DUNBAR HARDER, PLLC
ATTORNEYS AT LAW
ONE RIVERWAY, SUITE 1850
HOUSTON, TEXAS 77056
713.782.4646
FAX 713.481.8201
www.dhbllp.com

LAWRENCE G. DUNBAR

March 19, 2008

Hon. Travis Vickery
Hon. Henry Card
Administrative Law Judges
State Office of Administrative Hearings
William P. Clements Building
300 W. 15th Street
Austin, Texas 78701

Via Facsimile (512) 475-4994

Re: SOAH Docket No. 582-06-3321; TCEQ Docket No. 2005-0337-MSW
Application of Williamson County for TCEQ Permit No. MSW-1405B

Dear Judges Vickery and Card:

Please find attached:

PROTESTANT TJFA'S REPLY TO EXCEPTIONS FILED BY OTHER PARTIES TO THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION,

including Exhibit and Attachments.

Respectfully Submitted,

Lawrence Dunbar w/permission
Lawrence G. Dunbar

ATTORNEY FOR PROTESTANT TJFA, LP.

SOAH DOCKET NO. 582-06-3321
TCEQ DOCKET NO. 2005-0337-MSW

APPLICATION OF WILLIAMSON COUNTY FOR A PERMIT AMENDMENT TO EXPAND A TYPE I MUNICIPAL SOLID WASTE LANDFILL FACILITY (PERMIT NO. MSW-1405B)	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

PROTESTANT TJFA'S REPLY TO EXCEPTIONS FILED BY OTHER PARTIES TO THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW TJFA, L.P., hereinafter referred to as TJFA, one of the Protestant landowners in the above referenced matter, and hereby files its Reply to the various Exceptions filed by the other parties to the ALJs' Proposal for Decision (PFD) and corresponding proposed ORDER issued February 14, 2008.

I. SUMMARY ARGUMENT

TJFA files this Reply in response to the exceptions filed by the ED, the Applicant, the Hutto Citizens Group, the Heritage on San Gabriel Homeowners Association, and the Jonah Water Special Utility District. Specifically, TJFA takes exception to the revised permit attached to the ED's Exceptions, as not only being inconsistent with the ALJs' PFD without explaining why the ED failed to revise its Draft Permit according to the PFD, but also still being inconsistent with TCEQ rules and state and federal law, as previously argued in TJFA's prior briefs. As for the Applicant's Exceptions, TJFA argues that the limitations proposed by the

Applicant to the types of activities that would have restricted operating hours as recommended by the ALJs would negate the ALJs' finding and conclusion that this proposed landfill expansion would be compatible with anticipated surrounding land use.

II. ARGUMENT

A. Reply to ED's Revised Draft Permit

The Executive Director (ED) presented its Exceptions and Responses to the ALJs' Proposal for Decision (PFD) and identified one exception that the ED had with this PFD: Finding of Fact #162 as being unnecessary (ED Exceptions pg. 3 of 5). TJFA agrees with the ED regarding Finding of Fact #162 as being unnecessary due to this Finding of Fact attempting to address an issue that is already specifically addressed in the TCEQ rules.

It should be noted, however, that the ED also included in its responses to the ALJs' PFD a Revised Draft Permit as Exhibit "A" (ED Exceptions pg. 1 of 5). Amazingly, this Revised Draft Permit is different than what the ALJs had recommended to be included in the Draft Permit in their PFD, without any exception or explanation being made by the ED as to why this revised permit fails to comply with the ALJs' PFD. Therefore, TJFA does not know if this revised permit by the ED is a mistake or whether the ED intended to present a revised draft permit in its responses to the ALJs' PFD that is different from the ALJs' recommendation without any explanation or reference to any such change being made.

In particular, the revised permit attached to the ED's responses as Exhibit "A" includes Williamson County being identified as the "Permittee", in addition to being named the "Owner and Site Operator". The ALJs specifically rejected and disagreed with the ED's previous

recommendation to include the designations "Permittee" or "Site Owner" in the Draft Permit, since neither term is defined in the TCEQ's 330 rules (PFD p. 17). Yet the ED retained the designation of "Permittee" for the County in this revised permit even though the ED changed the designation "Site Owner" to just "Owner" just as the ALJs had recommended in their PFD.

