

**Mahlon and Robbie Arnett
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April 8, 2009

Ms. LaDonna Castanuela
Office of the Chief Clerk
Texas Commission on Environmental Quality
Mail Code MC-105
P.O. Box 13807
Austin TX 78711-3087

Via FAX (512) 239-3311

RE: MOTION FOR RE-HEARING
TCEQ Docket No. 2005-0337-MSW
SOAH Docket No. 582-06-3321

Dear Ms. Castanuela:

The letter is the MOTION of the undersigned protestants who are parties in the above-noted case for a RE-HEARING pertaining to the case. The basis for the MOTION is as follows:

At the time that the application was filed in 2003 to amend MSW Permit 1405-A to expand the Williamson County landfill, Waste Management of Texas (WMI) was the "Site Operator" on Permit 1405-A, and was also an "Applicant" for the permit amendment, as evidenced by several public notices and by specific pages within the **application** itself, such as Page 10 of 9 and 11 of 9 in Part A. Nonetheless, despite the fact that WMI was the "Site Operator" on the permit (1405-A) for which the permit application was filed, and despite the fact that WMI was the "Applicant" on the permit application (1405-B), WMI nonetheless was not a party to the SOAH case. As a result, a substantive person on the MSW permit and a substantive person on the permit amendment application was able to avoid any discovery or cross-examination regarding the SOAH hearing, a fact made even more problematical in light of the fact (as documented within the SOAH case) that the WMI actually prepared the permit amendment application. This circumstance resulted in a major failure of due process to which Protestants in the case were entitled. On this point alone, a re-hearing is more than warranted.

In the Proposal for Decision issued by the administrative law judges in the SOAH case, all of the protestants who were parties to the case (especially and including the undersigned) were not identified, and that same statement is true in the case of the Order issued by the TCEQ in the case. So, NOT ONLY was WMI able to avoid discovery and cross-examination by not being a party to the SOAH case, protestants who were parties and had a place at the table were not referenced in the Proposal for Decision, and thereby it is no surprise that notice of their opposition to the permit amendment application was not reflected in the TCEQ Order.

Based on these very important points, this MOTION FOR RE-HEARING is submitted for the TCEQ's timely consideration on the merits.

Sincerely,

Mahlon Arnett

Robbi Arnett

CERTIFICATE OF SERVICE

I hereby 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 _____ day of April, 2008.

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