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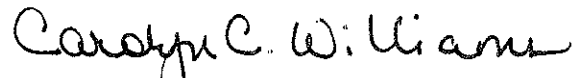
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Re: SOAH Docket No. 582-06-3321 TCEQ Docket No. 2005-0337-MSW;
Application of Williamson County for a Permit Amendment to Expand a Type I
of Municipal Solid Waste Landfill Facility

Dear Counsel, Protestants and Administrative Law Judges:

Attached is Applicant Williamson County's Reply to Protestants' Motions for Rehearing in connection with the above-referenced matter.

Sincerely yours,



Carolyn C. Williams
Legal Assistant to R. Mark Dietz

/ccw

Attachment

cc: Bryan Moore
client

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

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

**APPLICANT WILLIAMSON COUNTY'S
REPLY TO PROTESTANTS' MOTIONS FOR REHEARING**

COMES NOW Applicant Williamson County and, per 30 Tex. Admin. Code § 80.272(c), files this reply to Protestants' Motions for Rehearing in the above-captioned matter. Protestants' motions provide no basis for a rehearing of this case. Protestants' allegations in their motions are neither new nor correct. These repackaged arguments have been fully addressed and rebutted multiple times by Williamson County, and were considered and rejected by both the Administrative Law Judges ("*ALJs*") and the Commission. Protestants have been heard on these claims; they are not entitled to a rehearing.

Specifically, the allegations in Protestants' motions were first put forth in writing in their closing arguments following the contested case hearing in this matter. Those arguments were squarely addressed and refuted by Williamson County, and were considered and rejected by the ALJs, as reflected in the ALJs' Proposal for Decision ("*PFD*"). Protestants then repackaged the same arguments as "exceptions" to the ALJs' PFD. For a second time, Williamson County rebutted, and the ALJs rejected, these claims. Protestants made yet a third attempt at advancing these arguments at the Commission's February 11, 2009 agenda meeting where the ALJs' PFD was presented and considered by the Commissioners. The Commission too found no support for these claims, as reflected in the Commission's February 17, 2009 order in this case.

In the instant motions, Protestants once again fail to overcome (or even to attempt to refute or otherwise rebut) the overwhelming evidence and arguments put forward by Williamson County that, as the ALJs and the Commission found, resolve each and every one of Protestants' claims in Williamson County's favor and in favor of issuance of the proposed permit. Given that Protestants' claims have been fully briefed and argued by the parties on multiple occasions, to avoid unnecessary repetition, Williamson County will not recite the evidence or repeat its arguments in this reply, but incorporates its prior filings by reference herein for all purposes and respectfully refers the Commission to Applicant's Closing Argument, Response to Protestants' Closing Arguments, and Reply to Protestants' Exceptions, as well as the ALJs' treatment of the issues in the PFD.

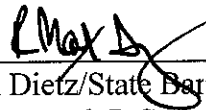
To the extent that Protestants' motions arguably raise any new issues, those issues concern the Commission's authority to make changes to the findings of fact, conclusions of law, and ordering provisions proposed by the ALJs in their PFD. Protestants claim that Texas Health & Safety Code § 361.0832 applies to such changes. However, by their express terms, the provisions of § 361.0832 cited by Protestants apply only to "overturning" a proposed finding of fact or conclusion of law. *See* Tex. Health & Safety Code § 361.0832(c), (d), (f). The provisions of the ALJs' PFD of concern to Protestants with respect to this issue – those concerning operating hours and the apportionment of transcript costs – were not "overturned;" they were amended, as authorized by the legislature. *See* Tex. Gov't Code § 2003.047(m); *see also id* § 2001.057(e); *Pistocco v. Tex. Natural Res. Conservation Comm'n*, No. 03-99-00275-CV, 2000 WL 190659, at *8 (Tex. App.—Austin Feb. 17, 200) ("The Government Code broadly permits the Commission to amend the PFD, and the Health and Safety Code provides standards of review

the Commission must use in deciding whether to overturn findings or conclusions in the PFD.”). In any event, even assuming for the sake of argument that Texas Health & Safety Code § 361.0832 applies, the Commission’s changes to the ALJs’ PFD complied with § 361.0832(c)-(e) and were fully explained per § 361.0832(f).

CONCLUSION

For the foregoing reasons, and the arguments set forth in Williamson County’s prior filings, Protestants’ Motions for Rehearing provide no basis for a rehearing of this matter and should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing reply has been served on the following on this the 20th day of April, 2009:

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