayey soils.

26. The topography of the area surrounding the facility is composed of two natural hillsides towards the northwest and southeast ends of the site, which are separated by a valley associated with Mesquite Creek in the middle of the site.

    a. The highest natural ground elevation on the northern side of the facility is approximately 665 feet above mean sea level (ft/msl); and on the southern side, it is 712 ft/msl.

    b. The lowest natural ground elevation of approximately 585 ft/msl occurs in the middle of the site, along the northern site boundary, which is the point at which Mesquite Creek leaves the site.

    c. There are no topographic features such as floodplains, which, if present, would limit the development of the site as an MSW landfill.

27. The regional geology of the facility's surrounding area consists of Cretaceous, Tertiary, and Quaternary-age limestone, marls, calcareous marine clays, and fluvial deposits. Below the veneer of alluvium and undifferentiated gravel (Uvalde Gravel) are the Cretaceous-age

Lower Taylor, the Austin Chalk or Austin Group, the Eagle Ford Group, the Washita Group, the Edwards Group, and the Trinity Group.

28. The Edwards Aquifer is the principal regional aquifer in the facility's vicinity and for the entire New Braunfels region.

a. The Edwards Aquifer comprises the Edwards Limestone and the overlying Georgetown Limestone.
b. The overlying Gulfian Series formations have a low permeability and are too clayey to be used as an aquifer.
c. The Quaternary terrace deposits overlying the facility yield insufficient water to be considered an aquifer. The facility is located south of the freshwater part of the Edwards Aquifer in an area characterized by high sulfate and dissolved solids concentrations.

29. In the facility's vicinity, the Lower Taylor Group, Austin Chalk, Eagle Ford Shale, Del Rio Clay, and Buda Limestone serve as an aquitard, separating the ground surface from the top of the Edwards Aquifer.

30. The facility is located in a geologically stable area that is not subject to active geologic faulting, differential subsidence, or seismic movement.

a. The facility is not near an active fault area, and no surface expressions or differential subsidence that has had displacement in Holocene time were identified within 200 feet of the facility.
b. No earthquake epicenters were identified within 20 miles of the facility.
c. No subsidence is expected from withdrawal of water from the Edwards Aquifer.
d. The facility is not subjected to any natural or man-induced events that could reactivate the pre-Holocene inactive faults.

31. One inactive fault was identified on the existing landfill area in 1990 near the northern site boundary in an area excavated for landfill development.

a. The faults' vertical displacement is approximately 40 to 50 feet and the displacement affects only the contact between Strata III and IV.

b. The fault does not displace Stratum I or II; therefore, the movement of the fault ceased before deposition of Stratum II, indicating that the fault has been inactive during Holocene time.

32. Two additional potential faults, 200 feet and 450 feet southeast of the facility, were identified in previous geologic studies of the existing landfill.

a. The 200-foot potential fault is an inferred fault and geologic studies show that no fault is present in the proposed expansion area.

b. The 450-foot fault has not experienced movement in Holocene time, as indicated by its consistency with other faults in the Balcones Fault Zone, which is pre-Holocene in age.

33. The facility's pre-development surface had low relief, with slopes ranging from approximately 3% to 9%.

a. Excessive erosion due to surface-water processes such as overland flow, channeling, and gullying is not anticipated.

b. The waste disposal limits of the currently permitted landfill and proposed expansion are not located in a 100-year floodplain; therefore, excessive erosion by fluvial processes associated with meandering stream channels should not occur within the waste footprint.

34. Nineteen wetlands were identified at the facility, including both the existing and the expansion areas.

a. Eight of the 19 identified wetlands are jurisdictional waters of the United States (jurisdictional waters). Of these eight waters, four are also state wetlands regulated by TCEQ.

b. Six of the eight identified jurisdictional waters will be impacted by the proposed expansion and, if so determined by the United States Army Corps of Engineers (USACE), will require permitting and likely require mitigation before these waters can be disturbed.

c. At present, the USACE has not determined over which jurisdictional waters it will exercise jurisdiction and has also not indicated a time frame for its determination.

35. A revised USACE Nationwide Permit 14 Pre-Construction Notification was submitted to the USACE on June 7, 2007, for the unavoidable impact to approximately 0.10 acres of jurisdictional waters due to the expansion of the road crossing over Mesquite Creek, and the USACE granted the Nationwide Permit 14 on September 14, 2007.

36. In the vicinity of the facility, the upper Edwards Aquifer units are approximately 500 to 600 feet below the ground surface.

a. Three water wells were identified within one mile of the facility. Two of these wells are 600 and 650 feet deep and are screened in the Edwards Aquifer.

b. The use of the 600-foot well is not specified, and the 650-foot well has been plugged.

c. The third well is 36 feet deep and documented as being completed in the Uvalde Gravel and used for domestic purposes.

37. Subsurface conditions at the facility were evaluated using existing geologic data generated from past field investigations and from field investigations performed in October 2004 through September 2005, in connection with the proposed expansion.

a. A total of 65 soil borings were drilled at the facility, 24 of which relate to the expansion area.

b. Completed depths ranged from 28 feet below ground surface (ft/bgs) to 185 ft/bgs.

c. Boring samples were taken at discrete intervals and continuously.