This is not the first time the ED has made changes to how certain entities are designated in this permit. For example, when this permit application was originally found by the ED to be technically complete in early 2006, the ED issued a Draft Permit regarding this permit amendment request MSW-1405B that identified the "Name of Permittee and Site Owner" as being both Williamson County, as the "Owner", and WMTX, as the "Operator" (see Attachment 1 – TJFA Exhibit #24). This was done by the ED in response to the permit amendment application having been submitted by both the County and WMTX, with both being named as Applicants for this permit amendment, and with both having signed and certified the application as such. The Application also identified WMTX as both the "Operator" and the "Site Operator," and provided WMTX's "Customer Reference Number" under "Applicant Information" on Part A of the Permit Amendment Application (APP-202). This Customer Reference Number identifies WMTX as the "Owner Operator" of the Williamson County Landfill on the TCEQ website.

After issuing this original Draft Permit and hearing the public's reaction, the ED revised its original Draft Permit, at both of the Applicants' request, by renaming Williamson County as "Name of Permittee and Site Owner" and WMTX as the "Site Operator" (see Attachment 2 – TJFA Exhibit #26). The ED specifically commented that this revision was "a minor editorial change" affecting only the first page of the Draft Permit and that none of the changes affect the public notice, which gave notice of "Williamson County (Owner)...a county government, and Waste Management of Texas, Inc. (Operator), have applied...for a permit amendment..."(TJFA

Exhibit#26). This revision to the first page of the Draft Permit issued in mid-2006 was apparently intended by the ED to "fix" any misunderstanding there might be as to which entity was to be the "Permittee" under MSW-1405B if it were to be approved by the Commission for issuance. This supposed correction and clarification made to this original Draft Permit resulted in it being consistent with the existing permit MSW-1405A for this county landfill, which has WMTX identified as the "Site Operator" (see Attachment 3 – Exhibit APP-214). This identification of WMTX as the "Site Operator" in this existing permit was made by the ED without anyone, especially the County, requesting it at the time that permit amendment MSW-1405A was being applied for, nor was WMTX included in that permit amendment application as an "Applicant." No one seems to know why the ED made such a change to this existing permit back in 1995 when no one had requested it and the TCEQ definition of this term clearly showed identifying WMTX as such is contrary to TCEQ rules.

Only near the end of the contested case hearing on this permit amendment did the ED attempt to correct this mistaken designation of WMTX as the "Site Operator". At the hearing, the ED presented another revised Draft Permit MSW-1405B. This second revised Draft Permit by the ED had the improper designation of WMTX as the "Site Operator" removed, and instead re-identified WMTX as the "Operator" of this landfill, being the same designation of WMTX as the ED had used in its original Draft Permit for MSW-1405B (see Attachment 4 – ED Exhibit 10). This second revision was made apparently by the ED in recognition of the undisputed testimony during the hearing by Judge Gattis and Roy Murray that Williamson County was the holder of the current permit and the sole Applicant for this permit amendment, and the fact that a "Site Operator" is defined in the TCEQ's own rules as "... the holder of, or an applicant for, a permit (or license) for a municipal solid waste site." (30 TAC 330.2(132). This clearly showed

that WMTX could NOT be the "Site Operator" of this landfill and that the Draft Permit would be in clear error if it showed otherwise. It should be noted that the attorneys for Williamson County took positions in its briefing that were inconsistent with Judge Gattis' testimony. This inconsistency has helped perpetuate the confusion over the "Operator" issue.

In their PFD, the ALJs disagreed with the ED's use of the terms "Permittee" and "Site Owner" in the Draft Permit as terms that are not specifically defined in the TCEQ's 330 rules (PFD p. 17). Neither one of these terms were discussed or addressed during the hearing as being an issue as to their inclusion in the Draft Permit. Almost every MSW permit issued by the TCEQ uses the term "permittee". They do so to identify the entity that is being given authorization by the TCEQ to perform certain activities that have been found to be in accordance with the TCEQ rules. Therefore, despite the fact that there might not be a definition given for the term "permittee", it is widely used by the TCEQ and is understood as to whom it is referring; - the person or entity that has applied for and been issued a permit by the TCEQ.

Therefore, TJFA would agree with the ED that Williamson County should be specifically designated on the permit, if issued, as the "Permittee", being the entity whose testimony was that its intent was for the County to be the sole Applicant for this permit amendment and that it is the County that is the current holder of the existing permit MSW-1405A. However, TJFA would disagree and take exception to the ED's revised permit included in its Exceptions as Exhibit "A" to the extent that it continues to show WMTX as the "Operator" of this landfill for all of the reasons stated in TJFA's various briefs and arguments made throughout this proceeding. In addition, TJFA takes exception to the shading and redlining that appears on the Exhibit A-Draft Permit, to the extent it could confuse the Commissioners as to the Draft Permit that was proposed by the ED and Applicants Williamson County and WMTX at the start of the contested

case SOAH hearing when WMTX chose not to seek affected party status. At that time, WMTX was identified as "Site Operator" (defined above) and chose not to subject itself to the contested case process.

