

SOAH Docket No. 582-06-3321  
TCEQ Docket No. 2005-0337-MSW

2008 MAR -7 PM 1:57

CHIEF CLERKS OFFICE

Application of  
WILLIAMSON COUNTY FOR A  
PERMIT TO AMEND A TYPE I  
MUNICIPAL SOLID WASTE  
LANDFILL FACILITY; (PERMIT  
NO. MSW-1405 B)

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Before the  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

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**EXECUTIVE DIRECTOR'S EXCEPTIONS AND RESPONSES TO THE  
ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION**

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**TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY AND THE HONORABLE ADMINISTRATIVE LAW  
JUDGE:**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files these Responses to the Proposal for Decision (PFD) and exceptions to the Order recommended by the Administrative Law Judges (ALJ's) in this case.

The Executive Director agrees with the Judges PFD recommending that the Commission issue the Permit No. MSW-1405B to Williamson County with some revisions. However, the Executive Director respectfully recommends deleting finding of fact number 162 for reasons explained below. A revised permit is attached as Exhibit A.

**I. BACKGROUND**

On October 10, 2003, Williamson County (Applicant) filed parts I and II of this permit amendment application and requested that TCEQ make a land use compatibility determination on it's proposed permit amendment pursuant to 30 TAC § 330.61. Subsequently, Williamson

County elected to forego the separate land use compatibility determination and filed Parts III and IV of the application on December 27, 2004. The application amendment requested that the maximum permitted elevation of the landfill be increased by 74 feet from 766 feet above mean sea level (msl) to 840 feet above msl. The requested lateral expansion of the landfill would increase by 373 acres under from 202 acres to 575 acres. The Executive Director declared the application technically complete on March 14, 2006. Public meetings were held on this application on the following dates: October 11, 2004, August 25, 2005, and July 26, 2006. All public meetings were held in Hutto, Texas. On August 29, 2006, Applicant Williamson County requested that the application be directly referred to the State Office of Administrative Hearings (SOAH).

A preliminary hearing was convened on October 26, 2006, and the following parties appeared and were admitted as parties: the Applicant, Williamson County; the Executive Director of the TCEQ; the Office of Public Interest Council (OPIC); Jonah Water Special Utility District; Heritage on the San Gabriel Homeowners Association; TJFA, L.P.; Mount Hutto Aware Citizens; and Hutto Citizen's Group. A procedural schedule was established and the Hearing on the Merits commenced on Monday August 20, 2007, and was completed on Thursday, August 30, 2007. On February 14, 2008, the ALJ's issued a PFD which recommended that the permit be issued with the following revisions: 1) Williamson County be identified as the "Owner" and "Site Operator" and Waste Management of Texas (WMTX) be identified as the "Operator"; 2) References to WMTX be removed from page one of the application in the "Applicant Name"

section and the "Customer Reference Number" only identify Williamson County and Williamson County's customer reference number; 3) The operating hours of the facility be changed to Monday to Friday, 5:00am to 8:00pm and Saturday 6:00am to 4:00pm.

## **II. THE EXECUTIVE DIRECTOR'S EXCEPTION TO FINDING OF FACT NUMBER 162 IN THE PROPOSED ORDER**

Finding of Fact #162 of the Proposed Order states:

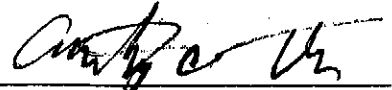
In the event of an emergency, as determined by the ED, the Applicant is authorized to operate the Facility 24 hours per day, seven days per week for the duration of the emergency.

The Executive Director recommends that this finding be deleted because it is not necessary. In the event of an emergency, an applicant may request a temporary authorization from the Executive Director pursuant to 30 TAC Section 305.70 (m). This rule specifically states that a temporary authorization to address natural disasters or to prevent disruption of solid waste management activities may be processed as a permit modification.

## **IV. CONCLUSION**

The Executive Director respectfully recommends that the Commission adopt the Administrative Law Judge's PFD issuing the draft permit with the revisions identified by the Judges. The Executive Director further recommends that finding of fact number 162 be deleted.

Respectfully submitted,

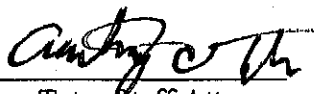
A handwritten signature in black ink, appearing to read 'Anthony Tatu', is written over a horizontal line.

Anthony Tatu, Staff Attorney  
TCEQ Environmental Law Division  
State Bar No. 00792869

Representing the EXECUTIVE  
DIRECTOR of the TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

## CERTIFICATE OF SERVICE

I certify that on March 7, 2008, the foregoing was sent by first-class mail, agency mail, or facsimile to all persons on the attached mailing list.



Anthony Tatu, Staff Attorney  
Environmental Law Division  
Texas State Bar No. 00792869

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 MAR - 7 PM 1:57

CHIEF CLERKS OFFICE

MAILING LIST  
APPLICATION OF WILLIAMSON COUNTY FOR A PERMIT AMENDMENT  
FACILITY PERMIT NO. MSW 1405B

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MAILING LIST  
APPLICATION OF WILLIAMSON COUNTY FOR A PERMIT AMENDMENT  
FACILITY PERMIT NO. MSW 1405B  
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# EXHIBIT A

## Revised Permit





## 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. 1405B

Name of Permittee

~~Owner and Site Operator~~

Williamson County

301 Southeast Inner Loop, Suite 109  
Georgetown, Texas 78626

Operator:

Waste Management of Texas, Inc.  
9900 Giles Road  
Austin, TX 78754

Facility Name:

Williamson County Recycling & Disposal Facility

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:

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For the Commission

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**MSW Permit No. 1405B**

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## **PART NO. 1**

### **I. Size and Location of Facility**

- A. The Williamson County Recycling & Disposal Facility is located in Williamson County, Texas, on the west side of FM 1660 approximately 1 mile north of the intersection of FM 1660 and CR 133.
- 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 30° 36' 15"  
Longitude: W 97° 33' 12"  
Elevation: 724.157 feet above mean sea level (msl)

### **II. Facilities and Operations Authorized**

#### **A. Days and Hours of Operation**

The operating hours for receipt of waste and for all landfill related operations at this municipal solid waste facility shall be ~~Monday through Sunday, 24 hours per day. Monday through Friday, 5:00 a.m. to 8:00 p.m. and Saturday 6:00 a.m. to 4:00 p.m.~~

#### **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; a certain 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 468,000 tons-per-year (approximately 1,500 tons-per-day based on 312 days-per-year of operation) and increasing over time to a maximum acceptance rate of 2,038,000 tons-per-year (approximately 6,531 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 69 million cubic yards. This capacity is based upon the information contained in Section 2.4 and Appendix A of Part III found in Attachment A of this permit, and is the sum of the current waste in place, approximately 3.5 million cubic yards as of October, 2004, and the new capacity obtained through the lateral and vertical landfill expansions authorized under this permit as amended, approximately 65.5 million cubic yards. The estimated life of the site is approximately 45 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 \$12,264,117 (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 \$1,959,100 (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. 1405B 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 Williamson 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. 1405B.

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.