38. The elevation of the deepest excavation (EDE) for the entire facility is 560 ft/msl and has already occurred at the facility. It is located at the Unit 1, Phase III, Cell 2 sump.

a. Of the eight previous borings proposed as part of the application, seven were drilled to a depth at least five feet below the EDE, and one was drilled to a depth at least 30 feet below the EDE.

b. All 24 of the expansion area soil borings were advanced to a depth of at least five feet below the EDE, 16 borings were drilled to a depth of at least 30 feet below the EDE, and five were completed to elevations more than 50 feet below the EDE.

39. Fifteen of the expansion area soil borings were advanced and completed as piezometers.

40. Monthly groundwater level data were collected from March 2005 to September 2005 from existing and newly installed piezometers and groundwater monitor wells.

41. Based on the historic and recent geologic investigations, four stratigraphic units, Strata I through IV, exist beneath the site down to the maximum depth drilled, approximately 187 ft/bgs.

a. Stratum I is generally 0 to 14.5 feet thick, the thickness of Stratum II ranges from 1 to nine feet, and Stratum III is approximately 15 to 63 feet thick.

b. No soil borings penetrated the entire Stratum IV, but it is approximately 200 feet thick at the facility.

42. Stratum I corresponds to the uppermost fine-grained Quaternary deposits; it is mostly continuous in the existing site except where removed by landfill excavation activities.

a. In the expansion area, Stratum I was encountered in 20 of the 24 borings. Stratum I is an unsaturated brown to dark gray, medium-to-high plasticity clay with a stiff-to-hard consistency.

b. In two borings, 0.5 and 1.0 feet of gravelly clay was present between 0.5 and 3.5 ft/bgs.

43. Stratum II corresponds to the Quaternary-Tertiary Uvalde Gravel.

a. In the existing area, Stratum II ranges from olive green, white or gray limestone and/or chert gravel, occasionally in a clay or silty clay matrix, to firm black clayey gravel.

b. In the expansion area, Stratum II is clayey gravel to gravelly clay.

c. A one-foot thick gravel stratum was observed in one soil boring at approximately one ft/bgs.

44. Stratum III corresponds to the oxidized clays or claystones of the Lower Taylor Group, which was previously referred to as the Navarro Group.

a. Stratum III ranges in thickness between 18 and 58.5 feet at the existing site and between 15 and 63 feet at the expansion area.

b. Stratum III is characterized by a gray or brownish yellow to yellow oxidized, very stiff -to-hard clay with thin bedding planes.

c. The base of Stratum III was not encountered in every boring.

d. High angle clay, gypsum filled fractures, and calcite seams are more prevalent near the bottom of Stratum III.

e. Some of the fractures and calcite seams are water-bearing.

45. Stratum IV corresponds to the primarily unoxidized clay and/or claystone of the Lower Taylor Group.

a. Stratum IV is typically a dry, calcareous, green gray to dark gray clay or claystone across the entire site.

b. A few borings in Stratum IV contained evidence of fracturing and/or weathering.

46. At the facility, groundwater was encountered in the lower portion of Stratum III between 578 and 665 ft/msl.

a. Of the four units investigated, Stratum III is the uppermost stratum which consistently yielded groundwater and contained the greatest occurrence of fractures and variations in cementation to provide the most likely migration pathway if a release from the landfill were to occur.

b. All 15 of the installed piezometers consistently contained sufficient quantities of water for groundwater sampling purposes.

c. Because Stratum III is capable of yielding representative samples of groundwater that could identify a potential release from the landfill, it is considered the uppermost aquifer (30 TAC § 330.231(a)).

47. Hydraulic gradients and groundwater flow directions observed at the facility appear to be controlled by surface topography and the elevation of the Stratum III/IV contact.

a. Groundwater elevations in the existing site and expansion area are lowest adjacent to Mesquite Creek and highest near the site's topographic highs in the northeastern corner (for the existing landfill) and the southern boundary (for the expansion area).

b. Groundwater elevations depict a consistent pattern over time with only slight changes in groundwater flow direction.

c. Recharge to Stratum III likely occurs as infiltration during periods of high precipitation.

d. No noteworthy seasonal changes in the groundwater flow patterns are apparent.

48. The uppermost aquifer is not hydraulically connected with the underlying Edwards Aquifer.

a. Monitoring wells and piezometers in Stratum IV were dry or contained insufficient quantities of groundwater for sampling purposes, and the unit has relatively low permeability.

b. In the vicinity of the facility, Stratum IV is approximately 200 feet thick and underlain by approximately 200 to 300 feet of low-permeability clays.

c. Stratum IV and the underlying clays are, collectively, the lower aquitard or confining unit for Stratum III.

49. The most likely pathways for pollutant migration from the landfill are within the saturated base of Stratum III and along the Strata III/IV contact.

a. Stratum III is the main stratum intersected by the liner system side slopes and base.

b. Neither the inactive fault in the existing site nor Mesquite Creek appear to be potential pathways for pollutant migration.

c. Any contaminant released from the landfill would move at the same rate and direction as the groundwater beneath the facility.

d. Because the horizontal and vertical hydraulic conductivities decrease with depth, there is no potential for landfill constituent migration from the facility to the Edwards Aquifer during the active life, closure, and post-closure care periods.

Groundwater Monitoring

50. The facility currently operates a groundwater monitoring system for detection monitoring composed of seven monitoring wells generally screened in Stratum III.