In conclusion, it is amazing that so much time and effort has been put into the ED's attempts, for some unknown reason, to place the name of a contractor on this permit amendment MSW-1405B since this approach has never been used by the ED before in any permit. The ED now has made 4 unsuccessful attempts at trying to identify WMTX, a contractor to the County, on the face of this TCEQ draft permit, in spite of the ED's own admission through direct testimony of Hunt Prompuntagorn that there is no requirement that such a contractor be named on the permit and the ED would not object if Williamson County wanted to not identify WMTX as an Operator on the Draft Permit, and furthermore, County Judge Gattis testified that the County wouldn't mind if WMTX's name be removed from the permit. It would seem as though the simple solution to this apparent difficult problem for the ED would be to just remove WMTX's name from the Draft Permit so that it would be clear and unambiguous to everyone and anyone that it is Williamson County who is the "Applicant", "Permittee", "Site Owner", "Owner", "Site Operator" and "30 TAC 305.43(b) Operator" for this county landfill. WMTX, or another contractor, could then continue to be identified annually on the facility's TCEQ Annual Report as the "contract operator," and all of the contractor's rights and responsibilities would be identified in the County's Landfill Operation Agreement, instead of in the permit.

Such a position if taken by the ED would be consistent with the Williamson County Commissioners Court's position stated in paragraph two of its letter dated September 18, 2007 (see Attachment 5 – Gattis Letter, HCG-6) as follows, "The Commissioner's Court wants to clearly communicate that it wishes to relieve any confusion associated with the existing permit or

the permit which would be issued pursuant to the above-referenced application. We want this record to be clear on Williamson County's intent to be the sole applicant for the 1405-B permit, and that only Williamson County is the permittee, site Owner, and Site Operator. Waste Management is a contractor to the county. To the extent possible under law, we would ask that this intent be incorporated into the permit as issued by the TCEQ."

B. Reply to Applicant's Proposed Operating Hours

The Applicant filed exceptions to the ALJs' PFD, including a proposal to limit "normal operating activities" referenced by the ALJs for their recommended operating hours to only include "waste acceptance", and allow all other landfill operating activities to be conducted 24 hours a day, seven days a week, all year long (Appl. Exceptions p. 2). This would allow twenty-four hour, seven days per week unrestricted use of the facility, with the exception of waste acceptance. This could result in the landfill working face remaining uncovered while compactors prepare the working face for the next day's waste delivery. TJFA contends that adopting such a proposal as proposed by the Applicant's lawyer is contrary to the intentions expressed during the testimony of the County Judge, and would negate the ALJs' finding and conclusion regarding the conditional basis that this proposed landfill expansion would be compatible with the surrounding land use. TJFA supports the ALJ's recommendation on operating hours as modified by the ED's exceptions on emergency hours to be determined as each emergency arises.

The ALJs' recommendation to expand the current operating hours to those identified in the PFD and the Draft Permit (contained in Exhibit "A" of the ED's Exceptions discussed above) were based on the expressed recognition and agreement with Protestants that "... normal

operating activities outside normal business hours might become incompatible with anticipated residential and commercial development in the area ..." (Appl. Exceptions p. 1-2; PFD p. 83). Specifically, the Protestants had argued that such incompatibility would occur if 24-hour operations were allowed, including activities that involved heavy, loud equipment and bright lights (PFD p. 83). Obviously, normal operating activities at a landfill involving heavy, loud equipment occur besides those solely related to "waste acceptance". Such additional activities would include transporting materials in and out of the landfill site, constructing cells, placing cover on top of the waste, continuing to compact solid waste at the working face so that daily cover would not have to be applied to the working face outside waste acceptance hours, doing earth work (grading, excavation, etc.).

Thus, the ALJs clearly were referring to not only waste acceptance, but also transportation of materials on and off-site, as well as the use of heavy equipment, when they recommended placing restrictions on operating hours to "normal operating activities". These types of activities are recognized and specifically limited in their hours of operations in 30 TAC 330.118 for the very purpose of preventing incompatibility with surrounding land use.