51. Groundwater monitoring has been conducted at the facility since February 1992 and is currently conducted on a semi-annual basis.

52. Historical groundwater quality data indicate that all statistically significant changes over background of the inorganic parameters listed in the Groundwater Sampling and Analysis Plan (GWSAP) have been addressed in an alternate source demonstration approved by TCEQ.

a None of the statistically significant failures were found to be related to the facility, but were attributed to natural variations in background water quality.

b. No statistically significant changes over background for the organic compounds have triggered assessment monitoring in any well at the facility nor any corrective action.

53. Groundwater analyses indicated that there is presently no known plume of contamination that has entered the groundwater from the facility.

54. Groundwater and flow directions at the permitted facility and lateral expansion area are consistent with flow mainly toward the Mesquite Creek area, which is centrally located between the existing and proposed waste footprints.

a. The proposed groundwater monitoring system for the facility is comprised of two physically separate groundwater monitoring systems that collectively serve as the groundwater monitoring system for the entire site.

b. All 22 of the monitoring wells in the proposed groundwater monitoring network are or will be completed in Stratum III.

55. The existing facility monitoring network will use a total of eight monitoring wells, one upgradient and seven downgradient; four of the currently permitted monitoring wells will remain, one permitted monitoring well will be moved 500 feet to the southeast to make it a downgradient well, and three new monitoring wells will be installed downgradient.

56. The expansion area's monitoring network has two upgradient wells and 12 downgradient wells for a total of 14 groundwater monitoring wells.

57. Three of the piezometers installed as part of this application will be converted to wells and 11 new monitoring wells will be installed along the perimeter of the expansion property.

58. A relevant point of compliance has been established for each portion of the groundwater monitoring system.

a. The seven downgradient groundwater monitoring wells in the existing facility monitoring network will form the point-of-compliance boundary for Units 1 and 3.

b. The 12 downgradient groundwater monitoring wells in the expansion area monitoring network will form the point of compliance boundary for Unit 2.

59. The proposed monitoring wells will be:

- activated after the permit amendment is approved to collect intra-well background data;

- properly screened to monitor the groundwater encountered at the monitored location;
- able to detect a release from the facility.

60. The GWSAP provides for collecting representative samples from groundwater monitoring wells and quality assurance/quality control procedures required to ensure valid analytical results; it 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 so that any statistically significant increase may be detected.

Groundwater Protection

61. The proposed expansion of the facility is designed to be protective of groundwater.

a. Quality control procedures will be used during the construction and installation of the liner system.

b. A Soil and Liner Evaluation Report (SLER) and/or a Geomembrane Liner Evaluation Report (GLER) will be submitted to TCEQ detailing the final construction and lining of a new disposal cell prior to the placement of any waste in that cell.

62. The composite liner system for Unit 2, the area of proposed expansion, will consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec overlain by a minimum 60-mil high-density polyethylene (HDPE) geomembrane, a leachate drainage layer of either geocomposite (geonet bonded to geotextiles) or geotextile, and a minimum 2-foot thick protective soil layer.

63. The un-built but permitted Unit 3 will have either the same liner system proposed for Unit 2 or an equivalent alternate that uses a geosynthetic clay liner instead of the compacted soil layer.

64. For Units 2 and 3, leachate percolating through the waste will be collected in a drainage layer constructed above the liner and will flow by gravity to a leachate collection corridor or sideslope chimney drain.

a. The leachate collection system materials are expected to be chemically resistant to the anticipated leachate and of sufficient strength to prevent collapse of the leachate collection drainage layers due to the pressures exerted by overlying materials.

b. The leachate collection components are designed to function through the active life, scheduled closure, and post-closure care period.

c. The proposed leachate collection corridors, centrally located within each phase of Unit 2 and within Unit 3, will collect leachate from the floor drainage layer and convey it to the leachate collection sumps.

d. The leachate collection corridor will consist of either granular drainage media encased within a geotextile filter or a perforated six-inch diameter HDPE SDR-11 pipe embedded within a granular drainage media encased within a geotextile filter.

e. Collected leachate within each phase will be carried to the leachate collection sump located at the low point of the phase.

f. The leachate collection system for Units 2 and 3 is designed to maintain a head of less than 30 cm (12 inches) over the liner system.

g. Leachate recovered from sumps will be pumped directly into a tanker truck and disposed off site at a TCEQ-approved treatment facility, recirculated, or pumped through a force main system to leachate evaporation ponds or other on-site storage or treatment facilities.

65. Leachate will be recirculated only on landfill areas that have a liner that complies with 30 TAC § 330.299(a)(2).

66. The minimum strength values for the liner and final cover systems are incorporated into the Soil and Liner Quality Control Plan (SLQCP).

67. A factor of safety is a ratio of resisting forces compared to driving forces.

68. When waste is placed too steep or too high, the waste can move along the liner system upon which it is placed. Minimum acceptable safety factors for slope stability depend on project-specific conditions and uncertainties.

69. Applicant's targeted slope safety factors for interim conditions is 1.25, and for long-term conditions, it is 1.5.

70. For Unit 1, a 1.25 targeted factor of slope safety for final landfill slopes is appropriate based on project-specific liner testing and measured strength parameters demonstrating the safety of this slope.