The Applicant's proposal is also not clear on what is meant by "waste acceptance". It could be interpreted that "waste acceptance" means placing waste on or into the working face. It could allow trucks with waste to enter the facility and park until the required time allowed for unloading at the working face. This and an uncovered landfill working face during non-waste acceptance hours would lead to odor and vector problems.

Furthermore, the Applicant's proposed language in Findings of Fact 162 for "other unforeseen circumstance or special occasion" should not be accepted because this could mean virtually anything out of the ordinary regardless of whether it is a true emergency, including the

closure of another landfill or the contractor's award of a major contract for waste disposal. TJFA agrees with the ED's exception to this Finding of Fact as being unnecessary.

Similarly, the Applicant's proposed language in Findings of Fact 163 would lead to the non-routine acceptance of waste 24 hours a day until some future date and should not be adopted.

Therefore, TJFA requests that the recommended operating hours as contained in the PFD and in the ED's Draft Permit be adopted by the Commission as being minimally compatible with the surrounding land use, if the Commission decides to approve this permit.

C. Reply to Other Protestants' Exceptions

TJFA supports the exceptions, identified by the Hutto Citizens Group, Heritage on the San Gabriel Homeowners' Association, and Jonah Water Special Utility District. These exceptions also note the error in listing WMTX as the "Operator" on the permit. The exceptions also point out the Applicant failed its burden of proof on land use compatibility, provided an inadequate fire protection plan, and the ALJ's speculation on the intent of certain parties is not supported by evidence in the record.

D. Reply to ED's Exceptions Regarding Parties to the Hearing

The ED's exceptions included a "Background" section. In that section the ED listed some of the parties, specifically Williamson County, the ED, the OPIC, Jonah Water, Heritage on the San Gabriel Homeowners Association, TJFA, Mount Hutto Aware Citizens, and the Hutto Citizens Group. The ED failed to list the following eight individual parties that were also identified in the ALJ's Order No. 1: Bonnie Billing, Roberta Arnett, Carolyn Copeland, Weldon

Copeland, Mahlon Arnett, Lynn Lidell, Ralph Roming, and Jason Breitweiser. Furthermore, the ED also fails to mention that although the PFD designates WMTX as the 30 TAC § 305.43(b) "Operator" with responsibility for submitting the application, WMTX was in fact not a party to the hearing and was not subject to the same discovery or cross-examination as the other parties.

III. CONCLUSION

For the foregoing reasons, Applicant's exceptions to the ALJ's PFD and the ED's revised permit in its Exhibit A to its exceptions are not supported by either evidence or law and provide no basis for amending the ALJ's PFD or proposed findings as sought by these parties. The exceptions filed by the Hutto Citizens Group, the Heritage on San Gabriel Homeowners Association, and the Jonah Water Special Utility District seek to correct errors in the PFD interpreting TCEQ rules that are applicable to all municipal solid waste permits. Therefore, TJFA respectfully requests that the Commission issue an order denying this permit amendment request.

Respectfully submitted,

DUNBAR HARDER PLLC

by Lawrence Dunbar w/permission

Lawrence G. Dunbar
SBN: 06209450
One Riverway, Suite 1850
Houston, Texas 77056
713-782-4646
713-782-5544 (fax)

ATTORNEY FOR PROTESTANT TJFA, LP

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on the following via hand delivery, express mail, electronic mail, facsimile, and/or U.S. First Class Mail, on this the 19th day of March, 2008.

Travis Vickery and Henry Card
State Office of Administrative Hearings
William P. Clements Building
300 West Fifteenth Street
Austin, Texas 78701
Fax (512) 475-4994

Administrative Law Judges

John J. Carlton
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Fax (512) 435-2360
Email jcarlton@abaustin.com

Representing Jonah Water Special Utility District

Marisa Perales
Lowerre & Frederick
44 East Avenue, Suite 100
Austin, Texas 78701
Fax (512) 482-9346
Email marisa@lf-lawfirm.com

Representing Heritage of the San Gabriel Homeowners Association

Steven Salfelder
Hutto Citizens Group
P.O. Box 715
Hutto, Texas 78634
Email bearfix@sbcglobal.net

Representative for Hutto Citizens Group

Orlynn Evans
Mount Hutto Aware Citizens
112 Guadalupe Dr.
Hutto, Texas 78634
Email f_evansor@yahoo.com

Representative for Mount Hutto Aware Citizens

Anthony C. Tatu
Staff Attorney
Texas Commission on Environmental Quality
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
Fax (512) 239-0606
Email atatu@tceq.state.tx.us