71. For large-displacement strengths, a 1.0 target factor of safety is appropriate for short-term conditions and 1.15 for long-term conditions.

72. The SLQCP specifies materials, equipment, and construction methods for the compacted soil liners; details installation methods and quality control testing and reporting for the flexible membrane liners; provides guidance necessary for testing and reporting evaluation procedures for the person preparing the SLER and/or the GLER; and describes implementation procedures.

73. Liner excavations will extend into Stratum III and portions of the liner may be constructed below the seasonal high water table.

a. Stratum III is of such low permeability that groundwater cannot move sufficiently to exert a force that would damage the liner.
b. Should localized sweeps or wet areas occur during excavation, the affected areas will be over-excavated and backfilled/compacted with competent material.

c. If fracture water is observed in the clay and claystones during construction which could exert an uplift force on the liner, an evaluation will be made regarding the magnitude of groundwater present and, if needed, the construction of liner systems will incorporate short-term groundwater control and ballasting as described in the SLQCP.

d. If short-term liner stability is needed, long-term liner stability will be accomplished by the presence of soil and/or waste ballast.

e. After construction of the liner and placement of ballast, the pressure relief/de-watering system will be terminated.

Drainage and Floodplain Analyses

74. The facility is designed and will be constructed to prevent the discharge of any solid wastes or pollutants adjacent to or into waters of the State of Texas or the United States, non-point source pollution of the waters of the United States, and discharge of dredged or fill material into waters of the State of Texas or the United States in violation of Section 404 of the Clean Water Act.

75. Surface water controls at the proposed expansion will be designed to prevent rainfall run-off from coming in contact with leachate or refuse, maintain natural drainage patterns, and minimize erosion.

76. The Groundwater and Surface Water Protection Plan and Drainage Plan shows the locations, details, and typical sections of the surface drainage controls at the facility consisting of drainage benches and terraces, channels, detention ponds, culverts, berms, and other facilities.

77. Applicant has received Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector Permit No. TXR05K953, in compliance with the federal Clean Water Act § 402, as amended, and the National Pollution Discharge Elimination System.

78. No contaminated water will be discharged without authorization by TCEQ and in accordance with the TPDES permit.

79. The landfill will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment.

a. The waste disposal limits of the facility are located outside the 100-year floodplain, as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map Community Panel Number 4854630130C (1986).

b. The central portion of the site associated with Mesquite Creek is within the flood pool of the downstream Freedom Lake.

c. The permitted waste disposal limits and the expansion area's waste disposal areas, perimeter roads/berms, and leachate evaporation pond areas do not extend into the Freedom Lake flood pool.

d. Two storm water ponds are partially within the upper elevations of this flood pool, but are designed to allow backflow into the ponds during a flood event through their principal spillway pipes so as not to change the flood storage capacity of Freedom Lake.

e. Flood protection levees or other improvement to provide protection from the 100-year flood are not necessary.

80. There will be no nonpoint source of pollution that will violate any requirement of any areawide or statewide water quality management plan approved under the federal Clean Water Act.

81. Applicant will use working face berms, drainage benches, or a combination of the two to control and minimize any contact between surface waters and solid waste.

82. Run-off from undeveloped, closed, or final or intermediate covered portions of the site will be controlled using berms, channels, and storage pond areas to prevent flow onto the active portion of the landfill during the peak discharge from the 24-hour, 25-year storm.

a. Uncontaminated water may be used for site operations, evaporated naturally, or discharged offsite as authorized under TCEQ and TPDES permits.

b. A Storm Water Pollution Prevention Plan has been developed and implemented for the construction and operation of the facility.

83. The entire site is part of the Mesquite Creek Watershed.

a. The natural site condition consists of five drainage basins.

b. The pre-development watershed condition incorporates the currently permitted surface water management system within the 96-acre permit area, and the remainder of the watershed area is the same as the natural site condition, including offsite areas and the proposed expansion area.

c. The post-development condition will maintain similar drainage patterns to the natural site and pre-development conditions.

d. For all three conditions (natural, pre-development, and post-development), five locations were identified to represent the points of concentrated discharge of storm water from the site.

84. The natural drainage patterns will not be significantly altered as a result of the landfill development; an increase in run-off volume will occur for three discharge points, but the post-development discharge rate will be less than the pre-development discharge rate.

85. The surface water management system design with its perimeter drainage channels, storm water ponds, and diversion berms will be used during development and operation of the facility and will ultimately transport sediments from the final cap or interim cover slopes to storm water ponds.

86. Best management practices will be used to further minimize soil erosion and sedimentation during the development and operational periods.

87. Applicant's drainage facility maintenance plan consists of periodic inspections of surface water facilities and repair of those which have been impacted by erosion or other causes; provisions of the Erosion and Sediment Control Plan will be incorporated into the drainage facility maintenance plan, as appropriate.

Geotechnical Investigation

88. Stratum I soil is suitable for soil liner and infiltration layer material, as demonstrated by the successful construction over a portion of the existing facility of a cover system infiltration layer having a hydraulic conductivity less than 1×10^{-7} cm/sec.

89. Strata III and IV soils will be suitable for use in liner system and final cover system construction; the hydraulic conductivities for Strata III and IV ranged from 2.8×10^{-8} to 3.5×10^{-8} cm/sec.

90. The facility will be stable if designed and constructed as proposed in the application.

91. For all conditions evaluated, the calculated factor of safety is greater than or equal to the minimum target factor of safety.

92. Since positive drainage will be maintained, calculated foundation settlements beneath the landfill are considered acceptable.

a. The highest differential settlements along the leachate collection corridor will occur where the corridor is underlain by the thickest, most compressible materials, *i.e.*, the Stratum III clays, and the differential loads along the corridor are the greatest.

b. The minimum calculated post-settlement slope for the evaluated sections in Units 1, 2, and 3 is 0.4%.

Site Operating Plan

93. The entire application – including the site development plan, Site Operating Plan (SOP), final closure plan, post-closure care plan, landfill gas management plan, and any other required plan – will be placed into the facility's site operating record and will become operational requirements for the facility.

94. All information placed in the operating record of the facility will be retained for the life of the facility, including the post-closure period.

95. After Applicant requested authorization to operate its facility 24 hours a day, seven days a week, it entered into a settlement agreement with Guadalupe County by which it agreed to conduct operations on Monday through Friday from 4:00 a.m. to 8:00 p.m. and on Saturday form 4:00 a.m. to 3:00 p.m., unless an emergency requires extended operating hours.

96. Even though Applicant plans buffer zones around the premises, continuous operations could be disturbing to nearby residents.

97. The operating hours in the settlement agreement will provide Applicant with several more hours per day for waste acceptance activities than Applicant currently has.

98. Applicant has been operating for many years with fewer waste acceptance hours than those described in the settlement agreement.

99. Applicant's waste acceptance hours should be limited to those stated in its agreement with Guadalupe County.

100. During emergency conditions, Applicant may seek the ED's approval of alternate operating hours.

101. Actual facility operating hours in effect at any given time will be posted at the entrance.

102. Applicant will cover portions of the working face with soil throughout the day, as filling operations are completed in one area of the working face and expanded into another.

103. Only part of the working face will be uncovered at any given time.

104. Applicant must have sufficient on-site equipment to place a six-inch layer of earthen material on any uncovered waste within one hour of detecting a fire.

105. Special waste will be received at the facility in accordance with the Special Waste Acceptance Plan and the permit.

106. Class 1 regulated asbestos-containing material will be accepted for disposal within the fill area and is specifically approved for this facility. Procedures regarding acceptance and handling of asbestos are outlined in the Asbestos Management Plan.

107. Wastes specifically prohibited from landfill disposal will not be accepted for disposal.

108. The SOP contains procedures to ensure that regulated hazardous and PCB wastes will not be accepted at the facility.

109. To prevent the disposal of unauthorized waste at the facility, the SOP provides that the Applicant will post signs regarding hazardous and other unacceptable wastes, screen incoming waste at the gate or offsite before disposal, provide personnel training, reject haulers carrying unauthorized wastes, and perform random sampling in accordance with the random inspection procedures for the facility.

110. Access to the facility will be controlled using artificial barriers, including a perimeter fence and a gated entrance.

a. The gated entrance will restrict access when the facility is not open, but allow sufficient access for vehicles to maneuver through the gate when the facility is open.

b. The perimeter fence will consist of chain-link fence at least five feet in height.

111. The unloading of waste will be restricted to the active working face, and the working face will be confined to as small an area as practical.

112. A trained employee will be present at the entrance at all times during operating hours to monitor all incoming loads of waste and will direct traffic to the appropriate unloading area.

113. The working face will be maintained and operated in a manner to control windblown solid waste.

a. Daily cover or the approved equivalent, litter fences, and litter collection will be employed to protect the working face from prolonged exposure.

b. A minimum of six-inches of daily cover will be used in order to prevent disease vectors, control windblown debris and odors, reduce the possibility of fire, prevent scavenging, and improve the operation of the facility.

114. Solid waste unloading, storage, disposal, or processing operations may not take place within any easement that crosses the site or within any buffer zone.

115. The landfill operator will take the necessary steps to ensure that vehicles hauling waste to the site properly secure the load in order to prevent the escape of any part of the load.

116. The operator will, as necessary, post signs at the landfill entrance requiring loads to be covered or enclosed and stating the potential consequences for non-compliance, including assessing litter control surcharges.

117. On a daily basis during daylight hours when the facility is in operation, all public roads and rights-of-way serving the facility will be inspected and cleaned of spilled materials and wind blown waste for a distance of two miles in either direction from any entrance used for the delivery of waste to the site. This litter pick-up area will extend along Kohlenberg Lane, FM 1101, and Schwarzlose Lane.

118. The landfill manager will ensure that no unit of the landfill violates any applicable requirements of the approved state implementation plan under the federal Clean Air Act.

a. The facility has applied for a TCEQ Title V General Operating Permit and is operated in accordance with a TCEQ Air Permit by Rule Registration O. 50924 for the landfill gas flare.

b. No open burning of waste will be permitted on-site.

119. Applicant will institute an odor management plan that uses a combination of identifying the sources of odor and methods to minimize or eliminate those odors; methods to achieve these objectives include waste and leachate handling procedures, timely placement of cover materials, the elimination of ponded water, and gas control.