Representing the Executive Director of the Texas Commission on Environmental Quality

Scott Humphrey
Office of the Public Interest Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-103
Austin, Texas 78711-3087
Fax (512) 239-6377
Email shumphre@tceq.state.tx.us

Representing the Texas Commission on Environmental Quality Office of the Public Interest Counsel

John Riley
Vinson & Elkins
2801 Via Fortuna, Suite 100
The Terrace 7
Austin, Texas 78746
Fax (512) 236-3329
Email jriley@velaw.com

Representing Williamson County

James E. Bradley
Bradley Law Firm
5718 Westheimer, Suite 1525
Houston, Texas 77057
Fax (713) 781-4186
Email jbradley1.1@netzero.com

Representing TJFA, L.P. (TJFA)

R. Mark Dietz
Attorney at Law
106 Fannin Avenue
Round Rock, Texas 78664
Fax (512) 244-3766
Email rmdietz@lawdietz.com

Representing Williamson County

Lawrence Dunbar w/permission

Lawrence G. Dunbar

Exhibit A

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	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:

For the Commission

Attachment 1

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 and Site Owner:	Williamson County (Owner) 301 Southeast Inner Loop, Suite 109 Georgetown, Texas 78626 and Waste Management of Texas, Inc. (Operator) 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:

_____
For the Commission

Attachment 2

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 and Site Owner:	Williamson County 301 Southeast Inner Loop, Suite 109 Georgetown, Texas 78626
Site 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:

_____
For the Commission

Attachment 3

WCL-1.1
8/4/95

Final Permit Nº MSW 1405A

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

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

Name of Permittee and Site Owner:	Williamson County c/o Williamson County Courthouse 710 Main Street Georgetown, Texas 78626 (512)930-4300
Site Operator:	Waste Management of Texas, Inc. P.O. Box 14644 Austin, Texas 78761-4644 (512) 272-8262
Facility Name:	Williamson County Landfill
Classification of Site:	Type I Municipal Solid Waste Management Facility
Wastes to be Accepted:	Municipal Solid Waste, Special Waste, Class III Industrial Solid Waste, Class II Industrial Solid Waste, and Class I Industrial Solid Waste which is Class I only because of asbestos content.

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. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Natural Resource Conservation Commission. 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 this 4th day of August, 1995.

ATTEST Gloria A. Vazquez

For the Commission

APP-214

APP000309

Attachment 4

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

EXHIBIT
ED-10

Name of Permittee and Site Owner:	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:

For the Commission

Attachment 5

DAN A. GATTIS
County Judge
WILLIAMSON COUNTY, TEXAS

September 18, 2007

Glenn Shankle, Executive Director
By and through Anthony Tatu
Staff Attorney, Environmental Law Division, MC 173
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

RE: SOAH Docket No. 582-06-3321
TCEQ Docket No. 2005-0337-MSW
Application of Williamson County for Permit Amendment to Expand a Type I Municipal Solid Waste Landfill Facility
MSW Permit No. 1404-B

Dear Mr. Shankle:

I am the county judge of Williamson County. On August 20, 2007, I provided testimony in the application for landfill permit pending before the State Office of Administrative Hearings under SOAH Docket No. 582-06-3321. One subject of my testimony had to do with Williamson County being the sole applicant and permittee. A copy of my testimony on this issue is attached to this correspondence. Thereafter, on August 28th, 2007, the entire Court considered a motion to affirm my testimony.

The Commissioner's Court wants to clearly communicate that it wishes to relieve any confusion associated with the existing permit or the permit which would be issued pursuant to the above-referenced application. We want this record to be clear on Williamson County's intent to be the sole applicant for the 1405-B permit, and that only Williamson County is the permittee, site Owner, and Site Operator. Waste Management is a contractor to the county. To the extent possible under law, we would ask that this intent be incorporated into the permit as issued by the TCEQ.

We appreciate your consideration of our request and ask that this letter be made a part of the TCEQ records, and specifically, the administrative record in conjunction with the proceedings before SOAH regarding this matter.

Sincerely,

Dan A. Gattis
Williamson County Judge

cc: Commissioner Birkman
Commissioner Long
Commissioner Covey
Commissioner Morrison
Mark Dietz

301 S.E. Inner Loop, Suite 109, Georgetown, Texas 78626
Phone 512.943.1550 Fax 512.943.1662 dgattis@wilco.org

EXHIBIT
tabbies
HCG-6