120. Vector control will be achieved through application of daily cover, eliminating ponded water, minimizing the working face, and if necessary, application of appropriate chemicals using appropriate health and safety practices. Non-lethal bird control measures such as pyrotechnics, baiting and decoys, may be used to discourage birds at the site.

121. Applicant will minimize the tracking of any mud and trash 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.

122. No scavenging will be permitted.

123. Salvaging will be allowed with specific authorization from the landfill manager in accordance with the SOP, but will not be allowed to interfere with prompt sanitary disposal of solid waste or to create a public health nuisance.

124. Landfill gas will be monitored and controlled in accordance with the Landfill Gas Management Plan.

125. Ponding of water over waste areas will be minimized and eliminated.

a. The area in which the ponding occurred will be filled in and regraded within seven days of the occurrence.

b. Ponded water from an area with at least 12-inches of intermediate cover will be pumped or otherwise removed to the facility's drainage system.

c. The ponding prevention plan will use high density compaction during placement of the wastes along with constructing and maintaining proper cover and slope on all areas to prevent ponding over waste areas.

126. The SOP prohibits discharge of contaminated water without specific written authorization from TCEQ; water that has become contaminated by contact with the working face or with leachate shall be segregated from uncontaminated surface and groundwater and properly managed.

Transportation

127. The roadways in the vicinity of the facility are adequate to handle the existing and projected future traffic.

a. Access to the facility is provided via FM 1101 to Kohlenberg Lane.

b. FM 1101 is primarily accessed from the south via Highway 46, from the west via I-35 to Kohlenberg Road, or from the north via Highway 123.

c. FM 1101 is a 24-foot wide, two-lane undivided, asphalt-paved road. Kohlenberg Lane is an approximately 22-foot wide, two-lane, undivided, asphalt-paved road.

128. Applicant notified the Texas Department of Transportation regarding the proposed expansion, and the agency determined that the impact on the surrounding area roadways as a result of the proposed expansion would be minimal.

129. The current site entrance is off Kohlenberg Lane in Comal County, and the proposed entrance is on the same road but across the Guadalupe County line.

130. The proposed site entrance, which is near a bend and at a dip in the road, may not comply with line-of-sight standards established by the American Association of State and Highway

Transportation Officials (AASHTO), which require approximately 70 meters of sight distance before a turn.

131. Applicant agreed that, prior to construction of the new site entrance, it will submit documentation to TCEQ showing that entrance will meet AASHTO standards.

132. Prior to constructing the proposed new site entrance, Applicant will submit its design to the Executive Director, and the entrance must meet the line-of-sight requirements established by the American Association of State and Highway Transportation Officials

133. The U.S. Department of Transportation Federal Aviation Administration issued a "Determination of No Hazard to Air Navigation" for the lateral expansion and for the currently permitted landfill.

Land Use

134. The land use information provided in the application contains the technical information specified in 30 TAC § 330.53(b).

135. The United States Department of the Interior Fish and Wildlife Service confirmed that the facility is not located within designated critical habitat of any federally-listed threatened or endangered species.

136. The Mountain Plover, a bird species identified as rare, previously has been sighted in the general area near the landfill.

137. Mountain Plovers are known to frequent plowed fields and areas of disturbance.

138. While the Texas Parks and Wildlife Department (TPWD) does not anticipate adverse impacts to any threatened or endangered species from the proposed project activities, TPWD recommended measures to avoid impacts to the Mountain Plover that could prevent the listing of the species in the future.

139. The TPWD's recommendation included educating landfill personnel about Mountain Plovers so that adverse impacts to the species are avoided.

Reporting and Transcription Costs

140. Applicant will be the primary beneficiary of the application's approval.

141. Applicant and TJFA participated significantly in the hearing.

142. [Deleted]

143. As statutory parties to the proceeding who cannot appeal the Commission's decision, the ED and OPIC, by rule, cannot be assessed reporting or transcription costs. TEX. WATER CODE ANN. §§ 5.228, 5.273(a), 5.275, and 5.356; 30 TAC § 80.23(d)(2).

144. The ED's participation was limited to providing information to complete the administrative record.

145. Protestant CCL is comprised of individual landowners whose financial means are, presumably, more limited than those of the corporate parties, and CCL did not participate significantly in the questioning of witnesses at the hearing.

146. Applicant was billed $15,192 in reporting transcription costs for the preliminary hearing and hearing on the merits.

147. Of that total cost, $8,999.05 was for daily delivery of the transcript, which Applicant requested.

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 TAC §§ 39.5 and 39.101, and TEX. GOV'T CODE ANN.§§ 2001.051 and 2001.052.

3. SOAH has jurisdiction to conduct a hearing and to prepare a Proposal for Decision. TEX. GOV'T CODE ANN. § 2003.47.

4. Applicant submitted a complete permit amendment application, as required by TEX. HEALTH & SAFETY CODE ANN. §§ 361.066 and 361.068, which demonstrated that Applicant will comply with all relevant aspects of the application and design requirements as provided in 30 TAC §§ 330.4(m) and 330.51(b)(1).

5. 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 TAC § 80.1 *et seq.*, and the State Office of Administrative Hearings, specifically 1 TAC § 155.1 *et seq.*, and Subchapter C of the TEX. HEALTH & SAFETY CODE ANN. Chapter 361.

6. The evidence in the record is sufficient to meet the requirements of applicable law for issuance of the Draft Permit, as modified by this Order, including all requirements of the Solid Waste Disposal Act, TEX. HEALTH & SAFETY CODE ANN. Chapter 361, and 30 TAC Chapter 330.

7. The expansion of the proposed Mesquite Creek Landfill, if constructed and operated in accordance with the Solid Waste Disposal Act, 30 TAC Chapter 330, and the Draft Permit as modified by this Order, will not adversely affect public health and welfare, physical property of the people of Texas, or the environment.

8. The application conforms to the applicable requirements of the Engineering Practice Act, TEX. REV. CIV. STAT. ANN. art. § 3271a, as provided in 30 TAC § 330.51(d) and 22 TAC § 131.166.

9. Applicant should be required to pay the cost of daily delivery.

10. The remaining cost of $6,192.95 should be equally divided between Applicant and TJFA.

11. Transcription costs of $3,096.47 should be assessed to TJFA and $12,095.53 should be assessed to Applicant.

12. Prior to construction of the new site entrance, Applicant should submit documentation to TCEQ showing that the entrance will meet AASHTO standards.

13. The SOP should provide that, as part of regularly scheduled training, Applicant will instruct its key site personnel about Mountain Plovers so that adverse impacts to the species may be avoided.

14. The facility's waste acceptance hours should be Monday through Friday from 4:00 a.m. to 8:00 p.m. and Saturday from 4:00 a.m. to 3:00 p.m., unless an emergency requires extended waste acceptance hours. Transportation of materials on- and off-site and operation of heavy equipment should be allowed Monday through Saturday, from 4:00 a.m. to 9:00 p.m., and on Sunday from 5:00 a.m. to 9:00 p.m. Other activities should not be limited to specified hours and may be conducted by the facility, as necessary, at any time.

15. Pursuant to the authority of, and in accordance with, applicable laws and regulations, the requested permit should be granted.

EXPLANATION OF CHANGES

1. The Commission made non-substantive, typographical corrections to Finding of Fact Nos. 20, 32, 37.b., 58.b., and 143 consistent with the Applicant's exceptions, which were agreed to in writing by the ALJ by letter dated May 5, 2008. In addition, the Commission corrected a legal citation in Finding of Fact No. 46.c. from "33.231[a]" to "330.231(a)."

2. The Commission added new Ordering Provision No. 3, adopting the Executive Director's Response to Comments. Since this is a HB801 matter, Commission rule 30 TAC § 50.117(f) requires the Commission to either adopt the Executive Director's response to public comment in whole or in part or to prepare a Commission response. In this matter, the Commission determined that it was appropriate to wholly adopt the Executive Director's Response to Comments. The remaining ordering provisions were re-numbered accordingly to accommodate the addition of new Ordering Provision No. 3.

3. The Commission deleted proposed Finding of Fact No. 142 regarding transcript costs. The Commission determined that the proposed finding was irrelevant to the Commission's consideration on apportionment of transcript costs.

4. The Commission determined to modify proposed Finding of Fact Nos. 97-99, Conclusion of Law No. 14, and Ordering Provision No. 1.a. consistent with the Applicant's exceptions. The Commission determined that it was appropriate to limit the hours for waste acceptance and hours of other specified activities (*i.e.* transportation of materials on- and off-site and operation of heavy equipment) to those agreed to between the Applicant and Guadalupe County, as set forth in detail in the Applicant's exceptions.

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. Permit No. MSW-66B for a Type I MSW landfill in Comal and Guadalupe Counties, Texas, is hereby issued to Waste Management of Texas, Inc., as set out in Draft Permit No. MSW-66B, with the following modifications:

   a. The facility's waste acceptance hours should be Monday through Friday from 4:00 a.m. to 8:00 p.m. and Saturday from 4:00 a.m. to 3:00 p.m., unless an emergency requires extended waste acceptance hours; transportation of materials on- or off-site and operation of heavy equipment may be conducted Monday through Saturday, from 4:00 a.m. to 9:00 p.m., and on Sunday from 5:00 a.m. to 9:00 p.m.; other activities are not limited to specified hours and may be conducted by the facility, as necessary, at any time;

   b. Prior to construction of the new site entrance, Applicant shall submit documentation showing that the entrance will meet AASHTO standards; and

   c. As part of regularly scheduled training, Applicant will instruct its key site personnel about Mountain Plovers so that adverse impacts to the species may be avoided.

2. The Applicant shall pay $12,095.53 of the transcript costs, and TJFA shall pay the remaining $3,096.47.

3. The Commission adopts the Executive Director's Response to Public Comment in accordance with 30 TAC § 50.117.

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: OCT 01 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Buddy Garcia

Buddy Garcia, Chairman
For the Commission

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT FACILITY
issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

MSW Permit No. 66B

Name of Permittee and Site Owner:	Waste Management of Texas, Inc. 1000 Kohlenberg Lane New Braunfels, Texas 78130
Facility Name:	Mesquite Creek 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, or until the site is completely filled or rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with Title 30 Texas Administrative Code Chapter 330.

ISSUED DATE:

_____
For the Commission

Table of Contents
Comal County & Guadalupe County
Mesquite Creek Landfill
MSW Permit No. 66B

PART NO. 1

PART NO. 2

PART NO. 3

PART NO. 1

I. Size and Location of Facility

A. The Mesquite Creek Landfill is located in Comal County and Guadalupe County, Texas, at the southwest corner of Kohlenberg Road and Farm to Market (FM) Road 1101, approximately 1.2 miles east of the New Braunfels, TX.

B. The legal description is contained in Part I of the application found in Attachment A of this permit.

C. Coordinates and Elevation of Site Permanent Benchmark:

Latitude:	N 29° 44' 19.9"
Longitude:	W 98° 01' 30.3"
Elevation:	618.18 feet above mean sea level (msl)

II. Facilities and Operations Authorized

A. Days and Hours of Operation

The facility's waste acceptance hours will be Monday through Friday from 4:00 a.m. to 8:00 p.m. and Saturday from 4:00 a.m. to 3:00 p.m., unless an emergency requires extended waste acceptance hours; transportation of materials on- or off-site and operation of heavy equipment may be conducted Monday through Saturday, from 4:00 a.m. to 9:00 p.m., and on Sunday from 5:00 a.m. to 9:00 p.m.; other activities are not limited to specified hours and may be conducted by the facility, as necessary, at any time.

B. Wastes Authorized at This Facility

The permittee is authorized to dispose of municipal solid waste resulting from or incidental to residential, community, commercial, institutional, agricultural, and recreational activities, including garbage, yard waste, brush, rubbish, and street cleanings; municipal solid waste resulting from construction-demolition projects; Class 1 industrial non-hazardous solid waste only because of asbestos content; Class 2 & 3 non-hazardous industrial waste; and a certain special waste as defined in 30 Texas Administrative Code (30 TAC) Chapter (§)330.2(141); and other waste as approved by the Executive Director. The proposed landfill will not be able to accept waste materials other than those mentioned above, and those waste streams that are expressly prohibited by 30 TAC Chapter 330. The acceptance of the special wastes, indicated in Part IV of Attachment A of this permit, is contingent upon such waste being handled in accordance with 30 TAC Section (§) 330.136, and in accordance with the listed and described procedures in Part IV

found 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 waste from any source, waste streams that are expressly prohibited by 30 TAC Chapter 330, and any other wastes not identified in Section II.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 371,000 tons-per-year (approximately 1,316 tons-per-day based on 282 days-per-year of operation) and increasing over time to a maximum acceptance rate of 595,000 tons-per-year (approximately 2,110 tons-per-day based on 312 days-per-year of operation). The actual yearly waste acceptance rate is a rolling quantity based on the sum of the previous four quarters of waste acceptance.

E. Waste Volume Available for Disposal

The total available waste disposal capacity of the landfill is approximately 20.2 million cubic yards. This capacity is based upon the information contained in Section 1.2 and Appendix A of Part III found in Attachment A of this permit, and is the sum of the current waste in place, approximately 3.1 million cubic yards as of March 2005, and the new capacity obtained through the lateral and vertical landfill expansions authorized under this permit as amended, approximately 14 million cubic yards. The estimated life of the site is approximately 27 years.

F. Facilities Authorized

The permittee is authorized to operate a Type I municipal solid waste landfill that utilizes a combination of an 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, landfill gas management system, contaminated water management system, final cover, ground-water monitoring system, landfill liner system, leachate collection 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.

III. 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 §§330.51 through 330.58, 330.62 through 330.64, 330.111 through 330.139, 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; special provisions contained in this permit; and Parts I through IV of the application found 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 found in Attachment A of this permit. Other methods may be considered for approval as a modification to 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 found 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 found in Attachment A of this permit.

G. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and have a level of experience commensurate with their duties. The permittee shall comply with 30 TAC §330.52(b)(9) and as described in Part I found 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 found in Attachment A of this permit. Facility employees involved in facility operations shall obtain the appropriate level of operator certification as required in the statute and applicable regulations.

H. The facility shall be properly supervised to minimized bird populations using appropriate control procedures and best management practices. Any increase in bird activity that is deemed to be hazardous to safe aircraft operations by the Federal Aviation Administration will require prompt mitigation actions.

IV. 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.

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 $2,769,983 (2005 dollars) is based on estimates as described in Part III Attachments 8 and 12 found 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.

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 $4,767,109 (2005 dollars) is based on estimates as described in Part III Attachments 8 and 13 found 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's 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.

V. 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 found in Attachment A of this permit;

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.

VI. 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).

VII. 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. 66B are hereby made a part of this permit as Part No. 2: Attachment A. The permittee shall maintain Parts I through IV and Part V of the application, 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 the application in 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 in 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. Part No. 3: 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 may be grounds for an enforcement action, revocation, or suspension.

D. A pre-construction conference shall be held pursuant to 30 TAC §330.64(c) prior to 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 Comal County and Guadalupe 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 soil that has not been in contact with waste or with an alternate daily cover which has been approved in accordance with 30 TAC §§330.133(c) and 305.70. 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 arise between these permit provisions (including the incorporated Parts I through IV of the application in Attachment A of this permit) and the rules under 30 TAC Chapter 330, the permit provisions shall hold precedence.

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.

VIII. 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.

IX. Special Provisions

None

PART NO. 2

Attachment A

Parts I through IV of the permit application effective with the date on the permit.

PART NO. 3

Attachment B

Minor amendments, corrections, and modifications may be issued for MSW Permit No. 66B.

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